Oral Testimony to the EPA on the Document titled,
"The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields", Docket ID No. EPA=HQ-ORD-2009-0934.

July 20, 2010

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Our comments are in reference to Charge Question 6. "The Surface Mining Control and Reclamation Act and its implementing regulations set requirements for ensuring the restoration of lands disturbed by mining through restoring topography, providing for post-mining land use, requiring re-vegetation, and ensuring compliance with the Clean Water Act. Does the review appropriately characterize the effectiveness of currently employed restoration methods"?

It is the opinion of the Appalachian Wildlife Foundation that the review does not appropriately characterize the effectiveness of currently employed restoration methods.

Here is an excerpt from page 61 of the document;

> "Reclamation to forested land uses, which are preferred over pasture or hay land uses, may take longer but are more consistent with the SMCRA and CWA (U.S. EPA, 2003, 2005; Skousen et al., 2006)".

Here is an excerpt from page 64;

> "…reforestation of mined land is emerging as the 'best practices' post mining land use option, especially in mined areas that previously supported high-quality natural forests (U.S. EPA, 2003, 2005)".

First of all, stating that “reclamation to forested land uses” is preferred, or that “reforestation of mined land is emerging as the ‘best practices’ post mining land use option” is a value statement and not an objective, scientific observation. We are dealing with private lands and the objectives of the landowner have to be respected. Even when the landowner does not have a specific wildlife habitat or land use objective beyond the mining activity, there are often many other partners or parties that have preferences as to how mine sites are reclaimed. The fact that the review document cites other previous EPA documents as the only other real source to back these claims is indicative of how these assertions are not based on science or data that includes human dimensions factors.

While pasture and hay land uses are legal and recognized post mining land uses for surface mines, Fish and Wildlife Habitat is also a legal and very widely prescribed post mining land use that includes tree planting. The Post Mining Land Use of Fish and Wildlife Habitat is never mentioned in the review document.

In the southeastern coalfields of Kentucky there is a wild elk herd that numbers more than 10,000. The economic impacts and activity around the Kentucky elk herd are growing every year and affecting hundreds of thousands of people. These animals are thriving on mine sites reclaimed with grasses and forbs, and trees in many places. Virginia is on the way to launching an elk restoration effort in its coal fields, Tennessee has an elk herd in its coal fields, and West Virginia will one day be an elk state. Elk are native to every state in the lower 48 except for Florida and a couple of states in the Northeast.

Along with elk, the Appalachian coal fields region has experienced the restoration and return of wild turkeys, white-tailed deer, black bears, river otters, beavers, and wood ducks. A spring day visit to reclaimed mine lands is often greeted by the whistling of Northern bobwhite quail, and the songs of many grassland and shrub habitat birds like Grasshopper sparrows, Prairie warblers, Indigo buntings, Golden-winged warblers, Eastern Meadowlarks, and Horned larks. Short-eared owls, Northern Harriers and other birds of prey are common. While the review document presents a brief discussion on the impacts to forest ecosystems in sections 3.4, 3.4.1 and 3.4.2, it includes no information on the wildlife use of reclaimed mine sites. We believe this is a tremendous shortfall if upland wildlife species and habitats are to be addressed in the review document.

As is mentioned in the EPA document, the US Office of Surface Mining launched the Appalachian Regional Reforestation Initiative (ARRI). This effort has been very successful in researching and developing techniques to improve tree growth and survival on mine sites. However, ARRI has received little or no input from the wildlife conservation community and not a single state wildlife agency is a cooperator in this effort. While we believe that the tree planting and site preparation technology that has been developed through ARRI can be very valuable tools to use in ecological restoration efforts, there are other issues to consider including the landscape context and the human dimensions factor. It appears to us that EPA's approach is overly prescriptive and could lead to a one-size-fits-all approach to mine reclamation. We must remember that, 1) private landowners have a stake, 2) decisions should

not be prescribed but should reflect the needs of the operator, landowner, and to some degree the public, and 3) prescribed preference for reforestation overlooks importance of other wildlife habitat creation opportunities and sets the stage for unintended consequences.

Conclusion

The AWF is looking forward to working with EPA and other partners in seeking ecological restoration solutions for the coalfields of the Appalachians. Here are some points as to what we believe needs to be done and what we are working to accomplish.

- Through a literature review being conducted by the University of Tennessee, we are compiling all the scientific information that can be found regarding upland wildlife response to reclaimed mines in the eastern United States.

- We need to gather human dimensions data from the residents of the Appalachian coalfields to learn more about the wildlife and habitat restoration they would like to see on mines in their neighborhoods. We are currently seeking funding to gather these human dimensions data from Southeastern Kentucky the coal fields of West Virginia.

- We offer technical assistance to the mining industry and to landowners to help them design mine reclamation plans to meet their objectives.

- We will be working with OSM and ARRI to ensure that wildlife ecology and habitat needs are a high priority in that initiative.

- As we help implement wildlife habitat reclamation plans we want to follow up with long term monitoring and research to gather data needed for adaptive management and continuous improvement of reclamation techniques.

Thank you for this opportunity to comment.