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The Highlands Voice

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DIAMOND DARTER GETS ENDANGERED SPECIES PROTECTION

The Diamond Darter (*Crystallaria cincotta*) has been listed as an endangered species under the Endangered Species Act (Act). The United States Fish and Wildlife Service, which does the listing, has also announced that it will be designating critical habitat for the Diamond Darter under the Endangered Species Act in the near future. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range.

The West Virginia Highlands Conservancy had voted in April to join with the Center for Biological Diversity as well as several other groups in support of the Fish and Wildlife Service's proposal to list the Diamond Darter as an endangered species.

The Diamond Darter is a member of the perch family, but differs from most other perch by their smaller size and more slender shape. Some darters, including the Diamond Darter, lack a swim bladder. This characteristic increases the density of the fish and allows it to remain near the river bottom with little effort. Adults reach 3 to 5 inches. This species is found in large warm-water rivers with very clear water and extensive sand and gravel bars free of mud and



silt.

Diamond Darters are crepuscular, meaning they are most active at dusk and dawn. They will lie on the river bottom looking for bottom-dwelling invertebrates. To hide from predators during the day, they bury themselves in the sand, leaving only their eyes protruding. They may use this same buried position to ambush prey.

Due to its rarity, little is known about the life of Diamond Darters, but with current research on this species in captivity, biologists are beginning to learn more about them. Recently, scientists learned that females lay eggs from late March through May, and young are born shortly afterwards. Biologists believe that the Diamond Darter feeds primarily on stream bottom-dwelling invertebrates, such as mayfly larvae and other aquatic insects.

Years ago, the Diamond Darter lived throughout the Ohio River basin in Kentucky, Ohio, Tennessee and West Virginia before the construction of dams. But, after years of changes to rivers by dams and river channeling, the Diamond Darter is extremely rare

(More on p. 17)

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Ramblin’ the Ridges

By Cynthia D. Ellis

AFTER THE CELEBRATION

The kid was excited. A young man I had met at a Sustainability Fair told me that our new Poet Laureate gave West Virginians a powerful poem. He had heard bits of it read aloud by the poet himself, at the Sesquicentennial Celebration.

His enthusiasm was sparking.

So I sought the poem.

It is “*A Song for West Virginia*” by Marc Harshman.

Smashing, and sparking, indeed. Even small portions are evocative. Here are introductions to some.

Beginning with liting words that speak of a “quilt” of our history and lovingly listing places, mountains, and rivers, some lines say:

“...*Beauty and tragedy, heroism and courage stitch the patches of our history’s quilt...*”

But, we are reminded, that our state’s early years were not easy.

There were, Harshman quoted,

“~*frail forms fainting~ still at our cabin doors.*

Forgotten and remembered names--let our fingers trace their scars

On the skin of who we might yet be...”

And many names are noted; names in our history, and...

“...*They dreamed the wild could begin a home, and so wild we began...*”

[Those names less recognized were tantalizing. Seeking more, I found small details on some. One was {Patrick} Gass, who completed the journey of exploration with Lewis & Clark. The **West Virginia Encyclopedia**, with a quilt piece on its own cover, says of Gass, “Although addicted to strong drink throughout much of his life he settled down and married at age 59 and thereafter sired 7 children.”

Also listed is musician Chu Berry. He was known for his swing tenor saxophone artistry and contribution to bebop. He died in an auto accident and his interred bones were moved due to construction on the Wheeling Interstate Tunnel.]

And of one name, perhaps known to all...

“...*Stonewall stood on the wrong side, where there was no good side, but courage and tactical skill knew no better...*”

When the poet thought of writers and poets who came before, he placed some

“...*In Pocahontas County, beyond the beyond...*”

But the imagery is hardly dreamy when remembering

“...*All our heroes for the working class...*

...*Look close at the bullet holes in those courthouse steps in Welch, those same holes in Larry’s outbuildings. Look close at the big hat with the little woman and the fiery voice...*”

Then, the poem winds past remembrances and into joyful music.

(So far so good; the rest is on p. 20)

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GROUPS CHALLENGE PUBLIC FINANCING OF COAL EXPORTS

By John McFerrin

The West Virginia Highlands Conservancy has joined with six other groups to sue the Export-Import Bank of The United States and its Chairman for failure to comply with the National Environmental Policy Act. The suit alleges that the Export-Import Bank provided financing for coal exports by Xcoal, headquartered in Latrobe, Pennsylvania. The suit alleges that it did this without considering the environmental impact of its actions, a violation of the National Environmental Policy Act (NEPA).

The Export-Import Bank of the United States is the official export credit agency of the United States federal government. It was established for the purposes of financing and insuring foreign purchases of United States goods for customers unable or unwilling to accept credit risk. The mission of the Bank is to create and sustain U.S. jobs by financing sales of U.S. exports to international buyers. The Bank is chartered as a government corporation by the Congress of the United States. Ex-Im Bank’s mission is to assist in financing the export of U.S. goods and services to international markets.

The National Environmental Policy Act (NEPA) seeks to prevent the United States from inflicting environmental damage out of ignorance. It requires that governmental entities study any major action they take and determine its environmental impact. In addition, the agency must notify the public of its proposed actions and allow the public to comment on the fully-disclosed environmental impacts of those projects. The Act assumes, although it does not require it, that any agency whose study reveals that its actions would cause significant environmental harm would avoid taking that action.

NEPA only applies to federal actions. “Federal actions” include “new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated or approved by federal agencies.”

The federal action that is the subject of this Complaint is a \$90 million loan guarantee given to Xcoal. The loan guarantee supports Xcoal’s mining, transport and export of coal. Ex-Im Bank’s financing enables Xcoal to broker an estimated \$1 billion in sales of coal for export from mines in Appalachia; transport that coal by rail to port facilities in Baltimore, MD, and Hampton Roads, VA; unload, store and otherwise handle that coal in port; and then transport that coal by ship to clients in China, Japan, South Korea and elsewhere.

In West Virginia, one of the mines involved in this loan is the Sentinel Mine along Rt 119 not far from Philippi and about 13 miles

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south of Grafton. It is owned by Arch Coal and its loading facility is alongside the Berryburg Road off Rt 119. The back of the huge refuse mountain can be seen from the road leading up to the Adaland Mansion. The rust red iron laden water flows in the ditch line next to the coal piles at the loading facility along the Berryburg Road.

Since it is a major federal action, NEPA would require that the agency evaluate its environmental impact before taking it.

Then environmental impact of mining and transporting coal is substantial. . Every step of the process, from mining the coal for export to consumption of the final product, causes harm to the environment and human health. Mining the coal contaminates water, soil, and air, and generates acid mine drainage and large volumes of wastewater. Transporting the coal to export terminals occurs in open rail cars, which pollute the air near the terminals and rail lines with coal dust. Coal dust contributes to lung disease, asthma, and cardiopulmonary problems. Burning the coal generates high levels of greenhouse gas emissions, which contribute to global warming.

Despite the extent of these impacts, Ex-Im Bank did not assess the environmental impacts of its decision to provide the loan guarantee. The Plaintiffs contend that NEPA would require such an assessment.

The Plaintiffs have requested that the Court declare that making the loan guarantee without doing the studies of the environmental impact is a violation of NEPA. They further request that the loan guarantee be rescinded and that the Export-Import Bank be required to comply with NEPA before it does anything else to facilitate Xcoal’s coal exporting activities.

The case in pending in the United States District Court for the Northern District of California where some of the Plaintiffs have their headquarters.

ELECTIONS COMING UP

At the Annual Meeting of the West Virginia Highlands Conservancy in October we will be electing Board members (Officers are elected in even numbered years, not this time). President Cynthia D. Ellis has appointed a Nominating Committee of Larry Thomas, Beth Baldwin, and Buff Rodman to propose names for the members’ consideration. If you know of anyone (including yourself; no time to be modest) who would make a good Board member, please contact a member of the committee. Contact information is on p. 2.

The West Virginia Highlands Conservancy is a non-profit corporation which has been recognized as a tax exempt organization by the Internal Revenue Service. Its bylaws describe its purpose:

The purposes of the Conservancy shall be to promote, encourage, and work for the conservation—including both preservation and wise use—and appreciation of the natural resources of West Virginia and the Nation, and especially of the Highlands Region of West Virginia, for the cultural, social, educational, physical, health, spiritual, and economic benefit of present and future generations of West Virginians and Americans.

APPEALS COURT REFUSES TO RECONSIDER EPA'S VETO OF MINING PERMIT

By John McFerrin

In a one sentence Order, the United States Court of Appeals for the District of Columbia has refused to reconsider its earlier ruling which held that the United States Environmental Protection Agency has authority to veto a previously issued permit to discharge fill material into streams.

Had the Court decided otherwise and agreed to reconsider its earlier ruling, this could have been a significant development. Instead, the Court said no more than that it thought it was right the first time and had no interest in reconsidering the case. As it turned out, this decision not to reconsider did no more than eliminate the possibility that Mingo-Logan Coal Company will get relief from the Court of Appeals. This forced it to decide whether it would live with the decision or ask that the United States Supreme Court review it. The parent company of Mingo-Logan has announced that it intends to ask for Supreme Court review. Although it has not filed anything with the Supreme Court yet, it has ninety days to do so.

The ruling that the Court refused to Reconsider

Indirectly, this case is about whether Mingo Logan Coal Company can go ahead with its plans to mine in Pigeonroost and Oldhouse Branches and their tributaries. Mingo Logan seeks to bury over six miles of pristine streams, including all wildlife living in those streams, with millions of cubic yards of mining waste, disturbing over 2,000 acres (about 3.5 square miles), releasing toxic pollutants into downstream waters, and devastating wildlife and watersheds.

The Court of Appeals did not directly decide whether this is a good idea or whether the federal Clean Water Act allows it. Like much federal litigation, this case is directly about who gets to decide that question. Mingo-Logan and its supporters had argued that the Corps of Engineers gets to make the final decision. The Environmental Protection Agency and its supporters argued that, while the Corps has a role and may issue a permit, the Environmental Protection Agency the Clean Water Act designates EPA as lead agency overseeing Clean Water Act permits. If, as the EPA found here, the environmental impacts of the planned mine are unacceptable, then it has the authority under the Clean Water Act to veto the permit.

What just happened

In May, 2013, the Court of Appeals agreed that the EPA did have the authority to veto the permit. Now it has refused to reconsider that decision so it stands.

What happens next?

Mingo-Logan had originally challenged the Environmental Protection Agency's decision on two grounds. First, it contended that the EPA did not have the authority to veto the permit issuance by the Corps of Engineers. Second, it contended that, even if EPA had the authority, it exercised it arbitrarily and capriciously. The United States District Court ruled that EPA did not have the authority to veto the permit. If, as the District Court held, EPA did not have the authority to veto under any circumstances; it is irrelevant whether or not it acted arbitrarily and capriciously in this case. The District Court never addressed the question of whether EPA acted arbitrarily or capriciously.

Now that the Court of Appeals has held that EPA did have the authority, the District Court must determine whether it exercised that authority in an arbitrary and capricious manner. Mingo-Logan now will continue to pursue its case to the United States Supreme Court. If it is unsuccessful there, it can still pursue the argument in the United States District Court. There it would argue that, even if the Environmental Protection Agency has the authority to veto the permit, in this case it exercised its authority in an arbitrary and capricious manner.

What will happen at the United States Supreme Court?

Based upon statistics, nothing. When Mingo-Logan goes to the United States Supreme Court, it will file what is known as a petition for writ of certiorari, the route taken by almost all litigants. The Court receives approximately 10,000 petitions for a writ of certiorari each year. The Court grants and hears oral argument in about 75-80 cases. With fewer than one per cent of the cases being accepted each year, the odds are that Mingo-Logan's petition will be denied.

It is more likely that the Supreme Court will accept the case if there is a conflict among various Circuit Courts of Appeal. That is not the case here. It is also more likely that the Court will accept a case if there was at least one dissenting opinion in the lower court. Here there were no dissents. At the same time, there has been considerable public interest in this case. Perhaps that will have some bearing.

The real answer, however, is that nobody knows.

Send us a post card, drop us a line, stating point of view

Please email any poems, letters, commentaries to the VOICE editor at johnmcferrin@aol.com or real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

Leave a Legacy of hope for the future

Remember the Highlands Conservancy in your will. Plan now to provide a wild and wonderful future for your children and future generations. Bequests keep our organization strong and will allow your voice to continue to be heard. Your thoughtful planning now will allow us to continue our work to protect wilderness, wildlife, clean air and water and our way of life.

Will the permit be renewed? Does it really matter?

PUBLIC HEARING HELD ON INJECTION WELL PERMIT

By Beth Little

"There is a clear example of a rogue operator demonstrating his arrogance toward the rules and enforcement. His application is being judged by the DEP, who sees little urgency in this matter, having already allowed that company to operate on an expired permit for almost nine months." These are the comments of Matt Wender, President of Fayette County Commission, during the June 4th public hearing regarding a renewal permit for the underground injection well in Lochgelly, WV owned by Danny Webb.

The hearing was held at the Oak Hill High School, and was very well attended, especially since there was a conflicting meeting on school consolidation. There were about 100 people there, and about 15 - 20 of us made verbal comments.

When I first arrived, Julie Archer of SORO (Surface Owners Rights Organization) asked me if I had the actual number for the section of the code indicating that the comment period extended 10 days past the hearing, because the Department of Environmental Protection representatives there had told her the comments closed at the end of the hearing. I did have it, because we had anticipated the Department of Environmental Protection saying that the hearing closed comments, as they have before. At Julie's request, I approached the DEP, showed them the code number, and when they officially opened the hearing, they announced that comments would be received until June 14.

I also had the code number for the section saying that a fact sheet shall be prepared and be sent to the applicant and, on request, to any other person. I had asked for the fact sheet, but was told that the fact sheet was to go to the applicant, the EPA and other state/federal agencies. After the hearing I asked for the fact sheet again, but what I received was useless. It was just some general boilerplate text about permits for underground injection wells with no specifics about the Lochgelly well. For instance, the code says: "The fact sheet shall include, when applicable: (1) A brief description of the type of facility or activity which is the subject of the draft permit; (2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged." None of this information was in the fact sheet.

DEP staff does not necessarily know what the law is that they are supposed to be following, so it is not surprising that they don't always follow it.

There were several emotional speakers against granting the permit - even some tears when they were pleading for the health of their children. There were also a couple of Webb employees, who basically said that Danny Webb was a good guy, and they needed their jobs. There was one man whose voice was so messed up that I couldn't tell what he was trying to say. He apparently worked, or had worked, for Webb, and he was upset, but I didn't understand whether he was for or against the permit, or whether his condition was a result of working at the well.

Before the hearing I had spent the better part of a day at the site taking video, and I submitted a DVD with portions of video to substantiate my comments that Danny Webb is in violation of the law.

The site has no security. The gate stands open while several trucks, tankers and pickups, drive in and out, and an ATV goes through. Even if the gate is closed, there is a bypass for smaller

vehicles that would stay open; and because the site is not fenced, a person could walk into the site from virtually any direction.

Seeps from the side of the pits have killed all vegetation indicating toxic ingredients. There is orange staining on the soil, and the creek below runs bright orange. The claim by the DEP that this is due to acid mine drainage does not explain the high chloride content, the presence of barium, glycols and benzene in the test results taken by Downstream Strategies and Plateau Action Network, or the petroleum-like film on top of the creek that does not break up when touched. Even if it were acid mine drainage, this should not be allowed to be discharged into the waters of the state.

Another of my videos showed that the freeboard of the pits is less than the 2 feet required by DEP regulations. Local residents report that the pits have overflowed. They have also reported noxious odors, and there is a recorded event of hydrogen sulfide gas emanating from the pits.

The DEP did not give a date for when they will make a decision about the permit. Meanwhile, the most outrageous violation of the law is that Danny Webb has been allowed to continue operating without a permit since the previous permit expired in October 2012.

T- SHIRTS

White, heavy cotton T-shirts with the *I ♥ Mountains* slogan on the front. The lettering is blue and the heart is red. "West Virginia Highlands Conservancy" in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$15 by mail; **long sleeve** is \$18. West Virginia residents add 6% sales tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



THE WILD MONONGAHELA ACT OF 2009 – A HIGHLANDS CONSERVANCY SUCCESS STORY

By George E. Beetham Jr.

During our Board of Directors meeting at Kumbrabow State Forest in July we discussed the fact that articles in *The Highlands Voice* sometimes seem to have a negative tone due to the often frustrating nature of the pressing environmental issues we face. The thought occurred to me that maybe we can focus on some of the accomplishments of the Highlands Conservancy and perhaps look at the nature of the land we seek to save.

The fact that much of that land is now federally designated wilderness is thanks, in large part, to the Highlands Conservancy's leadership and partnerships with other environmental groups, businesses, faith organizations and others. Many of our members also participated in one way or another in the recent efforts for more wilderness in West Virginia – efforts that paid off with the enactment of the Wild Monongahela Act passed in 2009 and signed into law by President Barak Obama.

Until passage of that act, West Virginia's wilderness areas came in two distinct efforts. Dolly Sods (embracing the Red Creek area on the south of Dolly Sods) and Otter Creek were designated in 1975 as part of the Eastern Wilderness Areas Act. Laurel Fork North and South, and Cranberry were designated in a separate piece of legislation in 1983.

After a 26-year drought in new Wilderness designations, the Wild Monongahela Act expanded three existing Wilderness Areas; Dolly Sods, Cranberry and Otter Creek and it also created three new Areas; Roaring Plains West, Big Draft, and Spice Run, totaling nearly 40,000 acres. Highlands Conservancy members participated in field surveys and inventories to gather information to form a citizen's Wilderness proposal called A Vision for a Wild Mon. It was a successful result of a strategic campaign coordinated by the Wilderness Coalition. This was a loosely knit coalition made up of the Highlands Conservancy, West Virginia Chapter of the Sierra Club and the Wilderness Society. Supporters lobbied lawmakers, responded to challenges in the press and in governmental proceedings and participated in public information meetings. The Highlands Conservancy's Fall Reviews often served as Campaign promotional

events at such legendary locations as the Elk River Inn at Slaty Fork, or at the historic Cheat Mountain Club.

The newly designated Areas provided by the Wild Mon Act were sorely needed, both to preserve ecologically unique areas, and also to provide more wilderness recreational opportunities. The fact was, parts of the existing wilderness areas were being loved to death by hikers and backpackers. The



Flatrock Plains Boggy Trail
Photo © Jonathan Jessup

new Wilderness Areas cover a wealth of ecosystems from the broad plains of Dolly Sods and Roaring Plains to the biologically unique areas of Spice Run and Big Draft. Much of the new wilderness will get visited infrequently. Other areas will quickly draw recreational use.

Dolly Sods North, for example, was drawing visitors long before it was acquired by the National Forest Service. Roaring Plains was another popular hiking destination all the way out to Mount Porte Crayon, a trailless peak named after David Hunter Strother's nom de plume for articles and artwork published in 19th Century periodicals (Porte crayon is French for pencil case).

The Wilderness Areas of the Monongahela National Forest offer hiking, hunting, fishing, berry picking, and more. People can stay multiple nights or take

day hikes. There are peaks, forest cover, open plains, unique bogs, and more. Photographers find open vistas and the opportunity to capture both plant and animal life up close. Besides trails, hikers can strike out cross-country if they are experienced in land navigation and map reading.

There are historically rich logging areas where geared steam locomotives once pulled long trains down to lumber mills. Dolly Sods North was used for mortar practice during World War II and old mortar shells are still sometimes found there (anyone discovering such a shell should leave it there without touching it, leave a flag nearby, and report the location to the district ranger in Petersburg). In some places homesteads and other ruins can be found, evidence that our eastern wilderness has been recycled.

Highlands Conservancy members can feel proud that they provided much of the leadership, perseverance, and hard work necessary to bring this wilderness into being. It was in many ways a model of collaboration with other organizations, the Monongahela National Forest staff and the Mountain State's representatives in Congress. The act is a tangible accomplishment that will last long into the future, protecting watersheds, forests, and habitats for wildlife and plants. It embraces unique geological features and climate zones. At times the Monongahela makes its own weather as fronts move from northwest to southeast and wind currents are compressed as they pass up the western slopes of mountains. The Monongahela is classified as a temperate rain forest because of this.

I encourage Highlands Conservancy members to celebrate this accomplishment by visiting the Wilderness Areas of the Mon. Your best source of information is the Monongahela National Forest Hiking Guide, published by the Highlands Conservancy, now in its 8th edition. You can obtain maps and other information at district ranger centers, visitor centers at Seneca Rocks and near the Cranberry Glades, or from the forest headquarters in Elkins. Rangers will be happy to answer questions and help make your trip a success.

Dave Saville, who was among leaders in bringing the Wild Monongahela Act of 2009, contributed to this article.

BIRTHPLACE OF RIVERS NATIONAL MONUMENT: WHY THE SOUTHERN MONONGAHELA NATIONAL FOREST DESERVES PERMANENT PROTECTION

By Mike Costello

The southern Monongahela National Forest, in particular the area in and around the Cranberry Wilderness, is undeniably special. This unique area contains features such as Cranberry Glades, Falls of Hills Creek, Honeycomb Rocks, the former Mill Point Federal Prison and extensive backcountry recreation experiences. These natural and historic treasures, along with the headwaters or tributaries of the Cranberry, Cherry, Gauley, Williams, Elk and Greenbrier Rivers, is what makes this land a strong candidate to become West Virginia's only national monument. Throw in strong support from area business owners, religious groups, sportsmen, mountain bikers, various local leaders and several prominent conservation groups, and the initiative to protect one of the Mountain State's most iconic landscapes is poised for success.

What is a National Monument?

National monuments are special designations which aim to preserve federal public lands that possess special features of historic, ecological, geologic or cultural significance. Monuments are managed by the Forest Service, Park Service, Fish and Wildlife Service and the Bureau of Land Management. There are currently more than 100 national monuments, ranging from small historic sites to multi-million acre tracts wild lands in the West.

National Monuments may be established either by an act of Congress or by presidential proclamation. Most importantly, national monument designation is statutory, meaning the landscape is permanently safeguarded against future administrative actions, which could open these special resources up to industrial development or other activities, which could compromise the way they are enjoyed in the future.

The Threats

Like all National Forests, the Monongahela – the "Mon", as many of us know it -- is managed to emphasize multiple uses. Some of these uses include backcountry recreation and restoration of resources, such as the historic red spruce ecosystem – those currently emphasized on nearly all lands considered for monument designation.

Other uses, however, include commercial logging and mineral development, such as gas drilling on federally-owned minerals. Perhaps the greatest threats to public lands, however, are those we cannot predict – the decisions by future administrations. Since 2010, certain members of Congress have launched an attack on America's treasured public lands, through repeated attempts to strip protections for roadless areas such as Tea Creek or Turkey Mountain. Currently pending bills would eliminate environmental review for development projects on public lands, and at least one recent presidential candidate pledged to double gas drilling on public lands if he had been elected. For better or worse, each change in federal administration means a shift in priorities for managing federal public lands. Put simply, the futures of the Mon's special wild places are far from certain without a statutory designation such as national monument in place.

A national monument would identify resources for permanent protection, such as the backcountry trails, high-elevation spruce forests and extensive native brook trout streams

the area contains, keeping those features intact for the enjoyment of future generations.

National monument designation would withdraw federally-owned minerals from exploration and development, and could prioritize the acquisition of private minerals from willing sellers within the monument. Commercial logging would be prohibited in Wilderness and special backcountry areas, just as it is today. Areas managed to promote restoration of the red spruce ecosystem would continue to emphasize this important management objective, enhancing the viability and overall resilience of the landscape and its special resources.

The Opportunity

West Virginians from all backgrounds have come together to define a vision for the Birthplace of Rivers National Monument. Establishment of the monument would keep the area under the management of the Forest Service, and would result in few, if any, changes to the landscape itself. Birthplace of Rivers would be the first USFS-managed monument in the East, and would place an emphasis on protecting the natural and cultural resources that have made our connection to this land as strong as it is today. At a time when our public lands are under attack, the Mountain State's leaders in Washington have an incredible opportunity to honor West Virginia's scenic beauty and outdoor heritage, by supporting protections for the Mon under national monument designation.

Take Action!

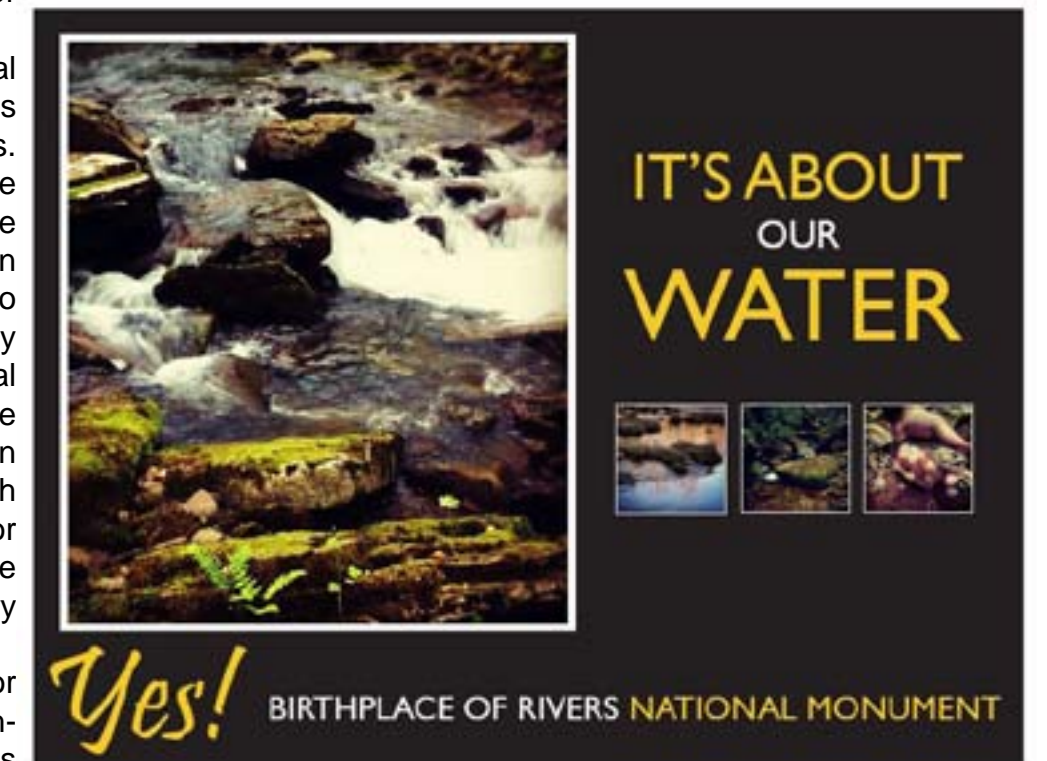
Congressional leaders in the Mountain State need to hear from West Virginians who want to ensure protection of the Birthplace of Rivers for future generations! Take a quick moment to call our U.S. Senators, tell them why the southern Mon is important to you and ask them to support the Birthplace of Rivers National Monument.

Senator Jay Rockefeller

[\(304\) 347-5372](tel:3043475372)

Senator Joe Manchin

[\(304\) 342-5855](tel:3043425855)



CARE: Citizen Action for Real Enforcement

TEACH-IN: 6-8 p.m. Thursday, August 15

at the Unitarian Universalist Congregation
520 Kanawha Blvd West, Charleston, WV 25302
Free and open to the public. Pizza and beverages served.



- The CARE Teach-In Will:
- Review a petition for the Office of Surface Mining to take over WV DEP's mining program.
 - Discuss DEP's failures to protect communities and public well-being.
 - Explore ways you can help address those failures.

CARE. For your community, your kids, your health and your future.

Take action right away here:
<http://tinyurl.com/krowqtz>.



When it comes to keeping a check on the coal industry, the WV Department of Environmental Protection is failing to protect our communities from chronic pollution, environmental degradation and human suffering.

We have a right to redress, and are exercising that right! Learn more, get involved!

REMEMBERING JANICE NEASE

By Cindy Rank

Janice Nease, one of Coal River Mountain Watch's founders and former executive director, passed away July 8, 2013, from a heart attack.

Janice lived in Poca, WV when she died but what I remember best are two things:

One is the twinkle in her eye when she talked about her country-western dancing and winning awards, apparently including the 1999 World Championship.

The other is how she talked about and described her original home in Cabin Creek Hollow in southern Kanawha County, West Virginia.

Her hometown has long since been lost to the huge mountaintop removal coal mine complex begun as the Red Warrior mine and now known as Samples Mine. I first visited the Samples Mine and saw my first dragline in 1994 and have ever since been moved by the stories of friends like Janice.

"I am a child of Appalachia, and I say that with pride.

I was born and raised in a coal camp up Cabin Creek Hollow near Kayford, West Virginia. As was often the practice then, my family shared a house with my paternal grandparents. The home in which I was born is still standing; but it is standing in a ghost town. Little is left of my hometown but the footprints of my ancestors and my memories.

As a small child I thought the mountains were timeless; now I must face the cruel fact that they may not be. The mountains played an important part in the daily life of those who lived in the hills and hollows of West Virginia. They provided recreation and food to supplement our meager income. They also provided medicinal herbs to cure us when we were ill and a place to bury our dead when it was time for them to go. They offered us solace when times were hard and inspiration when we needed to refresh our soul. The mountains also reminded us of who we were and upon whose earth we walked. The mountains surrounded our modest homes with beauty. Most importantly, they gave us our sense of time and our sense of place....

The future of Appalachian culture is clouded. There are those who say the culture is dying. I say that the culture is still



alive and will remain so if we honor the values, customs and commitment of our ancestors. If we do nothing, it will surely die.

The greatest danger to Appalachian culture is mountaintop removal mining. This egregious system of mining is destroying both the physical and human environment throughout the southern coalfields. Mountaintop removal mining makes moonscapes out of mountains, buries streams under tons of rubble, contaminates drinking water, creates flooding, demolishes one of the oldest and most diverse temperate forests and wildlife habitats, causes blasting damage to residents' homes, destroys our mountain culture and heritage and permanently destroys entire communities."

I join Janice's coworkers at Coal River Mountain Watch in saying "Rest in peace, Janice, and thank you for your service to Appalachia".



Janice among other familiar faces portrayed Massey Energy Board members at a protest outside a Massey Energy's shareholder meeting. ... She and the late Judy Bonds (also shown holding bars) were "arrested" by EarthCop. Julian Martin brought the swine noses. Photo by Vivian Stockman

WHAT'S DOING ON THE MON?

Anyone who is interested in projects and activities the Forest Service is contemplating, or engaged with, on the Monongahela National Forest should be a regular reader of the quarterly Schedule of Proposed Actions or SOPA. The Monongahela's SOPA is a publication used to inform the public of the programmatic land management planning and site-specific project planning that the Forest Service is conducting. It describes the actions being proposed, their location, the proposal's status, and whom the public may contact to get more information. You can view the Schedule of Proposed Actions, by visiting the [Forest Service SOPA page for the Monongahela National Forest](#) online, or by requesting to be placed on the mailing list for the quarterly. To be added to the SOPA mailing list, contact:

Monongahela National Forest
200 Sycamore Street
Elkins, WV 26241

Join Now !!!

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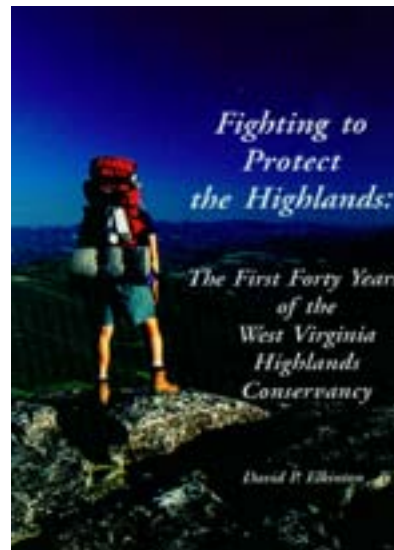
Phone _____ E-Mail _____

Membership categories (circle one)			
	Individual	Family	Org
Senior	\$ 15		
Student	\$ 15		
Introductory			
Other	\$ 15		
Regular	\$ 25	\$ 35	\$ 50
Associate	\$ 50	\$ 75	\$ 100
Sustaining	\$ 100	\$ 150	\$ 200
Patron	\$ 250	\$ 500	\$ 500
Mountaineer	\$ 500	\$ 750	\$ 1000

Mail to West Virginia Highlands Conservancy PO Box 306 Charleston, WV 25321

West Virginia Highlands Conservancy
Working to Keep West Virginia Wild and Wonderful!

GREAT HISTORY BOOK NOW AVAILABLE



For the first time, a comprehensive history of West Virginia's most influential activist environmental organization. Author Dave Elkinton, the Conservancy's third president, and a twenty-year board member, not only traces the major issues that have occupied the Conservancy's energy, but profiles more than twenty of its volunteer leaders.

Learn about how the Conservancy stopped road building in Otter Creek, how a Corps of Engineers wetland permit denial saved Canaan Valley, and why Judge Haden restricted mountaintop removal mining. Also

read Sayre Rodman's account of the first running of the Gauley, how college students helped save the Cranberry Wilderness, and why the highlands are under threat as never before.

With a foreword by former congressman Ken Hechler, the book's chapters follow the battle for wilderness preservation, efforts to stop many proposed dams and protect free-flowing rivers, the 25-year struggle to save the Canaan Valley, how the Corridor H highway was successfully re-routed around key environmental landmarks, and concluding with the current controversy over wind farm development. One-third of the text tells the story of the Conservancy's never-ending fight to control the abuses of coal mining, especially mountaintop removal mining. The final chapter examines what makes this small, volunteer-driven organization so successful.

From the cover by photographer Jonathan Jessup to the 48-page index, this book will appeal both to Conservancy members and friends and to anyone interested in the story of how West Virginia's mountains have been protected against the forces of over-development, mismanagement by government, and even greed.

518 pages, 6x9, color cover, published by Pocahontas Press To order your copy for \$14.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

SUCH A DEAL!

Book Premium With Membership

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$14.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

Existing members may have one for \$10.00. Anyone who adds \$10 to the membership dues listed on the How to Join membership or on the renewal form will receive the history book. Just note on the membership form that you wish to take advantage of this offer.

TOGS FOR TOTS

Baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and an infant onesie. Slogan is "I ♥ Mountains Save One for Me!" Onesie [18 mo.]---\$17, Infant tee [18 mo.]---\$15, Toddler tee, 2T,3T,4T, 5/6---\$18

Order now from the website! Or, by mail [WV residents add 6 % sales tax] make check payable to West Virginia Highlands Conservancy and send to James Solley, PO Box 306, Charleston, WV 25321-0306



SNAP TO ATTENTION ON A SLOW-MOVING DISASTER

By Hugh Rogers

Headline, Charleston Gazette, July 15: "Corridor H proponents look to hasten project." Yeah, we know. Some pro-road guys keep wishing it could be finished by 2020. Even their new scheme to pay for it was boring: a bond issue.

Buried eight paragraphs down was the bomb. "During Monday's meeting, it was announced that construction of a 10-mile segment of Corridor H linking the Tucker County towns of Davis and Parsons is scheduled to begin within the next two years—three years ahead of a previous timetable."

It was announced. The passive voice strikes again! Who announced? Did they know what they were talking about? Had the Federal Highway Administration signed a Record of Decision [ROD] for the controversial section across Blackwater Canyon?

Maybe the actual voice was mistaken or misquoted. He or she could have been talking about the section from Kerens to Parsons, where construction was scheduled to begin in 2018—except that section is 15.5 miles. The 10-mile figure would be accurate for Davis to Parsons.

Eventually, the Division of Highways (DOH) straightened it out. I was told, "That was an error." The timeline has not changed (see below).

The confusion began at a "ceremonial groundbreaking" for a 20-mile segment of the four-lane that parallels state route 93 between Davis and Scherr. Work had been underway for more than a year, as we noted here back in April 2012. A self-appointed Corridor H Authority sponsored the belated event.

Funding was their primary topic. When the current project is done, possibly late next year, an estimated \$830 million worth of additional construction will remain to complete Corridor H from I-79 at Weston to the Virginia border. By the formula set in last year's national surface transportation bill, the federal and state governments are spending \$40 million per year on Corridor H. At that rate, it will take until 2034 to finish Corridor H, according to Marvin Murphy, state highway engineer.

Stephen Foster, of Buckhannon, president of the Corridor H Authority, insisted the highway could be completed by 2020 if a bond issue were to provide the construction cash up front. The \$40 million-a-year revenue stream could be used to retire the bonds. Apparently, Foster couldn't convince other states in the Appalachian region to give up the federal highway money they're not using right now (for more on that strategy, and the origins of the "Authority," see the *Voice*, July 2011). He was hustling a new source.

It's helpful to remember that publicity is publicity, whether the story is true or false. I suspect it was Foster who announced the startling new development on the Davis to Parsons section. For one thing, he was quoted right after that statement, saying, "I now believe in my gut that we're heading down the homestretch." For another, the news splash coincided with an announcement of his intention to run for a seat in the House of Delegates.

In a separate correction, the DOH's Murphy said that even if all the funding needed to complete the project were available now, it would be difficult to build the highway by 2020 because of "planning concerns and regulatory issues."

So the schedule remains:

(1) Current construction: 4 miles from Scherr to Bismarck, up the Allegheny Front, and 16 miles from Bismarck to Davis—projected completion late 2014;

(2) Kerens to Parsons, 15.5 miles: final design underway, construction to begin by 2018;
 (3) Wardensville to Virginia border, 6.8 miles: final design to begin in 2020, construction by 2027;
 (4) Parsons to Davis, 10 miles: final design anticipated to begin in 2025, construction in 2031.

On this last section, the DOH is "re-evaluating its original 2007 Supplemental Final Environmental Impact Statement," including "coordination/update with the United States Fish and Wildlife Service with regards to the Endangered Species Act." The last surveys for the northern flying squirrel, for example, were done more than twelve years ago. I was told, "We have to figure out whether we have to do more surveys for threatened and endangered species, so it may be a while before we get the ROD."

A fellow board member asked me whether the construction now in progress within a mile of Davis would foreclose any alternative to the Blackwater Canyon-crossing route. It would not. The DOH considered several alternatives from that point that would pass to the north of Thomas. They're still available.

HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I ♥ Mountains caps.

The WVHC cap is beige with green woven into the twill and the pre-curved visor is light green. The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure.

The I ♥ Mountains The colors are stone, black and red.. The front of the cap has I ♥ MOUNTAINS. The heart is red. The red and black hats are soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone has a stiff front crown with a velcro strap on the back. All hats have West Virginia Highlands Conservancy printed on the back. Cost is \$15 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306.



OUTINGS

The West Virginia Highlands Conservancy is now sponsoring two kinds of outings. This page has information about both. The first is a new Highlands Conservancy program, *This Land is Your Land*, will be spending a day or more each month in 2013 to explore, and learn more about our public lands. Those outings are labeled as *This Land is Your Land*. The second kind is made up of miscellaneous outings which may not be specifically connected to public lands.

The West Virginia Highlands Conservancy has a long and rich history of advocating for the protection and wise management of our public lands. That history is equally as rich in giving back to these lands through service projects to protect and restore them. West Virginia is not particularly rich in public lands, but it does have a good diversity and distribution.

Who manages these lands that belong to all of us? What agencies are responsible? What is the difference between the Park Service and the Forest Service? What laws provide guidance to these agencies? How did we acquire these various lands and how can we acquire more of them? What are the current management issues and are they facing any threats? How can the public become involved and engaged in their management? How can we work to benefit them and ascertain a long and healthy future for them?

These are just a few of the questions that the Public Lands Committee's new program can help Highlands Conservancy members, and the public, discover the answers to. The Program will assemble a dynamic calendar of events, published in the Highlands Voice each month and at www.wvhighlands.org, where we will visit, explore, and discuss the issues facing our various public lands. The events will generally include informational meetings with the area's managers, and they will also include an outing to explore or restore some of the wonders of that particular area of our land. Some events will include discussions of public lands issues and activities of the Highlands Conservancy's Public Lands Committee.

Below is the current calendar of events, and more will be added as the year progresses.

Because, from West Virginia's highest Point, at Spruce Knob, to its lowest, at Harper's Ferry, *This Land was Made for You and Me!*

This Land is Your Land - Events Calendar

Please RSVP if you are planning to attend an outing! For more information, visit www.wvhighlands.org, or contact Dave Saville at daves@labyrinth.net.

Saturday, August 10, 2013, *This Land is Your Land* – Ohio River Islands National Wildlife Refuge, Williamstown, WV, 1 pm. Meet Refuge Manager Glenn Klingler and Assistant Manager, Sara Siekierski, of West Virginia's first National Wildlife Refuge, established in 1990. Scattered along 362 miles of the Ohio River, the refuge restores and protects habitat for wildlife in one of our Nation's busiest inland waterways. It includes 22 islands and 4 mainland properties for a total of 3,440 acres. Half of the refuge acreage is underwater, providing crucial habitat to support over 40 species of freshwater mussels. Hear from refuge leadership about the challenges the refuge faces and what their team is doing to help safeguard a future for wildlife. Afterwards we'll go for a hike around Middle Island.

September 8, 2013, *This Land is Your Land* – Kanawha State Forest, Charleston, WV, 1 pm. Meet Assistant Superintendent, Kevin Dials at one of West Virginia's most popular State Forests. Unique among State Forests, Kanawha is managed more like a State Park because of an action of the State Legislature. The 9,300 acre forest is noted among naturalists for its diverse wildflower and bird populations. Rich cove forest sites provide nesting habitat for 19 species of wood warblers. We'll join with members of the Kanawha State Forest Foundation, a citizens group acting on the forest's behalf, for an afternoon visit.

Saturday, September 14, 2013, McClintic Trail - Cranberry Wilderness Day Hike. This hike will follow trails, and do some bushwhacking, into the headwaters of the Middle Fork Williams River. We'll follow the path of the historic "McClintic Trail" to see the remains of an old splash dam. Built in the 1890s it is a relic of an early logging failure. Logs were horse-drawn into the streambed and splash dam releases were to flush the logs to the mill downstream. While this practice was used with success in some places, it didn't work here. See the story, and some pictures of the remains, elsewhere in the August Issue of the Highlands Voice. Limited to ten people. This will be an all-day hike in rugged terrain. For details contact Dave Saville at daves@labyrinth.net.

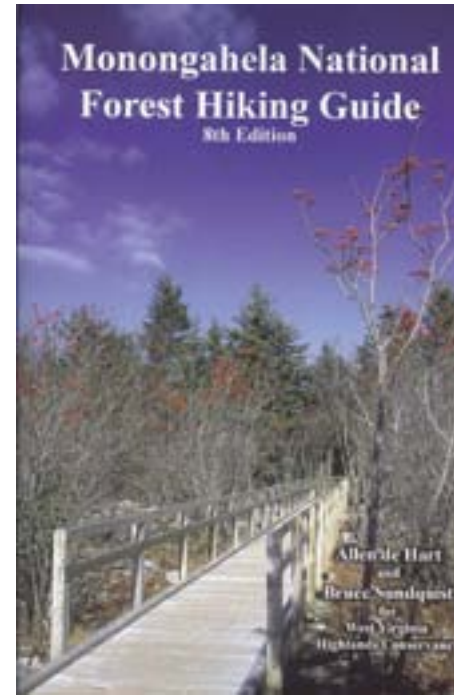
September 21, 2013 - Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge. Join us as we continue our efforts to restore the red spruce ecosystem in the West Virginia Highlands. This tree planting event will take place on the Canaan Valley National Wildlife Refuge. We will meet at the Refuge Headquarters and Visitor Center at 9 am. Following an orientation about the red spruce ecosystem and our work to restore it we will car pool to the restoration site. Come dressed for the weather, wear sturdy shoes or boots and bring gloves. Lunch will be provided. Please RSVP! For more information, visit www.restoreredspruce.org, or contact Dave Saville at daves@labyrinth.net, or 304 692-8118.

Sunday, October 6, 2013, *This Land is Your Land* - Greenbrier Ranger District, Monongahela National Forest, Bartow, WV 1 pm. For the second of our visits to the Greenbrier Ranger District, we will once again meet with District Ranger, Jack Tribble and District Wildlife Biologist, Shane Jones. The discussion of current activities will focus on the upper Greenbrier North project. This large and diverse project involves numerous management activities including spruce restoration and stream habitat improvement. We'll take a car tour and some short hikes into the upper Greenbrier north project area to learn more about the activities and proposed activities associated with that project.

Open dates. Visit Kayford Mountain and/or Mud River Mountain south of Charleston to see mountain top removal (MTR) up close. Bring lunch for a picnic on Kayford mountain. Hear the story on how the late Larry Gibson saved fifty acres from mountain top removal on Kayford Mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com.

The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist



Describes 180 U.S. Forest Service trails (847 miles total) in one of the best (and most popular) areas for hiking, back-packing and ski-touring in this part of the country (1436 sq. miles of national forest in West Virginia's highlands). 6x9" soft cover, 368 pages, 86 pages of maps, 57 photos, full-color cover, Ed.8 (2006)

Send \$14.95 plus \$3.00 shipping to:
West Virginia Highlands Conservancy
P.O. Box 306
Charleston, WV 25321
OR
Order from our website at
www.wvhighlands.org

New 8TH Edition Now Available on CD

WV Highlands Conservancy proudly offers an Electronic (CD) version of its famous Monongahela National Forest Hiking Guide (8th Edition), with many added features.

This new CD edition includes the text pages as they appear in the printed version by Allen deHart and Bruce Sundquist in an interactive pdf format. It also includes the following mapping features, developed by WVHC volunteer Jim Solley, and not available anywhere else:

- All pages and maps in the new Interactive CD version of the Mon hiking guide can easily be printed and carried along with you on your hike
- All new, full color topographic maps have been created and are included on this CD. They include all points referenced in the text.
- Special Features not found in the printed version of the Hiking Guide: Interactive pdf format allows you to click on a map reference in the text, and that map centered on that reference comes up.
- Trail mileages between waypoints have been added to the maps.
- ALL NEW Printable, full color, 24K scale topographic maps of many of the popular hiking areas, including Cranberry, Dolly Sods, Otter Creek and many more

Price: \$20.00 from the same address.

BUMPER STICKERS

To get free **I ♥ Mountains** bumper sticker(s), send a SASE to Julian Martin, 1525 Hampton Road, Charleston, WV 25314. Slip a dollar donation (or more) in with the SASE and get 2 bumper stickers. Businesses or organizations wishing to provide bumper stickers to their customers/members may have them free. (Of course if they can afford a donation that will be gratefully accepted.)

Also available are the new green-on-white oval **Friends of the Mountains** stickers. Let Julian know which (or both) you want.



THE MCCLINTIC TRAIL

By R.D. Carpenter

The McClintic Trail starts from the top of the mountain between the headwaters of Swago Creek and those of the main Williams River on the Gauley Ranger District of the Monongahela National Forest. It crosses around the headwaters of the Williams River, follows along the top of Black Mountain, and drops down the left hand fork of the Middle Fork of the Williams River to a point near the last forks. This fork takes its name, "McClintic Run," from the trail. This name appears wrongly, however, on the topographic maps of the U.S. Geological Survey because they switched the name to the right hand fork of the Middle Fork of the Williams River.

The trail itself took its name from Withrow McClintic, who was responsible for its construction. Withrow was a brother of the present Judge McClintic, judge of the United States District Court for the Southern District of West Virginia. The trail starts from a farm which was then owned by Withrow McClintic and is now owned by his brother, the judge.

Between the years of 1894 and 1900, the Gauley Lumber Company, predecessor of the Cherry River Boom and Lumber Company, began to operate the softwood, spruce and hemlock in the drainage of the Middle Fork of Williams River. Their mill was located at Gauley Mills, approximately one mile above Camden-on-Gauley and there was no mill at Richwood at that time.

The heads of the Gauley Lumber Company figured it would



Splash Dam remains where McClintock Run enters the main stem of the Middle Fork Williams River. See the log structure and the upright boards on the upstream side.

be possible to drive softwood logs down the Williams River to their mill. Stream improvements in the form of splash dams and channel improvements were consequently made and negotiations initiated for the cutting.

Logging on all these operations was done by contract and it was to Withrow McClintic that the contract went to cut and skid 10,000,000 feet of softwood logs from the watershed of the Middle Fork of Williams River to the banks of the stream. The company intended to do its own driving.

Early in the game, it was discovered that the operation was

impossible due to the lack of a sufficiently continuous head of water to float out the logs. When this was determined, the company immediately tried to stop Withrow McClintic from cutting more logs. Withrow's contract, however, had been so cannily written that he could not be stopped. In spite of the obvious futility of the enterprise, he doggedly kept on cutting and skidding and drawing his pay at so much per thousand feet until his contract was entirely filled.

In an effort to stop this wild cutting, the company forbade McClintic to take his supplies over their land up the Middle Fork of Williams River

to his camps. It was in reply to this mandate that McClintic built the McClintic Trail from his farm to the site of the aforesaid c a m p s . Due to the impossibility of driving the logs out and the lack of other facilities for getting them to the mill, the entire 10,000,000 feet of logs were lost to the company. Today masses of these logs can be seen scattered along the banks of the Williams River where they have been stranded by high water and only partially rotted away.



Splash dam remains on the main stem of the Middle Fork Williams River. This is the river right side of the dam looking up a portion of the Middle Fork.

After more than forty years the McClintic Trail exists today and can be easily followed through the woods. In only a few spots is it grown up to brush enough to noticeably impede foot travel. Originally, of course, it was constructed for wagon travel. At the halfway point on Black Mountain there formerly existed a house known as the "half-way house" and for many years was kept by two brothers of rather eccentric character who during their residence contributed greatly to the stock of local legends. At the half-way house horses hauling in supplies were put up and rested overnight.

Thus the true history of the McClintic Trail explodes many mythical legends in circulation at the present time. The McClintic Trail was neither an old Indian by-way nor a road traveled by

(More on the next page)

MORE ON THE MCCLINTIC TRAIL (Continued from previous page)

Confederate forces during the Civil War. It was simply a road to waste and heartrending ruin.

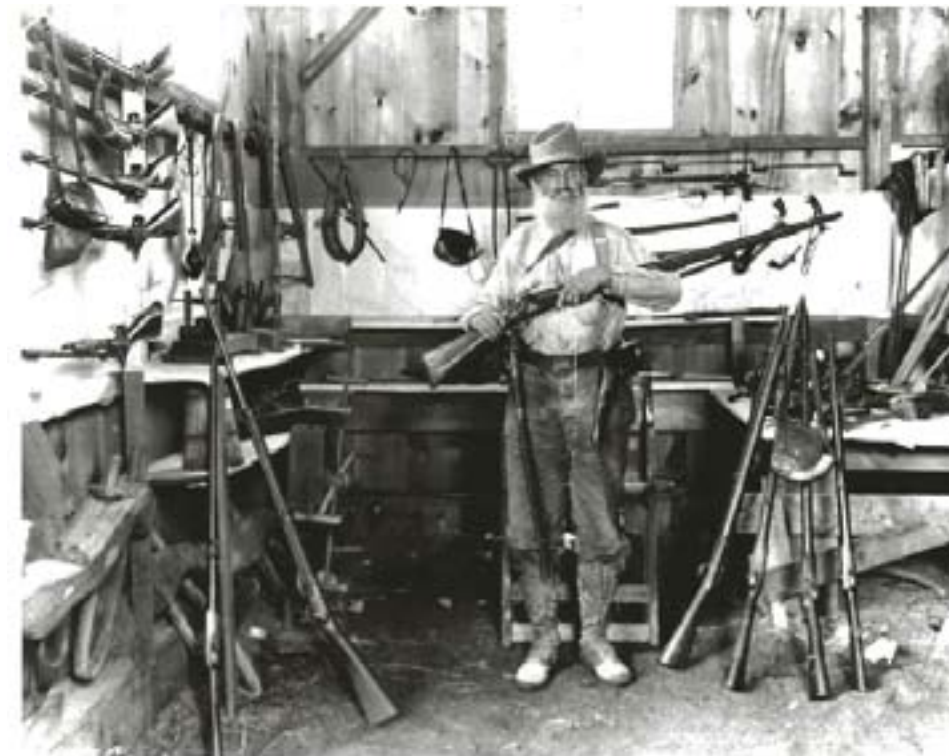
Notes: Dave Saville

R.D. Carpenter wrote this for the "Gateway", the newsletter of the Monongahela National Forest, in 1937. He was the Assistant Ranger on the Gauley Ranger District of the Forest. Most of this district is made up of lands of the former Cherry River Boom and Lumber Company purchased in 1933 by the USA in a single tract of 153,000 acres.

Although I have not been able to follow the entire route of the McClintic Trail, I have been on several segments and seen the remains of the piles of logs that were never floated down the Middle Fork, still recognizable after 120 years. The remains of a large splash dam on the main stem of the Middle Fork of the Williams River are still visible (see photos). Much of the original trail is along the route of the Highlands Scenic Highway and therefore impossible to locate. The Middle Fork of the Williams River lies entirely within the Cranberry Wilderness Area.

Withrow's farm, the Swago Farm, was acquired by his brother, the Judge, later to his daughter. She gave the farm to its caretaker who still lives there today. She was also a philanthropist in Pocahontas County, including donations to support the public library, the McClintic Library, home to the largest West Virginia and Appalachian collection of any small library in the state.

Photos taken in 2007. Dave Saville



Withrow McClintic (1864 – 1931)

today.

The widespread loss of this darter has been caused by impoundment of rivers from dams, siltation of the river bottom habitat and poor water quality. Large dams, changes to the river channel and flow, and soil erosion from urban and rural sources all contribute too much fine sediment entering the river and sinking into the riverbed. Fine sediments in the river bottom fill the spaces between the sand and gravel that the Diamond Darter needs for protection and to find prey and make nests.

The only Diamond Darter population known to exist is found in the Elk River of West Virginia. The Elk River is one of the most ecologically diverse in the state, supporting over 100 fish species and 30 mussel species, but many threats loom for the remaining Diamond Darters. Coal mining, oil and gas drilling, timber harvesting, all-terrain vehicles, improper sewage treatment, and stream bank erosion all occur in the Elk River watershed. Together, these activities compound the amount and type of pollutants flowing into the river, reducing the water quality and degrading the habitat needed by Diamond Darters.

The West Virginia Department of Natural Resources concurred with the proposed designation and stated that the Fish and Wildlife Service has "conclusively substantiated that the only known population of this species... is vulnerable to destruction, modification, or curtailment of its habitat or range, and is without adequate existing regulations to assist its continued survival." The agency further stated that the Service has provided an "overwhelming amount of data" that the species meets the criteria for endangered status, and that the only known population of this species could be extirpated by a single adverse event or from chronic pollution or sedimentation.

The comments of the West Virginia Department of Environmental Protection were more nuanced. It agreed that the Diamond Darter's small remaining population has made it vulnerable. It disagreed that water quality degradation--such as that which may result from mining--was a significant contributor to the decline in population.

It is unclear what impact this decision will have upon mining in the areas where the Diamond Darter is found. The West Virginia Oil and Natural Gas Association, West Virginia Coal Association, West Virginia Forestry Association and West Virginia Chamber of Commerce all submitted comments opposing the fish's protection.



Two events address gas industry problems

TALKING ABOUT GAS 2013

By Cindy Rank

The gas industry's current shift of focus to the Marcellus and Utica 'wet gas' operations in northernmost West Virginia, southwestern

Pennsylvania and Ohio has left Buckhannon WV and Upshur County a smaller number of new wells and drilling than we experienced during the boom of two years ago.

Buckhannon, however, remains a center of attention for the gas industry and for its representatives who reside in the area. Promotional events and presentations to civic organizations continue to promote the purported wealth and energy independence the recently expanded shale gas exploration and development is supposed to bring. And once again this year West Virginia Wesleyan College hosted the Sixth Annual Oil and Gas Equipment Show that included tributes to local Oil and Gas notables, and seminars about health care reform and crisis and safety management.

It should come as no surprise that industry reps at these events make little or no mention of the serious down sides of these developments --- except perhaps to dismiss the claims of citizens who experience breathing problems, skin rashes, and other internal and mental health maladies when drilling comes to their neighborhoods.

Nevertheless, health concerns and discussions of water and air pollution and dangers of careless waste water disposal as well as the dangers of increased and oversized truck traffic on narrow local roads were topics of discussion by citizen groups and activists at West Virginia Wesleyan College (WVWC) on weekends both before and after the Oil and Gas Equipment Extravaganza.

The second annual Water and Wellness Conference preceded the Oil and Gas Show on June 29th and 30th and the third annual Sierra Club Marcellus Academy took place July 13th and 14th two days after the Equipment Show.

Both were held at West Virginia Wesleyan College and provided informative educational workshops about shale gas development in the Appalachian region while also serving as regional networking efforts for communities experiencing the negative impacts of extreme forms of energy extraction.

The Marcellus Academy

Two weeks following Wellness & Water (on July 13-14, 2013), more than 40 activists from around the state gathered again in Buckhannon for another educational opportunity sponsored by the WV Chapter of the Sierra Club. The goal of the club's third annual Marcellus Academy was to provide those working to address Marcellus drilling related issues in their communities with tools to organize others, to monitor industry practices, and to help guide local and legislative leaders toward implementing sound policies to address these issues.

On Saturday morning, Dr. Michael McCawley of the WVU School of Public Health kicked off the weekend with a discussion of the results and recommendations from his assessment of air, noise and light impacts from horizontal drilling operations. Gene Smith and Rick Campbell with the WV DEP Office of Oil & Gas followed with a presentation on their agency's role in gas drilling. Later in the day, Dr. Ben Stout of Wheeling Jesuit University spoke about the mounting problems with toxic drilling waste and the proposed Green Hunter wastewater facility near in Wheeling. That evening,

former State Senator and environmental advocate Charlotte Pritt, and Delegate Mike Manypenny teamed up for a presentation on the WV Legislature – Who's Who and How It Works.

On Sunday, Alan Collins, Professor and Assistant Director, Division of Resource Management at WVU spoke about the results of the recent survey of West Virginia landowners he conducted to determine what impacts (both positive and negative) shale gas drilling has had on surface owners. (We'll be discussing these and the results of the studies mandated by the Horizontal Well Control Act in our next WV-SORO newsletter, as we will be working to get the legislature act on the DEP's one recommendation from the studies -- to measure the setback distance from occupied dwellings from the "limit of disturbance" (edge of the pad) rather than the center.)

The weekend also featured a series of presentations focused on monitoring industry activity. This included Bill Hughes' on trucks and heavy equipment on our roads -- what they are, what they do and what drilling phase is happening when certain trucks and equipment arrive at a well site. Upshur County residents Cindy Rank and Tim Higgins presented a slide show of a nearby well site from site preparation to current production phase in preparation for a visit to the site before attendees departed for home.

Wellness and Water

The Wellness and Water Conference was once again organized by OVEC (Ohio Valley Environmental Coalition), WVSORO (WV Surface Rights Organization), WVHC (WV Highlands Conservancy), Doddridge County Watershed Association, and Sierra Club.

The focus of Wellness and Water is health impacts associated with extreme forms of energy extraction – in this case the health impacts experienced by folks living near shale gas developments and mountaintop removal coal mining operations. The impacts to air and water and human health and general community structure are reflected in neighborhoods and along rural roads all across West Virginia where the wealth that lies beneath our homes is being taken away without proper care for the people and environment left behind.

Some two dozen groups were represented at this Wellness and Water 2013 gathering and a lot of good information was shared.

The following is nice summary of the event written by Robin



Yuri Gorby

(More on the next page)

MORE ABOUT GAS (Continued from page 18))

Blakeman staff member of OVEC fame, our organizing team leader, and notable herder of cats for the Wellness and Water event.

You know some major problems exist when approximately 75 people devote a large amount of time on a summer weekend to exploring an issue in depth.

On June 29-30, 2013 the second Wellness and Water public education event was held, in Buckhannon, WV. Starting with the first event in September, 2012, these gatherings have provided opportunities for people from different environmental and citizens' rights groups to gather for networking and information sharing opportunities. Education and information has been provided to all who attended.

Speakers for this year's event included scientific experts like Yuri Gorby, Rensselaer Polytechnic Institute, public policy experts like Leslie Fields, Sierra Club, and progressive thinkers like Grant Smith, of the Civil Society Institute. Representatives from various organizations which seek to provide information and assistance to people who are concerned about their water quality and/or finding alternatives to fossil fuel usage were also on hand. These included Marc Glass of Downstream Strategies, Rob Goodwin of Coal River Mountain Watch, and Brian Oram - an environmental consultant. Also presenting were Dave Hanna with New Visions

THIS LAND IS YOUR LAND HEADS TO CANAAN VALLEY

This Land is Your Land is a Highlands Conservancy outings program designed to introduce the public to the many different public lands in West Virginia. There are numerous ways to enjoy them, numerous threats to that enjoyment, and many opportunities for the public to be engaged and involved in management, planning and programming. Recently it had an outing to the Canaan Valley State Park.



Outings participants at the Canaan Valley State Park after hiking along the Blackwater Trail.

Solar, Samantha Malone of FracTracker, Aaron Sutch with the Mountain Institute, and Laura Rigell with the Swathmore College Divestment Campaign. We also had some testimonials from five coal and gas affected residents. Many participants said that this was the most powerful portion of the program!

We had some fun while in Buckhannon, too. The bluegrass band, East Run performed on Saturday evening, and throughout the event participants were encouraged to express themselves creatively by making "bendy stick" creations. These were judged on Sunday prior to the conclusion of the conference.

All in all, we had a great weekend! Wellness and Water II participants agreed that we need to come up with processes for continued information sharing. To that end, a permanent Facebook page will be created and all who like the page will be able to post comments and receive information. Future events, action opportunities, and networking possibilities will be posted there. Stay tuned to Action Alerts and information posted on the OVEC Facebook page for more information about this. Portions of this year's Wellness and Water event were video recorded; we will be posting these as soon as we can.

Note: Thanks to Robin Blakeman for her contributions to this article.



Park Ranger, Don McFarlan, shows us the new Shooting Range at the Canaan Valley Resort State Park. This facility has generated significant controversy because of the noise emanating from the facility distracting park visitors and local residents.

GROUPS CHALLENGE ANOTHER MINE THAT HARMS WEST VIRGINIA STREAMS

The West Virginia Highlands Conservancy, the Sierra Club, and Ohio Valley Environmental Coalition have filed another action against a mining company for significant pollution that has biologically impaired a headwater stream in West Virginia.

The lawsuit, filed in federal court in Huntington, alleges that mine runoff from a mine operated by Fola Coal Company, LLC (Fola) has contaminated the water in a Leatherwood Creek tributary—Right Fork—with sulfate and other dissolved solids that are harmful to aquatic life.

These claims are based on the same legal theory that the two groups used to obtain a 2012 settlement against Fola, requiring it to clean up another biologically-impaired tributary—Boardtree Branch—in the Twentymile Creek watershed. In both cases, the groups contend that the mining companies have violated West Virginia’s “narrative” water quality standards, which set general criteria for water quality, rather than “numeric” water quality standards, which set limits on the concentration of specific pollutants in water.

Some tributaries of Leatherwood Creek show significant damage to aquatic life compared to that in unpolluted reference streams. Levels of conductivity measured in Right Fork have been five to ten times higher than levels shown to impair aquatic life. More than 60% of the land area in the Leatherwood Creek watershed has been permitted for coal mining.

This new lawsuit is in addition to four existing lawsuits against Alex Energy, Elk Run Coal Company, and Fola that allege that contaminated mine runoff has contributed to biological impairment of other streams in West Virginia. So far, the groups have filed lawsuits targeting eight streams that are biologically impaired by coal mining operations—Boardtree Branch, Mudlick Fork, Robinson Fork, Stillhouse Branch, Spruce Run, Road Fork, Cogar Hollow, and Right Fork.

CYNTHIA D. FINISHES UP (Continued from p. 2)

*“...Mooshine and spring-shine, cold and fire have
tempered our blood
and here we yet stand. Here we dream and begin again...”*

And

“...Listen again the old tunes...”

*“...Scrape and trill, drone and run like a river through the
mountain’s heart...”*

Then the words encourage us to rise!

*“...Take up the patches of this history quilt, this
dream-flagged quilt. ..*

*...And let no man haul it away, no
coward with a bankroll buy us out, no circus fast-talkers take
what’s ours...”*

Finishing with history once more, and:

*“...Again that bell, again those
trumpets, fiddles, drums, hands together, **how sweet the
sound.** Let us clap! Let us
sing!...*

*“...West Virginia...you are my home, our home. Forever
may you sing,
and forever may you shine.”*

I saw indeed why my young friend was enthusiastic and count him fortunate to have heard it recited by the poet in person.

Marc Harshman is an author, poet, and storyteller, and, since May 2012, West Virginia’s Poet Laureate. He has published eleven children’s books which have been recognized with several prizes and are printed in Swedish, Spanish, Korean, and Danish.

He came to West Virginia to attend Bethany College and stayed here, writing and teaching. Marc lives in the Northern Panhandle and has been a member of the West Virginia Highlands Conservancy for more than three decades, which makes us especially proud and pleased to share news of his works.

Commemorative copies of this Sesquicentennial piece are available through the Wheeling National Heritage Area. The poem may also be viewed online at wvencyclopedia.org.

The complete poem includes this epigraph, by Irene McKinney, *“We give the mountains our names/ and they stand still...”*

Voice Available Electronically

The Highlands Voice is now available for electronic delivery. You may, of course, continue to receive the paper copy. Unless you request otherwise, you will continue to receive it in paper form. If, however, you would prefer to receive it electronically instead of the paper copy please contact Beth Little at blittle@citynet.net. Electronic copies arrive as e-mail attachments a few days before the paper copy would have arrived



Mystery Item! Mystery Item! What is it? What is it? Coming Soon! Coming Soon!