

TREE PLANTING IN RECLAMATION

TREES FOR RECLAMATION
LEXINGTON, KENTUCKY
OCTOBER 27 - 29, 1980

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While fifteen years ago we depended on trees as the primary tool of reclamation, today regulators, based on soil loss studies, have determined that trees are not sufficient to prevent erosion by themselves. This is particularly true during the first 10-15 years after mining. While ten (10) years ago most permits listed forest as a postmining land use, today only ten (10) percent of our permits contain forest land as a postmining land use and a good many of those may modify their reclamation plan to eliminate the trees these plans now contain.

The other two gentlemen representing the great state of Ohio have discussed some of the reasons that trees are not the valuable tool they were fifteen years ago. I am both an environmental lawyer and the assistant regulatory authority for the administration of coal mining regulations in the State of Ohio. I will try and outline our position on this matter and discuss some of the things we have done to curb this trend away from tree planting.

Now in Ohio we operate a two-prong regulatory system. On the one side we operate an incentive program. An operator posts cash or bonds in a large sum and these funds are returned only if all regulations are complied with and the land reclaimed. On the other side we run a penal system of compliance. Non-compliance results in civil penalties, criminal fines, jail sentences, and/or the termination of the operator's business completely. One bond forfeiture in Ohio precludes any future permits being issued to the operating company, officers of the corporations, and even major stockholders.

The penal aspects of our program are only effective in the situations where an operator is operating under a plan calling for trees to be planted and he does not plant trees. It is not a criminal offense to turn a state from a forest land to a rangeland. The operator submits a reclamation plan when the operation is proposed and it is up to the state to provide incentives so that the operators voluntarily plant trees. As stated above trees are not planted for economic, technical, and social reasons. Without adequate incentives we will not find tree planting - we must find ways to encourage tree planting.

The first step we have taken in this direction was a new standard for revegetation when trees are planted. When an area is backfilled and graded we require successful establishment of a vegetative cover. If grasses and legumes are planted the site must contain a seventy-five per cent cover. However, if trees are planted the success rate is reduced to sixty per cent. We have the discretion to reduce this to fifty per cent. The obvious advantage being the survival rate of trees will improve with reduced vegetative cover. This step was taken at the request of a few operators in Ohio who wanted to plant trees and it is partially successful.

A second step we are taking is requiring revegetation to remain successful for a full five year period after establishment. Operators in some areas find that their grasses and legumes will not always last for the necessary period

due to the poor quality of spoil below the topsoil and other factors mentioned by the other speakers.

Lastly we face the problem of the operator who wants to mine forest land, but reclaim the area for another land use. Recently we decided to fight only for those areas with valuable forests and concentrate our efforts rather than to resist any effort to permanently eliminate woody species. When in doubt the Division of Forestry will assist us in evaluating a specific area. If the trees are without commercial value, it is much easier not to replace them. However, valuable forest lands must be replaced or undergo time consuming and expensive land use change procedures. Public notice, landowners consent and impact statements from cooperating agencies are the key procedures. It is a procedure that the operators want to avoid where possible - thereby an incentive is created for tree planting. To give you an idea how successful this procedure is I might note that from 1972 to 1977 when these requirements took effect only 1% of our postmining land uses were forest lands. Today we are looking at a 10% figure for forests.

The incentives described above are only important beginnings to bring tree planting back into reclamation. We are cooperating with several agencies in Ohio in the study of the problem of the disappearing forests. Those studies and meetings such as this one may result in additional incentives being developed to solve this very serious problem.

Finally, I must point out that any actions on our part must be discussed with the U.S. Office of Surface Mining pursuant to the Surface Coal Mining Control and Reclamation Act of 1977 P.L. 95-87. While we at the Ohio Department of Natural Resources are now and plan to continue to be the primary agency regulating coal mining in Ohio, this federal law provides us with oversight assistance from this federal agency. We do not look at these discussions as a major stumbling block but it points out the advantages of the type of organized concern we show here

today. If Ohio argues for a procedure to encourage tree planting, it will not carry the weight of a group of professional experts from concerned states addressing a common problem. This type of group input is essential to the implementation of immediate and long range solutions.