

West Virginia Highlands Conservancy
 PO. Box 306
 Charleston, WV 25321

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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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Highlands Conservancy Opposes Big Pipeline Through George Washington National Forest

The West Virginia Highlands Conservancy has made comments on the proposal by Dominion Transmission and its partners to conduct pipeline surveys in the George Washington National Forest. If it is ever built, the pipeline would run from central West Virginia to Virginia and North Carolina. The proposed route would take it through the George Washington and Monongahela National Forests.

The current controversy is over whether Dominion and its partners should be given a permit to conduct surveys in the George Washington National Forest. In its comments, the West Virginia Highlands Conservancy is opposing that permit.

In the press release announcing that it is seeking comments, two things about the position of the Forest Service are apparent: (1) it intends to grant the request; and (2) this is just a survey, not a decision on approving the pipeline. "It is important to remember that allowing these survey activities does not mean we are allowing the construction of a pipeline," said Forest Supervisor Tom Speaks. "At this time, we are seeking comments on survey activities;

additional opportunities to comment on the specific route and construction of the proposed pipeline will be provided by the FERC in the coming months."

In its comments the Conservancy takes the opposing view. While this may nominally be just a survey, it is really the first step on the road toward approval. In light of its numerous public statements, it is highly likely that Dominion will proceed with an application to build the pipeline across the forest after it completes the survey of the potential route. Since that is the case, the Forest Service should consider the impacts of the entire project at this initial stage. Completion of this survey would be one more step toward a route that Dominion has apparently already selected, a route that crosses the National Forest. The Conservancy has asked that the Forest Service reject Dominion's proposal before the company makes further investment in a route across the George Washington National Forest.

Instead of approaching this as just a survey (and subject to almost no scrutiny), the Conservancy suggests that the Forest

Service consider all the impacts of the proposed pipeline. There are a lot:

- This is a big construction project, requiring a lot of land disturbance in steep terrain. That kind of disturbance inevitably leads to erosion and has impacts upon undeveloped forests, wildlife and the scenic value of the Forest.
- The alleged economic benefits of the pipeline are either non-existent or inconsistent with local preferences. In its presentations to local county supervisors and others in the George Washington National Forest region, Dominion has touted the pipeline as an opportunity for new industrial development. However, these communities have expressed a strong preference for development that preserves the natural beauty and environment of this area, in part, because it sustains a locally resilient economy based on agriculture, forestry, tourism, recreation, and business. An undeveloped George Washington National Forest helps support

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Ramblin' the Ridges

By Cynthia D. Ellis

Skunk Cabbage Is On The List

A moose. She wanted her young son to have a future that included having an opportunity to see a moose. That was among the factors that impelled author Naomi Klein to write her new book about



envy you your the new experiences." That was long ago, and the wide world around our mountains and birds keeps expanding for me. There's lots more I want to see!

I "need" to see migrating Monarch Butterflies roosting in a tree. I'd love a better view of a bobcat and a Golden Eagle. And blooming Skunk Cabbage! There have been glimpses of the post-bloom foliage, but I want to see this unique plant in its late winter glory.

For my tiny great-niece, and all the next ones, I have a list too. I want her to see a click beetle, a hog-nosed snake playing dead, a wolf spider with babies on its back, and a Hummingbird nest...

climate change, "This Changes Everything".

When I read that, I thought about things I wouldn't want my own next generation to miss. But, somewhat selfishly, I also thought about unrealized opportunities for me.

There are countless things to hope that youngsters, and we ourselves, get to see in the Highlands. There are also experiences to savor. We could make a List of Hopes. Rather conventionally, the list could include our mountain sunrises, sunsets, seeing fox kits gamboling at the mouth of a den, and watching the wake of ripples on a pond from a beaver's tail. Less routine would be having a chance to stroke an Eastern red bat...something Craig Stihler with the WV DNR has helped happen for many of us here. Our opportunities abound.

When I began birding, someone with years of looking and listening told me, "I

Naomi Klein fears that the effects of climate change may make the world very different for her son. Obviously anyone who acknowledges those fears knows that those impacts would be as real for the West Virginia Highlands as anywhere else. The folks from Friends of Blackwater with their "Allegheny Highlands Climate Change Impacts Initiative" have reported projected effects for here such as warmer temperatures, increased precipitation [and floods], more droughts [affecting bogs and marshes], vulnerable forest species [especially sugar maple and red spruce], declining habitat for Brook Trout, and myriad economic losses that would accompany the changing climate.

In her book, Ms. Klein reminds that severe changes may not be gradual, but rather sudden and drastic; this makes action, beyond simple compiling of lists, have a greater urgency.

Within WVHC we are already busy with our "old" work. The volunteers with the West Virginia Highlands Conservancy are logging hour after hour on previously recognized threats, primarily from energy-related issues. This is not to say that climate change has been ignored. Our Red Spruce plantings have a goal, of course, of increased areas of those trees. Along with other benefits, stands of those spruce could make for shadier, cooler sites. Our efforts, with others, against the Export-Import Bank regarding mountaintop removal coal have everything to do with energy choices.



These may be small details, but every small action counts.

Each of us does all that we can. The time is passing for presenting information and laying out persuasive arguments. As you, and we, decide more action must be mounted, we will try.

Meanwhile I will hope that Naomi's son sees a moose. I will hope that my great-niece and I enjoy our List of Hopes together. It may not quite be too late.

Conservancy Opposes Big Pipeline (Continued from p. 1)

this economy with clean water, timber, scenic beauty, and recreation opportunities.

- The pipeline fails to meet the screening criteria in 36 C.F.R. § 251.54(e) (1) and (5).
- The pipeline is not consistent with standards and guidelines in the applicable forest land and resource management plan prepared under the National Forest Management Act and 36 CFR part 219. Under 36 § 251.54(e)(1)(i), the proposed use must be "consistent with the laws, regulations, orders, and policies establishing or governing National Forest system land," and "with other applicable Federal law."
- The pipeline would interfere with areas which have been identified as Globally Important Bird Areas.
- The George Washington National Forest, like all National Forests, has a management plan which is supposed to guide the management of the Forest. The pipeline would be inconsistent with the Plan for the George Washington.
- The Forest is managed for mature forest habitat and the numerous species which require such habitat. Motorized access is limited. A pipeline would fragment that habitat and interfere with that management.

**What Other People Are Saying**

The West Virginia Highlands Conservancy's comments were was only one of thousands of comments that the Forest Service received on Dominion's application for a permit to survey for the Atlantic Coast Pipeline in the George Washington National Forest.

The final day for comments was Friday, Jan. 23. The Forest Service received over 7,000 comments, including over 150 individual comments.

Many of the commenters said things that the Highlands Conservancy said. A few of the comments can be accessed here:

Dominion Pipeline Monitoring Coalition: [Full comments](#) with appendices (15MB); [Main text](#) (1.8MB)

[Appalachian Mountain Advocates](#) (4.6MB)
[Southern Environmental Law Center](#)

Some of the major concerns:

- Although the purpose is "to collect information needed by FERC and other regulatory agencies to review and permit the ACP," the proposed survey will not achieve this objective.
- The application does not mention the Forest Management Plan. It ignores specific management prescriptions, directives to locate new pipelines off the National Forest or in Designated Utility Corridors, prohibitions against disturbing Cow Knob salamander habitat, and the importance of designated priority watersheds.
- The proposed environmental survey will not evaluate the loss of unfragmented forest and the impact on species that depend on interior forest.
- The proposed survey will not involve the data collection and analysis required to avoid slope failures and achieve erosion and sediment control on the many steep mountain sides that the pipeline would cross.
- The National Forest should not review the preliminary ACP survey as if it were an independent activity unrelated to pipeline construction..
- Although the National Environmental Policy Act requires meaningful evaluation of alternatives, Dominion's application identifies no alternatives to the proposed route.
- The National Forest should prepare a programmatic Environmental Impact Study to evaluate and manage the multiple proposals for large pipelines across National Forest in Virginia and West Virginia.

In addition to concerns about the impacts of the project, the comments question the adequacy of the proposal for the survey. In this the Conservancy echoed the comments of the Laurel Mountain Preservation in its description of the numerous deficiencies in the application

The application is deficient with respect to the amount of land disturbance that will occur during the survey, the lack of data presentation that can be obtained from existing publications that would serve as a guide for the proposed surveys, the lack of environmental considerations presented in the "Environmental Survey" description, and the lack of a list of credentials and experience of personnel who will conduct the survey.

Just as we had last year, the Snowy Owl has made a visit to West Virginia. Experts note that there are many Snowy Owls present in more southern regions than usual, although not as many as in 2013-2014. This is called an "echo flight"...a smaller version of last year's season of many sightings. This one was spotted in Taylor County.

YOUR HELP IS NEEDED

Note to all WV Highlands Conservancy members:

If you have a favorite WV stream that you visit, wade, fish, kayak, dream by, listen to, watch for birds, relax by, or enjoy in any way ... WE NEED TO HEAR FROM YOU !

Please contact Cindy at clrank2@gmail.com or call 304-924-5802.

Debate Highlights West Virginia's Inaction on Energy Diversity, Efficiency

By Ken Ward Jr.,

As lawmakers move to dismantle West Virginia's six-year-old alternative-energy law, they tout their action as another effort to help the state's declining coal industry.

However, state records show that the 2009 law actually does little to hurt the coal industry and maybe even less to really promote alternatives like wind energy or solar power. West Virginia's coal-heavy utilities say they have been — and will continue to be — able to meet the law without adding new renewable generation.

Experts say the whole debate, pushed by the Legislature's new Republican leadership, highlights the lack of any real discussion among most West Virginia elected officials about doing more to diversify the state's energy portfolio and, with it, the state's economy.

"They are going the opposite direction of where they need to go," said Jeremy Richardson, a West Virginia native who is a senior energy analyst with the Union of Concerned Scientists. "It's just political theater."

Echoing political campaigns by some high-profile Republicans in the state, lawmakers and some in the state's news media have called the legislation, passed when Sen. Joe Manchin, D-W.Va., was governor, a "cap-and-trade bill."

A Senate bill to repeal the 2009 law passed unanimously Wednesday. The House version is up for passage on Thursday.

Earlier this week, James Van Nostrand, a West Virginia University law professor and director of the WVU College of Law's Center for Energy and Sustainable Development, tried to clear up some misunderstandings about the issue during an appearance before the House Judiciary Committee.

Van Nostrand told lawmakers the state's "Alternative and Renewable Portfolio Standard" doesn't actually require utilities in West Virginia to switch to renewable energy, hasn't hurt the coal industry and hasn't forced higher rates onto electricity customers.

The concept of cap-and-trade refers to setting a limit on emissions, and then allowing companies to trade emission reduction "credits" in a market-

based method of curbing pollution. Energy portfolio standards are different from cap-and-trade laws. They require utilities to get a certain share of their energy generation portfolio from different sources. The term is used most widely to describe programs that set a minimum requirement for generation from renewable sources, such as wind and solar, that will help reduce greenhouse emissions.

West Virginia's standard sets a phased-in approach for utilities to provide a share of the electricity they sell in the state from alternative sources: 10 percent by 2015; 15 percent by 2020; and 25 percent by 2025. However, as Van Nostrand told lawmakers Monday, the West Virginia law defines "alternative" energy to include natural gas generation and certain types of "advanced coal" power plants.

The standard, as written, "does virtually nothing to stimulate development of renewable resources within West Virginia," Van Nostrand wrote in a 2014 law review article. West Virginia's energy portfolio standard is the only one in the country in which there is no maximum amount of nonrenewable energy that can be counted as "alternative," according to a 2012 Department of Energy analysis.

This definition allows West Virginia's two largest utilities — the state operations of American Electric Power and FirstEnergy — to meet the required share of alternative generation using their current coal-focused mix, according to annual reports the companies have filed with the state's Public Service Commission.

"I can't say we're doing anything differently," said Mark Dempsey, a vice president at AEP's Appalachian Power unit. "The things that ended up qualifying as 'alternative' ended up being pretty expansive.

"We have had inquiries, more than one, over the course of the last few months, wanting us, I guess, to say negative things about this," Dempsey added. "But our answer has been, we know we're meeting the 2015 requirements, and we believe we would meet 2020 and 2025 requirements with no additional cost to our customers."

Van Nostrand has argued that West Virginia electricity customers have "not been well served" by the state's heavy

reliance on coal, and some citizen groups have made the same arguments before the PSC over the transfer of ownership of three coal-fired power plants from out-of-state FirstEnergy and AEP parent companies to their in-state utility subsidiaries.

The PSC has disagreed, though, in one case involving FirstEnergy's Harrison Power Station. Then-commissioner Ryan Palmer wrote in a dissenting opinion that it was dangerous for West Virginia to be going "all in" on coal at a time when "the general school of thought is to diversify" energy generation.

One small step forward in improving West Virginia's energy system might have come last year, when lawmakers approved a bill to require utilities to begin what's called "integrated resources planning."

That bill, generally supported by utilities, would require energy companies to examine their peak electricity demands, and consider various options — including generation and better efficiency — for meeting that demand.

Van Nostrand points out that while the bill requires utilities to file such plans with the PSC, and mandates that the PSC "analyze and review" those plans, it doesn't specifically require PSC approval of the plans.

Still, the group Energy Efficient West Virginia calls passage of the bill "a win for advancing energy efficiency in the Mountain State."

Emmett Pepper, executive director of EEVW, noted that the PSC has yet to issue an order that would outline how it plans to implement the integrated resource planning bill. Lawmakers gave the commission until March 31 of this year to issue that order.

"It really is up to the PSC at this stage," Pepper said. "We're kind of in a waiting pattern."

Note: This story originally appeared in *The Charleston Gazette*.

West Virginia's Alternative and Renewable Portfolio Standard—some other ideas

By John McFerrin

The story on the facing page discusses West Virginia's efforts to repeal its Alternative and Renewable Portfolio Standard. While all the legislative procedures had not been completed by press time, this is a done deal and the Standard will be repealed.

West Virginia's Alternative and Renewable Portfolio Standard was, in some ways, a part of a trend all around the country. States were mandating that utilities get some percentage of the electricity they sell from sources other than coal or other fossil fuels. The idea was that it is sound public policy to get our electricity from a variety of sources. Advocates of this policy assumed that it would result in development of such sources as wind, solar, geothermal, etc.

West Virginia being West Virginia and then-Governor Manchin being the coal guy that he is, West Virginia adopted a variation on the theme. In 2009 we passed an Alternative and Renewable Portfolio Standard. While it required increasing fractions of electricity to come from "alternative" sources, it defined "alternative" so broadly that it included the burning of coal. As a result, it did not do much—if anything—to encourage what most people and other states would consider alternative energy.

Because West Virginia's Alternative and Renewable Portfolio Standard didn't do much to encourage the use of what most people consider alternative energy sources, many who had supported those sources did not shed any tears when West Virginia's Standard was repealed. There was even some thinking that repealing this phony alternative energy standard could clear the way for a future standard that would actually have the effect of encouraging such energy sources as wind, solar, or geothermal.

There is, however, another point of view. Some consider any portfolio standard to be counterproductive. They think it unnecessarily restrains our choices of how we might satisfy the demand for electricity in the least harmful manner.

This view is articulated in an interesting article "A National Renewable Portfolio Standard? Not Practical" by [Jay Apt, Lester B. Lave, Sompop Pattanariyankool](#). It appeared in *Issues in Science and Technology*. To read it, see <http://issues.org/25-1/apt-4/>.

Its conclusions may be contrary to conventional wisdom on the best way to diversify our sources of electricity. At the same time, it is interesting reading and provides much information that is useful in thinking about the issue. It is worth reading even for those who disagree with its conclusions.

Our Readers Write

Dear Editor,

We've received your publication here at the Monroe Watchman for several years, and I frequently take the opportunity to peruse it while grabbing a quick bite of lunch in the office. I generally find myself very much in agreement with the Highland Conservancy's efforts to defend against all intruders the beauty and natural environment of your particular corner of the Great State of West Virginia. I must admit, though, to being a bit taken aback when I recently read the suggestion, on page 4 of the January issue, that we might all be better served if Dominion's Atlantic Coast Pipeline could be co-located with one of those "less impactful" southern projects, like the Mountain Valley Pipeline, or the Appalachian Connector.

This may come as a bit of a shock to Mr. Rick Webb, but many of the good folks in Monroe County really don't want the Mountain Valley or Appalachian Connector routes any more than he wants the Dominion project. And we certainly don't want a third. We're rather attached to our pastoral farmland, some of which has been held in the same families for 200 years. We're partial to our clean water, to the extent that a pretty good percentage of Monroe County residents still get their drinking water from private springs and wells. We understand the fragile nature of our karst topography. We're proud of our National Forest lands..., the GW-Jeff, in our case, not the Mon. And we're completely enamored by the majestic ridge of Peter's Mountain; still largely unspoiled at this point, though not entirely so.

Quite a few voices here have been raised against the Mountain Valley and Appalachian Connector proposals. But I'm not aware that anyone has stooped so low on the "good neighbor scale" as to suggest that these gas lines ought to instead be co-located along the Atlantic Coast Pipeline route. We wish you well in your efforts to defend the treasure which is the Allegheny Highlands. What a shame you can't wish the same for us.

Dr. Craig Mohler, Editor
The Monroe Watchman

Join us for E-Day!

Come visit the table of the West Virginia Highlands Conservancy and those of all your favorite environmental groups on E-Day at the WV Legislature. Spend some time talking with your legislators and watching Senate and House proceedings from the galleries. Then come see us, anytime 9-3, Wednesday, Feb.18.

Groups Sue Over Inadequate Treatment Plans

By John McFerrin

The West Virginia Highlands Conservancy, the Ohio Valley Environmental Coalition, Inc., the Sierra Club And The West Virginia Rivers Coalition have filed suit against the United States Environmental Protection Agency in the United States District Court for the Southern District of West Virginia. They allege that the United States Environmental Protection Agency is not doing its duty connected to cleaning up streams in West Virginia.

Background

The case arises under the federal Clean Water Act. While the details of the Act can get boring and complicated (and the Complaint in this case is a real snoozer), the core of the Act is simple: (1) keep pollutants from entering our waters; (2) for waters that are already polluted, figure out what is causing the pollution and come up with a plan to fix it. The Act assumes that if we do those two things we will achieve the overall goal of the Act: water that is clean enough to swim in, clean enough to drink, clean enough that fish could live in it, etc.

There is a whole set of regulations and a system of permitting that deals with the first part (keeping pollutants out). This case does not deal with that.

For the second part, West Virginia is supposed to figure out what streams are

messed up, figure out how they got that way, and figure out what we are going to do about it. The United States Environmental Protection Agency is supposed to review West Virginia's plans for different stream and decide if they are adequate or not. If they are not, the EPA is supposed to step in and do its own plan.

This case is about whether West Virginia did adequate plans for cleaning up streams that are polluted and whether EPA should have approved what West Virginia did.

What happened here

This case involves six watersheds which are polluted in some way: Upper Ohio South, Dunkard Creek, Lower Kanawha River, Elk River, Monongahela River, and West Fork River. Each of these has multiple tributaries which are listed in an Appendix that was filed with the Court.

West Virginia Department of Environmental Protection did what are called Total Maximum Daily Loads (the acronym is TMDL; the whole phrase is a mouthful so everybody who talks about this just says TMDLs) for all of these watersheds. TMDL is the jargon for the document that says what streams are impaired and what we plan to do about it.

At different times, the EPA approved the Total Maximum Daily Loads that West

Virginia submitted. The plaintiffs say that this was a mistake.

What the Plaintiffs say EPA did wrong

Plaintiffs say that neither West Virginia nor EPA developed TMDLs addressing what is known as "ionic stress." The science can get pretty complicated but "ionic stress" is similar to conductivity. One way to measure pollution is to measure ions in the water. This is determined by measuring how well the water conducts electricity. The test does not tell what substances are in the water but does tell that there is something present. EPA's research shows that this ionic stress does indicate "biological impairment" (something is harming aquatic life) of a stream.

When it looked at the streams involved in this litigation, the West Virginia Department of Environmental Protection found that there was biological impairment. Plaintiffs say that in spite of this West Virginia did not do a TMDL, something which would have included a clean-up plan. EPA approved West Virginia's submission anyway. This was EPA's mistake. Plaintiffs want the Court to declare that the EPA made a mistake in approving these TMDLs and order EPA to step in and do better TMDLs for these watersheds.

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.

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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.

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Associate	\$50	\$75	\$100	
Sustaining	\$100	\$150	\$200	
Patron	\$250	\$500	\$500	
Mountaineer	\$500	\$750	\$1000	

Mail to West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

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

A Painless Path to Supporting the West Virginia Highlands Conservancy

The West Virginia Highlands Conservancy has registered to participate in the Community Rewards program operated by Kroger. This makes it possible for supporters to financially support the Conservancy by shopping at Kroger. Once a supporter has registered, Kroger will donate a small fraction of purchases to the Conservancy.

Our NPO number is 85577. You don't have to know this to register but it helps. If you don't know the number you have to search through the list of several hundred organizations to find WVHC. If you know the number you don't have to search.

The Directions (from Kroger)

TO USE THE KROGER COMMUNITY REWARDS PROGRAM:

- Simply encourage your members to register online at krogercommunityrewards.com
- Be sure to have your Kroger Plus card handy and register your card with your organization after you sign up.
- If a member does not yet have a Kroger Plus card, please let them know that they are available at the customer service desk at any Kroger.
- Click on Sign In/Register
- Most participants are new online customers, so they must click on SIGN UP TODAY in the 'New Customer?' box.
- Sign up for a Kroger Rewards Account by entering zip code, clicking on favorite store, entering your email address and creating a password, agreeing to the terms and conditions
- You will then get a message to check your email inbox and click on the link within the body of the email.
- Click on My Account and use your email address and password to proceed to the next step.
- Click on Edit Kroger Community Rewards information and input your Kroger Plus card number.
- Update or confirm your information.
- Enter NPO number or name of organization, select organization from list and click on confirm.
- To verify you are enrolled correctly, you will see your organization's name on the right side of your information page.
- REMEMBER, purchases will not count for your group until after your member(s) register their card(s).
- Do you use your phone number at the register? Call 800-576-4377, select option 4 to get your Kroger Plus card number.
- Members must swipe their registered Kroger Plus card or use the phone number that is related to their registered Kroger Plus card when shopping for each purchase to count.

A testimonial (By John McFerrin)

I have participated in the program for several months now. Since WVHC was not yet registered I was supporting another organization. Signing up is easy. You have to have a Kroger Plus Card; many of us already have one since that is what makes it possible to get the weekly specials and, in my case, the senior discount (5% off on Tuesdays). Once you have that it is just a matter of going to the website, creating an account, and picking your charity.

Each quarter you can go back to your account and see how much of a donation your purchases have produced. In my case, it was \$41 for the last quarter of 2014. We are feeding a teenager and a near-teen around here (standard conversion factor: one teen = 2,000 ravenous locusts) so we probably spend more than most at Kroger. Still, if enough people participate it could add up to a goodly sum.

WVHC could not expect all our members or supporters to both participate and choose WVHC as their charity. There are many worthwhile organizations on the list. At the same time, we hope that enough people will sign up to make this a small but steady source of funding.

A Big Idea and a Little Remembrance

By John McFerrin

The ex-Senator, now Agriculture Commissioner, Walt Helmick still has big ideas. He wants to put concentrated animal feeding operations (they're specially regulated under the Clean Water Act) on mountaintop removal sites. He also wants to put them in Greenbrier and Webster Counties as well as the Potomac Highlands. He has been peddling this around the Legislature.

This put me in mind of something I learned of many years ago.

When I was on the Governor's Task Force on Mountaintop Removal in 1998 I got to know an economic development guy from Mingo County. He was an enthusiastic, can-do kind of a guy with the attitude that we've got all this newly flat land and, by golly, we are going to find some way to use it.

He had been in touch with hog producers about the possibility of putting hog feeding operations on old mines. They were considering shipping in baby pigs and growing them into teenager pigs before shipping them back for final fattening and slaughter.

The isolation of Mingo County was appealing. In big feeding operation diseases can be a real problem if something gets started. For a while my father in law in Minnesota was a feed salesman. When he would call on a hog farm they would meet him at the front gate with little booties in case he was carrying some pig germs. The pig farmers who were looking at Mingo County liked the idea that they could get away from any other pigs and any possible source of pig germs.

What killed the project was the lack of corn. There is not nearly enough corn in Mingo County or anywhere close to Mingo County to feed that many pigs. If someone tried to ship enough corn from Iowa to raise pigs here the shipping costs would make West Virginia raised pigs uncompetitive.

I don't know if Mr. Helmick has thought about this.



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

PRESIDENT: Cynthia D. Ellis, 3114 Steel Ridge Road Red House, WV 25168-7724 (304) 586-4135; cdellis@wildblue.net
 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
 VICE PRESIDENT FOR FEDERAL AFFAIRS: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com
 SECRETARY: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com
 TREASURER: Bob Marshall, 2108 Emma Road, Kenna WV 25248; (304)545-6817, woodhavenwva@aol.com
 PAST PRESIDENT: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2016)

Sara Bird127 East Main St., Buckhannon, WV 26201, (304) 545-5695; sarapearlbird@hotmail.com
 Jackie Burns 202 Black Bear Trail, Davis, WV 26260 jackie.burns@frontier.com .
 George Beetham, 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com
 Bill McNeel, 1234 Jerico Road, Marlinton, WV 24954, (304)799-4369; wpmcneel@gmail.com
 Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com
 DIRECTORS-AT-LARGE (Terms expire October 2015)
 Bob Henry Baber, 207 Howard St., Glenville, WV 26351, (304) 462-0320, mayorbobhenrybabber@yahoo.com
 Dave Fouts, HC 80, Box 993, Maysville, WV 26833, (304) 749-8172, foutsberg@citlink.net
 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@frontier.net
 Rick Webb, 481 Ravens Run Road, Monterey, Virginia 24465, 540-468-2881; rwebb@virginia.edu

ORGANIZATIONAL DIRECTORS

PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Dr., Oakmont, PA 15139; (412) 828-8983; buffrodman@hotmail.com
 BROOKS BIRD CLUB: Cindy Ellis, 3114 Steel Ridge Road, Red House, WV 25168-7724 (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, 4401 Eden Road, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com
 TEAM (Taylor Environmental Advocacy Membership): Beth Baldwin, 2594 Knottsville Road Grafton, WV 26354, 304-265-3029, elbrm6e21@msn.com
 ALLEGHENY HIGHLANDS ALLIANCE: Wayne C. Spiggle, RR 2 Box 97, Keyser WV 26726, 304-726-4868, wspiggle@mac.com
 SHAVERS FORK COALITION: Jim Van Gundy, 210 Buffalo Street, Elkins, WV 26241 (304) 636-4736 jvg01@gmail.com

COMMITTEE CHAIRS

MINING COMMITTEE: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304)924-5802; clrank@hughes.net
 PUBLIC LANDS MANAGEMENT COMMITTEE: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067 (301) 642-2820; Marilyn.Shoenfeld@gmail.com
 LEGISLATIVE COMMITTEE: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945; fyoung@mountain.net
 WIND ENERGY COMMITTEE: Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067pshoenfeld@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, 51 Wanshop Road, Reading, PA 19606, jamessolley@comcast.net
 ADMINISTRATIVE ASSISTANT: Beth Little, 214 Black Gum Lane, 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

“This Changes Everything: Capitalism Versus the Climate” by Naomi Klein

A review by Cynthia D. Ellis

She read a children's book to her small son..."Have You Ever Seen A Moose". And she wondered if he would get to do that.

This was just one tiny part of all that compelled Naomi Klein to write about climate---its status and the forces that have shaped that status and continue to do so.

Most of what we hear about the current climate crisis is gloom and doom. And there is plenty of it in this book. For example, "...there is a very high chance that our children will spend a great deal of their lives fleeing and recovering from vicious storms and extreme droughts..." But...Klein is able to infuse her sweeping discussion, of how we got here and what we must do now, with more than a flicker of optimism.

First though, the author examines how businesses and politicians have worked to consolidate power and influence within their own realms. "...over the past four decades, corporate interests have systematically exploited these various forms of crisis to ram through policies that enrich a small elite---by lifting regulations, cutting social spending, and forcing large-scale privatizations of the public sphere..."
 "...in 2013 in the US alone, the oil and gas industry spent just under \$400,000 a day lobbying Congress and government officials..."

Along the way Klein scrutinizes large environmental organizations too,

and details the collusion of many with the very industries they oppose. One example noted here is the conservation group that established a refuge for the declining grouse-like Attwaters Prairie Chicken in Texas, but soon thereafter permitted gas drilling there. Then when, the birds disappeared due to the increased human and mechanical presence, the group permitted additional drilling while yet promoting the refuge as an instance of their positive action.

So they denied their own impact. That could lead us to considering climate deniers who reject the broadest conclusions supported by 97% of scientists today. The author gives insights into the factors that impel and sustain such unfounded views.

The deniers look away; the predicted disastrous outlook is incomprehensible... so they flinch and seek comfort in the old ways. Growth at any cost has sustained us so far...and, hey, there is bound to be a magical technological fix coming into view any moment now.

Mythical remedies are catalogued too. Bridge fuels, carbon credit schemes and going green by increased shopping are examined. Hero and Villain personalities are critiqued for their impact---Warren Buffet, Richard Branson, Tom Steyer, Michael Bloomberg, Bill Gates, T. Boone Pickens; and, otherwise, Dr. John O'Connor, Andrea Vowel, Melina Laboucan Massimo, Crystal Lameman, and Helen Slottje. Some

names are familiar; if not, then media may be viewed for its climate change coverage, or lack of it.

In thirteen chapters, the author has pages and pages of reasons to worry and be afraid. But, I personally took great heart from the pages of reasons for hope. "Only mass social movements can save us now..."; and she shares story after story of how this is beginning.

We must not allow ourselves to be overwhelmed. We must change our patterns and be open to new ways. We know what is at stake. And we know what we must do.



What's Doing With the Website?

Many may have noticed that our website, wvhighlands.org., has become outdated. We have a website committee which is working on this. There is general consensus that the website needs to be upgraded and spruced up in general. An announcement message was approved for the site stating that we plan an upgrade and urge patience in the meantime. The sense of the Board and the committee is that we will have to hire somebody to whip the website into shape. While committee members continue to gather information and evaluate options, Board members are compiling a list of components of the current site that they wish to incorporate into a newer format.

Pipelines Across the Central Appalachian Mountains

Comparative Evaluation of Pipeline Alternatives

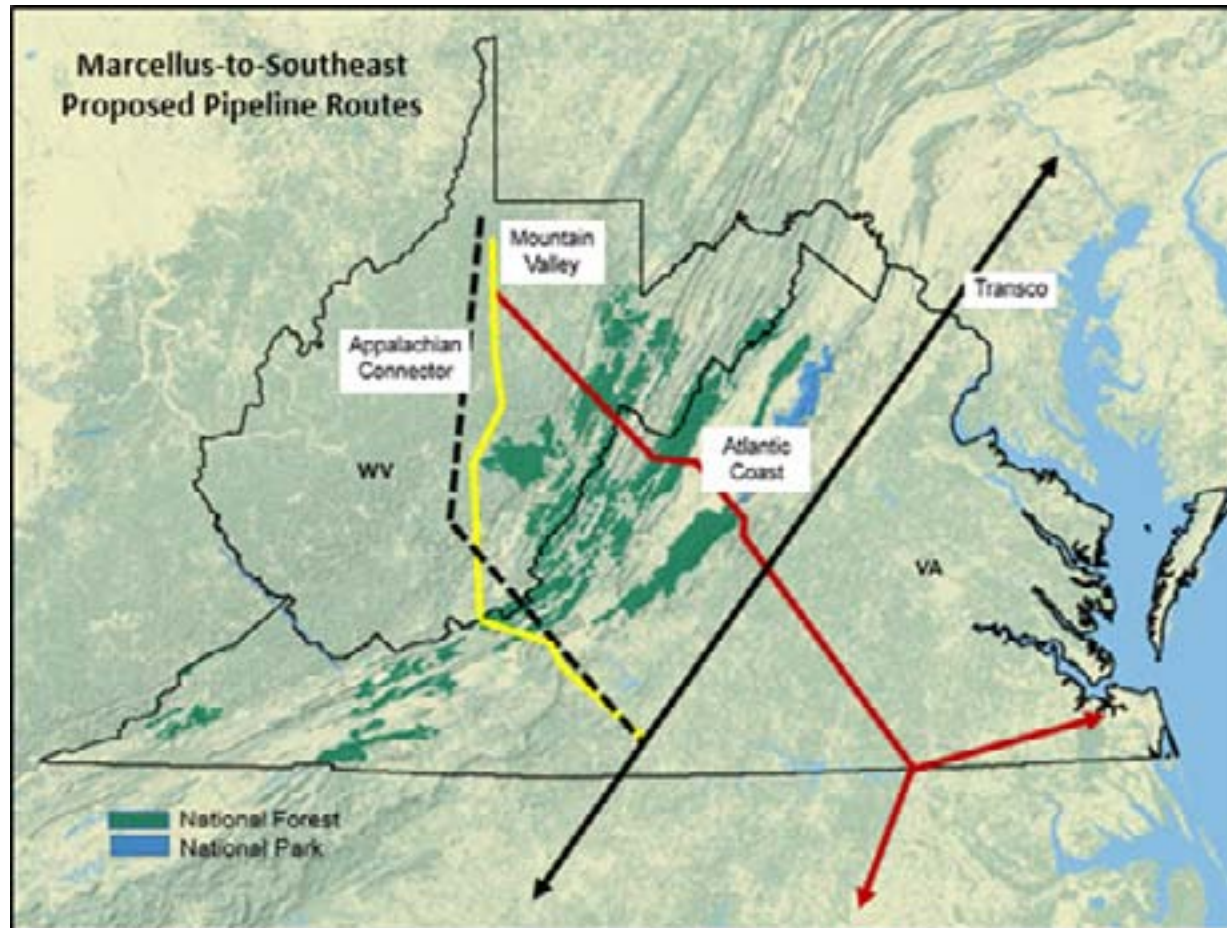
We face proposals for construction of three 42-inch pipelines for moving Marcellus shale gas from western West Virginia to Virginia and the southeast. These pipelines would be the largest ever built in this region.

These pipelines will require excavation of 125-foot-wide construction corridors over multiple steep-sided forested mountains. They will require heavy-duty transport roads and staging areas for large earth-moving equipment and pipe delivery. They will require extensive forest clearing, surface compaction, blasting through bedrock, and excavation through streams, wetlands, and riparian areas. They will cross hydrologically sensitive karst landscape and water-supply recharge areas. They will cross national forest and other public conservation lands, as well as farmland and developed communities.

Although the National Environmental Policy Act requires analysis of alternatives, the initial information submitted to the Federal Energy Regulatory Commission and the Forest Service by the pipeline developers raises concerns that analysis of alternatives to the proposed pipeline construction will be incomplete and self-serving.

The [Dominion Pipeline Monitoring Coalition](#) is an organization of volunteers, conservation groups, and scientists formed to prevent degradation of water resources and loss of ecological integrity due to construction of the proposed Atlantic Coast Pipeline. We are initiating analysis to compare the environmental costs of pipeline routing alternatives. The results of this analysis will be available for use by FERC, the Forest Service, and other regulatory and land management agencies during the NEPA review process.

GIS analysis will be conducted to quantify the environmental costs associated with the three major pipeline proposals. An initial list of geographic attributes for comparison includes distance of public lands crossed, critical habitat compromised, fragmentation and loss of interior forest, high-quality streams and wetlands crossed, slope failure potential, karst landscape crossed, water-supply recharge areas crossed, and scenic landscapes diminished. Additional analysis could focus on historic



and other cultural factors. With sufficient resources, the analysis could also extend to other alternatives, including the use of the existing gas transmission infrastructure, use of existing utility corridors, and co-location of pipelines versus development of multiple separate routes.

The Dominion Pipeline Monitoring Coalition has secured funding to initiate the analysis. We invite the participation of others who wish to protect the central Appalachian landscape from poorly considered pipeline routing.

Contact: Rick Webb, DPMC Coordinator, rwebb@virginia.edu; 540-468-2881.

Send Us a Post Card, Drop Us a Line, Stating Point Of View

Please email any poems, letters, commentaries, etc. to the VOICE editor at johnmcferrin@aol.com or by 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.

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)

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



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Arrangements have been made via AMAZON for WVHC to be one of the (many) charitable organizations eligible for small donations with each purchase by anyone who logs into AMAZON SMILE (rather than plain old Amazon) when buying stuff.

To participate, log on to the Amazon store via smile.amazon.com and make your purchases. Amazon will donate a small percentage (one half of one per cent) of your purchases to a charitable organization of your choosing at no extra cost to you. The WV Highlands Conservancy is now registered as one of those charitable organizations that you could choose. If you are a serial Amazon user, you don't have to choose WV Highlands Conservancy every time. Your choice becomes part of your account until you change it.

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Under The Highlands: Part I -Topography and Bedrock Geology

By Jim Van Gundy

Over fairly large areas, landscapes that are characterized by similar physical features are called “physiographic provinces”. West Virginia occupies parts of three of the eastern United States’ major physiographic provinces: the Appalachian Plateaus province, the Appalachian Valley and Ridge Province, and the Blue Ridge Province.



While the provinces are defined in terms of their topography, it is the rocks and geologic structures that lie beneath them that largely determine that topography. Nearly all of the surface rocks of West Virginia are sedimentary rocks of Paleozoic age (240 to 570 million years old). There are a few minor exceptions that will be discussed later.

Rocks such as sandstones are relatively resistant to erosion and tend to form ridges and cliffs while softer and more erodible rocks such as limestones and shales tend to favor the development of valleys. Seneca Rocks is composed of the Silurian age Tuscarora sandstone and Bear Rocks at Dolly Sods are cliffs of Pennsylvanian age Pottsville sandstone. Eagle Rock at the upper entrance to the Smokehole Valley is formed from the Devonian aged Oriskany sandstone.

The arch-like upfolded structures called anticlines and also their downfolded counterparts (synclines) are responsible for most of the ridges and valleys of the Valley and Ridge and Allegheny Mountain sections of the state. In West Virginia these fold structures almost invariably trend in a Northeast to Southwest direction. The folding was produced by the late Paleozoic Era collision between the continental masses of North America and Africa.

The relationship between anticlines and synclines and ridges and valleys is not as straightforward as one might think. When the folds were being created, the anticlines were indeed ridges and the synclines were valleys. But the present-day Appalachians

are the deeply eroded remnants of far loftier mountains, and in some instances, erosion has converted anticlines into valleys and synclines into ridges. Canaan Valley in Tucker County and Germany Valley in Pendleton County are developed on anticlines and Spruce Knob, the highest point in the state, sits astride a major syncline. On the other hand, Cave Mountain at the upper entrance to the Smokehole Valley in Pendleton County is an anticlinal ridge and the valley of the Dry Fork River in Randolph County is synclinal.

The varied relationship between the Appalachian ridges and valleys and the rock structures that underlie them is a consequence of the fact that rocks have been stretched and weakened along the crests of anticlinal folds and conversely have been compressed and strengthened along the axis of synclines. The weakened rocks along the tops of anticlines are therefore often more prone to erosion, sometimes resulting in the development of valleys rather than ridges.

The massive compressional forces that created the anticlines and synclines of the Valley and Ridge section of the state also produced a large number of faults in the region. Faults are planes of rupture between adjacent masses of rock and are of several different types. Most of the Appalachian faults are what are called “thrust faults” and are the type produced when large masses of rock collide at continental margins. They are the result of strong compressional forces and may involve the movement of huge slabs of rock, sometimes thousands of feet thick and many miles wide. In the central Appalachians these slabs were shoved upward and westward over the rocks that lie below them and in some cases moved twelve to fifteen miles or more from their original location.

The complexly folded and faulted rocks of the eastern counties give way to mostly flat-lying and undeformed rocks as one moves westward across the state. The Pennsylvanian age coals, shales, and sandstones that have been removed by erosion in the eastern counties remain to form the surface of the Allegheny Plateau in the central and western portions of the state. Most of the highest elevations on the Plateau are held-up by the very resistant sandstones and conglomerates of the Pennsylvanian Pottsville formation.

ERA	PERIOD	MILLIONS OF YEARS AGO
Cenozoic	Quaternary	1.6
	Tertiary	66
	Cretaceous	138
Mesozoic	Jurassic	205
	Triassic	240
	Permian	290
Paleozoic	Pennsylvanian	330
	Mississippian	360
	Devonian	410
	Silurian	435
	Ordovician	500
	Cambrian	570
		2500
	3800?	

Geologic Time Scale

The geologic history of the Highlands region will be examined in more detail in the next installment of this series, but for the time being, the reader should understand that over the course of the Paleozoic Era, three different ranges of very high mountains were elevated within the Appalachian region and were then subsequently eroded away.

The first two of these mountain systems lay to the east of West Virginia in what is now the Piedmont and Coastal Plain regions, but much of the sand, silt, and clay eroded from these mountains was deposited on the floor of the shallow sea that then covered most of what is now West Virginia. The sandstones, shales, and limestones found at the surface in the Valley and Ridge province and in parts of the Allegheny Mountain section of the state are rocks formed from these sediments.

The third episode of mountain building in the Appalachian region occurred towards the end of the Paleozoic Era when the African and North American tectonic plates collided and the ancestral Atlantic Ocean closed-off. This was by far the largest of the three ancestral Appalachian ranges and was probably similar in extent and height to today’s Himalayas. It was this collision that produced all of the anticlines and synclines, and most of the faults that can be seen in the central Appalachians today. The remainder of this article will examine the geology of West Virginia’s physiologic provinces in somewhat more detail.

The West Virginia Provinces

The Blue Ridge Province is barely represented in West Virginia and consists

(More on the next age)

mostly of ancient igneous and metamorphic rocks that have been thrust upward and westward along extensive fault zones. At the surface, the bedrock geology is similar to that of the Piedmont province to the east, but deep below the Blue Ridge Mountains you will find the much younger Paleozoic sedimentary rocks that have been buried beneath the great thrust sheets of much older rock. The oldest rocks in West Virginia are found in the Blue Ridge province at the extreme eastern margin of Jefferson County, the easternmost county in the state.

The Valley and Ridge province consists almost entirely of Paleozoic age limestones, sandstones and shales that range in age from Cambrian upward to Devonian. There are a few outcroppings of Mesozoic and Tertiary age igneous rocks, but these are generally quite small and are limited to a small handful of sites in Pendleton and Pocahontas Counties. The origin of the Tertiary igneous rocks is problematic. They are a product of the most recent volcanic activity to have occurred in the eastern United States but as yet, no satisfactory geological explanation has been offered for these volcanoes.

Numerous parallel anticlines and synclines are the typical subsurface structures in the Valley and Ridge and many of these are many miles in length and several miles in width. The Wills Mountain anticline, which forms North Fork and New Creek mountains in Pendleton and Grant Counties runs for nearly 180 miles from Bedford County, Pennsylvania to Highland County, Virginia. In addition to the folds, there are also numerous thrust faults in the Valley and Ridge section, especially at depth.

The Great Valley is considered by some authorities to be a physiographic province in its own right, but most consider it to be a part of the Valley and Ridge province. It is the easternmost and widest of the valleys of this province and is a distinct and continuous feature that can be traced from southern Canada to northern Alabama. Part of the St. Lawrence River occupies it to the north. In eastern Pennsylvania it is called the Lehigh Valley. To the south it is called the Cumberland Valley, then the Shenandoah Valley, then the Valley of East Tennessee and finally the Coosa Valley of Alabama. The rocks of the Great Valley are mostly limestones, dolostones and shales of Cambrian and Ordovician age. These rocks are often tightly folded and heavily faulted.

The Valley and Ridge section of West Virginia includes the entire eastern margin of the state extending from Monroe County in the south to Mineral County in the north as well as the vast majority of the Eastern Panhandle. The valleys are generally developed upon the softer and more erodible limestones and shales, while the ridges are held-up by the relatively more erosion-resistant sandstones.

The Appalachian Plateau Province is also referred to as the Allegheny Plateau Province, and is underlain by sedimentary rocks of Paleozoic age. These are generally younger rocks than are found in the Valley and Ridge section. The most common surface rocks of the Allegheny Plateau are coals, shales and sandstones of Pennsylvanian age. In addition to the Pennsylvanian rocks, Devonian shales and sandstones and Mississippian age shales, sandstones and limestones occur in the Allegheny Mountain sub-section of the Plateau. The Allegheny Mountain section is a hybrid region of sorts. While its rocks are similar to those of the Plateau proper, those rocks are folded into anticlinal and synclinal folds similar to those of the Valley and Ridge. The fold structures of the Alleghenies are somewhat gentler than those of the Valley and Ridge section and their amplitude decreases rapidly as you go westward. There is a much evidence for significant thrust faulting at depth, but such faults are rarely expressed at the surface.

There are rather distinct borders that delineate the Appalachian physiographic provinces. The eastern border of the Piedmont Province which lies to the east of West Virginia is marked by the “fall line”, so named because waterfalls and rapids occur in streams as they cross it. The Great Falls of the Potomac near Washington, D.C. is but one example. Many of the important early trading centers of the eastern United States: Philadelphia, Baltimore, Richmond, Raleigh, Columbia (SC) and Augusta (GA) are fall line cities that initially developed as trading centers because the fall line usually represented the upstream limit of navigation by trading ships from Europe. Later on, these same cities became early manufacturing centers because the rapids and waterfalls provided the waterpower to run the mills. The steam engine eventually eliminated that advantage, but by that time these cities had already established themselves as centers of commerce and manufacturing.

In terms of the bedrock geology, the border between the Piedmont and Blue Ridge is perhaps the least distinct of the lot, but the sudden transition from the igneous and metamorphic rocks of the Blue Ridge to the sedimentary rocks of the Valley and Ridge to the west is quite distinct. This boundary is marked by a series of large faults that have thrust the old rocks that lie to the east up and over the younger Paleozoic sedimentary rocks.

The border between the Valley and Ridge and the Appalachian Plateau is the most distinct of all. This is the imposing ridgeline known as the Allegheny Front, running almost continuously from New York State southward to Alabama. There are some stretches where the front is less distinct - to the south of Spruce Knob for example, but it then appears again clearly in southern West Virginia and southwest Virginia. The New River gorge represents the passage of the New River through the Allegheny Front.

The Valley and Ridge section of the Appalachians was settled mostly by settlers moving southward out of eastern Pennsylvania, following the fairly easy paths through the valleys and water gaps. Many of the family names found in the Valley and Ridge sections of the Virginias today are the same names that were originally common in Lancaster and York counties in Pennsylvania.

Moving westward across the front and through the rugged and complexly branched dendritic stream valleys of the Appalachian Plateau was much harder and the Allegheny Plateau section of West Virginia was probably more commonly settled by peoples coming from the west, moving up the valleys of the Ohio and Monongahela rivers and their tributaries. The old family names are often different on this side of the front and so are the cultures and traditions. These cultural differences later became part of the reason for the separation of the Virginias during the Civil War. To the east of the Front, the sympathies of the citizens of the new (1863) state of West Virginia were decidedly Confederate. To the west, the sympathies were largely with the Union.

(Note: this is the first of a 4-part series dealing with the geology of the Highlands.)

Twentymile Creek – twenty years late(r)

By Cindy Rank

FOLA Coal Company – Stillhouse Branch

Another court victory, another important step toward addressing what is an increasingly devastating source of pollution that impacts some of our most vulnerable and valuable headwater streams near the large strip mines and valley fills of today.

It's taken a long time and a lot of destructive mining and a lot of researching and a lot of wrangling with industry and regulatory agencies alike, but many court rulings these past ten years have brought about a better recognition of the value of headwater streams, the harmful effects of selenium on stream life, and have forced needed treatment of polluting discharges and somewhat better permitting to prevent the harm in the first place.

In this recent court order of January 27, 2015 the district court has not only confirmed once more that the Clean Water Act was truly written to protect the chemical and biological health of streams and truly does apply to coal mining operations but also re-asserts that conductivity, total dissolved solids, ionic pollution is illegally harming headwater streams – in this particular instance it's the Fola Coal mine in Stillhouse Branch of Twentymile Creek, a tributary of the Gauley River that enters the river not far downstream of the National Recreation Area.

As is frequently the case there's much to report and yet so much is the same old same old – both good and bad – and often so convoluted as to be mind numbing for all but a limited number of die-hards, or for those who read John McFerrin's plain spoken breakdowns of our legal skirmishes.

But the language of the court order itself can also be another source of clarity in these confusing legal battles. The conclusion of the January 27th court order concerning Fola Coal is an example of just such clarity. It speaks for itself

In multiple ways, the chemical and the biological components of the aquatic ecosystems found in Stillhouse Branch have been significantly adversely affected by Defendant's discharges. The water chemistry of this stream has been dramatically altered, containing levels of ionic salts—measured as conductivity—which are scientifically proven to be seriously detrimental to aquatic life. The

biological characteristics of the stream have also been significantly injured, in that species diversity—and, in some areas, overall aquatic life abundance—is profoundly reduced. Stillhouse Branch is unquestionably biologically impaired, in violation of West Virginia's narrative water quality standards, with current WVSCI [WV Stream Condition Index] scores falling well below the threshold score of 68.

Losing diversity in aquatic life, as sensitive species are extirpated and only pollution-tolerant species survive, is akin to the canary in a coal mine. This West Virginia stream, like the reference streams used to formulate WVSCI, was once a thriving aquatic ecosystem. As key ingredients to West Virginia's once abundant clean water, the upper reaches of West Virginia's complex network of flowing streams provide critical attributes—"functions," in ecological science—that support the downstream water quality relied upon by West Virginians for drinking water, fishing and recreation, and important economic uses. Protecting these uses is the overriding purpose of West Virginia's water quality standards and the goal of the state's permit requirements.

The Court thus FINDS that Plaintiffs have established, by a preponderance of the evidence, that Defendant [Fola] has committed at least one violation of its permits by discharging into Stillhouse Branch high levels of ionic pollution, which have caused or materially contributed to a significant adverse impact to the chemical and biological components of the stream's aquatic ecosystem, in violation of the narrative water quality standards incorporated into those permits.

At the heart of the Matter

Every word in those statements is carefully chosen to address specific objections raised by the company. Two concepts affirmed by the court are particularly offensive to industry and as such have been the target of proposed legislation in recent years.

Narrative Water Quality Standards – Basically an assumption that even if state water regulations do not specify a numeric limit for a particular pollutant allowed to be discharged from a mine site, it is illegal to put 'stuff' into a stream if it damages the water quality. – It could be something as apparent

as an oil sheen, or - as central to this law suit – a decline in population and species of the bugs and critters in the stream that indicates stream life is being damaged.

Permit Shield – This represents industry's contention that "If it's not in the permit we don't have to do anything about it. If we maintain the specific limits for specific pollutants that are included in our permit but our discharge for some reason still pollutes nearby streams, it's not our problem and we can't be held responsible." Thank goodness the court has said differently in several of our Clean Water Act cases.

It remains to be seen what our newly elected members of the WV Legislature will do in response to industry's incessant whining about these standards they see as overly burdensome.

Endnote

One of the more disturbing aspects of ionic or conductivity pollution is the knowledge that this pollution is beginning to mirror the long term legacy of acid mine drainage known to have damaged and killed thousands of miles of streams in West Virginia alone, many still devoid of life and unsuitable for most uses.

Referenced in the Fola/Stillhouse Court Order is a 2014 peer-reviewed scientific article in which the co-authors conclude that "*the vast majority of streams adjacent to reclaimed mine sites with valley fills were still impaired eleven to thirty-three years after reclamation* [underlining complements of yours truly]. " [Pond et al., Long-Term Impacts on Macroinvertebrates Downstream of Reclaimed Mountaintop Mining Valley Fills in Central Appalachia, 54(4) Env'tl. Mgmt. 919 (October 2014), Pls.' Ex. 19, Tr. at 49–51]

They write further that "*Although these [valley fills] were constructed pursuant to permits and regulatory programs that have as their stated goals that (1) mined land be reclaimed and restored to its original use or a use of higher value, and (2) mining does not cause or contribute to violations of water quality standards, we found sustained ecological damage in headwater streams draining [valley fills] long after reclamation was completed*".

More on Mining (Continued from previous page)

In the midst of a barrage of misguided attempts by the coal industry to frame these legal actions as "anti-mining" rather than the "pro-water" efforts that they are, I can't help but think back on studies done and critical permit reviews and comments submitted in the mid 1990s by US Fish and Wildlife Service and the Federal Office of Surface Mining about proposals for mining in the Twentymile Creek watershed... Here we are some twenty years later, warnings unheeded, studies downplayed, and many of the mines planned at that time are now, or have been, in operation Stream life and water quality has declined, mountains flattened, communities gone and future generations will inherit what's left of this good earth and the water that runs through it.

Note: Plaintiffs WV Highlands Conservancy, Ohio Valley Environmental Coalition and Sierra Club were represented in the Fola Coal/Stillhouse litigation by the Appalachian Mountain Advocates.

What's Doing at the Legislature?

Beats me.

Even though the actions and inactions of the West Virginia Legislature have a great impact upon matters important to the West Virginia Highlands Conservancy, *The Highlands Voice* is a lousy place to learn about them, at least while the session is going on. After the dust settles we will have stories about what happened but, on a day to day basis, things happen too fast. As a monthly publication, the *Voice* can never keep up.

In spite of this, all is not lost. For more timely news try the Green Legislative Update, published by the West Virginia Environmental Council. To see it on line go to www.wvecouncil.org and click on Legislative Update. Since things at the Legislature change daily or even hourly not even the Legislative Update can totally keep up. It is, however, an excellent publication. For timely legislative news, it is about as good as it gets.

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. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived. The electronic Voice is in color rather than in black and white as the paper version is.

Forest Service Seeking Comments

The Forest Service is seeking comments on whether to allow surveys for the proposed Atlantic Coast Pipeline on a 17.1 mile segment of the Monongahela National Forest in Pocahontas and Randolph Counties in West Virginia. Proposed environmental surveys include surveying wetlands, water, soil, and habitat suitable for sensitive species, including federally listed threatened and endangered plants and animals. Surveys would also record and document cultural resources and invasive species. The Forest Service will use public comments and an environmental review to decide whether to issue the requested temporary (one year) special use permit to allow these surveys on the Monongahela National Forest. **Comments are being accepted through Friday, February 13, 2015.**

In its notice seeking comments, the Forest Service emphasized that this is just a survey, not a decision to allow the pipeline. According to Monongahela National Forest Supervisor Clyde Thompson, "There will be multiple public opportunities in the coming months to provide comments to the Federal Energy Regulatory Commission (FERC) who will be conducting the analysis for an actual pipeline."

If the results of the private and public land surveys determine that the route is feasible, then the FERC will conduct an in-depth environmental analysis, with opportunities for public comments, prior to deciding on the need for a pipeline.

How to Comment:

Email: comments-eastern-monongahela-greenbrier@fs.fed.us (Note project name in subject name: Atlantic Coast Pipeline Survey Permit Comments)

FAX: 304-637-0582 (Address to project name: Atlantic Coast Pipeline Survey Comments)

Mail or hand-deliver:

USDA Forest Service
Monongahela National Forest
Atlantic Coast Pipeline Survey Comments
200 Sycamore Street
Elkins, WV 26241

Hand-delivered comments must be received during normal office hours of Monday through Friday 8:30 a.m. to 4:30 p.m.

For More Information:

Because the overall pipeline proposal crosses two National Forests, all materials relating to it are being maintained on a single Forest website. The website for the George Washington National Forest at <http://www.fs.usda.gov/gwj/> is the site being used. Specific questions relating to the Monongahela should be directed to 304-636-1800.

Ultimate goal is to have EPA enforce the law in West Virginia**Groups Tired of Being Ignored by EPA**

By John McFerrin

The West Virginia Highlands Conservancy, Sierra Club, Coal River Mountain Watch, and Ohio Valley Environmental Coalition have filed suit against the United States Environmental Protection Agency asking that Court order the EPA to respond to their petition which seeks withdrawal of the National Pollutant Discharge Elimination System program delegation from the State of West Virginia.

Passed by a strong majority in Congress during the Nixon administration, the federal Clean Water Act is designed to regulate (and eventually eliminate) the discharge of pollution into the nation's waters. Under the terms of that Act, states may request that they be allowed to administer and enforce their own National Pollutant Discharge Elimination System (NPDES) program. West Virginia made such a request many years ago and has administered its own NPDES program ever since.

Over the years the Plaintiffs have come to the conclusion that West Virginia has made such a mess of its NPDES program that the United States Environmental Protection Agency should step in and withdraw approval of West Virginia's National Pollutant Discharge Elimination System (NPDES). If the Environmental Protection Agency does withdraw approval, it would

assume administration and enforcement of the program.

Acting on that belief, in 2009 the Plaintiffs petitioned the Environmental Protection Agency, requesting that EPA should withdraw its approval. In their petition, the Plaintiffs describe the situation this way: "The West Virginia Department of Environmental Protection's abdication of its duties to regulate water pollution requires swift action by EPA to protect West Virginia's citizens and environment. The State's capitulation to the industries it is obligated to regulate under the Clean Water Act and its resulting failure to enforce or maintain its NPDES program leave EPA no choice but to withdraw its approval of that program."

The United States Environmental Protection Agency ignored that petition. It made no response of any kind. Perhaps it has been too busy prosecuting the war on coal.

In 2014, the Plaintiffs tried again. They made another petition, saying that the things they said in their earlier petition were still true and that West Virginia was still making a mess of its NPDES program and that the EPA should step in and withdraw its approval.

The suit itself has limited goals. It just asks that the Court require the Environmental

Protection Agency make a formal response to the petitions. If the EPA responds to the Petition by saying, "Thanks for your input. We think West Virginia is doing a crackerjack job." or words to that effect then the Plaintiffs will have to consider their other options but right now they are just asking that EPA make a response.

In the long run, the suit could bring about more dramatic change. The Plaintiffs have always acknowledged that they are asking the United States Environmental Protection Agency to take drastic action. The Clean Water Act envisions that Congress and the EPA would set nationwide policy and leave it to the states to implement and run the program. Together the federal government and the states would progress toward the Clean Water Act's ultimate goal of eliminating pollution of our streams.

While this may have been Congress's vision, in West Virginia's case it is not working. The Plaintiffs, as well as many, many others have spent years if not decades asking, begging, suing, or otherwise cajoling West Virginia to address these problems. In the Plaintiffs' view, it is time to let the EPA fix this mess.

Here's a cure for the Climate Change Blues!

Learn about climate-smart solutions at a free program at the WVU College of Law in Morgantown, WV, titled "China, Climate Change, and the West Virginia Connection," on Thursday, February 12 from 7:00-8:30 PM, followed by refreshments. Please pre-register at www.alleghenyclimate.org or contact Brian Bellew at bbellew@mix.wvu.edu or 304-261-2461. Thanks for all you do from Friends of Blackwater's Allegheny Highlands Climate Impacts Initiative.

On Thursday, February 12, 2015, two experts on how China is handling the challenge of climate change, including Chinese carbon capture and sequestration efforts and what they mean for West Virginians, will speak at a free public program at the WVU Law School Event Space in Morgantown.

The speakers will be Sarah Forbes, Senior Associate and Energy and China Specialist with the World Resources Institute; and Jerry Fletcher, West Virginia University Professor of Resource Economics and Director of WVU's US-China Energy Center. Ben Gilmer, Project Manager at Downstream Strategies, will moderate the program. Sam Petsonk, Charleston attorney and former energy policy staffer for the late Senator Robert C. Byrd, will be a commenter. There will be an audience question period.

The program is sponsored by Friends of Blackwater's Allegheny Highlands Climate Impacts Initiative and the West Virginia University College of Law Center for Energy and Sustainable Development. Tom Rodd, Director of the Climate Impacts Initiative, said the February 12 program at the Law School is part of the Initiative's outreach and education efforts. "Sarah Forbes and Jerry Fletcher have both an international and a West Virginia perspective on carbon capture and US-China climate policies. We guarantee an interesting and instructive evening for all!", Rodd said.

For more information, contact Brian Bellew at bbellew@mix.wvu.edu or 304-261-2461 or Tom Rodd at thomasrodd@hotmail.com, 304-541-4494. More information on the Allegheny Highlands Climate Change Impacts Initiative is at www.alleghenyclimate.org.

What West Virginia Is Doing Wrong

The adjoining story is about a lawsuit which several groups have filed asking that the Court require the United States Environmental Protection Agency respond to petitions that the Plaintiffs have previously filed. The groups allege that West Virginia was deficient in how it operated its Clean Water Act and asked that EPA take over administration of the program.

Here is what the groups say that West Virginia is doing wrong:

The petition points to the impairment of over 33% of West Virginia's rivers, streams, and lakes. Causes of impairment include biological impairment (5,153 miles), iron (3,958 miles) pH (1,376 miles), aluminum (937 miles), mercury (669 miles), and selenium (160 miles). The impairments are, in large part, the result of the deficiencies of West Virginia's administration of its NPDES program.

Many of the deficiencies are **coal related**. The petition points to the complete failure to effectively regulate or control **selenium** discharges from mine sites. The West Virginia Department of Environmental Protection's preference is for a leisurely study of the problem instead of actually doing something about it.

The petition also points to problems at mine sites where a performance bond has been forfeited. At these sites, a mining company has failed to complete reclamation and the Department of Environmental Protection has forfeited the performance bond and assumed responsibility for the reclamation. In spite of being ordered to do so, (See Judge Holds West Virginia Department of Environmental Protection's Feet to the Fire in the February, 2009, issue of *The Highlands Voice*), the West Virginia DEP has refused to issue NPDES permits for those forfeited sites and make them part of the NPDES regulatory program.

There is a similar problem with abandoned mine lands sites. These are sites which existed before the Surface Mining Act passed in 1977 but were never properly reclaimed. Those sites are gradually being reclaimed through a West Virginia DEP program. Like the forfeited sites, the West Virginia DEP has refused to issue NPDES permits for those sites and make them part of the NPDES regulatory program.

The petition also faults West Virginia for allowing companies to avoid strict pollution

control requirements if complying with those requirements would be expensive.

The petition points to what appears a general policy of **not enforcing existing standards**. It quotes a Department of Environmental Protection lawyer's explanation of why the agency could not deny permit renewals for companies with uncorrected water pollution violations: "if [DEP] did not renew permits for companies with outstanding water pollution violations, no mining permits would ever be renewed. 'Taken to its logical conclusion, that would mean no one gets renewal . . . We'll just shut down mining.'"

As further indication of DEP's super-lenient enforcement policy, the petitioners point to a recent settlement of an enforcement action brought by the United States Environmental Protection Agency against Massey Energy Company. This enforcement action resulted in an agreement to pay a \$20 million civil penalty in a corporate-wide settlement to resolve Clean Water Act violations at coal mines in West Virginia and Kentucky. This was the largest civil penalty in EPA's history levied against a company for wastewater discharge permit violations. West Virginia did not participate in that enforcement action.

The United States EPA does not take enforcement actions if a state is already doing so. Since the Massey enforcement case, dischargers have flocked to the West Virginia DEP to negotiate settlements of their violations. Negotiating and settling with West Virginia is a tool to protect the companies from EPA which, unlike West Virginia DEP, might pursue serious enforcement action.

The deficiencies in West Virginia's administration of the NPDES program are not limited to coal. It also points to a systemic failure by West Virginia in providing **public notice of agency actions**, particularly in major modifications to permits and in changes in water quality standards.

The petitioners also point to **weak enforcement** at PPG Industries, Inc. Chronic violations (approximately 52 in the year and a half period that the petitioners reviewed) of discharge standards for such things as copper, aluminum, iron, and mercury led to no enforcement actions until citizens threatened to begin their own enforcement action under the citizen's suit provision of the Clean Water Act. Although the West Virginia Department

of Environmental Protection action prevents citizens from taking effective enforcement action, there is no indication that the DEP will diligently prosecute its case.

The petition also points to uncorrected violations at Mountain State Carbon, LLC's Steubenville East Coke Plant and at municipal facilities in Nitro, Weston, North Beckley, Huntington and Westover.

There are other ways in which West Virginia DEP is deficient. It is also failing to keep required records of its monitoring activities. It is either failing to regulate some pollutants (total dissolved solids) or setting limits on some pollutants (mercury) that allow more mercury in West Virginia streams than EPA guidance says is safe.

West Virginia is not enforcing what are called "narrative water quality standards." The main tool for keeping the water clean is the discharge permit; it limits the amount of pollution which may be added to a waterway. Sometimes these permits, and the limits they contain, are not enough. That is why the law has a backup system which lists things that are not allowable in state waters. These are things such as a visible scum, odors, or anything that is harmful to people or aquatic life. The groups say that West Virginia is not enforcing its narrative water quality standards, particularly when it comes to coal mines.

West Virginia Department of Environmental Protection is not making information about discharges available to the public. Companies who have permits are supposed to test the water that comes from their operations. They are then supposed to give the results to the Department of Environmental Protection which is supposed to make the data available to the public. The Department of Environmental Protection is either not making the data available or making it available in a manner that makes it completely unusable.

West Virginia Department of Environmental Protection is acting illegally when it has to issue permits to itself. Sometimes a mine operator deserts a mine, leaving the DEP with the responsibility to clean up the mess, including getting a NPDES permit for the water discharge from the mine. When this happens, DEP is required to issue itself a NPDES permit. The groups say that, when DEP must give itself a permit, it does not follow the applicable regulations.

Board Meeting Highlights

By John McFerrin

The January meeting the the Board of the West Virginia Highkands Conservancy was the usual mix of interesting stuff, fun stuff, and the kind of not especially interesting stuff that organizations have to do.

Interesting stuff

President Cynthia Ellis also brought us up to date on several items of interest. She noted a series of videos on opposition to the proposed natural gas pipeline. She listed things we had accomplished last year (it was a long list) and gave a mini-review of a children's book, *Bats in the Band* (two thumbs up, way up). She also talked about A.W.A.R.E. [Artists Working in Alliance to Restore the Environment, a group of West Virginia artists who raise money and awareness for West Virginia environmental groups and issues. She played "Brush My Teeth With Coca-Cola"---a satire on the Elk River chemical spill by Tim O'Brien. The song is available for download; a small fraction of the cost of the download benefits West Virginia environmental groups, including the West Virginia Highlands Conservancy.

Not that interesting but we have to do it

Few had a presentation of a report on our revenue and spending for 2014. On the whole, it appeared that we had raised and spent about as we expected. As we plodded through the report there were multiple questions about several matters. Although none of the questions identified any real problems, there were a lot of questions. Since the treasurer was not there, we couldn't get answers. In a step toward what we hope will be budget reports that more clearly reflect out situation, Larry Thomas noted that he is working on a different way to organize the information, e.g., more accurate depiction of "program" revenue and expense, separating out carryover funds where they could be misleading, etc.

We moved on the budget for 2015. The Budget Committee had put a lot of effort into the budget and all seemed in order so we adopted it.

Voice Editor John McFerrin reported that he would always like to have more stories. John also reported on recent efforts

to give the Voice a new look. Two members who are graphic artists by trade had made suggestions. Most prominent was a suggested new logo and masthead but there were also several changes in how pages are laid out. John has now implemented the lay out suggestions and the consensus was that the Voice was now more readable. We never did change the logo or masthead. John would like opinions on whether we should do anything new with the logo or masthead. It was the sense of the group that, since we are now in the process of revamping the website we should wait until we see what comes of



that and then decide if we need to change the Voice look.

Beth Little presented a membership report but there was limited discussion on that.

We discussed the web site without reaching any resolution. There is general consensus that the website needs to be updated and spruced up in general. Beyond that, we are having trouble moving forward because we don't know exactly what we want. The sense of the committee and the Board is that we will have to hire somebody to whip the website into shape. Once it in shape, we will address how we will maintain it in the long run. The next step is for all Board members to go to the web site and prepare a list of changes that we should have. Jackie Burns will collect and compile suggestions.

More interesting stuff—issue reports

For many of us, the issue reports are the best part of the Board meetings. They remind us that while plodding through the budget and worrying about the website are necessary, that is not who we are. We are about issues, about advocacy for the things

the organization thinks are important.

In mining/extractive industries, we heard of such issues as selenium, in-stream and aquatic life impairment, etc. continue. The status of these is generally reported in the Voice. Longwall issues continue at Leer mine near Tygart Lake. On the proposed Dominion pipeline, Dominion has applied for Special Use Permits which would allow it to survey proposed routes in the Monongahela and the George Washington and Jefferson Forests. We have commented on the application for the permits for the George Washington and Jefferson National Forests and will comment on the one for the Monongahela by the mid-February deadline for comments. Larry Thomas is doing comments for us. We have also joined in with comments from the Dominion Pipeline Monitoring Coalition (WVHC is a member) and Appalachian Mountain Advocates. The Shavers Fork Coalition is also writing a letter.

In matters of wind, Larry Thomas presented a previously prepared report. Here are some of the highlights:

- Larry has compiled information about the production of electricity from industrial windfarms in West Virginia. The five that are operating are producing at 27% of their rated capacity.
- West Virginia Highlands Conservancy continues to be concerned about inadequate rules for the siting of industrial wind facilities. Legislation was drafted but never introduced during the 2014 session. Don Garvin tried to initiate an "Interim Study" but it was not chosen as a study topic. We will try to reintroduce legislation during current legislative session through the WVEC lobby team. If that does not work, we will directly petition the PSC to initiate a study and revision of the "siting rules".
- The Allegheny Highlands Alliance continues to work on its wind white paper. When it is finished it will provide the information for a thorough understanding of wind energy in West Virginia as well as elsewhere. It is a monumental undertaking.
- The production tax credit was renewed for 2014. Lobbying for having it continue for 2015 is well under way.

(More on the next page)

More Board Highlights (Continued from previous page)

- There are still ten projects for West Virginia listed in the PJM queue. PJM is the entity that manages the power distribution system for this region. Being in the queue means that someone has told PJM that it anticipates building a facility sometime in the foreseeable future. Facilities in the queue could be in various stages of planning.

In matters legislative, Frank Young reported that the Legislature was well on its way to repealing the Alternative Energy Portfolio standard for West Virginia. This was a requirement that West Virginia utilities produce an increasing percentage of their electricity from "alternative" sources. Many of the original bill's supporters assumed that this would require the use of more solar, wind, geothermal, etc. power. As the law passed in 2009, the definition of "alternative" included various ways of burning coal. If the law did no more than require that coal be burned in different ways then Frank sees its repeal as no great loss. It does appear that the repeal bill will require that net metering be retained.

Frank also reported that the law regulating above ground storage tanks that was passed last year may be back on the table.

Fortimelyupdates, Frank recommends the weekly Legislative Update published by the West Virginia Environmental Council.

In outreach, Cindy Ellis reported that we continue to have a presence on Facebook and on Twitter. We have 1663

likes on Facebook and 82 twitter followers. We will have a table for E-Day at the Capitol on February 18 and a table for Earth Day in Fayetteville.

We talked about having our April meeting somewhere around Fayetteville and making it a day and a half meeting. We have some organizational issues, including the web site and our slowly declining membership that we need to work on.

We also decided to continue our support of the West Virginia Public News Service.

Fun Stuff

President Ellis drew for the Door Prize. It was a bottle of wine from Fisher Ridge Winery and a small jar from J.Q. Dickinson Salt Works. The proprietors of the Salt Works are the descendants of the Dickinson family that made salt in the 1800s when the Kanawha Valley was the salt capitol of the country. They use solar power to turn the brine into salt. Marilyn won.

For lunch we had sandwiches (three choices available), cookies, and brownies, all catered by Ms. Groovy's Catering and served by the proprietor, Ms. Groovy herself, Jeni Burns. In addition to making sandwiches and brownies, she is the cofounder of West Virginia Sustainable Business Council, a Charleston-based coalition of small- and mid-size businesses that formed after the Jan. 9 chemical leak that tainted the drinking water for 300,000 Kanawha Valley residents. The mission of the organization is to bring together social entrepreneurs in the state of

Fun Fact We Learned

From LeJay's presentation we (or at least I learned; the bird brains in the crowd probably already knew) learned about the Blackpoll Warbler. It has the longest migration of any North American song bird. It spends its summers in northern Canada. It migrates across Canada, down through the eastern United States, out over the ocean and then back to northern South America.

We know about this migration pattern mostly because some get waylaid at bird banding stations along the way and researchers find out where they have been.

Longtime Voice readers will remember that on October 1st and 2d, 2011, approximately 500 birds were killed in an accident at the new Laurel Mountain industrial wind facility. The fatalities occurred by collision and exhaustion at the Laurel Mountain substation, where the lights were left on during foggy weather. Over thirty species of mixed migratory songbirds were included, primarily blackpoll warblers. *The Highlands Voice*, November, 2011.

West Virginia to promote and create thriving communities through sustainable [and] progressive economic, social and business practices. It has its own facebook page:

<https://www.facebook.com/WVSBC>

For our lunchtime entertainment, LeJay Graffious presented his slide show with commentary *Dolly Sods Memories: Moments Stretched From Seconds Into Years*. It was lots of pictures of Dolly Sods with emphasis on birds and bird banding. There were pictures of birds, the nets they catch the birds in, the bands they put on, and the little house where they do it. We were very glad to have several Charleston area members and guests attending the presentation.

Future stuff

President Ellis listed the Board meeting dates for 2016: January 24, April 24, July 23, and October 23.



THE Place to Buy Stuff



► 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 West Virginia Highlands Conservancy, Online Store, PO Box 306, Charleston, WV 25321-0306

Sing a Song of Chemicals, a Pocket Full of Methylcyclohexanemethanol

Tim O'Brien is donating proceeds of his song, “Brush My Teeth With Coca-Cola”---a satire on the Elk River chemical spill---to AWARE [Artists Working in Alliance to Restore the Environment] for WV environmental groups! It's \$.99 to download this from Amazon or I-Tunes store. Download, enjoy, contribute to the work of the West Virginia Highlands Conservancy, OVEC, WV Environmental Council, Citizens Concerned about Chemical Safety, WV Rivers Coalition and more!



T- SHIRTS

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