

STRIP MINING REGULATORY POLITICS:
THE CASE OF OHIO

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THOMAS E. MCCLAIN, JR.

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Major Professor

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CHAPTER I

STRIP MINING: A PROBLEM IN PUBLIC POLICY ANALYSIS

Introduction

The regulation of strip mining for coal in the United States has been one of the major environmental policy problems in the American political arena during the late 1960's and early 1970's. Dramatic disputes over regulatory practices have arisen throughout the country, in state legislatures from West Virginia to Montana and in Congress as well as in numerous courtrooms. The intensity of the debate has increased markedly each year in the coal producing regions of the country, with bitter rivalries between coal corporations and groups of citizens and environmentalists frequently taking center stage. Therefore, with a cognizance of the importance of this heated controversy, this study is designed to scrutinize the often disputed strip mining policy of the State of Ohio, particularly as it relates to the state's southeastern region, and to ascertain as a result how this policy has been constructed and maintained. It is Ohio which, over a great number of years, has experienced some of the most turbulent times in attempting to efficiently regulate strip mining. More importantly, the quest to coordinate a sound strip mining policy for the state has been made in a political environment which has many complex and interesting features that surely contribute to the uniqueness of the situation and, hence, merit special attention.

However, before a comprehension of the nature of this particular strip mining policy can be attained, one must devote attention to two basic matters. First, one must become aware of the major problems related to strip mining and understand the importance of such problems. Second, it is necessary to indicate the purpose of this study as well as the manner in which this purpose is to be realized.

Since approximately 1950, strip mining has developed steadily into an extremely important industry throughout the U.S. Currently, it accounts for nearly 50 per cent of all coal mined in this country.¹ In 1950, by comparison, it supplied only 24 per cent of the total coal production.² Its ascendance to such high productivity can be attributed primarily to several readily apparent factors: (1) the presence of an energy crisis throughout the U.S. and the world; (2) the ensuing emphasis this crisis places on securing coal supplies as rapidly as possible;³ and (3) the relatively low cost of utilizing this particular method for extracting coal.⁴

The energy crisis is, in essence, the result of the development of the U.S. and much of the world into an industrial, technological, energy consuming giant. The demand for electrical power has been increasing rapidly since the turn of the century, and now, more than ever before, man is reaching a crisis stage in his search for energy. Modern societies' highly sophisticated machines and appliances continue to consume larger quantities of energy.⁵ For example, a large color television set burns on the average of 300

watts of electricity per day.⁶ A fully air conditioned home expends approximately 10,000 watts per day.⁷ Each decade the consumption of electrical power doubles, and not surprisingly, the U.S. alone exhausts approximately 34 per cent of all the electrical energy on earth.⁸ In fact, by 1990 the world will want four times as much electrical energy as it now uses.⁹ The world does, indeed, appear to be headed for a major energy crisis.

This appalling quantity of electricity is supplied by various types of fuel, but it seems that the coal industry, which provides nearly 50 per cent of the total production, is experiencing most of the supply burden.¹⁰ In recent years a shortage of domestic oil has developed, suggesting the probability of an even greater reliance on coal.¹¹ In 1970, oil furnished only 11.8 per cent of all fuel for utility power generation,¹² while natural gas contributed around 24 per cent of the total.¹³ Moreover, energy experts and scientists, who have been observing the situation quite closely in recent years, maintain that coal and oil will have to be the answer to the energy problem; nuclear power, they insist, is not feasible now as the primary energy producer and might never be.¹⁴ The number of nuclear reactors that can be built is rather limited;¹⁵ and, in addition, there is a great problem concerning waste disposal.¹⁶ Furthermore, the capability of converting coal to gas implies yet another reason for the necessity of providing this mineral.¹⁷ In elaborating on the importance of such a process, Carl Bagge, President of the National Coal Association, has

written:

...the current joint program of the Department of the Interior and the American Gas Association for speeding coal gasification to the commercial threshold is a practical guarantee that coal will become a significant source of new gas -- synthetic but equal to natural gas in cleanliness, heat value and transportability by pipeline.¹⁸

Thus, with a steady continuance of this practice, there will definitely be a great rise in the demand for coal. More essentially, there seems to be little question as to why coal mining continues to be an extremely important industry and why those associated with it believe it is unquestionably vital to the energy needs of the U.S. and the world.

The energy crisis has stimulated a demand for coal which is unprecedented in the history of the U.S. and the world. In 1950, the demand for coal in the U.S. was some 500 million tons.¹⁹ By 1990 the demand should rise to 800 million tons and to at least a billion tons by the turn of the century.²⁰ The needs of such industrial giants as Japan and West Germany continue to place a greater emphasis on securing an abundance of coal as quickly as possible. Japan in particular has a limited number of coal reserves and may continue to look in the direction of the U.S. for a considerable portion of its energy supply.²¹ Quite fortunately, the U.S. continues to possess more than enough coal reserves to meet its energy demands, but the coal must often be extracted rapidly in order to keep pace. The Appalachian

area, for example, still is blessed with extensive coal deposits. In addition, the Midwest has large reserves available, while even Arizona, Montana, Utah, Wyoming, and the Dakotas are areas of the country with coal veins which have barely been disturbed.²² Therefore, the immediate problem is not one of too few coal reserves, but is, instead, one of providing coal for energy production at a swift pace.

To cope with the huge requests for this precious mineral, the coal men have recently come to rely heavily on a very modern and faster method of extracting coal -- strip mining. Prior to the late 1940's and early 1950's, most coal mining was performed by either digging a deep shaft into the ground or tunneling into the side of a hill or mountain.²³ This method naturally has many deficiencies, the most apparent being that it necessitates far too much time to complete the mining work.²⁴ Conversely, with the arrival of strip mining's modern earth-moving technology and its ability to tear apart huge amounts of land in a matter of minutes, the coal industry realized a more suitable method of finishing the mining operation promptly and with fewer immediate difficulties.²⁵ The quickness of the strip mining technique is not its only advantageous quality, however. Through utilizing methods of mining on the surface, there is less difficulty in protecting the miners from injury than in underground mining.²⁶ Also, most state and federal safety and health laws that pertain to deep shaft mining are not applicable to strip mining.²⁷ Lastly, coal obtained through the strip

mining technique is also much easier to process because it is not as fine as coal taken from deep shaft mines.²⁸

Because of these types of advantages, the strip mining industry has come to prosper greatly, earning profits estimated on the average of nearly one dollar per ton of coal sold.²⁹ Its methods continue to become much more employed throughout the country. In fact, the past ten to fifteen years have been marked by a striking growth in the production of strip mined coal. In Ohio, the production in 1960 was some 24,000 tons.³⁰ By 1970, the total had exceeded 37,000 tons.³¹ The production soared nationally as the percentage of coal mined by the stripping method rose from 31.4 per cent in 1960 to 43.8 per cent by 1970.³²

However, despite the obvious advantages which have triggered this significant upswing in its utilization, strip mining has not touched the coal seams without giving rise to some serious ecological, social, and economic problems for many Americans and, more specifically, for many southeastern Ohioans. Hills and flatlands alike have been ravaged and left untended, resembling the kind of wasteland one might expect to behold in a Nevada desert or a Vietnam war zone -- featured by scattered rocks, a lack of vegetation, and dismembered trees. In many areas, piles of earth and jagged cliffs loom over the vicinity. Streams, rivers, and lakes have also been polluted with the acid drainage from mined coal, virtually poisoning substantial amounts of water.³³ Even the strip mined fields themselves are pocked with strip pits, small gulleys containing water deposits

given a red, green, or yellow cast because of acid run-off from the strip mining operations.

The ecological ruination caused by strip mining has unfortunately provided the impetus for serious social and economic setbacks in the strip mining sections of southeastern Ohio. Rather than face the dismal possibilities of scarred lands, eroded tax bases, and the like, many younger citizens leave these locales.³⁴ Others remain, mostly the elderly, clinging to memories of a land and community they once loved. The beauty of the rural areas in this region is frequently marred by the presence of dying towns and villages, communities which are often inconducive to the improvement of the social standing of their citizens. Also, since the money earned through the sale of strip mined coal frequently flows outwardly from the stripping areas to the hands of absentee corporations, these sections receive very little reimbursement economically. Therefore, chances for community development are usually absent.³⁵

Though the previous facts offer only a miniscule gathering of evidence in the case against the effects of strip mining, they are, nevertheless, quite typical of the kinds of problems with which citizens in southeastern Ohio have become familiar. So, while the case has not been argued in great depth at this juncture (it will be much more fully stated in Chapter Two of this study), at least for the moment it would be safe to assume that although strip mining aides prodigiously in providing coal for an energy-hungry world, it nevertheless has few redeeming values to offer this region.

More explicitly, strip mining has tended to redistribute wealth by securing sizable profits for a small number of men who control the industry, whereas those in southeastern Ohio have frequently witnessed a disappearance of wealth.³⁶ In many respects then, strip mining has operated much like a "Robin Hood in reverse" in this region -- taking from the have-nots and giving to the haves.³⁷ This redistribution of wealth³⁸ is in no respect a novel experience for the inhabitants of Ohio's major strip mining region, but is instead a consistently troublesome condition which has not been ameliorated with any regularity. The redistribution problem is a salient one for it has provided and continues to provide the impetus for the raging debates in the political arena.

The Purposes of the Study

The primary purpose of this study is to determine why Ohio's strip mining policy has long been so consistently characterized by the redistributive flavor discussed previously. In other words, it is necessary that one basic question be answered: What particular forces, conditions, or factors have largely determined the content and meaning of Ohio strip mining policy? By answering this question one should hopefully edge towards an understanding of the political arena in which this type of policy process occurs as well as a cognizance of the distribution of wealth and power among the participants in the policy game. Accordingly, some insight should be attained into the importance of those

"rules of the game" that have determined the manner in which Ohio's strip mining regulatory policy has often been developed. Moreover, it seems that one may learn much about how the political system itself, from the local level through the state level, has performed in attempting to ensure proper regulation for those many citizens who deem strong control of the industry as necessary. That is, how receptive and flexible has the system been in connection with the regulatory tasks which have been at hand?

Nevertheless, this study is not merely an attempt to observe the Ohio strip mining policy-making process simply for the sake of understanding it and the political system which is its creator. The study is, for the most part, an effort to discern the vital characteristics of the policy in hopes of revealing both strengths and weaknesses and eventually displaying specific areas in need of reform. It is felt that such investigative research may not only be of assistance in comprehending the value of the policy itself, but also in stimulating an interest in improving the "real life" conditions which it may influence or control.

The strip mining policy of Ohio has been selected for scrutiny because of a number of very important factors. First, Ohio has long been featured by the presence of a diversity of peoples, cultures, interests, and occupations which has given rise to a political character of many different viewpoints, strategies, and tactics. The state itself has been a wealthy and dynamic one, as its people and their life styles have not been consistently influenced by one common

denominator -- such as a particular industry or even an environment which is either strictly urban or rural in orientation. In other words, while the coal industry has certainly been very important and powerful in Ohio political affairs, mining interests have not so much dominated the total political scene there as they have in past years in the states of Kentucky and West Virginia. Ohio basically appears to offer an example of a state where neither one of the agricultural, mining, or many industrial interests has consistently furthered its own special position politically by overwhelming the others. Admittedly, the coal industry in Ohio, and especially in the extensively strip mined southeastern region of the state, has played a major part in the lives of many citizens and has long had great exposure to the public in general. Thus, it has been endowed with a substantial amount of power in both state and local political circles. However, it must be realized that the industry is still not as powerful and well recognized as in Kentucky and West Virginia, where coal mining has long been a way of life. Evidence of such corporate domination has been well-documented in many books and articles concerning these two respective regions of the country, as the information has ranged from inspections of local problems to statewide ones. It is a well-known fact that such a domination of these states has been and still is occurring. Ohio presents a bit different picture, since it would appear to be a little less susceptible to a thorough straight-jacketing by the coal interests. In light of this, examining Ohio's strip mining situation seems

to offer several advantages: (1) a chance to view the strip mining policy of a state which has an economy that is somewhat dependent on the coal industry, but not overwhelmingly reliant upon it in a direct fashion; (2) the opportunity to consider a state whose people are often in contact with industry and mining, and thus who have some knowledge of many such operations (also, many of these citizens generally know a bit about the necessities of having a workable strip mining regulatory policy); and (3) the fact that southeastern Ohio presents a look at an area which has witnessed a significant upswing in strip mining and has suffered from it. Undoubtedly, for the past fifty years there has been a history of gradual destruction of still another section of Appalachia. But in this particular case it is not too late to bring a halt to such destruction. Therefore, investigative research may prove to be of some assistance in alleviating difficulties in this particular region as well as in other sections of the state.

In addition to all of the previous factors, it is apparent that studying the Ohio situation may be quite helpful in educating other states as to the rigors of developing strip mining policy, for it is Ohio which has one of the lengthiest, most controversial, and most unique histories of attempts to regulate the industry. More importantly, an inspection of Ohio's policy process may aid considerably states like Kansas, Missouri, and Wyoming, which will probably be seeking better courses of action towards the creation

of more efficient regulatory policies. Finally, states of similar orientation and composition to Ohio (such as Illinois and Indiana) might learn valuable lessons, also. Both states need to tighten regulation and a consideration of Ohio's performance would not seem to be out of the question.

The Organization of the Study

The procedure of this study is one directed at closely examining the central aspects of Ohio strip mining policy in a logical, orderly sequence. The crux of this study, of course, is focused on the question of what causes this regulatory policy to be so redistributive. Therefore, this entails an emphasis on two familiar facets of the public policy process -- legislative matters and administrative conduct. This is necessary because one can hardly hope to understand any regulatory policy without studying the creation and content of specific laws and the agencies that administer them. The study is admittedly somewhat overslanted in this direction, but this is essential in trying to understand the inner-workings of coordinating strip mining policy.

Chapter One, of course, has been primarily devoted to displaying the nature of the problems which seem to have ushered in strip mining and to highlighting the redistributive nature of the mining process. Also, the purpose and organization of the study are indicated.

The second chapter is concerned with displaying the full magnitude of the redistributive nature of strip mining in

southeastern Ohio, so as to leave few doubts about its very real dangers. The ecological, social, and economic problems are viewed in depth in an attempt to demonstrate the degree to which such setbacks have prevailed in this region over the years.

Chapter Three is the first major step in examining the construction of the policy itself, as it is primarily an attempt to gauge the impact of the local political scene on the development of the total policy and to understand the role of local government in the matter.

Chapter Four discusses the state political scene by focusing on the importance of such things as political groups and by describing the role of state government. It is here that the legislative and administrative areas are quite closely examined, among other important cogs in the machinery of state government.

The fifth chapter is the concluding chapter, in which the findings of the study are summarized, speculations about the key aspects of the policy process are made, and suggestions for and speculations about improvement of strip mining regulation are stated.

Footnotes

1. U.S., Congress, Senate, Committee on Interior and Insular Affairs, Surface Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, Senate, on S.77 and other bills, 92d Cong., 1st sess., 1971, p. 1030.

2. John F. Stacks, Stripping, with an Introduction by Harry M. Caudill (New York: The Sierra Club, 1972), p. 23.

3. Ibid.

4. Ibid.

5. U.S., Congress, Extensions of Remarks, William Beale speaking before the Earth Conference at Ohio University, speech entitled, "What Energy Crisis?", 92d Cong., 1st sess., June 22, 1971, Congressional Record, E., 6268.

6. Ibid.

7. Ibid.

8. Ibid.

9. Ibid.

10. Ibid.

11. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, House of Representatives, on H.R. 60 and related bills, 92d Cong., 1st sess., 1971, p. 563.

12. Ibid., p. 618.

13. Ibid.

14. Ibid., p. 563.

15. U.S., Congress, Beale, "What Energy Crisis?", June 22, 1971, Congressional Record, E., 6271.

16. U.S., Congress, Extensions of Remarks, Gene Perrin speaking before the Earth Conference at Ohio University, speech entitled, "Nuclear Alternatives," 92d Cong., 1st sess., June 22, 1971, Congressional Record, E., 6291.

17. Stacks, Stripping, p. 23.

18. Carl E. Bagge, "Fossil Fuels and National Energy Policy," typed draft of speech given at Forum Hall, Kansas State University, November 3, 1972, p. 7.

19. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, p. 234.

20. Ibid.

21. Stacks, Stripping, p. 8.

22. Ibid.

23. Ibid., p. 9.

24. Ibid.

25. Ibid.

26. Arnold W. Reitze, Jr., "Old King Coal and the Merry Rapists of Appalachia," Case Western Law Review, XXII (June, 1971), 657.

27. Ibid., p. 658.

28. Ibid., pp. 658-9.

29. D. McAteer, Coal Mining Health and Safety in West Virginia, 371, cited by Reitze, "Old King Coal," 659.

30. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, pp. 615-6.

31. Ibid.

32. Ibid., p. 616.

33. Stacks, Stripping, p. 42.

34. Louise B. Young, Power Over People, with a Foreward by Stewart L. Udall (New York: Oxford University Press, 1973), pp. 116-7.

35. "Kentuckians Find Moonscape in Back Yard," Washington Post, March 28, 1971, p. B3, cited by Reitze, "Old King Coal," 660.

36. Stacks, Stripping, pp. 68-78.

37. Ibid., p. 78.

38. In a public policy sense, the term "redistributive" is often thought of as representing a process by which wealth, etc. is taken from the "haves" and given to the "have nots." However, "redistributive" may also be properly construed as being a process by which wealth or potential wealth may be taken from the "have nots" and given to the "haves". The redistributive nature of strip mining, as described in this study, might best be referred to as "redistributive in reverse."

CHAPTER II

THE REDISTRIBUTIVE NATURE OF STRIP MINING IN SOUTHEASTERN OHIO

Introduction

The purpose of this chapter is to illustrate the overly redistributive nature of strip mining in southeastern Ohio. Accordingly, the means to such an end lie in a thorough examination of three facets of regional life which strip mining significantly affects: (1) ecological balance; (2) social character; and (3) economic development. Since the redistributive characteristics of these three important facets are frequently interrelated, this chapter is not marked by an attempt to strictly and consistently categorize a specific type of evidence by referring to it as simply an ecological, social, or economic setback. Instead, their interrelationships are often displayed in order to attain an understanding of the problem's magnitude and its complexity.

The Problem of Reclamation

The most readily apparent form of redistribution in southeastern Ohio is also the most visible one -- the presence of ravaged land. Eyesores like those mentioned in Chapter One are located throughout this region, allowing any individual a clear picture of just some of strip mining's negative effects. However, ecological damage of this sort can frequently be prevented by the coal companies through a process known

as reclamation. While the term reclamation is usually defined in many different ways by those involved with strip mining policies, it is, broadly speaking, a process by which strip mined land is at least restored to some semblance of its previous condition and, hopefully, made capable of further utility. Under some strip mining laws, for example, reclamation may be achieved by simply leveling off the land and planting vegetation wherever possible. Other statutes basically require that the terrain be revegetated with materials such as shrubs, grasses, and legumes. Nevertheless, when no serious effort is made to reclaim the land in this region, the inevitable result is the kind of desolation described earlier in this study. Unfortunately, the attempts to reclaim land in southeastern Ohio have not been consistently successful. In fact, the statistics concerning reclamation lead one to believe that, in some instances, the strip miners have not actually tried to restore the stripped terrain at all.

For the most part, the devastation of southeastern Ohio, which has developed because of shoddy restoration practices, appears to be quite extensive on first inspection. In Belmont County, the state's current stronghold of strip mining operations, havoc has been raked across the scenic countryside. Since 1948, when Ohio's first strip mining law was enacted, there have been 18,542 acres of land strip mined in this county.¹ An appalling total of only around 10,000 acres has been reclaimed, leaving an additional 8,000 acres or so which is predominantly barren and unproductive.²

In addition, there have been serious problems concerning land reclamation in three other major coal producing counties of the state -- Harrison, Jefferson, and Noble. The following table reveals the reclamation performance of the coal industry in a four county section of southeastern Ohio:³

TABLE 1. -- Figures Concerning Reclamation of Strip Mined Land in Southeastern Ohio, 1948-71

County	Total Land Area	Acres of Land Affected since 1948	Percentage of Total County Land Affected	Acres of Land Reclaimed since 1948	Percentage of Affected Land Reclaimed
Belmont	343,000	18,542	5.4%	10,000	53.9%
Harrison	258,000	36,796	14.2%	31,011	84.2%
Jefferson	263,000	18,091	6.8%	14,518	80.2%
Noble	255,000	11,987	4.7%	9,433	78.6%
Totals	1,119,000	85,416	7.6%	64,962	76.1%

The previous data indicate that over 20,000 acres of land have been strip mined and, in many situations, probably left ravaged and unproductive. This total is nearly one-fourth of all the land affected in this region by the strip miner. Most unfortunately, it appears that this land will only be restored if the state government itself decides to perform the reclamation operations. However, prospects for such action are not particularly good, since the cost of reclaiming much of this land approaches \$1,000 per acre.⁴ The necessity

of utilizing heavy equipment and carefully reseeding and tending to vegetation is only a part of this high cost, for in many sections of southeastern Ohio the sloping terrain continually forestalls attempts at restoring the land quickly and efficiently. Furthermore, any project involving reclamation of such lands that might be established by the state itself would most likely be funded by some of the taxpayer's money and not by generous donations from the strip mining industry. The citizens of the state would thus come to bear the costs of revitalization processes, a situation which would be most inequitable.

At this juncture it must be argued that although land may be considered to be reclaimed according to the standards of various statutes, it still may not be restored to much of a useful condition at all. In southeastern Ohio, for example, the coal companies have for years planted a material known as crown vetch on the strip mined terrain. Crown vetch has a greenish cast and looks quite presentable at first glance. But on closer inspection one finds that it does not often have such a good appearance, since it grows in clumps and is not very similar to regular grass. Crown vetch seldom serves any agricultural use, with cattle grazing being its most significant area of utilization. And even many residents of the southeastern Ohio region tend to argue that this vegetation is often not adequate for cattle grazing purposes, either. Perhaps an opinion from an expert on this matter might aid in elucidating the worth of reclamation achieved through the planting of crown vetch. The following statement was made

by Stanley Dudek, a Fairpoint, Ohio strip miner who has been in the coal mining business for thirty-eight years and is quite familiar with the techniques of land reclamation:

I had to cut it [crown vetch] out of my corn field when I was farming because it killed the corn....You plant that crown vetch and it grows -- it spreads and will cover stones 30, 40 feet away. It just covers up that bad reclamation so you can't see it....The cows won't hardly eat it. It'll stretch out and cover that rock up and cover the holes up ...underneath you don't have nothing there.⁵

The frequent failure of crown vetch is not the extent of the reclamation problem, however. Environmentalists have also indicated that land which is steeply pitched cannot often be properly restored after strip mining activities have occurred.⁶ One ecologist has written:

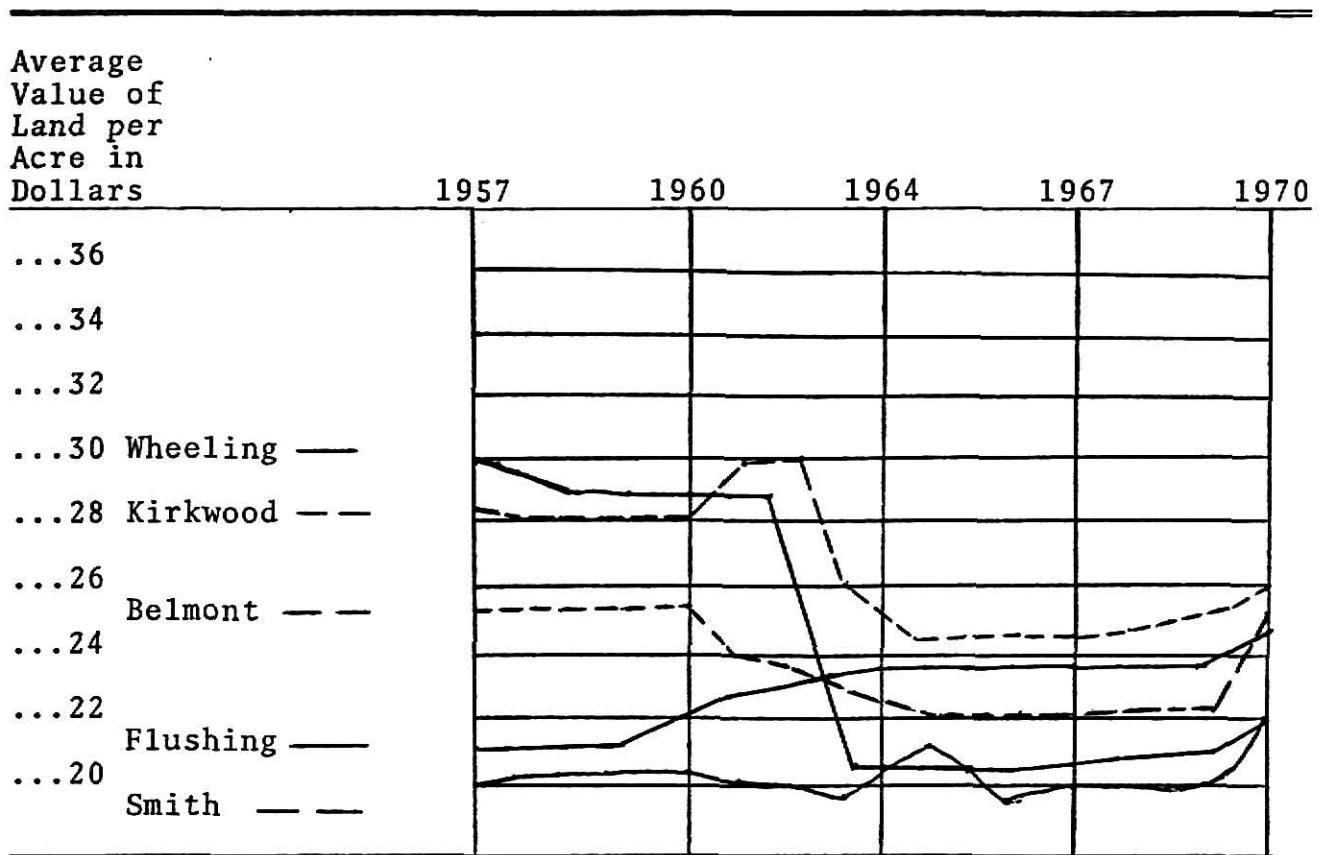
On slopes with more than 25 degrees of pitch the topsoil would wash away even if it were replaced, and grading is ineffective to prevent the land from sliding. The old established root system of the forest that held the land in place has been ripped out and the first heavy rain erodes the raw banks, washing quantities of earth down the bare mountain-sides.⁷

Compounding these kinds of difficulties is the fact that few trees grow on reclaimed land in many locales except, of course, to cover the ugly cliffs formed by the strip mining operations. So, while reclamation may appear to be a very important term, it frequently proves to be, as one environmentalist has written, "the slipperiest word in the lexicon of strip mining."⁸

The Problem of Tax Base Depletion

The reclamation problem is definitely an ecological one, but yet its redistributive nature does not entirely rate as an ecological setback because poor land restoration must be viewed in light of its tendency to produce very real and difficult economic and social situations as well. Probably the clearest example of economic and social difficulties resulting from strip mining is discovered when one considers the effects of land and property destruction on the tax bases of the southeastern Ohio region. For example, the heavily strip mined Belmont County has been dealt a serious blow in the form of depletion in value of land. In a study done by Timothy Albright at Case Western Reserve University, the adverse effects of strip mining on the tax base of Belmont County are clearly portrayed. Albright found that the value of land in two heavily strip mined townships, Wheeling and Kirkwood, declined considerably between 1957 and 1963. For instance, the average assessed value per acre in Wheeling Township retrogressed from \$30 to \$20 during this time period.⁹ In the control township (Smith), which lies within close proximity of Kirkwood and Wheeling Townships, there was no major change in land value.¹⁰ Smith Township, it is interesting to note, had not had a great amount of strip mining activity during this time.¹¹ The following graph, prepared by Albright, further exhibits the problem of decline in land value in Belmont County during the years of heavy strip mining activity:¹²

Table 2. -- A Comparison of the Average Value of
Land per Acre in Belmont County and Four
of its Townships, 1957-70*



*This table was adapted from a graph in a study by Timothy Albright entitled "The Hidden Costs of Strip Mining: A Socio-Economic Study of Belmont County, Ohio" (unpublished intercession project for Biology 933, Case Western Reserve University, 1971).

Albright's study also revealed some very important facts regarding yet another tax base problem -- the decline in assessed value of building per acre. The researcher discovered that the control township showed little change in this particular category, whereas the extensively strip mined townships of Wheeling, Flushing, and Kirkwood witnessed a decline in the value of buildings per acre.¹³ The tax loss in Kirkwood was especially appalling, as the assessed value

diminished from \$20.00 in 1957 to \$9.95 by 1970.¹⁴ Albright also indicated that such a decline "...can be attributed to the fact that when coal companies buy land they often reduce the value of the buildings by taking out windows and doors, etc., or by complete destruction."¹⁵ Surprisingly, though, there has been a rise in the average value per acre of buildings on Consolidation Coal's lands.¹⁶ This increase, however, is basically realized because the coal men have built structures such as coal tipples, storage areas and processing buildings which are often in use for only as long as the coal companies remain in the particular locale.¹⁷

The problem of tax loss is not strictly confined to one county in southeastern Ohio, because Harrison County has displayed telling signs of a weakening tax base, also. In a study done at Ohio State University, it was found that Harrison County's tax base had declined considerably over the years. It was also discovered that this county's tax structure had exhibited 35 per cent less growth than neighboring Carroll County, an area which is quite similar to Harrison County.¹⁸ Carroll County has not been extensively strip mined,¹⁹ while Harrison County has had more land strip mined than any other county in the state. Strip mined land in Harrison County is generally appraised at \$20 per acre, while the value of good bottom land is figured at between \$150 to \$200 per acre.²⁰ Even grazing land is appraised at approximately \$100 per acre.²¹

The diminishing tax base problem in southeastern Ohio is one which surely cannot be overlooked, because it has had

a tendency to kindle two very troublesome results. In the first place, a sharp decline in the tax base means a loss in the amount of money that can be allotted to school systems, government institutions, and the like. Secondly, a greater tax burden is often placed on those citizens who choose to remain in the strip mining vicinities, since many of these sections witness an out-migration of people.

The Effects on Key Factors of Regional Development

The ramifications of land desolation and property destruction are also rather conspicuous when other factors of regional development are contemplated. For example, the rape of the land by the strip miners has also presented this region with a loss of agricultural productivity, mainly because much of this ravaged terrain is incapable of serving further agricultural purposes. After all, it is extremely difficult to grow anything, let alone crops, on land that has lost substantial amounts of topsoil and water retaining capacity. Farm land in ravaged areas like Harrison County has been in far less demand than farm land in other sections of the southeastern Ohio region.²² The serious implication of this type of problem cannot be doubted because, in this observer's estimation, the world cannot afford to squander such large amounts of potentially productive agricultural land. Many individuals, particularly in southeastern Ohio, have defended the strip mining business by arguing that, for the most part, the land in this region was not much good for

anything but coal mining. Yet, other local residents vehemently denounce these arguments, repeatedly insisting that a large portion of the area is capable of serving agricultural purposes for many years to come. John Kinder, a southeastern Ohio farmer and lawyer and possibly one of the state's leading authorities on strip mining, is quite typical of those who take this position. The following passage indicates the rationale behind such thinking:

Deep mining and farming would yield far greater returns than strip mining, Kinder believes. The notion that surface mining is the best use of the region, he says 'is something that makes me turn purple. When this country first was settled, records of crop yields show that even with unimproved seeds there were yields-per-acre greater than on the best farms today with hybrid seeds and the techniques you have now....The top 30 inches of soil had the greatest water retention of any in the world. This was good landThey're turning it into Arizona.'²³

There does seem to be a great deal of truth to Kinder's argument, since one of Ohio's most fertile farming areas (Belmont County's Egypt Valley) has been stripped of much of its precious land. For years the farms in the Egypt Valley area were known for their prospering businesses and their role in the continuing stability of the region's agricultural economy. It would definitely be absurd to insist that such land has not had any agricultural utility or economic value other than serving as a supplier for the world's energy needs. Thus, there does seem to be considerable doubt that strip mining is the most appropriate use

of the land in this region.

The loss of agricultural potential in southeastern Ohio appears to be even more disconcerting when one finds that farms are frequently being sold "dirt cheap" in comparison to the amount of money which the mined coal eventually yields for the strip miner. In some southeastern Ohio areas the farm owner is selling his land and property for only a small part of its actual total worth.²⁴ Environmentalist John Stacks has described the manner in which Ohio's rural strip mining sectors have been practically giving away their mineral wealth to the coal companies:

It has been estimated that one foot of coal under one acre of land produces 1,800 tons. In Ohio, the coal seams average five feet in thickness and thus, at \$6 a ton, an acre would produce \$54,000-worth of coal. A 100-acre farm could therefore become a \$5-million property if turned to coal...In Ohio the average price farmers are getting for their farms from coal operators runs about \$40,000 overall, or less than 1 per cent of its value.²⁵

It seems almost insane that such potentially productive land is sold for these kinds of small monetary gains.

When the total picture of regional development is considered, there is even more appalling evidence regarding the disadvantages of strip mining. Undoubtedly, one of the strongest indictments of the strip mining industry has come in a study done at Ohio State University by Jack Hill entitled "Social and Economic Implications of Strip Mining in Harrison County." The 1965 probe sheds considerable light on the question of the influence of strip mining on regional growth.

In utilizing eighty-seven different individual dimensions, such as local government services, social problems, migrant influx, etc. in comparing the condition of Harrison County with that of a minor strip mining area, Carroll County, the researcher came to some startling conclusions. (As already alluded to earlier, Carroll County was utilized because of its similar rural atmosphere, close location, and the like.) Hill found that Carroll County had a positive rating in fifty-four of the individual dimensions, while Harrison County received a positive ranking in only thirty-three categories.²⁶ Furthermore, in Hill's community index rating (determined by a division of the positive ratings with the total ratings), Carroll County faired much better than did Harrison County, with a 66.06 index to a 37.94 index, respectively.²⁷ One of the author's initial conclusions on the basis of this research was that the Harrison County economy was "...based around the strip mining industry" and that the "...industry seems to have contributed to the general decline of the economy and community...."²⁸ Admittedly, there are those who argue that the decline of this county may well be attributed to much more intangible, age-old factors as well. Some local citizens insist that the decline of deep mining employment in the area or possibly the lack of interest on behalf of residents toward establishing new industries in the vicinity have basically caused Harrison County to stagnate. However, even these types of factors still would not probably have been strong enough to incur the sharp decline in community stature that has occurred in

Harrison County for the past few decades. Furthermore, in the final analysis, Hill argued that strip mining played a crucial role in the decay of the county, as he raised these key points:²⁹

Extensive land areas are held by coal companies in Harrison County and surrounding counties. Over fifteen per cent of the total land area of the county has been affected by the strip mining process.

Strip mining has affected the economic and social conditions of Harrison County.

Local businesses are not being extensively supported by the strip mining industry....

Through the sale of coal lands for mining purposes there was no large release of money to the Harrison County community....

Social problems of Harrison County were greater than the control county, thus leading one to believe that these problems are greater in a county affected by stripping.

Additional evidence seems to at least partially substantiate Hill's contentions. For instance, as of 1968, nearly 42 per cent of Harrison County households had a total annual income of less than \$4,000.³⁰ Low income, of course, has been a problem in many other areas of the state as well, but there has been enough of an influx of industry in some of these areas to eventually help alleviate adverse situations.³¹ In Harrison County there has not been the kind of industrial growth which could lighten the economic burden. The reason for this is not difficult to ascertain, because it is obvious that few industries would choose to locate in extensively strip mined regions. The loss of the soil's water retaining

capacity is one of the major disadvantages which usually averts the interests of developers and industrialists when considering this particular locale. Thus, in the final analysis, what is the probability of economic growth in Harrison County? Its agricultural potential has been lessened. The county is not really dependent on any stable industry, but is tied to a very transient business. It appears that Harrison County is destined to become, at least to a reasonable degree, typical of the depression which has struck a considerable part of Appalachia.

The Effects on the Citizen

Thus far, the redistributive nature of strip mining has been discussed in light of the manner in which the community and region in general are influenced by strip mining. Hence, a large share of the indirect effects of this industry on an area have already been dealt with in depth. There are, nevertheless, cases in which individual citizens have been adversely affected by these mining operations. It is not uncommon to hear stories about dynamite blasts from strip mines which shake nearby houses, crack foundations, and ruin chimneys in many parts of southeastern Ohio. Nor is it rare to find that numerous wells have been ruined in these rural areas or that farm land has slipped away or eroded because of acid run-off from neighboring strip mining operations. The most unbelievable matter surrounding these types of occurrences is that many citizens, who are directly endangered by strip mining, are not always reimbursed by

coal companies. Therefore, the cost of repairing damages is often borne by the residents themselves. The following accounts offer a glimpse of just a couple of the examples of the agony experienced by some citizens in the south-eastern region:

The following remarks were made by Case Western Reserve University biologist Theodore Voneida before an ecology conference at Athens, Ohio:

I attended a small meeting last summer in which Mr. Ralph Hatch (representative of the Hanna Coal Company) and his lawyer met with several farmers who had lost their wells as a result of the stripping operations. One man...asked what he could do about the fact that he no longer had water. He was informed that would need legal counsel, but that even if he obtained legal counsel, it would be very difficult to prove that Hanna Coal was responsible for the loss of his well. He got no more satisfaction than that from Hanna, and as of October (1970), he had handcarried six thousand gallons of water.³²

Concerning Mary Workman, Egypt Valley, Ohio:

Mrs. Workman said the hillside of her farm is moving, (a) condition that developed after stripping blasting began. The house has been damaged...from the blasting....Basement walls and plaster cracked and lamps, vases, etc. were overturned by the explosions....Their drilled well began losing its water, and the water finally became unfit for use.

She drilled a new well, at a cost of \$1,000. Now that water is polluted by a reddish substance which can be seen on the bottom of a water pail.³³

The previous accounts are not intended to be dramatic arguments utilized to attract attention, but are, instead, included because they edge further toward getting at the crux of the strip mining problem. The adverse effects of strip

mining on the individual citizen in southeastern Ohio have been both abundant and dangerous. Furthermore, the individual cases are the ones which are seldom discussed by those in the policy-making process, but these cases are many times of a more serious nature than other more easily recognizable problems.

The Effects on Social Development

Throughout this chapter an accusing finger has been pointed at the strip mining industry because of its negative effects on the southeastern Ohio region. These various setbacks have been given considerable attention, but they still do not manage to fully approach the seriousness of one problem which has disturbed most keen observers of the strip mining situation -- the influence of the industry's redistributive nature on a community's social development. Indeed, there is good reason to believe that the negative ramifications of strip mining pose a very distinct threat to rural Ohio. In fact, when not stringently regulated, strip mining occasionally tends to play a prominent role in the destruction of rural culture itself. Entire communities have practically been obliterated in southeastern Ohio. Small farms once occupied the landscape of areas in Belmont and Harrison Counties, but now, in many places, there is nothing remaining but barren land. The town of Egypt was for many years the center of the prosperous Egypt Valley farming area and served as a gathering place for the rural community surrounding it.³⁴ Egypt is now a ghost town; the last few

residents departed in 1972.³⁵ There is little left of Egypt Valley, either; most of its land has been stripped away. Nevertheless, this is not the extent of the precarious situation in southeastern Ohio, because just a few miles down the road to the south, history is about to repeat itself:

In five years the population of Hendrysburg has fallen from 800 to 500. Most of those who are left are middle-aged or elderly; many have already moved once from farmland that was bought by the coal companies. Those who could move have no place to go. The farms and rural communities they are familiar with have been destroyed. There is no place left where they could re-create the way of life they have lost.³⁶

In other sections of southeastern Ohio there have been similar problems. Belmont County's Kirkwood Township has declined in population from 860 in 1960 to slightly more than 500 in 1970.³⁷ Kirkwood, one must remember, has been heavily strip mined. Admittedly, many rural townships and counties in the Midwest have shown decreases in population recently, but few seem to witness such sharp declines as those which are ravaged by strip mining operations.

However, it does not merely suffice to say that strip mining's negative effects alter the social make-up of the community through the exodus of younger citizens, professional people, etc. The problem is a bit more complex, for invariably, the main question stemming from out-migration and similar problems is whether or not the disadvantages of strip mining play a major role in the forming of a new culture --

one characterized by poorer, more inactive, and apathetic individuals who have witnessed the decline of their own community and who have no recourse but to live out their years in a depressed society. This observer believes that such a phenomenon has already occurred in southeastern Ohio and that it is likely to make itself present there to an even greater degree in the future. As a part of the Appalachian region, southeastern Ohio has many people who share the similar attitudes and backgrounds of those Appalachians to the south of them in West Virginia and Kentucky. One does not have to confine his observations to eastern Kentucky to view the distrust of organized government, the apathy, or the illiteracy that Harry Caudill has so eloquently expressed in his classic book, Night Comes to the Cumberlands. Many of these same ingredients are present in southeastern Ohio.

In the final analysis, if strip mining is largely unregulated, it has the capability of assisting in laying the foundations for the establishment of rural ghettos. Equally as important is the fact that the problems which abound in these rural ghettos may prove troublesome to society as a whole. For example, the out-migration of citizens from southeastern Ohio to the state's urban centers has often been characterized by a sort of cultural shock experience for these transient individuals. This, in turn, seems to frequently prevent them from adjusting to the new society and its culture. The conflict situations which result from such a phenomenon are certainly not minimal. If any of these problems regarding

the rural ghettos are ever solved it will unfortunately be done long after the strip miners have vacated this region.

Conclusions

In conclusion, it must be mentioned that in spite of all the disadvantages of strip mining which have been present in this region, the strip mining industry still tends to argue that its benefits to the southeastern Ohio community usually seem to be greater than the setbacks. The companies continually point to employment, tax monies, etc., which they contribute to the local community, as well as to the fact that they help provide energy for the nation and the world. However, these arguments are only partially correct. Strip mining does provide coal for energy production, but it does not generally employ great masses of people. In Belmont County, for example, the industry employed only slightly more than 500 people out of a population of some 80,000 in 1969.³⁸ Moreover, strip mining, as has been indicated earlier, does not always aid in providing substantial amounts of tax revenue. Even if the strip miners did offer a greater amount of benefits to the local community, it would still be improper to sanction the continual destruction of southeastern Ohio, for which the industry is quite responsible.

In essence, the simple fact of the matter is that strip mining has not been and will not be a long-term, stable industry in this section of the state. When not properly regulated, it is highly exploitative because the profits

realized through the production of coal are not always secured by local interests such as home-based mining operations. Instead, the profits, in many cases, land in the pockets of the large fuel conglomerates, who happen to own a number of strip mining operations. For example, Consolidation Coal (formerly Hanna Coal), which has done a substantial amount of strip mining in southeastern Ohio, is a subsidiary of Continental Oil.³⁹ Thus, it seems that when the dangerous effects of strip mining prevail, the situation frequently becomes one of large economic interests draining the wealth of this region. As one Belmont County resident has argued, the situation is quite comparable to that of a rich nation exploiting a more underdeveloped country.⁴⁰

In closing, it seems imperative to argue that the redistributive nature of strip mining has been a never-ending phenomenon in southeastern Ohio for almost fifty years. While the situation has improved occasionally, it has still not been alleviated to any degree. Finally, and quite importantly, the ecological, social, and economic difficulties have steadily prevailed in a manner that is most disgraceful to this particular region and to Ohio as well as to the nation.

Footnotes

1. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, House of Representatives, on H.R. 60 and related bills, 92d Cong., 1st sess., 1971, p. 226.

2. Ibid.

3. Ibid.

4. James Fulton, private interview held at Ohio Division of Reclamation offices, Fountain Square, Columbus, Ohio, July 30, 1973.

5. C. C. Mackey, 'If I Can Do It, They Can Do It,' from a collection of strip mining news articles by the Martins Ferry-Bellaire Times Leader, compiled in a booklet by the Citizens Concerned about Strip Mining, Bethesda, Ohio, 1970.

6. Louise B. Young, Power Over People, with a Foreward by Stewart Udall (New York: Oxford University Press, 1973), p. 114.

7. Ibid., pp. 114-5.

8. John F. Stacks, Stripping, with an Introduction by Harry M. Caudill (New York: The Sierra Club, 1972), p. 81.

9. Timothy Albright, "The Hidden Costs of Strip Mining: A Socio-Economic Study of Belmont County, Ohio" (unpublished intersession project for Biology 933, Case Western Reserve University, 1971), p. 5.

10. Ibid.

11. Ibid.

12. Ibid., Appendix 4B.

13. Ibid., p. 5.

14. Ibid.

15. Ibid.

16. Ibid., p. 6.

17. Ibid., p. 6.

18. Ibid., p. 8.

19. Ibid.

20. James Herzog, "Our Ravaged Land," a collection of reprinted strip mining articles, Akron Beacon Journal, January, 1971, p. 11.

21. Ibid.

22. Jack Hill, "Social and Economic Implications of Strip Mining in Harrison County" (unpublished M.S. thesis, Ohio State University, 1965), p. 55.

23. John Neary, Jr., "The Monster that's Eating Ohio," Lithopinion, VIII (Summer, 1973), 25.

24. Stacks, Stripping, p. 76. Also, see generally: Albright, "The Hidden Costs of Strip Mining."

25. Stacks, Stripping, p. 76.

26. Hill, "Strip Mining in Harrison County," p. 42.

27. Ibid.

28. Ibid., pp. 42-3.

29. Ibid., pp. 70-2.

30. U.S., Congress, Senate, Committee on Interior and Insular Affairs, Surface Mining Reclamation, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, Senate, on S. 3132 and other bills, 90th Cong., 2d sess., 1968, p. 284.

31. Ibid.

32. U.S., Congress, Extensions of Remarks, Theodore Voneida speaking before the Earth Conference at Ohio University, speech entitled, "Strip Mining Impact in Ohio," 92d Cong., 1st sess., June 22, 1971, Congressional Record, E.6274.

33. C.C. Mackey, "Helplessness of Individuals Near Mining," Martins Ferry-Bellaire Times Leader, September 23, 1971, p. 11.

34. Young, Power Over People, pp. 116-7.

35. Ibid.

36. Ibid., p. 117.

37. Albright, "The Hidden Costs of Strip Mining," p. 5.

38. Ibid., p. 6.

39. Stacks, Stripping, p. 126.

40. Ibid., p. 77.

CHAPTER III

THE LOCAL RESPONSE TO THE REDISTRIBUTIVE
NATURE OF STRIP MINING

Introduction

The intention of this chapter is to examine the first link in the formation and maintenance of strip mining regulatory policy in Ohio -- namely, the local political scene. In attempting to realize this purpose, Chapter Three not only considers the conventional government machinery that plays a prominent role at the local level, but also deeply probes much of the southeastern Ohio grass roots political scene in endeavoring to determine the underlying causes or conditions which have, in part, given rise to the types of regulatory policies that have existed.

An investigation of local politics as it relates to Ohio strip mining policy is quite justifiable. Chapter Two has already exhibited the very real problems that are left in the wake of strip mining. Hence, there is no question as to the dangers it has presented and continues to present in southeastern Ohio. Also, there can be no denying that the redistributive nature of strip mining has a profound effect on the local community. In other words, in a very basic sense the problems of strip mining influence the lives of many local citizens in a significant fashion. The loss of valuable land and similar types of destruction mean a deficiency of money and opportunities for future

community growth, as was displayed in Chapter Two's discussions of such things as agricultural loss, tax base depletion, lack of industrial influx, and even the unresolved difficulties which directly plague local citizens.

Accompanying this dissipation of wealth is usually a substantial loss in population, particularly in the younger age brackets. Therefore, as explained earlier in this study, the end product often becomes a pitiful state of depression in many localities, characterized by a lack of suitable employment and frequently an apathetic attitude toward improving the general situation. Thus, the problem of redistribution, as it adversely affects the lives of local citizens in southeastern Ohio, cannot avoid being a political problem of considerable magnitude in this area of the state. Solving the problems of strip mining requires great political participation by those citizens who wish to seek relief from the devastations that confront them. Furthermore, the local community has its own powers to regulate strip mining,¹ which can be utilized by the local citizens if they so desire. These matters alone seem to merit a close investigation of the local political level in trying to determine to what extent this governmental arena contributes to the total policy product.

The Early Years of Policy-Making

Modern strip mining first entered southeastern Ohio's coal fields in the early part of the twentieth century.² The growing industrial prowess of the nation and the arrival

of World War I prompted a steady increase in the production of strip mined coal in the country during the 1910's and 1920's.³ As strip mining became more widely utilized the abuses that are so often left in its trail existed in the southeastern section. The gouging of the land and the absence of its restoration in many areas were generally due to a combination of factors: (1) that technological expertise was limited in regard to reclaiming land properly and minimizing environmental abuses such as acid run-off and soil erosion; (2) a growing emphasis on rapid production probably caused many operators to neglect even the slightest environmental reparations; and (3) since the damages of strip mining often disturbed those in more sparsely populated rural territories and basically, the public in general,⁴ there was no concern for environmental safeguards on behalf of those profiteering, hit-skip operators who invaded the region at that time.

As the expansion of strip mining activity occurred in such counties as Harrison, Jefferson, and Belmont throughout the 1930's and into the early 1940's, cries of public discontent concerning land destruction were not unusual, although political agitation at the local scene was generally minimal. The reasons for this deficiency of political action are not obscure. First of all, strip mining had not yet become the monstrosity of an operation that it is today. Mining shovels were smaller and less efficient, ensuring that stripping techniques could not be utilized in an extremely fast manner (much unlike present day operations

where over one hundred cubic yards of dirt and rocks can be scooped up in a matter of a couple of minutes).⁵ Therefore, the magnanimity of the strip mining problem was not always readily noticeable to citizens in some sections of southeastern Ohio, since in many areas miles and miles of terrain were not stripped in a continuous fashion. Second, and quite essential, is the fact that among many local residents there was a tendency to view the strip mining industry in light of the coal industry's reputation. In other words, because deep mining in southeastern Ohio was a functioning part of the region's economy, the citizens were quick to look rather favorably upon strip mining as a segment of the industry's expanding growth. As a result, even some of those who disliked the ruination caused by strip mining had second thoughts about openly criticizing the coal industry.

Despite an absence of political action, two southeastern Ohio politicians had enough awareness to comprehend the necessity of placing some types of controls over the operation of strip mining in the state. Acting in what they felt to be the best interests of their constituents, the two legislators took their complaints to the state capital. In the early 1940's, a state senator from Flushing (Belmont County), Wayne L. Hays, introduced the first strip mining bill in the Ohio General Assembly.⁶ Had such a measure passed the legislature it might have opened the door to the possibility of seriously eliminating a number of environmental abuses. However, this young legislator met with a

political climate that was most unfavorable. There were continual difficulties in getting a hearing on the proposals as well as a lack of interest among colleagues toward supporting the bill. Finally, the coal interests decided to further thwart Hays' efforts. The following statement by him indicates just what the tenor of the times was like:

...I introduced the first strip mining bill in the Ohio Legislature...and the lobbyist ...from the Ohio Coal Association came to me and said, well, buster you won't be in the next session of the Senate, and I wasn't. That same lobbyist back in the 1940's was indicted for bribing twelve Ohio State senators...He was taken before a friendly judge in Columbus who fined him \$1,000.⁷

As quickly as Hays was ushered out of office, the other concerned local politician swiftly managed to voice an interest in securing strip mining regulations. In the mid-1940's, Belmont County's C. T. McCort proposed legislation in the General Assembly, hoping to arouse interest in alleviating the problems of strip mining that were continuing to damage the countryside in and around his home county.⁸ McCort was also greeted in a very rude manner by his colleagues. Even more importantly, he received substantial opposition from those in his own region. For example, Belmont County's leading newspaper, the Martins Ferry-Bellaire Times Leader, voiced some disapproval, maintaining that stringent legislation would drive the coal industry out of Ohio.⁹ Considering the time in which they were made, McCort's proposals were fairly stringent. The bill stated that upturned stones must be buried and the topsoil

be replaced.¹⁰ Also, it set guidelines for the leveling off and grading of highwalls.*¹¹ However, as McCort recalled, these ideas received only minimal consideration:

I remember best the hearing when Liv Ireland and Jim Hyslop (both Hanna Coal Co. officials) were there...Hanna's engineer, Jerry Woomer, was there and he showed movies of the spoil banks* around the strip mines and told how much it would cost a cubic yard to pull them down. They had everything worked out. I knew how much coal was produced per acre and how much they were getting for it. So I asked Ireland, if they were making that much money on an acre of coal if they couldn't afford to spend \$200 to \$300 an acre to level the piles for future generations.

But the chairman of the committee said (to Ireland) "You don't need to answer that."¹²

McCort's position was even further weakened when the legislative committee delegated with the responsibility of viewing the problem in depth shirked some of its responsibilities.¹³ While on a tour of strip mining country in Harrison County, the Committee permitted itself to be driven along routes which did not allow views of the badly ravaged areas.¹⁴ Needless to say, McCort's bill was eventually defeated.¹⁵

Throughout the 1950's and early 1960's, a great share of the destruction caused by strip mining in southeastern Ohio was confined to Harrison County, particularly in close proximity to the community of Cadiz. Some citizens from

* A complete definition of key strip mining terms is found in Appendix A of this study. Each word followed by an asterisk in the text is identified in Appendix A.

within the Harrison County area came to realize that strip mining posed not only an ecological, but also a social and economic problem. A few Cadiz residents feared that the entire county was destined to become another depressed region, much like those in Kentucky and West Virginia. Eventually the Cadiz area had its own citizens group which was concerned about strip mining problems, but its most notable characteristics were diffuseness and inactivity. Thus, it accomplished very little. In retrospect, the possibilities of success for this group were severely limited by both group members and local people who believed that the strip miners would provide enough jobs and community services to compensate for the deficiencies of strip mining. Also, inasmuch as the Harrison County community already employed individuals in the coal industry, an economic wedge was driven between those favoring tight controls and their communications with much of the public about strip mining problems. So, in the main, conservation-minded citizens in Harrison County did not achieve a great deal at the local level in the way of safeguarding against strip mining's negative ramifications. More importantly, the local citizens did not tend to interest other residents of the state in becoming concerned with the strip mining situation in southeastern Ohio.

The Coming of a Major Controversy

Between the early 1960's and approximately 1968 the southeastern region witnessed no significant local controversies

regarding strip mining, especially not the kind capable of accelerating an interest in large-scale political activity in the communities or the entire region. Outside of some local support in 1965 for a proposed strip mining law in the state legislature (which is discussed in Chapter Four of this study), the region had seemingly fallen asleep. Apparently some of the disgust with strip mining was eased by the coal men's model reclamation projects and publicity about the benefits the strip mining industry was reaping for the region. However, during 1968 and 1969 the citizens of Belmont County were rudely awakened by the seriousness of strip mining's negative ramifications in their vicinity, and, as a result, the county soon became a hotbed of political activity concerning policies regarding the industry.

Determining how and why this political outburst was kindled requires a consideration of several historical events and circumstances which occurred prior to 1970. For the most part, the whole strip mining controversy that arose during the late 1960's and early 1970's had its roots in events that took place in the region as early as in the 1940's. At that time, some wealthy and powerful coal companies began purchasing land throughout the county,¹⁶ especially in the farming and timberland area known as Egypt Valley. This procurement of lands continued throughout the next decade and even into the early 1960's. Many small farmers who had labored diligently for only slight profits over the years were quite happy to sell their farms when thousands of dollars were waved in front of them by the coal

men. In addition, other farmers and rural residents leased the mineral rights of their properties to the coal companies, never really anticipating that mining operations could be successfully achieved through utilization of the stripping technique.¹⁸ Rather, these citizens often imagined that the coal would be obtained through a tunneling process,¹⁹ which, of course, does not leave as great amount of devastation behind as does strip mining. Still other residents chose not to sell, primarily because they felt there was no price tag on their love for the community and the land. Yet, many of these people eventually departed the Egypt Valley. The reason lies with the fact that abuses caused by strip mining operations made many citizens displeased enough to finally sell their property. Most assuredly, there is no industry that serves as a better blockbuster than strip mining.²⁰ Once strip miners dig immediately next to a farmer's property, crack a resident's foundation through nearby dynamite blasting, or ruin a well, the word gets around that the area is not the safest place in which to live. Therefore, many people finally sold their property, as the shortage of farms and homes in Egypt Valley attests.

As the mid-1960's dawned, strip mining had become the powerful, efficient, and profitable industry that it is today; and as the demand for cheap steam fuel increased substantially prior to 1970,²¹ the suddenly booming coal industry had a renewed interest in the mineral which lies extensively under Belmont County and other sections of southeastern Ohio. So, in the mid and late 1960's, as the

coal men were in quest of cheap coal, the Egypt Valley area came to be the stronghold of strip mining operations in Belmont County. With the desire for coal and the difficulties that were left in the wake of strip mining operations, the Egypt Valley soon was deluged with an abundance of redistributive problems. It would seem that community opinion would have been hostile enough to develop plans to combat the destruction of strip mining. Local animosity toward strip mining did evolve in Egypt Valley, but it was not considerable and never served to pose much of a threat as far as controlling the dangers of stripping or encouraging stringent regulations of the industry. There are a number of explanations for such a noticeable lack of achievement. First, many of the citizens in this area, as indicated, are highly individualistic, have a general disinterest in government functions, and are certainly not wealthy by any standards. In essence, in their thinking, life styles, and attitudes toward government they are very similar to most other Appalachians. They are quite slow in organizing themselves and are frequently unfamiliar with the strategies of cleverly maneuvering within the rules of the political system to get what they want. Furthermore, their independent nature impedes any chances for implementation of government controls such as zoning ordinances or planning which could possibly aid in governing land use, and thus strip mining.²² Any measures requiring government intervention are often deemed by many of these people as invasion of privacy and socialistic in nature. In fact, at a time (1960's) when other Ohio

counties were regularly considering the passage of zoning laws, the issue had not even been raised in the townships which comprise Egypt Valley.²³

Without the passage of measures like zoning ordinances, Egypt Valley's citizens had no direct way of guaranteeing that there would be protection from the adverse conditions caused by strip mining operations. Small villages in the valley, such as Hendrysburg and Sewellsville, possessed no actual political power even when strip mining began to endanger them. Since they are not cities, they are refused Ohio's "home rule" authority which basically permits communities of 5,000 or more to determine what kind of government they want and to regulate accordingly what occurs within and near to their boundaries.

The only alternative left for such small communities was to seek help from the county commissioners. But those officials have not offered the greatest amount of assistance in recent years, to say the least. Many local citizens continually accuse the commissioners of being far too friendly toward the coal men, arguing that if they exercised their authority to keep roads open and dangerous truck drivers off of the highways, they could limit at least some of the negative ramifications. The commissioners have also been attacked for not pressing the coal men toward more responsible and considerate actions, such as reimbursing affected citizens for various types of damages. Some Belmont County residents disgustingly point to one particular incident which they feel is rather indicative of the lack of concern of the commissioners for the rural

residents. One rural woman planned to file suit against the county for closing a road in the vicinity of her home, near which strip mining operations were scheduled to take place. The commissioners finally decided to have a hearing concerning the problem. On the day of the hearing, one of the local coal companies allegedly instructed approximately one hundred of its men to go to the Belmont County Courthouse and sit in on the hearing. The miners supposedly jammed the hearing room, taking every seat and space available, and crowded together in the doorways and the halls. When the plaintiff and her attorney arrived, they could not enter the hearing room because of the crowd. The meeting concerning the road closing was called to order, but since there were obviously no objections to such action, the case was closed.

With the presence of political setbacks like the ones just described, Egypt Valley had no real opportunities for local regulation of strip mining. Yet, perhaps the devastation that followed in 1969 and 1970 was the final touch needed to arouse the emotions of citizens in southeastern Ohio. At any rate, a great portion of Belmont County soon became concerned about strip mining, especially when stripping operations began to move ever closer to the village of St. Clairsville and also Belmont's two major cities, Bellaire and Martins Ferry. This was really the first time that the coal companies had stripped near more heavily populated areas of the region. Once strip mining crept closer to the outskirts of these three communities many people became upset.

They had seen the rapid destruction of Egypt Valley. They had also witnessed the ravaging of neighboring Harrison County and thus, were aware of the dangers of grossly unregulated strip mining. In light of the fact that nearly 200,000 acres of the county were optioned, leased, or sold to the strip miners and already strip mined in some instances,²⁴ many local residents felt that it was time to ensure that the land would not be left resembling the surface of the moon once all of the coal was gone. As the strip mining operations cracked foundations, polluted air, and created acid ponds in the vicinity of the cities in 1969 and 1970, a substantial portion of the local public was enraged. In addition, a series of articles about local strip mining problems was written in the Times Leader by C. C. Mackey. These stories also began to arouse some suspicions of the strip mining industry. The mounting displeasure with the coal men rapidly brought about the greatest local political activity concerning strip mining regulation ever to make itself present in southeastern Ohio.

The 1970-71 Strip Mining Controversy

The continual devastation of the county and the public outrage that ensued drew the attention of two highly intelligent and energetic Belmont County attorneys, John Kinder (St. Clairsville) and Richard Lancione (Bellaire). Kinder had long hoped for strip mining legislation and by 1970 had realized that possibly the awakening of many local citizens to the redistributive nature of strip mining could provide

much needed support for an attempt at securing a strong regulatory policy at the state level. He reasoned that since Richard Lancione's father, A.G., had become one of the more powerful men in the State House of Representatives, his help could probably swing new proposals through the legislature. Richard Lancione envisioned even greater prospects for assistance at the local scene when John DeBonis, a local AFL-CIO leader, quickly offered the backing of the Belmont-Monroe Counties AFL-CIO Trades and Labor Council.²⁵ DeBonis had become increasingly upset with the tactics and performances of strip miners in the Belmont County area. Finally, in mid-1970, Richard Lancione, Kinder, DeBonis, and a few other concerned citizens decided to call an open meeting regarding the strip mining problem in order to ascertain if a greater public interest, both locally and statewide, could be generated in requesting more efficient regulation of the industry. Held in Bellaire, the meeting was called by the Belmont County Young Democrats, of which Richard Lancione was a member, and by the Belmont-Monroe Counties AFL-CIO Trades and Labor Council.²⁶ In attendance at the meeting was a crowd of nearly 150 local citizens who were extremely emotional and overwhelmingly upset with the strip mining situation at that time. The major complaints raised at the meeting generally revolved around the failure of the state law to ensure adequate reclamation and also, the lack of enforcement in relation to such problems as acid drainage and damaged public roads (primarily due to overloaded coal trucks).²⁷ Kinder voiced additional criticisms in reviewing the weak

points of the state law and thus clarified the actual laxity of Ohio's regulatory policy.²⁸ With such a strong corps of displeased Belmont County residents eager for political action, a citizen's group developed within a few weeks after this meeting. The new organization was appropriately named Citizens Concerned About Strip Mining (CCASM).

CCASM's structure unfolded into one characterized by special groups designated with specific responsibilities. Among the most prominent were individual subcommittees assigned to prepare legislation, study pollution, collect information about tax base depletion, and produce a good public relations program.²⁹ Although probably around one hundred people were active within the group at one time or another, it was readily apparent that it had some major leaders who achieved a great deal by themselves, especially such individuals as Kinder, Lancione, Claude Colvin (St. Clairsville), and Bob Hamilton (St. Clairsville). In addition, while the group had a sprinkling of local elites in it, it also received considerable support from a number of lower middle class citizens in the Belmont County area. As one group member recalled, many of these less wealthy individuals traveled extensively to support efficient strip mining regulations, and alot of them were earning barely one hundred dollars per week at their own jobs. So, while a few of the wealthier citizens proved to be in the thick of the political activity, the group was not completely embodied with local elites, but was basically comprised of a diversity

of citizens. Furthermore, even though the Belmont County Young Democrats partly sponsored the initial meeting, CCASM did not consist of members of very similar political beliefs or orientations. CCASM was, in essence, an example of a group in which many different kinds of local citizens, not all possessing similar backgrounds and personal goals, consolidated themselves in order to attempt to protect their homes, properties, and communities.

The main purpose of CCASM was to work to guarantee that the public abuses incurred by strip mining would be kept to a minimum in southeastern Ohio. Of course, there were some major goals in mind in relation to attempting to achieve this end. First, CCASM hoped to educate both the local and state publics as to the serious difficulties created by grossly unregulated strip mining in the southeastern region. Second, it was felt that this educational experience might elicit more local support for additional concerns: (1) backing stringent state legislative proposals; and (2) correcting problems through utilization of the local governmental machinery. Therefore, if achievement of these major goals was realized a significant victory might result: the passage of a new Ohio strip mining law which would crack down hard on the negligent strip mining operators. This would be complemented by the development of some controls at the local level which would hopefully further secure efficient regulation. Finally, CCASM wanted to continue to keep a watchful eye on strip mining developments in the

region in the future so as to know what the strip miners were doing and to make certain that the word of existing laws was being met.

In hoping to educate the local public about the redistributive nature of strip mining, CCASM employed a variety of tactics. For instance, a substantial amount of time was spent working to secure publicity about both the problems created by this mining technique and the intentions of the group itself. Colvin and Hamilton shouldered much of the burden in this area of concentration. Hamilton personally wrote "letters to the editor" which appeared frequently in the Times Leader and generally attempted to expose the neglect of strip mining operators toward consideration of the rights of local residents to enjoy their land and their privacy. Also, such barrages against the strip miners were most likely aimed at keeping the redistributive issue a newsworthy one, while informing the community that the dangers would augment unless the local residents decided to take action. Colvin, a highly articulate individual, complemented these tactics fairly well by speaking before various gatherings of civic minded citizens.

The quest to educate southeastern Ohio citizens developed a bit further than simply with attempts to utilize the local media or influence civic-minded organizations. However, this was not realized through any diligent work done by CCASM, but by some other individuals and groups. As stated previously, CCASM delegated responsibilities to particular subcommittees to prepare reports about problems created by

strip mining. Nevertheless, such responsibilities were not often met. One standing subcommittee, assigned to study tax base depletion, completely failed to produce any substantial material about the problem. Supposedly, some of the people belonging to this subcommittee were quite afraid of sentiment that might arise against them for exposing negative facts about the strip mining industry.³⁰ Some individuals were simply frightened that the coal men could ruin their lives if they wanted to.³¹ Obviously, CCASM was not making headway through this type of approach, but it was, nevertheless, rescued by the activities of a few individuals and another major citizens group. These new anti-strip mining forces were vital in helping CCASM relay educational messages to a lot of southeastern Ohio citizens. CCASM had begun to cooperate reasonably well with a Case Western Reserve University based group called The Committee to Control Strip Mining, which was headed by two of the schools' biologists -- Theodore Voneida and O. E. Elzam. Briefly, this group originated in October of 1970 after Voneida, a political activist of note, became very upset with the destruction created by strip mining around the Piedmont Lake area on which he had a cabin. Deciding to do something about the situation, he enlisted the help of Elzam, a soil and plants expert, and approximately ten Case Western Reserve University students who were interested in studying the problem, especially from the biological and ecological standpoint. The chief purpose of this group became one of attempting to keep the strip mining problem

in the public eye by educating Ohioans, thus subsequently attaining state-wide support for policy change. Hence, group members realized that close scrutiny of the ramifications of strip mining in southeastern Ohio was in order. Voneida soon became a familiar face to Belmont County citizens, spending a considerable amount of time studying acid run-off and water pollution problems in the Piedmont area and discussing the dangers of strip mining with numerous local citizens. The students also managed to contribute to the cause by completing the studies of local problems that the citizens themselves had neglected. For example, Timothy Albright, whose study was referred to in the second chapter, aroused some suspicions of the strip mining industry in the county with his analysis of tax base depletion and related problems;³² and James Neely's study of water pollution at Piedmont Lake³³ stimulated some concerns about the environment on the part of local residents.

CCASM's quest to educate the citizenry actually received an additional boost when the Advisory Committee on Adult Education at the Belmont County Campus of Ohio University arranged to present a forum to air views about the effects of the strip mining industry on local community growth and related matters.³⁴ Deciding to have both sides of the issue presented, the committee arranged to have two of the more knowledgeable individuals on the subject express their respective views. In December of 1970, before an overflow crowd at the campus auditorium, Ralph Hatch, then President of Hanna Coal Company, and Harry Caudill, author of Night

Comes to the Cumberlands and probably America's leading authority on strip mining policy, collided in debate over how strip mining policy should be formed and maintained and, more importantly, why.³⁵ However, in the end, the debate boiled down to one of Hatch defending his company's reclamation practices and of Caudill expressing deep displeasure with the frequent industry practices of passing the social and environmental costs of strip mining on to the local citizens.³⁶ Hatch was rather convincing in his arguments,³⁷ but, for the most part, it was not easy for many of those local citizens to leave the forum without giving Caudill's opinions even deeper consideration. His long history of fighting the industry in Kentucky and throughout the United States had equipped him with an arsenal of past experiences to draw upon in referring to the negligence of the strip miners. Though he might not have swayed local opinion dramatically, there were probably those in the auditorium who became convinced that Caudill was a bit more concerned about society as a whole and not just simply ecological beauty. From this observer's position, it appears that Caudill's presence did add a bit of much needed class to the anti-strip mining movement in southeastern Ohio. As a result, some additional local opinion probably shifted to the side of such groups as CCASM and the Committee to Control Strip Mining, although it cannot be said that there was ever really a tremendous upsurge of interest in anti-stripping measures because of Caudill's eloquent speech.

CCASM's approach to enlighten the southeastern Ohio

citizenry, and the assistance offered by additional individuals and groups in trying to achieve such an end did result in more community support for change in strip mining policy. Nevertheless, a more significant outcome was that still no earthshaking results occurred at the local level. In other words, while community sentiment against strip mining in Belmont County and even in bordering areas had increased markedly over the past five years, the opposition was not reflected in the installation of a number of major local regulations placed on the industry.

There are a number of important factors which caused this resulting deficiency at the local level. In the first place, although CCASM managed to secure some local publicity (primarily through the Times Leader), it did not get substantial cooperation from the news media in the rest of the region. Those who favor more stringent strip mining controls insist that much of the local media are too friendly toward the strip mining industry, as the following account by Ohio University sociologist, Girard Krebs, indicates:

Save one local newspaper, the local public media have a noticeable pro-stripper bias. Even the Wheeling, West Virginia Intelligencer has an obvious and blatant bias for stripping in Belmont County. And that newspaper is in the next state...There are unconfirmed reports that some Newspaper reporters are being paid to work on the side in public relations for coal interests.³⁸

Perhaps one of the best explanations for the failure of the media to condemn the strip mining industry is found when one reads some of the local news editorials and articles. The

media has frequently indicated that the southeastern Ohio populace deems the strip mining industry a very functional part of its economy. Unquestionably, the media still seems to believe that an industry which has employed people in an area where good jobs have long been scarce³⁹ deserves to be given special privileges. Thus, the news men and other related journalists have implied that a laissez-faire strip mining policy is more acceptable than a stringent one.

The second major reason for the lack of reasonably stringent policy development at the local level is rather easily recognizable. Basically, it appeared that CCASM's interests were confined to generating both local and statewide support for a new state strip mining law. As mentioned previously, this was the central part of the long-range goal in mind. Such a confinement of interests is evidenced by the amount of work done on legislative proposals for the state political arena. It is also confirmed by the great publicity the group tried to achieve so as to elucidate the meaning of the proposals and by the number of statewide contacts made in order to attain support from other people, organizations, and regions. The result of these tactics was two-fold. First, CCASM was to be one of the major forces in the development of a new state law in 1972. This happened, in part, because of the interest it managed to generate throughout the state of Ohio (this will be observed in Chapter Four). Second, the group achieved the goal of securing the state law at the expense of having controls at the local level -- meaning that the great emphasis on securing

passage of a law in Columbus seemed to have detracted from diligently trying to get the local government machinery to function as a regulative tool. The neglect becomes clear through a close inspection of just what was done to institute zoning ordinances at the local level to control strip mining. CCASM did not consistently contribute any great force in helping townships pass and develop zoning or land use measures. Occasionally they did confer with township officials about plans for such attempts, but generally did not take an active role in trying to convince the rural community that zoning was a necessity. Pultney and Colerain Townships both took the issue to the voters, but CCASM did not push it with considerable publicity or campaigning techniques. This is most unfortunate because many local citizens are often uninformed as to what zoning is designed to achieve. Most of the organizing and backing of the issue was subsequently done by township citizens or officials. In fact, the only area in which CCASM and affiliated individuals really supported the issue was in Richland Township. However, their efforts were virtually nullified by the strip miners, who decided that retaliation was necessary in that vicinity. Local sources have indicated that the strip miners successfully thwarted efforts by CCASM and others in Richland Township by allegedly disseminating scare information to the effect that if zoning were passed it would place very severe restrictions on anything a resident might build on his property.

In viewing the results of voting regarding zoning ordi-

nances in Pultney and Colerain Townships it is evident that CCASM and its associates could not have seriously intended to secure their passage. In the 1971 general election, zoning was defeated by a count of 1,195 to 290 votes in Pultney Township.⁴⁰ In a 1972 primary election in Colerain Township, zoning measures were overwhelmingly defeated in all eight precincts.⁴¹ The final tally was 1,105 people to 353 people for the measure.⁴² In retrospect, it is likely that CCASM officials looked upon generating support for zoning measures as a waste of time since the townships have many small farmers who would enjoy selling their land to the coal men for a handsome sum. A lot of them obviously did not usually support zoning, for it would not often permit strip mining activity. Nevertheless, in a more suburban area like Pultney Township it seems that CCASM could have put forth more effort toward securing land use controls. People there do not appear to be quite as prone to the older, Appalachian type attitudes which include a distrust of such governmental activities. One CCASM member has remarked, "we tried to shoot every gun we had." But it was apparent that a thorough backing of zoning measures was not one of the group's major weapons.

The final reason for the resulting deficiency of regulatory practices at the local scene is that the strip mining industry itself occasionally chose to combat against the tactics used by CCASM and its associates. Ralph Hatch continually warned the residents of the dangers of establishing unreasonable controls on the industry and argued vehemently

that such measures as overly stringent strip mining laws would force the strip miners out of business.⁴³ Tight regulations, he maintained, would likely place too much of an economic burden on the coal industry and therefore, ruin its competitive position in regard to other fuels.⁴⁴ The end result would be damaging not only to the coal industry, but also to the region's economy. In addition, the Hanna Coal official insisted that greater restrictions would definitely give rise to more expensive electric bills for the residents themselves.⁴⁵ Local showcase areas of strip mining reclamation and signs proudly pointing to restored terrain were well utilized by the industry and no doubt seemed to offer some assuring examples of the good intentions of strip miners. And, of course, the industry's public relations men were around these places, explaining to visitors just what a fine job of reclamation was being done and how their companies were contributing to the growth of many sectors of southeastern Ohio.⁴⁶

It is not correct to believe that the tactics utilized by the coal men changed the minds of masses of citizens about the dangers of strip mining. They did not. What they did do was complement the idea already engrained in the minds of alot of local citizens -- namely, that strip mining was capable of being an asset to the local community and as part of the coal industry, it was acting with the interests of the citizens at heart. Such publicity served to help drive an economic wedge, consisting of those who saw coal as good (whether deep mined or strip mined) and those who were

employed in the industry, deeper into the political conflict so as to create confusion and dilute the amount of opposition at hand. Therefore, the industry has been able to consistently keep a substantial portion of the population divided on the strip mining issue. Girard Krebs has ventured some interesting comments about this type of situation:

What has happened, and what continues to happen is that Hanna Coal, whether deliberately or not, has acted in ways which divide the working people, the powerless population of Belmont County...Hanna Coal has taken advantage of economic and social conditions, whether deliberately or accidentally...It was the rich and powerful Jay Gould who said in the nineteenth century that he was not concerned about grass roots opposition to what he wanted: 'I can hire one half the working class to kill the other half.' 47

The combination of all the factors thus far discussed has served to keep local control of strip mining at a minimum in many areas of southeastern Ohio, particularly in Belmont County. It is not known whether interests in the rural areas toward utilizing the available local machinery (zoning ordinances, county commissioners' cooperation, or rural planning) will ever heighten. As will be seen later in this Chapter, interest did increase in other areas of Belmont County, but this was not necessarily the result of any aggressiveness on the part of CCASM. At this moment CCASM is quite inactive and efforts on its part to secure additional regulatory assistance at the local level are practically non-existent.

Barnesville: A Unique Approach to Local Regulation

The previous sections of this chapter have rather thoroughly discussed a number of ways in which those on the local political scene have attempted to cope with the problems of strip mining. There is, nevertheless, another particular effort at local regulation which is somewhat unique. It deserves special consideration in this study because it not only illustrates the very real difficulties in constructing a sound strip mining policy at the local level, but also because its story is not in any significant way connected with the activities of CCASM or its related groups.

Barnesville, a community of approximately 4,500, lies in the western half of Belmont County and is the southernmost point of Egypt Valley.⁴⁸ It is located several miles south of Interstate Highway 70 and is only a few minutes drive from the ravaged lands of the Hendrysburg area. The community provides an excellent rural, small town atmosphere in which to live, but it has a potentially difficult situation at hand -- namely, the Barnesville area is underlaid with large amounts of coal that can be profitably strip mined. It became apparent in 1972 that Hanna Coal was intending to strip mine a great amount of land in Warren Township and close to this community. For several years the coal company's giant digging machine, the "GEM" (Giant Earth Mover), rambled its way through and over the Egypt Valley toward Barnesville;⁴⁹ and because the abundance of coal on the south side of

Interstate 70 was nearly in their grasp, the coal men were not about to let this mineral wealth go uncollected. By mid-winter of 1972, as the strip mining machines chewed away at land on the northside of Interstate 70 (in fact, within only a few hundred yards of the highway), it became apparent to the residents of Barnesville that their locale was to become the next stronghold of strip mining operations in southeastern Ohio. Many citizens in the community became concerned that strip mining might adversely affect them. They had seen what had happened to the terrain north of Interstate 70, and even though a new state law was in the works, many individuals were concerned about the potential dangers of strip mining. Naturally, the citizens of Barnesville had good reason to believe that their village might become another Egypt or Hendrysburg.

Two of the town's leading citizens soon decided that some form of protection from strip mining was necessary, because they did not settle for the notion that reclamation was the answer to all of the problems that might accompany the industry. In short, they felt that if the town was to have any kind of future growth, it could not have strip mined land around its boundaries. Thus, Aida Rizzi (the manager of Barnesville's leading manufacturing company, a dress factory) and Norma Schuster (a member of the town's planning commission) took aim at trying to prevent the industry from stripping land within five miles of the village.⁵⁰ The two citizens arrived at the conclusion that the community should attempt to develop a sophisticated plan by which land five

miles around the village would be left unscathed by the strip mining operations. This idea became known as the "Greenbelt Plan". Each woman had special reasons for becoming involved in what would eventually be a major controversy. Rizzi was quite concerned that if mining operations commenced within close proximity of the town, many of her employees would probably leave the area.⁵¹ Schuster believed that Barnesville was not attracting enough stable industry and that strip mining near the village would aid in making sure that none would arrive in the future. As one observer has indicated, the actions of these two women in endeavoring to secure protection from the industry was serious enough to give rise to an unusual political controversy within the community itself:

The two women resolved to ask Ralph Hatch... for the five-mile greenbelt around Barnesville ...'Would it be better, rather than trying to reclaim it (the land) - which takes centuries - to give some consideration to the town?' The two women met with Hatch, who agreed to consider their request for a greenbelt and suggested they get together with the townspeople...As news of the meeting spread, the hamlet divided into three factions: those in favor of an outright ban; those who liked the idea of a greenbelt; and those who, fearing for their mine jobs and afraid that the coal companies' goodwill toward the town might dry up, thought the monster should be welcomed to town.⁵²

Rizzi and Schuster also obtained a reasonable amount of community support at a town meeting called to air views about the proposal.⁵³ Eventually, a greenbelt group was formed in order to try to put the plan into effect.⁵⁴ But it was rather clear from the beginning that the group had

no tools available which could produce the program they desired. For instance, few of those who supported the greenbelt idea had any knowledge of planning or zoning. So, when it was learned that the coal companies had already purchased land areas almost completely surrounding Barnesville and that they had also been issued licenses by the state under the 1965 law to strip mine near highways,⁵⁵ the group members must have realized that they had two possible courses of action. First, they could make an effort to get zoning ordinances approved. However, in an area where zoning had never been considered before and where a number of rural residents were not displeased about the possibilities of selling land to the strip miners for handsome sums, the opportunities for passage would have been minimal. Second, they could proceed with the greenbelt plan and place themselves in a position of trying to persuade the coal companies to cooperate with them. The word "persuade" is used here for a reason. Since Barnesville is not an incorporated city, it has no real power to wield.⁵⁶ Unlike Ohio cities, it cannot endeavor to determine what is the best use of land within and near to its boundaries. Therefore, the greenbelt group had a limited number of courses of action from which to choose. On the one hand, it could hope to make the coal companies sympathetic to its point of view by persuading them with a lot of discussion about sophisticated planning. Or, on the other hand, the group could try to stimulate more public concern for the plan and thus, place the coal men in the position of not

wanting to defy a large amount of public opinion. For the most part, the group seemed to employ both of these tactics in striving to achieve cooperation from the coal men. First, individuals like Rizzi and Schuster continued driving toward getting the strip miners to make some kind of agreements. A May 17, 1972, conference including Hanna Coal, R&F Coal, and the planning group proved fruitful for the moment when the companies indicated that they would work with the village's planning commission and city council in trying to cooperate to ensure a better Barnesville.⁵⁷ However, local observers have indicated that at this point it was quite doubtful that the coal men would adhere to the five-mile plan which some of the citizens originally wanted. The greenbelt backers also obtained the services of Hurley, Schnaufer, and Associates, community development consultants from Columbus, to assist the Barnesville Planning Commission with the creation of an authentic greenbelt plan.⁵⁸ The result was an elaborate seventeen page handbook that basically planned for the strip miners to remain, in most cases, three-quarters to a mile away from the city limits, to keep reasonable distances from specific highways, and to also file environmental impact statements with the village concerning "the manner and scope of mining operations south of I-70 and within 5 miles of the village."⁵⁹

Various other town meetings were called to air ideas about the greenbelt plan.⁶⁰ On at least one occasion, Theodore Voneida and Ed Dobson, another authority on strip

mining policy, were on hand to address a meeting concerning the issue.⁶¹ Also, group members conversed with other local citizens in an effort to secure their backing.

Despite such energetic endeavors, the plan has not yet proven to be beneficial to the Barnesville residents. The planning work was admittedly well done, but it ensures no legal restraints on strip mining in the areas around Barnesville. As one of the Columbus consultants maintained, the only thing the community can utilize is its power of persuasion -- that's it.⁶² By mid-summer of 1973, some local observers reported that the greenbelt plan had pretty much fallen by the wayside and some insisted the coal companies were not going to be too considerate of the community's well-being, after all. The actual strength of the greenbelt plan is fairly obvious -- namely, very little. If the strip miners feel that it is profitable to mine within close proximity of the village, they will do so. It is that simple. Taking the matter to court may help the Barnesvillians, but the odds of a few citizens defeating a wealthy corporation in a court battle must not be considered good. Perhaps if community opinion were more favorable, the coal men might not wish to venture very close to the village for fear of provoking too much animosity toward them. But community opinion has not solidly backed the proposal. There seems to be some valid arguments as to why strong support on behalf of the community for this plan has failed to materialize.

The failure to secure such a regulatory mechanism must largely be attributed to the factionalism which has existed in the town in regard to the strip mining issue. As outlined earlier, there were several specific types of opinions about what should be done when the strip miners moved closer to town. From this observer's vantage point, the workings of these factions stymied immediate opportunities for any real progress toward local regulation of the industry. The group which rather vigorously opposed strip mining, Citizens Organized to Defend the Environment (CODE), did not become really involved in directing the greenbelt drive, but did, nevertheless, urge those citizens developing such a plan to continue their work.⁶³ However, most of CODE's energies were obviously directed at other matters. When it became apparent that the state would grant Hanna Coal permission to take the strip mining machinery across Interstate 70 (a move guaranteeing that the Barnesville area would be the next operating base for Hanna Coal), a number of Barnesville citizens felt that some actions should be taken to prevent such a situation.⁶⁴ As a result, CODE was organized in June of 1972 with several major purposes in mind:⁶⁵

- (1) to attempt to save the land on the southside of Interstate 70 by taking steps to ensure that the mining shovel or shovels would not cross the highway;
- (2) to try to act as a watchdog over the performance of the state strip mining law and its enforcement;
- (3) to keep the issue of strip

mining, its problems, and also what Hanna Coal does in the public eye; and (4) to serve as an organization which could air complaints about all types of environmental problems and possibly find ways to alleviate them. (Only purposes one, three and four are of special relationship to this chapter; therefore, purpose two is considered in Chapter Four.)

In hoping to prevent the strip miners from bringing their machines across Interstate 70,⁶⁶ CODE enlisted the services of an organization concerned about a variety of public problems, the Ohio Public Interest Action Group (OPIAG).⁶⁷ OPIAG provided CODE with the services of attorneys and an advisor to aid in combating the local strip mining threats, as the Columbus based group was not only merely concerned with halting the movement of the strip mining apparatus across the highway, but also with curbing further environmental difficulties that might arise.⁶⁸

CODE found that Hanna Coal owned the land under the proposed site on Interstate 70 where the mining machinery would cross.⁶⁹ This is most mysterious because whenever a state plans to build a highway it normally utilizes its right of eminent domain to secure property.⁷⁰ But in the mid-1960's the state simply secured a right of entry and permitted Hanna to retain control of the land.⁷¹

On June 20, 1972, the State of Ohio made an agreement with Hanna Coal which, briefly, permitted the mining company to take its shovel or shovels across Interstate 70 in the vicinity of Hendrysburg.⁷² CODE, hoping to defend against

the strip mining that would result from this agreement, decided to file a lawsuit in an effort to prevent the moving of the strip mining apparatus.⁷³ The suit was predicated on citations from state and federal statutes,⁷⁴ and the group members felt that such legalities formed enough of a basis for prohibiting the crossing of strip mining equipment. However, despite a well-founded suit, a federal court denied CODE's request.

In serving as an environmentally conscious organization and one which hoped to keep the strip mining issue in the public eye, CODE also made use of other tactics in trying to influence local opinion and alleviate ecological problems. Newspaper advertisements were made use of so as to publicize the group and hopefully awaken the citizens about the dire need for environmental protection. The group also began to maintain connections with assemblages of people in other Belmont County communities, such as Bellaire, St. Clairsville, and Powhatan Point.⁷⁵ Eventually, CODE was to have regular chapters affiliated with it in a number of communities throughout the country.⁷⁶

The key question surrounding CODE does not seem to be one of whether or not it succeeded in achieving its goals. Its efforts to halt the crossing of the strip miners failed, but the group still managed to gather a sizable portion of community support behind its idea. CODE also received some more backing from its affiliates in other sectors of the county. But even more importantly, the development and actions of the group have proven to be the catalyst for

two significant occurrences within the Barnesville strip mining controversy itself. In the first place, CODE's strategies and tactics in comparison to the greenbelt group's plans made it appear that even those in the village who were in favor of strip mining controls could not completely agree among themselves as to what was the best course of action to pursue. Like CCASM, Barnesville's anti-stripping people were attempting to shoot more than just one gun. Both groups worked diligently to save the locale in the way they felt was most appropriate, but it seems that more cooperation and agreement over tactics might have been the key items necessary for success.

Second, the appearance of CODE on the local political scene, for all intents and purposes, caused the surfacing of another group, one which was characterized by a fear that possibly only one side of the strip mining controversy was being made known to the public.⁷⁷ This group, Seek Econo-Ecology (SEE), was apparently reacting to some of the tactics employed by CODE, for it organized itself only a few weeks after CODE's inception.⁷⁸ SEE's members apparently felt that CODE's efforts might lead to the elimination of local industries. For instance, one of the organization's information releases stated:

While thinking of the long-term ecology of the area we can't let any individual or group control the economy as it directly applies to the people of the area. Should any group of individuals, organized or not, plot against the economic base of our county, action must be taken to insure that decisions are not made in haste, thus negatively affecting the economy, or ecology of the land.⁷⁹

SEE's interests in the strip mining industry were at least made partly known when several citizens associated with the group allegedly came to one of CODE's meetings and gave arguments which tended to support the industry.⁸⁰

It is not necessary to further investigate the inner-workings of these different groups because by now one thing must be rather clear: within the Barnesville community itself there were sharp differences of opinion in regard to local strip mining policy. And many of those differences remain today. More importantly, all of this confusion has been compounded by a lethargic section of the community which refuses to enter the controversy. There are those who fear that the coal men can "get tough" if they want to⁸¹ and treat the community badly if need be. Other citizens, such as public servants, are apprehensive about shouting too loudly in favor of stringent regulations for fear that they will be squeezed out of their jobs.⁸²

In reviewing the total Barnesville situation, there are several essential points which must be made in relation to the failure of this community to secure the necessary governmental tools for the establishment of a sound local strip mining policy. First, as an industry of considerable wealth, strip mining has managed to divorce one segment of the Barnesville community from cooperation with the remainder of the town by making some citizens economically subservient to it. Its reputation as a politically powerful industry has discouraged still others from entering the political arena. More importantly, all of this has been achieved with-

out the coal companies consistently entering the political conflict in a direct manner. In essence, many of the people who are either tied to the industry economically or who are frightened of its power, finally come to perform its lobbying work, so to speak.

Second, the general attitude of citizens in and around the Barnesville area seems to have inhibited the chances for quick community reaction to a problem like strip mining. That is, in order for any community to properly combat against the negative ramifications of strip mining, it must be aware enough to recognize the potential of the problem at an early stage and take carefully planned steps to protect the locale long before it is being strip mined. But in Barnesville such awareness and pre-planning did not exist. The community is simply typical of many others in the Appalachian region. The citizens do not seem to involve themselves frequently with political issues and there is a noticeable deficiency of planning toward further community growth. In Barnesville, strip mining was always viewed "...as a nuisance that was happening nearby, but not next door."⁸³ There has, without a doubt, been a peculiar ambivalence toward the industry,⁸⁴ compounded by an attitude toward civic improvements which is noticeably passive. This seems to make the community and its surrounding area that much more exploitable by large and powerful corporate interests.

The Barnesville case serves as an appropriate warning to those rural communities who take neither the time nor the consideration to plan carefully ahead to prevent the

negative ramifications of strip mining. Last ditch attempts do not stack up well against the efforts of wealthy and powerful companies like the coal firms. If any success is to be attained in communities such as Barnesville, the available tools of government must be utilized far in advance of the arrival of the strippers. Yet, such planning may not always ensure protection, for it may all be in vain when the coal men wave dollar bills at local citizens and secure ownership of the land. It is here that the selfishness and desire for economic gain can quickly seal any community's doom. Barnesville is surely no exception.

Conclusion

There are definite legal bases for the establishment of strip mining regulation at the local governmental level, although such powers tend to be more limited in scope than at other links in the U.S. government. Despite these capabilities, local government in southeastern Ohio has fallen woefully short of achieving even mediocre regulative capacities.

One major reason for this deficiency is, in part, mired in the political culture of southeastern Ohio. The values of Appalachians in this region generally seem to contribute to a turning away from both the usage of available local government machinery and a concern for community betterment. The attitude often appears to be one of live for today, and devote no attention to future considerations. This is not to say that these predominantly rural citizens are less

intelligent than most Ohioans or Americans. Rather, a history of rugged individualism has remained with the descendants of those mountaineer, small farmer types who entered the region well over one hundred years ago. They have, over the years, preferred to attempt to live in the privacy of the rolling terrain and lead modest existences. For some of them, the coal industry has brought employment in times when respectable jobs were not available. Thus, among a number of southeastern Ohioans the impression that the coal industry is good has been continually reinforced in their minds.

In addition to this problem, there are definite difficulties for local citizens in trying to fully comprehend the nature and operation of strip mining in the region. Even though coal mining has been a significant segment of the local economy and the citizens have often had a sophisticated knowledge of strip mining, many southeastern Ohio residents are not cognizant of the dangers it can produce and of the proper ways of regulating it. This can, indeed, occur in any kind of region, for understanding the issues surrounding strip mining policy often requires a knowledge of the industry's intricate technical aspects; and few citizens swiftly realize the need for a comprehension of such matters. In southeastern Ohio, the educational process necessary for attaining such knowledge is often impeded by the community lethargy alluded to earlier. So, the situation there is often doubly as bad as it is in many other stripping regions of the country.

The final point to raise here is that, in essence, the political and economic system best suits the large strip mining corporations in local battles of this sort. The wealth of the mining companies affords them a maneuverability at the local scene which is not easily combated against. Money buys up the land, the promise of economic growth secures the backing of many local citizens, and model reclamation projects ease the disgust of potential adversaries. Furthermore, the painstaking measures required for the procurement of local strip mining controls by the citizens offer the coal men additional opportunities to design plans of attack well ahead of time.

Above all of these things lies one very simple fact: any opposition to policy outputs which damage society at the local level is normally mounted by citizens on a part-time political activity basis, whereas the coal men employ their own kinds of political tactics as a part of their daily jobs. The plain truth is that the citizens do not stand a chance unless they manage to compile a great mass of local sentiment for their plans. And, as has already been observed, community and regional factionalism frequently guards against the achievement of such an end. Part-time politicking does not offset the political power of large coal corporations at the local scene.

In the final analysis, the local political level in southeastern Ohio has been marred by the failure of the government machinery to produce even a semblance of a fair strip mining policy. It increasingly appears that the strip miners are

not being regulated much at all; rather, they seem to be playing a major role in regulating the local political system itself and in discouraging stringent policy development.

Footnotes

1. Arnold W. Reitze, Jr., "Old King Coal and the Merry Rapists of Appalachia," Case Western Law Review, XXII (June, 1971), 669-70.

2. Ibid., p. 684.

3. Ibid.

4. Ibid., p. 691

5. John Neary, Jr., "The Monster that's Eating Ohio," Lithopinion, III (Summer, 1973), 25.

6. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, House of Representatives, H.R. 60 and related bills, 92d Cong., 1st sess., 1971, p. 68.

7. Ibid.

8. C.C. Mackey, "Veteran Legislator Recalls Fight for Strip Mine Laws", from a collection of strip mining news articles by the Martins Ferry-Bellaire Times Leader, compiled in a booklet by the Citizens Concerned about Strip Mining, Bethesda, Ohio, 1970.

9. Ibid.

10. Ibid.

11. Ibid.

12. Ibid.

13. Ibid.

14. Ibid.

15. Ibid.

16. Girard Krebs, "A Gem in Egypt?" (unpublished paper, Athens, Ohio, 1972), p. 5.

17. Ibid.

18. Neary, "The Monster that's Eating Ohio," p. 21.

19. Ibid.

20. Ibid., p. 25.

21. Ben A. Franklin, "Strip Mining Boom Leaves Wasteland in Wake," New York Times, December 15, 1970, p. 1.

22. Under Ohio law zoning can be utilized to prevent undesirable land use; see Reitze, "Old King Coal," 669-70.

23. College of Agriculture and Home Economics of the Ohio State University, Land Use and Zoning for What?, Community Development Report, Columbus, Ohio, June, 1973 (Columbus, Ohio: College of Agriculture and Home Economics of the Ohio State University, 1973), p. 3.

24. U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, p. 60.

25. Jimmy Mountain, "Citizens Strip Mine Committee Expected," from a collection of strip mining news articles by the Martins Ferry-Bellaire Times Leader, compiled in a booklet by the Citizens Concerned about Strip Mining.

26. Ibid.

27. Ibid.

28. Ibid.

29. "CCASM Reports Show All Committees Active," from a collection of strip mining news articles, compiled in a booklet by the Citizens Concerned about Strip Mining.

30. Claude Colvin, private interview held at his home in St. Clairsville, Ohio, July 10, 1973.

31. Ibid.

32. See generally: Timothy Albright, "The Hidden Costs of Strip Mining": A Socio-Economic Study of Belmont County, Ohio" (unpublished intersession project for Biology 933, Case Western Reserve University, 1971).

33. John F. Stacks, Stripping, with an Introduction by Harry M. Caudill (New York: The Sierra Club, 1972), pp. 42-3.

34. "Statewide Interest in Forum," from a collection of strip mining news articles, compiled in a booklet by the Citizens Concerned about Strip Mining.

35. "Overflow Audience Hears Strip Mining Debating," from a collection of strip mining news articles, compiled in a booklet by the Citizens Concerned about Strip Mining.

36. Ibid.

37. Ibid.

38. Krebs, "A Gem in Egypt?", p. 24.
39. Neary, "The Monster that's Eating Ohio," 21.
40. Belmont County, Ohio, Board of Elections, 1971 General Election Abstracts, obtained at Bellaire, Ohio.
41. Ibid., 1972 Primary Election Abstracts.
42. Ibid.
43. "Overflow Audience Hears Strip Mining Debating," from a collection of strip mining news articles compiled in a booklet by the Citizens Concerned about Strip Mining.
44. Ibid.
45. "Coal Fields Fuel Environmental War," from a collection of Plain Dealer strip mining news articles, Cleveland Plain Dealer, 1971, p. 4.
46. Neary, "The Monster that's Eating Ohio," 26.
47. Krebs, "A Gem in Egypt?", p. 29.
48. Ibid., p. 1.
49. Neary, "The Monster that's Eating Ohio," 21.
50. Ibid., 23.
51. Ibid.
52. Ibid.
53. Krebs, "A Gem in Egypt?", p. 16.
54. Ibid., pp. 16-7.
55. Ibid., p. 16.
56. Ibid., p. 25.
57. Ibid., p. 17.
58. Neary, "The Monster that's Eating Ohio," 26.
59. Barnesville Planning Commission with the assistance of Hurley, Schnauffer and Associates, The Greenbelt Plan, report concerning a plan for protection of land from strip mining, Barnesville, Ohio, May, 1973 (Barnesville, Ohio: Barnesville Planning Commission, 1973), p. 14.
60. "Call to Arms Issued at Public Meeting Held to Air 'Green Belt' Proposition," Barnesville Enterprise, April 20, 1972, p. 1.

61. Ibid.
62. Neary, "The Monster that's Eating Ohio," 26.
63. Krebs, "A Gem in Egypt?", p. 18.
64. Ibid., pp. 18-9.
65. Ibid., pp. 18-21.
66. Ibid., p. 18.
67. Ibid., p. 19. Also, see Neary, "The Monster that's Eating Ohio," 24.
68. Krebs, "A Gem in Egypt?", pp. 18-21.
69. Ibid., p. 6.
70. Ibid.
71. Ibid.
72. Ibid., p. 10.
73. Ibid., pp. 27-8.
74. Ibid.
75. Ibid., pp. 25-6.
76. Ibid.
77. Ibid., p. 21.
78. Ibid.
79. Ibid., pp. 21-2.
80. Ibid., p. 22.
81. Neary, "The Monster that's Eating Ohio," 23.
82. Krebs, "A Gem in Egypt?", p. 25.
83. Neary, "The Monster that's Eating Ohio," 21.
84. Ibid.

CHAPTER IV

THE STATE RESPONSE TO THE
REDISTRIBUTIVE NATURE OF STRIP MINING

Introduction

The failure of southeastern Ohio local government to assist in properly regulating the strip mining industry has been well recognized over the years by many of the region's citizens. Also, during the past few decades other individuals and groups throughout the state have occasionally been upset with the sub-par performances of this local machinery. Because of such displeasure, state government has frequently been summoned to rescue southeastern Ohio from the consistent destruction left in the wake of strip mining operations. For the most part the feeling has been that state government, unlike the local machinery, is much less susceptible to a straight-jacketing of regulatory powers, since it has more funds available for the construction and maintenance of a sound policy and would seem to be quite concerned about the redistributive nature of the problem expanding to other potential coal fields of the state.

In light of this reasonably consistent interest in securing a sound state strip mining policy in Ohio, this chapter is designed to examine the role of state government as it contributes to the entire policy output. Realizing such an end requires, of course, a rather lengthy historical-political analysis of the performance of strip mining regulatory policy at the state level, for there are many political events which have given rise to the kinds of regulation

which have existed.

A Strong Legal Basis for State Regulation

State law in Ohio clearly allows for both local and state regulation of strip mining, although the powers of the state machinery are more wide-ranging and apparently less disputable. There is accordingly a good foundation on which stringent strip mining policy can be built.

Probably the strongest legal backing of state regulation of strip mining lies in the "police power" of individual states to construct and maintain policies that ensure the health, safety, and welfare of their citizens.¹ Such "police power" provides the State of Ohio with sufficient regulatory strength in relation to the need to protect its citizens from the negative ramifications of strip mining. The Supreme Court of the U.S. has, within the past couple of decades, afforded the states with additional support for the usage of such regulatory muscle by stating that:

subject to specific constitutional limitations when the legislature has spoken, the public interest has been declared in terms well-nigh conclusive. In such cases the legislature, not the judiciary, is the main guardian of the public needs to be served by social legislation, whether it be Congress...or the states....²

Inherent in this "police power" are several methods by which the health, safety, and welfare of the state's citizens can be guaranteed. For example, the power of a state to prohibit negative side effects of strip mining is virtually unlimited.³ Further measures against strip mining, such as protection

against the destruction of bodies of water and landsliding are perfectly legitimate.⁴ It is even likely that a direct ban on the industry, if demonstrated that strip mining provides far too serious dangers for communities and regions, can be exercised by state government.⁵ Although Ohio has never seriously considered such action, the neighboring states of Kentucky and West Virginia⁶ have witnessed great interest on the part of many residents toward prohibiting strip mining altogether. It is conceivable that some Ohio citizens may wish to follow this course of action in attempting to secure protection for various communities and regions.

An additional cog in the machinery of state regulatory strength lies in the ability to require that strip mine operators themselves make investments toward checking potential environmental abuses which may result from operations.⁷ This entails financial investments for reclamation practices and the like. Therefore, there is good reason to insist that strip miners should take careful steps to prevent acid run-off⁸ or to guarantee efficient land restoration.⁹

Finally, under this "police power" the state government can provide protection for the citizens and the land, especially when other methods of regulation have been inadequate.¹⁰ Government funding of restoration operations, such as treatment of acid leakage, are not out of the question in Ohio.

Within the past several decades the constitutionality of such state regulatory powers regarding strip mining for coal has been occasionally questioned and debated.¹¹ Although one state supreme court has decided that only a regulation

of strip mining for coal and not additional minerals, like clay, limestone, or gravel, proves to be discriminatory, it has, nevertheless, been determined that the states do have sufficient regulatory muscle to require the compliance of coal operators to various standards.¹² A ruling by a state court in Pennsylvania has seemingly defended the power of the individual states. A description of this defense by environmental law expert Arnold Reitze follows:

The constitutionality of the Pennsylvania statute regulating bituminous coal strip-ping was tested in *Defour v. Maise*. The Supreme Court of Pennsylvania upheld the statute as a valid exercise of the state's police power....The coal operators further argued that the statute deprived them of their property without due process of law and levied taxes upon them that were not uniform. To these contentions, the court replied that in light of the profitability of coal stripping, the additional costs of operation were not so unreasonable that they constituted a taking of property, and that even if the fees and bonds were a tax, they were uniformly levied upon all members of the class.¹³

Because of this type of guarantee, Ohio has attempted to utilize its "police power" by passing laws and further endeavoring to develop other aspects of the state machinery so as to alleviate the negative ramifications of strip mining.¹⁴ The remainder of this chapter is concerned with scrutinizing the strip mining policy that has been established in the wake of such quests by the state government in trying to ensure the well-being of its citizens.

The Early Years of Regulation, 1948-60

During the early years of strip mining regulation in Ohio, controls over the industry normally emanated from proposals voiced in the General Assembly. This legislative activity was characterized neither by great political controversies surrounding the industry, nor by significant battles between the coal men and large groups of state residents. Some of these strip mining controls were driven through the General Assembly by Governor Frank Lausche, a conservation-minded individual.¹⁵ One major factor apparently caused the deficiency of consistent political activity concerning regulatory policies during this era. Basically, strip mining was confined to just one section of the state, and even in the 1940's and early 1950's, there was not yet any major boom in strip mining which could eventually manage to incur the anger of those residents in southeastern Ohio. Therefore, many individuals within this region and most all of the citizens outside of it had only limited knowledge of any of the problems related to strip mining. Even those citizens of the southeastern region who were quite concerned about the problems had little success in convincing other Ohioans of the necessity for effective regulation. Because of these particular kinds of limitations on citizen interest, a weak series of strip mining laws developed between 1948 and 1960.

Ohio's first strip mining law was passed in 1947 and became effective in January of the next year.¹⁶ Like early statutes in many strip mining states, the 1948 law was very

weak. One of its major provisions was that the strip miner must level off the top of the spoil bank* and then plant vegetation* on it.¹⁷ The requirement of revegetation, however, seems to have meant very little in light of the fact that only a \$100 bond* was demanded per acre of land to be strip mined.¹⁸ Invariably, all the strip miner actually had to do was forfeit the bond since it would often cost him much more financially and time-wise to properly reclaim the land. There was simply no economic motivation for the strip miner to concern himself consistently with carefully tending to the process of reclaiming land.

The law's credibility is also seriously questioned when one contemplates the nature of the administrative set-up in 1948. The duties of administering the law were shared by three state agencies: the Division of Mines of the Department of Industrial Relations, the Ohio Agricultural Experiment Station, and the State Forester.¹⁹ The Forester and the Experiment Station were designated as the overseers of the reclamation operations, while the Division of Mines handled the licensing* responsibilities.²⁰ The administrative structure was obviously not readily favorable to efficient regulation because authority was diffused rather than placed in the hands of one central body of officials. Also, licensing responsibilities were delegated to the type of agency whose name implies a record of regard for production rather than conservation-mindedness. The key to the enforcement of nearly any strip mining law normally lies in the delegation of powers into the hands of a strong, centralized

administrative agency with a head administrator making the vital decisions.²¹ Usually, this type of framework tends to permit the agency to operate more quickly and to avoid the conflicts and entanglements that result where authority is spread out into various branches or bureaus. The 1948 law provided for no such administrative efficiency. However, the 1948 standards were somewhat improved upon in 1949 with the approval of a new state law by the General Assembly -- namely, the Coal Strip Mine Land Reclamation Act.²² Despite the fact that at least the administrative duties were reposed in only one agency, the law was still considered quite weak, especially in the area of bonding where the necessary sum had been increased to only \$190 per acre of land to be strip mined.²³ Once again, there was no apparent economic motivation for the restoration of terrain.

Improvements in strip mining policy finally arrived in the mid and late 1950's when the Coal Strip Mine Reclamation Act was amended twice.²⁴ In 1955, for example, the legislature made at least one conscientious reform by amending the law to provide for the refusal of strip mining licenses for those coal men who did not operate consistently within the guidelines of the reclamation act.²⁵ Therefore, the hit-skip operators, who paid no attention to the law, were at least denied the opportunity to strip mine within the state again.²⁶ Additional tightening of the law occurred again in 1959 when the legislature's amendment offered a clearer definition of what a strip mine operator actually was, and also, empowered the state to take control of unrestored strip mined lands, if

necessary, and to develop them for recreational purposes and the like.²⁷ Administrative duties were once again transferred to an agency with a more immediate concern for strip mining problems -- the Department of Natural Resources.²⁸

Nevertheless, these incremental improvements in state policy between the late 1940's and the late 1950's fell quite short of being consistently effective in halting environmental destruction and alleviating other redistributive problems closely associated with strip mining. Laws were poorly written, containing obvious loopholes. Enforcement was equally as bad, being greatly impeded by a lack of inspectors and knowledgeable personnel. Furthermore, because of frequent changes in the law, there was entirely too much transposing of administrative responsibility from one bureau to another. One surely has to question just how much the process of each different bureau's learning new duties concerning strip mining obstructed each of them from being on top of situations and acting quickly and intelligently to cope with difficulties. In essence, the early years of strip mining policy in Ohio were characterized by a sort of trial and error process by which the strip mining region suffered greatly from the mistakes of state government machinery attempting to regulate an industry of which it was fairly unknowledgeable. The result was the continued devastation of southeastern Ohio well into the 1960's.

The First Major Controversy

As time progressed in the early 1960's, environmental and

societal abuses caused by strip mining operations became much more prevalent. Larger machinery, advanced technology, and the profitability of the industry began to give rise to numerous strip mining operations throughout Ohio's coal fields by 1964. This growth in strip mining was soon complemented by an ever-increasing need for coal as a fuel for electrical power generation. In 1964, for example, explorations of the number ten and eleven seams of coal in southeastern Ohio began. These coal deposits had never been strip mined prior to that time. Because of these exploratory activities, it was obvious that the strip mining industry was readying itself for major operations in this section of the state.

John Kinder, who lives on a farm a few miles outside of St. Clairsville, was one of the first Ohio citizens to discover directly the mounting interest on the part of the coal men in strip mining the southeastern region's rolling terrain. One winter day in 1964, while inspecting his farm, Kinder found some people trespassing on his property.²⁹ He later learned that these individuals were from a major American coal company and were in the process of drilling into his land for purposes of exploring for coal deposits.³⁰ Realizing that the hilltops on and around his farm were strippable and being generally disgusted with the regulation of the industry as well, Kinder decided that some political action was necessary.³¹ The farmer-lawyer wrote a letter to Senator Frank Lausche (D-Ohio) in which he explained that, in this instance, the federal government was subsidizing the

ruin of Ohio.³² He reasoned that since a large amount of strip mined coal was being consumed by the Cardinal Power Plant in nearby Brilliant, Ohio (Jefferson County), which was owned by a couple of federal agencies, the federal government in this particular situation was not exactly acting in the best interests of Ohioans.³³ Lausche, who had long been in favor of strong strip mining regulations, then did something rather uncommon -- he read Kinder's letter on the Senate floor.³⁴ Immediately, the strip mining problem in southeastern Ohio earned national recognition.³⁵ More importantly, some citizens in the region itself became quite upset with the imminent possibilities of more destruction resulting from strip mining operations. Although the local community had many individuals in favor of stricter controls over the industry, there were no highly organized groups established to seek stringent state legislation. Nevertheless, with a great amount of public sentiment behind him, Kinder obtained the services of State Senator Edmund Sargus (St. Clairsville), who had also been interested in alleviating strip mining problems. Sargus had already won his senate seat by defeating an incumbent who had been much more sympathetic to the strip mining interests than he. Thus, it appeared that reform-minded citizens would have a good representative in the State Senate who could speak and operate on their behalf.

Realizing that state regulation was imperative, Sargus, Kinder, and their supporters focused much of their attention on the General Assembly. In 1965, Kinder authored a legis-

lative proposal for Sargus. As this proposal was written, it was probably capable of being a better law than exists in any state today. The efforts of Kinder and Sargus received substantial publicity, primarily because it was one of the first times stringent legislation seemed to have even the slightest chance at passage. Also, there was enough public concern for the idea of implementing adequate controls over the industry since petitions carrying approximately 250,000 signatures of Ohio citizens had been collected by conservationists.³⁶

In 1965, Sargus and three other senators introduced Kinder's stringent proposals in the General Assembly under the title of Senate Bill No. 1.³⁷ While the Belmont County legislator had support from some of his colleagues as well as from conservationists in the state, he soon found the road to effective strip mining regulation an extremely rocky one. It was readily apparent that one of the major problems was that the anti-strip mining movement in the legislature was drastically unprepared.³⁸ Sargus, Kinder, and others did not manage to supply the proper witnesses at the right time during hearings concerning the bill. Because strip mining legislation involves many technical terms and a clarification of their importance by witnesses, any attempt to secure approval of legislative proposals must have the backing of knowledgeable individuals. When this is not accomplished, the expertise of the strip miners tends to completely overwhelm the opposition. Sargus and his associates were quite guilty of this type of negligence. As several citizens who

were deeply involved in the political battle suggested, many of those who supported stringent regulations felt that all they had to do to create a strong, workable policy was to write a bill and send it through the General Assembly. It was evident that many of the legislators needed to be educated about strip mining because they had seldom come in contact with it. However, this was never accomplished.

The anti-strip mining interests were out-maneuvered and out-lobbied at nearly every turn by the coal men. In the end, it was clear that the citizens were basically unfamiliar with the rules of the legislative game. As one supporter of the legislation stated, "we didn't have the political savvy; we didn't know what we were doing."

This considerable neglect on the part of the anti-strip mining citizens was compounded by an even more serious obstacle which made passage of good legislation next to impossible. The coal men provided great opposition³⁹ to any significant changes in the policy's framework. Their lobby group was extremely well organized⁴⁰ and backed by large sums of money. More essentially, they were most familiar with the "rules of the game" of the legislative arena and already had some "friends" in key legislative positions. It would be a gross understatement to say that they were unprepared.

The coal men also allegedly went as far as attempting to intimidate Sargus personally. One observer of the Ohio Legislature stated that a strip mining representative informed the senator: "If you continue to pursue this bill, we

will destroy you politically and professionally."⁴¹ The following account illustrates the problems created when one endeavored to attack the strip mining industry during this era:

Attorney (Richard) Lancione, who was a page in the Ohio Legislature at the time, recalled that Sen. Sargus was threatened with bodily harm and while on the floor of the senate one day leading the fight for the tougher laws, was concerned that his car would be blown up, as had been threatened.⁴²

Probably nowhere is there a better example of the coal industry's influence in the Ohio Legislature than when one considers the difficulties the new proposal was confronted with when it was brought before the Agriculture and Conservation Committee of the Senate.⁴³ A three member sub-committee, consisting of Sargus, Max Dennis (Wilmington), and Oakley Collins (Ironton), was given the responsibility of scrutinizing the bill.⁴⁴ The incredible feature of this particular sub-committee was that Collins was a coal producer himself.⁴⁵ In the early 1960's⁴⁶ he even had the audacity to remark, "I've been all over the state looking at stripping operations and they're doing a good job."⁴⁷ James Herzog's recollection of the committee's laxity and related legislative problems sheds additional light on the matter:

....When the bill came before the full committee, 72 amendments were offered -- many written by the Ohio Reclamation Association.... Dennis said the committee and the Senate 'finally decided mining interests simply couldn't stay in business' if a tough bill were passed...(Ed) Garrigan, a member of the committee, recalled: 'I was personally upset by the devastation in the State of Ohio...When we went through hearings on

the measure, it was accepted with 72 amendments. It lost any identity to what it was. The coal mine industry won the battle to reduce the effect good legislation would have had.'48

This destruction of a fairly solid strip mining regulatory proposal becomes even more interesting when one considers that the committee had unofficially been in favor of a stronger proposal earlier. That is, outside observers generally felt that the anti-strip mining interests had a one vote lead shortly before the final tally concerning amendments would be made. However, after a ten minute recess, the senator with the swing vote suddenly changed his position and supported weaker regulations.

In viewing the actions of the General Assembly regarding this particular proposal, several key occurrences seemed to weaken the resulting law. First, the vast majority of legislators were deceived into believing that the coal industry would be forced out of business if stringent regulations were approved. For the most part, these representatives and senators foolishly trusted the coal industry supporters who argued that the companies were performing reclamation well and that stronger standards of regulation would ruin the miners economically. Those legislators from the coal territories knew that these arguments were simply not true. However, legislators from outside the region had no conception of the manner in which strip mining had been acting like a "Robin Hood in reverse." Very simply, they had not yet been educated as to the real dangers strip mining leaves in its wake.

Second, and equally important, is the fact that many

legislators appeared to uncontestedly accept the advice of the Ohio Reclamation Association and came to rely on its reputed expertise. The fact that the General Assembly so readily accepted a number of the association's proposed amendments appears to offer justification for this claim. Yet, the unfortunate fact of the matter is that the Ohio Reclamation Association is a mere tool for the strip mining companies. Some Ohio citizens insist that the association is, in many respects, a public relations organization with part of its intent being to publicize the good deeds of the strip miners, while abuses created by the operations are passed quietly onto society.⁴⁹ For instance, at least prior to 1971, the Ohio strip miners were the only people authorized to join the organization.⁵⁰ The association is said to spend great sums of money each year in trying to set an "uninformed public" straight on the "real" nature of strip mining.

Therefore, in the final analysis, the Ohio General Assembly in 1965 was either genuinely ignorant of the dangers of strip mining or gullible enough to believe that the strip miners meant the state no great harm. This observer tends to believe that the failure of the legislature to respond properly was a result of some misinformation supplied, in part, by many of the supporters of the strip mining industry and not tactfully defended against by those citizens favoring tight controls. It was, as Senator Garrigan said, a situation where a number of little people were competing against a large economic bloc.⁵¹

It is unfortunate that the status of the ensuing state

law seems to support the previous contention. Close examination of this law, which finally did pass the legislature in 1965, emphatically indicates that the strength of the law was sapped by amendments and wording which often bordered on the ridiculous. As Kinder has suggested, most of the law's teeth had been pulled by the time it was finally approved.⁵²

The Functioning of the 1965 Ohio Strip Mining Law --
A Case of Legislative and Administrative Neglect

The regulatory standards which developed after the passage of the 1965 statute present one of the clearest examples of legislative and administrative negligence in the history of all strip mining policy. When an overview of the entire policy resulting after 1965 is made, several key factors relating to its redistributive flavor are quite recognizable. First, the legislation was riddled with weak language, mediocre requirements for reclamation, and unclear standards. In reality, the strip miners were allowed more than enough available loop-holes for escaping the responsibilities of protecting the land and the citizens. Second, the manner in which the law was written provided the administrative agency with only a limited amount of authority. Finally, in areas where the agency could wield some power, it was either deficient in funds or manpower or unsympathetic to the needs of individual citizens for protection.

In elucidating the laxity of the 1965 law, there are a number of its essential characteristics which must be examined initially. Among them are: the statement of policy;

administrative standards, especially as they relate to licensing, bonding, and penalties*; and reclamation and acid drainage requirements.⁵³ It can be safely stated that any efficient strip mining law would have stringent language regarding regulation in all of these important categories.

Nowhere in the 1965 statute is there a statement of public policy which alludes to the fact that the law's purpose is one of ensuring the protection and well-being of the state's citizens.⁵⁴ The concept of "police power" is, unfortunately, not clearly stated in any shape or form in the statute.⁵⁵ Thus, it is a bit vague as to what the exact intentions of the law are supposed to be. Any state that is serious in its attempts to regulate strip mining would want to include a statement along these lines in order to display its good intentions.⁵⁶

Under the guidelines of the 1965 law, the duties of overseeing reclamation operations, etc. were assigned to the Division of Forestry and Reclamation of the Department of Natural Resources.⁵⁷ However, the strength of this agency was severely limited in many important areas of regulation. Although the chief of the Division of Forestry and Reclamation was granted the power to deny operating licenses to strip miners, particularly if the land to be mined could not be properly restored to the level of condition that the law demanded, there were other areas of the statute which detracted from a full utilization of that point.⁵⁸ Reitze has illustrated the real difficulties surrounding this so-called power to deny licenses:

Even if the Division had broader authority to deny licenses, however, the fear of appeals by the industry may keep it from effectively employing that power. Since only a person aggrieved or adversely affected by a regulation -- ...a member of the coal industry -- may bring an appeal, the Division can avoid any adverse effects of its decisions by interpreting any discretionary power under the statute in favor of the coal industry. The prevalence of this approach is suggested by the almost total absence of Ohio court cases challenging decisions under a regulatory program that requires considerable expenditures by large and powerful businesses.⁵⁹

As Reitze stated, one of the most obvious problems which arose from this right of appeal was that only the coal men could claim that they had been adversely affected by a regulation. This excluded those citizens of the general public who may have potentially been affected by the operations of strip miners in their locales.⁶⁰ From a standpoint of judicial fairness, this practice was rather inequitable.⁶¹

The agency's efforts to protect the land and the citizens were even further hamstrung by the language in the law concerning licenses. For example, when an application for a license in Ohio was made, the actual detailed information that needed to be supplied to the administrative agency was "a description of the technique to be used in the operations."⁶² By comparison, Pennsylvania's statute, for several years considered to be one of the best in the nation, required a sophisticated map of the vicinity that was to be mined and an indication of where drainage areas, roads, etc. were located.⁶³ In addition, Pennsylvania required very detailed information at the time of application concerning how the land would be

reclaimed, what length of time it would require, and how water would be prevented from draining into the strip mining pit.⁶⁴ The Ohio law's requirement was that there must be "a statement describing the intended reclamation and use of the area of the land to be affected."⁶⁵

In the area of bonding, one discovers even further deficiencies. Each operator was required to pledge \$300 per acre to supposedly ensure that the land would be properly reclaimed.⁶⁶ If the chief found that the land was not reclaimed up to the standards of the law, the bond would be forfeited to the division. Such a miniscule amount of money required per acre did not ensure that the coal miners would exceed the weakness of the law's demands and provide better reclamation. Under this framework they often did as little as possible in the way of restoration activity.

Various penalties could also be imposed on the strip miners for negligence, although the law was not nearly forceful enough in guarding against the abuses of strip mining in this respect. The chief clearly could refuse to grant a license to a company which had a past record of non-compliance regarding state reclamation standards.⁶⁷ However, the strip miner was able to combat against this by simply dissolving the old company and starting a new operation under a different name.⁶⁸ The law had no specifications designed for regulating this type of practice. Penalties as a whole were considerably weak in Ohio regarding unlawful strip mining practices, especially in comparison with Pennsylvania. Ohio, under the 1965 statute, could levy a fine of between \$300 to \$1000

on strip miners for operating without a license.⁶⁹ Pennsylvania's punishment was much tougher. A fine of between \$5,000 and \$10,000 or six months in jail, or even both combined, could be assessed in that state.⁷⁰

Also, under the 1965 law, fines of between \$300 and \$1,000 could be imposed on those strip miners who polluted streams or caused similar damages of the kind specified in section 1513.161 of the law.⁷¹ Nevertheless, such negligence was always extremely difficult to confirm,⁷² let alone prove that a strip miner was at fault, especially at a time when the administrative agency was greatly under-manned in its efforts to be constantly alert for such violations. As is discussed later in this study, this deficiency in enforcement was not at all uncommon in the mid and late 1960's, and especially in the early 1970's.

It has already been stated that reclamation is usually one of the slipperiest terms in the lexicon of strip mining regulation.⁷³ Land restoration and acid drainage measures promulgated in the 1965 statute have proven to be exemplary of the manner in which the term reclamation has become abused. Reclamation achieved according to this law was frequently nothing more than an attempt to hide the destruction of the land for several years.

In more closely examining the law, one quickly discovers numerous loopholes and weak requirements regarding the process by which the land was to be restored. For instance, the statute read: "Prevent, if possible [emphasis added], drainage of acid water or silt-laden water from the area of land

affected which is harmful to any stream or adjoining lands."⁷⁴ Therefore, definite protection against acid run-off was not guaranteed.⁷⁵ The law also required that certain additional precautions be taken to limit acid run-off and related problems. Some of these other measures were directed at burying poisonous substances or stones.⁷⁶ However, any definite guarantee for successful restoration in this area was negated by the wording of the law -- "wherever possible", "reasonable care," etc.⁷⁷ Once again, the strip mining law of the State of Pennsylvania concerning pollution of water bodies and drainage measures provides an interesting contrast:

The operator shall be responsible for the prevention of stream pollution by acid drainage or avoidable siltation. Failure to adequately maintain such ditches, dikes, pumps and drainage facilities, as may be necessary...shall render the operator liable....⁷⁸

The legislation also failed to require that dangerous high-walls* be terraced or leveled off to give the land a contour more resemblant of its original condition.⁷⁹ The basic requirement was simply a grading of the spoil banks in order to "...reduce the peaks thereof and reduce the depressions between the peaks of such spoil banks to a gently rolling... or terraced topography."⁸⁰

Possibly the most outrageous matter concerning reclamation in accordance with this statute was the fact that the vegetation, which the operators were required to plant, did not have to survive.⁸¹ The strip miner was legally compelled to attempt to vegetate the surface at least twice.⁸² After a

second planting, the operator had no more legal responsibility.⁸³ The results of this weak demand were often disastrous: (1) the operator did not pour great amounts of money into the reclamation procedures in order to ensure decent restoration and (2) subsequently a large portion of strip mined land eventually had no vegetation growing on it at all.⁸⁴ Nevertheless, alot of this terrain was considered to be legally reclaimed.

Another major development against the opportunities for excellent reclamation existed in the law's provision that land restoration processes could be postponed by the operator for long periods of time through the filing of an Extension of Time for Reclamation form.⁸⁵ Through this plan the strip miner could actually abandon the mining area by indicating that he would later return and continue his operations.⁸⁶ In addition, it was likely that a number of miners simply stripped an area at a deliberate pace, thus postponing restoration operations for a long period of time.⁸⁷

At this juncture it is proper to argue that these loopholes and areas of gray in the 1965 law were overly beneficial to the coal men. In fact, in many important categories of the statute, the word of the law distinctly reflects the interests of the strip miners. The industry has seldom done a better job of controlling the legislative cog of the state government machinery.

The limits of legislative and administrative strength involving state strip mining policy after 1965 and until 1972 were undoubtedly created by the weak language of the 1965

statute. Yet, despite the fact that its hands were often tied because of such legal deficiencies, the Division of Forestry and Reclamation did not appear to be greatly concerned about endeavoring to secure some type of efficient policy. Its record of performance displays no painstaking efforts at overcoming such restraints. This disinterest in sound policy-making, combined with the laissez-faire practices of other important cogs in the state government machinery, placed Ohio strip mining regulation on the threshold of ridiculousness.

Perhaps the best indicator of a strip mining regulatory agency's strength lies in an examination of the expertise, man-power, and funds which it is able to harness to fulfill its duties. Close scrutiny of the Division of Forestry and Reclamation's "regulatory equipment" reveals that this important agency had none of the attributes necessary for efficient administration. Any agency that seriously intends to enforce a strip mining law must have numerous clerical workers who can effectively cope with the rigorous technical information that is so much a part of regulating the industry. Licenses, maps, records, and the like all require careful attention and documentation by the agency. Also, there must be a number of individuals available who have sufficient knowledge of the industry itself -- civil engineers, geologists, soil specialists, hydrologists, field inspectors, and many others. In light of this necessity, it is most appalling to find that during the mid and late 1960's the Division of Forestry and Reclamation usually had only a total of ten or so individuals

working directly on the enforcement of the policy.⁸⁸ The agency consisted of a chief, two office employees (one involved with fiscal duties and another involved with licensing duties), and seven field inspectors.⁸⁹ Two individuals, even if they were super-human, could not possibly handle all the clerical tasks of administering a law in a state where the strip mining industry was much more than an occasional visitor. Nor is it feasible that seven inspectors could responsibly cover nearly the entire eastern portion of the state. Some observers of the administrative situation have indicated that inspectors sometimes did not visit strip mining operations in some locales for months at a time.

Critics of strip mining policy in the mid and late 1960's place part of the blame for the administrative agency's failure on the legislative branch and the administration of Governor James Rhodes. The General Assembly has never consistently taken the initiative in trying to supply the Division of Forestry and Reclamation with a sufficient amount of funds for its operations. It would be reasonably safe to assume that many legislators still somehow believed that the coal men were quite conscientious about properly restoring the terrain. After all, any industry that reportedly has spent \$90,000 a year⁹⁰ to inform the public of its good intentions has had to be capable of getting additional support from many of those serving in the legislative arena. Furthermore, the Rhodes administration did not seem to have a general lack of kindness for the strip miners, either. The credibility of this administration has been seriously questioned,

especially in light of its alleged agreement with Hanna Coal, permitting it to secure major footholds so as to eventually be able to move its stripping apparatus across Interstate 70 in Belmont County. One expert on the Ohio strip mining situation maintains that during the Rhodes administration key decisions relating to regulation were made behind closed doors.⁹¹

The final failing of the agency is found in its relationship with the strip mining industry itself. Critics of the Division of Forestry and Reclamation imply that the agency surely has not been unfriendly toward those which it is supposed to be regulating. James Herzog, one of Ohio's leading conservation journalists, has written:

(Orville) Bates (one time Ohio supervisor of reclamation) has for years worked closely with the Ohio Reclamation Association. In fact, now that Bates is edging toward retirement the association...has offered him a job. He said he turned it down. One of his former inspectors...took a job as a field supervisor for the association when he retired in 1966. This affinity between the industry's lobby and the state regulating agency is not surprising. Fred E. Morr, director of the Ohio Department of Natural Resources under which falls the division of forestry and reclamation, proposed selling mineral rights under the state park lands to coal miners in 1963. That proposal almost floated through the legislature as a rider... In interviews, Division...personnel say little that is directly critical of the industry or law.⁹²

This pro-industry attitude is further illustrated by figures relating to the division's operations during these years. For example, under the 1965 law the chief could order

the strip miners to comply with reclamation regulations and similar standards if inspectors found that the operators had been negligent.⁹³ However, between 1965 and early 1971 there were 315 such orders, a rather low number.⁹⁴ Even in pre-1965 years, specifically between 1960 and 1964, such orders were more prevalent.⁹⁵ During these four years there were over 500 chief's orders.⁹⁶ When asked why there was a deficiency of orders, a Natural Resources Department spokesman replied, "Possibly it was just less enforcement."⁹⁷

It would surely not be presumptuous at this point to insist that administration of the 1965 strip mining statute was much less than vigorous. The failure of the state legislature to create strong regulatory standards and to fund enforcement projects placed the administrative agency in an adverse position opposite the strip mining industry. In fact, the agency often seemed relegated to a role of cooperating with the industry itself in trying to achieve good reclamation.

All of these unsatisfactory characteristics of state government were further complemented, as already observed, by the near-sighted ridiculousness of the Rhodes administration in its concerns for strip mining policy. The height of absurdity of Ohio strip mining policy arose in 1965 when a project initiated by the administration proved to be a mockery of the intelligence of the state's citizens.⁹⁸ The administration acquired the services of a contingent of consulting engineers from Cleveland in an effort to determine what could be done to utilize the ever-growing amount of ravaged and

barren Ohio strip mine lands.⁹⁹ For a handsome sum of \$56,500, the firm decided to delve into the land abuse situation and try to develop a remedy for the thousands of acres of raped land that had little functional use whatsoever.¹⁰⁰ In a report of over one hundred pages, the consultants informed the Ohio Department of Natural Resources of the possible ways of alleviating the ravaged land situation. George Laycock's description of this "brilliant" plan merits special attention at this time:

Under the heading of 'Opportunities', the firm advanced the startling conclusion that 'The study area offers an opportunity to balance Ohio's recreation spectrum through provision of low-density wilderness type activities. Hunters, hikers, wilderness campers, naturalists, and pleasure drivers seeking unique experiences can be satisfied in the study areas. Due to the broken terrain and isolation of parts of each site, unusual outdoor pursuits such as cycle trails, rifle ranges, and amateur rocket-launch sites...could be accommodated.'

The inference was plain that Ohio had, in its 276,700 acres of strip mined lands, a treasure chest for out-door minded citizens if they would only change their attitudes and look upon these artificial badlands as a valuable resource.¹⁰¹

While some Ohioans might enjoy these proposed recreational areas, it must be argued that the state surely could have appropriated its money for a more realistic task -- like channeling additional funds into the enforcement area of the policy or for the preparation of facts and figures about strip mining performance in Ohio which could have been made available to legislators. In a sense, the 1965 "recreational" proposal came ever so close to admitting that the state's role was one

of standing idly by until the damage was done, then glossing over the state's permissiveness by easing the sentiments of the citizens through providing them with a new wrinkle in leisure time activity. As Laycock has commented, "The need for day camps in strip mine areas is far less than the need for laws strong enough to prevent adding acreage to these problems."¹⁰²

In closing this section, it is necessary to argue that citizens adversely affected by strip mining have somehow frequently ascertained that the only prerequisite necessary for protection from strip mining is to simply "pass a law". As has already been discovered, more experienced, wealthier, and powerful interests can water down the strength of a law rather easily. Even more importantly, the application of considerable pressure by these powerful strip mining interests after the law was passed served to negate chances for the public's protection. By influencing key politicians, reform-oriented measures in the 1960's were forestalled by these vested interests. In essence, the result was that the machinery of government operated much too slowly. And in any regulative endeavor, slowness and indecision are seldom redeeming qualities.

In the final analysis, the 1965 political controversy over strip mining and the ensuing policy that developed were indicative of the hopelessness of the attempts of regional interests in endeavoring to overcome the political prowess of large corporations, firms that have long been accustomed to the rigors of life in the political arena. In securing

legislation which generally reflected their own interests, these narrowly confined corporate interests accordingly had little difficulty in warding off challenges by loosely organized bands of citizens. This misfortune was compounded by the overly sympathetic feeling among many of those people in key state government positions toward the interests of the strip miners. In light of these phenomena, the central issue surrounding the failure of the state apparatus to produce a sound policy in the mid and late 1960's seemed to be a question of knowledge. That is, the educational process by which people and the formal government apparatus learned about the necessity of alleviating or not alleviating strip mining's redistributive nature did not function to the benefit of the environmentalists. In fact, this process was consistently controlled by the strip mining interests. As a result, they basically determined the policy output.

The 1971 Controversy

The redistributive nature of Ohio strip mining policy continued largely unchecked into the early 1970's. With the rape of the land and the abundance of its related problems, new groups of Ohio citizens entered the state political arena in hopes of constructing a stringent strip mining regulatory policy. Prominent among these groups was, of course, CCASM -- an organization discussed in Chapter Three as one which exhausted a considerable amount of time in attempting to secure strong regulations, most notably at the state level. Any discussion of the 1971 controversy should seemingly

commence with an analysis of CCASM's activities, since on many occasions it seemed to be the focal point of the quest for policy change at the state political level.

In 1970, CCASM began making preparations for efforts to secure a new state strip mining policy. The major goal, of course, was to secure the approval of a solid state law which would ensure consistent protection of Ohio's citizens from the abuses of strip mining. By this juncture, the local citizenry had noticeably become much wiser and knowledgeable about the tactics to be utilized in trying to develop a workable policy. Many individuals had painfully learned that one simply did not write a bill and send it through the legislature in order to achieve the realization of stringent controls. In short, some of these people knew quite well that they had to utilize as many political weapons as they had available. Thus, CCASM, as was referred to earlier, appeared to have several distinct concerns while operating on the state political scene: (1) to educate the people of Ohio as to the unquestionable dangers of poorly regulated strip mining; (2) to mobilize considerable support for the anti-strip mining cause throughout the state; (3) to develop a strong legislative proposal for regulatory reform; and (4) to carefully plan for a well organized backing of its proposals in the legislative arena.

In its efforts to educate the state citizenry, CCASM employed an assortment of tactics. One of its more intelligent maneuvers was the utilization of individuals with past experiences in strip mining policy-making who were able to elucidate

the necessity of having tight strip mining controls. For instance, CCASM played a minor role in obtaining the services of Pennsylvania reclamation director, William E. Guckert -- a man who has observed the painstaking process of developing a good policy and who, as the virtual czar of the enforcement branch of the state's strip mining policy during the late 1960's and early 1970's, was familiar with the intricacies of the strip mining technique.¹⁰³ Guckert toured some strip mining sections of Ohio, speaking before gatherings of citizens and recommending the proper courses of action to take in attempting to obtain strong controls over the industry and thoroughly describing how Pennsylvania had managed to win the battle against the corporate interests.¹⁰⁴ In recalling the Pennsylvania battle for improved regulation, Guckert emphasized that citizen vigilance did much to win the strip mining war, as the following account indicates:

'But then industry had some of the senators ...they were in their (the coal industry's) control and they were giving us the business. Right then, in 1961, we marked the senators and representatives who were against us... and we took them out of circulation. We defeated them...We just went out and electioneered against them...The people are being fed up with this thing of being lied to.'

Guckert said the sportsmen of the state headed the fight against legislators who voted with the mining industry. 'We even unseated the speaker of the house'....¹⁰⁵

Guckert left a favorable impression on many Ohio citizens with his recollection of past experiences and his serious quest for an equitable policy.¹⁰⁶ His warnings about the dishonesty of the strip miners surely did not go unheeded, and

as newspaperman C. C. Mackey relates, such warnings were very explicit:

'You people in Ohio have one heck of a mess on your hands and you're going to be in the same predicament we were in (in) Pennsylvania in the 1960's,' said Guckert. 'They (the operators) were all lying to the people, telling the public...you'll put us out of business.'
 ...'In our state it (a strong policy) has made more jobs and we're saving the taxpayers millions of dollars....'107

As Guckert and people like John Laudadio, a Pennsylvania legislator, and Thomas Forester, an Allegheny County, Pennsylvania commissioner, spoke in areas outside of Belmont and Harrison Counties, other residents of the state eventually learned much about just how lenient Ohio had actually been in its policy toward the strip mining industry.¹⁰⁸

This educational process was complemented, in part, by CCASM's ability to encourage statewide newspapers to point out the negative ramifications of strip mining and the need for their solution. The group continually reported its functions and viewpoints to large Ohio newspapers, some of which were of considerable assistance. The early 1970's had become an era of great environmental concerns throughout the country and many large Ohio newspapers, no matter what the power of the coal industry was in the state, could not afford to turn their backs on one of the major environmental issues to confront the state and the entire country. CCASM also profited from the expertise of the Ohio branch of the Sierra Club which aided in influencing large Cleveland newspapers to take notice of the controversy. In addition, the Akron

Beacon Journal's excellent conservation writer, James Herzog, became involved with the strip mining controversy as he wrote numerous articles, frequently exposing the negligence of the state apparatus.¹⁰⁹

The onslaught developed by CCASM did not end here, however. Individuals like Colvin traveled throughout the southwestern and northeastern regions of the state, lecturing and speaking to groups of citizens about the problems of strip mining.

Once the Ohio political scene became a hotbed of strip mining controversy, CCASM had little difficulty in attracting the interests of the national media in covering the situation. National television networks devoted considerable amounts of time to the key issues. Also, individuals like Ben Franklin, conservation writer for the New York Times, gave close attention to the southeastern Ohio situation and wrote several stories about the devastations resulting from strip mining.¹¹⁰ It soon became difficult for many citizens in and around the State of Ohio to avoid hearing or reading about the necessity of halting strip mining destruction.

CCASM's trend toward utilizing the channels of communication was once again extremely well complemented by the work of Voneida and the Committee to Control Strip Mining. As was indicated earlier in this study, this group intended to educate the citizens of Ohio. It was also evident that they spent a considerable amount of time presenting their analysis of the redistributive situation to southeastern Ohioans. Nevertheless, outside of this coal mining region, the Cleveland

based organization also contributed more to the pro-regulation cause. Voneida himself made approximately 150 speeches throughout the state concerning the topic.¹¹¹ Other group members and he prepared a slide show demonstrating problems caused by strip mining, which was shown to many citizens in the state.¹¹² As a result of these educational efforts, the attention of many citizens in Ohio was swung toward a consideration of the environmental viewpoint.

In hoping to further mobilize support for controls over strip mining, CCASM and its cooperating groups also sought out as much assistance as possible from other civic-minded groups within the state. Eventually, organizations like the Ohio Young Democrats¹¹³ and the Ohio AFL-CIO¹¹⁴ threw support behind the pro-regulation forces. CCASM and the Cleveland based group also allied themselves with a Navarre, Ohio, organization, the Ohio Federation of Conservation Clubs, which had a membership of over 60,000.¹¹⁵ Soon, a large organization consisting of CCASM, The Committee to Control Strip Mining, and the Ohio Federation of Conservation Clubs evolved -- the Ohioan's Land Preservation Association (OLPA).¹¹⁶ Its purpose seemed to be one of endeavoring to focus public attention on the urgency of policy reform.¹¹⁷

The third major concern of CCASM, that of formulating a strong regulatory proposal for the state legislature, was the object of a considerable amount of work on the part of its members. Several southeastern Ohio residents extensively studied laws of the neighboring states in trying to ascertain what would be the most appropriate guidelines to include in

the proposed legislation.¹¹⁸ In considering the weaknesses and strengths of the various strip mining laws, this CCASM sub-committee was able to develop a strong set of regulatory proposals which received substantial publicity in the state.¹¹⁹

In the area of planning for the backing of reform-oriented proposals, CCASM and its affiliates operated far more intelligently than did their counterparts in 1965. Experts on strip mining regulation, who had fought for stringent controls in other states, were summoned by CCASM and related groups to testify. A sufficient number of technical experts were also obtained to hopefully aid in clarifying the environmentalist's position and to refute arguments made by the coal interests.

In trying to gauge the effect these four general tactics had in contributing to a sounder strip mining policy, one finds that CCASM and its related groups enjoyed considerable success. The education of a great many of Ohio's citizens about strip mining had been achieved. One needs only to examine the amount of public outrage against the strip miners throughout the state in 1971 or to consider the pro-conservation editorials which surfaced on the pages of Ohio's leading newspaper , the Cleveland Plain Dealer. In attempting to mobilize support in other areas of the state, the environmentalists and enraged citizens, as has been illustrated earlier, met again with good fortune. By 1971, the strip mining controversy was no longer simply a battle between regional interests and a large economic powerhouse. It was instead a battle between a very formidable coalition of statewide

interests and powerful corporations -- a fight that was relatively new for the coal men. In the areas of legislative proposals and planning the anti-stripping interests were well prepared, much better prepared, in fact, than at any other time in the history of Ohio strip mining policy-making. So, as the time for the legislative struggle approached, those Ohio citizens in favor of stringent regulations remarkably held a noticeable edge over the established, vested interests in securing the necessary tools with which to win the battle.

This newly acquired foothold in the strip mining policy-making process was enjoyed by the pro-regulation interests, not only because of the success of their own particular tactics, but also because of an unusual lack of planning on the part of the strip miners. As noted previously, the strip mining policy battles prior to the 1970's had been characterized by corporate victories over a few individuals or weaker regional factions of conservation advocates. The confinement of the problem to the coal region of the state and the fact that the issue seldom expanded to other areas of Ohio had long afforded the industry the opportunity to control the problem of dissent pretty much as it pleased. Chapter Three has already displayed the way in which strip miners defended against reform-oriented opposition. In fact, all the strip mining interests had to do in those days was to frighten the citizenry by arguing that tight controls would result in the destruction of the industry. This strategy was, of course, complemented by public relations campaigns informing the region of the

good intentions of the mining interests. Yet, in the 1970's these powerful corporations appeared to fall asleep, at times failing to strike at policy reform with the vehement resistance for which they had long been notorious. They did maintain their publicity programs in the state, and they did continue to argue that the industry was, in fact, operating under a fairly good regulatory policy already. Nevertheless, their excuses and arguments were no longer legitimate to a great number of Ohioans. State residents had already heard the same battle cries much too often, and by 1971, the traditional coal corporation propaganda tactics had ceased to be effective. In light of these developments, one major question must be raised: Why did the coal men fail so miserably in the areas of retaliating against the movements of Ohio's citizens groups and their affiliates? Regular observers of the Ohio political scene insist that the strip miners never actually envisioned the possibilities of anti-stripping movements disseminating into other sections of the state; in addition, they did not conceive of the force of the ecological revolution which was sweeping across the country. Therefore, the industry was lodged in a rather precarious position -- what kind of tactics could it now employ to defend its well-being? Perhaps an equally important reason for the industry's lackluster performance was that while the coal men had operated with one type of political psychology in defeating the southeastern Ohioans for such an extended period of time, they were never able to sufficiently alter their strategies to deal with the newer sort of challenges which arrived in

the 1970's. Statewide interests and greater ecological concerns provided for different political forces from the ones which attacked the strip mining industry in previous years.

Faced with the rising strength of anti-strip mining forces, the coal men really could follow only one basic political strategy. In essence, they could not afford to appear that they were defying public opinion, because this would likely cause even greater displeasure among Ohio citizens. Thus, in this observer's estimation, it appeared that the coal men decided not to openly compete with public opinion, but to wait for opportunities where they could quietly utilize the policy-making apparatus to their advantage. Naturally, the coal men were waiting for public sentiment against them to die down substantially before they could make serious efforts toward controlling the policy-making apparatus. It is likely that the strip miners believed that they could control one of the major links in policy-making -- the legislative arena -- in a rather quiet manner. And if this tactic failed, they could wait patiently for public opposition to subside in the future.

The 1971-72 Legislative Struggle

In 1971, the dreams of many advocates of stringent strip mining legislation inched closer to becoming reality as Minority Leader A.G. Lancione introduced a CCASM-formulated strip mining bill which consisted of a host of proposed regulatory measures. These proposals for new legislative action

were surely some of the strongest the General Assembly had witnessed -- with strong language and guidelines concerning reclamation, pollution of water, and administrative measures being just a few areas of improvement over previous legal standards.

A.G. Lancione's stringent bill kicked off the serious quest on behalf of many anti-stripping citizens in Ohio for utilization of the formal machinery of government to ensure the establishment of an equitable policy. Eventually, Lancione's guidelines for regulation were basically combined with those of Representative Sam Speck (R-New Concord) into Substitute House Bill 928. This proposal still appeared to be one of the more stringent strip mining bills ever to enter the Ohio legislative arena.

In comparison to past legislative battles, the bill moved through the Ohio House without a continual stream of obstructions or large opposition. Several factors appeared to guarantee its warm reception. For one, the environmental fervor which was burgeoning throughout the state definitely had to make the representatives conscious of the possibility that if they vehemently provided great opposition, much of the general public might tend to view them unfavorably. No one apparently could afford to be even slightly labeled as being against the health and welfare of the state's citizens. Also, since Ohio's rather popular Governor John Gilligan had almost totally supported A.G. Lancione and the idea of an equitable strip mining policy, the extra ingredient necessary to aid in pushing the proposal through the Ohio legislative

arena was present. Finally, since Gilligan would apparently have vetoed any weak bill, the Republicans in the House who did not favor such strong measures must have realized that it would be virtually impossible to secure the necessary votes to override him.¹²⁰ Overriding the Governor would have, of course, required the compliance of a Democratic faction that was outwardly in favor of a stringent policy.¹²¹

Even more interestingly, the bill really underwent no wholesale changes when it was scrutinized by the House Environment Committee. In fact, House Bill 928 and other strip mining regulatory proposals were subjected to months of diligent study by the committee and its subcommittee. When House Bill 928 emerged from the House Environment Committee with many of the concepts of A.G. Lancione and Speck in tact,¹²² some statehouse observers remarked that the legislators were just responding to tremendous public pressure.

When brought before the floor of the House in the fall of 1971, these regulatory measures were acted upon with great sympathy toward the needs of Ohio citizens.¹²³ One state legislator has offered this account of the situation:

Major sponsors Sam Speck...and A.G. Lancione ...explained the bill's provisions and why enactment...is vital.... Kenneth Creasy...outlined in detail the flaws and loopholes in Ohio's existing, ineffective strip mining legislation. I rose to add a grim history of the strip mine industry's successful efforts to gut a similar bill in 1965. Then it was time for amendments to be offered. For a moment, it looked as if there would be no offering of the adverse amendments which several members had prepared. Finally, three amendments were offered. Opposed in debate by HB 928's sponsors, the

amendments were summarily rejected by an overwhelming majority. No member of the House wanted to be on record voting against the strip mine bill. Only a handful were willing to be on record supporting amendments which could be construed as crippling.¹²⁴

In light of this description, it is not very surprising to discover that the Speck-Lancione proposal passed the Ohio House of Representatives in the fall of 1971 by a unanimous 92-0 vote.¹²⁵ A review of the measures adopted by the committee indicates the apparent serious intentions of House members toward alleviating the redistributive nature of strip mining in Ohio.¹²⁶ For example, highwalls remaining after mining operations were to be removed.¹²⁷ Ohio citizens would be allowed to bring suit against officials of the state government who were neglecting proper enforcement of legal requirements for reclaiming the land.¹²⁸ The language regarding reclamation was also more than sufficient, especially with the provision that continuous reclamation* would have to start only three months following the actual mining operation.¹²⁹ This could ensure more of an opportunity for quicker and probably more responsible reclamation of the terrain. More importantly, the requirement was made that the strip miners must have a liability insurance of \$100,000, which would protect against financial losses of property damages caused by strip mining operations in their vicinities.¹³⁰ Finally, the reclamation board would be made larger, being increased from five members to seven members, with the two additional members being chosen from the public.¹³¹ All of these measures, in addition to other strong points in the

language of the bill, were a significant improvement, to say the least, over the meaning of the 1965 statute.

With the relatively easy passage of the Speck-Lancione proposal in the House and the entrance of the bill into the Senate in mid-November of 1971, the strip miners unleashed a glimpse of their old political vigor by allegedly calling upon some "friends" in the upper house for a bit of assistance.¹³² Once again, the imposing figure of Senator-strip miner Oakley Collins, certainly no enemy of the coal interests, appeared to bring yet another possible threat to the interests of those citizens favoring stringent strip mining controls.¹³³ Collins allegedly "had the ear" of Senator Theodore Gray (R-3, Piqua),¹³⁴ the Majority Leader in the Senate, and as one newspaper put it, the Ironton politician "was allegedly instrumental in getting the Speck Bill assigned to his committee, the Urban and Highway Affairs Committee, rather (than) to the Environmental Affairs Committee where it rightfully belongs."¹³⁵ With the assignment of the bill to the Urban and Highway Affairs Committee and with Collins and a couple of other Senators serving on said committee who were reputed to be less than ecstatic about environmental protection, it appeared that the conservationist cause was on the verge of experiencing a major setback. In the session before the introduction of these strip mining measures, Collins himself allegedly played a major role in killing a bill regarding the regulation of operators of heavy equipment -- such as the type utilized in the vicinity of strip mining operations which often create damages on and around public roads.¹³⁶ Thus, by the winter

of 1971 it looked as though the coal men had used one of their major weapons in the state legislature.

However, despite the fact that the strip mine lobby now had the opportunity to severely curtail the effect of the legal requirements, the anti-conservation interests on the committee and the industry were stymied in their efforts to successfully gut the law. As the coal men were vigorously attempting to weaken the bill, several factors seemingly worked against their cause. First, Collins had received negative publicity regarding his strip mining work and some of his personal problems.¹³⁷ One Ohio newspaper gave this description of Collins' mounting troubles:

On July 23, 1971 the U.S. Forest Service accused the Collins Mining Co. of illegally strip mining in the Wayne National Forest.Collins was released from tax liens of more than \$30,000. These write-offs were illegal as they were 'authorized' by Lawrence County officials...Ohio law states that tax write-offs or remittances can only be made by the state tax commission. Oct. 7, 1971, the Ohio Bureau of Workman's Compensation publicly reported that Collins failed to make back payments totalling over \$46,000 since 1968. Subsequent to that announcement, Collins paid up.¹³⁸

Second, the strip miners did not change their mode of operation in the legislative arena to combat against unfavorable proposals. Again, they repeatedly presented the traditional rhetoric that stringent measures would inevitably drive the strip mining industry out of the state. But the public simply did not deem this argument to be a legitimate one.

Lastly, the conservation-oriented citizens did not sit idly by, observing the efforts to destroy a potentially good law. Citizens groups and their leaders acted much like political watchdogs, carefully noting the movements of the strip mining industry and its supporters and taking great pains to emphasize to the media the efforts of the vested interests to weaken the law and its effect. Occasionally, numbers of citizens were present in Columbus in hopes of guaranteeing that nothing concerning the strength of the legislative proposals would be subject to a facelifting by the feared political savy of the strip mining industry.

It continually seemed that public opinion was overwhelmingly on the side of the conservation-minded citizens. Growing statewide and nationwide exposure of the strip mining war placed the Ohio controversy on the center stage as one of the state and country's key environmental policy questions of the 1970's. The upswing in favor of strip mining controls was still occurring.

The influence of public sentiment is best reflected in the reactions of the Senate committee members themselves. On the verge of initial hearings in mid-November of 1971, one committee member muttered, "If we weaken the bill at all, we'll be attacked from all sides for selling out to the strip mine lobby...."¹³⁹

Despite the awareness on the part of some committee members of the growing sentiment against strip mining interests, and although the industry had been thwarted in its efforts to weaken the bill, the committee still managed to take extra

measures in order to kick the bill around even further. Nevertheless, the lingering possibilities of a rewriting of the proposal, especially with the interests of the coal men in mind, did not fully develop. Public opinion against the strip miners remained consistently high and was complemented by the vigilance of ecology advocates who continued to mobilize support against the industry in the winter months of 1972.¹⁴⁰ For example, the Statewide Ohio Coalition to Control Strip Mining had continued to inform the public through publicity campaigns that the strip mine threat still remained in the state legislature. This coalition consisted of members of the following: Citizens for Clean Air and Water, Sierra Club, Ohio Jaycees, League of Women Voters, Izaak Walton League, Ohio Public Interest Action Group, CCASM, and the Ohio Audubon Society.¹⁴¹ Encouraging the public to become concerned about and involved in the issue, the Coalition bolstered support of a sound policy, especially in northeastern Ohio, and also in the critical months when the strip miners were making their biggest power play.

Because of the general failure of pro-strip mining interests to overcome substantial public opinion, the bill left the Senate committee without being drastically changed. Thus, in the spring of 1972, with little dissent expressed on the floor of the Senate, one of the strongest strip mining bills ever to appear in the General Assembly was approved by a vote of 30-0, giving the Speck-Lancione backed proposal

unanimous endorsement.¹⁴²

In retrospect, it seems that the powerful corporations could have prevented the enactment of the strong 1972 strip mining law if they had previously taken careful steps to plan to weaken statewide opposition. Instead, they still believed that they could outmaneuver their opponents. By the time the battlelines had been drawn in the Senate, the coal men were for the first time, pictures of desperation. They seemed to depart from their long used strategy of quietly taking control of the legislative process. Their actions did much to project this novel image. In fact, the corporate powers employed some tactics which were simply uncouth and stupid. For example, one coal industry official, during the zenith of legislative controversy, maintained that if the regulatory proposals were not weakened, he would dismiss well over 1,000 of his mine workers from their jobs and take the industry out of Ohio.¹⁴³ Immediately, many Ohioans looked upon such a threat as an effort to blackmail the state into easing up on its legal standards. Even Governor Gilligan wasted no time in soundly criticizing such an outburst, remarking that, "I hope members of the Senate resist and reject the brazen and brutal attempt of the president of a giant coal company to blackmail this government by threatening the livelihood of hundreds of miners and their families."¹⁴⁴

The ridiculousness of the strip miners' actions was

further portrayed by an incident which occurred at the state capitol building in March of 1971. Allegedly, angry strip miners threatened some Case Western Reserve University students who had expressed concern about the strip mining problems.¹⁴⁵ One miner reportedly told a Case Western Reserve sophomore: "Let's go outside, I fight anyone who takes the bread off my table."¹⁴⁶ With news of this incident spreading to the public, the position of the coal interests was probably further weakened.

Other newsworthy incidents contributed to the declining status of the strip miners in the eye of the general public in Ohio. On March 15, 1972, the Cleveland Plain Dealer reported that the coal industry and some of its cooperating industries were allegedly being represented in Columbus by five unregistered lobbyists.¹⁴⁷ Not registering as a lobbyist, the article pointed out, was a violation of the Ohio code and possibly a punishable felony.¹⁴⁸ More importantly, the story made no attempt to hide the evidence as to who four of these lobbyists were affiliated with, clearly stating that according to two legislators close to the scene, the lobbyists allegedly worked for several members of Ohio's energy bloc.¹⁴⁹

An additional embarrassment for the coal interests came when the Sierra Club, in a complaint to the Federal Trade Commission, accused the Hanna Coal Company of false advertising practices in Ohio and West Virginia; these advertisements

supposedly implied that electrical "brownouts" would be the end result of the approval and implementation of the proposed strip mine regulations.¹⁵⁰

The previous evidence unquestionably illustrates the degree to which the strip miners had virtually inhibited their own cause. The fact that they did little to alter their approach to controlling the legislative facet of the state policy process was in part, the catalyst necessary for the mounting public outrage that the conservationists and anti-strip mining groups needed to have behind them. It is quite likely that such desperate tactics actually hastened the coming of tighter strip mining controls.

The 1972 Law and Its Administration

The legislative proposal approved by the General Assembly in 1972 could very well be the strongest, most conservation-oriented strip mining law ever promulgated in this country. Generally absent from the law are those slippery phrases and unclear requirements so characteristic of previous Ohio statutes. In fact, most of the necessary regulations and requirements are very clearly defined and explained.

Key provisions relating to many stringent aspects of strip mining regulation are present throughout the state law. The minimum bonding for any strip mining operation is set at not less than \$5,000, a significant improvement over previous laws.¹⁵¹ Also, the reclamation chief has the authority to determine the amount of bond to be paid -- thus, making it likely that bond may be set considerably higher than the

\$5,000 minimum.¹⁵²

A second major strength of the law, and one that ensures closer citizen participation in the actual regulatory process, is one which provides for the filing of an appeal against the state when a citizen believes state officials are not properly enforcing the law. Therefore, negligence on behalf of the strip miners can be brought to the attention of the government by any of the state's citizens.

In the area of pre-planning of reclamation, the law is even more exact in its demands, providing for testing of the vicinity to be strip mined and a rather sophisticated plan regarding the manner in which the land is to be mined and reclaimed.¹⁵³ These matters must be dealt with before a license to strip mine can be issued.¹⁵⁴ Section 1513.07 of the code states:

An application for a license shall...contain
...: A report of testing in the area of
land to be affected, which shall include the
location of test boring holes in the area
and the results of the test borings, in-
cluding the nature and depth of overburden
and material underlying the coal seam, the
thickness of the seam....

A complete plan for mining and reclaiming
the area of land affected, which shall in-
clude a statement of the intended future
use of the area, which may include water
impoundments....¹⁵⁵

The demands made in this section are, by comparison, substantially improved over those regarding reclamation planning and pre-planning* in the 1965 law, especially concerning the procurement of a license.¹⁵⁶ As stated earlier in this study, the 1965 statute did not require that the operator present a

sophisticated reclamation plan in order to be issued a license.¹⁵⁷ The very specific requirements for pre-planning in the 1972 law are more than favorable to the Ohio public, since one of the chief concerns of any strip mining regulatory policy should be to ensure that the enforcing agency attain considerable knowledge of the nature of the strip mining operation to take place and the restoration activities to follow.

One of the more important strengths of the 1972 law lies in the provisions stated concerning reclamation practices themselves. For example, the schedule by which the operator must restore the stripped terrain is considerably better than in past years. Basically, the land must be reclaimed within "...twelve months after the end of the license year, or within twelve months after the operation is terminated, completed, or abandoned, whichever occurs first."¹⁵⁸

Reclamation time may only be extended in instances where the operator may need to remove only shale or clay while in the process of mining for coal.¹⁵⁹ An additional 1972 provision, and an extremely important one, is that the top soil of the strip mined land has to be saved and replaced on the land, unless the chief of reclamation approves other means of conditioning or replacing the soil.¹⁶⁰ Topsoil must be segregated and placed in a separate pile while the mining operation is in progress,¹⁶¹ ensuring more efficient means of rejuvenating the terrain.

The new statute also includes sufficient language needed to deal capably with the problem of explosives used in strip

mining operations. Explosives have long been the creator of many personal and property damages in strip mining locales. The 1965 law had no actual regulation of the usage of explosives,¹⁶² but the 1972 provisions are quite appropriate. As the following passage from the new law indicates, the language concerning regulation of these dangerous techniques is fairly specific:

Before an explosive is set off, sufficient warning shall be given to allow any person in or approaching the area ample time to retreat a safe distance. The chief shall adopt rules establishing procedures and minimum distances for setting off explosives in the vicinity of occupied or usable buildings or dwellings and public roads, in order to prevent injury to persons and property.

....No blasting shall be done within the prescribed minimum distance unless prior written consent of the owner of the building has been obtained.¹⁶³

In addition to the previous standards, penalties for negligent operations by miners are rigorous. For instance, an operator who is found to be strip mining without a license is fined a total of \$5,000, plus \$1,000 per each acre of land affected and the requirement to complete reclamation as deemed necessary under section 1513.16 of the statute.¹⁶⁴ Again, by comparison, Ohio laws prior to 1972 were more vague and less strict in their imposing of fines or penalties for mining without a license.

Finally, the legislature made an excellent decision by incorporating an excise tax on the extraction of coal.¹⁶⁵ The tax guidelines set-up by section 5749.02 of the code tend to ensure that some type of financial measures will be taken

to halt the exploitation of the state for this valuable mineral resource. Tax monies under this requirement are to be utilized for "environmental protection activities",¹⁶⁶ another admirable feature of the law.

Administrative duties under the 1972 law are more clearly defined, also. Responsibilities for administration are delegated to the Division of Forestry and Reclamation of the Ohio Department of Natural Resources and to an improved Reclamation Board of Review.¹⁶⁷

The reclamation division administrators are afforded much better opportunities to enforce the law, primarily because the language of the statute supplies them with clearer explanations of how strip miners shall comply with the various regulations. In the vital area of licensing, for example, there are a considerable number of guidelines which permit the chief of reclamation and his associates excellent opportunities to determine if a license to operate shall be granted or not. Considerable rule-making power has also been given to the chief.¹⁶⁸ This administrator may adopt or promulgate certain types of rules to aid in clarifying the law's requirements in such areas as planning and reclamation, a significant improvement over the 1965 provisions that basically limited the rule promulgating process to the internal management of the division.¹⁶⁹ Some rules may be thought to be unconstitutional by the coal men, but nevertheless, it is likely that a large percentage of these minor regulations will be consistently employed by the enforcing agency.

The strengthening of the Reclamation Board of Review

adds to the division's newly acquired competence, providing the administrative networks with sufficient power to properly deny licenses, enforce penalties, and the like. A major improvement has occurred in the area of the board's personnel, where the number of members has been raised from five to seven.¹⁷⁰ This presents the citizens of the state with more power in the area of key enforcement positions, since the board is now a more balanced one-- containing three public members, one representative of the coal strip mining industry, one individual with sophisticated knowledge of forestry, an agronomist, and an earth-grading expert.¹⁷¹ A strong board, with substantial public input, is a necessary tool in effective administration. Ohio has seemed to move in the right direction by incorporating this framework.

More conclusive guarantees in the law for the funding of such things as reclamation operations by the administrative agency and also, better cooperation by some other parts of the state government machinery have served to help equip the enforcement bureau with improved financial backing and manpower.

One needs only to observe the manpower and organization of the current Division of Reclamation in order to comprehend the seriousness of the state's desire to enforce the law. The enforcing agency is, in short, nearly completely improved over its shoddy nature of the years between 1965 and 1972. The number of inspectors has practically been tripled,¹⁷² assuring visitations and investigations of strip mining operations at a frequent rate. In addition, there is much

more technical help available, especially in areas regarding actual strip mining operations and also, with legal difficulties. For instance, the division now has the services of a full-time lawyer, supplied by the Attorney General's office, who works with matters related to violations of the law by the strip miners.¹⁷⁴ In the areas of clerical, fiscal, inspection, technical, general administration, and legal activities the state seems to have a very well equipped administrative agency functioning to reduce the redistributive nature of strip mining.¹⁷⁵

The developing expertise in the administrative agency, coupled with the stringent provisions of the 1972 law, have begun to erase the image of Ohio as the nation's most lenient major strip mining state in regard to overall policy. While it is surely much too early to gauge the effectiveness of this policy change, there have been some signs of improved environmental safeguards on the part of the strip miners. Several southeastern Ohio citizens who have sufficient knowledge of the nature of strip mining activities commented in the summer of 1973 that reclamation practices and similar restoration operations in their own vicinities were more than adequate. One St. Clairsville area resident remarked that there was an increasing amount of good reclamation activity in his locale. Furthermore, some observers of the state political scene maintain that the affinity which has long existed between the enforcement agency and the

coal men has subsided. Supposedly, the agency is a bit more concerned with minimizing societal abuses rather than constantly issuing licenses.

Other Recent Policy Developments --
The First Signs of the Destruction of
an Equitable Policy

Despite the passage of the strong 1972 strip mining law, the development of a more prepared and vigilant administrative branch, and signs of less damaging strip mining activities, there are preliminary indications that the citizens of Ohio may not yet be escaping the threat of a continuing redistributive policy. Without hesitation, the monied strip mining industry has gone to work, attempting to delete some of the strengths of the current Ohio policy in more ways than one.

In 1972, Governor Gilligan appointed Theodore Voneida to a place on the state's Reclamation Board of Review.¹⁷⁶ This was, indeed, an advantageous development for the Ohio citizenry, for Voneida's knowledge of strip mining could have only benefited the review board. However, late in 1972 Voneida was denied the position on the board when the Ohio Senate voted not to approve the Governor's selection.¹⁷⁷ The activities surrounding this incident, according to one Ohio newspaper, were most peculiar.

On Oct. 27, the five member Senate Rules Committee, headed by Senate President pro-tem Theodore M. Gray (R., Piqua) recommended Senate approval of Voneida's reappointment.

On Dec. 15, the same five were among 22 who rejected the reappointment of the Case

Western Reserve University Biologist.
What happened between Oct. 27 and Dec. 15?
Ted Voneida has some opinions on that.
The coal industry made its weight felt,
he's sure.¹⁷⁸

It was reasoned that since Voneida was much too outspoken against the strip mining industry, he could not possibly act objectively while serving on the board. As a result, the Senate blocked Voneida's appointment by a lopsided vote. These senators apparently devoted little thought to the fact that the board already had one member who was a representative of the strip mining industry. Could it be that such an individual was not already even slightly biased toward the industry point of view?

Even Gilligan failed to display his usual vigor for environmental protection, generally refraining from strongly pushing for Voneida's reappointment. Thus, the state has lost the services of an individual who conceivably would have contributed to the construction and maintenance of a sound strip mining policy.

The influence of the powerful corporate interests is further displayed by several recent legislative proposals made in the Ohio General Assembly, measures that could simply destroy the strength of Ohio's new strip mining law and therefore allow the coal men to live much more comfortably. As one environmentalist has written:

Now, it seems, the year-old law is under intense attack again from the same powerful, monied industries and their friends in the Ohio Senate...They are evidently relying on the confidence (or waning interest?) of strip mined control advocates that, having passed

a law, the job is done. They can then try to quietly sneak through bills and amendments....¹⁷⁹

The epitome of the crusade to weaken Ohio's strip mining policy is lodged in a recent Senate legislative proposal by Harry Armstrong (R-Logan) and Robert Secrest (D-Cambridge).¹⁸⁰ Among the several dangerous provisions in this bill is the requirement that the strip mine operator must reduce water pollution caused by acid from the mine, rather than prevent it, as the present statute requires.¹⁸¹ In addition, as one environmentalist has noted, the bill would "...insert the catch that an operator should not knowingly mine contiguous land exceeding the limits of his license. Conceivably, he could mine well beyond his legal boundaries and claim ignorance as a defense...."¹⁸²

Opportunities for passage of provisions or amendments like those offered by Armstrong and Secrist appear to exist, especially in light of the belief by many Ohio citizens that the General Assembly contains enough pro-industry legislators to swing a few weakening measures through its two chambers. Also, a lessening of citizen vigilance would seem to further guarantee the destruction of a good policy.

The strip mining interests, however, have not confined their quiet activities to just the legislative arena, for they are involved in some important court proceedings as well. In fact, the industry itself has truly displayed its selfish intentions by recently filing a lawsuit which challenges the constitutionality of the rules adopted by the reclamation chief. These proposed rules are basically clarifications of

the regulations already written into the actual law.

Reportedly, the mining interests have boldly charged that every rule promulgated is unconstitutional.¹⁸³ At last notice, these rules were tangled up in a court battle, and it was feared that a decision may not be reached for some time. As noted previously, these rules tend to add more strength to the total effect of the law, but they are of little use while being argued over in court. One reclamation division official estimates that 80 per cent of these rules will eventually go into effect. However, each day they remain ineffective affords the strip miners another opportunity to limit environmental safeguards and pass the negative results onto the general public. When one examines the continuing efforts of the strip mining interests to weaken the effect of the existing policy, a major question arises: What have the state's citizens, who have been so politically involved over the past few years, done to defend against the reasonably quiet, but yet potent onslaught by the coal men and their allies? The most candid answer appears to be that the political vigilance and participation, which were characteristic of the environmental cause in Ohio in the years 1969-1972, have fallen off significantly, although not completely. Admittedly, some Cleveland area citizens have complained loudly about the rejection of Voneida from the reclamation board. Conservation-minded organizations like the Sierra Club have kept a watchful eye on legislative developments in recent months.¹⁸⁴ Also, Barnesville's major anti-stripping group, CODE, did manage to take time to pressure

the state administrative agency into considering adopting additional rules more quickly, while indicating some of its own ideas about what the rules should be utilized for.¹⁸⁵ So admittedly, there has been some activity on behalf of environmentally-oriented citizens and groups. Yet, it has not been nearly as frequent as in the very early 1970's. The citizen interest, at least outwardly, in sustaining a sound policy has suddenly become just a bit feeble. One member of CCASM, who greatly fears the decline in interest, has said that many of the Ohioans who favor strong strip mining controls believe that once a law is written it automatically becomes self-enforcing, that the entire stringent policy is therefore ensured. Somehow, the citizens believe that the job has been completed and that now the government will protect them. All one needs to do is consider just how many of the ecology and citizens groups are now actively functioning. CCASM, one of the main organizations seeking a stringent policy in the early 1970's, has practically disintegrated. In fact, it is not really active at all. Similar groups around the state have fallen into obscurity within the past year.

Yet, the story of citizen disinterest does not end with a mere description of their lack of knowledge concerning the politics employed by large corporate interests. The simplest, yet most important fact surrounding the recent battle for improved strip mining policy is that the citizens who were so vigorously involved in the controversy are tired -- in many cases, mentally and physically worn from the pain-

staking process of overcoming the obvious advantages owned by the vested corporate interests and employed in the political arena. The sacrifices made by some citizens have eventually affected their personal lives substantially. This observer has seen and spoken with many of the participants in the environmental cause. They are often bored with describing their roles and talk endlessly of how they frequently neglected their daily jobs and thus suffered financially in the end. Many clearly just want to return to a normal life.

In the final analysis, the fight for a stronger strip mining policy in the 1970's resulted in another typical battle between citizen and corporate interests. On this occasion, the part-time politicking scheme succeeded, at least momentarily. Nevertheless, it did not occur without producing side-effects which may soon prove to be quite dangerous to the environmental cause. Many of the concerned citizens of Ohio have started to fall asleep and have begun to lose their political watchfulness. This observer is not at all optimistic about the chances of Ohioans continuing to maintain their political awareness and savy. It definitely appears that they may lose a good deal of the meaningful reforms that were worked for so diligently in the early 1970's, for they have not come to realize that proper regulation of strip mining is a never ending duty of not only the government, but its citizens.

Conclusion

Ohio state government should play a strong and functional role in safeguarding against the redistributive nature of strip mining in the southeastern region. The impact of the industry's operations on numerous southeastern Ohio citizens in such an adverse fashion implies that state government must take careful steps to eliminate the very real dangers left in the wake of strip mining. Furthermore, strong legal bases exist for the establishment of a stringent strip mining policy, formulated and administered by the state apparatus. Because of these specific responsibilities, state government would seem to be the proper station in the network of the U.S. political system in which to place the bulk of regulatory responsibility. However, the history of state government's regulatory practices has illustrated that much is left to be desired in the way of stringent controls. In fact, close scrutiny of approximately twenty-five years of attempts to control an extremely dangerous industry tends to indicate that the policy outputs are not frequently advantageous to many of southeastern Ohio's citizens.

This blatant disregard for the public well-being has developed in accordance with several conspicuous political occurrences. Perhaps the major reason for the half-hearted state response to the redistributive nature of strip mining lies with the fact that the coal industry has enjoyed a political "head-start" in comparison to those other societal forces which have had an interest in either investigating or regulating stripping. Since the industry's operations and

their effects on society are understood by Ohioans in a slow manner, the process of controlling strip mining properly is very sluggish. It seems as if the coal men are seldom on the brink of being regulated efficiently. In effect, the strip miners often permit state government and its citizens to believe that they are regulating the coal mining operations in a correct fashion, when in actuality the state apparatus is not controlling the coal men well enough at all.

The lethargic nature of improvements in state strip mining policy has been fostered by both the political power of the coal corporations and the general lack of strip mining knowledge and political savvy on the part of Ohio citizens. As a result, the strip miners have often controlled the legislative process, actually determining to a great extent what guidelines are incorporated into the regulatory scheme. The 1964-65 legislative battle and the resulting law is an excellent example of the way in which the corporate interests have virtually constructed policies according to their own particular needs. Furthermore, this successful political activity on the part of the strip miners has been compounded by the state machinery's habit of bending over backwards in trying to ensure that the "sacred" coal industry would not be driven out of business by "unreasonable" regulatory standards.

The oversights made by the legislators have often taken their toll in the area of administrative responsibilities, also. Seldom have the enforcing agencies been granted the proper power or handed the necessary expertise to responsibly oversee the operations of the strip miners. It seems proper to insist

that not only has the state legislature generally failed to comprehend the necessary means by which to eliminate redistributive problems, but that it traditionally has avoided admitting that much of the reason for administrative laxity lies with the General Assembly's own disregard for becoming educated about the industry's operations. Thus, both the legislative and administrative branches have long had only miniscule knowledge of how to efficiently regulate strip mining. Even more importantly, the hamstrung administrative agencies seem to "compromise" quite frequently with the coal men, rather than regulate them.

A final important area of the state policy process is discovered when one considers the nature and composition of the forces which have molded the strip mining policy outputs. For years, the coal men controlled key areas of the policy-making apparatus (the articulation, formulation, and legitimation areas only to name a few) while warding off challenges from a few reform-minded politicians, key state officials, and unorganized factions of citizens who were asking for the establishment of a stringent regulatory policy. However, as was described earlier in this chapter, the complexion of the political battle changed in the early 1970's and the citizens eventually appeared to win decisively in their contests with the strip mining industry. This seems to imply that statewide interests in regulation, coalitions of reputable community organizations and groups, and extreme political vigilance can overcome the strength of corporate power at least temporarily at the state political scene. Yet, this policy deve-

lopment raises a major question: How long can this type of political force be sustained? Winning the policy battles in Ohio's state political system requires that the participants do not fade from the scene, but that they remain at the political battleground and protect their interests. However, the anti-strip mining interests have never remained consistently close to the policy-making apparatus of state government machinery. The reasons for this deficiency in citizen participation are not difficult to comprehend. In brief, the demands (economically, time-wise, and expertise-wise) that are placed on citizens who attempt to secure a sound regulatory policy tend to be a bit beyond their capabilities. The fact that those who seek to establish sound strip mining policy are usually only part-time political activists guarantees that the real public interest is never fully represented in the state political arena.

In conclusion, it must be argued that with the coming of tighter regulatory measures in 1972, the state apparatus has at least begun to erase some of the stain from its reputation. Nevertheless, the development of a more stringent policy has come after years and years of very minor improvements in regulatory standards. More importantly, it is not at all certain as to whether or not the current strip mining controls will continue to remain in use. Thus, the outlook concerning the continuance of a reasonably equitable policy is not particularly encouraging.

Footnotes

1. U.S., Environmental Protection Agency, Legal Problems of Coal Mine Reclamation (Washington, D.C.: Government Printing Office, 1972), p. 107. See also Arnold W. Reitze, Jr., "Old King Coal and the Merry Rapists of Appalachia," Case Western Law Review, XXII (June, 1971), 661.

2. U.S., Environmental Protection Agency, Legal Problems, p. 107.

3. Ibid., p. 108.

4. Ibid.

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6. Reitze, "Old King Coal," 665.

7. U.S., Environmental Protection Agency, Legal Problems, p. 113.

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9. Ibid., p. 116.

10. Ibid., pp. 116-7.

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12. Ibid.

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45. Ibid.

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55. Ibid., 696.

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58. Ibid., 697.

59. Ibid.

60. Ibid.

61. The author has arrived at this conclusion because of the arguments made by Reitze. See "Old King Coal," 697.

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CHAPTER V

STRIP MINING REGULATION AND ITS
FUTURE IN THE POLITICAL ARENA

Findings of the Study

The preceding historical-political analysis of the local and state facets of Ohio strip mining policy indicates that attempts to regulate the industry have met with various successes and failures. Although successful efforts at alleviating the redistributive nature of strip mining have been made, they appear to be most infrequent in comparison to the setbacks which have characterized this policy-making process. This is not to say that some definite improvements in policy have not been realized. Indeed, some of the redistributive problems of strip mining have been alleviated occasionally. Undeniably, this claim is supported when one examines the influence of state citizens groups in convincing politicians and other state residents of the urgency of policy reform during the early 1970's. This influence is not only reflected in the resulting 1972 strip mining law, which is fairly stringent, but is also evidenced by the positive actions of important public servants toward improving strip mining policy. Key state officials seem to be more cognizant of the devastating results of this mining technique and its adverse effect on society. Not surprisingly, the state apparatus now basically affirms this apparent awakening to the needs of Ohioans, because administrative powers and responsibilities are, for the first time in the history of Ohio strip mining policy, more clearly delegated and recognized.

In essence, the early 1970's marked the first occasion on which a considerable amount of success was enjoyed by the citizens in endeavoring to construct an equitable policy.

Despite these gains, however, successes throughout the years of strip mining policy-making have been extremely limited. That is, any improvements in policy prior to 1972 were only marginal at best. An examination of three of the essential areas of the strip mining policy-making process (local government, the state legislative arena, and state administration) suggests that the history of Ohio regulation must be described as dismal. In none of these prominent areas of policy-making has there been an ability to function in a consistent manner in trying to ensure stringent regulation of the industry. Local regulation has long been practically non-existent, although opportunities for restraints on the operations of strip miners clearly exist. Also, for the most part, the state legislative arena has not been responsive enough to the needs of the citizens, and even at this juncture there is considerable doubt that the lawmakers will continue to press for an improved policy. Furthermore, administrative failure has been all too common and despite the most recent changes and new delegations of power, this apparatus has not yet proven that it is contributing fully to stringent policy development.

In light of these key factors and other related ones discussed throughout this study, it must be argued that Ohio strip mining policy has failed to meet the state's obligations of protecting its citizens from the redistributive nature of

this mining technique. In short, for the greatest part of its history, Ohio strip mining policy has functioned without great sympathy for the general public, almost appearing to be proceeding with corporate interests as a major concern. This has not only defied specific constitutional demands, but has also seemed to imply that the welfare of the general public is secondary to that of private corporate interests.

Key Aspects of the Ohio Strip Mining Policy-Making Process

The basic failure of Ohio strip mining policy to respond properly to the needs of the many citizens endangered by the industry's operations has occurred because of several consistent political developments. Probably the most prominent aspect of this policy process is discerned when one considers the nature of competition between two different political forces -- those of private, narrowly constituted corporate interests and of broader-based and more diversified citizen interests.

One reason for corporate domination of strip mining policy lies with the premise that the manner in which the policy-making process is participated in presents the coal men with a clear political advantage. Ohio's strip miners have long realized that steady contact with the policy-making apparatus is a prerequisite to the continuing growth of the industry. Accordingly, their stake in the political process -- from local politics through state politics -- is a continuing one, for they are virtually always in contact with the important segments of the government machinery.

However, the nature of citizen participation differs considerably. Since citizens basically involve themselves in the strip mining policy-making process either out of an awareness of the magnitude of the redistributive problem or out of the necessity to eliminate the dangerous ramifications that affect their lives, their participation comes and goes in spurts. As a result, this lack of contact with the policy-making machinery causes the citizens to be strangers to the policy game. These individuals eventually learn more about correctly utilizing the key aspects of government machinery as they become more accustomed to life in the policy-making arena. Essentially, however, this process proves to be an extremely deliberate one. Equally important is the fact that those participating are not often the same political actors; since the abuses of strip mining confront the general public and make themselves present at different times and at different locales, the composition of citizen opposition to the industry forever changes. Thus, the situation that usually develops is a policy-making battle of the old, vested interests versus more disparate citizen interests. These conditions are further compounded by the detachment of much of the rural southeastern Ohio citizenry from participation in governmental affairs.

Another reason for the failure of Ohio strip mining policy, and one which tends to further limit political participation, is discovered when one considers the manner in which society perceives the worth of the strip mining industry. In other words, what kind of image does the industry appear to project

throughout the local and state scenes? After closely examining the actions of policy-making participants, Ohio citizens, and countless others close to the strip mining controversy, this observer must insist that society's view of the strip miners is not nearly as unfavorable as one might expect it to be. There is a tendency to look upon the industry rather benevolently by a substantial portion of the population. Frequently, it seems as if the citizens feel that since the strip mining companies provide a service to the public (energy production and employment opportunities), these large corporations are often acting with the public interest in mind. In effect, the strip miners are forgiven many times for the societal abuses that they have a habit of inflicting.

The attitude of friendliness toward the industry pervades nearly every sector of Ohio society and its political system -- from the grass roots level to the state legislature and administrative agencies. One need only consider the reluctance of many Ohio citizens over such a long period of time to speak out vehemently against the strip mining industry. Furthermore, one can also understand this friendliness by contemplating the relative slowness of politically involved individuals and groups at both the local and state political scenes in accepting the fact that the strip mining industry is not the public interest-oriented and somewhat kindly business that it has often been reputed to be. Recently, some strong public opinion has arisen against the coal men, but even in this age of ecological consciousness, there does not seem to be an

overwhelmingly consistent drive to severely restrict the operations of the strip miners. The coal industry's promises of sharing wealth and services with the citizenry continues to curb the amount of opposition emanating from a society whose values are materialistic.¹ Very simply, the "public interest" fallacy still exists to a recognizable degree.

Still another major aspect of this policy-making process is discerned when one considers the nature of the industry to be regulated. The intricacies of the strip mining operation have been alluded to and often cursorily described throughout this study. This information has illustrated the complex nature of the mining operations, which, in turn, seems to indicate that understanding them is not something easily accomplished by the average citizen. Few individuals have excellent knowledge of the proper ways to regulate the industry. Therefore, the strip miners have enjoyed a fairly comfortable position. Regulating the industry, from the local level through the state level, is predominantly a trial and error process by which government learns more about efficient ways of controlling the industry as time progresses. In addition, attempts to formulate policy and administer it have often required the assistance of knowledgeable individuals -- which means that the industry to be regulated frequently points out the best ways to "control" itself. Therefore, they have at least a small opportunity to shape some aspects of policy according to their own particular point of view.

In concluding this section, it is necessary to maintain that the process of regulating properly an industry of the

unique nature of strip mining in conformance with the political and economic systems of Ohio is cumbersome and painful. The usual occurrence is that society is never fully able to clear away all of the barriers that obstruct the development of equitable regulation. Thus, the task of regulating, to one degree or another, ultimately falls at least partially into the hands of those who are being regulated.²

Suggestions for Improvement of Ohio Strip Mining Policy

Given the nature of Ohio's strip mining policy-making process over the past twenty-five years, this observer is not highly optimistic about the opportunities for the realization of an equitable policy. It is doubtful that very stringent regulations will ever exist. Nevertheless, this observer feels that there are possibilities for significant improvements in the policy output if certain guidelines are followed. The coming of local government planning, citizen group vigilance, and the 1972 state strip mining law were definite steps in the proper direction toward better regulation. If some of the same techniques used within the past few years are combined with a couple of other regulatory tactics, it is likely that control of the strip mining industry may tend to be consistently successful.

Possible Future Contributions of Local Government to Efficient Regulation

Without a doubt, the local level of government is capable of playing a major role in stringently regulating the industry

if it so desires. Accordingly, the key to success or failure definitely lies in the ability or inability of a large segment of the local community to maintain its political watchfulness -- to be greatly aware of the necessity of regulating strip mining properly and to be continually involved with the construction of local policy. Strong local controls can only be realized, however, if those relatively few conservation-minded individuals with an excellent knowledge of the industry and the political rules of the game take considerable time to educate the local citizens. These knowledgeable individuals must constantly point out the need for participation on behalf of the rest of the community and also, take great pains to indicate the proper ways of regulating the industry. This political activity must definitely be engaged in if the redistributive nature of the industry is to be eliminated. Admittedly, it is time-consuming and often negatively affects the individual citizen, but, nevertheless, it is a sacrifice that has to be made.

If information about the efficient ways to regulate the industry and knowledge of the political savvy needed to acquire stringent controls become common-place at the local scene, it is highly possible that some very favorable policy developments can occur. For example, many locales would surely want to devote more time and consideration to urban and rural planning and land use measures. This should ideally be done far in advance of the arrival of strip mining operators -- preferably as soon as a locale realizes that it has coal which can be potentially strip mined for profit. Serious

efforts to convince citizens of the necessity of zoning in strip mining vicinities would be of considerable importance in this area of regulatory politics.

A second important development which could result from a better educated local citizenry would be a more serious-minded approach to considering the possibilities of leasing or selling their land. It is necessary that an effort be made to educate the southeastern Ohio residents as to the societal problems that frequently occur when land is left scarred and unproductive for future generations. In a materialistic society this is a very tall order; yet, the local backers of regulation seem to have no choice but to push ahead and attempt to make citizens understand, as one environmental expert has remarked that "[e]ach generation has only a temporary rendezvous with the land..."³

There are also some other, less recognizable approaches to solving the strip mining problem through local regulation that would seem to bear scrutiny as possible ways to strengthen the control of strip mining by the southeastern Ohio community. One possible approach to developing better local policy would be for environmentally conscious citizens to maintain a watchful eye on local government officials involved with decisions concerning the industry, publicize the actions of these elites, and mount campaigns to replace those office-holders who are either much too lax in their dealings with the coal men or who are simply too friendly toward the industry. This strategy might be particularly helpful in voting out of office the county commissioners who have often been reputed

to be servants of the coal men rather than of the general public.

The southeastern Ohio region could also take steps to further strengthen regulation by increasing the population of rural villages like St. Clairsville (approximately 4,500) and Barnesville (approximately 4,500), so as to provide these communities with city status and home-rule authority. Conceivably, there are a couple of ways in which community population could be increased. One possibility would be for these villages to expand their boundaries and incorporate outlying areas into the city proper. Another opportunity for city status might exist in the area of encouraging small-scale industries to locate within the village confines in the near future. Unquestionably, this is not really asking too much of communities like Barnesville and St. Clairsville, for they still possess some of the necessary qualities for future growth. Both are located within close proximity of major industrial cities, have quick access to many of the transportation arteries of the East and Midwest, and provide a "slower-paced" culture in which to live. Attracting a few more businesses and industries might ensure a more steady growth in community population. Therefore, if city status can be achieved by these communities, at least land use within the towns and near their boundaries can be regulated with authority.

A final possible way in which improvement could be realized would be for the local citizenry to apply for and pursue grant money from federal institutions and agencies for the purposes of studying particular environmental problems, writing

reports for the government, and eventually publicizing the findings of such studies in the local community. Close scrutiny of regional problems caused by strip mining would probably assist in promoting opportunities for educating southeastern Ohioans. A program of this type has already been undertaken in southeastern Kansas to study strip mining problems and to comprehend the proper ways in which to redevelop ravaged land.⁴ Although this particular project appears to be directed at alleviating many past damages caused by the strip miners (specifically, at restoring orphan lands), it has still managed to attract the attention of a number of southeastern Kansans. Thus, the concern about strip mining and its redistributive nature seems to be heightening in this region as well as in some other sectors of the state. Undoubtedly, it would be advisable for southeastern Ohioans to take such an approach in attempting to stimulate stronger local control of the strip miners. It is likely that the awareness of the citizenry could be bolstered if the findings of a direct study of the industry's influence on the regional community are made known to local residents.

Possible Future Contributions of State Government to Efficient Regulation

Many tactics that could be utilized to improve the state government's regulatory performance would seem to be similar in substance to those employed at the local scene. In brief, the following kinds of tactics would probably serve to keep substantial pressure on the state apparatus to adhere to its obligation as protector of the well-being of the citizens:

(1) the maintenance of considerable political vigilance; (2) the circulation of knowledge about strip mining to legislators, government officials, and citizens throughout the state; and (3) the continuance of coalitions of civic-minded organizations in Ohio which favor strong regulatory measures. This type of action was taken in the early 1970's, but it is now highly questionable as to whether it will be sustained or not. Most assuredly, if policy outputs are to be favorable to the public, these political tactics must be utilized frequently at the state government level, so as to deny the strip miners any opportunities to quietly manipulate the political mechanisms in their favor. Once again, sacrifices must be made by many Ohio citizens if their well-being is to be guaranteed.

Hopefully, this kind of citizen pressure would prompt the state machinery to allocate larger sums of money for strip mining regulation purposes. Financial support is perhaps one of the most essential areas of the entire policy-making process, especially since the development of greater mining technology frequently makes it difficult for regulators to keep pace with the lightening-fast manner by which the strip miners operate. Hence, regulatory agencies must possess sufficient manpower and technical expertise to stay in stride with the movements and operations of the industry. Inspectors, engineers, geologists, soil experts, etc. must all be utilized in significant numbers to properly administer the law, because strong enforcement requires excellent knowledge of the technical aspects of the industry.

In addition to these concerns, there are several explicit ways in which the state government could eliminate many of the possibilities for societal abuses if it devoted careful consideration to strip mining problems. These new courses of action would be characterized by some changes in legislative requirements and administrative structure. Legally speaking, the state apparatus could make a number of changes in the language of the 1972 statute to make some of the guidelines more clear. While it would merit several pages to discuss proper alterations of the law, it can, nevertheless, be safely stated that language concerning reclamation procedures and pre-planning of the operation could be made even more stringent. More importantly, it is this observer's belief that strip mining should not be permitted in areas where the land simply could not be restored to its original condition or where there is reason to believe that the citizens of a locale would be adversely affected socially, economically, and ecologically. If this means that strip mining for coal would eventually be banned in 50 per cent of southeastern Ohio, then there is no recourse but to protect the land and the well-being of the region's citizens. Until technology is developed that allows stripping to be performed without causing societal setbacks, the state has no choice but to protect itself by devising legal standards which ensure that strip mining can be abolished in areas where it may interfere with the public well-being.

The abolition of strip mining in some areas would not turn off the lights in the state or in the country or send citizens reeling to the standard of living of centuries past.

Credible studies have indicated that a reduction in strip mining would not endanger American energy supplies.⁵ Actually, a shift to greater deep mine production would provide more than enough coal for current and future energy demands. The coal men, of course, would have to spend larger sums for ensuring deep mine safety -- long a problem for the industry. Furthermore, it is highly likely that the energy consumer would, in the end, bear much of the rising cost of this shift in the manner of coal production. Thus, which is the lesser of two evils -- a rising cost for energy or even greater and more immeasurable costs of repairing the kind of societal damages discussed in Chapter Two?

These new legislative demands would be complemented by some particular changes within the administrative structure, also. Basically, there would seem to be more equitable policy outputs if the enforcing agency were organized a bit differently and run by public servants whose concerns are more directly related to environmental safeguards. This is not to say that much of the Department of Natural Resources set-up, in which lies the Division of Reclamation, is not good; rather it seems that some of the expertise of inspectors, soil experts, engineers, etc. could be combined with the knowledge of officials who are more seriously concerned about preservation of the environment. In short, it appears that a strong and functioning type of state environmental protection agency, well-staffed with experienced strip mining experts, would tend to be more successful than agencies with much broader interests. The idea here is to present the respon-

sibility of enforcement to an agency concerned about the specific problem and not to one that has a maze of interests elsewhere which detract from an emphasis on stringent strip mining regulation. One needs only to consider Chapter Four of this study to understand the dire problems which result from placing administrative duties in unqualified or unprepared hands. Strip mining policy between 1948 and 1971 was characterized by a pitiful administrative negligence due, in part, to the delegation of power to agencies with only a peripheral interest in regulating the industry.

Not only should these administrative powers be granted to an environmental protection agency, but they should be utilized so as to get maximum cooperation from citizens in the strip mining sectors. Therefore, it would seem appropriate to have some miniature branches of an environmental protection agency throughout the coal fields to relate to the needs of the citizens and to provide them with an opportunity to channel their personal experiences or ideas to the state apparatus. Each miniature branch would presumably be able to gauge the strength of policy in the best way -- by viewing what occurs in the strip mining locales on a reasonably direct basis.

The Question of Federal Regulation

Despite the possibilities for improved local and state regulation of strip mining, many observers of Ohio strip mining policy argue that the real solution to the redistributive problem lies with the federal government. These

individuals indicate that all too often the local and state machinery have defaulted in their attempts to properly regulate strip mining. Furthermore, they insist that the federal level would not be nearly as susceptible to a straight-jacketing of powers as the other governmental links have been. The proponents of federal control have offered the following arguments supporting the idea of reposing great regulatory powers with this level of government:

(1) it is removed from biases and local conflicts that hinder sound policy; (2) it possesses significant amounts of funds and manpower to undertake regulatory missions; (3) it would not be consistently and blatantly dominated by the strip miners; and (4) it has various agencies with a better than average knowledge of the strip mining industry and its operations.

With the outcry against strip mining surfacing in Ohio and other states between 1967 and 1973, the federal government (especially Congress) was looked upon as a possible source for remedying the problem. However, the federal apparatus has been only slightly interested in spending the time and energy to alleviate the redistributive nature of strip mining. Not until 1971 did Congress begin to seriously scrutinize the strip mining situation. Thus, there have not been any earth-shaking developments in federal policy at this juncture, even though stringent legislative proposals and new intergovernmental program ideas have received substantial support from multitudes of citizens.

A close examination of federal policy development

indicates that this governmental link has achieved relatively little in the way of alleviating the redistributive problems caused by strip mining. It is certainly no secret that this branch of American government has only limited powers to regulate the industry. In fact, powers to control strip mining activity are rather clearly spelled-out in only one area of regulatory concern -- that of mining practices on federally owned lands.⁶ According to the Mineral Leasing Act of 1920, a strip miner must secure a lease from the Secretary of the Interior for the land which he intends to mine.⁷ In addition, other federal statutes appear to indicate that there is a basis for ensuring that some lands be properly mined and protected.⁸ Nevertheless, federal government leasing policies have been consistently and strongly criticized within the past three or four years.⁹ Most of this criticism has arisen because of two major factors: (1) that the federal government is allegedly mistreating Navajo and Hopi Indians in Arizona because of strip mining operations on federally owned lands;¹⁰ and (2) that federal agencies have allegedly been much too lax in their efforts to control the operations of these large coal corporations on western lands in Montana and Wyoming.¹¹

The regulation of strip mining on nonfederal lands is even more disconcerting, to say the least. Except for a few agencies and commissions which have only a slight interest in alleviating some negative side-effects of strip mining, the federal government has practically no authority to control the industry's operations on nonfederal lands.¹²

One federal organization which has become involved with examining the strip mining problem is the Appalachian Regional Commission.¹³ Empowered by the Appalachian Regional Development Act of 1965 to study societal difficulties associated with strip mining in Ohio and other Appalachian states, the commission has tried to develop concepts and programs aimed at improving the situation throughout this region.¹⁴

Another agency which has provided some assistance, but surely not an overwhelming amount of it, is the Bureau of Mines.¹⁵ The following description of its operations offers a glimpse of the agency's apparent capabilities:

The Bureau of Mines is an active government agency dealing with reclamation efforts, but it functions primarily as a mining industry research organization and has little apparent interest in surface mining problems other than its attempts to exploit salvageable minerals in mine refuse...The Office of Saline Water, the Geological Survey, and the Bureau of Sport Fisheries and Wildlife also have research programs and demonstration projects, often in cooperation with the Bureau of Mines ...but it is questionable whether the Bureau of Mines will vigorously press for surface mining controls or adopt any position opposed by the mining industry.¹⁶

Some of the above mentioned courses of action have contributed to alleviating strip mining problems, but little, if anything, has been done to further the strength of federal regulatory capacities. These weaknesses have been compounded by the fact that some other federal agencies have appeared to turn their backs on cooperating with other areas of the government to bring a halt to the negative ramifications of strip mining. For example, the Tennessee Valley Authority, a major energy producer, buys approximately half of its coal

from strip miners.¹⁷ Many observers argue that the TVA could play a responsible role in providing for stringent regulation of the industry if it so desired.¹⁸ However, some of its public statements and policies lead one to believe that production of energy exceeds the protection of society as far as importance of the two is concerned.¹⁹

It seems quite safe to conclude at this particular point that the federal government has failed to become responsibly involved in regulating an industry which has proven to be not only disadvantageous to Ohio but also to other sections of the country. In essence, the federal government's laxity has helped promote the continuance of a redistributive policy concerning strip mining in southeastern Ohio.

Despite the obvious neglect toward improving strip mining policy displayed by the federal apparatus, numerous citizens still maintain that this level of government would be most able to deal with the problem correctly. The feeling is that a new federal law concerning strip mining would be the most expedient way to halt the large amount of redistributive problems, and to also establish a new national landuse policy.²⁰ However, this observer does not readily accept such an argument. In fact, it must be argued that many plans for federal regulation recently considered by Congress would not be sufficient to control the industry. Some of these legislative proposals actually appear to be capable of being weaker laws than ones existing in Ohio and Pennsylvania today.²¹ Unfortunately, it is likely that a new federal law could provide the impetus for a national strip mining policy that would be

weaker than several state policies currently in existence. The strip miners have recently thrown support behind weaker measures, hoping to appease the general public, while it continues to function as a hindrance to society.²² This danger is further compounded by the fact that the federal government has had only a mediocre record in many areas of regulatory practices. The history of regulatory politics at the federal level indicates that many times those to be regulated ultimately tend to control the regulators.²³

Above all, it is quite doubtful that any new strip mining policy developed at the federal level will be aimed at seriously restricting the operations of the nation's powerful energy bloc. Unquestionably, the establishment of stringent measures controlling the large corporations would require disturbing a political equilibrium which has existed for many years.²⁴ In addition, Congress does not seem to fully realize the actual scope of the redistributive nature of strip mining in Ohio and throughout many parts of the country. This observer believes that the federal government will eventually respond to a crisis situation regarding the need for energy production on the one hand and the desire to eliminate societal abuses on the other hand, by developing a policy of compromise. Therefore, it would seem that a national policy would not meet all of society's needs for protection and would thus, tend to lean more toward the interest of the energy bloc. In light of the imminent possibilities of this development, it must be argued that placing the major duties for strip mining regulation in the hands of the federal apparatus would be

no panacea.

Conclusion

State and local governments in Ohio have been much too lax in their attempts to regulate the strip mining industry. In addition, they have received only a miniscule amount of assistance from the federal government apparatus. However, this observer does not accept the premise that the situation would be improved by further intervention on the part of federal lawmakers and agencies. Although opportunities for very stringent regulation of strip mining are impeded throughout Ohio and the country by the very nature of the political and economic systems, it seems that the key to developing an equitable policy lies with the initiative of state and local government. The tools necessary for the establishment of a strong regulatory policy have been available for many years, but the majority of Ohio's citizenry has appeared to overlook or underestimate their value. If the redistributive nature of strip mining in southeastern Ohio is ever to be alleviated, local government and state government each will have to be convinced to utilize the powers of regulation expressly granted to them. Until this occurs, strip mining will continue to operate as a "Robin Hood in reverse."²⁵

Footnotes

1. See generally: Grant McConnell, Private Power and American Democracy (New York: Alfred Knopf, 1966).

2. See generally: Murray Edelman, The Symbolic Uses of Politics (Urbana: University of Illinois Press, 1964).

3. See U.S. Department of the Interior, Surface Mining and Our Environment (Washington: U.S. Department of the Interior, 1967).

4. The Ozarks Regional Commission is currently sponsoring a project being done by a Kansas mineral resources task group. This project is directed at studying mined-land redevelopment in southeastern Kansas. See generally: Kathleen Q. Camin, Ronald G. Hardy, and William Hambleton, Mined-Land Redevelopment: Southeast Kansas Portion of the Ozarks Region, Report prepared for the Ozarks Regional Commission (Lawrence, Kansas: The State Geological Survey, 1971).

5. See John Stacks, Stripping (New York: The Sierra Club, 1972), pp. 102-19.

6. Arnold Reitze, Jr., "Old King Coal and the Merry Rapists of Appalachia," Case Western Law Review, XXII (June, 1971), 670-2.

7. Ibid., 670-1.

8. Ibid., 671.

9. Ibid. See also Stacks, Stripping, pp. 62-6.

10. Ibid.

11. Stacks, Stripping, pp. 62-6.

12. Reitze, "Old King Coal," 673.

13. Ibid.

14. Ibid.

15. Ibid., 673-5.

16. Ibid., 674-5.

17. Harry Caudill, Night Comes to the Cumberlands (Boston: Little, Brown and Co., 1962), p. 372; and Steif, "TVA One of the Biggest Users of Strip-mined Coal," Cleveland Press, June 29, 1971, p. A1; the preceding are cited by Reitze, "Old King Coal", 675.

18. Stacks, Stripping, pp. 110-4.

19. Ibid.

20. Reitze, "Old King Coal," 719. Also, for a glimpse of the public interest in a new federal law, see generally: U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, House of Representatives, on H.R. 60 and related bills, 92d Cong., 1st sess., 1971.

21. An example of the laxity of federal strip mining bills lies with the recent legislative proposals made by the Nixon Administration. For information concerning this negligence, see generally: U.S., Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, and Stacks, Stripping, pp. 106-7.

22. Anthony Ripley, "Strip Mining Controls Die in Congress," New York Times, October 15, 1972.

23. For information about federal regulatory negligence, see generally: M.H. Bernstein, Regulating Business by Independent Commission (Princeton: Princeton University Press, 1955); Phillip Althoff and David Brady, "The Politics of Regulation: The Case of the Atomic Energy Commission and the Nuclear Industry," American Politics Quarterly, I (July, 1973), 361-84; Edelman, The Symbolic Uses of Politics; Pendleton Herring, Public Administration and the Public Interest (New York: McGraw-Hill, 1936); Avery Leiserson, Administration Regulation: A Study in Representation of Interest (Chicago: University of Chicago Press, 1942); E.S. Redford, American Government and the Economy (New York: Macmillan, 1966); and Redford, Administration of National Economic Control (New York: Macmillan, 1952).

24. Reitze, "Old King Coal," 662.

25. Recognition is given to Stacks for the use of the phrase "Robin Hood in reverse." See Stripping, p. 78.

APPENDIX A

Glossary of Important Terms

- acid run-off -- This is a major ecological problem in many coal strip mining sectors, especially because of the fact that when the mineral is exposed to air and water it tends to have erosive capabilities.¹ The problem of acid leaking away from mining operations is considerable in Ohio, particularly since the coal in the state is often high in acidic content.²
- area stripping -- A method of strip mining which is prevalent in Ohio and in many other sections of the country. This operation is performed by huge power shovels, draglines, etc. which remove large amounts of overburden in order to get at the coal deposits.³ Dynamite and other explosives are frequently utilized to loosen rocks and the like.⁴
- auger mining -- A method of surface mining, featured by the use of giant drills (augers) which gnaw into the hillsides of mineral rich areas.⁵
- bond -- Strip miners, under various statutes, are usually required to post certain amounts of money (often on a per acre basis) to guarantee that proper reclamation may be performed.
- continuous reclamation -- This usually means that restoration of the land must be continuous, without interruptions or leaving the mining site untended for long periods of time. Restoration procedures have to be completed prior to the time of the departure of the mining equipment from the stripping location under license.⁶
- contour stripping -- Almost entirely performed in hilly regions.⁷ Its normal procedure entails cutting into the hilly or mountainous terrain with digging equipment and following the contours of the land which is often quite steeply sloped.⁸ Usually, this type of operation leaves steep cliffs or highwalls behind.⁹
- highwall -- Jagged cliff or wall left after strip mining operators make the "final cut" into the land.¹⁰ A highwall results when the gap left by the "final cut" is not filled in with earth, rocks, etc.¹¹ Often times these highwalls are over 100 feet in height.

- licensing -- Ohio has required that a strip miner must secure a license (or permit) to perform operations at given locales.¹² One must realize that the bases for granting licenses have ranged from ridiculously weak requirements to fairly strong ones throughout the history of Ohio strip mining policy.
- overburden -- Deposits of earth, rocks, etc. overlying coal seams. This material must be removed by strip mining operators in order to reach the mineral. The composition of the overburden and its thickness varies, of course, from locale to locale.
- penalties -- State government in Ohio has had the authority to levy penalties, in the form of punishment by fine, imprisonment, and the like, for serious violations of strip mining laws by the operators. Obviously, the types of penalties and their seriousness often change with the writing of newer and more stringent laws.
- pre-planning -- One of the most important aspects of a strip mining law. This is an area of regulation where maps are utilized to describe intended mining locations and plans are drawn up indicating the process by which operations are to be performed. This frequently tends to allow the regulatory agency a better picture of how environmental abuses will be prevented and how reclamation may be achieved by the strip miner. Efficient pre-planning is often realized when both the strip miners and the administrators utilize substantial environmental, geological, and engineering knowledge in considering the proper ways to mine coal without creating disastrous side-effects for the public. Obviously, successful regulatory policies must require that the mining companies painstakingly pre-plan their operations, so as to guard against mistakes that occur when stripping is performed haphazardly. Hopefully, these pre-planning measures ultimately guarantee that possible negligent operations may never be allowed to occur, since the regulatory agency can (under current Ohio law) refuse a license if plans are not clearly spelled out. Until 1972, pre-planning was not provided for properly in Ohio strip mining laws.

- spoil bank -- A collection of such things as earth, rocks, boulders, and pieces of coal into large piles.¹³ This results when the strip mining machinery takes the layers of land and turns them upside down while attempting to reach the coal deposits.¹⁴ These "banks" are often loosely formed and prone to landsliding and similar environmental abuses.¹⁵
- strip mining -- Strip mining is generally described as a process whereby deposits of various types of minerals are extracted from areas rather immediately beneath the surface of the earth, usually not more than a couple hundred feet beneath the surface. This is done by removing or stripping away the land which lies above the minerals.¹⁶ Strip mining is primarily referred to as a coal mining process, although it is a form of what is known as surface mining -- a term which applies not only to coal but to copper, zinc, lead, and other materials. This study is, of course, concerned with strip mining as a method of obtaining coal.¹⁷
- vegetation -- Most strip mining laws require that the terrain be revegetated after operations have occurred. This vegetation requirement has ranged from the planting of trees, shrubs, and legumes to more productive grasses and other suitable covers. The term must be considered quite closely, for in some states revegetation has often resulted in nothing more than the utilization of below average plants or shrubs to cover up unsightly mining destruction.

Footnotes

1. U.S., Congress, Senate, Committee on Interior and Insular Affairs, Surface Mining Reclamation, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, Senate, on S. 3132 and other bills, 90th Cong., 2d sess., 1968, p. 75.

2. See generally: Arnold W. Reitze, Jr., "Old King Coal and the Merry Rapists of Appalachia," Case Western Law Review, XXII (June, 1971), and John F. Stacks, Stripping, with an Introduction by Harry M. Caudill (New York: The Sierra Club, 1972).

3. Reitze, "Old King Coal," 652.

4. Ibid.

5. "Peeling Back the Land for Coal," Newsweek, June 28, 1971, p. 69.

6. James Herzog, "Our Ravaged Land", a collection of reprinted strip mining news articles, Akron Beacon Journal, January, 1971, pp. 12-3.

7. Reitze, "Old King Coal," 652.

8. Ibid.

9. Ibid.

10. Stacks, Stripping, p. 21.

11. Ibid.

12. Reitze, "Old King Coal," 651.

13. Stacks, Stripping, pp. 35-6.

14. Ibid.

15. Ibid.

16. Reitze, "Old King Coal," 651.

17. For thorough information concerning strip mining techniques, methods, and operations, see the following: Stacks, Stripping, pp. 1-49; Reitze, "Old King Coal," 650-70; "Peeling Back the Land," Newsweek, pp. 69-72; and U.S. Congress, House, Committee on Interior and Insular Affairs, Regulation of Strip Mining, Hearings, before a subcommittee of the Committee on Interior and Insular Affairs, House of Representatives, on H.R. 60 and related bills, 92d Cong., 1st sess., 1971, generally.

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STRIP MINING REGULATORY POLITICS:
THE CASE OF OHIO

by

THOMAS E. MCCLAIN, JR.

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The regulation of strip mining for coal in Ohio has been one of the major public policy problems to appear in the state's political arena within the past few decades. Because of the rising demand for electrical energy supplied by coal, strip mining has been utilized throughout southeastern Ohio's coal fields in a rapidly increasing fashion. In a swift manner, the coal industry's machinery has ripped apart thousands of acres of southeastern Ohio's soil in quest of this valuable mineral. Furthermore, strip mining operations have left many negative side-effects in their wake throughout the region. The nature of this destruction -- economically, ecologically, and socially -- suggests that strip mining policy in Ohio has been a redistributive one. That is, the policy has functioned in such a way that it takes wealth from the "have nots" (the region's citizens) and gives it to the "haves" (the corporate energy interests).

This study was designed in hopes of understanding why this redistributive strip mining policy regarding Ohio's southeastern region has continued to exist for a great number of years. In other words, what political forces and conditions have determined the strip mining policy outputs in Ohio? It was also hoped that a comprehension of the nature of the Ohio political system and its effect on the construction and maintenance of strip mining policy would be attained.

In order to achieve these ends, the author employed a historical-political approach in studying two key areas of Ohio's policy-making apparatus -- the local and state political scenes. By considering approximately thirty years of regulatory

politics at the local level, it was found that local government has not responded properly to the redistributive nature of strip mining. In short, local government has failed to utilize the available policy machinery to ensure the well-being of many southeastern Ohioans. There are, of course, many reasons for this deficiency of local mining controls. Among the important factors contributing to a steady continuance of the redistributive policy at the local level were: a lack of knowledge about strip mining regulation on the part of the citizens; the political and economic power of the coal men; a peculiar political factionalism within many sectors of the southeastern region; the lethargic nature of southeastern Ohio rural life and the Appalachian attitudes closely related to the detachment of many citizens from governmental affairs; and the tendency of citizen interest groups to overlook possible ways of more fully utilizing local regulatory tools.

In considering nearly twenty-five years of regulatory practices at the state government level, it was ascertained that many of the key developments in regulatory politics which characterized the local level were also found at the state level. The author discovered that because of a number of political strategies, tactics, and occurrences, the strip miners have usually managed to control important areas of the state policy-making process. In essence, the political and economic systems in Ohio have seemed to be generally more susceptible to control by the strip mining interests than by the interests of the general public. Thus, the strip

miners have consistently been able to regulate the regulators at both the local and state government levels.

It was concluded that federal intervention would probably not solve the redistributive problem, but rather that the real solution to the negative policy outputs lies with the initiative of local and state government. In other words, it is necessary that these two governmental links fully utilize the regulatory tools which are available. Yet, the author's major argument is that regulating efficiently an industry of the nature of strip mining in accordance with the rules of the game of Ohio's political system is nearly an impossible task.