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West Virginia Surface Mining & Reclamation Association's

# Green Lands

QUARTERLY  
FALL 1977



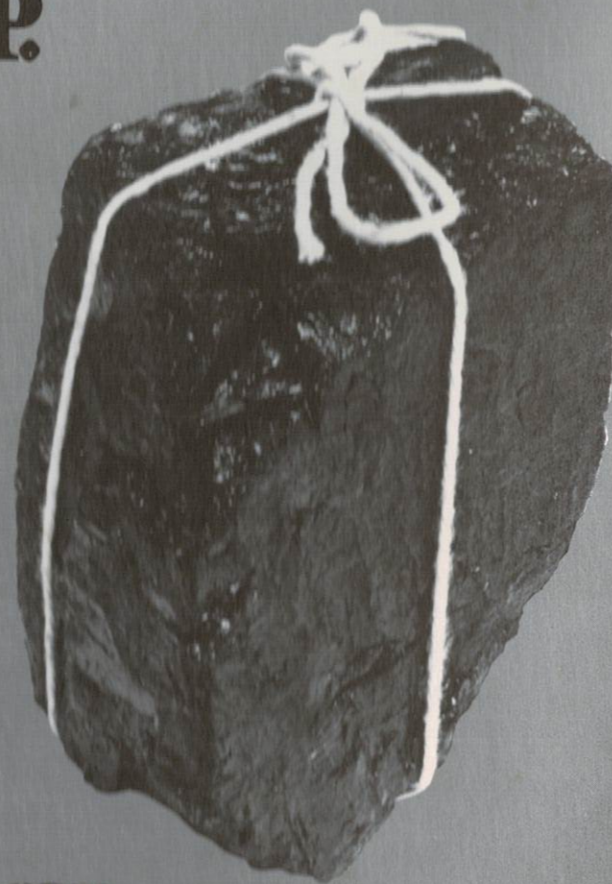
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West Virginia Surface Mining & Reclamation Association

# Green Lands

QUARTERLY

FALL 1977

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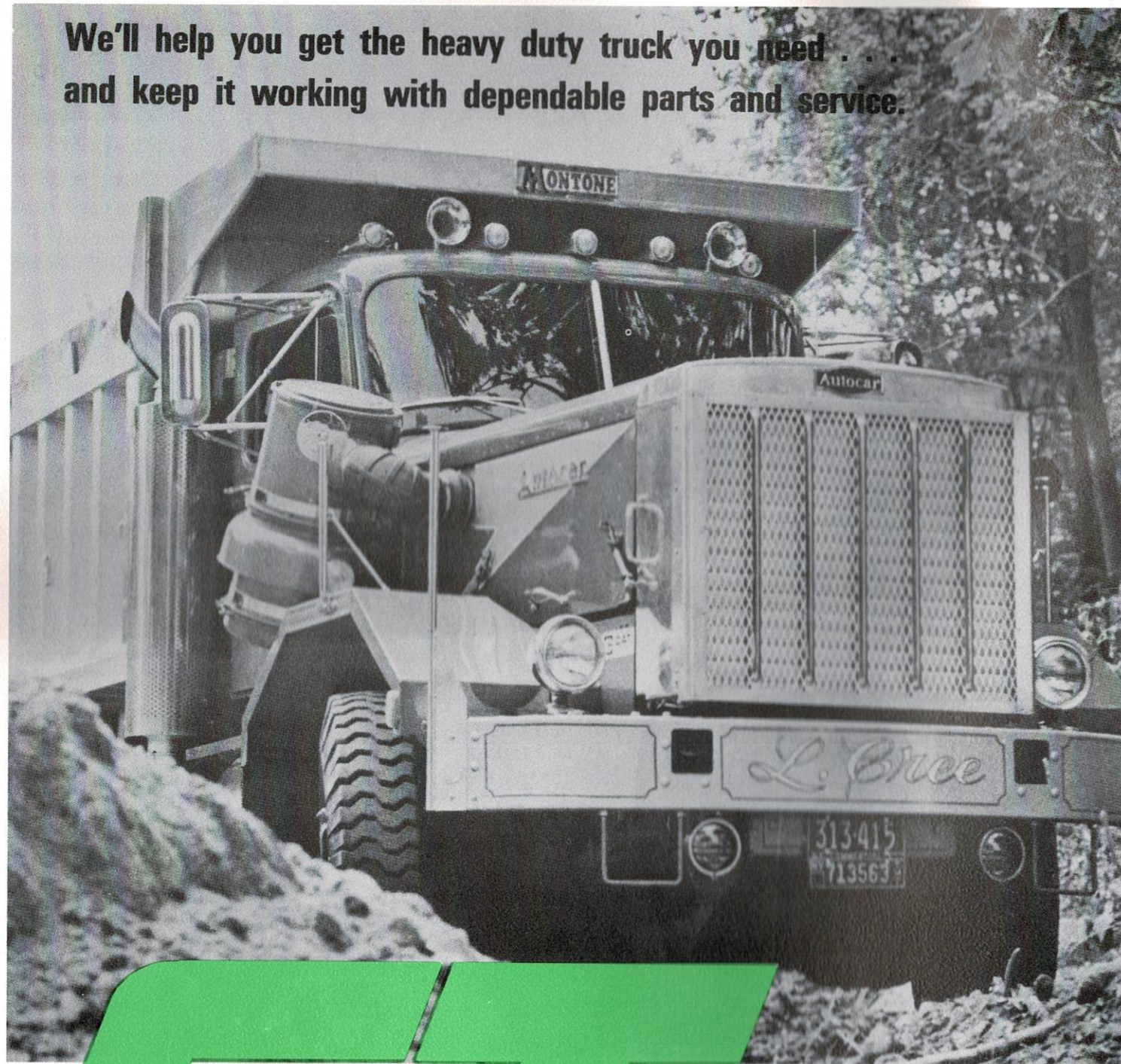
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## ABOUT THE COVER

New federal legislation dictates that surface mined land will be returned to useful purposes. West Virginians have been doing that for years, as our cover illustrates. Pictured is a reclaimed area near Rt. 57 in Barbour County. The C & W Coal Co. took it over when it was an abandoned mine site. After restripping operations and a beautiful reclamation job, this summer it yielded a crop of hay that would make any farmer proud.

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## Federal Timetable

**August 3, 1977**

Day of Enactment—New Mines must have State permit (sec. 502(a)).

**October 3, 1977**

Conflict of Interest Regulations Published (sec. 201(f)).

**November 3, 1977**

Interim Regulations Promulgated and Published (includes 30-day comment period) (sec. 501(a)).

**December 16, 1977**

Standards and criteria for coal mine wastes piles used as temporary or permanent dams (sec. 515(f)).

**February 3, 1978**

New mines (permit issued after enactment) shall comply with interim standards (sec. 502(b)).

**January 30, 1978**

Abandoned mine reclamation program regulations promulgated and published (sec. 405(a)).

**May 3, 1978**

Existing mines comply with interim standards—except small operators (100,000 tons per year or less) (sec. 502(c)).

**August 3, 1978**

Permanent reclamation program regulations promulgated (sec. 501(b)).

**January 1, 1979**

Small operators comply with interim standards (sec. 502(c)).

**February 3, 1979**

State Programs to be submitted to the Secretary (sec. 503(a)).

**August 3, 1979**

Secretary approves or disapproves State program (sec. 503(b)).

**August 3, 1979**

State program submitted if Secretary extends time (sec. 504(a)).

**October 3, 1979**

Operators submit permit application if State program approved (sec. 502(d)).

**October 3, 1979**

State submits revised program if disapproved (sec. 503(c)).

**December 3, 1979**

Secretary approves or disapproves revised State program (sec. 503(c)).

**February 3, 1980**

Operators submit permit application if re-submitted State program approved (sec. 502(d)).

**February 3, 1980**

Secretary approves or disapproves State program (6 months extension given by Secretary) (sec. 503(b)).

**April 3, 1980**

Operators submit permit application if State program approved (sec. 502(d)).

**April 3, 1980**

Permit application submitted at 26 months approved or disapproved under approved State Program (sec. 502(d)).

**June 3, 1980**

Secretary approves or disapproves revised State program (6 months extension given by Secretary) (Sec. 503(c)).

**June 3, 1980**

Federal program promulgated for State failing to submit a program or resubmit an acceptable program (sec. 504(a)).

**August 3, 1980**

Operators submit permit application to State if resubmitted program, to Federal government if Federal program promulgated (sec. 502(d)).

**August 3, 1980**

Permit applications submitted at 30 months approved or disapproved (sec. 502(d)).

**October 3, 1980**

Permit application submitted at 32 months approved or disapproved (sec. 502(d)).

**February 3, 1981**

Permit application submitted at 36 months approved or disapproved (sec. 502(d)).

**February 3, 1981**

Permit application submitted under a Federal program approved or disapproved.

**February 3, 1981**

All operations must have approved permit under this Act.

# The Law of the Land

The Surface Mining Control and Reclamation Act of 1977 is on the books. A "disappointed" President Jimmy Carter signed the measure Aug. 3, bringing to a pause the seven year legislative struggle over the issue of federal regulation of the industry.

This year's version was the third such bill to gain Congressional approval. Two earlier measures were vetoed by President Gerald R. Ford as counterproductive to energy goals.

Carter, who promised in his campaign to sign legislation to regulate surface mining, expressed his dissatisfaction with what he considered to be a watered down bill.

His statement that "this bill does provide the basis for future legislation", coupled with last minute opposition from several environmental groups, seemed to open the door for future legislative battles.

The surface mining industry was not well represented at the White House signing, though West Virginia was. C. E. "Jim" Compton of Grafton Coal Co. was one of only two operators invited, and former WVSMRA President Ben Lusk was the only representative of a state association. Both men were cited for their "contributions to the passage of the bill."

West Virginians played prominent roles in this year's phase of the legislative process. Congressman Nick Joe Rahall served on the House-Senate Conference Committee and led fellow congressmen on an Association-sponsored tour of southern West Virginia during which Morris Udall announced his approval of mountaintop removal.

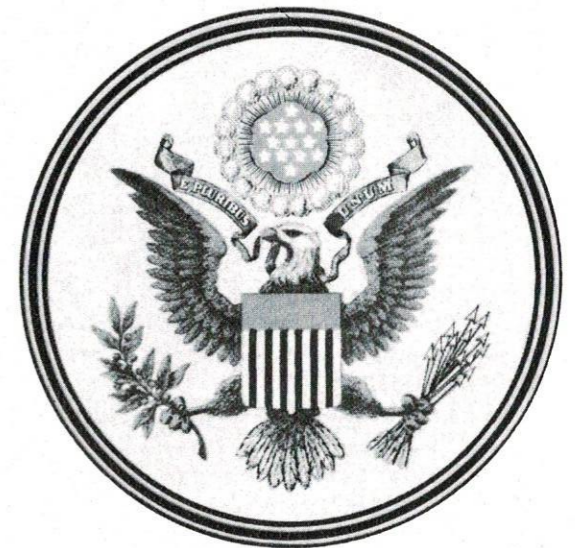
During floor debate, Senator Jennings Randolph offered the amendment which eventually resolved the controversial highwall elimination issue.

It was the (Robert H.) Mollohan Amendment which precluded a potential disaster for state operators by allowing surface operations within 500 feet of underground mines, as safety dictates.

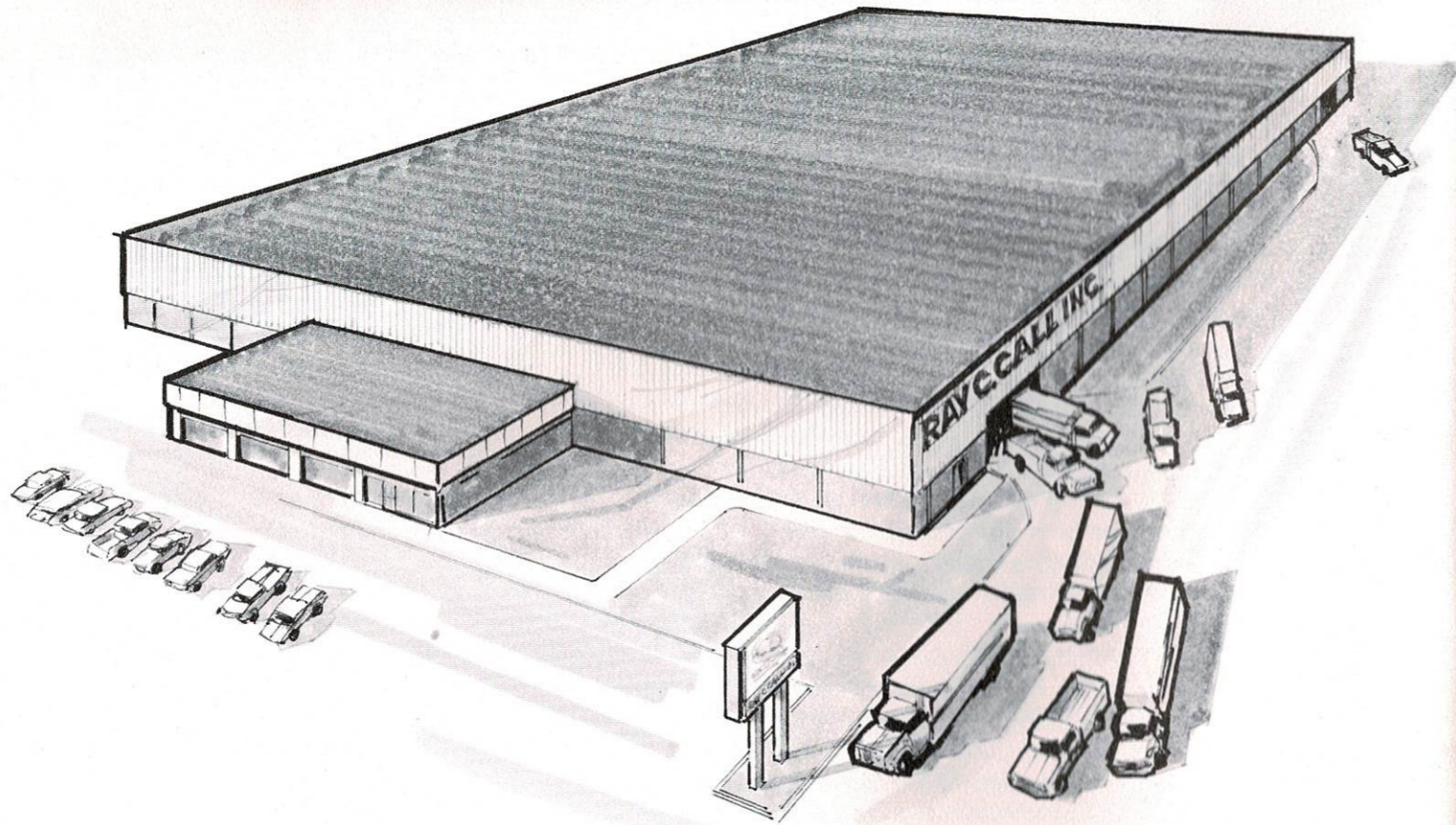
Congressman John Slack also made his presence felt, offering numerous amendments during House debate. Also testifying before Congress were Compton, Lusk, Governor John D. Rockefeller IV, Donald R. Donnell of Starvaggi Industries Inc., Association President Ben Greene, and John Sturm former Association Technical Services Director now with Grafton Coal Co.

Through that testimony and others, several key issues were resolved in favor of the industry in West Virginia. Foremost among those was the recognition of mountaintop removal as a legitimate technique, and haulback developed in West Virginia and a turning point in modern reclamation on steep slopes.

In all, House-Senate Conferees had to contend with more than 50 differences between the two versions of the bill, but with these resolved, Congressional approval came quickly and easily. The Senate passed the measure on July 20 by a vote of 85-8, and the House followed suit one day later approving by 325-68.



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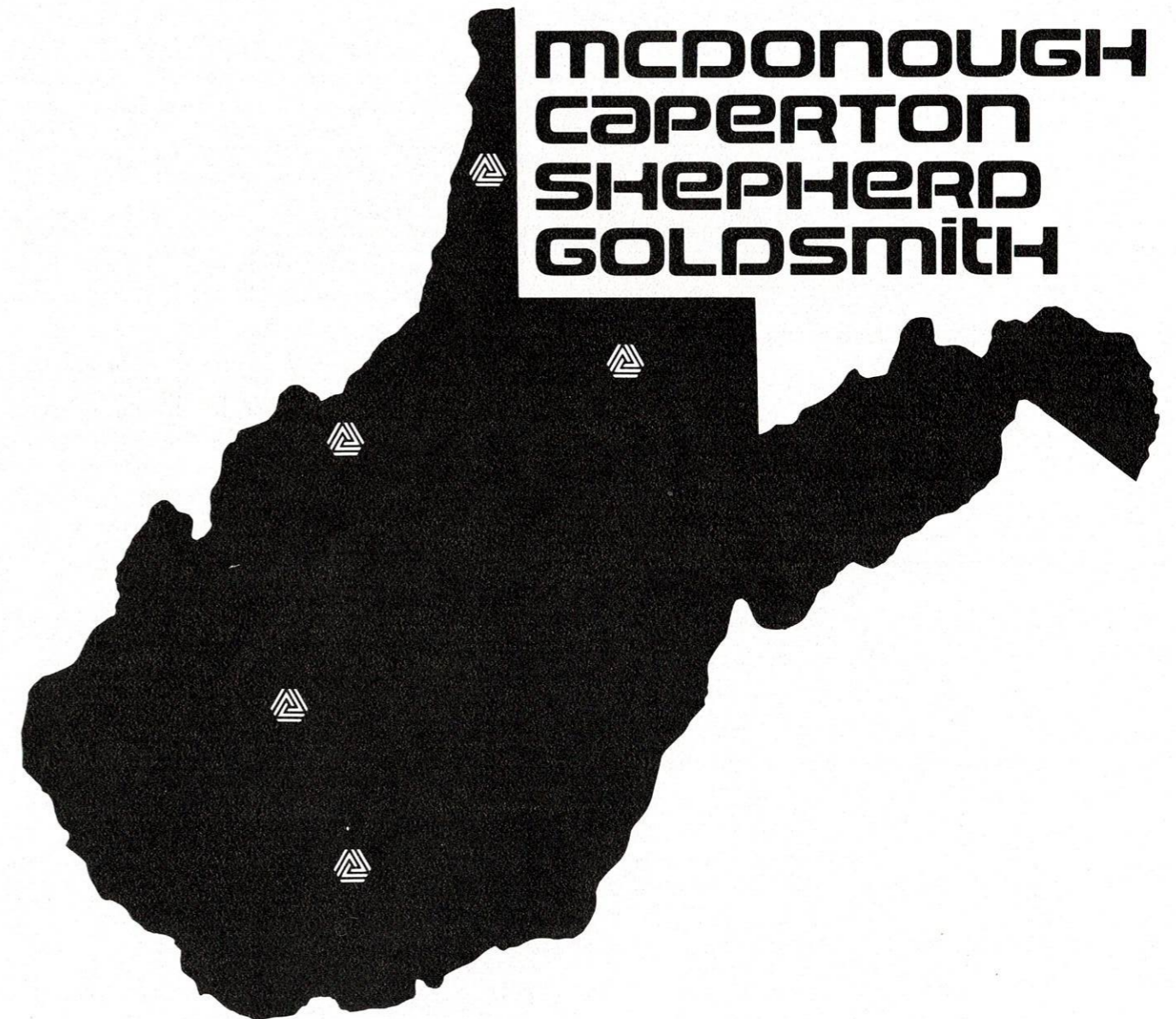


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# Our Law—Everybody's Law



How does the Surface Mining Control and Reclamation Act of 1977 compare to the latest version of West Virginia's law?

That's a tough question, mainly because the full force of the federal bill is yet to be felt. First of all the respective government agencies charged with enforcing the laws are faced with different problems.

The Department of Natural Resources, overseer of the surface mining industry in West Virginia, has its job pretty well in hand by now. What is regarded as West Virginia's "tough law" was first passed in 1967. It underwent extensive revision in 1971, and reinforced again this year with the controversial highwall elimination provision.

What all that amounts to is the evolution of a law. Operators have had a reasonable amount of time to adjust, the DNR has more or less standardized and refined its inspection and enforcement procedures, and the result has been that West Virginia has led the nation in reclaimed acres for nine consecutive years while retaining the number two spot in production.

On the other hand, the Department of the Interior, charged with enforcement of the federal act, must address itself to a wide variety of terrain, climate, economy and reclamation history. The federal bill, of necessity, is of a general nature.

Presumably, each state would take the position of "he governs best who governs least" on the subject of federal intervention. Interior, however, is charged by Congress with "establishing a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations."

That means that "rules and regulations" is where the action is. West Virginia, which was voluntarily established such a program, could be affected adversely from a federal tendency to override state authority in implementing a standardized program.

In general terms, the state and federal laws are very similar. As expressed in the bill, federal requirements for haulageways, sediment control, approved methodology and regrading are nearly identical to state dictates.

The federal bill calls for higher fees and bonding, more engineering and preplanning detail, and a longer bond period, but with far less inspection frequency.

In short, West Virginia's program could be approved by federal authorities with only minor adjustments if the Department of Interior will take to heart the following Congressional mandate:

SEC. 101 Paragraph (f) "because of the diversity in terrain, climate biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States."

## A Point-By-Point Comparison

	WEST VIRGINIA	FEDERAL BILL
Fees	\$500	Somewhat higher, depending on estimated administration and enforcement cost.
Bonding	\$10,000 minimum or \$1000 per acre disturbed	\$10,000 minimum or estimated cost of reclamation
Special Reclamation	\$60 per acre disturbed	15c per ton for deep mined coal and 35c per ton surface mined coal
Legal Advertising	Three weeks	Four weeks
Preplanning		Calls for more detail, including hydrologic, climatology, and overburden analyses
Haulageways		Nearly identical
Sediment control		Nearly identical
Operation methodology		Nearly identical
Regrading		Nearly identical
Release of bond	Two growing seasons	Five growing seasons
Inspection	Once every 15 days	Once every six months

**"Obviously, problems could arise"—Greene**

# Reaction



**WWSMRA President Ben Greene**

*"We're in good shape with the bill itself."*

In general, reaction to the final version of the Surface Mining Control and Reclamation Act of 1977 was about as expected.

The more extreme of environmentalists are outraged that surface mining might survive, while others are thankful that some legislation—any legislation—now exists on the federal level.

States with relatively weak mining laws are anxious over what appears to be a fairly comprehensive law and a tight implementation schedule.

Officials and operators in states with tougher laws, like West Virginia, Pennsylvania, and Ohio, are in the middle—generally pleased with the bill as written, but suspicious over what lies ahead as rules and regulations committees convene.

Association President Ben Greene sums up this feeling. "We're in pretty good shape with the federal bill, but we don't know what might happen when the rules and regulations are finalized. Obviously, problems could arise."

"But I do know this," Greene continued. "In West Virginia we have the opportunity to achieve compliance with the federal law with a minimum of difficulty, as compared to other states. If the federal people will follow the will of Congress as expressed in the bill, then the industry and the State of West Virginia will come out ahead in the long run."

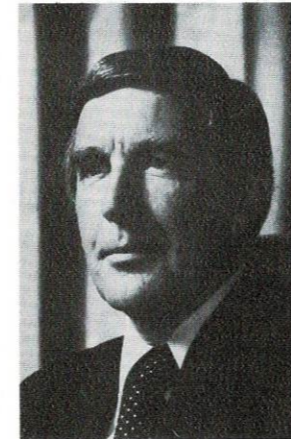
West Virginia DNR Chief of Reclamation Pete Pitsenbarger agrees. If the bill is implemented the way it is written, then I think it will be a good thing," he commented. "But if the final regulations take too much authority away from the states, then we could all be in for trouble."

## Executive Opinion Split

Executive opinion was split on the new measure. President Jimmy Carter, even as he made it official Aug. 3, called the bill "a disappointing effort."

"I would prefer a stricter strip mining bill," Carter said. "I'm concerned with some of the features that had to be watered down to get it passed." He did not elaborate.

Meanwhile, Governor John D. Rockefeller seemed to think the law was tough enough to get the job done. Rockefeller said the bill is one under which "we can keep our state beautiful while still producing coal. We will be able to adapt very quickly."



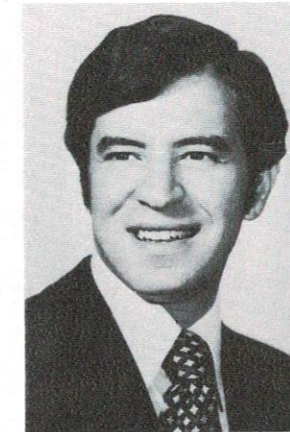
**Congressman Morris Udall**—"a whole new era of reclamation"



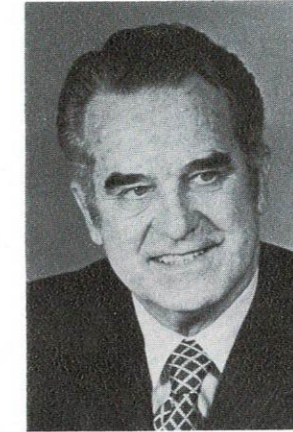
**Senator Lee Metcalfe**—"long overdue legislation"



**Senator Jennings Randolph**—"energy and environment are not conflicting goals"



**Congressman Nick Joe Rahall**—"a strong bill, yet fair"



**Congressman Robert Mollahan**—"a more realistic and practical attitude"



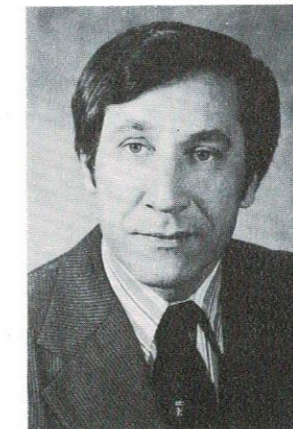
**Congressman John Slack**—"West Virginians have led the way"



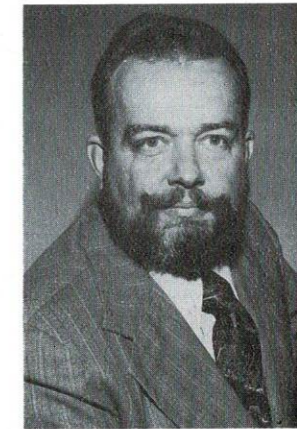
**President Jimmy Carter**—"a disappointing effort"



**Governor John D. Rockefeller IV**—"we can keep our State beautiful"



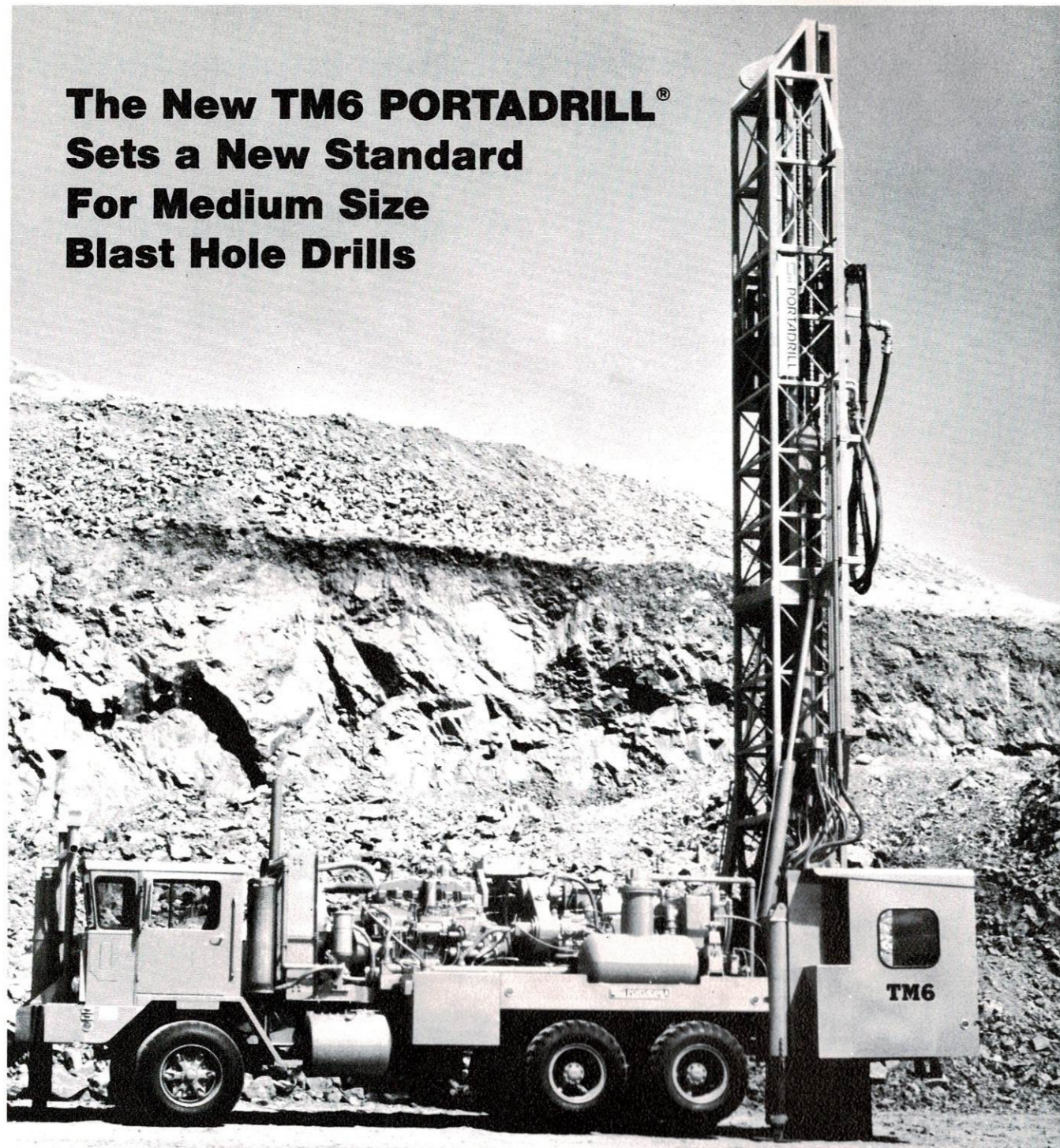
**West Virginia DNR Director Dave Callaghan**—"committed to quick approval of our State program"



**DNR Chief of Reclamation Pete Pitsenbarger**—"we could be in for trouble"

## Official Reaction Consistent But Not Unanimous

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# West Virginia — A Headstart In Compliance

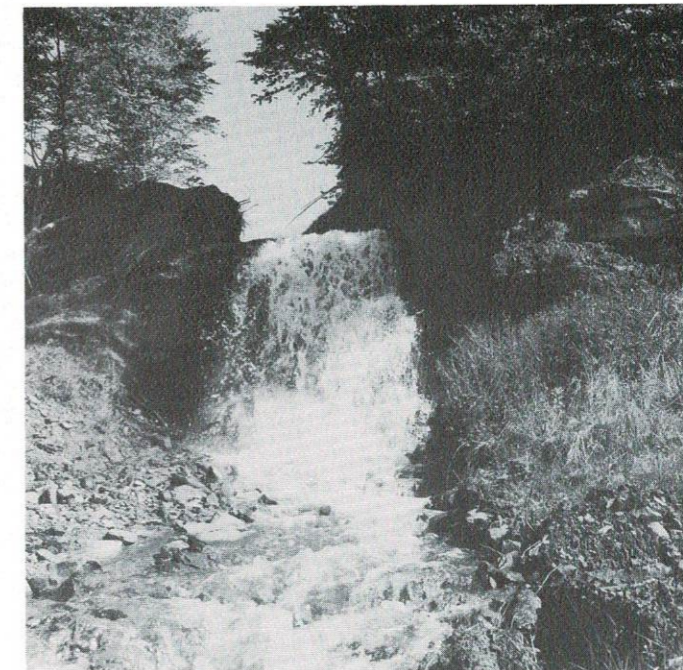


*Highwall elimination is a new feature of West Virginia's law.*

*Full cycle reclamation makes old mine sites hard to find in many cases.*

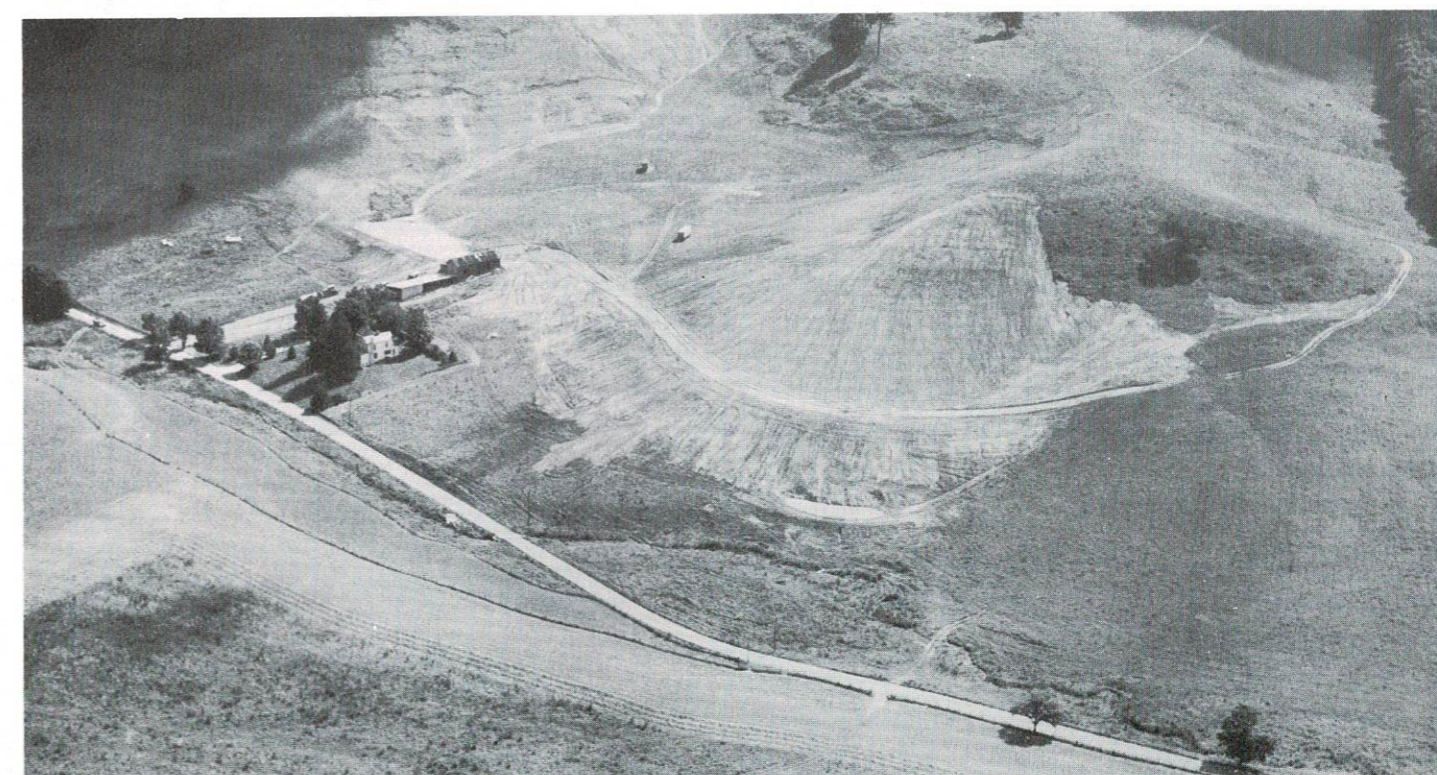


*Thousands of acres like this refute the claim that "nothing can grow on an old strip mine."*



*Water quality has always been a prime consideration of West Virginia's Department of Natural Resources. This stream is flowing from a reclaimed surface mine area.*

*West Virginia is far advanced in sediment control. Here note the two ponds at the bottom of the slope, aided by the roadway running between them, which doubles as a diversion ditch.*



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## Board Names Ben Greene

Upon his resignation as Association President, Ben Lusk emphasized the need for his successor to have "a good technical background." If that was the need, then the Board of Directors outdid itself in securing the services of one Benjamin C. Greene, late of the Department of Natural Resources.

With 16 plus years under his belt at DNR, including ten as Chief of Reclamation, Greene has firmly established his reputation as one of the country's foremost experts in the field of reclamation.

His professional experience with the constantly evolving West Virginia surface mining laws over the last decade gives him a unique perspective and insight into the problems that lie ahead with implementation of federal laws, both present and future.

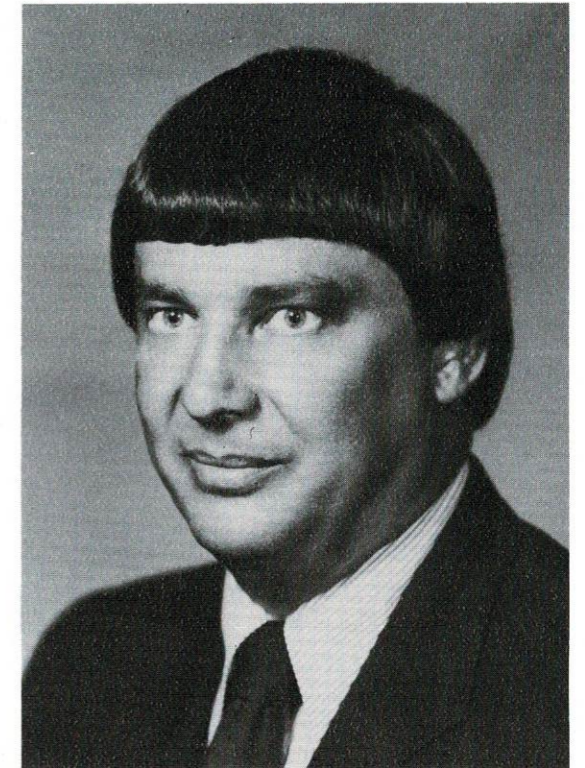
James H. "Buck" Harless, Chairman of the Board of Directors, summed up this feeling as follows; "We feel most fortunate to have the services of a man like Ben Greene. His many years of experience in the fields of reclamation and mining will undoubtedly prove invaluable to the Association. As we enter the implementation phase of the Surface Mining Control and Reclamation Act of 1977, it is crucial that we have the guidance and leadership of a man whose integrity and expertise are beyond question. Ben Greene is that man."

Greene's father, Carroll Greene, is a familiar name to West Virginia conservationists. He served as chairman of the Board of Supervisors for the Western Soil Conservation District in the 1940's, and in 1949, was named as the first fulltime executive officer of the West Virginia Soil Conservation Committee. In that role, he was a key figure in the watershed program that led to the construction of 137 dams in all parts of the state.

Ben Greene has continued the family tradition in his career with DNR. He began with the Department in 1961 as a district inspector and was promoted to reclamation supervisor in 1963. Four years later, he was named to the post of Chief of Reclamation Division in which he served until May of this year.

At that time Greene was appointed Deputy Director under David C. Callaghan. In all, he served under four governors and five directors while, in the words of **Charleston Gazette** columnist Skip Johnson, "having a great deal to do with the vast improvement in surface mining techniques and reclamation in West Virginia in recent years."

A 1960 graduate of West Virginia University with a degree in agriculture, Greene presently resides in Charleston with his wife, the former Carol Sue Holmes of Sissonville. They have two sons, Benjie and Rusty.



Ben Greene

# Williams and Boden— the cooperation operation that means coal power!

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Two innovative companies — W. W. Williams and Boden Mining — got

together to solve a problem. Ask Boden how well it's working. Ask Williams to help solve your mining power problems.

**Two Boden execs inspect the mine power set, at left, Ira "Sandy" Latimer, V.P., former Director of State Dept. of Natural Resources, and Donald J. Sheppard, President.**

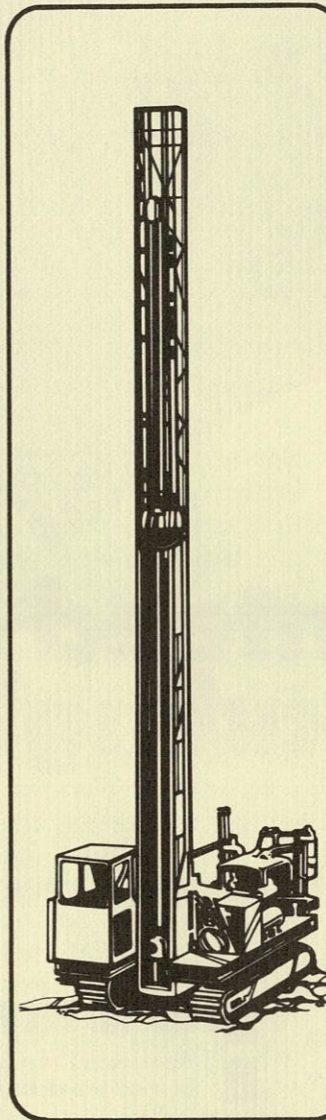
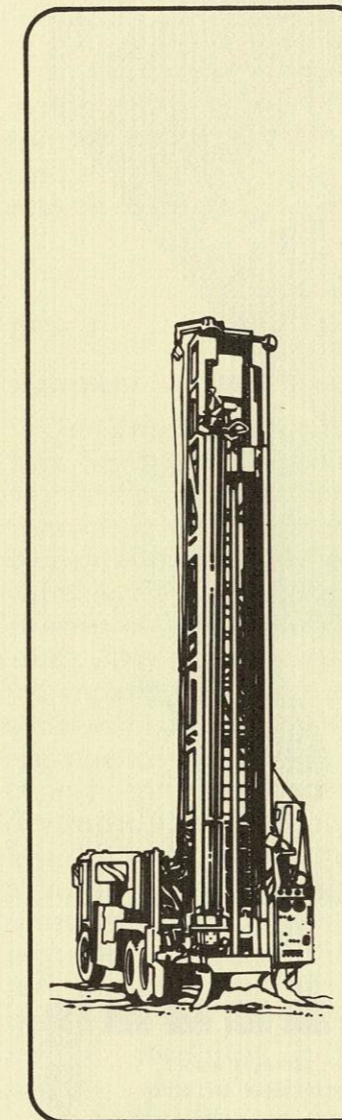
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# Overview

## Public law 95-87 in Capsule Form

This summary is intended to provide a general overview of the Surface Mining Control and Reclamation Act of 1977. This summary is strictly for introductory purposes and is not an exhaustive analysis of the Act.

### TITLE I

#### Statement of Findings and Policy

The Congress recognizes that coal mining operations contribute significantly to the Nation's energy requirements, but that many mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare. Also, there is a substantial number of acres of land throughout the United States on which little or no reclamation was conducted and the impacts from these unreclaimed lands impose social and economic costs on nearby residents and continue to impact environmental quality. Surface mining and reclamation technology are now developed so that effective and reasonable regulation of surface coal mining operations in accordance with the requirements of the Act is a necessary means to minimize the adverse social, economic and environmental effects of coal mining operations. Because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in coal mining areas, the primary governmental responsibility for regulating surface mining and reclamation operations should rest with the States.

The purposes of the Act are to establish a nationwide program to protect society and the environment from the adverse effects of coal mining operations, establish minimum national standards for regulating surface coal mining, assist States in developing and implementing regulatory programs, promote reclamation of previously mined areas left without adequate reclamation, and stimulate research and training in mining, minerals resources, and technology.



## **TITLE II**

### **Office of Surface Mining**

#### **Reclamation and Enforcement**

The Office of Surface Mining Reclamation and Enforcement is established within the Department of the Interior to administer the programs for controlling surface coal mining operations.

## **TITLE III**

### **State Mining and Mineral**

#### **Resources and Research Institutes**

The Secretary is authorized funds to conduct research and demonstration projects on mining and minerals resources problems through state research institutes. An eligible institute may receive matching funds of \$200,000 for fiscal year 1978, \$300,000 for fiscal year 1979, and \$400,000 for each of the next five fiscal years. In addition, the Secretary is authorized \$15 million in fiscal year 1978 to meet the expenses of the institutes in undertaking specific mineral research and demonstration projects and to provide graduate fellowships and scholarships. This sum increases by \$2 million per year for the next six years. An Advisory Committee on Mining and Minerals Resources Research will determine eligibility of institutes and will advise the Secretary on making the research grants.

#### **Center for Cataloging**

A center for cataloging is established to classify and maintain, for public use, information on mining and mineral resources research and investigation projects.

## **TITLE IV**

### **Abandoned Mine Reclamation Fund**

An Abandoned Mine Reclamation Fund is created to be used for:

- (1) reclamation of land and water affected by coal mining,
- (2) filling voids and sealing tunnels,
- (3) reclamation by the Secretary of Agriculture of rural lands affected by mining,
- (4) acquisition of unreclaimed lands, and
- (5) research and demonstration projects on reclaiming abandoned lands.

The fund is primarily derived from fees of 35 cents per ton of surface mined coal, 15 cents per ton of underground mined coal, and 10 cents per ton of lignite. User fees on reclaimed lands, donations, and funds from the sale of reclaimed lands are also deposited in the fund.

#### **Eligible Lands and Water**

Lands and waters eligible for reclamation under this program are those which, prior to the date of enactment of this Act, have been mined for coal,

or affected by coal mining, and which have been inadequately reclaimed. Public and private lands are eligible for reclamation.

### **State and Indian Reservation**

#### **Reclamation Programs**

Each State or Indian Reservation which has unreclaimed coal mined lands is eligible to receive 50 percent of the reclamation fee collected in that State or reservation upon approval by the Secretary of its Regulatory Program and Reclamation Plan.

#### **Reclamation of Rural Lands**

The Secretary of Agriculture is authorized to provide grants of up to 80 percent of the cost of land owners to control and prevent damages from erosion and sediment from unreclaimed mined lands and to promote the conservation and development of soil and water resources of unreclaimed mined lands. Up to 20 percent of the fund may be used by the Secretary of Agriculture for this purpose.

#### **Acquisition of Land**

The Secretary and the States are authorized to acquire land which is adversely affected by past coal mining practices if the acquisition is necessary to accomplish reclamation. The Secretary may make grants to the States of up to 90 percent of the acquisition cost.

#### **Emergency Powers**

The Secretary may use the reclamation fund for emergency reclamation of lands if an emergency exists constituting a danger to the public health, safety, or general welfare and if no other person or agency will act expeditiously to prevent these adverse effects.

## **TITLE V**

### **Control of the Environmental Impacts of Surface Coal Mining Initial Regulatory Program**

The initial regulatory program, which begins six months after enactment for new operations and nine months after enactment for existing operations, requires that surface coal mine operators meet certain of the environmental performance standards contained in Section 515. Surface coal mine operations include the surface effects of underground coal mines. Surface coal mine operators whose total annual production does not exceed 100,000 tons may be exempted from all but the provisions of subsection 515(d)(1) of the Act (prohibiting placement of spoil and other material on the downslope when mining on slopes greater than 20 degrees) until January 1, 1979.

The eight performance standards of the initial program require the operator to:

- (1) restore the land to a condition capable of supporting the uses which it was capable of supporting prior to any mining (515(b)(2));
- (2) restore the approximate original contour of the land (515(b)(3));
- (3) remove the topsoil in a separate layer and replace it on the backfill area or segregate it in a separate pile for later redistribution (515(b)(5));
- (4) minimize disturbances to the hydrologic balance (515(b)(10));
- (5) design, maintain, and remove all existing and new coal mine waste piles used as dams or embankments in accordance with regulations established by the Secretary with the concurrence of the Chief of Engineers (515(b)(13));
- (6) use explosives in accordance with State and Federal laws and regulations promulgated which require advance written notice of blasting to local governments and residents, maintaining a log of blasting operations, limiting the amount and frequency of the blasts to prevent damage, and certification of persons conducting blasting operations (515(b)(15));
- (7) establish a permanent vegetative cover on the area affected (515(b)(19)); and
- (8) on slopes greater than 20 degrees conduct operations to prevent placement of spoil and other materials on the downslope, cover the highwall completely, avoid disturbing land above the highwall, and return the site to the approximate original contour (515(d)).

During the initial period a Federal enforcement program will conduct inspection of surface mines in response to information from citizens, in response to two consecutive violations on inspection reports supplied by the State regulatory agency, and on a random basis but not less than one inspection for every site every six months.

The initial regulatory program ends in a State when either the State has its regulatory program approved by the Secretary or the Secretary implements a full Federal program in the State because the State has failed to submit a State program which demonstrates that the State has:

- (1) a law which provides for regulation of coal mining operations in accordance with this Act, civil and criminal sanctions for violations of this Act, and an effective permit system;

- (2) a regulatory authority with sufficient funding and qualified personnel to regulate coal mining;
- (3) a process for designating areas as unsuitable for mining;
- (4) a process for avoiding duplication in review and issuance of permits; and
- (5) regulations consistent with regulations issued by the Secretary.

#### **Permanent Regulatory Program**

During the permanent program the regulatory authority (State or Federal) will issue permits that require the operator to comply with all the environmental performance standards of the Act. These will require the operator in addition to the standards of the initial program to:

- (1) conduct operations to maximize the utilization of the coal resource (515(b)(1));
- (2) stabilize all areas to control erosion and air and water pollution (515(b)(4));
- (3) restore the topsoil to the affected area (515(b)(6));
- (4) segregate and replace the individual horizons of topsoil removed from prime farm lands (515(b)(7));
- (5) design and construct permanent water impoundments to assure that the quality and quantity of the water will not be diminished for adjacent users, to achieve stability of the dam, and to provide adequate safety and access for proposed users (515(b)(8));
- (6) conduct augering operations in a manner to maximize recoverability of the coal and seal all auger holes to prevent drainage (515(b)(9));
- (7) stabilize all waste piles (515(b)(11));
- (8) refrain from mining within 500 feet of underground mines except when approved under certain conditions by the regulatory authority (515(b)(12));
- (9) bury or otherwise treat all acid-forming or toxic materials and combustible materials in a manner to prevent contamination of waters and sustained combustion (515(b)(14));
- (10) conduct reclamation as contemporaneously as practicable with the mining operations (515(b)(16));
- (11) construct and maintain access roads to control or prevent erosion, siltation, pollution and damage to fish, wildlife, or public and private property (515(b)(17));
- (12) refrain from constructing roads in or near a stream bed so as to seriously alter the flow of the water (515(b)(13));

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- (13) assume responsibility for successful vegetation on the affected area for a period of five years if the operation is located in a region where the average annual precipitation is greater than twenty-six inches, and for ten years in a region with less than twenty-six inches of average annual precipitation (515(b)(20));
- (14) protect off-site areas from slides or damage and not deposit spoil or conduct any part of the operation outside the permit area (515(b)(21));
- (15) place all excess spoil within the permit area in a controlled manner to provide stability and in a manner to prevent infiltration of water (515(b)(22)); and
- (16) minimize to the extent possible adverse impacts on fish, wildlife, and related environmental values (515(b)(24)).

Operators are also required to post a performance bond equal to the cost of a third party to reclaim if the operator should default.

During the permanent program, all surface coal mining operations are subject to the provisions of the Act except mining of coal by a landowner from his land for his own use, coal mining that affects two acres or less, coal mining incidental to construction of a Federal, State, or local highway, and coal mining incidental (less than 16 2/3 percent of the total tonnage) to mining of minerals other than coal.

### Enforcement

Primary jurisdiction for enforcement of the Act will be assumed by those States with programs approved by the Secretary. Federal inspections in those States are required to the extent necessary to evaluate the performance of the program. The methods of enforcement in a State or Federal program include issuance of notices of violation, cessation orders for imminent dangers to the public or significant imminent environmental harm, cessation orders for failure to comply with a notice of violation, and suspension and revocation of permits.

If a State fails to maintain or enforce its approved program, the Secretary may implement a Federal program in that State after holding a public hearing in the affected State.

### Penalties

Civil and criminal penalties may be assessed for violations of the Act. The civil penalty can not exceed \$5,000 per violation and may be assessed for each day of a continuing violation. Persons found guilty of willfully and knowingly violating the Act or a permit may be fined not more than

\$10,000, or imprisoned for not more than one year, or both.

### Small Operator Assistance

If an operator whose total annual production will not exceed 100,000 tons requests assistance, the costs of preparing the determination of probable hydrologic consequences and the statement of the result of test borings for a permit application may be assumed by the regulatory authority.

### Federal Lands

Within one year after enactment, a Federal lands program incorporating all the requirements of this Act shall apply to surface coal mining and reclamation on all Federal lands except Indian lands. Those States with existing cooperative agreements with the Secretary to regulate surface coal mining on Federal lands within their State may elect to continue that regulation if the agreement is modified to fully comply with the initial regulatory procedures of the Act. Any state with an approved State program may elect to enter into a cooperative agreement with the Secretary to regulate surface coal mining on Federal lands within the State. The Secretary may not delegate to the State his duty to approve mining plans on Federal lands, or to designate Federal lands as unsuitable for surface coal mining.

### Designating Areas Unsuitable for Coal Mining

The regulatory authority (State or Federal) shall designate an area as unsuitable for coal mining upon finding that reclamation pursuant to the requirements of this Act is not technologically and economically feasible. Other areas may be designated as unsuitable in response to a petition from a person having an interest which is or may be adversely affected upon an analysis of the compatibility of the operation with land values, plans, and policies.

Surface mining operations, except those in existence on the date of enactment of this Act, are prohibited:

- (1) in National Park Systems, National Wildlife Refuges, National System of Trails, National Wilderness Preserves, National Recreation Areas, and Wild and Scenic Rivers;
- (2) on Federal lands within National Forests except under certain conditions;
- (3) which will adversely affect public parks and places in the National Register of Historic Sites;
- (4) within one hundred feet of a public road right-of-way except under certain conditions;

- (5) within three hundred feet of any occupied dwelling unless waived by the owner; and
- (6) within three hundred feet of any public building including schools and churches or public parks or within one hundred feet of a cemetery.

#### **Citizen Participation**

Any person who is or may be adversely affected by a proposed permit application, or any Federal, State or local government official may file an objection to the initial or revised application within thirty days of the last date of publication of the operator's intention to surface mine. An informal conference may be requested in the objection which is to be held in the locality of the proposed mine site after notice to the public of the date and location.

Persons suffering personal injury or property damage as a result of a violation of the Act by an operator may sue the operator for damages. Any person with a valid legal interest which might be adversely affected by release of a performance bond or any Federal, State, or local governmental agency may file an objection to the release within thirty days after the last publication of the operator's notice of intent to seek release. If requested, a public hearing is to be held in the locality of the surface mine after notice to the public of the date and location.

#### **Conflict of Interest**

No employee of the Office of Surface Mining Reclamation and Enforcement or other Federal employee or employee of a State regulatory authority who performs any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operation. Any person found guilty of knowingly violating this provision shall be punished by a fine of not more than \$2,500, or by imprisonment of not more than one year, or both.

#### **TITLE VI**

##### **Designation of Lands**

##### **Unsuitable for Non-coal Mining**

The Secretary is authorized to designate as unsuitable for mining for minerals other than coal those Federal lands which are of a predominantly urban or suburban character and are primarily used for residential or related purposes. The designation may be in response to a request from a Governor or to a petition from a person having an interest which may be adversely affected. Upon designation of the area as unsuitable, the Secretary may withdraw the area from mining or may limit the mining operations.

#### **TITLE VII**

##### **Employee Protection**

Employees of surface coal mine operators are protected against discrimination and discharge for testifying or filing, instituting, or causing to be filed any proceeding under the Act.

##### **Grants to the States**

The Secretary is authorized to make grants to assist States in developing, administering, and enforcing their State programs. The amount of the grants can not exceed 80 percent of the costs incurred in the first year, 60 percent the second year, and 50 percent each succeeding year. The amount of this grant may be increased by the Secretary in those States which elect to regulate surface coal mining on Federal lands.

The Secretary is also authorized to provide technical assistance, training, and assistance in preparing and maintaining an inventory on surface coal mining and reclamation operations in each State.

##### **Alaska Surface Coal Mine Study**

The Secretary is directed to contract with the National Academy of Science-National Academy of Engineering for a study of surface coal mining conditions in Alaska to determine if the provisions of this Act should apply to coal mining in Alaska. The Secretary may modify the applicability of performance standards to existing surface coal mining in Alaska for no more than three years if the modification is necessary to insure continued operation.

##### **Study of Reclamation Standards for Surface Mining of Other Minerals**

The Chairman of the Council on Environmental Quality is to conduct a study on methods of surface and open-pit mining and reclamation for minerals other than coal. The study is designed to assist in developing effective and reasonable regulation of mining for minerals other than coal and is to be completed within 18 months after enactment except that those portions of the study about sand, gravel, oil shale, and tar sands are to be completed within 12 months.

##### **Indian Lands**

The Secretary is directed to submit a report to Congress by January 1, 1978, on the question of regulation of surface mining on Indian lands. The report is to include proposed legislation to allow Indian Tribes to assume full authority over the regulation of surface mining of coal on Indian lands. The sum of \$700,000 is authorized to provide for adequate participation in the study by the Indian Tribes.

Surface coal mining operations on Indian lands are required to comply with the major elements of the initial environmental protection standards within 135 days after enactment and, in addition, with requirements at least as stringent as the Act's provisions on permit application and approval, surface effects of underground mines, inspections, and release of performance bond within 30 months after enactment.

##### **Experimental Practices**

The regulatory authority, with the approval of the Secretary, may authorize departures from the environmental protection standards under specific conditions on an experimental basis for the purpose of encouraging advances in mining and reclamation practices or allowing certain post-mining land uses.

##### **Surface Owner Protection**

The Secretary is prohibited from leasing Federal coal under private land until the surface owner has given consent to enter and to commence surface mining operations.

##### **Federal Lessee Protection**

If mining is proposed for Federal coal under a surface subject to a lease issued by the Federal Government, the permit application must include either the written consent of the surface lessee or evidence of posting of bond by the applicant to assure against damages to crops or improvements of the land by the lessee.

#### **TITLE VIII**

##### **University Coal Research Laboratories**

The Administrator of the Energy Research and Development Administration is authorized to provide construction and operation funds to establish ten university coal research laboratories. An advisory council is established to advise the Administrator on administration of this program. Authorizations for appropriation for this program are \$30 million for fiscal year 1979 and \$7.5 million for each of the next three fiscal years.

#### **TITLE IX**

##### **Energy Resource Graduate Fellowships**

The Administrator of the Energy Research and Development Administration is authorized to award up to 1000 fellowships each year in areas of applied science and engineering related to production, conservation, and utilization of fuels and energy. The fellowships are limited to two years at a stipend of not more than \$10,000 per year. \$11 million is authorized to be appropriated for fiscal year 1979 and for each of the next five fiscal years.

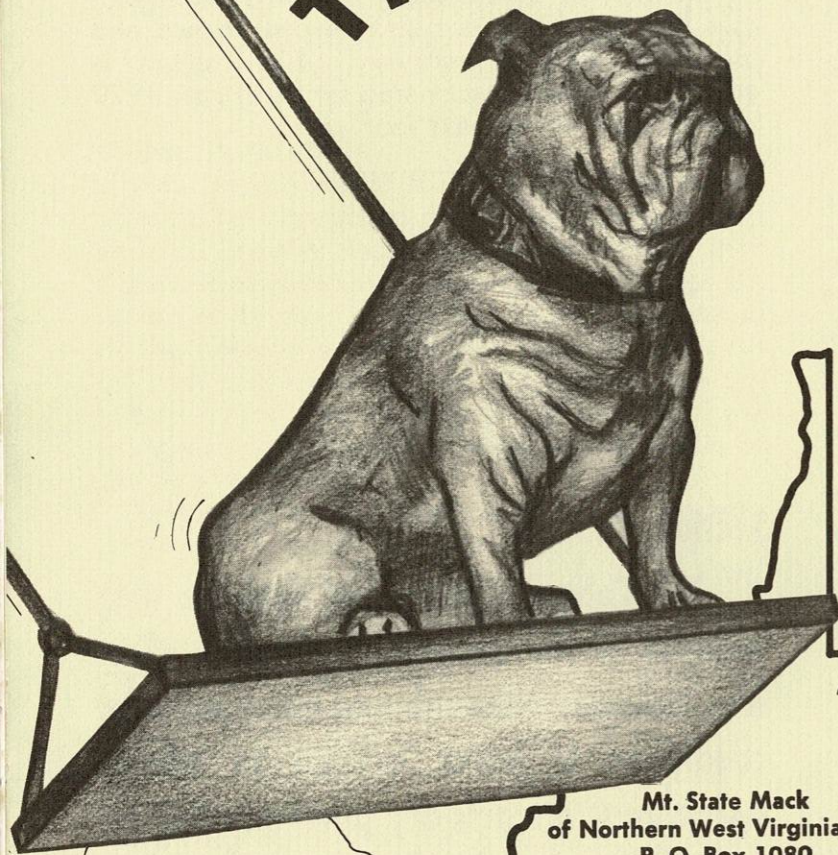
The Administrator is also authorized to conduct research, demonstration projects, and training relating to developing coal mining technologies that would reduce surface disturbance and maximize resource recovery. \$35 million is authorized to be appropriated for fiscal year 1979 and for each of the next four years.

#### **Section 101 (f)**

**The Congress finds and declares that because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States:**

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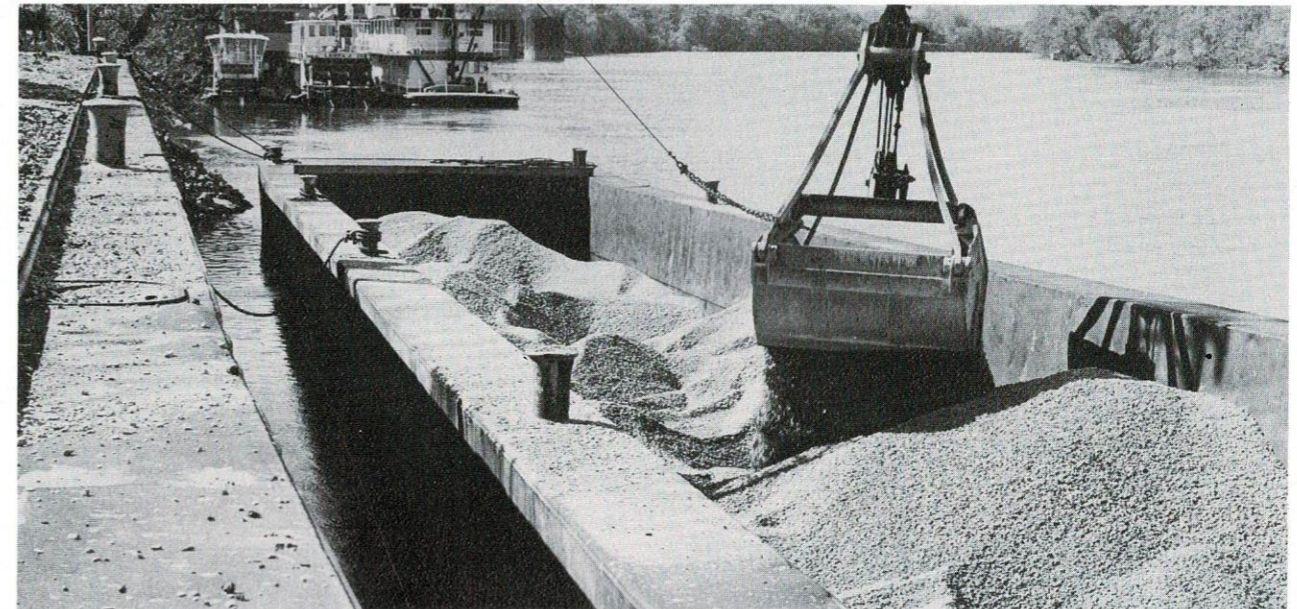
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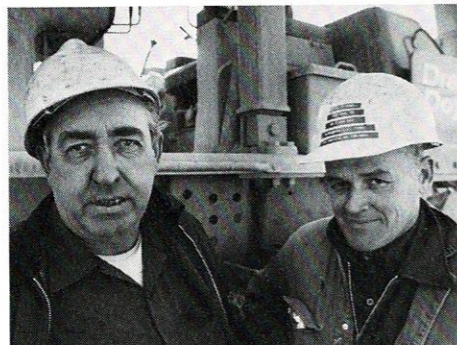
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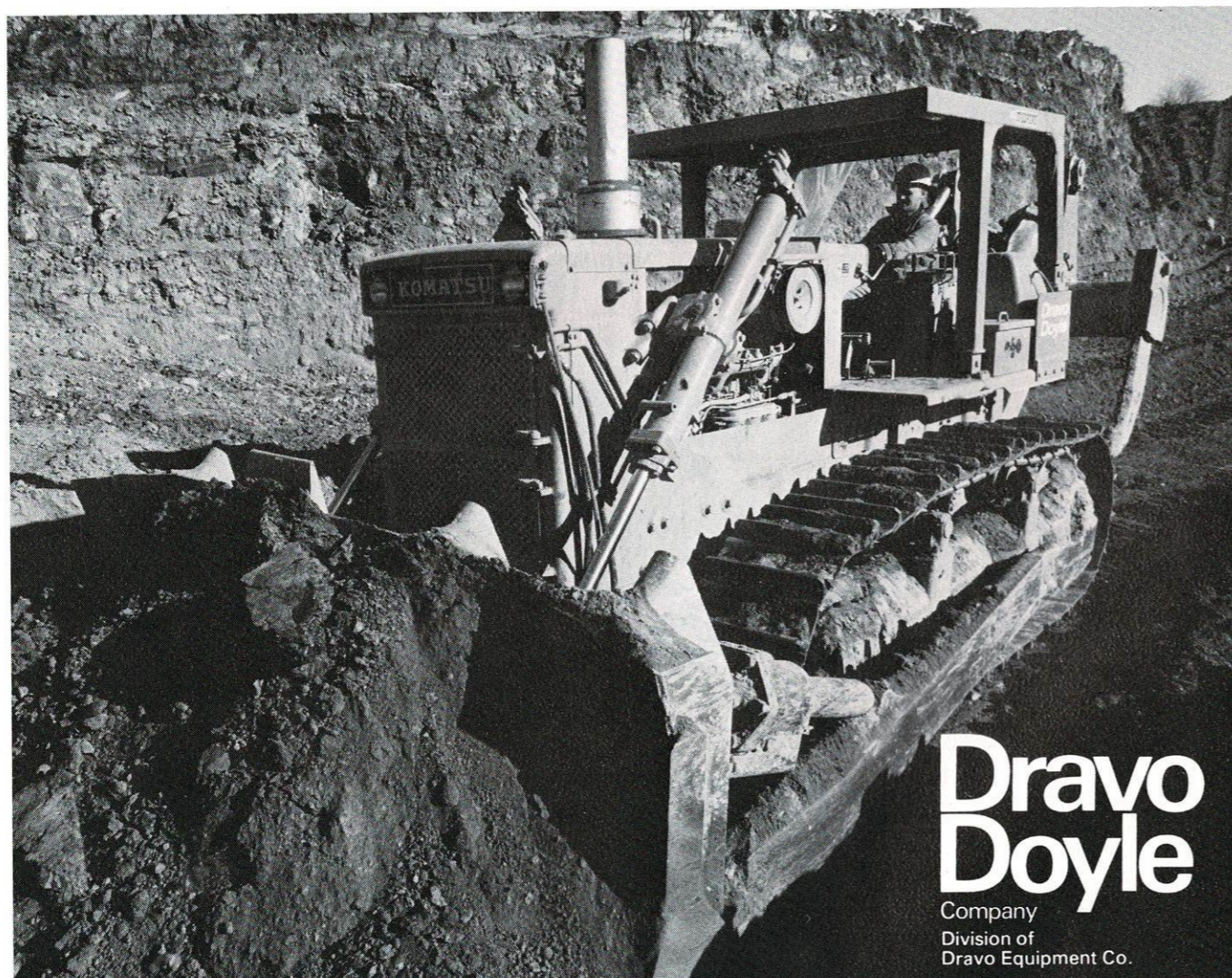
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## Governor's Visit Highlights 10th Evaluation Tour

The Department of Natural Resources conducted its 10th Annual Interagency Evaluation Tour this summer and attracted a record 155 people, including Governor John D. Rockefeller IV.

The Governor, accompanied by aides and several members of the media, helicoptered to Sharpe's Knob, in Fayette County to inspect the State's Special Reclamation job there.

The tour, which included representatives from State and Federal government, industry, environmentalists, educators, and officials from 6 other states, traveled caravan style through 10 counties visiting 18 job sites.

Ben Greene, who was serving his last week as Deputy Director of DNR before joining the WVSMRA as President, was obviously impressed.

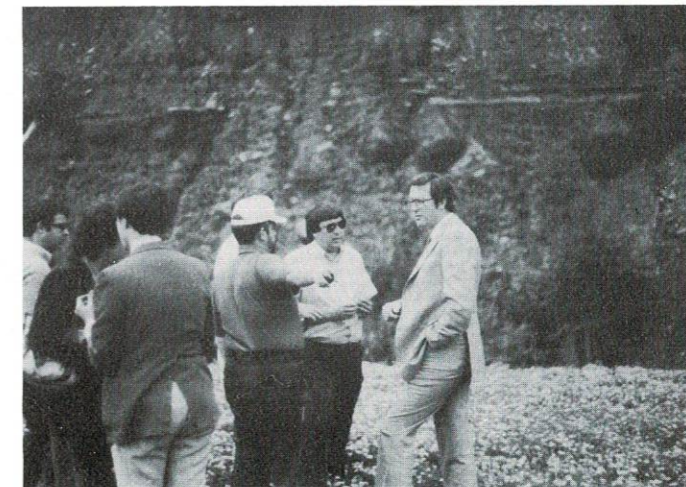
"We've made tremendous progress in these ten years," he commented, "both in terms of the number of participants and from the standpoint of what we've seen on the tours."

"The first tour in 1968 consisted of about 15 people and there was a little reluctance on the part of operators to be visited. Now we're getting over 150 people on the tour and for the operators, it's become a matter of pride to show these people the good work they've done."

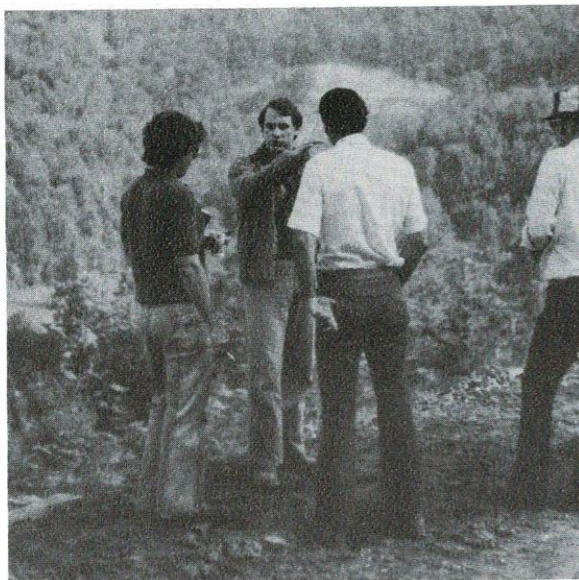
"Specifically," Greene continued, "I see the most progress on haul roads. We've also come a long way on water impoundment facilities, and of course, this year we saw a lot of innovations that hadn't been heard of in 1968. This is why we have more people every year from out of state, and this is why West Virginia has a big head start in compliance with the federal law."



The group tours Sharpe's Knob, one of the highest points in West Virginia and the site of the State's special reclamation project.



Gov. Rockefeller gets briefed on Sharpe's Knob by Pete Pittsenbarger and Ben Greene.



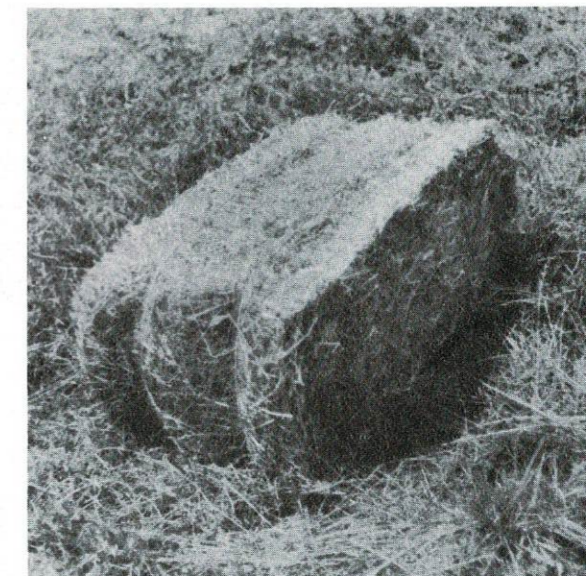
*John Sturm (c) of Grafton Coal discusses revegetation at a Grafton operation.*



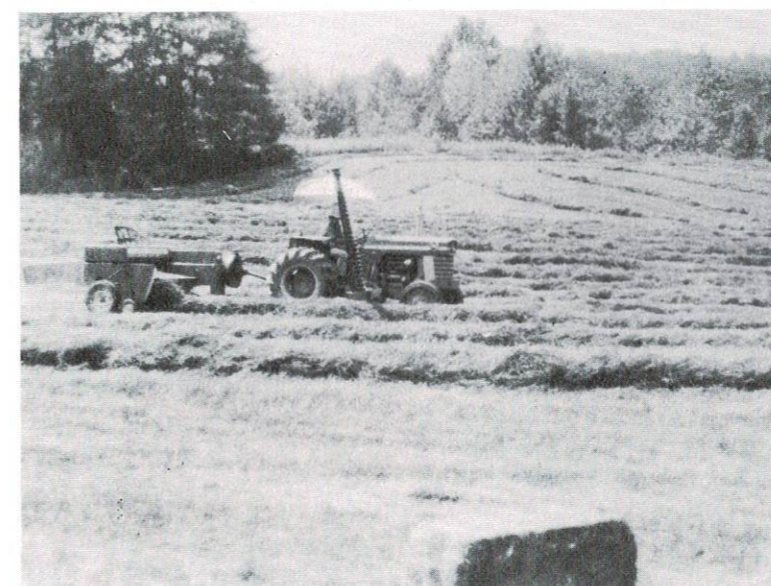
*DNR Chief of Reclamation Pete Pitsenbarger (c) reviews progress of a mountaintop removal job.*



*The Barnosky Brothers, left to right Joe, Louie, Albert, and Paul, of B&B Coal proved that small operators can effectively reclaim land as well.*



*This is the second cash crop to come off this Barbour County property. The first, of course, was coal.*



*C&W performed special reclamation on this abandoned mine site, with obvious results.*



*The 40 plus vehicle caravan had to contend with heavy rains on Monday, but haul roads held up and the weather finally improved.*



*Jim White (l) of Vecellio & Grogan was visibly impressed with B&B Coal's reclamation work in Upshur County.*



*Tamroy's haul road evokes images of an old John Denver song.*



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"We have a tough job, so we need a tough machine. The 981's rugged undercarriage, powerful swing drive, and 4.6 yard bottom or front dump bucket are the features we were looking for in a machine.

"LIEBHERR, with nearly 25 years of experience in hydraulic excavators and over 30,000 machines produced, is what we were looking for in a manufacturer.

"West Virginia Tractor's 40 years in the heavy equipment business, their support services and reliability further substantiate our decision to purchase the LIEBHERR.

"Stallion Mining has made a large investment in West Virginia coal, and we plan to grow. It will take a lot of steady production to finance that growth. Our new LIEBHERR, backed by the support services of West Virginia Tractor, will give us the production we need, and enable us to achieve our goal."

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# Greenbrier Meeting 1977

More than 600 members and guests helped usher in a new era in West Virginia surface mining and reclamation by their attendance at the Association's Annual Meeting at the Greenbrier Hotel Aug. 11-14.

This year's meeting featured not only the annual passing of the gavel to a new Chairman of the Board, but also marked the close of Ben Lusk's tenure as Association President, and the first gathering under new President Ben Greene.

Both outgoing Chairman Frank Jennings and newly-elected Chairman James H. "Buck" Harless emphasized the Association's good fortune in having two such outstanding individuals in the President's chair during the legislatively stormy years of the 1970's.

Dave Callaghan, Director of the West Virginia Department of Natural Resources, was the featured speaker at Saturday night's banquet. He predicted a new era of cooperation in the West Virginia surface mining industry as the Surface Mining Control and Reclamation Act of 1977 takes effect. The Director equated past performance with future potential, and pledged State government's full support in maintaining West Virginia's status as the nation's leader in reclamation.

"I can tell you that Governor Rockefeller and this administration are committed to quick approval of our State program," he emphasized. "We fully expect to be among the first states, if not the first, to have our program approved by Secretary of the Interior Cecil Andrus."

"We believe," Callaghan continued, "that this, in addition to your continued cooperation, is the best means of achieving the period of peace and tranquility that we all are hoping for."

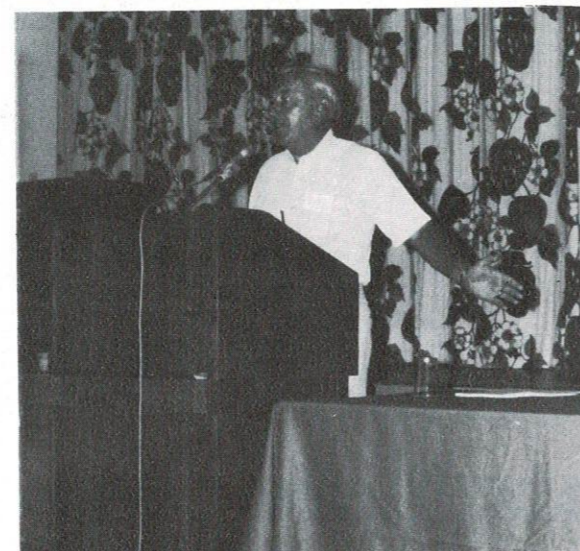
In addition to Chairman Harless, of the Lynn Land Co., the newly elected officers include: First Vice-Chairman—G. B. Frederick, Capitol Fuels, Inc.; Second Vice-Chairman—John J. Faltis, Anker Mining & Development Company, Inc.; Secretary—Garnie Stidham, Indian Coal Land Company; Treasurer—William Butler, Princess Susan Coal Co.; and Chairman of the Associate Division—Bernard J. Folio, Explosives, Inc.

The following members were also named to the Board of Directors: Frank Jennings, Big Mountain Coals, Inc.; Charles T. Jones, Amherst Coal Co.; Frank W. Vigneault, Cecil I. Walker Machinery Co.; E. B. Basham, West Virginia Tractor & Equipment Co.; Tom L. Horn, Jr., Kanawha Steel and Equipment Co.; and Lawrence Streets, Allegheny Mining Corp.

Appointed to fill unexpired terms were John W. Sturm, Grafton Coal Co.; W. S. Ritchey, Jr., Hobet Mining and Construction Co.; and Richard Welch, Beckwith Machinery Co.



Lawson Hamilton leads a patriotic rendition of "Country Roads."



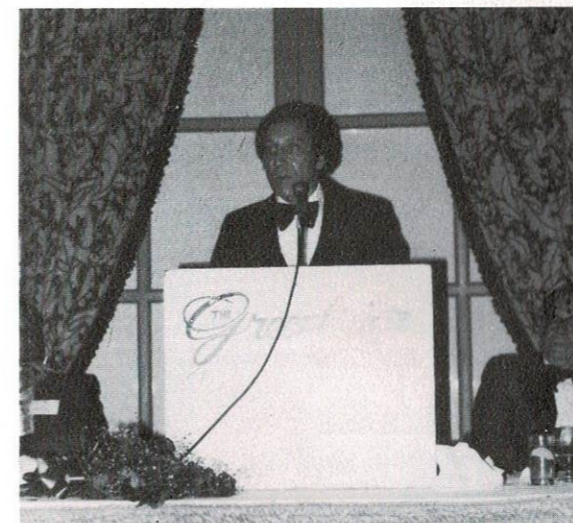
New Board Chairman Buck Harless moderates Saturday morning's technical session.



New President Ben Greene (l) confers with an old comrad, DNR Chief of Reclamation Pete Pittsenbarger.



Ben Lusk addresses the Association as president for the last time.



Department of Natural Resources Director Dave Callaghan talks about implications of the federal bill at Saturday night's banquet.



Benny Benack did it again as he and his Dodge kids provided two memorable evenings of entertainment.



Jim Justice, low gross golf winner, gets a double bonus from Debby Iden as Whit Perkins looks on.

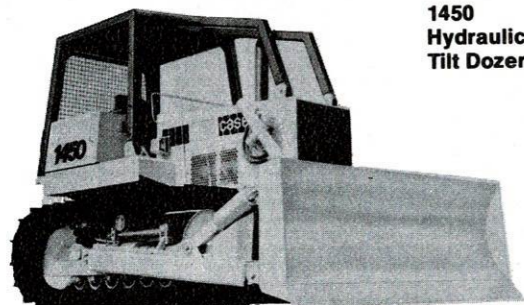


Patty Bruce (c) presents tennis awards to mixed doubles winners Lucille Brock and Toby Hatfield.



This diverse group is shown embodying Director Callaghan's new spirit of cooperation. Left to right are Sandy Latimer, Rod Clay, Bruce Higginbotham, Jim Compton, Lloyd Lang and Ben Greene.

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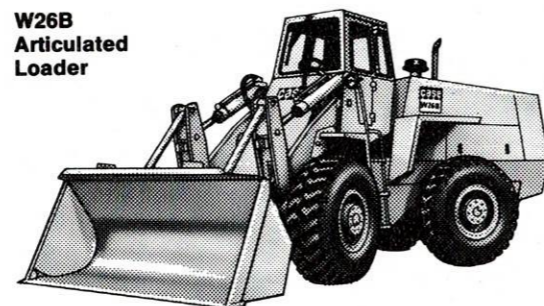
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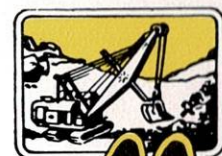
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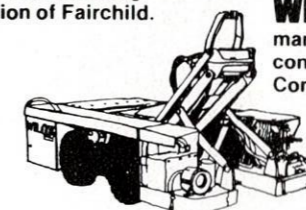
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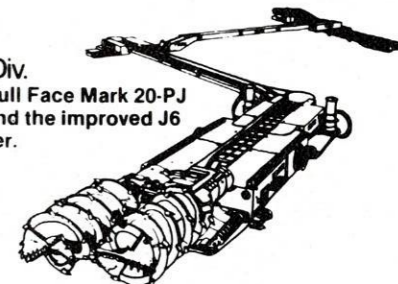
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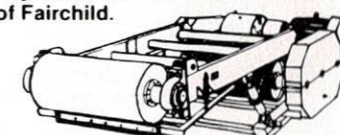
## WILCOX Mfg. Div.

manufactures the Full Face Mark 20-PJ continuous miner and the improved J6 Compact Roof Bolter.



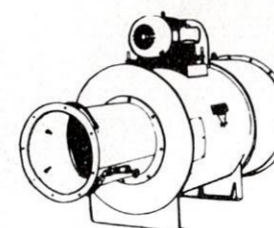
## PEMBROKE Mfg. Div.

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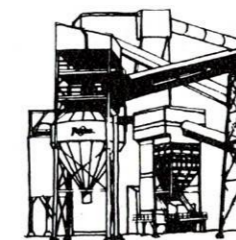
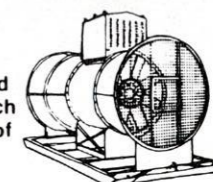
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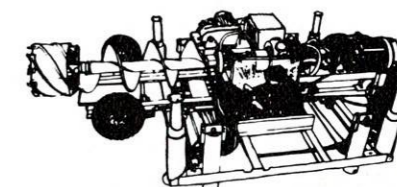
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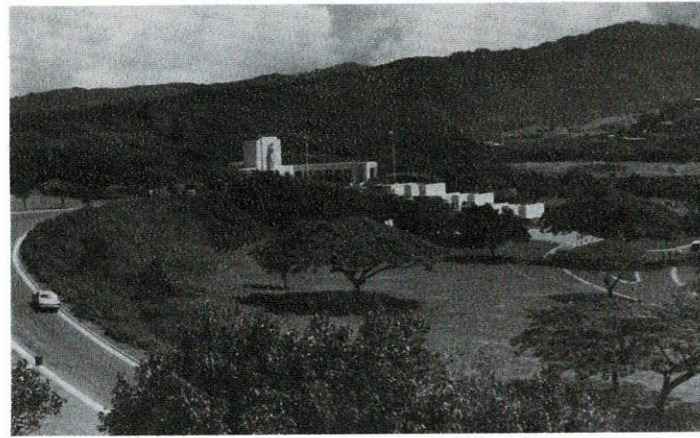
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# Australia and the South Pacific



The International Mining and Reclamation Conference is now three years old, having convened again in Australia in May.

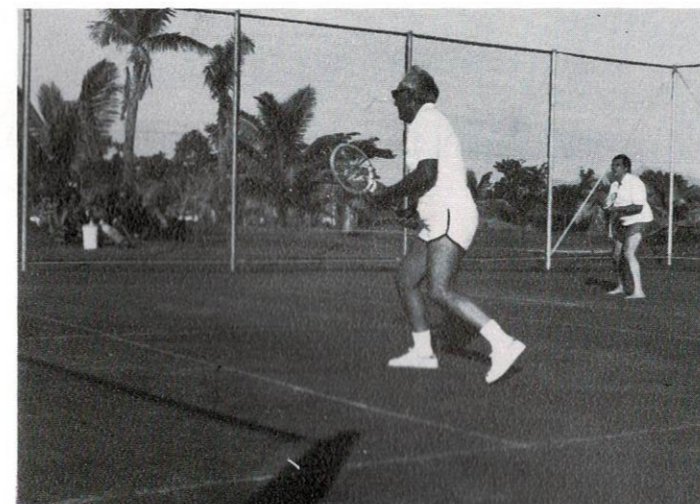
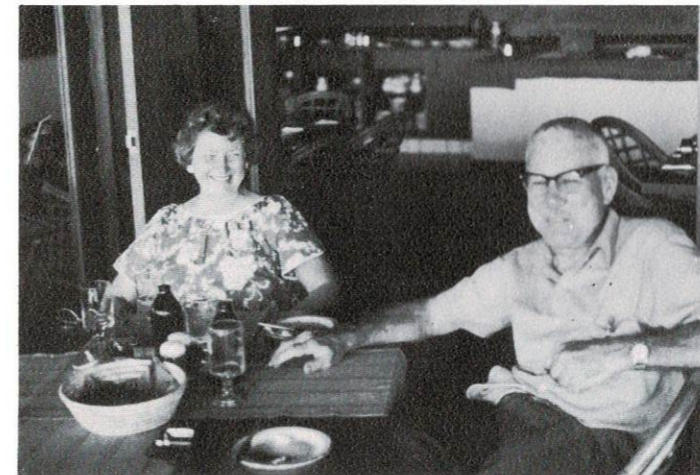
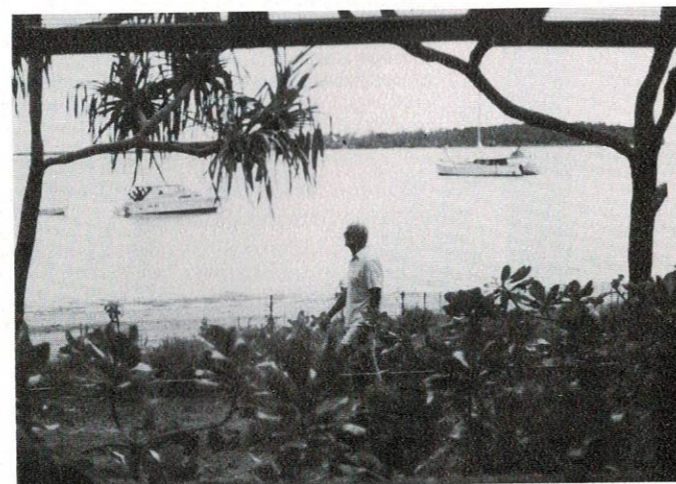
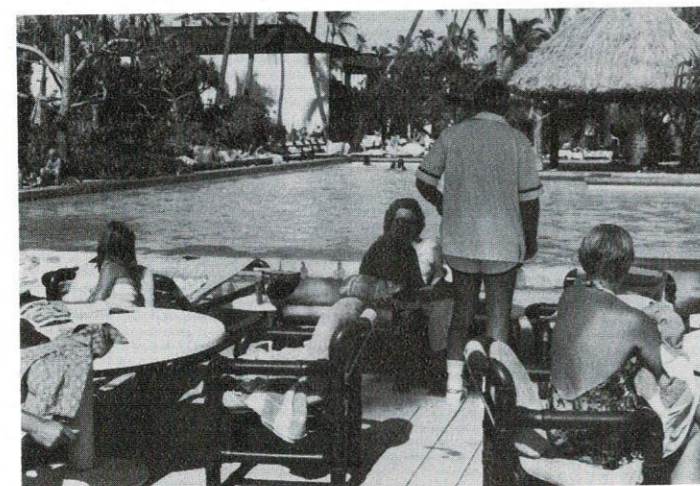
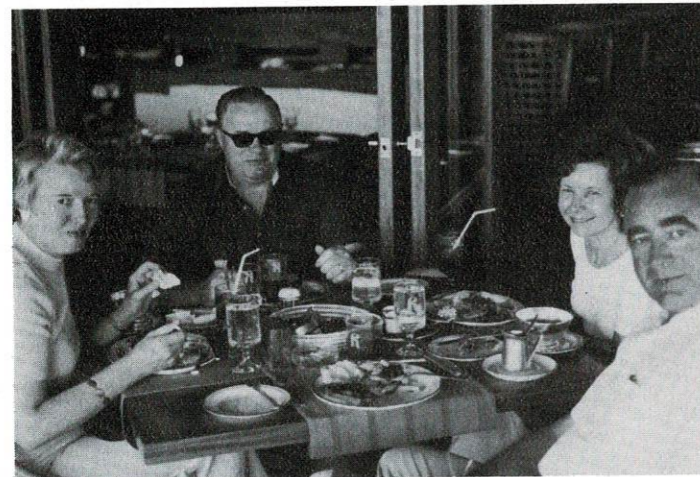
Originally the brainchild of former Association President Ben Lusk, the Conference has grown to include over 100 representatives of the industry. Previously, the group had toured West Germany and Poland.

"Conferences of this type are essential if the industry is to comply with environmental regulations and satisfy current and future production demands," Lusk stated. With continuing passage of stringent mining laws and demands for increased coal production, it is incumbent upon the coal industry to seek better and more effective methods of mining and reclamation."

Lusk inadvertently provided one of the highlights of this year's trip when the group was stranded in the Fiji Islands by an air controllers strike. He teamed with Association Board Chairman Buck Harless for a benefit tennis match against actor Lloyd Bridges and pro Fritz Glouse.

Although Lusk and Harless benefitted from their opponents self-imposed handicap, backers of this beleaguered pair had to pay out \$1900, which went toward the care of another tennis pro who is stricken with cancer.

Plans for the Fourth Annual Conference have not yet been completed.




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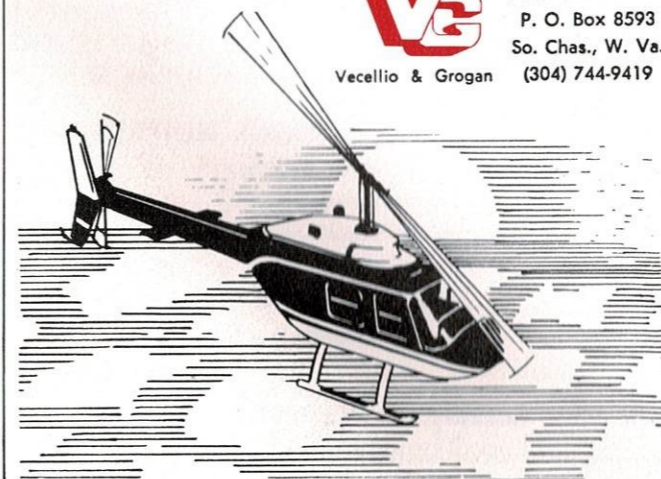
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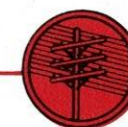


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# Association Notebook

### CHARLESTON CHOSEN AS REGIONAL HEADQUARTERS

Charleston, W. Va. has been selected as one of five regional headquarters of the Department of Interior's Office of Surface Mining. The Charleston office will be responsible for the northeastern and mid-Atlantic States.

Association President Ben Greene noted that the move should prove beneficial to both State government and the WVSMRA. "Obviously, this will be a help to us," he commented. With our headquarters, the Department of Natural Resources, and now the federal regional office all located in Charleston, we can do a much more effective job of communicating and minimizing bureaucratic problems in implementing the new law."

### OSMRE HOLDS HEARINGS

Charleston was also the scene last month for hearings on the proposed rules and regulations for implementation of the Surface Mining Control and Reclamation Act of 1977. Testimony was taken for three full days at Morris Harvey College, and included appearances by Association President Ben Greene, Board Chairman James H. "Buck" Harless, and numerous individual Association members.

### PERSONNEL CHANGES

Association Director of Public Affairs Terry Iden and Secretary Debbi Young has resigned. Both have taken positions with the Mining and Reclamation Council, headquartered in Charleston. Mrs. Lois Long has been hired to replace Mrs. Young as secretary.

### SYMPOSIUM

The Association's Annual Surface Mining and Reclamation Symposium has been scheduled for Jan. 11-12 at the Daniel Boone Hotel in Charleston.

### SEMI-ANNUAL MEETING

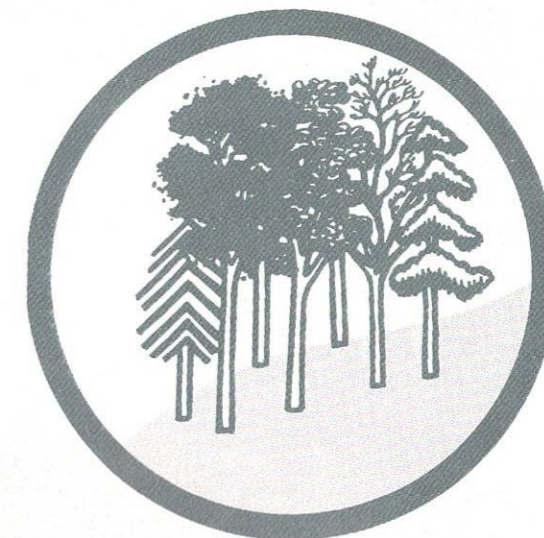
The Semi-Annual Meeting will return to the Doral County Club in Miami, Fla. Feb. 9-12. Further information will be made available through the newsletter.

### CONSERVATION AWARD

Association President Ben Greene was named earlier this month as "Conservationist of the Year" by the West Virginia Wildlife Federation. Announcement of the honor was made at the Federation's Annual Awards Dinner in Wheeling.

### PROMOTION

Ken Faerber has been named Director, Reclamation and Environmental affairs for Ashland Coal, Inc.



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