USA

Appeal Court Dismisses Strip Mining Decision

In 1999, a federal district judge in West Virginia handed down a decision to curtail drastically “mountain-top removal” — the decapitation of coal-rich hills with explosives and the discarding of slag into surrounding hollows by mammoth bulldozers.

Alarmed at the blockage and disappearance of Appalachian streams by large-scale backwoods dumping, state residents of West Virginia had sought a judgement in a citizens’ lawsuit that accused the state of permitting the coal industry to engage in wholesale violations of federal regulations protecting the streams from pollution.

A federal appeals panel, in a ruling issued on 24 April 2001, dismissed the lower court’s finding that the strip mining of West Virginia mountain-tops violates environmental law by allowing vast amounts of coal slag to block hundreds of miles of vital streams. The panel ruled that the citizens’ complaints had no federal standing. It held that federal oversight of the 1977 Surface Mining Control and Reclamation Act ended as soon as West Virginia set up its own enforcement programme under the Act’s provisions. The Act allows either state or federal regulation of surface coal mining, “but not both,” and held that complaints about abuses could be heard only in state courts.

Environmentalist groups in Washington and in West Virginia immediately conferred on plans to challenge the decision. They said the ruling reversed guidelines of state-federal cooperation and invoked state primacy in a way never approved by Congress.

The appeals ruling held that, to the contrary, the state sovereignty was clear and that allowing federal suits from citizens would “undermine the federalism established by the act.”

Jim Hecker, of Trial Lawyers for Public Justice, a lawyer in the suit brought by state residents and the West Virginia Highlands Conservancy, said the decision ignored that Congress, in writing the Act, specifically rejected the jurisdictional dichotomy posed by the appeals panel. Rather, it invited citizens’ appeals to the federal government about state failures in enforcement. He said the Clinton administration’s legal authorities had endorsed continuing federal oversight of state enforcement.

“The appeal will be a crucial test of where the Bush administration is on the whole issue of cooperative federalism, the bedrock philosophy under many environmental statutes,” he said.

REFERENCES TO OTHER TOPICS

Secretary-General Seeks Second Term

United Nations Secretary-General Kofi Annan has said he will make himself available to serve a second five-year term. He made the announcement during a press conference held on 22 March. The news has received an enthusiastic response from the US, Nordic states and many African countries. Kofi Annan’s first term is due to conclude at the end of this year.

Third Global Forum on Governance

The Third Global Forum on Governance: Fostering Democracy and Development, was held from 15-17 March in Naples, Italy. It focused on the theme of information and communications technology (ICT) applications by governments as an instrument of democracy and development. It was attended by over 900 participants from 122 countries, representing governments, academia, business and civil society.

Representatives discussed how governments can harness information technologies, and the Internet in particular, as instruments of civil, economic, and social progress. Discussions focused on governance issues in the Internet era. For example, the impact of ICT on the organisation of government, the implementation of e-government, services to citizens, services to business and the digital divide and international co-operation.

The impact of ICT in transforming the way governments function was recognised by all present. The benefits for developed countries and for encouraging the development process were highlighted.

The Forum produced a number of recommendations for action, including the following: Sharing best practices and supporting mutual learning on e-government issues; building e-government action plans in partnership with the private sector, consumers and non-profit organisations; and fostering indigenous knowledge, local languages and preservation of local cultures through ICT. (See: http://www.globalforum.it/htm/frame/inglese/frsetinglese.htm.)

Trade and Environment

A Conference on Trade and Environment – Bridging Gaps and Moving Forward, was held on 8-9 March 2001, in Geneva. It was organised by the Global Environment and Trade Study (GETS) and World Trade Institute (WTI), and was attended by representatives of government ministries, the United Nations, World Trade Organisation (WTO), international and non-governmental organisations, business and academia.

The aim of the meeting was to consider the linkages between trade and environment, including how these can be reflected better in negotiations of the WTO.

Representatives convened in five panel sessions to discuss subsidies, services and agriculture; capacity building and developing country participation; trade and health; trade-related environmental measures; and civil society and the World Trade Organisation.

(Details from http://www.gets.org/Geneva/Summary.doc.)

Halon Trading

UNEP has launched a web portal designed for business-to-business trading of halons. The aim is to facilitate the recycling of halons, therefore reducing the need for new production. The trading service is free of charge and supports the implementation of the Montreal Protocol, under which developed countries phased out halons in 1994 and developing countries have until 2002 to freeze the use of halons.