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Voice

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Minority Task Force on Mountain Top Removal Mining Report to the Governor ~ Part I

Call it a minority (of one, as the case happens to be) report to the governor or whatever you want, The Highlands Voice considers it an honor to have the opportunity to print such a well-thought out, eloquent and logical rebuttal to the business-as-usual main Governor's Task Force Report.

It also is an occasion to be proud that the author is none other than our own John McFerrin putting his incisive and air tight arguments out there as a champion to the Cause. We, therefore submit John's report in its entirety.

Because of the overall length of the report, it will be stretched out over the next three issues. I have tried to break it into roughly three equal parts as its substance would dictate.

Part I (in this issue): Introduction, Overall Conclusion and the "forestry" part of the Committee on the Economy Report.

Parts II & III which will be in subsequent issues of the Voice: conclusion of the Committee on the Economy, The Committee on the People and the Committee on the Environment Reports. [Editor]

To: Governor Cecil Underwood
From: John McFerrin
Re: Minority Report of the Governor's Task Force on Mountaintop Removal
Date: January 2, 1999

INTRODUCTION

You have recently received the final report of the Governor's Task Force on Mountaintop Removal. As you know from the Report, I voted against its adoption. Since the report contains little to indicate why I voted as I did, I would like to offer you some explanation.

I would also like to offer you the benefit of a perspective which is different from the others on the Task Force. At the time of the formation of the Task Force



photo credit Penny Loeb & US News & World Report

you indicated how much you valued different perspectives. If the Report does not reflect all perspectives, then that which you value is lost.

OVERALL CONCLUSION

After considering all the testimony at public hearings, my own study, and various documents, it is my belief that mountaintop removal mining should be banned. To the extent that any of the committee reports allow for its continued existence then I disagree with them.

My conclusion comes from many sources. First, it is not economically useful. Coal mining is at best a temporary benefit to our state's economy. The historical record is overwhelming that the presence of coal mining does not contribute to the long term economic

health of West Virginia. In counties where it is found, it is the dominant economic activity. Yet the non-coal economy does not thrive. If coal does anything for an economy, it is that it creates a prosperous economy for coal companies and temporary employment for some (although the number is declining) workers. It does nothing for the economy as a whole. If this were not true the coal counties would not be the poorest in a poor state.

Given the brevity of the future life of the coal industry in West Virginia, it is folly to continue allowing an industry to rip up our state in exchange for the short term boost to the fortunes of a handful of mining companies and a shrinking number of workers.

See REPORT on page 9

From the Western Slope of the Mountains

By Frank Young

Saving Blackwater Canyon

If you can only do one thing for the environment this week, please read, or even just skip, to the bottom of this column section.

Blackwater Canyon is the national symbol for wild, wonderful West Virginia. In the late 1800's, artist Porte Crayon popularized the Canyon, with tales and illustrations of its rugged beauty, published in Harper's Monthly. Today, West Virginia's "Grand Canyon" is surrounded by the Monongahela National Forest, and is buffered by the Blackwater Falls State Park. The unique Blackwater Canyon ecosystem contains rare and endangered species. It was recommended for National Natural Landmark status in the 1970s. The Canyon section of the Blackwater River was recommended for Wild and Scenic Rivers status in the 1990's.

For over 80 years, visitors came to partake of the Canyon's world class recreational opportunities: fishing and kayaking in the wild waters of the Blackwater River; hiking, biking, nature watching, and hunting within the Canyon. Hundreds of thousands of visitors have enjoyed Lindy Point, one of West Virginia's most scenic viewpoints. This scenic spot—featured on state tourism brochures and videos—has been the site of weddings and memorial services.

The West Virginia Highlands Conservancy has published a 90 page report recognizing the threats to the Blackwater Canyon from Allegheny Wood Products logging and development plans. This report evaluates the recreational, historic, ecological, cultural and economic value of the Blackwater Canyon. It concludes that public ownership of this precious, immensely valuable natural area is critical to its protection.

The Report calls for:

1. The establishment of the Blackwater Canyon National Park, a park that will encompass the Canyon and parts of the Monongahela National Forest.
2. The establishment of the Blackwater Ecotourism Enterprise Training Center, a facility to be owned and operated by the United States Department of the Interior. The intergovernmental public/private facility will operate as a college campus and as a hotel/conference center offering training in land management and small business development based on the public lands infrastructure of the region.

3. A grassroots campaign asking elected officials for their support of the Blackwater National Park and the Ecotourism Enterprise Center.

See YOUNG on next page

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Moon Run, Kerens, WV 26276
MEMBERSHIP DEVELOPMENT: vacant

MISCELLANEOUS OFFICES

SPEAKERS BUREAU: Julian Martin 524-7609
Box 35, Griffithsville, WV 25521
WEB PAGE: Peter Shoenfeld (301)587-6197 peter@clark.net
713 Chesapeake Ave., Silver Spring, MD 20910

ADMINISTRATIVE OFFICES

Administrative Assistant: Dave Saville Voice Editor: Bill Reed
PO Box 569 350 Bucks Branch
Morgantown, WV 26507 594-2276 Beckley, WV 25801 934-5828
email: daves@labyrinth.net bill_reed@wvwise.org

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WEST VIRGINIA HIGHLANDS CONSERVANCY Blackwater Canyon National Park Project

Public Statement by Frank Young, WVHC President

Today, the West Virginia Highlands Conservancy announces a campaign for a more than three thousand acre area of northern West Virginia, known as Blackwater Canyon, to become: BLACKWATER CANYON NATIONAL PARK.

Most West Virginians are familiar with Blackwater Falls State Park. What many West Virginians didn't learn until just last year is that only the immediate lodge, cabin and falls area are protected as public property. The other Canyon views, the trails, the endangered species and the history the area is famous for is on privately owned land. This precious and spectacular resource is irreplaceable. No area east of the Mississippi River compares in beauty and grandeur. We must not let it be plundered, or traded away. Any private gain realized in commercial development of Blackwater Canyon would surely be a thousand-fold public loss.

But this rich resource is subject to, and at this very minute is, being spoiled by massive timbering operations and by apparent commercial condominium development plans on the Canyon rim, immediately adjacent to the existing State Park. The threat to the Canyon is not imagined. The devastation is occurring as we speak.

If we allow a few wealthy individuals to rob the public of this finest of tourist attractions, then we are allowing greed to win out over common public good for now and for the future.

One obstacle to protection has been that many people thought Blackwater Canyon was already public property. Indeed, only last week the Director of State Parks was quoted as saying that he had thought that the area nearest the state park was national forest land. He regrets that it was not made part of the state park long ago.

The Blackwater Canyon National Park proposal includes an associated Blackwater Natural Sciences and Ecotourism Enterprise Training Center. This center would provide for instruction in and promotion of the outdoor recreation and ecotourism industry, using the Blackwater Canyon National Park, Blackwater Falls State Park, the adjacent Dolly Sods Wilderness and Canaan Valley Wildlife Refuge areas as principal training and demonstration areas. This Center would be a state-of-the-art, environmentally friendly facility, emphasizing energy conservation and low-impact technologies.

The educational focus of the facility would be to assist local residents in learning to build businesses and create jobs based on sustainability using the surrounding natural areas. In support of this endeavor, we have developed a significant citizens network to provide financial, logistical and political support.

We are not daunted by the immensity of this project. In its more than 30 year history, the West Virginia Highlands Conservancy has played a successful lead roll in designation of the Dolly Sods, Laurel Fork, Otter Creek, and the Cranberry Wilderness Areas and Canaan Valley Wildlife Refuge.

Our purpose has always been the preservation of unique and special natural resources. Designation of the Blackwater Canyon National Park and the related ecotourism enterprise training center would bring West Virginia center stage in its already fastest growing industry – that of showing off our natural outdoor areas. We cannot be matched anywhere else.

Because there is no other place like Blackwater Canyon, at least not within two thousand miles. Let's make the best of it!

❖

YOUNG from preceding page

No land in West Virginia is better suited for permanent public protection, and for generating long-term community and economic benefits, than the Blackwater Canyon. Due to the inability of state and federal agencies to prevent further deterioration of this resource in its present status, the Department of the Interior, the President, and the Congress should act immediately to designate and acquire the Canyon Property and move it into National Park status-- with full compensation to the owners of the lands to be acquired.

Groups uniting to promote the establishment of the Blackwater National Park and the Blackwater Ecotourism Enterprise Training Center include: Appalachian Restoration Campaign, Heartwood, Ohio Valley Environmental Coalition, United Mine Workers, West Virginia Citizen Action Group, West Virginia Environmental Council, West Virginia Highlands Conservancy, and West Virginia Rivers Coalition.

What can you and I do now to promote the goal of National Park status protection? It literally takes an act of Congress to enact National Park protection. So where do we go for this? To Congress, of course.

Of course we will approach our congressional delegation. But without a deluge of support from the grass roots voters (that's you and me), our pleas for congressional support will ring hollow.

Julian Martin, WVHC board member and Blackwater Committee activist, has coordinated the development of a massive citizens network of Blackwater Canyon protectors. His next goal is a deluge of letters in support of the Blackwater Canyon National Park and Ecotourism Training Center goal.

The Blackwater Canyon is in the congressional district of Congressman Alan Mollohan. *Send letters of support to: Congressman Alan Mollohan, 2346 Rayburn Building, Washington DC 20525; phone (202) 225-4172; send copies of this letter to: Senator John D. Rockefeller, 109 Hart Senate Office Building, Washington DC 20525; phone (202) 224-6472.*

If you can do only one thing for the environment this week, please write and send these two letters! ❖



guest editorial

Will the Last Coal Miner Leaving Southern West Virginia Please Turn Out the Lights?

By Carter Zerbe

(This appeared as an article in the Charleton Gazette on November 16, 1998)

Supporters of mountaintop removal defend it in terms of jobs and economic benefits. No rational person would question the importance of these factors. What is life without meaningful work? My mother told me work was not man's punishment, but his reward.

For many years, the coal industry furnished well-paying jobs to thousands of West Virginians. It was the economic backbone of southern West Virginia. Now, however, much of the coal below the mountains has played out and the industry has adopted different mining techniques to get the coal inside the mountains. Indeed, mountaintop removal is the culmination of the coal industry's successful attempt to get coal no matter what the cost in jobs or to the environment.

Dr. Giley, Chairman of the Governor's Task Force on mountaintop removal has stated that he was deeply impressed with the "heartfelt" testimony of miners who fear losing their jobs. Of course! But, why are there so few job opportunities in southern West Virginia? Because much of the coal is gone, the coal industry maximizes profits by replacing workers with machines, and the environmental and cultural destruction left by coal mining discourages other types of industries and businesses from locating in the coal fields. Healthy, diverse, long-term economic development has been sacrificed to one industry's temporary, short-term economic bursts. The area is left ravaged by scarred hills, broken roads, polluted streams, gob piles, abandoned houses and towns. Economic stagnation results in whole scale migration from the area.

A former State Policeman told me that when he was a trainee at the police academy everyone wanted to be assigned to southern West Virginia because that is where the "action was." He drove south with his family to inspect the area. After passing polluted streams, scarred mountains, strip mines and gob piles, he turned around somewhere south of Madison and went home. He got assigned to Elkins.

Last summer, at a hearing of the Governor's Task Force on mountaintop removal, nearly all the coal operators who spoke in favor of the practice lived outside of the southern coal fields. For instance, K.O. Damron, a coal industry lobbyist and former legislator who is from Mingo County, now lives in Putnam County, where there is no coal mining. Can you blame him? West Virginia has been referred to as a vacation paradise. Do you know anybody who vacations or recreates in the southern coalfields?

In truth, the coal industry has never shown much interest in the economic development, or the cultural and environmental protection of the coal fields. Major owners of the industry live out-of-state. They have no ties to the area where they do business. If the owners live in the community in which they do business, they will be concerned about the environmental and cultural climate of the area. They will help improve the area, build parks, art centers, help improve schools and be concerned about the environmental consequences of their actions. However, for the most part, coal companies have acted wantonly because they have no ties to the area where they do business. So, when a coal industry spokesperson speaks of economic development, he means the development of the coal industry at the expense of the land, people, and economic development of the area where the industry does business.

Every time I hear a coal company representative talk about economic development, I think of the Wendy's commercial: "Where's the beef?" If coal mining has been so good for southern West Virginia, where is the beef; where is the prosperity? In fact, what we are witnessing is not the economic development of southern West Virginia, but its economic decline.

According to the statistics compiled by the Office of Miners Health, Safety, and Training, in 1948 there were 125,669 miners in West Virginia; by 1960 this number had dropped to 48,696. In 1987 there were 28,885 miners; and in 1996, only 21,296. In 1997 the number was reduced to 18,165. Coal production, on the other hand, is the highest it has ever been.

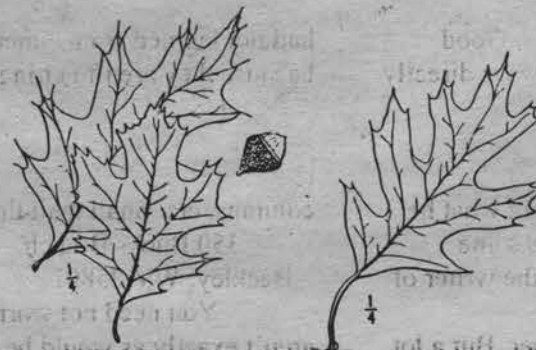
Coal may still be the economic backbone of part of southern West Virginia as Cecil Roberts says. If so, it is a backbone that is narrowed, withered and bent. It is a backbone that can't carry its intended load. It is a backbone that will soon fracture and collapse. It is a diseased backbone which prevents the growth of a healthy, diverse economy.

Mountaintop removal is not a cure, but simply a more efficient, widespread method of environmental and long-term economic destruction. It drastically alters the landscape and ecology. Mountaintops with their stands of maple, oaks, beeches and their diversity of plant, animal and insect life are decimated and great gobs of earth are sheared off and thrown aside exposing the underburden like an enormous, cancerous, raw, sore. The magnitude of the destruction is overwhelming. This spoil is piled up in gigantic "valley fills." Blasting causes tremendous noise and dust pollution. Rock dust settles on everything. Wells go dry. The foundations of people's homes are cracked. People are forced out of their homes or feel they have no alternative but to leave.

James Weekley, whose family has lived in Logan County for generations, and whose home and family lands near Blair are being threatened by mountaintop removal operations, remembers when Blair, at the height of the coal boom, numbered about a thousand homes. As the coal played out, the town disintegrated to five hundred homes, then four hundred, then less. According to Weekly, the "economic development" of mountaintop removal has reduced the number of houses to seventy.

The coal industry says this "unpleasantness" is only a temporary situation. Reclamation will replace the mountain top with flat grassy knolls which will result in economic development. Well, none of the promised economic development has come about. And what about the biological diversity that once existed? Reclamation consists of planting grass, locust and pine. One woman touring a reclamation site said, "Well, all this is very nice, but where are the oaks, hickories, and apple trees?" The truth is,

Continued on next page



GUEST EDITORIAL concluded

even if the coal company wanted to plant such trees, it couldn't, because the fertile soil necessary for the growth of diverse plants and trees is buried at the bottom of the valley fill.

Fred Holroyd must have been referring to the mountains after the coal company has finished with it when he referred to West Virginia hills as worthless pieces of dirt fit only for snakes and scrub pine.

Right now the environmental consequences of valley fills are unknown. But the coal industry wants us to mortgage our future on the hope that there will be no long-term adverse environmental destruction.

Maybe even more devastating is the cultural destruction. One of the things that makes West Virginia so special is its sense of community. This deep affection develops from generation after generation living and growing up in the same area. Succeeding generations grow up exploring and fishing the same streams and creeks, hunting the same hollows, mountains and woods, living in the same house, and sharing the same stories that evolve from an intimate relationship to a common environment. The result: A deep attachment to home, family, community, and place.

A man spoke at the Task Force hearing trying to explain the deep loss he felt from having been forced from his home place and being relocated by the coal company to Danville. He wasn't complaining about the quality of his new house. Nevertheless, a palatial mansion could not have made up for the loss he felt from being forced from his home. He didn't just lose a house, but a heritage. For most West Virginians, having one's environment drastically altered, or community or home destroyed is devastating. In trying to explain his fears posed by the

mountaintop removal operations at Blair, Weekley said that "money can't replace your memories, dreams, happiness, or the footsteps we have left in this hollow."

In 1994, "Who'll Watch The Home Place?", by West Virginia songwriter, Kate Long, won the bluegrass song of the year. It resonates with many people, especially Appalachian people. The song is about a person who is forced to leave the homeplace. Here are the concluding lyrics:

*Now I wander around touching each
blessed thing.*

The chimney, the tables, the trees.

*And the memories swirl around me
like birds on the wing.*

When I leave here, oh, who will I be?

Many people in the southern coal fields are asking themselves the same question. When the coal is gone, the jobs disappear, and the environment ruined, who will I be?

Coal industry propaganda refers to mountaintop removal as a field of dreams. Given the legacy of coal mining in West Virginia, and the effect mountaintop removal has on communities, environment and heritage, mountaintop removal can be more aptly described as a field of shattered dreams and broken promises. A graveyard of ecological health, lasting economic development, and a sense of place.

Will the last coal miner leaving southern West Virginia please turn out the lights?

(Carter Zerbe is a Charleston attorney and a member of the Board of the West Virginia Highlands Conservancy) +

The Voice

By Frank Young

The Highlands Voice is the official publication of the West Virginia Highlands Conservancy. Bill Reed is its editor. We pay Bill to edit the VOICE to our liking.

Recently Bill asked me what kinds of feedback I've had re. the VOICE. I tried to be honest.

Some folks tell me the VOICE is too big, too hard to read at only one or two sittings.

And some tell me that they want it to come out more regularly. (Recently, we skipped one or two as a money saving effort).

Some folks say the VOICE is not the mostly West Virginia environmental publication they'd like it to be.

Bill gets lots of VOICE materials from lots of sources- our members, other publications, environmental news networks, etc.

But Bill doesn't do what previous VOICE editors did. Bill doesn't whine that he can't put out a good VOICE unless we members send him good written materials. If we send it, fine. He uses it. But when we don't, he finds other environmental articles to fill the pages. Good stuff. Interesting stuff. But it's not always directly about West Virginia happenings.

But is it what we want? Some of you say it isn't. Why does this happen? I now at least partially why, I think. Bill can only edit what he has to edit. Although the editor writes some articles, he cannot be expected to be the writer of the whole VOICE.

I will not become Bill's whiner. But a lot

of us write things in the course of our committee work. We e-mail it to 6 or eight other committee people. Unless it's somehow "confidential", or just ideas being sprung back and forth, why not send it to Bill at breed@wvwise.org?

How important is it? Very important! Here's why. A week or so ago we had a major announcement about our mountaintop removal mining lawsuit. But our editor was blind sided to first learn of it from the Charleston Gazette. The week before, we had a major announcement about our Blackwater Canyon project. Again, Bill had been left out of the loop. We didn't even tell our own editor what we were doing!

Bill shouldn't have to take the Gazette's or anyone else's spin on our happenings. He should be *making* the spin, from our perspective, in our own publication!

Who's to blame here? Probably me. I knew about both events, but I didn't alert Bill. But if we'd all cc. to Bill our e-mail messages, he'd at least know when something big is about to happen. As it was, I just forget to tell him. And he had not learned from "intercepted messages", because they aren't getting to him.

And if you're not working on-line? Make Bill an extra copy of your written committee press releases (even drafts), letters to editor, quest columns, etc. Snail mail them to: Bill Reed

350 Bucks Branch
Beckley, WV 25801

You need not worry that your articles aren't exactly as would be for best appearances in

the VOICE (press releases, for example). Bill's job is to make raw material VOICE material. And he's good at it!

We can't have it both ways. If we want the VOICE to be a little about West Virginia, but mostly about global issues and happenings, Bill can find that material. But if we want the VOICE to be about West Virginia, we need to provide material about West Virginia. The two hottest issues in West Virginia just now are Blackwater and mountaintop removal mining. I see dozens of articles and e-mails about both issues every week. Many are by our members. Lets' use 'em. Keep Bill Reed in your loop.

Other issues are there, too. Four lane highway proposed through downtown Lewisburg historical district. Four lane highway through Pocahontas County. Governor blames Corridor H opponents for delay costs. If you wrote something about these events, sent a copy to Bill Reed. If someone wants to know how to get publicity about other issues, even if they are not WVHC members, have them send it to Bill Reed. Bill is an equal opportunity editor. All West Virginia environmental issue articles from all folks will receive his attention.

We will be a better organization with better informed, more active members as our official publication, the VOICE, has more information about what we care about, the West Virginia Highlands. +

The Grinch and Corridor H

by Hugh Rogers

North of Elkins, long rows of earthmoving equipment lay still under winter's first snow. The giant trucks and bulldozers had been parked since Thanksgiving week, when the Court of Appeals in Washington ordered construction stopped until the lawsuit brought by Corridor H Alternatives, the Highlands Conservancy, and many other organizations could be decided. The big machines sat, but the propaganda machine wasn't idle.

The injunction was said to have been delayed to cause maximum disruption; cost taxpayers or contractors or both in excess of \$46,000 per day; and laid off workers just in time for Christmas. A contractors' association claimed the plaintiffs had "national and international agendas [to] control West Virginia's destiny."

Stirred by its own rhetoric, the West Virginia Department of Transportation (WVDOT) marched back to court in mid-December. "To be thrown out of work, on the eve of the holiday season, inflicts a severe personal as well as financial toll," wrote WVDOT's Washington lawyers. Thirty-three workers had been laid off but many others had "expected to be employed." Surely, the Court of Appeals would be moved to lift the injunction.

Plaintiffs' lawyer, Andrea Ferster, said WVDOT was trying to portray the Court as "The Grinch Who Stole Christmas," but the true Grinch was WVDOT itself. The highway department had told the Court "construction is not imminent" and would not be likely "for the entire duration of this appeal, even if the appeal takes a year or more to resolve." The Court had asked again about the status of construction at a hearing in late September. Although WVDOT would advertise for bids the following week, it failed to reveal

those plans. Even after plaintiffs asked for the injunction, WVDOT signed two more construction contracts. It seemed the agency was trying to bulldoze the court.

The Court of Appeals declined to lift the injunction. Until a final decision, there would be no construction beyond the three-and-a-half-mile extension of US 33 (H-West) to US 219 just north of Elkins. The plaintiffs had not objected to that segment, since it had utility as a northern bypass, was appropriate to the projected traffic, and did not damage particularly sensitive sites.

Did the latest legal skirmish mean anything more than a short-term delay? For some lukewarm supporters who had thought Corridor H was the only way to get a better road through the mountains, the injunction further prolonged a continuous delay that had lasted for twenty years already. Finally, they began to think of compromise. How could we spend the available money to do the most with the least aggravation? Would the enviros agree to build anywhere? Where did it make the most sense to build first?

This month, Corridor H Alternatives will publish a map of its recommendations for "heavy" and "light" improvements to existing highway corridors, including US 33, US 50, US 219, US 220, and WV 55. The timing could be fortunate. If the Court of Appeals reverses the District Court's decision, the injunction will continue, and so will the thaw in the long-frozen Corridor H debate. If WVDOT is allowed to resume construction on the "Build Alternative," there will be further action in the courts, such as the separate Corricks Ford lawsuit, and no doubt more

frustration.

Now WVDOT must decide whether to cancel the contracts and how much to pay the idled contractors. Many questions remained unanswered: Had WVDOT told the contractors that work could be held up by the pending appeal? Who decided to take that risk? What costs would be covered by the state?

On the record, the few answers appeared inconsistent:

1. "WVDOH estimates that the construction contractors would incur total delay costs per day of \$46,060." Deputy State Highway Engineer Randolph Epperly, Declaration to the Court, Nov. 13.

2. "WVDOH officials estimate that taxpayers will lose \$46,000 per day until work can continue." Governor Underwood, press release, Dec. 1.

3. "WVDOH officials estimate taxpayers will lose \$46,000 per day until work can continue. This does not include costs contractors have incurred to bid and construct the project..." Contractors Association of West Virginia, press release, Dec. 1.

What began as the contractors' costs became the taxpayers' loss without satisfying the contractors. It looked like a shell game. Considering the Grinch, it would be important to see whether laid-off workers shared in the \$46,000 per diem. If those trucks and bulldozers could still earn money while they rested under the snow, what about the employees who were sent home for the holidays?

Unofficially, Corridor H has been touted as a short-term jobs project. It hasn't worked so far. In the long run, those who "expected to be employed" would find a more reliable source of jobs, as well as a more certain benefit to their neighbors, in the dozens of contracts necessary to fix our regional highway network. ❀



Laura Forman trying to communicate with Roger Calhoun
Randy Sprouse looks on Photo Bill Reed

OOPS !!!! Because of a mix-up in which the Post Office incorrectly marked our post office box as closed, mail which the West Virginia Highlands Conservancy received at P.O. Box 306, Charleston, for a short time in mid-October was returned to sender. Please be assured that the Conservancy has the same box as it has always had and that the box is now open. If your mail has been returned, please try again.

Bill Maxey, Chief of the West Virginia Forestry Division, Retires

By Don Gasper

If Bill Maxey was holding his breath about not being confirmed as the State Forester by the new Underwood Administration, many environmentalists were also. It had been over a year.

He was a reasonable, fair and patient man. He was not our man; but he was his own man, who had somehow picked up the responsible role of stewardship that may simply go with his title, "State Forester." It was as though there was an oath of office -- with all those nice sentiments about our forest heritage, and he swore to uphold and protect, and safeguard these. He did try to do a lot of good things, in a pretty tough time.

With such a great presence of big industrial forestry in West Virginia today, the new appointment may be pro-industry. It is really a fearsome prospect; but with the widespread citizen regard for our forests today, perhaps a wise appointment will be made -- one not then so troublesome or so really disgraceful.

Bill Maxey served well, ennobling his office. He listened well; was always a gentleman; and careful with promises for he intended to keep them. He argued well; tried to teach for he had so much information to impart. Specifically he said early on (without condemning the practice) there would be (nearly) no clearcutting on State Forests. With that sensational conflict out of the way, more substantial aspects of forest management and logging could be discussed in a less confrontational forum and climate. We could discuss preservation, recovery and multiple-use, etc. - with mutual enlightenment, if not agreement. He defended traditional forestry admirably.

Forestry is a justifiable proud tradition in so many cases, and being "traditional" does not

necessarily mean it is not up to date. However a reverence for it must allow for reassessment. This is what the best foresters are being challenged to do today. Even "timber is a renewable resource" is not everywhere true. There are a number of very early, little examined precepts to be reexamined. Bill Maxey, like only few others, might have led foresters, and us all through this to put the science updated on as firm a footing as possible. Who but foresters could be expected to lead? We will certainly need their help. This is a timely and very important task still, and I hope Bill Maxey will somehow help.

Why would the West Virginia Highlands Conservancy write something nice about a man we took to court -- a group he has given up talking with? I call him patient, others call him stubborn. Not all agree with me. All know we could have done worse. All must credit him, if he did not prepare a plan for the state forest system, he did prepare "Guidelines" for individual state forest plans. He did this on very limited resources. The fuzzy, amorphous guidelines of the past, as they existed, were thoughtfully and comprehensively polished and presented.

The West Virginia Highlands Conservancy was allowed to participate in some discussions about these guidelines, but public review of the final draft was not allowed. He has caused these state forest plans subsequently to pop up now and again. His Division has circulated several State Forest Plans and now have requested citizen comments on these plans. While this all sounds good, some Forest Plans are very poor with too much timbering. It does make information available to the citizen that was not there before.

Bill Maxey's next achievement was the timber inventory. Our conscientious State Forestry field people, who were busy enforcing best management practices and training loggers, also began making inventories of timber supplies. They and Bill Maxey began to say we are growing only 3 times more board feet than we are cutting. West Virginia may run out of timber. Heroically, they said supplies never have been lower and they are decreasing rapidly. He advised the state Economic Development people that West Virginia did not need any more log mills.

This division did this on their own. They did not have to get the inventory data. They were expected to stick their head in the sand, so none of us would know what was going on. They got the needed data in to know what they were talking about -- and they did it on their own. Also as they released these figures it became clear to all that this courageous division considered themselves to be the defenders of the forest. They did this repeatedly.

Bill Maxey kept us informed and managed pretty well to do what was needed. It may be that if we were to save our forests all we would have to do was to support him and his division. Don't we all wish this were so! For a little time perhaps it was. Thank you for trying, Bill Maxey. ✦

From Pendleton County Times, Dec. 10, 1998 Birthday Celebration!

Gov. Cecil Underwood used the occasion of the 25th anniversary of Allegheny Wood Products in Riverton last week as an opportunity to tout the state's new timber management plan and urge the continued effort for the state to provide not only raw materials, but finished products.

The governor, who noted that his father was a timber cutter, said the timber industry was an important growth industry for the state and congratulated the mill on "25 years of looking to the future" and for good management of its timberland.

He said the challenge for the future was "how we can accelerate the finished product here in West Virginia to keep the value added here in the state."

The mill at Riverton was shut down for only the second time in its history Thursday for the ceremony, according to founder John Crites. The other time was for the death of his father.

In an emotional speech, Crites hailed the governor and legislators in attendance as "friends of the forest industry," paid tribute to the people of the North Fork who helped get the business started and to his employees, several of whom have been with the firm since its inception. They were honored with gifts. ✦

Bits 'n Pieces

Thank You

Thanks to the "Social Climber," the newsletter of the Pittsburgh Climbers, and to Arthur Evans, Editor, for their pitch in the Nov. 98 issue on the good works of the WVHC to help save our natural areas, and for reprinting Frank Young's plea for some financial assistance which appeared in the previous Voice. ✦

Bob Mueller writes from "Virginians for Wilderness:"

A Wilderness for Ernie

In 1986 Virginians for Wilderness proposed a 65000 acre Shenandoah Wilderness for the George Washington National Forest. Although this wilderness was never designated, it received considerable publicity in the media and was supported by the Wilderness Society. We now suggest that this proposed wilderness be renamed the Ernie Dickerman Wilderness.

This would be the largest national forest wilderness east of the Mississippi. It would also have many features of outstanding ecological significance, such as an old-growth forest and many rare and disjunct species (*Wild Earth* 1 (3), 1991). It would provide remote habitat and solitude that is rare in the East. The location is near Ernie's home place where he died and one of the few places where such a large wilderness could be created. During late years Ernie worked hard to preserve large parts of it.

Ernie was a charter member of the Wilderness Society, and several of the Society's founders, namely Bob Marshall and Aldo Leopold, have had large wilderness areas named after them. Ernie deserves no less to commemorate his achievements. We ask everyone to support the Ernie Dickerman Wilderness. ✦



December Interims – Burning Tires and All That Good Stuff

By Tom Degen

Garbage Disposal Fees: Judiciary subcommittee A met on Monday evening, December 14. Their mandatory disposal/collection bill has become two bills. The bill that I have been reporting on has had the exemptions from the Freedom of Information Act concerning customer lists removed, and the fee on garbage collection service bills has been changed from 1% for commercial, educational, governmental, and religious entities to a flat \$3.00 per building for those entities. The 2% fee for residential customers is unchanged.

Due to the lack of consensus on mandatory collection/disposal, another bill has been drafted that addresses the usage sensitive rates and bulky goods provisions of the former bill, but does not contain any language pertaining to mandatory collection/disposal. This new bill, referred to as the "Residential Rates/Bulky Goods" bill, 1) contains a definition of bulky goods, 2) a requirement that all landfills and transfer stations accept bulky goods and tires, 3) a requirement that the Division of Environmental Protection (DEP) draft rules for the proper recycling of bulky goods, 4) retains the requirement that the Public Service Commission (PSC) phase in usage sensitive rates within four years, and also 5) retains the requirement that the PSC implement a plan for the collection of bulky goods.

Although it remains to be seen how the PSC would implement these mandates, usage sensitive rates are a more proactive approach to stemming "theft of service" from haulers, increasing collection service participation, and stimulating recycling than the draconian mandatory-flat-rate-on-your-taxes-or-lose-your-ho use-approach. There is also considerably less bureaucracy, fee hikes, and paperwork involved.

Both bills were laid over until the January interims, when the committee will have to decide which, if either, of these bills to recommend for passage by the Legislature.

Fees on Waste Tires: A second draft of the tire bill was presented. The language declaring that waste tires are not solid waste was removed because the PSC can only regulate tire haulers if waste tires are waste. Instead, waste tires were exempted from the assessment fees applied to solid waste. The fee on tires was capped at \$2.00 for tires under 30 inches diameter and \$5.00 for tires over 30 inches diameter, the license fees were reduced, and the allocations of the money generated by the fees was changed somewhat.

Delegate Faircloth moved that the fees on tires sold be removed from tires on new vehicles (cars, ATVs, motorcycles, etc.), claiming that such a fee would make West Virginia car dealers less competitive with those in other states. Senator Hunter opposed the motion, saying that people buying new cars were in a better position to pay the fee, and that the removal of tires on new cars would shrink the revenue stream which funds the program. Delegate Faircloth's motion passed.

Senator Ross moved that all fees be removed from the bill, invoking the ability of the free market system to solve all problems. During the following discussion, co-chair Linch stated that the free market system would have moved in by now, if it was so effective. Delegate Linch also expressed concern that if there were no fees to fund tire pile cleanups, then programs such as the Landfill Closure Assistance Program (LCAP) would continue to be raided to clean up tire piles. Senator Bowman mentioned fixing the LCAP language so that it could not be raided. Senator Ross withdrew the motion.

Senator Ross proposed that since Finance subcommittee E was drafting a tire bill, a joint committee of Judiciary A and Finance E meet to look at the two bills. The response was lukewarm, I would say. Delegate Mahan pointed out that the two committees, although both working on tires, seem to have different missions, with Finance E's being the burning of tires, and Judiciary C's being more of a comprehensive look. Co-chair Snyder thought that Senator Wooton, the full Judiciary Committee Chair, wanted a tire bill out of his committee. Co-chair Linch also noted the different missions of the two committees, adding that he didn't know if citizens wanted to subsidize burning tires. Since the proposal for a joint committee was not a formal motion, the committee did not act on it. At this time, I don't know what will become of the idea.

Representatives from Capitol Cement and Allegheny Power repeated their positions that a subsidy would be necessary to burn tires. Capitol Cement recommended a subsidy of between \$75 to \$100 per ton! (note that landfill tipping fees are just over \$30/ton) The committee voted to lay the tire bill over until the January interims.

In Finance subcommittee E, a draft tire bill was presented. It is very preliminary, but the basic provisions are that the solid waste management board (SWMB) would be the lead agency. The local solid waste authorities (SWAs) would develop a tire management plan as part of their existing planning, and the SWMB would develop a master plan from those. A \$3.00 per tire fee would fund the program, with up to 65% of it going in grants to local SWAs to implement their tire plans, which are pretty much mandated to be a system of tire collection centers. There would be a manifest system, but the SWMB would administer it and not the PSC. Waste tire processing sites are defined as not being solid waste facilities, and there is language stating that the burning of tire derived fuel is to be permitted in accordance with legislative rules, to be drafted by the Office of Air Quality. There is plenty of discretionary language that could allow for considerable redirection of those fees, and for pilot projects using tires as feedstock (including burning) to forego permits.

Co-chair Helmick questioned DEP and SWMB representatives concerning the uses of the \$8.25 solid waste assessment fees. He concluded by stating that he was looking for a source of

funding without a new fee. The pool of money from those fees has been decreasing along with landfill tonnage, and those funds have been repeatedly raided before; there is not much left for Senator Helmick's purposes without further crippling some worthwhile programs, like the LCAP and recycling grants programs.

Burning tires: At the end of the meeting, I was given time to present information I had found concerning burning tires. At four pages long, plus attachments, it is a little long for this message. Basically I found that the pollutants referred to by EPA as "criteria pollutants" (carbon monoxide, nitrogen dioxide, sulfur dioxide, ozone, and particulate matter) tend to decrease when tire burning is compared to coal burning. What EPA calls "non-criteria pollutants" (189 hazardous air pollutants, including volatile organics, dioxins, and furans) tend to increase. The criteria pollutants affect atmospheric pollution and aggravate respiratory problems, especially in the case of particulates, but it is among the non-criteria pollutants that one finds the carcinogens, the teratogens (cause birth defects), the mutagens, and the chemicals that cause reproductive system damage.

Usually when people say that tires burn cleaner than coal, they are referring to test results involving the criteria pollutants. There is a tendency to skew stack test data in favor of burning tires; indeed, many tests do not even test for the "non-criteria" pollutants.

I went to the Office of Air Quality (OAQ) to look at the test burn results for the three facilities offering to burn tires, and found that OAQ had data for only one test, the 1995 Willow Island test burn. They tested for carbon monoxide, nitrous oxide, sulfur dioxide, particulates, TNCHC, oxygen, and carbon dioxide. Non criteria pollutants that have been shown to increase with the addition of tires, such as zinc, lead, chromium, dioxins and furans, were not tested for. Even so, an OAQ statistical analysis shows that emissions will increase by over five tons per year, which would require a permit modification.

I will post my presentation on the West Virginia Environmental Council's website. [www.wvecouncil.org] If you don't have access to the web, and would like a copy, please contact me.

Blasting. Government Organization subcommittee C was presented with a draft blasting bill. The bill creates an office of explosives and blasting which will regulate all blasting relating to coal and noncoal surface mining and reclamation. The new office is also to establish a procedure for mediation of blasting complaints.

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Second, it is environmentally damaging. This should be an uncontroversial conclusion. The process takes millions of tons of dirt and rock and dumps it into valleys. It fills streams. It replaces living, growing forests with grass and (on rare occasions) struggling seedlings. Nature has awesome recuperative powers. Several centuries hence it will have corrected this damage. To say that the mining is not environmentally damaging is ludicrous.

That the mining is environmentally damaging does not, of course, fully answer the question of whether we allow it to continue or not. Most things we do are environmentally damaging. Were there economic or social benefits that outweigh the environmental damage then the continuation of mountaintop removal mining would be a reasonable option.

Mountaintop removal mining is the most intrusive, most hideous, most environmentally destructive practice one can imagine. The very name says it all. Were it producing the best schools, the best roads, the healthiest people, and the most prosperous economy then one could consider tolerating this practice. Since it is not, the environmental damage is not tolerable.

Third, the people oppose it. In the only published poll, those opposing it led those favoring it by 53% to 29%. By any measure, this is a landslide. This is in spite of a barrage of advertisements in newspapers and on television praising the practice. If we had an election in which only one party campaigned and that party still lost convincingly, we would conclude that the people had spoken resoundingly against the losing candidate. We can conclude no less here.

Fourth, mountaintop removal mining is illegal. The valley fills which are inevitably associated with mountaintop removal mining are wholesale violations of the Clean Water Act. Even were it not a wholesale violation of the Clean Water Act, the post mining land uses are not the limited ones that the federal Surface Mining Reclamation and Control Act require.

Fifth, mountaintop removal mining is immoral. The Methodists, the Catholics, the Episcopalians, the Lutherans, and the Presbyterians have all passed resolutions opposing mountaintop removal mining. When the religious community speaks with such unanimity, it is only proper to give that some weight.

For longer than anyone can remember, the public policy of the state of West Virginia has been to do whatever it could to meet the needs of the coal industry. This has produced the second poorest state in the nation, a state with hundreds of miles of streams dead from acid mine drainage, hundred of miles of streams obliterated by valley fills, and thousands of miners crippled with black lung.

In addition to the overwhelming opposition from organized religion to mountaintop removal, there is a moral dimension to the question of the continued use of coal as a fuel. The use of coal as a fuel contributes to global warming, makes people sick from breathing polluted air, and contributes to acid rain. One might be able to justify it as a necessary evil until we can replace coal with cleaner sources of energy but no one could contend that continuing to burn coal is a sound moral position.

By continuing to use its political influence to promote the use of coal, West Virginia is advocating for continued use of a socially damaging fuel. In doing so, it takes the morally suspect position of advocating a socially damaging practice because that practice serves its selfish purposes.

Were West Virginia not so strong an advocate of the continued use of coal, the nation could more easily move forward to a world of cleaner energy. Were we to be guided only by moral principles, we would work for the day when no coal will be burned. To the extent that we can move away from coal to another energy source and an economy that does not rely upon coal, we have a moral obligation to do so.

Finally, and perhaps most persuasive in my consideration of mountaintop removal, is the attitude of the coal industry itself as demonstrated at the public hearing on November 17.

For longer than anyone can remember, the public policy of the state of West Virginia has been to do whatever it could to meet the needs of the coal industry. This has produced the second poorest state in the nation, a state with hundreds of miles of streams dead from acid mine drainage, hundred of miles of streams obliterated by valley fills, and thousands of miners crippled with black lung.

Mountaintop removal mining could only be justified were this relationship reversed. Instead of designing public policy to meet the industry's needs, the industry must meet West Virginia's needs. Unless it is willing to do that, then there is no justification for mountaintop removal mining.

From the comments at the public hearing, there is no indication that this is true. The industry representatives praised the current practice of reclaiming land to "wildlife habitat" a practice that has no legal, economic, or social justification. Its only redeeming feature is that it is cheap, an attractive quality for the industry but not for the state of West Virginia.

If there is any doubt about the industry attitude, consider the comments of K.O. Damron. He found the modest suggestions that the coal industry should take some steps to reduce the impact on communities totally unacceptable. If this is the attitude of the industry as a whole, then the state of West Virginia is not dealing with a reasonable industry. Instead, it is dealing with an industry which has had so much power for so long that it is incapable of considering the possibility that it may not be allowed to do exactly what it wants. It is an industry that has historically put its needs before those of the public and sees no reason to change.

There is, of course, the possibility that Mr. Damron is only the lunatic fringe of the coal industry, turned loose to make the rest of the industry seem reasonable by comparison. If he is typical, however, then we are not dealing with a reasonable industry. We are dealing with an industry that will continue to do as it has always done until it is forced to change. We are dealing with an industry that will fight every step of the way. Given how far we would have to go to make mountaintop removal acceptable, there is little point in beginning that journey with such a recalcitrant industry.

For all these reasons, I conclude that mountaintop removal mining should be eliminated.

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on page 10*



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Given this overall conclusion, anything that I have to say concerning committee reports would be, in one sense, moot. If I oppose the entire practice, then there is little sense in commenting upon committee reports which assume that it will continue.

In spite of this, I offer the following comments. Even though my views on the wisdom of continuing the practice did not gain the support of the Task Force, there are still ways in which the report of the task force could be improved so as to provide you with more useful policy advice.

COMMITTEE ON THE ECONOMY

The report of the Committee on the Economy contains some useful recommendations. It recommends that we eliminate "wildlife habitat" as an approved post mining land use. This method of reclamation is illegal anyway. Its only appeal is that it is cheap to carry out. It produces land with no economic value. As a legal and economic matter, there is no justification for this as a post mining land use.

The report suggests a method for determining what land could be reclaimed for an industrial use. This is another positive step. The discussion of the entire issue of mountaintop removal has been full of general statements of "We need more flat land." This generalization may be true in some circumstances. There are some situations in which more flat land would be beneficial for industrial development. It is not, however, universally true. The vast majority of flat land created by mountaintop removal is remote, has no water, is of uncertain stability, and is inaccessible. Flat or mountainous, it has no potential as an industrial site. The report suggests specific criteria for approval of an industrial post mining land use. They are based upon a realistic understanding of the industrial potential of sites and the necessity of access, water, etc.

In the past post mining land use suggestions which proposed industrial land use were little more than shams. Regardless of the contour of the post-mining land, the sites were unsuitable for any industrial purpose because of their remoteness, etc. By proposing a set of criteria, we make it possible to separate the shams from the realistic proposals and make permitting decisions accordingly.

The Committee's conclusion that most post mining land uses would be commercial forestry contains both good and bad features. The feature which most strongly recommends it is that it is vastly superior to the current practice of allowing the industry scam of "wildlife habitat" as the dominant post mining land use. The only appeal of "wildlife habitat" reclamation is that it is cheap for the companies, something which the industry finds appealing but the public good does not. One can hydroseed an area and call it a "wildlife habitat." Regardless of what you call it, it is still a field of grass which has no economic, aesthetic, ecological, or social value. Whatever its deficiencies, commercial forestry is an improvement.

There remain concerns about commercial forestry as a post mining land use for mined land. First, it is probably illegal. The regulation on post-mining land use for mountaintop removal sites allows "woodland." The regulations define woodlands as those "where flat or gently rolling land is essential for the operation of mechanical harvesting equipment." There is not a scrap of evidence that this condition exists on any commercial forestry site in West Virginia. The timber industry routinely cuts trees on other than "flat or gently rolling land." One cannot seriously argue that the creation of such land on mountaintop removal sites is "essential" to commercial forestry.

Second, it is unproven. The Committee relied almost entirely upon the experience of the Powell River Project. Even that project is based upon speculation. It assumes that its "projections" about trees which live fifty years are accurate. It has not ever actually had any trees that lived fifty years to test whether those projections are accurate.

The only appeal of "wildlife habitat" reclamation is that it is cheap for the companies, something which the industry finds appealing but the public good does not. One can hydroseed an area and call it a "wildlife habitat." Regardless of what you call it, it is still a field of grass which has no economic, aesthetic, ecological, or social value. Whatever its deficiencies, commercial forestry is an improvement.

There is reason to believe that the assumptions of the projections, even if accurate, cannot be extrapolated to mountaintop removal sites. As one of the

speakers at the public hearing pointed out, the presence or absence of water is a limiting factor in tree growth. The disturbance that is the site of the Powell River Project is much less dramatic than that in a mine on the scale of the mountaintop removal mines in West Virginia. The interruption in the hydrology would be accordingly greater on a mountaintop mine.

Earth disturbance on the scale of a mountaintop removal creates a completely unpredictable water table. As the bulletins of the Powell River Project pointed out, mining creates land where it is possible to have saturated soil very close to the surface. At the same time, it is possible for the reclaimed area to be dry all the way to the natural ground. This variability occurs because of the unpredictable variability in the size of the backfill particles. They can range from dust to boulders. The result will be that a site reclaimed as "commercial forestry" may well be a site where the water table is such that long term growth of trees is impossible. At a minimum, we could expect that the available water would often be much deeper than it currently is. This deeper water would have an adverse effect upon tree growth.

The use of commercial forestry as a post mining land use is also in direct contradiction to one of the core assumptions of mountaintop removal mining: that the material does not weather to soil. The fundamental assumption about the construction of a valley fill is that the material is durable. The design assumes that the material will remain in large particles as rock rather than weathering to soil. If it weathers to soil the fill no longer drains properly and becomes unstable.

The Powell River Project makes the opposite assumption:

"The surface four feet of mine soil material should be easily weatherable so that most rocks and boulders decompose to fine soil materials within a few years."

Both assumptions cannot be true. Either the material on site is such that it will never weather to soil (the assumption behind fill construction) or it will weather to soil within a few years (the assumption behind forestry). The same material cannot simultaneously contain properties causing it to weather and not weather.

REPORT continued on next page

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The Powell River Project also identifies soil qualities that are necessary to establish commercial forestry. It recommends that "siltstone and shale that occur directly above or below coal seams should be avoided. These rock types usually have high levels of soluble salts, a high pH, and compact to greater densities when trafficked." Since mountaintop removal mining typically involves several seams, this will in all probability mean that to reforest successfully would require segregation of multiple strata containing these soluble salts, etc.

The report of the Committee on the Economy assumes that commercial forestry is an achievable post-mining land use. This is, at best, a half truth. It may be achievable as a theoretical matter but it has never been achieved. In order to achieve it, any mining company would have to overcome such problems as the irregular water table, the weatherability or non-weatherability of spoil, and the segregation of the strata which contain soluble salts.

Even where, as the Powell River Project assumes, all these barriers can be overcome, the result is inferior to the pre-mining land use. This places such uses in violation of state and federal laws which require that land be restored "to a condition capable of supporting the uses it was capable of supporting prior to any mining, or higher or better uses" The pre-mining land use on mountaintop removal sites is overwhelmingly native forest. They have a variety of species and substantial aesthetic and ecological value in addition to their value as sources of marketable timber.

Not even the Powell River Project claims it can replicate this:

"Mined land cannot be artificially prepared for these [native] species. Instead, pioneer species such as leguminous trees and shrubs (black locust, autumn olive, and bicolor lespedeza) and pine species that can tolerate a wide range of acidity, fertility, moisture, and temperature should be established first."

The bulletins of the Powell River Project do go on to assume that these "pioneer species" will eventually yield to native hardwoods. Unless the term "eventually" means "some time within the next five hundred years" there is absolutely no evidence that this is true. If by

"forestland" we mean the kind of land that existed before mining, there is no reasonable possibility that this will occur in any time frame that is meaningful.

There are various ways to address the technical difficulty of establishing a forest on mined land. One is to require a level of sophistication of the permitting agencies that is to date unprecedented. It will no longer be sufficient to examine the company's seed mixture and nod in agreement. It will require consideration of material handling techniques, placement and segregation of soil strata, water requirements, etc. Unless we start examining such proposals with such a sophisticated and critical eye, the post-mining land use of forest land will turn into little more than the scam that "wildlife habitat" is today.

Second, we need a bonding period that is substantially longer than we now have. Current bonding practice is to begin releasing bonds or portions of bonds as soon as land is graded to its final contour and revegetation has begun. With forestry, this is much too short a period. Developing a forest is a long term project. If we allow mining on the assumption that the post-mining land use will be a forest, we must not release the bond until after that forest has been created. If fifty years is required to create a forest, then a fifty year bond is appropriate.

[John will conclude his report on the Committee on the Economy in a subsequent issue. Don't miss it!] ✦



BLACKWATER CANYON NATIONAL PARK

Ohio Valley Environmental Coalition
Press Release of December 16, 1998

The Ohio Valley Environmental Coalition supports the establishment of the Blackwater Canyon National Park and the associated Blackwater Ecotourism Enterprise Training Center.

Blackwater Canyon is symbolic of the wild beauty of our Mountain State. The Canyon has been cherished for decades as a seemingly public resource, world famous for its fly fishing and whitewater kayaking. Hunters treasure the Canyon as a rugged outpost for tracking black bear. Ecologists know the Canyon as a unique ecosystem usually found much farther north, an ecosystem that is home to rare, threatened and endangered species. Hikers, mountain bikers and bird watchers cherish the Canyon's spectacular landscape. The views from Lindy Point have been shown around the world, inviting travelers to vacation in wild, wonderful West Virginia.

OVEC recognizes the national importance of the Blackwater Canyon. It is one of the most compelling beautiful landscapes in the East, with some of the rarest habitat for a host of species. Economically, once the Canyon is protected, it can again be a boon to tourism in Tucker County and all of West Virginia.

The establishment of the Blackwater Canyon National Park would protect the Canyon's unique and precious natural resources to the benefit of the species residing in the Canyon, to the benefit of the hundreds of thousands of Canyon visitors and to the benefit of the people of West Virginia. And, the proposed Ecotourism Enterprise Training Center would benefit the people of Tucker County.

OVEC joins with thousands of West Virginians in demanding permanent protection of this spectacular natural resource. ✦

Highlands Forum

A West Virginia environmental issues forum has been established on the Internet at www.wvhighlands.org, the West Virginia Highlands Conservancy site. Posts are invited. This provides an opportunity to reach a wider audience than the WISE subscription base. ✦

Drawing for Binoculars

Winner, drawn from a backpack in the WVHC office in downtown Morgantown on 12/1/98 is Bob Hogue from Martinsburg. This was from folks, nearly 100 of them, who returned a postcard located in the hiking guide they bought. Everyone who returned it was entered and given a free 6 month trial membership. ✦

West Virginia Rivers Coalition Action Alert: Curb Factory Farm Pollution!

In West Virginia's Potomac headwaters, factory farms are a major source of surface and ground water pollution. These operations ignore the health of our communities and threaten water resources that rural and urban communities depend upon. One-third of river sites tested in the Potomac headwaters exceed bacteria safety standards. Many stretches of the river are unsafe for recreation in the South Branch area, including those near Smoke Hole, the Trough, and Seneca Rocks. West Virginia has no program to regulate poultry pollution, which produces about 155,000 tons of manure a year.

The U.S. EPA and USDA are now taking public comments on a "Draft Unified National Strategy For Animal Feeding Operations (AFO's)." This Draft Strategy is a plan for dealing with surface water pollution from AFO's, including those in the Potomac region.

Comments are due January 19, 1999, so please write today!

ACTION -- Tell EPA and USDA that the Draft Strategy acknowledges important points about factory farms' impact on water for drinking and recreation, but it needs to be stronger. Specifically, tell them that:

* There should be a moratorium on creating new factory farms until permits for existing facilities have been issued.

* Corporations should be responsible for paying the costs of waste disposal and cleanup generated by the chickens and turkeys they own.

* Level the playing field! Improve permitting standards by adding strict water quality

monitoring requirements and tough enforcement against Clean Water Act violators. Also, put phosphorous standards in nutrient management plans, and assess all environmental impacts of AFO's.

Questions? Contact:

West Virginia Rivers Coalition:
801 North Randolph Ave.
Elkins, WV 26241 ph: 304/637-7201
fax: 304/637-4084 www.wvivers.org

Just copy, paste, print and mail this sample letter!

Denice C. Coleman
Program Analyst
Natural Resources Conservation Service
Attn: AFO, Box 2890
Washington, D.C. 20013-2890

Dear Ms. Coleman:

In West Virginia's Potomac headwaters, factory poultry farms are polluting our drinking water, our streams, and our air. These operations ignore the health of our communities and threaten water resources that rural and urban communities depend upon. One-third of river sites tested in the Potomac headwaters exceed bacteria safety standards. Many stretches of the river are unsafe for recreation. West Virginia has no program to regulate poultry pollution, which produces about 155,000 tons of manure a year!

The EPA/USDA "Draft Unified National Strategy for Animal Feeding Operations (AFO's)" must ensure that strong controls are placed upon these operations that are threatening our health. The Draft Strategy should take the following items

into account:

1) A moratorium on Clean Water Act permits for new and expanding factory farms should be instituted until all existing facilities have effective permits in place and standards are upgraded.

2) Corporations should be responsible for paying the costs of waste disposal and cleanup generated by the animals they own.

3) Level the playing field! Local citizens should be permitted to participate fully in decisions allowing factory farms to locate in their community. Also, citizens should have the opportunity to help decide what pollution controls are needed on factory farms to protect their communities. Only individual, site-specific Clean Water Act permits can accomplish this, followed by strict water quality monitoring by livestock operators and tough enforcement against Clean Water Act violators.

4) Put phosphorous standards in nutrient management plans, and assess all environmental impacts of AFO's.

5) Manure should be prevented from running off the land and polluting our streams and rivers. Our waters must be protected from poultry manure, as well. Chicken factories should be regulated under the Clean Water Act in the same fashion as other animal operations.

Thank you for your consideration.

Sincerely,

✦

Join the West Virginia Highlands Conservancy

Category	Individual	Family	Organizational
Senior/Student	\$12	-	-
Regular	15	\$25	\$50
Associate	30	50	100
Sustaining	50	100	200
Patron	100	200	400
Mountaineer	200	300	600

Name: _____

Address: _____

City/State/Zip: _____

Make checks payable to: the West Virginia Highlands Conservancy. Mail to: P. O. Box 306, Charleston, WV 25321

Membership Benefits

★ 1 Year subscription to the Highlands Voice

★ Special meetings with workshops and speakers

★ Representation through WVHC efforts to monitor legislative and agency activity

The WVHC, at age 31, is the oldest environmental group in West Virginia. The Conservancy has been influential in protecting and preserving WV's natural heritage. Your support will help WVHC to continue its efforts.

INTERIMS from page 8

In its current form, the bill does not give the agency specific instructions to implement many of the changes that blasting victims requested. Instead, it authorizes the DEP to implement them, if it chooses to, during rule making.

One big problem with that approach is that the law, at §22-1-3a, only allows the DEP to be more stringent than federal regulations if the director: provides specific written reasons demonstrating why the provisions are necessary; or relies upon stated legislative findings, policies or purposes.

Several of the provisions that blasting victims have asked for are more stringent than federal regulations. If the committee, in the body of the bill, does not give stated findings, policies, or purposes directing the agency to implement the changes requested during the interim process, then it may appear that the committee has acted upon the problem by passing a bill, but in reality the problem will have been passed on to the agency to handle at the director's discretion.

Between now and the January interims (Jan. 10-12), members of the subcommittee should be asked to amend the bill to direct the agency to implement the changes we have asked for, such as moving mines back to 1,000 feet from homes, reducing ground vibration from blasting to one half inch per second, requiring site specific blasting plans for blasts within two thousand feet of homes, reducing the air blast limit to 110 decibels, and creating a presumptive liability for damage within one mile of blasting.

If you want copies of any of these bills, they can be obtained from the committees, or from me. I have prepared abstracts of these bills as well. If you want copies of them, or have questions or comments, please contact me. 655-8651; tdegen@wvwise.org or tdegen@wnpb.wvnet.edu

Letters**Folly for agencies to be allowed to police themselves**

(The following letter appeared in the Charleston Gazette on December 16, 1998)

Editor:

Office of Surface Mining people can't and won't criticize West Virginia's mining regulators on a major issue like mountaintop removal.

They would have to criticize their own oversight, which for years has cravenly approved West Virginia's approach. Only a few months ago, Roger Calhoun, a top OSM official in West Virginia, said he had more important issues to attend to.

Get a third party in there to take a look. I bet Davitt McAteer's Mining Safety and Health Administration could put together an investigation that wouldn't pull its punches.

Richard S. diPretoro
Pittsburgh

(Richard diPretoro is a career geological consultant and former administrative assistant of the West Virginia Highlands Conservancy) ♦

Editorial Writer Is Either Sorely Mistaken or Very Biased

(The following letter was printed in the Charleston Daily Mail)

Dear Editor:

Re. your "Mining" editorial of November 6th: Your writer says it is the legislature that sets public policy, by enactment of laws. And you say that the governor is the "agenda setting" branch of government. The Division of Environmental Protection is the environmental law enforcement arm of the governor. The Army Corps of Engineers has a specific legal mandate to enforce laws about filling in streams. You seem critical of a lawsuit filed by the West Virginia Highlands Conservancy against these two agencies. You suggest that our organization's goal is to "end run" the laws. On the contrary, we contend that the mining companies are end running the laws, by simply ignoring them. And we contend that it is the agencies' mandate, spelled out in law, to see that this doesn't happen. Does the "agenda setting" duties your writer assigns to the administration include the right to determine what parts of mining and environmental laws it wants to enforce? We think not.

Frank Young, President
West Virginia Highlands Conservancy ♦

Mountain Top Removal Hurts the West Virginia Economy

(The following letter was sent to Governor Underwood on November 17, 1998)

Dear Governor Underwood,

I want to take a few minutes of your time to register my horror and disgust for the current practice of mountaintop removal in West Virginia. As a conservation biologist, I feel compelled to provide statistical analyses of the negative effects of mountaintop removal on the quality of the water, soil, and air of the Mountain State. However, I will refrain from cataloging the many biological costs which mountaintop removal levels on my home state. Instead, as a native of Morgantown, I want to point out some of the cultural costs which this practice incites.

Mountaintop removal robs West Virginians of opportunities for long-term natural resource employment. How can we sustainably harvest woodlands for timber when the woods are turned into a "valley fill?" How can we attract tourists to West Virginian trout streams which are destroyed forever from mountaintop removal? We cannot. Your endorsement of mountaintop removal spells economic disaster for the people of West Virginia. As a result, you cannot ethically claim to be both "pro-jobs" and "pro-mountaintop removal." Indeed, there is no middle ground on this issue. It has been mined.

Besides direct economic impacts, mountaintop removal also levels a blow to our state pride and self-identity. As Appalachian citizens, we have always affiliated ourselves with the terrain of this region. As manifest destiny-bound settlers moved westward through the Appalachians, our descendants chose to stay

and to stake their claim in these mountains. Accordingly, how can we live in the Mountain State and simultaneously condone the obliteration of the very mountains which define us and our heritage? We cannot.

What legacy will you leave as Governor? Please save our mountain heritage and halt mountaintop removal.

Thank you for your consideration.

Most sincerely,

Than Hitt,
Missoula, MT

Arch Coal Propaganda Backfires

Dear Editor:

It is Thanksgiving Day and I was just channel surfing prior to the start of the Steeler's game. I came across a commercial by Arch Coal on CNN regarding mountaintop removal (it's the right thing to do). Without a doubt it is a nice propaganda piece. But it made me think of how grateful I am of the efforts of the Conservancy. I also realize how much of an uphill struggle we will have against the political and economic forces of King Coal in West Virginia. Therefore, I am enclosing an additional contribution to the Highlands Conservancy, in the hope of doing what little I can to help counter balance the overwhelming influence of those who can afford to hire professional spin doctors and propaganda specialists.

Please maintain your vigilance in the fight against mountaintop removal!

Sincerely,

Justin M. Harrison December 15, 1998

Christmas Wreathes Greatly Appreciated
(The following was a letter of appreciation to Dave Saville - Dave you done good!)

Dear Mr. Saville,

My two evergreen wreathes have just been delivered and are already hanging on the main doors. They surpass my fondest expectations and I am delighted! They are full, fresh and smell wonderful. We shall certainly enjoy them. How about next year? I hope this project will prove successful enough for you to offer wreathes again in 1999.

Gratefully,

Joan Cassidy December 1998

(Dave's follow up note)

Yes, we do hope to make the Christmas Wreathes an annual fund raiser. This year we netted over \$700 from the wreath sales.

(Is this the right place to put in a kudo for Dave and his wreathes which have been a real boon to the WVHC? I hope so, because here it is! Well done, Dave! Editor) ♦

Non-point Pollution

by Don Gasper

Since we have made progress in the control of pollution that comes out of a pipe, pollution from non-point diffuse sources is today's greatest water quality problem. West Virginia's first conference on non-point pollution was just completed in Charleston, West Virginia on October 1, 2, and 3. This kind of pollution occurs when rainfall, snow melt or irrigation runs overland or through the ground, picking up pollutants and delivering them to the stream system. The most common problem is sediment and nutrients that wash into streams from agricultural land, construction sites, and other areas of disturbance such as logging. Sediment from streams themselves such as bank and bottom scour is also considered non-point pollution. Leaking dysfunctional septic systems, settlement, and careless or uninformed households, are also sources.

Agricultural sources include confined animal facilities, grazing, fertilizer or herbicide and pesticide use, irrigation, plowing or harvesting. Agricultural activities can damage habitat and stream channels, but sediment to streams can be reduced 20%-90% by applying "Best Management Practices" - keeping the soil in place. Animal concentrations can produce quantities of manure far above stream and groundwater assimilative capacity. It can produce levels above legal health standards of phosphorus, nitrogen, potassium and other nutrients, as well as pathogens (viruses and bacteria). Again Best Management Practices (BMPs) have been carefully devised for this also.

Forestry professionals pioneered Best Management Practices for timber production and harvest. Households, too, have ways of reducing

unfavorable impacts in the land by their location and design, and living habits.

Urban runoff is a problem as settlement expands into forested areas with impervious roads and roofs that causes high flow volumes to increase by a factor of four or five times. This erodes natural stream channels below, produces sediment, and produces a hydrologic overload on all structures below. The drainage control system is then destroyed by sediment accumulation in streams; and pipes, ditches and bridges can be washed out. Wetlands that would help relieve flooding by themselves flooding at high flows, are often drained and filled in the process of settlement. In clearing for development the tree canopy is reduced. Trees evaporate intercepted rain and snow, and by transpiration as tree roots take up soil moisture which tends to dry the soil. With abundant tree cover soil generally has more water storage capacity to take up the first part of a rain. Trees thus are important in reducing flooding.

Education of the public was considered by the experts from many fields as the first, most needed, and most profitable approach to these many nonpoint source pollution problems. Education may encourage a greater concern about the environment and community which then would make regulation unnecessary or more understandable if needed. Needed then are awareness of these problems; and education in the various BMPs by those engaged in forestry, agriculture, construction, and homeowners in general. (We all know to turn off our lights when not needed, or use more fluorescent lights, to recycle, and to not waste water by using low consumption

commodes and showers, etc.) It was noted that citizen volunteer efforts are useful in defining these environmental problems as a basis for action, and as a way to educate volunteers themselves, and in turn their community.

Agencies plan to coordinate programs better with each other -- sharing data, planning and programs, and using a watershed approach. All agencies plan to increase educational efforts, especially about Non-point Source Pollution.

There was much excellent literature available. There were 23 posters, and probably as many agencies and private groups that gave the roughly 50 talks. The D.O.H. had a very able representation to assure everyone that their sediment control measures were adequate, even enhancing the environment. Their attitude and competence was reassuring. Of course the recent recovery in some streams by liming mining's residual acid seepage was touted by the Department of Environmental Protection (DEP). Again good agency attitude was noted, and some real progress that they can take credit for was apparent. (However, there was no mention of mountain top removal.) Moreover, a superlative overview of mining in West Virginia was given that will be briefed in a later issue of The Voice.

DEP Director Michael Miano welcomed everyone and started the conference. State Forester Bill Maxey described West Virginia Forests as naturally renewable, and sustaining the present harvest. Maxey claimed that the Division of Forestry does educate, certify, and control loggers. The number of inspectors in the Division (106) is not sufficient to do the job, he stated, needing 11 more. In 1997 the Forestry Division suspended 271 operations with a loss of three

Continued on next page

OSM Report Wishy-Washy

(Adapted from an editorial from the Charleston Gazette of December 15, 1998)

Knowing the history of the U.S. Office of Surface Mining in West Virginia, it is not surprising that nothing good would come of the months-long delay of an OSM report by that examined West Virginia's regulation of mountaintop removal mining.

A strong draft of the report was finished in early August. But in the final draft released this week, tough criticisms of coal industry and state regulatory practices have been watered down.

For instance, the first draft said coal operators are "indiscriminately dumping" waste rock and dirt into huge valley fills. The final report only says that more rock and dirt are going into fills than can be accounted for by the "swell factor" that occurs when strata become rubble.

The final draft also offers less concrete solutions to the problems it identified, although the initial draft was a bit hazy in its suggestions as well.

On perhaps the most important issue -- how to define "approximate original contour," or what constitutes returning mountains to something resembling their original shape -- OSM merely asks for guidance on whether it should make a decision or continue to leave the matter to the states.

The report also falls down by noting deficiencies in the state regulatory program, but not specifying how to correct them. These are serious areas where the state program is not as stringent as the federal regulations, a violation of the 1977 Surface Mining and Reclamation Act. The most important of these weaknesses is the state's failure to require a coal firm to prove a market and a need for a proposed development on each flattened hilltop. In addition, the state allows "woodlands" as a proposed land use, even though federal regulations don't recognize it as a development.

Sen. Robert C. Byrd and Rep. Nick Rahall both criticized OSM for the report's failure to resolve any of the regulatory disputes that have held up new permits for mountaintop removal mines.

Byrd said the report puts off a resolution of the central questions. "It ... does nothing to end the uncertainty with which mining families who face layoffs are having to live," he said.

Rahall criticized Interior Solicitor John Leshy, whose staff rewrote much of the report. Rahall had asked Leshy to ensure that the report would be handled correctly. Obviously, Rahall didn't mean for it to be diluted.

OSM has miserably failed in its duty to oversee West Virginia's regulators. This report was a belated attempt to rectify that situation. Sadly, it simply compounds past failures and resolves no major issues.

Because of OSM's failure, families and communities continue to face an uncertain future.

✿

NON-POINT POLLUTION from preceding page

million dollars to operators. They do mean business. They want the BMPs to work. He noted the great harm to site productivity and the damage to remaining timber by forest fires. He restated that if log roads are properly constructed, sediment will not be produced. (He failed to address the fact that increased flow from the site causes stream scour and sediment. This inherent problem with logging can not be easily solved by BMPs.)

DEP's Water Resources described its many challenges to protect clean water and its uses. They made the meaning of nonpoint pollution clear: regional failure of septic systems, oil and gas roads, and other roads and other disturbances causing sediment, flooding and bank erosion from hydrologic modification by settlement, animal concentration and other agricultural practices, etc. Even Acid Rain was mentioned as causing "loss of buffering at high elevations." Persons from this agency count on riparian stream-side tree boarders, and on BMPs (voluntary or obligatory) to protect the environment.

DEP's many programs were explained to encourage citizen partnerships in watershed protection and in goal setting. The US Fish and Wildlife Service and the Natural Resource Conservation Service did also. The Department of Natural Resources - Wildlife presented information about stream-side wooded boarders and wildlife.

The US Geological Survey gave very good technical papers on geology and water quality, and pollution of the Greenbrier Limestone via sink holes. Every aspect of nutrient management and their uptake by stream-side vegetation was explored in several presentations. (It was stated that the poultry problem can be solved, if the excess can be shipped to areas where it is needed, and producers are paid more for their products by the big poultry producers so they can afford these

measures without having to rely on public funding.)

An exciting comprehensive watershed project is beginning on Knapps Creek of the Greenbrier in Pocahontas County where deteriorated channel quality has made this experiment a necessity. (There will be further reports on this.)

In passing, among many other valuable observations, the State Conservationist defended small flood control dams in spite of a sentiment against them. He said he knew they had done a lot of good -- that his agency (NRCS) had a proud legacy in them. (I think they should be proud, and that today we need more of them.)

Stream assessments by volunteers and agencies and the macroinvertebrates associated with streams, and other things were superbly covered. Mike Arcuri (DEP - Water) did macroinvertebrate index(s) of water quality, and Dr. Andy Dolloff (USFS) did riparian watershed history and wood in trout streams. Pam Moe-Merritt from the Rivers Coalition gave a talk on tools for grassroots organizations.

There were presentations on grasslands, and aquaculture. The restoration of badly polluted sites (brownfields) and the technology and programs associated with them were presented. Well plugging and control of new wells was described. The Public Health Service explained sewage regulation.

New initiatives like the President's watershed "Clean Water Action Plan" was explained, as were new avenues of coordination between agencies and citizen partners in developing watershed plans. The State's mapping and data gathering (GIS) program was described as were the services they now offer. (The Clean Water Action Plan will be reported in more detail. Letters to our Congressional delegates in Washington would be helpful to get the necessary

funding.)

In addition to literature and individual handouts, there was a 3/4 inch thick compilation of talks.

There may be another conference next year. Attend if you can. ❖

[Editor's note: I am bothered by the 3/4 inch of handouts with talk summaries. They get filed away, and most conferees never look at them again, I would presume. How many trees had to bite the dust to make up so much paper work!]

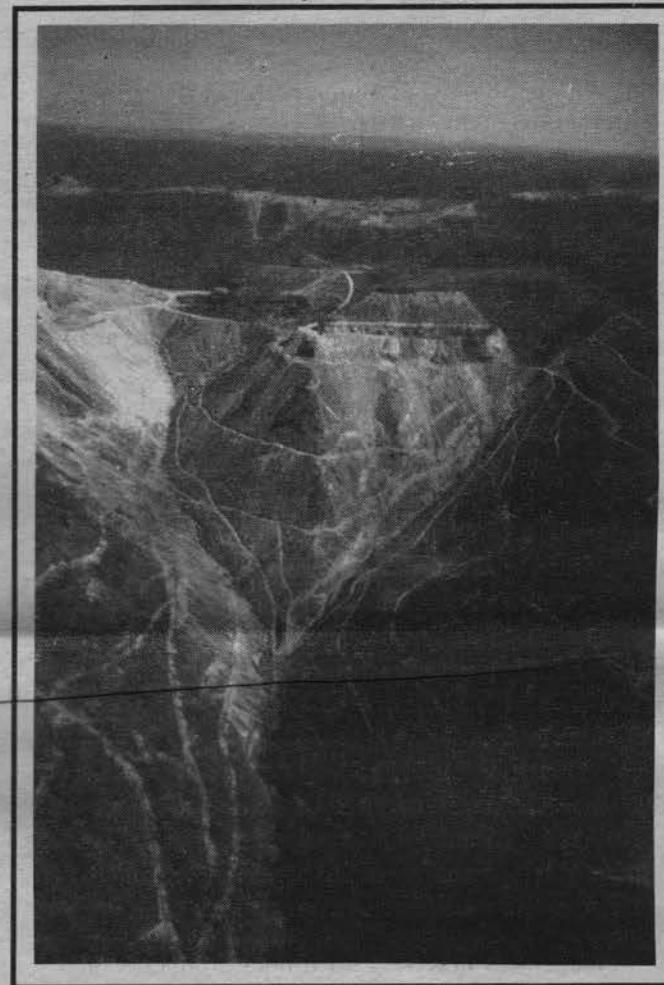


photo credit Penny Loeb & US News & World Report

Task Force on Mountain Top Removal Submits Report to Governor

By Ken Ward Jr.

(This article appeared in the Charleston Gazette on December 3, 1998)

Members of a gubernatorial task force have come up with a long list of ways the state could protect residents and the environment from mountaintop removal mining.

Now, task force members said Wednesday night, it's up to Gov. Cecil Underwood and the Legislature to put those suggestions into effect.

"This is probably just the beginning of the process," said Marshall University President Wade Gilley, who chaired the task force. "The governor and the Legislature will have to pick up the ball and go from here."

The 16-person task force, appointed by Underwood in June, met Wednesday night for the last time. Members approved, with mostly minor changes, three committee studies that will make up the bulk of their report to the governor. They also approved an executive summary that completes the four-chapter report.

The executive summary made it clear that task force members do not believe the public debate over mountaintop removal should end with their report.

"The balance between preservation of the natural landscape and surface mining is an inherently political decision vested in the legislative branch," the summary said. "Consequently, the Legislature should consider whether public values compel restrictions on the degree of alteration in the natural landscape and the environment, especially in regard to large-scale mountaintop mining operations."

Among the task force's final recommendations:

- ★ More study is needed to determine the long-term environmental impacts of blasting off entire

mountaintops to reach coal seams, and dumping leftover rock and earth into miles-long valley fill waste piles that bury streams. Studies should examine the current and potential extent of mountaintop removal and the long-term and cumulative impacts on water quality and wildlife.

- ★ A new office should be created within the state Division of Environmental Protection to regulate the impacts of mountaintop removal on the people who live near these giant mines.

TASK FORCE continued on page 18

Still Another Religious Faith Joins the Others to Save Creation

[I recently received the message below in the form of a brochure. I reprint this with the permission of Todd Garland of the Gaia Group, Catholic Committee of Appalachia. Editor]

Powering Down - A Less is More Proposal

The Catholic Church has a strong tradition of encouraging the faithful to make Friday a day of sacrifice and self-denial. In keeping with this tradition, and with the Church's calls to solidarity with the poor and to respect for all life, we offer the following proposal: that those who embrace justice, peace and the integrity of Creation — conscientious Christians, believers of all faiths, and those who in today's world find it difficult to believe — abstain as much as possible from using electrical and fossil-fuel power on the first Friday of each month.

We realize that health concerns will not permit everyone to incorporate all these suggestions, especially during periods of extreme weather. When they are appropriate, however, such acts might include some of the following:

- Turning down heat in cold months
- Doing without air conditioning when possible
- Turning off the TV or radio
- Eating a cold meal, or sharing a single-pot meal with neighbors
- Leaving the car at home, using public transportation, car pooling
- Turning off the computer
- Using alternative lighting instead of electric lights
- Using a solar cooker (plans to make your own are available from our office)

This proposal has immediate roots in the recent expansion of "mountain top removal" coal mine permitting in West Virginia, which also threatens other Appalachian states. At a recent public hearing, people from Blair, W.Va. described the rain of fist-sized rocks they endured from blasting, water wells that dried up overnight, and dust so thick they couldn't see across the road. They cried out at the destruction of their community, their homes, and the streams, hills, and hollows in which they once played and delighted. Their concerns, and their pain, evidently fell on deaf ears, as the coal company executive who had the last word at the meeting observed, "Anyone who opposes this permit and wants cheap energy is a hypocrite."

We believe, however, that God's word still seeks and brings about justice. "So shall my word be that goes forth from my mouth; it shall not return to me void, but shall do my will, achieving the end for which I sent it." (Isaiah 55:11) Thus, we suggest an intentional act of solidarity with people whose lives are impoverished by the exploitation of their community's natural resources, with people around the world who lack access to the abundant resources we use daily, and with all creatures endangered by our degradation of their habitat. Let us abstain as much as possible on the first Friday of each month from using the electrical

power and fossil-fuel energy that drive so much of the exploitation of these natural resources.

While this is a proposal to forego simple conveniences for a day, we suggest that it also be embraced as a monthly day of Jubilee (Leviticus 25) -- a day to lay down the bustle and allow our lives a little fallow time, consciously opting for the community of Creation, for "the earth is the Lord's and all it holds, the world and all that live there." (Psalm 24:1)

Our labor-saving devices often have the contrary effect of making us busier, "freeing up" time in which we simply undertake other tasks. We frequently become slaves to elaborate schedules, and to the very conveniences that are supposed to be liberating. The feeling that we have too much to do and too little time is epidemic. Our ability to jump in the car requires us to go. The ubiquitous television, radio, stereo, and computer drown out our own thoughts, and certainly the rustle of leaves, the shouts of children playing, the songs of birds.

As a monthly Jubilee, a "power-down" day could be a step to recovering the concept of Sabbath -- a time for re-creation. When it's possible to go without air-conditioning and electronic amusements, we might spend long summer evenings on the stoop or porch getting re-acquainted with neighbors, reclaiming our neighborhoods, rediscovering our families. Offices might turn off the computers and gadgets and spend the day clearing off desks and catching up on filing and planning. Perhaps we might take time to "consider the lilies of the field" (Matthew 6:28), and reconnect the natural rhythms of sunrise and sunset from which our culture and lives have become so isolated. The spirituality that proclaims "less is more" will gradually penetrate who we are and what we will become.

As this millennium draws to a close, many hunger for ways to bring decisions and actions into line with moral principles. The intertwining of commerce makes it increasingly difficult to choose anything -- a piece of clothing, a morsel of food, a watt of energy—knowing that its production from start to finish embodied justice and respect for all of Creation. Power-down days will not provide that pure experience, but they may create a quiet oasis in which we can take first steps.

Be praised my Lord because our sister
Mother Earth sustains and rules us
and because she raises food to feed us:
colored flowers,
grass . . .

SAINT FRANCIS OF ASSISI

Teach your children
what we have taught our children—
that the Earth is our mother.
Whatever befalls the Earth
befalls the sons and daughters of the Earth.
If we spit upon the ground,
we spit upon ourselves.

This we know:
The Earth does not belong to us,
we belong to the Earth.
This we know:
All things are connected.

Whatever befalls the Earth
befalls the sons and daughters of the Earth.
We did not weave the web of life,
We are merely a strand in it.
Whatever we do to the web,
we do to ourselves. . . .

CHIEF SEATTLE

What would the world be, once bereft
Of wet and of wildness? Let them be left,
O let them be left, wildness and wet,
Long live the weeds and the wilderness yet.

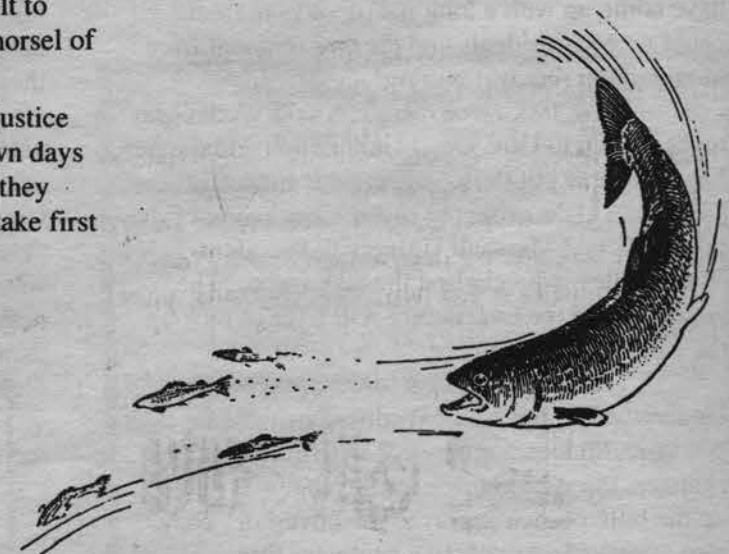
GERARD MANLEY HOPKINS

But even now we feel the pain, and for that we ought to be grateful. It may help us to change, and change we must at a very basic level. One of the ways to deal with the ecological despair we feel when we think about the future we are willing to the next generation, is to refuse the role of victim, to become active, to participate in the vocation of the planetary agenda

SALLIE MCFAGUE

Additional copies of this brochure and other CCA publications, including *At Home in the Web of Life*, are available from the following address:

Catholic Committee of Appalachia
PO Box 662
Webster Springs, WV 26288
(304) 847-7215
e-mail to : cca@access.mountain.net



Another New Book about Appalachia's Forests

--reviewed by Paul Salstrom

Chris Bolgiano, *The Appalachian Forest: A Search for Roots and Renewal*.
Mechanicsburg, Pa.: Stackpole Books,
1998. Illustrated, 280 pages. Clothbound,
\$25.

Naturalists come to be naturalists in wildly different ways--and that has always been true--but foresters used to all be cut from the same cloth. They all used to graduate from forestry schools and go right to work for industry, or the government, or a forestry school.

Not any more.

And almost all foresters used to specialize in economic forestry -- the enhancement of board feet that made forests more profitable to milk (or to decimate -- that was decided by the forester's boss).

But not any more. Now a new generation of self-taught foresters work largely as volunteers and owe more to John Muir than they owe to Gifford Pinchot. Among their growing number is Chris Bolgiano, previously the author of *Mountain Lion: An Unnatural History of Pumas and People* (1995).

This lively new book interweaves her own life story with what she has learned about Appalachia's forests, including their past history and their future prospects. Chris displays a journalistic knack for framing the somber past in upbeat stories of present-day hiking and activism. Her journalistic skills don't undermine her history, however, which is solid. Nor does she simply rehearse the 1900-era clear-cuts, followed by the runaway wildfires and then the epochal floods. That history is well told in Chapter Three, but first Chris reveals the local origins of Appalachia's commercial logging in the mid-to-late 1800s. And

even before that she devotes an entire chapter to the Eastern Band of Cherokees and their relations with southerly mountain forests. Chapter Four then traces the evolution of forestry policy in the East, giving due emphasis to the career of Gifford Pinchot and the 1911 Weeks Act (which allowed land purchases for eastern national forests) but not neglecting the quite-different *preservationist* movement that culminated when the High Smokies (in 1930) and part of the Blue Ridge (in 1935) became national parks.

Quite a few local people remain still upset about how those parks became government property, but Chris (who lives on 100 wooded acres that border George Washington National Forest) seems to believe that the parks have forestalled a worse fate. Indeed, her long central chapter "Profiles in Controversy" marches through Appalachia's national forests and parks one by one, highlighting the threat of increased timbering and showing just how short-sighted current cutting policy tends to be.

Among the profusion of 37 photos scattered through this book are plenty providing hints that the national forests and parks *have* saved millions of acres from a worse fate -- especially the photos on pages 63 and 75 which originally appeared in the 1902 "Report of the Secretary of Agriculture in Relation to the Forests, Rivers, and Mountains of the Southern Appalachian Region."

I personally part company with Chris, however, when she decides that some sort of *spiritual emptiness* (of all things) contributed to such mistreatment of nature. Quote (from page 61):

Admiring the one-room white clapboard [churches] with their pretty steeples, you might

conclude that Appalachian people are all devout. This would be an error. Southern Appalachia ranks as having the highest percentage of "unchurched" people in America. ... Surely a spiritual emptiness in the woods contributed to the greatest of Appalachian paradoxes: attachment to place and complicity in its destruction.

I wouldn't quote this passage if religion hadn't turned up in two or three of the 1998 issues of the *Voice* -- besides religion being my own favorite topic. Although Chris has lived in Appalachia almost thirty years, perhaps she hasn't visited many of its rural churches.

In 1971, Chris and her husband Ralph bought some old farmland near Elkins and lived there awhile. But then they found those 100 wooded acres in Virginia, bordering George Washington National Forest, and found jobs nearby, built their own house, and have lived there ever since.

Rounding out *The Appalachian Forest* are several fascinating chapters -- one on the prospects for fostering what Chris calls "new old growth"-- another on OHVs and wilderness designations -- another on forest-preservation activists -- another on the prospects for a new breed of American chestnut trees -- another on black bears -- and finally one on acid rain.

Withal, this book is both solid and timely, a credit to its author.

(Paul Salstrom is the author of *Appalachia's Path to Dependency 1994*)

From the Archives

December 1978

President Linda Cooper outlined the goals for the upcoming year, they were:

- Cranberry Wilderness designation;
- Protection of Canaan Valley as a National Wildlife Refuge, and
- Cessation of Corridor H.

New River gets "National River" status.

President Carter put his signature on the National Parks and Recreation Act of 1978, which designates 8 new Wildernesses, 8 new Wild and Scenic Rivers, 5 new National Trails, and The New River Gorge National River. ✚



Don Gasper giving some lessons to Dave Callaghan, Dec. 1998

Adverse Supreme Court Ruling and the Proposed Blackwater Canyon National Park

Out of the ashes of an adverse West Virginia Supreme Court ruling flies the Phoenix of the Blackwater Canyon National Park. Some opinion:

Jim Sconyers, Sierra Club: Had we won in the Supreme Court, we would have obtained our goal the easy way. Now we know there is no "silver bullet" to give us victory magically; we'll have to keep working for it. Public ownership of the Blackwater Canyon is the light at the end of the tunnel -- the tunnel is just a little longer than it could have been.

Today's ruling by the West Virginia Supreme Court, while not unexpected, is undeniably unfortunate. In amazingly sympathetic language, the Court nevertheless affirmed that Allegheny Power is not a public utility. Further, the Court found that no approval of the sale of the Blackwater Canyon by the Public Service Commission was necessary, and the sale stands as legal.

There were, undoubtedly, cries of joy in the boardrooms - the PSC boardroom, the Allegheny Power boardroom, and the Allegheny Wood Products boardroom. Corporate America could exchange high fives, safe in the knowledge that the good guys don't always win. Surely they realize, though, that this is only a skirmish in the real conflict.

In the words of the decision:

"If the natural integrity of the Blackwater River Canyon is destroyed, it will be a tragedy for the people of West Virginia. It is unfortunate that state government has not taken a more active role in the stewardship of our environment by developing both law and

public policy that takes environmental concerns into account; that environmental organizations were not more aggressive in seeking to purchase and preserve this land at an earlier point in time; and that West Virginia Power did not show more corporate responsibility to this state by selling the land to environmentalists for purposes of preservation notwithstanding the realization of reduced profits.

The harsh reality is that the protection of the environment, and not utility regulation, is what is truly at stake here..."

Justice Starcher in his dissent was even more passionate about the devastation to be wrought because of the decision:

"The majority says that the Public Service Commission, the public agency charged with making sure public utilities act in the public's best interests, cannot look behind the smoke and mirrors.

"The result is that Allegheny Power gets the milk without having to buy the cow -- it gets to drink in profits from selling electricity to the citizens of West Virginia, without having to submit its activities to the scrutiny of the Public Service Commission.

"This is wrong, because in this case, the illusion has concrete, permanent, and in my judgment, devastating consequences for the people of this State. I therefore dissent."

◇

Gazette Editorial of December 22, 1998

Blackwater -- Make it a National Park

The State Supreme Court issued a ruling that simultaneously bemoaned the sale of a good portion of Blackwater Canyon to a private timbering company, while approving the legal fiction that made the sale possible, without even cursory oversight of whether the sale was in the public interest.

Justices can add themselves to the list of those to blame for the loss of Blackwater Canyon. To reach their decision, the justices had to conclude that, although Allegheny Power looks like a utility, walks like utility, quacks like a utility, it is not a utility and the sale of its land was not subject to review by the Public Service Commission.

Dissenting Justice Larry Starcher saw through this "illusion done on paper."

"Allegheny Power holds itself out to the public as one, unitary public utility company," Starcher wrote, "but when the public asks, 'Are you really acting for our benefit?' Allegheny Power smiles and says, 'None of your business - we're not a public utility company.'"

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TASK FORCE from page 15

Among other things, the office should review mining permits to make sure they address potential community impacts, make sure coal companies treat people fairly when they buy out residents near mine sites, and help residents recoup damages from mine blasting.

- ★ The Legislature should rescind a bill passed earlier this year to make it cheaper for companies to bury streams beneath valley fill waste piles. Before the state creates a new policy to govern "mitigation" of stream losses to valley fills, federal agencies should come up with a nationwide rule on the matter.

- ★ The governor should work with state agencies "to assure rigorous and consistent enforcement of

existing environmental regulatory requirements applicable to mountaintop removal operations." These efforts should focus on more strict enforcement of water quality rules and the approximate original contour mine land reclamation standard.

The only major change in the task force report since drafts were issued two weeks ago was a call for an expansion of rules to tighten post-mining land use regulations. Draft reports had suggested that the state should not allow mountaintop removal mines to be reclaimed as "fish and wildlife habitat," the post-mining land use currently most popular with coal operators.

Drafts had also called for a more rigorous review of mines that propose to reclaim the flattened land for industrial and commercial uses. Larry George, chairman of the panel's economic committee, said his group decided to expand those recommendations to apply to all surface mines -- not just mountaintop removal mines that receive an approximate original contour variance to allow land to be flattened.

If adopted by a change in state mining regulations, the proposal would mean coal companies couldn't get around the AOC rule, or tough requirements to show flattened land is needed for development. It would amount to a major tightening of surface mine permitting, George said.

The task force recommendations were adopted with only one member voting against them. John McFerrin, an activist with the West Virginia Highlands Conservancy, submitted a written statement to explain his vote. McFerrin is currently hospitalized and couldn't attend Wednesday's meeting.

McFerrin said he could not support any report which did not call for a ban on mountaintop removal.

"There is much in the report with which I agree," said McFerrin, the lone environmental group representative on the task force. "On balance, however, there is nothing to persuade me that the practice should continue."

The task force report was to be submitted to Underwood today. A spokesman has said the governor wants a week to review it before commenting on it. ♣

OSM Office in Charleston Gets a Christmas Greeting

Roger Calhoun Given a Gift of Coal!

By Bill Reed

On the morning of December 17 it was snowing to beat the band in many areas outlying Charleston. In some places roads were icy, and travel was hazardous. Regardless, stalwarts from the citizenry were present in attendance (Ken Ward said twenty-five, but I think I counted more than thirty) to give the people of West Virginia and their descendants one of the nicest Christmas gifts they could. Citizens with no ax to grind, with no promise of rewards either for now, the future or the Hereafter turned out in still another sacrificial moment to save West Virginia's mountains for now and for posterity. For the citizens of West Virginia. For the citizens of the Earth Mother. For the creatures ranging from those threatened with extinction and those who are still common. For the ecosystems of which we along with our fellow creatures and other living things are a part of the Whole of Nature.

The occasion was to protest bureaucratic indifference and/or complacency and/or the corrupting influence of politics and Big Coal. The Bureau of Indifference, or Complacency, or Corruption was the Federal Office of Surface Mining in Charleston. The West Virginia top cheese for this office, Roger Calhoun, was said to have been in Pittsburgh that chilly day. It's a shame, Roger, that you missed out on the festivities! In spite of nipped toes and cold air creeping under jackets, a good time was had by all in fellowship with aware and caring citizens everywhere.

Carol Jackson had not only braved the elements coming in all the way from Summers County, but she also had made – get this – well over 100 “tombstones,” each one representing a stream, these stream with names that had been

assigned them like people get names assigned, from wild and wonderful West Virginia, streams that had been annihilated by all-powerful Big Coal. Roger, in case your office workers or someone else haven't told you, the beef was in that watered down, castrated report that emerged from your office – quite a different one than that which had appeared in August as a draft. I guess, they got to you – either from Bruce or Kathy's office or Arch Coal's office (or Underwood's office if he has enough weight to matter). The people are sick of all this that has been going on for much too long – the domination of West Virginia by the Coal interests with the almost full complicity of state government. Whether it be Democrat or Republican, no appreciable difference.

Concerning the report, Nick Rahall says, “It pains me to say this, but once again OSM has shown that it has no backbone to aggressively fulfill its statutory mandate to coal field citizens.

Laura Forman, protest organizer from OVEC, made it more personal, Roger. She said over a hand-held amplifier for all to hear, “He has shown no backbone on mountain top removal.” She continued, “We can't trust regulators to do their job.” It is being between a rock and a hard place, Roger, with the likes of Kathy Karpan and Bruce Babbitt, these two apologizers for greed breathing down your neck, and we hell raisin' citizens wanting what the law says we should get. Even bureaucrats need jobs – we sympathize with your plight.

Even Santa showed up to dispense gifts of coal to you, Roger. I'll bet there are times you wished you had never seen a piece of coal.

Anyway, I hope the new agreements

worked out with the various bureaucracies will be fruitful, but we need to be ever vigilant because the Coal companies (and the bureaucrats, too, I'm afraid) can be very tricky! ❀

PHOENIX from preceding page

Justice Starcher shot right to the heart of the matter when he wrote: “I am at a loss to understand how a company can act and make profits under the guise of being one company, but, when it comes to taking responsibility, say that its smaller subsidiary companies -- companies that exist only on paper -- should be the focus of attention. This is an illusion, and justice demands that the people be allowed to look behind an illusion.”

Starcher noted that Allegheny Power takes credit for the donation of the 600 acres to the state that led to the creation of Blackwater Falls State Park, but tries to evade responsibility for the sale of 3,000 acres to a logging firm.

Starcher suggests a simple test to determine whether the sale should have been subject to oversight: “If Allegheny Power management made the actual decision to sell the canyon land, and if Allegheny Power's treasury received the money from the sale, or if Allegheny Power's in-house lawyers negotiated and oversaw the sale, then that sale should be open to scrutiny by the Public Service Commission.”

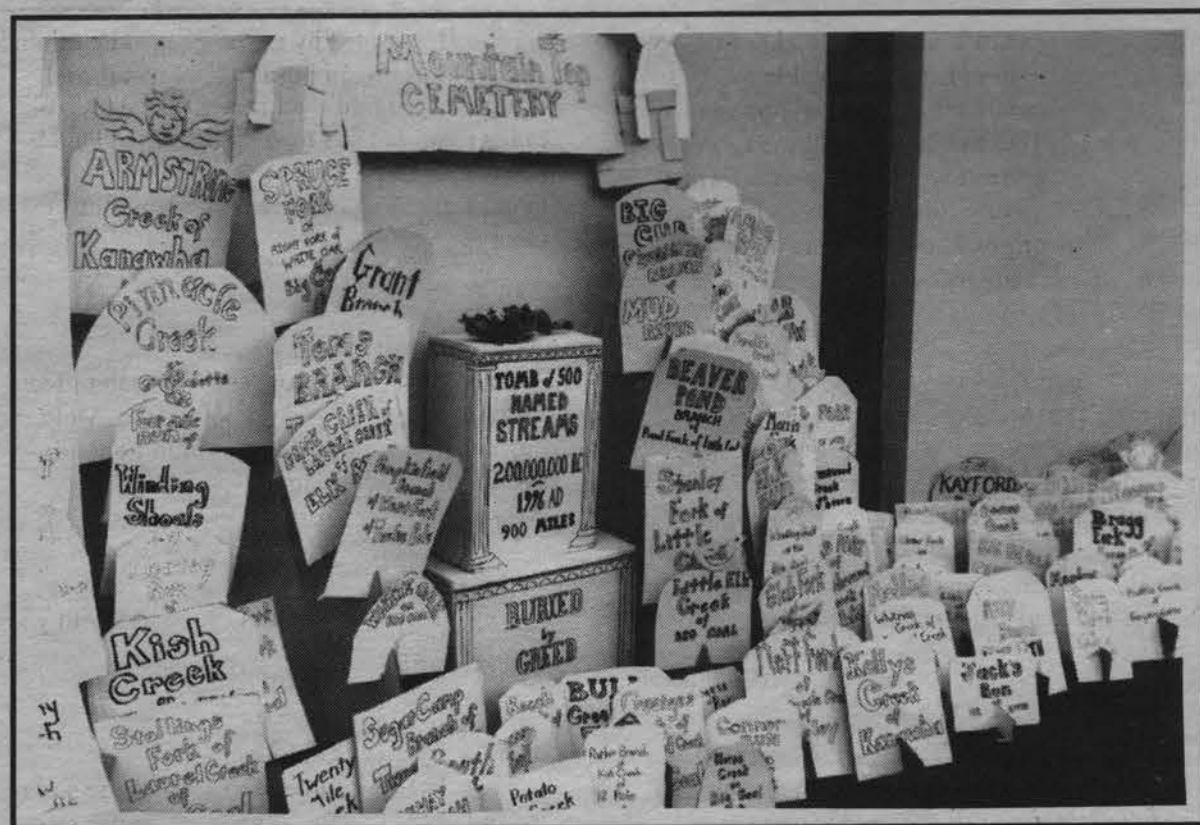
Defeated in court by the dubious majority ruling, a wide-ranging collection of environmental and public interest groups is trying a new tactic: They want Congress to acquire Blackwater Canyon and turn it into a national park.

The merit of this idea should be obvious to anyone who has hiked its trails and viewed the canyon's splendor from rocky outcrops like the famous Lindy Point, now off-limits to the public.

Senator Jay Rockefeller, who is in stalled negotiations with the timber company to arrange at least a partial swap of some of the land, should lead the effort to acquire the entire canyon before construction begins on rumored condominiums.

Blackwater National Park would be a proud legacy for the senator. ❖

Write a letter to Senator Rockefeller and tell him to do all he can to bring about whatever it takes to make the Blackwater Canyon a national park. ❀



Carol Jackson “cemetery”
photo Bill Reed

Landmark Legal Agreement Reached

An Improvement over Current Practices through New Limits Placed on Mountain Top Removal

(This article is adapted from one by Paul J. Nyden which appeared in the Charleston Gazette on December 24, 1998)

Efforts made by environmental organizations seem to have paid off in the case of the lawsuit brought by The WVHC and others. West Virginia officials from the Department of Environmental Protection (DEP), who are supposed to be watchdogs for our environment, can no longer hand out mountaintop removal mining permits as freely as they have for years. A legal agreement in a federal lawsuit, reached late Wednesday afternoon, places new limits on mining operations that strip mountains away to unearth coal from a dozen or more different seams.

Both environmentalists and federal officials called it a "landmark settlement." W. Michael McCabe, a federal Environmental Protection Agency's regional director based in Philadelphia, said, "This agreement will change the way mountaintop mining is conducted in West Virginia and every other Appalachian state." McCabe called it "a very significant step."

Cindy Rank, Mining Committee Chair and past president of the West Virginia Highlands Conservancy, said state DEP enforcement has been "a travesty."

She continued, "Minimum federal standards have been routinely violated for years. The federal Office of Surface Mining, which is supposed to oversee and prevent these problems, has completely dropped the ball. It is time now for major reforms at DEP."

McCabe said, "We have agreed to have a unified federal policy that will coordinate mine permit activities with EPA, the Army Corps of Engineers, the Fish and Wildlife Service, the Office of Surface Mining and the West Virginia

DEP.

"We will in fact streamline the permitting process. We will hold these mines to much higher environmental standards in the future," McCabe said.

In recent years, rock and soil removed by mountaintop removal have filled up, and destroyed, more than 1,000 miles of streams in Southern West Virginia alone. Under the new agreement, federal agencies will:

- ★ Prepare a comprehensive environmental impact statement about the entire mountaintop removal process.
- ★ Immediately halt routine approval of all mountaintop removal permits.
- ★ Require complete environmental assessments for all mine permits larger than 250 acres. Many mountaintop removal permits are larger than 1,000 acres.

Norm Steenstra, executive director of the West Virginia Citizen Action Group, called state DEP enforcement "...absolutely inept. There was a lack of desire to enforce the law. There was a complete failure to examine the social, economic and environmental costs of mountaintop removal mining."

Rank said, "The federal government agreed with us that business as usual poses unacceptable environmental risks and cannot continue."

McCabe, in a telephone interview, said,

"Our policies were kind of fuzzy, to put it mildly. We have agreed to conduct a comprehensive environmental assessment over the next two years about the impact of mountaintop mining and valley fills....For new mines that will be permitted, there will be higher standards to make sure environmental impacts will be reduced and that environmental damage will be mitigated properly."

Rank and Steenstra both objected that the agreement exempts one major application from the new strict standards -- the Spruce Fork permit application from Arch Coal Inc.

Rank said, "The government has sacrificed the public interest and the citizens in the town of Blair to the economic interests of a single, powerful mining company."

Arch Coal became West Virginia's top coal producer in June 1996 when it merged the operations of Arch Mineral Corp. and Ashland Coal.

The Spruce Fork mine is located near the Boone - Logan county border. Dal-Tex Mining began that mining complex in the 1980s. McCabe said the Blair mine was "... a lightning rod for a lot of concerns. But we got significant concessions from Arch Coal. They wanted five valley fills. They agreed to completely eliminate two and significantly reduce the size of two more. They also shrunk the life of the mine from 13 years to five years."

James Weekley, one of the plaintiffs, was upset. "The new policy is likely to help in the future. But it doesn't protect Pigeonroost Hollow, where my family has lived for over 200 years."

The agreement allows Arch to fill up Pigeonroost Hollow with waste rocks from the new mine. [italics added by editor]

McCabe stressed, "Any future mines will have to go through a rigorous permit review." He said, too, that the agreement also requires the state DEP to "work with federal agencies to insure the permitting process works properly."

Lawyers from the U.S. Department of Justice signed the agreement on behalf of federal agencies on Wednesday. Wednesday's settlement resolves three claims in the lawsuit filed in July by the West Virginia Highlands Conservancy and 10 coalfield citizens. Our lawyers include Charleston lawyer Joseph Lovett and Morgantown lawyers Patrick C. McGinley, Suzanne M. Weise.

Twelve additional claims remain unresolved in the lawsuit pending before U.S. District Judge Charles Haden. Rank said, "The plaintiffs will continue their case against DEP to vindicate the citizens' rights guaranteed more than 20 years ago when Congress passed the federal Surface Mining Act."

Of course the unconscionable evil called Mountain Top Removal has not been banned outright as yet. This is only a first step. We can only hope that some relief in the near future can be afforded to Blair and Pigeon Hollow. ❀

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