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TO SAVE THE LAND AND PEOPLE: A HISTORY OF OPPOSITION TO COAL SURFACE MINING IN APPALACHIA

DISSERTATION

Presented in Partial Fulfillment of the Requirement for the Degree Doctor of Philosophy in the Graduate School of The Ohio State University

By

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****

The Ohio State University
2001

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This study traces the rise and fall of a movement to abolish coal surface mining in Appalachia during the twentieth century. It begins with natural and social histories of the region and examines the development of a strip mining industry, the emergence of state-level demands for regulatory legislation and a ban, the shift of the campaign to the federal level, and the collapse of the opposition movement. The significance of the research is threefold. First, it contributes to the development of social environmental history as a subfield by focusing on common people and the interplay between social relations and the environment. The dissertation also reveals the importance of a tradition of veneration for small, private property in shaping political consciousness and social conflict in the United States. Finally, it reveals inhabitants of Appalachia as capable of using parts of a socially constructed identity developed by local color writers, missionaries, and settlement workers as an ideology for contemporary struggle.
To my mother
ACKNOWLEDGMENTS

A number of people deserve recognition for their contributions to this dissertation. Among the many helpful archivists and library staff who assisted me, I owe special thanks to Lyle Brown at Marshall University, Denise Conklin at Pennsylvania State University, Eileen Mountjoy at Indiana University of Pennsylvania, Bill Marshall at the University of Kentucky, and Shannon Wilson at Berea College. Richard Cartwright Austin, the late Joe Begley, Louise Dunlap, Ken Hechler, Frank Kilgore, and Sue Ella Kobak gave me hours of their time for interviews. Professors Warren Van Tine, Raymond Dominick, Leila Rupp, Loren Babcock, John Cumbler, and Steve Fisher read and commented on various chapter drafts. Susan Freeman also read chapters and made numerous suggestions for revision. Lori Andrew gave me direction in wading through social movement theory literature. Gail Griffin expeditiously administered my summer research grant from the Graduate School of Ohio State University. My daughter Phoebe has patiently awaited the completion of this project and I hope she finds some small compensation in the dissertation’s contribution to the larger project of creating a better world. Finally, without my mother and step-father’s many sacrifices, graduate school and the dissertation would not have been possible.
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ABBREVIATIONS

ACSL - Allegheny County Sportsmen’s League (Pennsylvania)
AGSLP - Appalachian Group to Save the Land and People (Kentucky)
AMC - American Mining Congress
APSO - Appalachian People’s Service Organization
ARC - Appalachian Regional Commission
ARDA - Appalachian Regional Development Act
ARDF - Appalachian Research Defense Fund
ASIS - Appalachian Strip Mining Information Service
AVs - Appalachian Volunteers
CAD - Congress of Appalachian Development
CASM - Citizens to Abolish Strip Mining (West Virginia)
CCASM - Concerned Citizens Against Strip Mining (Ohio)
CCOP - Concerned Citizens of Piney (Tennessee)
CCR - Community Council for Reclamation (Ohio)
CESJ - Citizens for Economic and Social Justice
CLPSR - Citizens’ League to Protect Surface Rights (Kentucky)
COPE - Cloverfork Organization to Protect the Environment (Kentucky)
CORA - Commission on Religion in Appalachia
CPOPMA - Central Pennsylvania Open Pit Mining Association
CSG - Council of State Governments
CSM - Council of Southern Mountains
CTFSM - Citizens Task Force on Surface Mining (West Virginia)
DNR - Department of Natural Resources
DOI - Department of Interior
DSM - Division of Surface Mining (Tennessee)
DSMR - Division of Strip Mining and Reclamation (Kentucky)
EPA - Environmental Protection Agency
EPC/EPI - Environmental Policy Center/Environmental Policy Institute
FOE - Friends of the Earth
ICOA - Independent Coal Operators Association (Kentucky)
IWL - Izaak Walton League
KCC - Kentucky Conservation Council
KFTC - Kentucky Fair Tax Coalition/Kentuckians for the Commonwealth
KUAC - Kentucky Un-American Activities Committee
MFD - Miners for Democracy
Introduction

Common People, Private Property, and Appalachian Identity

One August night in 1968, four men drove onto a strip mine site owned by the Round Mountain Coal Company in Leslie County, Kentucky. They shined a flashlight in the eyes of the lone watchman, tied him up, and drove around in his jeep for four hours, quietly and expertly setting the company's own explosive charges. Just before sunrise, they removed the guard to a safe place, detonated the charges, and left behind the smoking hulks of a giant diesel shovel, D-9 bulldozer, auger, conveyor belt, three hi-lifts, a truck, three generators, and one jeep. Altogether, property damage totaled $750,000. Detective J.E. Cromer, of the state police force, described the destruction as the most extensive he had ever seen in eleven years of investigating sabotage. Those responsible for blowing up the equipment were never found, but we can speculate about their motives by setting the demolition in its historical context: During the 1960s and early 1970s, eastern Kentucky and other parts of Appalachia saw the rise and growth of a movement to abolish coal surface mining. Very likely, the Round Mountain saboteurs were a part of this collective effort, attempting to stop operations at the Leslie County mine and send a message to state and federal lawmakers that destruction of company property was the alternative to a legislative ban.¹
Tensions had to be high for the four men to take such drastic action. But how did tensions get to that point? What was so objectionable about coal surface mining? Why would people use industrial sabotage to fight it? These questions have only incomplete answers. Historians have given scant attention to strip mining, and they have shown even less concern with the twentieth-century campaign to outlaw it. The 630-page interpretation of the post-World War II environmental movement by Samuel Hays gives coal surface mining and its critics all of three pages. John Opie’s environmental history textbook, *Nature’s Nation*, draws on some of the rich sources for Appalachian studies and communicates a better understanding of both stripping and its opponents. Yet his is also a spare overview. There are histories specifically focused on coal mining and the environment. Duane Smith’s two-century survey of coal mining is one, and Richard Vietor’s analysis of the coal industry’s role in twentieth-century environmental politics is another. But these monographs and others like them provide neither a satisfactory history of the stripping industry nor a comprehensive history of abolition efforts. Likewise, the scholarly literature addressing the use of natural resources in Appalachia, as well as the work examining the many social movements of the region, both fail to explain the evolution of surface mining and the efforts to outlaw the practice.

This lack of sustained interest in stripping by historians is certainly not a reflection of its social or historical significance. Coal surface mining has dramatically impacted communities in the Appalachian coal fields. As the industry expanded in the years after World War II, it exacerbated the poverty and chronic unemployment of the region, compounding the impoverishment that was a legacy of other extractive economic
activity, including deep mining. Despite their many protests that regulating or banning surface mining would take away needed jobs, strip operators themselves were one of the primary threats to various livelihoods in Appalachia. Their destruction of arable farmland did much to undermine farming as an occupation, while the relative efficiency of strip mining as compared to underground mining allowed for the employment of far fewer miners per every ton of coal mined. Yet it was not only the ruin of good cropland and the small payroll at the mines that pinched off economic development and growth in the postwar years. Underassessed coal reserves and paltry property tax payments during and after strip mining further hampered local people's efforts to build and maintain schools and roads, and to provide various public services. Operators also balked at returning some of their profits to the region through severance taxes, and local and state infrastructures suffered accordingly.

Coal surface mining affected the environment of the Appalachian coal fields too. Stripping denuded millions of acres of steep slopes and rolling hills in the coalfields and this loss of vegetation caused soil erosion as well as increased surface runoff. Erosion led to the siltation of streams, and this devastated aquatic life. Increased surface runoff caused heavier flooding, and floods where there had been none before. The bare hills also deprived numerous animal and plant species of habitat. Acid mine drainage, produced when sulfur-containing compounds such as pyrite and marcasite are exposed to air and water, polluted streams and groundwater. Even when limestone was present to neutralize some of this acidity, the drainage and acid-laden soil made revegetation and post-mining crop production nearly impossible. In areas where surface mines perched
above homes, schools, and whole towns, the lack of revegetation and the abandon with
which operators dumped ‘spoil’ down steep slopes led to disastrous landslides. Some of
these slides were fatal, burying people alive, while others simply swept away any
structures in their path. In addition, blasting at surface mines cracked the foundations of
people’s homes, sunk their wells (which in some cases were already muddied or fouled
by acid runoff), and sent ‘flyrock’ hurtling dangerously into the air.

The poverty and ruined hills caused by stripping are reason enough to examine its
history. But an account of the opposition to coal surface mining - particularly the
movement to outlaw it - is also warranted. A study of the opposition has the potential to
shed light on a number of historical problems, contributing to our understanding of
modern environmentalism, American political traditions, and Appalachian identity. The
campaign to abolish stripping was primarily a movement of farmers and working people
of various sorts, originating at the local level, and its history gives attention to the role
played by common people in the conservation, preservation, and environmental
movements. The struggle for a ban also reveals the importance of a tradition of
veneration for small, private property in shaping political consciousness and social
conflict in the United States. Additionally, since the critics of stripping invoked aspects
of both national and regional identities, a history of their opposition contributes to
thinking about what it has meant to be Appalachian. Although the battle against coal
operators in no way challenges the claim of Appalachian scholars that “Appalachia” was
invented by manipulative outsiders, it does suggest that residents of the region were
capable of transforming parts of that myth into political weapons.
Despite the roots of environmental history in the environmental activism of the 1960s and 1970s, scholars working in the field have only recently recognized the need to incorporate the methods and perspective of social history. Even some of the best environmental histories, as Alan Taylor has noted, have been “prone to a holism that washes out the human diversity of experience and identity.” In their attempt to put nature back into history, environmental historians have failed to take full account of the importance of social divisions and interrelationships within human populations. This has limited our understanding of peoples’ ideas about the physical and organic environment, their uses of landscapes, and the impact of environmental degradation on human communities. Environmental historians also often overlook the efforts of common people, usually at the local level, to conserve natural resources, preserve wilderness, and protect the environment. Though the number of exceptions to this criticism is growing, much of the literature dealing with nineteenth- and twentieth-century environmental politics has focused on the privileged urban elite or suburban middle class. The still widely-accepted interpretation by Samuel Hays argues that environmentalism developed in the years after World War II as a result of new interest in quality of life issues, expanding material affluence, increased leisure time, and rising levels of education, all of which brought new values into politics. These concerns and values were rooted in middle class suburbia and, Hays claims, to the extent others also demonstrated an environmental sensibility, the environmental concerns “worked their way from the middle levels of society outward.”
A few environmental historians have begun to assemble a revisionist narrative, one that emphasizes social divisions, conflict, and equity. Their interpretations accord a greater role to common people, revealing that farmers and workers formulated their own versions of preservationism, conservationism and environmentalism, grounded in their experiences tilling fields and working in factories. Andrew Hurley, Robert Gottlieb, and Richard Judd argue that the movements of elites and the middle class had resonance and spread because farmers and working people were already thinking ecologically or in terms of aesthetics, and because they lived close to the land or endured urban pollution and workplace hazards. A few historians have also started to examine the environmentalism of organized labor, and they have broadened our understanding of the origins of environmentalism beyond the suburban middle class. Most importantly, their work has challenged the idea that an inherent conflict exists between the interests of workers and environmentalists. Scott Dewey, Rosemary Feurer, and Robert Gordon have discovered numerous instances in which organized labor played a leading role in campaigns for environmental reform and cooperated with environmental groups.5

This study contributes further to the fusion of environmental and social history and the recovery of the environmentalism of common people. It delineates a history in which abuse of the land and its resources by coal operators generated social consciousness and activism that was somewhat independent of and distinct from the environmentalism of middle-class suburbanites and upper-class urban dwellers. The rural Appalachian farmers, workers, and unemployed who organized to ban strip mining, or to enact and enforce more stringent regulations, were typically not affluent or college-
trained, and many of them were committed to exposing the linkages between the stripping that was ruining the land and the poverty that was devastating the people of the region. Like their middle class counterparts, these critics expressed dislike for stripping in aesthetic terms, as a concern for the conservation of valuable mineral and timber resources, and as a matter of preserving the ecological integrity of the hills. But they were more likely to bemoan the damage done by strip mining to farm land and homesteads, as well as the loss of jobs in an economically depressed region. In the mid-1960s, opponents of surface mining also began to abandon lobbying, petitioning, and working through the courts when those formal channels of resolving grievances proved ineffectual. In their place they substituted other tactics, such as exchanging gunfire with strippers, sabotaging mine machinery with explosives, illegally occupying strip-mine sites, and blocking haul roads. This further distinguished the opposition of local groups of common people from that of law-abiding national environmental organizations.

Yet, however militant and subversive proponents of a ban on stripping appeared, their efforts were neither seditious nor revolutionary. Elements of class conflict and demands for social equity were present in the struggle between coal operators and "abolitionists," but both sides generally maintained a reverence for the institution of private property, albeit property on a different scale. Even when they violated the property rights of coal companies by occupying mine sites or destroying mine machinery, activists did so in the interest of protecting their own proprietary interests. Thus, a history of opposition to strip mining in Appalachia speaks to a long-running debate
among historians about political traditions in the United States. This debate has revolved primarily around the question of common values.

In the 1950s, historians associated with a “consensus school” of thought downplayed the existence of significant conflict in the American past and emphasized the hegemony of liberal values, at the center of which was a Lockean individualism. “The sanctity of private property, the right of the individual to dispose of and invest it, the value of opportunity, and the natural evolution of self-interest and self-assertion, within broad legal limits, into a beneficent social order,” wrote Richard Hofstadter, “have been staple tenets of the central faith in American political ideologies.” New labor and social historians responded to this argument in the 1960s and 1970s with numerous revisionist narratives that highlighted social divisions, conflict, and traditions of community and mutuality. Much of their work, however, tended to romanticize ethnic and working-class radicalism and they did not convincingly explain the failure of various groups to continue to achieve a substantive transformation of society. A few scholars have since suggested, as Eric Foner puts it, that it was “not the absence of non-liberal ideas, but the persistence of a radical vision resting on small property [that] inhibited the rise of socialist ideologies.” Even socialists like Eugene Debs grounded their political ideals in a Jeffersonian tradition of a stable republic founded on freeholding, independent citizens. Others have also raised the possibility that the consensus school historians may not have been so far afield, hinting that expressions of radicalism were ideologically ambiguous attempts to recover a passing social order based on propertied independence.5
The history of opposition to strip mining in Appalachia lends evidence to the argument that a tradition of veneration for small private property has dramatically shaped political consciousness and social conflict in the United States. Opponents of stripping drew on this tradition in defense of their homesteads, and they perceived their disagreement with coal operators as primarily a dispute between property owners over the legitimate uses of privately-held land and its resources. In some cases, coal operators’ titles were broad form deeds, which separated surface and mineral rights but were interpreted by many state courts as allowing the destruction of the surface and structures upon it. When surface mining was performed under those titles it brought coal operators into conflict with area residents who had improved the land above the coal with homes and gardens as well as more intensively cultivated areas and farm buildings. In other cases stripping operations had environmental impacts offsite, through landslides, pollution of streams with acid drainage and silt, and jarring blasts that sent flyrock hurtling into the air. These aspects of surface mining brought coal operators into conflict with adjacent and non-adjacent property owners, and that conflict hinged on the legitimacy of each others’ land use. Only near the end of the 1970s did a few activists begin to demand the democratic control and use of natural resources.

This study also speaks to the coherence and function of an Appalachian identity, a central topic in the field of Appalachian studies. In the antebellum period the southern highlands were only another relatively unexplored place on a map, defined in physiographic terms as a mountain system. But by 1890 local color writers had transformed the highlands and their inhabitants into a “strange land and peculiar people.”
Besides a profound fatalism, a deep suspicion of outsiders, and an inclination toward feuding, mountaineers were supposedly a repository of American Revolutionary traditions and republican values. Their's was the mythic egalitarian society of the frontier, where individualism and independence still held sway. A character in *The Trail of the Lonesome Pine* (1908), a novel by local color writer John Fox, Jr., explained, "[Southern highlanders] are the pioneers of [the Revolution] and hardly a bit have they advanced. They are our contemporary ancestors ... the closest link we have with the Old World." Decades later, in *Yesterday's People*, Jack Weller spoke of mountain residents as "perennial frontiersmen" and his book was distributed to 1960s antipoverty workers as a field guide of sorts on Appalachian people.⁷

Scholars have been examining "Appalachia" as a social construction since the late 1970s, yet they have given little attention to the role mountain people themselves played in making and using this regional identity. Images of Appalachia originated in a social context, and they were meant to serve manipulative and exploitative endeavors, such as expropriating natural resources and transforming the local population into wage laborers. As Allen Batteau contends, however, defining Appalachia historically, rather than as a pre-existing distinct cultural entity, also requires recognition of the "interaction between local values and external confrontations." Inhabitants of the southern highlands may not have been the people so wistfully portrayed by local color writers, missionaries, and settlement workers, yet mountain residents sometimes utilized aspects of a fabricated Appalachia to fashion an ideology for contemporary struggle. During the campaign against coal surface mining proponents of prohibition drew on the Jeffersonian tradition
of freeholders to defend their property, the ownership and integrity of which they claimed would allow them to be independent and self-reliant. They also sought to give legitimacy to their militant tactics by presenting their activism as being in line with the spirit of the Declaration of Independence and American Revolution. Their non-violent civil disobedience as well as calculated acts of violence fit easily within a European tradition of crowd action as well as the Lockean tradition that deemed rebellion a right and duty when other natural rights were being threatened. In these and other ways the opposition appropriated the Appalachian identity imposed on them by outsiders - which was very much a rarefied an American identity too - and put that construct to use to serve their own interests.

Organized around these three themes - the prominent role of common people in the campaign to ban coal surface mining, the importance of a tradition of private property in shaping the consciousness of the opposition, and opponents' use of elements of an Appalachian identity to lend legitimacy to their efforts to stop stripping - this study is both comparative and comprehensive. It focuses on the what was shared by opponents throughout the region as well as the differences within the opposition, and it encompasses the strip coalfields of seven states, including middle and western Pennsylvania, eastern Ohio, West Virginia, southwestern Virginia, eastern Kentucky, eastern Tennessee, and northeastern Alabama. By concentrating on coal surface mining in Appalachia the study slights the stripping taking place in the West, and it does not investigate opposition in that region. It was not until the mid-1970s, however, around the time a federal regulatory bill was signed into law and the movement for a ban dissipated, that a considerable amount of
strip mining was done in states like Montana, Wyoming, and Arizona. It was surface mining in the Appalachian coalfields that prompted the first state action, spawned abolitionist sentiment, and sparked a campaign for federal prohibition of the practice. These aspects of the history, and the need to make the investigation of opposition to stripping somewhat manageable, justify restricting the focus to Appalachian states.

The study is divided into nine chapters. The first chapter prepares the reader for the more focused examination of opposition to surface mining that follows. It consists of brief natural and social histories of Appalachia up to the early twentieth century as well as a history of the strip mining industry. The natural history surveys the geological, biological, and chemical processes that created mountainous terrain and placed seams of coal in steep and rolling hills throughout the region. The social history begins with the changes brought to Appalachia by the encroachment of white settlers, particularly after the Revolutionary War, and ends with the dispossessio
Mine Workers of America, in passing amendments to the state's strip mine law in the early 1960s. Although support for a complete ban was not very evident in either of the state campaigns, their histories illuminate some of the arguments and tactics used later by advocates of outlawing stripping. Both case studies also follow the development of state-level opposition into the latter part of the 1960s and early 1970s.

The fourth, fifth, and sixth chapters of the study investigate continued efforts to pass and enforce regulations on strip mining at the state level as well as the rise of a militant grass roots movement working for a ban. A case study in the fourth and fifth chapters locates the roots of the abolition movement in eastern Kentucky and outlines the movement's development up to a failed attempt to outlaw stripping by state legislation in 1972. The sixth chapter, on West Virginia, also provides an overview of a failed effort to pass a state abolition bill. Both case studies detail a process of disillusionment with courts and state legislatures. Together they establish a framework for examining the shift of abolition efforts to the federal level in the late 1960s and 1970s.

The seventh and eighth chapters follow the campaign for a ban up to enactment of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This part of the study continues to investigate local organizing but focuses on regional and national efforts to convince Congress to pass an abolition bill. A ninth chapter evaluates the post-1977 transformation of the opposition, when most opponents accepted a role in the enforcement of SMCRA. This realignment is explored through a survey of the efforts of Save Our Cumberland Mountains, a group in Tennessee, as well as an examination of Kentucky activists' successful campaign to outlaw the broad form deed. A conclusion
assesses the environmental conditions, historical traditions, and cultural factors precipitating advocacy and activism for a ban on coal surface mining.
Notes


3. Alan Taylor, "Unnatural Inequalities: Social and Environmental Histories," *Environmental History* 1 (October 1996), 7; Many years before either environmental history or social history were recognized as formal fields of study, the early conservation advocate George Perkins Marsh called for a history appropriate for a democracy. He urged historians to turn their interests to the people, as opposed to their rulers, to record "the fortunes of the mass, their opinions, their characters, their leading impulses, their ruling hopes and fears, their arts and industry and commerce; we must see them at their daily occupations in the field, the workshop, and the market." George Perkins Marsh quoted in David Lowenthal, introduction to *Man and Nature; or, Physical Geography as Modified by Human Action*, by George Perkins Marsh (Cambridge: Harvard University Press, 1965 [1864]), xv.


Chapter 1

Making, Taking, and Stripping the Land

The Appalachian Mountains derive their name from the Apalachee, a group of North American aboriginal people who once inhabited present-day northern Florida and southern Georgia. European explorers of the sixteenth century first applied an altered name of the tribe to the highlands as they made their way across the southeastern part of what is now the United States. Only after the Civil War did "Appalachia" refer to more than a physiographic mountain system. Those who studied and wrote about the region in the antebellum period thought of it solely as a place characterized by a particular topography and lithology. This understanding of Appalachia has been complicated somewhat by late nineteenth- and twentieth-century efforts to define the area culturally and economically. But contemporary geographers and geologists alike continue to think about the region in terms of its notable surface features and rocks.¹

Viewed as the eroded remnants of an ancient mountain system, Appalachia stretches from Newfoundland, in easternmost Canada, to northern Alabama, in the southeastern United States, a distance of nearly 2000 miles. Yet the Appalachians are not a single range of mountains. They can be divided up into northern and southern segments that meet at the Hudson and Mohawk Valleys in present-day New York. These two major segments roughly correspond to the northern glaciated and southern unglaciated
sections of the mountains. Additionally, while the northern segment of the mountain system is undifferentiated, the southern section can be broken up into four belts or provinces, identifiable mountain groups running parallel to the chain. Each of these provinces - the Appalachian Plateau, Valley and Ridge Province, Blue Ridge Province, and the Piedmont Fold and Thrust Belt - have distinct geological histories and appearances all their own.²

Farthest northwest in the southern segment is the Appalachian Plateau, extending from northern Alabama to eastern New York. Despite the name, only parts of this province are true plateau, an elevated and level expanse of land. Most of it is dissected by deep valleys and some of the area is mountainous. The province includes the Catskill Mountains in southeastern New York, the Pocono Plateau of northeastern Pennsylvania, the Allegheny Mountains from north-central Pennsylvania to southeastern Virginia, southeastern Kentucky, and southern Tennessee, as well as the Cumberland Plateau from central Tennessee to northern Alabama. The rocks of the Appalachian Plateau are primarily flat-lying or nearly flat-lying and sedimentary in origin, formed by the cementation of pieces of pre-existing rocks or precipitated from water. These rocks date from the late Proterozoic to the Paleozoic Eras and much of the bituminous coal mined in Appalachia comes from strata in the province of the Pennsylvanian Period (c. 320-286 million years ago).³

The second belt, moving southeastward, is the Valley and Ridge Province. This province follows the length of the Appalachian Plateau and is characterized by narrow ridges running parallel to one another for tens or hundreds of miles. Between the ridges
are parallel valleys, some of which are quite broad. The southeastern side of the belt is
nearly a single valley, varying between two to forty miles across and running from New
York to Alabama. This is known as the Great Appalachian Valley and it includes
Virginia's Shenandoah Valley. The province has a varied succession of sedimentary
rocks dating from the late Proterozoic Era through the Paleozoic Era. Some are
metasedimentary (metamorphosed or pressure-formed rocks that were once sedimentary),
but lithologies are dominated by shale, limestone, and sandstone (all sedimentary). These
rocks do not lie flat, as in the Appalachian Plateau, because extensive folding and faulting
have taken place on a much greater scale in the province. Yet, like the strata of the
Appalachian Plateau, parts of the Valley and Ridge belt are coal-bearing. The most
important of these areas is in northeastern Pennsylvania, where four major coalfields
make up the Anthracite Region.4

The third belt in the southern segment of the Appalachian Mountain system is the
Blue Ridge Province. Shorter and narrower than the other three, it stretches from
southern Pennsylvania to northern Georgia in a thin strip that widens somewhat in
southwestern Virginia. To the north the province consists of a single massive ridge, ten
to twenty miles across, but then diverges into two principle ridges at Roanoke. The
Unaka or Great Smoky Mountains of eastern Tennessee are the higher, massive
northwestern ridge and the Blue Ridge Mountains of Virginia and North Carolina are the
southeastern ridge. There are additional mountain ranges extending between and
perpendicular to these two ridges and these include the highest peak in the Appalachians,
Mt. Mitchell (6,684 ft - 2,031 m). The rocks on the northwest face of the province are
sedimentary, from the Cambrian Period or earlier. Those exposed at the crest and the
southeastward side, however, are even older and metamorphic in origin. Adjacent to the
Blue Ridge province is the Piedmont Fold and Thrust Belt, the fourth belt, extending
from New England to the middle of Alabama, with the Fall Line as its southeastern edge.
It is underlain by schist, gneiss, and gneissic granite, all metamorphic in origin. Ages for
rocks in the Piedmont, as known presently, range from late Proterozoic to late Paleozoic.5

The four provinces of the southern segment and the undifferentiated northern
segment of the southern segment of the Appalachians were formed during at least three primary episodes of
mountain-building, or orogenies. Prior to these episodes, the western Appalachian region
was part of the Grenville belt, a mountainous terrain which extended along the present
eastern side of the North American continent from Labrador to Tennessee. The
mountains of the Grenville belt were formed in the Precambrian more than 850 million
years ago and then subjected to significant erosion, exposing high-grade metamorphic
and igneous, or volcanic, rocks. By the Cambrian Period (c. 543 million years ago) the
area was reduced in elevation to below sea level, and through much of the early Paleozoic
the region was a shallow marine shelf receiving carbonate and siliclastic sediments. Only
after the Grenville orogeny and the marine transgression of the Cambrian period did
Appalachia become distinct from other parts of North America.6

The first of the three significant Paleozoic mountain-building events was the
Taconic orogeny, which occurred during the late Ordovician Period (c. 430 million years
ago). This orogeny resulted from lithospheric plate convergence. During the earth’s
formation parts of the lithosphere (the crust and upper mantle) solidified into plates that
move about the surface of the planet, driven by convection of heat within the athenosphere (the middle and lower mantle). Throughout the Ordovician Period, as the result of plate motion, the ancestral North American continent collided with other lithospheric fragments. As a result of these collisions, the platform of siliciclastic and carbonate rocks that had been deposited along the margin crumpled and rose up as mountains. These mountains then eroded and produced sediments that were transported westward by wind and water. By the Silurian Period the quantity of sediment produced had lessened and the sea encroached on the Appalachian region.

The second major mountain-building event in Appalachia, the Acadian, began in the Devonian Period (c. 380 million years ago). This orogeny was one of deformation, metamorphism, and the intrusion of granite, an igneous rock. It affected most of northern Appalachia, as far as southwestern Pennsylvania, and produced an array of siliciclastic sediments that formed the Catskill Delta. By the Mississippian Period, mud from the Acadian uplift had reached as far west as present-day Indiana. The southern end of Appalachia was deformed somewhat by related tectonic activity, the Ouachita orogeny, which shaped the Ouachita Mountains of Arkansas and Oklahoma in the Mississippian. But most of the southern part of the mountain range was not directly affected by either orogeny and experienced only infrequent deposition of sedimentary rock from Acadian tectonics in the north. By the late part of the Mississippian Period, the sea on the central platform had expanded once more and carbonate deposition predominated from the Mississippi Valley to Virginia and western Pennsylvania.
The last of the three major orogenies began in the Pennsylvanian Period when Gondwana (the southern hemisphere continents) amalgamated with Laurasia (the northern hemisphere continents). By the end of the Permian Period this collision had created the supercontinent known as Pangea. Most significant for Appalachia in the suturing process was the collision of northwestern Africa with southern North America, the impact of which caused uplift. This mountain-building event, known as the Alleghenian or Appalachian, was once considered the chief Appalachian orogeny and the marker for the end of the Paleozoic era. But the Taconic and Acadian orogenies, which were understood only after this later orogeny had been described, were comparably significant. The Alleghenian is only one of a number of important mountain-building events in the region. In the context of a study of coal mining, however, the Alleghenian episode assumes greater importance than does the earlier tectonic activity. This later orogeny was nearly contemporaneous with the deposition of coal in Appalachia, and it folded and metamorphosed the sediments of the two major coal-bearing regions: the Valley and Ridge Province and the eastern half of the Appalachian Plateau.

The formation of coal in the two provinces during the Pennsylvanian Period, and elsewhere at different points in time, is reasonably well understood by geologists. They disagree, however, about the process of deposition. Coal forms when fossil plants are carbonized under high temperatures and pressures, removing various gaseous and liquid compounds and leaving carbon films. Put simply, coal is condensed and altered forms of organic matter, such as spores, ferns, conifers and ancient scale trees. The amount of heat and pressure this organic matter is subjected to over time determines the rank of the coal,
that is whether it remains as peat or ultimately becomes lignite, bituminous coal, or anthracite coal. Peat occurs at the earth’s surface and consists of plant debris that has not been carbonized. Lignite is a soft brown coal in which carbonization has begun to take place but has not advanced very far. Bituminous coal is black, hard, and bright and contains more carbon than lignite but retains some volatile matter. This low-grade coal can form under the weight of a thick overlying sedimentary pile. Anthracite coal is even blacker, more dense, and shinier, with a higher carbon content and little volatile matter. The formation of this high-grade coal requires additional heat and pressure, such as that found inboard of tectonically active margins of continents. Coals of each rank are found in beds or seams - sometimes in a horizontal position as when they were deposited - but of varying thickness and distance from the surface.

In the 1930s, J. Marvin Weller noted that coal beds were part of a sequence of rocks, typically wedged between a grouping of sandstone, sandy shales, and underclay and another grouping of marine limestones and shales, which were repeated in the stratigraphic column. He explained these cycles of sedimentary rock, or cyclothems, as the result of repeated uplift, erosion, deposition of clastic materials, subsidence, and inundation by a shallow sea. Coal was formed during the period of subsidence, which were marked by increased rainfall, the growth of lush vegetation, and the accumulation of peat in extensive swamps. But Weller’s tectonic hypothesis, as it was called, required an unreasonably large number of uplifts and downwarps, and this problem prompted a search for another explanation. In 1936, Harold R. Wanless and Francis P. Shepard argued that global fluctuation in sea levels due to climate-induced waxing and waning of
glaciers (glacio-eustasy) produced the “rhythmic alternations of sediment” during the Pennsylvanian Period, as well as in the Early Permian. Coal beds were formed across the North American continent, they maintained, when increased humidity associated with melting glaciers and a warmer climate created conditions favorable for the growth of vegetation and swamps developed in the lowlands. A subsequent rise in sea level facilitated carbonization of swamp plants (by creating a low-oxygen environment) and formed the shales and limestones. In time, vegetation decreased in the uplands and sands poured out on the piedmont, bringing a sedimentary cycle to a close.⁹

Some geologists have now settled on a blend of the two earlier positions to explain the origins of coal-bearing cyclothems across the ancestral North American continent. Tectonically induced changes in sea level were predominant in the Central Appalachian Basin, they contend, and these were concurrent with climate induced variations, which had a greater impact on the Illinois and Kansas Basins farther west. Past proponents of the tectonic or eustatic hypotheses had simply been focusing on two end-member processes that occurred at the same time. According to George Klein and Jennifer Kupperman, mountain building along the eastern margin of the North American continent caused rapid, short-term tectonic changes and cyclic variation in sea-level. With each flexural event, Klein explained in another article with Debra Willard, basins were underfilled and marine waters transgressed on the land. But sediment was shed as mountains eroded, filled the basins to sea level, and produced the swampy conditions conducive to the creation of peat, which later became coal. A cycle ended with marine regression and fluvial deposition once again, when tectonics raised the land to the east.¹⁰
Whatever their origins - and that remains a matter of contention - the sedimentary
cycles responsible for coal deposition in Appalachia ceased by the start of the Mesozoic
Era (c. 245 million years ago). Yet the mountain system continued to undergo important
geological changes. During the Permian and Triassic Periods some of the horizontal beds
of rock laid down as part of sedimentary cycles were subjected to more folding and
compression. In northeastern Pennsylvania this pressure and the accompanying heat
metamorphosed the coal into anthracite. Pressure drove off gases and impurities,
increased the proportion of carbon, and left an organic compound with a high heat output
and low ash content. On the eastern edge of the Appalachian Plateau, coal was similarly
affected by this folding and compression, but it was not subjected to enough pressure to
transform it into anthracite. In areas further to the west, beyond the deformation zone, the
coal retained much of its volatile gases and sulfur.¹¹

Taking the Land: Dispossession of Early Inhabitants and Capitalist 'Development'

When Europeans first stumbled upon North America in the 15th century there
were as many as fifteen indigenous tribes living in the southern highlands region. By the
18th century, however, many of the tribes had been decimated by diseases, a result of the
exchange of European pathogens to which they had no immunities. For those tribes that
did persist, continued epidemics and other factors weakened the ability of the indigenous
people to resist the encroachment of white settlers, and the Europeans took their lands.
The Cherokee alone lost 40 percent of their territory by the end of the Revolutionary War,
and they ceded an additional three million acres between 1800 and 1819. Through a
campaign of so-called Indian wars, U.S. soldiers displaced (either exterminated or forced to reservations) nearly all the bands of native people between the Great Lakes and Gulf of Mexico, opening up the northwest and southwest territories for white settlement.\textsuperscript{12}

Yet, as Wilma Dunaway explains, not all white settlers fared equally well in Appalachia during its frontier years. Federal laws designed to protect the rights and promote the interests of aspiring homesteaders were not implemented until mid-century, and these laws were designed to regulate settlement in the Midwest. During the eighteenth and nineteenth centuries northeastern merchant capitalists, land companies, and southern planters managed to expropriate most of the Appalachian region's total acreage. By the mid-1700s Tidewater planters and British Court favorites acquired much of southwestern Virginia, present-day West Virginia, and western Maryland. In western North Carolina, Tidewater planters and two land companies monopolized a good portion of the northern sector. By the end of the eighteenth century, probably three-quarters or more of eastern Kentucky's frontier lands were held by absentee speculators. In Tennessee, merchant capitalists, land companies, and distant planters amassed more than two-thirds of the territory of Appalachia. Having engrossed the land with the purpose of making a profit, speculators charged high prices for this acreage. In the early nineteenth century a landless family needed at least $1,000 to set up a forty-acre farm on the Appalachian frontier, a price many could not afford. As a result, at least two-fifths of settler households were without land in the antebellum period.\textsuperscript{13}

Because of inequitable patterns of land ownership, eighteenth and nineteenth century Appalachia did not initially exemplify Thomas Jefferson's vision of a democratic,
egalitarian society based on independent, small freeholders. A speculative market in land
gave rise to social stratification, which characterized rural communities of the region just
as it did industrial cities of the Northeast and Midwest. Yet even as the engrossment of
land imperiled many mountain settlers' dreams of a "competency," most of them
continued to believe in and strive for the Jeffersonian ideal. Their qualified success in
eventually achieving a life of propertied independence - often by squatting on land owned
by others - is evidenced by the fact that generally self-sufficient family farms became the
backbone of the Appalachian economy. By 1880, Appalachia contained a greater
concentration of noncommercial family farms than any other part of nation.¹⁴

Through the first half of the nineteenth century, however, the inhabitants of the
southern highlands were still not "Appalachians." The creation of Appalachia as a
coherent region inhabited by a homogenous population with a uniform culture, as Henry
Shapiro has put it, was a post-Civil War phenomenon. In the antebellum period, travel
literature presented mountain people as no different from other Americans, or at least as
no different from other southerners. A few accounts even incorporated an awareness of
the ways in which the southern highlands were internally differentiated, recognizing the
difficulty of making generalizations about the mountains and its inhabitants. But the
1870s saw the rise of local color writing, which focused on the supposed peculiarities of
non-urban people and places. With it came the literary, social, and economic
transformation of Appalachia. Though the local color genre was not limited to
descriptions of the southern highlands, it was there that it had the most significant and
lasting impact.
One of the first writers to assert the "otherness" of Appalachia was Will Wallace Harney, who published "A Strange Land and Peculiar People" in *Lippincott's Magazine* in 1873. Similar essays by other local colorists followed. In more than 200 travel accounts and short stories of the local color variety published between the early 1870s and 1890, southern mountaineers were presented as backward and isolated from the mainstream of American life. The cumulative effect of this literature, Henry Shapiro explains, "was the establishment of a conventional view of the mountain region as an area untouched by the progressive and unifying forces that seemed to be at work elsewhere in the United States." In the last decade of the nineteenth century, the local color descriptions of Appalachia became the basis for uplift literature which emphasized the gap between the promise of American life and the regression of the mountaineers. By the turn of the century, Berea College president William G. Frost and Kentucky novelist John Fox, Jr., had emerged as the two central figures promoting this view of Appalachia. In an address entitled "Our Contemporary Ancestors in the Southern Mountains" (1899), Frost called attention to the special needs of "mountain whites" and compared "Appalachian America" to Revolutionary America: Both had the same population, the two populations lived in the same conditions, and the former had progressed little beyond the latter's level of civilization. Fox echoed these sentiments in much of his work, including a two-part article for *Scribner's Magazine* in 1901. The mountains had isolated people, he explained, and had thereby arrested civilization at the pioneering stage. "In the log cabin of the Southern mountaineer," Fox wrote, "in his household furnishings, in his homespun, his linsey and, occasionally, in his hunting shirt, his coon-skin cap and moccasins one
may summon up the garb and life of the pioneer ... He is a distinct remnant of Colonial
times.” For both Frost and Fox, Allen Batteau notes, it was not so much strangeness as
familiarity that made Appalachia interesting to America. The roots of an American
cultural identity could be found in the people of the southern mountains - to be
Appalachian was to be quintessentially American. Yet the perception of mountaineers as
an isolated people of another time also required ameliorative programs of action.¹⁵

The social construction of an Appalachian people spoke to the need for a rising,
urban-industrial middle class to see southern highlanders as a repository of an
increasingly-threatened republican inheritance. Yet to missionaries, entrepreneurs, and
others shaped by late nineteenth century urban-industrial transformation, southern
highlanders also badly needed modernization. To missionaries, the mountaineers whom
they romanticized as “contemporary ancestors” needed social uplift, the betterment that
would bring their values and mores up to date. They were deserving of help because of
the independence and individualism fostered by geographic isolation, but their feuding,
moonshining, and parochialism had to be addressed if Appalachia was not to remain a
pocket of backwardness. “[W]here the local colorists had been content to see mountain
life as quaint and picturesque, and for this reason inherently interesting,” Shapiro
contends, “the agents of denominational benevolence necessarily saw Appalachian
otherness as an undesirable condition and viewed the ‘peculiarities’ of mountain life as
social problems in need of remedial action.”¹⁶

Capitalists, on the other hand, interpreted modernization to mean development of
the region’s resources. Such development came to the mountains under the rubric of a
New South Creed, a post-Civil War ideology emphasizing diversified agriculture, industrialization, and urban growth. The Creed was promulgated by native private speculators who had taken stock of the South's timber and mineral resources, as well as its proven agricultural potential, and sought to entice railroads and northern investors. In some respects they were successful, in the South as a whole and the mountains in particular. By 1900, four major railroad lines had entered the southern Appalachians and numerous branch lines extended from these main lines. This increase in track mileage, which provided new links between isolated hollows and the cosmopolitan world beyond, brought dramatic changes to the region. But the changes that followed diverged from the vision of a modern South evoked by proponents of the New South Creed. Logging camps and coal towns proliferated, agriculture declined, and the one-way flow of resources out of the region left its people impoverished. Increasingly, the southern economy developed on the periphery of a distant core, its resources owned by outside investors and removed to fuel industrial expansion in the North.17

The rise of the new extractive industries hinged on acquisition of land from resident landholders. This dispossession was sometimes lawful, a legitimate exchange of the surface and/or solely the mineral rights for cash. Such transfers were often facilitated by local entrepreneurs who knew the land, its occupants, and what it would take to get them to loosen their hold on the property. There were, in fact, many reasons why property owners would want to sell part or all of their land. High birth rates, population growth, and land scarcity had made subsistence farming increasingly difficult for each new generation, and mountain life was never idyllic. Travelers accounts, census returns,
government reports, and demographic studies all indicate that after 1830 population increases began to exert pressure upon available economic resources. Even at the turn of the century, many women in families from the Upper Cumberland counties of Tennessee gave birth to ten or more children. At the same time, new stock laws required animals, rather than crops, to be fenced. By bringing an end to open foraging the laws increased the cost of raising livestock and limited the opportunities for mountaineers to rely on the animals for food or infrequent commercial exchange.18

The many factors making subsistence farming increasingly difficult with each new generation meant that the first forays made by land agents into the region usually were welcomed. But the agents did not receive a kind reception from everyone and, over time, an increasing number of landowners were reluctant to sell land coveted by timber and mineral companies. In these cases, agents acquired surface and mineral rights through illicit methods. Ownership of property in the region was often uncertain because of confusion surrounding the original grants and the subsequent purchase of the land by other settlers or occupation by squatters. Land titles were obscure, deeds were lost, and records were poor in most mountain counties. Speculators with a better understanding of laws, courts, and the workings of local and state governments used their knowledge and connections to their own advantage. As a result, by 1910 outlanders controlled not only the best stands of hardwood timber and the thickest seams of coal but a large percentage of the surface land in the region as well.19

For many mountaineers partial or complete land dispossession brought an end to their reliance on farming to meet their basic needs and the beginning of a new livelihood
Southern highlanders also joined the wage labor force digging coal as underground mines opened across the southern highlands. Beginning in the 1880s, small companies dedicated to industrial mining proliferated as branch lines extended off main railroad lines, providing access to national markets. In the 1890s, bigger mining companies came to the mountains just as the market for Appalachian coal expanded. The southern highlands offered cheaper freight rates and lower labor costs than the northern Central Competitive Field, which had been organized by the United Mine Workers of America in 1898, and the new industries of the Northeast and Midwest shifted their coal purchases accordingly. Dramatic increases in mining followed. West Virginia produced nearly five million tons of coal in 1887, but this had risen substantially to ninety million tons by 1917. In the region as a whole, coal production increased fivefold between 1900 and 1930, eventually accounting for nearly 80 percent of national production.²¹

Most of the first generation of Appalachian miners worked in the mines only seasonally, taking time off to plant, grow, and harvest crops on the land they had left. Even after being absorbed completely into coal camps, mining families continued to keep gardens for their subsistence needs, a practice encouraged by operators through their provision of free fencing and plowing as well as seeds and fertilizer at cost. Yet the livelihood of many mountaineers changed substantially with the expansion in mining, and the population of the region changed as well. Because local people could not adequately supply the mines with a labor force, coal operators imported African American migrants from the South and immigrants from southern and eastern Europe. In 1880 there were very few black miners in the state of West Virginia, but by 1910 there were 12,000.
During the same period, the number of European immigrant miners in the state rose from 924 to 28,000, many from southern Italy. Through the early twentieth century, as the population swelled and diversified, the Appalachian region had one of the highest population densities in rural America.22

In many of the areas near logging operations and mines, civic development followed the resettlement of older residents and the settlement of new populations. Yet most of the people of the region did not profit from the extractive industries. This is the enduring paradox of Appalachia, that the inhabitants of a land so rich in natural resources could be so poor. When earlier generations of scholars tried to explain this problem they missed the significance of the economic activity in the late nineteenth and early twentieth centuries. The poverty of Appalachia, they claimed, was due to a lack of modernization. Others tried to improve on this explanation by suggesting that a culture of poverty held back mountaineers from taking advantage of the opportunities offered by urban and industrial development. Ronald Eller and others have argued, however, that Appalachia is marked by poverty not for a lack of modernization or because of inhibiting cultural traits, but as a consequence of a particular type of modernization. Between 1880 and 1930, the region supplied the raw materials essential to the factory and mill production in the Northeast and Midwest. Because so much of the timber, minerals, and land had been bought up by northern speculators, and many of the companies were controlled from outside the region, the great wealth of the land flowed out from the highlands never to return. As a result, many of the people and much of the environment of Appalachia have been impoverished.23
The coal mines operators opened in the late nineteenth and early twentieth centuries, in Appalachia and other parts of the United States, were not all deep mines. An increasing number were one or another type of surface mine. As practiced in the early twentieth century, coal surface mining included area and contour mining, both of which involved removing an over-layer of rocks and soil to get at a coal seam. In the years after World War II coal surface mining also encompassed auger mining, boring into an outcropping of coal with a huge auger. By the mid-1970s, some strip operators were extracting coal by a process vividly referred to as “mountaintop removal.” In the debate over surface mining - in hearings, protests, and literature on the subject - opponents and coal industry officials alike often failed to distinguish between these different methods. Instead they made reference to “strip mining,” “stripping,” or sometimes “surface mining.” Usually they meant contour mining, the most common form of coal surface mining in Appalachia. Sometimes they were also talking about auger mining, a normal part of most contour operations. In other instances, particularly if they were from eastern Ohio, their concern was area mining. This lack of specificity is understandable, and parts of this study conflate the methods for the sake of convenience. But the differences between the various types of strip mining are important for understanding the rise of a concerted abolition effort. The methods had distinct histories, shaped largely by evolving technology and changing market conditions, and they did not impact the land or the people in exactly the same ways.
Coal surface mining probably began in North America during the colonial period. Except for scattered reports of coal in present-day Illinois between 1660 and 1680, coal was first found in what became the United States underlying the James River, in Virginia, just after the turn of the eighteenth century. One of the earliest references to a form of surface extraction refers to this coal field and was made by Dr. Johann D. Schoepf upon his visit to Richmond, Virginia, in the winter of 1783. Twelve miles outside of the city, south of the James River, the wind had blown a tree over, exposing white clay-slate, a black clay-slate, as well as a coal bed underneath. This afforded an opportunity for people to mine the sulfur-laden coal, which they sold at the river for one shilling per bushel. Such early surface mining was typically done by farmers and common town dwellers for local exchange and use. Yet the pick and shovel which were the miners only tools limited their efficiency and destructiveness. Coal was mined where it could be seen, and removal of any part of the surface overlayer by miners themselves was minimal. In most cases, some type of natural perturbation or weathering exposed parts of a bed and very little further excavation was necessary to bring the mineral out or up. During the nineteenth century, however, there was an increasing interest in making a business out of strip mining by adopting new methods and expanding production. Coal provided an alternative fuel source to dwindling supplies of wood, and that meant there was money to be made in its extraction.24

In the early part of the nineteenth century, in eastern Kentucky, mountain residents were hired by entrepreneurs to dig coal from shallow beds to supply growing markets in Lexington, Frankfort, and Louisville. Rafts loaded with bushels of the
surface-mined mineral made their first appearance in these cities by 1825. Like their counterparts elsewhere, eastern Kentucky miners exploited visible coal seams with increasingly sophisticated tools. Sometimes they drove short tunnels into stream banks, where currents had exposed a bed. With picks and shovels they followed these outcroppings until collapse of the bank was imminent. By the mid-nineteenth century, miners were using steel scrapers, drills, and black powder to expose coal beds. They hitched horses or mules to the scrapers and alternately plowed and removed “overburden”, the soil and rocks above a coal seam. Once they had removed the surface soil, a “shaker” sat with a churn drill between his knees while a “driver” administered a blow to it with a sledgehammer (which obviously required precision on the part of the hammer swinger and trust on the part of the shaker). After each strike of the hammer the shaker lifted the drill, gave it a half-turn, and thus gradually sunk it into the cap rock to the coal seam. The holes created by repeated drilling were tamped with black powder, set off by a slow-burning fuse, and the loosened rock was pushed aside. The miners then shoveled the coal onto wagons which took the mineral to rafts on nearby waterways.35

Farther west, in the Danville region of Illinois, miners also used steel scrapers to work the local coal beds. In 1866, Kirkland, Blankeney & Graves opened the first Illinois strip pit on Grape Creek and this was followed, in 1875, by the establishment of a surface mine in Hungry Hollow, owned by Michael Kelley. Although similar to what was being done in the Appalachian coalfields at the time, the mining in the Midwest more closely approximated what became known as “area stripping.” Area strippers worked coal beds over a period of years, with new cuts made by alternate plowing and scraping in parallel
strips. The overburden from the first cut was set to the side in an elongated mound, but the mine waste generated with each new parallel strip was placed in the adjacent pit of the previous cut. Wagons hauled out the coal in winter, presumably to rivers or rail lines, until the seam was exhausted. Initially, all of the plowing, scraping, and coal hauling relied on teams of horses, but in the late nineteenth century the efficiency of area strip mining was greatly improved by application of steam technology. The first recorded use of a steam shovel at a surface mine was in 1877, at a Pittsburgh, Kansas operation owned by J.N. Hodges and A.J. Armil. Illinois operators readily adopted "mechanical" area strip mining and, by the turn of the century, miners there were removing overburden and digging coal with steam-powered machinery on a more extensive scale than in any other state. 

Mechanized surface mining also moved into the coal fields of Indiana. The state's coal seams were relatively thick, averaging three to five feet in large areas and six to eight feet over lesser areas, and they were close enough to the surface to make area stripping quite feasible. With the adoption of steam technology, strip production in Indiana increased nearly thirteenfold between 1914 and 1936. In the 1920s, Oakland City, Indiana, became home to what was probably the largest strip operation in the world. Run by the Enos Coal Mining Co., the mine produced one million tons a year. As large and advanced as it was, however, the operation still employed some primitive surface mining methods, including team-drawn scrapers, picks, shovels, and wire brooms to remove dirt from the top of the seam. In fact, the scraper method was not replaced at mines until after 1936, when the Traux-Traer Coal Company first substituted tractors for its horse-drawn
implements at one of its operations in Elkville, Illinois. But area mining did become
more sophisticated in the interwar years in Indiana and, by the latter part of the 1930s, it
had more strip pits than any other state, producing 8.2 million tons of coal, making it the
leading producer behind Illinois. As a percent of total coal production, stripping in the
state jumped dramatically from 4.6 percent in 1920 to 53.2 percent in 1940, taking the
lead over underground mining.27

As in Indiana, area stripping with steam technology began in eastern Ohio just
before World War I, when the nation was poised for another coal boom.28 One of the
state's first surface operations opened at Rush Run, on the Ohio River, in 1914. In its
first two years only twenty-five acres of a 200-acre tract had been mined there, but Ohio
strip coal operators quickly opened other mines and continually introduced the latest
technological innovations. The Apex Coal Company started a strip operation east of
Germano, in Harrison County, the Kehota Mining Company opened another in Perry
County, and sometime before 1916, the Piney Creek Coal Co., introduced an electric-
powered steam shovel at its strip operations near Steubenville, in Jefferson County. In
the 1920s, Ohio coal fields also witnessed the introduction of the first draglines, which
maneuvered large buckets by steel cables rather than a fixed boom. The limited power
and maneuverability of the new machinery made stripping profitable only in areas with
flat or rolling terrain and where coal seams were close to the surface. But combined with
improvements in the methods of transporting coal, including laying railroad tracks into
the pits and using large trucks, electric shovels and draglines greatly facilitated increased
production in the state. In the early 1930s, Ohio had eighteen strip pits, worked by
twenty steam shovels and one electric shovel, which mined 800,000 tons of coal. By 1938, the number of strip mines had increased to seventy-two, with more than double the number of steam shovels and four times the number of electric shovels. These mines produced 2.5 million tons of coal, making Ohio the fourth leading strip producer in the United States, behind Illinois, Indiana, and Missouri (where strip mining production quickly declined). Expanded production during World War II increased output even more dramatically to 17.3 million tons, and strip mining edged closer toward eclipsing deep mining. Between 1926 and 1947 the percentage of coal mined by stripping in the state jumped from 9 percent to 46 percent.²⁹

During the late nineteenth and early twentieth centuries surface mining also evolved and expanded in the mountainous parts of Appalachia. Mine operators in Pennsylvania's anthracite fields began to use steam technology as early as 1881, but they worked coal seams by what was referred to as contour strip mining. In contour stripping, miners created a 'bench' on the side of a mountain where coal was exposed or near the surface. Strippers scraped away overburden along a ridge top and constructed two surfaces, one that was vertical, called the "highwall," and another at the level of the coal seam that was horizontal and met the highwall at its base. The L-shaped bench created by the intersection of these two surfaces extended a variable length, linked at intervals to access roads, and sometimes wrapped back around a ridge. The overburden removed in the process was pushed down the mountain slope, creating a "spoil" pile, or, less often, it was stacked on the bench. As miners discarded the rock and soil overlayer they also extracted the coal below it, widening the bench in the process, until the overburden was
too thick to make the operation economically feasible. By the early twentieth century up to ten feet of overburden could be removed profitably for each foot of coal in the seam.  

Difficult terrain and primitive equipment initially hampered the expansion of contour surface mining in Pennsylvania, as was the case in other Appalachian states, but production rose steadily after World War I, and soared during World War II. The process of mechanization and the industry's expansion in the state can be seen in the increase of the number of power shovels at anthracite and bituminous strip mines. Through the 1920s there were less than 100 power shovels working the eastern anthracite mines, but by 1936 there were 364. That number nearly doubled by 1947, to 609, and almost half of these shovels were draglines. In the bituminous fields of western Pennsylvania the number of power shovels increased between 1936 and 1947, from a minuscule 30 to more than 1000, the great majority of which were diesel and gasoline dragline excavators. Such a dramatic mechanization of Pennsylvania mines contributed to a sharp increase in production. In 1915, the eastern anthracite region produced 1.2 million tons of strip coal, or 2.5 percent of all anthracite mined in the state. By 1947, production had increased tenfold to 12.6 million tons, nearly a quarter of all anthracite coal mined in the state. As late as the 1930s, western bituminous strip coal operators mined only 750,000 tons, but this jumped to thirty-seven million tons in 1947, declined to nineteen million tons in 1958, and slowly edged toward thirty million tons in the 1960s.  

Mechanized contour strip mining also spread to other Appalachian states and slowly expanded during the years after World War II. In eastern Kentucky, the first strip mine employing steam power shovels opened in 1905, when the Lily-Jellico Coal
Company contracted with the Robinson Creek Construction Company to surface mine a seam at Lily, in Laurel County. These first shovels were Vulcan railroad-type shovels, with buckets of one-cubic yard capacity and mounted on railroad tracks. They worked in pairs, with one to strip the overburden and the other to load the coal, and the mineral was hauled out by horse-drawn wagons to a tipple, where it was loaded for shipment by rail. But the Lily strip mine was one of only a few in eastern Kentucky. In 1945, there were seven surface operations in the state, with a combined production of 130,000 tons of coal. By 1947, the number of mountainside surface operations increased to thirty-eight, still relatively few compared to Pennsylvania, and production was 1.9 million tons. Nearly a decade later, the area had seventy-two strip pits, which actually produced 8,000 tons less than the lesser number of 1947 mines. Not until 1958, when the number of mechanized contour operations increased to ninety-five, did production top two million tons.\endnote{32}

In West Virginia, contour strip mining with steam technology began in 1916. Fuel needs during World War I brought a brief expansion of the industry there, but the growth was only temporary. Maximum production in the state before the beginning of preparation for World War II was a scant 296,000 tons in 1923. By 1938, only the northern Brooke and Hancock Counties reported strip mine production, with a combined total of 207,000 tons for that year. Taking advantage of more powerful equipment and responding to nearly unlimited demand for coal, however, West Virginia strippers greatly expanded their operations in the early 1940s. Production increased tenfold between 1939 and 1943, with much of the early new activity concentrated in the northern part of the state, where the coal was thick, the overburden was well adapted to stripping, and hard
surface roads provided easy access and mineral transport. The center of this mining boom was in Harrison County, where production skyrocketed from 50,000 tons in 1940 to three million tons in 1943, and accounted for nearly half of all the strip coal produced in the state during World War II. In the following decade, West Virginia surface mine production averaged ten million tons annually, and by the mid-1960s it was ten percent of all coal mined in the state.33

In Tennessee and Virginia, mechanized contour surface mining had an even slower start, but as in other mountain states production eventually reached significant levels. Commercial contour operations in Tennessee date back to World War I, when old Panama Canal equipment was put to use in Grundy County, but these strip mines were short-lived. No production was reported for the state in 1936 and a decade later, at the end of World War II, Tennessee produced only slightly more than a half of a million tons of strip coal. Yet, by 1955, production figures had increased threefold. In 1963, Tennessee had fifty-eight strip mines, nearly all in the Cumberland area, which produced 2.5 million tons of coal. Likewise, operators in Virginia began to surface mine coal in significant amounts after mid-century. In 1947, the state had fifteen strip mines, all in the far southwestern counties, with a total production of 1.1 million tons of coal. In the 1950s the number of contour operations doubled, though production dropped below one million at mid-decade. Significant expansion occurred only after the national recession in 1958. In 1963, the number of contour surface mines in Virginia increased to 130 and production jumped sharply to nearly 7.5 million tons.34
As contour surface mining spread and expanded in Appalachian states it was modified by the advent of auger mining. This method was at first performed after contour stripping had been concluded to mine more, but not all, of the otherwise irretrievable coal. Increased strip mining during World War II left many miles of highwall containing exposed coal and after some experimentation operators developed large, efficient augers to recover the mineral from these seams. Augers, which were usually several feet in diameter, were driven into the foot of a highwall and coal came out of the hole made like wood shavings produced by a drill bit. By adding extensions, augers could penetrate farther into a seam, sometimes reaching old tunnel-and-pillar deep mines, removing even more of the mineral. But auger holes had to be smaller in diameter than a seam was thick and they were spaced a few inches apart. Consequently, the machines brought out little more than half the coal. The method was wasteful but it was still profitable, and operators increasingly relied on it in the 1960s to cheaply strip previously unmined ridges. An auger operation working a four- to six-foot virgin coal seam could realize a net profit of close to a dollar per ton. A large enough auger could load fifteen tons of coal in less than one minute and, if the trucks could haul it out at that rate, the total profit might amount to millions of dollars in a few years. Not surprisingly, then, production at auger mines increased rapidly from less than two million tons in 1952 to seven million tons in 1958, and a total of eight states produced 12.5 million tons of coal by auger in 1963.35

Kentucky, West Virginia, and Ohio quickly took the lead in auger mining after its introduction. The method was first used in Kentucky in 1949, when the Blair and
Oldham Coal Company opened a strip mine near Isom, in Letcher County. There the strippers used a diesel-driven, fifty-four inch auger to extract coal from a seventy-two inch seam. Within a decade, eastern Kentucky auger mines were producing nearly four million tons annually, or a quarter of all auger-mined coal in the United States. By the mid-1960s, the area was home to the largest coal auger in the world - with a seven-foot bit that dwarfed all earlier machines - and a total of 202 auger mines which produced 9.5 million tons of coal. Yet West Virginia followed close behind Kentucky in terms of tonnage. In 1963, the state's auger mines produced 3.7 million tons of coal and, in 1970, they reached a production peak of 5.7 million tons. Much of this mining was in the south-central part of the state, in Kanawha and Boone Counties. Auger mining (as well as contour mining) also expanded in southeastern Ohio. In 1963, the state was ranked third in terms of total auger production, mining nearly two million tons of coal. Other states with active auger mines by the early 1960s included Virginia and Pennsylvania, both of which produced more than one million tons annually, as well as Tennessee and Alabama, which mined a quarter of a million tons and 100,000 tons respectively.

Contour strip mining was modified again in the second half of the 1960s, when operators made early attempts to mine coal using what later became known as "mountaintop removal." This occurred almost exclusively in Kentucky and West Virginia. In areas where coal seams were close to the top of a ridge some strippers dispensed with following the contours of the mountain and took off the whole top of the hill instead. Miners blasted and scrapped away the soil and rock overburden, pushing it over one or the other side of the ridge until the coal was exposed. This could decrease the
altitude of a hill by as much as twenty percent, while simultaneously increasing its thickness. But the machinery available to operators using this method was nearly the same as what strippers used on contour operations: a couple of bulldozers, an air compressor and drills, and a small power shovel. This limited the amount of overburden that could be moved and greatly restricted the possibilities for mountaintop removal until technological improvements in the early 1980s. Now, most of the surface mining in eastern Kentucky and West Virginia consists of expansive mountaintop removal operations. Stripers level multiple ridges to recover coal from non-contiguous seams and dump the overburden in “head of the hollow” valley fills, creating a wide flat plateau.37

From the beginning of the twentieth century to its end, technological innovation facilitated the steady growth of coal surface mining. Like other sectors of the economy, the industry responded to the expansion and contraction of demand, particularly the dramatic increase in use of coal by electric power utilities. But larger and more powerful earth-moving equipment made it possible for strip operators to respond to this demand and take market share from deep mines. In 1936, there were still ninety-six “horse stripping operations.” By the late 1950s, horses were gone from the mines and nearly all fixed-boom steam shovels had been replaced by diesel- and electric-powered shovels and draglines. The majority of these still had low dipper or bucket capacity (around three cubic yards), but shovels and dragline excavators were increasingly capable of moving ever greater quantities of overburden and coal. Between 1945 and 1963 the number of dippers or buckets with a twelve-cubic yard capacity or greater more than doubled, from seventy-five to 154. In 1956, the Hanna Division of Consolidation Coal erected a
twelve-story dragline 50 percent larger than any other strip equipment at the time. Dubbed the “Mountaineer,” the excavator dug for coal ninety feet below the surface in Cadiz, Ohio. This monstrous piece of machinery was matched in 1960, by Pennsylvania’s “Anthracite King,” then the world’s largest electrically operated dragline. At the other end of the surface mining production process, the movement of coal from mine to tipple was facilitated by the steady increase in truck size. At the close of World War II, the average capacity of trucks working strip operations in the United States was 9.4 tons. By 1958, Pennsylvania had 1831 trucks working strip operations, the greatest number of any state, with an average capacity of 11.4 tons. Kentucky had nearly 500 trucks, with an average capacity of 14.4 tons.\textsuperscript{38}

With greatly improved technology, coal surface mining increased and strip operations produced nearly one-third of the bituminous coal mined in the United States in 1963. Expansion occurred most dramatically in Ohio, Pennsylvania, and Kentucky, the leading surface mining states in the country, each producing more than 20 million tons of coal by contour and auger mining in the early 1960s. Larger shovels and bigger trucks also meant that the productivity of surface mining continued to rise. In 1914 stripping produced five tons per-man-day and underground mining was only slightly less efficient, producing nearly four tons per-man-day. By 1958 stripping could produce 21.5 tons per-man-day as compared to underground mining’s nine tons. It was this relative efficiency, in addition to the ease with which coal operators could displace environmental and other social costs of surface mining onto the public, that made surface mining so attractive to coal companies. And it was the displacement of the environmental and social costs of
surface mining that generated early demands for regulatory legislation to control stripping.\textsuperscript{39}
Notes

1. French artist Jacques Le Moyne first designated the mountain region “Montes Apalatchi” while traveling with a Huguenot expedition to Florida in 1564. By the middle of the eighteenth century, however, explorers, mapmakers, and others more often referred to the area as “Alleghenia” or “Allegheny Mountains”. In the early twentieth century, physical geographers used “Appalachia” to designate the larger regional mountain system, reserving Allegheny for a smaller subregion within that system, and the older name became the principal geographic term for the area once again. See Donald Edward Davis, *Where There Are Mountains: An Environmental History of the Southern Appalachians* (Athens: The University of Georgia Press, 2000), 3-8; William Maclure published the first geological synthesis of Appalachia in 1809. Later, in the 1840s, Henry and William Rogers determined the rock succession of the central Appalachians. In 1873, James D. Dana explained the prominent trough (geosynclinal) and deformation of the Appalachian basin by lateral compression in the Earth’s crust. Karl B. Raitz, Richard Ulak, and Thomas R. Leinbach, *Appachia: A Regional Geography: Land, People, and Development* (Boulder and London: Westview Press, 1984), 3; John Rodgers, *The Tectonics of the Appalachians* (New York: Wiley, 1970), 3, 6, 32.

2. This mapping of Appalachia is nearly identical to the geomorphic regions and provinces included in Nevin Fenneman’s *Physiography of the Eastern United States* (1938). He originally discussed those physiographic divisions in 1913, at the annual meeting of the Association of American Geographers. The southern segment also conforms to the whole of Appalachia as defined by John Wesley Powell in 1895, although within this region he identified only three subregions, running east to west, which he named the Piedmont Plateaus, the Appalachian Ranges, and the Allegheny Plateaus. Raitz, et al., *Appachia*, 11, 14.


4. Ibid., 5; Anthracite was once mined from 484 square miles in ten counties in northeastern Pennsylvania. The bituminous coal basin of Appalachia, which still has reserves that support active operations, underlies 72,000 square miles in parts of nine states. Karl Raitz et al., *Appalachia*, 79-82.


6. Ibid., 211-13; Raitz et al., *Appalachia*, 41.

8. Ibid., 217-18.

9. J. Marvin Weller, "Cyclical Sedimentation of the Pennsylvanian Period and Its Significance," *Journal of Geology* 38 (February-March 1930), 97-135; To explain climate change, Wanless and Shepard cited what were known as the Milankovich factors, as proposed by Yugoslav mathematician Milutin Milankovich: 1) Change in the angle of inclination of the earth's axis to the ecliptic (the path along which the sun appears to move as seen from the earth), which varies from 22 to 24 ½ degrees in periods of 40,000 years; 2) Migration of the perihelion (the point nearest the sun in the orbit of a celestial body), which completes its cycle every 20,700 years; 3) Periodic fluctuation in the eccentricity of the earth's orbit, which varies in periods of 91,800 years; and 4) Sun spot cycles or other regular variations in the intensity of solar radiation. Harold R. Wanless and Francis P. Shepard, "Sea Level and Climatic Changes Related to Late Paleozoic Cycles," *Bulletin of the Geological Society of America* 47 (1936), 1178-1206.

10. George DeV. Klein and Jennifer B. Kupperman, "Pennsylvanian Cyclothems: Methods of Distinguishing Tectonically Induced Changes in Sea Levels From Climatically Induced Changes," *Geological Society of America Bulletin* 104 (February 1992), 166-75; George DeV. Klein and Debra A. Willard, "Origin of the Pennsylvania Coal-Bearing Cyclothem of North America," *Geology* 17 (February 1989), 152-55; Still another way of understanding the origins of cyclothems, particularly addressed to those in the Appalachian Plateau, points to deltaic (river mouth) depositional environments as an important explanation for succession. This hypothesis was presented by John C. Ferm in 1974, and it applies James Hutton's principle of uniformitarianism, the idea that the (geological) present is the key to the past. By comparing lateral and vertical variations in the Pennsylvanian rocks of the Appalachian region with patterns of sedimentation observed in recent deltas and associated marine and alluvial environments, Ferm realized that many sedimentary rock units did not fit the "layer-cake" model. Some Pennsylvanian cyclothems had no lateral continuity and their origin could be neither regional tectonism nor glacial control of sea level. Their underlying cause had to be local. As an alternative to the stratigraphic column, Ferm developed the "Allegheny duck" model of lithologic variation, so named because it looks like the torso and head of a duck in flight. He visualized the duck as a lens-shaped, three dimensional body with the enclosing non-detrital sediments converging outward in all directions and with the associated detrital sediments wedging out in succession. Ferm contended that the overall shape and arrangement of deposits in the 'duck' are similar to those of deltas and this implies a deltaic origin, including progradation, retreat, and lateral shifting, for the Allegheny rocks. John C. Ferm, "Pennsylvanian Cyclothems of the Appalachian Plateau, A Retrospective View," in *Carboniferous Depositional Environments in the Appalachian Region*, eds. John C. Ferm and John C. Horne (Columbia, South Carolina, 1979), 287-89; Jack Kovach, "Introduction to Upper Carboniferous Stratigraphy and Depositional Environments of Eastern Ohio," *Carboniferous Geology From the Appalachian Basin to the Illinois Basin Through Eastern Kentucky and Ohio*, eds. Frank R. Ettensohn and


14. Hal S. Baron explains that rural people in the North also held onto but modified a Jeffersonian republicanism in the face of great change. In numerous instances, as citizens, producers, and consumers, they expressed a preference for local and decentralized control of communities, economic independence, and agrarianism, the notion that farmers are essential to the nation's prosperity. See Hal S. Baron, *Mixed Harvest: The Second Great Transformation in the Rural North, 1870-1930* (Chapel Hill: University of North Carolina Press, 1997); Ronald Eller claims that the Appalachian social order actually replicated the Jeffersonian ideal. "Long after the death of Jefferson and long after the nation as a whole had turned down the Hamiltonian path toward industrialism," he writes, "the southern Appalachian Mountains remained a land of small farmers and scattered open-country villages ... nowhere did the self-sufficient family farm so dominate the culture and social system as it did in the Appalachian South." See Ronald Eller, *Miners, Millhands, and Mountaineers: Industrialization of the Appalachian South, 1880-1930* (Knoxville: University of Tennessee Press, 1982), 3, 16, 43.


20. Ayers, *The Promise of the New South*, 123-124; Ronald Lewis notes that nearly two-thirds of West Virginia was covered by old-growth forest in 1880, most all of which had been cut by the 1920s. This amounted to an estimated thirty billion board feet of lumber. See Ronald Lewis, “Railroads, Deforestation, and the Transformation of Agriculture in the West Virginia Back Counties, 1880-1920,” in *Appalachia in the Making*, eds. Mary Beth Pudup et al., 297.


28. Coal seams were being exploited in Ohio by the early nineteenth century. An advertisement in the Pittsburgh Gazette, August 12, 1797, mentioned coal as an inducement for settlement near Steubenville: "Sale of Lots. In the new County Town of Fort Steuben, in the new county called Jefferson, on the bank of the river Ohio. There is a Sawmill close to the town - and the abundance of Pitt Coal, will render fuel a very cheap article forever. Bezabel Wells, 8/1/1797." See Evanson, The First Century, 265.


37. Caudill, *Night Comes to the Cumberlands*, 310, 315.


In the late eighteenth and nineteenth centuries, coal surface mining often served as a secondary occupation for farmers. During the winter months, between the harvest and planting seasons, they worked local seams to provide fuel for their families or to sell in area markets. This strip mining, which farmers did on a small-scale with picks, shovels, and mule-drawn scrapers, fit easily within the patterns of daily life and had only minimal impact on the land. In the twentieth century, however, as the coal surface mining industry mechanized and expanded, stripping increasingly came into conflict with agriculture as a competing land use. This generated opposition within farming communities and led to some of the first state regulatory legislation. In Boonville, Indiana, for example, on the eve of World War I, farmers, coal miners, and local businessmen began a campaign to stop strip mining by passage of a state law. They objected to stripping because it made hundreds of acres of “fine farming land” unfit for cultivation, undermined the tax base, and threw deep miners out of work. In the decades that followed, opposition spread beyond Boonville and, in 1941, Indiana became the second state (after West Virginia) to enact a control law. This legislation was meant to head off growing support for a ban by requiring “the conservation and improvement” of lands that had been strip mined, setting up permitting and bonding procedures,
establishing penalties for violations of the law, and prohibiting classification of stripped areas as forest lands for taxation purposes.¹

Farmers also played an important role in the early opposition to coal surface mining in Ohio - the subject of this chapter. Between World War I and the end of World War II, strip mining caused extensive social and environmental devastation in the eastern part of the state, ranging from massive out-migration of local populations to acid mine drainage and sheet and gully erosion. Responding to these adverse effects, farmers and other rural people organized and lobbied for passage of the first state controls on stripping in 1947. Their argument for regulatory legislation was threefold. They claimed that coal surface mining threatened agricultural productivity and the communities that farming sustained, violated God's injunction to be stewards of the land, and destroyed the aesthetic virtues of a pastoral scene. In the 1950s and 1960s, when the first legislation proved to be inadequate, opponents of strip mining used similar arguments to pass stricter control bills and improve enforcement by the state regulatory agency. By the 1970s, however, farmers and their concerns were no longer predominant in the opposition and the focus of opponents shifted from state to federal action.

Although their role in the opposition eventually diminished, reconstructing the history of Ohio farmers' efforts to regulate coal surface mining contributes to the sparse literature detailing farmers' involvement in conservation and modern environmental movements in general. Most histories of conservationism and environmentalism neglect to mention farmers at all, or they count them only as part of a backlash against governmental regulation. Some standard monographs, such as Donald Worster's study of
the Dust Bowl and Ann Vileisis' history of American wetlands, portray those who labor on the land for a living as too blinded by a desire for material gain to accept ecological limits. But as environmental historians make a greater effort to bring questions about class and equity into their work, a modified interpretation is beginning to emerge. In his examination of the roots of conservation in northern New England, Richard Judd contends that some of the earliest concern about the physical and organic environment actually came from nineteenth-century farmers. Combining a belief in democratic access to and common stewardship of the land, an aggressive approach to reshaping nature to serve human needs, and a pietistic, perfectionist vision of natural order, farmers took the first steps in redressing New Englanders' relationship to nature. The nineteenth and twentieth century conservation movement did not originate with a social elite alienated from the natural world, Judd argues, but with rural common people who had a complex relationship to the land that was their home and livelihood. Similarly, the early opposition to coal surface mining in Ohio came from farmers and other rural people who depended on the land and its productivity to sustain viable communities, who believed that its stewardship was mandated by God, and who appreciated its beauty. They sought controls on stripping because the mining threatened these aspects of their relationship to the land, and in pushing for regulatory legislation they made a small but important contribution to modern environmental policy.²
Early Impact and House Bill 314

As coal surface mining expanded during the first half of the twentieth century, it had a significant impact on the land, water, and human communities of eastern Ohio. Between 1921 and 1945, coal stripping in twenty-two Ohio counties directly affected at least 22,750 acres and indirectly impacted another 5000 acres. In the southeastern part of the state, where the topography ranges from hilly to steep, the surface mined land had little agricultural value, selling for as low as $4 to $8 an acre. But the land in eastern Ohio proper was highly developed farm and dairy land, especially in the wide fertile valleys of the river basins, with an average value of $100 an acre. Much of the strip mining in the state was in this area, particularly Harrison and Jefferson Counties, the leaders in production, as well as Columbiana and Tuscarawas Counties. In these counties especially, unregulated strip mining ruined land for future crop production and grazing. Early on, some strippers admitted as much. In 1916, an anonymous author for the trade journal *Coal Age* explained, "[T]he coal stripping absolutely destroys the land for farming purposes. The overburden, which is made up of soil, hard shale, clays, and more or less solid limestone, is stacked up on the mined area by the big shovel in ridges higher than the level of the undisturbed formation. This ground is left so rough that it is extremely difficult to walk over it. The material in these stacks is bottom up, as far as the soil is concerned. It is hard to imagine what further use could be made of such land." In addition to creating a rippled landscape and reshuffling the soil layers, early twentieth-century strip mining in Ohio exposed acid silt shales and increased erosion. As a result, nearby streams were contaminated by acid mine drainage as well as silt, killing
off aquatic life. Acid contamination of ground water also threatened local water supplies. Several small communities (including Cadiz, Wellsville, Sugar Creek and Smithfield) took their municipal water supply from wells close to stripping operations and some were forced to implement expensive filtration and chemical treatment. Where acid drainage was acute, there was fear that communities would eventually be forced to import treated surface water, which would have been a considerable expense. In a few southeastern counties calcareous shales and limestone in the overburden neutralized the acid. But these spoils often had their own unique problem, containing clay and clay-forming shales that made for tight, impervious, poorly aerated soil after disintegration and settling.

Because it degraded farm and dairy land, strip mining also affected the tax base of counties. Once mining was completed, some operators simply abandoned mine sites and defaulted on their taxes. In other cases, depreciated property values reduced revenues. There were large increases in valuation when strip mining began, with new valuations ranging from $60 to $300 an acre. In tax dollars this could translate into an increase of more than $2 per acre. But after a year or two, with the mining finished, county auditors devalued the land to between $5 and $15 an acre, and tax revenues declined precipitously to as low as five cents per acre. In Tuscarawas County none of the land which had been stripped up to 1947 was in tax delinquency, but between 1915 and 1940 coal-stripped land there suffered a 94 percent decline in assessed valuation. This compared with a 22 percent decline in the valuation of unstripped agricultural land. Devaluation also affected non-farm lands. This happened near Steubenville in late 1945 when a surface mine
opened on land immediately adjacent to a new development of 500 homes. It occurred again in the 1950s, when the Billman Coal Company began mining near new home sites in Malvern, Ohio (Carroll County). The stripping there was completely destroying the hillside, complained one resident, leaving deep ravines that were dangerous to the neighborhood children, marring “the beautiful scenery,” and threatening the valuation of homes.

A survey of a strip-mined farm in Tuscarawas County, drawn from a set of four case studies done by Charles Victor Riley in the mid-1940s, is illustrative of the damage done as a whole to the land and its inhabitants. The land Riley labeled “Unit II” had a topography of rolling to hilly and in 1915 was a farm of 168 acres, with three orchards and two grazed woodlots of approximately fourteen acres. At the time the land was assessed at $7290, or $43 per acre, but three years later the farm was sold to Wayne Coal Company for $16,800. By the late 1940s Unit II was classified as abandoned farmland, with fifty-five of the original 168 acres stripped or affected by mining operations. Full-time farming had been discontinued in 1918 and the fields were covered with poverty grass, goldenrod, cinquefoil, broom sedge, aster, sheep sorrel, and other opportunistic plants. All the fields suffered from severe sheet and gully erosion, with gullies varying from three to fifteen feet deep and from six to sixteen feet wide at the top. Soil samples indicated a pH ranging between 4.7 and 5.9, making it acidic, and available phosphorous and potassium were low. Of the two small streams crossing the unit, one was polluted by mine waste. In this condition, the assessed value of the land in 1940 was $1059.46, or $10.29 per acre. In 1946, the gross income from the property was $115, most of which
came from an oil lease. Typical of stripped land throughout eastern Ohio, Unit II was
practically worthless after coal operators had finished with it. 7

The devastating impact on farm land raises a question about why property owners
would lease or sell to coal surface mining companies. Operators maintained that farms
were being abandoned, coincidentally, at the same time they developed an interest in
mining. This was probably true to some extent. Between 1935 and 1945, Harrison
County alone lost 420 farms, and the number of acres farmed declined from 215,000 to
195,000 during the war. 8 Not all of these and other losses of farm and dairy production in
Ohio were due entirely to stripping, yet surface mining in a local area was often an
important factor in a farmer's decision to sell off crop or grazing land. Residents
frequently banded together to resist selling out to strippers, but once isolated individuals
began to sell the process could snowball until an area was nearly depopulated. H.L.
Bower, the Master of the Harrison County Grange in the mid-1940s, explained one
particular case of a dairy farmer:

"I don't know as [Mr. Griffon] thought he could get more money [by selling
to a strip operator rather than farming] but everybody else was selling, and
it was to his advantage to get out of there and he moved to town, he was an
elderly man, he was about past working, and he moved to town, and his son
moved to the west part of the state."

In other cases, farmers were hard-pressed just coming out of the Depression or were
simply enticed by the money offered by strip mine operators. They were reluctant to
insist on reclamation procedures, however, for fear the coal company would not buy the
land or, in the case of a lease, lower the royalty payments. As a result, without a state law
stipulating reclamation procedures, between a third and a half of the lands surface mined
before 1947 were not reclaimed in any way. When operators did reclaim they often did little more than attempt typically unsuccessful reforestation, without leveling the spoil banks.9

Throughout the 1920s and 1930s, reclamation of surface mined lands was promoted by state agricultural experiment stations, while the problem of acid mine drainage was addressed largely by engineering experiment stations and the U.S. Public Health Service. These agencies carried on their own research and funded other studies, investigating the possibilities for establishing forests, creating wildlife havens, and constructing recreational lakes at former strip sites. In 1937, the U.S. Forest Service established the Central States Forest Experiment Station, which quickly took the primary role in research on reforestation of stripped lands. With its headquarters in Columbus, most of the work of the agency was concentrated in Ohio until 1946, when it began conducting studies in other states in the Central region as well, particularly Indiana and Illinois. In 1940, six large coal companies with operations in Ohio formed the Ohio Reclamation Committee to facilitate their participation in government research as well as to provide a cooperative forest planting service to its members. The organization was renamed the Ohio Reclamation Association in 1945, when it had a membership of thirty-one stripping companies, which combined performed sixty-five percent of the coal surface mining in the state. By 1947, the Association had planted 1.8 million trees on spoil banks and surrounding areas. Yet none of these spoil banks were leveled before planting and, rather than supply saw timber, the Association claimed that the forests were meant to produce mine props and posts for underground coal mining. Most of the
agricultural land disturbed by strip mining could not be restored for crop farming by merely leveling spoil banks anyhow. It might be converted to grazing land that way, but even this was only being done on a very limited scale.¹⁰

Responding to the lack of reclamation in some areas and its inadequacy in many others, William F. Daugherty, a Democratic member of the House of Representatives from Wellsville (Columbiana County) introduced the first strip mine control bill in the Ohio legislature in 1937. The bill provided that future strip mine contracts for the extraction of coal as well as other minerals include provisions for “the replacement and leveling up of the earth ... so that the land is left in substantially the same condition after the completion of the mining operations as it was before the mining operations began.”

By exclusively regulating strip mining contracts, however, the act would not have affected operations in which the land was purchased outright. It also failed to establish administrative machinery to insure enforcement, and some of its standards for reclamation were vague enough to be left open to wide interpretation by the courts. Yet, as weak as it was, Daughtery’s bill never made it out of the House Conservation Committee. Two state senators from eastern Ohio proposed similar legislation in 1939 and 1941, with the added requirement of a performance bond equal to or greater than the tax assessment valuation of the land to be mined, but the bills also died in committee.

Following these initial regulatory efforts, war-created demand led to the spread of unregulated coal surface mining and a dramatic increase in production.¹¹

With peace declared in 1945, there was a renewed attempt to impose controls on the industry. In that year the state legislature considered five different bills to regulate
strip mining, each of which were introduced by legislators from eastern Ohio counties. Only one of the proposals reached the House floor, where it was debated and amended. This measure was sponsored by Representatives J.A. Gordon of Cadiz (Harrison County), Gilbert N. Frash of Malta (Morgan County), C.A. Craig of Cambridge (Guernsey County) - all Republicans - and C.T. McCort, a Democrat of St. Clairsville (Belmont County). Their bill required operators to post a bond of $100 per acre, level mine sites to "pre-existing contour," and make a quarterly deposit of six cents per ton of coal mined with the county auditor, a small part of which was to fund reseeding. In June, when the proposal came up for debate on the House floor, amendments halved the bond requirements, weakened replanting provisions, and established safeguards for operators to the right of appeal from administrative decisions. Yet even in this watered-down form the bill was voted down fifty-eight to fifty-three.¹²

Ten days after defeat of the Gordon proposal the legislature passed Senate Bill 344, establishing a Strip Mining Study Commission (SMSC) to investigate the need for controls on the industry and to draft another regulatory bill based on their findings. The Commission was to be composed of nine members, three from each house chosen by the president pro tempore, with no more than two of those of the same political party, and three public members designated by the Governor. Some of the members selected had ties to strip mine operators while others were proponents of strong regulation, including Representative J.A. Gordon, Milton Ronsheim (the crusading editor of the Cadiz Republican), Edwin J. Bath (former Director of Legislation and Public Affairs for the Ohio Farm Bureau Federation), and W.A. Stinchcomb (Director-Secretary of the
The SMSC held its initial meeting in October, 1945, and conducted a number of inspection tours the following month in fifteen Ohio counties as well as areas in West Virginia and Pennsylvania, states which had already passed control legislation. Formal hearings before the Commission began in December, in Columbus, providing an opportunity for both opponents and proponents of regulation as well as supposedly impartial experts in the fields of agronomy, conservation, forestry, and taxation, to make their case. Twenty-five witnesses spoke in favor of regulation, sixteen appeared in opposition, and fourteen gave "neutral" testimony. Although tours and hearings did little to change the views of individual Commission members, in the following months they agreed on the draft of a report that included another control measure.13

The SMSC bill regulated surface mining operations producing 250 tons of coal or other minerals in one year. Mine or quarry operators were to secure a license for a small fee, put up a bond of $100 per acre with a $1000 minimum and a five-year liability, cover all exposed coal seams with a minimum of three feet of earth, bury all pyritic shale, seal off any break-through to underground workings in a coal seam, provide access roads for fire control, level off peaks and ridges of spoil banks to a minimum width of fifteen feet cross section, and plant a cover crop of trees or grasses on the banks. Additionally, the Commission recommended that the chief of the Division of Mines be charged with licensing and regulating the strippers, and that the director of the Agricultural Experiment Station be given authority to administer all planting and any other reclamation. It also suggested passage of a general severance tax on all mineral production, to finance a
general program of conservation. The recommendation on leveling caused some
controversy among SMSC members, with Gordon, Ronsheim, Bath, and Stinchcomb, and
Clingan Jackson in favor, and four others opposed. But otherwise, the Commission
reached a consensus on the provisions of the proposed legislation.\textsuperscript{14}

The SMSC delivered its report to Governor Herbert and, in January of 1947, he
presented it to the General Assembly and urged passage of the recommended control bill.
Strip mining could not be prohibited, he said in his address to the legislators, but “it
would be the height of folly for the people of Ohio to spend large sums of money to
conserve natural resources and at the same time to permit unscrupulous operators to mine
coal in a manner which is in complete conflict with the general policy of conservation.”

Bills were then introduced in each chamber, including one by Clingan Jackson, a senator
and member of the Commission, and another by Ray White, a member of the House and
Democratic newspaper editor from Holmes County. Their proposed legislation was
virtually identical except for the size of the bond and the financial liability of the operator
in terms of revegetation. Jackson’s bill called for a bond of $100 per acre and a
replanting liability of $50 per acre, while White’s bill set a $200 bond and $100
replanting obligation. In the House, efforts to lower the size of the bond failed, but
amendments exempted operators mining less than 250 tons per year and allowed for
replanting to be waived by the director of the Agricultural Experiment Station. When
debate moved to the Senate Conservation Committee, Evert E. Addison, a Columbus
(Franklin County) Republican and chairman of the Strip Mining Study Commission,
offered two amendments to eliminate the provisions that required coal operators to level
spoil banks and cover exposed coal seams. Committee members rejected these changes but they did lower the bond to $100 per acre and set replanting liability at $50 per acre, in line with Jackson's bill and the recommendations of the Commission. Addison and several other lawmakers then walked out of the meeting before the Committee members recommended passage of the modified act, House Bill 314, on a six to zero vote. In June, the full Senate passed the proposed legislation on a thirty-two to two vote, with one of the "nays" cast by Carl Schurtz of Coshocton (Coshocton County), who took the position that the bill was too weak. The House concurred with the changes made on June 14, and the conference bill went to Governor Herbert for his signature.15

In addition to setting bond amounts, defining the liability for revegetation, and exempting small operators, House Bill 314 included provisions explaining the need for the law and elaborating on what would be required of operators. The preface to the regulatory components deemed the act:

"an exercise of the police powers of the state for the public safety, the public health and the general welfare of the people of the state by providing for the conservation and improvement of areas of land subjected to strip mining; by aiding thereby in the protection of wildlife; by decreasing soil erosion and flood hazards; by aiding in the prevention of the pollution of lakes, rivers and streams; by decreasing fire hazards and by preventing combustion of unmined coal; and by generally improving the use and enjoyment of such lands."16

The law was to become effective January 1, 1948, after which all coal stripping companies would be required to apply to the chief of the Division of Mines for an annual permit and pay a $50 fee. The penalty for operating without a permit was $100 to $1000, with each day counted as a separate violation. Operators were also required to submit a
detailed report one month after stripping began and six months after completion of the mining. Bonds would be released after satisfactory restoration, as determined by the Experiment Station director on inspection of the site one year after leveling and replanting. Restoration standards were similar to the practices specified in the SMSC report, including leveling off peaks and ridges of spoil banks to minimum width of fifteen feet cross section, planting trees, shrubs, or grasses (as recommended by the director of the Experiment Station), covering coal faces, and sealing breakthroughs to deep mines. Forfeited bonds, including those covering mines where restoration was not completed within five years after mining ceased, were to be deposited in a reclamation fund. Monies of the fund would be made available to the Agricultural Experiment Station for restoration of abandoned sites.17

'The People' and Their Arguments

During the process leading up to passage of H.B. 314, proponents of regulatory legislation promoted their position in various ways, both as individuals and as groups. Milton Ronsheim, the Harrison County editor of the Cadiz Republican, was a sparkplug of the effort for controls. He routinely published stories and editorials on coal surface mining in his paper through the 1930s and 1940s, he convinced Frank Lausche to take up the issue of strip mine regulation during Lausche’s successful campaign for Governor in 1944, and he served on the Strip Mine Study Commission. Throughout the debate and campaign for controls, Ronsheim tended to see the effort to pass a strip mine bill as a contest between vested coal interests and common people typically locked out of the
political process. "The demand for legislation to regulate coal stripping has come from the people," he declared, "with no money, no organization and no lobbyists in Columbus, such as the operators have." The campaign was "a cry for self preservation."18

Once aware of the degradation caused by coal surface mining, Lausche himself began a personal crusade for regulation. Speaking in Cadiz, Ohio, in the summer of 1945, he described strip mining as "sheer butchery, disemboweling of the land and leaving its ugly entrails exhibited to the naked eye." The hillsides and streams, Lausche declared, "must be kept as the homes of the people." During his first term as governor, he played an instrumental role in passage of the bill establishing the study commission and he selected its public members. His appointments to the SMSC - Ronsheim, Bath, and Stinchcomb - were ardent supporters of regulation of the strip mining industry and their presence certainly made for stronger legislation in the end. Lausche also set the tone for the work of the Commission when, prior to the organization meeting in October, the members met in his office and he told them that no problem in Ohio was "more acute and more deserving of attention" than the damage from coal surface mining.19

The most important support in the campaign for regulatory legislation, however, came from farmers' organizations, particularly the Ohio State Grange, Ohio Farm Bureau, and their respective county chapters. Most of those who offered testimony before the study commission in December 1945, and at Senate hearings in March 1947, were farmers' representatives. Other prominent groups echoed the sentiments and arguments expressed by the Grange and Farm Bureau leaders, while also raising issues of their own. These other groups included national and local sportsmens' organizations, a
statewide group of rural pastors, the state organization of County Commissioners and its Associations, the Federated Women’s Clubs of Ohio, organized homeowners, and the Teamsters union. Independent of these organizations, members of farm families and sympathetic persons from nearby communities participated in lobbying for passage of strip mine legislation by writing letters and sending telegrams to the governor and state legislators.

The arguments the Ohio farmers and other rural-dwellers made for regulatory legislation in the 1940s can be grouped into three categories: economic, spiritual, and aesthetic. First and foremost, proponents of controls on stripping were interested in protecting the agricultural productivity of the land, not only to sustain individual material gain but also to preserve the integrity of rural life. As one Whipple, Ohio resident simply put it, “I think our country would be better fit for farming.” Those in favor of regulation maintained that farmers worked the soil with a long-term perspective and their ability to continue to use the land productively was intimately linked to the stability of local communities. Strippers, on the other hand, were purportedly motivated by greed and had little interest in either the health of the soil or the well-being of the surrounding communities. Support for state regulation was also based on a belief in the land as a creation of God, which carried with it a mandate for stewardship. Control advocates portrayed strippers as violators of this mandate, desecrators of sanctified land, and they counter-posed farmers as the more legitimate caretakers of the natural world. Finally, the push for regulatory legislation was a matter of aesthetics. The gouging of the earth to get at coal seams violated the beauty of the land. Unencumbered by any law requiring
reclamation, the farmers and other rural dwellers maintained, mine sites were left as barren testaments to strippers’ disregard for the aesthetic pleasures of the hills.30

The most common argument proponents of regulation made concerned agricultural productivity and competing land use, and the links these had to community stability. In 1943, the Ohio State Grange Conservation Committee noted that strip mining left “the land in a condition which is untillable and not suited to good agriculture and conservation practices,” and it called for cooperation with unspecified agencies in solving this problem. Three years later the committee expressed opposition to “the needless destruction and wanton waste of natural resources being brought about by strip mine operations,” and it recommended immediate remedial legislation. In 1947, the Deputy Master of the Morgan County Grange, representing 200 members of twenty-two local Granges, explained his county organization’s position. “We believe that strip mining is a menace to the agriculture and the very life of our county,” he wrote, “unless some control measure is taken.” Like all other eastern Ohio County Grange and Farm Bureau chapters, as well as the state organizations, the Morgan County Grange favored H.B. 314 to save eastern Ohio agriculture. But even sportsmen’s organizations emphasized the harm strip mining did to good farm land. “The membership of the Western Tuscarawas Game Association,” its president explained to Governor Herbert, “feel that in the interest of the State of Ohio, our County and the heritage to be handed to our children, there must be some regulations provided for the Strip Mining of Coal ... Strip Mines must level their Spoil Banks and the land put in a tillable condition”.21
Linked to the argument about land use was the notion that farming, unlike coal strip mining, sustained communities. A petition transmitted by John E Thompson, pastor of a church in Beverly, Ohio, made this connection. “We the undersigned,” it read, “view with deep concern the vast strip mining operations being carried on in Noble, Guernsey and Harrison Counties. These operations [are] resulting in the disfigurement of the countryside - causing valuable acres of farm lands to be taken out of agricultural productivity - reducing the population of these communities, and creating serious economic conditions in these communities.” As H.L. Bower put it in the case of the Harrison County dairy farmer who sold out, mentioned above, “The community, as a whole, has suffered a very distinct loss because of the fact that, not saying anything about the money value, Mr. Griffon was a very good citizen of the community. That community, I might say, is almost wiped out.” Farmers’ organizations and rural eastern Ohioans suggested that farming was better than strip mining for the community because it involved a long-term interest in the land, as opposed to a desire for short-term profits that was supposedly characteristic of strip operations. A hardware store owner in Athens County explained, “If the income from a ruined farm could be computed over the next hundred years in dollars and cents it would be many more times than the few quick dollars made by destroying absolutely the land.” Other critics dismissed the claims of surface miners that they were motivated by more than simple greed. Attempting to dispel the notion that strip operators had increased production during the war as an act of patriotism, a Perry County Commissioner and small-scale stripper told the Strip Mining Study Commission that “they did it for profits and nothing else.” Somewhat along these
Morgan County Herald editor W.D. Matson brought the developing Cold War with the Soviets into the debate. “People of Morgan county,” he wrote, “the Russians are not going to buzz-bomb us - we are to be mined out of our homes and our Fatherland despoiled by American coal barons who seem to care nothing for aught but the dollar sign.”

Proponents of regulation also made an argument that God had given people the land and its resources to use but not to destroy. Many called strip mining a crime against God, including the hardware store owner quoted above. These same control advocates also suggested that failing to be Christian stewards by disrupting the harmonies of the God-made land would bring retribution. As would be expected, rural pastors from eastern Ohio were most forceful in making spiritual arguments against strip mining. One resolution sent to the state Public Affairs Department by pastors from Harrison and neighboring counties stated:

“Believing the Creation of the Human Family and the Sacred Soil to be the Divine work of our Father God; Believing that Life and the Fruits of the Soil are inseparable and that each are a trust in our hands from God; And recognizing the extensive and unchecked destruction of great areas of farm pasture land by the strip mining of coal, with its consequent undermining of community life and land values for generations to come in those areas of our State; We again advocate the control and regulation of strip mining by our state government”.

From the pastors’ point of view, farming was not a threat to a natural, God-designed equilibrium, but strip mining certainly was. Some of the same religious leaders also used their moral weight and positions of influence to make non-theological arguments against coal surface mining. In January 1945, with 2300 Protestant Ohio pastors registered, the
Annual Ohio Pastors Convention unanimously passed a resolution demanding regulatory legislation. Controls were needed, the resolution explained, “to provide for public health and safety and to properly protect both private and public property rights and to insure the usefulness of land” impaired by stripping for coal and other resources.  

Farmers and other rural people in eastern Ohio were also proponents of regulation because they viewed strip mining as destructive to aesthetic qualities of the landscape. Speaking at a Harrison County Farm Bureau picnic in 1945, representing the state organization, Herbert Evans pointed to the surrounding soon-to-be stripped hills and exclaimed, “The farmer says it’s all right to take the coal out of these hills but they must not be left an unsightly dump.” In a letter to the Cadiz Republican, a Harrisville resident described the changed aesthetics she saw on her car trips through eastern Ohio strip mine country. “Until now the ride from Harrisville to Cadiz and over other nearby roads was a pleasure,” she wrote. The area had “lovely farms, with the green fields, nice homes and outbuildings, stock grazing, and everything to make the trip pleasant. Now we go when we have to for it’s no pleasure to see where those lovely fields have been turned upside down, farm homes destroyed and in their places those awful unsightly piles of dirt, that never can be restored to their original beauty.” For Mrs. Householder and others, coal surface mining meant the disappearance of a beloved and beautiful pastoral scene.  

Sometimes strip mine control advocates made all or a combination of these arguments - about agricultural productivity, Christian stewardship, and aesthetic ruin - at once. In 1945, Joseph Fichter, Master of the Ohio State Grange, addressed delegates at the organization’s annual meeting:
"How long will it be before we learn that exploitation of people and of our God-given natural resources does not pay? We have a conservation problem in Ohio which is the result of the exploitation of land and water resources. The defacing of land and the displacement of farm homes through strip mining of coal cause us to resort to demand for government regulation in order to prevent such waste."25

Though reluctant to bring the state into the problem, Fichter and other conservative farmers saw no other way to deal with the sinful exploitation of the land, destruction of rural communities, and impairment of scenic beauty by coal surface miners. Consequently, they supported passage of the first regulatory legislation addressing the problems of stripping.

But not all the people of eastern Ohio were in favor of controls. House Bill 314 had its opponents, including operators who would have no regulation of the industry, and they were nearly as vocal as the measure's proponents. A few operators, such as Joseph Fay, who had extensive operations in Harrison and Jefferson Counties, appeared voluntarily before the SMSC in favor of controls. Those who supplied strippers with machinery, loans, or a restaurant meal, however, as well as strip mine employees, private truckers who hauled the coal and most coal operators all protested against regulation. They worried about a loss of business and a loss of jobs if the 1947 bill passed.

Responding directly to unregulated strip mining's critics, R.A. Christian, of the Canton Supply Co., explained, "We believe strip mining has proved of more value to the state in the mining of coal and maintaining Ohio industry then [sic] could be produced from this same land in 500 years of farming." Private coal hauler Dale Brannon, from Tuscarawas County, pleaded with the Governor "to protect my job from those outside the coal
industry promoting House Bill 314." Coal operators not too subtly hinted they would close their strip pits down if the regulatory legislation passed, claiming it would force them to operate at a loss. Strip miners themselves, whether voluntarily or under pressure from pit owners, also spoke out against the control bill. R.S. Patterson, the owner of Beaver Fork Coal Co., in Columbiana County, forwarded a petition to Governor Herbert signed by five workers and written on company stationary. "[H.B. 314] is being promoted by persons not interested in the coal industry," the petition read, "and the passage of such a bill can conceivably deprive us of our means of livelihood."26

Shifting Forces of Opposition

Once it was signed by the Governor, coal operators denounced the 1947 control law and, after it went into effect in 1948, they filed a suit in court to test its constitutionality. Yet within eight months, the Department of Mines reported, all 241 coal surface mine operators in the state had registered under the law and posted performance bonds. The operators also quickly showed themselves willing to try another approach to getting more lenient control legislation. Frank Lausche was elected Governor again, in 1948, and opponents and proponents of the law met at his urging to craft a compromise. One morning James Hyslop, then vice president of Hanna Coal Co., showed up at the Cadiz Republican offices to tell Milton Ronsheim that his company was through fighting and "the coal people" wanted an "agreed" bill. Ronsheim cleared some clutter off his desk and the two sat down for the first of several long sessions to draft new legislation. The newspaper editor later claimed the bill they wrote "left much to be
desired,” but the operators dropped their law suit and agreed to the general principle of reclamation in return for amending the earlier legislation. Sponsored by Ed Schorr, the compromise measure met no opposition from the coal lobby and, with only minor non-controversial changes in phrasing in committee, it sailed through the legislature in June and July, 1949.27

The new law centralized administrative responsibility, increased the performance bond, and substituted an elastic surface restoration requirement for the leveling provision of the 1947 act. Administration was transferred to a Division of Reclamation, in the Department of Agriculture, with a chief appointed by the Governor and confirmed by the state Senate. A five-person Reclamation Board, also appointed by the Governor with the consent of the Senate, was established to hear appeals from any decision of the new Division. The Board would include one representative of the industry and another who spoke for “the public,” as well as three experts in various fields, with all members serving staggered five-year terms. Permits were replaced by a license, which included a fee of $50 and $10 for each acre the operator planned to strip. Bonds, which were to be released progressively, were raised to $190 per acre, with a $1000 minimum. Operators were given two years to reclaim the land affected by their surface mining, though they had only to return the surface to “a gently rolling topography.” They were also freed of the provisions requiring sealing of all exposed deep mine works and covering exposed coal faces. Replanting was limited to those areas “where revegetation is possible” and the act gave the chief discretion to extend the time limits for compliance or waive restoration
requirements altogether. The provision allowing for substitute acreage in the 1947 law was retained.  

Though Milton Ronsheim played an important role in writing the new legislation, Governor Lausche’s attempt to appoint him as the “public member” on the Reclamation Board was blocked by members of the legislature and strip industry. Ronsheim received an absolute majority in the Senate but he lacked the votes for the necessary two-thirds confirmation. The Governor also tried but failed to appoint C.C. Fay, one of the state’s few pro-regulation strip miners, as the industry representative to the Board. Fay was rejected by the Ohio Coal Association, for his reputation as a “reclamation operator,” and by the United Miner Workers, for running a non-union surface mine. His appointment was turned down by a majority of Senators. But Lausche did manage to appoint Wilbur Matson, the editor of the *Morgan County Herald* and associate of Ronsheim, to the Board. His choice for chief of the Division of Reclamation, Zoyd M. Flaler, was also acceptable to enough senators for successful confirmation. Flaler was a former highway engineer and new to the debate over regulation. Once on the job, he took a conciliatory approach to enforcement. The Division sent out thirty-five cease orders for non-compliance with the new law by the early part of 1950, but these were generally restricted to small operators and in most cases violations were quickly corrected when identified.

In the decades that followed, several amendments were made to the 1949 law, often in response to pressure from the Ohio Grange and Farm Bureau. By the early 1950s, the Conservation Committee of the Ohio Grange was bemoaning the lack of enforcement of the regulatory legislation, and its rhetoric echoed earlier complaints. Strip
operators had ruined the productivity of two million acres of lands formerly devoted to farming and forestry and, since most of these lands were devalued for tax purposes, they had become financial liabilities for those counties where they were located. As a solution to these problems, the Grange advocated transferring administration of the control law to the newly-created Division of Lands and Soils within the Ohio Department of Natural Resources (ODNR). In 1953, the Conservation Committee claimed that “land in the strip mining areas of Ohio are [sic] left in such condition that it is practically worthless,” and called for leveling of land by the operators for farming where practicable and reforestation where it was not. The Division was transferred to the ODNR, but at the end of the decade the Grange was still demanding that the agency “require the strip mine operators to improve the restoration and leveling of their spoil banks so as to leave them in good condition for seeding and planting trees.”

The Ohio Farm Bureau also continued to advocate better enforcement and improved control legislation. In 1965, the legislative representatives for both the Grange and Bureau lobbied the Ohio General Assembly, leading to an overhaul of strip mine regulations. But the new control law included an only slightly less vague requirement to grade spoil banks “so as to reduce the peaks thereof and reduce the depressions between the peaks of such spoil banks to a gently rolling, sloping, or terraced topography, as may be appropriate, which grading shall be done in such a way as will minimize erosion due to rainfall, [and] break up long uninterrupted slopes.” The act charged operators with clearing the surface of large rocks or other obstructions, “as may be appropriate,” to permit the operation of machinery and make the area more suitable for revegetation. It
also included a provision requiring the prevention of acid mine drainage and siltation of streams, “if possible,” on adjoining lands. Despite this latter amendment, in 1966, delegates to the Annual Ohio Farm Bureau meeting felt compelled to adopt a policy statement declaring their intention “to initiate legislation for the protection of landowners adjacent to an area licensed for strip mining who may be affected by excessive siltation from the mining operation.” The delegates had received reports of damages resulting from silt and clay washing onto lands adjoining strip mines to depths of up to two feet, and the difficulties farmers had in getting reimbursement. Following passage of the resolution, the Bureau sponsored a bill granting the chief of the Division of Reclamation the right to deny a license to strip mine operators when he judged the operation may result in damage to neighboring land. But two years later, the farmers’ organization was still insisting on strict enforcement of reclamation laws and, like the Grange, calling for the broadening of controls to cover other types of surface mining besides coal.31

By the late 1960s, Ohio farmers and their designated representatives were being displaced as the primary advocates of surface mine controls. As agriculture declined in the eastern Ohio strip mine counties many of the new opposition leaders in the state were self-styled conservationists and environmentalists. Their concerns were somewhat different from those of the farmers and they were increasingly interested in taking the fight to the federal level. At a 1970 strip mining symposium in Cadiz, Ohio, most of the 400 hundred participants were students, and symposium sponsors included the Ohio Conservation Foundation, the League of Ohio Sportsmen, the Ohio Audubon Council, and the Sierra Club’s state chapter. When the Hanna Coal Company expanded its
stripping operations in Belmont County in 1972, it drew opposition from the newly-formed Citizens Organized to Defend the Environment (CODE) and the somewhat older Appalachian Ohio Research and Information Group. The two groups articulated a critique of Hanna's strip mining that blended familiar economic concerns with increasingly prevalent environmental concerns. They objected to the subordination of the public good to private interests, but they were also alarmed "at the serious disruption of the intricate ecological balances, the stability of which were produced only through millions of years of natural processes."³²

Members of CODE and other Ohio groups concerned about coal surface mining also became disillusioned with state remedies, a process experienced by others at about the same time throughout Appalachia. Beginning in the early 1970s the various state activists began to create a regional movement for federal action, with some proposing regulatory legislation and others - such as Ohio's Concerned Citizens Against Strip Mining (CCASM) - demanding abolition. CCASM was formed in 1970 by John Deboins, vice president of the Belmont-Marion AFL-CIO, and Claude Colvin, a linguist at the Ohio State University Marion campus. In the summer of 1971, the new group sponsored a meeting that drew prominent strip mining opponents from nearby states as well as the eastern representative of the Sierra Club. That October, opponents from Kentucky, West Virginia, Ohio, and Virginia also met in Huntington, West Virginia, to form the Appalachian Coalition, which would coordinate efforts to ban stripping at the national level. And, in June 1972, 900 activists gathered at the Environmental Center of Union College, in Middlesboro, Kentucky, for a National Conference on Strip Mining.
By the mid-1970s, there were few opponents of strip mining seriously considering state-level action to control or ban strip mining. The attention of most activists was focused on the many regulatory and abolition bills then before Congress. But the early concern expressed by the likes of Ohio farmers had been an important step forward in the campaign for government intervention.
Notes


4. Acid mine drainage varied depending on the spoil bank composition. There are three primary types of spoil banks in Ohio. Group One spoil banks, the glacial till soils, are above the line of glaciation, in Mahoning, Columbiana, Portage, Stark, Wayne, Holmes, the western part of Coshocton, and the northwest portions of Perry and Hocking counties. This overburden is primarily composed of noncalcareous till, residual sandstone, and acid silt shale. Group Two spoil banks are in the unglaciated portion of Ohio, including southern Columbiana, Carroll, Tuscarawas, Coshocton, Muskingum, Perry, Hocking, Vinton, Jackson, Scioto, western Harrison, and western Guernsey Counties. The overburden in these areas is formed by sandstone and silt shales. The resulting spoils have a low clay content and, due to their friability, water-holding capacity, and aeration, they hold out the possibility of reforestation. Group Three spoils are located in unglaciated counties of Jefferson, Harrison, Belmont, eastern Guernsey, Morgan, Washington, and Adams, where the overburden is comprised of sandstone, marly clay shales, and limestones in addition to the material of the soil profile. Percentages of the calcareous shales and limestones are great enough to produce highly calcareous spoils. Quantities of clay and clay-forming shale are sufficiently great in many places to effect a tight, impervious, poorly aerated material upon disintegration and settling. *Report of Strip Mining Study Commission*, 13-15.


8. *Cadiz Republican* [Cadiz, Ohio], 13 September 1945, 1.


12. Ibid., 100-06.

13. Ibid., 110-13; *Report of the Strip Mining Study Commission*, 6. Unfortunately, the testimony for the SMSC hearings has been lost and the arguments of the witnesses are available only second-hand, by way of the Commission’s *Report* and Julian Feldman’s thesis.


15. *Cadiz Republican*, 30 January 1947, 1; Feldman, “The Development,” 43, 45, 116-18; *Columbus Dispatch* [Columbus, Ohio], 6 June 1947, 1.


19. Senator Lausche to Charles M. Perry, 14 February 1964, Box 165, Lausche Papers; *Cadiz Republican*, 30 August 1945, 1, and 25 October 1945, 1.


21. *Journal of the Proceedings of the Ohio State Grange* (1943), 85 (hereafter cited as *JPOSG*’s); *JPOSG* (1946), 119; John R. Schofield to Governor Herbert, 10 June 1947, and H.D. Gerber to Governor Herbert, 25 May 1947, Folder “HB 314 To Regulate Strip Mining,” Box 23, Thomas J. Hebert Papers, The Ohio Historical Society (hereafter cited as Herbert Papers); County chapters of the Ohio Farm Bureau in support of H.B. 314
included: Ashtabula, Athens, Belmont, Columbiana, Delaware, Gallia, Guernsey, Harrison, Knox, Meigs, Morgan, Morrow, Muskingum, Perry, Pike, Portage, Richland, Ross, Seneca, Stark, Trumbull, Tuscarawas, and Washington.

22. Petition to Governor Herbert from John E. Thompson, 19 March 1947, and Fred S. Wheaton to Governor Herbert, 24 May 1947, Folder “HB 314 To Regulate Strip Mining,” Box 23, Herbert Papers; Feldman, “The Development,” 31; Cadiz Republican, 20 December 1945, 1; W.D. Matson editorial in letter from Milton Ronsheim to Governor Herbert, 13 May 1947, Folder “HB 314 To Regulate Strip Mining,” Box 23, Herbert Papers.

23. Cadiz Republican, 7 February 1945, 1.

24. Ibid., 30 August 1945, 1; Letter to the editor from Mrs. C.E. Householder, Cadiz Republican, 25 July 1945.

25. JPOSG (1945), 28-29.

26. Feldman, “The Development,” 36; Western Union telegram from Ralph Abel & Son Lumber and Supply to Governor Herbert, 23 May 1947; Albert S. Adams to Governor Herbert, 22 May 1947; Western Union Telegram from R.A. Christian, The Canton Supply Co., to Governor Herbert, 26 May 1947; Western Union Telegram from Gomer W. Jones, Jones’s Restaurant, to Governor Herbert, 23 May 1947; Western Union Telegram from Fred Hoover to Governor Herbert, 23 May 1947; Western Union Telegram from Dale Brannon to Governor Herbert, 23 May 1947; Western Union Telegram from R.S. Patterson, Beaver Fork Coal Company, to Governor Herbert, 23 May 1947, Folder “HB 314 To Regulate Strip Mining,” Box 23, Herbert Papers


28. Ibid., 126-30.

29. Ibid., 135-36.

30. D. R. Stansfield to Senator Lausche, 17 April 1964, Box 165, Lausche Papers; JPOSG (1948), 131; JPOSG (1952), 103-4; JPOSG (1953); JPOSG (1960), 71-72; Ohio Laws, 1959, 1231.


32. The Times Leader [Martins Ferry and Bellaire, Ohio], 7 December 1970, 1; Mountain Life and Work, 49 (January 1973), 18.
Although farmers were eventually displaced as the leading opponents of unregulated surface mining in Ohio, the history of their early efforts suggests that people working on the land could be advocates of the complex mix of conservationist and preservationist ideas that have characterized U.S. environmentalism. Similarly, the history of a 1961 campaign for the regulation of the Pennsylvania strip mining industry points up the contribution of workers, including organized mineworkers, to the development of modern environmental consciousness and activism. Yet outlining and assessing the efforts to establish stricter controls beyond 1961, in Pennsylvania and elsewhere, reveals some of the complexities of labor environmentalism. Leaders as well as rank-and-file of the United Mine Workers of America (UMW) were inconsistent advocates of environmental controls and through the 1960s many positioned themselves on the other side of the strip mine debate. By mid-decade, union officials and some members typically spoke and acted contrary to the expressed interests of other common people, including underground miners, when the protection of surface mine jobs appeared to be in conflict with protection of the environment.

The few historians who have focused their attention specifically on the subject of labor environmentalism have challenged the idea that an inherent clash of interests exists
between workers and environmentalists. In their efforts to address the "jobs versus environment" debate as an historical problem, these historians have concluded that organized labor was quite capable of combining the defense of workers economic concerns with protection of their environmental concerns. Outlining the origins of labor environmentalism, Scott Dewey asserts that labor organizations and their members were proto-environmentalists, anticipating the largely middle-class movement of the 1960s and continuing to demonstrate strong support for environmental initiatives up to the early 1970s. Unions often exhibited "a sophisticated understanding of environmental issues," he claims, and they "adopted relatively radical positions that were strikingly at odds with the views of their employers with whom they were supposedly allied against environmentalism." In his study of the Oil, Chemical, and Atomic Workers' 1973 strike against Shell, Robert Gordon also contends that labor has shown itself to be advanced in its position on environmental issues and commonly willing to cooperate with environmentalists.¹

The history of opposition to coal surface mining in Appalachia suggests that the UMW was an important exception, in many but not all respects, to the arguments Dewey and Gordon have made about labor environmentalism. During the 1961 campaign to pass strip mine controls in Pennsylvania many workers and sportsmen cooperated with one another and they rejected operators' attempts to counterpose jobs and the environment. But local UMW officials directly intervened in the effort only at the last moment, for reasons of expediency, and in a way that ruptured a nascent labor-conservationist alliance. Through the rest of the 1960s the union was more of a hindrance than a help to
the passage of strict regulatory legislation, in Pennsylvania and other states as well as at
the national level. The UMW leadership ignored the technological unemployment and
downplayed the environmental degradation caused by strip mining and joined with
operators against those fighting for better regulations or a ban.

Strip Mine Controls in Pennsylvania: 1945-1961

Pennsylvania passed its first legislation controlling bituminous coal strip mining
in 1945, "to aid thereby in the protection of birds and wild life, to enhance the value of
such land for taxation, to decrease soil erosion, to aid in the prevention of the pollution of
rivers and streams, to prevent combustion of unmined coal, and generally to improve the
use and enjoyment of said lands." Like other state regulatory acts, the Pennsylvania law
required operators to put up a bond ($200 per acre) and stipulated the reclamation
standards to be met for the bond to be released. Within one year after an operation was
completed, the strip operator was required to cover the face of unmined, exposed coal and
level and round off spoilbanks "to such an extent as will permit the planting of trees,
grasses or shrubs." Replanting was to occur within the same period of time, although an
extension could be granted by the Secretary of Forests and Waters, and replanting on
other previously stripped areas could be substituted for this requirement. Any forfeited
bonds would be deposited in a Coal Open Pit Mining Reclamation Fund, and operators
caught mining without a permit would be liable to pay a fine not exceeding $500
(offering little in the way of deterrence). 2
Soon after passage of the 1945 law, coal operators challenged the act in court on the grounds that it discriminated against them by singling out their industry. Coal strippers had won a similar lawsuit in Illinois, overturning the 1943 control law there. When *Dufour v. Maize* found its way to the Pennsylvania supreme court, however, the justices ruled against the strip mine operators, holding that the Bituminous Coal Open Pit Mining Conservation Act neither violated the constitution nor deprived coal companies of property without due process of law. The classification of “open pit mining” as distinct from other mining was founded on real distinctions, the justices declared, and the statute should stand. Yet the courts were not the only means coal operators had at their disposal to block or slow the implementation of regulations on the industry. As in other states the initial law was weak and, without a specially designated government agency administering the act, enforcement was lax.³

By the early 1960s, acid mine drainage in Pennsylvania streams was worse than in the waterways of any other state, and thousands of acres of land had been devastated by coal surface mining. The 1945 act had failed, and this failure prompted various groups to organize for another control bill. Leading the effort for a new law was the Pittsburgh-based Allegheny County Sportsmen’s League (ACSL), a branch of the Pennsylvania Federation of Sportsmen’s Clubs (PFSC). Sportsmen were witnesses to the ruination of trout streams and habitat for wild game by coal surface mining, and they sought better regulation to preserve the sites necessary for their recreational activities. The ACSL was assisted in this by the Allegheny County Labor Committee, which included the United Steel Workers, the International Brotherhood of Electrical Workers, and the United Mine
Workers. There was, in fact, likely some crossover between the organized sportsmen and organized labor, with steelworkers, electrical workers, and miners joining sportsmen's clubs as they took up hunting and angling in greater numbers during the postwar period. These working-class sportsmen were concerned about the profits strip operators made in the process of destroying the Pennsylvania landscape. Their class position and recreational interests allowed them to see the connections between strip operators' greed and their lack of concern for the environment.4

In 1961 the various opposition forces joined together to introduce House Bill 1438, which provided for an increased bond of $500 per acre, backfilling of strip pits, operator responsibility for acid mine drainage (even when it originated from abandoned deep mines), and the use of forfeited bonds to correct stream pollution in strip mine regions. Near the end of June, after a failed attempt at weakening the bill with amendments, the House passed it on a vote of 150 to 51, over the vehement protests of legislators from strip mine counties and strip coal industry lobbyists. Representative Paige Varner (R-Clarion) contended that the bill "frustrates Pennsylvania's efforts to hold its industrial payroll by advancing mining costs to the point where jobs are endangered." When Rep. Austin J. Murphy (D-Charleroi) suggested that controls would merely reduce operators' profits, forcing them to shift a few men from digging coal to filling holes, Varner replied by setting the health of the industry against the quality of the environment. "I don't see why we should give up a growing industry," he said, "for a few fish or a few trees." This was rhetoric meant to drive a wedge between conservationists and working people, forcing them to make a choice between nature and their livelihoods. The lobbyist
for the Central Pennsylvania Open Pit Mining Association (CPOPMA), W.G. Jones, tried a variation of this approach, directing his comments specifically at the sportsmen working for a control bill. "[I]t would be unfortunate," he threatened, "if the one and a half million acres of hunting land owned, leased or otherwise controlled by the open pit industry were to be posted against hunting this coming fall."

Even though they lost the vote in the House, opponents of new regulatory legislation scored a victory shortly after their initial defeat when H.B. 1438 and an identical companion bill covering anthracite coal were referred to the Senate's Local Government Committee, chaired by John J. Haluska (D-Cambria). Normally, the bills would have gone to the Mines and Mineral Industries Committee or the State Government Committee. The only reason to send it to Local Government, according to Senate observers, was to kill it. Senator Haluska represented a county in central Pennsylvania with many active surface mines and he was a close personal friend of C.E. Powell, one of the state's largest strip mine operators. Haluska handled Powell's insurance policies and, soon after his committee received the strip mine bills, he was shown on the front page of the Pittsburgh Press driving a car licensed in Powell's name.

When H.B. 1438 and its anthracite companion came to Local Government, Haluska announced that Daniel C. Parish, an influential Allegheny contractor and close friend of Governor Lawrence, had asked him "to go slow on this because it would hurt industry and make people lose their jobs." Doing Parish's bidding, the senator refused to release the bills for most of summer.
In the face of this intransigence, supporters of strong control legislation continued to speak out and mobilize. At the end of June the executive board of Westinghouse Local 601, a United Electrical Workers affiliate, unanimously passed a resolution calling on the Senate to follow the House in quickly passing the two control bills. “The work of a greedy, small group of strip miners is designed to make Pennsylvania a desert wasteland,” it read, and “obstruction to good legislation to control strip mining must be stopped.” When Haluska announced hearings on the bills to begin in July, the PFSC began coordinating a lobbying effort by its members as well as a motor caravan of sportsmen, conservation groups, women’s clubs, and garden clubs to Harrisburg, the state capitol. John Laudadio, the legislative chairman of the Federation, said he knew the hearings were a stall tactic but his organization was encouraging attendance and participation anyway. Just prior to the hearings, state mining secretary Lewis E. Evans set the tone for the debate to come by calling the existing strip mine controls “virtually useless.” Under the law, he said, land had to be contoured only when mining was “completed,” a term indefinite enough to allow operators to delay backfilling for as long as ten years.7

On the first day of the hearings, July 10, Senator Haluska immediately created an uproar in the chambers by implying a $25,000 payoff had been made to legislators for passage of a strong regulatory bill. Proponents of a new law ignored the charge and proceeded to explain their position. Those testifying included the secretary of the state department of mines, a representative from the League of Women Voters, the legislative chairman of the PFSC, a pro-regulation stripper, the legislative chairman of the ACSL,
and the master of the state Grange. Representing the ACSL, Frank Shean denounced
strip mine operators as being more interested in “making a fast profit than safeguarding
the public,” pointing out that four children had died in western Pennsylvania strip mines
since mid-May. “With every broken body taken from a strip mine,” he said, “somebody
made a few extra dollars.” J. Collins McSparran, master of the Pennsylvania State
Grange, echoed the sentiments expressed by Ohio farm leaders in the 1940s and 1950s.
Pennsylvania farmers were not opposed to strip mining, he explained, but they were
vigorously opposed to the manner in which many operations had been conducted,
particularly the complete disregard of the future use of the land. In many communities,
operators had destroyed the productivity of forest and field and simply moved away,
leaving spoil banks, polluted streams, dangerous pits, and depressed property values in
their wake. Careless and incompetent operators should not be permitted “to convert the
scenic beauties of our countryside into ugly barren wasteland, and to create rural slums,”
McSparran argued, “just because [they] are unwilling to fulfill their moral
responsibilities.” Later that night, these arguments were driven home with some force
when a power shovel and bulldozer valued at $175,000 were destroyed by dynamite at a
Fayette County strip mine, probably by deep miners familiar with the use of explosives.
No one was injured, but the blast touched off a fire visible for several miles.§

The next day’s witnesses at the hearings included opponents of stronger
regulation. Joseph Baran described himself as a self-employed strip miner and member
of UMW Local 6326. He charged that the control measures were part of “a conspiracy
between the big coal companies, the mines department and the United Mine Workers to

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put the non-union operators out of business." W.J. McCabe claimed to represent six Cambria County sportsmen’s organizations and questioned the legitimacy of the PFSC leadership on the strip mine issue. He also repeated the earlier threat made by the CPOPMA lobbyist that hundreds of thousands of acres of hunting areas would be closed to sportsmen if the control bills were passed. His presence at the hearings was clearly meant to neutralize the testimony of the representatives from the state’s two main sportsmen’s organizations, and possibly to convince hunters and anglers that strip mining was not necessarily contrary to their interests. But McCabe made an appeal for the unrestricted extraction of natural resources. Part-owner of a lumber firm, his property also had coal under it and, he worried, “if they can stop me from mining it they can stop me from cutting trees, just because they think they’re beautiful.”

Attempts to drive a wedge between working people and conservationists were not very successful, however. The day following Baran and McCabe’s testimony, outside of the hearings, the Allegheny County Labor Committee announced its support for strip mine legislation. The Labor Committee served workers as an independent political voice, unassociated with either the Democratic or Republican parties, and its leaders recognized the connections between workers’ interests and conservation. “We are unequivocally opposed,” the organization declared, “to the selfish interests and to the legislators they appear to control who resist effective regulation of strip mining, [which] despoils our natural resources and endangers the health and lives of our citizens.” The committee also notified sportsmen’s groups that they stood with them “in conservation of Pennsylvania’s forests, fields, lands and running waters.”
Perhaps in response to the Labor Committee’s resolution and its expression of solidarity with conservationists, coal operators and their allies made greater efforts to counterpose the health of the economy and environmental quality during the rest of the hearings. In its testimony the Pennsylvania Railroad went on record as opposing the strip mine control bills on the grounds they would raise operating costs for strippers and affect the coal hauling business. The corporation’s manager of coal traffic explained that if strip mining was cut back 80 percent, as strippers estimated the effect of the regulatory bills, the railroad “would have to lay off hundreds and perhaps thousands of employees and could lose as much as $12,800,000 in revenue.” Speaking for the CPOPMA, attorney Joseph J. Lee claimed tougher backfill requirements would put more than 1100 miners out of work in central Pennsylvania alone. Trying a more folksy approach, the president of the Sunbeam Coal Corporation described sportsmen as utopians with a dim view of reality. “Food on the table,” he said, “is more important than the delights of fishing.” Underscoring the implications of the president’s remarks, an official with the state’s Sanitary Water Board pointed out later in his testimony that Sunbeam had been cited on ten different occasions over a the three-year period for discharging acid mine water into streams and thereby polluting a larger, major fishing stream.11

After the last of seven nonconsecutive days of testimony, Senator Haluska declared that his committee would not take any action on the control bills until the transcript of the hearings was prepared. Once that was done, the “strip mine problem” would be turned over to a fact-finding committee. This was more stalling, an attempt to drag out consideration of the bills to the end of the legislative session. Having publicly
flouted the spirit of the democratic process, the next day Haluska received a death threat which read:

"I am a good sportsman and I love the outdoors. I hate cheats and crooked politicians. Unless you act on the strip mining bill within two weeks, by Aug. 8, 1961, you might die rather suddenly. You may think this is a prank, but believe me this is no joke. Sincerely, an honest sportsman who is a good shot with a gun."

Whether a prank or serious threat, plainclothes state police were attached to the senator and, the day he revealed the letter, Haluska also announced that the Local Government Committee would vote on the proposed legislation within two weeks, just meeting the deadline set by the sportsman. In the meantime, committee members would conduct a two-day tour of strip mine counties in both the bituminous and anthracite regions of the state.  

On the first day of the tour, August 2, Senator Haluska and eight of the other eighteen members of the Local Government Committee gathered at a supper-club motel outside the town of Clarion, in the heart of soft coal country. They were met by Charles Leach, an ex-coal stripper, Clarion County GOP finance chairman, and insurance agent who specialized in writing bonds for strip coal operators, as well as Milt Breniman, a Clarion real estate agent and the tour leader. Two sportsmen also traveled with the group, and they reported that the itinerary seemed to be representative of Clarion conditions. A few days later, however, John Laudadio and William Guckert sent an open letter to Senator Haluska asking why state mines officials, conservationists, and “the people” were not represented on the tour. Guckert claimed to have telegraphed the senator earlier in the week, asking for an invitation and proposing to take the group through northern
Butler County, but he had not received a response. The two sportsmen also pointed out that some of the worst conditions in the state were no further than fifteen miles from where the committee was being shown what the strip coal operators wanted members to see.\textsuperscript{13}

The second day of the tour was given over to travels through the hard coal fields around Pottsville (Schuylkill County), and the highlight of the junket came at a top of strip mine spoil bank there. When Senator William Lane (D-Washington) suggested that the tour might be rigged he nearly precipitated a fistfight with Haluska, who then proposed an amendment to weaken the bills before his committee. He would accept a 45-degree backfill requirement where the land is productive, “on farm land and the like,” in exchange for knocking out the provisions calling for 45-degree backfilling on non-productive land, such as “here in the mountains where it is impossible.” By the end of the day a deal had been struck, and there was general agreement that strict backfill requirements in the anthracite region should apply only to operations near roads or residential areas. Having gotten some of what he wanted, Haluska returned to Harrisburg and announced that the Local Government Committee would soon release amended strip control bills to the full senate. Under the new plan, the State Department of Mines would be granted the authority to decided whether the land a strip operator wanted to work was productive, which would be backfilled at a 45-degree angle, or non-productive, which need be backfilled only to a 75-degree angle.\textsuperscript{14}

Meanwhile, letters to the editor of the \textit{Pittsburgh Press} indicated the level and character of the opposition throughout Pennsylvania to coal surface mining. Some of the
letters focused on the profits strippers were making at the expense of the aesthetic quality of the landscape and nearby communities. “Why should a few businessmen be allowed to reap a harvest of profit,” Michael Dunny asked, “and in so doing have an utter disregard for the natural beauty of the area in which such operations take place”? Mrs. H. Glenn Benton, of Mount Washington, recalled her father’s refusal to sell coal rights to strip miners despite neighboring property owners agreement to sell. His “green, beautiful, and productive” fields were soon surrounded by “barren dirt and rock and dirty water holes.” Mrs. Benton could not understand how strip miners could “change” the beauty of the countryside this way, and she begged the newspaper to “keep up the good work until enough people get incensed about this to pass laws to see that our God-given heritage is preserved for posterity.” Other letters specifically addressed the economics of strip mining. The Mount Carmel Taxpayers Association, in Northumberland County, cited the difficulty of drawing industry to strip-mined areas as one of the most significant problems with the mining method. “It is a detriment to the community,” the Association officers explained, “and makes it almost impossible for civic organizations to induce industry to locate here.” In mid-August 1961, R. Jordan of Clarion, wrote to complain about the unemployment caused by coal surface mining. “Before the advent of strip mining in Clarion County,” he (or she) wrote, “there were many more persons employed in producing coal by the deep mine method ... Today there is not one deep mine of any importance.”

Though unreceptive to these or other arguments, the Local Government Committee finally approved the amended strip mine control bills on a fifteen to one vote
and they went to the Senate floor on August 8. In addition to creating two classes of strip mines, as requested by Senator Haluska, the measures raised the performance bond to only $360 per acre, rather than $500. Even Governor Lawrence thought the amended bills were "too weak," and the next day legislators began an effort to restore them. The following week, senators introduced compromise amendments to the bituminous bill after a conference with the governor and his aides. These changes would make the bill stronger than the one reported out by Haluska's committee but weaker than the proposals supported by conservationists. Bonds would be set at $400 per acre, nonproductive land had to be backfilled at a seventy-degree angle and, in addition to strip mines on productive lands, pits within 5000 feet of any public building or built-up area would have to be backfilled at a forty-five-degree angle. A hectic ten-hour session ensued, during which time some senators also attempted to restore the legislation to the same form in which it left the House. The latter was beaten back on a close vote, however, and the compromise amendments prevailed.16

The next day, after another last-ditch effort to strengthen the bills, representatives of all the concerned parties met in Governor Lawrence's office and emerged with improved measures to send back to the Senate and then to a Senate-House conference committee. The new amendments required backfilling at a 45-degree angle on any stripping operation within 750 feet of a built-up area and at a 60-degree angle in wilderness areas. In exchange, Secretary Evans and others supporting the administration's bills agreed to knock out provisions barring strip mining within 100 feet of a public road and 225 feet of a home, which they thought might invalidate the
measures anyway. But legislators from bituminous coal districts in Cambria, Fayette, and Washington Counties withheld their support from the compromise proposals, still hoping to restore the controls to their original form, or at least to achieve something closer to the earlier versions. It was at this point that United Mine Workers leadership from District 5 played an important role in the passage of regulatory legislation. On August 22, district president Joseph Yablonski brought a crew of union officials to a meeting with the eight holdout assemblymen and afterward they all met with Governor Lawrence. With the legislators backing him up, the union leader outlined the union’s demands and the governor agreed to them.17

Yablonski and his assistants intervened in the legislative process partly to pressure non-union strip operators and partly because they shared the conservationist concerns of the sportsmen. The union had been attempting to organize surface mine workers since the 1930s but with little to show for it. In 1939, District 5 officials signed a contract with the Strip Mine Operators of Western Pennsylvania, and two years later this was expanded to include UMW Districts 3 and 4, covering southwestern Pennsylvania. There were many failed organizing campaigns, however, in the Pennsylvania bituminous and anthracite regions and throughout the strip coal fields of Appalachia. Jurisdictional disputes with a rival American Federation of Labor union of operating engineers as well as collusion between police and government officials proved to be formidable obstacles to organizing. By the end of the 1960s, half of the coal mined in western and central Pennsylvania, a third of that mined in southeastern Ohio, and two-thirds of the coal mined in eastern Kentucky and eastern Tennessee was non-union. Much of that coal was
extracted using surface mining methods, either by area, contour, or auger stripping.
Seeking to protect the interests of deep miners, who were 95 percent of District 5 membership, Yablonski lent his union’s influence with legislators to the passage of strip mine controls.¹⁸

Yet even with the UMW’s intervention, the summer-long battle for regulation of coal surface mining was not finished. The latest compromise by Governor Lawrence would not actually restore the bills to their original form and the PFSC and ACSL would not agree to “half a loaf,” as they put it. The measures provided “no protection against stream pollution,” argued the legislative chairman of the ACSL, “and very little against land destruction by strip miners.” Mobilizing for more effective controls, the sportsmen began sending telegrams to House members advising against concurrence. But the governor, state mining secretary, UMW, and a majority of legislators were lined up in support of the legislation. Neither United Mine Workers International president Patrick Kennedy nor District 5 president Joseph Yablonski were fully satisfied with the bills, but they were willing to compromise. “We wanted a better bill,” Yablonski later noted, “but at this stage of the game its obvious we couldn’t get one so what could we do?” Holding up H.B. 1438 as a good start toward the regulation of coal surface mining, he called for strict enforcement and promised to continue the battle for controls during the 1963 session. With the mineworkers’ assent, on August 29 the House agreed to both the bituminous coal measure and anthracite bill by wide margins, while a number of those voting against did so at the request of the sportsmen’s organizations.¹⁹
Conservationist Cooperation and UMW Obstruction

In the aftermath of the 1961 legislative session, it was the conservationist sportsmen rather than the mineworkers who held legislators responsible for their votes and followed up on achieving a better law. By the count of the PFSC, twenty-seven senators and fifty-one assemblymen deserved to be unseated for voting against reform in key instances, and its members distributed a list of those to be ousted after their annual meeting in April 1962. Indicating the threat posed by the sportsmen, the two major political parties added prominent strip mine planks in their platforms, and both of the candidates for governor pledged their support for new regulatory legislation. Speaking to a rally of Pennsylvanians hunters and anglers, Republican gubernatorial candidate William Scranton said that the most essential thing needed in the conservation field was “a strip mining law with real teeth.” In another campaign statement he defined this as “a law requiring an effective bond against damage to land and water, and prohibiting stripping that results in water pollution under any circumstances.” Largely as a result of the political activism of the sportsmen, Scranton won the governor’s office, four of the most active pro-industry legislators were defeated (including Representative Varner), and PFSC secretary John Laudadio won an assembly seat.20

With supporters of strong strip mine controls politicized and organized, the PFSC had announced in September that the original 1961 House measures were no longer acceptable since only complete backfilling to original contour would properly restore stripped areas. In line with the sportsmen’s demands, a bipartisan commission Governor Scranton appointed in January 1963 produced Senate Bill 176, which required backfilling
to approximate original contour, acid mine drainage cleanup, increased bonds, and centralized enforcement. In response to this bill, coal surface miners formed the Pennsylvania Conservation Association and waged a campaign to improve the image of the industry. The new organization barraged the media with images of reclamation successes and scheduled tours of reclamation projects for legislators and the governor. Following one of these tours, Governor Scranton publicly hedged on his campaign promises and, a week after that, Lieutenant Governor Raymond P. Schafer introduced House Bill 434, comparably weaker than S. 176. Sponsored by an assemblyman from the strip mine county of Indiana, this legislation contained a number of loopholes which, according to control advocates, would allow for future land devastation and stream pollution. Consideration of controls was delayed, however, by legislators’ work on the state’s financial difficulties, and when the administration’s new bill did come up, sportsmen’s organizations put their support behind it. In May, the sportsmen agreed to allow water quality to be addressed in separate legislation in return for reinserting the provision for backfilling to approximate original contour. In early June, the amended measure passed the House on a vote of 196 to 3 after a brief debate.21

After passage in the House, H.B. 434 was sent to the Senate Mines and Minerals Committee, where it was threatened once again by weakening amendments, including one removing the secretaries of health and agriculture and the executive director of the fish commission from an eight-person reclamation board. On July 1 representatives of the strip mine industry and William Guckert held a stormy two-hour meeting in the office of Senator Thomas Ehrgood, chairman of the mines committee, and the next day a
modified bill was reported out to the full Senate. Guckert claimed it was now even
stronger than S. 176. "It will, if properly enforced," he said, "end much of the
devastation of our land and the pollution of our streams." In addition to the contour
backfilling provision, with variances allowed in some mountainous areas, the measure
required strip operators to have a license, set a fine of $500 to $5000 and up to six months
in jail for violations of the law, and established a five-person Land Reclamation Board to
oversee operations in the state. The Senate easily passed this bill on a forty-eight to two
vote, with one of the "nays" coming from a strip mine county Republican who believed
the legislation was unnecessary and the other coming from a Philadelphia Democrat who
thought it was not strong enough. In fact, many of the Democrats who voted for the bill
also believed it was weak. One called it the flag of surrender by Governor Scranton and
Pennsylvania conservationists. On the other hand, Senator Haluska voted for the
measure despite his conviction that it "will create chaos ... and put 100,000 men out of
work and on relief before we're through."22

In mid-July the House concurred with the Senate version of the bill and the
Governor signed it into law. Highlighting what had been a central issue in the 1961 and
1963 legislative battles, Scranton explained that his administration had taken action "to
sponsor a measure to stop devastation of our natural resources, but yet not put men out of
work needlessly." This was the dilemma that led him to retreat from his campaign
promises on strip mine controls. Through June, the Clearfield Chamber of Commerce
had conducted a scare campaign, telling local residents that passage of H.B. 434 would
mean an end to their jobs. In the middle of the month, the CPOPMA had sent 1000 wives
and children of Clearfield County strip miners to Harrisburg on a special train, to make an appeal against control legislation. But just as important in influencing Scranton and weakening the bill was the absence of the United Mine Workers from the regulatory campaign. Despite Yablonski’s promise to return for a better bill, the measures legislators considered during the 1963 session received most of their popular support from sportsmen’s organizations acting alone. The mineworkers’ union and other labor organizations did not make common cause with the hunters and anglers this time around. That allowed more room for the strip coal mining industry to exploit the divisions among potential proponents and it eased the pressure off conservationists to speak to the particular concerns of workers. During the House debate on H.B. 434, a strip mine county assemblyman had asked former PFCS legislative chairman and state Rep. John Laudadio, “Which is more important - clean streams or keeping people at work?” Laudadio had bluntly and tellingly replied, “Clear water is more important.”

Ironically, as the struggle for control of strip mining moved to the administrative level, conservationist sportsmen demonstrated that they too could be sympathetic to the interests of the industry. The Pennsylvania Surface Mining and Reclamation Act of 1963 was administered by the Bureau of Surface Mine Reclamation, which supervised about 350 strip mine operations annually between 1964 and 1972. In addition to issuing permits, the Bureau sent personnel into the field to inspect operating conditions and issue violations and “cease orders” when provisions in the law were not being followed. Within the first year of enforcement, however, inspectors developed a cooperative relationship with strippers, acknowledging their responsibility to protect the natural
environment but also recognizing their responsibility for sustaining the strip mine industry. Pennsylvania Coal Mining Association director Frank Mohney was in the Bureau office nearly everyday, acting as an intermediary between operators and agency officials, making enforcement of the law a bargaining process. When William Guckert took over the Bureau in 1968, strippers feared the opportunities for ‘cooperation’ with the government agency would cease, but Guckert maintained the pragmatic regulatory relationship. Like a latter-day Progressive, he was determined to eliminate favoritism and political influence from the administration of the law and to expedite its enforcement, even at the expense of conservation.24

This clientele approach to regulating surface mining in Pennsylvania meshed well with the stance the UMW International, district, and local leadership was taking on strip mining and other environmental issues through the 1960s, which often amounted to little more than insincere rhetoric to cover pragmatic economic concerns. At various times and places, union officials emphasized “moderation,” the balancing of economic growth and pollution abatement, when confronted with efforts to enact environmental regulations. Speaking in 1968 before the West Virginia Air Pollution Control Board, for instance, UMW International representative Michael Widman, Jr., expressed hope that “technology will permit a reconciliation of the objectives of industrial progress and pollution abatement.” This reconciliation was essential, he said, if West Virginia’s coal industry was to survive.25

Oftentimes the positions expressed by the UMW and coal industry representatives on environmental issues were indistinguishable, and in a few instances the union and coal
companies purposefully cooperated to develop and voice a common position. Joined together through the National Coal Policy Conference (NCPC) in 1959, coal producers, the UMW, and electric utilities worked to make air and water pollution controls more palatable to the organizations’ members. When a Senate subcommittee held hearings on stationary-source (air) pollution, for instance, NCPC chair and UMW president Tony Boyle let it be known that NCPC members opposed federal air-quality standards but could tolerate state-level regulation, which they surmised would be less stringent and more malleable. Later, at the 1968 UMW Constitutional Convention, union officers noted their agreement with the alarm expressed by the coal industry over water pollution control legislation before Congress. “If permitted to stand,” they explained, “many of the pollution regulations and the theories underlying them would cause a severe disruption of the coal industry and widespread unemployment for the coal miners.” This was reason enough to “join with other interested groups to insure that the laudable objective of pollution abatement would take place within the context of a healthy coal industry.”

Though the UMW had its origins in the distinct economic interests of coal company owners and coal miners, when it came to pollution controls and abatement, both viewed as a threat to the industry and therefore to jobs, the UMW and company officials thought and spoke as one.

Just as it cooperated with coal trade associations in response to air and water pollution controls, by 1964 the union was also working with coal companies to achieve a ‘reconciliation’ with the limited state strip mine legislation that had been and was being passed. Many coal industry representatives tended to think of the control laws and their
reclamation work as necessary for quieting "public clamor," and they insisted that adequate reclamation could be done voluntarily, or under state law, while federal regulation would be unnecessarily burdensome. UMW officials articulated a similar position. Speaking at the NCPC's annual meeting in March 1968, President Boyle warned against correcting problems arising from surface mining by imposing regulations that would "close down all such mining by making the extraction of coal" prohibitively expensive. The need of such regulation, he maintained, was debatable anyhow. Coal operators recognized that surface mining carried with it a deep responsibility to the public and past "abuses should and are being corrected."28

Sentiment on coal surface mining regulation at the rank-and-file level, especially among underground miners, did not always match that of the leadership, however. Many of the Appalachian proponents of strict controls or a ban on stripping were retired or active deep miners who blended a concern for their homes, a recognition of the jobs lost when stripping replaced underground mining, and a conservationist or environmental sensibility in their opposition to stripping. Floyd County, Kentucky deep miner Lewis Burke refused to work on strip mines because they employed only eight or nine men to the several hundred who would be employed by a deep mine, tore up the land, and destroyed the beauty of the mountains. Strip mining was his "biggest worry" because the Island Creek Coal company owned the mineral rights to his land. "[I]f they come here to strip mine," he threatened, "there will be a war, and I mean a war, because I have no intentions of getting off my land." Burke claimed other miners in eastern Kentucky shared these concerns, but they were afraid to voice them for fear of reprisal from those
who controlled the few jobs available. Outside of eastern Kentucky, Willie Vest, a retired deep miner in Dickenson County, Virginia, expressed a conservationist critique of stripping. "The strippers have come in here and destroyed the timber and water," he noted, "and forced the wild game to leave because there is nothing [for them] to survive on."²⁹

In fact, the issue of strip mining was only one of many that divided the union leadership from most of the rank-and-file during the 1960s, and tensions eventually gave rise to a challenge to the corrupt Boyle regime in 1968. John Lewis had retired from the UMW presidency in 1960, passing the office on to Tom Kennedy, whose death in 1963 brought Tony Boyle, then vice president, to the union's helm. At the same time, employment in the coal fields was beginning to stabilize and rank-and-file militancy directed at coal operators as well as the corrupt and unresponsive union leadership began to surface, particularly in Pennsylvania and West Virginia. Having reconsidered his own role in the UMW's failure to be an effective voice for miners, Jock Yablonski offered to lead the activists and made a bid for the union's presidency in the 1969 national elections. Yablonski was well known to miners, having represented District 5 in one capacity or another since 1934. But Boyle was an incumbent, not reluctant to use fraud in the election, and he won 80,000 to Yablonski's 40,000 votes. The Department of Labor found so many irregularities in Boyle's campaign and the balloting that it ordered a new election for December 1972. Three weeks after the first election, however, Yablonski, his wife, and daughter were murdered on orders from UMW officials. The gunmen were paid by Boyle's lieutenants in District 19 (eastern Kentucky). Three UMW officials and
Yablonski had led District 5 in supporting the 1961 effort to enact new controls on strip mining in Pennsylvania partly out of sympathy with the concerns of conservationists and partly for reasons of economic expediency. Following this strategic intervention, however, the UMW local, district, and International leadership aligned itself with industry officials to oppose or weaken control legislation at state and national levels. This approach ran contrary to the economic and environmental interests of deep miners, who were still the majority of the union’s membership. But it was consistent with the union’s general acceptance of operators’ mechanization of coal mining as well as a moderate approach on environmental issues which put economic growth before environmental quality. At least for the leadership of the United Mine Workers, the health of the strip coal industry and the preservation of strip miners jobs took precedence over protection of deep miners jobs as well as the environment from coal surface mining.

Yablonski’s murder had unintended consequences, however, serving as the basis for a victorious reform campaign. In 1972, the union membership elected Arnold Miller, once a proponent of abolishing strip mining, as president. At least for a few years, he would chart a different course.31
Notes


8. Ibid., 10 July 1961, 1, 7.


10. Ibid., 12 July 1961, 1.


13. Ibid., 2 August 1961, 1; 4 August 1961, 1, 2.


17. Ibid., 23 August 1961, 1, 4, 16.

18. Agreement Between Bituminous Coal Stripping Association, Inc. and United Shovel Operators and Helpers Association, Inc., Bituminous District of Pennsylvania and State of Ohio, Effective April 1, 1937, Box 65, United Mine Workers of America, District #5, Indiana University of Pennsylvania (hereafter cited as UMW Papers); Agreement Between Operators of Strip Mines in Western Pennsylvania and United Mine Workers of America, District 5, Effective May 19, 1939, Box 65, UMW Papers; Agreement Between the Operators of Strip Mines in Western Pennsylvania and Districts Nos. 3, 4, and 5, UMWA, Effective April 29, 1941, Box 65, UMW Papers; United Mine Workers Journal 61 (September 1950), 4 (hereafter cited as UMWJ).


21. Ibid., 2 June 1963, 1; 5 June 1963, 1, 16.


24. Vietor, Environmental Politics and the Coal Coalition, 70-82.

25. "Statement By United Mine Workers of America Before the West Virginia Air Pollution Control Commission on May 9, 1968," Box AA/5, United Mine Workers Collection, Pennsylvania State University; UMWJ 79 (July 1968), 18.

26. Vietor, Environmental Politics, 17, 43-44; UMWJ 78 (March 1967), 4.


30. The Yablonski campaign and other events leading up to an MFD victory are covered in greater detail in a number of sources. For the most thorough history see Paul Nyden, “Miners for Democracy,” (Ph.D. dissertation., Columbia University, 1974), 476-78.

Chapter 4

"We Feel We Have Been Forsaken": Opposition to Coal Surface Mining in Kentucky, 1954-1967

As the remarks of rank and file mineworkers like Lewis Burke and Willie Vest indicate, by the 1960s some opponents of coal surface mining were beginning to call for abolition rather than regulation. "Jobs have been lost, land destroyed, streams polluted, homes damaged, thousands of fish killed and children have lost their lives by drowning," complained one Pittsburgh resident in 1962. "What else has to happen," he queried, "before people realize that strip mining must be stopped?" In time, such sentiment became widespread in Appalachia, but the movement to abolish coal surface mining had its deepest roots in eastern Kentucky. In that part of the region steep 'mountains' washed by heavy rains made contour stripping and auger mining especially hazardous to people, their homes, and the land, and those conditions bred militant opposition. To be sure, there was always a significant number of area residents who thought state or federal regulation alone could provide sufficient controls on the industry. Yet as early as the 1950s, residents of Letcher, Harlan, Knott, Perry, and other mountain counties began to express support for a ban. At first this abolition sentiment was diffused and uncoordinated. Organizations such as the Farm Bureau, Grange, and UMW were either not well represented in the area or unwilling to provide an institutional framework for action on the issue. In the mid-1960s, however, small farmers, active and retired deep
miners, homemaker wives and mothers, as well as some middle class professionals and business leaders banded together for the specific purpose of fighting the menace of coal surface mining. The best-known of the organizations they founded was the Appalachian Group to Save the Land and People (AGSLP), which embodied in its name the concerns of the opposition. Strip mining in the region not only threatened the land, particularly the soil and water, but also the homesteads and communities the land sustained. As AGSLP supporter and settlement school founder Alice Slone put it, “If the land was destroyed, the people were destroyed.”

Eastern Kentucky advocates of outlawing strip mining drew on a long American tradition of settling grievances by making formal appeals to public officials and taking legal action. Much of their activism involved circulating petitions, writing open letters and publishing personal accounts, passing resolutions, and initiating lawsuits. But opponents soon discovered that these methods were inadequate for their purpose. Drawing on another American tradition of protest, mountain residents began to rely increasingly on direct action, such as physically blocking bulldozers, sniping at strip miners, and dynamiting equipment. These militant tactics, often used by a “crowd” but sometimes employed by lone individuals, acquired their legitimacy from the impossibility of achieving justice through formal grievance processes. With lives, homes, and communities in jeopardy and state legislatures, regulatory agencies, and courts corrupted by the influence of the coal industry, abolitionists took it upon themselves to make things right by nonviolent civil disobedience and calculated acts of violence (or threats of it), while also not giving up on other means. This militant activism
was most intense after 1966, when Kentucky revised its regulatory legislation, and it continued through the late 1960s and up to 1972, when opponents occupied a strip mine site and made one last effort to push an abolition bill through the General Assembly. This chapter explores the events leading up to and including an important Circuit Court decision in early 1967, and the following chapter picks up the history of the abolition effort in the summer of that same year.

**Regulatory Legislation and the Early Abolition Sentiment**

By the mid-1940s, a number of midwestern and Appalachian states had responded to the environmental degradation caused by coal surface mining with at least limited regulatory legislation. Kentucky legislators were slower to enact a regulatory measure, however, not even proposing the first control bill for the state until 1948. This first proposal was sparked by stories and editorials in the * Courier Journal*, Kentucky’s leading newspaper. But concern during the 1948 session of the state assembly was only great enough to prompt passage of a resolution, calling on the Legislative Research Commission to make a study and report to the 1950 legislative session. The report failed to convince legislators of the necessity of a control bill and regulatory legislation introduced by Senator Richard Moloney (R-Lexington) in 1952 also did not pass.³

Not until 1954 did Kentucky’s General Assembly enact the state’s first strip mine control act, perhaps the weakest of all such legislation at the time. The law required operators to put up a paltry $100 to $200 per acre to guarantee reclamation, which included little more than covering the face of exposed coal and grading spoil banks
“where practicable.” The legislation also established the Strip Mining Reclamation Commission, composed of the Commissioner of Conservation, the Chief of the Department of Mines and Minerals, and a Director chosen by the governor. The commission was charged with processing applications for permits, collecting and releasing bonds, making regulations, and performing inspections to correct violations. Not long after the control bill was passed, however, Governor Chandler (1955-1959) abolished the agency, and in 1958 operators received a favorable court decision excluding auger mining from inspection and control. As a result of lax enforcement, by 1960 only nine of 169 operators had permits and little was accomplished in terms of on-site reclamation or control of off-site effects. Ruined land and mudslides were visible in many eastern counties and studies of water quality demonstrated that acid mine drainage and sedimentation from the unreclaimed mines reached critical levels, polluting surface and ground water, affecting forests and forest development, and harming aquatic life. In the early 1960s, Governor Combs (1959-1963) reestablished the strip mining commission and his attorney general initiated legal action against operators who refused to acquire permits or abide by the criterion of the law. Concurrently, the General Assembly passed legislation adding auger mining to the strip mine law. In 1962, it enacted another amendment replacing the reclamation commission with a Division of Strip Mining and Reclamation (DSMR). Yet many mining sites were still being abandoned or only nominally reclaimed by operators. The director of the DSMR, Henry Callis, was a former superintendent of one of the state’s largest strip-mining operations, and he was reluctant to strictly apply controls. As a result, in various parts of eastern
Kentucky slides of silt, mud, rocks, and trees moved down hillsides, covering farmland and ruining streams used to water livestock. After the worst in a series of three slides in 1961 and 1962, near a U.S. Steel Co., strip mine in Harlan County, Wolfpen Creek was clogged with logs and mud, and a gigantic accumulation of overburden still threatened to break loose on Black Mountain. The damage done and the looming threat of greater danger forced a number of longtime residents to leave. “Fred and I have worked hard all our lives, and we’ve put everything we had into this place,” complained one of the evacuated hollow dwellers, “I don’t know what we’re going to do.” By 1963, even the typically apolitical Council of Southern Mountains (CSM) was using its journal to decry the increased frequency and greater severity of landslides due to coal surface mining, one of which threatened a settlement school. Unless the stripping was stopped or changed, an editorialist wrote, the slide “will engulf the institution - as similar operations have wrecked homes and communities elsewhere in the Appalachian South.” But CSM was not so presumptuous as to suggest a solution to the problem. “Just how this wanton destruction of surface property in the Appalachian South is to be stopped,” the op-ed piece explained, “is the responsibility of good citizens and trustworthy officials.”

Other observers were skeptical that mountain people themselves could either reform or stop contour and auger mining operations in the region. Whitesburg (Letcher County) native Harry Caudill was one of the legislators who played an instrumental role in passage of the 1954 act and he remained an important leader in efforts to improve living conditions for Appalachian people during the following decades. Yet in 1960, writing about what could be done on the strip mining issue, he described the majority of
his fellow mountain residents as functionally illiterate, convinced by long experience that
the coal companies always come out on top, and "unlikely to do anything of significance
to help themselves". A few months later he introduced a bill to abolish coal surface
mining in the state, but it received little support from his constituents and the Assembly
gutted the legislation. This left Caudill even more embittered about the prospects for a
popular movement.®

In September, however, Raymond Rash sent petitions to Governor Combs with
more than a thousand signatures of Letcher County residents, calling for prohibition
legislation. "Strip mining in our steep mountains," Rash explained in a cover letter,
"destroys the surface for agricultural purposes, throws immense amounts of loose earth
into the streams, causes mud to be carried by rain down onto our gardens and crop lands,
and into our wells, and destroys the natural beauty which God has so lavishly placed in
our region." Caudill was among those who put their name on the petition, as were the
county judge, two ex-county judges, the tax commissioner, state senator Archie Craft, and
many common people who held no office at all. The secretary-treasurer of the
Whitesburg Chamber of Commerce also sent a letter to the governor, following a meeting
of the membership, putting the organization on record in support of the petition. As
business and professional men, he wrote, "we are convinced strip-mining, as now
practiced, will eventually have calamitous results on the economy of the counties directly
involved and will do much long-range harm to the economy of the entire state." Using the
community of Raymond as an example, the secretary-treasurer noted that most of the
several hundred people who lived in the small settlement were retired coal miners living
on pensions, their estate typically consisting of a home and garden, “and strip-mine operators are threatening to completely destroy these properties for all practical purposes.”

In 1962 Harry Caudill admitted “there is growing interest and resentment against the stripping industry in each of the Eastern Kentucky counties,” but he lamented the fact that “the interest is at the bottom of the social and economic strata.” The people who were angry, Caudill explained in a letter to wealthy Courier Journal publisher Barry Bingham, owned small parcels of land that were being destroyed for a few hundred tons of coal. Caudill was taking note of an aspect of the opposition movement created by the broad form deed. Earlier in the late nineteenth and twentieth centuries, agents for land companies had swept through the region buying up mineral rights, sometimes for as little as fifty cents per acre, separating the use of the surface (and tax liability) from the natural resources that might be below. To hard-pressed farmers and those actively seeking economic mobility, this exchange seemed advantageous. Written in finely printed ‘legalese,’ however, the broad form deeds often signed over the rights to “dump, store, and leave upon said land any and all muck, bone, shale, water, or other refuse,” to use and pollute water courses in any manner, and to do anything “necessary and convenient” to extract subsurface minerals. These clauses eventually caused much regret on the part of the sellers’ progeny when Kentucky courts interpreted them in favor of coal companies.

As underground and surface mining expanded during the first half of the twentieth century, Kentucky judges were faced with a number of cases involving surface owners’ complaints about shale and culm heaps dumped on their land, the pollution and diversion
of subterranean and surface waters, and ground subsidence. Responding to these complaints, in 1925 the Kentucky Court of Appeals recognized the paramount right of the mineral owner to the use of the surface "in the prosecution of its business for any purpose of necessity or convenience," but denied the mineral owner the right to use the surface "oppressively, arbitrarily, wantonly, or maliciously." Although this case dealt with shaft and deep mining it established the framework for rulings on strip mining. The Court of Appeals first recognized the right to strip mine in broad form deeds in 1930 and, in *Treadway v. Wilson* (1946), the justices restated this interpretation, based on the dominance of the mineral estate over the surface estate. The only limitations they imposed on the exercise of rights to the minerals, as in the earlier deep mining case, were the prohibitions against oppressive, arbitrary, wanton, or malicious conduct.9

Other high courts in Appalachian states delivered judgments during the postwar period which established a stricter reading of broad form deeds, even going so far as to reject the conveyance of the right to strip mine by the deeds. In 1953, the Pennsylvania Supreme Court ruled that parties to such deeds could not possibly have meant to grant the right to strip mine as part of the transfer of mineral rights and use of the surface. "If the grant was intended to include strip mining privileges," the justices declared, "the immunity from responsibility [spelled out in the deeds] for 'damages to the surface ... or the failure to provide support for the overlying strata' would be meaningless because strip mining encompasses the very tearing away of the overlying strata." No surface owner (especially a farmer) would have sold their mineral rights knowing the surface could be subjected to "violence, destruction and disfiguration which inevitably attend strip or open

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mining.” The Pennsylvania justices reaffirmed this decision a few years later, in 1961, arguing that parties to a deed separating mineral and surface rights in 1893 did not contemplate or intend that the surface of the land would be strip mined, and owners of mineral rights were thus prohibited from using that method to extract coal.¹⁰

In the 1955 case Buchanan v. Watson the Kentucky Court of Appeals also recognized that the original intent of parties to broad form deeds was restricted to deep or shaft mining, but it upheld the right to strip mine by the deeds nevertheless. In 1943 Ralph and Stella Watson had purchased twenty acres of the surface of an area in Magoffin County that was included in a broad form deed from 1903, and they brought a lawsuit to prevent Elkhorn Coal from stripping their piece of the land. The trial court ruled that Elkhorn could use surface mining methods in exercising its lease of the mineral rights because it was the only economical way to mine the coal, however the company was bound to pay in full for any damages caused to the surface in the process. Elkhorn appealed, seeking the right to ruin the surface without liability but, in 1955, the higher court upheld the decision of the lower court requiring damages. Strip mining “will result in an invasion of the defendants’ surface rights not anticipated by the parties to the deed,” the justices argued, and for this reason “the plaintiff must pay reasonable compensation as damages to the extent he destroys ... the defendants’ interests in the surface and timber.” Elkhorn petitioned for a rehearing, however, and in 1956 the Court drastically revised its position on the award of damages. “The deed in this case conveyed virtually all rights necessary to carry out the mining of the coal,” the justices unanimously declared in the second decision, “including a waiver of damages.” Strictly following earlier court
decisions, compensation was due to a surface owner only if the mining was oppressive, arbitrary, wanton, or malicious conduct (which Elkhorn's intended excavations apparently were not). Denying a waiver of damages, moreover, "would create great confusion and much hardship in a segment of an industry that can ill-afford such a blow."

The rulings by the Kentucky Court of Appeals as well as weak regulatory legislation and its lax enforcement in the 1950s and early 1960s put many property owners in the eastern part of the state at the mercy of coal companies. Sometimes mineral owners sought written consent to strip a ridge or they tried to get releases for any damage done to the surface by the mining. Just as infrequently, they offered per lineal foot or a per ton royalty to surface owners. These considerations were not required, however, and if the landowner refused to sign a release or accept a payment, the operator stripped the land anyway. More typically, surface owners worried about the lack of recourse for protecting their homes, gardens, pastures, farms, and orchards from destruction, and they lamented the impossibility of gaining any compensation. Though not suffering under the broad form deed, landowners in western Kentucky also received little protection from control legislation and court decisions dealing with coal surface mining. Area strip mine operators in that part of the state still failed to grade spoil banks and they fouled ground and surface water with acid mine drainage with impunity. This did little to endear strippers to local people. "I think there are a lot of farmers like me," explained a former president of the Hopkins County Farm Bureau, "who are completely hard against what the mines are doing."
By the early 1960s, critics of strip mining from both parts of Kentucky were anxious to amend the state’s regulatory legislation. But the campaign organized to do this was led largely by farm leaders, public conservation agency officials, and sportsmen who were most concerned about the situation in western Kentucky. In September of 1963, W.D. Bratcher, a Greenville attorney and leader of the League of Kentucky Sportsmen, sent out a call to various individuals and organizations for a meeting at the Game and Fish Commission Office in Frankfort. Participants in this meeting agreed to establish a committee including representatives from the Kentucky Farm Bureau, Garden Clubs of Kentucky, Business and Professional Women’s Club, and Water Conservation Districts, as well as Harry Caudill, “to investigate the possibility of legislation to control strip mining in Kentucky.” No follow up occurred, however, and the Kentucky Farm Bureau and State Association of Conservation Districts took the initiative to prepare and co-sponsor a regulatory bill in the next legislative session.13

Introduced by Representative John Swinford (D-Cynthiana), the Farm Bureau-Conservation Districts’ proposal contained a provision requiring that land capable of agricultural use before stripping be graded “to a rolling topography that may be traversed by farm machinery.” This would be the first attempt by the state to legislate reclamation standards and the standard would specifically address the parallel spoil piles created by the removal of overburden at area strip mines. A bill abolishing surface mining on precipitous terrain was written by Harry Caudill and introduced by Representative J.O Johnson (R-Jefferson), but the weaker control measure was more palatable to legislators and the abolition bill functioned as a foil. Both Representative Swinford and the Courier
Journal warned that if there were not improvements in the control of stripping, the public would soon demand state or federal legislation to ban surface mining. Facing this possibility, in early March a slightly modified version of Swinford’s bill was reported out by a House committee, the full House passed it on an eighty-eight to zero vote, and the Senate passed the measure on a thirty-seven to one vote, after defeating an amendment to prohibit strip mining in the proximity of cities and state parks.14

Cognizant of the limitations of the new control bill, in the year following its passage Governor Breathitt (1963-1967) instructed members of his administration to develop regulatory standards for contour as well as area surface mining. To this end, in the spring of 1965 Conservation Commissioner J.O. Matlick assembled a two-person study group within the DSMR to prepare recommendations to establish a comprehensive strip mine control program. The two members of the study group, division chief Elmore Grim and assistant attorney general David Schneider, made a number of trips to Pennsylvania strip mines and gathered data from various other sources, including the state highway department. Their travels and research convinced the pair of the feasibility of reducing bench widths, to minimize the weight of spoil strippers placed down the slope and thereby prevent landslides, as well as the necessity of vegetative planning, also to stabilize the bench and control erosion. But before Grim and Schneider finished their study of the problem an upsurge of grassroots protest during the summer of 1965 created a new context for promulgating regulations.15
Movement for a Ban

Eastern Kentucky residents had been demanding a ban on coal surface mining since the late 1950s. In the mid-1960s this sentiment increased, even as legislators reworked strip mine controls, and people began to organize. At the most basic level this organizing was a response to the expansion of strip mining on Clear Creek and Lotts Creek, and that expansion was largely a consequence of changes at the Tennessee Valley Authority (TVA). Congress had established the TVA in the 1930s and charged it with the dual mission of providing cheap power as well as conserving natural resources. The agency initially accomplished both tasks with the construction of dams, which could provide hydroelectric power and control flooding on the Tennessee River. By 1953, however, it was utilizing most of the available hydroelectric potential of the river and its tributaries and the TVA turned to coal-fired generating plants to meet escalating power demands. In 1950 steam generation of electric power accounted for only 6 percent of the total power produced by the agency, but this rose to 75 percent by 1959. To continue low-cost production of power the TVA turned to cheap strip-mined coal, primarily from eastern Kentucky and eastern Tennessee. The agency purchased most of this coal on long-term contracts, granted through a competitive bidding process. Since the late 1950s was a buyers’ market, TVA’s coal-buying policy contributed to driving out of the coal industry many subterranean operations which could not produce as efficiently as contour strip mines. By the mid-1960s, the agency was effectively setting market trends, controlling prices, shaping the development of mining technology, and practically determining the fate of various parts of Appalachia.
The Tennessee Valley Authority was not unmindful of its role in the damage done by strip mining, however, and as a public agency it was more responsive to protest than private land or coal companies. In December 1961, the director of the TVA Division of Forestry Relations, Kenneth Seigworth, called a meeting to discuss various problems associated with stripping and initiate a regional study of the matter. Attending the meeting were Central States Forest Experiment Station director R.D. Lane, Kentucky Conservation Commissioner J.O. Matlick, his assistant Robert Montgomery, DSMR director Henry Callis, and representatives from the U.S. Forest Service. Montgomery later wrote to Seigworth thanking him and explained, “Because TVA is a federal agency, and because they are becoming the largest user of coal produced by strip mining in Kentucky, it is definitely the feeling of Mr. Matlick that TVA should assume certain responsibilities in the area of strip mine reclamation, whether the areas lie in the Tennessee Basin or other river basins.” When a regional study failed to coalesce, the agency established an interdivisional task force which produced its own summary report, “on the problems incident to surface mining coal,” in November 1962. The task force admitted “that TVA’s large coal purchases, as well as those of other large consumers, contribute significantly to land and water management problems outside the Valley ... [and] like any other agency representing the citizens, [TVA] should be concerned with these problems.” This could be done by supporting passage of state legislation in Tennessee, Virginia, and Alabama, which had not yet enacted control bills, as well as through a contract clause setting minimum standards for reclamation.
No policy changes followed immediately after the task force made its report, but the public continued to pressure the TVA, state governments, and the industry, and in 1963 the agency announced a meeting to consider the merits of an interstate mining compact. The TVA needed to present itself as a steward of natural resources, and some officials were sincerely concerned with the plight of Appalachian people. Governors and legislators wanted to act to quiet opposition, but they were reluctant to move for fear of putting themselves at a competitive disadvantage with other states that had little or no controls on surface mining. The coal industry sought to mine coal unhindered yet many operators realized that agreeing to weak regulation could prevent passage of strict controls or abolition. An interstate mining compact, drafted with the input of all three groups, would establish minimum regulatory standards throughout the region and possibly stave off passage of stronger regulation. So, with pledges of support from state conservation commissioners and industry leaders, the TVA convened a conference in Roanoke, Virginia in April 1964, under the auspices of the Council of State Governments (CSG). The conference was attended by 161 representatives from eighteen states, seven federal agencies, and the coal industry. It did not produce a compact but at the closing session participants unanimously adopted a resolution calling on states to study the problem and pass adequate control legislation. Later, at the October 1964 meeting of the Southern Governors’ Conference, the governors approved a follow-up resolution to that of the Roanoke meeting, calling on the CSG “to assist representatives of the states in which strip mining takes place in exploring the possible role of interstate action, through compact and otherwise.” In January 1965, representatives from TVA as well as state and
federal agencies met in the Washington, D.C., office of the Council and agreed that staff
from the interstate organization should prepare a draft of a compact, which was
completed and distributed to the delegates from the Roanoke conference in November.18

On Clear Creek and Lotts Creek, in Knott County, Kentucky, residents were
skeptical of the efforts of their own state government as well as those of the TVA to
control strip mining, if for no other reason than they saw evidence of the failure of
regulations and the agency's concern in their backyards. In 1961 partners Richard Kelley
and Bill Sturgill, owners of the Caperton Coal and Kentucky Oaks Mining Companies,
signed a fifteen-year contract to supply the TVA with two million tons of cheap coal from
mines in Knott and Perry Counties, the rights to which they leased from the Kentucky
River Coal Corporation. With assistance from the federal agency, Kelly and Sturgill
began to experiment with large-scale surface mining equipment for the first time in
eastern Kentucky, including the largest coal auger ever built, a gargantuan machine seven
feet in diameter and capable of penetrating 216 feet into a coal seam. Operating on a
tight profit margin, the strip mining pair neglected to gain the permission of landowners
to extract coal under their property, which they did not need in any case, and they did
little to repair the damage left in their wake. But by 1965 the companies were meeting
serious resistance as blasting and bulldozers shattered windows, knocked houses off their
foundations, covered roads with debris, uprooted timber, and ruined croplands without
compensation to owners. In May, when the strippers reached the land in Clear Creek
Valley where Dan Gibson and his wife lived, this resistance intensified.19
Title to the land Sturgill and Kelley sought to mine near the Gibson homestead was in the name of Dan’s stepson, who was then serving in Vietnam. When bulldozers began pushing trees over the property line Dan and his neighbors went up to complain about the damage to his fence as well as to warn strip mine employees against trespassing. The next morning the bulldozers actually came onto the land so Dan took a .22 automatic and a box of shells and went with Paul Ashley up to the area. The two split up and Gibson had a confrontation with a man armed guard. Dan warned the guard against drawing either one of his pistols and told him within earshot of the bulldozer operator to get the machinery off the land, which was promptly done. Gibson then placed himself with gun in hand at his stepson’s property line, and he told the strippers he would not let them come through. That afternoon more than a score of police officers made a number of attempts to arrest Dan but he refused to be taken. Toward evening, strip mining opponent Eldon Davidson went over to where the police were milling around and told them that Gibson would give up his gun and go off the hill if he could get a promise the strippers would not cross onto his stepson’s land. An officer called over to Sturgill in Hazard, Sturgill made the promise, and Dan’s neighbors reassured him they would keep the bulldozers off, so he voluntarily gave himself up for arrest and was incarcerated in the Hindman jail. Soon after Gibson was incarcerated, the jail was surrounded by armed men demanding his release, the charges against him were dropped, and he was freed. The next morning, when the bulldozers returned to work, they were met by what company lawyers described as “a big gang of outlaws,” nearly all of them elderly, some of them women,
and a number of them armed, who placed themselves at the property line and refused to allow the equipment to pass. And it never did.\textsuperscript{20}

A few weeks after the standoff on Clear Creek, on June 1, eighty people assembled in Hindman, the Knott County seat, to discuss ways of preventing the destruction of their homes and farms. They declared their willingness to resort to sit-ins, lie-ins, and even guns to keep strippers off their land. They also brought with them petitions signed by 800 residents of Knott and Perry Counties. Land sharks had cheated their forefathers out of their mineral rights, the petitions read, paying fifty cents to one dollar per acre. Now strip miners were boring, ripping, and tearing away at the topsoil to get at the coal underneath, and in the process rolling stones, boulders, trees, and dirt down onto private property, homes, and land. In addition, there was “the inevitable acid water which follows the auger and strip mining to complete the cycle of destruction by killing fish, trees, grass, anything it touches” and seeping into water supplies. The people of Appalachia had always been willing to send volunteers off to war to protect freedom and basic human rights guaranteed by the Constitution of the United States, the petitions went on, but strip miners were undermining those guarantees. “We feel we have been forsaken,” they explained, “that we have no rights when a county sheriff can order a man off his own property and tell him he is trespassing; that he will be jailed if he doesn’t readily comply.”\textsuperscript{21}

The next week an even larger number of local residents met and formed the Appalachian Group to Save the Land and People, which was dedicated to stopping contour and auger mining in eastern Kentucky. The new organization was 125 strong and
composed largely of landowners, many of whom were active or retired deep miners and farmers but with a few school teachers and merchants thrown in for good measure. At their first meeting the strip mining opponents chose school teacher Leroy Martin as their chairman, Perry Commonwealth Attorney Tolbert Combs as co-chairman from that county, and Jenkins high school principal Eldon Davidson as co-chairman from Letcher County. Martin's interest in the issue included a direct threat to his home by strip mining and a lack of faith in both regulatory legislation and the courts to provide him either protection against destruction or compensation for damages. "They have got all the laws set up for the operator against the man who owns the land," he said, "and we don't have a chance." Davidson questioned the idea that strip mining was essential to the area economy. "I would dispute the claim that we are any longer dependent for our economy upon strip or auger mines," he said, "I don't think there is anybody in this state who can justify the destruction of these mountains." On Wednesday of the next week, June 16, Judge George Wooten led a small delegation to the second AGSLP meeting at Carr Creek high school and the group elected him co-chairman for Leslie County. Wooten not only rejected the argument that coal surface mining was necessary for the economy but also insisted that it did more harm than good. The strip mine industry was taking the wealth and destroying the land of the mountains, he argued, leaving nothing but a lot of poverty.²²

One of the first official actions of the new group was a fifty-car motorcade to the state capital in Frankfort, to meet with the governor. Breathitt had initially refused to meet with group members, claiming the state's reclamation law would prevent "undue
damage," and when the activists arrived they were told that he was in a conference and would probably be too busy to see them personally. When a reporter for the New York Times pointed out how badly this would reflect on Breathitt's administration, however, the governor arranged to see ten AGSLP leaders in his office and then he and assistants met the entire delegation for three hours in a health department auditorium. The activists booed natural resources commissioner J.O. Matlick as he told them about enforcement of the strip mine law in Knott County, and they presented Breathitt with petitions bearing 3000 signatures claiming that strip mining operations in the mountains were "ruining our farms and fields and streams." The governor made only a vague response, announcing that "if [the 1964 law] proves to be insufficient, then I intend to ask the Legislature for a law that will do the job." At the end of the day he also pledged to initiate a study of current regulatory policy and tour some Knott County strip mines.23

The next evening, Breathitt told a Lexington symposium on strip mining that operators would have to protect the people of eastern Kentucky themselves or he would ask legislators to completely outlaw stripping in the mountains. But prohibiting coal surface mining would have serious consequences on the coal region, the governor acknowledged, so "we must make sure that we have explored every possible avenue of reclamation and enforcement" before taking such a drastic step. On an inspection of Knott County a few days later, Breathitt surveyed some of the damage done by strip mining for himself. This included a visit to the Ritchie cemetery, where strippers had disinterred coffins years before, and a stop to talk with Claudia Hall, whose family's forty-acre farm was threatened by debris from nearby mines. At one point in the tour
Baptist preacher Frank Fugate explained to Breathitt how he and his neighbors had temporarily stopped the strip mining on his property, until the Hindman court had issued a restraining order against such protests. "We didn’t want to go to violence," he said, "but we knew we were ready for it." The governor was reportedly moved by what he saw and heard, although judging by his comments he might have been simply shocked by the level of tension in the community and the determination of its residents to take matters into their own hands. "We do not intend to permit [the strip mine] industry, or any other industry," he exclaimed in good conservationist form, "to destroy the beauty of Kentucky’s countryside or the usefulness of its earth for future generations." But Breathitt also took note of the militant abolitionist sentiment brewing in the mountains. "Unless we solve these problems," he warned, "strip and auger mining in Kentucky and the nation will be seriously threatened."24

At the end of the inspection tour the governor announced that his administration would take a number of steps to end the damage caused by contour and auger mining in eastern Kentucky. First, he would ask the state attorney general to intervene as a friend of the court in cases attacking the prevailing interpretation of broad form deeds. This would include a Knott County case brought by the Kentucky Oaks Mining Company to prevent interference with its strip mining operations. Second, Breathitt pledged to call for an early conference with the Tennessee Valley Authority to discuss the agency's coal-purchasing policies. He wanted the TVA to pay coal operators an additional amount to insure they would reclaim the mountainsides where they mined coal on contract. Finally, the governor planned to ask the state department of natural resources to prepare
regulations controlling strip mining on steep slopes (which it was already doing), and he told Grim and Schneider that he would support anything they drafted.\textsuperscript{25}

In mid-July, assistant attorney general David Schneider requested a Knott County Circuit Court to make the state a co-defendant in the Kentucky Oak Mining case against nineteen landowners. His application for intervention included a plea to prohibit strip or auger mining under broad form deeds and where such operations result in damage or peril to members of the public, streams, roads, and other public property. To interpret the broad form deeds "so as to give the mineral owner a complete license to destroy large portions of the entire surface," Schneider argued, "would in fact make surface ownership a mere nullity, depriving the surface owner of the use and enjoyment of his land without any relief or remedy at law." The assistant attorney general justified the state's petition for intervention on the grounds that the court's decision in the particular case "will necessarily involve numerous other landowners holding title under similar circumstances," and thereby would vitally affect the rights and interests of the state in its duty to protect public property and natural resources. But Judge Don Ward ruled that the state could intervene as a co-defendant only in points involving damage to public property, such as streams or roads, and he denied Schneider's petition.\textsuperscript{26}

Later in July, while he was attending the National Governors Conference, Breathitt called for a meeting of governors to organize joint action in the control of strip mining. He circulated a "statement of principle" among the chief executives urging Congress to enact minimum standards for reclamation of surface-mined land, encouraging inter-state compacts for the control of strip mining, and leaving regulation
and enforcement in the hands of the affected states so long as they enforce the federal standards. "I have always believed, and continue to believe, that state problems should be handled by states," he said, but "in recent years the practice of open-pit or strip mining has confronted Kentucky with a problem of such scope and gravity that it cannot adequately be handled by the state alone." Pennsylvania Governor William Scranton reacted cautiously to the proposal, favoring an interstate compact but hesitating to support congressional action that might result in regulations weaker than those in his own state. Other governors, seeking to avoid federal regulations for fear they would be stronger than what their states had passed or might pass, forced a compromise. The revised "statement of principle," drafted by Breathitt and Scranton, pledged support for interstate compacts designed to achieve uniform standards for regulating strip mining, called upon the federal government to "set an example" by requiring reclamation practices from its coal suppliers, and urged Congress to authorize a "strip mining reclamation fund" to supplement the financing of the Appalachian development act and other regional programs in dealing with abandoned mine lands. Forty-four governors signed the statement and it was sent to the President and members of Congress.\textsuperscript{37}

Some of the work to reform TVA policy came to fruition too. Responding to a news article in the \textit{New York Times}, Tennessee Valley Authority board member Aubrey Wagner explained in a letter to the editor that he thought states should have the responsibility for controlling coal surface mining but, if they failed to act quickly, "Federal regulations must be the answer." He also agreed that the cost of reclamation should be included in the price of the coal sold to the TVA. At the end of the month, the

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agency’s board approved a contract provision, “Surface Mining Reclamation and Conservation Requirements,” which was in line with the “statement of principle” Breathitt was then circulating at the Governors Conference. When the agency announced invitations for bids on a contract in August it included stipulations requiring any supplier to cover stripped coal faces, seal breakthroughs into abandoned deep mines, avoid the deposit of overburden and spoil in streams and on roads, control water run-off, as well as regrade and revegetate stripped lands. Wagner cautioned, however, that “the contract provisions for reclamation can not and do not provide an answer to the over-all problems of strip-mine reclamation,” and he called again for “strong, well-enforced legislation” by the coal producing states.28

Also in August, David Schneider and Elmore Grim announced their proposals for regulating contour and auger mining, limiting the height of highwalls, restricting bench width, and setting specific requirements for revegetation. Additionally, they proposed regulations which would require the grading of strip mine sites in western Kentucky so that they could be traversed by farm machinery. Members of the coal industry quickly organized a protest. At the end of the month, hundreds of independent truckers drove to Frankfort in their own motorcade to see the governor, to make the claim that strip mining was the only viable industry providing jobs and tax revenues in eastern Kentucky. After hearings on the proposal were completed in November, however, Breathitt signed an emergency proclamation placing the regulations into immediate effect. Shortly after that he instructed the department of natural resources and office of the attorney general to draft comprehensive strip mining legislation for the 1966 General Assembly, a task that
fell largely to David Schneider. "In essence," Schneider later explained, "the legislation elaborated on and gave statutory blessings to the administrative regulations."29

The AGSLP went into action at the end of November as well, when 61-year-old Ollie Combs attempted to prevent her homestead in Honey Gap (Knott County) from being destroyed by the Caperton Coal Company. Combs telephoned Dan Gibson asking him what could be done to protect her four-room house and land, as well as that of the other eleven Combs heirs, and Gibson had advised her to join the Appalachian Group. She paid the one dollar for annual dues and, a few days later, Combs called Gibson again to tell him that a bulldozer had started moving overburden. Dan went over to Honey Gap with four other men, finding many other local people already there, and the group ran the strippers off the land by threat of armed force. Questioned about the possibility of taking the dispute to court, Sam Hollifield - a defendant in the Knott County court case, a husband of one of the Combs women, and the spokesperson for the Honey Gap landowners - gave a vague answer about having it in court before, "but the judge won't make a decision." AGSLP activists guarded the land for a few days, but when they left the strip miners returned. Facing them with only the aid of two of her sons this time, Ollie Combs sat down in front of a bulldozer. She and her sons were arrested and declared in contempt of court, for violating the injunction against hindering strip operations in Knott County, and Judge Ward sentenced them to twenty hours in jail.

When a picture of Combs eating Thanksgiving dinner behind bars made the Courier Journal, Governor Breathitt declared his support for her and all other Kentuckians whose homes and farms were threatened with destruction by strip and auger mining. Breathitt
urged all citizens of the state to obey the law but noted “history has sometimes shown that unyielding insistence upon the enforcement of legal rights by the rich and powerful against the humble people of a community is not always the quickest course of action.”

He then instructed the public safety commissioner that state police were not to be used for the enforcement of civil processes in the courts without permission from the governor and also revoked Caperton’s permit to mine the Combs’ land.  

Coming as it did in the wake of violence and threats of violence by others in her community, the nonviolent civil disobedience performed by the Widow Combs had an impact on Kentucky legislators during the next session of the General Assembly. But it did not convince them to support abolition or reinterpretation of the broad form deed.

When the legislature opened in early January Governor Breathitt told the representatives and senators that strip mining regulation was the foremost issue requiring consideration. “Experience over the past two years has shown, despite the most conscientious and energetic efforts at enforcement,” he said in his opening address, that “our present laws are not adequate to protect the people or their land and to deal fairly with the coal industry.” This appropriated the rhetoric of AGSLP and yet left room for conciliation with strip operators and their legislative allies. Likewise, the regulatory bill that Breathitt had a central Kentucky representative introduce was not presented as part of the administration’s own program but rather under sponsorship of the Kentucky Association of Soil Conservation Districts, a tactic which made it easier for the governor to accommodate coal interests by agreeing to changes. The bill was intended to write into law the regulations Breathitt promulgated in November, to further improve grading.
standards for area strip mining in western Kentucky, and to provide the DSMR with
greater powers of enforcement. Strip mine lobbyists visited the governor even before the
proposal reached committee, however, and he removed the abandoned mines land fund,
reduced the acreage fee from $50 to $25, exempted acreage devoted to access roads from
the fee requirement, and allowed for reclamation plans to be designed without
consultation with the local soil conservation district.31

While the Breathitt administration and the coal industry were mustering their
forces to pass a bill that would meet both of their interests, Harry Caudill was in
communication with Oz Johnson, a member of the House from Louisville, to convince
him of the need to introduce an abolition bill. Prohibition of contour and auger mining in
eastern Kentucky and “total reclamation” in the western part of the state were the “only
real and adequate response[s],” he wrote Johnson, and “it would be a wonderful thing if
you would resurrect your old bill from the 1964 session and introduce it in the current
session.” Caudill claimed that former Governor Bert Combs had told him by telephone
that “prohibition is the answer,” and perhaps this was indicative that such a measure
would pick up some support. Using a tactic that middle class leaders would employ in
other states and at the federal level, he also explained to Johnson that an abolition bill
“would certainly make the Governor’s bill much more likely of speedy passage.” A bill
to ban strip mining could be effective as an unacceptable alternative to pressure
legislators to pass a strict regulatory bill, even though most of the grassroots advocates of
abolition were seeking no compromise. In mid-January Johnson wrote back to say he
was having Legislative Research prepare a bill that would outlaw strip mining in eastern
Kentucky, but he was not sure if he would introduce it “because of the apparent effort that the administration is making to pass their bill.” In the end, Johnson did not bring an abolition proposal before the House.\footnote{32}

To promote his own measure, Governor Breathitt rented aircraft to take members of the assembly on tours of strip mines in both the western and eastern parts of the state, and he staged a three-day “Pre-Legislative Conference” as well. The conference brought three officials from Pennsylvania - the coal industry’s representative on the state’s reclamation board, the director of the conservation and reclamation agency, and the president of a coal company - to testify on the opportunities for making a profit under Pennsylvania strip controls. At the same time, J.O. Matlick attended dozens of Farm Bureau meetings to drum up support for the regulatory bill, and various other organizations began to announce public endorsements. The president of a local of the Southern Labor Union, a renegade miners union in eastern Kentucky, reported that the 240 members he represented supported the measure. Strip mining was detrimental to the economy of the area, he said, “it produces dirt-cheap coal at the cost of ruined land and streams, puts underground miners out of work, and has put thousands of people on public assistance.” The nine district vice presidents of the Kentucky League of Sportsmen, representing 36,000 hunters and anglers, also unanimously supported the bill in the interest of protecting the state’s “fish, game and forests.” And the Kentucky Civil Liberties Union backed the measure, arguing that strip mining practices “violate the basic rights of the property owners and the owners of adjoining property.”\footnote{33}
In mid-January both proponents and opponents of the Breathitt bill, as well as advocates of prohibition, had the opportunity to voice their positions in three days of joint hearings. The main witness for the coal industry was E.W. Phelps, vice-president of the Peabody Coal, a company DSMR inspectors considered to be one of the most uncooperative that they supervised. He was followed by representatives of utilities who stated that a rise in the price of coal as a consequence of added reclamation costs might force them to look elsewhere for their fuel purchases. This not-so subtle effort at blackmail left legislators more receptive to hearing the proponents for controls. Speaking in favor of the legislation, Parks Commissioner Robert Bell addressed the conflicting interests of the tourism and strip mining industries, noting that eight parks, including Cumberland Gap, Pine Mountain, Cumberland Falls, Jenny Wiley, and Natural Bridge, were being damaged directly or indirectly by surface operations. Representing the Kentucky Farm Bureau, E. W. Keller said his organization was concerned about long-term economic and social effects of strip mining. “If we permit the agricultural potential of those counties [facing large-scale strip mining] to be destroyed, we will destroy their ability to finance their schools, county roads and many other functions of a county government. The tax base will be gone.” Others testifying in support of controls included Harry Caudill, Elmore Grim, the state conservation chair of the Kentucky Federation of Women’s Clubs, the past president of the Garden Club of Kentucky, nature writer Wendell Berry, the president of the League of Kentucky Sportsmen, Leslie County Judge George Wooten, and Governor Breathitt. Caudill was one of the few to advocate prohibition of mountainside stripping. “The welfare of the state and its citizenry,” he
said, "should be placed above that of any little group of exploiters." Breathitt echoed this sentiment for a different purpose, calling on legislators to choose "between the resources of soil, of water and of beauty with which a good God has endowed this beautiful commonwealth, or the exploitation of these resources for the profit of a comparatively small number of powerful corporations, many of them absentee-owned, who would claim the privilege of exhausting our children's inheritance to provide cheap fuel." But the most powerful testimony came from Bige Ritchie, whose family graveyard had been dug up by strippers in 1959, as well as from Ollie Combs, who demanded something be done to stop coal surface miners from destroying homes, the land, timber, and streams.34

After the hearings the administration's control bill received a favorable committee report and passed the House on an eighty-three to ten vote. The Senate passed the measure on a thirty-six to two vote, with senators from Pikeville and Tutor Key, both coal mine areas, voting no. Breathitt signed the bill a couple of days later at the home of J.O. Matlick, who had suffered a heart attack following a confrontation with coal industry representatives. In addition to making Kentucky the first state to agree to the interstate mining compact drafted by the CSG, the regulatory legislation specified grading "to approximate original contour" after area strip mining operations, proscribed bench widths and maximum slope angles for contour mining, and detailed revegetation requirements for all sites once mining was completed. The law also created a Division of Reclamation, granting it the powers to levy fines between $100 and $1000 per day for each violation, to suspend permits in case of serious violations, and to revoke the permits of repeat violators. The entire budget of the division would come from permit fees, however,
meaning the only way the regulatory agency could raise the funds to hire and train the personnel needed to enforce the act would be by issuing more permits. The law was weakest in terms of its provisions for enforcement, providing for only a handful of inspectors to make thousands of inspections on tens of thousands of acres of land.  

Besides imperiling the effectiveness of the control bill with weak enforcement provisions, state legislators and the governor also failed to move the “Widow Combs” bill through the legislative process. Introduced in tandem with the regulatory proposal, the measure would have prohibited the holder of a broad form deed from employing any mining method not in common use at the time the deed was signed, and thereby address one of the key concerns of the militant activists in eastern Kentucky. Mineral owners’ trespass on land without surface owner consent and the destruction of homes and farms with little or no compensation were primary grievances of the abolition movement in the mountains. But Breathitt did not designate the bill as requiring “immediate consideration” in his address to the General Assembly, and the proposal generated much more vehement opposition for fear of the effect it could have on the availability and price of coal. Coal representatives claimed that the regulatory bill alone would put them out of business by adding $1.50 a ton to production costs (state officials estimated five to ten cents per ton). They also made an effective appeal to legislators that abolition of the broad form deed would sink the strip mine industry and dramatically impact railroads and steel among others. As a result, at the end of January the House tabled the “Widow Combs” bill on a sixty-nine to eleven vote, killing its chances of passage.
Strip mining opponents in eastern Kentucky were relatively inactive for the rest of the year, but in the early part of 1967 the legal efforts of the AGSLP in Knott County brought a state court decision which seemed to limit the scope of broad form deeds. Appalachian Group members had been making appeals at meetings for donations to establish a legal defense fund and, from women chipping in money they had set aside for other purposes, bake sales, and sewing bees, the fund soon amounted to $3000. The AGSLP then filed suit for a declaratory judgement against the Kentucky Oak Mining Company on behalf of Leroy Martin. Martin had been a schoolteacher at Cordova High School, and he and his wife owned the surface rights to ten acres of bottom land in Knott County, on which they had built a house and outbuildings and planted a garden and fruit trees. Kentucky Oak owned the mineral estate on the property and the timbered hill behind them by a broad form deed dating back to 1905. The ridge had already been deep mined in the 1930s and 1940, but the outcrop remained. The Martins argued that strip mining this outcrop would send mud and rubble down the hill, ruining their "improvements," and therefore it should be disallowed. "All we want to do," said Leroy in reference to the larger significance of his case, "is save our homes."

In January 1967 Knott County Circuit Court Judge John Chris Cornett ruled that Kentucky Oak had the right to use contour or auger mining methods but the right to use did not convey the right to destroy. "If such were the case," he argued, "no one could safely conserve or improve or build upon the surface lands wherein the coal has been ... conveyed [separately to others] by the broad form deed." In the case of strip mining when mineral and surface rights had been separated, Cornett decided, the operator would
be liable to the surface owners for damages to the estate in land, including surface, timber, vegetation, water supply, fences, buildings or other improvements. Both sides appealed this ruling, however, the Martins maintaining that the judgement was erroneous in allowing surface mining at all and Kentucky Oak contending that the judgement was in error in imposing upon the mineral owner the obligation to pay damages. Governor Breathitt pledged to continue giving legal assistance to the Martins, assigning his close advisor Edward Prichard and assistant attorney general Schneider to intervene on behalf of the state, and the case made its way to the Kentucky Court of Appeals.38

Between 1965 and 1967, residents of Knott, Perry, Leslie, Letcher and other mountain counties in eastern Kentucky organized a formidable movement against contour strip and auger mining. This movement was centered around the Appalachian Group to Save the Land and People, composed mostly of miners and farmers but also a few militant middle-class leaders. These opponents of stripping used various tactics, including nonviolently blocking bulldozers, sniping at equipment operators, working through the courts, and petitioning the General Assembly for legislative relief. Yet, within the two year period, eastern Kentucky activists did not achieve either one of their main objectives, banning coal surface mining or disallowing stripping under broad form deeds. In the few years following, frustration led to more violent opposition by some members of AGSLP and, in the early 1970s, it led to a regional campaign to outlaw strip mining through federal legislation.
Notes


11. Buchanan v. Watson (290 S.W. 2nd 40), 40-43; David Schneider, “Strip Mining in Kentucky,” Kentucky Law Journal 59 (1971), 654; Caudill, My Land is Dying, 65; In the 1960 case Kodak Coal Company v. Smith, the Court of Appeals upheld auger mining under a broad form deed, even when coal could be mined by other methods, arguing “if the operation is conducted properly the necessary use, or destruction of the surface is within the scope of the rights granted under the deed.” Kodak Coal Company v. Smith (Ky. 338 S.W. 2d 699), 700.

12. In 1967, Pike County operators were offering payments of twenty-five cents per lineal foot and royalties of ten cents per ton. Schneider, “Strip Mining in Kentucky,” 655-56; Courier Journal, 5 January 1964, 11.


15. Ibid., 38-40, 124-35.

17. Rogers, “Public Policy and Pollution Abatement,” 71, 79, 87, 103-06.

18. Ibid., 164-75. See the suggested legislation in “Appendix V.”


20. People Speak; Caudill, My Land is Dying, 76.


24. Mountain Eagle, 1 July 1965, 1; Courier Journal, 1 July 1965, 1, 20.


26. Defendants in the court action were Dan Gibson, Arch Engle, Tilves Ritchie, Alex Begley, Nathan Combs, Everett Combs, Herbert Combs, Elmer Williams, Delmer Williams, Clarence Williams, J. Garland Smith, Alfred Smith, Garland Smith, Bert Hollifield, Taylor Hurt, Matt Holliday, Cullin Ritchie, Bruce Ritchie, and Paul Ashley. Mountain Eagle 22 July 1965, 12; Courier Journal 22 July 1965, 1; 26 July 1965, 23.

27. Ibid., 27 July 1965, 1; 29 July 1965, 11, 26; 30 July 1965, 3.


35. Ky. Acts 1966, ch. 4; *Courier Journal*, 22 January 1966, 1; 26 January 1966, 1; 28 January 1966, 1; *New York Times*, 28 January 1966, 1; Even by 1971 there were fewer than twenty-five inspectors (who received little specialized training) carrying out 4,136 inspections on 22,000 acres of land, which included visiting every strip mine operation in the inspector’s territory on a bimonthly basis. Landy, *The Politics of Environmental Reform*, 189-90.


Passage of the 1966 control legislation and the 1967 court victory by no means solved the problems caused by strip mining in eastern Kentucky, and they only temporarily quieted the opposition. The number of permitted acres actually increased between 1965 and 1967, from 4,288 to 6,898. As the industry expanded, the destruction of homes, wells, gardens, orchards, and farms continued and the movement to abolish coal surface mining grew. By the spring of 1967, widespread oppositional activity was taking place in the mountains once again. In Knott and Letcher Counties, people collected more than 400 signatures on petitions to congressional representative Carl Perkins, claiming that the majority of residents in Knott, Letcher, Perry, Harlan, and Pike Counties wanted strip mining stopped and requesting him to bring Secretary of Interior Stewart Udall to the area to see the damage. In Harlan, residents on Little Creek also began circulating petitions to Governor Breathitt, asking him to support a ban on strip mining in the county. “Strip mining cannot continue on the steep mountains of our county without endangering private property and the public safety,” the petitioners explained, and they requested that the governor revoke the permits of strip operators and refuse to issue new permits.
AGSLP responded to the renewed activism by sending out organizers and producing propaganda. In the early part of July, Knott County member Mart Shepard attended a meeting of seventy-five Harlan County residents to explain the Appalachian Group’s position on coal surface mining and possibly form a new chapter. AGSLP felt that it was unconstitutional for private property and homes to be damaged and destroyed by coal companies operating under broad form deeds, he said, but it was not fighting the coal industry. The group would actually like to see more deep mines developed since they provided jobs without destroying the land. But “if an industry has to operate at the expense of poor people,” Shepard argued, “it ought to be outlawed.” Other speakers at the meeting included several residents of the Jones Creek area on Clover Fork and the Little Creek area on Martins Fork, where the petitions to Governor Breathitt first began to circulate. Some families in those areas had already been forced from their homes as a result of stripping and, with more mud, rocks, logs, and stumps accumulating on hillsides and in streams, the local residents wanted an end to strip mining. Shepard affirmed the concerns of the Harlan County residents and they joined the Appalachian Group.2

AGSLP also spelled out its understanding of the strip mine problem and the organization’s goals in a basic pamphlet, “Strip Mining -- Questions & Answers.” According to the pamphlet, the purpose of AGSLP was “to see strip and auger mining outlawed by the federal or state government.” Coal surface mining was not a critical part of the economy of eastern Kentucky, it said, because “a very large strip-mining operation bringing millions of dollars of profit to the operator can be run with a handful of men,” and oftentimes these workers were not even from Kentucky. In fact, the pamphlet
claimed, it cost state taxpayers a dollar for every ton of coal strip-mined, figuring in reclamation, reforestation, road repairs, flood control projects, and water pollution. This situation was made worse by the lack of a severance tax on minerals, allowing operators to extract tons of coal without returning any of the profits they realized to local communities. Strip mined land could not be reclaimed in any case because the terrain was too steep, the area received too much rain, and seedlings washed down spoil banks. “Every year we have more mud slides,” the pamphlet explained, “and the situation has gotten worse, not better, since the new strip mine control law was passed in 1966.” With active chapters in five counties and members in more than ten others, the group was “prepared to stand [bulldozers] off by every lawful means.”

Within AGSLP there was apparently some debate about tactics, part of which is evident in the working paper “The Appalachian Group to Save the Land and People: What Kind of Action?” Using the courts and engaging in political action were two possibilities for stopping coal surface mining, the paper said, but the coal companies influenced judges and “elected officials to do what they want them to do because they have money.” People could organize and help themselves, but the question - considering the power of the operators - was what should they do? “[Opponents] can picket those who support strip mining at the expense of the people,” the paper explained, which draws the attention of other people to the problem. “They can block the strip mine bulldozers or trucks by standing in front of them,” which gives the operators bad publicity and builds public support for outlawing stripping. And opponents could “(quietly) use guns and dynamite to take out strip-mine equipment,” causing financial hardship to coal
companies. By the summer of 1967, in fact, sniping at bulldozer operators and sabotage with explosives had been employed by various members of AGSLP, as well as unaffiliated opponents of strip mining, but the paper noted that there were only rumors these things had been done.  

Probably the first use of industrial sabotage for the purpose of stopping strip mining in Kentucky was in April 1967, when a diesel-powered shovel belonging to Kentucky River Coal was dynamited in Knott County. In June, another diesel shovel valued at $50,000 was blown up at a Kentucky Oak stripping operation nearby. That same month strip mining opponents exchanged gunfire with workers and dynamited a grader at the Tarr Heel Coal Company mine on Lost Creek (Perry County). "They ran my men off," said Harold Sigmon, the head of the company, but "there was some shooting on both sides after that." In early August, saboteurs used carbon nitrate to destroy a $90,000 auger, a D-9 bulldozer valued at $84,000, two trucks, two drills, and a welder at the same site. The mountains were full of hunters skilled with a rifle and miners knowledgeable about explosives from "shooting coal" underground, and sniping and sabotage continued through the rest of 1967 and into 1968. Some Knott County activists even formed a new "conservation group," as Buck Maggard put it, called the "Mountaintop Gun Club." The Club assisted surface owners who feared that a strip operation would move in on their land by leasing the surface for one dollar and setting up a firing range. Efforts to physically block bulldozers and coal trucks also persisted. Yet despite the apparent inclination of some opponents of strip mining to engage in violent acts and nonviolent civil disobedience, "What Kind of Action?" rejected both
approaches, concluding that “strip mining can be stopped — legally.” This might suggest that the working paper was written or heavily influenced by one or more antipoverty activists, whom some mountain residents later chided for attempting to steer advocates of a ban on strip mining toward legal, formal means for resolving grievances.⁶

Antipoverty workers were not new to Appalachia, but a new brand began entering the region as part of the Appalachian Volunteer program in 1963. The “AVs,” as they were called, were college students sponsored by the Council of Southern Mountains (CSM) to perform weekend and summer renovational service projects, such as repairing one-room school houses. In 1964 the AVs began to receive federal funding through the Office of Economic Opportunity (OEO) and the program entered a contractual relationship with Volunteers in Service to America (VISTA). By the summer of 1965, there was a noticeable shift in AV work, which then included VISTAs too, as nearly 500 antipoverty workers began to arrange community meetings and organize people around common problems, including coal surface mining. The next spring, the OEO supplied the organization with federal funds to expand operations into West Virginia, Virginia, and Tennessee, largely because of its success during the previous summer in leading “resident participation.” In May 1966, however, the AVs separated from CSM as the result of a disagreement over the involvement of volunteers in activism and after the firing of three staff members. As a non-profit corporation the Council was reluctant to engage “political” issues, as opposed to “social” issues, and its history as a respectable social uplift organization was in tension with the community organizing AVs and VISTAs were doing.⁷
For antipoverty workers, the summer and autumn of 1966 were full of efforts to bring about “maximum feasible participation” of the poor in the transformation of their own situation. It was not until the end of the summer, however, that the shift from service to community organizing orientation was made in full by the AVs and VISTAs. In late August, activists brought residents from Kentucky, West Virginia, and Virginia to Washington, D.C., as part of a program called “Appalachia Speaks,” to discuss local and regional problems with federal officials. The whole contingent stayed at a private high school, the Hawthorne School, and on the night of the last day nearly 150 people gathered there for a community meeting. “The thing that really came through at that meeting was strip mining,” recalled AV Joe Mulloy, “how that was ruining the land, people had no recourse, couldn’t stop it, couldn’t do anything, [and this] caused a real introspection within the AVs themselves.” The AVs and VISTAs were also encouraged to move “from self help to sedition” when they were joined by activists working for the Southern Conference Education Fund (SCEF), whose executive director, Carl Braden, was avowedly political and radical and hoped to “build a strong enough movement so that we can be of real help in abolishing strip mining in Eastern Kentucky.” By November, Braden had placed organizers in a number of communities, including Hemp Hill, where residents were petitioning the Kentucky DNR to exempt their area from a strip mining permit.8

By the summer of 1967, AVs and VISTAs were heavily involved in helping AGSLP to spread and grow. The “Strip Mining BULLETIN” the Appalachian Group distributed on a monthly basis was published in Bristol, Tennessee, by the AVs and it
reached nearly 4000 people. Appalachian Volunteers also put out AGSLP press releases, researched land and mineral ownership, employment, permits, and reclamation, and developed plans for a lobbying campaign to influence state and federal legislative action. In July, antipoverty workers helped arrange transportation for 200 strip mining activists from eleven counties to picket a reclamation symposium in Owensboro, which included department of natural resources commissioner J.O. Matlick, Kentucky Coal Association president Fred Bullard, and Governor Breathitt. Though not originally on the program, AGSLP was donated twenty minutes time by the state after a scheduled speaker announced she could not attend and Eldon Davidson went inside to speak for the group. Outside in the parking lot antipoverty workers Michael Kline and Guy Carawan played guitars and led everyone else in singing “Strip Away” and other songs. The protestors met briefly with the governor and distributed “Why We Come to Owensboro: A Report to Governor Breathitt.” “We must point out to you that a bulldozer moves much faster than courts and legislatures,” it explained, “so, while we wait for action by the state, we are prepared to protect our land by whatever means are necessary.” The Appalachian Group was opposed to violence, the report made clear, “but we cannot help noticing the increasing number of Eastern Kentuckians who are telling us that the only language the strip-mine operators understand is the language of bullets ... Think about what steps you would be willing to take to protect your home, if the law could not or would not protect it for you.”

AVs and VISTAs were also involved in the July showdown in Pike County between Island Creek farmer Jink Ray and the Puritan Coal Company. Pike County was
one of the nation’s richest coal counties, but it was dominated by independent coal operators, and this was reflected in the poverty of its people. Coal mines produced $65 million worth of coal in 1966, but the county could raise less than a quarter of the $4 million it needed to operate its schools. Nearly half of its residents subsisted on incomes below the poverty level. On top of these indignities, strip coal operators exercised little restraint in destroying the surface when extracting coal, as was their legal right. When community leaders began to meet to fashion a response AV Joe Mulloy put them in contact with the AGSLP, an Island Creek chapter was formed, and by June it had forty paid and active members. In early July, when a Puritan Coal bulldozer crossed over Jink Ray’s property line to prepare a bench for an auger operation, he and twenty-four neighbors forced the bulldozer back to the bench. Ray Johnson, the head of the company, had offered Jink Ray $2500 for access privileges, but he had refused to take it. “If they go across me,” Ray said, he would have to leave the land he owned since 1921, and then the company “can go to the head of this creek ... [and] take a fine stand of young white poplars worth thousands of dollars, a whole lot more than they have offered to pay me.” Activists vowed to defend the land “as long as they can and in any manner that they can,” and they did so even after Judge George O. Bertram issued an injunction against interfering with the mining.¹⁰

During the second week of July, Johnson claimed that someone set off a charge of dynamite near his machinery, although the AGSLP chapter officially disavowed violence in any form. “I can say without reservation,” explained Island Creek chapter vice president Marvin Thorn, “that we’re not going to do anything illegal. No violence.” But
the failure of the 1966 law as well as Judge Bertram’s ruling against any interference with the operation had put activists in an agitated state. “Some of our men are mean and hot-headed,” said Island Creek general store owner and AGSLP member Arthur Akers, “and they can pick off a bulldozer without batting an eye.” Retired deep miner Bill Fields explained, “We mean to stop them, one way or another. We’ll use all the good means first. Then we’ll use the bad ones.” When reporters prompted him if that meant violence he elaborated, “If they try to run that bulldozer in here another foot, there’ll be blood spilled on the mountain.”

Although no violence occurred, when Puritan tried to resume its operations on the morning of July 18, local residents gathered and stopped the work. Don Branham and Carl West stood in front of a bulldozer coming near Ray’s property line, pushing tons of boulders toward them. Branham mounted one of the boulders and waved to the bulldozer operator to go back and he did. Ray had been named personally in the injunction and he held back under cover of trees with other neighbors during the showdown. Shortly after Branham and West chased the bulldozer off, Pike County Sheriff Perry Justice arrived on the scene to pass out copies of Bertram’s order and put the landowners on notice that they were subject to arrest for contempt. But Governor Breathitt had already taken action of his own, in response to an urgent telegram from Ray pleading for help. He ordered a temporary suspension of operations on the grounds that the stripping would ruin Ray’s property. The suspension was based on an infrequently used provision in the 1966 law which allowed for excluding areas from surface mining if the operation threatened private or public property. Conditions at the Island Creek mine, said Breathitt’s order, “show
that the approved reclamation plan cannot be carried out unless additional measures are taken to eliminate damage to the public and to adjacent property owners from soil erosion, water pollution, and hazards and dangers to life and property."

Days later, reclamation director Elmore Grim surveyed the Puritan strip mine site and announced that two key sections of Jink Ray's property - the areas where he and neighbors had blocked the path of bulldozers - would have to be deleted from the permit initially granted by his agency because their grades were steeper than the thirty-three degree maximum allowed by regulations. Grim also announced that Ray Johnson would probably be issued a permit the next week to strip mine twenty acres on the Right Fork of Island Creek, owned by two land speculators seeking the ten cents per ton royalty that Puritan would pay. On August 1, the division of reclamation director permanently canceled Johnson's permit for Jink Ray's property, citing the provision in state law Breathitt had used to temporarily halt the operation. Puritan appealed Grim's decision to the reclamation commission, however, and at the initial hearing on August 30 the company asked for more time to prepare their appeal. The hearing was to resume October 18, but days before it convened Puritan voluntarily agreed to abandon its operation on Ray's property, requested release of the bond it had posted, and asked the state to transfer acreage fees on the remaining portion of its Island Creek permit to new operations in Johnson County."

In addition to lending assistance to Jink Ray and his neighbors, AGSLP activists and antipoverty workers also cooperated to organize a two-day tour of strip operations at the end of July in Bell, Breathitt, Floyd, Harlan, Knott, Letcher, Perry, and Pike Counties,
concentrating on areas mined since 1966. "We want the people on the tour to see with
their own eyes that the 1966 law has not worked in Eastern Kentucky," explained Morris
Sheperd, "It has not prevented enormous mud slides, erosion, stream pollution, and the
destruction of property." Altogether, fifty people participated in the tour, including
officials from the Department of Interior, the United States Forest Service, the Federal
Water Pollution Control Administration, and the TVA. The federal officials said they felt
compelled to join the field trip because it was a manifestation of "grassroots interest" in
the conservation practices advocated by reclamation professionals in Washington.
During the tour, they got a taste of the tactics employed by strippers to evade the law and
good reclamation as well as the methods used by opponents of coal surface mining. At a
number of points the motor caravan came upon excavations in access roads and, in one
instance, it was blocked by an armed guard. In Clear Creek, AV Tom Bethell made
repeated, dangerous climbs over a freshly bulldozed cut in a dirt haul road and managed
to carry most of the inspection party to a ridge where a bench stretched around the
mountain top. From that vantage point, the tour members also could see a wrecked
shovel, dynamited in April.14

Strip operators responded to the events in Pike County and the AGSLP tour by
utilizing their influence with police, courts and elected officials. Like their counterparts
in the lower South, who blamed outside agitators for stirring up African-American
communities, the strip coal operators of eastern Kentucky sought to blame antipoverty
activists for the militant opposition to strip mining, and they were most able and willing
to do this in Pike County. In July 1967, the Pike County sheriff, a representative of the
Small Business Administration, and Robert Holcomb, who was the president of the Pikeville Chamber of Commerce as well as the Independent Coal Operators Association (ICOA), visited SCEF worker Alan McSurely and Pike County AV field director Joe Mulloy to question them about their work. On August 11, McSurely’s home was invaded by Commonwealth Attorney Thomas Ratliff and fifteen armed deputies, who searched the residence for two hours and confiscated all printed or written material. They arrested Alan and, after discovering that his wife Margaret had worked for the Student Nonviolent Coordinating Committee in 1964, they arrested her too. Around midnight Ratliff and the deputies called on Mulloy and put him under arrest. Days later, Ratliff also had SCEF executive director Carl Braden and his wife Anne arrested for attempting to overthrow the government of Pike County. Anne Braden had never set foot in the county and Carl had been there only once, to get the McSurelys and Mulloy out of jail.15

Near the end of August, Robert Holcomb publicly admitted that the ICOA had spearheaded the investigation of antipoverty workers and Thomas Ratliff, who was a past president of the ICOA and a candidate for lieutenant governor, explained the organization’s concern. “From what I have seen of the evidence in this case,” Ratliff said, “it is possible that Communist sympathizers may have infiltrated the antipoverty program not only in Pike County, but in other sections of the country as well.” The objective of the antipoverty workers, he claimed, was “to stir up dissension and create turmoil among our poor.” At the organizational meeting for a surface-mining division of the national ICOA the next month, Ray Johnson claimed that he was driven off Jink Ray’s land by “Ned [Governor Edward] Breathitt, outsiders, and Communists,” who were
set out to destroy strip mining in the area. But the case against the McSurelys, Mulloy, and Bradens greatly misrepresented the intentions and influence of antipoverty workers. “Because the Appalachian Volunteers are working in Pike and other counties with citizens who are standing up in opposition to strip mining, the Eastern Kentucky strip-mine operators seem to have assumed that AVs are responsible for the opposition,” the AVs explained in an August 17 press release, but “this is not the case; for us it is clear that the people of Eastern Kentucky would band together against strip mining with or without our help.” A report by the Federal Bureau of Investigation noted that Ratliff’s prime interest was “ridding Pike County of the antipoverty workers ... [for] reasons economic and political: (1) he has made a fortune out of the coal industry and still had coal interests; and (2) he is running for Lt. Governor in the Republican ticket and thinks it is a good issue.” Joe Mulloy later noted that SCEF had nothing to do with the strip mine opposition in Pike County.16

With assistance from constitutional rights lawyer William Kunstler, the antipoverty workers convinced the Kentucky Court of Appeals to declare unconstitutional the 1920 state sedition act, the law they were charged with violating. But the coal operators succeeded in undermining their organizing. Pike County officials put heavy pressure on Governor Breathitt to rid the state of the Appalachian Volunteers and he recommended the OEO cut off their funding, which agency director Sargent Shriver did on August 18. In September, the director of the Kentucky OEO explained that AV funding was cut due to lack of cooperation and open rebellion on the part of the volunteers against community action agencies. While on the campaign trail,
gubernatorial candidate Louis Nunn made a promise to “run SCEF and organizations like it out of the state.” After Nunn won the election, legislators established a Kentucky Un-American Activities Committee (KUAC) to help him make good on the promise. By autumn of 1968 the AVs were in serious financial straits and both Appalachian Volunteers and SCEF workers were facing KUAC hearings to determine the level of Communist involvement in their respective organizations. In the spring of 1970, the AVs merged with the Mountain Legal Rights Organization and a group of lawyers in West Virginia to form the Appalachian Research and Defense Fund (ARDF), which continued to assist opponents of coal surface mining at the state and federal levels.\(^7\)

In June of 1968, strip mining opponents also faced another setback when the Kentucky Court of Appeals reversed Judge Chris Cornett’s decision in *Martin v. Kentucky Oak Mining Co.*, ruling that mineral owners had the right to strip mine without surface owner consent and without paying compensation. The Martins argued that parties to broad form deeds could not have intended that the surface could be destroyed in the removal of minerals, since otherwise it would have been pointless to retain surface rights, and they did not intend “mining” in the deeds to refer to contour strip or auger mining, which was unheard of at the time. Based on this reasoning, the Martins requested that mineral owners be stopped from strip or auger mining any area upon which they had permitted the surface owner to make improvements. But the Court saw the case as a question of whether or not the parties to broad form deeds “intended that the mineral owner’s rights to use the surface in removal of the mineral would be superior to any competing right of the surface owner.” The majority decision claimed that only 17
percent of the land in Knott County was improved agricultural land at the turn of the century and a great percentage, including the 90-acre tract of which the Martin's property was a part, was hillside land of no productive value. "The argument that no farmer reasonably would have intended his fields be destroyed by mining operations must be weighed," the justices asserted, "in light of the fact that there were very few farmers and very few fields involved in the mineral deed transactions." Even when the deeds did encompass bottom land, they argued, the rights to this land were included in the deeds because landowners were willing "to take the chance on future destruction ... to get the immediate money." By this reasoning, if there were any 'estoppel' in the case it would be against the Martins, who built their improvements after Buchanan v. Watson advised that strip mining could be done under the broad form deed. "It appears to us that if, as we in substance are holding, the mineral owner bought and paid for the right to destroy the surface in a good faith exercise of the right to remove the minerals," the justices concluded, "then there is no basis upon which there could rest an obligation to pay damages for exercising that right."18

There were two dissenting opinions in the Martin case. One, by Judge Osborne, argued that the case should be dismissed because the parties had failed to show that there existed an actual controversy falling under the purview of the Declaratory Judgement Act. The other, written by Judge Hill, argued that inasmuch as the parties to broad form deeds did not contemplate strip mining it should not be allowed and, if the "rules of construction" are so distorted to authorize the mining method, mineral owners should be answerable in damages to the surface owner. The majority opinion was contrary to the
laws and court decisions of sister coal states, Hill noted, and inconsistent with other opinions of the Kentucky court in similar situations. In 1960, the Court of Appeals had ruled in *Wiser Oil Company v. Conley, Ky.*, that the owner of oil and gas rights had no right to use the water-flooding method of recovering oil without the consent of the owner of the surface because “it was the intention of the parties that oil should be produced by drilling in the customary manner that prevailed when the lease was executed.” Even the second *Buchanan* decision declared that the owner of the mineral has the paramount right to use of the surface unless that power was exercised “oppressively, arbitrarily, or maliciously,” in which case damages were due the surface owner. “I contend that any major destruction of the surface is oppressive,” Hill wrote, “but the majority does not, [and] they should reform the rule in Buchanan so as to delete the word and overrule its opinion in *Wiser Oil.*”

*Pressing On*

Just hours before Republican Louie Nunn replaced Democrat Edward Breathitt as Kentucky’s governor in December 1967, Governor Breathitt issued new strip mining regulations. The new standards were necessary, he said, based on the Reclamation Commission’s recent finding “that an imminent peril to the welfare of the citizens of this commonwealth is created when spoil material is stacked on steep slopes, especially during the coming heavy winter rains and snowfall.” The Commission had adopted two regulations, one prohibiting contour strip-mining of any slope steeper than twenty-eight degrees from the horizontal and the other establishing stricter procedures for revegetating
strip-mined land, both of which targeted surface miners in eastern Kentucky. Breathitt issued an order to put the steep slope standard in effect immediately, on an emergency basis, leaving the replanting requirements to take effect in thirty days. His assistant attorney general, David Schneider, said the regulations could not be repealed by a governor’s order, but Breathitt noted that affected miners could appeal in a circuit court.  

Once Nunn was in office, however, the operators had little to worry about. The new governor left the Department of Natural Resources intact and even reappointed Elmore Grim as the director of the reclamation division. But he sandwiched Grim between superiors and subordinates who owed their allegiance to eastern Kentucky Republicans and coal operators. As historian Marc Landy explains, this move meant that the Breathitt administration holdover had little influence in the choice of area supervisors in each of the state’s four reclamation districts, and this imperiled any chance for the enforcement of regulations. Area supervisors determined the frequency of inspection and the content of reports reaching the division of reclamation’s Frankfort office, where punitive action was decided. When they were chosen for their willingness to go easy on strip operators, oversight was a farce. Not surprisingly, during the Nunn administration the reclamation division failed to revoke a single permit or to deny any company the right to apply for additional mining permits.

In the latter part of 1970 Nunn lost his bid for reelection to Lieutenant Governor and Democrat Wendell Ford, but the change in chief executives meant little in terms of the enforcement of strip mine regulations. On the campaign trail, Ford made bold pronouncements about applying adequate standards of reclamation, “even if this means
the complete abolishment of strip mining in steep grade terrain.” A Ford administration would stop strip mining where reclamation was not feasible, he said, and “completely control strip mining where reclamation is possible.” But in July the gubernatorial candidate also secretly met with Kentucky coal operators in a Wise, Virginia hotel room, putting him out of reach of Kentucky’s campaign contribution laws, where he made various promises and possibly requested campaign funds. After the election, Ford kept the corrupt northeast area supervisor Carter Combs on the job until the Courier Journal let it be known that it was about to expose him. The new governor then called a hasty news conference, blamed the former Republican administration for Combs’s shoddy performance, and announced that he was to be transferred. Ford did make some changes to correct some of the deficiencies associated with the regulation of strip mining in Kentucky. He ended the fee financing system, which made the budget for the division of reclamation dependent on the issuing of permits, replacing it with money drawn from the General Fund. He also provided the funds to hire additional inspectors. But throughout the Ford administration, enforcement of strip mine regulations was characterized by continued de-emphasis of non-compliance orders and increased reliance on persuasion of operators to improve their mining and reclamation practices, similar to the cooperative relationship established under Governor Nunn.22

The willingness to coddle coal operators exhibited by Kentucky’s governors between 1968 and 1972 translated into poor environmental conditions in the strip coal fields of the eastern part of the state. A 1972-73 report on eastern Kentucky strip mining and regulation concluded that revegetation failures and landslides had declined relatively
since 1966, but the dramatic rise in the number of acres stripped nullified those gains. By 1971, approximately 22,000 acres were permitted for surface mining in eastern Kentucky, a large increase over the 8872 acres permitted in 1965. The frequency of landslides on a per acre basis had fallen 63% since 1964, but the absolute number fluctuated with the contraction and expansion of the industry. Annual landslide acreage increased from less than 100 acres in the late 1950s to nearly 1000 acres in 1965, dropped precipitously in 1966 to around 300 acres as the number of permitted acres fell, and climbed again to nearly 1000 acres in 1972. Another report, focusing on the effects of strip mining on water quality in small streams of eastern Kentucky, showed large increases in chemical pollutants and sediment. Surface operations in the area increased concentrations of sulfate, calcium, magnesium, aluminum, manganese, iron, and zinc in streams, the authors maintained, while dissolved minerals and increased turbidity of the water were detrimental to benthic (bottom-dwelling) food organisms and fish reproduction, thereby eliminating some species altogether and reducing the populations of others.

The deteriorating environmental conditions caused by stripping had effects on people too. These effects, along with the role coal surface mining played in worsening economic conditions, spurred on the opposition movement. AGSLP remained one of the most important groups fighting stripping, but other organizations also began to get involved. At its October meeting in 1969, the forty-year-old Kentucky Conservation Council (KCC) passed a resolution urging that strip mining be banned in the eastern part of the state. Stripping had resulted in the destruction of streams, watersheds, natural scenic beauty, and the blocking of natural routes of access, the resolution claimed, and
this was despite fifteen years of efforts by legislators and governors to control stripping through laws and regulations. "WHEREAS it is apparent that the practice of surface mining of coal in eastern Kentucky coal fields is generally adverse to the long-range social, economic, and physical well being of the Commonwealth of Kentucky and its people," the organization declared, the KCC petitioned Governor Nunn to sponsor legislation to outlaw contour strip and auger mining of coal in the mountain counties "and to propose similar action by the Federal Government to be effective in the Appalachian coal mining states."

In November, KCC called a meeting in Whitesburg for December 12, to produce a coalition "to be composed of individuals and organizations who share our opinion that ruining the hills of eastern Kentucky for coal which lies within them is uneconomic and untenable." At the meeting those in attendance were asked to endorse the KCC resolution and each individual or group representative announced their position. Harry Caudill strongly endorsed the resolution and urged vigorous action for its implementation. John Franson, the midwest representative for the National Audubon Society (NAS), and Mike Flynn, writing in for the Cumberland chapter of the Sierra Club, said their groups were undecided. Jim Butler (of the Frankfort Audubon Society), Lewis Howard (of the Kentucky Mountain Coal Company), and Judge George Wooten (Leslie County) personally endorsed a ban on stripping. Dr. Richard B. Drake, from the natural resources committee of the Council of Southern Mountains (CSM), announced his organization's "strong tendency to move in [the] direction of stronger laws to regulate strip mining," but he could not say what its position would be on the resolution by the
Mrs. W.C. Chrisman (of the Kentucky division of the American Association of University Women) said her organization was making a study of conservation, and Mrs. Clifford Herrick, Jr., requested information on the economic aspect of strip mining to be used for a study within her organization, the League of Women Voters. Mrs. William W. Ryle, of the Beechmont Garden Club did not attend but advised by letter that her members were in favor of the resolution. And Tom Ramsey, of the Pike County Citizens Association (PCCA), declared his group’s interest in “working on a broad scale against strip mining.” Wayne Davis, a University of Kentucky zoologist, then made a motion to delete “East” from the resolution, so that it would apply to both sections of the state, but this was defeated on a five to four vote. The original motion was then passed eleven to two.25

After passing the resolution, nominations were opened for the chair and vice chair of an ad hoc committee “to seek legislation to outlaw surface mining.” Caudill nominated the absent Mike Flynn for the position of chair, while Loyal Jones nominated Jim Butler for vice chair, and both were elected. The executive committee consisted of Hal Ritchie (KCC president), Harry Caudill, W.R. Holstein (Sierra Club), David Schneider (then head of the Kentucky Izaak Walton League), Mrs. Robert Cullen (Kentucky Garden Clubs), as well as John L. Franson and Jim Butler. After the meeting, however, Flynn declined to chair the committee. “I’m sure you are aware that the Sierra Club is anxious to offend as few legislators as possible at this time in view of the Wild Rivers Bill in the legislative hopper,” Flynn explained to Butler in a letter. “Since the informal view of our Executive Committee reflected this concern and the fact that we do
not currently have a confirmed position on strip mining,” he wrote, “I had to decide as I
did.” Butler was made the chair of the committee then, and John Franson accepted the
position of vice chair, but the Sierra Club’s waffling peeved Harry Caudill. “It is
inconceivable to me that an organization like the Sierra Club which was organized to
preserve mountains for their beauty and majesty can stand idly and silently by while the
mountains in the state are destroyed,” he wrote to Butler, since “setting aside a small
stretch of scenicly beautiful land is a trifling matter indeed compared to the rapidly
advancing ruin of a whole mountain range.”

During the summer of the next year, the governments of three Kentucky counties
also took the initiative to deal with the strip mining problem. Earlier, in 1967, the Harlan
Fiscal Court had unanimously adopted a resolution opposing strip mining as practiced,
calling for greater restrictions and better enforcement of the control law. In May 1970,
the western Kentucky county of Henderson set a new precedent by declaring strip mining
a “public nuisance” and banning it. In June, the Knott County Fiscal Court took a similar
step, acting on a resolution to ban strip mining offered by Magistrates Dan Wicker, a
security guard, and Birchel Smith, an unemployed laborer. County Judge Sid Williams
(also an equipment supplier to strip mine operators) broke a two to two tie on the
resolution, voting “for the majority of the people.” The 300 people packed into the
courtroom cheered for five minutes afterward. But the state attorney general had already
declared that counties could not act where the state had jurisdiction and Judge Williams
said his vote was practically meaningless. With doubts about the legality of the Knott
County action, folks in nearby Leslie County took a different approach later that month.
Judge George Wooten and others established the Hyden-Leslie County Planning Commission with the intention of using planning and zoning to bring strip mining under control, since the right of a county to plan and zone for proper land use had generally withstood legal tests.27

The Council of Southern Mountains began to play a more prominent role in the opposition after a shakeup in leadership at its Lake Junaluska conference in September 1970, including the election of Warren Wright as the executive director. Wright was a self-described political conservative before his land in Letcher County was threatened by a strip mine operation. His father had sold the mineral rights to Consolidation Coal in 1939, but had forced company attorneys to write into the deed that no portion of the surface would be covered by dumping material on it. In 1962, however, Beth-Elkhorn began to prepare the land for stripping and Wright blocked the way of the bulldozer as his wife Mae sat under a tree with a pistol in her lap. The circuit court in Whitesburg ruled that this interference was doing irreparable damage to the company and sent an officer over to allow the miners to auger for coal on the land. Wright took the case to the Kentucky Court of Appeals and the justices studied the matter for eighteen months and finally ruled against him. "That group of learned reprobates entered an outright lie into the language of their Opinion," he recalled, "declaring that as all the conventional underground mining had been finished earlier, my father could have been granting Consol nothing but stripping rights." Even the case record indicated that underground mining was still going on under the property in 1962, in the same seam being augered. But "that fight made me socially alive for the first time," Wright remembered, "That's
when I became a citizen of the United States.” As the head of CSM, he continued to express himself passionately on the issue and became an outspoken proponent of stopping stripping by any means necessary.28

In the early part of 1971 some of the same people involved in the KCC ad hoc committee joined together as Save Our Kentucky (SOK). On January 15, a group of thirty gathered in Berea and adopted a resolution declaring its sympathy with the earlier coalition effort and establishing the new organization in its place. “SOK’s twin areas of concern,” the resolution explained, “will be directed toward surface mining which degrades our environment, with a focus on eastern Kentucky, and the tax structure which omits the equitable taxing of the extraction of our natural resources.” The organization was to be “a politically oriented body without exemption from taxes,” with the objectives of outlawing strip mining and enacting a mineral severance tax. In attendance at the January meeting were representatives from KCC, CSM, Sierra Club, the Louisville Audubon Society, the Garden Club of Lexington, the newly formed Citizen’s League to Protect Surface Rights (Letcher County), AGSLP, PCCA, and ARDF. At SOK’s second meeting participants began taking preliminary steps toward acting as a watchdog over the state’s reclamation commission. They also circulated a rough draft of a severance tax proposal, which would levy a fee of 10 cents per ton on coal, and the organization’s temporary chair Jack Weller announced the establishment of a policy committee, which included Warren Wright, Citizens League to Protect Surface Rights (CLPSR) head Joe Begley, and Alice Lloyd College professor William Cohen. In June, SOK hired James Branscome as its permanent director. Branscome had grown up on a thirty-acre farm in
Snake Creek, Virginia, attended a one-room elementary school as well as Berea College, and made a name for himself in Washington, D.C., as a member of the Appalachian Regional Commission, advocating the abolition of surface mining and nationalization of the coal industry. At the August meeting, Wayne Davis moved that SOK support a ban on all forms of strip mining in the entire state and this passed with two abstentions. James Rosenblum moved that the organization support a ten percent severance tax of gross value of the coal produced in Kentucky, a motion seconded by Eldon Davidson, and this passed unanimously. Before adjourning, the board also affirmed a position to seek a legislative end to the broad form deed.²⁹

While SOK selected its leaders and defined its objectives, Harry Caudill began to act as an intermediary between Harry LaViers, Jr., president of the South East Coal Company, and the NAS, to find “the best approach to be used in serious efforts to stop stripping for coal in Kentucky.” South East Coal was a small, unionized deep mining firm in Letcher County, and LaViers was a third-generation coal operator who had recently won more than $7 million in a lawsuit against Consolidation Coal and the UMW, for conspiring to run small coal operators out of business. In late May or early June, LaViers told Caudill that he would anonymously put up a considerable sum of money to fund abolition efforts and Caudill contacted the NAS because of their practical experience in the conservation field and large Kentucky membership. After several July meetings in Lexington between Caudill, John Franson, Elvis Stahr (NAS executive director) and another NAS official, an understanding was reached about what could and would be done with the money. Any gift or gifts would be used for a public educational
program, including a series of television spots, speakers, and pamphlets, but they would not be used for 'politics.' "It is clearly understood by all concerned," Franson explained, "that the National Audubon Society or its representatives will not engage in efforts to influence legislation, support political candidates, or other areas which might jeopardize its status as a tax exempt organization." To pick up the political aspects of the campaign LaViers donated $4000 through Caudill to supplement the budget of SOK, "with an agreement of a similar sum for each month thereafter for at least six months." In addition, he pledged $10,000 a month for the same period to the NAS, "for use in anti-stripmining campaign in Kentucky and elsewhere in the U.S."30

Activists also continued to organize rallies and petition regulatory officials. In July 1971, AGSLP organized a protest meeting at the Knott County courthouse in Hindman. It began with William Cohen singing "Shenandoah" and "This Land is My Land," and included a slide presentation of supposedly-reclaimed mountains by Mart Shepard. Speaking before the group, Bessie Smith declared reclamation "a laugh," since the laws were seldom enforced, and said that it was "left up to the people to protect the land, helping others retain their property and protecting the beauty of the land." In the late autumn, ARDF assisted Joe Begley and CLPSR in petitioning the Kentucky division of reclamation to revoke the permits of thirty strip coal operators in Perry, Knott, Letcher, Breathitt, Floyd, Knox, Pike, and Harlan Counties for repeated non-compliance with the control law. According to the reclamation division's own records for 1969-1971, some of the companies named had fifteen or more violations against them, with one having at least thirty-three. The petition also claimed "that most of the companies which have 15
or more violations have never been fined by the reclamation agency nor have such companies had their permits revoked,” as stipulated by the control act. The Tarheel Coal Company, for instance, had been cited by the division for twenty-two violations, including working off the permit area, letting water and debris cause soil erosion and a landslide, inadequate silt structures, and excessive bench width. None of these resulted in a fine or revocation of permit. The Kentucky River Mining Company was cited by the Division for fifteen similar violations, as well as stripping in an auger-only area, yet it too suffered no penalty.  

Strip mining opponents gave testimony at new round of state hearings too. With a legislative session coming up in January, the subcommittee on natural resources conducted a four-day tour of coal surface mining areas in eastern and western Kentucky and followed that with a public hearing from November to December. Reid Love appeared for the League of Kentucky Sportsmen and claimed that a ban was “economically impossible,” but he urged the state “to upgrade and enforce” its control laws. Others forcefully called for abolition, or some form of it. Bessie Smith, Madge Ashley, and Dan Gibson spoke for AGSLP, maintaining that strip mining served only the short term economic needs of the state and expressing exasperation at the apparent futility of using legal means to control the practice. James Branscome pointed out the large numbers of petitions to ban surface mining circulating in eastern Kentucky, but voiced doubts that such methods would be effective in preventing abuses. And while their spokesperson called for “a complete and total end to strip mining,” PCCA members
paraded one by one before the committee carrying placards with the name of a stream harmed by stripping printed on it.\textsuperscript{32}

In December, members of AGSLP, CLPSR, CSM, and SOK met at the Cordia School in Lotts Creek to prepare a strategy for the 1972 legislative session. When the General Assembly got underway, 200 activists traveled to Frankfort to pressure lawmakers. There was a general consensus among the group that only abolition would solve the problems caused by stripping in the mountains; some of the placards carried by demonstrators read “RECLAMATION IS A DAMN SHAME” and “KEEP OUR COUNTRY GREEN AND EMPLOYED: BAN STRIP MINING.” But, ironically, it was a representative from Bowling Green, in western Kentucky, who filed a bill to phase out stripping. Coal surface mining eroded the tax base, took away jobs, ruined landscapes, and tore up roads, Representative Nick Kafliogis told the activists, all of which meant that strip mining condemned eastern Kentucky to perpetual poverty. Other members of the House and Senate as well as the governor spoke to the crowd, but they made no promises and offered little indication of what action they would take. Later, during the session, the phase-out bill failed to make it out of committee.\textsuperscript{33}

Back in the eastern coal fields, on a cold and rainy morning at the end of January, local people took matters into their own hands once again. More than twenty women and a few men walked up a company road to the Sigmon Brothers strip operation at Elijah Fork (Knott County) with the intention of occupying the site. The activists hailed from the Floyd County chapter of the Eastern Kentucky Welfare Rights Organization, Mountain People’s Rights, AGSLP, and SOK, and they included Bessie Smith, Eula Hall,
Sally Maggard, Doris Shepard, James Branscome, and Mary Beth Bingman, a former AV from Wise, Virginia. Only the women went beyond the company gate, however, believing “that if our men would take the same action the coal operators would unleash violence against them.” By seven a.m. they had stopped work at the operation.  

Both latent sympathies as well as real divisions between the protestors and strip miners were apparent at the occupied mine site. Up near the coal face, the women blocked the use of equipment and set up a tent to keep off the rain. Most of the all-male workforce who stayed up on the ridge were friendly, and they acknowledged that they would rather do any other work than tear up the land for a living, but jobs were scarce. Other workers kept the press off the mountain and prevented the women from receiving food, water, dry clothes, or sleeping gear from their supporters for the duration of what became a fifteen-hour vigil. At night, a group of about ten men, who were apparently not regular employees of the mine, tore down the women’s make-shift tent and threw rocks at them. Down below, at the company gate, Doris Shepard and her two little sisters were verbally harassed by “thugs” well fortified with liquor. The men “were talking about which one of the little girls they were going to rape,” Doris remembered later, and this went on until one of their fellow truckers came over to stand with her and the girls. At some point the group of strip mine employees attacked the men gathered at the gate, including a reporter for the Whitesburg Mountain Eagle and James Branscome. When they attempted to flee to a hospital, the workers tried to chase them down. Doris and her sister Shirley walked down the one-lane road to block the way of the miners, but they moved out of the way when the miners revved their pickups’ engines. Doris then called
the state police and after a trooper went up to the strip mine and reported on the violence done to the men, the women voted to come off the mountain. At the gate they found tires slashed and windows broken on two cars, and Branscome’s car was overturned. It was an inauspicious end to what would be one of the last militant protests against strip mining in eastern Kentucky.\textsuperscript{35}
Notes


7. The CSM executive board outlined its policy on strip mining in January, after receiving a letter from Harry Caudill asking the staff to write letters in support of the regulatory legislation before the General Assembly. The Council decided to have executive director Perle Ayer write a letter to the governor as well as to each of the state senators and representatives stating CSM’s position “in favor of conservation practices.” Take whatever action is necessary, he wrote, and at once, to ensure “fair and honest and guaranteed protection of each citizen against injustice to person, property, and future security and opportunity, which could otherwise occur as a direct result or related side effect to mining practices or other methods of harvesting national resources.” The Council did not support or condemn specific legislation, Ayer explained, “but it does believe that this nation was founded upon and is still dedicated to justice and equal
opportunity ... defended as necessary against those who in short-sighted and self-interest
do not recognize their departure from this principle.” Memo from Milton Ogle to All
Council Staff, 17 January 1966, and P.F. Ayer to Governor Breathitt, 18 January 1966,
Folder 4, “Council of Southern Mountains: Correspondence and Minutes, 1966,” Box 7,
Ebersole Papers; On the reluctance of CSM to involve itself politically and the divisions
that emerged at the end of the 1960s see David Whisnant, “Controversy in God’s Grand
Division: The Council of the Southern Mountains,” Appalachian Journal 2 (Autumn
1974), 7-45.

8. Joe Mulloy and Michael Kline, The War on Poverty in Appalachian Kentucky Oral
History Project, Special Collections, University of Kentucky (hereafter cited as War on
Poverty Project); Harry Caudill to Stewart Udall, 9 August 1966 and 26 August 1966,
Folder 6, “Strip Mining, April 1, 1966 - December 28, 1966,” Box 19, Caudill Papers;
There were no SCEF activists in eastern Kentucky until mid-1966. Carl Braden to Harry
Box 19, Caudill Papers; The Hemp Hill residents were trying to save their water source
and homes, most of which were purchased from the Elkhorn Coal Company in the 1950s,
but they did not expect the petition to succeed. “We ought to just do like those old
women did over in Knott County,” a SCEF newsletter reported a Hemp Hill woman
saying. “We ought to get our guns and go over there and tell ‘em to git,” she said, “I can
shoot a .38.” News From the Southern Conference Educational Fund, 14 September
1966, Folder 6, “Strip Mining, April 1, 1966 - December 28, 1966,” Box 19, Caudill
Papers.

9. Joe Mulloy, War on Poverty Project; Tom Bethell to Milton Ogle, 4 September 1967,
12, “Appalachian Group to Save the Land and People (AGSLP), 1967-1968,” Box 40,
AV Papers; Program from Strip Mining Symposium, July 13, 1967 (Owensboro: AV
Information Office), Folder 6, Box 5, Ebersole Papers; “Why We Come to Owensboro:
A Report to Governor Breathitt, July 13, 1967,” Folder 6, Box 5, Ebersole Papers.

10. James C. Millstone, “East Kentucky Coal makes Profits For Owners, Not Region,”
St. Louis Post-Dispatch, 18 and 20 November 1967, in Appalachia in the Sixties, 75; Joe
Mulloy, War on Poverty Project; Courier Journal, 4 July 1967, 1;

1.

18.


18. *Martin vs. Kentucky Oak Mining Co.* (429 S.W. 2d 395), 395-99. *Amicus curiae* briefs were filed on behalf of the plaintiffs by David Schneider for the Commonwealth of Kentucky, Edward Post for the Kentucky Civil Liberties Union, James Young for the AGSLP, and Lawrence Grauman for the Sierra Club.


22. Mountain Life and Work, 46 (October 1970), 3; Courier Journal, 10 October 1971, 1; Carter Combs was a former Michigan coal broker with neither a college degree nor the four years of conservation-related experience required of the inspectors he would be supervising. He received his appointment as supervisor of the Northeast district - which included Pike County - because his daughter had been a campaign aide for Nunn. While working for the reclamation division, Combs did a great deal to diminish the quality of enforcement in the eastern Kentucky coalfield. Despite leading all other eastern Kentucky counties in coal production, Pike County had the lowest number of violations per inspection. Landy, The Politics of Environmental Reform, 282, 292-98.


25. Minutes of Meeting Called by KCC to Invite Other Organizations and Individuals to Determine Action on Strip Mining, Folder 1, "Kentucky Conservation Council and ad hoc Committee on Strip-Mining, Jan 3, 1969 - Dec 31, 1969," Box 24, Caudill Papers.


29. Jack Weller to Harry Caudill, 26 January 1971, Folder 4, “Kentucky Conservation Council and ad hoc Committee on Strip-Mining, Jan 26, 1971 - Sept 27, 1971," Box 24, Caudill Papers; The Citizens League to Protect Surface Rights was formed by citizens of Letcher County “fed up with the destruction of their land by strip mining and gas and oil drillings,” primarily by the Kentucky-West Virginia Gas Company. Their complaints
centered on the oil leaks, gas explosions, acid drainage, and landslides taking place in the creeks and hollows of Blackey. The League hoped “to halt further destruction and, where damage has already occurred, to guarantee just compensation for the landowner.” The group’s chair was Joe Begley, who had left employment by the gas company in West Virginia in 1966 to run his deceased father-in-law’s store. See Mountain Life and Work, 47 (January 1971), 22; Mountain Life and Work, 47 (February 1971), 15; New York Times, 14 June 1971, 16; Minutes, Board of Directors, Save Our Kentucky, Inc., 8 August 1971, Folder 4, “Kentucky Conservation Council and ad hoc Committee on Strip-Mining, Jan 26, 1971 - Sept 27, 1971,” Box 24, Caudill Papers.

30. John Franson to Harry Caudill, 5 September 1970, Folder 3, “Kentucky Conservation Council and ad hoc Committee on Strip-Mining, June 9, 1970 - Aug 5, 1971,” Box 24, Caudill Papers; Mountain Life and Work, 45 (June 1969), 21; Harry Caudill to Mr. Harry LaViers, Jr., 8 June 1971; John Franson to Harry Caudill, 12 July 1971; and John Franson to Dr. Elvis Stahr, 5 August 1971, Folder 3, “Kentucky Conservation Council and ad hoc Committee on Strip-Mining, June 9, 1970 - Aug 5, 1971,” Box 24, Caudill Collection. A handwritten note on the last page of the third letter details this secret funding of SOK, and Caudill’s papers at the University of Kentucky include a number of slips of deposit for $4000 to Caudill’s Bank of Whitesburg account.


Chapter 6

"The Dilemma is a Classic One": Opposition to Coal Surface Mining in West Virginia

The campaign to abolish coal surface mining in Kentucky was the most militant and 'popular' of state-level movements. Eastern Kentucky residents employed direct action tactics on a scale unseen in other parts of the strip coalfields of Appalachia, and most of the people physically blocking or shooting at bulldozers there were common people. Farmers, miners, and the unemployed all played important roles in the opposition from its inception, and their organizations were the foundation for a more broad-based state campaign to ban stripping. Although its executive committee included wealthy club women and middle-class professionals, SOK grew out of the grassroots efforts of the mostly poor people in mountain counties, and it continued to be responsive to that constituency. By most measures, however, the movement in Kentucky was not very successful. The state never abolished coal surface mining and it was not until the 1980s that it outlawed stripping on a broad form deed without landowner consent.

The closest any state came to banning strip mining was in West Virginia, in 1971, when legislators seriously considered an abolition bill and then passed a measure that declared a two-year moratorium on coal surface mining in nearly half of the state's fifty-five counties. The movement responsible for this moratorium law began in 1967, when antipoverty workers assisted residents of five southern counties in forming the Citizens
Task Force on Surface Mining to help prompt the legislature to pass a new control act.

By the next year the opposition was moribund, but in the latter part of 1970, secretary of state and gubernatorial candidate John D. Rockefeller, divinity student Richard Cartwright Austin, and state senator Si Galperin revived it. Rockefeller put up the funding to establish Citizens to Abolish Strip Mining (CASM), headed by Austin, and Galperin led the fight for an abolition bill in the Senate. CASM did not succeed in its main objective, however, and the group disbanded in 1972.

Shortly after the 1971 legislative session, *Mountain Life and Work* editor Barnard Aronson penned a letter to the editor of the *Charleston Gazette*, blaming the defeat of the abolition effort in West Virginia on Rockefeller. The state secretary had announced his position on coal surface mining only thirteen days before the legislature convened, Aronson pointed out, which was not nearly enough time to generate general grass-roots support. “His leadership of the campaign in the absence of widespread citizens’ organization,” he argued, “provided the strippers with a ready-made target and a chance to launch an offensive that made Rockefeller not strip mining the principal issue.” Aronson also faulted Rockefeller for emphasizing “aesthetic considerations” rather than the costs of stripping for “citizens who have invested their life’s work and savings in a home or farm only to have their property ruined and their water made unfit to drink.” The state secretary did begin to cite economists and deal with the issue in broader terms, after the “Citizens for a Right to Earn a Living” lambasted him as a millionaire with no feelings for working people. “But the narrow perspective of beauty v. jobs was an
albatross around his neck throughout the campaign," Aronson concluded, and Rockefeller typically attacked stripping as an isolated phenomenon.¹

Some of what Aronson said in his letter was true. Rockefeller did make a rather tardy public announcement of his support for a ban on stripping. But grassroots support was strong during the West Virginia campaign and the state secretary did not persistently present coal surface mining as only a threat to the beauty of the state’s landscape. CASM tapped into the already existing but disorganized opposition, inherited its varied critique, and helped give the opposition a larger public voice. Many people expressed their interest in the abolition bill Galperin introduced in January 1971 by establishing CASM chapters or affiliates, organizing rallies, circulating petitions, and probably in their daily general conversations. A poll in mid-February found Charleston residents to be in favor of a ban three to two, with women slightly more inclined toward abolition than men. In nearby Fayette County, one of the state’s leading strip coal producers, respondents to a questionnaire in The Montgomery Herald were overwhelmingly in support of either an immediate or gradual end to coal surface mining. But protests, petitions, and widespread sentiment were not sufficient to affect legislators, many of whom were beholden to the coal industry and were always overwhelmingly against a total ban. Even their votes for a partial moratorium meant little when considering the lack of strip mines and the unlikelihood of any new operations being established in the counties where stripping was prohibited.²

To fault Rockefeller for the failure to outlaw surface mining overstates his role in the movement and understates the dominance of the coal industry in West Virginia.
politics. The campaign to stop stripping in the state failed because citizens could not force their legislators to act responsively or hold them accountable for shirking their duties of representation, irrespective of the opposition's leadership. This breakdown in the democratic process is one of the main reasons why many activists in West Virginia and elsewhere began to take their concerns to the national level. By 1971 a regional movement for the abolition of stripping through federal legislation was taking shape as folks from Ohio, Pennsylvania, Kentucky, West Virginia, and Virginia established links with one another and built multi-state organizations. When courts and state legislatures continued to fail them, and nonviolent civil disobedience and violence against property proved to many to be a dead end in terms of a long term solution, opponents of strip mining started to focus almost exclusively on getting redress through the United States Congress.

*Early Regulatory Legislation*

In 1939, West Virginia became the first state in the nation to pass an act controlling strip mining. But this early legislation was as much a product of deep mine operators fear of increasing competition with strippers as an expression of concern about the environmental and social problems caused by surface mining. Contour stripping had expanded briefly in the state during World War I and the 1920s, yet in 1938 the only recorded surface mine production was in Brooke and Hancock, the two most northern counties, where five strip pits produced 226,000 tons of bituminous coal. With the onset of production for World War II, however, demand for coal was nearly unlimited. Acting
at the behest of underground mine operators who were wary of a rapid expansion of unregulated strip mining, legislators from Brooke and Hancock proposed bills in the state Senate and House of Delegates to establish controls on the industry. In late February Senator Thomas Sweeney introduced Senate Bill 234 and Brooke County delegate L. Reed Clark put forward a similarly worded proposal, House Bill 390.³

Sweeney objected to stripping partly on the grounds that it damaged the landscape. “The operators of the strip mines claim that they replace the soil,” he explained to his colleagues, “which you and I know not to be a fact.” But objections also came from the Brooke County Coal Operators Association, a group representing small deep mine owners, and Sweeney voiced their particular concerns too. “[B]esides disfiguring the land and destroying its fertility,” he noted, coal stripping operations stood “in the way of the Coal Operators Association accomplishing what it seeks to do for the miners and the business interest of the county.” With the muted but significant support of at least some of the underground segment of the coal industry, the measures to regulate coal surface mining in West Virginia easily passed.⁴

According to the new legislation, the control act was necessary because strip mining “causes soil erosion, increases the hazards of floods, causes the pollution of streams of water, causes the accumulation of stagnant waters, destroys the utilization of surface lands for agricultural purposes, creates dangerous hazards in life and property, counteracts efforts for the conservation of soil and preservation of natural resources of the state, and is generally injurious to public health and welfare.” To address these many problems, strip operators had to obtain a permit from the chief of the department of
mines, put up a cash bond of $150 per acre, and replace overburden. “Within a reasonable time to be determined by the department of mines,” declared the law, operators were required “to replace said soil, subsoil or other strata removed from said coal and refill any ditches, trenches or excavations made in stripping said coal.” Violations of the act were misdemeanors, punishable by up to a year’s imprisonment or a fine of not less than $50 or more than $500.5

This first regulatory legislation went into effect in the early part of 1941, but it did not hamper expansion of the strip coal industry. Between 1939 and 1943, production increased tenfold in the state as a whole. It jumped from 50,695 tons to 3 million tons in Harrison County alone, which accounted for nearly half of all strip coal produced in West Virginia during the war. This dramatic growth compounded existing environmental problems and prompted state legislators to strengthen controls on the industry. In 1945 they amended the 1939 act to require more information from operators on permit applications, establish a registration fee of $50, and raise the bond to $500 per acre, with a $1000 minimum. The new law also stipulated more elaborate post-mining regulatory standards, although with some important exceptions. Operators were required to cover the face of the coal “so far as practicable,” bury all roof coal and pyritic shales, seal off any break-through to underground workings, and provide outlets to conduct storm and seepage waters “with as little erosion as possible.” In the cases where stripped lands were previously not used for agricultural or grazing purposes, the director of the agricultural experiment station of West Virginia University could grant an exemption from these provisions. All operators were required to plant trees, shrubs, grasses or vines, however,
within one year after completion of mining. Any bonds forfeited for failure to follow the law would be deposited in a fund for reclaiming lands injured by strip mining since the effective date of the act.⁶

Still, the passage of more controls on surface mining put few real constraints on West Virginia’s strip coal industry. Provisions for enforcement of the 1945 act were weak and regulatory agencies were typically not inclined to strictly apply its provisions. Public outcry against strip mining was minimal and isolated, placing little pressure on inspectors and other Department of Natural Resources (DNR) officials. In the late 1950s the mayor of Matewan, (Mingo County) complained that surface operations had done “many thousands of dollars worth of damage ... to the town sewerage system, in addition to losses by private property owners and railroads.” This damage was all the more regrettable, he said, because there seemed to be no law that municipalities or private property owners could use to protect themselves. West Virginia conservationists also weighed in on the issue. Strip miners “can go into virgin wood lands and destroy recreational value and scenic beauties,” bemoaned the executive director of Sportsmen Unlimited, and this was costing the state millions of dollars every year in lost tourism business. But town officials and sportsmen complained about poorly regulated coal surface mining outside of an organized campaign or movement to improve the situation and throughout the 1950s abuses went largely unchecked.⁷

Neither enforcement nor conditions improved much in the next decade and, in 1963, senators and delegates passed more amendments to the state’s control legislation which significantly weakened the law. Not only did the new legislation omit the
requirement for the operator to indicate the area to be covered by a permit but it also lowered the performance bond to $150 per acre. The consequences of this turnabout were predictable but they were most severe for homeowners living near active operations.

When a strip operator began working close to Ellis Bailey’s land in 1965 he had all sorts of problems. Bailey woke up one morning to find a bulldozer in the backyard of his Raleigh County home, pushing rocks and dirt towards it. The strippers eventually destroyed his “garden” of 400 tomato and cabbage plants, ruined his springs and well, and the back of his house fell in from the weight of the spoil washed against it during heavy rains. Not surprisingly, Bailey and others in similar situations had little faith in controls. “There’s too many poor people being damaged,” he said, and “too many lives endangered.”

By the mid-1960s, some West Virginians were calling for the abolition of strip mining. In a letter to the editor of the Charleston Gazette, Nicholas County resident F.H. Stewart set out many of the arguments that other proponents of a ban made later in the early 1970s. Confronting the issue of job loss head-on, he noted that most strip mine employees were itinerant workers from out of state, not local. Most of them also possessed the skills for operating heavy equipment which were easily transferable, so any West Virginian who was put out of work could likely find another job. And closing down surface mines would actually create employment opportunities, when deep mines needing two times as many workers opened to supply coal now being supplied by strip operations. Anyway it was assessed, Stewart argued, there seemed to be no good reason for extracting coal by the stripping method. “Strip mines mar the beauty of our state,
destroy vegetation, forest, wildlife in general, erode the soil, pollute the streams, create flood hazards, and, in many cases leave entire mountains of broken stone.” The only gains were made by the “individual spoiler and his well-paid lobbyist, at the expense of all other citizens.”

Yet even Ellis Bailey was still willing to give improved regulatory legislation a chance. In January 1967, he and other residents of Fayette, Wyoming, Raleigh, and Boone Counties, along with a few antipoverty workers, formed the Citizens Task Force on Surface Mining (CTFSM). According to CTFSM’s Fayette County chair, Claredon Williams, the opposition group circulated petitions to most of West Virginia’s fifty-five counties calling for corrective measures similar to but even more far-reaching than a new control bill proposed by Governor Smith. First on their agenda was backfilling, followed by prohibition of surface mining on steep mountain slopes and planned stripping, which took into consideration an area’s economic conditions, the beauty of the land, and the safety of private property and person. The petitions also demanded a time limit on reclamation, legal assistance to indigent landowners facing damage by strip coal operators, better enforcement through an increased budget for the Department of Natural Resources, and provisions for expanded citizen involvement in oversight. At the end of January, twenty-five members of CTFSM, including former and current antipoverty workers, took these demands to Charleston. They spoke before the senate committee on natural resources, presented their petitions, and showed pictures of damage done by strippers in Fayette County.
Operators were adamantly opposed to the new control measure being considered by the senate committee, however, and they focused their criticism on the section allowing the DNR chief to prohibit stripping in "any area which is within 500 feet of any public road, stream, lake, or other public property." O.V. Linde, the executive director of the West Virginia Surface Mining Association (WVSMA) claimed that this provision would eliminate 90 to 95 percent of the coal surface mining in the state. Because of West Virginia's topography, he said, it "would be impossible to operate a surface mine and stay within the limits of this requirement." Other opponents of the control bill declared that the section violated the state and federal constitutions, constituting an unlawful taking of property.

As finally passed by the legislature, the 1967 regulatory act addressed nearly all of the concerns of CTFSM, including the need for a selective ban on steep-slope stripping and a proposal by Clarendon Williams for triple damages to persons whose land was affected by strip mining. "The legislature finds that there are certain areas in the state which are impossible to reclaim," read the law, "and that if surface mining is conducted in these certain areas such operations may naturally cause environmental degradation as well as imperil life and property." Adopting the wording of the Kentucky law, surface mining was prohibited within 100 feet (rather than 500 feet) of homes, public buildings, schools, churches, cemeteries, commercial or institutional buildings, public roads, streams, and public property. The act also eliminated a requirement that the outer slope of the fill bench of strip mine operations be no greater than a 45-degree angle, requiring instead that backfilling be done "in such a manner as to prevent water from flowing over
the outer slope of the disturbed area. Enforcement was given to a division of reclamation, within the Department of Natural Resources, as well as a reclamation commission, composed of the DNR director, reclamation division chief, and the director of mines. The commission had the task of promulgating "reasonable rules and regulations" and conducting hearings. The law also set up a reclamation board of review, appointed by the governor and consisting of a coal industry representative, a forestry expert, an agriculture expert, an experienced engineer, and a person familiar with water conservation.12

Despite provisions making West Virginia's control law one of the toughest in the Appalachian region, however, regulatory agencies faltered in their enforcement duties and the amount of unreclaimed land increased in the years following. By 1971 the state's strippers had created at least 6563 linear miles of highwalls, benches, and banks. Altogether they had disturbed 250,000 acres of land, three-quarters of which had less than 75 percent vegetation cover, and 109,613 acres of which was classified as not reclaimed for having less than 50 percent vegetative cover. Lands above, below, and across from strip mines had been affected too, on the scale of three to four acres for every acre stripped. A good portion of the acreage permitted under the 1967 control law was in the southern part of the state - particularly Boone, Fayette, Kanawha, McDowell, Preston, and Raleigh Counties - and this section continued to experience the most severe disturbances. But opposition generated by strip mining and the failure of regulatory legislation was not restricted to the southern counties. Residents of all parts of West Virginia and even outsiders became outspoken opponents of coal surface mining in the
state. Violence was boiling below the surface, warned Supreme Court justice William Douglas, and now was the time for the state’s legislature to completely abolish strip mining.13

Reorganizing the Opposition

In the off-year election of November 1970, Charleston music store owner Si Galperin won a seat in the state senate largely for his advocacy of a ban on strip mining. In mid-December he attended the annual meeting of the WVSMA, along with Secretary of State John D. Rockefeller, to debate the organization’s director, O.V. Linde. In his remarks, Galperin cited the continued problems caused by coal surface mining since 1967, including slope instability and erosion, the consequent threat posed to life and property, sedimentation of streams and increased flooding, and increased unemployment when less efficient deep mines were forced to close or never open. “[Y]ou would be amazed at the number of people that have written to me, called me, come to see me,” he told the coal operators, “to tell me of their personal experiences from these abuses.” Some of his constituents were afraid to go to sleep at night “for fear that their houses will not be there in the morning.” But Linde dismissed these fears and made an appeal for strip mining under state controls. The “results of our efforts since 1967 convince us that we can strike a balance between use and conservation of natural resources,” he said, “and that we can strike that balance under the current legal and regulatory structure.”14

Following the Galperin-Linde debate, Rockefeller decided to make the fight against stripping central to his campaign for governor and he called a meeting with the
senator and his legislative aide, Richard Cartwright Austin. The issue of strip mining was not new to Rockefeller. He had come to West Virginia as an antipoverty worker and, as a state legislator, played an instrumental role in passage of the 1967 control act. Austin also had some experience in the struggle against coal surface mining. He had moved from his native Cleveland to serve as minister to a parish in Clearfield, Pennsylvania, where he could see three strip mines from his home. In 1966, Austin went to West Virginia and his first ministerial post there was in Boone County, where he saw more stripping and witnessed people's opposition to it. While on leave in 1970, Austin decided to join the staff of representative Ken Hechler, the leading opponent of coal surface mining in Congress, and in November he went to work for Senator Galperin. At the late-December meeting called by Rockefeller, Austin agreed to head Citizens to Abolish Strip Mining (CASM) and the wealthy state secretary wrote out a personal check for $15,000 to sustain the group.15

Shortly after establishing CASM, Rockefeller held a press conference to publicly declare his support for a ban. The dilemma was a classic one, he said, between job opportunities and natural beauty, both of which state policy should preserve. Rockefeller suggested that the way to preserve both was by passing a prohibition bill, which he would have Senator Galperin introduce when the state legislature opened on January 13. “I am concerned about jobs,” he stated, “but I might note that one reason stripping is so profitable is that it has a low employment factor relative to deep mining.” Immediate impact on jobs would be negligible, anyhow, the state secretary claimed, since the industry provided employment to only 3650 residents, or one half of one percent of the
state's workforce, and those workers possessed easily transferable skills. As to loss of tax revenue caused by a ban, he suggested that a severance tax on deep-mined coal could make up the difference.  

L.J. Pnakovich, the president of UMW District 31 (West Virginia), disagreed with Rockefeller, rejecting his estimates of small job losses and questioning prohibition in terms of property rights. The number of workers directly employed by strip coal operations was much higher than 3650, Pnakovich insisted, and he “doubted if the state could tell owners of mineral rights that they could not mine their coal.” The union leader did not deny that surface mining caused environmental damage but, like O.V. Linde, he maintained that the 1967 control act was sufficient to check this if enforced. Miles Stanley, the president of the West Virginia Labor Federation (AFL-CIO) also disagreed with Rockefeller but admitted that strip mining was not sufficiently regulated. “Reclamation,” he said, “leaves a lot to be desired.” If operators were unable to restore the land to a condition as good as it was when they started, “they should be prohibited from mining.” But jobs were involved in abolishing stripping and coal was urgently needed, Miles argued, while the possibilities for improving regulatory legislation had not been exhausted. In mid-February, the Federation’s executive board adopted a similar position. With a 6.6 percent unemployment rate, the board declared, absorbing the thousands of strip mine workers made jobless by a ban was wishful thinking. But if new safeguards were not adopted by the legislature and the problem is not solved, the labor body maintained, “the AFL-CIO will join in the effort to ban strip mining.”
Other West Virginians agreed wholeheartedly with Rockefeller, and a visible, organized movement to enact state legislation to abolish coal surface mining quickly took shape after his press conference. Raleigh County residents resurrected CTFSM at a rally on January 9, which included Si Galperin as the main speaker. The group’s new chairman, Ellis Bailey, claimed that the state’s hills were being destroyed faster than ever and the only answer was to stop stripping once and for all. In mid-January Richard Austin opened a CASM office near the statehouse in Charleston, by which point the organization was already sponsored by eight different groups throughout the state, including CTFSM, the Elk River Basin Protective League, Citizens for Environmental Protection, Cranberry Backcountry Preservation Society, Mountaineers Against Strip Mining, the Montgomery Citizens Antipollution Group, Cabin Creek Citizens Union, and the Public Affairs Conference. Other groups that backed regulatory legislation but not a ban, such as the West Virginia Highlands Conservancy and the Izaak Walton League, also coordinated their activities with CASM.18

Through the end of January and into early February various individuals and organizations made public statements in support of abolition, revealing the many different ways stripping impacted people and the land as well as the numerous reasons to outlaw it. West Virginia League for Better Housing president Carolyn Tillman said her group’s support was based on surface mining’s adverse effects on housing in the southwestern part of the state. Concerned West Virginians adopted a policy in support of abolition because state officials responsible for enforcement of regulations were unable to “stand up to the surface mining industry and its suppliers and financial and political
backers.” Some coal miners rallied to the cause of abolition too. In early February a
group of twenty Boone County deep miners visited Charleston to lobby their
representatives in support of a ban, claiming to represent a wide segment of the workers
in their industry. Deep miners were opposed to the position taken by the UMW
leadership, they argued, as they recognized that unemployment caused by a ban could be
addressed by opening up new underground mines. Strip mining polluted the water,
eliminated game animals, and left ugly and dangerous highwalls, said union member
Jerry Hughes, and as a rule strip mine employees did not even live in the areas they were
destroying. 19

Boone County was, in fact, a center of rank-and-file miners’ activism on a whole
host of issues, and CASM concentrated much of its organizing there. On February 4, the
abolition group held a meeting in Madison that drew 200 participants, many of them
miners. The highlight of the evening was a panel discussion that included Arnold Miller,
a local deep miner and president of the West Virginia Black Lung Association.
Responding to reluctance expressed by some members of the audience to holding a
massive demonstration in Charleston, Miller supported the idea and rallied underground
miners to demand a ban on stripping. Another member of the panel was Ivan White, a
member of the House of Delegates from Boone, a coal miner, and black lung activist. He
made an emotional appeal for outlawing strip mining, rhetorically asking how a mountain
could be torn down and “built back up like God made it.” A little more than a week later,
some of the same people who attended the Madison meeting gathered in the capitol’s
rotunda to support legislation amending the state’s workers’ compensation law. When
union leaders walked into the rotunda, rank-and-file miners angrily confronted them about their position on legislation to abolish strip mining. Pnakovich claimed that the union’s strip mine membership had to be protected, but the miners pointed out the prevalence of out-of-state workers on strip sites and the damage done to homes and roads by slides.20

In addition to the various citizens’ organizations and rank-and-file miners contributing to the campaign for an abolition bill, local and county governments also got involved. In early February, after being addressed by Robert Handley of the Coal River Improvement Association, a 10-2 majority of the St. Albans city council passed a resolution supporting a state ban. St. Albans drew its water from the Coal River, which was being filled by silt from strip mines in nearby Boone County, and Handley explained that dredging the river would not only be expensive but also only temporary. A few days later, after a fifteen-minute appeal by Senator Galperin, the Kanawha County Planning and Zoning Commission established a three-member committee to advise it on the position it should take with respect to abolition legislation. The commission was hesitant to enter the controversy, however, and after a few weeks a majority of members stalled on taking action by calling for additional study of the issue.21

State officials responsible for conserving West Virginia’s soils were generally supportive of a ban. Barbour County delegate Ken Auvil polled supervisors of the state’s soil conservation districts and found strong support for abolition among them. Replying for the five-county Potomac Valley district, W.C. Taylor said his district’s its position was that stripping should be stopped. “We believe that the injury and cost in resources
and in the population of West Virginia," he wrote, "far outweigh the benefits to the few
who desire profit and employment from the operations." A Mingo County soil
conservation district supervisor related his difficulty with revegetating stripped lands and
questioned the purported benefits of surface mining. Replanting of both grasses and
seedlings was limited by the absence of any soil, he said, because "what soil was there is
in streams and river beds, so why sell our state for a few dollars?"

As the abolition movement began to gather its forces, however, opponents of a
legislative ban on strip mining organized a formidable movement of their own. At a
January meeting in East Bank, seven hundred wives of strip mine employees established
the Surface Miners Auxiliary of West Virginia (SMAWV), under the leadership of a Mrs.
William Strange. "If the abolition bill goes through," Mrs. Strange explained, "it's going
to knock thousands of people out of work." On January 20, the SMAWV sponsored a
rally in Charleston that drew several thousand opponents of a ban, making it one of the
largest protests in the capital's history. The dominant theme of the speeches and placards
at the rally was job protection. In league with the Auxiliary and UMW, the coal industry
also stepped up its pressure on mountain state residents and their legislators. On January
26 operators released a study which claimed that West Virginia's economy would lose
$232 million and put at least 23,500 people out of work, counting those directly and
indirectly dependent on the industry for employment, if strip mining were no longer
permitted. Two days later, UMW International vice president George Titler suggested
that Rockefeller's family earned some of its great wealth from Indiana strip mines and
declared his opposition to a ban. "I believe anyone who owns a piece of coal land," he said, "has a right to mine it if the land is properly reclaimed."23

In early February the WVSMA association also started running television commercials on eight different stations in the state. The spots touted the Association's support for strong and enforceable reclamation laws, the ability of its members to enforce standards by self-policing, and its funding of reclamation research. But they also made an economic argument against abolition. The centerpiece of each of the commercials were 'average' folks explaining why they opposed a ban, including a welder, two truck drivers, restaurant and service station owners, a grocery store clerk, an auger operator, and Mrs. William Strange. All of these people emphasized the detrimental economic impact that was sure to follow a prohibition on strip mining. In one commercial, heavy equipment operator Jack Burdette expressed his anger at the abolition campaign for threatening to take away jobs without good reason. "Heck," he said, "you can't raise a conversation in these hills let alone a crop."24

The Compromise: 'Fair and Equitable'?

Both legislators and activists believed that strip mining would dominate winter proceedings of the House of Delegates and Senate, and a flurry of legislative activity soon confirmed this expectation. At the end of January, Galperin introduced an abolition bill in the Senate, prohibiting coal surface mining after January 1, 1973 and disallowing new permits after June 30, 1971. The bill was immediately referred to the natural resources committee and committee chair Carl E. Gainer appointed a five-member
subcommittee, which included Galperin, to study the effects of a ban. The subcommittee initially planned to visit strip mines, to gauge the impact of the 1967 control act, but snow forced members to remain in Charleston. Instead, they heard arguments from representatives of proponents and opponents of abolition in a long closed-door session. Rockefeller and Robert L. Smith, professor of wildlife management at West Virginia University, spoke in favor of Galperin’s bill, and Gil Frederick, the president of WVSMA, and O.V. Linde spoke against it. By the middle of February the weather had improved enough for a day-long tour of the steep slopes of West Virginia’s southern counties, where the subcommittee was confronted by sign-toting advocates of outlawing strip mining.

In addition to Galperin’s bill, two senators introduced a proposal giving state residents the opportunity to make complaints against reclamation supervisors or inspectors who willfully or deliberately did not enforce regulations, and allowing courts to order officials to rightfully perform their duties or be tried as criminals. Another legislator brought a bill to the Senate floor that allowed West Virginians to vote to outlaw stripping on a county-by-county basis, preceded by five-year time lag after such a vote. Members of the house also proposed separate measures strengthening regulations and outlawing stripping. A Monongalia County delegate introduced legislation extensively revising the 1967 act, providing for public hearings prior to issuance of permits, requiring the maintenance of uniform records, reconstituting the reclamation commission, and increasing bonds. On the same day, Berkeley county delegate Robert
Steptoe and his Wyoming county colleague Warren McGraw introduced an abolition bill, similar to Galperin’s proposal in the senate.

With various proposals up for consideration by the legislature, on February 15 a crowd of 1000, consisting largely of abolition supporters, gathered at the statehouse. Tensions ran high that evening and state troopers broke up a number of scuffles. At one point strip miners yanked an “Abolition Only” sign from the neck of a young women, and others hurled a full soft drink can at the head of a Charleston Gazette photographer. Outside of the capitol building Rockefeller led a parade of sixteen conservationist and citizens’ groups, denouncing strip miners for bringing “short term benefit but long-range detriment to all of us living here.” Representatives of the West Virginia Highlands Conservancy, Izaak Walton League, and Concerned Citizens for West Virginia, all of which had eventually decided to support abolition, echoed the state secretary’s sentiments. And rural mountain people like Martha Sexton of Cabin Creek emphasized the damage done to property and livelihoods by coal surface mining. “It took bulldozers thirteen days to get the slide out [from her home],” she said, “and it destroyed everything.”

Two days after the February 15 gathering the Senate natural resources subcommittee voted four to one against recommending Galperin’s abolition bill, and they canceled a planned tour of strip mines in northern counties in order to give full consideration to a control bill. Chairman Pat Fanning from McDowell County said the majority of the subcommittee took the view that strip miners were not causing “unacceptable waste,” as stated in the abolition legislation, and stripped lands could be
converted for use as "airports, subdivisions and other things." When Senate natural
resources chair Carl Gainer reappointed the subcommittee to draft new legislation he
insured the dominance of this view by replacing Galperin with Senator Chester Hubbard
of Ohio County. 26

Despite the quick defeat of the abolition bill in committee, however, proponents
of a ban continued to organize rallies, including one in Morgantown which drew 1000
demonstrators, and these events continued to shape the thinking and work of legislators.
Another part of the backdrop for the deliberations at the statehouse was a developing
controversy over the DNR's granting of a stripping permit near the Kanawha Run
campground on Sutton Lake, in Braxton County. In mid-February, Col. Maurice D.
Roush, chief of the Huntington district of the U.S. Army Corps of Engineers, had raised
questions about the permit, noting the heavy load of silt that the lake had received during
the past summer. Robert Flint, head of a seven-county tourism group called Heartland,
also objected to the stripping because "it is taking place in one of the most scenic areas of
the county." But after DNR land reclamation chief Benjamin Greene toured the ten-acre
operation with Major John Hill, also of the Huntington Corps of Engineers, they
announced that the mining would go forward and issued plans to minimize any adverse
impacts on Sutton Lake. 27

On February 21, as part of a weekend of rallies throughout the state, CASM
organized a demonstration at the Kanawha campground that drew 200 people. Richard
Austin and Sutton Mayor O.L. Holcomb addressed the crowd, as did John D. Rockefeller.
The next day abolitionists brought to Greene petitions against the Sutton permit, bearing

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the signatures of 1000 Braxton County residents, as well as resolutions from the towns of Sutton and Gassaway, which also opposed the strip mining. While in Greene’s office, Robert Flint said he listened in on a telephone conversation between an aide to Governor Moore and the reclamation chief. Supposedly, the aide advised playing the situation by ear, telling the protestors “anything to get them off our backs,” and getting “the boys” to pull out of the job “until this group, the colonel [Roush] and press die down.” Neither the Moore staff member nor Greene knew Flint was on the phone and they disputed his recounting of the conversation, but on February 24 the permitted strip mine company voluntarily suspended its work pending a two- to three-week review by the DNR.28

As Braxton residents were pressing their particular case, Richard Austin and other CASM members continued to address legislators on a statewide ban of strip mining. On February 25, Austin demanded a roll call on abolition bills in the full Senate and House and he put his organization on record as favoring federal efforts to abolish stripping nationwide. But the bill recommended two days later by the Senate natural resources subcommittee was not an abolition bill. It set a thirty-foot limit on highwalls and more stringent bench width measurements, required that spoil be retained on the bench or only according to a specified plan, and increased the permit fee and raised the performance bond. Senator Robert Nelson claimed that the proposed legislation “merely adds to the penalty provisions and does not provide for any greater control than that which could be experienced now by adequate enforcement of existing laws.” Activists responded to the proposal with a protest, barring entrance to the Senate chamber. The crowd included residents from Kanawha, Boone, McDowell, Mingo, and other counties, and they joined
together in a rousing rendition of "The West Virginia Hills." One participant in the civil disobedience was retired deep miner James Washington, who rejected the notion that stripped land could be reclaimed as well as the argument that abolition would cause job losses. Strip mining was a "fast way to make a buck," he said, and every strip mine employee displaced three or four deep miners.29

At DNR offices a storm was still brewing, partly due to the Sutton Lake permit and partly due to the outspoken acting deputy director Norman Williams. In February, Williams had become the first member of the Moore administration to call for a ban. "[I]t seems as if the state is allowing the operator to use his property in such a way to deprive his neighbors of the use and enjoyment of their property," he said in a speech to the Kanawha Valley Unitarian Fellowship, "and this, at least to the victims, seems like an unlawful taking of property." In March, Williams announced that six of the agency's ten division chiefs quietly supported outlawing coal surface mining and he called for the resignation of committee chair Carl Gainer. Williams accused the senator, who was also an oil company distributor, of a pro-industry bias. "I believe there exists no greater obstacle to the enactment of legislation which will truly protect the environment of West Virginia," he said in a speech delivered on the senate side of the capitol rotunda, "than the leadership of the senate natural resources committee." Other members besides Gainer had links to extractive industries, including Senator Tracy Hilton, the largest strip miner in the state.30

In the legislature, on March 4, Galperin tried once again to bring abolition before his fellow lawmakers in the form of an amendment that would have phased out the
industry in two years. Senators from Fayette, Monongalia, Cabell, Logan, and Mingo Counties voted for the Galperin proposal, but it was rejected on a 27-6 vote. More than thirty other amendments met a similar fate. A measure introduced by Senate majority leader and Kanawha Democrat W.T. Brotherton, however, was defeated only on a tie vote of 17-17. The next day, on a motion by Senator William Sharpe, the Senate reversed itself and adopted the Brotherton amendment to the control bill on a vote of 24-9. This change permitted stripping where the heaviest mining was already taking place (Kanawha, Raleigh, Fayette, Boone, McDowell, Logan, Wyoming, Mingo, Lewis, Preston, Barbour, Greenbrier, Nicholas, Harrison, Mineral, Upshur, Grant, Randolph and Monogalia Counties), allowed limited stripping with no new permits for one year in others (Clay, Mercer, Webster, Summers, Brook, Tucker, Wayne, Taylor, Putnam, Marion, Gilmer, Braxton, Cabell and Hancock Counties), and banned surface mining for a year in the remaining counties, areas which were classified as unsuitable for mining or where there were no minable reserves. During the year-long moratorium experts would study “the damaging and economic effects of strip mining with a view toward deciding what to do about the industry in the future.” Senator Sharpe said he had made the motion because he was opposed to abolition and believed a thorough study would show that coal surface mining could be properly controlled. 31

On March 6, however, the House judiciary committee recommended a modified version of the Senate bill, with the Brotherton amendment removed. Days later, on March 9, the full House engaged in the longest debate on record (at just under five hours) before sustaining the committee recommendation and rejecting a partial moratorium on a
vote of 55-44. The Brotherton amendment would “deprive several thousand families of their livelihoods just overnight,” said judiciary vice chairman and Raleigh delegate Anthony Sparacino, and it was “nothing more nor less than an effort to condition the surface mine operators to total abolition.” But in the wee hours of the morning, the House passed a bill proposed by Fayette County delegate George Seibert which permanently banned strip mining from counties where it was not yet being done. After a conference committee worked out a compromise measure, the West Virginia legislature passed a two-year halt on all strip mining in the state’s twenty-two unstripped counties (half of which had no minable reserves), with the Senate voting 24-9 and the House of Delegates voting 88-4. The final bill also increased performance bonds to $560 per acre, required the construction of approved drainage systems before any operations could begin, and mandated delayed blasting techniques. Perhaps indicative of the weakness of the legislation, the president of the WVSMA praised the legislation as “fair and equitable,” and while signing the bill Governor Moore suggested that considering “the times and temper” the new control act was a good one. 32

Building a Regional Movement

When Senator Brotherton first proposed a halt on strip mining in selected counties he meant for the ban to be temporary, to allow for a study of the practice. The bill that came out of the conference committee in March established a two-year partial ban and Senate Resolution no. 37 directed the government and finance committee to make an investigation, which it did by contracting with the Stanford Research Institute (SRI). But
CASM questioned the choice of SRI for the study, suggesting that the research institute could hardly be expected to issue a report that was not biased against prohibition. The president of the Institute, Charles A. Anderson, was on the board of directors of Continental Oil, which owned the Consolidated Coal Company. In 1970 Consolidated was the second largest producer of strip mined coal in the nation, including 1.3 million tons in West Virginia. The chairman of the Institute's board, Ernest C. Arbuckle, Jr., was on the board of Utah Construction and Mining Company, the fourth largest producer of stripped coal in the country. And the president and general manager of Utah Construction was on the SRI board. Many of the Institute's other board members also had ties to energy producers, including the chairman and chief executive officer of the Montana Power Company, a director of the Shell Oil Co., the chairman of Tenneco Inc., two directors of the Southern California Edison Co., and a director of Union Oil. Still others had a stake in the manufacturing of equipment used at strip mines or in railroads that transported surface mined coal.

The SRI report on coal surface mining in West Virginia was biased, but the bias was hidden by judicious language. In an assessment of past legislation the Institute acknowledged the failure of the 1939 act to control strip mining abuses and described the 1963 regulatory legislation as "a major step backward in terms of control over surface mining and reclamation." Passage of the 1967 control act was followed by compliance with the law's new requirements, the report asserted, and the treble damages provision provided "an effective and immediate monitoring remedy for direct damages," such as from flyrock, although it was not effective in dealing with indirect damages, such as those
caused by flooding. The limited but proven efficacy of regulation, along with certain aspects of the deep mining industry, ruled out either a total ban or phase-out of stripping statewide. Following the phase out of strip mining on slopes greater than twelve degrees "the immediate economic impact on specific areas would be limited," the report explained, and with careful planning "it should be possible to achieve placement of many workers." But it would be impossible to place all strip mine employees, and even a gradually instituted ban on steep slopes would cause severe economic problems in southern West Virginia, particularly in the eight counties where more than 60 percent of all coal surface mining was concentrated. In addition, it would be difficult for deep mines to expand their production to compensate for curtailed stripping. The deep mine coal industry faced a shortage of skilled labor, rising wages, decreased output as the result of new health and safety legislation, current technology, and controlled prices.34

The conclusions of the SRI study lent support to legislators’ rejection of a ban on strip mining and helped undermine the sense of purpose of the abolition movement, which was already being fractured by internal dissension. Dissatisfied with the leadership provided by Rockefeller as well as CASM’s "bureaucracy," some strip mining opponents broke away from the organization in early August 1971, to form Mountaineers to Save West Virginia (MSWV). The new group claimed that it was more action-oriented and representative of "broad-based grassroots sentiment against strip mining." MSMV also intended to make a greater effort to promote the argument that outlawing coal surface mining would create jobs in the state rather than destroy them.35

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With the 1971 legislative session finished, Richard Austin closed CASM’s Charleston office. The organization was still around the next year, however, publishing its monthly newspaper, and pushing for a statewide ban on strip mining. During the 1972 legislative session, Senator Galperin proposed another abolition bill, one that discontinued the issuance of permits to mine new areas after June 1972, as well as a companion bill calling for special job-placement for displaced strip mine workers. CASM affiliates mobilized in support of these measures, but their organizing was not comparable in scale or intensity to what they had done the year before. Proponents of outlawing surface mining wrote and visited their representatives but they had only one rally of any note. Subsequently, Galperin’s proposals died in committee and CASM dissolved for good.  

Yet strip mining was a salient issue during the primary and general elections in 1972. In the May 9 primaries Rockefeller trounced two other Democratic candidates for governor, both of whom were heavily backed by coal industry money. In the primary race for the fourth congressional district, West Virginia residents chose prominent abolitionist Ken Hechler over James Kee, one of the coal industry’s most reliable supporters and backed by the UMW. Strip mining opponent and delegate Warren McGraw also challenged and defeated Tracy Hilton in a state senate race for Raleigh and Wyoming counties. Boone County delegate and stripping foe Ivan White fended off a challenge from a strip mine equipment dealer, spending only $1000 to the dealer’s $100,000, and despite much evidence of voting fraud. In Kanawha County alone, which then included 15 percent of the state’s population, eleven abolitionists emerged as
nominees for the county’s fourteen seats in the House of Delegates, including eight Democrats and three Republicans. Across the state, a dozen more CASM-endorsed candidates won primaries for House seats and three abolitionist candidates for the Senate, not including McGraw, won their primary races. Most of these advocates of prohibition went on to victory in November, although Rockefeller was soundly defeated by Moore. Believing this loss to have been the result of his abolitionist position he eventually became a strong defender of the strip mine industry.37

Grass-roots organizing against coal surface mining continued as well. Even as CASM and MSMV dissolved, some activists made connections with abolition advocates in other states and a larger, regional movement started to evolve. CASM had sent a representative to a SOK meeting in the spring of 1971, and later that summer Richard Austin facilitated a gathering in Ohio. The Ohio meeting was sponsored by Concerned Citizens Against Strip Mining and included participants from Pennsylvania as well as the Sierra Club’s Eastern Representative, Peter Borelli. In the fall, representatives from SOK, CASM, Stop Ohio Stripping, and the Wise County (Virginia) Environmental Council met in Huntington, West Virginia, and formed the Appalachian Coalition, to coordinate the regional movement for a ban. Despite the failure to outlaw strip mining in West Virginia and Kentucky, and the toll this took on opposition groups, the abolition movement did not collapse in the early 1970s. It regained strength with the development of an organizational structure for a regional movement to enact a national ban.38
Notes


8. Ellis Bailey quoted in Citizens to Abolish Strip Mining, Inc. [Charleston, West Virginia], February 1972, 2, 6, in "Strip Mining," Box 2, WVRH Papers.


11. Ibid., 1 February 1967, 1.


14. Coal Age (March 1971), 95.


18. Charleston Gazette, 6 January 1971, 3; 19 January 1971, 2; Richard Cartwright Austin, interview with author.


22. Ibid., 3 March 1971, 19.


24. Coal Age (June 1971, 82).

25. Charleston Gazette, 16 February 1971, 1, 2.

26. Ibid., 18 February 1971, 1.

27. Ibid., 15 February 1971, 1; 20 February 1971, 22.


29. Ibid., 28 February 1971, 1.


31. Ibid., 5 March 1971, 1; 6 March 1971, 1.

32. Ibid., 7 March 1971, 1; 10 March 1971, 1; 14 March 1971, 1; 18 March 1971, 1.


34. Schmidt and Stoneman, A Study of Coal Surface Mining, 16, 42-44, 106-07, 118.

36. Jeanne Williams, "Strip Mining: In Some Ways Too Late for Boone," *Athenaeum* [West Virginia University], 31 March 1971, in RCA Papers; Member organizations in January 1972 included the Association for Environmental Protection, Inc. (Buckhannon); Boone County Citizens to Abolish Strip Mining (Madison); Citizens for Environmental Protection, Inc. (Charleston); Coal River Improvement Assoc, Inc. (St. Albans); Clay County Citizens to Abolish Strip Mining (Ivydale); Harrison County Concerned Citizens (Clarksburg); Marsh Fork Wildlife, Rod and Gun Club (Rock Creek); Montgomery Citizens Anti-Pollution Committee (Montgomery); Mountaineers Against Strip Mining (Charleston); Ohio Valley Citizens to Abolish Strip Mining (Parkersburg); West Virginia Highlands Conservancy (Charleston); West Virginia Public Affairs Conference (Charleston); West Virginia Union of Students (Morgantown); and Upper Monongahela Valley Citizens to Abolish Strip Mining (Morgantown). *Citizens to Abolish Strip Mining, Inc.* (January 1972) in Folder 6, "Miscellaneous," Box 176, KH Papers.


Chapter 7

"Liberty in a Wasteland is Meaningless": Strip-Mining Opposition at the Federal Level, 1968-1972

The development of a movement demanding federal action on coal surface mining occurred against the backdrop of change in the stripping industry, including new patterns of ownership and increased levels of production. Since World War II, bigger coal companies had been engulfing smaller companies to reduce competition and generate larger cash flows. In the decade after 1955, Peabody, Consolidation Coal, Island Creek, and Pittston acquired thirty-one smaller firms among them, giving each important stripping operations in Ohio, Kentucky, and West Virginia. Such mergers made the larger coal companies prime targets for takeovers themselves, and by the mid-1970s many had been bought up by energy conglomerates. With the depletion of energy resources in the mid-1960s, manufacturers, utilities, metal producers, and especially oil producers used their excess capital to invest in the capital starved coal industry. Continental Oil picked up Consolidation Coal, Kennecott Copper acquired Peabody, and others like Occidental Petroleum and Standard Oil also made coal a target for diversification. At the same time, eastern utilities attempted to free themselves from reliance on independent producers charging spot-market prices by signing long-term contracts with the large energy corporations and expanding their reserves. By 1976, the Tennessee Valley Authority (TVA) alone controlled 412 million tons of coal reserves.¹
The multiple mergers of the postwar period combined with the rise of coal prices to stimulate expansion of the strip mining industry and increased production, especially during the so-called "energy crisis" in the early 1970s. Surface mines produced 40 percent of the nation's coal by 1970 and surpassed underground mines in total tonnage three years later. Although anthracite stripping continued to decline as accessible reserves were mined out, bituminous and lignite surface production rose by more than 30 percent between 1970 and 1976, from 260 million tons to 380 million tons. In the first part of the decade, Kentucky led all other states in production, followed by Pennsylvania, Ohio, Illinois, Indiana, and West Virginia. This ranking was altered slightly by 1976, when Wyoming was the third leading producer, a change that was indicative of the movement of coal surface mining westward. Less important in terms of total tonnage were such eastern states as Virginia and Tennessee, which produced 13.9 million and 4.8 million tons of strip coal respectively at mid-decade. But surface mining was concentrated in only a handful of southwestern counties in Virginia and eastern counties in Tennessee, and its impact on these areas was as significant as in the states where production was much greater (see Table #7.1).²
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The changes in the strip mining industry in the 1960s and 1970s exacerbated the problems caused by states' failures to effectively control or outlaw stripping, and they made federal regulatory and abolition legislation appear even more necessary to activists and lawmakers alike. Everett Dirksen had introduced the first federal control bill in 1940, and several members of Congress introduced bills in the 1950s and 1960s to institute
surveys of the damages done by strip mining, but the first full-scale congressional
hearings on the issue were not held until 1968. Between 1968 and 1977, when Congress
finally passed the Surface Mining Control and Reclamation Act (SMCRA), there were
more hearings and numerous legislative proposals. The bills members of Congress
introduced in those years ranged from weak federalist arrangements, in which the states
would retain much of their autonomy and oversight authority, to a phased-out ban on
surface mining. Debate on control measures centered around issues like the extent of
state sovereignty, interim regulations, enforcement authority and criteria, surface owner
rights, citizen participation, the segregation of topsoil, construction of water
impoundments, standards for reclamation, and provisions for an abandoned mine
reclamation fund. In the oftentimes heated exchanges over prohibition, hearing witnesses
and members of Congress also discussed the need to balance energy demands with
environmental concerns.

By the early 1970s, a number of state governments had refused to ban strip
mining and courts had issued judgements that favored strip operators. For the most
militant activists, this left either stepped-up nonviolent direct action, violence, or federal
abolition legislation as the only means by which to get redress for their grievances.
Speaking at House and Senate hearings in 1971, Save Our Kentucky (SOK) director
James Branscome warned subcommittee members that people in eastern Kentucky
threatened to use their guns if the political process failed once more. Exaggerating for
effect, he claimed that strip miners were making revolutionaries out of mountain people.
But the fact of the SOK leader’s presence and that of a number of other abolitionists at
the hearings demonstrated their hope, however small, that Congress would finally hear their demands and act on them. Through the early part of the decade, Branscome and his fellow activists organized themselves and lobbied House and Senate members to outlaw strip mining. This effort began to reach its peak of strength in early 1972, when the movement was growing and spreading, national environmental groups were at least rhetorically supportive of a ban, and a significant number of members of Congress signed on as cosponsors to abolition bills. By the next year, however, the campaign began to decline. Many activists grew tired and disillusioned as pragmatic national environmental leaders came to the fore and backed away from more radical positions. Members of Congress reacted to both these developments by focusing more intently on passing only minimal regulatory legislation, which is what they achieved with SMCRA.

From Studies to Hearings

The first federal bill directed at problems associated with coal surface mining was proposed in 1940 by Everett Dirksen, a very conservative Republican senator from Illinois. At the time, his state was by far the leader in national strip mine production and area mining was a significant competing land use with agriculture there, a fact that was reflected in the regulations outlined in the proposed legislation. Dirksen's bill, H.R. 10079, required surface miners to back-fill excavations with spoil to return the land to a somewhat level condition. It also required the posting of a performance bond to cover the cost of reclamation, the amount of which was to be determined by the Department of Interior. Together, these provisions would prevent strippers from leaving behind a
rippled landscape, impassable to farm machinery. Yet Dirksen’s proposal failed to make it out of committee, and during the next two decades regulatory proponents focused their attention exclusively on passing state legislation.³

The second attempt to use the powers of the national government to deal with strip mining was prompted by a 1958 letter from Perry Walper, chairman of the Pennsylvania Conservation Committee of the Allegheny County Sportsmen’s League, to House member John Saylor. Walper requested Saylor’s participation in bipartisan sponsorship of a federal bill to reclaim abandoned strip mines, although he and his fellow sportsmen would soon be pushing a regulatory bill in the Pennsylvania legislature. Saylor discussed reclamation legislation with staff members of the Secretary of the Interior, but the following year he introduced a bill to provide for a study by the Department of Interior (DOI) instead. Wayne Aspinall, chair of the House Committee on Interior and Insular Affairs, stalled on scheduling meetings for this bill and both the DOI and Department of Agriculture failed to file reports on the legislation as Saylor requested. The Pennsylvania representative tried to pass another study bill in 1961, however that proposal also never made it beyond committee. Conservationists continued to write Saylor, asking him to initiate some sort of federal response to strip mining, but he had apparently given up on sponsoring even a study bill.⁴

The chances for federal action improved somewhat after 1960, when President John F. Kennedy took office and appointed Stewart Udall as Interior secretary. Unlike his predecessor, Douglas McKay, Udall sometimes seemed as interested in the conservation of the nation’s natural resources as he was in their development. Speaking
at the first annual Conservation Congress in Kentucky in 1961, he compared strip mining
to the soil erosion crisis of the 1930s and suggested the need for federal controls.
Addressing the U.S. Congress on the subject of conservation in the spring of 1962,
President Kennedy announced that the DOI would soon be taking practical initiatives to
begin to confront some of the environmental degradation created by coal surface mining.
"'A serious problem of land conservation calling for immediate attention,'" he said, "'is
the serious erosion and river pollution created by surface-mining practices. Techniques
must promptly be devised to prevent or minimize this despoilment if we are not to
abandon great areas of scenic beauty and create difficult silting problems in many
sections of the country.'" To improve stripping methods and as a first step toward federal
control, the President directed Secretary Udall, working with appropriate federal and state
agencies, "'to recommend a program of research and action.'" According to a White
House spokesperson, this program would start with legislation initiating a DOI study. If
the study revealed the need for it, he said, the Kennedy administration would propose
other legislation establishing federal regulatory authority over strip mining.5

The DOI stalled on making a survey of strip mining, however, and Ohio Senator
Frank Lausche began introducing study bills of his own. As Governor of Ohio, Lausche
had played a leading role in the passage of the state's first regulatory legislation, in 1947,
and he carried his concerns about the problems associated with coal surface mining to
Congress. In 1962, he introduced a proposal to authorize a study of stripping operations
which would have included their extent, hazards to the public health and safety, and the
effect of strip mining on scenic features, fish, and wildlife. An identical bill was also
introduced in the House, where it met the approval of both the Secretary of the Interior and the Secretary of Agriculture. But members of the coal industry appearing before a House subcommittee spoke against the measure, calling the study a needless expenditure of a million dollars and raising the specter of over-regulation. "Industry is properly concerned over the dangers inherent in all efforts at regulation or study by any governmental agency," explained a Kentucky Coal Association representative. "[T]here is always the danger that such efforts, however well-meaning, may result in ill-considered action which could impose economic hardships on industries which, due to the limitations of their number and size, have only a limited ability to defend themselves."

With such staunch opposition from coal operators, the bills died in committee. Lausche and House members proposed study bills again the following year, but they met a similar fate.6

Viewed by his constituents and residents of other states as a government representative willing to challenge strip miners, Senator Lausche received many letters in the early 1960s asking him to do something to rein in the industry. One Coshocton, Ohio, sportsman inveighed against the destruction of wildlife habitat and pollution of waterways by strippers. "Surely if this desecration comes under no written law," he suggested, "it is a violation of every man’s right to the beauty of God’s earth." A group of young boys, also from Coshocton, expressed their opposition to Peabody Coal’s strip mining in the area with letters and petitions. Brian Winters and John Tozer, ages nine and thirteen, had seen commercials on television advising them against littering to keep America beautiful, but they wondered about the responsibilities of industry. "If we stop
being Litter Bugs we can keep America clean," they wrote, “but with this company strip
mining it won’t be beautiful.” Peabody had purchased the land around one of the local
public swimming pools with plans to strip it, and John had circulated petitions in
response. He sent twenty signatures to Lausche and promised plenty more “if you need it
to pass the bill.” The executive director of the Izaak Walton League also wrote to
Lausche, sending along resolutions passed at the organization’s 1964 national
convention. The League had come out in favor of passage of the study bill the senator
had introduced as well as enactment of adequate legislation to establish controls on strip
mining on public lands.7

Buoyed by public support, Senator Lausche remained steadfast in his efforts to
initiate a federal study and he was successful the third time around, in 1965, when his bill
was incorporated into the Appalachian Regional Development Act (ARDA). The ARDA
was partly a response to a wide-ranging 1964 report by the President’s Appalachian
Regional Commission, which had included a call for study of coal surface mining “with a
view to identifying appropriate and practical measures to minimize adverse effects of
mining operations.” The commission worried that a shift from underground mining to
contour strip and auger mining would exacerbate unemployment in the region, in addition
to degrading the natural environment. As passed by Congress, the ARDA established a
permanent Appalachian Regional Commission (ARC), and specified major programs for
vocational aid, improvements in public health, highway construction, as well as
development of land and timber. It also directed the Secretary of the Interior to study
surface mining across Appalachia. Following this directive, Secretary Udall established a
study committee from within the DOI and the committee sent questionnaires to mine
operators, consulted state officials and conservation organizations, and visited 693
randomly sampled surface mining sites. By 1966, enough of this work was completed to
issue an interim report to the ARC.5

The interim report claimed that 740,000 acres of land in Appalachia had been
directly impacted by strip mining for bituminous coal, in addition to 59,000 acres of strip-
mined lands in the anthracite region of Pennsylvania and 74,000 acres disturbed by mine-
access roads. Most of the surface-mined land was in areas with slopes of less than
seventeen degrees, but nearly a third of the acreage was on hillsides with slopes between
eighteen and twenty-seven degrees, and 90,000 acres had slopes between twenty-seven
and forty-five degrees. Only 282,920 acres of the nearly 800,000 acres directly impacted
by stripping had been completely reclaimed by operators. Mining activity on steep
hillsides and the failure of strippers to restore most of the land had caused massive slides
more than 600 feet wide on approximately 1400 miles of bench, as well as more slowly
eroding spoil. Additionally, over 60 percent of the small headwater streams examined
during the on-site surveys had their channel capacities affected by sediment. Of 1,000 pH
measurements taken on spoil banks, the interim report claimed, more than 80 percent
showed a pH of less than five, indicating that they were acidic. Water samples taken one
to two miles downstream from sites showed that more than half of the small streams had
pH values of five or less, and a third of the stream channels had deposits of "yellow boy,"
an iron precipitate that kills aquatic life.9
According to the study committee, the large tracts of unreclaimed land resulted “from past failure to recognize reclamation as a necessary part of the cost of mining and of the products resulting therefrom.” Through either ignorance or apathy - “public indifference” as the report put it elsewhere - society had accepted erosion, acid drainage, lowered water quality, and other detrimental after-effects as the costs of ‘progress.’ But now, judging by protests against land despoilment, it seemed that the public was willing to pay for reclamation. To remedy the problems left from past operations, the committee proposed federal aid to fund “basic reclamation” of mining sites and haul roads. It also advised Congress to take the necessary steps to protect the public interest if individual states neglected to provide for adequate controls within a reasonable period of time. The study group recognized the diversity of Appalachia and it was hesitant to impose regulatory standards on a regional basis, but it did recommend the designation of a central agency to administer federal activities. Additionally, the committee proposed that “mining should be prohibited in areas where reclamation is considered economically unfeasible.”

Senator Lausche used the release of the interim report as an opportunity to introduce a bill for extending controls to the forty states that had no strip mining regulations. By 1966, residents of various parts of Appalachia were telling him to push legislation that would provide federal protection of some sort, either through uniform standards or abolition. Donald McIntosh wrote Lausche from Fisty, Kentucky, “begging for federal aid” to stop the destruction of private property, the pollution of streams and wells by acid mine drainage, and the job loss caused by the decline of deep mining. From
nearby Hazard, Robert Ritchie sent a letter to the Senator calling for abolition to “save our much needed Timber and Bench Land which is our Source of pasture land.” Partly in response to such letters, Lausche introduced S. 3882, which directed the Secretary of Interior to create a national advisory committee to draft federal standards for mining and reclamation and allowed for regulation in the absence of an approved state plan. Hearings on the Lausche proposal, scheduled for August 1967, were postponed at the request of Secretary Udall, yet the DOI staff appeared to be divided. When Assistant Secretary of the Interior Cordell Moore spoke at the strip mining symposium in Owensboro, he noted the failure of states to regulate the industry, commented favorably on federal controls, and made mention of S. 3882.11

The first important hearings on federal regulation of coal surface mining did not take place until the end of April and beginning of May 1968, when the Senate Committee on Interior and Insular Affairs considered three very similar bills. The administration’s bill, S. 3132, was drafted by the DOI and introduced by Senator Henry Jackson for himself and Senators Nelson, Lausche, and Anderson. Senators Nelson and Lausche also introduced bills of their own, providing for the reclamation of previously mined land, but since they had joined Jackson in sponsoring the DOI proposal the whole committee focused its attention on S. 3132. Based on the ARDA study, the administration’s bill gave the states “initial and primary responsibility for regulation and control of future surface mining operations within their borders, and for making provisions for restoration and reclamation.” It authorized the Secretary of the Interior to appoint an advisory committee, to assist state agencies in developing and administering state plans for the
regulation of strip mining and reclamation, and directed the Secretary and committee to
develop and implement regulations if a state failed to submit its own plan within two
years. Once a state submitted a plan acceptable to the Interior secretary, however, federal
regulatory intervention would cease.12

At the hearings, Secretary Udall defended S. 3132 from its critics on both sides of
the controversy over regulation, emphasizing the need for balance in terms of free
economic activity and regulatory action. Surface mining had costs that did not always
appear in the marketing of coal, he said, costs which “arise with the diminishing of the
useful availability of land - with pollution and the hazards to human life, property, and
wildlife - with the impairment of natural beauty - with the degradation of other natural
values which occurs.” On the other hand, the DOI believed that a single set of national
standards to address these costs would be “impractical and undesirable.” Hence, the bill
the agency submitted for the Johnson administration proposed only general criteria as
opposed to precise mining and reclamation requirements. Even with this
acknowledgment of strip operators’ interest, however, the bill drew the opposition of
industry representatives, from both the National Coal Policy Conference (NCPC) and the
American Mining Congress (AMC). Speaking for the AMC, Joseph Abdnor related the
great efforts made by the strip coal industry to reclaim land as part of preliminary
remarks before announcing his organization’s objections to any federal control program.
“Based on the mining industry’s awareness of the economic factors involved,” he said,
“its experience in the diversity of the problem and the engineering techniques of land
restoration, and its analysis of the problem on a national basis, the American Mining Congress is opposed to the legislation before you today.”

Opposition to each of the bills before the Senate committee also came from critics of coal surface mining. Harry Caudill testified at the hearings on behalf of the Appalachian Group to Save the Land and People (AGSLP), the Congress of Appalachian Development (CAD), and the Sierra Club. The AGSLP, of course, had been established in 1965, in eastern Kentucky, with the intent of outlawing coal surface mining. CAD was founded a year later in Bristol, Virginia, with the dual purpose of promoting the public ownership and development of Appalachian resources as well as the construction of a series of new towns along the Appalachian mountain chain. The organization was the brainchild of Harry Caudill and Gordon Ebersole, a former assistant to Secretary Udall, who accompanied the Whitesburg, Kentucky, lawyer to the hearings as CAD’s executive director. Caudill’s connection to the Sierra Club dated back to a 1965 White House Conference on Natural Beauty, where he had a long discussion about strip mining with David Brower, the group’s national president. Two years later, Lotts Creek Community School resident Johanna Henn formed a Cumberland section of the Sierra Club but found the state organization’s officers unwilling to fight against coal surface mining. Caudill joined the new section after receiving a letter from Henn, and together they managed to get the state chair, James Kowalsky, interested in the issue. In December 1967, the Appalachian Volunteers and AGSLP sponsored a tour of eastern Kentucky surface mines for Sierra Club members, exposing them to the devastation there. But Henn and Caudill continued to experience difficulties getting the state organization to become actively
involved in the campaign against stripping and it was the national leadership who
sponsored his trip to the hearings.\textsuperscript{14}

Caudill opened his remarks to the Senate committee by linking environmental
responsibility to American liberty. "Let us frankly recognize that the earth is just as
important as the people who inhabit it and that the right to be free is matched by a
responsibility to preserve freedom's land," he said, "Liberty in a wasteland is
meaningless." Stripping should be allowed only where reclamation could be assured, he
argued, and none of the bills before the committee met this standard. Adequate
legislation would "outlaw strip mining in areas such as southern Appalachia where the
slopes are so steep and the rainfall so great that reclamation and restoration of the land to
its former utility is impractical and impossible." Since stripping and natural beauty were
incompatible, Caudill maintained, it should also be banned in areas "of significant scenic
loveliness and in important wildlife habitats." In addition, he expected any bill passed by
Congress to include a massive government program for the purchase, reclamation, and
revegetation of lands already stripped, financed out of a trust fund supported by a special
levy on extractive industries.\textsuperscript{15}

Other strip mining opponents were seemingly agreeable to the proposed bills.
Alice Grossniklaus appeared before the Senate committee representing the Community
Council for Reclamation (CCR), a group active in eastern Ohio since the early 1960s.
CCR sought more effective enforcement of laws governing air pollution, water pollution,
and restoration of land and property damaged by mining and other operations as well as
enactment of additional regulatory laws. Grossniklaus was secretary of the group as well
as president and owner of the Alpine Cheese Factory in Wilmot, the source of her interest in the situation of 1,500 dairy families in the area. She began her testimony with a presentation of photographs, the first of which showed part of Holmes County. "Nearly all land underladden with coal in the [eastern Ohio] counties affected are of this caliber," Grossniklaus explained, "productive, beautiful, filled with natural resources, near populated areas, or a combination of all. Truly God-given." She also showed postcards of the old-growth forest in the Stark Wilderness Center, which the council was instrumental in saving from strip mining. This visual presentation was followed by a listing of the reasons why good reclamation was imperative. In Meigs County, Grossniklaus reported, sportsmen were worried about the impact of stripping on their hunting and angling, the Agricultural Stabilization and Conservation Committee was concerned about the loss of income by family farmers due to stripping, and the county auditor claimed that a $150,000 decrease in valuation in the Scipio township was due primarily to surface operations there.16

National environmental organizations also lent support to the administration bill before the Senate committee. The National Wildlife Federation and the Conservation Foundation both accepted the cooperative federal-state regulatory approach embodied in S. 3132, although the latter suggested an amendment that would "prohibit any surface mining that would leave the surface less useful to man than it was before." Speaking for the Wilderness Society, John Hall endorsed the DOI bill as a way to address "the total disregard some surface operators have for the natural resources and for their fellow human beings." Representatives for the Izaak Walton League (IWL) made it clear,
however, that federal involvement in regulating strip mining should leave as much authority to the states as possible. Assistant Conservation Director Roger Tippy said that the IWL membership favored a ban on some contour stripping as it was being practiced, but “we think that state actions in West Virginia, Kentucky, and Pennsylvania may be sufficient to deal with this contour problem.” New, strong laws had just been passed, he said, and it was still too early to tell whether or not they would be sufficient. To prod other states that are ignoring the problems caused by strip mining, Tippy advised, the IWL supported the more “workable approach” of S. 3132, which allowed states to submit a control plan tailored to their needs rather than national standards. IWL executive director Grover Little, Jr., followed with a declaration of his organization’s opposition to federal regulatory action in the states where strong laws were in effect and enforced. “Our economic system is the best in the world but it sometimes exposes a questionable face,” he said, “for it is paradoxical that we are destroying the beautiful mountains and valleys of one area to create an Eden in another.” A federal law was necessary only as “an omen” to the states that had not yet established their own effective control program.17

**Federal Legislation for a Ban**

By the end of 1970, more and more people in the strip coal fields of Appalachia as well as outside the region were beginning to support a ban on coal surface mining. Indicative of this broadening support, in December the *New York Times* came out in favor of federal legislation to outlaw the practice, comparing strip mining to the dust storms of the 1930s. “[T]he Government today stands by, silently, impotently,” wrote its editorial
staff, “as coal operators lay waste the land and scatter the top soil as recklessly as the dust storms ever did.” The explanation for the different responses to the two environmental crises, they contended, was “that nobody made money out of the dust storms.” Yet not all of the new proponents of outlawing coal surface mining were truly committed to abolition, and this one factor had great implications for the whole movement. Very quickly after the campaign against stripping moved to the national level, it became dominated by representatives of organizations who strived to be “reasonable” and “flexible,” viewing a ban only as a prod to get the House and Senate to pass strict controls. There were activists and even congressional representatives who had a principled commitment to outlawing stripping, at least in Appalachia, but the efforts of the genuine abolitionists were seriously undermined by the compromisers by the end of the second round of hearings in 1971 and 1972.18

The first federal bill to abolish coal surface mining was introduced by Democratic West Virginia Representative Ken Hechler in mid-February 1971, just as the effort to ban stripping by state law was gaining momentum in Charleston. His proposed legislation, H.R. 4556, established an immediate ban on new operations, a six-month phase out for strip mining begun before enactment, and the establishment of standards and procedures by the head of the Environmental Protection Agency (EPA) for state regulation of those operations. The bill also addressed problems associated with underground coal mining, directing the EPA administrator to draft “national environmental control standards” for all deep mine operations and prohibit underground coal mining that damaged wilderness areas or the resources of the national forest system. Additionally, the proposed act

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included provisions for federal-state-local cooperation to reclaim abandoned surface and underground coal mined lands as well as citizen suits against government officials for failure to implement sections of the law. In May, Hechler’s bill was amended by Ohio Congressional Representative John Seiberling to provide cash payments, counseling, training and placement services, relocation allowances, and priority employment on federally funded projects of reclamation. This was meant to insulate the proposal from charges that proponents of abolition were dismissive of the need for employment in areas where strip mining was conducted.\textsuperscript{19}

Like Lausche’s earlier study and control proposal, Congressman Hechler’s abolition bill was a response to the demands of concerned citizens, largely from West Virginia and elsewhere in Appalachia. In January 1971, for instance, people living in the Big Creek District in McDowell County, West Virginia, sent him petitions, with more than 160 signatures, asking him “to take immediate and all necessary steps in halting surface mining operations in and around our communities and stopping the wholesale destruction of our forest land and wildlife sanctuaries.”\textsuperscript{20} But Hechler was already a committed opponent of strip mining in 1971, and his rhetoric evidenced a postwar populism. He contended that the administration’s latest bill was “a milk-and-water approach,” a “toothless law,” and that it would be administered by an agency (the DOI) primarily interested in minerals production. This was not likely “to slow down the ruthless rape of the environment” by strip miners. Responding to the claim that abolition would cause unemployment, Hechler fervently replied:

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"What about the jobs that will be lost if the strippers continue to ruin the tourist industry, wash away priceless topsoil, fill people’s yards with the black muck which runs off from a strip mine, rip open the bellies of the hills and spill their guts in spoil-banks? This brutal and hideous contempt for valuable land is a far more serious threat to the economy than a few thousand jobs which are easily transferable into the construction industry, or to fill the sharp demand for workers in underground mines.”

If strip mining were abolished, the congressman noted, it would actually create more employment for deep miners. This would begin to deal with the loss of 300,000 jobs as a consequence of mechanization, which had caused little concern within the coal industry.

By mid-April, there were seventy-three House members from twenty-four states cosponsoring H.R. 4556, including representatives from surface mining states such as Ohio, Pennsylvania, Illinois, and Indiana. To add more cosponsors, Hechler organized a briefing for the staff of members of Congress on April 22. From West Virginia he brought up Secretary of State John D. Rockefeller, House of Delegates member and retired miner Ivan White, underground miner and black lung activist Arnold Miller, and retired coal miner Clarence Pauley - all of whom presented the case against coal surface mining from their particular perspective. Ohio Representative John Seiberling and Dr. Theodore Voneida, from Case Western Reserve University, also described the situation in their state. Partly as a result of this briefing, by the end of May there were eighty-seven cosponsors for H.R. 4556. And in the Senate, Gaylord Nelson (D-Wisconsin) and George McGovern (D-South Dakota) introduced S.1498, an abolition bill that was nearly identical to Hechler’s proposal.

The introduction and increasing numbers of cosponsors of abolition bills in Congress reflected the growing strength of the movement to outlaw coal surface mining.
But even before Representative Hechler introduced his first bill, the threat of a ban had prompted the United Mine Workers (UMW) and many of the larger coal companies and industry associations to support limited federal regulation. “State regulations have failed,” UMW President Tony Boyle announced in January 1971, “and there has been lack of adequate standards and enforcement by the states.” Contradicting much of what he had been saying just two years before, the union president argued that state laws required little in the way of restoration of stripped out land, enforcement was conspicuous by its absence, “and penalties are little more than a slap on the wrist.” Union leaders were adamantly opposed, however, to the abolition of coal surface mining, which they described as “sheer nonsense,” “so much political grandstanding,” a “preservationist pipe-dream,” and a threat to “badly needed jobs and essential electric power.”

Likewise, members of the coal industry changed their position because they were apprehensive about the growing effort to ban stripping. In 1968 the AMC had rejected all three of the bills considered by the Senate Committee on Interior and Insular Affairs. A year later, the Consolidation Coal Vice President James Riley had declared before the annual convention of the AMC that conservationists demanding better reclamation were “stupid idiots, socialists and commies who don’t know what they are talking about. I think it is our bounden duty to knock them down and subject them to the ridicule they deserve.” But in a special meeting in 1971, just before the beginning of new congressional hearings, the AMC Board of Directors adopted a statement of policy that broke with the remarks its representative had made at previous hearings. The AMC “will urge the adoption of realistic surface mining regulation at the state level and will support
federal surface mining legislation which is realistically designed to assist the states and
the surface mining industry in conducting surface mining operations," the statement said,
"so as to have to the least practicable adverse effect on other resource values." The AMC
remained opposed to uniform national standards because of the diversity of conditions in
mining areas and variations in methods, but it was now willing to accept a role for the
federal government in the regulation of strip mining.24

As the UMW and coal industry shifted positions, the opposition to stripping
became even better organized at the regional and national levels. At an October 3
meeting in Huntington, West Virginia, representatives from Save Our Kentucky, Citizens
to Abolish Strip Mining (CASM), Stop Ohio Stripping, the Wise County Environmental
Council and various individuals - including Hechler, Galperin, and a staff member from
Congressman John Seiberling’s office - organized the Appalachian Coalition. They
elected Jim Branscome as the coalition’s coordinator, Richard Cartwright Austin as
secretary, and various state representatives: Vicki Mattox for Kentucky, Ted Voneida for
Ohio, Donald Askins for Virginia, and Gerald Sizemore for West Virginia. The
Appalachian Coalition pledged to assist in the effort to ban coal strip mining by state and
federal legislation, although after the failures to ban stripping in Kentucky and West
Virginia it focused all its attention on enacting a federal law. Shortly after the formation
of the regional coalition, possibly at an October 25 legislative strategy meeting at the
Washington, D.C., office of Friends of the Earth (FOE), a number of national
environmental groups organized the national Coalition Against Strip Mining (NACSM)
and chose Louise Dunlap, on staff at Friends of the Earth, as its coordinator. NCASM
was not strictly abolitionist but would work in conjunction with the Appalachian Coalition to lobby members of Congress and arrange effective testimony at hearings.25

Also in early October, Richard Cartwright Austin established the Appalachian Strip Mining Information Service (ASIS). Initially, ASIS served members of only a few established groups in West Virginia, Ohio, Pennsylvania, and Kentucky, but the number of participating organizations quickly grew. The service’s main component was a regular monthly bulletin, which was meant to provide timely summaries of information on the environmental, economic, and political aspects of strip mining as well as assist in the coordination of activities. ASIS also provided access to a strip mine research library in the Charleston, West Virginia, office of the Mid-Appalachian Environmental Services, with a full-time research staff directed by Norman Williams, former deputy director of the West Virginia Department of Natural Resources. The library was initially funded by a $15,000 grant from the Conservation Foundation and it continued to function even after Austin ceased publishing the newsletter in 1972.26

While strip mining opponents were establishing new groups to enhance their influence at the national level, congressional committees began another round of hearings on surface mining legislation. Starting in September 1971, the House Subcommittee on Mines and Mining and the Senate Subcommittee on Minerals, Materials, and Fuels (both of respective Committees on Interior and Insular Affairs) heard testimony from government officials, industry representatives, Appalachian activists, and spokespeople for national conservation groups. Speaking before the House subcommittee, Ohio Congressional Representative John Seiberling referred to problems with reclamation in
the southeastern part of his state, particularly the irreparable damage done to the underground water system by blasting, but he also questioned the possibility of reclamation in the mountainous areas of Pennsylvania, eastern Kentucky, and West Virginia. The ideal solution from an environmental standpoint, Seiberling argued, was the abolition of surface mining. Deep mining could adequately meet the nation's coal needs and the comparatively small number of workers affected could be dealt with by his amendment to Hechler's abolition bill. Hedging on a permanent ban, however, Seiberling indicated that at the very least he favored a five-year moratorium accompanied by federal research and development. In the Senate subcommittee hearings, Wisconsin Senator Gaylord Nelson defended his proposal for a ban, presenting the debate over strip mining as a test of the ability of public agencies to act effectively in the public interest and shore up government credibility.27

The lengthiest and most passionate remarks by a government official, however, were made by West Virginia Congressional Representative Ken Hechler. As the leading proponent of outlawing strip mining in Congress, Hechler offered testimony to both the House and Senate subcommittees in support of his own bill and Senator Nelson's nearly identical proposal. He spoke before the House subcommittee for nearly three hours and faced a barrage of hostile questions and reprimands, many of which came from the chair of the full committee, Wayne Aspinall, who did not usually attend subcommittee hearings. House subcommittee staff had advised Hechler that he could bring other witnesses to provide "expert" testimony on various subjects, and he brought Arnold Miller as well as forestry and economics professors from West Virginia University for
this purpose. Mines and Mining chair Ed Edmondson made it immediately clear, however, that “direct testimony from these gentlemen will not be permitted at this stage in the hearings.” Hechler’s appearance before the Senate subcommittee was not as difficult, and the Minerals, Materials, and Fuels chair allowed West Virginia Delegate and retired deep miner Ivan White to add comments at the end of the scheduled testimony.28

Speaking to the House subcommittee, Congressman Hechler attacked coal surface mining from a number of angles, but he characterized stripping generally as a detriment to both the landscape and the economy. “Representing the largest coal-producing State in the Nation,” he said, “I can testify that strip mining has ripped the guts out of our mountains, polluted our streams with acid and silt, uprooted our trees and forests, devastated the land, seriously destroyed wildlife habitat, left miles of ugly highwalls, ruined the water supply in many areas, and left a trail of utter despair for many honest and hard-working people.” Hechler also reiterated what he said during the earlier hearings about coal surface mining and the Appalachian economy. Stripping was destructive of jobs, both the jobs lost when stripping replaced deep mining (a process which he saw as part of a larger problem of technological unemployment in the coal industry) and the employment lost when destruction of the landscape made an entire area unattractive for tourism. The abolition of coal surface mining, on the other hand, would necessitate the employment of thousands of additional underground miners and still allow for a tourist industry based on scenic value. Members of the House subcommittee challenged Hechler on his argument that strip mining jobs were temporary, pointing out that deep mining
jobs were temporary too, and they forced him to admit that while tourism employed more people than stripping, its jobs paid much less. But in fairness to Hechler, these comments were disingenuous coming from representatives who were attempting to defend the coal industry, which had cut its workforce by nearly 70 percent since the end of World War II.29

Probing further, Congressman Edmondson questioned Hechler on the difference between deep and strip mining in terms of safety as well as economic efficiency, and this led the West Virginia congressman into an involved comparison of the two methods of coal extraction. Fatalities occurred in both types of mining, he declared, and the safety record of strip mining was not much better than the record of deep mining. Comparing the two on the basis of deaths per millions of man-hours of exposure, in 1970 there were .66 deaths at strip and auger mines and 1.17 deaths at deep mines. On the issue of black lung, a respiratory disease caused by inhalation of coal dust, Hechler claimed that the Coal Mining Health and Safety Act, which he shepherded through Congress in 1969, would reduce its incidence and make it so that “young miners will have little to worry about.” Addressing the problem of subsidence of land above deep mines, he argued that it occurred only in areas unregulated by law, and that when mining was uniform and pillar strength was adequate, subsidence was negligible. Stripping, however, affected the entire land areas above a coal seam as well as areas off-site. With regard to acid mine drainage, deep mines could be purposely collapsed, flooded, sealed, or back-filled as preventive measures whereas controlling the movement of acidic spoil and groundwater at surface mines was much more difficult. Aesthetically, deep mining and stripping were
not comparable, Hechler declared, and economically there were also great differences. Underground mines attracted labor to communities for long-term employment, he insisted, while strip mining was associated with transient employment, depopulation of a whole region, and economic blight. Stripping destroyed the productivity and usefulness of the land, depressed appraised land values and eroded the tax base, "[and its] effects on the environment discourage location of other industries, commerce, [and] housing".30

Members of both the House and Senate subcommittees also questioned Hechler about his bill’s impact on the nation’s ability to meet its energy requirements, an issue that would eventually create an important split within the opposition to coal surface mining. Hechler suggested that the nation’s coal supply would be adequate with the opening of additional deep mines, which he said might take from one to three years at the most. "And what are we going to do for the six months to thirty months time lapse," asked Congressman McClure, "between the closure of the surface mines and the [new] production from underground mines?" Hechler responded by pointing out a built-in time lag in the legislative process and suggested a reduction of coal exports (which had increased from 16.5 million tons in 1940 to 70.9 million tons in 1970). He wanted to have Arnold Miller speak at this point, to explain the possibility of adding more shifts at existing mines on a temporary basis and talk about working in a mine on Cabin Creek that had taken a year to open, but the subcommittee would not allow it. "It seems to me that we are approaching the problem all wrong," Hechler finished in exasperation, "by saying we have an energy crisis that we are caught in ... So we are going to have to continue to rip up the land and pollute the water."31
Testimony before the House and Senate subcommittees by industry and UMW representatives revealed the important shifts in their positions on regulation. Coal industry officials endorsed limited federal-state cooperation, granting the federal government the authority to establish broad regulatory standards that would allow for "flexibility" and leaving it up to state agencies to enforce them. "From State to State, from place to place, it can well be said of mining that its only constant is its diversity," argued American Mining Congress (AMC) chair Joseph Abdnor. "All such diverse realities of mining argue eloquently against any effort to devise other than broad, reasonable Federal guidelines." And since state authorities were most familiar with their particular terrain and climate, they were most capable of implementing the federal standards. But industry representatives also made a point to argue against outlawing coal surface mining. Reclamation was possible, said National Coal Association (NCA) President Carl Bagge, whereas prohibition "would have disastrous results for the Nation and its constantly increasing need for energy." Bagge argued that it was unrealistic to expect that surface mined coal could be replaced by deep mined coal, which would require 132 additional underground mines of two million tons annual capacity, a capital investment of $3.2 to $3.7 billion, as well as 78,000 additional trained deep miners. It would also take three to five years, he claimed, before the mines reached full production. Even prohibition at the state level or in specific areas was unwise because mining and reclamation "which is impractical in some areas now maybe quite feasible next year because of new developments in technology."
In their testimony at the hearings, UMW officials expressed both a desire to have economic growth and a healthy environment as well as fear of a ban if federal regulatory action did not come soon. They voiced support for H.R. 10758 and S. 2777, which would require coal operators to post performance bonds, apply for federal permits, and establish an advisory commission with representatives from the Environmental Protection Agency, the Department of Agriculture, and the Department of the Interior to administer the law. Speaking before the House subcommittee, Joseph Brennan explained that his union had an interest in surface mining regulation because miners and their families lived near strip mines, earned their living from strip mining, “and a great deal of revenue [from strip operations] goes to the UMWA Welfare and Retirement Fund and the Anthracite Health and Welfare Fund.” But the union was primarily worried that under-regulated strip mining would strengthen the abolition movement. Leonard J. Pnakovich, president of District 31 (West Virginia) explained, “We know that to the extent the surface mining industry continues to devastate our landscape the jobs of coal miners are in jeopardy.”

Later in 1971, speaking before the Senate subcommittee, Brennan warned, “Continued abuse of America’s precious land and water resources because of unregulated strip mining must ultimately lead to a citizen revolt against all strip mining.” And at year’s end, President Boyle summed up the campaign the union had led for controls on coal surface mining, reiterating much of what Brennan and Pnakovich said before Congress. The abuse of land resulting from surface mining was both inexcusable and unnecessary, he said, yet “the cure should not be to forego further surface mining, but rather, to stop the adverse effect which it causes.”

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The House and Senate subcommittees also heard from a number of Appalachian activists, most of whom emphasized the social impact of strip mining and demanded that Congress pass an abolition bill. Save Our Kentucky director and Appalachian Coalition chair James Branscome argued that passing a regulatory bill would be “overlooking the fact that the environmental damage is not nearly so great from strip mining as it is an affront to human welfare, property rights, and the apolitical process in the coalfields.”

Strip mining in Appalachia was the cause of unemployment, a decreased tax base, and massive outmigration, he said, and with the exception of Ken Hechler the region’s people had no one voicing their concerns in Congress. Efforts to deal with coal surface mining through controls also ignored the failure of the most stringent reclamation laws. “It is obvious to anyone who does not see with the eyes of greed,” Branscome explained, “that a scraggly locust plant is not a grand oak, that a silt dam is not a protector of pure streams.” People had sought redress for these social and environmental grievances through the courts and legislatures, he noted, but they had “learned that the only order is that which protects the strip miners.” Branscome explained that his appearance before the committees was an effort “to get the legal processes to work before the people have to help themselves.” Residents of the hills and hollows were patriotic, God-fearing, patient, and cautious, but the strip miners were making revolutionaries out of them. People were telling Branscome they were going to start taking up weapons if the political process failed them once more.34

Following Branscome’s testimony before the House subcommittee, SOK chair Vicki Mattox delivered a personal account of the damage done by stripping. Mattox was
the daughter of a Letcher County, Kentucky, deep miner and her interest in speaking to
the subcommittee was to supplement the many comments witnesses were making about
the impact strip mining had on the environment with an explanation of the effects it had
on people. Most of the people she was concerned about could not afford to travel to
Washington, D.C., to testify for themselves, she said, some could not read or write, but
their stories were no less important than those of other “expert” witnesses. Mattox told
about one “old gentleman” on Yellow Creek, in Knott County, Kentucky, a fifty-year
resident of a stone house he had built with his own hands. Acid drainage from strip
mining at the head of the hollow had turned the creek red and erosion had filled it with
silt, ruining the man’s water supply. For a time, a neighbor brought the old man water -
otherwise he would have had to move - but when Mattox visited last summer the home
was deserted and surrounded by weeds. This story was a common one, she implied, and
all the problems apparent from a walk along the seemingly endless miles of strip mine
benches suggest that “Kentucky’s strict reclamation laws are powerless to stop the
destruction and human suffering.”

Focusing on the conditions in Tennessee, J.W. Bradley hinted at the revolutionary
potential of the fight against strip mining. Bradley was the son of a coal miner, had
himself been a coal miner for seven years, was currently working as an electrician, and
had traveled to the hearings at his own expense. He did not represent any particular
organization at the time, although very soon after the hearings he assumed leadership of a
new group in Tennessee called Save Our Cumberland Mountains (SOCM). “I am for
stopping strip or surface mining as soon as possible,” Bradley explained, because stripped
land could not be reclaimed and strip miners took the jobs of deep miners. He also pointed out to subcommittee members that the Declaration of Independence said whenever any form of government was destructive to the ends of protecting the peoples' inalienable rights, it was the right of the people to alter or abolish it and institute new government. "I am not advocating that we overthrow the Government," Bradley clarified, "but I think it is time they check into the situation, and see that the things that I have stated are factual and also see if [government officials] can do something about it."

Another Tennessee resident, Robert Peelle, spoke for the Tennessee Citizens for Wilderness Planning (TCWP), a statewide organization of 500 members. Peelle explained that his group was in favor of a federal control law to create uniform regulation across state lines. TCWP urged "complete and rapid prohibition of surface mining for coal as we know it now in certain environmentally and socially defined circumstances," and strong regulation elsewhere, "to assure the full restoration of surface values to what they are at present."

Representatives of national conservation groups, including the Friends of the Earth, Sierra Club, Wilderness Society, National Wildlife Federation, Conservation Federation, Izaak Walton League, National Audubon Society, and the Natural Resources Defense Council declared their organizations in favor of a ban, but they hedged on this support and spelled out their interests in federal regulation too. Louise Dunlap, the assistant legislative director at FOE and director of NCASM, argued that H.R. 4556 was most consistent with the National Environmental Policy Act, the Coal Mine Health and Safety Act, and "the integrity of the free enterprise system which cannot survive with
continued cost of operations being passed on to the taxpayer as social cost rather than to the consumer.” In a letter to the Senate subcommittee, Dunlap also expressed her agreement with the assumption of S. 1498 that restoration of the land could be achieved only under rare circumstances, and she pointed out that the bill offered an increased dependency on deep mining as an alternative to stripping. She did not deny that reclamation could ever be achieved, but argued that with the state of the art of reclamation and the political and economic pressures on the strip mine industry to not fully internalize all operating costs, the focus should be on how to preserve the surface for future generations.37

Like the other representatives from national conservation groups, however, Dunlap outlined what needed to be changed in various regulatory bills if Congress chose to not outlaw stripping. She suggested that the maintenance of maximum ecological value should be made “the” rather than “a” prime consideration in H.R. 10758. Although there was broad-based support for Nelson’s abolition bill, she also told the senate subcommittee, senate action “which attempts to regulate rather than abolish strip mining should prohibit strip mining under certain conditions and give the EPA administrator authority to designate areas unsuitable to strip prior to granting any new permits in an area under consideration.” Months later, after moving to the Environmental Policy Center (EPC) but retaining her position at NCASM, Dunlap wrote to Representative John Saylor requesting his vote for H.R. 6482. The bill fell short of a total phase-out of coal surface mining, she acknowledged, and it was inadequate in its failure to give primary federal authority to the Environmental Protection Agency, “but it does provide an
excellent test for regulation.” In closing her letter, she warned that failure to enact the bill would “confirm growing public opinion that the only way to regulate coal surface mining was to ban it.”

Employing much stronger rhetoric than Dunlap, Sierra Club eastern representative Peter Borelli described the state laws designed to control stripping as weak attempts “to placate the public conscience through a series of loose regulations.” In Pennsylvania, the toughest and best enforced of the state laws had brought noticeable improvements, but even there “spoil[s] are still unstable, the slopes still erode, acid still leaches into the streams, and the consecutive ridges of area stripping are still as ugly and useless as ever. Black locusts and legumes still struggle to provide at best spotty growth over the barren and poisonous mounds of pulverized rock and shale.” Likewise, although TVA adopted “a very good contract provision” on reclamation, it was not being enforced by the agency. The failure of state laws and the TVA contract clause, Borelli argued, suggested that the role of the federal government should be prohibition of strip mining rather than its regulation. In May 1970 the Sierra Club board of directors had voted for “a total and immediate ban on all surface mining of coal,” and Borelli communicated the organization’s support for H.R. 4556 and S. 1498 to the two subcommittees. But in May of the next year, his report in the *Sierra Club Bulletin* exposed the organization’s strategy. “Though no one seriously expects [the abolition bills] to win committee approval,” Borelli wrote, “the abolitionists and their legions have been the first to budge these traditionally mineral-oriented committees. As a result several milder but potentially
effective measures that might otherwise have been ignored have earned some credibility.”

Given the opposition of coal industry representatives and mineworker officials to a ban, and the vacillation of national environmental organizations on abolition, Appalachian opponents of strip mining had some reason to feel discouraged about passage of an abolition bill and signs of frustration became evident. On December 4, 1971, more than 200 activists from West Virginia, Kentucky, Virginia, Tennessee, and Ohio gathered in Wise, Virginia, for what was dubbed a “People’s Hearing on Strip Mining.” It was difficult for the people of Appalachia to speak collectively and be heard, explained Warren Wright in his introductory remarks to the meeting, because they had no advocates, no churchmen, and no elected representatives on their side, with the exception of Ken Hechler. “Of late we have been attempting to speak before other tribunals - in Washington and Frankfort and Charleston, and soon perhaps Richmond - before senators, Representatives, Reclamation officials - and the consensus I seem to gather from our homecoming people is this - ‘They tolerated us.’” Opponents of strip mining needed to be heard demanding the things that are written into the so-called American guarantees, Wright said. “We must lay hold of the justice that for the poor men is now existing only in the pages of law libraries ... we are our own political salvation.” Other speakers echoed Wright, including John Tiller from Brammel, Virginia, who acknowledged the pointlessness of “going to Washington and seeing this little punk congressman or senator, who’s already been bought and paid for many years ago.” Alma Cornell, of Wise, bemoaned the fact that the nation’s laws were no longer for the people, by the people, or
of the people, but only for a few. "Surely the people deserve laws to provide protection for their property, health, home, and safety of lives against a few seeking who do not care how much damage they do to others, to make millions for themselves."  

Such frustrations gave rise to renewed civil disobedience when severe flash flooding in April 1972 killed one person and damaged many homes, gardens, bridges and roads in Floyd County, Kentucky. The flooding was rumored to have been caused by heavy runoff from a local strip mine and approximately thirty residents held several meetings to consider what form their response would take. After one of the meetings they began circulating petitions to the state department of reclamation to ban strip mining in the area, and they made it clear that if the petitions did not work they would take other action to close down the mine. The flood victims collected nearly 1000 signatures on the petitions and sent them along with a representative to the Kentucky division of reclamation. Nothing was done by the agency, however, and the director later denied receiving any complaints. Then, in late June, two hundred Floyd County residents forced the offending strip operation to temporarily shut down. One man walked up to a bulldozer operator to tell him to stop the job. When the operator kept the machine running, the rest of the crowd walked up, the operator turned the bulldozer off and got down, and all other work at the site stopped for the day.  

Also in June, over 900 activists gathered at a National Conference on Strip Mining at the Union College Environmental Center in Cumberland Gap National Park, near Middlesboro, Kentucky. Called by Senator Fred Harris (D - Oklahoma), the meeting was meant to create a truly national coalition of coal surface mining opponents as well as
draft a comprehensive statement on stripping to be included in the platforms at the 
Democratic and Republican conventions later that year. Participants at the meeting read 
like a “who’s who” list of people involved in trying to ban or regulate stripping since the 
late 1950s, including both grass-roots activists and leaders of national conservation 
groups. But also present were representatives of the coal industry. This mix of 
participants kept debate lively. Much of the day’s discussion centered on the corporate 
exploitation of natural resources for profit and the need to tie abolition together with job 
creation. Responding to the likes of Elkhorn Coal’s Paul Patton, who said that strip 
mining opponents cared only about aesthetic value, Helen Wise acknowledged that strip 
mining “put bread on the table for a few,” but argued that it also destroyed “the homeland 
- not only for [strip mine employees] but for all their kin and for all their neighbors.” 
There was certainly a need for federal programs, she said, “to develop the land - develop 
good jobs for people, develop a way of making a living and staying in the mountains 
without destroying the mountains.”

By the end of the conference, participants had produced a draft of a resolution, 
which was adopted by the national Coalition Against Strip Mining two days later in 
Washington, D.C., and presented to the platform committee of the Democratic National 
Committee in Denver the day after that. Coal surface mining was attended by abuses of 
land, water, and people, the resolution read, and the social costs caused by the particular 
method of resource extraction were not only going unpaid but were irreparable. Other 
methods of coal mining could fully compensate for the loss of tonnage caused by a ban 
on stripping. “THEREFORE, be it hereby resolved that STRIP MINING of coal in these
United States be henceforth abolished,” the resolution stated, “with no new permits issued from the date of enactment [of an abolition law], allowing for six months phase-out during which contour strip mining operations would close and two years phase-out during which current area strip mining operations would close.” The resolution also included a ban on federal purchasing of strip mine coal, outlined reclamation requirements for current stripping operations, and called for primary federal authority during the phase-out period to be given to the EPA. All these provisions were included in Ken Hechler’s abolition bill - though there was a difference in the phase-out timetable for area stripping - and many of the groups favoring H.R. 4556 were signatories to the resolution. However, the Democratic National Committee responded by endorsing only general opposition to strip mining.43

By July, the House and Senate subcommittees had reported bills to their full committees, and Louise Dunlap made assessments of the measures which reflected her interest in passing a regulatory bill rather than outlawing stripping altogether. The Senate bill, S. 630, would likely receive widespread coal industry support, she said, because it was so weak. The bill covered all minerals and included specific reference to coal in only several sections, gave federal authority to the Department of Interior, allowed operators to “recondition” rather than reclaim a site (and left “recondition” undefined), gave states up to two years to begin enforcement of federal standards, made few demands on states with regard to monitoring and inspection, and failed to include a provision for either notifying or getting permission from surface owners. The Senate proposal also allowed operators to leave highwalls and benches, which had been proven to cause landslides and flooding,
Dunlap noted, and it allowed them to construct water impoundments similar to the one that broke and sent a massive, deadly wall of water through the valley of Buffalo Creek, West Virginia, in February 1972. No bill was better than the Senate bill, she suggested, because S. 630 weakened the regulatory progress made in many states over the past decades. The House bill, H.R. 6482, was not an abolition bill either but it was better. “If one is willing to accept that strip mining can be regulated and should be allowed to continue,” Dunlap advised, “the House bill would be considered a well constructed bill.” The measure was “threaded” with amendments made by John Saylor to make it nearly as stringent as the Pennsylvania law, but also included counter-amendments made by Wayne Aspinall to limit public notification, participation, and appeals as well as to minimize specific criteria to designate areas unsuitable to strip. “The results of the interplay to strengthen and weaken the bill,” she explained, “provide us with a bill which has clarified its legislative intent, while eliminating a number of critical specific provisions which would require that the intent be carried out, rather than merely suggesting that it be done.” In September both the Senate and House committees reported out versions of S. 630 and H.R. 6482, little changed from the bills the subcommittees sent to them."

As the regulatory bills passed through subcommittees and committees to the full House and Senate, the United Mine Workers underwent organizational changes that had important implications for their position on coal surface mining. President Boyle had held his position against Yablonski in 1969 through voting fraud and murder, but rather than weaken the democratic insurgency, Yablonski’s death consolidated the reform movement. A new organization, Miners for Democracy (MFD), was born at his funeral
in spring 1970. With the intention of challenging the Boyle regime again in the 1972 elections, MFD founders held a convention in Wheeling, West Virginia, in May 1972, to choose a slate of candidates and write a platform. For their presidential candidate, the reformers chose Arnold Miller, a deep miner for twenty-five years from West Virginia and a leader in the black lung movement. During the previous year, he had participated in a panel discussion at a meeting of Citizens to Abolish Strip Mining in Madison, West Virginia, and called for a "massive demonstration" to push Si Galperin's abolition bill through the state legislature. Miller also appeared with Ken Hechler before the House subcommittee, in September 1971, to lend support to the West Virginia representative's testimony for a ban on coal surface mining. Yet he backed away from an abolition position in 1972. The MFD platform addressed "the surface mine controversy" with a plank that was largely the creation of Bill Kelley, president of Local Union 7690, a surface mine local in eastern Ohio. This plank did not propose a ban, stressing instead "BOTH jobs and land." Non-union strip miners were to be unionized and reclamation laws enforced. As Miller later explained, the plank said "that wherever surface mining was done with responsibility, we approved of that, and wherever it wasn't we didn't approve."  

During his campaign for the union presidency, Miller suggested that under his leadership the UMW would organize the unorganized, particularly surface miners, and work for good reclamation. Non-union strip miners were producing up to fifty tons of coal a day, he noted, which amounted to millions of tons a year. No royalty was paid to the Welfare and Retirement Fund on any of this coal. "When I take office we are going
to launch a full-scale peaceful drive to bring these men into the union,” Miller promised in an open letter to a supporter, “resulting in a stronger UMW and millions of dollars a year in additional royalties for the Fund.” The MFD slate also ran a full-page campaign advertisement in the *United Mine Workers Journal* with a banner headline reading, “Bill Kelley Thinks It’s Time For a Change - So Do a Lot of UMWA Strip Miners.” In the ad Kelley noted the widespread support for “tough laws to restore land to productive use.” He had worked for this legislation at the state level and the MFD slate had “taken a strong stand for restoration done under UMWA contract by UMWA members.” Put this way, regulatory legislation needed to reverse the effects of surface mining would create jobs, possibly union jobs, rather than take them away. “We live where the coal is mined,” Kelley added, “and we’re the ones with the most at stake if we don’t have good laws and a strong union to see that they get enforced.”

Miners for Democracy was victorious in the 1972 election at both the national and district levels. But Miller just barely won the presidency with 55 percent of all votes cast. He earned a majority in only six of the ten districts in Appalachia. MFD had scored a major victory, the first ever of a rank-and-file slate, and it opened up the opportunity for transforming the United Mine Workers into a democratic, militant, and powerful organization. But the slim margins that carried the reform candidates into office indicated that any transformation would be difficult and later, in the few years after the election, divisions within the union created a context in which the UMW’s position on strip mining regulation could be weakened. Likewise, as early as 1972 divisions among
opponents of coal surface mining were beginning to threaten the movement to outlaw the practice by federal legislation.
Notes


4. Perry E. Walper to John Saylor, 22 December 1958, Box 29, John P. Saylor Manuscript Collection, Special Collections, Indiana University of Pennsylvania (hereafter cited as Saylor Papers); John Saylor to Perry E. Walper, 12 January 1959, Box 29, Saylor Papers; John Saylor to Ross Leffler [Assistant Secretary of the Interior], 21 January 1959, Box 29, Saylor Papers; John Saylor to Perry E. Walper, 10 February 1959, Box 29, Saylor Papers; John Saylor to Representative Wayne Aspinall, 10 February 1959, Box 29, Saylor Papers; John Saylor to Lewis E. Evans, 4 January 1961, Box 29, Saylor Papers; John Saylor to Stewart Udall, 2/23/61, Box 29, Saylor Papers; Charles Callison to John Saylor, 7/13/62, Box 29, Saylor Papers; Burton Martson to John Saylor, 8/12/63, Box 29, Saylor Papers.


7. Donald P. Tonty to Frank Lausche, 10 July 1963, Box 156, Lausche Papers; Brian Winters and John Tozer to Frank Lausche, 28 June 1963, and John Tozer to Frank Lausche, 10 July 1963, Box 156, Lausche Papers; William A. Riaski to Frank Lausche, 17 November 1964, Box 156, Lausche Papers.


9. United States, Department of the Interior, *Study of Strip and Surface Mining in Appalachia: An Interim Report to the Appalachian Regional Commission* (1966), 22-24; Measuring a slope by degrees is based upon a 360-degree circle. A shear vertical wall would be one-fourth of a circle, or ninety degrees. A slope that rises as quickly as it

10. *Congressional Record*, 89th Cong., 2d sess., (1966), 18557; *Study of Strip and Surface Mining in Appalachia*, 4-7.


15. Senate, *Hearings Before the Committee ... on S. 3132*, (1968), 87-91.

16. Ibid., 283-85; Statement by Alice Grossniklaus to Frank Lausche, 26 April 1963, Box 156, Lausche Papers.


23. UMWJ, 82 (January 1971), 4, 6; UMWJ, 82 February 1971), 3; UMWJ, 82,(March 1971), 9.


25. Appalachian Strip Mining Information Service, 10/n.d./71, 2, Folder “Strip Mining,” Boxes 1/2, WVRH Papers. NCASM was formed sometime between the end of October 1971 and January 1972.

26. Appalachian Strip Mining and Information Service, 10/8/71, 2, Folder “Strip Mining,” Boxes 1/2, WVRH Papers; The cover page of each bulletin listed the organizations being serviced. In March 1972 this included End Environmental and Social Devastation From Coal Strip Mining National: Environmental Policy Center, Friends of the Earth, National Coalition Against Strip Mining, Sierra Club; Regional: Appalachian COALITION, Council of the Southern Mountains, Izaak Walton League, South East Region; Arizona: Black Mesa Defense Fund; Kentucky: Save Our Kentucky; Montana: Bull Mountain Landowners Association; Ohio: Committee to Control Strip Mining, Stop Ohio Stripping; Pennsylvania: Help Eliminate Life Pollutants; Tennessee: Save Our Cumberland Mountains, Tennessee Citizens for Wilderness Planning; Virginia: Wise County Environmental Council; West Virginia: Citizens to Abolish Strip Mining, Highlands Conservancy, Izaak Walton League. Appalachian Strip Mining and Information Service, 3/14/72, 1, Folder “Strip Mining,” Boxes 1/2, WVRH Papers; Appalachian Strip Mining and Information Service, 11/13/71, 2, Folder “Strip Mining,” Boxes 1/2, WVRH Papers; Austin put out the last issue in either late October or early November, 1972. Appalachian Strip Mining and Information Service, n.d./n.d./72, 1, Folder “Strip Mining,” Boxes 1/2, WVRH Papers.


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29. Ibid.

30. Ibid.

31. Ibid.


33. UMWJ, 82 (February 1971), 3; UMWJ, 82 (March 1971), 9; UMWJ, 82 (October 1971), 24; Ken Hechler, press release, 21 May 1971, copy in my possession; President John Lewis first demanded that coal operators establish a welfare and retirement fund, financed by a per-ton royalty, in 1946. The operators refused, the miners went out on strike, and the government seized the mines. For a year the mines were operated under a contract that included a provision for a welfare fund, funded by a five-cent per ton royalty. The government returned the mines to the owners in June 1947, and the coal operators agreed to a contract which preserved the welfare fund but increased the royalty to ten cents per ton; UMWJ, 82 (November 1971), 7-8, 10; Senate, Hearings Before the Subcommittee ... on S. 77, (1971-1972), 455, 458, 473; UMWJ, 82 (May 1972), 24.


35. Ibid., 549-50.

36. Ibid., 690-91, 711-12.


38. House, Hearings Before the Subcommittee ... on H.R. 60, (1971), 496; Senate, Hearings Before the Subcommittee ... on S. 77, (1971-1972), 1032-35; Louise Dunlap to John Saylor, 11 October 1972, Box 29, Saylor Papers; FOE split in January and many of its former lobbyists left to form the EPC that same month. Louise Dunlap and Joe Browder waited until the end of January to resign from FOE and began representing the EPC in mid-February. The new group was formed, according to Dunlap, "to provide a much needed organization structure whose primary purpose and commitment will be environmental lobbying and litigation." Environmental Policy Center to Friends and Conservation Leaders, 27 January 1972, and Louise Dunlap to Harry Caudill, 1 February 1972, Folder 1, "Strip Mining Jan 4, 1972 - Apr 27, 1972," Box 23, Caudill Papers.

40. People Speak Out on Strip Mining (Berea, Kentucky: Council of Southern Mountains, 1971), n.p.

41. Mountain Life and Work, 48 (May 1972), 15; Mountain Life and Work, 48 (June-July 1972), 23. Sources do not indicate what happened at the strip mine after this action.

42. Fred Harris to Keith Dix, 9 June 1972, Folder “Strip Mining,” Boxes 1/2, WVRH Papers; Mountain Life and Work, 48 (June-July 1972), 20, 26.

43. Memo from Louise Dunlap to Environmental Leaders and Resolution in Appalachian Strip Mining Information Service Bulletin, 13 July 1972, Folder “Strip Mining,” Boxes 1/2, WVRH Papers.

44. The Buffalo Creek disaster occurred early on the morning of February 26, when a Pittston dam constructed of mine refuse washed away. The dam was used to impound water for use at a tipple, where both deep-mined and stripped coal was washed. Its collapse sent twenty million cubic feet of water, mud, rock, and coal wastes through the valley below. Concern about the dam had prompted some nearby families to take refuge in schoolhouse five miles down the creek the night before. But nearly 5000 people lived in the path of the flood and the waters destroyed sixteen communities and took more than 120 lives; Memo from Louise Dunlap to Environmental Leaders and Resolution in Appalachian Strip Mining Information Service Bulletin, 13 July 1972, Folder “Strip Mining,” Boxes ½, WVRH Papers; Senate Committee on Interior and Insular Affairs, Surface Mining Reclamation Act of 1972: Report ... to Accompany S. 630, 92d Cong., 2d sess., (1972); House of Representatives Committee on Interior and Insular Affairs, Report to Accompany H.R. 6482, 92d Cong., 2d sess., (1972).


46. UMWJ, 83 (July 1972), 23, 27; UMWJ, 83 (September 1972), 21; Mountain Life and Work, 48 (June-July 1972), 16; UMWJ, 83 (October 1972), 19.

Radical opposition to strip mining was strong from the mid-1960's to the early 1970's, buoyed in part by other social activism of the time, including a more broadly based environmental movement. Very soon after proponents of a ban started to focus on passing a federal law, however, the movement began to weaken and dissipate in the face of numerous challenges to its efficacy. After 1972, with a few notable exceptions, representatives of local and regional groups dedicated to outlawing strip mining seemed to be increasingly willing to compromise and accept strict national standards and federal-state enforcement. Yet as an abolition bill became less central to the opposition movement, the regulatory bills introduced by members of the House and Senate became weaker. With the pressure off, members of Congress who were initially reluctant to support control legislation pared down others' proposals or introduced watered-down measures of their own. By the mid-1970s, the coal industry and United Mine Workers were viewing the decline of the abolition threat as an opportunity to retreat from support for federal standards altogether.

The factors causing the decline of abolition sentiment were varied. By the early part of the decade, government-sponsored antipoverty work had all but ceased in Appalachia and, to the extent Appalachian Volunteers and VISTA (Volunteers in Service...
to America) workers helped galvanize rather than hinder opposition to strip-mining, their absence hurt the grassroots movement. Coal operators, however, had a direct and an active role in the decline. Replicating a strategy that had been successful at the state level, the operators relied heavily on their close ties to federal government officials and dissuaded senators, representatives, agency bureaucrats, and even presidents from doing anything that would hurt the industry. Contributing to their success in applying this pressure, the economic downturn and a so-called energy crisis of the 1970s allowed coal industry representatives to more effectively present the debate over strip mining as a mutually exclusive choice between jobs or the environment. This argument also helped to undermine the United Mine Workers' (UMW) short-lived attempt to take a more independent approach to the controversy. Once in league with coal operators in their opposition to regulations, after 1972 UMW leaders struggled to find a balance between its (short-term) economic interests and the integrity of the natural environment. During the second half of the 1970s, however, divisions within the union intensified and this led the miners' organization to support weak, state-level legislation on the eve of the enactment of a federal law. Finally, and perhaps most significantly, radical opponents of strip mining were ill-served by national environmental leaders who complemented the rhetoric of the coal industry by insisting on the need to be 'realistic.' The middle-class, professional representatives of organizations like the Environmental Policy Center (EPC) and the Sierra Club helped create a legislative context inhospitable to federal abolition. By mid-decade, they had convinced many strip mining opponents with deeper roots in
Appalachia to lend their influence and resources to passage of regulatory legislation rather than an abolition bill.

**House and Senate Hearings, 1973**

In 1973, strip coal operators still considered the movement to outlaw stripping a potent threat to their business and they continued to support a role for the federal government in regulating surface mining, although they balked at anything more than nominal regulatory standards. Operators' continued interest in staving off prohibition by support for federal control legislation was evident in the testimony industry representatives gave at a new round of Congressional hearings, held before a Senate committee and House subcommittees between March and May. "By any yardstick of reason," West Virginia Surface Mining and Reclamation Association (WVSMRA) president James Wilkinson told the Senate committee, "those who advocate the elimination of surface mining for environmental protection could only be interpreted as ill-advised and unrealistic ... At best, it is an extremist solution to what is essentially an esthetic problem." The loss of surface mine production could not be made up by deep mining, and outlawing stripping would do serious damage to the economy of West Virginia and the nation, he said, but the WVSMRA was interested in a federal law that equalized regulatory standards in the states. The strip mining industry in West Virginia, Wilkinson noted, "supports comprehensive legislation establishing criteria for sound reclamation and requiring States to enforce regulations to meet Federal standards." Yet it was not entirely clear what sort of state-level standards coal organization's were willing
to accept. Citing “differences in terrain from State to State,” Wilkinson rejected specific limitations on the height of highwalls, degree of slope, and bench width. “[E]xorbitant permit fees, bonding penalties, [and] moratorium and administrative expenditures,” he added, “do nothing to insure sound environmental practices and serve only as an economic harassment for the industry.” Wilkinson’s counterpart in Virginia, B.V. Cooper, echoed these sentiments, claiming that prohibition was unnecessary and dangerous while accepting the need for national legislation of some sort. Speaking for the Virginia Surface Mining and Reclamation Association, he branded S. 425, the main regulatory bill being considered by the Senate committee, “a death sentence for an industry already reeling under unreasonable laws and unwarranted attacks.” But Cooper called on Congress to establish federal standards to insure “that an intelligent balance is maintained between considerations of energy requirements, economics, and the environment.”

Leaders of national coal industry organizations also opposed any degree of prohibition while simultaneously acknowledging a willingness to accept at least vague federal standards administered as part of state programs. Speaking to House subcommittees for the American Mining Congress (AMC) and National Coal Association (NCA), Peabody Coal president Edwin Phelps called the abolition of surface mining “unrealistic and irresponsible, not only because 50 per cent of U.S. coal production is mined by surface methods, but because it ignores the fact that the technology exists for the effective reclamation of mined lands.” The coal industry supported only “realistic federal legislation,” which he defined as “the approach which encourages the states to
develop their own programs based on broad federal criteria.” Climate, soil, vegetation, and topography differed greatly throughout the country, Phelps said, and these local conditions were an argument against specific, uniform reclamation requirements as well as for the administration of a federal statute by state officials, who knew best how to cope with the problems in their particular area. Speaking before the Senate committee, Phelps also took the opportunity to suggest that any increased cost in mining coal would be passed on to utilities and then to the “consumers and voters of America.”

The United Mine Workers made their interests known to members of Congress during the new round of hearings too. As a result of the election of the reform slate in 1972, however, the union and coal industry expressed different positions on the regulation of coal surface mining. Soon after taking office, UMW president Arnold Miller forwarded a statement to the Senate committee in support of strong federal regulation as well as selective abolition. This statement reflected a sincere personal interest in the matter and presented the UMW as an organization that would insist on good reclamation, but it also revealed conflicting views within the union. Miller argued that surface mining should be allowed where it is the only feasible way of getting coal out (such as in the Pennsylvania anthracite field) and only where the land could be restored. He also called the bluff of the coal industry and energy conglomerates, which had been arguing against strict regulation on the grounds of an energy crisis, an argument old-guard UMW leaders had used as well. Yet, while Miller expressed the UMW’s hope that legislation passed by Congress limiting surface mining would protect displaced workers, he declined to endorse any of the pending bills. The International executive board had
given him the authority to speak for restoration of the land and assistance to surface mine employees affected by regulation, but that mandate did not include supporting a specific piece of legislation.¹

In his own testimony before the House and Senate committees, Representative Ken Hechler continued to defend the need to outlaw coal surface mining. He had modified his abolition proposal somewhat, keeping the six-month phase out for contour strip mining but extending the phase out period for area stripping to eighteen months, adding more detailed provisions for the regulation of strip mining during the interim, and incorporating Seiberling’s amendments to provide assistance to displaced workers. Yet the changes Hechler made in his bill were in no way a sign of lagging fervor. In remarks to both Congressional committees the West Virginia representative began by announcing that a revolution was brewing in Appalachia. People were not going to stand by while strippers ripped up their homeland, he said, and if Congress passed an innocuous bill designed to quiet public outcry while meeting the demands of the coal industry, “then there’ll be a Boston Tea Party which won’t be a tea party.” Speaking before members of the House subcommittees, however, Hechler took pains to show that he was not being “emotional,” as critics had begun to label prohibition advocates. “I am dealing here in hard and realistic facts and figures which relate to the energy demands of the Nation and how we are to meet these demands,” he said, “while conserving the essential and limited resources which we possess in a world troubled by a war as a result of which the Arab Nations have imposed an embargo on oil shipments.” Hechler then went on to make a detailed comparison of underground and surface coal mining methods similar to the one
he introduced in 1971, emphasizing the greater amount of deep-minable, low-sulfur reserves and the prospects for safer and more efficient underground mines.

Individually and organizationally, activists supported Hechler’s new bill, but the foundation of the opposition movement was already crumbling by the spring of 1973. Just before the Senate hearings, Appalachian Coalition president Reverend Baldwin Lloyd and Virginia coordinator Jim Coen called on fellow group members to write their senators and representatives in support of H.R. 1000, if not to achieve a legislative ban then to get better regulation. “Even if this bill is beyond our hopes to attain,” they explained in a missive to members, “it does serve as a spearhead for strong regulatory measures in subsequent bills.” The two leaders explained that Louise Dunlap, head of the national Coalition Against Strip Mining (NCASM) and on staff at the Environmental Policy Center, had been drafting such legislation. But they lamented the “loose and undefined” structure of the Appalachian Coalition, bemoaning the fact that they - the leadership - “have had no response from much of our constituency and we don’t really know where we stand in terms of solidarity.” Later, in July, Lloyd wrote to Representative Hechler claiming to speak for NCASM and declaring support for a “strong regulatory bill” that prohibited coal surface mining on slopes exceeding fourteen degrees, required surface owner consent, granted the right of public hearings prior to permits being issued, and allowed for citizen suits to insure law enforcement.

In addition to being president of the Appalachian Coalition, Reverend Lloyd was also one of a number of individuals who articulated a Judeo-Christian argument for limited abolition and strong regulation, a position that became more prevalent during the
new round of hearings. Lloyd had settled in Blacksburg, Virginia, in 1958, working as an Episcopal priest and as executive director of the Appalachian People’s Service Organization (APSO), an Anglican Appalachian outreach agency. Later he directed the Operation Coal Mining Project of the Commission on Religion in Appalachia (CORA), a cooperative effort of seventeen denominations concerned about the region. Like other outsiders, Lloyd worried about what strip mining was doing to the “fiercely proud, independent highlanders,” but immersed as he was in faith-based communities, he also saw the controversy over strip mining in Appalachia as a moral issue. When Lloyd appeared before the House subcommittees, he presented the statement of concern CORA adopted a year earlier, which laid out the “assumptions” underlying the organization’s support for at least partial abolition in mountainous areas. All resources of the earth belonged to God, the statement declared, and their “use must at all times be governed by His laws and guided by His purposes.” Private ownership of property was a man-made institution which needed to be “disciplined and guided by the over-arching responsibility of stewardship.” Resources were meant to be developed and used, the statement continued, but a fundamental aspect of stewardship was the preservation of the “remarkable ecological balance” contrived by God.⁶

Other religious leaders and organizations also contributed to the development of a moral argument against coal surface mining. Speaking for the Church of Brethren Appalachian Caucus, former antipoverty worker Michael Clark told the House subcommittee members that the violence of stripping against the land and people was in conflict with the nonviolence “of our religious heritage.” No amount of profit could
justify the practice, he said, and it should be banned in Appalachia. In a policy statement forwarded by Stephen Bossi, the Washington, D.C., representative of the National Catholic Rural Life Conference, his organization also went on record in support of outlawing contour mining and strictly regulating area stripping. Energy needs did not justify the destruction of productive land and the endangering of human life, the statement explained, since deep mining and renewable resources were not being fully exploited. In letter to Pennsylvania Congressman John P. Saylor, sent on behalf of the National Catholic Rural Life Conference and a slew of other denominational organizations, Bossi outlined additional faith-based objections and recommendations. As CORA and other religious spokespeople had done, Bossi quoted the first verse of Psalm 24, which declared that the earth belonged to the Lord and implied that those who ‘dwelt therein’ had a duty of stewardship. “The unnecessary despoiling of our land and endangering of human life through strip mining,” he argued, did not reflect the respect for creation which Psalm 24:1 and other Biblical passages seemed to demand. “At the very least,” Bossi explained to Saylor, “your committee should prohibit contour strip mining on slopes greater than fourteen degrees,” which would follow consistently from Congressional representatives’ declared support for prohibition in areas which could not be reclaimed. He also called for an energy policy that was not based solely on cost of production or immediate demand, and which recognized the need to develop alternative sources of energy.

Judging by hearing testimony, those activists with deep roots in Appalachia were still pressing for quick, national abolition. Blackey, Kentucky, resident Joe Begley
warned that violence could not be ruled out in the fight to stop stripping and then recommended its ban by federal law. Council of Southern Mountains (CSM) representative Betty Jean Justice, from Clintwood, Virginia, declared herself in favor of abolition, “because my experience with regulations is once those regulations are overstepped there is no adequate remedy.” Similarly, J.W. Bradley, a former deep miner in eastern Tennessee and leader of the newly organized Save Our Cumberland Mountains (SOCM), pointed out the failures activists had with regulatory bills and state legislatures and insisted that the federal government had the responsibility “to see that strip mining be abolished as soon as possible.” Harlan County, Kentucky, resident and Black Lung Association member William Worthington pointed out strip mining’s devastating impact on local employment, property, drinking water, watersheds, and wild game, and called for a ban on the practice. “I am for abolishing strip mining,” he said, “because it does infringe upon the rights of others.” Yet a notable few seemed increasingly willing to achieve a partial ban through slope limitations. In an early indication of wavering resolve, long-time Hazard, Kentucky, activist and retired deep miner Mart Shepard outlined ways to improve contour strip mining and suggested a twelve-degree slope limitation. This partial ban would have effectively stopped stripping in much of the mountainous parts of Appalachia, but it backed away from the forceful and determined insistence on the complete rejection of coal surface mining that drove the earlier opposition. Although there is no way to know for sure, Shepard might have tempered his position in response to the difficulties his two sons faced finding work in Knott County -
due partly to dim employment prospects in the area but also to their father’s outspoken opposition to strip mining.8

Those with more shallow roots in Appalachia tended to hedge even more on the demand that Congress outlaw stripping. By 1973, Richard Cartwright Austin was cochair of the national Coalition Against Strip Mining and, speaking before the House subcommittees, he voiced support for H.R. 1000, “because it approaches this fundamental problem most directly.” But Austin was quick to acknowledge that it was unlikely the hearings would result in legislation to abolish or curtail (partially ban) coal surface mining. “In the event that this committee attempts regulation,” he said, “I must make one more point on behalf of the people I represent and the lands that they love.” A strip mine control bill, Austin explained, should restrict coal surface mining to areas where land and waters could be restored, include a clause requiring surface owner consent, and allow for public scrutiny of stripping (through open hearings on proposed mining, reclamation plans, and assessments of whether or not reclamation standards have been met). Questioned by the subcommittees’ members about his presentation of two different recommendations, Austin described the latter part of his testimony as “a fall-back position.”9

Louise Dunlap, the other cochair of the NCASM and the Washington, D.C., representative for the Environmental Policy Center (EPC), also testified at the hearings, lending support to the phase out of coal surface mining but declining to endorse any particular proposal. To a question from Ohio Representative John Seiberling about her organizations’ position on Hechler’s bill, she evasively noted that even H.R. 1000 “has
regulatory provisions for the phasing out period.” Although Dunlap did not explain it to the subcommittees, in the interim since the last Congressional hearings the Environmental Policy Center staff had researched the length of time needed to phase out coal surface mining and came to the conclusion that Hechler’s timetable was impractical. The EPC had sent John McCormick to talk to manufacturers of underground mining equipment and they had told him it would take seven years to build the machinery necessary to open enough deep mines to replace phased-out strip mines. Based on this information - which was certainly questionable - the Environmental Policy Center staff believed they would have to work for a regulatory bill. A seven-year phase out was unlikely to pass and only by backing a control measure could they ethically argue “that the lights won’t go off.” This explains why the bulk of Dunlap’s hearing testimony consisted of a detailed list of “minimum requirements” that the NCASM and EPC expected to see in final legislation. Though far-reaching and comprehensive, the requirements were much less controversial than outlawing stripping. One suggested provision called for operators performing surface mining on slopes greater than fourteen degrees to insure “that no overburden or debris be placed over the bench unless the applicant can affirmatively demonstrate that the proposed mining method will effectively prevent sedimentation, landslides, erosion, or acid, toxic or mineralized water pollution and that such areas can be reclaimed as required by the Act.” Activists had pointed out that this type of mining could not be done without frequent slides and polluted water, for reasons that had to do with the landscape as well as the ineptitude of agencies given the task of enforcing such rules, but the provision implicitly discounted their experience.¹⁰
Along with the NCASM and EPC, the Sierra Club expressed a wavering position on federal legislative action at the spring hearings too. Citing the "absence of adequate land use planning, a coordinated energy policy, stringent performance standards, strong enforcement, and more advanced technology," the conservation group sent an official policy statement advocating a gradual phase-out of stripping, at least on slopes greater than twenty degrees and in the arid regions of the West. To supply the energy needs of the nation, the Sierra Club suggested deep mining the low-sulfur reserves. Speaking before the Senate committee, eastern regional representative Peter Borelli anticipated objections to this alternative by drawing attention to UMW president Arnold Miller's statement and recalling how he had stood next to Miller in the West Virginia state legislature in support of a ban on stripping in that state. "I am only asking that if the president of the United Mine Workers feels that the impact on health and safety of underground miners is within the control of this country, both technologically and with respect to the laws of the land," he said, "I will go with the opinion of Mr. Miller in that regard, and would not presume to tell this committee what that impact would be."

Yet the Sierra Club was willing to compromise on its support for outlawing coal surface mining. At one point in his testimony, Borelli seemed to suggest that the position of his organization was not so far away from the position of the coal industry. "[W]e wholeheartedly agree that a balance, of course, is necessary if our economy and environment is to coexist," he said, "and I know of no other social arrangement that has worked in this country." Like Dunlap, Borelli presented a list of expectations of a regulatory bill. In the interim between passage of legislation and eventual phase out, or
in the more likely case that Congress only regulated stripping, he advised, the Sierra Club hoped for the establishment of an abandoned mine reclamation fund (sustained by a severance tax), EPA oversight of any federal regulatory program (or at least a requirement of the agency’s concurrence in decisions made by the Department of Interior), broadened citizen participation in enforcement, and prohibition in selected areas. Shortly after making these remarks, Borelli wrote to Representative Saylor that while the Sierra Club looked favorably on H.R. 1000, other proposals, certain regulatory proposals, deserved “serious consideration.”

Other long-established conservation organizations also took ambiguous positions on strip mining controls, making statements that could be read as support for a partial ban as well as a readiness to accept only regulation. Representative John Franson communicated the National Audubon Society’s support for prohibition where damage to the land and water would be irreparable, but added that this determination should be made following provisions set out in a good reclamation law. Izaak Walton League Environmental Associate Nancy Matisoff relayed a policy statement from her organization in support of prohibition of stripping on slopes greater than fourteen degrees, “unless an operator can positively demonstrate that sedimentation, acid run, landslides, and other damage can be prevented.” In addition to this qualified support for a ban, the League’s position centered around “a strong federal-state regulatory apparatus,” including federal review of state permit and enforcement programs.

By the end of the spring hearings, with support for outlawing coal surface mining obviously weak among national environmental and conservation organizations,
previously supportive members of Congress began to draw back from endorsing any sort of abolition bill. When Ken Hechler's assistant Ned Helmes was contacted by one of Senator Ted Kennedy's legislative aides about supporting H.R. 1000, he was told that "they were backing off because [Senator] Nelson's office had told him Nelson was backing off." The reason, Helmes told Hechler in a memo, was that "they felt the environmentalists weren't seriously pushing the abolition position anymore." Helmes tried to convince the aide that prospects for passing an abolition bill were better in the House than in the Senate, and he explained Dunlap's "careful" testimony before the Senate committee as moderation necessary to avoid the wrath of Senator McClure and other industry supporters. But the aide ended the conversation with only a promise to "let us know when they made a final decision."

Passage of H.R. 11500 and the First Presidential Veto, 1974

In September 1973, the Senate Committee on Interior and Insular Affairs reported out S. 425, a strong control bill that suggested committee members had been persuaded by at least some of the arguments of strip mining opponents, particularly their concern about erosion and landslides. The proposed act established a federal-state regulatory framework, with a federal Office of Surface Mining, Reclamation, and Enforcement (OSM) that would conduct its own inspections and oversee state programs. To guide these state programs, the legislation set minimum standards for permitting and bonding procedures as well as concurrent and postmining reclamation. Among these standards, applications for permits had to include the written consent of surface owners where
surface and mineral rights had been separated. The bill also prohibited stripping within the boundaries of National Parks, the National Wilderness Preservation System, and the Wild and Scenic Rivers System, and it left open the possibility for declaring other areas unsuitable for surface mining. In a nod to the concerns of organized labor, contracts awarded for the reclamation of abandoned mined lands were to include provisions giving an employment preference to individuals whose jobs had been adversely affected by the control legislation.15

With the expectation that the House Committee on Interior and Insular Affairs would report out a regulatory bill in February, and that the full House and Senate would take up consideration of the respective bills sent to them by spring, activists organized a weekend meeting of the national Coalition Against Strip Mining in Washington, D.C., for late January. Prior to the gathering, NCASM leaders sent out a memo to members explaining that they wanted to bring folks together “to work out strategies to shape public opinion in favor of a phase-out and to reach agreements on legislative priorities.” It is not clear what exactly happened during the weekend - there are no existent minutes or reports - but key leaders among the 125 participants returned from the meeting determined to work for a good control bill while still calling for a phase-out. Some time later, Reverend Lloyd and Linda Johnson informed Appalachian Coalition members that they wanted gradual abolition but also hoped the main regulatory proposal, H.R. 11500 would be strengthened, “as it has some very weak spots.” A letter-writing campaign was in the works, they said, and other memos with “helpful factual info” would soon follow from the Environmental Policy Center. According to legislative aide Ned Helmes, however,
the EPC was now in open disagreement with Hechler’s phase-out timetable and
“supported the Udall bill [H.R. 11500] with four strengthening amendments.”

In summer 1974, after the Committee on Interior and Insular Affairs reported out
H.R. 11500 and a vote by the full House neared, organized labor announced its support
for regulatory legislation too. United Auto Workers Legislative Director Jack Beidler
called on House members to support the control bill, along with unspecified
“strengthening amendments.” While acknowledging his union’s interests in “improving
the energy situation” in the United States, Oil, Chemical, and Atomic Workers President
A.F. Gospiron insisted “that strong environmental standards must be observed if we are
to protect our land and its use and the citizens’ quality of life.” H.R. 11500 would allow
for increased production of coal, he said, while addressing the environmental problems
associated with strip mining and land reclamation. The UMW also came out in favor of
the bill, but not until after a contentious meeting of the International Executive Board,
where the debate was not over the merits of controls versus a phase-out, but rather the
need to pass federal regulation at all. Once the exact wording of the House measure
became available, President Arnold Miller called the Board into a special session to
consider an endorsement. Its members heard presentations from both sides of the issue,
first from Representative Patsy Mink, chair of the House Subcommittee on Mines and
Mining, who spoke in favor of H.R. 11500. She was followed by William M. Kelce, a
former Peabody Coal Co., official and head of the Alabama Surface Mining Reclamation
Council, who spoke against the bill. After a heated debate, Miller cast a tie-breaking vote
and the union went on record in favor of H.R. 11500. “Everyone accepted the need to
protect the jobs of our members,” Miller later explained, “while protecting areas where our members and their families live.” Mink had assured the Board that the legislation would not cause job loss but would likely create new jobs as reclamation standards would encourage surface mining techniques, such as the modified block-cut method, which required more workers.17

Despite the support for H.R. 11500 among environmentalists and organized labor, however, at least a few organizations and individuals still pressed for a more radical solution to the problems facing residents in the strip coal fields of Appalachia. In mid-February, the board of representatives of the Council of Southern Mountains adopted an unambiguous statement in favor of abolition. Their first demand was that strip mining be stopped, to protect the mountain landscape and to prevent the disappearance of more deep mining jobs. The board also called for the expropriation of the coal industry if improvements were not made in mining. “If the present managers of coal companies cannot mine coal to benefit everyone,” the board declared, “then they should turn it over to people who can, like the people who work in the mines.” In July, other organizations made public statements in support of a phase-out. Appalachian Coalition co-chair and Save Our Cumberland Mountains leader J.W. Bradley sent a telegram to West Virginia Representative Ken Hechler, and presumably other members of Congress, declaring that SOCM “wholeheartedly supports ... H.R. 15000,” Hechler’s abolition bill. Wilburn C. Campbell, Bishop of the Dioceses of West Virginia and President of the Appalachian Peoples’ Service Organization, also sent a telegram in support of H.R. 15000, declaring that “strip mining must be stopped, [to] end the incredible hardship and abuses to people,
and to end the devastation of our land for profit. There can be no compromise with this obscene evil."\textsuperscript{18}

Through the spring and summer, Representative Hechler received numerous letters in support of abolition, most but not all from West Virginia and good portion of them from individuals unaffiliated with any particular organization. Among the correspondents, Charles E. Crank, Jr., of Huntington, described himself as "a concerned citizen and a Christian" who wanted to see strip mining replaced with deep mining, with health and safety standards enforced. "I do not believe the big companies need to make the kind of profits they do," Crank explained, "I believe industry has an obligation to society." Writing from Celina, Ohio, Jean Jones forwarded petitions signed by thirty local residents, addressed to Congressman Tennyson Guyer, in support of H.R. 15000. West Virginia University student Patrick Neal reported that the West Virginia Democratic Youth Conference had passed a resolution calling for "immediate and complete abolition of strip mining." And Alice Slone, director of the Lotts Creek Community School in Hazard, Kentucky, praised Hechler as "the Representative with vision!" She told him to keep up the good work and to either stop or phase out coal surface mining.\textsuperscript{19}

Bolstered by supportive organizational statements, telegrams, and letters, Congressman Hechler made numerous public statements against regulatory legislation and in favor of outlawing coal surface mining. In May, he called H.R. 11500 "a woefully weak compromise, filled with the kind of loopholes the coal and utility lobbyists have written into state strip-mine regulation for the past 30 years." After returning from a trip
to the West Virginia coalfields over the Fourth of July holiday, Hechler reported a willingness among some of his constituents to use direct action to stop strip mining. People had told him "that unless Congress stops temporizing with strip mining, they're going to take matters into their own hands just as the patriots of two centuries ago did at the Boston Tea Party and other memorable revolutionary acts." Rather than fiddle with a regulatory bill, the West Virginia Representative argued, it would be "better to go all-out for H.R. 15000." In mid-July, he offered his abolition proposal as a substitute for the committee legislation, but the amendment effort failed on a vote of 69 to 336.²⁰

The regulatory bill that was at the center of so much concern did include language that would make committed opponents like Hechler cringe. It contained vague terminology dealing with water quality and erosion, which obliged operators to "minimize the disturbance to the hydrologic balance at the mine site" and "control as effectively as possible erosion and attendant air and water pollution." Perhaps even more ominous, the act established a procedure for "the regulatory authority" to grant exceptions to the environmental standards to permit applicants or permit holders "if the regulatory authority issues a written finding that one or more such standards cannot reasonably be met." But H.R. 11500 also contained a number of provisions to appease the opposition and the report accompanying the bill explicitly acknowledged the growing public concern that had compelled Congress to act. Across the nation, it said, church organizations, environmental and public interest groups, and others have reacted to the "excesses" of coal surface mining by demanding federal legislation banning the practice. Because the committee was concerned about energy requirements, members did not feel

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they could or should go to this length to resolve the problems. Yet the committee was "equally convinced that equity requires that environmental and social costs which have heretofore been relegated to off-site property owners and to the community at large, must be borne by the producers and users of coal." This would be accomplished, the report explained, through a system of federal standards, federal funding, and the expertise of a federal Office of Surface Mining which together would "greatly increase the effectiveness of State enforcement programs operating under the Act." As in the Senate bill, the House measure parceled out authority to the states and Department of Interior (rather than the EPA), included a provision for designating lands unsuitable for mining, and required written consent of surface owners in cases where mineral and surface rights had been separated.21

In December 1974, after the Senate passed S. 425 and the House passed H.R. 11500, both measures moved to a conference committee. During and after the markup process, it became even clearer where national environmental groups stood on strip mine controls. Before the conference committee met, the national Coalition Against Strip Mining sent a telegram to members of Congress declaring its support for "a well-planned, orderly phase-out" and urging them "to seriously consider and support the merits of H.R. 15000." Signatories to the telegram included the Environmental Policy Center and Sierra Club. After an agreed bill came out of the conference committee and went back to House and Senate for final approval, however, Montana Representative John Melcher sent a letter to all of his colleagues listing its supporters, which included the EPC and Sierra Club, as well as the Wilderness Society, National Audubon Society, Friends of the Earth,
Izaak Walton League, National Farmers’ Association, and the National Grange. With such solid backing from major environmental and farm organizations, as well as various labor unions, the agreed bill sailed through the House and Senate. Because supporters expected a veto, Louise Dunlap led an appeal to vice presidential designate Nelson Rockefeller to intercede with President Ford to change his mind. At the end of the month, however, the president did veto this first of two control bills sent to him.\textsuperscript{22}

\textit{Second Presidential Veto, 1975}

When Ken Hechler first proposed legislation to outlaw coal surface mining in 1971, he told the members of the House Committee on Interior and Insular Affairs that his object was not simply to prod legislators to pass a strong control bill but to ban stripping. For the next few years he remained steadfast in this position and became increasingly frustrated with the groups and individuals using the threat of abolition to get better regulatory legislation. In January 1975, on the eve of another weekend gathering sponsored by the national Coalition Against Strip Mining, Hechler expressed some of this frustration in a letter to activists. Yet in the same missive he also made his first bow to ‘practical politics.’ “My people in West Virginia and people throughout the nation,” he wrote, “are getting more and more cynical about compromising politicians, Washington environmental groups who settle for the lowest common denominator, and those who enjoy the transient glory of winning a few commas or semi-colons while the people and the land continue to be exploited and destroyed.” The leadership of Washington-based environmental groups had repeatedly succumbed “to the temptation to move farther and
farther away from abolition, to compromise and weaken their position long before it was strategically necessary, and to enable the coal exploiters to move the whole focus of the debate progressively and inexorably over toward greater freedom to exploit." Activists needed to strengthen the backbones of both the EPC and Sierra Club, Hechler argued, and “DEMAND THAT THE PEOPLE’S WILL IN YOUR AREAS BE TRANSLATED INTO MORE AGGRESSIVE ACTION HERE IN WASHINGTON.” In this statement to “Friends of the Coalition Against Strip Mining,” however, Hechler showed clear signs of wavering. While he encouraged support for his recently introduced abolition bill, he noted the importance of defining “the minimum standards you would accept in a regulatory bill.” For Hechler, these included a ban on steep slopes (greater than twenty degrees), no mountaintop removal, prohibition of mining in National Forests, National Grasslands, and alluvial valley floors, a ban on impoundments for coal waste disposal, written consent of surface owners in all cases where surface and mineral rights had been separated, and tough citizen suit provisions.  

Despite the ambiguity of Hechler’s letter, some of the participants in the NCASM gathering remained dedicated to outlawing coal surface mining. When it became clear to him that “Louise Dunlap was not going to adamantly insist we have a ban on mountain stripping,” for instance, Pineville, Kentucky, activist Stephen Carl Cawood left the NCASM meeting. He went home “and urged those folks here who are still fighting to simply drop their support of her and restrict their efforts to lobbying their congressman individually for a ban.” Yet something important had happened to the whole movement when Hechler stated his minimum requirements for a good control bill. At the end of
January, NCASM issued a statement declaring its support for “the substance” of Hechler’s phase-out proposal and calling for an immediate ban on steep-slope mining, no mountaintop removal, prohibition on mining in alluvial valley floors and arid and semi-arid regions, a ban on stripping in National Forests and Grasslands, and surface owner consent. But the coalition also stated its intent to push for a strict regulatory bill, and now that Hechler had compromised - ironically in a letter about frustration with past compromises - the congressman and environmental groups were no longer working at cross purposes with one another.24

By March 1975, both House and Senate committees had once again reported out control bills for floor debate. These proposals were similar to the ones President Ford had vetoed the year before with a few notable exceptions, such as requiring surface owner consent only where mineral rights were owned by the federal government. Yet, perhaps sensing that the balance of forces was beginning to shift in their favor, opposition to H.R. 25 and S. 7 by elements of the coal industry was much more vocal and apparent. There was now more to gain than lose by opposing basic regulatory legislation. In April a caravan of coal trucks, organized and sponsored by strip mine operators, traveled from the Appalachian coalfields to Washington, D.C., to lobby members of Congress and send a message to President Ford. Starting from the Wise County, Virginia, fair grounds, the caravan was joined along the way by other independent coal haulers from West Virginia, eastern Kentucky, and eastern Tennessee. Altogether, about 600 to 700 trucks reached the nation’s capital. Drivers expressed their reasons for joining in the protest with hand-painted slogans and banners on their vehicles, such as “Protest H.R. 25 - We Don’t Need
Another 25000 Unemployed” and “Mr. President Save Our Jobs - Veto Bill 25 & Bill 7.”

In an interview along the roadside, one trucker claimed that the regulatory legislation “will about ban all strip mining” and have a detrimental impact on local and regional economies. Another admitted that there needed to be a control law but suggested that his home state of Virginia enforce the one it already had. Once the caravan reached Washington, D.C., participants organized a motorcade and pickets in front of the White House and Capitol, and small groups systematically visited members of Congress. A few industry representatives also met with federal energy administrator Frank Zarb, who told them that both he and Ford were sympathetic to their concerns.25

Despite coal haulers’ lobbying, however, by early May the full House and Senate had passed H.R. 25 and S. 7, and a conference committee reported out an agreed version of the control legislation. Reconciling the two proposals was fairly easy since there were only a few significant differences between them. Where changes were made the regulatory legislation became less rather than more stringent. The House bill’s outright ban on mining alluvial valley floors west of the 100th meridian, for instance, was dropped in favor of the Senate bill’s selective prohibition only when such stripping would have a harmful impact on farming or ranching. The conference committee also deleted S. 7’s provision requiring the Secretary of the Interior to continually evaluate losses or shifts in employment as a result of enforcement of the act, and it allowed citizen suits only against regulatory agencies and mine operators. The Ford Administration had expressed concern that S. 425 would allow citizen suits against any person for a violation of the act.
The committee did retain language in both bills requiring surface owner consent, but only when the mineral rights separated were federally owned.\textsuperscript{26}

Once passed by the House and Senate, the compromise bill went to the President, who promptly vetoed the legislation. In his veto message, Ford explained that the regulatory act would put up to 36,000 Americans out of work, raise utility bills, make the nation more dependent on foreign oil, and reduce coal production in the midst of an energy crisis. In hearings before House subcommittees, Frank Zarb elaborated on these objections. He noted that losses from the bill could not really be quantified since there was no way to predict how certain provisions - such as the authority to designate lands unsuitable for mining - would be enforced. Yet he estimated that between 40 and 162 million tons of coal production would be lost during the first year of implementation, as a result of provisions dealing with steep slope mining, aquifer protection, and stripping on alluvial valley floors. The unemployment this loss would entail, a combination of miners directly affected by the legislation and others in sectors of the economy dependent on mining, would be concentrated in certain areas. Some counties in Appalachia, Zarb claimed, could be devastated by the control legislation. Employment created by reclamation efforts would be negligible and the long lead-times and significant capital outlays required to open or expand underground mines would mean that deep mining could not offset these job losses either.\textsuperscript{27}

In response to Ford's veto, Congressman Hechler declared that "King Coal continues to control the White House." The President's attack on the legislation as too strong was outrageous, he said, and Ford's claims about coal production and job loss
were "totally ridiculous." There was nothing in the bill that had not already "been done before under some of the stronger state laws." Yet Hechler planned to sustain the veto because the vetoed act "falls far short of what is needed to stop the devastation." Some of the congressman's constituents and other longtime activists pleaded with him to reconsider. Huntington resident Patricia Longfellow asked Hechler to override the veto to give a voice to those most affected by strip mining. Mart Shepard, writing for the Knott County chapter of Citizens for Social and Economic Justice - which had taken the place of AGSLP - also made an appeal for his support. "We no this bill doesn't provide ever thing that is needed in the way of Reclamation," Shepard wrote, "but I am asking you to vote for the short [step] this bill provides." Others seemed to be more inclined to get justice through violence. Charles Douglas, from Barboursville, West Virginia, had served in the Navy during World War II and later in the Marine Reserves, but now felt "sold out by the very institutions I fought for," presumably because Ford had vetoed the bill. This left no other means except "vigilante action" for controlling strip mining. Government was controlled by and existed to serve "special interest groups," Douglas maintained, and the only way to return control to the people "will be by force." Hechler was not willing to go that far. "Although an abolitionist," he said, "I would have settled for a bill which included some hope for the people of the mountains."28

Segments of the coal industry viewed the second presidential veto of regulatory legislation as an indication of the weakness of the opposition to stripping, and they took the opportunity to begin to reverse their position on federal controls. In late September, the American Mining Congress declared that uniform national standards for surface
mining and reclamation were “not feasible.” The trade association cited diversity of terrain, climate, and other conditions in mining areas, as well as variations of mining methods as its reasons for coming to this conclusion. “The states are properly the focal point for the regulation of reclamation operations,” the “Declaration of Policy” explained, and enforcement of state laws, tailored to meet specific physical conditions was “producing good reclamation results.” The AMC and its members pledged to endorse adoption of realistic surface mining regulation at the state level and would not oppose federal surface mining legislation which was “realistically designed to assist the states and the surface mining industry.” But legislation such as the bill President Ford had just vetoed would, in fact, create “a virtual prohibition on surface mining through the imposition of unrealistic and unworkable provisions,” and the Mining Congress could not support it.29

The United Mine Workers also moved toward support for state-level regulation of stripping after Ford’s second veto. Echoing the concerns of the AMC, a sizable number of delegates to the 47th constitutional convention argued that a federal law would not recognize the problems and conditions specific to various regions. In contrast with what he had said earlier, President Miller explained, “What works in the hills of West Virginia may not work in the plains of Illinois ... some reclamation standards that would benefit one area could possibly harm another.” Surface mining and reclamation were both important to the economy and ecology of the country, he said, and protecting the environment was vital “not only for ourselves but more for the use of our children and our children’s children.” But the UMW would cease working for legislation to establish
federal standards and enforcement and instead work for reclamation laws on a state-by-
state basis. Dissent within the union, on surface mining regulation and a host of other
issues, had left Miller no other choice than to change his public position on the issue.
That dissent could be heard on the convention floor among delegates and coming from
union officers, and it revolved around fears of the impact any legislation would have on
employment. The co-chair of the committee making the recommendation explained that
a state-by-state approach was needed “so that we will not put anyone out of work.”

President Ford’s veto and the failure of Congress to override it also prompted the
Appalachian Coalition to “look again at its goals and the needs of groups in the
mountains.” In November, coalition leaders attempted to hold a meeting in Abingdon,
Virginia, to make such a reassessment, but the attendance by representatives of local
opposition groups was low and another meeting was called for mid-February. At the
second gathering, held at the Highlander Center in eastern Tennessee, attendance was
better but the meeting exposed significant divisions within the opposition movement.
One SOCM activist observed that “we all have a long way to go before we can all work
closely together in what should be a common cause.” In mid-March, there was another
meeting in Abingdon of the Coalition’s newly-formed Advisory Council, which included
Reverend Lloyd, Phil Roman of Core Appalachian Ministries, Elmer Rasnick of CSEJ,
SOCM’s John Burris and Karen Kasmuski, as well as Frank Kilgore from Virginia and
Millie Waters from Tennessee. They decided to submit proposals for funding to several
sources, search for a staff person, and shift funds from Lloyd’s Operation Coal to the
Appalachian Coalition. By May, the “new” organization was a functioning entity, with
Virginian Don Askins hired to serve as central coordinator at an office in Jenkins, Kentucky.\textsuperscript{31}

\textit{Passage of the Surface Mining Control and Reclamation Act, 1976-1977}

Despite two presidential vetoes, supporters of strip mine regulation in Congress were not yet ready to surrender. In March 1976, the House Committee on Interior and Insular Affairs reported out H.R. 9725. Dissenting committee members claimed that H.R. 9725 would cause a significant loss of coal production, undermine existing state regulatory programs, and increase federal spending. These were somewhat familiar criticisms which had little basis in fact. But the dissenting representatives also claimed that the bill met the test for being "of the same substance," with only a "few word differences and not a single deleted section" from the vetoed H.R. 25. The Committee on Rules agreed and tabled the measure in the latter part of the month. The House committee then prepared another bill, H.R. 13950, which it reported out at the end of August. Dissenting committee members declared once again that changes in the proposal were cosmetic and it should be denied "a rule" by the rules committee. The bill did not, in fact, go to a vote by the full House.\textsuperscript{32}

Between January and March of the next year the House Subcommittee on Energy and the Environment and the Committee on Interior and Insular Affairs held another round of hearings. Testimony from coal operators and corporate officials at the hearings reflected the shift within the coal industry away from support for federal regulation to support for state-level control programs. Speaking for the Kentucky Independent Coal
Producers' Association as well as the Kentucky-Tennessee Coal Operators Association, David Smith declared that "the need for a Federal reclamation law does not exist." The need for such a law had passed, he claimed, since thirty-eight states had surface mine reclamation laws "individually suited to their citizen's [sic] economic, environmental, social, geographical, and ecological needs and objectives." Making a novel argument against the likelihood that deep mines might replace any loss in production at regulated surface mines, Smith also said that underground mines would be hampered by "the stringent permit process and reclamation standards for surface effects of deep mining contained in this reclamation act." Speaking for the AMC, Peabody Coal President Edwin Phelps relayed the trade group's support for state controls. "All major coal producing States have their own functioning programs that regulate surface mining and required sound reclamation," he said. "The national debate that has raged over this issue has outlived the need for Federal legislation." 

The hearings also provided an opportunity to the UMW to declare its retreat from federal controls. In their testimony, union officials emphasized the impact the proposed federal regulatory act would have on jobs, the diverse environmental conditions in various states, as well as the better safety record of surface mining relative to deep mining. Joseph Tate, a surface miner and president of a Virginia local, expressed fear that "steep slope" and "return to original contour" provisions in the new committee proposal, H.R. 2, would expand the ever-growing ranks of the unemployed. In addition to being a hardship in its own right, this job loss would devastate the Welfare and Retirement Fund since over half of the moneys paid into the fund came from surface
mine employers. Lloyd Baker, president of UMW District 20 (Alabama), argued that "one law with a rigid set of uniform regulations" could not be "workable throughout the country." State legislators knew the conditions and problems of their own states best, he said, and they had enacted workable surface mining laws with this knowledge. Alabama miners also were opposed to a federal law because it would endanger their jobs. "[I]f H.R. 2 has to be the law of the land," Baker stated, "our sincere hope is that it will be completely rewritten so that it controls surface mining as its title states, but does not prohibit surface mining and our surface mining jobs." When questioned by subcommittee members why the UMW had changed its position, Baker explained that his membership in Alabama had been against other federal bills too. The new position simply reflected the victory of another view that had always been held by many in the union.34

Governors from Appalachian states were divided in their positions on the proposed control bill. Pennsylvania's Governor Milton J. Shapp supported the measure, citing his state's experience with regulation. Challenging the claims by the coal industry and UMW that controls would cut coal production and result in unemployment, Shapp noted that surface mine production in his state had increased substantially between 1971 and 1976, from 26.8 million tons to 38.9 million tons, and the number of strip mine employees had increased from 5,432 to 7,100 during the same period. West Virginia Governor John D, Rockefeller (who had defeated Ken Hechler in a primary campaign in 1976) also spoke in favor of the legislation. His state had recently extended the moratorium on strip mining in twenty-two counties for another two years, though it
included an amendment to allow surface operations in the counties when landowner-lessees could prove financial hardship and meet reclamation standards. Virginia Governor Mills Goodwin was opposed to the bill, however, and Kentucky Governor Julian Carroll testified against the provisions that prohibited dumping spoil on slopes and leaving highwalls after mining.35

Testimony from activists indicated that they were still in disagreement about accepting regulation rather than a ban. SOCM’s J. W. Bradley described the efforts by the federal government to regulate coal surface mining as “short-sighted, unrealistic, and a waste of time.” No regulations could make stripping acceptable, he said, and SOCM was demanding a “regulated phase out.” Save Our Mountains (West Virginia) Executive Director Judy Stephenson detailed the corruption and incompetence prevalent among her state’s inspectors, implicitly suggesting that more controls would be ineffective.36 The testimony by other groups, however, revealed that there was a growing contingent of people willing to compromise within the movement. Frank Kilgore, one of the two representatives of the newly organized Virginia Citizens for Better Reclamation (VCBR), said his organization preferred state controls but that it would accept federal regulation if good state legislation was not forthcoming. VCBR was not opposed to strip mining, according to legal counsel Ed Grandis, since it provided jobs and industry in southwest Virginia. But the organization “would like to see more operator responsibility for citizen’s property damages,” he told the House subcommittee and committee, “plus a stronger reclamation law and enforcement program.”37
Reverend Lloyd testified at the hearings for the Appalachian Peoples’ Service Organization, and he reiterated his Judeo-Christian objection to coal surface mining. He quoted Psalm 24:1 once again and argued that “God created the world as one, whole, interconnected, limited, fragile entity - held together in a delicate balance of interrelationships of all living things.” The special role assigned to human beings in this interdependent order, Lloyd said, “is to be caretakers and to live in harmony with creation’s on-going, life-giving process.” Surface mining was a moral issue, and environmental destruction and the harm caused to people by stripping was evil. “There is no wise answer to strip mining,” he declared, “but to phase it out as quickly as we can.” Yet Lloyd’s rhetoric was out of place in spring 1977. The abolition movement had dissipated by the mid-1970s and Lloyd had been partly responsible for the dissipation. The very short statement submitted by the Appalachian Coalition, an organization he had co-chaired through the decade, urged a prohibition of mountaintop removal and a phase out of stripping on slopes greater than fifteen or twenty degrees, but suggested the enactment of “severe constraints” as an alternative. The statement also mentioned that H.R. 2 should retain its provisions for citizen participation - as if the group assumed that the bill would be passed.38

The other significant figure leading the compromise campaign was Louise Dunlap, and she appeared before the House subcommittee and committee along with EPC representatives Jack Doyle and John McCormick. Anticipating the victory that would come if she could mollify a few coal industry sympathizers, Dunlap made a point to state the support of citizen and agricultural groups for increased domestic coal production, “as
well as finding ways to extract both surface and underground coal more efficiently.” She called committee members’ attention to citizen groups’ advocacy of a phase out of the mountaintop removal method, but also noted the possibility of modifying the method so spoil would be retained on top of the mountain. At the end of her testimony, probably only those who had followed the evolution of the opposition movement as well as the process of revising federal regulatory bills, knew what Dunlap was advising the committee to do.\textsuperscript{39}

Following the hearings, on April 20, President Jimmy Carter gave a nationally televised address on energy in which he discussed greater coal utilization but also admonished Americans not to “plunder our environment.” Carter had said earlier that he would sign a coal surface mining control bill, and his administration had sent cabinet members to testify in favor of H.R. 2. Carter’s Secretary of the Interior, Cecil Andrus, even claimed that neither the House nor Senate versions of the bills in committees were strong enough for him. Andrus wanted a five-year moratorium on stripping on “prime agricultural land” as well as greater protection for subterranean water courses in the arid West and Appalachian mountains. With these signs of support from the President’s administration, the House Interior Committee sent H.R. 2 on its way to the full House at the end of April, and the Senate Energy Committee reported out S.7 at the beginning of May. Both bills passed and went to a conference committee in July, where committee member and Kentucky Senator Wendell Ford’s amendment removing the ban on highwalls was defeated. The conference chairman, Arizona Representative Morris Udall, insisted that the highwall ban was “the very heart of the bill,” the one provision that
would address the destruction of Appalachia’s steep slopes. In exchange, however, Ford
won acceptance of an amendment allowing variances on the requirement to restore land
to “approximate original contour” as well as fewer restrictions on mountaintop removal,
bringing the bill into line with the Senate version. He also got an exemption for small
mine operators (those producing less than 100,000 tons per year) from federal
environmental standards for eighteen months, a compromise between the House version’s
nine-month exemption and the Senate’s two-year exemption.40

On July 12, the conference committee reported out H.R. 2, which was soon
enacted as the Surface Mining Control and Reclamation Act (SMCRA). In addition to
banning highwalls, allowing variances on the approximate original contour requirement,
scarcely regulating mountaintop removal operations, and granting exemptions to small
mine operators, the bill established a federal-state partnership of enforcement. States
would operate their own control programs as long as they met or surpassed the standards
outlined in the act. The Department of the Interior was charged with approving and
overseeing state programs and it had the power to take over state programs if they failed
to enforce SMCRA. But coal surface mining regulation was put largely in state hands.
Dumping debris on steep slopes was banned by the bill, a provision bitterly opposed by
c-coal operators and one of the few areas in the legislation that had become more stringent
over time (the original House bill had prohibited dumping overburden and spoil on slopes
greater than fourteen degrees). The act also set up an abandoned mine reclamation
program, to restore orphan strip lands, funded by a fee on operators of thirty-five cents
per ton of coal surface mined and fifteen cents per ton on deep-mined coal, with at least

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50 percent of the fee returned to the state or Indian reservation in which the coal was mined. Yet the legislation allowed for new mining on alluvial valley floors under limited circumstances as well as stripping without the consent of surface owners if permitted under state law. Surface owners whose land had underlying federal coal deposits had to give their consent before the mineral rights were leased and mined, but the Secretary of Interior reserved the right to override a surface owner's objection if he found that such leasing was in the national interest.  

Several environmental and citizens' groups tried to dissuade President Carter from signing SMCRA into law. Representatives from the Appalachian Coalition, including SOCM and Save Our Mountains, announced their opposition to the bill in a press conference in Washington, D.C. The Appalachian Coalition had worked for passage of a federal regulatory bill, the activists acknowledged, but the present bill was so weakened by compromise that it no longer promised effective control of the coal industry or adequate protection of citizens' rights. A press release listed the provisions (or absent provisions) the Coalition found particularly troublesome: an eighteen-month exemption of small operators; recognition of mountaintop removal as an approved mining technique (rather than a variance technique requiring special approval); language allowing for variance from restoration to approximate original contour; failure to impose slope limitations (or a partial ban on contour mining); and failure to fully protect surface owner rights with a comprehensive consent clause. For these reasons, and because SMCRA failed to embody the congressional objective of prohibiting strip mining where reclamation is not possible, the coalition urged a veto. The press release concluded with
a declaration that stripping “as a means of energy production must be phased out and
replaced by less socially and environmentally destructive methods.”42

Disregarding the concerns of the Appalachian Coalition, President Carter did not
veto SMCRA. At a brief signing ceremony in early August he told a crowd of 300 guests
that the effort to enact a control bill had been somewhat disappointing and that he would
have preferred a stricter law. But the “watered down bill” would enhance “the legitimate
and much-needed production of coal,” the President said, “and also assuage the fears that
the beautiful areas where coal is produced were being destroyed.” After noting the long
lobbying campaign to pass a federal control law, Carter then leaned across the table and
kissed Louise Dunlap. When Ken Hechler warned him that there was serious danger that
those administering the act would weaken it, the President pointed out that he had a very
good Secretary of the Interior, “and I’ll remind him of that point.” In comments shortly
before and after the ceremony, many other prominent figures in the movement seemed to
have at least grudgingly accepted SMCRA. Brushy Ridge, Virginia, resident Ransom
Meade said the law was better than no bill at all, with good provisions but “far from what
we need.” One of the original members of AGSLP, Paul Fisty, worried about state
enforcement of the Act but seemed fairly positive about it. “I’m glad the bill passed.
Something is better than nothing,” he explained, “They’re supposed to put the slope back
and eliminate the highwall. ... Any federal legislation is better than letting the state have
control of it.” Jack Doyle, at the Environmental Policy Center, bemoaned the failure to
ban mountaintop removal and steep slope mining but praised provisions in SMCRA that
allowed for citizen-initiated lawsuits against any regulatory authority for not enforcing
the law, which provided an opportunity for citizen “watchdogging” of administrative agencies. “The bill is not the best of all possible bills,” he admitted, “but it does provide some handles for citizens and is a beginning.”

At the end of August, the Office of Surface Mining was officially established within the Department of Interior, and in the fall Walter Heine won appointment to head the new agency. Heine was formerly the Associate Deputy Secretary for Mines and Land Protection in Pennsylvania and had been the first choice for the job among environmentalists who expressed their preferences. But his appointment was the only smooth part of the law’s implementation. Congress stalled on giving operating funds to OSM, which delayed the hiring of management personnel and field inspectors as well as the establishment of staff offices in the coalfields until March of the next year. By the spring of 1978, coal operators had initiated an assault on SMCRA in the courts, mounting over 100 legal challenges to the legislation in more than fifteen separate law suits, although a federal district judge eventually rejected their challenges on constitutional grounds. Congressional allies of the strip mining industry helped operators broaden the attack on SMCRA by scheduling Senate hearings to investigate the law. The hearings were in response to surface miners’ claims that regulations were confusing and burdensome to state regulators, small operators could not stand the increased costs imposed by new regulations, and OSM was exceeding the law. Leading the charge at the hearings were Arkansas Senator Dale Bumpers, Kentucky Senator Wendell Ford, West Virginia Senator Jennings Randolph, and Senator John Melcher from Montana.
Testifying on the first day, West Virginia Governor John D. Rockefeller acknowledged that a federal law was needed but claimed that SMCRA regulations had gone too far.44

After this rocky start, the federal-state regulatory framework mandated by SMCRA began to fall into place. The central OSM office, with final authority for enforcing the law, was located in Washington, D.C. There were also (initially) five regional offices - each staffed by a regional director, technical staff, inspectors, and three attorneys - as well as district offices within each region. The regional office for Kentucky, Tennessee, Alabama, and Georgia, was in Knoxville, Tennessee, with district offices in Madisonville and London, Kentucky, Birmingham, Alabama, and Knoxville. The regional office for Virginia, West Virginia, Pennsylvania, and Maryland was in Charleston, West Virginia, and federal officials watched over Ohio, Indiana, Illinois, and Missouri from Indianapolis. During the interim period, while states sought approval for their regulatory programs from the Department of Interior, each of the states continued to regulate strip mining but federal inspectors also made regular inspections, responded to citizen complaints, and had the power to assess penalties for violations of interim standards. In fact, during the first five weeks of enforcement federal inspectors visited 100 operations and closed down eighteen mines, all in the Appalachian coalfields.45

The first federal cease and desist order was made by Patrick Angel and Bill Hayes, when they responded to a complaint by Hazel King about the Easton Deaton contour strip mine at Clover Fork, in eastern Kentucky. King met the pair at the end of her swinging bridge wearing camouflage fatigues, hiking boots, and pith helmet, and carrying a walking stick. She led them to the mine, which was on an extremely steep
slopes and, according to Angel, “looked like the aftermath of Hiroshima.” There were piles of spoil everywhere, massive, crumbling highwalls, and deep pits of acid water. The inspectors also found a landslide, 200 feet across and 800 feet downslope, moving into Clover Fork. When they wrote the “Order of Cessation,” operator David Grooms was stunned and stood motionless, staring at the piece of paper. “All of his equipment and trucks seemed to simultaneously shut down, leaving only silence,” Angel later recalled, “Somewhere a white-throated sparrow whistled its pensive song.”
Notes


2. Ibid., 1434-39; Senate Committee, *Hearings Before the Committee ... on S.425 (1973), 441.

3. Ibid., 397-98; *UMWJ, 84 (April 1973), 17; UMWJ, 84 (April 1973), 14, 19.


5. Memo from B. Lloyd and Jim Coen to “Appalachian Coalition People,” Folder “Strip Mining - '73,” private papers of Joe and Gaynell Begley (hereafter cited as Begley Papers); Baldwin Lloyd to Ken Hechler, 25 July 1973, Folder 5, “Strip Mining,” Box 169, Hechler Papers; In 1973, Lloyd was president of the Appalachian Coalition, J.W. Bradley was vice president, and there were a number of “state coordinators”: James L. Coen, Jr., in Virginia; Dr. Wayne C. Spiggle in Maryland; Richard J. Garrett in Ohio; J.W. Bradley in Tennessee; Robert Handley in West Virginia; and Joe Begley in Kentucky. Member organizations included CASM, SOCM, SOK, Citizens Committee to Investigate Strip Mining (Virginia), and Citizens Organized to Defend the Environment (Ohio). At the time, strip mining in Maryland occurred in three western counties: Garrett, Allegany, and Washington. The main opposition group in the state was the Citizens’ Coalition on Surface Mining, founded in August 1971 by Marge Rosher (the president of the Allegany County League of Women Voters), some legislators, and other private citizens. The group spearheaded a successful legislative effort in early 1972 to outlaw coal surface mining on state-owned lands. Senate Bill 261, which was sponsored by Baltimore Democrat Julian Lapides, closed thirteen percent of strip minable land in the western part of Maryland and required the cessation of some current operations. Lapides also introduced a bill to outlaw all strip mining, but this died in committee. See John Clark Finnissey, Jr., “The Politics of Protest: People and Strip Mining in Western Maryland,” (Ph.D. diss., Temple University, 1987), and *Appalachian Strip Mining Information Service*, 18 April 1972, Folder “Strip Mining,” Boxes 1/2, WVRH Papers.

7. House Subcommittee, *Hearings Before the Subcommittee ... on H.R. 3* (1973), 1110, 1119, 1642; The signatories on the letter to Saylor included Stephen E. Bossi, Washington Representative, National Catholic Rural Life Conference; Marvin Braiterman, Counsel, Union of American Hebrew Congregations; Tilford E. Dudley, Director, Washington Office, Council for Christian Social Action, United Church of Christ; Rev. Delton Franz, Washington Rep, Mennonite Central Committee, Peace Section; James A. Hamilton, Director, Washington Office, National Council of Churches; Joyce Hamlin, Secretary of Legislative Affairs, Women’s Division, Board of Missions, United Methodist Church; Fred Hofrichter, Washington Representative, Christian Church (Disciples); Robert E. Jones, Executive Director, Washington Office for Social Concern, Unitarian Universalist Association; Dr. John W. Thomas, Director, Department of Governmental Relations, Division of Social Ministries, American Baptist Churches - U.S.A.; Mary Jane Patterson, Associate Director for National Affairs, United Presbyterian Washington Office, United Presbyterian Church in the U.S.A.; Rev. Ralph E. Smeltzer, Washington Representative, Social Justice Consultant, Church of the Brethren; Dr. Luther Tyson, Director, Department of Economic Life, Board of Church and Society, United Methodist Church. Stephen Bossi to John Saylor, 25 May 1973, Folder "Correspondence Letters," Box 28, Saylor Papers; Although there are a number of translations, Psalm 24:1 can be read as “The earth is the Lord’s and all it holds, the world and those who live there.” *The New American Bible* (Canada: World Catholic Press, 1987), 560.


10. Ibid., 932-34; *Reporter*, Special Issue, 3 (August 1997), 12-13; Senate Committee, *Hearings Before the Committee ... on S. 425* (1973), 894-96.


16. Coalition Against Strip Mining, “Notice: Legislative Strip Mine Meeting, Washington, 1/26, 27, 28/1974,” 2 January 1974, Folder 7, “Strip Mining,” Hechler Papers; “Persons Attending EPC Sponsored Conference on Strip Mining Legislation,” Folder 6, “Strip Mining,” Box 170, Hechler Papers; Although there is no specific date for the memo sent by Baldwin and Johnson, the memo itself notes that the meeting had already passed. B. Lloyd and Linda Johnson to Appalachian Coalition People, n.d., Folder 6, Box 5, Ebersole Papers; The Helmes memo must have been sent before May because its contents suggest that H.R. 11500 was still in committee. Ned Helmes to Ken Hechler, n.d., Folder 7, “Strip Mining,” Box 170, Hechler Papers; In late January, Arizona Congressman Morris Udall, supposedly an ally of the strip mining opposition, told activists that even getting a weak H.R. 11500 passed would be difficult. “[W]e’ll be lucky to get this much through committee,” he said, “and we might even lose a lot in committee or on the floor. So please, don’t talk to me about making the bill any stronger.” *Mountain Life and Work*, 50 (February 1974), 8.

17. Jack Beidler to Ken Hechler, 12 July 1974, Folder 11, “Strip Mining,” Box 170, Hechler Papers; A.F. Gospiron to Ken Hechler, 16 July 1974, Folder 11, “Strip Mining,” Box 170, Hechler Papers; *Mountain Life and Work*, 50 (July-August 1974), 18; *UMWJ*, 85 (July 1974), 5; Unfortunately, the United Mine Workers of America will not allow researchers access to the minutes for this important board meeting.


21. Congressmen Udall opposed the surface owner consent provision. While protecting the rights of surface owners was important, he said, the Committee bill's approach would give them "large windfall benefits from property that he does not own" through the exercise of veto power over "the right to mine someone else's coal". Udall was primarily concerned largely with the situation in the West, where many surface owners had never owned the mineral rights that still belonged to the federal government. He also acknowledged the need to compensate surface owners for any damage to their land. House Committee on Interior and Insular Affairs, *Surface Mining Control and Reclamation Act of 1974, Report ... to Accompany H.R. 11500*, 93rd Cong., 2d sess., (1974), 4-19, 34-35, 46, 60-61, 179-80.


28. Ken Hechler, press release, 20 May 1975, copy in author's possession; Patricia Longfellow to Ken Hechler, 5 June 1975, Folder 5, "Strip Mining," Box 169, Hechler Papers; Citizens for Social and Economic Justice originated in the strip coal fields of southwestern Virginia, as a Welfare Rights Organization, but then broadened its scope to include other issues. By the fall a chapter had been organized in Knott County and essentially replaced AGSLP as the primary vehicle for grassroots struggle against strip


31. SOCM Sentinel (November 1975), 9; (February 1976), 10, 11; (March 1976), 2; (May 1976), 6; Mountain Life and Work, 52 (March and April 1976), 34.


34. Ibid., 77, 10-12, 91-94 (Part I).

35. Ibid., 43 (Part II); Mountain Life and Work, 53 (February-March 1977), 9; Mountain Life and Work, 53 (April 1977), 42; Reporter, Special Issue, 3 August 1997, 7.

36. House Subcommittee, Hearings Before the Subcommittee ... on H.R. 2 (1977), 30-31, 197 (Part III); Strip mining opponents established Save Our Mountains (SOM) in the early part of 1975. Initially it was a Coalition of nine local groups designed to link together their resistance efforts. “We hope to stay away from what the anti-stripmining movement has been before,” said First Vice President Wayne Coombs, “and have grass roots groups and individuals involved.” The stated goals of the Coalition were abolition of strip mining, “gob” pile reclamation, freedom of information legislation, and stronger open meeting laws. SOM also intended to emphasize the need for jobs for miners in the event of a phase out, but for most of 1975 the group was caught up in a campaign to prevent strip mining in 690 acres of Shavers' Fork. The area deserved protection, the organization claimed, because it was home to the mountain salamander and black bears, had stands of virgin spruce and balsam, included at least two Civil War historical sites, and was a popular trout-fishing and whitewater canoeing area. In January 1976, SOM
began working to pass an abolition bill through the state legislature and lobbying against a bill that would remove counties from the moratorium on coal surface mining. But it was still doing little if anything to address the issues of job loss and economic impact caused by a phase out or stricter regulations. *Mountain Life and Work*, 50 (April 1975), 30, *Mountain Life and Work*, 50 (December 1975), 10, and *Mountain Life and Work*, 52 (January 1976), 14.

37. House Subcommittee, *Hearings Before the Subcommittee ... on H.R. 2* (1977), 9 (Part I); *Mountain Life and Work*, 52 (November 1976), 30-31; Virginia had enacted its first control law in 1966, which it weakened considerably with coal industry-backed amendments in 1972, and subsequent efforts to move a stronger bill through the state legislature had failed. VCBR had been established in April 1976 to rectify the inadequacies of strip mine control legislation and inspection, and it had a nine-member board of directors and membership of 250 by the time Kilgore appeared before the House committee in 1977.


39. Ibid., 93 (Part IV).


45. Ibid., 11-12; *SOCM Sentinel* (April 1978); *Mountain Life and Work*, 54 (July 1978), 6.
Despite initial aggressive action by some inspectors, strip mining in Appalachia was not brought under control after passage of the Surface Mining Control and Reclamation Act (SMCRA). Prohibition advocates were prescient in their skepticism that a new era of environmentally conscious stripping would dawn with enactment of a federal control bill. Even some of the law’s chief proponents now acknowledge that the regulatory legislation has been a great disappointment. There is, however, some debate about why SMCRA has fallen short - whether as a result of poor administration and weak enforcement or as a consequence of inadequacies of the law itself. “Even in the worst-case scenario,” Louise Dunlap explained twenty years after SMCRA’s passage, “I expected the Act to be enforced better than it’s been.” But, she also noted, the situation is not hopeless. “The Act has proven to be sound,” Dunlap argued, “the flaws are the White House and the Interior Department.” Recent history suggests that she is both right and wrong in her assessment. Proper enforcement of the act does require the support of the President and Secretary of the Interior, and this has not always been forthcoming, including during the Clinton administration. But the past couple of decades have also revealed SMCRA’s inherent defects. The law has proven to be too reliant on oversight by citizens (who cannot match coal operators’ resources and access to lawmakers), too lenient to prevent
or rectify various sorts of environmental destruction, and too complex to be applied consistently and effectively.¹

This last chapter investigates the ways the people of Appalachia attempted to use SMCRA, despite its flaws, to protect themselves and the land. It combines the organizational histories of two state groups, the eastern Tennessee-based Save Our Cumberland Mountains (SOCM) and Kentuckians for the Commonwealth. The first part of the chapter focuses on the early history of SOCM. The leaders of this organization had been some of the most committed supporters of federal legislation to outlaw coal surface mining during the first half of the 1970s. For many of the group’s spokespeople, such as J.W. Bradley, the call for abolition was not a means to enact a stronger regulatory law, but rather a nonnegotiable demand for what they thought the region truly needed. Looking at how the work of SOCM changed after passage of SMCRA is all the more illuminating for this reason.

The second part of the chapter examines the origins of Kentuckians for the Commonwealth and its campaign to outlaw the broad form deed, one of the main issues that gave rise to a militant opposition movement in eastern Kentucky during the 1960s. National environmental groups and their representatives had initially included abolition of the broad form deed in their own list of demands for federal strip mine control legislation. However, as happened with other important concerns of the southern mountain residents, the environmentalists bargained it away and Congress wrote surface owner consent out of SMCRA. As one of the more significant oversights of the act, but also an issue on which locally based activists finally had their way, the broad form deed
raises some important questions about the long history of the campaign to regulate and prohibit coal surface mining.

Save Our Cumberland Mountains

During the 1960s, Tennessee lagged behind other states in passing even minimal control legislation, a fact that was due at least partly to the slow development of an opposition movement in the state. In 1964, when West Virginia, Pennsylvania, Ohio, and Kentucky already had passed and amended strip mine legislation, Tennessee still had not produced its first law. The Tennessee Valley Authority sent a draft control bill to Governor Frank Clement that year, but his administration was in no hurry to introduce and enact such a measure and there was no action on the proposal. The next year, Senator Hobary Atkins introduced a weak control bill, which delayed inspection and enforcement until after mining operations were completed, set penalties too low to function effectively as deterrents to violations, and made no provision for orphan land reclamation. During hearings on the proposal, TVA board chairman Aubrey Wagner and agency reclamation specialist James Curry expressed support for strengthening amendments, but they were the only speakers in favor of stricter regulatory legislation. No citizens’ groups requested time to give testimony for controls or a ban. Facing little in the way of public pressure, the House of Representatives voted to exclude the three coal counties of Rhea, Meigs, and Bledsoe in southeastern Tennessee, and the Senate amended the measure to exclude Marion and Grundy Counties as well. The bill was then referred back to the Calender Committee and, when it came to the floor again, the Senate rejected it.²
Sometime after mid-decade, residents concerned about the use of natural resources in their state formed Tennessee Citizens for Wilderness Planning (TCWP) which, despite its name, worked on numerous pollution and conservation issues, including coal surface mining. Subsequently, in 1967, Tennessee enacted its first strip mine control law. Like other state regulatory legislation, the law defined permitting procedures, mandated reclamation and revegetation of stripped lands, set bonds and provided for conditions of forfeiture, established a strip mining fund for the reclamation of abandoned mines, and set penalties for violations. It gave the power for administering its provisions to the state’s conservation commissioner, who was instructed to draft and adopt rules and regulations necessary for carrying out the law, as well as a board of reclamation review. Bonds were set low - not less than $100 but not more than $200 for each estimated acre covered by the permit - and reclamation standards were minimal. Operators had only to grade spoil banks and perform “other soil preparation measures” to provide “favorable conditions for revegetation.” The act also allowed the conservation commissioner to grant a variance on the revegetation requirements if an investigation concluded that the conditions of the soil of the stripped land were unsuitable for planting. Rather than stripping being prohibited in an area where revegetation would be difficult, the law left open the possibility of leaving mined land bare until it could grow trees or grasses.¹

Not surprisingly, the 1967 act failed to control strip mining abuses and this failure prompted annual attempts to amend the legislation. During the 1972 legislative session, Governor Winfield Dunn, TCWP, and the recently formed Save Our Cumberland
Mountains each proposed new regulatory bills of their own. The Dunn bill was worked out during meetings between the conservation commissioner and strip operators as part of an effort to abate growing public concern. "There's nothing in that bill that we have not already agreed to," explained an anonymous operator who attended the meetings. "They wanted our agreement on most all that's there. I don't mean it's all that good, but we can live with it." The measure provided for reclamation of abandoned mines with forfeited bonds and fees, allowed operators to take up to a year after an operation was finished to begin reclamation, prohibited mining on slopes greater than twenty-eight degrees, and established a Board of Review that included two representatives from the stripping industry. The stricter TCWP proposal provided for reclamation of abandoned mines with a coal severance tax, required operators to begin reclamation three months after an operation was initiated, prohibited stripping on slopes greater than fifteen degrees, and set up a review board composed entirely of persons unconnected to the stripping industry.

But the TCWP bill died in the House Conservation Committee, SOCM's measure banning coal surface mining was never even officially introduced, and that left only the governor's proposal.

During consideration of the Dunn bill the governor met with forty members of Save Our Cumberland Mountains, who had come to the capitol to participate in Senate hearings later that afternoon. The meeting was "polite" but tense. "If we were to blow up the strippers' property we would go to jail," one woman explained to Dunn, "but they are blowing up our property." The governor replied that he was open to passing stronger legislation on blasting and, if necessary, outlawing stripping altogether. Yet when the
Senate Conservation Committee amended the Dunn bill, in response to SOCM members complaints about mudslides, polluted streams, and devastation near their homes, the governor’s leaders on the Senate floor raised objections. The amendments would “tear up the strip mining industry in Tennessee,” declared Senator Daniel Ochmig, sponsor of the governor’s bill in the Senate. When the full House considered the amended bill, the Dunn administration provided enough Republican votes to enable Democrats to reject a ten-cent per ton tax on stripped coal to fund reclamation of abandoned mines as well as the prohibition of stripping within 300 feet of roads, streams, lakes, or public property. The Senate then passed this version of the bill, nearly identical to the measure originally proposed by the Dunn administration, and the governor signed it into law.\(^5\)

Despite the new control legislation, conditions in Tennessee did not improve to any significant extent. Both the 1972 law and TVA contracts set a slope limit of twenty-eight degrees, but this standard was evidently not enough to prevent massive landslides and slower erosion. Surface mines also polluted hundreds of miles of area streams with acid runoff, killing aquatic life and destroying the water supply for whole communities. Additionally, acid spoils made revegetation difficult if not impossible. “We have planted three times,” remarked one TVA official about a Campbell County strip mine, “and nothing has taken hold.” Even if stripped land could be reclaimed, there were not enough inspectors in the state to ensure that operators would follow the various provisions of the control law. Most strip coal operations were never inspected and, with performance bonds set so low, many operators simply forfeited the portion pertaining to reclamation and replanting, which could be cheaper than actually doing the restoration work.\(^6\)

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Coal surface mining had a harmful impact on local and state economies too. In the early 1970s, nine companies owned most of the coal-producing land in Campbell, Claiborne, Anderson, Morgan, and Scott Counties, which together produced 77 percent of the state's surface and underground coal. Many of these and other land and coal companies had absentee owners, and most paid little if any tax to the state on their property or coal sales. Tennessee had no severance tax on mineral wealth, equipment that should have been taxed as personal business property failed to appear on county assessor books, and land was underassessed at between $30 to $40 an acre (compared to farm land assessed at between $100 and $500 an acre). Additionally, coal stripping contributed little in the way of steady wages. Despite the millions of dollars made by companies from coal, residents of strip mine counties were impoverished compared to their counterparts in other parts of the state. Morgan County residents earned $982 a year on average, well below the state average of $2,038, placing it seventh from the bottom in a ranking of all the state’s counties. This level of poverty produced heavy net out-migration in the five strip mine counties, draining communities of some of the most able and potentially productive citizens. Strip mining also caused direct economic harm to residents when blasting cracked the foundations of homes but companies denied responsibility. Even worse, state court rulings interpreted broad form deeds as allowing destruction of the surface without compensation to owners of the surface rights.7

In the hills and hollows of eastern Tennessee residents experienced some of the same environmental and economic problems as their counterparts in eastern Kentucky. Because they shared a common history and many cultural values, they also tended to
respond to coal surface mining in similar ways. These commonalities are evident in Tennessee farmer Arden Franklin’s comments in the Broadside documentary, *A Mountain Has No Seed*. In the film, Franklin explains that strip miners had come close to his home, and that he had written or spoken to local lawyers, state senators and attorneys general, and even U.S. Senator Edmund Muskie about stopping the mining. They all told him that he was in “a bad situation.” Franklin’s state representative promised that things would change once the new regulatory law was enacted (in 1972), but strippers were “still breakin’ windows, sinkin’ people’s wells, and just acting like a bunch of outlaws.” The laws were made by coal company lobbyists, he claimed, “against the little man like me, who makes a living out of the dirt, farmin’ anyway I can.” Franklin also believed that stripped land could not be “redeemed,” which he understood as restoration to conditions that would allow for crop cultivation. “There ain’t a thing in the world that can be raised on [strip mined land],” he declared, “[with] acid in there, gullies big enough to bury a big truck in where its washed out, pools of water where holes left on hillsides.” Strip mining tore up God’s creation, Franklin explained, and that made it an “awful, awful sin.” The only way to deal with these various problems, he argued, was to prohibit the practice and expand deep mining, which would make more jobs available in addition to stopping the ruin of the land. But legislators and the courts were allied with the coal industry, and that left the “little fella” with nothing but his shotgun for protection. This made Franklin uneasy. Neighbors had approached him about joining a “deer rifle committee,” but he declined for fear they would all be put in jail. He still had “faith maybe somebody will wake up, the people will, that they’ll get together”.8
While Franklin was trying to figure out what to do to save his land some people were, in fact, ‘waking up’ and ‘getting together.’ In September 1971, twelve residents of the state’s five largest coal-producing counties filed a complaint with the state comptroller, charging that owners of coal lands were not paying their share of property taxes and requesting the State Board of Equalization to reform the assessment process. The complainants included “two young miners recently fired for signing UMW union cards, several working men employed in Oak Ridge plants, a former county weight inspector who quit his job in protest against the failure to prosecute overweight coal trucks, a local college student, a community worker, and several local women.” Shortly after making their complaint, the twelve organized Save Our Cumberland Mountains and elected J.W. Bradley as their president, an office he held for five consecutive years. Bradley had been propelled into the opposition movement in 1970 when he and his wife, Kate, were forced off their land by the Shemco Coal Company, which claimed the mineral rights to their property and got an injunction keeping them out of the area where the company planned to strip mine. According to fellow activist Bill Allen, Bradley was a charismatic leader “who understood only right and wrong; gray was not in his color box.” He also kept tight control of SOCM, “not out of a thirst for power but from an implacable desire to eliminate strip mining.” Bradley was assisted in working toward this goal by Johnny Burris and Charles “Boomer” Winfrey, both born and educated in the coalfields of eastern Tennessee, as well as Maureen O’Connell, a former schoolteacher from the Midwest.
Like the Kentuckians in the Appalachian Group to Save the Land and People, many SOCM members understood that coal surface mining was linked to other social problems. The organization started with a concern about tax inequities, for instance, and it never stopped working on that issue. “Our children go to poor schools over bad and dangerous roads,” complained J.W. Bradley in 1973, “and the little man’s taxes go up and up. These big land companies have been starving us out of our fair share of public revenue and it is time to do something about it.” One early SOCM pamphlet declared that out-of-state landowners and a few local strip mine operators were gaining benefits, “while Tennessee pays the cost in the form of a ruined environment, stunted economic development, and higher taxes in the future to ‘reclaim the mountains.’” When Bradley, Winfrey, O’Connell and other SOCM representatives traveled to Washington D.C., to testify before committees and lobby members of Congress, they articulated a similarly complex understanding of coal surface mining. By 1975, however, division had developed within the organization about insisting on abolition. Most members argued that the regulatory legislation approved by Congress was too weak to make any impact in the strip coal fields of the mountains, and as an organization SOCM always demanded at least a ban on steep-slope strip mining. But other members were increasingly willing to accept a control law. “Opinions differ as to what the best thing is to do right now,” the SOCM Sentinel explained at mid-decade. “We are leaving the question with individual members to decide for themselves whether some Federal bill is better than none, whether there is some chance for a better bill in the future, or whether the next Federal bill might be weaker instead of stronger than the present one.”
Between 1975 and 1977, SOCM kept a vigilant watch on federal developments and it was among the small number of groups that asked President Jimmy Carter to veto SMCRA. When the president disregarded activists’ appeals and signed the bill into law, SOCM began a campaign to block federal approval of the state’s control program. In early March 1978, the group released “A Study of Tennessee Strip Mine Enforcement,” which questioned the record of the Department of Conservation’s Division of Surface Mining (DSM) since passage of the 1972 state control law. The study listed a number of failings of the DSM, starting with its policy of granting permits to ‘wildcat’ (or illegal) strippers. Other concerns included inspectors’ reported reluctance to push investigations and enforcement in general, due to lack of support from their superiors, and the fact that many had been offered bribes by operators. In addition, DSM had not spent any of the reclamation fund, and the Board of Reclamation Review customarily violated the ‘sunshine law’ by meeting in closed-door sessions. The study concluded by requesting the federal Office of Surface Mining (OSM) to not certify Tennessee to enforce SMCRA and calling for the dismissal of Conservation director B.J. Tucker and assistant director Arthur Hope. In response, the federal OSM placed the state on unofficial probation. “We intend to be there looking over their shoulder,” explained Director Walter Heine, “and if we get this same indication that they are grossly deficient, we’ll move in.” Yet little really changed in the short term. Within three months after the study’s release, seven DSM staff members left the agency, citing lack of support from administrators. But the state program never lost its federal approval.12
Many SOCM members were, in fact, skeptical that the problems of strip mining could or would be adequately addressed by the federal government, and the group never stopped working at the state level. Both before and after passage of SMCRA, Save Our Cumberland Mountains pushed for state legislation outlawing contour stripping while, at the same time, members used state water quality standards to assert some control over surface mine operations. SOCM achieved a clear legislative victory in May 1976, when the Assembly enacted and the governor signed the Surface Rights Act. The law had its origins in a fight by White County farmer James Rackley to keep strip miners off his land. Coal operator Julius Doochin insisted that his ownership of the mineral rights to the property allowed him to use any mining method he chose, including stripping, just as operators in Kentucky had claimed in disputes over broad form deeds. This would have ruined Rackley’s pasture field, however, and he filed a lawsuit. The case made its way to the Tennessee Supreme Court, which ruled against Rackley in November 1974, and he turned to Save Our Cumberland Mountains for help. SOCM then drafted legislation that required surface owners’ consent before a strip mine permit could be obtained for land where surface and mineral rights had been separated. Johnny Burris began lobbying for support of this bill at the 1975 General Assembly and during the next legislative session it passed, making the state the first in the nation to legislate surface owner rights.\textsuperscript{13}

In the summer of 1975, SOCM also began a campaign against AMAX, Inc., then the nation’s third largest coal company, which planned to open an area strip mine on 20,000 acres north of Falls Creek State Park. AMAX had acquired only mineral rights and three obstacles on the surface stood in its way: State Highway 111, several large
streams, and several communities, including Pineland (or Piney), in Van Buren County. For the people of Piney, their first knowledge of the strip mining plans came from company representatives who appeared at their doors, bearing checks in hand for the surface rights and threatening to strip their land whether they accepted the payment or not. In July, Maureen O’Connell and Boomer Winfrey traveled through Marion, Van Buren, and Grundy Counties for three days, exploring the site of the intended operation and exchanging information with local people. In October, the residents of Piney packed the school auditorium to listen to the two SOCM staff members, who showed film of the company’s dragline equipment along with interviews of residents from an Illinois community that had been fighting AMAX for three years. SOCM was called back a week later for a meeting with state Representative Shelby Rhinehart, and then again for meetings with Rhinehart and company lawyers. In December 1975, residents formed the Concerned Citizens of Piney (CCOP), put together a program that ran on Chattanooga television, and began a concerted effort to reach out to such activist groups as the Sparta chapter of the National Organization for Women. By January, CCOP had decided to fight AMAX with a dual strategy, pressuring state regulatory agencies to deny the company permits and pushing for passage of the Surface Rights Act. Later that year, the Water Quality Board denied AMAX a permit and, in 1977, the board denied the company’s appeal, at which point AMAX decided to leave the state. Cumberland Plateau communities that had stood in the way of the planned operation won a huge victory, while SOCM gained large numbers of new members and leaders and spread into neighboring counties of the state’s southern coalfields.14
Yet high coal prices and the imminent implementation of SMCRA made 1978 and 1979 a period of lawlessness, characterized by large numbers of wildcat operations and violence against activists. At a 1978 water quality hearing in Wartburg (Morgan County), attended by a number of well-known troublesome operators, William Goodman and some of his employees interrupted citizen testimony with catcalls and rude comments. Following the hearing, Goodman walked up to J.W. Bradley and punched him in the face. Maureen O'Connell and Annetta Watson then stepped in between the two men, at which point other strip mine employees came in swinging, hit one of the women in the face, and threw both of them on the ground. SOCM's aggressive stance against illegal mines also (might have) prompted operators to resort to arson. When strippers started mining their land without a permit in 1979, Sam and Roberta Baker complained to state officials and the operation was shut down. The Bakers were already involved in efforts to prevent stripping all along nearby Douglas Branch and, when their house burned in October, SOCM members assumed it was done by strip operators as a reprisal for their activism. Less than a month later, and two weeks after he spoke out against nearby wildcat operations, Campbell County SOCM member John Johnson returned from an errand to find his home burning. The following year, in July 1980, Millard and Mable Ridenour began receiving threatening phone calls and then their house went up in flames. They too had been involved in efforts to stop an illegal strip mine. No one was ever charged in connection with any of the fires, however, so it is impossible to prove with complete certainty that surface mine operators were responsible for any or all of them.\textsuperscript{15}
By the ten-year anniversary of its founding SOCM had been involved in many battles. During most of the 1970s the group played an instrumental role in the struggles to pass state and federal legislation outlawing coal surface mining. After passage of SMCRA and dissolution of the abolition movement, the Tennessee activists turned to enforcement of the law. This work gave staff much expertise in the drafting and enforcement of regulations, including their use in stopping strip mines altogether. But at the start of a new decade, Tennessee still had a deficient state regulatory program.

Additionally, Save Our Cumberland Mountains faced the problem of intermittent and short-lived interest in fighting stripping. “After the battle to fight a strip mine permit,” Bill Allen explained, “most of the citizens SOCM organized dropped out,” draining resources and leaving no structure to sustain involvement in new communities. To address some of these problems, the group held a general membership meeting in July 1981, when they reorganized SOCM’s governing structure and set meetings of the entire membership on a biannual schedule. The group’s agenda remained dominated by concern about strip mining, but members did not attempt to initiate another movement to outlaw the practice.16

Kentuckians for the Commonwealth

One month after the last round of Congressional hearings on strip mine control legislation, in the early morning hours of 3 April 1977, heavy rains began to fall in eastern Kentucky and southern West Virginia. Within twenty-four hours, four to seven inches of rain came down on ground already saturated from the snowmelt of a hard
winter. The surface runoff made its way out of the hollows into creeks and the tributaries of rivers. The rivers quickly reached flood stage and in some areas overflowed their banks. By April 5, when the downpour finally stopped, between eight and fifteen inches of rain had fallen, and downtown Harlan, Pineville, and Williamsburg, Kentucky, were under water. The flooding was responsible for four deaths, left hundreds homeless, and caused at least $175 million worth of property damage, largely borne by the indigent residents living along the flood plains of the affected rivers. Although the rain was a natural occurrence, the high water that resulted was at least partly a human-made disaster. The silt basins and sediment ponds at strip mine sites in the area were outmoded and generally ineffective. As a consequence, operations where land had been stripped of vegetative cover shed tons of silt and sediment into creeks and branches, the mud clogged local streams and rivers, and this exacerbated flooding. While operators acknowledged that sedimentation had played a role in the floods, they shifted the blame to other sources of sediment, such as farms, lumbering, and commercial development. Tom Duncan, president of the Kentucky Coal Association, went so far as to say that wide strip-mine benches and mountaintop removal actually reduced runoff and erosion. But State Division of Forestry director Elmore Grim suggested otherwise. “There is more disturbance by strip mining,” he said, “and it was a definite contributor to the flooding.”

On July 26, just days before President Carter signed SMCRA, Congress held hearings on whether or not strip mining caused the spring floods. Speaking for the Appalachian Coalition was Jack Sapdaro, a member of Save Our Mountains and a mining engineer employed by the West Virginia Department of Natural Resources to review all
drainage control plans for strip mines in the state. Sapdaro declared that stripping had dramatic effects on the hydrologic characteristics of a watershed. “It has been shown in various studies that peak flow rates during storm periods increase by a factor of five after strip mining has occurred in a watershed,” he said. “Peak flow has been positively correlated with the percent of area disturbed during strip mining.” As was made evident in April, existing sediment control dams and ponds did not provide protection from flooding and sediment damage, and SMCRA was not going to bring much improvement. “The drainage control system required on all new strip mines [by SMCRA],” Sapdaro argued, “is completely inadequate for storage of runoff generated by rainfall exceeding the one- or two-year frequency storm.” The only solution to the many problems caused by coal surface mining was a gradual phase-out. “Strip mining is inherently a destructive and undesirable method of recovery,” he concluded, “and should not be permitted unless a dire emergency situation exists.”

Back in eastern Kentucky and southern West Virginia, residents displaced by the floodwaters experienced great difficulty finding affordable housing outside the flood plain, a difficulty that was compounded by the fact that most undeveloped land was owned by land and coal companies. When the federal department of Housing and Urban Development delivered trailers to be used as temporary housing, they stood empty alongside the road because there was no place to put them. The land and coal companies were unwilling to lease or sell land overlying coal they might want to mine in the future and so were not welcoming to prospective occupants. The floods thus produced a growing awareness of the monopolistic land ownership patterns in the region.
with the blame local people were already casting on strip mine operators for the disaster, this awareness helped to transform new community groups residents had established to assist flood victims.¹⁹

New groups had appeared first in the eastern Kentucky counties of Harlan and Martin, which had suffered the greatest damage in the state. In Harlan County, affected residents on Clover Fork organized the Cloverfork Organization to Protect the Environment (COPE), and Cranks Creek residents established the Cranks Creek Survival Center. The two groups wanted to have their watersheds declared unsuitable for mining to prevent more environmental damage and flooding in the future, but they grew discouraged when they realized the number of active operations and the amount of money it would take to fight them. Northeast of Harlan, on the West Virginia border, Martin County residents organized the Flood Preparation Group to respond to community needs after the flood, but they also discovered many obstacles in their way, including inadequate land for resettlement. Eventually, the membership of the Harlan and Martin County groups formed the core of the Kentucky Fair Tax Coalition (KFTC), which became Kentuckians for the Commonwealth (with the same acronym). ²⁰

In West Virginia, Mingo County residents established the Tug Valley Recovery Center. As happened in eastern Kentucky, however, residents soon realized that there was little land open for relocation in either Mingo or Logan Counties, where flooding had been the most serious. In response, in late April, leaders of the Tug Valley organization called more than fifty other groups and numerous individuals from throughout the state to a meeting in Williamson, West Virginia, where they formed the Appalachian Alliance.
The primary objective of the new organization was to "support individuals and communities which are working to gain democratic control over their lives, workplaces, and natural resources." As one of the Alliance’s first political acts, in August the coalition joined with other regional groups in calling on Carter to veto SMCRA. In January 1978, seventy-five people from several states met at the Union College Environmental Center in Barbourville, Kentucky, where they elected a steering committee, formalized membership, and made plans to raise $30,000 for general operating expenses, including the salary of one staff person. Shortly after this meeting, the Alliance established a Task Force on Land Ownership and Taxation to study land ownership patterns in eighty Appalachian counties in Alabama, Kentucky, North Carolina, Tennessee, Virginia, and West Virginia. Funded by the Appalachian Regional Commission, the task force investigated who owned the land and minerals in Appalachia and what those owners paid in property taxes, demonstrating in a graphic way the links between the region’s poverty, inequality in land and mineral ownership, and inequitable property tax systems. Like the new Martin and Harlan County community groups, this study played an important role in shaping continued concern with coal surface mining and laid the basis for the formation of Kentuckians for the Commonwealth²¹

The Appalachian Coalition had responded to the flooding by sending Sapdaro to the Congressional hearings. But, by the end of 1977, it was primarily concerned with the implementation of SMCRA. During late spring and summer 1978, the group held workshops, with funding from the National Wildlife Federation, “to inform the general public of citizen rights provided in the law and to stimulate public participation in
enforcement.” The general idea of the workshops was to give folks an understanding of the many technical details of the law and to help them to assist OSM personnel. “This law won’t stop stripping,” Coalition coordinator Don Askins explained, “but it does give you a chance to stop some of the worse abuses and damage; it’s up to you to take advantage of the opportunity.” Altogether, 125 people from various parts of the Appalachian region attended one of four workshops in Norton, Virginia; Harlan or Hazard, Kentucky; or in Prestonsburg, Kentucky, where the Appalachian Coalition had its office. “Now it finally sounds better to go by the law,” former antipoverty worker and Appalachia native Edith Easterling told the Prestonsburg gathering, “than to stand by the bulldozers like we had to do ten years ago.” After more than a decade of struggle, battle-weary activists like Easterling had good reason to hope that SMCRA would prove to be a dependable means for controlling coal surface mining.

By the end of the 1970s the Appalachian Coalition had been fighting strip mining for almost a decade. The network had been led by Donald Askins since 1976 and, when he announced his departure in 1979, members decided to call a reorganization meeting. This meeting was held in August, in Jenkins, Kentucky, and the primary agenda item was a discussion about shifting the coalition’s emphasis back to the regional and national level or continuing to address local needs (as Askins had done). After a number of participants pointed out that “no one citizens’ organization is dealing specifically with the problems associated with strip mining” in Kentucky, the activists decided that the organization’s new coordinator would continue to focus on local efforts in the state. Lexington resident Jan Sutherland had already applied for the coordinator position and,
after recommendations from Coalition members at the meeting, she was hired to begin work in mid-September.23

Although not concerned exclusively with strip mining, local organizations with an interest in controlling stripping had formed in Kentucky in the aftermath of the floods, and they remained organized throughout the rest of the decade. The Concerned Citizens of Martin County had lately participated in the land ownership survey organized by the Appalachian Alliance, investigating the counties of eastern Kentucky. They found that 76 percent of the land in twelve counties belonged to corporations or individuals from outside the area, or to government agencies. Twenty-five corporate and individual owners owned more than a million acres of land, mineral rights, or both, and most of these were headquartered outside eastern Kentucky. These patterns of land ownership were matched by inequitable taxation. The top twenty-five owners, holding nearly half of the land and minerals in eastern Kentucky, paid only one-fourth of the property taxes in the twelve counties surveyed. The Pocahontas-Kentucky Corporation owned 81,333 acres of mineral rights in Martin County, assessed at more than $7 million, yet its annual property tax was only $76. Not only did the company’s strip mining ruin the land and water and exacerbate unemployment, but its meager tax burden also probably explained why Martin County had an inadequate public infrastructure.24

The primary purpose of the landownership study had been to galvanize citizen action and, in December 1981, the Alliance hired Joe Szakos as a field organizer in Kentucky. His job was to work with groups in making connections between the study findings and issues of concern in their communities. In late June 1981, Szakos called a
meeting in Berea, attended by Kentucky survey coordinator Joe Childers, Council of Southern Mountains representative Laura Batt, Appalachian Alliance coordinator Bill Horton, Appalachian Coalition coordinator Jan Sutherland, and a number of others. They decided to form a coalition to challenge Kentucky's property tax system and to work on revising the tax rates by passing fair tax legislation. The next month, at another meeting in Hazard - which also included members of Concerned Citizens of Martin County and COPE - the focus of the still unnamed coalition broadened to include the quality of education in Kentucky and land rights, both of which participants considered to be linked to inequitable property taxation. In August, twenty-six people formally established the Kentucky Fair Tax Coalition and elected Concerned Citizens founder Gladys Maynard as chairperson.25

In January of the next year, KFTC met in Hazard again and agreed on an agenda for the upcoming legislative session. They decided to focus on increasing the unmined minerals tax (which had been set at a nominal one-tenth of 1 percent of $100 of value by a 1978 law), raising the coal-severance tax (which had been raised from 4 to 4.5 percent in exchange for setting the unmined minerals tax so low), and changing the law that capped state revenue increases at 4 percent. Once the session started, the coalition concentrated exclusively on the unmined-minerals tax and sponsored a rally on the issue in Frankfort. But the tax reform bill died a quick death in the House Rules Committee at the hand of industry ally and House Speaker Bobby Richardson. Because it would be another two years before the Kentucky Assembly met again, KFTC then began to pursue an entirely different strategy. In Martin County and elsewhere, as historian Jim Schwab
explains, the group began to systematically challenge underassessments through appeals to county Board of Assessment Appeals and to the Kentucky Board of Tax Appeals. After non-cooperation from the State Board, and a class action suit by KFTC, the state Supreme Court ruled that coal should be taxed no differently from other real property, and the near-exemption of unmined coal was therefore unconstitutional. The Revenue Cabinet was slow in establishing a new assessment program, however, and only after a judge threatened to take it over did the agency begin to do its job. As a result, beginning in the early 1990s, land and coal companies were forced to pay significantly higher taxes. In May 1991, for example, the Pocahontas-Kentucky Company paid $296,000 in taxes, a sharp increase from its earlier payments.26

In October 1982, KFTC had transformed itself from a coalition into a membership-based organization with local chapters, and subsequently changed its name to Kentuckians for the Commonwealth. As members waged their decade-long struggle to reform taxation of unmined-minerals, the “new” group also took up the issue of broad form deeds, which strip coal operators had been using for decades as justification to destroy the surface in the exercise of their mineral rights. During the 1984 legislative session, KFTC introduced a bill allowing only methods of mining common at the time the deeds were executed. The measure passed and Governor Martha Layne Collins signed it, but the Natural Resources and Environmental Protection Cabinet (NREP) stalled in implementing the legislation. KFTC brought a test case to court and, in April 1985, Judge Calvin Manis ruled in their favor, upholding the constitutionality of the legislation. In another case, the group successfully sued NREP over its failure to enforce
the law. On appeal of this latter case, the Kentucky Supreme Court consolidated both cases and, in July 1987, struck down the broad form deed legislation, declaring it unconstitutional. KFTC then began a campaign to amend the state’s constitution, which first required a two-thirds vote in each chamber of the legislature. Both the House and Senate gave unanimous approval to the initiative - indicating the high level of public support for surface owner rights - and it was set to appear on ballots in November. Voters would be able to approve or reject Amendment #2, which required surface owner consent before an operator could get a strip-mine permit as well as payment for damages to the surface caused by mining. Adopting the slogan “Save Our Homeplace,” KFTC’s campaign for the initiative brought the group’s name and agenda to citizens throughout the state, forged a unity of its membership, and succeeded in winning protection for surface owners in eastern Kentucky. After neighborhood canvassing, visits to the state fair, countless newspaper stories, as well as radio and television advertisements, Amendment #2 won 83 percent of the vote. Five years later, in July 1993, the state Supreme Court upheld the broad form deed amendment against a challenge by the Lash Coal Company, which had claimed that it was an unconstitutional taking of private property.27

With KFTC’s victory in the battle against operators’ abuse of broad form deeds, a long chapter in the history of Kentucky coal surface mining finally came to a close. But the 1980s were not without their problems for strip coalfield residents. This was especially true in eastern Kentucky. In a 1987 retrospective, on the eve of the ten-year anniversary of SMCRA, the Lexington-Herald reported that there were still thousands of
abandoned, unreclaimed strip mines in eastern Kentucky and many more newly
abandoned by operators every year. These abandoned sites, as well as active mines,
continued to cause slides, which forced people from their homes. The slides and slower
erosion put sediment into creeks and rivers, while acid polluted waterways, and blasting
cracked foundations and sent flyrock into yards and homes. "The abuse that produced
[SMCRA] is still going on," said Thomas J. Fitzgerald, attorney for the Kentucky
Resources Council. Some of the abuses might have actually become worse. One coal
industry representative claimed that federal regulations had produced more illegal
mining. "I don't think there's any question that all these costs on the legitimate operator
have created a tremendous incentive for outlaws," said Tom Duncan, head of the
Kentucky Coal Association. There were also many intentional misinterpretations by
regulators and much abuse of SMCRA provisions granting various exemptions. But the
biggest complaint of environmentalists was that the federal control law and regulations
were simply not being enforced in Kentucky, due to lack of the necessary inspectors and
resources. Little had changed.28
Notes


4. *Oak Ridger* [Oak Ridge, Tennessee], 7/7/1971, 3; *Nashville Tennessean* [Nashville, Tennessee], 16 February 1972, 1, 2; 20 February 1972, 1, 2; 22 February 1972, 10.

5. Ibid., 8 March 1972, 1, 5; 9 March 1972, 1, 4; 15 March 1972, 1; 16 March 1972, 1.


7. Ibid., 12 September 1971, 1, 2; 16 September 1971, 9.

8. *The Mountain Has No Seed* (Broadside/Appalachian Video Network), Archives and Special Collections, East Tennessee State University.

9. *The Oak Ridger*, 30 September 1971, 4; *The Nashville Tennessean*, 19 September 1971, 24; A press release listed the complainants as follows: Mr. Fred Jones, Briceville, machinist; Mr. and Mrs. Doyle Burns, White Oak, superintendent of machine shop and machine operator; Miss Marie Cirillo, Clairfield, community development; Mrs. Vercie Norton, Duff, textile worker; Mr. Millard Ridener, White Oak, retired miner; Mr. James S. Hatmaker, Eagan, equipment operator; Mr. Clarence Hackler, Clairfield, truck driver; Mr. J.W. Bradley, Petros, electrician; Mr. Ronnie H. Beck, Coalfield, instrument mechanic; Mr. Bill E. Christopher, Petros, instrument mechanic; Mr. Sherman Fetterman, Oneida, college student; Mr. Cedric Jurgens, Oneida, retired Marine officer. Research for the complaint was done in the summer of 1971 for the Vanderbilt Student Health Coalition by John Gaventa, Ellen Ormond, Bob Thompson, Professor Lester Salamon, and Heleny Cook, a Sarah Lawrence College student. Press release, 16 September 1971, copy in author’s possession, private papers of Richard Cartwright Austin.

11. In 1975, the State Equalization Board ruled on the original SOCM complaint in favor of the organization. Thereafter, all tracts of coal land, whether they were active mine sites or not, were to be taxed as commercial property, at 40 percent rather than the old assessment of 25 percent for farm land. Three years later, SOCM petitioned county tax equalization boards to raise assessments and were fairly successful. Anderson County raised their total assessment $1.5 million, adding $90,000 in new taxes. The group also succeeded in changing the classification of "economic" - and thus taxable - from thirty-six or more inches to twenty-four or more inches of coal. Operators continued to challenge the State Board's ruling, however, and it was not until 1979 that it issued a judgement on an appeal of the Coal Creek Mining and Manufacturing Company, upholding its earlier decision that undeveloped mineral reserves must be taxed. SOCM Sentinel (February 1975), 1; SOCM Sentinel (April 1978), 1; SOCM Sentinel (April 1979), 1; SOCM Sentinel (March 1975), 5; Mountain Life and Work, 49 (May 1973), 16; Coleman McCarthy, Disturbers of the Peace: Profiles in Nonadjustment (Boston: Houghton Mifflin, 1973), 165.

12. SOCM Sentinel (March 1978), 1; SOCM Sentinel (April 1978), 5.

13. SOCM Sentinel (February 1975), 3; SOCM Sentinel (March 1975), 1-2; SOCM Sentinel (January 1976), 1.

14. Mountain Life and Work, 52 (January 1976), 4-6; SOCM Sentinel (July 1975), 3; SOCM Sentinel (October 1975), 1-2; SOCM Sentinel (November 1975), 3; SOCM Sentinel (January 1976), 5; Allen, "Save Our Cumberland Mountains," 87.

15. Ibid., 90; SOCM Sentinel (October 1978), 3; SOCM Sentinel (August 1979), 1; SOCM Sentinel (September 1979), 2; SOCM Sentinel (October 1979), 4.


21. Ibid., 9-11; Beth Spence to Alliance Members, 28 June 1977, Folder "Strip Mining," Boxes 1/2, WVRH Papers; Mountain Life and Work, 53 (August 1977), 46; Mountain Life and Work, 54 (January 1978), 23;


25. Ibid., 13-17.


27. Ibid., 298-99.

Chapter 10

Conclusion: 'Having to Fight the Whole System'

As this study suggests, significant levels of opposition to coal surface mining developed in the years after World War II, primarily in the strip coal fields of Appalachia. Initially, opponents assumed that state regulation could effectively reign in operators, and it was in the immediate postwar years that most states made at least tentative steps toward enacting control laws. By the late 1950s, however, there was an increasing number of people who favored outlawing stripping altogether. They had witnessed the failure of the first state laws to prevent environmental degradation and had come to view stripping as fundamentally bad for local and regional economies. Yet despite their different assessments of the ways to deal with coal surface mining, most of the proponents of regulation and advocates of prohibition were common people - small farmers, active and retired deep miners, homemaker wives and mothers. Most of them were also rural people. On the whole, the opposition was not made up of the middle-class suburbanites who play such a central role in the narrative of environmentalism put forward by Samuel Hays. And opponents did not need those more privileged and far-removed folks to pioneer environmental concern before they themselves became critical of eroding, and sliding soil, polluted streams, and vanishing fish and wildlife.
Opposition to strip mining ranged from western Pennsylvania to northern Alabama and evolved over more than three decades. Not surprisingly, efforts to control or stop stripping varied geographically and changed over time. Yet there was some consistency and continuity in the perspectives of the opposition campaigns. Most opponents shared a basic concern with what coal surface mining was doing to their communities, including farmland, water supplies, and employment opportunities. They also worried about their own property, or homesteads. Opponents tended to express these concerns - about their communities and property - along with an argument that large coal companies benefiting a few should not be able to make great profits at the expense of “the public.” Additionally, many critics of surface mining made traditional conservationist arguments. They suggested the need for more rational use of natural resources and voiced concern about the disappearance of fish and game. Others, such as Tennessee farmer Arden Franklin, thought coal surface mining was an “awful, awful sin,” a violation of God’s command for people to be stewards of the earth. Linked to this Judeo-Christian criticism of the industry were opponents’ claims that stripping destroyed the beauty of the land.

Campaigns to regulate or ban coal surface mining were responses to the detrimental impact strip mining had on communities and homes, regional employment, and the ecological integrity and beauty of local landscapes. As the above listing of arguments against stripping indicates, however, both proponents of control legislation and abolitionists saw the harm that stripping was doing through a variety of cultural lenses. Traditions and values shaped their understanding of why coal surface mining was
wrong as well as the parameters for how to respond to correct abuses and prevent further damage. The most important cultural lens refracting abolitionist arguments was an American tradition of veneration for small private property. In letters, handbills, congressional testimony, and other private and public documents, those seeking to outlaw strip mining left the legitimacy of private ownership of the land and its resources unchallenged, and they contested strip mining as harmful to their own proprietary rights. Talking about his property on Big Fork and Clear Fork of Lotts Creek, in Hazard, Kentucky, Clarence Williams articulated this type of argument in a 1965 letter to the editor of the *Hazard Herald*:

"About two years ago ... [I] sold right of way to [a] strip mining company ... Now it makes me sick to look at my land. A nice orchard of more than 25 trees is nowhere to be seen. Thousands of dollars worth of timber is under the rocks and trash pushed down by machinery. On tops of the mountains all you can see are acid wastes and stagnant pools ... With the heavy rains beating down these bare hillsides what will hold the soil? ... The poor people in the valleys will be covered with the filth leaving no farm land to grow crops ... Now the coal operators are trying to take the rest of my farm ... Do people think I'm going to sit and let this happen? I don't intend to sit idly by and see the resting place of my ancestors covered by spoils from the strip mine destruction. This is my home ... They yell out to save jobs and industry. They don't realize their jobs mean destroying what the other people own."

By the end of the 1970s, a few activists had begun to discuss and work toward democratic control of the natural resources of Appalachia. They sensed that the root of many problems in Appalachia hinged on the private control of those various resources. For the most part, however, local and regional movements to control or abolish strip mining never posed a serious challenge to the institution of private property. Instead, they embraced it as the foundation for their opposition.
Traditional values and culture also shaped the way proponents of a ban organized and struggled against coal surface mining. This was particularly true in terms of the direct action tactics they utilized. From Europe, early American colonists had carried with them collective memories of crowd action and agrarian insurgency. As Catherine McNicol explains, “Celebrating-out-of-doors, acting outside the law to enforce just laws or to bring balance to the moral economy, organizing the community to maintain local control, and using mob violence to change political policies were customary practices of [many of] those who traveled from England to America in the colonial period.” What often made these practices necessary and justified was the failure on the part of government to protect the rights or promote the well-being of citizens. The methods opponents of strip mining used and the reasons for using them - their nonviolent direction action, threats of violence, and acts of industrial sabotage, employed because the formal process of redressing grievances had been corrupted - ran in this historical vein. Facing off strip operators with a shotgun in hand, dynamiting equipment, blocking coal trucks and bulldozers, and merely threatening to do any one of these things all gained legitimacy by a tradition of direct action and opponents of strip mining knew it. Outside observers also acknowledged as much, and they sometimes cited direct action as a legitimate means to defend private property. This is clearly evident in a 1967 editorial which appeared in the Louisville Courier Journal:

Once again Kentucky is seeing people take up arms to protect their homes and land because the law can’t or won’t do it for them ... There is something that violates the very character and concept of America in the fact that a company in search for coal may enter another man’s property against his wishes [by a broad form deed], destroy his land, wreck his
livelihood and endanger his home and family and personal safety ... this
flies in the face of the American belief in fair play, the sanctity of private
ownership, and the right of every man to have, hold, develop and defend
what is rightfully his ... all of us lose when the rights of any man are
crushed, whether by court edict or dictator's rifles. 3

Even some strip mine employees understood the protests against stripping this way.

When Dan Gibson and members of the Appalachian Group to Save the Land and People
protected the land of Gibson's step-son with shotguns, a worker at the site supposedly
told Dan that he was doing the right thing because "they" had no right to tear up people's
land. 4

Equally significant in shaping the response of abolitionists to coal surface mining
were elements of an Appalachian identity, originally imposed on mountain people by
outsiders. Before the Civil War, "Appalachia" had not existed except as a physiographic
mountain system. But this changed in the late nineteenth and early twentieth centuries,
when local color writers, missionaries, settlement workers, and academics made various
attempts at explaining the region and its people. Most of these observers tended to
assume that the mountains had isolated their residents and trapped them in time
immediately after settlement. Thus they were "our contemporary ancestors" and
"eighteenth-century neighbors," tags that were usually meant as criticism. In a 1901
article, "Anglo-Saxons of the Kentucky Mountains," Ellen Churchill Semple described
her subjects as "exponents of a retarded civilization" showing "the degenerate symptoms
of an arrested development," though their stock "[is] as good as any in the country."
Mountain men showed "a lack of vigor due to inordinate use of moonshine," she said,
and the men, women, and children were underfed and disease-ridden. Other observers, at
the turn of the century and into the 1960s, emphasized mountaineers’ fatalism, apathy, and disinterest in participating in a group or acting for the common good.5

Yet, at the same time, being relics of the Revolutionary period meant that mountain residents were “storehouses of patriotism,” repositories of American Revolutionary traditions and republican values, which included a determined willingness to act to defend their independence. Opponents of coal surface mining drew on this and other elements of the identity imposed on them to fashion their own ideology for contemporary struggle. They also blended supposedly “Appalachian” traits with traditions of crowd action and rural vigilante action - which to some extent were one and the same. This is what Save Our Cumberland Mountains president J.W. Bradley was doing in 1971 when he reminded House subcommittee members of the right to revolution enshrined in the Declaration of Independence. It is also what Save Our Kentucky director James Branscombe was getting at during the same hearing, when he told the assembled representatives that strip miners were making revolutionaries out of patriotic, God-fearing, mountain people. Branscome was exaggerating for effect, and members of the House subcommittee knew it, but he was not far from the truth that strip mining abuses were causing social upheaval in the Appalachian coal fields. And the rhetoric Branscome used provided additional legitimacy (or at least an explanation) for nonviolent direct action, threats of violence, and use of violence that distinguished local mountain peoples’ activism from that of national environmental groups.6

Theorizing the Opposition

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In addition to conclusions about the role of common people in the opposition, their veneration for private property, and their use of an Appalachian identity, this study also raises a number of questions about the origins and decline of organized collective action. Among the various schools of thought on social movements there are two perspectives, political process theory and frame analysis, that correspond at least somewhat with empirical research on opposition to coal surface mining in Appalachia. Political process theory has much in common with resource mobilization theory - which focuses on the importance of material resources in shaping the context for social movements - but it puts greater emphasis on the ways in which politics and the state define opportunities for collective action. Frame analysis developed largely in response to the limitations of the political process approach, as theorists began to recognize the importance of studying not only the opportunities to act but also the interpretive or cultural "frame" that produced a willingness to act. The two approaches to understanding social movements are not, however, mutually exclusive.

The most useful expression of political process theory is found in the work of Frances Fox Piven and Richard Cloward. Piven and Cloward argue that protest by the "lower classes" occurs only under the most exceptional conditions because it depends on infrequent, profound social dislocations, moments which encourage the poor to think that insurgency might have an impact on political leaders. For a protest movement to arise out of the traumas of daily life, they write, "people have to perceive the depravity and disorganization they experience as both wrong, and subject to redress. The social arrangements that are ordinarily perceived as just and immutable must come to seem both
unjust and mutable.” Very often, political leaders respond to a poor people’s insurgency by seeking out their organizations and leaders, soliciting their views and encouraging them to air their grievances, and offering concessions, or prevailing on elites in the private sector to offer concessions. But insurgency is always short-lived, Piven and Cloward point out, and poor people’s organizations tend to fade away, after which elites can and do withdraw their concessions. Just as important, group leaders usually fail to seize the opportunity presented by a period of unrest, acting in ways that blunt or curb the disruptive force lower-class people were able to mobilize.8

At least a few of Piven and Cloward’s claims about poor people’s movements are borne out in the case of opposition to coal surface mining. First, the insurgent character of the movement to outlaw strip mining was the primary reason that governors, state and federal lawmakers, the coal industry, and the United Mine Workers (UMW) came to accept stricter regulation of stripping. Control bills and laws were the concessions offered by legislators and members of Congress to quell the rebellion in the strip coalfields and to prevent the opposition from achieving its stated aim of abolition. Yet - to add a layer of complexity to Piven and Cloward’s model - it was not only upheaval but also the shift of the campaign for abolition from the state to the federal level, after state-level regulatory legislation proved a dismal failure, that helped get the attention of government officials, coal operators, and union leaders. The weak national standards and federal-state regulatory partnership proposed by members of Congress and accepted by the coal industry were the new concessions offered by “elites” in response to the poor peoples’ movement for a national ban.9
It is also clear, however, that some activists' intentional use of the threat of abolition as a foil to get stronger regulation was ultimately counterproductive. Once lawmakers and coal operators understood that an ever-larger number of regional and national groups were willing to accept federal regulation, the threat of the insurgency and its demand for a ban lost its potency, proposed regulatory bills became progressively weaker, and a legislative context was created in which it was increasingly difficult for committed proponents of abolition to be taken seriously. The coal industry and UMW had been opposed to more regulation in the mid-1960s, but they eventually began to accept new state legislation to quiet "public clamor" and then accepted federal regulation in 1971, as the abolition campaign shifted to the federal level. When elements within the movement started to push regulation rather than prohibition of strip mining, however, the industry and union began their retreat (as did lawmakers), so that by 1977 they were proponents of state regulations once again. And the Surface Mining Control and Reclamation Act (SMCRA) was, essentially, legislation to expand state administration of strip mine control programs. In the end, the "foil strategy" helped undermine the opposition and resulted in weaker rather than a stronger regulatory law.

Part of the responsibility for the opposition's retreat from the demand for abolition lies with national environmental leaders, and this also confirms a point Piven and Cloward make about poor people's movements. When the campaign for abolition shifted from the local to regional and national levels, the influence of practical-minded leaders increased, the distance between the leadership and grassroots activists grew, and a space was opened for greater participation in the movement by long-established (and not
so-long established) national conservation and environmental groups. The rising leaders and national groups played traditional beltway politics, engaging in compromise long before any sort of decline in the movement required it, and lawmakers responded. Negotiations were a product of the militancy in the coalfields, but the movement's leaders either failed to recognize or willingly ignored this fact, while lawmakers took advantage of the opportunity to address the issue with 'reasonable' people. During hearings on regulatory bills, members of Congress seemed downright giddy in exchanges with lobbyist Louise Dunlap - although it is difficult to determine how much of this was due to her willingness to be coopted and take the movement off course and how much of it was due to the greater ease they felt with a woman who dressed and acted the way they thought a woman (if she was going to be involved in politics) should dress and act. Perhaps all this is also part of the explanation for that brief but very meaningful kiss President Carter gave Dunlap in the Rose Garden, when he reached across the table toward her after signing SMCRA into law. He would not have done the same to militant Appalachian activists Eula Hall or Bessie Smith.

When concessions are given by elites, Piven and Cloward explain, "they are usually part and parcel of measures to reintegrate the movement into normal political channels and to absorb its leaders into stable institutional roles." Just as movement leaders sometimes become valuable to elites, they also note, the concessions elites make in response to a poor people's insurgency can become so useful that they are not withdrawn, even after upheaval has subsided. This seems to have been the case with SMCRA. The federal control law was very weak to begin with and, while the situation
varies from state to state, enforcement by state and federal regulatory agencies has been lax. The law has brought some relief to residents of the strip coal fields, but its main value is as a means to legalize strip mining, and concomitant environmental and economic devastation. Therefore, it comes as no surprise that while industry representatives regularly press members of Congress, judges, and regulatory officials to further weaken SMCRA and companion regulations, they have not recently and very likely will not in the future make an effort to have the law repealed. Meanwhile, with the demise of the abolition movement, and the expansion of mountaintop removal mining, local, regional, and national environmental groups keep very busy protecting individual sites, such as Kentucky’s Black Mountain or Tennessee’s Falls Creek State Park, or arguing with the industry over its right to fill intermittent streams with spoil.10

The significance of federal surface mining law and other aspects of the history of opposition to stripping become clearer when viewed with Piven and Cloward’s variant of political process theory. Yet important elements of the movement are left obscure by their approach because it neglects an extended discussion of culture. “The causal importance of expanding political opportunities,” argues sociologist Doug McAdam, “is inseparable from the collective definitional processes by which the meaning of these shifts is assigned and disseminated.” Insurgency begins and evolves not only in response to structural factors but also through the attribution of meaning and significance to changing political conditions, or “framing.” McAdam suggests that various types of situations set framing in motion: events or a set of events that expose the contradiction between cultural values and conventional social practices; sudden events, such as human-
made disasters, that increase public awareness of and opposition to previously accepted social conditions; and the availability of a master frame, a successful model for interpreting conditions and mobilizing based on this new understanding. In the case of opposition to coal surface mining, the most glaring general contradiction between cultural values and social practices was the violation of customary and legal property rights by strip operators. The destruction of farms and homes, even when made legal by broad form deeds, flew in the face “of the sanctity of private ownership, and the right of every man to have, hold, develop and defend what is rightfully his” (as Courier Journal editors put it). Additionally, mudslides, floods, fish kills, and other disasters, partly the fault of nature and partly the work of human ingenuity, brought strip mining negative publicity, highlighting property destruction and the taking of human life as end-products that rivaled cheap electricity. These disasters brought local people into the movement, aroused the general public, and forced government officials and the coal industry to do something. As much of this was taking place initially in the 1960s, the civil rights movement, antipoverty efforts, and a larger modern environmental movement also provided a context for the development of common people’s efforts to stop stripping. “Movements tend to cluster in time and space,” McAdam explains, “precisely because they are not independent of one another.”

Finally, historical opposition to coal surface mining is also illuminated by the work of other social movement theory that belongs to the frame analysis school, particularly David Snow, E. Burke Rochford, Jr., Steven K. Worden, and Robert Benford’s co-authored discussion of “frame alignment.” According to this concept,
social movements rise and develop when the beliefs of individuals and organizations align, or correspond. Most important for prompting mobilization and encouraging participation, the authors argue, are understandings of the seriousness of the problem(s) at hand, theories about the cause of the problem, stereotypes of the antagonists, attitudes about the probability of change or the efficacy of collective action, and "beliefs about the necessity and propriety of 'standing up.'"\textsuperscript{12}

With houses being swept off their foundations, acid ruining drinking water, and silt exacerbating flooding, strip mining activists had little difficulty convincing local people of the seriousness of the problem. A long history of fighting coal companies in labor wars also prepared mountain residents to readily identify greedy coal operators as the culprits responsible for local environmental and economic devastation. It was not so easy, however, to establish certainty about the efficacy and necessity of fighting back. Oftentimes the insurgency seemed to define itself according to the impossibility of gaining justice through reliance on lawmakers, judges, and regulatory officials, who were all supposedly in the pay of the coal industry. Eastern Kentucky activist Warren Wright did this at the 1971 "Peoples’ Hearing on Strip Mining" in Wise Virginia:

"I do not want to disturb anyone here," he said, "but those of you meeting here in harmony with the democratic purpose of this hearing have evinced a degree of the same disrespect and cynicism that some landowners display in violent refusal to defend their property. For we are here to consider and evaluate our position as under the power of industrial corruption; a people’s hearing can say but one thing - ‘Our judges and our legislators, seen in the mass, are too crooked and too heartless for us to trust. We must attempt to bypass them.'"\textsuperscript{13}
Since it was unlikely that the nearly 200 participants at the meeting would all agree to engage in industrial sabotage or even nonviolent civil disobedience, it is not entirely clear just what Wright (and a number of others who said similar things) thought that the hearing and their movement might accomplish.

Perhaps some comments by Mary Beth Bingman, referring back to her role in the 1972 occupation of strip mine in Knott County, Kentucky, offer a partial explanation of the pessimistic strain of activism so evident at the Peoples’ Hearing. “After [the occupation] I felt more consciously that you can’t try to fight on an issue like this without having to fight the whole system,” she recalled, “and you can’t successfully organize the community to fight such an issue without trying to change the whole system.” The Appalachian Group to Save the Land and People had developed out of a sense that strip operators’ degradation of the environment was linked to local and regional economic decline. By the early 1970s, however, a number of activists who had been on the front lines in the battle against coal surface mining were beginning to understand that stripping was only one part of a larger, unjust system and, more importantly, that the part could not be changed without transforming the whole.14
Notes


4. “To Look Over the Land and Take Care of It,” Broadside/Appalachian Video Network, Archives and Special Collections, East Tennessee State University.


9. The argument that the opposition played a crucial role in the enactment of control laws, by causing mayhem and pressuring lawmakers for a ban, runs contrary to the conclusion of a study of Kentucky’s regulatory legislation. “The transient quality of the protests,” Marc Landy argues, “coupled with the political insignificance of the protestors, meant that the Governor could have ignored them had he wished to do so. Instead he recognized that they presented an excellent occasion for launching his strip mine initiative, and he therefore decided to identify himself personally with the protestors demands.” Marc Karnis Landy, *The Politics of Environmental Reform: Controlling*

10. Piven and Cloward, Poor People's Movements, 32.


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