

Soil Conservation Service

I General

The Soil Conservation Service was established by the Act of April 27, 1935 (16 U.S.C. 590a-f). The Service administers this Act, as well as a number of subsequently enacted laws authorizing additional programs relating to land and water conservation and utilization. In keeping with such authorities, the SCS carries out seven basic national soil and water conservation programs. In each such program, authorized federal financial and technical assistance is provided to help recipients solve land and water conservation and utilization problems. Through adjustments in land use and installation of needed measures, these programs serve purposes such as erosion control, flood prevention, agricultural pollution control, environmental improvement, and community improvement. Recipients include landowners and operators; conservation districts; other federal, state, and local government agencies; sponsors of watershed and resource conservation and development projects; and other cooperators. The basic Service programs are the Conservation Operations Program; the Great Plains Conservation Program; the Resource Conservation and Development Program; and Water Resource Programs consisting of the River Basins, Watershed Planning, Watershed Operations, and Emergency Watershed Protection Programs.

Statement by Norman A. Berg, Associate Administrator,
Soil Conservation Service, U.S. Department of Agriculture, at the
General Counsel's Workshop for Staff Attorneys, Washington, D.C.,
May 14, 1974

II Program Administration- *On 13, 260 PFT's*

has
~~The Service maintains~~ its central office in Washington, D.C. Most of its activities, however, are decentralized; ~~they are carried out~~ in all 50 states and *the Caribbean* ~~Puerto Rico~~. Four technical service centers provide professional services, program coordination, and technical support.

This includes services such as engineering and watershed planning;

cartographic work; soil mechanics laboratories; *scientific* ~~professional help~~ in *a wide*

variety of disciplines ~~agronomy, soils, biology, farm forestry, information, plant materials, and~~

range conservation, other technical work, and provision of special

laboratories. About 3,050 area and field offices carry on the technical

programs in cooperation with conservation districts and other local

sponsoring organizations.

~~The Service utilizes the able assistance of the Office of the~~

~~General Counsel in all legal aspects of the administration of its~~

~~programs. We involve OGC in the legal aspects of administering all~~

~~seven of our programs in areas such as:~~

--Interpreting authorities, statutes, executive orders,
administrative directives, etc.

--Developing and reviewing legislative reports.

--Developing and reviewing legislative proposals.

--Providing drafting service as requested by members of the
Congress.

--Developing rules and regulations for publication and
codification in the Code of Federal Regulations.

--Determining whether proposed operating policies are within the bounds of authorizing statutes.

/// --Keeping abreast of and furnishing SCS analyses of state and local laws which affect the administration of SCS programs.

--Assistance in complying with the requirements of the National Environmental Policy Act. *of the Act.*

--Assisting the Department of Justice in the prosecution of litigation affecting the Service.

III Conservation Operations Program

The Service provides technical assistance to landowners and operators in carrying out locally adapted soil and water conservation programs, primarily through conservation districts in the 50 states, Puerto Rico, and the Virgin Islands. As of June 30, 1973, about 3,000 conservation districts had been organized covering 97% of the nation's farm and ranch land area.

For this program in fiscal year 1975, the budget proposes the Service provide some 10,490 man-years of technical assistance involving about \$199.6 million. This represents about 69% of total man-years and 50% of total funds available to the SCS for fiscal year 1975. Activities include:

A. Soil surveys to determine land capabilities and conservation treatment needs, and publication of soil surveys with interpretations useful to cooperators, other federal agencies, and state and local organizations;

1.2 billion
acres, or
52% of the Nation
completed; and
includes
about
75% urban & industrial areas.

1973 FY
2.28 million
cooperators.
Technical
assistance to
1.12 million

B. Technical assistance to district cooperators and other landowners in the development of plans and application of conservation treatments;

C. Operation of plant material centers to assemble, test, and encourage increased use of promising plant species in conservation programs; and

FY 1973
Benefited
people living
on 9 million
acres of
irrigated land.

D. Snow surveys in the Western States and Alaska as a basis for seasonal streamflow forecasts for the purpose of relating available water supply to agricultural plans and operations.

(Assistance from the Office of the General Counsel has been especially helpful in administering this program in areas such as:

--Determining adequacy of state laws to authorize organization and operation of conservation districts.

--Providing assistance in furnishing the states with suitable language for state enabling legislation.

--Drafting and reviewing cooperative agreements and other instruments.

--Analyzing the legal aspects of claims and complaints resulting from program activities and assistance in resolving such problems.

--Reviewing basic memorandums of understanding that are entered into by the Secretary of Agriculture with each conservation district.

IV Great Plains Conservation Program

The Service has general responsibility for administration of the Great Plains Conservation Program, authorized by Public Law 1021, 84th Congress (16 U.S.C. 590p. (b)). Activities include:

- A. Cost sharing of conservation practices under long-term contracts with farmers and ranchers in designated counties of the ten Great Plains States.
- B. Technical services to help make needed land use adjustments and install conservation measures specific in basic conservation plans in accordance with contract schedules.

During fiscal year 1973, 2,565 contracts with farmers and ranchers were awarded covering 4.3 million acres which involved some \$12.6 million of federal financial assistance. Accumulative totals for this program as of December 31, 1973, are 46,441 contracts covering 82.7 million acres which involved \$174.7 million.

The Office of the General Counsel was involved in drafting the original legislation which authorized the Great Plains Program, as well as subsequent amendments. Other areas in which OGC provides legal assistance specifically for this program include:

- Developing contract provisions.
- Resolving contract claims and disputes.

V Resource Conservation and Development Program

The Service has general responsibility, under the provisions of Section 102, Title I, of the Food and Agriculture Act of 1962, which amended Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1011) for leadership and direction of this program. Activities include:

- A. Investigations and surveys to help local sponsors develop overall programs and plans of land conservation and utilization.
- B. Technical services and financial assistance to sponsors, local groups, and individuals in carrying out such plans and programs.
- C. Loans for resource improvements and developments in approved projects. Loans are made on an insured basis from the Agricultural Credit Insurance Fund administered by the Farmers Home Administration.

As of June 30, 1973, 82 RC&D projects, involving 570 counties, were authorized for installation assistance; and another 41 projects, involving 225 counties, were being planned. During the 1974 fiscal year, \$24 million, or about 6% of total SCS funding, is available for this program.

Assistance from the Office of the General Counsel for the RC&D program is particularly important in:

- Developing and interpreting provisions for contracts, agreements, and related documents.
- Determining legal sufficiency of land rights.
- Resolving claims and disputes.

VI Water Resource Programs

A. River basin surveys and investigations program - The Service

To Date:

56 cooperative studies underway in 44 states. About 40 will be completed by June 30, 1974.

Some 86 Flood Hazard analyses underway in 28 states & 25 completed.

administers the Cooperative River Basin Surveys and Investigations Program in the Department. This includes the development of guiding principles and procedures. The program involves cooperation with other federal, state, and local agencies in the conduct of river basin surveys and investigations in order to aid in the development of coordinated water resource programs. Also included is representation of the Department on the Water Resources Council, river basin commissions, and river basin interagency committees for coordination between federal departments and states.

Flood Insurance Studies--
130 completed.
in 37 states.

During the current fiscal year 1974, SCS is authorized to use \$15.8 million and 684 man-years, or about 4% of its funds and manpower, for the river basin surveys and investigations program.

B. Watershed planning program - The Service has general

FY 1974--
Identified floodprone communities in the Nation for HUD
13,500 communities.

responsibility for administration of the Watershed Planning Program, including development of rules, regulations, and procedures. The activities conducted under this program

Todate:

1,682 approved
for planning.

1,111 plans
completed.

1,092 projects
approved for
operations.

consist of (1) making investigations and surveys of proposed small watershed projects in response to requests made by sponsoring local organizations and (2) assistance to sponsors in the development of watershed work plans.

During fiscal year 1974, this program is funded with \$12.6 million, and 573 man-years assistance is authorized. This represents about 3% of SCS funding and a little less than the authorized man-years of personnel for the year.

- C. Watershed and flood prevention operations program - The Service has general responsibility for administration of the Watershed and Flood Prevention Operations Program, including development of rules, regulations, and procedures. The activities include:

1. Watershed operations: Cooperation with local sponsors, state, and other public agencies in the installation of planned works of improvement in approved watershed projects. Such works of improvement reduce erosion, floodwater, and sediment damage. They also further the conservation, development, utilization, and disposal of water, and the conservation and proper utilization of land, including among other purposes, the development of recreational facilities, improvement of fish and wildlife habitat, and municipal and industrial water supply.

6,223 water
retention or
impounding
structures.

\$317 million flood
prevention benefits.

\$415 million
benefits from land
conservation &
development.

\$228 million
increased income.

\$35 million
recreation
opportunities.

2. Flood prevention operations: Planning and installing works of improvement for flood prevention and for the conservation, development, utilization, and disposal of water, and the conservation and proper utilization of land. Also, this may include the same multiple purposes as in watershed operations. These activities are carried out in the 11 authorized flood prevention watersheds.
3. Loans to local organizations to help finance the local share of the cost of carrying out planned watershed and flood prevention works of improvement. Loans are made on an insured basis from the Agricultural Credit Insurance Fund administered by the Farmers Home Administration.

Funds in the amount of \$139.6 million and 3,360 man-years, or 33% and 22% respectively of SCS totals, are available for this program during fiscal year 1974.

- D. Emergency watershed protection program - The Service has general responsibility for administering the Emergency Watershed Protection Program which is authorized by Section 216 of the Flood Control Act of 1950. Under this program federal technical and financial assistance is provided through sponsoring local organizations to plan and install emergency measures to safeguard lives and property from floods and the products of erosion in watersheds suddenly impaired by natural causes. The annual appropriation of \$300,000 for this program has been supplemented from time to time as need arose. During the current fiscal year 1974, a total of \$28.7 million is authorized for the emergency watershed protection program.

FY 1973
2,062 acres
critical area
planting.

482 miles
channel
restoration; i.e.
debris removal,
bank protection,
etc.

The Office of the General Counsel provided legal assistance in drafting the original legislation and many subsequent amendments to the Watershed Protection and Flood Prevention Act of 1954. The SCS staff consults with OGC almost daily on some legal aspect of the water resource programs. Examples of areas in which legal assistance is provided include:

- Interpreting the provisions of the statutes, regulations, and directives.
- Determining that operating procedures are within the provisions of the law.
- Determining legal adequacy of proposed sponsoring local organizations.
- Ascertaining legal sufficiency of watershed work plan agreements.
- Reviewing watershed work plans for legal sufficiency.
- Developing and interpreting provisions for contracts, agreements, and related documents.
- Keeping abreast of newly enacted state and federal laws affecting the programs.
- Resolving claims and disputes.

--Legal assistance in resolving problems encountered in carrying out the environmental impact statement provision of Sec. 102(2)(C) of the National Environmental Policy Act of 1969. Interpretations of this Act and refinements of interpretations of requirements continue to be made through the courts as cases are adjudicated. Since SCS had several hundred water resource projects underway when the Act became effective, we have had our share of environmental impact statement problems. Several have resulted in lawsuits. Most notable of such cases are those involving the:

1. Blue Eye Creek Watershed, Alabama
Earle Montgomery v. John R. Ellis, et al., C.A. No. 71-644
(USDC ND Ala.)
2. Chicod Creek Watershed, North Carolina
Natural Resources Defense Council, Inc. et al. v. Grant et al.
Civil No. 754 (U.S.D.C. ED North Carolina Washington Division).
3. Tillatoba Creek Subwatershed (Yazoo FP Project), Mississippi
R. W. Boone, et al. v. Tillatoba Creek Drainage District et al.
Civil No. DC 7354-K (U.S.D.C. ND Miss.).
4. Big Creek Slough Watershed, Texas
Eva Simmans, et al. v. Kenneth E. Grant, et al. Civil No. 73-H-927
(U.S.D.C. SD Texas, Houston Division).
5. Pine Creek Watershed, Texas
6. Black Creek-Mason County Watershed, Michigan
7. Knife Lake Improvement RC&D Measure (Onanegozie RC&D Project) Minnesota
Arthur Nelson et al. v. U.S.D.A. et al., C.A. No. 5-74-7
(5th Division District of Minnesota).
8. Crane Creek RC&D Measure (Hull-York RC&D Project) Tennessee
Cordell Smith et ux. v. City of Cookeville et al. C.A. No. 74-10-NE-CV
(U.S.D.C. Middle District of Tennessee Cookeville Division).
9. Water Resources Congress, et al. v. Water Resources Council et al.
Civil No. 1935-73 (U.S.D.C., DC).

159.13

CASES CHALLENGING SOIL CONSERVATION SERVICE
ACTIVITIES ON ENVIRONMENTAL
GROUNDS

April 1, 1974

Blue Eye Creek Watershed Project

Earle Montgomery v. John R. Ellis, et al., C.A. No. 71-644

U.S.D.C. ND Ala., The action was commenced in Alabama State court on June 30, 1971. The plaintiff landowner sought an injunction to stop work on the Blue Eye Creek Watershed Project alleging that the Blue Eye Creek Watershed Conservancy District was not legally incorporated. Two of the named defendants are Soil Conservation Service (SCS) employees. The case was removed to United States District Court on July 14, 1971. The plaintiff amended the complaint to include allegations as to NEPA violations (inadequacy of environmental impact statement) and a prayer for injunctive relief. The plaintiff's motion for summary judgment and injunctive relief is presently before the court. The Government's memorandum opposing the plaintiff's motion was filed June 1, 1973.

On September 11, 1973, Judge Guin granted the plaintiff's motion for summary judgment and enjoined the defendants from constructing, installing or further authorizing or financing any stream modification or channelization of said Blue Eye Creek until (1) an adequate environmental impact statement is prepared, circulated and found sufficient by this Court, (2) in preparing such statement the substantive requirements of NEPA are complied with, (3) Watershed Memorandum 108 is also complied with by reappraising the project so as to reduce adverse environmental effects and to develop a more favorable benefit-cost ratio. The Court retained jurisdiction to assure compliance with this opinion and order. Notice of appeal

filed November 9, 1973; however, the Department has recommended that the case not be appealed. The Department of Justice has decided not to prosecute an appeal of the case.

Chicod Creek Watershed

Natural Resources Defense Council, Inc., et al. v. Grant, et al.
Civil No. 754 (U.S.D.C. ED North Carolina, Washington Division).
The action was commenced November 26, 1971, seeking declaratory and injunctive relief to halt further construction or installation of the Chicod Creek Watershed Project by the defendants. The plaintiffs include the Natural Resources Defense Council, Inc., North Carolina Wildlife Federation, Inc., Pamlico - Tar Conservation Coalition, National Wildlife Federation and Friends of the Earth. On February 5, 1973, the Court issued a preliminary injunction enjoining the Soil Conservation Service's (SCS) 66-mile stream channelization project, the Chicod Creek Watershed Project in North Carolina. The Court held, in part, that the environmental impact statement filed by the defendants was inadequate, and issued a temporary restraining order which enjoined the defendants from taking any further steps to authorize, finance, contract for, or commence construction or installation of the Chicod Creek Watershed Project, pending a final hearing on the merits of plaintiffs' claims that defendants have failed to satisfy the requirements of the National Environmental Policy Act, and that construction of the project would violate Section 13 of the Rivers and Harbors Act of 1899; or until it is determined by the Court that the defendants have complied with the requirements of the National Environmental Policy Act and Section 13 of the Rivers and Harbors Act of 1899. A revised draft EIS is being circulated for review.

R. W. Boone, et al. v. Tillatoba Creek Drainage District, et al., Civil No. DC 7354-K (U.S.D.C., ND Miss.). The action was filed on May 23, 1973. Plaintiff landowners sought (1) a declaratory judgment that the proposed funding of the Tillatoba Creek Drainage District by the Soil Conservation Service is a major Federal action subject to NEPA, (2) to enjoin temporarily and permanently the defendants Tillatoba Creek Drainage District and the Soil Conservation Service, USDA from further action until compliance with NEPA by preparation of an environmental impact statement. The Tillatoba Creek Watershed Work Plan was prepared under the Flood Control Act of 1944 and approved May 2, 1960. The plan was supplemented in 1965, 1969, and 1973. The Tillatoba Creek Drainage District and the SCS, USDA, entered in an Operation and Maintenance Agreement for structural measures May 17, 1973. The USDA was served on June 1, 1973, and the complaint was amended June 18, 1973. After a hearing on June 29, 1973, the Court granted plaintiffs' request for a preliminary injunction, finding the project to be a major Federal action significantly affecting the quality of human environment and therefore enjoined defendants from proceeding with the project until the Federal agency shall fully comply with the provisions of NEPA. The order by Judge Keady required "preparation of a detailed impact statement for submissions and approval" and that "the injunction shall continue in force until this court shall have opportunity to review the adequacy of the impact statement and make its final determination

that provisions of the National Environmental Policy Act have been satisfied,". The plaintiffs were ordered to post \$2,000 bond. A revised draft EIS is being prepared by SCS to meet the objections of the court.

Eva Simmans, et al. v. Kenneth E. Grant, Administrator, Soil

Conservation Service, et al. Civil No. 73-H-927, (U.S.D.C.

SD Texas, Houston Division). The action was filed July 4, 1973.

The plaintiff landowners seek declaratory and injunctive relief to halt a Soil Conservation Service watershed project in Brozos County,

Texas, on the ground that defendants have violated NEPA by failing

to file an environmental impact statement. The Big Creek Slough

Project was authorized in 1964. Violations of the Watershed

Protection and Flood Prevention Act, Rural Development Act of 1972,

and the Fish and Wildlife Coordination Act are also alleged.

A hearing was held July 12, 1973, as to plaintiffs' request

for interim injunctive relief. Judge Bue required the parties

to submit a Post-Trial Memorandum in support of their positions.

In a Memoranda and Opinion announced January 22, 1974, the court

concluded that no impact statement was required; however, because

of the failure of the Soil Conservation Service to prepare an

adequate negative declaration the court ordered some equitable

relief.

The court held that the failure of SCS to prepare a negative declara-

tion with accompanying appraisal in lieu of a full scale EIS

would normally justify injunctive relief until such time as the

appropriate record had been prepared. However, the court in this

instance exercised its discretion and held a hearing primarily

because of the unsettled state of a law in this area. Accordingly,

a record was made which served to satisfy certain of the require-

ments of such a negative declaration.

The court held that this project should be regarded as being both a "major and a Federal" action. However, with respect to the "significant" environmental impact of the project, the court reached a different conclusion based on the record of the hearing. It showed that there would be no "significant" impact, if the project was modified as SCS represented it would be. Therefore, the Soil Conservation Service's decision not to prepare a formal EIS was not erroneous.

The court ordered that the defendants could resume immediate construction on the project and concurrent with such resumption the defendants should confer with the plaintiffs and prepare for court approval and entry within 30 days, a documentary summary of all mitigation measures to be implemented on this project.

The court retained jurisdiction pending completion of the project and until such time as it is appropriate to enter a final order or decree.

The plaintiffs' filed a Motion to Advance Trial of the Action on the Merits and Incorporate Evidence at Hearing on Preliminary Injunction and Motion for Preliminary Injunction on February 5, 1974. The plaintiffs' allege that unless a trial on the merits precedes construction of the project, (1) the interlocutory order will have the effect of a final judgment, without the Court having the benefit of a full presentation of evidence, (2) the case will become moot, and (3) the plaintiff will suffer irreparable injury.

In support of their motion they argue that the evidence was not fully developed at the hearing because none of the parties were adequately prepared for trial.

On February 21, 1974, the Documentary Summary of mitigation measures as ordered by the court was filed with the Court. The plaintiff's filed objections to the Documentary Summary of SCS on March 4, 1974.

The United States Attorney filed a motion in Opposition to Preliminary Injunction and Advancing of the Trial Action on March 1, 1974.

Inasmuch as the SCS prepared and filed the Documentary Summary the Department of Agriculture recommended no appeal be taken of the courts order of January 22, 1974, however, it is believed that modification of that order or further adverse orders of the court could be appealed. The Department of Justice also decided no appeal should be taken of the January 22, 1974 order.

PINE CREEK WATERSHED, TEXAS

Project approved for operations March 6, 1964.

Court action originated as a condemnation suit for land rights. Court decided in favor of sponsors. Plaintiffs appealed the case but appeal was denied. Suit was then filed on environmental issues. Agreement on issues was reached out of Court. Case was dismissed at request of plaintiffs.

No change in status. Case was dismissed at request of plaintiffs.

BLACK CREEK-MASON COUNTY WATERSHED, MICHIGAN

Project approved for operations August 10, 1964.

Case entered in Circuit Court against the Drain Commissioner claiming that project did not comply with state drainage code; would pollute and destroy natural resources; and that SCS did not comply with the National Environmental Policy Act. The Circuit Court ruled for the defendant. The plaintiffs appealed and case is now in the Appellate Court. There is an indication that the case may be carried to the State Supreme Court.

The court of appeals denied the plaintiff's motion for a rehearing. However, the plaintiffs have now appealed to the michigan Supreme Court. We understand that, based on the court's schedule, the case will not likely be heard until calendar year 1975.

Knife Lake Improvement

189.24

Arthur Nelson et al v. U.S.D.A., County of Kanabec, Minnesota

C.A. No. 5-74-7 (5th Division District of Minnesota). The suit was filed February 5, 1974. The plaintiff landowners seek:

1) a declaratory judgment that the environmental review and the environmental impact statement (EIS) prepared by the Soil Conservation Service do not meet the procedural and substantive requirements of NEPA; 2) that defendants be permanently enjoined from construction of the dam and recreation areas in Knife Lake Improvement Measure until such time as the procedural and substantive requirements of NEPA are performed.

The suit arises from the Knife Lake Improvement RC&D Measure, Onanegozie RC&D Project Kanabec County, Minnesota. The measure plan provides for conservation land treatment and one multiple-purpose structure for flood prevention and recreation development. The draft (EIS) was received by the Council on Environmental Quality (CEQ) January 31, 1973. The final EIS was transmitted to CEQ on May 24, 1973.

The plaintiffs allege that the EIS prepared by SCS does not comply with the provisions of § 102(2)(C) of NEPA in that the statement does not adequately disclose and discuss in a detailed manner the impact and adverse environmental effects of the proposed action including but not limited to the following:

- 1) the land and environs below the proposed dam site;
- 2) the archeological site above the proposed dam site;
- 3) the wildlife and wetland habitat above and below the proposed dam site;

- 4) the irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
- 5) the discussion of the feasibility of alternatives and the implementation of such alternatives to the proposed action;
- 6) the discussion of the feasibility of remedial steps with respect to environmental impact of the proposed action;
- 7) and the balance of environmental impact, benefits, and commitment of resources in the cost benefit analysis as required by NEPA.

The plaintiffs also allege that certain statement in the EIS lack data to support the conclusion therein and other statements are based upon inadequate data. As examples of such statements the plaintiffs cite the following:

- 1) Recreation has been limited to hunting, nature study, and interpretative trails.
- 2) The conclusion that there is a need for two recreational areas to be developed in the area.
- 3) The conclusion that structural measures involved in this project will reduce floodwater damage to 30 homes and cabins, reduce the erosion damage to shoreline lots and eliminate the high cost of flood control during the periods of high water.
- 4) The conclusion that the structural measure involved in this project will decrease boating hazards from submerged objects and decrease bodily injury.
- 5) The conclusion that lake shore properties values will be increased.
- 6) The conclusion that the average monetary benefits of the plan will reach \$85,200.
- 7) The conclusion that the new structure will have no significant effect on downstream flood conditions.

8) The conclusion that the structure will reduce phosphorous contribution to Knife Lake.

Finally, the plaintiffs allege that the commentary procedure utilized by SCS in the preparation of the EIS violated NEPA in that there was no adequate opportunity for public participation in preparation of EIS; inadequate opportunity for public comment of the draft EIS; defendants failed to make adequate responses to comments on the draft EIS. It is noted that an action commenced by the County of Kanabec is pending in the District Court for the County of Kanabec, State of Minnesota to condemn certain land of the plaintiffs for the Knife Lake Improvement Measure.

Crane Creek Improvement

15927

Cordell Smith and Wife, Fannie Smith v. City of Cookeville,
a municipal corporation: Bethel Newport, City Manager; Putnam
County Soil Conservation District; United States Department of Agri-
culture; Earl L. Butz, Secretary; United States Department of
Housing and Urban Development; and James T. Lynn, Secretary,
C.A. No. 74-10-NE-CV (USDC Middle District of Tennessee Cookeville
Division.

The action was filed February 15, 1974, by the plaintiff landowner to enjoin the Crane Creek Improvement Project, Putnam County, Tennessee. The complaint alleges: 1) that no relocation benefits have been offered to them as required by Uniform Relocation and Real Property Acquisition Policies Act of 1970 42 U.S.C. 4601 et seq. and that the relocation plan filed Cookeville does not meet the requirements of the Act; 2) that no environmental impact statement has been filed and, further that if same has been filed, there is not reference therein to the poison flowing into the Crane Creek (poison allegation is to defendant Cookeville).

The court granted plaintiff's request for a temporary restraining order and set the action for a show cause hearing on March 6, 1974, as to why a preliminary injunction should not issue. The TRO restrained and enjoined defendant City of Cookeville from dispossessing the plaintiffs from their home.

Upon completion of the hearing March 6, 1974, the Court ordered the parties to submit briefs in 10 days. The status quo is to

be maintained until the court rules on the request for a preliminary injunction.

The plaintiffs are also appealing in the Tennessee Court of Appeals a lower court's ruling sustaining the condemnation petition to the plaintiff's land.

Water Resources Congress, et al. v. Water Resources Council,
et al., Civil No. 1935-73 (U.S.D.C., D.C.) The complaint
was filed on October 15, 1973, seeking declaratory and
injunctive relief to prevent the principles and standards for
planning water and related land resources projects promulgated
by Water Resources Council with approval of the President
from going into effect on October 25, 1973. Judge Richey stayed
implementation and effectuation of the rulemaking until a hearing
on October 30, 1973. The plaintiffs' application for preliminary
injunction was denied. Judge Richey found that the plaintiff
corporations and associations and individuals had failed to
designate any specific provision of the Water Resources Planning
Act of 1964 which the Council violated; failed to make sufficient
allegations as to standing; failed to allege or show irreparable
injury; and failed to show that injunctive relief was in the public
interest. The Government's motion to dismiss was granted
December 12, 1973. The plaintiffs have noted appeal.

Subsequently the Water Resources Development Act of 1974 was enacted,
which rendered the case moot. Plaintiffs then moved to dismiss their
appeal. The Circuit Court of the District of Columbia has not ruled
on the motion as of this date.