



The

Highlands

Voice

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## West Virginia DEP Fails Again in Protecting Its Citizens

*This Time It's Toxic Mercury*

*Deposited by Coal Fired Power Plants*

(Adapted from an article by Ken Ward in the Feb 4, 1999, Charleston Gazette. Thanks to Richard diPreto for additional information)

Utilities that use coal fired plants to generate electricity are prime sources of deadly mercury in the atmosphere. According to the EPA they are responsible for one-third of all mercury atmospheric emissions. States that have coal fired generating plants, or are down wind from them are especially at risk for this deadly pollutant. Consequently, West Virginia, falling into both of the above categories, has one of the highest mercury emission levels in the nation. Mercury air emissions can end up in waterways through rainfall and runoff and then build up in the food chain. This pollutant released into the air by power plants can deposit onto plants, and in the waterways it is absorbed by fish tissue that people could eventually eat.

In spite of this danger, West Virginians aren't being warned not to eat fish containing dangerous levels of mercury, according to a public interest group report issued Wednesday. The state uses a fish tissue concentration threshold for mercury that is not stringent enough, according to the study published by the U.S. Public Interest Research Group.

"Of the top 17 states for mercury pollution from power plants, West Virginia is the only state with no mercury advisories at all," said Steven Biel, U.S. PIRG's West Virginia field organizer. "That tells us that the state is coming up far short of protecting its citizens from one of the most dangerous poisons known to science," Biel said. "West Virginia fails to warn the public about mercury in our fish until the contamination reaches levels that could potentially cause health effects ranging from brain damage to kidney damage in kids."

The report, "Fishing for Trouble," compiles information about bodies of water under fish consumption advisories and information about how states determine when to issue an advisory.

See TOXIN on page 17



Blackwater Canyon from Lindy Point

photo credit: David Smith

## Trading Dimes For Nickels, Jewels for Junk

By Frank Young

West Virginia Governor Cecil Underwood continues to ignore environmental issues and refers to those who remind him about the environment as extreme.

Some important issues he refuses to address include:

(1) The governor's much ballyhooed mountaintop removal mining task force held many meetings last year, and issued a thick report. One of its members even issued his own 17 page minority report to the governor. Yet the governor is virtually silent on this controversial issue. He has no apparent ideas of his own on how he would like to proceed toward resolution of the many related conflicts that have arisen since he signed into law last year a bill expanding this destructive mining method.

(2) Any degree of protection for Blackwater Canyon is being totally ignored by the governor. He suggests nothing to save the Canyon from further massive devastation by a company whose owner said he only wanted "to cut a few

trees." Last year, in a strongly worded statement, the state Supreme Court suggested that state government should step in to protect that precious resource. Still, the governor is silent.

***The real extremists trade clean air and water for dirty air and water, and scenic mountain green scapes for barren wasteland in pursuit of an illusion of prosperity...***

But the governor is not content to just ignore environmental issues. He criticizes the entire working concept of government responsibility for environmental standards. In his state of the state message a few weeks ago, he said, "Groups representing extreme positions have largely shaped environmental management and debate." What Governor Underwood really means

See EXTREMIST on page 9

## From the Western Slope of the Mountains

By Frank Young

### Division of Environmental Perversion

A few years ago the West Virginia Environmental Council publication GREEN had a contest of sorts, suggesting and soliciting spoof names for the state Division of Environmental Protection (DEP). The idea was that the agency didn't really protect the environment. But rather, it permitted pollution and protected polluting companies, under the permitting system.

Nowhere is this more evident than in the coal mining permitting process. Only those operations that would dare mine without any permits whatsoever see the heavy enforcement arm of the law. Variances for legal requirements relating to mining occur from top to bottom, literally. The approximate original contour (AOC) requirements in federal law are supposed to be enforced by the states that have enforcement primacy (primary enforcement responsibility). Buffer zones along streams are supposed to be enforced by state regulators and permit writers. Both AOC and stream buffer zone rules are routinely ignored by the DEP. The DEP's personnel do not deny, even admit to this, when pressed. No clear excuses for this perversion of the permitting process are offered.

The same thing happens in other environmental areas. The Federal Clean Water Act has been law for almost three decades. West Virginia has primacy for enforcement here, too. Yet, in settling a suit by the West Virginia Highlands Conservancy and others, the regulators said it will take yet another 10 years to formulate regulations on amounts of pollutants that may be put into streams by point source polluters. Meanwhile, almost anything goes, without meaningful limits. This is simply not a priority with state regulators. What do they think they are supposed to be doing?

And non-point source water pollution is an even more neglected problem. Surface water runoff of contaminants from land is epidemic, particularly in eastern counties of West Virginia. This came about because of the tremendous growth in poultry farming that has taken place there in recent years. But it is growth without the necessary planning and regulations to protect from serious poultry farm pollution.

Again, state regulators permitted an industry to flourish without adequate oversight and foresight. Now that the industry is established, it resists regulations to control its environmental excesses. Through the political network of influence, regulators refuse to recognize the magnitude of the problem, insisting that voluntary practices are adequate. Again, what do the regulators think their job is? Just to protect the status quo?

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## January 30 -- Rally for the Mountains

### *Giving Our Leaders the Message*

By Vivian Stockman

The message from the Rally for the Mountains couldn't be clearer: West Virginians will not tolerate mountaintop removal and together will stop this massacre of our heritage and future. Over 20 speakers, delivered this message to a crowd estimated at over 500 people.

This rally, organized by the Ohio Valley Environmental Coalition (OVEC), was held Jan 30th in Charleston on the Capitol grounds. People came from every corner of the state to attend. They came to share their feelings of rage and frustration over mountaintop massacre and to learn what they can do to help end the destruction of West Virginia's coal-bearing mountains, life-giving streams and coalfield communities:

One of the wonders of the rally was the large display of "tombstones" fashioned from pasteboard, the work of Carol Jackson. (And I do mean work!) Each tombstone represents a mountain, a named stream or a town destroyed by mountaintop removal and valley fill.

OVEC's Janet Fout opened the rally with the theme: United we can stop mountaintop removal! As she spoke, about 60 members of the Methodist Federation for Social Action (MFSA), carrying their banner, marched in.

Secretary of State Ken Hechler teamed up with George Dougherty (the Earl of Elkview) to sing "Almost Level, West Virginia" and other songs that movingly portray the destruction the coal industry euphemistically calls mountaintop mining. John Taylor, a member of the MFSA, wondered about the hearts of the governor (who, amazingly, claims membership in the Methodist Church) and coal companies. He said, "Their hearts are in their checkbooks, and they're gaining by the destruction of sacred places." John reminded us that "United we stand, divided we fall. We will win. We will surely win." Norm Steenstra noted recent polls show that two-thirds of West Virginians want mountaintop removal stopped or severely curtailed.

Native daughter, novelist Denise Giardina drew cheers that rang across the Kanawha when she said, "They came in here and stole our land, killed a hundred thousand miners, polluted our streams, ground our roads into dust with their coal trucks, and then they have the nerve to tell us that they should be able to destroy our mountains because they have created jobs. Well, the Mafia creates jobs, the Columbian (sic) drug cartel creates jobs, and pimps create jobs," Giardina said. "And they all create jobs the same way -- by exploiting the people they employ. King Coal has reigned in West Virginia for 100 years. King Coal is dead. Long live the people of West Virginia!"

Children in costumes of mountains, trees, critters, and big, bad coal barons gathered to act out a skit about the death of the beautiful hills of West Virginia. Carol Jackson narrated the story of the peaceful mountains and all their blessed

creatures blasted to oblivion by mountaintop removal. She said we will tell our legislators: "You won't get our approval, til you stop mountaintop removal!"

Blair resident Carlos Gore called the mountaintop removal sites near his home "postcards from hell."

West Virginia Highlands Conservancy activist Cindy Rank said the laws we have now are loosely applied and poorly -- if at all -- enforced. Only we can stop the devastation she said, so "Bring a carload of people to the next rally. Write letters, and tell your friends and your neighbors."

Larry Gibson asked everyone to come for another rally on April 24. "It's got to be bigger than anything you have ever seen," he said. "That way the message may begin to sink in to our elected officials. These people can be replaced come voting time." Blair resident Jimmie Weekly agreed, "We are the voters. We can vote them out of office."

Speakers from the WV Environmental Council, Kentuckians for the Commonwealth, WV Rivers Coalition, Concerned Citizens' Coalition, Coal River Mountain Watch, the Kentucky Chapter of the Sierra Club and a student from Marshall University shared that message with the crowd.

Frank Young, President of the West Virginia Highlands Conservancy, put the situation in perspective as regards the state's present leadership. He thundered out for the assembled throng to hear,

"We will have traded our wealth for hollow promises. This bitter lesson is already well established in West Virginia history. That our governor would tolerate, even promote, this sham and destruction is nothing short of official malfeasance.

Governor Underwood is the one who should be impeached!"

The event's media coverage helped send our message across the state, and to Kentucky as well. It made front page news in a Lexington Herald Leader article, which reported that "nearly everyone involved in mining issues in Kentucky, from environmentalists to state regulators to coal operators, has watched as the MTR controversy grew to huge proportions in West Virginia, then slipped west across the border."

No one should have to face the senseless death of a childhood mountain. See you, and a carload of your friends, in April. In the meantime, keep the energy of the rally close at hand as you write those letters and demand a halt to mountaintop massacre. ✦



## Corridor H: Get Your New & Exciting Map

*It's Free!*

By Hugh Rogers

Corridor H Alternatives (CHA) has produced a color map of suggested highway improvements between Elkins and I-81. It matches upgrades with traffic projections by the West Virginia Department of Transportation (WVDOT). The map features places threatened by Corridor H. This approach would give us a safe and scenic highway network instead of a single overbuilt truck route. CHA hopes the map will encourage discussion of more effective ways to spend our money.

WVDOT's version of Corridor H is not the way to go. Again this year, Corridor H has been named to the "Green Scissors" list of the country's most wasteful and harmful federally-funded projects. Conservative taxpayer groups got together with environmental groups to target 72 "polluter porkbarrel" programs for 1999. They hope to save \$50 billion while protecting our earth and our health. The Corridor's price tag of \$1.5 billion is way above average.

On January 23, exactly two months after the Court of Appeals in Washington ordered an injunction against Corridor H construction, Governor Underwood appeared at an Elkins "Build-it" rally. He avoided discussion of the premature contracts that got the Court's attention. Idled equipment may be costing the state as much as \$46,000 a day. But the Governor wasn't interested in money-saving alternatives. He wouldn't settle for anything less than the 100-mile four-lane to Wardensville.

The Governor's main argument for the big "H" was the support of (nearly) every elected official from the area. What explains the unanimity? Never underestimate the value of a scapegoat. As long as the highway is not built, politicians can claim it would bring heaven on earth if only the devil would get out of the way. Most new highways are built to ease traffic congestion. The new highways then attract more traffic, so paving contractors can stay busy.

Corridor H is different, since none of its route would require four lanes for projected traffic. Hence the political appeal of the last-ditch issue: safety. But we don't need a new four-lane to solve that problem either.

The safest road through the mountains is Route 55--Virginia Route 55. WVDOT's statistics in the EIS show the accident rate on upgraded 55 in Virginia is half the rate on our side of the border. Two-lane 55 is actually safer than four-lane US 33 just east of Elkins. Dangerous at-grade intersections on high-speed corridors cause too many wrecks. The next time a politician waves the safety flag, remind him or her of Virginia 55.

Alternatives remain as long as Corridor H isn't funded or built. For specific suggestions, check out CHA's new map. To get a copy, call toll-free 1-877-887-6276. ✦

## editorial

# The Potential for Biodevastation

While we focus our energies on mountain top removal and other local issues, we are in danger of getting blind-sided by much greater threats in our Earthly milieu. Think globally, act locally, is fine as long as we continue to think globally, stay informed and not let industry propaganda sink us into a narrow path.

What has the potential for being the greatest threat of all -- greater than atomic energy -- greater than global warming -- greater than the loss of the ozone layer-- is the rapid deployment of new created life forms which stem from the science of genetic engineering (called benignly "life science" by those companies who have both feet planted in this technology). Multinational corporations like Monsanto have been gradually getting control of the food supply through the use of this new technology -- it is a power mad elite's dream. Where Hitler wanted control over lands and peoples, what could be more encompassing than control over the biology of all living things. It is truly a God power and for the Earth and every living thing on it, a potential nightmare of the highest order.

Oftimes I get the idea that while we who have a broader awareness than those in the mental confines of acquiring ever greater profits work to put out this fire or that, behind us, temporarily out of our vision, rages up a fire of catastrophic proportions which dwarfs the one we are currently battling. It is difficult to not allow an existential fatigue to overwhelm us while the profit grubbers in their energetic glee get free reign to wreak their havoc on the planet.

It is not the greed or the amassing of economic power and control *per se* that is the principle concern. After all, those who are in the business of profits in the genetic engineering field have to live on the planet, too. The greatest danger is the headlong destruction of Earth's ecosystems. In so many technical areas in the past, the headlong rush to put to use a new technology in the service of profits has led to big problems down the road. Examples are the proliferation of nuclear power and weapons, and the unbridled development and manufacture of dangerous pesticides and herbicides. The true story of these disasters has been downplayed for years by our government and the

media.

The fact is that the very biological characteristics of the organisms being created may well have an out-of-control insidious influence on many of our natural life forms. And that includes human beings. We don't have a clue for certain what these dangers might be, but a lot of responsible scientists have outlined some of them for consideration. Not only is our government blind to these warnings, but is also actively involved in and subsidizing genetic engineering.

According to Ronnie Cummins of the Campaign for Food Safety & Organic Consumers Action, "Genetic engineering poses unprecedented ethical and social concerns, as well as serious challenges to the environment, human health, animal welfare and the future of agriculture."

Sonja Schmitz, who used to work for the industry as a genetic engineer, has a major concern that the genetic pollution of natural populations will create new weeds and disrupt ecosystems. In the competitive drive for profits, those who direct the development do not consider the potential consequences. Quoting Schmitz, "...pollen and seeds carrying new genetic information are mixing with wild populations in the biggest experiment the global environment has yet be forced to bear." Considering the history of human "experiments" and some of their consequences on the global ecology to date, this is a scary thought.

The rapidity in which the creation and distribution of genetically engineered is progressing, combined with a lack of media coverage (which will go on interminably into the sex life of our president) has caught the public with their pants down, so to speak. Those who know much of what is going on and who have deep concerns which they have articulated, such as journalists, scientists and educators, have been fired, blacklisted or otherwise banned from their chosen professions. There needs to be a major wake-up call, but from where will it come?

For excellent sources of information on this subject, contact WD Press, *Synthesis/Regeneration*, PO Box 24115, St. Louis, MO 63130. ✚

## Letters

The following email letter was received by Vivian Stockman, Coordinator for the Blackwater Campaign.

### Wants Full Citizen Support to Save Blackwater Canyon

Dear Vivian,

Thank you for giving us an opportunity to help with the Blackwater Canyon -- we received the message today from Margaret Janes. I will forward this message to others in our area of the Eastern Panhandle. I, too, have a love and a history with Blackwater Canyon and the Falls area. Ever since I was a little girl going to my grandparents home in Sutton WV (Braxton County). My Dad always stopped there with my mother and me to enjoy the beauty and have some lunch. That was back in the 60s clear up until I was 17.

I enjoyed so much there for so many years freely, it is only right that I and others give something back for such a treasure in our state. I will get to work right away!

Our organization has been here in the Eastern Panhandle for about eight years. I have heard a great deal about the West Virginia Highlands Conservancy from a Mr. John Christensen. We have a Web site started, as of Dec. 25th 1998. I am working on our project about Back Creek in Berkeley County WV, the Back Creek 2000 Water Quality Initiative. If you care to, you can check out our web page at <<http://www.blue-heron.org/>>

Please keep us posted on this action, I will also be sure to tell my parents and family still living in Braxton County.

Sincerely,

Sherry Evasic,  
President & Coordinator, Back Creek  
2000 WQI  
January 28

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(The following letter appeared in the Beckley Register-Herald on Dec. 17, 1998, and is reprinted here with permission from the writer)

### Grapes of Rape Seen in West Virginia

Editor

I recently took an educational tour of West Virginia along with 20 other Kellogg National Leadership Fellows.

We met with Representative Nick Rahall, D - WV, who revealed that it was none other than he who inserted the "mountaintop removal" language into the 1977 legislation that tried, but miserably failed, to reign in the renegade strip mining industry.

Tangible proof of that stunning reality came as soon as the next morning when we stopped at the Mountaintop Removal Agricultural Project in Mingo County.

**LETTERS continued on page 18**

# Minority Task Force on Mountain Top Removal Mining Report to the Governor ~ Parts II & III

By John McFerrin

(Editor's notes: I have been asked by a sufficient number of people who wished to see the rest of John's report and who didn't feel as if they wanted to wait until the next two issues of the Voice to read it in its entirety. A sufficient number to have me change my mind about printing John's report in three installments and decide to go with two. Herewith is the rest of the report.

In Part I, which was printed in the December/January 98-99 Voice, John came out early and stated that he was convinced that mountain top removal (MTR) mining should be banned. He based this on no less than seven significant reasons. 1) the economic trends of coal in West Virginia don't support it; the counties where MTR is practiced are almost uniformly the poorest counties. 2) MTR is environmentally damaging; 3) the majority of the citizens of West Virginia oppose MTR; 4) the way it is practiced it is illegal violating the Clean Water Act and the surface Mining Reclamation and control Act, 5) it is immoral as defined by the majority of the dominant religious faiths in West Virginia, and 7) the anti-social attitude of the coal industry.

Beginning the specifics of the report which deal with the Task Force's Committee on the Economy, John addresses post mining land use, more specifically the reestablishment of forests. From here we lead into the following.)

Even though it contains some intriguing suggestions, the report of the Committee on the Economy is most striking for what it leaves out. The Committee on the Economy was presented with data which indicates that the life expectancy of the coal industry is so severely limited that planning for its imminent demise would be prudent. The report does not mention this.

The Committee on the Economy had a presentation from a coal economist. From his presentation, I conclude that we are in the midst of an historic shift. He said that coal from the west produces about 2/3 of the heat per pound as does coal from West Virginia, Kentucky, etc. Even with the transportation costs and lower heat of western coal factored in, a power plant in Cincinnati can still burn western coal at a substantially lower price per BTU than West Virginia coal. The western coal is lower in sulphur, making it attractive to those seeking to comply with the Clean Air Act.

There are some modifications that would have to be made in boilers at power plants to burn Western coal. Reluctance to spend this money keeps West Virginia coal as a viable option in the short term. As the boilers age and are replaced, this will no longer be true.

He said that during times of peak demand for electricity it may always be necessary to burn West Virginia coal since it was not possible to shove enough lower BTU western coal into the boilers to run them at peak capacity. Thus the future market for West Virginia coal may be limited to those few days each summer when the power plants have to run at peak capacity.

Deregulation of electricity prices can only make things worse for the West Virginia industry. Monopolies now insulate the utilities from some cost pressures since they can pass the cost to the consumer. With a free market for electricity, this will no longer be true. Utilities will be even more subject to price pressures than they are now. West Virginia coal cannot stand the price pressure forever.

*When the inevitable collapse of the coal industry in West Virginia comes, Arch Coal can move its production to Wyoming while we can sit here and wonder how we let billions of dollars of coal leave the state and have nothing to show for it.*

Although the coal economist did not mention them, there are also national and international pressures. The Kyoto Treaty and the phase in of the Clean Air Act are indications that the world and the nation will no longer tolerate the level of pollution that coal produces.

The coal industry in West Virginia is dying. There may be room to quibble about the time frame but there is no way we can ignore international pressures on climate change, the Clean Air Act, etc. Even were we able to ignore those, we cannot ignore the economic pressures of western coal.

Historically there has only been a vague, general recognition that the coal industry is dying. When anyone mentions it, it is usually with all the urgency that someone mentions that the sun is consuming its fuel supply and will eventually burn itself out or the Earth will eventually be struck by a giant asteroid. The death of the coal industry is not some distant abstraction. It is a certainty which will probably come soon enough that we have to start planning for it. As the leader of West Virginia, it is imperative that you recognize this and make this reality a part of state policy.

Regardless of how one views the coal industry, its disappearance will have an enormous impact upon West Virginia. Schools will have to find some way to make up for this loss of revenue, as will political campaigns. Because of the dramatic (and imminent) impact of this disappearance, West Virginia needs to begin planning for it.

From an economic standpoint, there are two ways to deal with this imminent departure of the coal industry from West Virginia. One is the way we have always done it: put the pedal to the metal, don't demand anything of the industry, go all out and get as much coal out as we can in the next twenty years. When the inevitable collapse of the coal industry in West Virginia comes, Arch Coal can move its production to Wyoming while we can sit here and wonder how we let billions of dollars of coal leave the state and have nothing to show for it. The second is to spend the next few years preparing for a post coal economy. As Governor, it is your duty to guide the state along this more productive second path.

This more productive second path requires guidance by certain principles, principles that are borne out by the historical record.

The first of these is that sitting still and assuming that the coal industry will, on its own, create a post-coal economy is folly. The historical record is overwhelming that it will not. It has been the dominant economic and political force in West Virginia for a century; during that time it has not developed a prosperous economy. It has led us to the bottom. Assuming that it will do anything else in the next few years unless forced to do so is hopelessly naive.

Second, the relationship between the coal industry and the state must change. For recorded history, it has been state policy to do whatever was necessary to meet the industry's needs. We did this partly because the industry has always wielded enormous political power. We did it because nobody tells the 900 pound gorilla where to sit.

A more charitable view is that we did this because we assumed that the coal industry was so important to West Virginia's economy that its needs were synonymous with the needs of the state. We assumed that, just as what's good for General Motors is good for the nation, what's good for Pittston is good for West Virginia.

*Continued on next page*

History has shown that this is not true. What's good for the coal industry is not good for West Virginia. Were that true, the last century of working to meet the industry's needs would have produced a more prosperous state.

*West Virginia has the enormous power inherent in our ability to issue or deny permits. We need to say directly that unless there is some tangible economic benefit and something that helps us build a post-coal economy, there will be no permit.*

The new relationship has to be that West Virginia will meet the industry's needs, including allowing it to continue to exist, only if it also makes some identifiable contribution to the overall economy, including the post-coal economy. If it does not, then it can leave now and we will begin the task of building a new economic base.

The requirements of post-mining land use may say this implicitly. To communicate to the coal industry, we need to say it explicitly. West Virginia has the enormous power inherent in our ability to issue or deny permits. We need to say directly that unless there is some tangible economic benefit and something that helps us build a post-coal economy, there will be no permit.

The coal industry is not the most subtle and perceptive bunch, particularly when it comes to the possibility that it will not continue to do whatever it wishes. When faced with overwhelming public support for some additional protection from blasting damage for those who live near the mines, the coal industry mumbles about the "perceived" damage and the adequacy of present law. From its public statements, there is no indication that anyone in the industry even recognizes that there is a problem. Beyond rattling off its statistics about jobs created and taxes paid, the industry appears incapable of considering that someone might demand that it do something to create a prosperous state. If it is to understand that state policy is changing and that this will now be demanded of it, it needs to be told explicitly.

Finally, we must make clear that the requirements of an identifiable contribution to a post coal economy is a requirement, not an aspiration. For over twenty years it has been the law that mountaintop removal mining is only allowed if the post-mining land use is industrial, commercial, agricultural, residential, or public (including recreational facilities).

The law already requires that the applicant for a permit have specific plans for a post mining land use that falls in one of these categories. There must be commitments and assurances from public and private sources that there will be the necessary infrastructure,

etc. Had we faithfully followed this law, then we could have begun creating the conditions for a productive post-coal economy.

While these were nominally legal requirements, in practice they were voluntary. In the late 1970's, surface mine applications contained sketches of airports, housing developments, etc. Those were never built. The most famous example is Bullpush Mountain. It was promoted as the future home of a self-contained residential community. Twenty years later, it is a field of grass. Either there were no real plans or no mechanism for making sure that the plans were carried out.

If requirements that any surface mine which is granted a permit make a contribution to a post-coal economy are to be meaningful, we must develop a regulatory attitude that makes them meaningful. We must demand detailed plans of any post mining land use as part of the permitting process and use bond forfeiture, permit revocation, permit blocking, or any tool at our disposal to guarantee that the planned post mining land use actually comes about.

The report of the Committee on the Economy also uncritically accepts the assumption of the industry that coal mining is good for the economy. While it may be good for the personal economies of several individuals, for the overall economy the opposite is true. I see no way to avoid the conclusion that coal mining is not a productive tool for economic development. If it were, then we would already be rich. We would not be scraping the bottom in every measure of economic prosperity. Our coal counties would not be the poorest in a poor state.

Many speakers at our public hearings touched upon the theme that we should not restrict coal mining because that is the only economic activity in the counties where it is practiced. Those speakers cited the chronically high unemployment rate in coal counties as a reason to encourage more coal mining. I draw the opposite conclusion. I see it as a reason to conclude that our historic economic development strategy of doing anything the coal industry wants as a colossal failure. If coal mining were the engine that drives economic development, coal counties would not routinely lead the state in unemployment. At the time the coal industry arrived, West Virginia ranked about the middle among states in terms of prosperity. Now we are at the bottom. While the coal industry may not be entirely responsible for this drop, it must share part of the blame.

Neither did the Committee address the effects of what an economist would call externalized costs. These are costs which the industry wishes to ignore. It deals in dollars and cents. It invest dollars; in exchange it gets more dollars. The coal comes out; their investors are happy; their lobbyists can rattle off figures about how much they are adding to the local economy.

Economic theorists would call those items of damage which are difficult to measure externalized costs. Those are the costs to society that are inherent in the mining but which are not borne by the mining company.

The company would, of course, bear the costs of its equipment, the wages it pays, the fuel it buys, etc. These are not the only costs. At the same time the mining is costing the company the price of its equipment, wages, and fuel, it is costing society the beauty of its mountains. It is costing us miles of free flowing streams. It is costing us the opportunity to breathe without choking on clouds of dust. It is costing those who live near the mines the opportunity to live in peace. These are the things that the economist would call "externalities". They are the costs that the mining industry imposes upon society as a whole.

It is understandable that the Committee did not address this. These costs are difficult to place a value upon. Even were it possible to place a value upon these costs (such as property damage) there is no central registry which collects this data. Unlike such things as employment and taxes, there is no one who is charged with collecting this data.

This does not, however, mean that the information is unworthy of consideration. These costs are every bit as real and every bit as important as more tangible costs or costs that may more easily be documented. If the Governor is to have a true picture of the effect of mountaintop removal on the economy he should consider these costs as well.

Finally, the report of the Committee on the Economy is full of assumptions about West Virginia's obligation to consider the investments that various companies have made in West Virginia and take steps to avoid jeopardizing those investments. This is ridiculous. Those companies made those investments on the assumption that West Virginia would continue to ignore, at a minimum, the state and federal Clean Water

*Continued on next page*





Acts and legal requirements of post mining land use. Given West Virginia's history, this is not a bad assumption. It is not, however, the basis for allowing companies to continue to ignore the law. That West Virginia would continue to both ignore the law and make no demands upon the industry was a calculated risk. If changing the way we deal with the mining industry is in West Virginia's best interest, we should make the change regardless of whether industry made a poor calculation.

#### COMMITTEE ON THE PEOPLE

The Committee on the People presents the charming and, at least for West Virginia, unique idea that the coal industry has an obligation to diminish its impacts upon the community and make some contribution to the community. This is an idea that we should have come up with a hundred years ago. Had we done so, we would be living in a better state.

As Justice Frankfurter of the United States Supreme Court observed, wisdom so often never comes that we should not reject it simply because it comes late. In the same way, we should not reject the wisdom of expecting the industry to make a positive contribution to the community just because it comes today rather than a hundred years ago.

As appealing as this idea may be, its successful execution depends upon the truth of assumptions that are either illegal or that the historical record has shown to be untrue.

The report recommends creating within DEP a Bureau of Community Impact. Its job would be to assess the impact upon the communities of mining. There would be procedures to protect people who live near the mine from being cheated when they are bought out. There would be procedures for ensuring that the company made some sort of positive contribution to the community, that it built community facilities, etc. There would be procedures by which economic development authorities could demand that permits be conditioned upon the company creating industrial sites (not necessarily at the mine). Were the Bureau of Community Impact working perfectly, the coal industry would

have to spend its remaining time here creating the basis for a post-coal economy.

As charming as the idea is, it is based upon flawed assumptions. It assumes that the industry has the right to damage a community so long as it takes steps to correct the problem. This is not the way the law works. The law requires that a mining company "prevent" damage due to blasting. It does not say minimize damage or pay for it afterwards. The word in the law is "prevent".

*Common law several centuries old assumes that people had the right to the quiet enjoyment of their homes. Nowhere is there any legal principle which says that a mining company, by virtue of its greater wealth, bigger equipment, and possession of explosives has the right to deprive a family of this right.*

The law makes the same assumptions so far as post-mining land use is concerned. It assumes that the mining is a temporary use and that after mining the land will have a higher or better use. Common law several centuries old assumes that people had the right to the quiet enjoyment of their homes. Nowhere is there any legal principle which says that a mining company, by virtue of its greater wealth, bigger equipment, and possession of explosives has the right to deprive a family of this right.

The Bureau of Community Impact would be no more than a government assisted process for negotiating away the rights that the law currently gives citizens. It begins with the assumption that companies have the right to damage houses, destroy communities, and deprive people of their right to quiet enjoyment of their homes. Even the best attempts to ameliorate these impacts will only result in the communities receiving less than what the law entitles them to.

Equally serious is my concern about the people who will run this program. The DEP's entire focus has always been the environment. Perfect reclamation to the DEP is something (it doesn't matter what) growing, and clean water leaving the site. They have never been oriented toward anything other than making something grow and keeping debris from tumbling over the side of the hill. Thinking about the community is completely foreign. It is a change of role that is akin to reassigning the public libraries to the Department of Highways. Regardless of the high esteem in which we may hold the Department of Highways, this is too great a difference in mission to expect it to work. Even were we to assume that DEP will try its best, that is not their culture.

If we want information on how well DEP could perform this new role, we have only to look at how well it has carried out the things that are at least nominally part of its culture. Water is something they are supposed to care about. For 20 years the law has required an assessment of the cumulative hydrologic impact of all anticipated mining before any permit could be issued. For at least ten years DEP didn't do anything to carry out its duty. Had it done a thorough and complete job of this legally assigned task, it would not have to stand before the Task Force and announce that it had no idea what the environmental impacts of mountaintop removal are.

Once DEP started making even a token effort, it did an embarrassingly poor job. They don't even know how many miles of streams have been filled. Is there any reason to believe that anyone at DEP has a clue on what the cumulative hydrologic consequences of mining are? Protection of the water is at the core of DEP's mission. It is not accomplishing that. If it is not accomplishing this core function, is there any reason to believe that it will have any more success in considering the impact on the community.

DEP's approach to the assessment of the probable hydrologic consequences is another illustration. The law requires that, as a part of getting a permit, the company make an assessment of the effect of the mining on the hydrology of the area. When companies do this, they routinely say that the hydrologic impacts of the mining will be zero; DEP nods its head obediently. What is there to give us any confidence that the same agency that sits and nods when the company says the impact on the water will be zero will not also sit and nod when the company says that the impact on the community will be zero?

As appealing as the idea of working to diminish the impact on the community may be, there is absolutely nothing to give us confidence that the DEP can possibly carry it out. There is too much history of subservience to the coal industry by the DEP. Had the DEP been oriented toward protecting the people from the coal industry rather than the reverse, it would have been finding ways to require the companies to "prevent" damage rather than wringing its hands. Had it been oriented toward creating a prosperous community, it would have worked at requiring post-mining land use that is higher and better land use rather than bogus wildlife habitats. It would have been honestly studying the effect of mining on the hydrology of the area and looking for ways to prevent those effects rather than approving multiple permits, filling hundreds of miles of streams, and then announcing that it doesn't know what the effects of doing that are.

*Concluded on next page*

The same flaw dooms the Committee's proposal of arbitration panels to resolve blasting damage claims. While it may sound like a quick and easy way to get damage claims resolved, it has the same flaw as does the Bureau of Community Impact. The orientation of DEP is so markedly in favor of the coal industry that it is unlikely that a citizen could get relief.

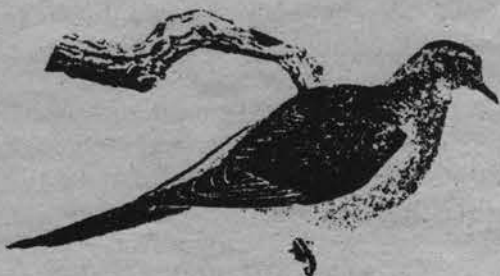
For an indication of how well such a panel would serve citizen interest, we have to look no farther than the current Reclamation Board of Review. In theory, it provides a forum for citizens aggrieved by DEP permitting decisions. In practice, the Board almost never finds in favor of citizens.

The Committee's suggestion that there be a legal presumption that damage to nearby water wells resulted from the mining is a sound one. It should be extended to all property damage, not just water wells.

As appealing as the idea of creating a Bureau of Community Impacts is, it will not work as a part of the Division of Environmental Protection. That agency has such a long, unblemished record of serving the interests of the coal industry that it is unreasonable to assume that a Bureau of Community Impacts housed there would be any more effective in protecting communities from adverse impacts.

The only way that the Bureau of Community Impacts has a chance of being effective is if it is both independent of DEP and has the power to make binding recommendations on permit decisions. Unless it is independent of DEP, it will inevitably be swallowed by a DEP which has no history of enforcement and no history of making any demands upon the industry.

Unless it has the power to make binding recommendations on permit decisions it will be ignored. The state is most powerful vis a vis the coal industry when a permit application is pending. If we wish to require that a company diminish its impact upon the community, there is no time when the state could do that more effectively than in permitting. If we have an independent Bureau of Community Impacts with the power to make binding recommendations, then there is a realistic possibility that the company will actually have to do something to benefit the community. If the Bureau is either a part of DEP or lacks the power to make binding recommendations, DEP's historical orientation assures that the recommendations will be ignored.



## COMMITTEE ON THE ENVIRONMENT

This committee had a daunting task. It began with the DEP -- the agency one would expect would have considered the question -- announcing that it had no idea what the environmental effects of this type of mining would be. From there, it was given less than six months to determine the answer to this complicated question. It is no wonder that its recommendations are almost entirely for further study.

The report does contain some incorrect legal and factual assumptions as well as a policy assumption that, when stated bluntly, calls into question both the Committee's commitment to further inquiry and the State's commitment to environmental protection.

*If these studies show that the long term environmental effects of mountaintop removal mining are a disaster, what difference will it make if we have right along been granting permits? Unless we stop granting permits until the studies are finished, the results will make no difference. The damage will have been done.*

There are two striking legal and factual assumptions that are not true. The first is that headwater streams have no environmental value and that they are entitled to no legal protection. This is not true. Headwater streams are protected waters under both federal and state Clean Water Acts. As such, they cannot be filled with waste material. It is undisputed that these streams are, in fact, being filled. To conclude that there is no illegal activity going on is to ignore the facts.

One can only assume that such streams may be filled with impunity if one assumes that they have no ecological value. This is not true. There is abundant evidence that these streams contain aquatic communities that are an important part of the entire watershed ecosystem. This is, as a matter of law, a beneficial use of the stream which must be maintained. To assume, as the report does, that we can destroy this beneficial use ignores the law.

The second striking assumption is that the word "approximate" in the term "approximate original contour" has a meaning that is so flexible that it is meaningless. State and federal law requires that after mining the land be returned to its "approximate original contour." While there is no definition of "approximate" in the law, it has to mean something. One would assume that it means something similar to its ordinary meaning. In

its ordinary usage, it means reasonably close but not absolutely accurate. We would say that Morgantown is approximately 150 miles from Charleston. We would say that there are approximately 1.8 million people in West Virginia.

At one time, the Division of Environmental Protection had a policy in which "approximate" meant within fifty feet. While that might not fit everyone's definition of "approximate" it was a workable definition.

The Committee has suggested an approach that stretches the word "approximate" to the point that it is meaningless. Under its analysis, post mining land could be hundreds of feet below pre-mining land. It would still be approximate original contour. Under such an analysis, you are approximately age 30, Princeton is approximately in the center of West Virginia, and cricket is approximately more popular than NASCAR in West Virginia.

While the Committee's candid recognition of its lack of knowledge and the need for more study shows a certain intellectual honesty, the policy recommendation inherent in its conclusion is disturbing. It recognizes our collective lack of knowledge. Yet at the same time, it says nothing about continuing to grant permits while we study the problem. Does this mean that we don't care what the studies show? If they show that the long term environmental effects of mountaintop removal mining are a disaster, what difference will it make? Unless we stop granting permits until the studies are finished, the results will make no difference. The damage will have been done. It is not that different from allowing a convicted criminal to pursue an appeal after he has already been executed.

It is equally disturbing that the state accepts this policy of allowing permitting to continue while studies continue. If we are committed to environmental protection, how could this be? If we genuinely wanted to avoid environmental damage, wouldn't we study the effects before granting any more permits?

If we wish to conduct an inquiry into the effects that would have some meaning, it should recommend that there be no more permits issued until the studies are complete.

✦





## Fish & Wildlife Faults Crites

*Blackwater Logging Hurts Salamander, Service Says*

By Ken Ward Jr.

(This article appeared in the Charleston Gazette on January 16, 1999)

Logging in the Blackwater Canyon is harming endangered species and their habitat, a federal agency investigating the matter has concluded. The US Fish and Wildlife Service has recommended that Allegheny Wood Products (AWP) halt logging in part of the canyon and apply for a permit under the Endangered Species Act before continuing.

David Densmore, supervisor of the Service's field office in State College, PA., has requested a meeting with Allegheny Wood to try to resolve the situation. "Contrary to the Service's earlier understanding of AWP's land-use plans for this area, logging and other activities may now have occurred in unsurveyed habitat that may support the Cheat Mountain salamander," Densmore wrote. "Moreover, unspecified future activities may also adversely affect the other federally listed species likely to be using Blackwater Canyon," he wrote.

Densmore wrote to Allegheny Wood on Dec. 22, three weeks after Bill Tolin of the Service's Elkins office toured parts of the company's logging operations in the canyon. The letter was obtained Friday. It was released to environmental groups earlier in the week. Previously, the service had said Allegheny Wood President John Crites had cooperated with their agency and was complying with rules intended to protect endangered species. In several interviews, Service officials said they did not think the logging was going to harm the endangered salamanders, bats and squirrels that live in the Tucker County canyon.

In late October, the West Virginia

Highlands Conservancy, the Sierra Club and other groups filed a formal notice of intent to sue the Fish & Wildlife Service and AWP over alleged violations of the Endangered Species Act.

The law generally prohibits the "taking" of a species that is listed by the government as being in danger of extinction. The US Department of Interior defines "taking" to include not only directly killing endangered species, but also damaging or destroying habitat that is vital to those species' survival. Under the law, taking of an endangered species in the course of otherwise legal activity can be done only under an incidental "take" permit. To get such a permit, AWP would have to cooperate with the Fish & Wildlife Service to construct and implement a habitat conservation plan consistent with the act. In their notice of intent to sue, environmental groups alleged that AWP had not sought such a permit, and that the Service had not done anything about it. In his December 22 letter to AWP, Densmore related details of Tolin's December 2 visit to the logging operation. Densmore said that two sites known to support the endangered salamander and squirrel "remained secure." However, Densmore said that future plans for the canyon are not clear. ❖

### EXTREMIST from page 1

is that if folks are really serious about regulating air, water and land pollution, then they are "extremists."

Apparently, the only people he doesn't find to be extreme are the industry folks who tell us all is well while poisoning our environmental life support system, ripping away the mountains, fouling our streams and desecrating Blackwater Canyon.

In fact, in his legislative message last month, Underwood took every opportunity to blast the only entity that offers serious help to West Virginians suffering from industry's environmental excesses -- the federal government, specifically the U.S. Environmental Protection Agency. He said that new federal environmental regulations benefit no one. He totally ignores persons with asthma and other diseases who have breathing problems at today's air pollution levels.

In turning his back on mountaintop removal mining and valley fills, Underwood ignores folks like James and Sibby Weekley of Pigeon Roost and hundreds of others like them whose homes have been or will become a living (and perhaps dying) hell of blasts generated by a million pounds of explosives detonated at one time, of towering clouds of choking dust, of enormous shotgun blasts of uncontrolled fly rock, of pounding hundred ton coal and rock trucks, and of enormously large and steep valley fills above

their homes having the potential to make Buffalo Creek seem only like an overflowing down spout by comparison.

By ignoring the Blackwater Canyon devastation, Underwood tells us that tourism there is no longer important. He is telling us that special places don't deserve special public attention. And he his saying, once again, that it's "extremists" who want to preserve the crown jewels of our mountain beauty and scenic wonders. By this name calling, Underwood and others masquerade as defenders of the public interest, while protecting the real extremists.

The real extremists are permitting Blackwater Canyon to become devoid of its natural beauty and endangered species and their habitat. The real extremists are the folks who rip off the tops and into the bowels of the mountains for a short term spurt of artificial prosperity. The real extremists are the government officials and regulating agencies who could lessen the destructive nature of this environmental plunder, but refuse to do so.

The only excuses given for just standing by while the extreme destruction continues are political mumblings about not obstructing economic activity. But just how viable is the dwindling economics behind massive mountaintop removal mining?

When the coal is gone, the mining companies will take their riches and head back to wherever, leaving even more legendary economic collapse in their wake. They will point back at the abandoned land and at the abandoned people and talk about how they have no leadership and about how corrupt their politicians were. Look at McDowell County, West Virginia, or Lynch, Kentucky, for the script.

The real extremists trade clean air and water for dirty air and water, and scenic mountain green scapes for barren wasteland in pursuit of an illusion of prosperity, overlooking benign industries and processes that have long term promise. These economic extremists trade treasures for troubles, jewels for junk.

Elected officials who tolerate this are like the little kids who were willing to trade the big boys dimes for nickels because the nickels appear bigger, and therefore must be worth more. By the time they (we) catch on, the big boys have taken off, leaving us with more weight to carry, but less of value, with which to carry on.

But we should not be surprised that our governor sees it this way. He has been an apologist and hack for the coal industry for much of his adult life. He would have no viable political life without its financial and political support. He would not be true to his own history to be other than what he is today.

Governor Underwood is an extremist. ❖



*"It should not be believed that all the beings exist for humanity. On the contrary, all the other beings too have been intended for their own sakes, and not for the sake of something else."*

— Moses Maimonides, medieval Jewish philosopher

*"The bow is a technique of awareness. We often address the physical dimensions of landscape, but they're inseparable from the spiritual dimensions that we are able to behave like barbarians. If the land is incorporated into the same moral universe that you occupy, then your bow is an acknowledgment of your participation in that universe and a recognition that all you bow to is included in your moral universe. If you behave as though there were no spiritual dimension to the place, then you can treat the place like an object."*

— Barry Lopez, on explaining his propensity for bowing when he encounters some wonder of nature. From "Sierra," Nov/Dec 98.

## The Top Three Water Quality Concerns in North-Central West Virginia

By Dr. Jeffrey A. Simmons, Assistant Professor of Environmental Science, Biology Dept., West Virginia Wesleyan College

### Abstract

The streams, rivers and lakes of West Virginia are counted by many as one of the state's most valuable public resources. We must be watchful that private users do not impinge upon the public uses especially when human and ecosystem health may be threatened.

An informal survey of a number of streams in North-Central West Virginia as part of numerous class projects, community service projects and my research program provides compelling information about the quality of our natural waters. In my opinion the top three water quality concerns in this region are acid mine drainage (AMD), fecal coliform and sediment.

Untreated AMD is fairly uncommon now, but can render streams lifeless from high concentrations of acidity and heavy metals. Currently most AMD is treated to a point where it is no longer toxic before being discharged. Although treated AMD has a higher pH and low metal concentration, it still alters the chemistry of receiving waters by increasing the alkalinity and the concentrations of iron and sulfate. The effects of these pollutants are largely unknown.

Fecal coliform bacteria are indicators of animal and human fecal contamination. Previous sampling in the Buckhannon River watershed indicates that the majority of streams exceed the EPA limits for drinking and swimming waters. This is a human health concern that needs to be addressed more vigorously.

Very little information is available regarding sediment loads in this region, but they are expected to be quite high. Preliminary estimates indicate that the Buckhannon River alone can transport about 1,200 metric tons of suspended solids per day after a heavy rain.

### Acid Mine Drainage

#### Background

Researchers estimate that acid mine drainage negatively impacts about 10% of the streams in the Northern Appalachians (Herlihy et al., 1990). Untreated AMD is fairly uncommon now, but can render streams lifeless from high concentrations of acidity and heavy metals. Currently most AMD is treated to a point where it is no longer toxic before being discharged. Although treated AMD has a near neutral pH and low metal concentration, it still alters the chemistry of receiving waters by increasing their alkalinity and concentrations of iron and sulfate. The effects of treated AMD on rivers and streams is largely unknown.

Metals and acidity have a major impact on 942 and 656 stream miles in the state, respectively. They have minor to moderate impacts on 1,440 and 379 stream miles, respectively (WVDEP, 1996).

#### Example

Sixteen sampled streams were divided into four categories: Untreated AMD, Treated AMD, Limed Streams and Undisturbed Streams. Untreated AMD included AMD seeps and AMD-contaminated streams without treatment systems. Treated AMD means that the water was treated by an actively-managed system which included addition of alkalinity and passage through settling ponds. Limed streams were AMD contaminated streams to which crushed limestone was added as a passive treatment (Zurbuch, 1996) Undisturbed streams were streams in which human impacts appeared to be minimal.

The average iron concentration in Untreated AMD (62 mg L<sup>-1</sup>) exceeded Treated AMD and Limed Streams by a factor of 10 and Undisturbed Streams by a factor of nearly 1,000 (Figure 1). Treatment systems removed more than 95% of the iron as indicated by the much lower concentrations in Treated AMD and Limed streams. However, these reduced iron concentrations were still about ten times higher than those in Undisturbed Streams.

Total Alkalinity was zero in Untreated AMD because of the extremely low pH (Figure 2). After alkalinity was added as part of the treatment system, total alkalinity averaged 48 and 31 mg CaCO<sub>3</sub> L<sup>-1</sup> for Treated AMD and Limed Streams, respectively. These concentrations were about two to four times larger than the average concentration of Undisturbed Streams.

Thus, it is apparent that although treatment methods substantially reduce the amount

of harmful chemicals resulting from AMD contamination, they do not restore a stream to its pre-industrial state. Elevated levels of alkalinity, hardness, sulfate, iron, and conductivity still remain (data not shown). To my knowledge the impacts of treated AMD on aquatic organisms have not been investigated. This is an area that requires investigation.

### Fecal Coliform

#### Background

Fecal coliform bacteria normally inhabit the intestinal tract of mammals and are excreted with feces. Thus, if they are found in natural waters, one can assume there has been recent contamination by animal and/or human feces. This type of contamination is mainly a human health concern because many serious diseases can be transmitted by water.

Wastewater treatment plants can be a source of fecal coliform contamination especially during storm events when many municipal treatment systems are bypassed because of overflow conditions. However, discharges from wastewater treatment plants are strictly monitored and tightly regulated making them relatively minor sources of contamination. The major sources of contamination are likely to be animal farms, residences with leaky septic systems and residences without septic systems. Coliform bacteria have a major impact on 898 miles of streams in the state (WVDEP, 1996).

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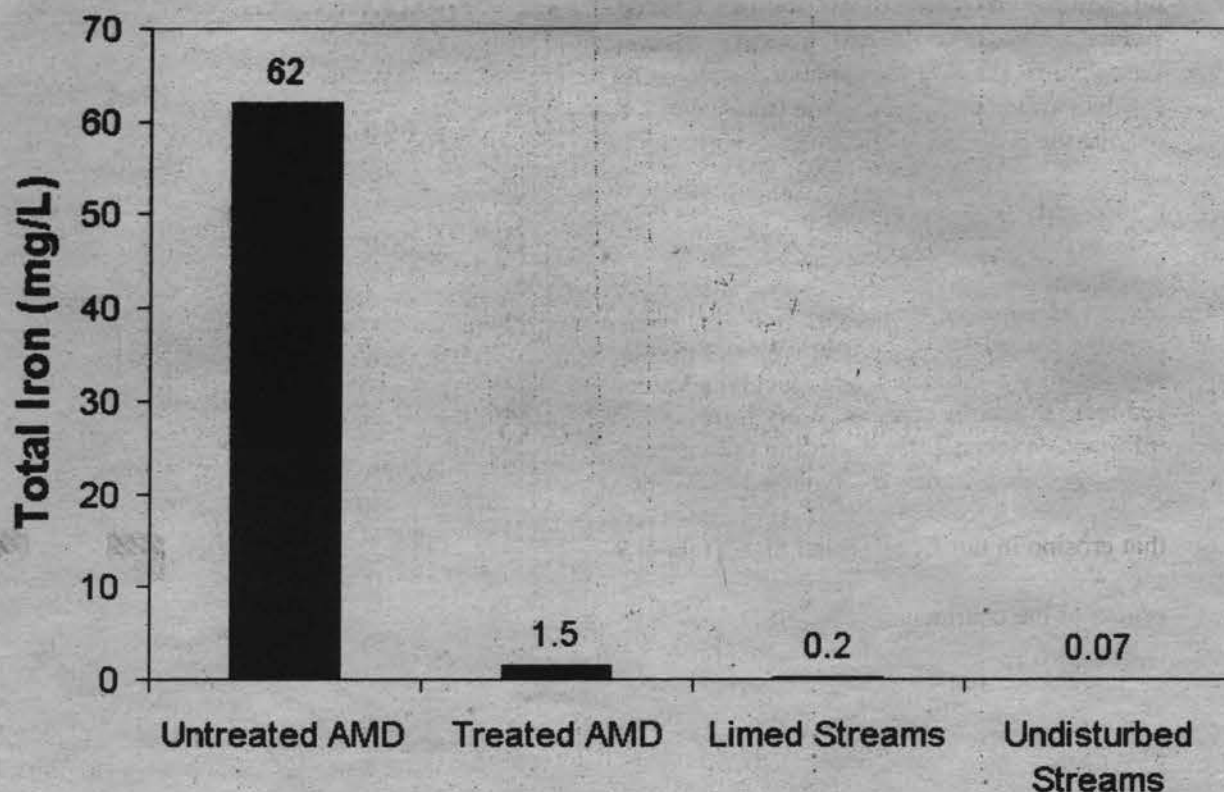
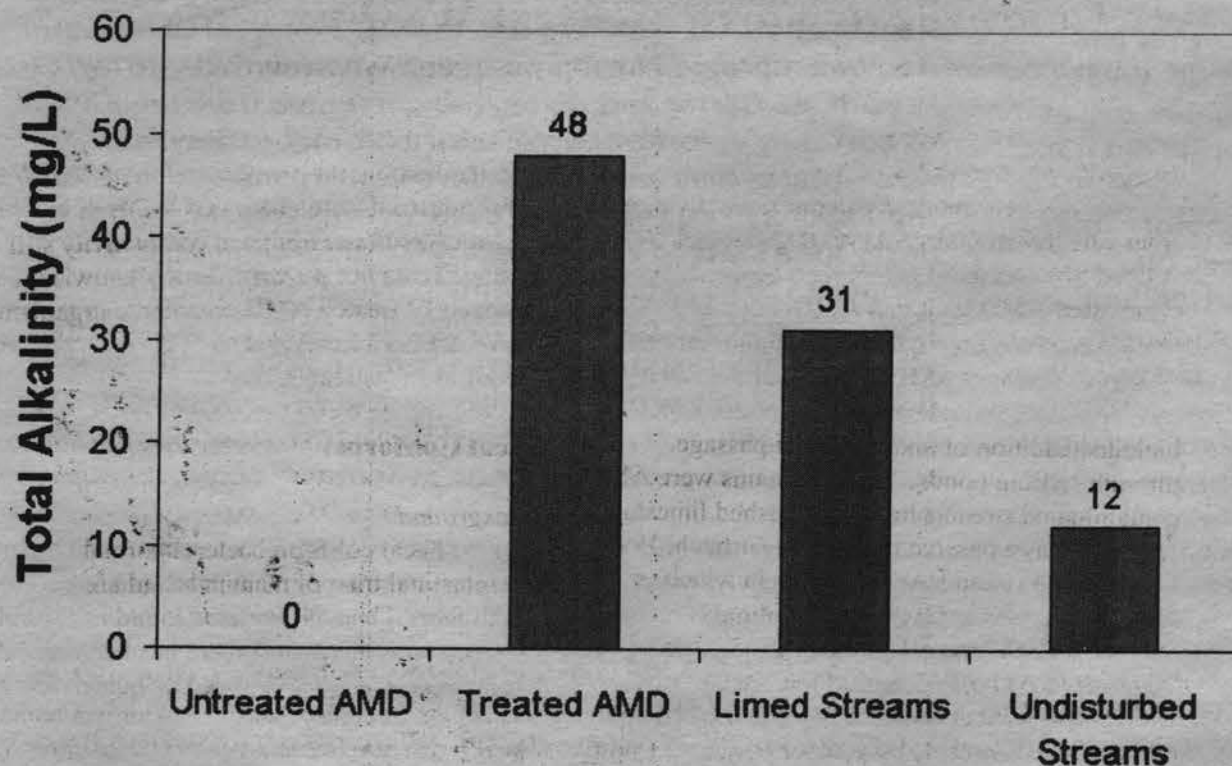


Figure 1



**Figure 2**

*Example*

The GREEN Club, a student environmental organization, obtained a grant from the West Virginia Stream Partners Program to monitor fecal coliform levels in the Buckhannon River watershed during 1998 and 1999. Samples are being collected monthly.

The results of our first monthly sampling were representative of previous fecal coliform data from this river and are illustrated in Figure 3. Coliform counts ranged from 850 per 100 mL in the headwaters to 29,150 per 100 mL in a tributary close to Buckhannon. No more than 200 per 100 mL are allowed by EPA for waters designated for swimming and 0 per 100 mL in waters designated for drinking. During the summer, hundreds of residents wade and swim in the Buckhannon River despite the potentially unsanitary conditions.

**Sediment**

*Background*

Because of the steeply sloping hillsides and fine soil textures in eastern West Virginia, any non-vegetated soil will erode quickly, adding sediment to nearby streams. Very little information is available regarding sediment loads in this region, but they are expected to be quite high. The U.S. Department of Agriculture reports that erosion in the Appalachian States (about 9 tons per acre per year) is greater than in any other region of the continental U.S. (USDA, 1981).

Sediment has a major impact on 895 miles of streams and has a minor to moderate impact on about 1,900 miles of streams in West Virginia (WVDEP, 1996). Sediment is harmful to aquatic ecosystems because it accumulates in pools smothering insect larvae and fish eggs. Over long periods of time, river and reservoir volume can be

reduced significantly. Pesticides and herbicides are carried into water bodies by soil particles where they can enter the food web and affect fish and water fowl. Sediment in streams can also be an indicator of excessive erosion within the watershed. Erosion has a negative impact on agriculture and forestry by reducing soil fertility. Nutrient-rich organic matter and fine soil particles are most easily eroded.

*Example*

The day after a heavy rainstorm in April, 1998, the total suspended solids in the Buckhannon River was 0.13 grams per liter. Based on a conservative estimate of water flow that day, I estimate that about 1,200 metric tons of sediment were transported after that one storm event.

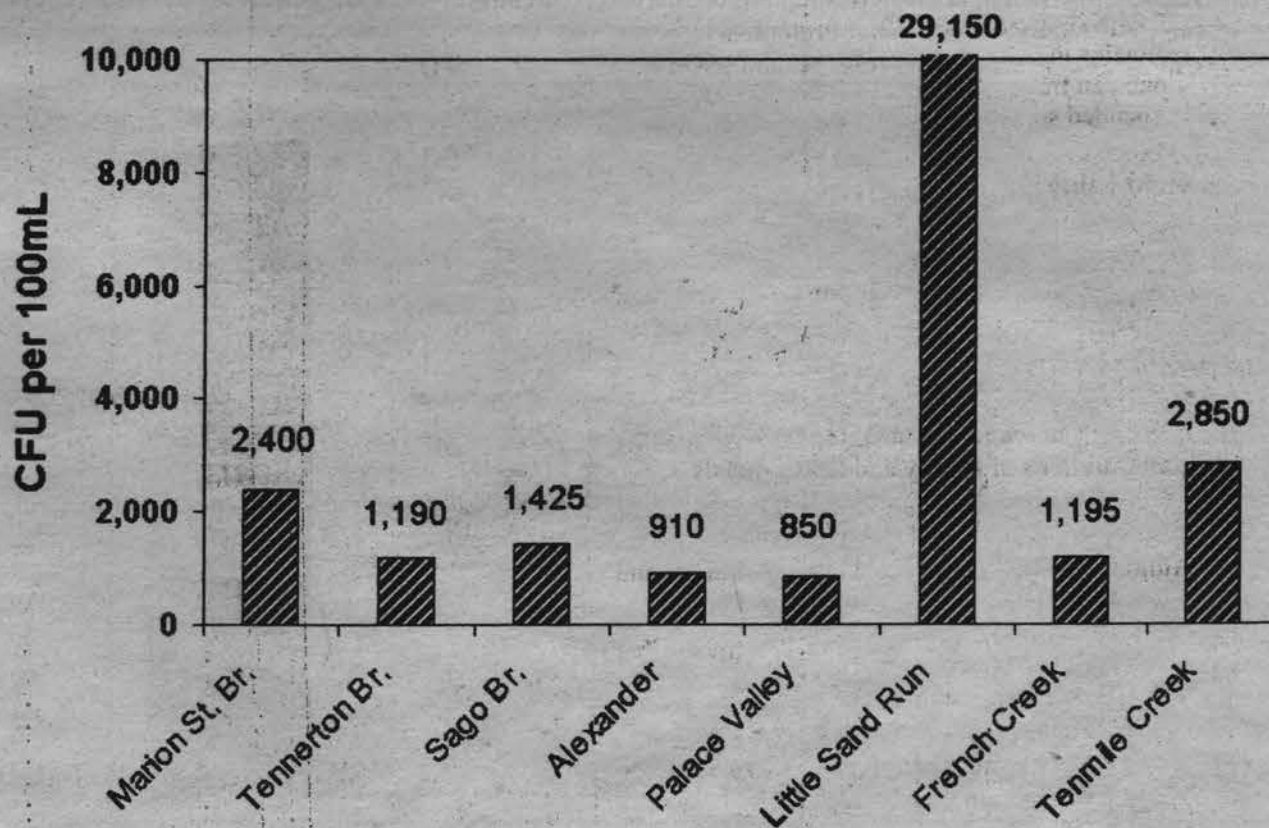
**Conclusions**

Historically, most remediation and research efforts have been focused on pH and heavy metal impacts. Although the number of streams with these contaminants has been reduced, many streams still remain altered habitats with unnaturally high levels of alkalinity, hardness, sulfate and conductivity. Research effort should be directed towards understanding how these ecosystems will function under these conditions.

The ubiquity of fecal coliform bacteria is a human health concern and may also be indicative of the geographic extent of poverty in our rural areas. Sediment pollution is a regional problem that must be treated at its source. It is not only a water quality issue, but a soil conservation issue.

Non-AMD water quality concerns have been relegated to a lower priority status; however, we must acknowledge and address these other types of water pollution that are just as widespread if not as directly toxic to humans and wildlife.

*WATER concluded on page 17*



**Figure 3**

*YOUNG from page 2*

And with air quality concerns, a similar problem continues. For example, only a couple years ago, West Virginia issued a draft permit for a pulp and paper mill at Apple Grove. But the research behind the permit did not reveal even any estimates of how many birth defects, digestive disorders or other health problems, other than cancers, that might be expected with the emissions resulting under the terms of the draft permit. Had that project come about, a new status quo for that industry would have been established, and then defended as adequate.

So then it is apparent that to call the West Virginia Bureau of Environment and its Division of Environmental Protection and other various environmental boards and protection agencies is a perversion of the concept of protection.

The U.S. Environmental Protection Agency may and does delegate authority to states to enforce federal environmental laws. It does so for a number of reasons. The sheer size of the bureaucracy required for efficient enforcement can perhaps be handled better at a state level. And the public's tolerance of state regulators in green Jeeps is perhaps greater than it would maybe be for hordes of federal enforcement officers running white "U.S. Government - Official" cars up and down local hills and hollows. But part of the "primacy" agreements between federal and state agencies is that states are supposed to enforce the environmental laws at least as strictly as what the federal laws require. Federal agencies can, and sometimes do, withdraw from states the primacy to enforce federal laws because of states' failure to enforce adequately.

Some of us believe it can be convincingly argued that West Virginia state agencies do not

adequately and effectively enforce the federal laws it is charged with enforcing. The 1977 Surface Mining Control & Reclamation Act (SMCRA) and the 1972 Federal Cleanwater Act, both heralded as long overdue when signed into law by Presidents Carter and Nixon, are corrupted from their intent as currently enforced by West Virginia state agencies.

States may have and enforce environmental laws and regulations more restrictive than federal laws. Many do. In order for a state to keep primacy for enforcement, it is supposed to have enforcement no less stringent than federal law provides. In West Virginia, it can be argued that state primacy results in an even lower enforcement level than federal law provides. The result is virtually unrestricted surface mining activity, leaving the statute's concepts of maintaining "approximate original contour" requirements a sham.

Likewise, the non-degradation of streams concept, an integral part of the federal Clean Water Act, is a sham as well.

Should the federal government take away primacy for enforcement of United States environmental laws in West Virginia? Surely federal regulators would do no worse than West Virginia state agencies do in enforcement. After stumbling and bumbling for a while, perhaps even a few years, they would probably do better. And apparently industry folks think so, too. Nothing puts fear into the hardened environmental hearts of coal and other devastating and polluting industries like even the remote prospect of having to get their permits from federal agencies.

Dealing with federal agencies would require dealing with different bureaucracies. It would mean different and not so predictable good old boy (and maybe even good old girl) networks. It would mean that polluters and destroyers would have to learn a new way to live. That would probably be good for them, and good for West Virginia. ❖



*Blackwater Canyon showing logging road cut*

*Photo credit: Steve Adams*



## Land Swap Out

### Forest Service Gives up on Stalled Blackwater Talks

By Ken Ward Jr.

(This article appeared in the Charleston Gazette on January 8, 1999)

The US Forest Service has written off plans for a land swap that would preserve part of the scenic Blackwater Canyon in Tucker County, agency officials said in a letter released Thursday.

Chuck Myers, supervisor of the Monongahela National Forest, confirmed that property appraisals by the Forest Service and Allegheny Wood Products (AWP) "are far apart." In a letter to Sen. Jay Rockefeller, D-WV, Myers wrote that AWP President John Crites had not responded to a proposal that a third, independent appraiser be hired. "Unless some other, as yet unseen, option occurs, I cannot see how we can go forward with an exchange as proposed," Myers wrote in a letter dated Wednesday. "As of today, I remain no more optimistic than Mr. Crites that we can complete an exchange under the parameters we agreed upon," Myers wrote. "When we met with him on December 22, we left open the possibility of obtaining a third appraisal with the possibility it would move us to a successful proposal. We have not yet heard back from AWP about their interest in doing so."

Environmentalists have been trying to save the scenic Tucker County area from logging and condominium development since Crites bought the land in February 1997. Currently, at least 1,600 acres of Crites' canyon property is targeted for logging, according to records on file with the state Division of Forestry. The area is also marked off into separate lots that state parks officials fear indicate Crites plans to build a residential or vacation development there.

In December 1997, Rockefeller and Gov. Cecil Underwood announced that they had

convinced Crites to sign a Memorandum of Understanding, or MOU, to negotiate a swap of 675 acres of his canyon property to the Forest Service for other land within the Monongahela National Forest.

Earlier this week, Crites released a copy of a December 29 letter in which he told Rockefeller and Underwood that the land swap negotiations were dead. Crites said he was offended by a Forest Service appraisal that was "millions of dollars" less than what his company expected to get for its canyon land. Crites also criticized the Forest Service, saying that agency officials had not made the land deal a high priority.

In his Wednesday letter, Myers defended his agency's actions. "I am disturbed by his portrayal of the Forest Service as being unresponsive and uncommitted to upholding our end of the agreements we've made," Myers wrote. "As we have advised your staff on several occasions, the Forest Service has met every due date we agreed to, but we did experience numerous delays throughout the process as we waited for promised information from AWP." Myers wrote that the Forest Service spent "considerable time, effort and money on this proposed exchange. Our forest lands staff worked on this case to the possible detriment of other resource issues," Myers wrote. "Many resource specialists provided the needed time so that we have the environmental impact study completed to the stage of being nearly ready to go to public involvement if we had a viable exchange proposal. "Our Washington and regional offices have made

available the necessary funding and have offered their time and advice; and neighboring forests have made available staff as we've needed to complete the process to date," he wrote. "All of this represents considerable taxpayer dollars expended in an effort to complete this exchange."

Myers also wrote that Crites could have saved money on appraisal costs by agreeing to have a third party, independent appraiser from the start. ✦



#### Quotes in the News

*"Empirically, I can look at the reclamation sites and see there aren't any problems. I can see that with my eyes. If in the last 25 years there hasn't been environmental damage, then additional environmental damage that is done in the next two years it would take to do the study would be insignificant. I don't believe it would be so bad that we should wait (to issue permits)."*

-- DEP Director Michael Miano speaking before the House Finance Committee on mountaintop removal permits. [Michael, the Republicans in Congress could use your "empirical eyes!" Ed.]

*"We all understand... that when streams are diverted, trees are cut, aquatic life is disturbed, human residents and animal residents are affected, that this is an area where you cannot unring the bell."*

-- Chief U.S. District Judge Charles Haden II during a hearing in which he issued a 10-day temporary restraining order against Arch Coal. (Thanks to Lynn Degen for these fines quotes!) ✦

## EPA Regional Administrator Says

### Public Comment on MTR Sought (So Listen Up!)

Four federal agencies which oversee (permit) mountaintop mining, and the West Virginia Department of Environmental Protection, are seeking **public comment** as they begin a two-year environmental impact study of mountaintop mining regulations.

The federal agencies -- the Environmental Protection Agency, the Army Corps of Engineers, the Office of Surface Mining, and the Fish and Wildlife Service -- have invited West Virginia citizens, businesses, universities and community groups to comment on issues and concerns they want included in the study. The State of West Virginia has joined this effort, and other coal states will be invited to participate.

The study will **review government policies** in order to minimize adverse environmental impacts from large surface mines. Among the topics to be studied are **cumulative environmental impacts of mountaintop mining; the viability of reclaimed streams** compared to natural waters; the **impact** that filled valleys have on **aquatic life, wildlife and nearby residents;** biological and habitat analyses that should be done before mining begins; alternatives to filling valleys and ways to minimize stream filling; and the **effectiveness of mitigation and reclamation.**

Three **public scoping meetings** are scheduled in West Virginia: at 6:30 p.m. February 23 at the Nicholas County Veteran's Memorial Park in Summersville; from 2 to 4 p.m., February 24 in the rotunda of Riggleman Hall, University of Charleston; and at 6:30 p.m. February 25 at the Chief Logan State Park. Other public meetings also may be

scheduled in West Virginia and other Appalachian states. **Written comments from the public and requests to speak** at public meetings should be sent by March 31, 1999 to: William Hoffman, U. S. Environmental Protection Agency, 3ES30, 1650 Arch Street, Philadelphia, Pennsylvania, 19103 - 2029. Mr. Hoffman's telephone number is (215) 814 - 2995. His email address is: hoffman.william@epa.gov.

For updates on this: <http://www.epa.gov/region03/lead.htm> ✦

## Holy Earth!

by Michael Hasty

### Greetings, Earthlings...

...and all you resident aliens, too. So here's the situation:

On a small chunk of cosmic debris spinning around a mid-sized star hurtling through infinite space at thousands of miles per hour, six billion humanoids squeezed into the quarter of this rock not covered by water squabble over its dwindling resources.

To make matters worse, through pride, avarice and outright ignorance, these humanoids have fouled their own nest to the point where, if they don't reverse some of their more egregious behavior in the next two decades, their own species could become extinct. To make matters even worse than that, this misbehavior is primarily directed by a psychic force (worshiped as The Market) over which even the most powerful among them claim to have no control. And rather than face up to the existential horror of their impending fate, the majority of these humanoids - depending on their economic status - spend their time either scraping for survival or overwhelming their brainwaves with frivolous and emotionally cheap electronic amusements.

As you have guessed by now, that chunk of cosmic debris is our very own planet Earth. And realistically speaking, we can hardly blame our fellow humans for wanting to evade the dark vision that comes with an open-eyed appraisal of our planetary predicament. Cognitive dissonance in the face

of extinction is a natural defense mechanism. We earthlings were born to hope.

But there's no doubt our situation is dire:

- There is a 25 percent greater concentration of carbon dioxide in the atmosphere than ever before in human history. CO2 is directly related to global temperature, and takes 500 years to dissipate. Global warming, with all its bizarre weather events, has just begun.
- Species are going extinct at the fastest rate since the dinosaurs - hundreds, perhaps thousands of times faster than normal. Biologists call this "the sixth extinction." One of every eight plant species worldwide is endangered; the rate is higher in North America.
- The oceans are being overfished and destroyed by commercial trawlers dragging miles-wide nets across the ocean floor. There is a dead zone in the Gulf of Mexico the size of Rhode Island, the result of pollution flowing out of the Mississippi River.
- Old growth forests in the Amazon - the lungs of Earth - are fast disappearing in a haze of smoke. Everywhere else, forests are a fraction of their original size, and shrinking.
- Topsoil is blowing away at the rate of billions of tons a year. The so-called

"Green Revolution" is seeing less return on its petrochemical investment.

- Mountains millions of years old are being leveled right here.

What makes these events so daunting is both the scale of their destruction and the incredible concentration of political and economic power that has brought us to this point. "Globalization" is the Pax Corporata. An empire of multinational corporations with interlocking boards of directors replaces nation/states as the planet's power brokers, ruling in the service of a tiny investor class. And you need only look at the practices of the International Monetary Fund, with its demands for "austerity measures" from starving economies, to recognize that the effects of the new world empire are just as ruthless as those of the old Roman one - though its methods may be slightly less inhumane. We don't see crucifixes lining the roads of the Third World's corporate colonies. (Of course if the Romans had invented television - the most effective method of social control ever devised - I'd probably be writing this in Latin.)

West Virginia has the distinction of being the modern prototype of this Third World exploitation. Born as it was at the dawn of industrial capitalism and *laissez faire*

**See HASTY on page 16**

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#### Join the West Virginia Highlands Conservancy

Category	Individual	Family	Organizational
Senior/Student	\$12	-	-
Regular	15	\$25	\$50
Associate	30	50	100
Sustaining	50	100	200
Patron	100	200	400
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Make checks payable to: the West Virginia Highlands Conservancy. Mail to: P. O. Box 306, Charleston, WV 25321

#### Membership Benefits

★ 1 Year subscription to the Highlands Voice

★ Special meetings with workshops and speakers

★ Representation through WVHC efforts to monitor legislative and agency activity

The WVHC, at age 31, is the oldest environmental group in West Virginia. The Conservancy has been influential in protecting and preserving WV's natural heritage. Your support will help WVHC to continue its efforts.

## Book Review

*An Appalachian Tragedy.* Edited by Ayers, Hager & Little. Sierra Club Books.

Review by Don Gasper

The cover of the Sierra Club's beautiful new book is a photo at dusk of sunset-lit mountain ridges, with the title "An Appalachian Tragedy -- Air Pollution and Tree Death in the Eastern Forest of North America." It is noted there that the editors are Harvard Ayers, Jenny Hager and Charles E. Little, who wrote the recent book "The Dying of the Trees." Also it states, "Photographs by Jenny Hager." The 216-page book contains over 200 marvelous photographs. Yet it is not just a \$45 picture book for the front room or office display. The photographs and text tell the important story. To more widely tell the story, this beautiful and important book is available for just \$15 from the NRDC., Suite 200, 1200 New York Ave, N.W., Washington, D.C. 20005.

The first startling photo covers both pages. It is puzzling. Then it is entirely explained, most poetically, in the next equally large photo -- a heart-wrenching photo. There follows four more superb photos restating, echoing the first and second. Then words and the book begins: title; contents; the forward, "The Cry of the Mountains."

"All along the Appalachian chain, from Maine to Georgia, trees are dying. Spruce and fir are dead along the ridges. Great swaths of sugar maple are in mortal decline. The butternut is nearly extinct, and hemlocks are in a desperate struggle for life against an insect that flourishes as air pollution worsens. Dogwoods... "are being ravaged by a fungus.

"Weakened by decades of air pollution that have brought acid rain, deadly smog, and excess nitrogen. and by cell-destroying ultra violet rays from a thinning ozone layer, the magnificent Appalachian forests are no longer able to fight off the bugs, blights, and bad weather that afflict forests everywhere....

"Yet relatively few people are aware of the ecological calamity, due in a large part to the efforts of the forest products industry and their advocates in government, to downplay the crisis, by manipulating statistics and confusing the issue."

*An Appalachian Tragedy*, this book, seeks to "set the record straight."

This Sierra Club book, timely and important, and widely available at just \$15, is an ennobling environmental effort, but this reviewer reminds all that this book is based on the premise that forest health is poor. This premise should be thoroughly reviewed, for as the authors note in the above paragraph, many experts "downplay the crisis." This book addresses this factor specifically around or about on page 90 with some convincing detail, but by no means comprehensively. This book should raise a widespread concern that would bring about

enough debate on the health of the eastern forest to bring more enlightenment and consensus to more people on this important subject.

This reviewer's comments will end here with just the note that a more thorough description of the original forest would have been most appropriate. This was somewhat after all slighted, as the book was essentially written by several authors, and most just touched upon the nature of the eastern forest prior to its first logging and some upon its destruction. Also, more could have been said about the extent of barren streams after the loss of the Appalachian Brook Trout Ecosystem -- for they, like the flowering dogwood, are one of the most loved characteristics of these mountains. The eventual loss of the eastern hemlock too, would be most regrettable, with many impacts. We could to no extent convey to future generations what even today's forest was like without these three. They are indicators of forest ecosystem health on which our own survival depends. It would be wise to keep them for their own sakes and our own.

Flip a few more pages, again, and a large photo of mountain ridges at dawn from Roan Mountain, NC begins the chapter "Along the Spine of Time." It is followed by another beautiful photo, equally as large, of a steep, mossy stream in Great Smokey Mountain National Park -- and more and more. There are more photos as the forest community is briefly described in "The Foundation of the Forest." Then the seasons and creatures of the forest are presented -- of which Man is a recent entry, and a growing plague as it turns out.

Next there is a chapter on the formation of the Appalachians from Newfoundland to Alabama. This history, millions of years old, is brought up to date with its origin, coal deposits, glacier periods, etc. Then like a great litany of monuments it names the great mountains and rivers and gorges and caves we know today. The forest vegetation of the rich coves and mountain tops and bogs, the animals (the 34 salamander species), the rare species, and the great biodiversity is described. Then Man's settlement and exploitation of the land is detailed.

Then this same Man began to save what was left. In 1911 the Federal Weeks Act began the eastern national forests. As another indication of the public's broadening regard for these damaged mountains, the Appalachian Trail was started.

The next chapter, "The Appalachian's Last Stand," asks, "What's happening?" "The answer is everywhere..." -- moribund soil, declining ecosystem health by any measure, and tree death. Throughout the long Appalachian chain, regional air pollution and acid rain clearly

emerge as today's man-caused scourge of the land. There are the troubling photographs; the evidence of acid fog, dead trees, damaged trees, and ozone damage. "Autumn in July" shows the early browning of stressed forest stands. Disease and insect attack and even drought effects, are immediate causes of tree death, but these follow years of stress and decline by acid rain effects above and below ground.

If mountain elevation and slope and steep plunging streams are a characteristic of the Appalachians, so is its spring-time white bloom of flowering dogwood. There is a beautiful photo of these blossoms. It is reported that in Connecticut in the 1970s the dogwood trees began dying. Now, in some hard-hit areas like the Catoctin Mountains of Maryland, they are gone. Preconditioning by acid rain for a disease is the cause. Dogwood loss should be recognized as a white flag of distress, if not surrender, of the Eastern Forest Ecosystem. Visibility is reduced by air pollution too. *More people travel more to look at views that are disappearing in smog caused by their own travel.* [Italics added by Editor to point up the irony here] With a photo of a beautiful sunset, the authors warn, "They are terrifying too, for they suggest a tragedy in the making unless we can resolutely and quickly reduce..." air pollution.

Then in a chapter, "In Changing Forests, a Search for Answers," a very qualified expert Forest Ecologist, Plant Physiologist and

**See BOOK on page 16**



**BOOK from page 15**

Pathologist, on the cutting edge of attempts to define forest health, writes about the development of this knowledge. Here air pollution is most clearly seen to be the cause of definite forest decline as its workings in eastern forests are elucidated. The detail is consistent, fascinating, and convincing.

"The Broken Web of Life" begins with a picture of a waterfall with blooming rhododendron, and another of a fallen log "functioning as a nurse-log." The question is asked, are there vital inter-connections holding ecosystems together, and is it more likely to be an eagle or an earthworm?

Acid rain acidifies streams and kills trout, other fish, and reduces other aquatic life. The author reports it has reduced earthworms in the forest soil by as much as 90% in large areas of Appalachia. Here micro-organisms and fungi are reduced and fallen leaves, even trees, are not turned to humus, and nutrients then are not being recycled.

A chapter, "Communities in Crisis," begins with a photo of a waterfall in Shenandoah National Park. The communities considered are those of salamanders and trout, and their decline in an era of acid rain. Park studies there and down to the Smokies show trout and other aquatic life to be reduced by acid rain. The author noted nutrient leaching and impoverishment and acidification of forest soils. Toxic metals are increasing.

This author also notes the increasing disease and death in our Flowering Dogwood -- in trees weakened by air pollution -- for ozone pollution is also a problem. The final "community" visited by this author is the spruce/fir ecosystem atop our highest mountains. The extensive fir mortality is shown as stark gray, still standing trunks. It began 30 years ago, now Red Spruce too are dying.

Later, with a beautiful photo of fall foliage, it is asked is this losing its brightness -- an effect of acid rain. It goes on, "...robbing the forest soils of vital nutrients. Alkaline chemicals have been so thoroughly leached from the soil that the forest trees have simply stopped growing. In fact, they haven't grown for ten years. The effect of no growth, together with climate change, the impacts of tropospheric (low elevation) ozone, and increasing levels of ultra-violet B radiation put the forests of the Appalachians at risk -- along with the culture and economy they support."

In chapters, "A Culture at Risk," "The Last of the Hardwood Forests," and "Weathering the Storm," man's life in the mountains today, retaining many things of the past, is described.

The last two chapters, "Call to Action" and "After Decades of Deception, a Time to Act," show us, first with the same marvelous photography, the many smoke-stack sources of air pollution. The conclusion is reached that "The weight of the evidence has long demonstrated that air pollution from power plants, smelters, factories, and automobiles is a major threat to the forests of the east."

"Despite all the evidence correlating widespread forest damage with steep increases in air pollution in the post World War II Era, industry and many government scientists remain in a state of denial about the crisis into the 1990s -- and indeed, many still do to this day. Unwilling to pay the cost of reducing the destructive emissions from power plants and auto vehicles, industry invested instead in producing evidence that cast doubt in the emerging science and in lobbying activities to prevent effective government action."

The delays have been enormous -- two decades! Time is running out. Further they note facts now indicate that though the Clean Air Act's goal of reducing sulfur emissions may succeed, those reductions are not sufficient to protect the Eastern Forest.

The book's purpose is to alert citizens to these facts and to make them aware of the fact that trees are still dying. It is a powerful statement, convincing, and it is a beautiful book. By making such a book available for \$15, it should very effectively convey this important message.

*[Recently, Dr. Harvard Ayres, who is one of the editors of this book, was publicly taken to task for the main conclusions of An Appalachian Tragedy, namely, that air pollution of various kinds was killing trees on the higher elevations. A colleague of Dr. Ayres in the Department of Biological Sciences at Appalachian State University faults him and the Sierra Club for being "guilty of manifesting an hysteria" concerning dying trees of Appalachia, and implying that Dr. Ayres is not qualified to do the kind of science needed since he is an anthropologist and not a biologist.*

*My opinion is that we have precious few scientists these days (including most biologists) who are, indeed, qualified to make pronouncements about environmental "truths." Many are influenced either directly or indirectly by the corruption of corporate dollars. And the science of the environment is still in its infancy. Reductionistic science used in this regard is not only passe, but its conservative and narrow approach is not only inadequate to the task, but is dangerous as long as a "Precautionary Principle" (see August 98 Voice) is not in place in terms of the corporate use of chemicals, natural resources and their by-products. Editor.]* ✦

**HASTY from page 14**

economics, this state was constituted to fit the needs of out-of-state railroad, coal and timber barons, plus those aristocrats who lived here and - it goes without saying - the banks.

These vested interests dominated the formation of West Virginia's government and filled it for most of the state's history with their chosen representatives, who remain in the statehouse and governor's mansion to this day. That's why the state director of environmental protection is a coal company executive who refers to a mining practice that destroys every tree, shrub, blade of grass, streambed, insect, bird's nest and every ounce of topsoil for miles around as "protecting the environment." No wonder he thinks we're extremists.

The only time in West Virginia's history when business interests did not so thoroughly dominate state government was about a forty-year period between the 1930's and '70s, when the coal miners' union had a lot of members and there was a supportive New Deal federal government. (Although naturally, no investor missed a dividend check during that period.) But advances in technology and changes in mining techniques reduced the number of coal miners to presently less than a tenth of their former number; and the leading progressive force in the state has seen its political clout diminish as retired miners gradually die off. The largest private employer in the state now is Wal-mart, a fiercely anti-union corporation and leading importer from China, where human rights are presumably more to its liking. An astounding percentage of Wal-mart employees receive food stamps.

Beginning in the 1970s, with labor in decline as a progressive influence in West Virginia politics (though public employees' unions keep it formidable), and with a burgeoning international consciousness about the plight of the environment and a "back-to-the-land" movement that brought an influx of progressive newcomers to the state, environmentalism began to play more of a role. Today, environmentalists in West Virginia are in the front lines of the struggle to keep the forces of empire at bay and prevent them from utterly destroying our truly sacred Earth. "The land is mine," God says in the Old Testament. It is little remarked on that the Hebrew word for God that appears in the first verse of Genesis - Elohim - is a feminine plural noun. Maybe that's where we get our idea of "Mother Earth." Maybe.

Beginning this month, and continuing whenever the editor has the space to fit me in, I will explore in this column the spiritual, economic, political, historic, personal, philosophical, social and cultural backdrop of our epic world and state-wide efforts to save the planet.

I hope you will join me.

*Michael Hasty is a columnist at the Hampshire Review, the oldest newspaper in West Virginia. You can access his weekly column "Thinking Locally" on the Internet at [www.hampshirereview.com](http://www.hampshirereview.com).* ✦





*WATER from page 11***Corridor H After Thirty Years****Still An Unwise Boondoggle****By Frank Young**

For more than 30 years, politicians with money to burn have tried to sell West Virginians a billion dollar white elephant. Corridor H is a proposed four-lane highway through a few rural, remote eastern panhandle communities that want mostly to be left alone.

Three decades of starting and stopping, assessing and reassessing, locating and relocating, and litigating and relitigating have not taught the West Virginia Department of Highways anything. It still spends millions of dollars a year trying to promote its largest and most unwanted project.

Some of the debate is about local disturbances to the ecological, historical and existing populations of the region. These are all important human concerns. But there's more to Corridor H than building a road and preserving the directly adjacent physical environment, even if that were possible.

The Potomac Highlands of West Virginia is one of the remaining great greenscapes of the central Appalachian region. Only in this area of the region can one travel all day, through county after county, while enjoying hundreds of exhilarating, yet relaxing, mountain majesties and valley views. Only in this region can one enjoy the tranquility one finds at places like Seneca Rocks, Canaan Valley, Dolly Sods, "The Trough," Smoke Hole and, of course, Blackwater Canyon. Residents and tourists there can still enjoy peaceful, unbustled communities like Harmon, Davis, Thomas, Wardensville, Capon Bridge and Romney.

But Governor Underwood and the West Virginia Department of Highways would have us believe that this area, too, must have 65 or 70 mile per hour highways, accompanied by billboards bigger than houses, fast food restaurants at every intersection and 40 ton trucks speeding through the hills and valleys. Have they no shame!!?? When will enough concrete and blacktop be enough? Is there no end to how much we will pave, just because an out of control, spendaholic Congress lets money flow like water from Washington? Is there to be nowhere left where significant natural areas can be enjoyed in their uncluttered greatness?

Corridor H is about interrupting, degrading and destroying the natural and human environment of the southern and western portions of the eastern panhandle. Opposition to Corridor H is about conserving the remaining peaceful and uncomplicated greenscapes remaining in the region.

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**Acknowledgements**

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Personal thanks to the students who helped collect and analyze the samples including Mr. Scott Harris, Mr. Jonah Long, Ms. Sara Pyles and Ms. Tammy Zborel. +

*TOXIN from page 1*

In West Virginia, mercury fish consumption advisories for mercury for the general public and sensitive populations - such as children and pregnant women - are set if fish tissue contains more than 1.0 parts per million of the chemical.

Nationally, the Food and Drug Administration recommends general public advisories at 1.0 parts per million and sensitive population advisories at 0.2 parts per million.

State regulators say they are working on a plan to address the issue. Pat Campbell of the state Division of Environmental Protection's Office of Water Resources, said his agency is aware of the problem and is working on it. A group at West Virginia University, using a \$20,000 federal grant, is drawing up a plan to rework the state's fish

For more than 30 years the West Virginia Highlands Conservancy has said that we need natural areas and greenspace for the enjoyment of this and future generations. But Governor Underwood and the West Virginia Department of Highways don't even want to talk about it. They go on wasting millions of dollars a year to oppose leaving even this one remaining significant natural area alone. Their ecological judgements, their social judgements and their financial judgements are all faulty. That's three strikes against them. Under the rules, they should be out. +

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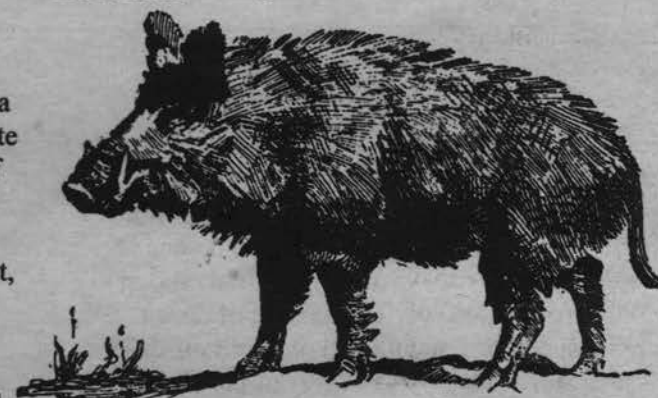
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CALL AGAIN, AND ASK YOUR FRIENDS TO CALL.

consumption advisories. A draft should be ready  
by April, Campbell said.

However, one has to wonder about the Underwood Administration's concern for the people's health. On one hand this administration spends a lot of taxpayer dollars to fight EPA's clean up of air particulates which are known to cause serious health problems. Then on the other hand, it fails to warn us of deadly toxins in the food chain. +



*"The sin of pride tempts us to imagine that the world exists for our use alone, and Mammon, the god of greed, leads us down the path to environmental destruction."*

— Carl Pope in "Sierra," Nov-Dec 1998

*"We are of Earth and belong to You. Every step that we take upon You should be done in a sacred manner; each step should be as a prayer."*

— Black Elk, Native American spiritual leader



## Unhealthy Air in West Virginia

1998 One of the Worst

By Don Gasper

This past summer our Wonderful West Virginia had unhealthy air in the form of smog (called also haze or ozone) for a total of 27 days. In Parkersburg this was one out of every 5 days from April to September. This regional haze is everywhere in West Virginia. It comes into our state, and we effect western Maryland. The West Virginia Department of Natural Resources Director spoke to a group gathered at Canaan Valley State Park during one of these days when the distant view was obstructed by the yellow brown haze. He saw it in the mountains in a State Park. This is the summer season when so many are enjoying our wonderful outdoors - tourists too, who surely expected "Wonderful West Virginia" to have clean air. Think of the effect on tourism of air health advisories, announcements and notices. Just the reduction of views hurts tourism.

Such unsafe levels of ozone air pollution increases our risk of lung problems. It causes burning through lung cell walls, and causes airways to become swollen and inflamed. Even healthy adults with no history of respiratory problems can experience chest pains, coughing, congestion, as well as permanent reduction in breathing capacity when exposed to ozone concentrations exceeding the Federal health standards. It is an irony today that healthy adults bicycling or running for their health, or those mowing their lawns or gardening in the suburbs, or those backpacking in the forest - all may actually be harming their health. For the elderly, and the young at play outdoors, and the 100,000 asthma sufferers in West Virginia, ozone pollution means thousands of emergency room visits and missed work or school. For them it means, at best, staying inside - imprisoned, perhaps with an

oxygen bottle to breathe.

We now have more protective standards to improve our air, but we need greater reductions in smog forming air pollutants to make air safe to breathe without these harmful excesses. Emissions from coal burning electric power generating stations produce one-third of the nitrogen oxides that cause ozone/smog. Car exhausts produce another third. The cheapest and most effective means of reducing nitrogen emissions is to require that when coal is burned that it be burned cleanly.

The increased cost is modest. The Environmental Protection Agency estimates West Virginians will have to pay only 1% more to reduce our nitrogen emissions by half to meet our share in cleaning up the eastern air. It will evidently not be generally supported in any way from general taxes, but will be passed on to the consumer - the way business always does. It will not "skyrocket" as the reluctant power companies (and even our Governor) claim. They use this rhetoric, and would like for you to believe it, for they are poised to send us these big bills, if they can get away with it. However they must justify increases and they can not. Even if it costs us \$100 more a year on our electric bills, this is only what we should have been paying all along to prevent damage to our health and to our environment. Health costs alone far outweigh these costs; perhaps 40 to 1.

The cost of the damage to our environment is staggering also. These same nitrogen emissions contribute to Acid Rain, which in the last 50 years has accumulated to over a ton of acid on every acre of the eastern forest. This alone may have caused the noted recent reduction

in forest tree growth. Surely, with forest soil acidification and leaching of nutrients, dissolving out toxic aluminum, etc., it has contributed to forest decline. Above ground it makes trees more susceptible to insects and disease and even drought and freezing. There is great concern about our high elevation spruce ecosystems. They may become areas too toxic for much of anything to grow. Their unique characteristics altered, gone forever - for they get even more acid, four times more. These ecosystems are appropriate, unique, rare and priceless.

In our back yards and throughout the forest the flowering Dogwood tree may vanish. Vanish from sight, then memory in a continually degraded environment. We must not let this happen. We must clean up our air. It may be that if we preserve this priceless beautiful little tree of our springtime, we will preserve ourselves - surely our quality of life.

Another loss from forest acidification is the trout in now acid streams that drain the eastern forest. Perhaps 1/10 are already lost; perhaps most of these forever lost. This is a priceless heritage this generation had no right to even risk. The loss of this fishing opportunity has reduced our quality of life.

All these environmental indicators reflect ecosystem degradation of which our survival is a part. This generation of West Virginians must pay these modest increases in electric power bills and do our share in cleaning up our air. We must support the leadership to do this wherever we find it. ✦

### Bits 'n Pieces

#### Keeping Tabs on Your Legislators

For those who want to keep a close tab on what is going on in the current doin's of the legislature, Linda Mallet has the good word on this.

Says Linda: To get a free copy of a bill or to leave a message for your legislator, call the capitol at 800/642-8650 or the number for the local Charleston is 347-4800. The website for Legislative Services is [www.legis.state.wv.us](http://www.legis.state.wv.us)

You can also e-mail your legislator via Legislative Services at [cglagola@mail.wvnet.edu](mailto:cglagola@mail.wvnet.edu) Be sure to put the Senator or Delegate's name in the subject line so your message can be delivered.

Thanks for this timely information, Linda! ✦

#### Minority Report On Line

Peter Shoenfeld has put John's Task Force Minority Report *in toto* on The West Virginia Highlands Conservancy forum site: [http://www.wvhighlands.org/Governor\\_rep.doc](http://www.wvhighlands.org/Governor_rep.doc)

✦

### LETTERS from page 4

I'd heard about this public relations stunt for years, and truly expected to see acres of lush apple trees and productive grape vines sprouting out of rich, imported topsoil - cost be damned. Imagine my surprise when our bus lumbered onto a 500-acre site that sported a couple of dozen spindly specimens and a few boxes of half-dead ginseng surrounded by 495 acres of pure unadulterated carnage. [Only in West Virginia could the coal companies get away with this sort of "public relations!" Ed.]

The next day, state papers reported Gov. Cecil Underwood's forced resignation of Division of Forestry Director Bill Maxey for Maxey's refusal to take back his statement that the greatest threat to the timber industry in West Virginia was strip mining. Hats off to you, Maxey, and good luck finding a new job in West Virginia. You'll need it.

The papers also ran a two-page spread with splendid color and a headline an inch deep stating, "Responsible Mountain top Mining. It's good for West Virginia, and it's the right thing to do."

The ad was paid for by Arch Coal with the profits of coal mined from beneath the feet of a million West Virginians who desperately want to believe, even in the face of mountains of evidence to the contrary, that turning mountains into molehills makes environmental and economic sense.

In truth, mountain top removal reclamation is the equivalent of offering a wet T-shirt to a woman who's just had a mastectomy.

Dr. Bob Henry Baber  
Lorain, Ohio

(Dr. Baber ran in the Democratic Primary for governor in 1996. He is a native of Greenbrier County)

## Calendar

**February 18 (Thursday)** - Public hearing on issuance of permits to Waco Oil & Gas Co. at 6 p.m. at second floor courtroom/Pocahontas County Courthouse in Marlinton. Contact: DEP Office of Mining and Reclamation, 105 S. Railroad St, Philippi, WV 26416. Written comments accepted.

**February 19 thru 21** - Student Environmental Action Coalition (SEAC) Spring Conference. Where? College of Wooster, Wooster, Ohio. Registration 5-11 PM on Friday, Feb. 19. Members \$5, non-members \$30. Bring food to share for that evening. Workshops and speakers. Activist skills and network building will be stressed. For more information, check [www.SEAC.org](http://www.SEAC.org) or contact Jim Hardy at [hardyje@acs.wooster.edu](mailto:hardyje@acs.wooster.edu) or (330) 287-4418. Directions to the College of Wooster can be found at [www.wooster.edu/SEAC/directions.html](http://www.wooster.edu/SEAC/directions.html).

**February 20 (Saturday)** - BlackwaterFest & Winter Bene-Bash. Where: White Grass Ski Touring Center and Natural Foods Cafe in Canaan Valley. FUN, FOOD & FROLIC while you help save the Blackwater Canyon from logging and development. Proceeds help us pay for mailings, legal fees, ads, and more. Ski by day, party by night -- yup, just what you might expect from "Almost Heaven?" Ski By Day - at White Grass (X-C), or Timberline and Canaan Valley (downhill - on your own). Party By Night - Dinner's at 6:00; reservations please (white tie NOT required). Special Mexican buffet at the White Grass Natural Foods Cafe, including vegetarian and non-vegetarian specialties. Then it's music, Blackwater Canyon videos, a raffle, special guests, fashion show, cash bar and more.

Come back Sunday for more - we ski (or hike if nature doesn't provide white stuff) the Blackwater Canyon, downhill all the way (guaranteed!). Tickets include dinner and all evening activities. Make check out to WV Sierra Club and mail it to Blackwater Bene-Bash, P. O. Box 112, Thomas, WV 26292. Or order by email on WISE or at [benebash@wvsierra.org](mailto:benebash@wvsierra.org) Tickets are Regular \$20, Student \$15. Include your name, address, phone number.

Proceeds benefit the West Virginia Sierra Club Blackwater Canyon Campaign. Monongahela Watershed

**February 22** - Monongahela watershed scoping meeting. WVU Agr. Science Building, Rm 2001, Morgantown.

To find out more, contact Jessica Welsh at 304-558-3614 or [jwelsh@mail.dep.state.wv.us](mailto:jwelsh@mail.dep.state.wv.us) or Chris Daugherty at 304-558-2108 or [cdaugherty@mail.dep.state.wv.us](mailto:cdaugherty@mail.dep.state.wv.us).

**February 26** - E-Day, annual West Virginia environmental event at the Capitol rotunda. Hours: 10 a.m. til 3 p.m.

Theme: Mountaintop Removal Isn't Here to Stay and...Corridor H--The Better Way.

Key Note Speaker: Denise Giardina, West Virginia Novelist. Lots of exhibitors representing organizations, groups, and "green job"/sustainable businesses from throughout the state!! Also to memorialize the 27th Anniversary of the Buffalo Creek disaster.

**February 26** - E-Day Benefit at the Empty Glass. 410 Elizabeth St. 6 PM until 1AM-ish. Live music, fun, green people (and not from Mars!). Music provided by John Blisard, Kate Long, The Crawfords, Leon Waters Blues Band, The Squirrels, The Porch Band, Tribal Axis and others. \$10 donation suggested. Contact: Denise Poole 346-5891.

**March 27** - One-day conference on "Acid Rain, Ozone, and the Great Eastern Forest" at Duke University School of Environment. For further details, contact Appalachian Voices, Anthropology Dept., ASU, Boone, NC 28608; or Harvard Ayres at (704) 262-6381 or email [harvard@boone.net](mailto:harvard@boone.net)

**April 12 thru 14** - Backpack Dolly Sods. Sierra Club Outing. Three days, two nights. For more info call John Harris at 229-9227.

**April 16 thru 18** - Cranberry Wilderness and Backcountry led by the Sierra Student Coalition. For info call Christy Moses at 284-0155.

**April 24** - Rally against MTR at the Capitol.

**May 1** - Canoe the Smokehole Canyon. Sierra Club Outing for experienced paddlers. Call Joe Carney for more info at 344-2797.

**May 8** - Blackwater history tour. Sierra Club Outing. Call Jim Sconyers for more info at 789-6277.

**May 14 thru 16** - The West Virginia Highlands Conservancy Spring Review. Blackwater Falls State Park. *Note that this event has been rescheduled so as not to conflict with the Spring Wildflower Pilgrimage at the Park.* Some rooms have been blocked off for prospective attendees. You may make reservations now for rooms if you wish - mention the WVHC when you do this.

Details will be forthcoming in subsequent Voice issues (March, April, May).

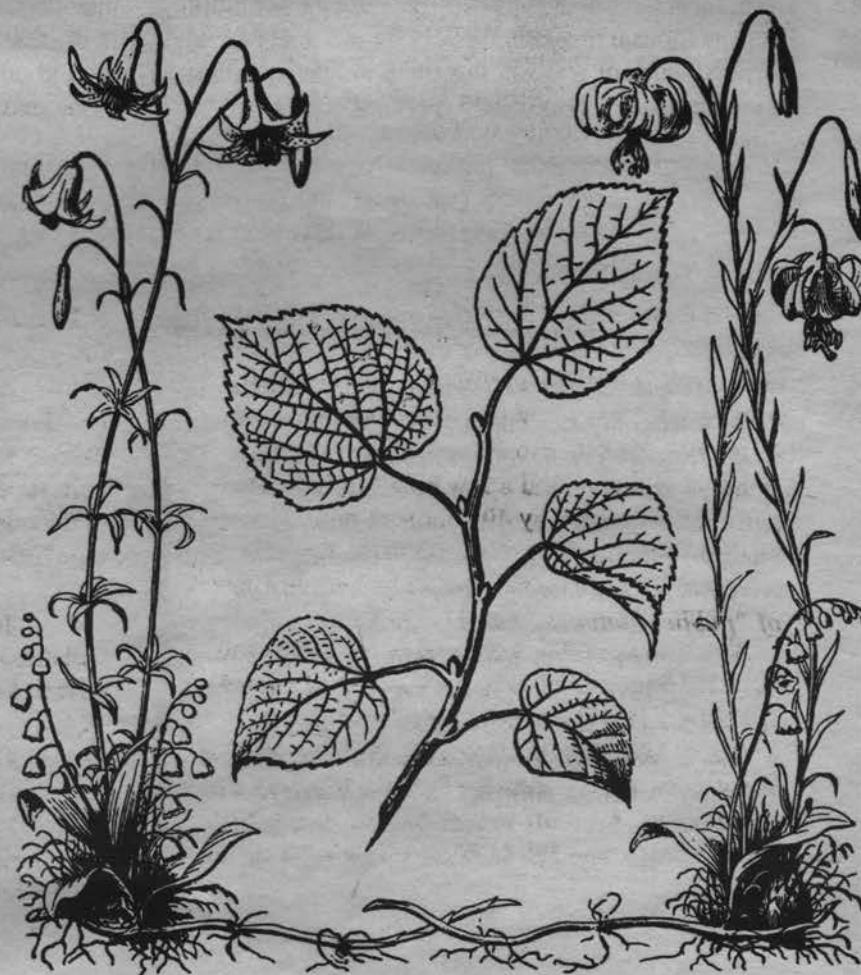
**May 15 and/or 16** - Wildflower weekend sponsored by Sierra Club. Come for either or both days. Easy walks. Call Jim Sconyers at 789-6277.

**May 22** - Allegheny Trail hike near Watoga State Park. Sierra Club Outing. Possibility of overnight camping. For more info call/email Tom Prall at 924-6553 or [wvabooks@aol.com](mailto:wvabooks@aol.com)

**May 29 thru 31** - Three wild lands in this one Sierra Club outing - Laurel Fork Wilderness, east fork of the Greenbrier Wildland from base camp at Middle Mountain Cabin. Call Jim Sconyers on this one (789-6277). ✦



Where was this photo taken?  
From the WVHC archives



*\*\* The following just came to my attention, and very much warrants my squeezing it into the February issue of the Voice. John Richards is an aide to Senator Jay Rockefeller. Unfortunately, I haven't room for Vivian Stockman's excellent response to John Richards Memorandum, but hope to include it in the next issue. Editor \*\**

## MEMORANDUM

**TO:** WV Highlands Conservancy Members  
**FROM:** John Richards  
**DATE:** 10 February 1999  
**RE:** Blackwater National Park proposal

As part of its long designation process, the National Park Service requires a prospective National Park to fit within certain criteria defining a location's significance as a natural, cultural, or recreation resource. I am providing Senator Rockefeller with information about the National Park proposal, and I would like my briefing materials to include specific information as to how the proposed site fits into the Park Service's list of examples. If it is possible, can the members of the Highlands Conservancy respond to the following list with information specific to the Blackwater Canyon area (for the purposes of my memo to the Senator please also include any information pertaining solely to the Blackwater Falls State Park).

I understand that some of the examples listed might be considered self-explanatory, and many of the examples and responses might be redundant. Please respond to each example that applies, as I would like to tailor the information I give the Senator as closely to the Park Service format as possible. Also, please keep in mind that I know the Canyon only because of what I have read and through pictures— your explanations will be much more to the point than any rhetoric I can produce.

If it is possible, I would like to hear back from the Highlands Conservancy by close of business Friday. I apologize for the short notice, and I thank you in advance for your help.

### Natural Resource evaluation examples:

- an outstanding site that illustrates the characteristics of a landform or biotic area that is still widespread;
- a rare remnant natural landscape or biotic area of a type that was once widespread but is now vanishing due to human settlement and development;
- a landform or biotic area that has always been extremely uncommon in the region or Nation;
- a site that possesses exceptional diversity of ecological components (species, communities, or habitats) or geological features (landforms, observable manifestations of geologic processes);

- a site that contains biotic species or communities whose natural distribution at that location makes them unusual (for example, a relatively large population at the limit of its range or an isolated population);
- a site that harbors a concentrated population of a rare plant or animal species, particularly one officially recognized as threatened or endangered;
- a critical refuge that is necessary for the continued survival of a species;
- a site that contains rare or unusually abundant fossil deposits;
- an area that has outstanding scenic qualities such as dramatic topographic features, unusual contrasts in landforms or vegetation, spectacular vistas, or other special landscape features;
- a site that is an invaluable ecological or geological benchmark due to an extensive and long-term record of research and scientific discovery.

### Recreational Area examples:

- a natural or cultural feature that provides a special setting for a variety of recreational activities different from those available at the local or regional level;
- a spacious area that is located near a major population center with the potential to provide exceptional recreational opportunities and to serve visitors from around the Nation rather than solely from the immediate vicinity;
- an area that protects a unique recreation resource that is scarce and disappearing in a multi-state region such as an outstanding recreational river, a unique maritime environment or coastline, or a unique scenic area;
- a resource that is a unique combination of natural, cultural, and recreation features that collectively offer outstanding opportunities for public use and enjoyment even though each feature might not individually be considered nationally significant. ✦

*"The assumptions that we've made about how the natural world operates and what our relationship is to it are no longer tenable. These sacred truths that we've grown up with — 'nature is infinite'; 'growth is progress'; 'science and technology will solve our problems'; 'all of nature is at our disposal'; 'we can manage the planet' — offer no comfort as we enter the last decade of this century. ... to continue to subscribe to these assumptions is to insure the destruction of civilization as we know it."*

— Anita Gordon and David Suzuki in *It's a Matter of Survival*. Harvard University Press, 1991.

## *What's Inside*

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