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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

Volume 47 No. 2 February, 2013

Let the Games Begin

THE LEGISLATURE'S BACK IN TOWN

By Donald S. Garvin, Jr., West Virginia Environmental Council Lobbyist

It's that time of year again.

The 81st session of the wild and wonderful West Virginia Legislature begins at noon on Wednesday, February 13 and ends at midnight on Saturday, April 13.

And while we don't know much yet about the specifics, a lot can happen affecting the environment between now and then.

We do know that this Legislature will be dealing with important agency rules, including: a DEP rule implementing the Horizontal Well Control Act, and a Fire Marshall rule updating the energy provisions of the state building code.

But beyond that, we don't know much.

The final 2012 Interim Committee meetings will be held Feb. 10 – 12 and most of the interim committees have not yet recommended any legislation for consideration by the full Legislature. So there are a lot of questions.

Will the Finance Committee recommend a bill creating a Marcellus Shale

Research Center at WVU? The committee sure spent a lot of time talking about it.

Will the Infrastructure Committee



Gentlemen, Start Your Grinders!

recommend a "Complete Streets" bill that gives "bicycle, pedestrian and transit ways full consideration in the planning and development and redevelopment of state roads, railways and waterways"? They

talked about it, and it has a lot of support from municipal officials and even the AARP.

Will the Parks, Recreation and Natural Resources Subcommittee recommend a partial transfer of management of Coopers Rock State Forest to DNR Parks from Division of Forestry, similar to what was done with Kanawha State Forest? Members of the Coopers Rock Foundation made convincing presentations to the committee supporting such a move.

Will either the Economic Development Committee or the Finance Committee recommend a "Future Fund" bill that uses the severance taxes paid by extractive industries to offset the economic impacts those industries can cause to state and local budgets? Again, both committees have talked about it.

We don't yet know the answers to these questions.

For our part, the West Virginia Environmental Council will continue to

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Ramblin' the Ridges

By Cynthia D. Ellis

LET ME CALL YOU SWEETHEART; A POTPOURRI

We love mountains. It says so on our bumper stickers.

"I ♥Mountains" hmmm... Hearts...mountains...love...in West Virginia...when thinking of, and researching these themes, other interesting bits might surface, such as...

♥At least three counties, Tucker, Randolph, and Braxton, claim to be the Heart of West Virginia.

♥ Twenty-two bed and breakfasts, from Marlinton to Romney, are described as being in that heart.

♥There's a proliferation of law firms offering to help citizens sue a heart medication company and there is much to be found about obesity and heart health in this area.

♥There is one cyber store, specializing in handicrafts, which offers more than 30 necklaces with assorted hearts/West Virginia themes. These include one with a tiny map of Smoke Hole and others made of scrip from a coal mine company store.

♥There's even a West Virginia mountain named "Swell," which could indicate how much it is loved and appreciated. When another board member and I first saw the name, we thought it must be meant to be "Sewell" Mountain, where General Robert E. Lee had headquarters in 1861, and where he first saw the horse, "Traveller." But, SWELL Mountain is in Fayette County and it is the location for an historical 19th century farmhouse---the Trump-Lilly Farm, which is part of the New River National River attractions. <http://www.nps.gov/neri/historyculture/trump-lilly-farm.htm>

Trivia aside, our area is rich in tales of love within the mountains. We have known sweethearts.

Most famous are the ones at the Lovers Leap within Hawks Nest State Park in Fayette County. Early legends told of a pair of Native American lovers, from different tribes, who leapt from the cliffs rather than be parted. Later, stories were added of a Lewisburg pioneer couple who jumped from that precipice because her parents forbade their marriage. They were at the rugged, rocky spot, discussing their trials, when she became dizzy at the edge. She fell, and, he, unwilling to live without her, flung himself over too.

Other Indian maidens were known. Popsicona, and her sister, resisted their tribe's custom of surviving partners being buried with dead spouses. There were limits to their love. They hid in the forest. Gradually, Popsicona revealed herself to settlers in Monroe County, and took up a position as a worker in their midst. She and her sister suffered an estrangement which lasted many years. Urged to visit the sister in old age, she spoke with her briefly. Soon after, the sister died. Popsicona died too---one story says she took poisonous herbs because she did not want to be the only one of her tribe left here.

Buried in the city of Logan is Indian Princess Aracoma. She loved a white man held captive by her tribe. Together, with a small group of her people, they lived near Horsepen Mountain...its name derives from the practice of the Indians keeping horses in the steeply walled valley there. The details of their personal histories are not clear. These were the times of skirmishes and conflict among natives and settlers. Aracoma told her story to Virginia militiamen as she lay

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Roster of Officers, Board Members and Committee Chairs and Board of Directors

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SENIOR VICE PRESIDENT: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com

VICE PRESIDENT FOR STATE AFFAIRS: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net

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SECRETARY: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

TREASURER: Bob Marshall, 886-Z Divide Ridge Road, Kenna WV 25248 (304)545-6817, woodhavenwva@aim.com

PAST PRESIDENT: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2014)

Don Gasper, 4 Ritchie St., Buckhannon, WV 26201; (304)472-3704

Jackie Burns jackie.burns@frontier.com .

George Beetham, 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com

Bill McNeel, 1118 Second Ave., Marlinton, WV 24954, (304)799-4369; wpmcneel@gmail.com

Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2013)

Bob Henry Baber, 207 Howard St., Glenville, WV 26351, (304) 462-0320, mayorbobhenrybaber@yahoo.com

Dave Fouts, HC 80, Box 993, Maysville, WV 26833, (304) 749-8172, foutsberg@citlink.net

Michael (Mike) C. Morgan, RT 4 Box 23, Keyser, WV 26726; mctmorgan@gmail.com; 304-788-6496; 717-793-6743

LeJay Graffious, P. O. Box 69, Bruceton Mills, WV 26525; lejay@oldhemlock.org.

Mike Withers, Rt 2, Box 328, Grafton WV 26354, 304-265-3750, 1nastynash@comcast.net

ORGANIZATIONAL DIRECTORS

NATIONAL SPELEOLOGICAL SOCIETY:

PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Dr., Oakmont, PA 15139; (412) 828-8983; buffrodman@hotmail.com

BROOKS BIRD CLUB: Cindy Ellis, RR 1, Box 163, Red House, WV 25168 (304) 586-4135; cdellis@wildblue.net

MOUNTAINEER CHAPTER TROUT UNLIMITED: Chris Byrd, 292 Magnolia Ave., Clarksburg, WV 26301 Tel. (304) 622-3023 <cbyrd@ma.rr.com>

WEST VIRGINIA RIVERS COALITION: Don Garvin, P.O. Box 666, Buckhannon, WV 26201; (304) 472-8716; DSGJR@aol.com

FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com

TEAM (Taylor Environmental Advocacy Membership): Beth Baldwin, Grafton, WV 26354, 304-265-3029, elbrn6e21@msn.com

ALLEGHENY HIGHLANDS ALLIANCE: Wayne C. Spiggle, RR 2 Box 97, Keyser WV 26726, 304-726-4868, wspiggle@mac.com

COMMITTEE CHAIRS

MINING COMMITTEE: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802; clrank@hughes.net

PUBLIC LANDS MANAGEMENT COMMITTEE: Marilyn Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; Marilyn.Shoenfeld@gmail.com

LEGISLATIVE COMMITTEE: Frank Young, Rt. 1, Box 108, Ripley, WV 25271, (304)372-3945; fyoung@mountain.net

WIND ENERGY COMMITTEE: Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com

ENDOWMENT FUND COMMITTEE: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

RIVERS COMMITTEE: vacant

HIGHWAYS COMMITTEE: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662; hugh.rogers@gmail.com

OUTINGS COMMITTEE: Dave Saville, PO Box 569, Morgantown, WV 26507, (304)284-9548; daves@labyrinth.net

MISCELLANEOUS OFFICES

SPEAKERS BUREAU: Julian Martin, 1525 Hampton Road, Charleston, WV 25314, (304) 342-8989; martinjul@aol.com

WEB PAGE: Jim Solley, jamesolley@comcast.net

ADMINISTRATIVE OFFICES

ADMINISTRATIVE ASSISTANT: Beth Little, HC 64, Box 281, Hillsboro, WV, 24946 (304) 653-4277; blittle@citynet.net

HIGHLANDS VOICE EDITOR: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

Potentially dramatic effect on mountaintop removal mining**BACK TO COURT ON STREAM BUFFER ZONE RULE**

By John McFerrin

The West Virginia Highlands Conservancy, along with Coal River Mountain Watch, Kentucky Waterways Alliance, Ohio Valley Environmental Coalition, Save Our Cumberland Mountains, Sierra Club, Southern Appalachian Mountain Stewards, and Waterkeeper Alliance have reopened litigation against the Department of Interior for its removal of a key protection for streams against mountaintop removal mining — the “Stream Buffer Zone Rule.” The Bush administration removed this protection through a midnight rulemaking in 2008, and the Obama administration agreed the Bush administration’s action was unlawful. But the Interior Department has since failed to undo the Bush administration’s rulemaking by the deadline it agreed to.

Background

Generally, the buffer zone rule - approved in 1983 - prohibited mining within 100 feet of streams. Coal operators could obtain waivers, but to do so they had to show that their operations will not cause water quality violations or “adversely affect the water quantity and quality, or other environmental resources of the stream.” The Office of Surface Mining wrote the buffer zone rule to implement a congressional mandate in the 1977 strip mine law that the agency “minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation.”

Although there has been a stream buffer zone rule since 1977, interest in the rule intensified with widespread mountaintop removal mining in the 1990s. While there had always been filling of streams, the strip mine operations were much smaller and the filling was not as extensive as it is today. A government study published in 2003 found that mine operators had buried 724 miles of Appalachian streams between 1985 and 2001.

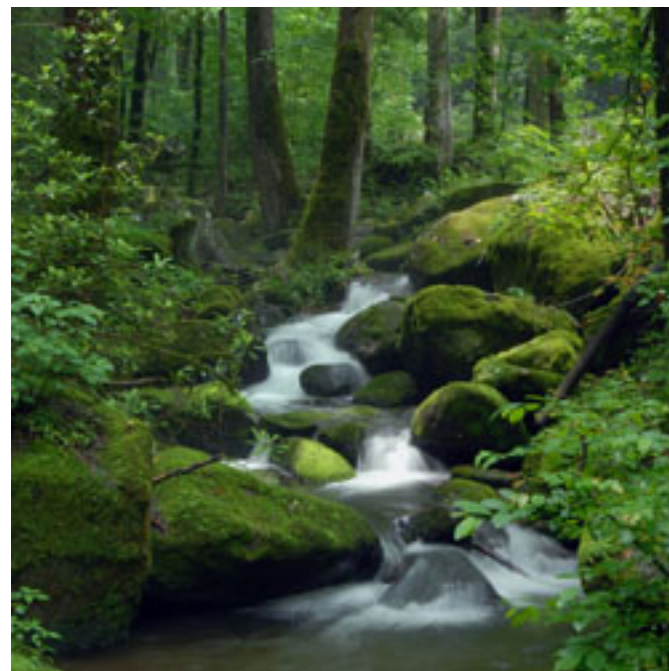
Many (including the West Virginia Highlands Conservancy) had always believed that the rule would prohibit filling streams. The federal Office of Surface Mining and various state mining agencies allowed these fills by interpreting the buffer zone rule to not apply to the mining waste piles.

In 1999, then-U.S. District Judge Charles H. Haden II concluded that the rule did apply to valley fills, a decision Haden said prohibited all fills in perennial and intermittent streams.

On appeal, the United States Court of Appeals for the Fourth Circuit decided that Judge Haden did not have jurisdiction. While it did not say that the decision on the interpretation of the rule was incorrect, it overturned that decision on jurisdictional grounds. But the Clinton administration eventually adopted Judge Haden’s view of the buffer zone, and once George W. Bush took office, federal regulators and the coal industry pushed to rewrite the rule.

The Bush administration did propose to rewrite the rule. There were public hearings, public comments, etc. but in December, 2008, the Office of Surface Mining finally adopted a new rule. The 2008 rule allows a surface coal mine operator to place excess material excavated by the operation into streams if the operator can show it is not reasonably possible to avoid doing so. The new rule effectively eliminated the buffer zone rule which had been in effect (if never fully enforced) since 1983.

Litigation followed. During the litigation, the Department of the Interior (of which the Office of Surface Mining is a part) asked that the December, 2008, rule be vacated. Granting such a request would have reinstated the 1983 rule. The court ruled that the Office of Surface Mining could not simply reinstate the 1983 without following standard rulemaking procedures.

**(More on p. 17)**

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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.

ENERGY EFFICIENCY: TIME FOR A STEP FORWARD

By Cathy Kunkel

What is the future of West Virginia's electricity system? According to our power companies, the future looks very much like the past. Both of West Virginia's major electric utilities have announced plans to buy 40-year-old coal-fired power plants from affiliated companies this year – perpetuating our state's over-reliance on centralized, coal-fired power generation.

Currently these coal plants are selling their power into deregulated electricity markets in nearby states where they have to compete with other power plants and are losing out to cheap natural gas. If these plants can be sold into West Virginia's regulated electricity system, they will be allowed to charge ratepayers to recover their operating costs plus a rate of return. Even though rising coal prices have driven up rates, our utilities want to double-down on coal to maintain corporate profits and credit ratings.

At the same time, our electric companies have resisted making major investments in energy efficiency programs and distributed power generation (such as roof-top solar) that would create local jobs and give people the tools they need to control their electric bills. In addition to the economic development benefits, an electricity system with smaller-scale generation located closer to where power is used would be more reliable – an increasingly important concern given the recent severe storms and electrical blackouts.

Investing in energy efficiency is an important first step towards this vision of a more localized electricity system. Spending money to reduce our demand for electricity is far cheaper per kWh saved than investments in generating the same amount of power. Residents and businesses that take steps to save money on their bills will be making themselves less dependent on international commodity prices for coal and natural gas that have been a major driver of electric rates. And the jobs created in weatherization and green building are jobs that cannot be outsourced. On average, investments in efficiency create more than twice as many jobs per dollar than investments in the electric or natural gas utility sectors.

There is tremendous potential for energy efficiency in West Virginia. Even though we have the 7th lowest electric rates in the country, 26 other states have lower bills. That means we are literally throwing money out the windows of our leaky homes.

It's only common sense to reduce our electricity demand before making major investments in new infrastructure. Just as utilities can invest in new power plants, they can also invest in reducing electricity demand. Utility efficiency programs are paid for through electric rates, just as investments in power plants. Examples of programs that utilities can offer include: incentives for recycling old and inefficient refrigerators, home energy audits by local businesses with rebates for efficiency improvements, incentives for the purchase of EnergyStar appliances, custom incentives for energy efficiency projects undertaken by industrial customers, and more.

Now the West Virginia Legislature has a chance to make some steps forward in promoting energy efficiency. There are two bills that we hope the legislature will consider this session that would promote greater investment in efficiency:

- Energy Efficiency Resource Standard: this bill would require our utilities to meet long-term targets for saving energy through energy efficiency, by offering the sorts of programs described above
- Integrated Resource Planning: this would require our utilities to submit long-term plans to the Public Service Commission analyzing different options for reliably meeting future electricity demand. The utilities would be required to consider investments in efficiency on an equal footing with traditional investments in power plants.

For more information and ongoing updates about these bills, see Energy Efficient West Virginia's website, www.eewv.org

WHO IS ENERGY EFFICIENT WEST VIRGINIA?

Energy efficiency is about as close to a free lunch as we are going to get. We can switch from coal to natural gas but there is still a social cost to producing natural gas. Some like wind energy but that has its costs in dangers to wildlife, etc. While being more energy efficient is not free, it is one of the few places where we can reduce the impact of energy use without just shifting those impacts somewhere else. If we just use energy in a smarter, more efficient, way, we can have the energy we need without as many of the impacts that energy production often causes.

Now we have an organization dedicated to helping us be smarter. Energy Efficient West Virginia is a group of concerned West Virginia residents, businesses and organizations who have come together to promote energy efficiency among residential, commercial, and industrial customers in our state. In response to a 43% rate increase proposed by Appalachian Power Company in 2009, it created an organization to promote stronger energy efficiency policies that would help protect residents from future rate increases and drive a market for energy efficiency services. Given our old and inefficient housing stock and historic lack of investment in energy efficiency, there is huge potential for investing in energy efficiency and demand response programs that will help residents and businesses save money on their bills.

It is active in advocating for energy efficiency at the Public Service Commission, the legislature, and through work with local organizations and municipal governments.

You may read all about them at www.eewv.org. You may contact them at:

energyefficientwestvirginia@gmail.com
1500 Dixie Street
Charleston, WV 25311
(304)346-5891

MOUNTAIN JUSTICE SPRING BREAK COMING UP!



Since 2007, Mountain Justice Spring Break has been offering students and young people an exciting, fun, low-cost alternative spring break in Appalachia.

Mountain Justice Spring Break is a chance to learn more about how extractive industries like coal, hydro-fracking for natural gas and nuclear energy have sucked billions of dollars in resources from the land, while leaving behind environmental and social problems and a ravaged land.

At Mountain Justice Spring Break you will:

- *Learn about and take action against the destructive effects of the dirty life-cycles of coal and natural gas!*
- *Stand in solidarity with the communities in Virginia, West Virginia and southwest Pennsylvania facing the ongoing destruction of coal mining and hydraulic fracturing!*
- *See mountaintop removal coal mining and hydraulic fracturing natural gas extraction up close!*
- *Take direct action against the dirty coal industry!*

Mountain Justice Spring Break (MJSB) will bring together coalfield residents, college students, environmentalists and concerned citizens. You don't have to be an expert about coal mining or fracking or Appalachia - our program will teach you the intricacies of resource extraction and you will leave with a better understanding of why Appalachia is a rich land with poor people.

From March 2-10, MJSB will be in the historic old mining town of Appalachia, Virginia, in the far western corner of the state of Virginia, in an area that is being heavily impacted by mountaintop removal mining.

From March 10-17, 2013 MJSB will be in central West Virginia surrounded by fracking sites.

We will spend a week cultivating the skills and visions needed to build a sustainable energy future in Appalachia. Through education, community service, speakers, hiking, music, poetry, direct action and more, you will learn from and stand with Appalachian communities in the struggle to maintain our land and culture. Mountain Justice Spring Break will also offer a variety of community service projects, Appalachian music and dancing.

Mountain Justice Spring Break in Virginia (March 2-10) will be held at the Community Center in the historic mining town of Appalachia. Nearby Black Mountain is being blasted right now by coal companies and you will see the effects on the forests, water, land and people. Coal trains rumble through this small community, which was once a thriving mining town.

Mountain Justice Spring Break in West Virginia (March 10-17) will be held at a remote rural lodge in a county park surrounded by a winding creek and the beautiful rolling hills of West Virginia - and lots of fracking for natural gas. The lodge is modern and comfortable, easy to access from Interstates 77 and 79 and US 50. There are bunk beds for 90 people and hot showers, or you can camp in the park.

Registration for MJSB is now live! Cost includes all food for the week, lodging and the programs. MJSB is suitable for student budgets! www.mjsb.org

A TRUE ENVIRONMENTALIST PASSES ON

By John McFerrin

West Virginia Highlands Conservancy is saddened by the death of veteran board member, Don Gasper. A retired fish biologist, Don had lent his energies to us since the 1960's. One current board member said, "Don Gasper's personal warmth and his spirit of boundless pressure, applied endlessly, toward the goal of sane environmental stewardship policies will always be with us."

One of the noblest tributes we can pay to anyone's life is to say that he labored long and hard at work worth doing. That was Don Gasper. He was a tireless, lifelong fighter for the environment and for life.

We in the West Virginia Highlands Conservancy don't have anecdotes of his childhood, no tales of a five year old Don weeping over a trout in trouble, although such tales may exist.

What we do have are the stories in our hearts, the stories in *The Highlands Voice*, and the entries in Dave Elkinton's book "*Fighting to Protect the Highlands: the First Forty Years of the West Virginia Highlands Conservancy*". Here are the entries:

- "Webb credited DNR fish biologist and long-time Conservancy member Don Gasper with providing much of the water quality data that DLM and others found so threatening." p. 274
- "Conservancy member and DNR fish biologist Don Gasper had determined that this mine would jeopardize fish in Birch River and its tributaries." p. 263
- ~In a summary, written by Don Gasper, of current Supervisor Clyde Thompson's comments to the Conservancy's Fall Review in October 2003, Gasper wrote that Thompson "seems to be a reasonable, competent man and a good listener---almost in spite of his rapid schedule of plan completion...The connections the Highlands Conservancy has made between



wilderness and recovery is generally thought to be valid, and he thought we were going about the Wilderness Campaign in the right way."~p. 221

- "In February 1972, Craig Moore announced in the *Voice* the creation of a Shavers Fork Task Force. It would be composed initially of Burrell, Craig Moore, Bristor, Carolyn Brady Wilson, Bill McNeel, Bill Brundage, Don Gasper, and Roger Peterson.

Each had agreed to research and/or monitor one or two aspects of Shavers Fork's challenges." p. 83

- [speaking of early beginnings, in the sixties] "Two other state DNR employees who shared common interests with Greathouse and Rieffenberger were Don Gasper, a fish biologist, and Lee Maynard, who worked in public affairs." p. 1

From his contributions to *The Highlands Voice*, we learn the same thing. From the beginning, from before there was a West Virginia Highlands Conservancy, Don was always there, always in the thick of the fight. If you have an afternoon (or several afternoons) go

to the archives (www.wvhighlands.org) and see.

Some of our stories are in the tributes that are on the Highlands Conservancy's Facebook page. There, he is remembered as "a true friend, a mentor, an inspiration, one of the best among us"; such a sweet and kind soul that taught me so much"; "a champion: and "a true environmentalist." We will always remember Don Gasper, a friend, an inspiration, and an example of a life well lived. He labored long and hard at work worth doing.

At Don's request, there will be no public service. He will be cremated and his ashes scattered over a favorite stream.

ANOTHER DON GASPER STORY

From Dave Saville

While there are many, of course, one of the memories that comes quickly to mind for me when I think of Don is from June 2001. Don and I drove to Washington, DC where we met up with Peter Shoenfeld for our very first Wilderness lobby trip.

This was long before there was a "wilderness coalition." We went to put our delegation "on notice" that we were going to mount a campaign. In April of that year, I organized the "Celebrating West Virginia's Wilderness" Spring Review where Ed Zahniser gave his now famous, "Wilderness in the Blood" speech.

We visited all 5 of our delegation's offices that day. When we met with Senator Rockefeller, he was in a very good mood and gave us a warm welcome. We talked for a long while and the conversation was all over the map. At one point, the Senator began to talk about his dad. He told us that his dad had worked very hard and written a book which he was very proud of. He went on to tell us that his dad's greatest disappointment in his life was that no one had read the book he'd written. At this moment, Don raised his hand and quietly said "I read it." The mood in the room changed and we were instantly endeared by the Senator. Don and Jay went into a long discussion about the book and I couldn't believe how much Don knew/remembered about its contents. As if he'd just read it the day before.

I've told this story often and sincerely believe that it had a big impact on Senator Rockefeller being such a strong supporter of our campaign over all those years.

Join Now !!!

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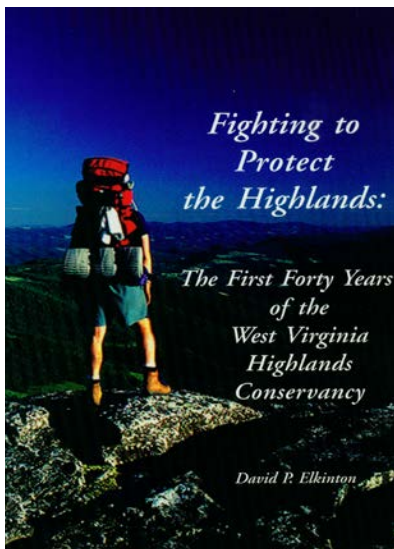
Membership categories (circle one)

	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.

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.

EPA FAILS TO EXERCISE OVERSIGHT– GROUPS FILE NOTICE TO SUE

By Cindy Rank

In 2012 over the objections of the WV Environmental Council lobbyists the West Virginia Legislature passed two coal industry backed bills that would alter portions of the state's water pollution control program.

To ensure proper implementation of the Clean Water Act (CWA) the federal Environmental Protection Agency (EPA) is required to approve changes in state programs before any new provisions can be utilized.

EPA has not acted to approve or disapprove the changes prompted by Senate Bill 562 (SB 562) and SB 615. In spite of this, the WV Department of Environmental Protection (WVDEP) is already using provisions of those bills to avoid more inclusive water quality standards --- especially those that are problematic to the coal industry, and to weaken the NPDES water discharge permitting program --- especially as it applies to coal mining.

Because EPA has failed to approve the changes prompted by SB 562 and SB 615 in the timeframe required by the CWA, three citizen groups represented by Appalachian Mountain Advocates have filed notices of intent to sue EPA if it doesn't act within 60 days of our filings.

In the past decade and a half the same plaintiffs (West Virginia Highlands Conservancy, Ohio Valley Environmental Coalition and Sierra Club) have successfully challenged inadequate pollution controls and water discharge permits at a variety of mining operations throughout the state of West Virginia and have forced companies to clean up pollution from numerous mines. [*The Highlands Voice* is full of stories about those legal actions and can easily be found by linking to the archived editions in the website at www.wvhighlands.org .]

It is clear that these victories have prompted

Industry to respond by appealing to their cronies in the WV Legislature to pass laws meant to counter these successes thus in effect reducing protection for our streams.

A very lucid description of this process and how it led to SB 562 is laid out by Dan Radmacher in another article that appears elsewhere in this issue and was first published as an op-ed in the January 29, 2013 Charleston Gazette newspaper. [See *Polluters Protected Instead of Streams*.]

In a nutshell, SB 562 has led to WVDEP not listing hundreds of WV streams that are biologically impaired and should by law be in line for clean-up plans known as TMDLs, or Total Maximum Daily Loads, which will require the coal industry (among others) to clean up more of its pollution.

SB 615 would allow WVDEP to provide a broader 'permit shield' than already envisioned in federal and state law, would allow companies to avoid conforming with both numeric and narrative water quality standards as required by federal law, and otherwise would allow WVDEP to significantly weaken the WV NPDES permitting program and thus make it less stringent than mandated by law. [Note: WVDEP is using SB 615 to challenge some of our litigation in both northern and southern West Virginia.]

We will revisit more details in future articles, but the bottom line is that EPA must fulfill its non-discretionary duty to address the changes in our state water program and must disapprove the provisions of both SB 562 and SB 615 that weaken that program and violate the federal Clean Water Act.



Winter snowscape in West Virginia Highlands.

Photo © Jonathan Jessup

Editor's note: This photo has nothing to do with the story it accompanies. It is just that you need a little break after reading the serious stories on this and the facing page.

POLLUTERS PROTECTED INSTEAD OF STREAMS

By Dan Radmacher

CHARLESTON, W.Va. -- Why are West Virginia's streams are so polluted that less than a quarter of them can support their designated uses -- such as recreation, providing drinking water or supporting aquatic life?

The example of the passage and implementation of Senate Bill 562 is very telling. It's yet another case of state regulators and lawmakers capitulating to a polluting industry rather than enforcing laws to protect the environment.

In recent years, it's become very clear that waters downstream from the valley fills associated with mountaintop removal mining are at greater risk for biological impairment, violating West Virginia's water quality standards.

The Department of Environmental Protection did nothing about this, ignoring guidance from the U.S. Environmental Protection Agency. Finally, Appalachian Mountain Advocates sued CONSOL Energy, and won an important settlement in which the company agreed to try to restore the biological integrity of Boardtree Branch, which flows into 20 Mile Creek.

The coal industry realized that this issue could end up being very expensive, so it responded in typical fashion. It didn't seek ways to mine more responsibly and cause less damage. Instead, it sued to block the EPA's guidance and it persuaded a compliant West Virginia Legislature to pass SB 562, an attempt to weaken those narrative standards by redefining them.

The DEP also responded in typical fashion. Every time a water quality standard becomes meaningful, i.e. painful to industry, the agency capitulates and weakens it. SB 562 required the DEP secretary to rewrite the rules for determining when streams were considered biologically impaired under the narrative standards.

At about the same time, the DEP was compiling its biennial list of impaired streams, as required by the federal Clean Water Act. Identifying impaired streams is the first step toward taking action

to improve water quality. Impaired streams may be subject to Total Maximum Daily Loads that could strictly limit mining permits in order to protect aquatic life.

So the DEP decided not to list any new biologically impaired streams -- though at least 173 new streams should have been listed under the regulations currently in place.

The DEP is taking this approach despite the fact that the new water quality standard hasn't been reviewed or approved by the EPA, as required -- indeed, even though the regulations implementing the new standard haven't been drafted.

SB 562 specifically states that the new standards shouldn't be less protective than existing ones, but already it is resulting in less protection for the state's waters. The DEP's actions will delay protection of impaired streams through the TMDL process for years.

What does this episode illuminate? Simply this: Both the legislative and executive branches of West Virginia government are bending over backward to protect the coal industry from taking responsibility for the pollution it produces and the damage it causes. Right now, this is saving the coal industry hundreds of millions of dollars.

Understand this: If the industry successfully evades this responsibility, the taxpayers of West Virginia will be left shouldering the enormous cost of cleaning up the mess.

Appalachian Mountain Advocates recently posted on its website a map showing all of the impaired streams in the state in red. The state was blanketed in red, especially the coalfields.

With this attitude on the part of public officials, is it any wonder why?

Mr. Radmacher is communications director for Appalachian Mountain Advocates (www.appalmad.org). This article previously appeared in *The Charleston Gazette*.

THE MOUNTAIN INSTITUTE: SEEKING VOLUNTEERS FOR A SERVICE LEARNING ADVENTURE

The Mountain Institute, located on Spruce Knob, has received \$45,000 through the United States Forest Service to monitor and repair trails. The project will jumpstart TMI's new annual program titled "Mountain Trail Monitors."

Mountain Trail Monitors takes TMI's field-based programming to the next step by combining it with on-the-ground stewardship. High school age volunteers (13-17) will put leadership, community service, and democratic ideals into practice. During the five-day, five-night outing, (worth at least 40 service hours) participants will live and work in the Monongahela National Forest. Each trip will begin with an introduction to camping, group living, and the principles of sustainable trail maintenance. Days will be spent working on the trails and evenings will be dedicated to cooking, wilderness skills such as; camp craft, animal tracking, fire building, map and compass reading, sensory awareness activities, Leave No Trace Ethics, campfire games, discussions and more.

Following a week in the woods, participants will head to the Spruce Knob Mountain Center to relax, reflect, and prepare for the journey home. The only thing required for those interested is a ride to and from The Mountain Institute and participation upon arrival. All food, equipment and instruction will be provided by The Mountain Institute.

Funding comes from the Secure Rural Schools Act, which invests money in the communities that use and care for federal lands. The grant awarded to TMI allows eight weeks of the program throughout the next five years. The program is will run on a first come first served basis the weeks of May 26th, June 2nd, June 9th, June 30th, July, 21st and July 28th.

Mountain Trail Monitors will focus on trail improvement in Pocahontas and Randolph Counties of West Virginia, though volunteers from any location are welcome to take part. If you or anyone you know of is interested in participating in MTM this summer, or for more information please contact Melinda Brooks at (304) 567-2632 or mbrooks@mountain.org. www.mountain.org/mountain-trail-monitors.

West Virginia Mountain Odyssey



Outings, Education and Beyond 🇺🇸

The following outings are being offered at White Grass Ski Touring Center in Canaan Valley. 304 866-4114, www.whitegrass.com

Feb 10 Snowshoe Discovery Tour - 10 am Winter Tree Identification Learn how to identify common evergreen and deciduous trees during the winter by using simple observation techniques and field guides. This trip will explore the northern hardwood and spruce/fir forests that abound in Canaan Valley. Basic tree identification and ecology will be discussed along with other issues influencing our forested landscape. Trip led by Mike Powell – Manager of Stewardship for the Nature Conservancy in West Virginia

Feb 18 President's Day Snowshoe Discovery Tour - 10 am with Chip Chase, owner of White Grass and lifelong outdoorsman sharing his knowledge of the area as well as the history of the relationship with the Fish and Wildlife Service and the formation of the Refuge here.

Feb 24 Snowshoe Discovery Tour - Winter photography with Marc Shaffer and Martin Radigan @ 10

Mar 3 - Natural History Discovery Tour with Chip Chase 10 am - A natural history snowshoe walk with Chip Chase as he shares his knowledge about the climate, forest type, and geology of the area. Enjoy a short streamside jaunt that lasts about an hour and covers around a mile of easy rolling terrain.

Full Moon Skiing Trips are around each month's lunar glare Dec 28, Jan 27, Feb 25, Mar 27. We usually head out around 7:30 pm. Good snow, surprising visibility, mysterious sense of control.

April 20 & 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 10 am each day. 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.restoredredspruce.org, or contact Dave Saville at daves@labyrinth.net, or 304 692-8118. Sponsored by Central Appalachian Spruce Restoration Initiative.

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.

STUFF TO DO—PARTIES, FIELD TRIPS AND SUCH

February 13: 2013 Regular Legislative Session Begins

February 17: Get On The Bus! Forward On Climate Rally. The National Mall in Washington, D.C. From Noon – 4:00 PM (please arrive by 11:30 AM)

Thousands of Americans will head to Washington, D.C. to make Forward on Climate the largest climate rally in history. Join this historic event to make your voice heard and help the president start his second term with strong climate action.

WV Sierra Club is sponsoring a bus to the rally. Round trip tickets are \$20. For more information on the rally and how to pay: www.action.sierraclub.org/site/PageServer?pagename=nat_signup_feb17

Schedule:

7:00 AM – Leave Morgantown (Wal-Mart at I-68 Exit 1 parking lot)

9:00 AM – Pick Up at McDonald's, Hagerstown at I-70 Sharpsburg Pike exit

4:00 PM – Depart Washington

5:30 PM – Drop Off at McDonald's, Hagerstown I-70 Sharpsburg Pike exit

Including take-out food purchase for Morgantown passengers

7:30 PM – Arrive in Morgantown (Wal-Mart at I-68 Exit 1 parking lot)

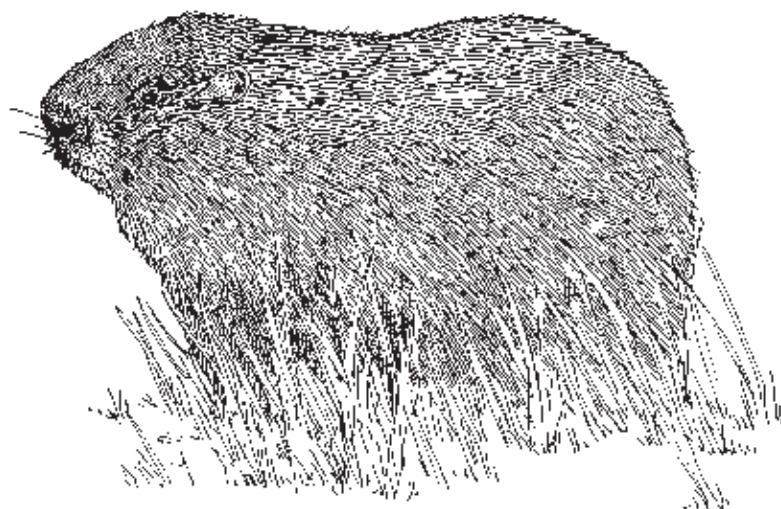
February 19: Rally for Democracy – Rally for the Resolution. WV State Capitol Building, Lower Rotunda at 11:30 AM. Approve a Resolution calling on congress to stop giving corporations and wealthy individuals the right to buy our Democracy! Lobbying: visit your legislators from 9 AM – 11 AM and 1 PM – 5PM. For more information contact: Gary Zuckett, garyz@wvcag.org or Norm Steenstra, norm@wvcag.org or call WV Citizen Action (304) 346-5891

February 19: "Legislative Kick Off Blast" Benefit! Little India Restaurant (upstairs bar) Washington St. East, Charleston. From 6:00 – 9:00 PM (the Voodoo Katz are playing from 7:30 till 9PM). Join WV Environmental Council, WV Citizen Action Group, WV Highlands Conservancy and others as we kick off the 2013 legislative session. Live music & refreshments. Suggested donation of \$10 (or whatever you can afford).

February 23: 2013 Appalachian Folk and Heritage Conference. To be held at the John P. Stephens Cultural Arts Center, Raceland-Worthington High School, Raceland Kentucky. From 10 AM – 6 PM. Films include, "Banjo Player from Bull Creek" and "Hazel Dickens: It's Hard to Tell the Singer from the Song". Panel on "Forging Our Future: 21st Century Appalachia". Speakers include: Ernie Tucker – "Take a Feather from a Groundhog"; Soc Clay – "The Mad Trappers View"; Christie Cook – "Oral Storytelling, the Heart of Appalachian culture. For more information: www.appalachianconference.weebly.com

March 14: WVEC Annual E-Day at the Capitol. From 9 AM till 3 PM. Senate & House Halls & Upper Rotunda. Environmental Groups, Sustainable Businesses, Local Artists, Citizen Lobbying. For more information: www.wvecouncil.org or contact Kevin, a_clean_wv@yahoo.com.

March 14: WVEC Annual E-Day Benefit Dinner & Awards Ceremony. The Women's Club of Charleston (corner of Elizabeth St. and Virginia Ave.). From 6 PM – 9 PM. Enjoy our dinner buffet, cash donation bar, silent auction, live music and award presentations (to be announced). Join us and relax after E-Day at the Capitol. Suggested donation of \$20 per person at the door. For more information: www.wvecouncil.org or contact Kevin, a_clean_wv@yahoo.com



MORE FROM CYNTHIA D. (Continued from p. 2)

dying after battle. Her dignity and courage impressed them and they followed her wishes to make her grave face the setting sun.

In Greenbrier County, Kate Carpenter, with her husband and family, in 1750, were among the first to live at White Sulphur Springs. During an Indian raid, she and he took separate routes to lead their children to safety and she sheltered her daughter on a mountain that still bears the name of that loving mother--- Kate's Mountain.

[A helpful resource for information on these lovers in the mountains is Jim Comstock's book, "West Virginia Women."]

So... here's hoping you have an opportunity to visit ---or to enjoy happy memories of--- a mountain that you love--- perhaps even with someone you love, in this sentimental season.

Just be careful when standing at the edge of rocky cliffs.

LEGISLATIVE PREVIEW (Continued from p. 1)

support legislation and regulations that provide West Virginians with clean air and clean water and protect our public lands.

This year we will continue to support the efforts of Energy Efficient West Virginia (an offshoot of the WV Citizens Action Group) to pass legislation requiring "Integrated Resource Planning" and "Energy Efficiency Resource Standards" for electric utilities in the state.

We will continue to support the efforts of the Sludge Safety Project and others to require coal companies to use modern processing technologies to eliminate the need for coal slurry injection and coal slurry impoundments.

We will continue to support campaign finance reform efforts, such as public financing of political campaigns; and specifically we will support a legislative resolution opposing the "Citizens United" Supreme Court decision that granted "personhood" to corporations.

And WVEC will continue to look for opportunities to further protect our land, air and water from the impacts of horizontal drilling and hydraulic fracturing.

Finally, if you want to be an "armchair lobbyist", you can track what the Legislature is doing on-line at the Legislature's web site <http://www.legis.state.wv.us/> . It really is an excellent tool.

And you can keep up with what WVEC is doing during the session with our weekly *Legislative Update* newsletter. If you haven't already subscribed, you can do so at <http://www.wvecouncil.org/>. It's free.

So the Legislature's back in town. Let the fun and games begin.

This Wretched Spade

Turning these wooded mountains
Lovely beyond words
Into flattened wastelands
Their brooks
Into reservoirs of rubble
Their life
Into corpses, dust,
Memories lost in a generation

Rendered featureless
Unrecognizable
Stripped of every vestige
Of beauty

Might as well call a spade a spade
It's beyond foolishness
Beyond even madness

Pure sacrilege—
Slapping the very face
of God.

E.R.

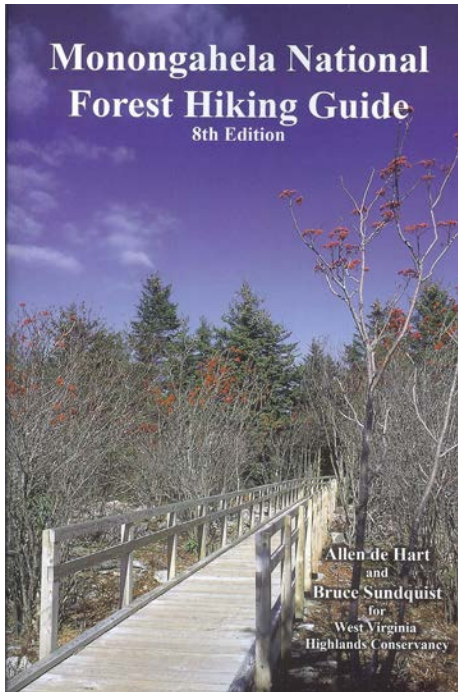
TROUBLE BREWING?

In a recent radio interview, an official with the United States Chamber of Energy Institute said that if the shale gas industry hoped to reach its full potential in West Virginia it would have to move beyond drilling on private lands and onto public lands. The host did not follow up and this may have been just a throwaway comment. At the same time, it may be a warning of future proposals for the Monongahela National Forest as well as state parks and forests.

The United States Chamber of Energy Institute is the branch of the United States Chamber of Commerce which researches, advocates, etc. on energy issues.

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

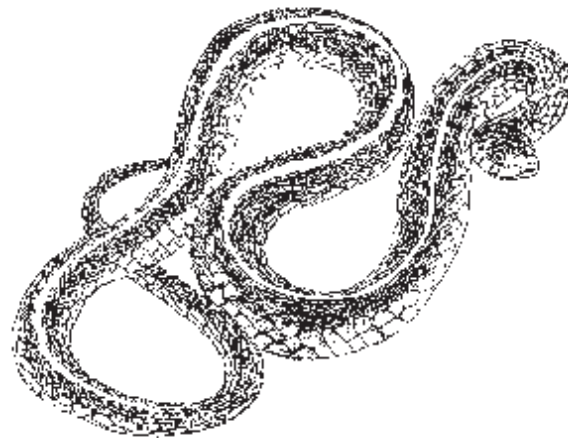
New 8TH Edition Now Available on CD

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.



GRANT SPURS NEW TRAIL DEVELOPMENT IN WEST VIRGINIA

The communities of West Virginia's Eastern Panhandle are one giant step closer to connecting to the thriving trail activity of western Maryland and Pennsylvania, thanks to a Recreational Trails Program (RTP) grant.

The Recreational Trails Program (RTP) provides funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. The RTP is an assistance program of the Department of Transportation's Federal Highway Administration (FHWA). Federal transportation funds benefit recreation, including hiking, bicycling, in-line skating, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles.

The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from nonhighway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks.

The RTP funds are distributed to the States by legislative formula: half of the funds are distributed equally among all States, and half are distributed in proportion to the estimated amount of nonhighway recreational fuel use in each State.

Gov. Earl Ray Tomblin has announced \$80,000 in RTP funds to support the development of the North Berkeley Rail Trail, using an unused section of Baltimore and Ohio Railroad line. Though still in the early stages of planning, when complete the trail will run between Berkeley Springs and the U.S. 522 Potomac River bridge, and connect to the C&O Canal towpath, the Western Maryland Rail Trail, and the Great Allegheny Passage (GAP), an internationally renowned rail-trail that attracts many thousands of riders every year from throughout America and around the world.

This trails tourism traffic is worth an estimated \$50 million a year to the communities along the GAP, and in recent years has breathed new life and commerce into towns and small cities suffering the decline of traditional primary industries. The North Berkeley Rail Trail would allow the businesses and main streets of northeast West Virginia to connect to this booming market.

The grant to the North Berkeley Rail Trail project was one of 22 West Virginia trail projects receiving support. Gov. Tomblin announced \$1.2 million in RTP grants to trails throughout the state. See the complete list in the box to the right.

RECREATIONAL TRAILS PROGRAM FUNDS AWARDED

Berkeley County

Yankauer Nature Preserve Accessible Restroom Facilities, \$50,000

Boone County

Hatfield-McCoy Little Coal River, \$40,000

Dartmont Park Walking Trail, \$40,000

Greenbrier County

Lewisburg L & R, \$48,000

Greenbrier & Fayette counties

Meadow River Rail Trail, \$80,000

Harrison County

Salem Trail Resurfacing, \$8,000

Logan County

Hatfield-McCoy Dingess Run, \$40,000

Logan & Mingo counties

Hatfield-McCoy Browning Fork, \$40,000

McDowell County

Hatfield-McCoy Indian Ridge, \$40,000

Mingo County

Hatfield-McCoy Buffalo Mt., \$40,000

Monongalia County

Decker's Creek Trail Resurfacing, \$80,000

Westover Park Loop, \$28,800

Monongalia, Marion & Preston counties

Mon River Trails Dump Truck, \$56,000

Monongalia & Preston counties

Decker's Creek Trail Undercut Repair, \$115,609.33

Monroe County

Potts Valley Rail Trail Phase II, \$41,760

Morgan County

N. Berkeley Rail Trail, \$80,000

Nicholas County

Gateway Trail/Fork Mt. Trail, \$70,500

Pendleton County

Whispering Spruce Trail, \$22,500

Preston County

W.Va. Northern Rail Trail Acquisition, \$80,000

Raleigh County

Burning Rock Outdoor Adventure Park, \$80,000

Wetzel County

Riverfront Trail Improvements (Paden City), \$32,000

Wyoming County

Hatfield-McCoy Pinnacle Creek, \$40,000

FIRST “LUNCHBREAK LECTURE” A BIG HIT

The January 27, 2013, meeting of the West Virginia Highlands Conservancy Board included the first in a series (we hope) of Lunchbreak Lectures. We invited not just the Board but all members, particularly those in the Charleston area, to come for lunch and a talk on some topic of interest. The idea was to give members who were not on the Board a reason to come to Board meetings, or at least the lunch part. There they could meet Board members, be part of the discussion if so moved, and have a little fun. In the unlikely event that the morning part of the meeting got a little dull, a Lunchbreak Lecture would also be just the thing to snap the Board members back to full consciousness.

This is how it went.

It was a treat. Charleston members and the WVHC board gathered for a midday presentation by Doug Wood on history and culture of Coal River. Beginning with the ancient Teays River, and with facts about the many, many years and types of human impacts, Doug explained how his own school boy lessons had become refined. He chronicled the long-time use of fires, hunting, trading [especially of furs], and territorial disputes.

We hadn't known before about earthwork fortifications used by very early people. John Peter Salley, Daniel Boone, and the Ruffner brothers were among the figures that we met. Modern bar charts showed the rise and fall of deerskin sales, by both Indians and settlers, and such commerce was interpreted. At least seven wars, before and including the Revolutionary War, were noted.

After the wars, other activities--- including salt production, crop and livestock farming, lumbering, land speculation, boat building, and punch mines---were reviewed, and followed up through the Civil War.

Sadly, time limits curtailed our peek into the past at that point, and our gifted guide fast forwarded. He, and we, sincerely hope we can do a second installment of this river trip again sometime soon.



(Left) Cindy Rank and Mae Ellen Wilson confer on matters of great import. Or not. (Below) Don Garvin makes a report of matters legislative to the Board.



SICK COWS IN FRACKING REGIONS, RAISING CONCERNS ABOUT FOOD

By Elizabeth Royte, Beaver County Blue via Food and Environment Reporting Network

In the midst of the domestic energy boom, livestock on farms near oil-and-gas drilling operations nationwide have been quietly falling sick and dying.

While scientists have yet to isolate cause and effect, many suspect chemicals used in drilling and hydrofracking (or “fracking”) operations are poisoning animals through the air, water, or soil.

Earlier this year, Michelle Bamberger, an Ithaca, New York, veterinarian, and Robert Oswald, a professor of molecular medicine at Cornell’s College of Veterinary Medicine, published the first and only peer-reviewed report to suggest a link between fracking and illness in food animals.

The authors compiled 24 case studies of farmers in six shale-gas states whose livestock experienced neurological, reproductive, and acute gastrointestinal problems after being exposed—either accidentally or incidentally—to fracking chemicals in the water or air. The article, published in *New Solutions: A Journal of Environmental and Occupational Health Policy*, describes how scores of animals died over the course of several years.

The death toll is insignificant when measured against the nation’s livestock population (some 97 million beef cattle go to market each year), but environmental advocates believe these animals constitute an early warning.

Exposed livestock “are making their way into the food system, and it’s very worrisome to us,” Bamberger says. “They live in areas that have tested positive for air, water, and soil contamination. Some of these chemicals could appear in milk and meat products made from these animals.”

In Louisiana, 17 cows died after an hour’s exposure to spilled fracking fluid, which is injected miles underground to crack open and release pockets of natural gas. The most likely cause of death: respiratory failure.

In New Mexico, hair testing of sick cattle that grazed near well pads found petroleum residues in 54 of 56 animals.

In northern central Pennsylvania, 140 cattle were exposed to fracking wastewater when an impoundment was breached. Approximately 70 cows died, and the remainder produced only 11 calves, of which three survived.

In western Pennsylvania, an overflowing wastewater pit sent fracking chemicals into a pond and a pasture where pregnant cows grazed: Half their calves were born dead. Dairy operators in shale-gas areas of Colorado, Pennsylvania, West Virginia, and Texas have also reported the death of goats.

Drilling and fracking a single well requires up to 7 million gallons of water, plus an additional 400,000 gallons of additives, including lubricants, biocides, scale- and rust-inhibitors, solvents, foaming and defoaming agents, emulsifiers and de-emulsifiers, stabilizers and breakers. At almost every stage of developing and operating an oil or gas well, chemicals and compounds can be introduced into the environment. *Cows Lose Weight, Die*

The risks to food safety are difficult to parse, since different plants and animals take up different chemicals through different pathways.

“There are a variety of organic compounds, metals, and radioactive material [released in the fracking process] that are of human health concern when livestock meat or milk is ingested,” Motoko Mukai, a veterinary toxicologist at Cornell’s College of Veterinary Medicine, says. These “compounds accumulate in the fat and are excreted into milk. Some compounds are persistent and do not get metabolized easily.”

Veterinarians don’t know how long chemicals may remain in animals, farmers aren’t required to prove their livestock are free of contamination before middlemen purchase them, and the Food Safety Inspection Service of the U.S. Department of Agriculture isn’t looking for these compounds in carcasses at slaughterhouses.

Fracking proponents criticize Bamberger and Oswald’s paper as a political, not a scientific, document. “They used anonymous sources, so no one can verify what they said,” says Steve Everley, of the industry lobby group Energy In Depth. The authors didn’t provide a scientific assessment of impacts—testing what specific chemicals might do to cows that ingest them, for example—so treating their findings as scientific, he continues, “is laughable at best, and dangerous for public debate at worst.”

The National Cattlemen’s Beef Association, the main lobbying group for ranchers, takes no position on fracking, but some ranchers are beginning to speak out. “These are industry-supporting conservatives, not radicals,” says Amy Mall, a senior policy analyst with the environmental group, Natural Resources Defense Council. “They are the experts in their animals’ health, and they are very concerned.”

Last March, Christopher Portier, director of the National Center for Environmental Health at the U.S. Centers for Disease Control and Prevention, called for studies of oil and gas production’s impact on food plants and animals. None are currently planned by the federal government.

As Local Food Booms, Consumers Wary But consumers intensely interested in where and how their food is grown aren’t waiting for hard data to tell them their meat or milk is safe. For them, the perception of pollution is just as bad as the real thing.

“My beef sells itself. My farm is pristine. But a restaurant doesn’t want to visit and see a drill pad on the horizon,” Ken Jaffe, who raises grass-fed cattle in upstate New York, says. Only recently has the local foods movement, in regions across the country, reached a critical mass. But the movement’s lofty ideals could turn out to be, in shale gas areas, a double-edged sword.

(More on the next page)

MORE ABOUT THE COWS (Continued from p. 14)

Should the moratorium on hydrofracking in New York State be lifted, the 16,200-member Park Slope Food Co-op, in Brooklyn, will no longer buy food from farms anywhere near drilling operations—a \$4 million loss for upstate producers. The livelihood of organic goat farmer Steven Cleghorn, who's surrounded by active wells in Pennsylvania, is already in jeopardy.

This report was produced by the Food and Environment Reporting Network, an independent investigative journalism non-profit focusing on food, agriculture, and environmental health. A longer version of this story appears on TheNation.com

Editor's Note: This is an excerpt from a story that appeared in *Beaver County Blue*, a publication of progressive Democrats in Pennsylvania. That story was based upon a longer report that appeared in *The Nation*. As the story points out, the connections between fracking and dead cows are not conclusively established and nobody completely understands the mechanism involved. At the same time, it is another straw in the wind, another indication that there are still plenty of legitimate questions about the wisdom of fracking.

THE BUFFER ZONE RULE--THE REST OF THE STORY (Continued from p. 3)

In 2009, the Office of Surface Mining charged ahead with reinstating the rule. It published an "Advance notice of proposed rulemaking; notice of intent to prepare a supplemental environmental impact statement (SEIS)." In its notice it said, "We have determined that revision of the stream buffer zone (SBZ) rule published on December 12, 2008, is necessary to implement the interagency action plan that the Administration has developed to significantly reduce the harmful environmental consequences of surface coal mining operations in Appalachia, while ensuring that future mining remains consistent with Federal law."

In a press release announcing that it intended to revise the rule, Assistant Secretary of the Interior for Land and Minerals Management Wilma Lewis said, "America's vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment. We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to coal operations and the communities that depend on coal for their livelihood, strengthen our oversight and inspections, and coordinate with other federal agencies to better protect streams and water quality."

What's Happening Now

As "quickly as possible" has turned into over three years and the Office of Surface Mining hasn't done anything. In the early days of the Obama administration, the groups put the current lawsuit on hold based

on the administration's promise to replace the harmful Bush rule by 2012. Because the administration failed to live up to its agreement to revoke the Bush rule and issue a new stream protection rule, the groups are returning to court to restore protections for Appalachian communities and streams.

Why This Is Taking So Long

Resolution of this issue is not dragging along because everybody is busy and can't find the time to write a new rule or reinstate the old one. It is taking so long because the stakes are so high that nobody other than those dissatisfied with the status quo (the groups who sued) wants to do anything.

The stream buffer zone is, in today's jargon, a "game changer." If it means what the groups (and Judge Haden) say it means, and it is enforced, then mountaintop removal mining as we know it would mostly disappear. Once removed, the tops of mountains have to go somewhere. If the industry can't put them in streams, then there is nowhere for them to go. They have to stay where they are. Those who could write the rule and enforce it are hesitant to take such a dramatic step.

What We Want

West Virginia Highlands Conservancy (WV) mining committee chair Cindy Rank says, "We cannot accept anything short of a rule that truly protects our irreplaceable headwater streams and the hydrologic regime that supports them. The 1983 Stream Buffer Zone Rule did just that by prohibiting activities that degrade the physical, biological and chemical nature of those streams. The 2008 Bush stream rule turned upside down that basic commitment to the health of our waters. Because the Obama Interior Department has failed to act, we're asking the court to take action."

The case is pending in the United States District Court for the District of Columbia.

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



INITIATIVE HEALS RARE FOREST AND RECOVERS SQUIRREL

By Kristin Haider

In a 1925 article in the *Scientific Monthly* titled “The Vanishing Spruce,” referred to the high elevation red spruce (*Picea rubens*) as a “lost tribe.” The lost tribe of red spruce the authors were referring to found refuge in the high elevations in the central Appalachian region during a warming period that took place after the Wisconsin glaciation—part of the last Ice Age, which ended approximately 10,000 years ago. Historically, red spruce was common in both the peaks and valleys of the Appalachians, but as temperatures climbed, the species was forced to retreat north towards New England and southeastern Canada, and to islands of suitable habitat in the high elevation areas of the central Appalachians.

This “lost tribe” metaphor paints a picture of a species that is stranded—disjunct in time and space from the rest of its kind. However, despite its limited range, the species thrived on ridges and peaks, which are cooler and wetter than the valleys around them. These spruce forests have provided important habitat for many rare plants and migratory bird species, and have acted as a stronghold for the federally endangered West Virginia northern flying squirrel (*Glaucomys sabrinus fuscus*) and the federally threatened Cheat Mountain salamander (*Plethodon nettingi*). Unfortunately, in the late 1800s these high elevation red spruce forests were threatened by a growing nation’s demand for resources.

Prior to the 19th Century, there were over 500,000 acres (200,000 hectares) of high elevation red spruce forests in West Virginia. Sadly, most of the timber on these acres was harvested for paper products. Appalachian red spruce was also prized for the use in creating fine instruments such as fiddles, guitars, and pianos, and for shipbuilding.

Intense fires often followed the logging operations in the high elevation red spruce forests. These fires, which were commonly the result of stray cinders from the steam trains used to move the timber, often burned hot enough to ignite the thick humus layer that is characteristic of red spruce forest. Fire virtually eliminated the soil along with the red spruce seed bank – at some sites inhibiting the regeneration of

the spruce and giving northern hardwood species the opportunity to take over. Extensive logging and fires took their toll and by the end of the 20th Century, less than 50,000 acres (20,000 ha) of West Virginia’s red spruce forests remained. As a result of the loss of this habitat, the West Virginia northern flying squirrel and the Cheat Mountain salamander gained Endangered Species Act protection in the late 1980s.

Fortunately for these two listed species, the U.S. Fish and Wildlife Service is supported by a number of partners, through the Central Appalachian Spruce Restoration Initiative (CASRI), in efforts to protect and restore historic red spruce-northern hardwood ecosystems across



CASRI partners working to plant seedlings and build enclosures to keep deer and livestock out of sensitive areas at the Blister Swamp restoration site. This group got to enjoy a rainy day in the field in early October 2012. Photo by Elizabeth Byers, WVDNR



A stand of red spruce (*Picea rubens*) at the Gaudineer Knob scenic area in the Monongahela National Forest in West Virginia. Photo by: Kristopher Hennig, AmeriCorps with the USFS

the high elevation landscapes of central Appalachia. The CASRI is a partnership of diverse interests with a common goal of protecting the remaining red spruce stands and restore red spruce ecosystems where they have disappeared. Partnering organizations include Appalachian Mountain Joint Venture, Appalachian Regional Reforestation Initiative, Canaan Valley National Wildlife Refuge, Natural Resources Conservation Service, The Mountain Institute, The Nature Conservancy, Trout Unlimited, U.S. Forest Service Northern Research Station, U.S. Forest Service Monongahela National Forest, West Virginia Division of Natural Resources, West Virginia Division of Forestry, West Virginia Highlands Conservancy, West Virginia State Parks, and West Virginia University.

The partnership formally started in 2007 when some of these partners signed a Memorandum of Understanding that established a broad strategic framework for collaboration on the long-term conservation of the red spruce-northern hardwood ecosystem in West Virginia and Virginia. Their vision was to provide functional habitat that would sustain and enhance the viability of the West Virginia northern flying squirrel. Spruce restoration projects have also had a positive impact on the Cheat Mountain salamander and many migratory bird species, which has brought additional partners to the table.

“CASRI aims to move forest or wetland vegetation and other natural

(More on the next page)

SPRUCE AND SQUIRRELS (Continued from previous page)

processes back onto a course of development and function that existed prior to the severe logging and associated fires that threw the ecosystem off course," says Elizabeth Byers, project ecologist with the West Virginia Division of Natural Resources. "Setting our forests back on course not only preserves West Virginia's native plants but also helps our important wildlife species."

High priority areas, including those within close proximity to existing spruce habitat likely to increase connectivity between spruce habitat across the landscape, those near public lands and those including additional sensitive habitat such as cave or karst, have been targeted for conservation delivery efforts.

In 2012 alone, CASRI partners raised \$725,800 for on-the-ground projects, logged over 2,000 volunteer hours spent planting 34,275 native tree seedlings on roughly 206 acres (80 ha)—bringing the total acres planted since 2006 to 750 (300 ha). Additionally, partners conducted habitat restoration on 106 acres (40 ha) by releasing red spruce from the understory forest by commercial and non-commercial forestry practices, and purchased and permanently protected 590 acres (340 ha) of high elevation red spruce habitat.

The CASRI's commitment to the long-term conservation of the red spruce-northern hardwood ecosystem in the states of West Virginia and Virginia has been effective as evidenced by the proposed delisting of the West Virginia northern flying squirrel from the list of federally endangered species. Whether or not the West Virginia northern flying squirrel remains on the endangered species list, the CASRI partners will remain committed to restoring the high elevation red spruce ecosystems of the central Appalachian region. What began as an endangered species recovery effort has grown into a landscape level ecosystem restoration project that will benefit numerous other plant and animal species.

Kristin Haider, a biologist in the Service's West Virginia Field Office and AmeriCorps volunteer, can be reached at kristin_haider@fws.gov or 304-636-6586, ext. 25. This story was originally published as part of the Fish and Wildlife Service's Endangered Species program.

MODELS NEEDED

As you can see (p. 20), Jim Solley and Cynthia Ellis have abandoned the runway. This leaves us with the picture of the polo shirt but no model. Should you wish to step into the breach just send a picture of yourself in the shirt. Pictures of children, grandchildren, whatever are also welcome for the baby and toddler shirts. To date no model has managed to make the jump from the pages of *The Highlands Voice* to the salons of Paris, New York, etc. but you never know.



West
Virginia
Highlands
Conservancy

PO Box 306 Charleston, WV 25321

West Virginia Seed Source Conifer Seedlings

The West Virginia Highlands Conservancy continues its efforts to conserve and restore the High Elevation Red Spruce Ecosystem in West Virginia, and the Central Appalachian Mountains, by offering high quality seedlings grown from seed collected locally by volunteers.

All proceeds support red spruce ecosystem restoration efforts in West Virginia.

Red Spruce

10-18 inches, these are a 2 inch plug 6 inches deep.

Spring 2013

Thru August 31, 2012	1,000 minimum
\$0.85 each	
Beginning September 1, 2012	1,000 minimum
\$0.95 each	
Beginning September 1, 2012	100 minimum
\$2.00 each	

Spring 2014

Thru August 31, 2012	1,000 minimum
\$0.80 each	
September 1, 2012 - August 31, 2013	1,000 minimum
\$0.85 each	
Beginning September 1, 2013	1,000 minimum
\$0.95 each	
Beginning September 1, 2013	100 minimum
\$2.00 each	

Canaan Valley Balsam Fir Seedlings

14-20 inches, these trees, are a 1 year plug grown in a transplant bed for 2 additional years.

Spring 2013

Beginning September 1, 2012	100 minimum
\$2.50 each	
Beginning September 1, 2012	1,000 minimum
\$1.25 each	

25% deposit will reserve your trees.
Flexible availability from late March thru early May.

Quantities Limited

All prices FOB Morgantown, WV

For more information visit www.restoreredspruce.org or contact:
Dave Saville, Program Coordinator
304-692-8118
daves@labyrinth.net

HIGHLANDS CONSERVANCY BOUTIQUE

NEW STUFF



Future Activist pegs the Cute-o-Meter in new baby outfit.



The new polo shirts.

► Our newest online store items are here. The 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

► Soft pima cotton adult polo shirts are a handsome earthtone light brown and feature the spruce tree logo. Sizes S-XXL [Shirts run large for stated size.] \$18.50

► 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

SAME STUFF

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 \$12 by mail; **long sleeve** is \$15. 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.



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 (heart) 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