

Published: March 22, 2006 11:20 pm

## Cross-examination reveals map error

### Audrey Stanton

Register-Herald Reporter

Mathematical engineering equations aren't the only potentially confusing things jurors in the flood trial are being asked to consider.

Wednesday's evidence asked them to not confuse Pocahontas Land Corp., Western Pocahontas Properties Limited and Western Pocahontas Corp., and it made several references to "subsubwatersheds."

What an expert witness referred to Tuesday as the Slab Fork watershed is actually the Slab Fork subsubwatershed of the Mullens subwatershed of the Upper Guyandotte watershed, testimony clarified Wednesday.

And what expert witness John Morgan referred to under direct examination and in his evidentiary maps as "Pocahontas" properties is actually a combination of land owned by two separate companies with the word "Pocahontas" in their titles.

Defense attorney Richard Bolen, representing Western Pocahontas Properties, asked Morgan — who testified Tuesday that Western Pocahontas did not make reasonable use of its land and did materially contribute to storm surface runoff and flooding in Mullens on July 8, 2001 — if he knew his maps depicting ownership of land within the Mullens subwatershed were "completely wrong."

Morgan explained his firm created the maps using information from the West Virginia Department of Tax and Revenue and GIS data on land ownership, and he said he color-coded the maps to depict land ownership using the keyword Pocahontas, so both Pocahontas Land Co. and Western Pocahontas Properties were indicated as the same landowner.

Bolen pointed out Western Pocahontas Properties Limited has no ownership in one area of a map that indicated it did and that the area is in fact owned by Pocahontas Land Co., which shares no common ownership or directors with Western Pocahontas Properties Limited.

Morgan clarified, saying his information indicates Western Pocahontas owns 37.5 percent of land in the Mullens subwatershed, still the majority of property. And in the Slab Fork subsubwatershed, nearly 50 percent of the land had been disturbed by Western Pocahontas.

But Bolen implied Morgan had intentionally made a misrepresentation on his map to point the finger at Western Pocahontas, the landowner being sued by plaintiffs in Mullens represented by attorney Scott Segal.

He questioned Morgan about how much he was being paid by Segal's firm. Morgan answered \$175 an hour, off and on since late 2001. Bolen also asked him what Segal had asked him to do.

### Resources

- [Print this story](#)
- [E-mail this story](#)
- [Discuss this story](#)

"They told me, 'There's been a major flood in Mullens. What caused it?'" Morgan said. "We looked at all the disturbances in the Mullens watershed, ... just trying to get some idea of what happened."

"Were you attempting to focus the blame on Western Pocahontas Properties?" Bolen asked.

"Absolutely not," Morgan replied. " ... The data lay where it lay."

The expert witness then reiterated a point he made the previous day — that the amount of timbering within the watershed, a high number of logging and skid roads within the watershed, and changes those logging operations made to the forest floor created a significant increase in peak flow.

Once again, as it did with the case's first expert witness, cross-examination turned to technical questions regarding mathematical formulas used by Morgan to reach his conclusions.

Such answers are critical in this case because jurors are being asked to decide if the activities of coal and timber companies being sued by victims of the July 8, 2001, flood 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's cross-examination will continue today. A third expert witness is expected to take the stand Monday.

— E-mail:

[bnaudrey@register-herald.com](mailto:bnaudrey@register-herald.com)

• [Click to discuss this story with other readers on our forums.](#)

[Ads by Goooooogle](#)

[Advertise on this site](#)

**Accident Reconstruction**

Accident Reconstruction Experts: JurisPro Expert Witness Directory  
[www.JurisPro.com](http://www.JurisPro.com)

**Accident Reconstruction**

Injury Biomechanics. Clearly Explained.  
[www.hayesassoc.com](http://www.hayesassoc.com)

**SEAK Inc Expert Witnesses**

Locate Expert Witnesses Nationwide, Free to search. Online & Print  
[www.SeakExperts.com](http://www.SeakExperts.com)

**Expert Witness Services**

World-Class Experts® Focus on high technology  
[newnexperts.com](http://newnexperts.com)



**Click Here** or call: **255 - 444**

## Download Flash Player Plugin

Community Newspaper Holdings, Inc. • CNHI Classified Advertising Network • CNHI News Service  
Associated Press content © 2006. All rights reserved. AP content may not be published, broadcast, rewritten or redi