

Energy Insider by William Engdahl

Tarheels take on Bob Bergland

A Carolina court battle could set a national precedent in federal land use.

In my investigatory efforts to open up our natural resources for development, I came across an important fight of the kind I am always eager to report on. It involves a legal action now in U.S. District Court for the Western District of North Carolina. The plaintiffs, Southern Appalachian Multiple Use Council, Save America Club, et al., have squared off against Robert S. Bergland, U.S. Secretary of Agriculture, over administrative action from Mr. Bergland involving the DOA's so-called Roadless Area Review and Evaluation ("RARE II") process.

Now, almost anyone going after the bucolic Mr. Bergland will draw my interest, but this case is especially noteworthy. Here's why.

The U.S. for the first time faces the prospect of importing uranium to supply its nuclear power plants by 1990 as resources in the Western states fail to provide the amount needed. One of the most promising areas for mining of further uranium, the eastern stretch of the Appalachian belt from Alabama and Georgia up through the Carolinas into West Virginia, is under threat of being cut off from both uranium and equally promising oil and gas development by some illegal sleight of hand on Mr. Bergland's part.

It seems that Mr. Bergland has invoked his administrative powers under the 1964 Wilderness Preser-

vation Act. Herein lies the "RARE" logic of Bergland's attempt to seal yet further vast national acreage into primeval, unsullied "wilderness." It's not enough that Bergland and his cronies in the Sierra Club, Wilderness Society and Friends of the Earth have boxed up millions of acres of economically vital lands in the Western states and Alaska. They seem intent on turning the entire nation into some kind of birdbrained wilderness preserve.

Under the 1964 Wilderness Act, the Secretary of Agriculture recommends to Congress those areas of national forest to be withdrawn from multiple use as wilderness areas. Congress alone has power to make such a wilderness designation. But, despite clear language, in 1977, Bergland and former Wilderness Society Forest Service head, Ruppert Cutler, invented a cute loophole allowing them to withdraw millions of acres from mineral development. They launched "RARE II," expanding the 12.3 million acres locked up under his predecessor's RARE I. Under Bergland's RARE II, land not recommended for wilderness designation or multiple use could be held indefinitely under administrative fiat for "further study," without congressional approval. Or so they thought until some people decided to challenge them.

Jack Brettler of the Carolina Uranium Company in Franklin, N.C., for one, after having his request held up for uranium prospecting on the affected land, decided enough was enough. He and some of the plaintiffs named above hired an attorney and proceeded to challenge Bergland's rule by administrative fiat. What they found has the government worried enough that they took the defense out of the hands of Forestry attorneys and put a Justice Department "hotshot" on the case.

After reviewing the case, I can see that Bergland has cause for concern. It seems that he and his Washington cohorts have violated explicit federal law. In 1975, Congress decided that perhaps the Agriculture Secretary had a little too much discretion and passed a new law taking primacy over lands east of the Mississippi—the Eastern Wilderness Act of 1975. Under this quite explicit law, Bergland does not even have authority to withdraw lands for "further study." That authority is given to Congress. And Congress has not designated the area in the Pisgah National Forest as a wilderness.

This area, by authoritative estimates, contains enough uranium to fuel 10 to 15 1,000 megawatt nuclear plants for their 30-year life span, the barrel equivalent of 4.65 billion barrels of crude oil, or 500,000 barrels per day! Just for reference, keep in mind that Mr. Carter's synthetic fuels program mandates a potential \$88 billion to produce this equivalent amount of oil by 1987. Those are your tax dollars, whereas Brettler and others eager to develop the known economic potential of this underdeveloped area, don't seek tax subsidies for their project.