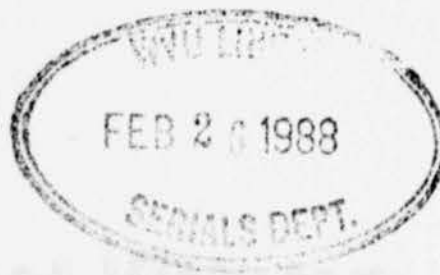




# THE HIGHLANDS VOICE



NON-PROFIT ORG.  
U.S. POSTAGE  
PAID  
PERMIT NO. 2831  
CHAS. WV 25301

Periodicals, Main Library  
WVU  
P.O. Box 6069  
Morgantown

WV 26506

Published monthly by the W. Va. Highlands Conservancy

VOL. 21, NO. 2, FEBRUARY 1988

## MRS Siting: A Half Life Of Its Own

The possibility of siting a monitored retrievable storage facility (MRS) in West Virginia refuses to fade away. The United States Department of Energy wanted to build a billion dollar nuclear waste dump, which would accept, repackage, and temporarily store radioactive electric power rods in preparation for their final disposal in Nevada, at the site of the cancelled Clinch River Breeder Reactor in Tennessee, but last year a coalition of Tennessee elected officials, environmentalists, and citizens' groups fought the action to a standstill.

Now Congress has thrown the site selection process wide open. It created a nuclear waste negotiator empowered to make a deal with the Governor of any state. It reduced the "incentive" payments to the host state to \$5 million/year upon signing and \$10 million/year when the waste begins arriving, and makes the payments contingent on the state's surrendering its rights to oppose the MRS in court. The payments are also subject to the annual budget process. Congress also created a 3-member commission to report on the need for a MRS facility. After the commission reports in 1989, the DOE is authorized to restart their survey of suitable MRS sites. If they find a suitable site the state may disapprove (and lose the "incentive" payments), but their disapproval can be

overridden by Congress. Construction on the MRS cannot begin until a construction permit for the permanent repository is issued. Congress has decided that the MRS doesn't need an Environmental Impact Statement, and that only one public hearing in the affected state will be held.

In West Virginia, the Governor's Office of Community and Industrial Development is working with the nuclear industry to set up "Hospitality Suites" during the legislative session. Hotel rooms have been rented and the legislators stop in for food, drink, and information on MRS. Governor Moore has not committed himself either way. There may be an attempt to amend or repeal Chapter 16, Article 27 of the WV Code, our anti-nuclear storage law.

The WV League of Women Voters has put out a fact sheet on MRS, and will put an MRS question to every candidate in the upcoming election.

### FINDINGS FROM TENNESSEE'S MRS STUDY

In June 1985, shortly after DOE announced that Oak Ridge, Tennessee, was its preferred location for the MRS, the State of Tennessee — executive and legislative branches — began an intensive study of the

(continued on page 6)

## 1988 Legislative Session — Priorities

by Ron Shipley  
WVHC Vice President for State Affairs

As the newly elected Vice President for State Affairs, one of my responsibilities is to monitor and seek to influence legislation. At the January 17, 1988, Board meeting, I presented the Board with an overview of the upcoming session and recommended priorities. Following Board discussion, the Board ratified proposed positions and authorized me to proceed. This outline will (1) explain issues that appear to be the hottest, (2)

explain bills that, in my opinion, can have the greatest impact on the environment that are likely to receive action, and (3) inform you of the Conservancy's priorities in the upcoming session.

### HOT ISSUES (not necessarily in order of degree)

1. **Groundwater Statute:** The Conservancy will be participating in a "groundwater (continued on page 8)

## Mark Your Calendar Spring Review

APRIL 15, 16, 17

Cass Scenic Railroad State Park

Theme: RIVERS

## Winter Board Meeting

The 1988 West Virginia legislative session dominated the WVHC winter board meeting in Buckhannon on January 17. Ron Shipley, Vice President for State Affairs, had prepared a report on what he foresaw as the most pressing issues, and the board members provided him with positions, strategies, and directions. [Shipley's summation of the discussion is presented in the article "1988 Legislative Session — Priorities" on page one.]

### AIR/WATER TOXICS

Kim Taylor, Chair of the Air/Water Toxics Committee, requested using \$100 of general Highland Conservancy funds to help pay the cost of printing a brochure designed to be used in gathering support for the groundwater bill. Her request was approved.

Taylor also reported on the Air Pollution Control Commission. In December, the APCC issued a statement that it would be requiring best available control technology to reduce emission of 13 carcinogens. The decision was primarily aimed at the chemical industry in the Kanawha Valley. The APCC is now under intense pressure from the chemical industry to drop this strict regulation. The industry would prefer to continue to make reductions on a voluntary basis. She encouraged members to write to APCC (1558 Washington St., East, Charleston, WV 25311) to show support.

In addition, Taylor updated the activities of MACE, a

citizen's organization in Mason County opposed to the Pyrochem incinerator. The group has collected thousands of names on petitions, unearthed questionable actions taken by local officials, and called into question much of Pyrochem's proposal. As a result of MACE's presentation before the Hazardous Waste Advisory Committee, the committee decided to begin an all-out effort to draft a hazardous waste siting policy for the state. "Let's hope it turns out better than the groundwater policy," she added.

### EDUCATION

Jim Van Gundy, Chair of the newly formed Education Committee, presented ideas on ways the committee could help members of the board, other committees, the general membership and the public at large. Details of his report are presented on page 4.

### MINING

Joan Sims, a member of WVHC and President of the 4-H Road Community Association, asked the Conservancy to participate in the association's attempt to keep the Lauritas, who own 15 different mining companies, from strip mining land near Booth's Creek near Morgantown. James Laurita, Sr., applied for a permit to mine the area last summer under the name of Stone King Coal, but he later withdrew the request when it was discovered that he did not list reclamation violations committed by some of his other mining companies. Laurita, Jr., applied for a permit to mine

the same land under the name Mepco, Inc. Sims said, "The intent of the Surface Mining Act is undermined when one family member cannot get a permit himself and another family member turns around and applies for it." The board voted to join in the battle and help with expenses.

### PUBLIC LANDS

In November, the executive committee had approved a resolution proposed by Milton Zellermyer, organizational director from Mountain Stream Monitors Project, on the Coopers Rock tramway controversy. The board voted to accept the resolution: "The West Virginia Highlands Conservancy opposed the proposed construction of an aerial passenger tramway at Coopers Rock State Forest across the Cheat River gorge and the construction across the Cheat River from Coopers Rock State Forest of other recreation and amusement facilities such as water slides and theme parks."

### NEW MEMBERS

Doug Leppanen of Charleston has joined the board of directors representing the Kanawha Valley Council of Trout Unlimited.

Chuck Hamshire is the new membership secretary, replacing Adrienne Worthy. Adrienne, who did an excellent job as secretary, has become the chair of the Membership Development Committee.

## Mountain View

### Fear of Garbage

by John Purbaugh

Out-of-state garbage is being hauled to West Virginia and landfilled at an ever-increasing rate. At least three hazardous waste incinerators (Pyrochem and APTUS in Mason County, and at the Union Carbide plant in Sistersville) are proposed along the Ohio Valley. Advocates of a Monitored Retrievable Storage Facility (the bureaucratic name for a nuclear waste dump) are sponsoring a two-week long "hospitality suite" for state senators and delegates during the current legislative session. Ordinary citizens are scared, because they know two truths about all this: the State and the companies can't be relied upon to protect us, and what's considered safe today can be discovered tomorrow to have caused Aunt Mary's miscarriage, or worse.

As usual, we're caught flat-footed, with an inadequately staffed and funded regulatory program, and no siting process to resolve community impacts. Governor Moore's initial response was to issue a popularly acclaimed ban on out-of-state garbage, and to then be outraged when a federal judge, following already well-established law, declared the ban unconstitutional. That is undeniably good politics, but doesn't really help solve the problem. In a year when money's not just tight, but has to be borrowed from pension fund investments in order to pay insurance bills, we can't expect much beef to be added to DNR's regulatory program.

Some rational voices can be faintly heard, arguing that since some level of imported waste is inevitable, our best hope lies in improving our regulation of its disposal at least to parity with surrounding states. This way, we'll be as environmentally protected (and therefore, as expensive to dump on) as our neighbors, and understandable market forces such as land prices and transportation costs will determine our ranking as a dumping ground. Taxes or fees on waste calculated to pay for the damaged bridges and roadways, new fire department equipment, water treatment plants, and other community impacts can lawfully be imposed. We can insist on a siting process, dealing with the community, rather than environmental impacts, that gives control to the people most directly affected. Send those who want to wine, dine or bribe elected officials home empty-handed, and let the straight shooters in only for so long as they toe all the lines we can draw. Finally, let's take advantage of the current attention to these problems by working in a solution to our seemingly unsolvable litter problem. Use the siting process and fees on out-of-state waste to establish landfills that can take our own garbage at an affordable price.

### WVHC Joins In Battle Against A Proposed Laurita Mining Operation

Dear Editor:

We appreciate the work that the Highlands Conservancy has done to deal with the many mining pollution problems in West Virginia. Recently, I went to a meeting of the directors of your organization to ask for help in our effort to protect our Booth's Creek from being polluted by a proposed Laurita mining operation near Morgantown. This is a case in which a son is now applying for a permit for a coal mine that his father had applied for earlier, but could not receive because of uncorrected mining violations. We are trying to establish the legal principle that a person may not simply ask a closely associated friend or family member to apply for a permit that he himself is not able to obtain.

The directors of the Conservancy voted to join us in our litigation, and to give us some financial aid to help us with our many expenses. We really appreciate your group's generosity. We will always remember that the Highlands Conservancy helped us when we needed it.

Sincerely,  
Joan Sims, President  
The 4-H Road Community  
Association

### New Group Forms To Help People Deal With Mining Problems

by John Sulstrum

A new organization Home Place has been formed in Lincoln County and incorporated in the state of West Virginia. The primary purpose of this group will be to help persons and families who feel that they will be adversely affected by mining operations close to their homes find answers to their questions about how different methods of mining will affect them and to help them find legal assistance, if they feel they need it, in their dealings with the coal companies.

Although all of the founders of Home Place are working people, we feel that the interests of the families and homeowners in the vicinity of any possible mining operation outweigh the possibility of jobs to Lincoln County residents. We feel that strip mining does irreversible damage to the hills of Lincoln County, and it is our hope that through open and forthright dialogues more

citizens of Lincoln County will open their eyes to this. "Reclamation" and "leaving the land better than it was" are very misleading terms. Lincoln County is a place of oak, hickory, and poplar forests which would take decades to come back even under the very best attention after strip mining.

None of us feel, good about well-meaning people being unable to find jobs here in Lincoln County, but stripping the hills to mine coal isn't the only way out for the unemployed. There have been good gains toward milling and processing the county's timber resources into richer returns here in the county. Four out of the seven founders of Home Place drive out of the county to work, but gladly do so to have something worth coming home to when the day's work is done.

(continued on page 8)

## Roster of Officers, Board Members and Committee Chairs

### BOARD OF DIRECTORS

PRESIDENT: John Purbaugh  
Box 2502 Dudden Fork, Kenna, WV 25248 (988-9024)  
SENIOR VICE PRESIDENT: David Elkinton  
Route 5, Box 228-A, Morgantown, WV 26505 (296-0565)  
VICE PRESIDENT FOR STATE AFFAIRS: Ron Shipley  
1126 Hickory Rd., Charleston, WV 25314 (346-6971)  
VICE PRESIDENT FOR FEDERAL AFFAIRS: Skip Deegans  
2112 New Hampshire Ave., N.W., Apt. 615, Washington, D.C. 20009 (202/265-9337)  
SECRETARY: Mary Lou Newberger  
Box 89, Looneyville, WV 25259 (565-4415)  
TREASURER: Tom Michael  
Route 2, Box 217, Lost Creek, WV 26385 (623-3447)  
PAST PRESIDENT: Larry George  
1033 Quarrier Street, Suite 715, Charleston, WV 25301 (346-3706)

### DIRECTORS-AT-LARGE

(Terms expires October 1989)

Richard diPreto: 264 High Street, Morgantown, WV 26505 (296-8963)  
Geoff Green: Rt. 1, Box 79-A, Burlington, WV 26710 (289-3565)  
Sayre Rodman: 32 Crystal Drive, Oakmont, PA 15139 (412/828-8983)  
Skip Deegans: 2112 New Hampshire Ave., N.W., Apt. 615, Washington, D.C. 20009 (202/265-9337)  
Perry Bryant: 236 South High Street, Morgantown, WV 26505 (291-1465)  
Jim Van Gundy: 240 Boundary Avenue, Elkins, WV 26241 (636-4736)

### DIRECTORS-AT-LARGE

(Terms expire October 1988)

William P. McNeel: 1118 Second Avenue, Marlinton, WV 24954 (799-4369)  
Cindy Rank: Rt. 1, Box 227, Rock Cave, WV 26234 (924-5802)  
Kim Taylor: 1420 Lee St., Charleston, WV 25301  
John McFerrin: 1105 Tinder Avenue, Charleston, WV 25302 (345-5646)  
Donna Borders: 924 Second Ave., Marlinton, WV 24954

### ORGANIZATIONAL DIRECTORS

KANAWHA TRAIL CLUB: Charles Carlson  
Box 131, Charleston, WV 25321 (343-2056)  
NATIONAL SPELEOLOGICAL SOCIETY: Virginia Region: Martin DiLeggi  
Route 1, Box 233-A, Alderson, WV 24910 (304/445-7508-Home)  
POTOMAC APPALACHIAN TRAIL CLUB: Jeannette Fitzwilliams  
13 W. Maple Street, Alexandria, VA 22301 (703/548-7490)  
PITTSBURGH CLIMBERS: Jean Rodman  
32 Crystal Drive, Oakmont, PA 15139 (412/828-8983)  
W. VA. COUNCIL OF TROUT UNLIMITED: Don Brannon  
P.O. Box 38, Charlton Heights, WV 25040 (799-2476)  
KVCTU: Doug Leppanen  
819 Orchard Street, Charleston, WV 25302 (344-0467)  
W. Va. MOUNTAIN STREAM MONITORS PROJECT: Milton Zelermyer  
723 College Avenue, Morgantown, WV 26505 (296-6289)  
BROOKS BIRD CLUB: Mary Moore Rieffenberger  
Rt. 1, Box 523, Elkins, WV 26241 (636-4559)  
KYOVA CHAPTER TROUT UNLIMITED: Frank Akers  
1601 Sycamore St., Kenova, WV 25530 (453-1494)  
SAVE OUR MOUNTAINS: Andrew Maier  
P.O. Box 1286, Hinton, WV 25951

### COMMITTEE CHAIRS

WVHC ENDOWMENT FUND: Ann Spaner  
23 Seneca Hills Drive, Elkview, WV 25071 (965-7631)  
CANAAAN VALLEY COMMITTEE: Linda Cooper Elkinton  
Rt. 5, Box 228-A, Morgantown, WV 26505 (296-0565)  
MINING COMMITTEE: John McFerrin  
1105 Tinder Avenue, Charleston, WV 25302 (345-5646)  
PUBLIC LANDS MANAGEMENT COMMITTEE: Sayre Rodman  
32 Crystal Drive, Oakmont, PA 15139 (412/838-8983)  
and Donna Borders, 924 Second Ave., Marlinton, WV 24954  
PUBLICATIONS COMMITTEE: W. E. "Skip" Deegans  
2112 New Hampshire Ave., N.W., Apt. 615, Washington, 20009 (202/265-9337)  
MEMBERSHIP DEVELOPMENT COMMITTEE: Adrienne Worthy  
316 Skyline Drive, Charleston, WV 25302 (343-2767)  
AIR/WATER TOXICS: Kim Taylor  
1420 Lee St., Charleston, WV 25301

### ADMINISTRATIVE OFFICES

Chuck Hamsher, Membership Secretary  
Suite 201, 1206 Virginia Street, East  
Charleston, WV 25301  
(304) 766-6172

Gary Worthington, Voice Editor  
118 Clark Avenue  
Fayetteville, WV 25840  
(304) 574-0540

## Public Review Meeting For Military Use Of MNF — March 17

A public meeting will be held at the National Guard Armory in Elkins on March 17, 1988, to review military special use of the Monongahela National Forest. (January Voice, page 1, for a summary of last year's activity.)

Since this meeting is held only once a year, it is important that supporters of the Forest be there.

## Enacting The West Virginia Underground Storage Tank Act

(Ron Shipley testified before a state legislative committee regarding S.B. 85 on behalf of the West Virginia Highlands Conservancy. He was a special assistant to the director of the Department of Natural Resources and the State's Hazardous Waste Coordinator. Also he held the position of acting chief of division of waste management and, while in that role, presided over the state's initial development of the underground storage tank program.)

The West Virginia Highlands Conservancy supports the enactment of an underground storage tank law in West Virginia. Based on notifications required by the Federal Law: Subtitle I of the Federal Resource Conservation and Recovery Act, the Department of Natural Resources estimates that there are approximately 16,600 underground storage tanks at 6,600 different facilities in the state. Of these tanks, DNR estimates that approximately 15,225 hold petroleum products, 77 hold chemical, 430 are empty and the rest are unknown.

Underground storage tanks are potential hazards to the environment and the health and safety of the public. Their contents can leak into the soil and groundwater, their pressure can build until they spew emissions into the air. For these reasons, in 1984, the federal government enacted Subtitle I of the Resource Conservation and Recovery Act (Entitled "Regulation of Underground Storage Tanks") to regulate the adverse effects of such tanks by requiring them to meet performance standards, and providing EPA with authority to clean up leaks and spills by accessing a fund, called the "Leaking Underground Storage Tank" Fund or "LUST."

As with many federal environmental programs, the Federal Law gives states the

opportunity to receive primacy of the program, I.E. authority to administer the federal program within our own borders provided the state enacts laws and regulations which are consistent with and equivalent to the Federal Law they are implementing. In the past, West Virginia has taken over primacy of many environmental programs including portions of the Hazardous Waste Program, the Federal Water Pollution Control Permitting Program and others. Generally the state seeks primacy to eliminate overlapping jurisdiction of the state and federal programs as a way of removing administrative burdens on the regulated community. While these are valid reasons, they are not the primary reasons why the Highlands Conservancy endorses state primacy of the Underground Storage Tank Act. Rather, it is our opinion that the numbers of regulated units are so large and the priority that EPA will give to implementing the program in West Virginia so low, that the protections the law provides will be unrealized in the state unless we achieve primacy. From the moment of passage, EPA stated they would not have enough resources to implement the Federal Law and they have been encouraging states to take over program implementation ever since.

The Department of Natural Resources has recognized the need for achieving primacy and will also introduce a bill this session designed to do primarily the same thing as S.B. 85. We have not seen that bill, nor have we been privy to the discussions the department has had with different parties concerning their bill. With that background, however, the Conservancy wants to present the committee with some of its views on S.B. 85 so you can consider these issues when

deliberating either bill.

**First.** An environmental law is only as good as the resources available to implement it. In that light we note that S.B. 85 does not contain any provision for funding the program. Other states have adopted yearly registration fees as a way of funding their programs and we would urge the committee to include such a measure in the UST Bill which you will report out. We understand that the DNR Bill will have yearly registration fee in it.

**Second.** We also note that S.B. 85 does not establish a fund for the state to provide its ten per cent match for accessing the LUST Fund. S.B. 85 also needs a provision authorizing the state to recover costs it incurs cleaning up leaks and spills from the responsible party. While the state and federal government can access the LUST Fund for emergency clean-up, the federal program allows EPA to seek reimbursement from the responsible party of money expended. The state program should do so also. When drafting this provision we recommend that the committee make sure that (1) the state can recover all of its costs, including administrative costs, investigatory fees and legal fees plus interest and (2) the act authorize the recovery of triple damages from any responsible party who is uncooperative with the cleanup. By including both of these provisions the state can replenish its fund and encourage cooperation from responsible parties.

**Third.** S.B. 85 does not contain clear authority to conduct sampling and analysis of the air, water and groundwater at the facility.

**Fourth.** Recognizing that environmental liability insurance is difficult to obtain, we

suggest that the act include a provision authorizing the director or the appropriate state official to establish a program of insurance for those companies who want to obtain state backed insurance for meeting the financial responsibility requirements of the law.

**Fifth.** We suggest that the law contain administrative penalty assessments up to \$5,000.00/violation. This provision can provide strong enforcement without forcing the state to go to court to deter illegal behavior.

**Sixth.** We note that S.B. 85 contains criminal penalty provisions but the Federal Law does not. We support criminal provisions because we do not believe that the law should shield knowing and willful violators from criminal sanctions.

**Seventh.** We note that S.B. 85 requires permits for either certain classes of tanks or tanks which are located in environmentally sensitive areas but that the Federal Law does not contain such provisions. We would urge the committee to retain this concept in any bill that they pass, but urge some caution in its drafting. Such a provision is a good mechanism to protect against placement of tanks in wetlands or soils subject to slippage without special precautions. However, if such a provision is too administratively costly to apply to tanks already in the ground, you should consider making such requirements apply to new tanks only.

Finally, we want to thank the committee for the opportunity to speak and request that the committee hold another public hearing to consider DNR's proposed legislation on the same topic so we may provide you with our comments on it.

## Sierra Club Opposes Tram Development

Dear Commissioner Trocin:

The Monongahela Group of the West Virginia Chapter of Sierra Club remains opposed to any tram development at Coopers Rock State Forest. The economic questions raised have not been adequately addressed and the tram can be rejected on that basis alone. The substantial negative impact on the scenic quality at Coopers Rock is also sufficient in and of itself to reject the tram. Nowhere in Senate Bill 189 does the Dept. of Commerce receive authorization to allow substantial negative impacts in the state parks simply because "it is the opinion of the department that the impact will be mitigated by the recreational opportunities offered . . ."

Most importantly, however, we are opposed to this development because of the lack of adequate environmental review by competent, independent environmental specialists.

**During the previous public comment period, we raised numerous specific issues regarding environmental impacts. None of these issues have been adequately addressed.** The environmental statements and supporting attachments made available at the Dec. 10 public hearing clearly indicate that the Dept. of Commerce has found no environmental impacts because they have chosen not to look for any. Having the proposed developer conduct the environmental review is a classic case of the fox guarding the henhouse. It is no wonder that their entire environmental review consists only of a three-and-one-half page letter.

We again raise our concerns about environmental impacts and specify some of the areas of inadequate information in the environmental reviews provided to date.

1. The potential impacts on the threatened land snail *Triodopsis platysayoides*, are not adequately identified or mitigated. The conclusion that the snail will not be affected is contradicted by the statements in Attachment 1. If the WVDNR does not know the boundaries of snail populations or the life history of the snail, how can anyone reasonably conclude that the tram construction and operation will not interfere with snail habitat? The failure of the developer to

recognize the potential for adverse impacts clearly indicates an irresponsible attitude toward protection of this threatened species.

2. The negative impact on aesthetics is glossed over in the environmental review. The need for the cable to be lighted at all times as specified in Federal Aviation Administration regulations is completely ignored. This lighting would clearly detract from the natural aesthetics of the Coopers Rock overlook. The failure to consider this lighting demonstrates the incomplete nature of the review (and reflects poorly on the competence of the developer's proposal). The tram cars themselves would also constitute a frequent visual impact that cannot be ignored.

3. The impact on other recreational users of Coopers Rock has been oversimplified. Although no existing activities would be terminated, the quality of the recreational opportunities would be negatively impacted. Hikers, skiers, and campers come to Coopers Rock to avoid the heavily developed environment that would be created by the tram and its facilities. These activities are generally incompatible with large crowds and highly developed facilities. Opportunities for semi-primitive recreation are limited in this area, especially in view of the steadily rising demand for them. If in fact, the tram does succeed in drawing the large numbers of visitors projected, the current high quality outdoor recreational potential of the area would be greatly diminished and a major resource would be lost. No effort has been made to mitigate this loss in outdoor recreation resources.

4. The tram proposal has a significant potential to interfere with other wildlife at Coopers Rock State Forest, contrary to the unsupported statements in the environmental review submitted by the developer. In addition to the snail, other rare, potentially endangered species have been reported from the area. These species, their ranges, life histories, and ecological requirements are totally ignored in the review provided by the developer. In addition, the presence of numerous other bird and mammal species provides an

important natural resource. I have frequently observed deer, hawks, vultures, and other wildlife at close range. The review implies that since the developed area will be small, the impacts on wildlife will also be minimal. This demonstrates a lack of competence in wildlife biology. Many species have a low tolerance to the presence of humans. Although the current attendance at Coopers Rock is high, human impacts would be greatly exacerbated by the tram which would tend to concentrate large crowds around the terminal area and would also introduce large numbers to the Table Rock side of the gorge.

5. A wide variety of other potential environmental problems have been given little consideration or ignored altogether, in spite of our previous requests that they be addressed. How will water and sewage wastes be handled? The area drains into Cheat Lake which is vulnerable to pollution because of its very high water quality and high recreational use. How will soil erosion be controlled during and after construction? How much additional parking space will be required? Where will it be constructed? How will litter be controlled if large crowds are introduced to the area? Will it be cleaned up throughout the area, or just in the immediate vicinity of the restaurant and tram? Why was the noise of the tram the only noise pollution considered? Perhaps the developer does not really expect large crowds and heavy traffic? Or will they all be silent?

We are very concerned by the lack of adequate environmental guidelines for this project. It establishes an unacceptable precedent for future projects involving public lands. Blanket generalizations such as "Problems will be addressed" do not answer the question of how will problems be addressed; they merely preclude public involvement in addressing those problems. Unsupported or contradictory statements prevent any reasonable assessment of the costs and benefits of the project.

The environmental degradation from projects such as  
(continued on page 6)

## Education Committee Outlines Services

by Jim Van Gundy

The WVHC Education Committee has identified several ways in which it can serve the Board at large, individual committees of the Board, the general membership, and the public at large. The possible services the Education Committee might provide for each of these groups is outlined below.

While the list is lengthy, it is certainly not exhaustive. The Committee would welcome any suggestions that any members might have. Also, it is not the intention of the Committee to undertake all of the activities suggested. After receiving feedback from others, there will probably be some items that we will have second thoughts about. In addition, the Committee sees its mission to be in part one of chiding, encouraging, and begging others who may be better qualified to take on some of the work suggested here.

### The Board

A handbook or brief training program for new Board members to orient them quickly to the aims, purposes and recent history of the organization could be developed. This would be especially useful for new organizational directors who may not have had long association with the WVHC.

### Committees

Another handbook could be developed

for committee chairs and/or members to increase the ease with which new persons are assimilated into existing committees. The Education Committee can assist in developing informational workshops for other committees. A workshop with MNF and WVDNR personnel for the Public Lands Committee has already been proposed. Primers on the appropriate environmental law (both State and Federal) for each committee could be written. A training program may be set up to enhance the effectiveness with which committees work with local individuals and groups on specific issues, for example the Greenbrier River issue. Similarly a training program to enhance the effectiveness with which committees work with government agencies and legislators could be established.

### The General Membership

Briefing papers could be written on specific issues. These would not necessarily represent position papers of the WVHC but would be brief, factual accounts of a given situation. They would be prepared by various knowledgeable WVHC members and would have the advantage of informing key people of important issues quickly, avoiding the longer lag times associated with publication in the VOICE. They might be used as a vehicle to

inform local newspapers, legislators, and others of rapidly developing events of environmental importance. These might often end up as articles in the VOICE, or even be prepared from VOICE articles, but they would be intended to reach both members and non-members.

Issue related workshops for interested members could be held at the Spring or Fall Reviews. These could be offered as an alternative to outings, or perhaps offered as a Sunday activity while the Board is meeting. We might try a workshop on rivers at the upcoming Spring Review as a trial to determine if there is membership interest in workshops.

An informational 'welcome to the WVHC' brochure could be developed to send to new members. The brochure could explain the organization to them, give the history of WVHC, and encourage new members to become involved.

Other ideas for keeping the membership aware of environmental issues include the following:

- writing articles for the Voice on the activities of other environmental organizations.
- helping make the membership aware of workshops, seminars, and other educational opportunities that might be up-

coming, for example the recent Groundwater Conference at WVU.

- developing a bibliography on West Virginia Environmental issues.
- developing a listing of recommended reading and audiovisual materials dealing with environmental issues.
- preparing book reviews for the Voice as appropriate.
- suggesting books and other materials that the WVHC might profitably sell or otherwise broker.

### The General Public

Briefing papers (see above) can be developed and made available to the public and to local newspapers.

A WVHC speakers bureau could be organized to provide speakers on environmental topics and issues to civic groups, schools, and other organizations.

A WVHC slide presentation could be developed to explain the organization's purposes highlight what the WVHC consider to be the major environmental issues in WV at the time.

A WVHC photo calendar of the Highlands could be developed public more aware of the WVHC and to sensitize people to the beauty and fragility of the region.

## EARTH By Paul And Anne Ehrlich

A Review  
by Don Gasper

In 1968 Paul Ehrlich's Book, **The Population Bomb**, awakened many of us to the problems associated with the population explosion. The Ehrlichs have written again, a 258 page up-dated review of the conditions on planet earth.

Like previous writings, **Earth** is clear and fascinating, and details the environmental maintenance systems, their condition, and remedies. The book begins with a general orientation to the earth, and life, and life

requirements. Then the Ehrlichs go into the resources required to sustain life, and the evolved environmental mechanisms that are in danger of going awry as man's influence is felt. Today industrial man is changing the environment.

With more hungry people on earth today, continuing population growth is causing more unemployment, more destructive unrest, and the challenge to man's social systems is overwhelming the earth's environ-

mental ability to sustain itself. The Ehrlichs point out harshly how embarrassingly sad the environmental record of the United States has been, particularly since 1980, during which eight long years the "environmental clock is 10 minutes to midnight." This book recounts the environmental crises every citizen should be aware of, and surely every administration should acknowledge.

War, disorder, desertification and top-soil loss, pollution, loss of species' diversity, etc.,

are noted, as are the all prevailing pressures of over-population and the urgency for U.S. leadership. They note, in fact, declining birth rates here in the U.S. and in a few other parts of the world. They record, with some hope, the internationally increasing awareness of the earth's finiteness and the "sustainable society" concept. Every concerned citizen should read again what these authors want us to know today.

## Confessions Of A Would — Be Birdwatcher

by Terry Shaw

I'm one of those people who find it almost impossible to go to bed early at night.

In fact, the only thing I find harder is getting up in the morning.

Despite those two ugly truths, I found myself up bright and early, prepared to participate in the Ninth Annual Oak Hill Christmas Bird Count Sunday before dawn.

Even though I only had a few hours sleep, I figured it would be no problem to show up, traipse around the woods looking through binoculars for an hour or so, then go home and hit the hay for most of the afternoon before writing a few stories that had been put on the back burner during the New Year's weekend.

But the minute I was in a car with Gary Worthington, the big bird of the whole affair, I realized I was dealing with a fanatic.

In no time at all, he and the others in our group were making funny noises at bushes to stir up "activity," then rattling off names, markings and top 40 bird tunes that identified the little critters.

But considering most people take most activities in life more seriously than I do, I didn't worry . . .

. . . Until the four of us were marching like storm troopers across an innocent acquaintance's property, zeroing in on every random flying object within sight and stirring up the neighborhood dogs, whose songs wouldn't have made anybody's top 40, especially early on a Sunday morning. Finally the woman, a friend of a member of our party, came out, dazed and bewildered in her bathrobe, asking if she could help us.

Not unless she had a degree in psychology, I thought to myself.

When her friend explained the situation, the woman smiled and told us about a whole bunch of other birds, "on a property right down the road."

Good excuse. But not good enough. We continued hanging around, while her two

dogs followed, curious and confused at the bird calls Worthington was making. One of the pooches got so excited that they broke into a hopping little rendition of Saint Vitus' dance from the sound.

I felt sorry for the woman. But not as sorry as I felt for myself. It was then I realized the birders planned on going all day, which meant from dawn to dusk, as in about the next 10 hours of my life.

Fortunately, I was to learn a thing or two, including that birding wasn't so bad after all. Worthington, a walking encyclopedia on the subject, snapped out the names of species before I caught a glimpse of them. Whenever there was a question about one of our feathered friends, he buzzed out their rap sheet quicker than a stool pigeon says whodunit.

It was impressive. I didn't even know that much about my own family members.

Throughout the day I saw a lot of firsts, more firsts in bird names than I'll ever remember, although a few stand out, including a barred owl, a great blue heron and some rusty blackbirds (I wrote those ones down!).

I enjoyed myself.

But the biggest surprise of the day, which

was marked by wind and cold, was that we didn't see a penguin anywhere in Fayette County. But you can't have everything.

Afterwards, when discussing the hot finds of the whole study, Worthington told me: "Hey Shaw, all the best finds were in our group."

I didn't argue. How could I? I hadn't even known what we had been doing, until we returned to his house, and I made my first definitive sighting — the dinner bird.

Despite all the prior fun, it ended up being my favorite.

I was sure my absence wasn't exactly going to go over too well on the home front, where I had been expected home about half a day earlier.

At least I had a perfectly legitimate excuse. I was driving around with a group of serious people, hissing and squeaking into bushes, roaming neighborhoods and highways with high-powered binoculars, and taking detailed notes of the whole affair.

Whoaa! Forget the excuses, I thought to myself. I was just thankful that none of us had been arrested.

(Terry Shaw is the managing editor of the **Fayette Tribune**. This article is reprinted with his permission.)



Laura Zerzan From "ECONOMICS"

## Making Municipal Incineration Safer

Moving mountains may be a favorite North American pastime, but when the mountain equals over half a billion tonnes of municipal waste, trash and other refuse every year, Canadians and Americans are faced with a dilemma. The Great Cleanup includes everything from picking up the morning trash to removing industrial wastes. And when the waste has been carted away, the unenviable task of permanent storage or disposal remains. Cities have tried dumping it, pumping it underground, landfilling it, barging it, recycling it — all with limited success.

Waste incineration is becoming an increasingly popular alternative to burying or storing garbage in North America, Europe and Japan. The high temperatures destroy dangerous wastes almost completely, with the added advantage of converting the waste burned into steam and electricity.

As municipalities exhaust their landfills, many are turning to incineration. In the United States, over 100 solid waste incinerators now burn 11 million tonnes of municipal garbage each year. Another 100 facilities are in various stages of planning or construction.

Many Canadian cities are also choosing incineration both to ease the demand on limited landfill sites and to generate electricity. Four energy-from-waste incinerators currently burn 640,000 tonnes of garbage per year, with three additional facilities under consideration. Canada also estimates there is potential for 30 more resource recovery incinerators to meet long-term disposal and energy needs.

As the market in incinerators has grown, so has concern for their safety. Numerous environmental groups argue that incinerators contribute, at least to some degree, to local air pollution by releasing several toxic pollutants, including lead, dioxin and hydrochloric acid (HCl). Critics contend that the danger will only increase as more incinerators are built in or near large urban areas.

In the U.S., the Environmental Protection Agency (EPA) announced in July that it will establish over the next four years control-based standards for incinerators. Currently, EPA regulates emissions of particulates — dust particles which can carry heavy toxic metals like lead and mercury. Under the proposed rule-making, it will require technological controls on incinerators to limit emissions of other dangerous pollutants, including dioxins, metals and acid gases.

**Dioxins.** These highly toxic organic compounds are commonly produced in incineration and other industrial processes. Trace amounts of dioxins have been found in every incinerator stack emission ever sampled.

Without regulations, many environmentalists fear that dioxin emissions from municipal facilities could endanger large urban populations. For example, a New York City Department of Sanitation study predicted that a proposed municipal incinerator in Brooklyn would cause one to six cases of cancer per million New Yorkers over a lifetime of exposure if no control devices were installed.

Concern has also been raised over a municipal incinerator now under construction in Detroit which will burn over 3,300 tonnes of garbage per day. Detroit plans to install a system known as an electrostatic precipitator — a technology which controls emissions of particulates, but not releases of dioxins and PCBs, another group of toxic organic compounds. Several environmental groups and the Canadian government have argued that these toxic emissions pose health dangers to Detroit residents and also to

Canadians in the nearby province of Ontario.

In April, the government of Ontario sued the city of Detroit in Michigan state court to compel the city to install scrubbers and baghouse filters — system of control whereby emissions are “scrubbed” clean through chemical treatment and then filtered through a large fabric screen. A report by the Michigan Department of Natural Resources concluded that scrubber controls could reduce cancer risks from 36 cases per million to 2 cases per million.

**Heavy Metals.** Mercury, lead and other heavy metals are a second group of dangerous air toxics. Incinerators with scrubbers and baghouses remove most harmful heavy metals from stack emissions. However, even

**Acid gases.** A third group of air pollutants creating widespread concern is acid gases, such as hydrochloric acid, sulfur dioxide (SO<sub>2</sub>) and nitric oxides (NO<sub>x</sub>). Once again, scrubbers and baghouses can remove most of these pollutants from the waste stream. However, when the releases are not curtailed, as is the case at many municipal incinerators, they may irritate both lungs and eyes and can cause serious problems for individuals prone to breathing difficulty.

Acid gases also may pose serious dangers to the environment. SO<sub>2</sub> and NO<sub>x</sub> emissions are known precursors of acid rain. Many environmentalists and scientists fear that acid gas emissions will increase as more incinerators are constructed, thus contributing to the problem of acid rain.

standard adequate. California and Connecticut, for example, have adopted a tighter standard, as have several European countries, including Denmark, Sweden and Norway. West Germany and Switzerland also have set specific standards for several heavy metals. In the U.S., California has taken the lead in curtailing acid gas emissions by adopting stringent SO<sub>2</sub> NO<sub>x</sub> standards.

The U.S. Congress is also considering legislation which would lend consistency and uniformity to existing state controls on municipal incinerators. The House Energy and Commerce Committee and the Senate Environment and Public Works Committee have announced plans to mark up bills later this year which would regulate incinerator emissions and incinerator ash.

A similar effort is under way in Canada where a major study, the National Incinerator Testing and Evaluation Program (NITEP), is examining ways to optimize operating conditions for resource recovery incinerators while identifying and characterizing air pollutants in stack emissions. Results so far indicate that well-designed facilities do not present toxic emission problems.

NITEP has also begun testing new scrubber technologies designed specifically to control incinerator emissions. One control system, known as a dry scrubber, cools the gas emissions before “scrubbing” them with a dry lime powder, and has proved very effective at removing volatile heavy metals like mercury. A second system, the wet-dry scrubber, “scrubs” the hot emission gas directly with a lime slurry (lime and water) spray. In both systems, the scrubbed gas flows through a fabric filter for final cleaning before it is released out of the stack.

Test results showed that the two scrubbers removed almost all air pollutants from stack emissions, including 99 percent of dioxins, 80 to 98 percent of PCBs, 99.9 percent of heavy metals and significant amounts of acid gases.

Environmental groups advise another strategy to curtail dangerous incinerator emissions. A study released in April by Worldwatch Institute, an international research organization, urged municipalities to curb emissions by removing toxic-bearing substances from the waste stream before incinerating them. The report, “Mining Urban Wastes: The Potential For Recycling,” recommended recovering and recycling numerous materials, including batteries and aluminum and steel products (which all contain heavy metals) and plastic products (which can produce dioxins and hydrochloric acid during incineration). The study concluded that recycling offers the dual benefits of emissions reductions and commercial profit.

(Reprinted from *Environmental Perspectives*, a Canadian Embassy newsletter.)

### POLLUTANTS FROM INCINERATORS

#### POLLUTANT HEALTH AND ENVIRONMENTAL EFFECTS

##### Acid Gases

**Sulfur Dioxide (SO<sub>2</sub>)** Aggravates symptoms of heart and lung diseases; increases incidence of acute respiratory disease including coughs and colds, asthma, bronchitis and emphysema. Toxic to plants; can erode statues and corrode metals; precursor to acid rain.

**Nitrogen Oxides (NO<sub>x</sub>)**

High concentrations can be fatal; at lower levels, can increase susceptibility to viral infections such as influenza, irritate the lungs and cause bronchitis and pneumonia. Toxic to plants; precursor to acid rain

**Hydrochloric Acid (HCl)**

Acts as an irritant to the respiratory tract and lungs; may cause laryngitis and bronchitis. May pose danger to the ocean's micro-layer.

##### Organics

**Dioxins**

High levels of exposure from industrial accidents have resulted in chloracne, altered liver function and skin disorders; EPA has listed 2,3,7,8-TCDD as a probable human carcinogen. Chickoedima disease in birds; linked to breeding failure in herring gulls.

**PCBs**

In high exposures, can cause chloracne, liver disorders and jaundice; may also cause birth defects.

##### Heavy Metals

**Lead**

In chronic or acute exposures, children may suffer neurological disorders and women may experience reproductive problems; probable human carcinogen according to EPA.

**Inorganic Mercury**

Can cause serious neurological disorders and degenerative kidney problems; also linked to birth defects.

**Cadmium (Cd)**

Probable human carcinogen according to EPA; may cause lung cancer; also linked to kidney disorders.

**Chromium (CrIV)  
Arsenic (As)**

May cause liver and kidney damage and respiratory disorders. Probable human carcinogen according to EPA; may cause liver and kidney damage.

at these facilities, certain more volatile metals, including mercury, cadmium and lead, are difficult to capture at the incinerators' high temperatures and some escape in stack emissions.

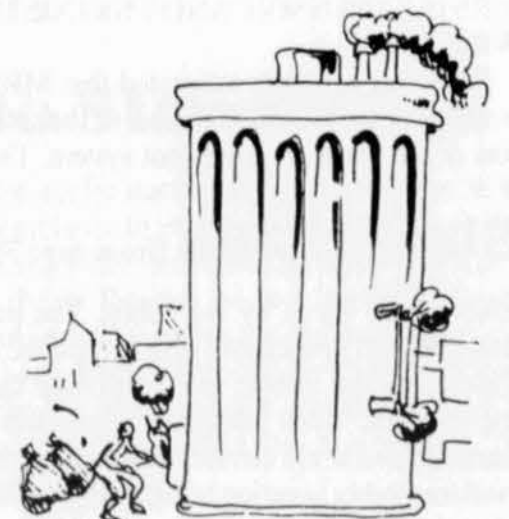
Lead and mercury can cause, among other disorders, severe neurological damage; cadmium is suspected of causing cancer. Arsenic, another toxic released during incineration, is a heavy metal which becomes attached to smaller particulates and once airborne is easily inhaled by humans and absorbed into the respiratory tract. With high exposure, arsenic is known to cause lung cancer.

A study released in March by the Environmental Defense Fund (EDF), a U.S. environmental group, found that municipal incinerators also released several heavy metals attached to fly ash and bottom ash — the residual by-products of incineration. EDF sampled ash from over 20 incinerators across the U.S., concluding that most contained high levels of lead, cadmium, arsenic and mercury.

EPA's decision to regulate municipal incinerator emissions tracks control efforts by state regulators in the U.S. and by governments in Canada and Europe. West Germany, for example, is experimenting with new technologies to reduce dioxin levels, including a system which combines scrubbers and baghouses with a process called exit gas cooling. In the U.S., Pennsylvania, Massachusetts and California have adopted stringent ambient air quality standards for dioxin.

Environment officials in Canada have taken a different approach. As part of a broad-based effort to curtail dioxin emissions, Ontario government is providing technical and financial assistance for the installation of a fabric filter system at one municipal waste facility. Ontario is also developing new standards for the design, control and operation of future facilities.

Some states in the U.S. are tightening the EPA standard for particulate emissions from incinerators. Many environmentalists and state regulators no longer consider the EPA



Laura Zerzan From "ECONEWS"

## EPA Issues Administrative Order To Enoxy Coal Company For Clean Water Act Violations

PHILADELPHIA, PA — The U.S. Environmental Protection Agency (EPA) has ordered Enoxy Coal Company to stop discharging mine drainage water into the upper portion of Tenmile Creek in Upshur County, West Virginia. The Agency cited the company for violations of the Clean Water Act by issuing an administrative order on January 25, 1988.

Inspection of the site by EPA revealed that Enoxy is pumping drainage water from its Number 10 Mine on the Right Fork of Tenmile Creek over a distance of 4,000 feet to treatment ponds and released through another pond which is also located in Tenmile Creek. The order cites Enoxy for violating the Clean Water Act because it is operating a centralized wastewater treatment system at the Upshur Mine Complex without legal authorization.

Under one of its National Pollutant Discharge Elimination System (NPDES) permits for the Upshur Complex, the

Company is allowed to use a pond for temporary sediment control. However, the Company's NPDES permits do not authorize the pumping and treating of mine waste which is now taking place in the Tenmile Creek watershed. EPA had already notified the Company that the centralized treatment facility that Enoxy had planned for the Upshur Complex could not legally start operating under the existing NPDES permits.

"Through our administrative order, EPA has notified Enoxy Coal Company that these illegal discharges into the upper portion of the Tenmile Creek watershed are violations of the Clean Water Act, and they must stop discharging the wastewater immediately," said James M. Seif, EPA, Region 3 Administrator.

The administrative order also advises Enoxy that they must apply to the West Virginia Department of Natural

Resources (WV DNR) for proper NPDES permit authorization before they can resume their instream treatment activities. Seif continued, "EPA contends that using a centralized treatment facility requires a formal application for a separate NPDES permit or major modification of their existing permit. Either approach would require public notification in order to give the community ample opportunity to comment."

During the normal review of any permit application that Enoxy submits, EPA and the State would consider other treatment alternatives that may be proposed by the Company in order to minimize adverse environmental impacts on the watershed.

The Company must respond within ten days of the receipt of the order to advise EPA, Region 3 of any action it has taken to comply with the order.

### MRS Siting (from page 1)

MRS proposal. There was an independent review of the need, feasibility and costs of the nuclear repackaging plant. State agencies also examined the impacts of such a facility on the health, safety, and economy of the state.

#### MRS IS NOT NEEDED

DOE says MRS is a "desirable" component in the nation's nuclear waste management plan; but both DOE and the Congressional Office of Technology Assessment concede that IT IS NOT ABSOLUTELY NECESSARY. In assessing the justification for MRS, Tennessee found itself studying a moving target. From April to December 1985, the justification changed from the reduction of transportation impacts to relief of on-site storage needs at nuclear reactors. When the state's studies uncovered inflated claims of both transportation benefits and on-site storage benefits, the justification for the project was altered. It is now claimed that building the MRS will allow more flexibility in the waste management system and demonstrate progress in solving institutional and logistical problems.

The Tennessee studies show that the rod consolidation and storage functions proposed for the MRS can be done at the individual reactor sites. The DOE could encourage this approach by providing utilities with credits for fuel consolidation and by providing utilities with dual purpose casks suitable for storage and later transportation direct to the permanent geological repository.

While these functions could also be performed by having a repackaging plant at the repository, handling these jobs at the reactors will increase the reliability of the waste management system. Dependence on an MRS or a similar facility at the repository leaves the system vulnerable to shutdown of such a centralized repackaging plant.

#### MRS IS EXPENSIVE AND THE COSTS WILL RISE

DOE has variously estimated that MRS would add \$1.5 to \$2.6 billion to the total cost of the waste management system. The

agency claims a potential savings to utilities for avoided storage at reactors of \$150 to \$450 million assuming that the first repository is developed by 1998 in accordance with the Nuclear Waste Policy Act of 1982. The net cost to the nation would range, then, from \$1.05 billion to \$2.45 billion if DOE's projections are accurate. These costs will be borne by ratepayers receiving electricity generated by nuclear power.

Tennessee found that DOE cost estimates are probably low by up to a billion dollars. DOE did not include in its calculations the impact assistance payments and the tax equivalence payments that the Department would likely have to pay to state and local governments. These payments could be large. DOE should compensate for MRS's negative impacts on regional economic development likely to result because of the negative perceptions of MRS held by business executives and tourists (as determined in surveys conducted for the state). State and local governments will also be required to invest in certain capital projects and expanded operational programs as a result of MRS. Federal reimbursement for these will add to MRS costs.

#### MRS IS NOT BASED ON PROVEN TECHNOLOGY

The Tennessee study found that the risks of transporting nuclear materials — either by rail or on the highways — are small provided that sufficient care, monitoring, and quality control are ensured. Tennessee, because of its central location, realizes that nuclear wastes will be shipped through the state, regardless of whether or not MRS is built.

The Tennessee evaluation also found that the MRS could operate safely, provided again that sufficient care and quality control are exercised by DOE.

However, the state's technology assessment concluded that the research of DOE and others does not support the idea that rod consolidation should take place in a hot-cell at an MRS. Of all the operations proposed

for MRS, the hot-cell consolidation operation has the greatest potential to generate accidents, unforeseen personnel exposure, low-level radioactive waste, and cost overruns. DOE is now conducting a research and development program to try to prove the hot-cell consolidation technology. The DOE research and development program must demonstrate that these risks can be appropriately mitigated.

For the past few years nuclear utility companies and private support companies have been developing the technology to consolidate fuel rods under water in the storage pools at reactors. Several demonstrations have taken place and others are planned. Several private firms are anxious to provide this service to nuclear utilities. They are anxious to demonstrate that this can be done safely and at lower cost than that involved in shipping the fuel to a central plant for consolidation there.

Tennessee feels that DOE should pursue further research and development on hot-cell consolidation and gather the performance data and cost experiences from the utility demonstrations of in-pool, under water consolidation before making a final decision on the MRS technology.

Why should the federal government attempt to put in place unproven technology to do a job that private companies can probably do at less cost?

#### THERE IS A BETTER SOLUTION THAN MRS

Tennessee, in its studies, found that a better and cheaper solution than MRS can be readily designed for meeting legitimate needs of the nation's nuclear waste management system.

DOE should encourage the consolidation of fuel rods at the nuclear reactors. Consolidation of the fuel at its source will provide benefits throughout the waste management system. The total number of shipments is reduced. Radiation exposure to the public is reduced all along the path of waste movement, from the reactors to the repository.

A proper system of economic incentives should be provided by DOE to gain these benefits.

**The fuel rods can be stored indefinitely at nuclear power plants until a permanent repository is ready.** DOE can help develop and purchase dry storage casks that can be used for on-site storage and later for transport to the repository. Consolidated fuel placed in such casks would not need further processing until it reached the repository. Dry cask storage is a mature technology.

**An improved transportation scheme will reduce the number of casks moving through the states.** By deploying a new family of casks and increasing the proportion of spent fuel shipped by rail, the transportation impacts can be reduced below levels associated with an MRS. Rail shipments can be increased by upgrading the cask handling and shipping capabilities of some of the reactors. The rail shipments should be coordinated in shipping campaigns using dedicated trains. DOE should work with the utilities to accomplish this. Tennessee's studies indicate that these improvements can reduce the number of cask-miles from 1.4 million annually with MRS to 1.0 million annually with no MRS and an improved transport plan.

**DOE should put in place a technically credible program to find permanent repository sites.** Efforts to find and develop a permanent repository should not be diffused by pursuing an unnecessary and overly expensive MRS.

The evaluation was conducted by scientists from the University of Tennessee, Vanderbilt University, and Oak Ridge Associated Universities and by state health, radiological and environmental professionals. The study group was advised by national experts who served on a technical advisory panel.

(From Save Our Mountain printed information.)

### Sierra Club (from page 3)

this will be borne by the public. The public deserves full involvement in decisions affecting public lands. These lands belong to the public, not to private developers or state bureaucrats. Until adequate procedures for full environmental review are developed and implemented, the public will inevitably question whether the decisions reached are in their best interests.

We request that you reject this proposal outright. We

further request that you fulfill your obligation to develop appropriate procedures to insure full environmental review with full public involvement in all future projects affecting the public lands entrusted to your care. The Sierra Club is willing to cooperate in developing satisfactory guidelines. We have worked successfully in developing such guidelines for other public lands, ie. the Monongahela National Forest. We hope that a productive relationship can be established

for the benefit of all West Virginians. We await your reply.

Sincerely,  
James Kotcon  
Conservation Chair  
Monongahela Group  
West Virginia Sierra Club

## NEWS BRIEFS

### Rahall Seeks Investigation of Laurita Mine Application

Rep. Nick Joe Rahall, D-W.Va., wants the federal Office of Surface Mining to conduct an independent investigation of a controversial application to mine coal owned by the West Virginia University Foundation. As chairman of the House Subcommittee on Mining and Natural Resources, Rahall asked Carl Close, assistant director of OSM's regional headquarters in Pittsburgh, to look at applications from Morgantown coal operators James Laurita Sr. and James Laurita Jr.

"As it appears there are certain interstate ramifications to this matter, I believe your office should not only bring the issues raised by the complaint to the attention of the proper state authority but undertake your own investigation as well," Rahall wrote to Close on Jan. 20.

Jed Christensen, OSM's national director, is referring all complaints about the Laurita controversy to the Pittsburgh office, said spokesman Alan Cole on Friday. "He expects them to stay closely informed on this and to gather the necessary information to deal with this," Cole said.

Rahall's call for a federal investigation was promoted by Joan Sims, president of the 4-H Road Community Association. Sims, who lives just south of Morgantown on Booths Creek, first complained to OSM in December. She said the Lauritas operate "a thinly disguised family mining scam."

The Lauritas own 15 different mining companies. When Laurita Sr. applied for a permit under the name of Stone King Coal, he did not list violations committed by his other mining companies, as required by federal law. Under public protest, he withdrew his permit application in August. Then in November, Laurita Jr. applied to mine the same land, under the name Mepco Inc. Although Stone King and Mepco occupy the same office in Morgantown, Laurita Jr. listed no violations from his father's mining companies on his permit application.

"We believe there is common control of these companies, between the father and the son," Sims said. "The intent of the Surface Mining Act is undermined when one family member cannot get a permit himself and another family member turns around and applies for it."

The Lauritas abandoned strip mines in Pennsylvania without reclaiming them and without preventing acid drainage into nearby creeks. The Department of Natural Resources then initiated legal proceedings to forfeit bonds posted by two Laurita companies in Pennsylvania—Zavek and Energy Resources Corp. Last month, Margaret Mouyard, inspection supervisor for the Pennsylvania Department of Environmental Resources, said the Lauritas are trying to clean up those abandoned mines. DER is delaying bond forfeiture proceedings until May.

When Close received Sims' complaint in December, he simply passed it on to the West Virginia Department of Energy. Sims then began complaining to legislators.

Sunday Gazette-Mail, 1/31/88

### Morgan Official to Fight Proposed Ski Resort

A Morgan County commissioner said he will fight the state Department of Commerce's proposal to have a ski resort built at Cacapon State Park near Berkeley Springs. The park and the area around Berkeley Springs is not suited for such a facility, commission President Tom Shufflebarger said. Shufflebarger said a ski resort would threaten the environment and the local ground water supply. Last week, an official with the Commerce Department's parks and recreation division said the area had great potential as a four-season resort. The only missing ingredient was a winter activity, said Don Andrews, with the department. But Shufflebarger said there is no evidence to support the claim that a ski resort at Capacon would be a success. He also said it could bring commercialism to the region that would have a negative effect.

Charleston Gazette, 2/5/88

### Virginia Panel Urged to Ban Longwall Mining

The Virginia Coal and Energy Commission has been urged to recommend a ban on longwall mining in the state until more studies can be made of how the technique affects land above it.

In testimony before the commission Thursday in Richlands, Va., Dickenson County lawyer Gerald Gray said valuable houses in Dickenson and neighboring Buchanan County had been made uninhabitable by longwall mining operations beneath them. He said houses as far as 1,500 feet from longwall seams had been affected.

Longwall mining is a procedure in which entire seams of underground coal are removed by mechanical means, causing some of the surface overhead to sink or fall. The procedure has been used in Southwest Virginia for more than a decade.

"I think there's enough data available right now that it ought to be halted in Virginia until more studies can be made," Gray said.

State Sen. Daniel W. Bird Jr. (D-Wytheville), who heads the commission, referred the matter to the panel's subcommittee on coal for study and recommendations. He said the subcommittee will listen to testimony from people who have experienced the effects of longwall mining.

Washington Post, 1/9/88

### OSM Issues Another Enforcement Order

For the second time in eight weeks, the U.S. Office of Surface Mining ordered Energy Commissioner Kenneth R. Faerber to enforce federal laws regulating coal prospecting.

Coal operators must reclaim prospect mines within 90 days of the time they begin exploring for coal, unless they receive a full-scale mining permit.

Faerber has allowed the Ten-A Coal Co. to strip a hillside near Fairmont, then abandon it without reclamation work for more than a year.

"The Department of Energy must notify all of its inspectors that extensions of this kind will not be granted in the future," wrote James C. Blankenship Jr., director of OSM's field office in Charleston, in a letter to Faerber dated Jan. 28.

"The Department of Energy cannot postpone the reclamation of a prospecting site, unless the operator has requested and received an appropriate surface mine reclamation number within three months of the initial disturbance of the site," Blankenship wrote.

"Complete enforcement of this requirement is expected in the future," Blankenship added. "If for some reason you cannot comply with this request, please notify me."

In a previous letter dated Dec. 7 about the same unreclaimed mine, Blankenship asked Faerber, "What precautions will be taken by the state to ensure that this does not occur again?"

Faerber simply ignored Blankenship's question when he replied to the OSM official on Dec. 18. In his Dec. 18 letter, Faerber told Blankenship he was giving Ten-A Coal a deadline of April 27, 1988, to reclaim the mine, or get a regular permit. Fifteen months for reclamation is five times as long as federal law permits.

Ten-A Coal, which has 14 mining permits in West Virginia, began looking for coal in the little town of Worthington on Jan. 27, 1987. The hillside they exposed should have been reclaimed by April 27. Despite a series of citations, mine owners Patrick and Frank Cunningham did nothing.

Blankenship, in the Jan. 28 letter warning Faerber not to let this happen again, agreed to allow Ten-A the additional time, "given the existing weather conditions and the current condition of this site."

Sunday Gazette-Mail, 2/7/88

### Call for Storage Tank Inspection Law

The Ohio River Valley Water Sanitation Commission has adopted a resolution calling for legislation requiring inspection and monitoring of above-ground storage tanks.

The resolution was prompted by the Jan. 2 collapse of an Ashland Oil Co. storage tank near Pittsburgh that sent a million gallons of fuel oil into the Monongahela and Ohio rivers. The federal government does not regulate tank construction, other than requiring that a dike be built to contain the tank's contents in case of a spill.

The accident points up the national lack of a comprehensive inspection and monitoring program, said Gordon Garner, who proposed the commission's resolution. Garner is executive director of the Louisville-Jefferson County (Ky.) Metropolitan Sewer District, which monitors storage tanks and spill-control plans as part of the county's hazardous-materials ordinance.

The recommendation for changes in federal law was one of six in the resolution proposed by Garner. It also calls for the commission to revise its strategy for controlling toxic chemicals in the river and to help state agencies revise their emergency-response plans.

Commission officials also said they likely will speed up a planned inventory of storage tanks along the river and their contents.

In its resolution, the commission proposed that Congress include the monitoring and inspection requirements for above ground storage tanks in a 1986 law that requires communities to plan for chemical accidents.

The Inter-Mountain, 1/16/88

### Logging Museum Planned

A West Virginia-based group called the Mountain State Railroad and Logging Historical Association is working toward the establishment of the West Virginia Museum of Logging History and Technology at Cass Scenic Railroad State Park.

The museum will contain the most comprehensive collection of logging information and equipment in the United States. Cass is already a center of historical preservation where not only is there a geared locomotive operation on an authentic logging railroad, but also an authentic company town that is undergoing restoration.

For more information contact the West Virginia Museum of Logging History and Technology, 3101 Auburn Road, Huntington, WV 25704.

Daily Mail, 1/15/88

### Plutonium Plant to Stay Closed

The largest government plant that makes plutonium for nuclear bombs, closed and under intense scrutiny in recent months because of its resemblance to the Soviet Union's Chernobyl reactor, will not be reopened, the Department of Energy has told some legislators on Capitol Hill. But those who favor reopening the plant, the N Reactor on the Hanford Nuclear Reservation in Washington state, say that the Reagan administration is divided on the issue and that no final decision has been made. The plant has been shut since December 1986. If it closes permanently, 6,400 workers will lose their jobs. The Chernobyl reactor, like the Hanford N Reactor, used graphite to help control the flow of neutrons that sustain the chain reaction; the standard commercial design in this country uses water.

Charleston Gazette, 2/5/88

## 1988 Legislative Session (from page 1)

coalition" (with the League of Women Voters, WV Sierra Club, WV Water Well Drillers Assoc., WV-Citizen Action Group, and others) and supporting a bill drafted by Kristi Treadway of the Environmental Defense Fund with input from the coalition. This bill will be entitled the "Groundwater Protection Act" and will be distinguishable from the DNR/industry "Groundwater Quality Act." The key difference in the two bills is that the DNR/industry bill is not productive enough and allows degradation of the groundwater to levels specified by the Water Resources Board through rulemaking while the Groundwater Protection Act will prohibit degradation and allow for citizen suits to enforce the law.

**2. Out of State Waste/Solid Waste/Litter/Bottle Bill/Siting Board.** All of these issues may be wrapped into each other at some point during the session. Already there is a lot of attention being paid to the idea of transferring the solid waste program from DNR to the PSC. That is not a solution. It is just transferring the problem. In the State of the State address, the Governor proposed consolidation of the Solid Waste Authority into DNR. House Speaker Chambers is co-sponsoring a bill with Del. Buchannon which is a holdover from last year's attempt to merge litter control with solid waste disposal. I understand that this bill will tax certain undesirable containers such as plastic bottles and put the money into a fund for administration of the State's Solid Waste Management Act along with increased litter penalties and require the creation of county solid waste authorities. In addition, the DNR is offering a bill which will rewrite the Solid Waste Management Act in, as yet, an unspecified way. In talking with officials at DNR, I feel that their bill may both strengthen and weaken the current law; e.g. it will require bonding for landfills, but take away DNR authority to hold landowners responsible for open dumps on their property. Last, but not least, is the move to restrict the importation of out state waste through some method (perhaps a tax), and other miscellaneous provisions such as public ownership of all landfills, creation of a hazardous waste siting board and the bottle bill.

### ISSUES OF ENVIRONMENTAL IMPORTANCE WHICH WILL LIKELY BE VOTED UPON

**1. Solid Waste/Litter/Out of State Waste/etc.** It is likely that some bill will make it through for a vote. It is hard to say which one, but the most likely is the Chambers/Buchannon bill as modified in Committee.

**2. Underground Storage Tank.** DNR is introducing a bill designed to assume primacy of the federal program regulating underground storage tanks.

**3. Rules Promulgated by Various Agencies.** These bills are always important because they decide how many of the statutes will be implemented. Some of the more important are sketched below:

A. DOE has several sets of rules before the Legislature that the Conservancy should be concerned with.

**1. Freedom of Information Act.** The Conservancy has already submitted comments opposing the rules because they are too expensive and not timely. Normally procedural rules such as these will not come before the Legislative Rulemaking Review Committee (LRRC). Delegate Knight, LRRC Chairman, however, has expressed an interest to review them.

**2. Repeal and Reenactment of the Surface Mining Rules.** DOE has proposed repeal and repromulgation of the Surface Mining Rules. By proposing repeal and reenactment, DOE did not need to provide strikeouts of deleted text or underlining of new text. Thus nobody can easily identify the changes being made.

**B. DOC Regulations Concerning Use of Parks, Forests and Hunting & Fishing Areas.** Issue concerns the casing of weapons on the Greenbrier River Trail.

**C. Health Department: Hazardous Substances/Repeal of CRTK.** The Health Department has recommended that the Legislature repeal the State's Community Right to Know law (CRTK). This law informs the public as well as local fire departments of the presence and location of hazardous substances in the community. The basis for their recommendation comes from the CRTK itself. It contains a provision calling for repeal, accomplished through the State Legislative Rulemaking Review procedures if the federal law duplicates state law. The Health Dept. has certified that CRTK is duplicated by federal law and the issue is whether we should rely on the federal statute (which can be amended and interpreted at the federal level) and whether the law is really duplicated. In addition either the DNR or the Governor will be introducing legislation to either modify or repeal the CRTK. I understand that it may be a modification to include requirements that the State Emergency Response Commission feels are necessary to implement the federal law in West

Virginia.

**D. DNR: Solid Waste Management Rules.** This rulemaking will increase application fees.

### CONSERVANCY POSITIONS/PRIORITIES

**1. Solid Waste/Out of State Waste/Litter Control/Bottle Bill.** The Board decided that we needed to be involved in the debate and perhaps inject some rationality and facts into the discussion. Landfills are necessary, but they need to be technologically sound and have appropriate financial security for operation and post-closure care. This means that the Solid Waste Management program needs adequate funding to establish and enforce the standards and the landfills need to remain financially solvent. If someone proposes a Hazardous Waste Siting Board then we will support it if the public will have input into the decision process and it contains other proper siting mechanism's including buffer zones, authority to designate traffic flow, mitigation of environmental effects and compensation to local communities, etc. The Conservancy will also continue to support source reduction such as the bottle bill.

**2. Underground Storage Tanks.** There are approximately 15,000 underground storage tanks in the State. The federal government will not provide the resources necessary to adequately run the program in W.Va. Therefore the Board ratified supporting State primacy of the program. We will need to make sure that the program is adequately funded. DNR is proposing yearly registration fees from the owners of the tanks which they believe will provide approximately \$500,000/year and the necessary match for accessing the federal remedial fund.

**3. Groundwater Protection Act.** As explained above.

**4. Wetlands Protection.** For the past several years the Conservancy has been promoting a wetlands protection bill. We will continue to do so, although this year does not look like a likely year for passage.

#### 5. Rules.

##### A. DOE

**1. Freedom of Information Act (FOIA).** Need to continue opposing them on the grounds enunciated above and make them more fair to citizens.

**2. Repeal of Surface Mining Rules.** Need to be vigilant about these rules.

**B. DOC Rules.** Proposed position: treat Greenbrier River trail as a road; guns can be uncased but must be broken open.

**C. Repeal of CRTK.** need to be

vigilant and get the best degree of protection and availability of information.

**D. DNR Solid Waste Rules.** Should support increased fees.

**6. Other Bills.** There are many other issues that are in the legislature this year including the bills or resolutions related to the nuclear waste repository, Canaan Valley related legislation, increased licensing fees for hunting and fishing, and the tram at Cooper's Rock, etc. We may assist on these issues at some point in the session.

### HELP!

As you can see, there is a lot going on this year and I need your help. If you wish to contact your local legislators on key issues or provide other assistance such as tracking a particular bill/issue and making sure we contact the right people, then please contact me at 179 Summers St. Suite 612, Charleston, WV 25301 or call me at 345-3529.

## New Group (from page 3)

With the opening up of Corridor G and the upgrading of Route 10, more urban people of some means are building nice homes in Lincoln County, and thereby bringing more tax money into the county. How eager would these people be to move into Lincoln County once mining gets a strong hold and starts spreading throughout the county? The most recent proposal to strip mine in Lincoln County is not in some remote corner, but in the midst of a residential area and within 1/2 mile of a community of at least 200 people; and within three miles of both Midkiff and Branchland. Is it so remote a possibility that the hills immediately surrounding West Hamlin, Hamlin, Alum Creek, and Griffithsville could be strip mined in the not too near future? How safe is the hillside across the road from your farm from being turned into an industrial zone with blasting and tunneling into the underground water systems supplying your wells?

It is the goal of Home Place to prevent further permits to strip mine in Lincoln County. Short of that, it is our desire to insure that homeowners' rights are protected through the proper execution of the State's written law.

Home Place does not stand against jobs or progress, but Home Place stands for well-thought out and lasting solutions to the unemployment situation in Lincoln County.

# Reasons to join WVHC

The West Virginia Highlands Conservancy is a private, non-profit environmental organization started in 1967. Its objectives are "to promote, encourage, and work for the conservation - including both preservation and wise use - and appreciation of the scenic, historic, open space, wilderness, and outdoor recreation resources of an related to West Virginia, and especially the Highlands Region..."

Members include people and organizations diverse in their personal interests and professions but united by a common interest. Most WVHC members are West Virginians but many live outside the state.

The Highlands Voice, a monthly 8-page

newspaper, is sent to all Conservancy members. It is filled with environmental news on topics of interest and concern to members as well as articles about trips and outings.

The Conservancy sponsors two special weekends each year. These are usually at some scenic spot in the highlands and feature speakers, outings and board meetings.

Your contribution to WVHC is tax deductible and joining is as simple as filling out this form and returning it to the office in Charleston.

Join today and become part of an active organization dedicated to preserving West Virginia's natural resources.

### WVHC Membership Categories (Circle One)

Category	Individual	Family	Organization
Senior/Student	\$ 12	\$ ---	\$ ---
Regular	15	25	50
Associate	30	50	100
Sustaining	50	100	200
Patron	100	200	400
Mountaineer	200	300	600

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Make checks payable to: West Virginia Highlands Conservancy  
Mail to: Suite 201, 1206 Virginia St., E., Charleston, WV 25301

#### Membership Benefits

- 1-year subscription to **The Highlands Voice**
- Special meetings with workshops and speakers
- representation through WVHC's efforts to monitor legislative activity.

The West Virginia Highlands Conservancy is a non-profit organization. Your contribution is tax-deductible. Please keep this for your records.

Date \_\_\_\_\_

Amount \_\_\_\_\_

Check number \_\_\_\_\_