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Forester: Timbering doesn't increase water flow

Joseph Newlon testifies as adverse witness in mass litigation concerning flooding of July 8, 2001

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A professional forester who works for Western Pocahontas Properties told jurors on Monday he doesn't believe proper timbering contributes to increases in water flow.

Joseph Newlon testified as an adverse witness for plaintiffs in this mass litigation concerning flooding of July 8, 2001, 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 say they will prove such catastrophic rainfall as occurred that day would have overwhelmed the land regardless of its use.

For the last two weeks, jurors have been hearing evidence meant to help them 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.

Newlon is the first witness in this case who has said he does not believe timbering practices on the property in question increased the rate of runoff. Two experts — an environmental engineer and a mining consultant deemed an expert in the area of the application of hydrology, cumulative hydrological impact and storm water surface runoff — have testified they believe timbering practices within the sub-watersheds increased surface runoff.

"I went to forestry school in 1966 through 1970. I have had continuous education courses since then, BMP (Best Management Practices) updates," Newlon said. "There is nothing in the literature that I have reviewed, nor anything in the Fernow Experimental Forest, that has ever alluded to the fact that proper selective harvesting of timber causes anything to do with flooding. It's not an aside; it's not whispered behind somebody's back. In my opinion, as a professional forester, and according to my training, it is not an issue with proper forest management practices."

Newlon also called White Oak Lumber, one of five remaining defendants and one who timbers on land belonging to co-defendant Western Pocahontas Properties Limited Partnership, "super loggers." But he did admit he, as manager of forestry resources for Western Pocahontas Properties, had issued a logger there at least one BMP violation in the years just prior to

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the storm.

Plaintiffs' attorneys scrutinized inspection reports signed by Newlon in the late 1990s that indicate White Oak loggers on the Western Pocahontas Properties land had been criticized for unacceptable steep grade levels, skid roads that should have been graded with outside shoulders pulled back in, and an operator with "a tendency to locate skid roads up the bottom of small side drainages which leave a trench road upon completion of road usage," according to one report.

"There was a BMP violation ... but it is a good operation overall," he said.

On cross-examination, Newlon made it clear that his report comments were made for educational purposes, in order to help loggers correct situations in need of improvement.

"This is not to say this was not a highly satisfactory operation," Newlon said, pointing out outstanding ratings on a number of issues including tree size limits, area utilization, tree utilization, stream clean-up and log landing clean-up.

"I am there to find problems," he said. "My job is to find problems and get them to correct it. I do that. The timber companies do that. That's why we're there. We're there to improve the forest."

But shouldn't improving the forest involve conducting pre-operational site inspections and studies in regard to road construction, log landing locations and sediment control measures, as others have suggested, plaintiffs' attorney Sam Hrko asked him. Hrko also asked if he had ever installed a rain gauge, hired a consultant, or done anything pre-timbering to ensure water runoff would not affect anyone.

Newlon said he had never measured with a gauge or done anything like that which is done in an experimental forest because BMPs ensure no one is adversely affected by timbering.

Even if he had installed rain gauges on the timbering sites, the information they would provide would be useless, Newlon said.

"It would have no utility to me," he said. "I do not consider forestry operations as increasing water flow from anything."

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