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## Second witness takes stand in flood trial

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Register-Herald Reporter

A mining consultant says Western Pocahontas Properties and Western Pocahontas Land Co. did not make reasonable use of their land and did materially contribute to storm surface runoff and flooding in Mullens on July 8, 2001.

John Morgan, who holds a degree in mining engineering from the Royal School of Mines in England, took the stand Tuesday afternoon for the plaintiffs as an expert witness in the application of hydrology, cumulative hydrological impact and stormwater surface runoff as it relates to land owned by the two Western Pocahontas companies.

Morgan is the second witness to testify in this mass litigation case being tried by a Raleigh County jury before Circuit Judge John Hutchison. The case concerns the impact of land use on July 8, 2001, flooding in the Mullens and Oceana sub-watersheds of the Upper Guyandotte watershed.

Plaintiffs' attorneys representing hundreds of residents contend the landowners who allowed timbering and surface mining on their property near Mullens and Oceana were irresponsible neighbors who contributed to severe flood damage.

Defense attorneys representing seven companies say they will prove such catastrophic rainfall as occurred that day would have overwhelmed the land regardless of its use.

Jurors must decide if the activities of coal and timber companies being sued materially increased the rate at which water flowed off their property, if that increase materially increased flooding of streams and if the landowners engaged in unreasonable conduct.

Morgan, who resides in Kentucky, addressed those questions early in his testimony despite objections from defense counsel who argued Morgan's experience and expertise lies within the field of mining, not timbering, which is the activity in question on the Western Pocahontas properties.

"Western Pocahontas' use of its property in the Mullens watershed did materially contribute to the flooding ..., " Morgan said. " ... It's my opinion that the use of Western Pocahontas' property in the Slab Fork and Mullens watersheds did materially contribute to the flow and flooding events ..."

Under direct examination by Mullens plaintiffs' attorney Scott Segal, Morgan referred also to the Slab Fork watershed because he said timbering activity there contributed to flooding that ultimately reached Mullens.

He also said he believed Western Pocahontas' use of property up to July 8, 2001, was "not reasonable" because of the amount of timbering and the number, density and location of logging roads within the watershed.

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In fact, he explained to jurors using enlarged maps, more than half of the Slab Fork watershed had been timbered prior to the flood, causing "a significant disturbance."

" ... As you increase the amount harvested, you have an increase in the amount of runoff," Morgan said. " The more you disturb it, the more runoff you get."

The same thing applies to peak flow, he added, which is how fast the runoff is going. Morgan said Pocahontas activities resulted in a 275 percent increase in peak flow, according to his models. He pointed to what he said were 245 miles of logging roads within the watershed and explained that when normal forest subsurface sheet flow is intercepted, such as by a logging or skid road, the flow becomes "channelized."

"You get a lot more flow off a parking lot than you do off of grass," he told jurors.

He also said 3,200 acres within the watershed were harvested just one year before the flood and about 10,000 acres were harvested there between 1994 and July 8, 2001.

To confirm his belief that the number of roads and number of acres timbered led to the material increases, Morgan looked to West Virginia's Fernow Experimental Forest near Parsons. The forest has been used for more than 50 years to study issues related to forestry.

Morgan said his studies of the experimental forest showed that logging practices different from those used on Pocahontas land and logging sites with fewer roads did not result in significant material increases like the ones on Pocahontas property.

"It's the amount of timbering within the watershed, the number of roads, and it's the change in the forest floor. Those three combined create a significant increase in peak flow," Morgan said.

Morgan's testimony will continue today.

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