

**“WHAT ARE WE GOING TO DO WHEN THE COAL IS GONE?”**

THE TITLE OF MY PRESENTATION IS, “WHAT ARE WE GOING TO DO WHEN THE COAL IS GONE?”

EARLY IN MY COAL CAREER, I WORKED FOR A MARTIN COUNTY, KY MINING COMPANY. SOME WOULD HAVE SAID IT WAS A TULSA, OKLAHOMA COMPANY, BUT IF YOU LOOK AT DOLLARS SPENT, IT LOOKED LIKE A MARTIN COUNTY COMPANY TO ME.

THE COAL INDUSTRY HAD AN ANTAGONIST IN MARTIN COUNTY NAMED HOMER MARCUM WHO OWNED THE LOCAL “NEWSPAPER”. IN TYPICAL SMALL-TOWN-NEWSPAPER FASHION, IT USED FILLERS TO FILL IN AT END OF STORIES SO THERE WOULD NOT BE WHITE SPACE. HOMER’S FAVORITE FILLER WAS: “WHAT ARE WE GOING TO DO WHEN THE COAL IS GONE”? HIS SECOND FAVORITE WAS “SADNESS IS A PAMPER IN A TREE”.

I NEVER REALLY THOUGHT MUCH ABOUT THE FILLER WHILE WORKING FOR THE MINING COMPANY BECAUSE WE JUST LEASED THE LAND AND RECLAIMED IT AND WHEN THE COAL WAS GONE AND RECLAMATION COMPLETE, WE WOULD END THE LEASE AND GO SOMEWHERE ELSE TO MINE.

WE WOULD LEAVE MORE FLAT LAND THAN COULD BE FOUND IN THE REST OF THE COUNTY COMBINED. LEAVE AN ORCHARD – A PIG FARM – A CHICKEN FARM – ELECTRIC POWER –

ROADS – LAKES. IT WOULD BE UP TO THE LANDLORD, THE NORFOLK-SOUTHERN RAILROAD, TO DETERMINE WHAT TO DO WITH THE LAND, LONG-TERM.

THEN IN 1990, I MOVED TO THE OTHER SIDE OF THE BUSINESS AND BECAME THE PRESIDENT OF A COAL LAND-HOLDING COMPANY. I BECAME PRESIDENT OF WESTERN POCAHONTAS PROPERTIES, WHICH FORMERLY BELONGED TO THE OTHER RAILROAD, CSX. WE HAD 1 BILLION TONS OF COAL, 600,000+ ACRES IN THE APPALACHIAN BASIN – NORTH, CENTRAL AND SOUTH, PLUS INDIANA; 200,000 ACRES OF HARDWOOD TIMBER AND I BEGAN TO THINK ABOUT THAT FILLER.

IN 1992, WE PURCHASED 22 BILLION TONS OF COAL RESERVES ON 4.75MM ACRES IN MONTANA, NORTH DAKOTA; WYOMING, WASHINGTON AND ILLINOIS AND 300,000 ACS. SURFACE PRIMARILY IN EASTERN MONTANA. IT WAS PRAIRIE RANCHLAND.

THEN IN 2002, WE PUT OUR PRODUCING PROPERTIES WITH ARCH COAL'S COAL PROPERTIES AND FORMED NATURAL RESOURCE PARTNERS. OUR ROLE CHANGED FROM PRIVATE COMPANY TO A PUBLIC MASTER LIMITED PARTNERSHIP. SINCE THEN, WE HAVE COMPLETED 10 ACQUISITIONS TOTALING NEARLY A BILLION TONS OF COAL.

NOW WHEN I THINK ABOUT THE FILLER, I HAVE MORE STAKEHOLDERS TO CONSIDER.

I HAVE 40,000 PUBLIC OWNERS; I HAVE THE PRIVATE OWNERS WHO CONTROL MUCH OF THE SURFACE, OUR LESSEES, THE MINING COMPANIES HAVE A HUGE INVESTMENT ON OUR PROPERTIES. WE ALSO MUST CONSIDER THE LOCAL COMMUNITY, THE COAL INDUSTRY AS A WHOLE AND OUR 40-SOME EMPLOYEES.

WITH OUR PROPERTY AND WHAT CAME FROM ARCH AND THE 10 ACQUISITIONS, WE HAVE OVER 32 BILLION TONS AND 10 MILLION ACRES IN THE PUBLIC COMPANY AND OUR PRIVATE COMPANIES; COMBINED, WE HAVE 60 LESSEES AND 160 LEASES.

SO I GUESS I AM HERE TODAY (OTHER THAN BECAUSE BILL KOVACIC TWISTED MY ARM) BECAUSE WE ARE THE LARGEST COAL LAND COMPANY IN THE U.S.

BUT ALSO I AM HERE, MAYBE, MORE IMPORTANTLY IN THE LONG-RUN, IN MY ROLE AS THE CHAIRMAN OF OUR NATIONAL TRADE ASSOCIATION, THE NATIONAL COUNCIL OF COAL LESSORS, WHICH HAS MEMBERSHIP CONSISTING OF 60 LANDHOLDING COMPANIES, PRIMARILY CAPP, BUT ALSO ILLINOIS BASIN AND TO LESSER EXTENT, OTHER COAL FIELDS.

I HAVE SERVED AS CHAIR FOR TWO YEARS AND PRIOR TO THAT WAS PRESIDENT FOR 8 YEARS.

OUR ROLE IS TO SERVE AS THE LIAISON FOR COAL LANDOWNERS WITH GOVERNMENTAL ENTITIES AND NGO'S. FOR INSTANCE, WE ARE WORKING VERY CLOSELY WITH MSHA NOW ON THE UNDERGROUND MINE MAPPING INITIATIVE.

I WOULD LIKE TO OFFER OUR ASSISTANCE TO SERVE AS THE LIAISON BETWEEN YOUR ORGANIZATIONS AND THE LANDOWNER COMMUNITY ON THE ISSUES DISCUSSED HERE TODAY.

IN TALKING TO MANY OF THE NCCL MEMBERS IN PREPARATION FOR THIS MEETING, I WAS SURPRISED AT HOW MANY SITES FOR SUPER WAL-MART'S ARE AVAILABLE IN CENTRAL APPALACHIA ON PREVIOUSLY MINED LAND, BUT ONLY IF THE RENT IS A PERCENTAGE OF GROSS SALES.

I SAY THIS ONLY PARTIALLY IN JEST. EACH OF US AS LANDOWNERS HAS GREAT HOPE THAT SOME INDUSTRIAL, COMMERCIAL OR RESIDENTIAL USE CAN BE FOUND FOR OUR PROPERTY, "WHEN THE COAL IS GONE".

BUT, WE ALL KNOW THAT THIS IS NOT REALISTIC FOR MOST OF THE PROPERTIES. AFTER ALL, HOW MANY SUPER WAL-MARTS DOES WYOMING COUNTY, WV NEED? CONSIDERING THE REMOTE NATURE OF MOST OF THE COAL FIELDS, CURRENT DEVELOPMENT IS NEITHER REALISTIC NOR ECONOMIC.

THE RECURRING THEME OF THE LANDLORDS I TALKED TO RECOGNIZED THAT LIMITATION BUT WHAT THEY DID NOT WANT TO HAPPEN WAS THAT THEIR PROPERTY WOULD BE RECLAIMED IN A MANNER THAT WOULD PRECLUDE FOREVER A HIGHER AND BETTER USE, OR AT LEAST ONE THAT WOULD YIELD THE OWNERS MORE MONEY.

SO, IF THE QUESTION IS, "IF IT'S NOT GOING TO BE RECLAIMED AS AN INDUSTRIAL PARK, ETC., WHAT DO YOU WANT TO HAPPEN TO THE LAND"? THE ANSWER IS – WE DON'T WANT ANYTHING TO HAPPEN TO IT THAT WOULD PROHIBIT, RESTRICT, IMPEDE OR CURTAIL FUTURE USE OF THE PROPERTY.

ONE OF THE REAL PROBLEMS WE AS LANDOWNERS HAVE WITH THE WHOLE ISSUE OF POST MINING LAND USE (PMLU) IS THAT THE DETERMINATION IS MADE COMPLETELY OUT OF CONTEXT AND SOME OF US WOULD SAY IN A VACUUM OF FACTS.

THINK ABOUT A TYPICAL MINE THAT IS NOW BEING PERMITTED AND PLANNED. THE PERMITTING PROCESS, WHICH FOLLOWS LAND ACQUISITION, MAY TAKE A COUPLE OF YEARS, THEN MINE START-UP TIME AND FINALLY MINING AND CONTEMPORANEOUS RECLAMATION FOR WHAT MAY BE A 10-20 YEAR TIMEFRAME.

HOWEVER, BECAUSE THE POST MINING LAND USE MAY REQUIRE CERTAIN SPECIFIC MINE PLANNING AND RECLAMATION

DECISIONS AT THE TIME OF PERMITTING, WE ARE REQUIRED TO MAKE A DECISION ON PMLU's THAT MAY BE DECADES BEFORE THE LAND WILL ACTUALLY BE AVAILABLE FOR THAT USE. THEN WE ADD FIVE YEARS AFTER MINING FOR BOND RELEASE TO THE WHOLE PROCESS.

JEFF JARRETT THIS MORNING CALLED IT "PLANNING FOR NOW NOT PLANNING FOR THE FUTURE". NO ONE IS SMART ENOUGH TO BE ABLE TO PREDICT WHAT THE BEST USE OF THAT LAND WILL BE FOR ALL THE STAKEHOLDERS 20+ YEARS FROM NOW.

WE HAVE TO TRY TO DO SOMETHING TO BUILD SOME DEGREE OF FLEXIBILITY INTO THE RECLAMATION AND PERMITTING PROCESS SO THAT WE CAN POSTPONE THE ULTIMATE PMLU DECISION AS LONG AS POSSIBLE IN ORDER TO BE SURE WE ARE MAKING A DECISION, BASED ON ALL THE FACTS, THAT IS BEST FOR ALL STAKEHOLDERS.

I WOULD ASK, RHETORICALLY, CAN WILDLIFE HABITAT AS A PMLU BE USED AS A "HOLDING" USE SO THAT IF AND UNTIL A BETTER USE COMES ALONG, IT IS USED AS HABITAT. THAT MAY BE POSSIBLE, BUT I WILL TELL YOU THAT UNDER SOME OF THE CONSERVATION EASEMENTS OUR MEMBERS SHARED WITH ME, THEY WOULD FOREVER FORFEIT THE HIGHER AND BETTER USE OPTION.

WILL LANDOWNERS DO THAT? PROBABLY NOT OUT OF THE GOODNESS OF THEIR HEARTS OR FOR SOME ALTRUISTIC REASON. BUT THEY MIGHT DO IT FOR SOME FORM OF CONSIDERATION.

EACH OF US AS BUSINESS OWNERS OR MANAGERS ARE REQUIRED EACH DAY TO MAKE ECONOMIC DECISIONS LIKE THIS ONE. OUR TYPICAL REASONING PROCESS WOULD GO SOMETHING LIKE THIS: IS IT BETTER FOR ME TO GET "X" DOLLARS TODAY OR A TAX CREDIT OF "X" DOLLARS VALUE TODAY OR A SAVINGS OF "X" DOLLARS TODAY AS OPPOSED TO NOT GETTING ANYTHING UNTIL THE SUPER WAL-MART IS BUILT HERE IN MAN, WV, IN 2058.

THERE IS A BALANCING OF ECONOMIC VALUES ANALYSIS THAT GOES ON AND LEADS TO RATIONAL DECISIONS.

THE QUESTION THEN BECOMES: "CONSIDERING THE RISK THAT IT WON'T EVER HAPPEN, WHAT IS THE CURRENT NET PRESENT VALUE OF THE AMOUNT I CAN SELL THIS LAND FOR IN 2058"? THAT AMOUNT IS GOING TO DIFFER GREATLY, DEPENDING UPON LOCATION AND INFRASTRUCTURE AVAILABILITY, INCLUDING ROADS, SEWER, POWER, WATER, SCHOOLS, ETC. A 500-ACRE MOUNTAINTOP REMOVAL SITE NEXT TO BECKLEY – IF THERE WAS ONE – IS WORTH FAR MORE TODAY THAN THE SAME SITE NEAR OCEANA OR MAN OR GILBERT.

SO TO ME THAT IS THE CHALLENGE YOU FACE IN DEALING WITH LANDOWNERS TO CONVINCING THEM TO ALLOW THE WILDLIFE HABITAT PMLU AND CONSERVATION EASEMENTS BECAUSE MANY COAL OWNERS HAVE LEASE PROVISIONS THAT GIVE THEM VARYING LEVELS OF CONTROL OVER PMLU DECISIONS, AND THEY WILL ALL STILL OWN THE LAND, "WHEN THE COAL IS GONE".

IN MANY WAYS, THOUGH, THE DECISION MAKING PROCESS WILL BE EASIER IF THE SAME ENTITY/PERSON OWNS THE COAL AND THE SURFACE. THAT PERSON WILL HAVE DERIVED A MAJOR ECONOMIC BENEFIT FROM THE MINING OF THE COAL.

HOWEVER, IF DIFFERENT PARTIES OWN THE COAL AND THE SURFACE, YOU HAVE CONFLICTING INTERESTS. I HAVE NEVER YET MET A SURFACE OWNER WHO DID NOT WANT SOME OR ALL OF HIS SURFACE LEFT FLAT AFTER MINING – AND IT IS NOT SO THEY HAVE GREATER VISIBILITY TO HUNT THAT BIG BULL ELK.

IT MAY WELL BE THAT THE SURFACE OWNERS' SOLE ECONOMIC BENEFIT (OR AT LEAST HIS GREATEST BENEFIT) WILL COME AFTER MINING – AND I BELIEVE IT WILL BE HARD TO CONVINCING THAT PERSON TO GO ALONG WITH WILDLIFE HABITAT AS THE PMLU.

PROBABLY THE MOST TYPICAL SITUATION IN CENTRAL APPALACHIA WILL BE WITH MORE THAN ONE MINERAL OWNER AT A MINE SITE AND MULTIPLE – MAYBE SCORES – OF SURFACE

OWNERS. MANY WILL HAVE UNDIVIDED INTEREST OWNERSHIPS AND IN ALL PROBABILITY, SOME LOST OR MISSING HEIR OWNING SOME INTEREST. SOME WILL LIVE NEAR THE MINE, OTHERS LIVE IN DETROIT, CHARLOTTE, ATLANTA, OR SOMEWHERE AND MAY NEVER HAVE SEEN THE PROPERTY. I CAN GUARANTEE THAT THEY HAVE DIFFERING VIEWS OF WHAT THE PMLU SHOULD BE.

LET ME TOUCH ON A FEW OTHER ISSUES RELATING TO WILDLIFE MATTERS AND THEN I WILL EITHER TAKE QUESTIONS OR SIT DOWN.

THERE HAS BEEN SOME DISCUSSION TODAY ABOUT SEDIMENT STRUCTURES AND THEIR VALUE TO WILDLIFE HABITAT. WE AT NRP, AND NEARLY EVERY MEMBER OF NCCL WITH WHOM I'VE TALKED, ARE VERY RELUCTANT TO ALLOW THOSE TO STAY. WE KNOW THEIR VALUE BUT WE ALSO KNOW THEIR RISKS AND LIABILITIES. WE, AND OUR INSURANCE CARRIERS, THINK THAT RISK IS HEIGHTENED DUE TO THE FACT THAT WE HAVE TO AFFIRMATIVELY DO SOMETHING TO HAVE THOSE LEFT ON THE PROPERTY. BY WAY OF SUGGESTION, PERHAPS IF WILDLIFE HABITAT IS THE APPROVED PMLU, THE REGS OR LAW COULD BE CHANGED TO REQUIRE THAT THOSE BE LEFT ON-SITE. THAT MIGHT HELP SHIFT THE RISK.

THE NEXT ISSUE, AND JON GOSSET TALKED ABOUT THIS THIS MORNING, MOST OF US HAVE FORESTERS ON STAFF OR

UNDER CONTRACT BUT WE WERE THE ONLY COMPANY THAT I FOUND THAT HAD A WILDLIFE MANAGEMENT DEGREED PERSON ON STAFF. IF WILDLIFE HABITAT AS A PMLU IS GOING TO BE A FOCUS, THEN A COMMUNITY OF INDIVIDUALS WITH THE PROPER TRAINING IN BOTH WILDLIFE MANAGEMENT AND RECLAMATION NEEDS TO BE TRAINED AND AVAILABLE TO ASSIST LANDOWNERS AND MINERS. THIS EXPERTISE DOES NOT HAVE TO BE FREE BUT IT DOES HAVE TO BE AVAILABLE.

LASTLY, I WAS SURPRISED HOW MANY OF THE NCCL MEMBERS WERE USING PRIVATE HUNTING LEASE PROGRAMS ON THEIR SURFACE PROPERTY. WE HAVE NEARLY EVERY ACRE OF OUR PROPERTY LEASED TO LOCAL HUNTING CLUBS. NO OUTFITTERS, NO ABSENTEE CLUBS – ALL LOCAL GROUPS – THEY MIGHT BE A FAMILY, OR A RURITAN CLUB OR A GROUP OF MINERS OR JUST A BUNCH OF HUNTING BUDDIES. WE CHARGE BETWEEN \$1 AND \$2 PER ACRE PER YEAR WHICH SEEMED TO BE STANDARD. BUT OUR REAL BENEFIT IS NOT THE MONEY, IT IS THE CARE OF THE LAND. A LOCAL HUNTING CLUB WILL NOT ALLOW TRASH TO BE DUMPED WHERE THEY ARE GOING TO HUNT, THEY WILL BE THE FIRST TO FIGHT A FOREST FIRE, AND THEY WON'T ALLOW TRESPASSERS OR POACHERS. THAT IS THE REAL VALUE THAT ALL OUR MEMBERS SEE. OPEN HUNTING DOES NOT CREATE THE SENSE OF OWNERSHIP THAT A LOCAL CLUB HAS. IF

WILDLIFE AS A PMLU INCREASED THE VALUE OF THE PROPERTY AS A HUNTING LEASE, THAT IS A REAL BENEFIT TO LANDOWNERS.

AGAIN, I WANT TO OFFER THE ASSISTANCE OF THE NATIONAL COUNCIL OF COAL LESSORS TO THIS WHOLE PROCESS THAT WE BEGIN HERE TODAY. MY PHONE NO. IS 304/522-5757 AND EMAIL IS [@wpplp](mailto:wpplp), SO CONTACT ME IF WE CAN HELP.

THANKS.

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