by Chuck Merritt

On October 28, 1994 at the eastern end of the partially completed new Corridor H bridge over the Tygart River just west of Elkins, WV, a dedication and ribbon cutting ceremony was held. And, as it was dark a little over a week to the ensuing elections on November 8, every politician and hanger on who could wrangle platform space and podium time was there to bask in the scene of accomplishment and credit to be had at this feat of engineering progress. As the governor of West Virginia, Marion Caperton and US Senator Robert C. Byrd pulled up in their WV state trooper driven cars, the crowd and politicians were given more of a show that even the assembled Elkins High School Band could hope to have provided.

Down from a full time dropped a big banner reading "NO BUILD, NO PROMISE, NO COMPROMISE, H-NO STOP CORRIDOR H NOW!" Yes, the "road warriors" were there, also. We had come, 80 people strong to show the established movers and shakers that their ideas of progress and transporta-

The Kumbrabow Update

The West Virginia Supreme Court has granted an appeal of Judge King's Order which would have allowed timbering to proceed in Kumbrabow State Forest. The appellants (several recreational users of the Forest as well as the Mountainaire Chapter of Trout Unlimited) contend that in approving the sale the West Virginia Division of Forestry emphasized timber production at the expense of other uses of the forest. The granting of an appeal does not determine the ultimate result of the case. It means only that the Supreme Court will give complete consideration to the appeal.

The Supreme Court has also ordered that the timbering of the proposed Clay Run timber sale not go forward until it makes a decision on the appeal.

Each party to the appeal will have a period of time in which to submit written arguments to the Court. After the submission of these arguments, the Court will set a date for oral presentations by lawyers for all parties. A decision is expected during the spring or summer of 1995.
Cost Benefit Analysis

Now that Washington, if not West Virginia, is full of Republicans, what are we to expect in the way of environmental regulation? Although no one can say for sure, whatever it is will surely contain the alluring but pernicious idea of cost-benefit analysis.

It sounds so sensible. We just have to figure up the benefits of any environmental regulation and figure up the costs. If the benefits outweigh the costs, then we enact the regulation. If not, we don't. What could be simpler? What could be more sensible?

It seems so simple and sensible because that's what we do every day. Our guests for Thanksgiving were such dear people that the joy of their company and the joy of doing something nice for them was well worth all the extra baking and getting up at dawn to start roasting the turkey. My second piece of pie was so good that it was worth feeling overstuffed the rest of the afternoon. We get out of bed in the morning because whatever we hope to accomplish that day is of more benefit than staying in bed. It's all cost-benefit analysis. What could be more sensible? Why can't we just apply that method to environmental regulations?

We can't apply that method to environmental regulations for several reasons. First, we can't trust the science to be unbiased. Environmental regulation inevitably involves technical matters. This means that any cost-benefit analysis will inevitably be skewed in favor of whichever side of the dispute is best able to pay for technical studies of the problem. This will favor large industrial interests.

Although there may be exceptions, I don't believe that large industrial interests are consciously or intentionally biased. No doubt those at the American Tobacco Institute sincerely believe that there is no connection between smoking and lung cancer. Their bias comes more from an absorption of the corporate culture than from any nefarious intent. The scientists who work for such businesses inevitably come to serve the interests of their employers.

There is no better example of this than a survey of scientists which asked whether there is any threshold level below which exposure to carcinogens is safe. Of those scientists working for industrial manufacturers or users of chemicals, a substantial majority answered that there was such a threshold and that any exposure below that level was harmless. Of those scientists not working for such entities, an equally substantial majority answered that no such threshold existed and any exposure was dangerous.

No doubt these scientists all told the truth as they saw it. They were simply so influenced by the culture in which they operated that they answered accordingly.

We could, of course, turn to the government as the source of objective truth. Unfortunately, in West Virginia we would be turning to the same government which, in order to determine dioxin levels in the Ohio River, tested water in three other rivers. It then determined that, since dioxin did not exist in other rivers, it must not exist in the Ohio either.

The second reason not to use cost-benefit analysis is that the costs are imposed upon those other than the ones who get the benefits. The people who came to our house on Thanksgiving are our friends. I can decide if inviting them is worth the extra effort. It is my belly which will ache from too much pie on top of too much turkey. I can decide if the second piece of pie is worth it.

In West Virginia's environmental regulations a cost-benefit analysis would not work that way. Because of out of state ownership of West Virginia's resources, we are potentially faced with the possibility that we will bear the costs, so that someone somewhere else can reap the benefits. In the words of an old song, "They turned a mountain homeland to acid clay...To make cheaper rate for the TVA."

There may, of course, be projects or regulations in which the benefit to the people who live here is greater than the cost to the people who live here. If this is truly the case, then such a project is worthwhile. We should be wary, however, of any cost-benefit analysis which attempts to justify some action by arguing that the benefits to someone who does not live here exceed the costs to those who do live here. This is a dangerous and pernicious use of a cost-benefit argument. (see pp. 7)
Dear Editor,

This is a very, very short account of the actions taken by our government, on all levels, to acquire lands and wealth.

In the mid 1800’s, "The Manifest Destiny" proposal was proclaimed by Senator Thomas H. Benton and other proponents of Expansionism. In 1845 his rationalization was expressed by the "Democratic Review" of New York: "It is for the Union, in the future, to spread the continent allotted by Providence for the free development of our yearly multiplying millions." It was taken for granted that the Native Americans had no moral right to stand in the way.

The most practical step to fulfill manifest destiny was the formation of the army’s "Corps of Topographical Engineers." Their job was to provide tactical maps for army field officers, maps of planned railroads, postal and wagon routes across the great plains. One of the most famous members of the corps was John Charles Frémont, son-in-law of Senator Benton.

In 1844 President Polk made the public announcement of gold discoveries in California in 1842 and the Homestead Act: 160 acres for $1.25 an acre, added to the irony of the manifest destiny. This, plus the fact that 150,000 acres of "public land" were given to the railroads. In the 1860’s, the largest truant of buffalo was estimated at between 40 and 50 million. By 1887, fewer than 1000 remained. By 1849, 110,000 buffalo hides had been shipped down the Missouri River. The rail lines offered "Buffalo-Kill Excursions" to help things along. Then came the "Fancy Hants" of prominent visitors. In 1854, Sir George Grey, with Jim Bridger as guide, slaughtered over 2500 buffalo. Our government provided assistance to these visitors in killing of the buffalo. In 1871-72, Grand Duke Alexis of Russia went on such a hunt. The governors assigned Buffalo-Bill Cody, General Sheridan and General Custer to aid in the slaughter.

This was a statement of government policy by Colonel R. I. Dodge in 1867, "Kill every buffalo you can, for every buffalo dead is an Indian gone." Senator Grant had his chance to put a stop to this senseless slaughter in 1874, but instead gave his blessing to the slaughter. General Custer announced the discovery of gold in the Central Appalachians and the destruction of the eastern horrid forest and wildlife. Their job was taken for granted that the Native Americans would be a traditional Navajo, Montana, Atchee. The presence of the CCC added a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivocal answers to only a few of the most innocuous question. He gave unequivoc
Forestry

Riding with Maxey
by bill hagerty

The second meeting of the Governor's Chief's Committee on Management of State Forests was held on Friday, November 18, at Greenbrier State Forest. In an interesting twist, most of us (specifically, all the non-elected government officials and I) rode together in the WV DVIDF van from Charleston to the State Forest in Greenbrier County (about 1 1/2 hours each way).

I had reported in a previous issue of the Voice about the first meeting and how disguised (depressed, really) I was by it. Later, while working in the garden, my thoughts would drift back to that meeting and replay and re-argue the various movements. I felt that most of the five (5-count 'em) government officials and one industry representative were focused on railroad-ing the revision of the state forest management plan through the back door of the new Greenbrier State Forest Plan Revision. Even though I stated during that meeting that we (you box) were opposed to all cutting in the state forests, the minutes of the meeting (produced by Maxey from memory) stated that we operated by consensus and that the committee favored maximum scientific cutting on state forests!

My plans for this meeting were to make a presentation with map and graph (as we must herein in hopes of communicating the general feeling about certain enviro activities, that the recreational and biological resources of our state owned forests were too valuable (scarce) to be cut for timber. We felt that even from an economic viewpoint, not cutting the trees on the public forests make sense, in the long run. If they had no intention of finding out about our concerns and wanted to merely include one of us in the process and get it over and get on with it, then this was to be my last meeting.

The Ride Down

Bill (Maxey) told me they were leaving from Lastley field parking lot at 7:30 am sharp, no waiting for stragglers!! Trying to disown the tardy-streetside bugger image. I arrived at 7, waiting for Maxey et al. till 7:40. Mentioning that, looking at the van's clock and further pressing the attack, I asked him if it was because the clock was still set for day-light savings time. Bill said it was the first time he'd used the van and any way those damn clocks... Gordon (Robertson, Chief WV DVIDF Wildlife Resource) had it set for the right time in less than 20 seconds! I was a little nervous about riding down with them (like they might try to brainwash me).

I spent most of the time reading over (making lots of written comments) the new Draft Greenbrier State Forest Plan that Bill wants us all to adopt. The plan was written mostly by Barbara Breschock, a state lands forestier. Barbara has jurisdiction over Greenbrier, Camp Creek and Panther State Forests. She would guide our forest tour. On the ride down the state route mostly talked about tree plantings, forest fires, and departed friends who had served the forest well. They named the names of the men who had planted some of the pine (and in one case popular) plantations along the road or nearby.

The forest in the Greenbrier is a dry mixed forest, with white and Virginia pine a variety of oaks currently predominating. Basswood was the third most common species that we saw that day.

Shortly after we arrived, we were joined by Barbara as well as by Delegate Vicki Douglas and Hal Burke, industry rep. Hopping in the two vans, we first visited a site that had been selectively cut five years ago, and included two clearcuts (for wildlife). Many of the oaks displayed epicormic branching.

Epicormic branches are shoots that sprout out of the bark in clear sections of a tree trunk. This is a tree's natural response to the increased light available to the individual tree. Forestier Barb said that these could affect the quality of wood, depending on how big they got before dying out due to an encircling canopy.

The clearcut was very thick with most of the oaks reappearing. A scrub oak, really a bush, was fared well in the clearcuts. Near some of the log landings, some herbaceous plants had invaded. Parking the vans in one landing, Barbara led us on foot to a nearby hiking trail, with the convenient interpretive sign for hikers explaining the valuable management occurring in the cut.

Here we settled in for our first ambiguity discussion - this being the best way to manage the forests and whether it's important to include the public. Hal Burke felt that the public didn't need to be involved. The experts in industry and government certainly knew how to manage the forests. Bob Whippy said that the public was invited to become involved in the original creation of the state plan 25 years ago. He said that no one showed up then or has shown any interest in the interim. He was glad that the citizens were finally showing some interest.

My suggestion is that we adopt the federal process of public involvement was met with abhorrence. The federal process involves a public scoping process to discover the issues of concern. After this, a team develops a range of management alternatives and draft and final environmental impact statements with opportunity for public comment and appeal. They all felt that the state of WV could not afford to foot around and waste money like the feds did.

Bob still felt that there was but one proper way to manage the forest for their long term health. The creation of a range of alternatives would only offer the best and several less then best ways to manage our state forests. I suggested that creating a plan to maximize timber, or recreation or preserve biodiversity might result in very different plans. Choosing the balance should lie with the public. After this the pros could get to work and develop environmentally sound ways to manage the forests to these ends.

Our second stop was on Kate's Mountain (home of the famous and endangered Kate's Mountain Clover and other state barren plants). The trees at this stop were large and included a greater mix of species. The reason for this, even though it lay on the ridge, was that because of the way this piece lay. The soil was deeper and held moisture better. No pines even grew in the area.

I asked them, "Why can't we leave this forest here alone, as it was certainly of rare size and composition." The response was that the trees were damaged from fire and soon to be invaded by gypsy moths. Bob Whippy said that they were not cutting the trees for industry. He felt that if they didn't thin the trees and irrigate them, then the forest would become destroyed in a short time. And that's what I finally realized was the crux of the matter. The difference between their definition and my definition of a healthy forest.

Healthy Forests

Yeah, just what is a healthy forest?? I just talking to these managers feel safe in saying that their idea of a healthy forest is one in which the trees are free from disease, free from fungus, free from fire and free from pests - lots of tall straight trees with not too much lying on the ground going to waste. This requires management. It is true that much of their work involves fighting the negative impacts created by humans on the forest (forest fires and gypsy moth - which was introduced to this continent by humans). But their idea of a healthy forest is one that will produce the most Board Feet!! If any of you who were on the trip, feel this is inaccurate or any other please send the VOICE a letter which I will gladly print.

My idea of a healthy forest is one protected from the ravages of man (especially fire, since it hasn't been part of nature here for many thousand years if ever, but also from cutting). A healthy forest can be seen in the Virgin Forests of the Great Smokies. I think Cathedral State Forest is healthy (or as healthy as a forest can be one be skewered by a major US highway. Bill Maxey thinks it has really gone down hill in the last 20 years, with all the conks (fungi) and dying trees. To me that's part of the beauty of a forest.

I asked Barbara if she had ever been to a virgin forest. She asked what I meant. I said 100 year old forests of our state park system then yes, otherwise not. I told her to go visit the Smokies. Our state parks have hundreds of years to go before they regain their primordial beauty.

Forest Fires and the real environment

Bob Beeman of Bob Beeman and Tourism wanted to know why the so called fire environmentists weren't interested in fighting (see page 5)
No, you've not been transported back in time to the 'Voices from the past...from past VOICES' feature.

Though the state of WV was awarded 'primacy' for the surface mining program in 1983, that was the end of the story, the details are still being worked out—every day, over ten years later.

THE PROCESS

Under the provisions of the 1977 Federal Surface Mining Control and Reclamation Act (SMCRA) any state (or individual) can assume control over the regulation of mining in that state if it provides a law and regulations that are at least as effective as SMCRA itself and the federal regulations that implement SMCRA. The Federal Office of Surface Mining (OSM) must approve and sign off on those state programs before they can be legally enforced.

In order to retain authority over coal mining in this state, WV adapted its surface mining law, the West Virginia Surface Mining and Reclamation Act (WV SMSCRA), to conform to the requirements of SMCRA. In the early 1980's portions of WVSMSCRA and its regulations and implementation that law were approved by OSM and thereby became the state's law. Although the state of West Virginia is for the regulation of coal mining within its borders, however, the unapproved portions of the program were to be worked out over a certain set limited amount of time.

Anywho, who has followed this saga over the last decade knows how convoluted the process has become and how the tug-of-war continues. WVSMSCRA holds the line on some old end industry pulls on the other with the state standing somewhere in the middle, but often much closer to industry's position.

The current review is only the most recent in a series of amendments aimed at resolving the disagreements about specific statutory and regulatory provisions in the WVSMSCRA that OSM has not approved to cause them, less effective than their federal counterparts.

The Role of WVHC

Readers of the VOICE have been able to follow WVHC's involvement with the West Virginia Surface Mining program since the late 1960's. From the effects of mining proposals along Shavers Fork, to mining developments in individually designated areas, WVHC has commented on individual permit applications and on proposed regulatory changes, utilized its citizen complaint provisions of the Act and at times pursued court actions when necessary to assure that interstate sites or programmatic deficiencies in the state program and regulatory agencies were addressed.

Many of the issues under consideration in this most recently proposed WV program amendment were the focus of the 1988 law suit by WVHC and 15 other local, state and national groups represented by counsel, Thomas Gatto and Joshua Barrett, which held that the state of WV was not meeting its mandatory duties under both the Federal and State Surface Mining Laws. As part of the settlement agreement from that law suit, WVHC participated in negotiations of regulations, some of which were approved by OSM in 1993. OSM is currently reviewing a portion of the proposed amendment that is now being reviewed by OSM.

Since 1991, WVHC has continued to work with WV legislative committees to implement positive changes and/or prevent harmful changes in the regulations. In 1991, WVHC also encouraged OSM in its efforts to insist that the state shape up or be faced with Federal takeover. The resolution of that showdown produced a two part test case: (1) Does the state follow established procedures for the state agency and a reorganization of the ill-fated WV Division of Energy (DOE) into the new Division of Environmental Protection (DEP), but left unresolved some of the most important programmatic issues that were missed in the 1988 lawsuit and also were essential motivators in the threatened OSM takeover.

Unfortunately, some of those substantive deficiencies continue to be ignored or delayed by the state regulatory agency. WVHC took up the courts once again in 1994 (the WV Supreme Court this time) when several local and citizen groups represented by Phillip Scott and Patrick McGinley submitted a Writ of Mandamus challenging the state's water quality standards(OSM) that limit acid mine drainage at forfeited sites (those abandoned since the passage of SMCR.A in 1977.) In granting the Writ of Mandamus submitted by WVHC and other petitioners in June 1994, the WV Supreme Court ruled that even within the context of the current state approved water quality law (both of which contain a federally unapproved provision that limits the use of the Special Reclamation Plan bond fund), the reclamation plan does not occur until the hydrologic reclamation plan and all applicable water quality standards are met.

WVHC Comments on the Proposed Amendment

It is clear from the discussion in the August 30, 1994 communication between OSM and WVHC that Director David Callaghan, that outstanding disagreements remain between OSM and WVHC about issues surrounding the questions of bonding, adequacy of the WV bonding system, standards of reclamation at forfeited sites, etc. and these are the main issues WVHC addressed in its comments on the program amendment.

Adequacy of Bond Pool - First, WVHC questioned the assertion by OSM on page one of a two page cover letter to Director Callaghan dated August 30th that "West Virginia has demonstrated a solid commitment to addressing the issue of AMD by your stated commitment to request legal approval for a 5 cent increase in tonnage fees, which will raise approximately 7 million dollars annually for the bond pool."

To date, Mr. Callaghan has not made any such proposal to the WV State Legislature. The only thing that vaguely resembles such a request is a recommendation that was submitted as part of the ACID MINE DRAINAGE BOND FORFEITURE REPORT submitted to the 1994 Legislature December 31, 1993 that includes the statement "The DEP is recommending to the Legislature that a Stream Restoration assessment of five-cent per ton be place on coal production in the State." And again on page 34 "It is recommended that before the Legislature considers a new additional coal tax for the special reclamation bond forfeiture program, it should give serious consideration to supplemental funding for a stream restoration program which would include all acid mine drainage bond forfeiture sites as well as abandoned mine sites."

The problem with such a wholesale sounding recommendation is that it totally undermines the bonding provisions set forth in the 1977 U.S. Surface Mining Control and Reclamation Act (SMCRA). Whereas the bonding system (in the alternate bonding system (OSM) set up for low voltage sites abandoned since the passage of SMCR.A in 1977.)

In granting the Writ of Mandamus submitted by WVHC and other petitioners in June 1994, the WV Supreme Court ruled that even within the context of the current state approved water quality law (both of which contain a federally unapproved provision that limits the use of the Special Reclamation Plan bond fund), the reclamation plan does not occur until the hydrologic reclamation plan and all applicable water quality standards are met.

WVHC Comments on the Proposed Amendment

It is clear from the discussion in the August 30, 1994 communication between OSM and WVHC that Director David Callaghan, that outstanding disagreements remain between OSM and WVHC about issues surrounding the questions of bonding, adequacy of the WV bonding system, standards of reclamation at forfeited sites, etc. and these are the main issues WVHC addressed in its comments on the program amendment.

Adequacy of Bond Pool - First, WVHC questioned the assertion by OSM on page one of a two page cover letter to Director Callaghan dated August 30th that "West Virginia has demonstrated a solid commitment to addressing the issue of AMD by your stated commitment to request legal approval for a 5 cent increase in tonnage fees, which will raise approximately 7 million dollars annually for the bond pool."
by Ken Ward
Charleston Gazette

Despite its requests for more time to allow such testing, the state Division of Environmental Protection is still holding back at conducting a comprehensive study to determine the current level of dioxin in the Ohio River.

State environmental and labor groups, joined by the US Environmental Protection Agency, urged DEP to conduct those tests before issuing a final permit for the proposed Mason County pulp mill.

Dioxin, a highly toxic by-product of bleaching pulp and paper with chlorine compounds, is believed to cause cancer, reproductive disorders and development problems in humans.

Dioxin is bioaccumulative, which means tiny amounts of it discharge into waterways over time to greater concentrations in fish that humans eat.

David Cooper, a representative of Parsons & Whittemore Inc. plans to build a $1.1 billion pulp mill near Apple Grove. The company promised 600 permanent jobs and thousands of spin-off positions.

Critics of the project worry that Parsons and Whittemore won’t use new technologies that don’t use chlorine bleach and don’t create dioxin.

On Thursday, the state Environmental Quality Board suspended a DEP permit that allowed Parsons & Whittemore to discharge dioxin and other pollutants into the Ohio River.

The board took that action after DEP lawyer Matthew B. Crum asked for a two-month delay of hearings on appeals of the pulp mill water pollution permit.

Crum said DEP needs more time to conduct dioxin tests on the Ohio to back up its assertion that the amounts to be discharged into rivers won’t violate state and federal limits.

In its permit issued Aug. 5, DEP assured customers that no dioxin in the Ohio were zero. If this is not true, as DEP critics charge, it is possible that the company will be required to discharge more of the toxic chemical.

DEP Director David C. Callahan said Friday that an outside laboratory had problems issuing water samples that the agency took a month ago at the Apple Grove mill site.

The state took more samples Callahan said, and is waiting for those results to send them to EPA.

On Wednesday, DEP Deputy Director Eli McCloy sent a package of other dioxin data to Alvin Morris, chief of the water management division of EPA Region 3 in Philadelphia.

Morris had suggested to DEP in an Oct. 4 letter that the federal and state agencies cooperate on a “thorough assessment of fish tissue and sediment background concentrations” in the Ohio.

Thursday night by Callahan, includes:

- Documents that show fish tissue samples taken from Apple Grove and Gallipollis Lock and Dam site upstream from Apple Grove are in some cases close to the limits for allowable discharge.

- Similar studies that show fish tissue samples from the Kanawha River at the Wheeling Lover桑t site do violate the legal dioxin limit.

- Fish tissue sample data that show dioxin levels are dropping in fish samples taken from the North Branch of the Potomac River downstream of Westvaco Corp.’s mill in Luke, Md.

In a cover letter, McCloy notes DEP has dropped a fish consumption advisory on that part of the Potomac.

“Notice the higher values in 1988 and how they have dropped even though this plant still uses the killer dioxin technology (use of elemental chlorines),” McCloy writes. “This is strong evidence that the Apple Grove facility can not be expected to add any significant amount of dioxin to the water.”

Press releases from the Alabama Department of Environmental Management which took the third successive year that fish tissue sample from Alabama’s pulp mills were below the level that would require a fish consumption advisory. Parsons & Whittemore has already moved to operate a huge pulp and paper making complex in Monroe County, Ala.

“This is further indication that the Apple Grove facility will not adversely impact the fish tissue levels currently observed,” McCloy said in his cover letter.

In closing his cover letter, McCloy told Morris, “I don’t expect this to make any real difference given the political nature of the issue, but here it is.”

“This is the significant data we have had in hand and the sampling is underway, McCloy wrote. “I strongly believe that our permit decisions should be made with this information. There is no need to have additional data to make a decision.”

Lewis Baker, a Huntington environmentalist who studies dioxin, said Friday that McCloy failed to send EPA data from the US Fish and Wildlife Service that show fish tissues at Apple Grove contain unacceptable levels of dioxin.

“Most of the information DEP collected is on rivers in Alabama or on the Potomac,” Baker said. “That doesn’t seem very germane to the Ohio.”

“They’re pulling data from everywhere else. If they had data on a river in China, they’d probably need that to the EPA,” Baker said. “They need to collect a lot more data on the Ohio.”

Cypsysy Moth

byline ragette

It looks like they are still coming.

The WVDEP report that egg cases were definitely found in Kanawha State Forest for the first time this year. It seems inevitable that some or most of the oaks will die off. This is especially true where Oak predominates.

Of course pure Oak stands exist for the most part because the forest was previously cleared or cleared. A climax forest where Oak predominates is rare, at least in the other forest sites. Even here Hickory and pine and other species keep Oak from occurring in pure stands. It appears that humans have set these forests up for destruction. First create pure stands of Oak where none existed and then import a pest from over the ocean that has no natural enemy here.

For a long time Forest’s have been advocating sprayed for the moth. But this becomes an eternal project, unless you could drench all forests in the US with pesticide and completely eradi­cate the moth. The most common chemical in use, Dimilin, kills a wide range of insect and other invertebrate species. Bacilliu thuringiensis, a bacteria, is sometimes used, but this pesticide needs more frequent applications and still kills many non-target species, such as all moths and butterflies. A third alternative is Cygaich, a virus that only attacks the gypsy moth, but this is a very expensive alternative and in short supply.

The second way to protect these oak stands is selective cutting. By thinning the stands of Oak, the remaining trees have less competition and be­come invigorated, better able to withstand repeated defoliation by the moths. Yet the West Virginia Forest Service is only willing to allow partial cutting.

According to folks at WVDEP, this is just what the prudent forest land owner will have to do now. If land owners wait till the moms arrive, it will be too late to save the trees.

Then what about public lands? Will they lose their value when the moms come through? Many people think that West Virginia would be better served by tourism after the fires, but they came in record numbers. Will we lose trees when they happen? Yes. Will we lose topsoil, humus, No, not unless we try to save the forests by ‘harvesting’ half the trees to save the rest. It’s too late to demonstrate. We need to educate private landowners about their options and spend less time cutting down our state forests to save them.

Forestry

(from page 4) forest fires. He felt that they were doing more for the forest, for the environment by fighting forest fires than we were in trying to preserve the public forests. He was especially disappointed that no "environ" showed up at a recent conference they sponsored on the damages and remedies of forest fires.

I told him I didn’t even know about that. I had always applauded the DOP and all the other public funds the fire fights and always criticized those who carelessly or purposefully start fires. I think some are and I disagree.

I held only occur on the forest sites. Even here Hickory and pine and other species keep Oak from occurring in pure stands. It appears that humans have set these forests up for destruction. First create pure stands of Oak where none existed and then import a pest from over the ocean that has no natural enemy here.

For a long time Forest’s have been advocating sprayed for the moth. But this becomes an eternal project, unless you could drench all forests in the US with pesticide and completely eradi­cate the moth. The most common chemical in use, Dimilin, kills a wide range of insect and other invertebrate species. Bacilliu thuringiensis, a bacteria, is sometimes used, but this pesticide needs more frequent applications and still kills many non-target species, such as all moths and butterflies. A third alternative is Cygaich, a virus that only attacks the gypsy moth, but this is a very expensive alternative and in short supply.

The second way to protect these oak stands is selective cutting. By thinning the stands of Oak, the remaining trees have less competition and be­come invigorated, better able to withstand repeated defoliation by the moths. Yet the West Virginia Forest Service is only willing to allow partial cutting.

According to folks at WVDEP, this is just what the prudent forest land owner will have to do now. If land owners wait till the moms arrive, it will be too late to save the trees.

Then what about public lands? Will they lose their value when the moms come through? Many people think that West Virginia would be better served by tourism after the fires, but they came in record numbers. Will we lose trees when they happen? Yes. Will we lose topsoil, humus, No, not unless we try to save the forests by ‘harvesting’ half the trees to save the rest. It’s too late to demonstrate. We need to educate private landowners about their options and spend less time cutting down our state forests to save them.

I asked Barbara how many tours demonstrating good forestry practices on the Greenbrier she had given this year. One she said, but she has given a few others in the past and at several state locations.

That’s not to say some of the bureaucrats seem to really disdain the environment. Bob felt that we never should have let strip mining in. OK Bob - read Cindy’s arti­cle on the mess at WVDEP and try to help us there.

It was Bob Whiskey’s turn next. He didn’t see the purpose it beating up the bureaucrats in the paper. If we want more wilderness, then just state our case, don’t grudgingly attack agency personnel trying to do their job. Bob said my report that there was no public input to the original forest plan was incorrect. He said he wasn’t cutting trees for industry but for the health of the forest (see above). But as he said this (especially that we just wanted wilder­ness), I felt I was putting citizens in a box and dismissing us. He still knows what’s best for the forest.

I wasn’t going to attend another meeting, but feel that we actually made...
Tis the Season To Be Green

or environmentally friendly Christmas gifts

Gift Membership - special price for gift memberships only - $10

Woodcock print -$20

WVHC Conservancy Hiking Guide - $12.45

Guide and Gift Membership - $22!!

Support the Conservancy's work and educate your friends (or enemies).

Contact - Richard Difrancesco 264 High St., Morgantown,WV 26505 296-8963, Fax 296-8623

Nining Matters

(from page 5) during the life of a permit that some unforeseen or unanticipated complication arises (including AMD) that would cause the cost of reclamation to increase.

Bond Release: The infamous "Columnar Amendment" continues to be a thorn in the side of everyone (agency, industry and citizens alike) involved with mining in the central part of the state.

WVHC citizen complaints at least two mine sites, i.e. Lahnoa Pools at some progress in listening to each other. I think that the side that listens the most will have the advantage, they'll learn the most. Of course on many issues we are on the same side.

Bill Maxey still thinks you can cut lots more on the state forests to pay for fire protection, but he realizes he needs to create some areas that are left alone - put lines around them on the plan maps. It will be still too small, but there were none before. We can see why they feel so compelled to cut the trees down, even if we don't agree.

Kittie Flats and Cheyenne Sales, have resulted in decisions by Administrative Law Judge Torbet that confirm OSM's insistence that this provision that allows for bond release based on water quality "equal to or better than" pre-mining quality is not as Federal Law. It is not an approved part of a State's program and is not legally enforceable by the State.

OB: The Rahall Amendment in Federal Law is often used to rationalize why the Columnar Amendment should be acceptable in State Law, but Rahall requires more extensive justification in the application process and is limited to mining at older, pre-SMCRA, abandoned sites where reclamation standards are quite different than the more stringent standards (including water) that apply at post Act Enforced sites.

Durable Rock Fills - Drainage Armored or Through

Many other issues are addressed in the program amendment, and all can't be included here. But at least one should be mentioned that is particularly important to industry and that is the question of drainage in the enormous fills at the behemoth mines in Southern WV. Under the state window provision, the coal industry has appealed to OSM to provide operations without Federal Law permission to use a method of fill construction that differs from current engineering requirements for drainage in durable rock fills.

One final note: As OSM reviews the state regulatory program amendment, several other Federal initiatives are also proceeding that are vital to the ongoing AMD debates and discussions - OSM's September '94 Draft Report on Avoiding and Controlling AMD OSM's Appalachian Clean Streams Initiative to clean up abandoned mine sites - EPA's Eastern Appalachian Draft Federal Standard and the OSM-EPA Acid Mine Drainage Agreement.

WVHC has consistently relied on the sound judgment of the OSM engineers and again must defer to those more knowledgeable about the rapidly evolving engineering technologies that are part of this debate. WVHC offers only the cautionary note that, when choosing the course for the future, we will be smaller, our forests younger and brushier. Forests closest to chip-boards and pulp mills will most likely be harvested due to an expansion of 20 to 30 years. Farmers have learned long ago that continual harvesting without replenishing the soil can be disastrous.

Don Gaspar, fisheries biologist with the WDNRF, feels we have already lost many miles of trout habitat because the streams have become warm due to loss of cover and loss of bottoms on the forest floor. This trend to harvest everything that grows will only impov­erish wildlife habitats more.

The Apple Grove pulp mill plans to use .8 billion board feet of wood a year all by its lonesome. This would require 200,000 acres per year or 6 million acres with the woods in a thirty year rotation. WV has 12 million acres in forest. Not only is this bad ecology but its also bad economy. The 600 jobs promised by the mill developer works out to over 1 million per ft. per year per job. This million ft. could employ a dozen workers in other wood product industries. Not only will Apple Groves insatiable appetite deny all new primary wood products industry in the area their raw material, but there will be no secondary wood products industry developing from Apple Grove Pulp Mill end products.

The Highlands Voice, December 1994 - Page 7

WV Tree Harvest May Exceed Growth

by bill rogetto

The opening of 4 new wood plants in WV soon, questions are being asked if there are enough trees growing in the state to satisfy the demand for wood. In early November, Bill Maxey, Chief of the WV Division of Forestry (DOF), advised the Governor not to encourage any new primary wood products industry to locate in the state. Primary wood products industry are those that use the trees parts as their resource. Secondary wood products would be the manufacture of furnish, doens, etc. from products of this primary industry. Maxey estimates that the wood products industry is currently using 1.1 billion board feet a year. This would not include the wood needed by the Apple Grove Pulp and Paper Mill, nor the stand board or other new plants proposed or being built but not on-line. Maxey estimates the total growth of new wood in the state is around 1.9 billion per year. The state DOF is just beginning a survey in cooperation with the feeds of how much timber is actually growing in WV. Maxey feels that these new plants will use most or all of the .8 billion ft. bd not yet accounted for.

Maxey admits that knowledge of the current use of trees is also vague, with the possibility that much of the timber cut by out of state loggers and

billed out of state not is being recorded (or taxed). Environmentalists are concerned that we may already be cutting more than nature is growing. This new edition by Maxey has them even more worried.

If all new growth is being har­vested, many are concerned that there will be little left to build up depleted soils. If we are really harvesting more than grows or the cutting is not evenly distributed across the state, the average tree will be smaller, our forests younger and brushier. Forests closest to chipboards and pulp mills will most likely be harvested due to an expansion of 20 to 30 years. Farmers have learned long ago that continual harvesting without replenishing the soil can be disastrous.

Don Gaspar, fisheries biologist with the WDNRF, feels we have already lost many miles of trout habitat because the streams have become warm due to loss of cover and loss of bottoms on the forest floor. This trend to harvest everything that grows will only impoverish wildlife habitats more.

The Apple Grove pulp mill plans to use .8 billion board feet of wood a year all by its lonesome. This would require 200,000 acres per year or 6 million acres with the woods in a thirty year rotation. WV has 12 million acres in forest. Not only is this bad ecology but its also bad economy. The 600 jobs promised by the mill developers works out to over 1 million per ft. per year per job. This million ft. could employ a dozen workers in other wood product industries. Not only will Apple Groves insatiable appetite deny all new primary wood products industry in the area their raw material, but there will be no secondary wood products industry developing from Apple Grove Pulp Mill end products.
**The Demo**

(From page 1) highwalls, seeped out acidified water to just the acid and already polluting the Tygart River.

The plate pulling the banner had left and Senator Byrd’s speech finally come to an end, the ribbon was cut and the new stretch of the 4-lane was officially opened. I found myself wondering at how backward and upside down it had all become. The road proponents were all for spending huge sums of money (10$ to 18 million per mile) while creating more highwalls with water quality problems and a host of other environmental issues to go with them. The permanent jobs that would possibly be created will, in the large part, be minimum wage jobs or trucking related, as a conduit for West Virginia raw materials (timber and chicken parts) is created to the east. What will be imported back into West Virginia raw materials were all for spending huge sums of money while the road will go.

**CLEARCUITING DECISION**

Coalition of environmental groups, including National Fish Hatchery this month den National Fish Hatchery this month.

"We say that the politicians, highway officials and press see that a great many citizens care enough to come out publicly and oppose this proposed road.

The NO BUILD alternative is legally still an option; and is environmentally, financially and socially the best choice available to the public. Put pen to paper and make them understand this and keep the Appalachian Highlands free of the horror that would be Corridor H.

Note: To receive your very own copy of the Alignment Selection SDEIS and/or any of the reports listed below, phone the Corridor H Hotline at 1-800-304-8317 between 8:30 a.m. and 5 p.m. MF. You can also write WVDOT, Environmental Section, Capitol Complex Bldg. 5, 1900 Kanawha Blvd. East, Charleston, WV, 25305-0430, to obtain copies of the SDEIS, executive summary, appendices, and technical reports on the following impacts: social/economic, air/noise, streams, vegetation, wetlands and secondary cumulative impacts. Also ask for a copy of the 100+ alignment maps that show exactly where the road will go. These maps also show locations of wetlands, floodplains, threatened and endangered species, history/archeology and other concerns.

Call or write Corridor H Alternatives (CHA) for more information and/or other ways you can help stop Corridor H. Write to P.O. Box 11, Kerens, WV 28755; Call 304-636-4522; 304-636-2562 or 304-478-4922.

**Here is your final chance to Just Say "No" to Corridor H!**

Clip and mail the form below to let the WV Division of Highways know just how you feel about Corridor H, an unnecessary billion dollar plus, 4-5 lane truck route, proposed for routing through the scenic mountains and communities in the Pothomac Highlands of WV, between Elkines, WV and Strasburg, VA. Whether or not you've told them before, NOW IS THE TIME THAT REALLY COUNTS! Make your message clear and simple. Tell them only how you feel about Corridor H.

Don't introduce any other issues or your comment may be misinterpreted. "No Build", Not here, and not there. Not now and not ever! Must be received by January 23, 1995 for your comment to be part of the final decision!

**Join the West Virginia Highlands Conservancy**

<table>
<thead>
<tr>
<th>Category</th>
<th>Individual</th>
<th>Family</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior/Student</td>
<td>$12</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Regular</td>
<td>15</td>
<td>$25</td>
<td>$50</td>
</tr>
<tr>
<td>Associate</td>
<td>30</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>Sustaining</td>
<td>50</td>
<td>100</td>
<td>200</td>
</tr>
<tr>
<td>Patron</td>
<td>100</td>
<td>200</td>
<td>400</td>
</tr>
<tr>
<td>Mountaineer</td>
<td>200</td>
<td>300</td>
<td>600</td>
</tr>
</tbody>
</table>

**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 27, 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.

**Last Chance**

(from page 1) Moorefield Elementary School gymnasium. They are to begin in workshop format from 4-7 p.m. with a formal presentation of information by participating agencies to follow. Public comments can either be recorded during the workshop portion of the meetings, or formally given after the information presentation. We are told there will be a time limit of 5 minutes per speaker.

Hearings are also to be held in Virginia on January 11 & 12 at Lord Fairfax Community College in Middle­town from 10 a.m. to 9 p.m.

We urge all those that can possibly attend one or more of these hearings to do so. While it may not be possible to give multiple official comments on Corridor H, it is extremely important that the politicians, highway officials and press see that a great many citizens care enough to come out publicly and oppose this proposed road.

The NO BUILD alternative is legally still an option; and is environmentally, financially and socially the best choice available to the public. Put pen to paper and make them understand this and keep the Appalachian Highlands free of the horror that would be Corridor H.

Note: To receive your very own copy of the Alignment Selection SDEIS and/or any of the reports listed below, phone the Corridor H Hotline at 1-800-304-8317 between 8:30 a.m. and 5 p.m. MF. You can also write WVDOT, Environmental Section, Capitol Complex Bldg. 5, 1900 Kanawha Blvd. East, Charleston, WV, 25305-0430, to obtain copies of the SDEIS, executive summary, appendices, and technical reports on the following impacts: social/economic, air/noise, streams, vegetation, wetlands and secondary cumulative impacts. Also ask for a copy of the 100+ alignment maps that show exactly where the road will go. These maps also show locations of wetlands, floodplains, threatened and endangered species, history/archeology and other concerns.

Call or write Corridor H Alternatives (CHA) for more information and/or other ways you can help stop Corridor H. Write to P.O. Box 11, Kerens, WV 28755; Call 304-636-4522; 304-636-2562 or 304-478-4922.

**Here is your final chance to Just Say "No" to Corridor H!**

Clip and mail the form below to let the WV Division of Highways know just how you feel about Corridor H, an unnecessary billion dollar plus, 4-5 lane truck route, proposed for routing through the scenic mountains and communities in the Pothomac Highlands of WV, between Elkines, WV and Strasburg, VA. Whether or not you've told them before, NOW IS THE TIME THAT REALLY COUNTS! Make your message clear and simple. Tell them only how you feel about Corridor H.

Don't introduce any other issues or your comment may be misinterpreted. "No Build", Not here, and not there. Not now and not ever! Must be received by January 23, 1995 for your comment to be part of the final decision!

**Join the West Virginia Highlands Conservancy**

<table>
<thead>
<tr>
<th>Category</th>
<th>Individual</th>
<th>Family</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior/Student</td>
<td>$12</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Regular</td>
<td>15</td>
<td>$25</td>
<td>$50</td>
</tr>
<tr>
<td>Associate</td>
<td>30</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>Sustaining</td>
<td>50</td>
<td>100</td>
<td>200</td>
</tr>
<tr>
<td>Patron</td>
<td>100</td>
<td>200</td>
<td>400</td>
</tr>
<tr>
<td>Mountaineer</td>
<td>200</td>
<td>300</td>
<td>600</td>
</tr>
</tbody>
</table>

**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 27, 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.