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The Highlands Voice

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CURTAINS FOR COAL RIVER MOUNTAIN?

Is this the beginning of the end for Coal River Mountain?

The Mountain has been the center of controversy for months. Massey Energy has proposed 6,600 acres of mountaintop removal mining for four different permits in the area. Combined, the mine site will be at the heads of Rock Creek, Horse Creek, Dry Creek, Workman's Branch and surround Sycamore Creek.

Coal River Mountain Watch, on the other hand, has suggested an alternative. It advocates using the mountain for a wind farm. It suggests that such an alternative would produce create environmentally friendly energy while providing a longer period of employment for area residents. The proposal is based on a study saying that the mountain is suitable for wind farm development.

The advocacy of Coal River Mountain Watch and its supporters for its alternative has included sending 4,000 e-mails, nearly 500 phone calls and a petition with nearly 10,000 signatures to Governor Joe Manchin, asking him to intervene. In a press release in September, 2008, Governor Manchin announced that it would be inappropriate for him to intervene in a regulatory matter.

Now there has been a development which may portend the beginning of the end for Coal River Mountain. State regulators have approved a permit change that will allow Massey Energy to start a mountaintop removal mine on the site Coal River Mountain Watch and its supporters are trying to preserve for a wind farm.

Federal permits for the 6,600-acre Coal River Mountain project are pending, but last week's action by the state Department of Environmental protection allows Richmond, Va.-based Massey to start mining on a 150-acre tract. It also removes another hurdle to the larger project.

The DEP's decision lets Massey use an existing valley fill, the Brushy Fork impoundment, to dispose of excess rock and dirt from the new mine site. That also avoids a pending ruling by the 4th U.S. Circuit Court of Appeals that could reshape how valley fill permits are handled.

Even though the revised permit affects only a sliver of Coal River Mountain, it will be more difficult to stop Massey once mining is under way. Mining the 150-acre portion does not destroy all the mountain's wind potential.

So is this the end for Coal River Mountain? Once the disturbance begins will it creep like a fungus (although noisier than most fungi) across the mountain until the entire 6,600 acres is destroyed? Not necessarily. The authority to blast extends to only 150 acres of one of the proposed permits. It does not affect the balance of the 6,600 acres where mining is proposed. All permits have not been approved and may never be.

Coal River Mountain Watch is fighting on. At press time for *The Highlands Voice,* it had scheduled press conferences in Charleston and Beckley Dec. 9 to discuss a study it had commissioned. The news conference will focus on research by Downstream Strategies of Morgantown. It shows that wind development is a wise use not just for Coal River Mountain, but for other parts of southern West Virginia.

What's inside?

Visit us on the web at www.wvhighlands.org

From the Heart of the Highlands

By Hugh Rogers

High Hopes

On the first Friday in November, nearly a hundred people gathered in the Randolph County Community Arts Center in Elkins to consider the effects of climate change on "the highest mountains in the world—the Himalayas—and the most beautiful—our Central Appalachians in West Virginia."

The Mountain Institute's Alton Byers, who has worked on and around Mt. Everest for more than twenty years, showed pairs of photos taken from the same perspective fifty years apart. The differences were stunning: "clean" glaciers had become shrunken and "dirty," new glacial lakes perched behind fragile debris dams, and bare rock amplified the sun's warming effects. (The exhibit of Byers' pictures and their predecessors, which has traveled through Asia and Europe, will be on display through January 22nd. Accompanying it is a collection of West Virginia wilderness photos by Kent Mason. For more information, go to www.randolpharts.org/exhibits.)

Then Rodney Bartgis, state director of The Nature Conservancy (TNC), explained how global warming has compelled his organization to broaden its conservation efforts from isolated biological "hot spots" to migration corridors that may permit endangered species to move both upward and northward. Bartgis pointed out three advantages our region has for coping with climate change: we are one of the most biologically diverse places in North America; we have forested, south to north habitat corridors with relatively few roadblocks; and our terrain varies significantly in elevation. Biodiversity is our blessing and our responsibility; it will help to keep our ecosystems resilient under the pressure of a changing climate.

During a break, I turned to Elizabeth Byers, who works on wildlife diversity at the Division of Natural Resources (DNR) field office in Elkins. She participates in the High Elevation Working Group, an informal collaboration of federal, state, and non-profit organizations including the Highlands Conservancy. Besides us, and DNR and TNC, representatives come from the Fish and Wildlife Service (both the Canaan Valley National Wildlife Refuge and the Elkins Field Office), the Forest Service (Supervisor's office, Greenbrier Ranger Station, and Fernow Experimental Forest), the Natural Resources Conservation Service Plant Materials Center in Alderson, and the Appalachian Forest Heritage Area's Americorps volunteers.

I like to ask Byers about their meetings because her first response is always a brilliant smile. (Dave Saville, our contact with the group, tells me about it on the phone, and he's also enthusiastic, but that smile is worth 10,000 words.) It's just so much fun to work with like-minded colleagues across agency boundaries in pursuit of common goals. No turf disputes; instead, the group's members share ideas and offer encouragement and tips about funding and partnership opportunities.

While each agency and organization has its own mission, all share the concerns that TNC's Bartgis described, and particularly the restoration of the red spruce forest that used to extend over 500,000 acres in West Virginia but now covers barely ten percent of that. If it remained within present limits, red spruce would be unlikely to survive the

changes in our climate: stuck on isolated peaks, it couldn't move upward or northward. As red spruce goes, so goes an ecosystem that provides a habitat for many rare species; best known, perhaps, is the

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SUPREMES DENY PERMIT FOR POCAHONTAS COUNTY QUARRY

By reversing a decision of the Circuit Court of Kanawha County, the West Virginia Supreme Court has denied the Waco Oil and Gas Company a permit to open a sandstone quarry in Pocahontas County.

Waco had originally sought from the West Virginia Department of Environmental Protection a permit to operate a sandstone quarry in what the Court referred to as "a quiet, unspoiled, remote, and beautiful geographic area of Pocahontas County _ an area where tourism, second homes, and outdoor recreation are a growing and now crucial part of the local economy." It was undisputed that the proposed quarrying would have caused substantial damage to the present and future well-being of the county, and specifically to local businesses, residents, and visitors.

The Department of Environmental Protection denied the original application. In did so because of two conclusions: (1) The location of the proposed quarry, including the noise, blasting, dust, and general unsightliness which are necessarily associated with a stone quarry, will prevent adjacent landowners from the normal use and enjoyment of their properties and will cause a decline in the value of properties adjacent to the quarry site, thereby impairing the property rights of others; (2) The foregoing impacts will result in the destruction of aesthetic values, recreational use and future use of the area and surrounding areas in this especially scenic and tourist-oriented area.

This denial was upheld by the Surface Mine Board.

The Circuit Court of Kanawha County reversed the Surface Mine Board, effectively approving the permit. The Supreme Court reversed the decision of the Circuit Court and the permit was finally denied.

The Pocahontas County Commission opposed the permit for the quarry. Commission President, Joel Callison explained his reasons for opposing this application. His principal reason for opposing this quarry permit, as Commission President, was protection of the quality of life for the people who live in the area.

A secondary reason for opposition is the effect of the quarry on the aesthetics of the area, which impacts tourism in the county. Tourism has been the only business or industry in the county that has grown and shows growth potential for the future. This is because of Pocahontas County's natural beauty and location. Mr. Callison stated that it is not easy for the County Commission to oppose something that may bring jobs to the county, but in this case, it is a question of what is good for the county for the long term versus the short term.

Pocahontas County has become one of the most prominent tourist destinations in West Virginia and the eastern United States. It attracts 900,000 visitors per year. These visitors come from all over. In the winter, the largest numbers of visitors come from North Carolina, Florida, Georgia and the South. In the summer, the county's largest tourism markets are Virginia, Ohio, Maryland and West Virginia. State Division of tourism statistics indicate that overnight guests spend an average of $70 per person per night. The estimated annual economic contribution to the Pocahontas County economy from tourism is between $20 and $30 million.

MEMBERS STAMPEDE TO ELECTRONIC VOICE

Since last month we have had seven more members switch from getting a paper Voice to an electronic version. While it may be more of a steady trickle than a stampede, it does indicate that switching to an electronic Voice is becoming a more popular option with readers.

There will always be a paper version of The Highlands Voice. To continue to get it you don't need to do anything.

If, however, you would prefer you can switch to receiving it by email. You get it the instant it goes to the printer – no waiting for a week or more. It's in color, so you can print it out on your deskjet on nice paper and have a spiffier Voice to grace your coffee table.

The *Highlands Voice* is published monthly by the West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321. Articles, letters to the editor, graphics, photos, poetry, or other information for publication should be sent to the editor via the internet or by the U.S. Mail by the last Friday of each month. You may submit material for publication either to the address listed above or to the address listed for Highlands Voice Editor on the previous page. Submissions by internet or on a floppy disk are preferred.

The *Highlands Voice* is always printed on recycled paper. Our printer uses 100% post consumer recycled paper when available.

The West Virginia Highlands Conservancy web page is www.wvhighlands.org.

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.

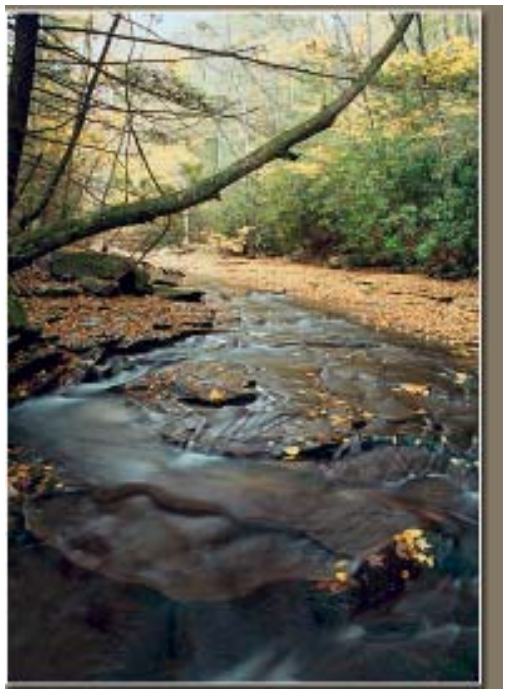
HOPE REIGNS FOR EARLY 2009 PASSAGE OF THE WILD MONONGAHELA ACT

By Dave Saville

We are all somewhat disappointed that the Senate wasn't able to take up the Omnibus Public Lands Package during the recent lame duck session due to the short schedule and the need to address the financial/economic crises.

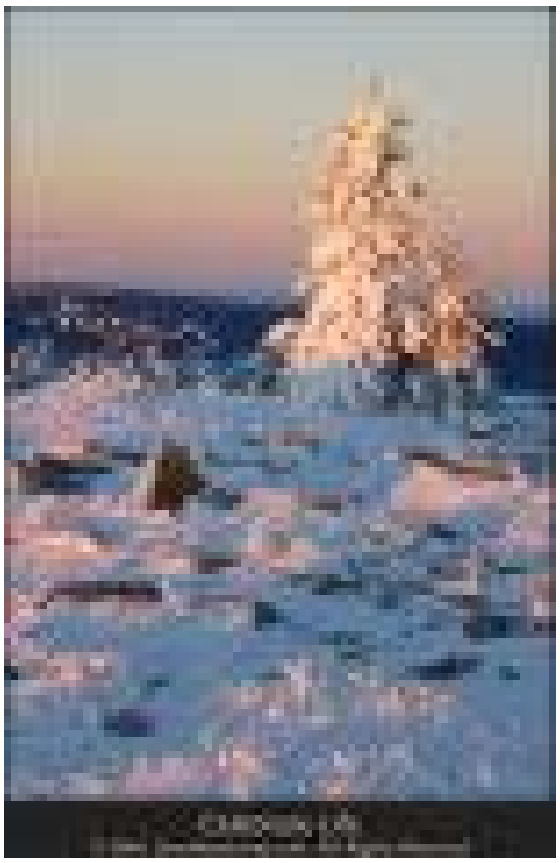
Senate Leader Harry Reid has pledged, however, to bring this important conservation measure to a vote early in the next Congress. He said that the lands bill would be reintroduced as the "first or second" action taken in January and could be placed quickly on the Senate calendar without having to go back through the committee process.

This package of public lands related legislation contains some 150 bills including our own Wild Monongahela Act which would forever protect over 37,000 acres of special wild places in West Virginia's



Flowing waters of Spice Run

Photo © Jonathan Jessup



Dolly Sods

Photo © Jonathan Jessup

Monongahela National Forest. Protecting these places as Wilderness will ensure that people will always be able to enjoy hunting, fishing, hiking and other recreational opportunities in the unparalleled natural surroundings these areas provide. The measure would expand the existing Cranberry, Dolly Sods and Otter Creek Wilderness areas, and also create three new Wilderness Areas: Big Draft, Spice Run and Roaring Plains West.

This legislation is the result of many years of work and collaboration by many different stakeholders and a broad base of constituencies including business owners, sporting and faith communities, locally elected officials, conservationists and many statewide organizations. It was sponsored by West Virginia's entire Congressional Delegation and its strong bipartisan backing helped it move forward, nearly to passage this year. It certainly deserves to be a priority in the new Congress.

On behalf of the citizens of West Virginia, and everyone who loves and appreciates these special places, we look forward to continuing our work with the Senate and House leadership to make sure passage of this important conservation measure is among the top priorities early in the 111th Congress.

It has been through the cooperative work of many people that we have been able to bring this legislation to the brink of passage. We continue to do everything possible and necessary to ensure its ultimate success. I am truly humbled by the number of people who have contributed to the success of this effort. A huge thank you to all of our supporters whether you've written a letter, attended one of our grassroots organizing workshops, joined us on a lobby trip in Washington, DC, or made a donation to help us in our work. Please continue your support for a short while longer.

It's been over 25 years since the Cranberry and Laurel Fork Wilderness areas were designated in 1983 and nearly 35 years since Dolly Sods and Otter Creek were protected in 1975. It will be an historic day in West Virginia, one that will be celebrated by multitudes of supporters, when the Wild Monongahela Act becomes law. I am more optimistic than ever that day will be soon.

Speakers Available !!!!!!

Does your school, church or civic group need a speaker or program presentation on a variety of environmental issues? Contact Julian Martin at 1525 Hampton Road, Charleston, WV 25314, or Martinjul@aol.com, or 304-342-8989.

Your comments and opinions are important to us.

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 John McFerrin, WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

States (but not West Virginia) Weigh In To Oppose Change

BUFFER ZONE RULE CONTROVERSY CONTINUES

By John McFerrin

As reported in the November, 2008, issue of *The Highlands Voice*, the federal Office of Surface Mining has decided to effectively abolish what has come to known as the stream buffer zone rule. This rule prohibits mining within one hundred feet of a stream. Since "mining" within one hundred feet of a stream would also prohibit filling the stream, the existence of this rule (if enforced) would restrict mountaintop removal and valley fill mining.

Before the rule change can become effective, however, the United States Environmental Protection Agency must affirm that the change does not violate the federal Clean Water Act.

It has long been the West Virginia Highlands Conservancy's position that eviscerating the buffer zone rule would violate the Clean Water Act. We have always said that the Environmental Protection Agency could never affirm such a change for this reason. It is difficult to imagine how EPA can agree to eviscerating the buffer zone rule as the Office of Surface Mining proposes - particularly in the wake of the prize-winning EPA Region III study which found that mountaintop mining and valley fills degrade water quality in Appalachian streams.

Since the Office of Surface Mining announced the new buffer zone rule, other states have weighed in. In Kentucky, Gov. Steve Beshear formally objected to the proposed change in the rule.

The objection was contained in a letter from Gov. Beshear to the U.S. Environmental Protection Agency (EPA). It contends that the proposed rule change, offered in the waning days of President Bush's term, would threaten the Kentucky's ability to protect its natural resources, including water and streams.

Gov. Beshear was joined in his objection by Attorney General Jack Conway and Congressmen Ben Chandler, of Lexington, and John Yarmuth, of Louisville, all of whom wrote individual letters of concern to the EPA.

"Kentucky's vast water resources are critical to our health and economic development," Beshear wrote in his letter to Stephen Johnson, EPA administrator, "and I do not believe the newly proposed waivers can be effectively and uniformly applied to protect these water resources."

In his letter to Johnson, the governor noted that coal is – and will remain – "a vital resource" as part of Kentucky's economy and the country's future energy needs. "It is a crucial energy resource for us and for the nation overall now and into the future," Gov. Beshear wrote. "However, I am strongly committed to environmentally responsible coal mining and cannot support rules that may be subject to arbitrary administration or enforcement."

In his letter to the Environmental Protection Agency, Attorney General Conway wrote, "Coal is an integral part of Kentucky's economy and an important domestic energy resource... Nevertheless, our rivers and streams are also critical natural resources that must be protected if we are to pass along a stable environment to coming generations ... I support environmentally conscious mining and am concerned that a series of new waivers to existing regulations will lead to the potential for abuse or arbitrary enforcement."

"I applaud Governor Beshear's opposition to this rule," said Congressman Chandler in a statement. "Undermining the Stream Buffer Zone would endanger our water and threaten the health of our people and our economy. I am convinced we can protect Kentucky's unique landscape while also maintaining our low-cost energy advantage."

Echoing that sentiment, Rep. Yarmuth said while coal is a "critical source of energy for our nation … the economic gains of this industry should not come at the expense of our residents' health and quality of life. The damaging effects of dumping fill into our streams are evident in the water quality and environment in coal producing regions."

In Tennessee, Governor Phil Bredesen also asked that the Environmental Protection Agency not concur with the proposed change in the buffer zone rule.

In his letter to the Environmental Protection agency he said, "The final Environmental Impact Statement makes clear what a poor job OSM has done of protecting streams from the impacts of coal mining and related activities. It states that, in the ten years from 1992 to 2002, more than 1200 miles of streams in central Appalachia have been directly impacted by coal mining, either by being mined through or by being bun'ed under spoil disposal piles. That is approximately 2 percent of the streams in the Kentucky, Virginia, and West Virginia coal fields (p, I V-146)."

"These streams have been mined through or buried because OSM has liberally granted variances to the stream buffer zone requirement. Ironically, OSM is now shining a light on its practice of routinely granting variances in order to justify doing away with the variance process altogether. The agency argues that since variances have been routinely granted, there will be no impact if the buffer zone is completely removed (p.IV-147). The argument ignores the policy reason for having the buffer in the first place.

"According to OSM's own statement, this rule will allow the continuing destruction at the rate of close to 2 percent of the streams in the central Appalachian region every ten years. In Tennessee, we interpret the requirements of state and federal water pollution laws to prohibit coal mining operations to mine through streams or bury them. Currently, this means that operations that straddle the Kentucky-Tennessee border have no stream fills in Tennessee while having them in Kentucky. To have a policy that is both consistent across the country and protective of mountain streams, we urge you to reject OSM's proposal.

To date West Virginia Governor Joe Manchin has made no public statement on the rule change.

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.

LEGISLATURE IGNORING IMPORTANT INTERIM STUDY TOPICS

By Donald S. Garvin, Jr., West Virginia Environmental Council Legislative Coordinator

The West Virginia Legislature's Interim Committees have been delving into several issues this year critical to possible protection of land resources and regulation of air and water quality.

However, legislative leaders have apparently chosen to ignore three of the most significant environmental topics that were approved for study by the Joint Committee on Government and Finance. And with only three more months of Interim meetings before the 2009 Legislature convenes, it is doubtful that these issues will be dealt with in any significant way.

Climate Change

At the top of this list is HCR 113, which authorized a study of the impacts of climate change in West Virginia. The full text of the resolution authorized the Legislature "to study and develop a plan to mitigate negative effects of climate change, address economic impacts, help save lives, protect public health, preserve natural resources and protect valuable infrastructure; and . . . to study renewable portfolio standards; and feed-in tariffs; and basing vehicle registration fees on the vehicles fuel economy rather than its value; and stringent fuel efficiency standards for state vehicles."

HCR 113 was assigned to the Joint Standing Committee on Government Organization, which is co-chaired by Delegate Jim Morgan (D – Cabell) and Senator Ed Bowman (D – Hancock). We have been told by insiders that members of the committee felt this issue was "too hot" politically to deal with.

This study resolution was based on a bill introduced in the 2008 session, HB 4095, which would have created a commission to study the impacts of global warming in West Virginia. Many state legislatures are now actively considering the possible impacts of climate change to their specific states. And the issue should be of particular interest to West Virginia, a state that is so heavily vested in energy resources and energy production.

So it is disappointing to see the Legislature "take a pass" again on climate change. It is time that our lawmakers join in this national discussion. Perhaps the creation of an official study commission, as recommended in HB 4095, would be the logical and best next step to take.

Impacts of Mining

Second on the list of ignored study topics is a "Study of the Economic and Environmental Impact of the Coal Industry." This proposed study was also based on a resolution introduced in the 2008 session – SCR 89 which was originated and adopted by the Senate Energy, Industry and Mining Committee on March 6th, but was not sent to the floor for consideration by Senate Rules Committee. The version of SCR 89 adopted by EIM was compromise language that called for a balanced study of both the economic and environmental impacts of coal mining in West Virginia.

This study was assigned to the Joint Commission on Economic Development which is co-chaired by Delegate Charlene Marshall (D – Monongahela) and Senator Brooks McCabe (D – Kanawha). However, this committee has chosen to take up a wide range of other assigned study topics, including "clean coal technologies" and the status of economic development programs offered by the state.

In fairness to the committee, it is possible that a study of this scope is just too broad for an Interim legislative committee to deal with. And perhaps the creation of an official public study commission would be the logical and best next step to take here as well.

Public Health Impact Assessment

Third on the list of ignored study topics is authorization of the Legislature to "Study the Public Health Impact of DEP Rules." This proposed study was also based on a bill introduced in the 2008 session – SB 23, a bill that would require the Bureau of Public Health under DHHR to prepare a "public health impact assessment" of rules proposed by the Department of Environmental Protection that would change water quality and air quality pollution standards in West Virginia.

The West Virginia Environmental Council has supported similar legislation for the last three years. Currently no such review is required or conducted for proposed DEP rule changes, and rules proposed by DEP almost never consider factors unique to the state, such as geography or pre-existing conditions, when developing them. This results in a vacuum of understanding of the significance of these changes for legislators who must approve them, and for the citizens whose health depends on them.

This study was assigned to the Legislative Oversight Commission on Health and Human Resources Accountability which is co-chaired by Delegate Don Perdue (D – Wayne) and Senator Roman Prezioso (D – Marion).

While both of the co-chairs have expressed interest in tackling this issue, the committee's agenda has been totally overloaded with other important health study topics. It is still possible the committee will deal with this topic in some fashion before the end of Interims.

Progress on Other Interim Studies

On the other hand, Legislative Interim Committees have been extremely active in dealing with several other issues of importance to the environment.

Subcommittee D of the Joint Standing Committee on Government Organization has had multiple presentations on HCR 87, which authorizes a study of the adoption of green building standards for public buildings. It is likely that the subcommittee will advance a bill proposal for approval by the full Legislature.

The Joint Legislative Oversight Commission on State Water Resources also has had a wide range of presentations, including Marcellus shale and other oil and gas drilling water issues, wetland mitigation, Chesapeake Bay restoration, and funding of safe drinking water projects.

Judiciary Interim Subcommittee A has had a wide range of presentations, including the sequestration of greenhouse gasses, oil and gas severance taxes, surface owners' rights when dealing with oil and gas development, and an electronic filing process for agency rule-making.

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MORE ABOUT MATTERS LEGISLATIVE

(Continued from p.6)

Judiciary Interim Subcommittee B has had a couple of presentations relating to HCR 114, that authorizes "a study of litter and landfill avoidance, beverage container recycling and litter control systems," even though committee co-chair Mike Oliverio (D – Monongahela) will not allow the committee to take up the "Bottle Bill" again.

And finally, the Forest Management Review Commission has asked the West Virginia Division of Forestry to prepare a strategic plan for statewide forest management by December, 2009. At the November Interim meeting of this committee, state Division of Forestry Director Randy Dye announced that a special committee of timber interests, government officials and one conservation organization (the Nature Conservancy) will spend the next 12 months developing the strategic plan.

After the meeting I confronted Director Dye (reporters were present at the time) with the fact that no representatives of environmental advocacy groups were included in the special committee of more than 60 persons he had appointed to prepare the strategic plan (the Nature Conservancy does not advocate regulatory policies).

Director Dye responded that he was receptive to including our representatives on the special committee. So, to use a sports metaphor, the ball is now in our court.

Throughout the 2008 Interim Legislative Sessions, the WVEC has provided a significant voice for the environment at the Legislature. WVEC arranged important presentations to the various committees by folks like Vickie Wolfe (WVEC renewable energy committee chair), Cindy Rank (WVEC board member), and WVU professor Chris Haddox.

I would be remiss if I did not point out that WVEC's presence at these Interim sessions is due almost totally to the financial support of the West Virginia Highlands Conservancy, as well as other WVEC member groups.

The 2009 session of the West Virginia Legislature begins February 11.

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 $10 total by mail; **long sleeve** is $15. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTEN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.

DEPARTMENT OF ENVIRONMENTAL PROTECTION WITHDRAWS WATER QUALITY STANDARDS RULE

By Donald S. Garvin, Jr. West Virginia Environmental Council Legislative Coordinator

In response to overwhelming opposition from polluters and industry lobbyists, the West Virginia Department of Environmental Protection has withdrawn its proposed rule changes to 47CSR2 (Requirements Governing Water Quality Standards).

The changes proposed by the Division of Water and Waste Management would have clarified and codified the State's long-standing (almost 40-year) practice of designating all waters of the State – with only a few exceptions – as public drinking water sources (Category A Water Supply Use).

According to Randy Sovic, Senior Technical Analyst with DEP's Division of Water and Waste Management, "Since at least 1967 the EQB has promulgated Water Quality Standards that include, among others, 'Water Supply, Public' as a water use category to be protected."

Environmental groups have long supported the official "codification", or inclusion, of this practice in the official Water Quality Standards rule. Industry groups have fought for elimination of the practice for years.

DEP's proposed rule change included provisions to streamline industry requests for obtaining variances from meeting the requirements of Category A standards. At a meeting this summer of the DEP Advisory Council, DEP Secretary Randy Huffman told industry lobbyists that "they couldn't have it both ways." He told them that if they wanted the streamlined process for granting variances, they would have to accept including Category A in the rule.

Sources at DEP said recently that industry continued to oppose the rule changes, even with the streamlined variance provisions, so the agency withdrew the rule.

In a related matter, on October 29 the DEP Division of Water and Waste Management filed a final revised version of its "Tier 3 Interpretive Rule."

To its credit, DEP's final version contains a broader definition of streams that automatically qualify for Tier 3 protection. Tier 3 protections will now apply to all streams and stream segments located within National Wilderness Areas, State Parks, National Parks and National Forests, and should include all waters within units of the National Park system, including the Gauley River. DEP acknowledged that this was the intent of the Legislature.

DEP also made positive changes to how stream segments upstream of a Tier 3 water will be regulated. However, other changes suggested by environmental groups were not accepted by DEP.

The "Tier 3 Interpretive Rule" is an administrative rule, not a legislative rule. The agency will use this administrative rule to implement the new antidegradation rule passed by the Legislature in the 2008 Legislative Session.

THE MARCELLUS SHALE: IS THE GAS WORTH THE RISK TO THE WATER?

By Beth Little

There has been much discussion of late of drilling for natural gas in the Marcellus shale (see the April, 2008, and August,2008, issue of *The Highlands Voice*, for example). It is touted as clean, locally available, etc.

While the actual production of energy from gas may be clean, or at least cleaner than coal (it still puts lots of carbon dioxide in the atmosphere), extracting it from the ground is anything but clean. People in the gas drilling industry seem to exclude the disturbances created by such things as leveling several acres of ground, building miles of new road and pipeline, exhaust from hundreds of trips of 14-wheelers and running generators and drilling rigs 24/7.

This disturbance exists for every well, but then there are the mishaps. Many wells may be drilled without problems, but when it comes to exploding houses, polluted wells, sterile farm animals and organ failure, most people want zero odds, or close to it. These things have all happened. Read the article in the November, 2008, issue of *Scientific American* http://www.sciam.com/article.cfm?id=drill-for-natural-gas-pollute-water&print=true for hair-raising examples. Or visit the Fernow Experimental Forest right here in West Virginia where drilling waste was spread on several acres and killed all vegetation within days.

Many of the problems are a result of the nearly universal practice of "fracking" wells. The gas that the wells are designed to extract is found in pores in the rock. In order to make it flow freely to the surface, it is necessary to fracture the rock and release it. Companies do this be injecting fluids (the "fracking fluids") under enough pressure to break the rock.

Then there are the consequences 10, 15 or 25 years from now of unknown chemicals buried in the ground. Because the content of the fracking fluids is secret and excluded from regulation by the Safe Drinking Water Act (as a result of Vice President Dick Cheney's oversight during preparation of the 2005 Energy Policy Act), no amount of assurances by the gas industry is going to reassure people who are familiar with history. During major pollution horrors such as Love Canal, 3 Mile Island and Bhopal, government and industry spokespeople were claiming that there was no danger until it became impossible to continue their denials.

The general practice is to collect (or at least try to collect) whatever water or other fluids that come out of the well or are used in the drilling in plastic lined pits. When the drilling is over, the pits are covered over.

The idea of folding up toxic waste in a plastic liner and burying it a few feet in the ground is not my idea of a safe practice. Out here in the West Virginia mountains, where there is talk of drilling hundreds, or even thousands, of Marcellus shale wells, I can think of a number of things that could eventually cause holes in the plastic, assuming there were no holes or tears created during the practice of folding it up and burying it. Then what happens to that spot where it is buried? Is it marked and fenced? Will nothing ever grow there – sending down roots? Will groundhogs never dig there? Will fences never be built there? Or a house or barn? Forever?

And what is in these fracking fluids anyway? Why is it such a secret?

Then there is the matter of how much water it takes to drill in the Marcellus shale. It rains a lot in West Virginia, but most of it runs off in small streams; and there are two or three months when things get pretty dry. In fact, there are three towns in Pocahontas County, where I live, that are out of water this year; and the Tygart and Stonewall Jackson Lakes are lower than they have ever been. Streams in Pennsylvania were pumped dry for gas drilling.

Optimists describe the Marcellus shale as containing enough gas to supply our needs for ten years. Ten years supply of gas doesn't sound like much to me. It just postpones the day when we are going to have to learn to live without getting energy out of the ground. If we could tap into an unlimited supply of gas, there might be an argument for sacrificing more of West Virginia to heat the hottubs in DC. But for only 10 years of gas, we would be wiser to protect the best source of clean drinking water for the eastern seaboard.

Well site during active drilling to the Marcelllus Shale formation in Upshur County, West Virginia, in 2008. (An additional water storage pit is not in the photo.) Copyright WVSORO.

MORE THOUGHTS FROM PRESIDENT HUGH (Continued from p.2)

northern flying squirrel, ironically just removed from the endangered species list.

This thread of the Working Group can be traced back to the Healing the Headwaters conference held at Snowshoe in 2000, and a follow-up gathering at the Cheat Mountain Club in 2005. Healing the Headwaters research and restoration projects were initiated by the Shavers Fork Coalition and co-sponsored by the Highlands Conservancy and other organizations, importantly including TNC, Trout Unlimited, and West Virginia University. Collaboration on the Upper Shavers Fork led naturally to consideration of other places where red spruce, rare species, and acidified streams were equally in need.

Long before the 40,000-acre Mower Lumber Company tract was sold to the Forest Service, the Highlands Conservancy had led the fight to protect the Upper Shavers Fork from excessive timbering and mining. "Can Shavers Fork Be Saved?" asked the *Voice* back in 1969. In 1977, Conservancy lawyers filed a petition to have the area declared "unsuitable for surface mining" under the brand-new Surface Mine Control and Reclamation Act.

Now, the largest project being discussed by the High Elevation Working Group is restoration of the Mower Tract, including the strip mines we were unable to prevent. Those mines were "reclaimed" in the days when pine plantations and non-native grasses offered a quick-and-dirty hold against erosion. The Forest Service is working with DNR on a list of native plants to replace the sketchy reclamation. More than a hundred sub-canopy species are good candidates.

Meanwhile, the Forest Service also works with Canaan Valley National Wildlife Refuge on spruce restoration where their lands adjoin; TNC encourages its cooperating private landowners on their adjoining properties, as well as on TNC's own reserves; the Fish and Wildlife Service works with private landowners as well; the Northeast Forest Experiment Station (Fernow) contributes research on the best management practices for spruce; and West Virginia state parks and forests have begun their own spruce projects.

The Highlands Conservancy works with all of the above. "Red spruce are us," we could say, thanks to Dave Saville, who runs our tree cultivation and planting projects. More than ten years ago, finding no commercial sources of spruce seedlings, Dave decided to do it himself. So far, he has been responsible for growing and planting 100,000 red spruce trees across the highlands. 40,000 more seedlings will be available for large cooperative projects by Spring 2010. Dave and Corey Bonasso are preparing an outreach and education program to spread the word about the history, ecology, new initiatives, and future of this ecosystem.

After our conversation at the Elkins event, Byers sent me a map and the accompanying paper she had written with Michael Dougherty of DNR's tech support staff. "Landscape Integrity in West Virginia Based on Distance from Weighted Disturbances" offers one view of our wildest areas. Next up is a new GIS layer for environmental risk, showing density of rare species and high quality habitat. Two years ago, TNC's Eastern U.S. Conservation Region produced a map of species richness per 25,000-acre hexagon—at that scale, and by that measure, we are <u>way</u> richer than any of our neighbors. It will be great to have the DNR's tighter-focused version.

Neither Byers nor any other participant in the Working Group has mentioned a discussion of wind energy development, but I can't imagine it being ignored. The maps I just mentioned and the map of "High Wind Resource Areas of West Virginia" produced by the National Renewable Energy Laboratory register all too predictably. What's wild is windy, what's windy is wild. Among other uses, the new GIS layer will be available to companies considering development projects in hopes they will avoid areas with a high probability of rare species occurrence. We'll see how that works. Surely the profusion of data prompted by DNR's new Wildlife Conservation Action Plan and shared with the Working Group should be influential in wind turbine siting decisions.

But that's my obsession, not theirs. What I wanted to convey most of all was the smile: the pleasure of good work with good companions. I'm happy to know they're on the case.

PUBLIC SERVICE COMMISSION APPROVES LAUREL MOUNTAIN WIND FARM; OPPONENTS RESPOND

In late November the WV Public Service Commission approved the application of AES Laurel Mountain, LLC for a permit (siting certificate) to construct and operate a 65 turbine wind powered electricity generation facility (wind farm) on Laurel Mountain, in Randolph and Barbour counties.

AES states that the facility would have generating capacity of approximately 130 megawatts of electricity.

Opponents to the application for a siting certificate include a local citizens' tax-exempt organization known as the Laurel Mountain Preservation Association (LMPA). LMPA says that it is "very disappointed in the decision of the WV PSC to grant the siting certificate".

The proposed facility would be prominently visible from downtown Elkins as well as from sweepingly broad vistas in Barbour and Randolph counties.

In approving the application the Public Service Commission stated that the project would have a significant positive impact on economic development in the region. Public Service Commission also said that the project would not significantly negatively impact the operation of coal-fired generators on the PJM power distribution grid by driving them to minimal operational levels.

The PSC order granting a siting certificate requires Laurel Mountain, in consultation with Commission's Staff, the U.S. Fish & Wildlife Service, and the West Virginia Division of Natural Resources (collectively the Consulting Team) to provide guidance on the scope, development, and implementation of certain post-construction studies to commence no later than one year following commercial operations of the Project.

The studies would assess the Project's impact on bat life, the potential for adaptive management strategies to mitigate those impacts, the expected cost of those strategies over a range of mitigation effectiveness levels, and any other aspects of bat/wind turbine interactions identified and agreed to between Laurel Mountain and the Consulting Team.

In its Order, the Commission said that, "No West Virginia statutes or rules suggest that wind turbines are an inappropriate or unwarranted source of new electric generation in this State. Absent statutory guidance to the contrary, it is reasonable to encourage the development of diversified sources of fuel to generate electricity and to include renewables such as wind among those diversified sources."

The PSC also said, "We are not aided in our task by any statutory (or regulatory) prejudgment of the merits of wind turbine projects generally."

To some observers this would indicate the Commission's notice of a significant void of legislative or other regulatory oversight on matters relating to siting and operation of wind turbines. West Virginia Congressman Alan Mollohan has indicated interest in encouraging the development of comprehensive and definitive siting rules for wind farms.

The PSC said that by the end of October, 2008, the comment letters in support of the Project numbered nearly 600, and the number of comment letters in opposition approached 300.

In a news release issued after the PSC's Laurel Mountain ruling, Laurel Mountain Preservation Association said that it would ask the PSC to re-consider its approval of the project. LMPA also stated in this release that the Commission failed to properly balance negative impacts vs. claimed benefits through their apparent acceptance of flawed AES studies and concepts. These flaws which LMPA asserted included:

1. The allegation of need in light of a PJM report indicating otherwise.
2. The timing of the study seeking to determine the presence or absence of endangered bat species,
3. A visual impact methodology which undercounted the numbers of turbines within the field-of-view from a particular view point.
4. A hydrology study conducted under severe drought conditions.
5. A noise study which discounted harmful low frequency noise.
6. A "clean energy" presumption which ignores the specific need for "spinning reserve, " predominantly fossil-fuel based in West Virginia to mitigate random or unforeseen wind variability.

HATS FOR SALE

West Virginia Highlands Conservancy has two models of caps for sale. One is khaki and the pre-curved visor is forest green. The front of the cap has West Virginia Highlands Conservancy in gold above *We* ❤ *Mountains*. The heart is red; and lettering is black.

The other model is tan with a muted green pre-curved visor. The front sports the lovely, in color, logo that appears on the VOICE masthead. Beside the logo is "West Virginia Highlands Conservancy" in green. The lower back of the hat has the *We* ❤ *Mountains* slogan.

Pictures of both appear on our website www.wvhighlands.org. Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is $12 by mail. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306

SOLAR POWER

By Don Gasper

Recently it was reported that solar panels do not need a lot of sunlight to produce significant amounts of electricity. Even foggy old England, which is well north of most of the United States, could generate all the power it needs from their sun. The United States, and even West Virginia, is much more favorably positioned.

The sun, over 100 times bigger than earth and 93 million miles away, is a nuclear incandescent furnace, converting hydrogen to helium and simultaneously changing 345,600 tons of matter into energy daily. Of course only a portion of the sun's total radiation hits the earth - ½ of 1 billionth. This though is 126 trillion horsepower — every second.

Gasses in the atmosphere act as an atmospheric envelope surrounding the earth held by the earth's gravity. Denser gasses lie within 3 miles of the earth's surface. These with rotation and geography produce weather/climate conditions. They also act as a gigantic insulator filtering out ultraviolet and cosmic radiation and cause meteors to burn out. About 42% of our solar energy rays are reflected back into space, without quite touching the earth; 15% is absorbed by the atmosphere; the remaining 43% is absorbed by the earth's surface. On a cloudy/overcast day 75% is reflected back; snow does this also. However on a clear day a dark forest can absorb 95% of the solar energy that reaches the earth, grassy fields 80%, water 60 to 90%, sand and plowed field 75 to 90%.

The sun is the source of almost all energy on earth. Solar heat creates most wind and also causes evaporation from the oceans, and other bodies of water, resulting in most precipitation - that falls filling rivers and lakes making hydroelectric power possible.

Coal and petroleum are fossil remains of plants and animals that, when living, required sunlight. In one hour the earth receives solar energy equivalent to the energy contained in more than 20 billion tons of coal.

Now solar panels are making their way into the American way of life. I was at a recent North American Fishery Conference and was made aware of a lake circulator designed to increase oxygen throughout the lake throughout the year. It will affect 45 acres. It is run on 2 solar panels 2' X 2'. Two 1' X 1' panels powered a fish movement recorder. The United States Geological Survey flow stations have long used the long perfected 1' X 1' panels powering their components.

Coming home I pulled into a remote Adirondack campground and its toilet was lit with a solar panel. For a couple of years I have stayed in a remote United States Forest Service cabin in Wyoming where one 5' X 2' panel coupled with a battery and convertor supplied one half the power a family would normally use.

There are some progressive families now announcing they are living "off the grid" by mounting one or more on their roof top. Some are, perhaps, trying only 1 panel and satisfied with its assistance in reducing the need for the power grid and its multiple costs. One panel may be inadequate and require the same battery/converter set-up that 2 or more would. One panel about 5' X 2.5' and 2" thick, weighing 30 lbs., costs about $1,000. B.P. has a 25 year warranty. There is some federal monetary support, as a part of the energy independence program.

It would seem that home supply stores could sell solar panels, advising and instructing customers how to install them themselves or putting them in touch with professional installers. This is what they do if you buy flooring or cabinets or lots of home improvements. If enough citizens would ask perhaps even Walmart would. What's the hold-up? Their time has come. Is it us?

THE POWER OF SUBSIDIES

By Don Gasper

With all the talk of bailing out various industries, we should take this opportunity to redirect businesses toward sustainability. For example, if we are going to bail out the U.S. auto industry, we should do it by placing an incentive on each eco-friendly car. Instead of simply spending the money and getting whatever benefit to the country a stronger auto industry would bring, it would take us all where we want to go. Business would be redirected to sustainability.

If we similarly want eco-friendly new homes built, the government might provide a financial incentive if the house was not overly large, insulated, used passive heat and cooling, etc. The installation of geothermal pipes in the ground for heating and cooling could an added incentive as could the installation of solar panels.

We have already taken one step down this path. The Emergency Economic Stabilization Act of 2008 (also known as the Troubled Assets Relief Program, the $700 billion bailout, and assorted other names, depending upon ones perspective) contained within it a new energy tax credit for 30% of expenditures for wind turbines used to generate electricity in a residence and for geothermal heat pump systems. Especially with the ongoing improvements in battery technology, such systems could be an important part of a decentralized energy system. While none of the $700 billion will go to wind or geothermal systems, in one respect the bailout program is directing business in a direction we want to go.

With such decentralized power generation, existing power lines clearly will be sufficient. If we have millions of independent power sources with little need for a power grid, existing grids would be adequate for power sources where such grids are needed. They would furnish considerable security should the existing grid fail.

BROCHURES

The West Virginia Highlands Conservancy has joined with the Sierra Club, Coal River Mountain Watch, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, Appalachian Voices, Kentuckians for the Commonwealth, Keeper of the Mountains Foundation and Christians for the Mountains have put together a new brochure entitled ***"Mountaintop Removal Destroys Our Homeplace STOP THE DEVASTATION!"*** For a copy send a self addressed stamped envelope to Julian Martin, 1525 Hampton Road, Charleston, WV 25314.

Quantities are available for teachers, civic and religious groups and anyone who can distribute them.

Now Released on **DVD***: Celebrating 40 Years - The West Virginia Highlands Conservancy*

In 2007 the West Virginia Highlands Conservancy celebrated its first forty years, as documented in David Elkinton's excellent and thorough book Fighting to Protect the Highlands: The First Forty Years of the West Virginia Highlands Conservancy". At the fall meeting that year, held at the Cheat Mountain Club on Shavers Fork, former presidents and members were recruited to attend the anniversary of the group's founding.

Charleston filmmaker and Conservancy board member Bob Gates documented the event. This fast paced 58 minute video converses with many of the attendees and summarizes the accompanying panel discussion.

Attendees talk about the founding of the WVHC and the issues they delt with. A few tall tales are thrown in too. The panel discussion focuses on the many successes and some of the failures through the four decades of the Conservancy's activity. Successes include saving the Canaan Valley from being turned into a pumped storage reservoir and working on Monongahela National Forest issues including wilderness designations. Fighting mountaintop removal coal mining remains an up-hill struggle.

West Virginia Library Commission film librarian Steve Fesenmaier reviewed the video as follows: "I found the 58 minute documentary to be fascinating, including interviews not only with the founders of West Virginia's oldest environmental organization but also many other West Virginia activists from a wide spectrum of activities."

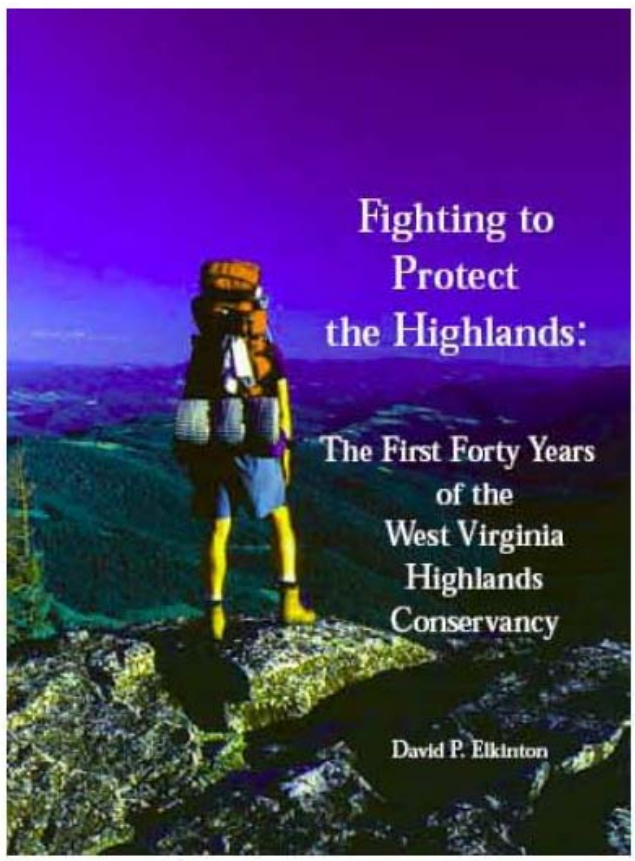
Seen in the video are: newcomer Mike Buransky, longtime member Perry Bryant, former president Bob Burrell, founder and wilderness activist Rupert Cutler, "Monongahela National Forest Hiking Guide" author Allen deHart, former president and '40 Years' book author Dave and Jan Elkinton, stream expert Don Gasper, a fleeting shot of filmmaker Bob Gates, founder Lou and Jackie Greathouse, first president Tom King, Julian Martin, Helen McGinnis, former president John Purbaugh, coal issues activist and former president Cindy Rank, outdoors enthusiasts Ray and Mary Ratliff, Buff and Jean Rodman, current president Hugh and artist Ruth Blackwell Rogers, Monongahela National Forest activist Dave Saville, techno whiz Jim Solley, summer interns James and Susan Tawney, and former president Frank Young.

This video makes an excellent introduction to the book and should interest viewers to look up the details of the stories alluded to in the film. It provides a snapshot of the impact the West Virginia Highlands Conservancy has had on the environment of West Virginia.

Contact Bob Gates at Omni Productions, Box 5130, Charleston, WV 25361 304-342-2624 omni@ntelos.net **for ordering information**. Copies for personal use are $25 ppd. Institutional copies are priced according to the size of the Institution.

Dave Elkinton
Photo by Bob Gates

First President Tom King and a founder Rupert Cutler
Photo by Bob Gates



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.

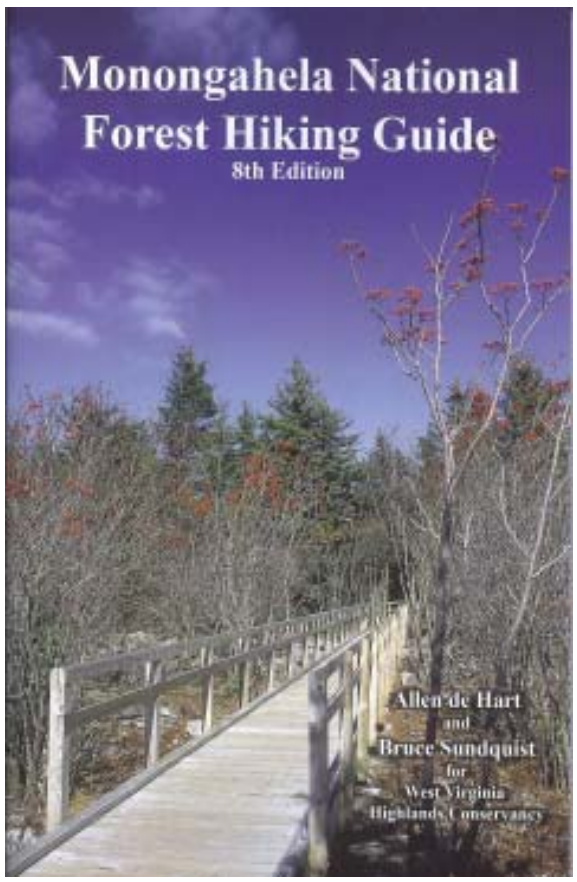
From the cover by photographer Jonathan Jessup to the 48-page index, this book will appeal both to Conservancy members and friends and to anyone interested in the story of how West Virginia's mountains have been protected against the forces of over-development, mismanagement by government, and even greed.

518 pages, 6x9, color cover, published by Pocahontas Press

To order your copy for $24.95, 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.



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.

OUR READERS WRITE

Wind Power--A Useful Alternative

Dear Highlands Voice Editor,

When the *Voice* arrived today I picked it up with interest as always and began reading, particularly the article by Margaret Collins on the controversies over wind energy. I was disappointed to find, however, that the article was inaccurate and misleading.

For instance, Ms. Collins argues that expansion of wind generation may "actually cause an increase, rather than a decrease, in the burning of fossil fuels." She also claims a National Academy of Sciences report found that by 2020 the CO_2 savings from wind energy would amount to 1.8 percent, "a trivial quantity."

This is misleading. The report, "Environmental Impacts of Wind-Energy Projects" by the National Research Council (available online), actually projected that "wind-energy development probably will contribute to offsets of approximately 4.5% in U.S. emissions of CO_2 from electricity generation by other electricity-generation sources by the year 2020." This would be a significant contribution in just over one decade. Ms. Collins apparently gets her lower number by multiplying it by 39 percent, the percentage of total global-warming gases contributed by all energy generation.

The Voice article goes on to examine the potential environmental impact of wind generation. It paints an improbably apocalyptic vision and claims that "the effect on wildlife is catastrophic."

But comparing the environmental effects of wind turbines to those of mountaintop mining is like comparing the environmental effects of a bicycle with those of an automobile, and concluding that a bike and a car are roughly equal because both depend on oil for lubricating their gears.

Take wildlife. The types of wildlife most likely to be impacted by wind turbines are birds and bats. Yet both Audubon and the American Bird Conservancy, in their official positions on wind energy (also available online), support the development of wind, citing the damage to birds and the environment caused by fossil fuel use. The groups have developed guidelines for wind generation they urge be applied to minimize the impact on flying creatures.

Wind energy is also strongly supported by another conservation group, the Sierra Club. This group's Global Warming and Energy Committee began studying wind anew in 2002. In a white paper, the committee sought to create a ranking system for the suitability of wind generation sites, ranging from "most appropriate" (land already used for agriculture, for instance) to sites that are "not appropriate" (including wilderness areas and wildlife refuges). West Virginia includes land in each of the categories the Sierra Club delineates, and these categories could be used to evaluate proposals for new wind farms, where they are appropriate and where they are definitely not.

In sum, both scientists and conservation groups have concluded that wind energy will play a significant role in reducing greenhouse gases and displacing fossil fuels. They've also recognized that wind, like every other form of power generation, can have significant downsides and is not appropriate for every location. So they have sought to spell out guidelines intended to help activists decide when to support specific wind projects and when to oppose them or to seek design changes.

Such decisions are best made by informed local groups, and in West Virginia that would be the WVHC. There are many places in West Virginia where wind turbines should not be sited; there are many design considerations that can reduce the impact of any turbines that are built. But the decision on each proposal needs to be made with the knowledge that wind will have a place in our alternative energy future, and that wind is one small piece of the puzzle we must solve to deal with greenhouse gasses and diminish the disastrous effects, from mountaintop mining to mercury pollution, of burning fossil fuels.

Thank you,
Jay Mallin
WVHC member

Wind Works in Montana

Dear Editor:

The article in the November issue of *The Highlands Voice* about rethinking wind energy is faulty in several respects. Here are some.

It says no US wind turbine has achieved more than a 30% capacity factor. The turbines at Judith Gap and Diamond Willow in Montana have capacity factors of more than 40%. Modern US wind farms are above 35%. At Lamar, Colorado the 38% capacity factor means the turbines are producing some energy more than 88% of the time, just not at full output. Gas fired turbines typically have capacity factors half of the wind turbine range. So capacity factor is not a measure of wind availability. Your car would have less than 100% capacity factor unless you drove it at 80 miles per hour all of the time. You design turbines to take advantage of a large range of speed. Montanans get some energy from Judith Gap and Diamond Willow more than 90% of the time.

Second, the article talks about the difficulty of dealing with wind variability (intermittency) in a power grid that needs certainty. The author ignores the growing body of work that shows wind generation distributed over a wide area on a transmission grid increases the capability of wind to add base load capacity. The article also ignores the fact that demand is highly variable and that is dealt with in the time frames that winds variability is dealt with. If you overlay the variability curves for demand on top of the curves for wind generation, a large portion of the time, the resulting curve is flatter. That means wind on a system enhances the power curve.

Third, the claim is made than CO2 and the building of new coal plants is not reduced by adding wind turbines. That certainly has not been true in the west. See the last paragraph in my article at www.hcn.org/wotr/think-again-before-going-nuclear It talks about how the 19 Western Governors' Area states are avoiding new power plants. You can also catch a short, narrated slide show on energy the "Energy Future Ain't What it Used to Be" at www.newworldwindpower.com/Energy%20future%20power%20point/energy_future.html

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CHATTING WITH THE COAL GUYS

The West Virginia Highlands Conservancy recently engaged in a dialogue of sorts with the West Virginia Coal Association. Jim Bunn, the new president of the Coal Association, made some comments about the Conservancy's position on mining matters to a reporter for *The State Journal.* Seeking some insight from all sides, the reporter framed these comments as questions and sent them to the Conservancy. Here are the results of the "dialogue":

THE QUESTIONS

Mr. Bunn said streams involved in mountaintop removal projects are, most of the time, "small ditches or little drain areas" that don't have water in them until it rains.

He also said environmentalists fighting against the coal industry are extremists who don't want to come up with a solution or compromise, but instead want abolition of the industry.

Does it matter to your group the size of these streams and do you take legal action in all valley fills, no matter their size?

What is the history between your group and the coal industry in terms of trying to talk about environmental issues? Do you want to see the end of the coal industry?

THE ANSWERS

What Mr.Bunn refers to as "small ditches or little drain areas" are more commonly referred to as "headwater streams." Their importance has been recognized:

"Headwater streams are generally important ecologically because they contain not only diverse invertebrate assemblages, but some unique aquatic species. Headwater streams also provide organic energy that is critical to fish and other aquatic species throughout an entire river. Ecologically, the study area is valuable because of its rich plant life and because it is a suitable habitat for diverse populations of migratory songbirds, mammals, and amphibians. The environment affected by MTM/VF is described in Chapter III." Final Programmatic Environmental Impact Statement on Mountaintop Mining/Valley Fills in Appalachia - 2005

You may review the entire Environmental Impact Statement at http://www.epa.gov/region3/mtntop/eis2005.htm

So far as extremism is concerned, what is an "extremist" is in the eye of the beholder. An equally valid perspective might be that blowing the tops off mountains is as "extremist" as are efforts to protect them. In any event, there is little to be gained in calling each other names. I am unaware of any dispute which has moved toward closer to resolution by having those of different perspectives standing on opposite sides of the room shouting, "Extremist!" at each other.

So far as a compromise is concerned, that has already been done. Like all legislation in a democratic society, the statutes regulating surface mining are a result of compromise. Society, as reflected in its legislative leaders, could have chosen to prohibit all surface mining, a result that many would have cheered while many others would have wept, wailed, and gnashed their teeth. Instead, Congress compromised by allowing surface mining under defined conditions. Current efforts are no more than attempts to carry out this previous compromise.

My personal experience with compromise came in 1998 when I was appointed by Governor Underwood to the Governor's Task Force on Mountaintop Mining. The Task Force had meetings, public hearings, etc. Although there were many members of the Task Force who represented the coal industry and many more industry representatives who testified at public hearings, I do not recall a single time when anybody from the industry suggested any changes in how mountaintop removal mining was carried out. The only suggested changes from the industry were that the industry be less regulated. I saw nothing to indicate a spirit of compromise.

I have seen nothing since then which indicates that a spirit of compromise has developed. I would not characterize opening a conversation by calling us "extremists" as evidence of the existence of a spirit of compromise.

So far as the size of streams, fills, etc. is concerned, we would take action (to the extent that our limited resources allow) wherever the law is being violated and we believe that it is appropriate that we address the violation in court. Because that decision would be made based upon site specific facts, I could not give you any insight into whether we would take action on "all valley fills."

Much of the history of the West Virginia Highlands Conservancy is set forth in Elkinton,Dave: *Fighting to Protect the Highlands, the First Forty Years of the West Virginia Highlands Conservancy*. (2007). It includes extensive material on our involvement with the coal industry. We have never advocated the elimination of the coal industry.

John McFerrin

COAL INDUSTRY CAN'T BE TRUSTED TO BE RESPONSIBLE

By Julian Martin

Perhaps D. Steven Walker, in his op-ed column, was looking into a mirror when he called "extremists" those of us who oppose the massive destruction of our mountains. For what could be more extreme than blasting the mountains away, filling in the valleys with the leftover waste, injecting coal waste sludge into the water table, forever destroying wildlife habitat and eliminating any future renewable hardwood timber industry and its permanent jobs? And what could be more extreme than building a coal waste sludge pond above a grade school?

Walker rolls out "clean coal," the ultimate oxymoron, and includes "environmental opportunities" as one of its benefits. What could he possibly be talking about? What opportunities are in store for the increased mountaintop removal that will be made possible by irresponsibly dumping gases from burning coal into our earth, into our water table? There is no way to know what horrible side effects will appear after pumping that waste material into the ground. It is the madness of "we can't continue to pollute the air and survive, so let's pollute the earth." That's the ticket.

The West Virginia Council of Churches falls into Walker's definition of "state and national extremist groups." On Sept. 11, 2007, it issued a statement on mountaintop removal coal mining. These state religious leaders proclaimed that, "Mountaintop removal mining blasts the tops from our mountains and obliterates healthy streams, filling them with waste material. The damage done is permanent and irreplaceable. Once the top of the mountain is removed, it cannot be put back. The streams cannot be replaced, and the native hardwood forests and diverse understory do not grow back. The animals, birds, and people are deprived of the welcoming environment that once nurtured their minds, bodies, and spirits and provided food, water and shelter for them."

Walker says the way to sustain West Virginia's economy is to "responsibly grow the coal industry." He has been forced by the terrible coal industry reputation of death and destruction to add the qualifying word "responsible." This is obviously an admission that they haven't been mining coal responsibly in the past. And from what I see, that past comes right up to this very day. Just how do you "responsibly" decapitate mountains and bury a thousand miles of streams?

So is the coal industry irresponsibly extreme or extremely irresponsible?

***Mr. Martin's commments are in response to earlier comments by Mr. Walker in* The Charleston Gazette.**

OUTING POSSIBILITY

Normally *The Highlands Voice* has an Outings page, announcing upcoming hikes and such. Now that it is cold weather, there aren't any hikes to announce. We still have mountaintop removal; it is always with us. Visit Kayford Mountain south of Charleston to see mountain top removal (MTR) up close and hear Larry Gibson's story about how he saved his mountain, now almost totally surrounded by MTR. Bring lunch for a picnic on Larry's mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com or Larry Gibson (304) 542-1134; (304) 549-3287. Ugly as day old sin but you will learn a lot.

Whitegrass Ski Touring Center in Canaan Valley was the first of West Virginia's ski centers to open this year. With 55 inches of snow already this fall, they have been opened for 16 days already as of Thanksgiving. Over the long holiday weekend the entire mountain was open with over 50km of trails. 25 km of those trails are groomed. 12 inches of new snow this week with 20inches currently measuring on the 4,000ft stake.

Long-time friends and Highlands Conservancy members, proprietors Chip Chase and Laurie Little, were the recipients of the WV Environmental Council's 2005 Green Entrepreneurs Award. This unique ski touring center and cafe operate under special use permit from the US Fish & Wildlife Service on the Canaan Valley National Wildlife Refuge and with an agreement from a neighboring farmer. There's no better cure for that wintertime cabin fever than getting out country skiing or snowshoeing in the wide open spaces of Canaan Valley.