



# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

Volume 42,

Number 1

January, 2009

## GROUPS CHALLENGE BUSH ADMINISTRATION OVER LAST MINUTE RULEMAKING TO PROTECT MOUNTAINTOP REMOVAL

The West Virginia Highlands Conservancy has joined with a coalition of environmental groups to take the Bush administration to court over a controversial rule change by the federal Office of Surface Mining and approved by the U.S. Environmental Protection Agency (EPA) in the waning days of the administration's power. The legal challenge would overturn the last-minute repeal of the stream buffer zone rule — an environmental law that, since 1983, has prohibited surface coal mining activities within 100 feet of flowing streams.

Attorneys with Earthjustice, Appalachian Center for the Economy and the Environment, Appalachian Citizens Law Center, Sierra Club, and Waterkeeper Alliance filed the legal challenge today in federal district court in Washington, DC on behalf of Southern Appalachian Mountain Stewards, Kentucky Waterways Alliance, Tennessee-based Save Our Cumberland Mountains, West Virginia Highlands Conservancy, and two other West Virginia-based groups: Coal River Mountain Watch and Ohio Valley Environmental Coalition.

If not overturned, the rule change would lead to even more mountaintop removal coal mining — the aptly named process of mining coal by blasting off the tops of mountains, and bulldozing the crumbled peaks into adjoining valleys.

The rule change was published in the Federal Register December 12 and will go into effect January 12, at which time mining companies would be free to bury streams with mining waste without reproach under the law administered by the Office of Surface Mining. Because the change was finalized before Dec. 20, it will be difficult for Congress to undo it under the Congressional Review Act.

For years, OSM and various state mining agencies allowed these fills by interpreting the buffer zone rule to not apply to the mining waste piles. A government study published in 2003 found that mine operators had buried 724 miles of Appalachian streams between 1985 and 2001.

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

On appeal, the United States Court of Appeals for the Fourth Circuit decided that Judge Haden did not have jurisdiction. While it did not say that the deci-

sion on the interpretation of the rule was incorrect, it overturned that decision on jurisdictional grounds. But the Clinton administration eventually adopted Judge Haden's view of the buffer zone, and once George W. Bush took office, federal regulators and the coal industry pushed to rewrite the rule.



(Continued on p. 4)

### What's inside:

Thoughts from President Hugh	2
Roster of officers	2
All about ash (a must read)	3
Sprucing up West Virginia	6
Speakers available	7
Getting ready for the Legislature	8

How to join	9
Readers write	10
Get the Voice electronically	10
Get a Hiking Guide	11
Get a history book	11
Outings	12

## From the Heart of the Highlands

by Hugh Rogers

### New Year's Resolution

We've been watching Chicago, home of the administration-in-waiting, for signs of resolution—not so much in the first sense, “a firm decision to do or not to do something,” as the second, “the action of solving a problem,” or even the third, “chiefly Chemistry: the process of reducing or separating something into constituent parts or components.”

At this stage, resolution appears in the form of individual people, the components of governing. Through all the drama—whether Hillary would become Secretary of State, Bill Richardson would resent his consolation prize, Eric Holder would be held back by a notorious pardon he'd facilitated, and so on—we've waited to see who would get the top positions affecting our environment.

The stakes could not be higher. For eight years, instead of addressing problems that confront us at each scale from our headwaters to the whole planet, the Bush Administration has run a crude flea market where everything's for sale.

The latest revelation as this was written, a week before Christmas, came from the Department of Interior's Inspector General, with details on how that department's chief official in charge of protecting fish and wildlife had done the exact opposite. In at least twenty cases where she had weakened protections for endangered species, the official, Julie MacDonald, had gone against the advice of agency and independent scientists, distorting or ignoring their reports. Politics blew away science, the analysis concluded; here politics may be understood as a combination of ideology and simple greed.

When he announced his choices to head the regulatory agencies that deal with the financial markets, President-elect Obama said the government had been “asleep at the switch,” and added, “There's not a lot of adult supervision.” Amen. Now, may we have some adult supervision over our land, air, and water?

It's just as well that Carol Browner, Obama's coordinator of energy and climate, will work in the White House under his supervision. She was in charge of the Environmental Protection Agency (EPA) during the Clinton Administration. We have some history. In 1995, when that agency's staff scientists rated Corridor H as “Environmentally Unsatisfactory,” she fired the Regional Administrator and overruled the scientists—for political reasons. As the old saying has it, we knew her before she was a virgin.

While Obama was announcing his selections for EPA and the Department of Energy, the politicking continued over who would head the Department of Interior. Most environmentalists were supporting Raul Grijalva, an Arizona Congressman who has served with West Virginia's Nick Rahall on the House Natural Resources Committee. We got to know him when our Wild Monongahela wilderness legislation went through his subcommittee.

Maybe Grijalva and John Berry, an Interior Department veteran from the Clinton years, knocked each other out. Instead, Obama picked Colorado Senator Ken Salazar—no virgin, to be sure. Most notably, he has supported throwing federal money at “clean coal” research on technology to reduce carbon dioxide emissions from coal-burning power plants. Oil and mining interests praised him; coal company stocks rose.

These days, the industry regards Obama as anti-coal, Salazar as pro-coal. Our Governor Manchin has told the President-elect that

(Continued on p. 9)

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# WHAT HAPPENS WHEN WE TAKE THE “DIRTY” OUT OF COAL ?

## ...It just goes somewhere else.

By Cindy Rank

The question-answer above is often repeated in coal activist circles. But it rarely rings as true as it did this holiday season when just three days before Christmas an ash disposal site at a Tennessee Valley Authority (TVA) power plant failed, unleashing a flood of fly ash from a 40 acre 55 foot deep ash containment area.

While articles in The Highlands Voice have focused mainly on the disposal of waste rock from huge strip mines these past 10 years, the incident in Tennessee prompts a brief introductory look at how WV is disposing waste that results when coal is washed and burned. Where does the “dirty” from our coal burning power plants go? Where does the “dirty” from our coal preparation plants go?

### TENNESSEE DISASTER

Kathy Selvage of SAMS (Southern Appalachian Mountain Stewards) referred to the ash disaster in eastern Tennessee as a case study of what happens to the “dirty” once it’s removed from coal.

TVA estimated 5.4 million cubic yards of waste broke loose. Other estimates are much higher, but all put this event right up there with the Exxon Valdez spill and the failed Martin County KY sludge impoundment in 2000.

When the sodden ash broke out of the retaining area it oozed its way down two valleys, destroying several homes, damaging dozens more, entering waterways and covering an estimated 300 acres of land.

Personal and property damages are yet to be fully assessed; cleanup may take months if not years, and long-term pollution to soils, wells, ground and surface waters will no doubt be monumental.

The ash is laden with heavy and toxic metals harmful to humans if ingested – by eating, drinking or breathing the dust once the sludge dries – and warnings have been issued to avoid contact. Results of TVA, EPA and TN DEP water tests are slow to be released, but preliminary results of sampling by those agencies and environmental advocacy groups report high levels of arsenic, lead, chromium and other heavy metals.

I’ll not repeat all the details that continue to be compiled in a multitude of media outlets and online postings, but the figures and pictures are astounding. For anyone interested in more of these details, I recommend Antrim Caskey’s photos at <http://pa.photoshelter.com/gallery-show/>

[G0000TKIBm80gDNE](http://G0000TKIBm80gDNE) and [www.ilovemountains.org/tvaspill/](http://www.ilovemountains.org/tvaspill/) for other photos as well as a compilation of news reports and videos.

### WEST VIRGINIA POWER PLANT WASTE

So, what about West Virginia? For starters we have numerous fly ash containment facilities at coal fired power plants through out West Virginia. Some are lined monofills some perhaps not. We also do underground injection into abandoned deepmine voids and use ash as an addition to backfill at acid prone strip mine sites. Others in industry and academia experiment with recycling the ash into usable products, etc. ...

I can’t claim to know the full story about ash/coal combustion waste disposal activities, but I can offer a few random observations that give me pause and raise questions about our current practices.

**INJECTION.** In the early 1980’s WV Highlands Conservancy members and others in the Morgantown area objected to permits for the Omega deep mine. As luck would have it – or rather, as brave citizens like Joan Sims, Richard diPreto, the 4-H Road group and others predicted, Omega became one of the states biggest money sinks. Even today the Special Reclamation Fund spends hundreds of thousands each year to keep Omega’s acid mine drainage from polluting Morgantown’s water supply. At one point the Abandoned Mine Land Fund was also used to pay for injecting ash waste into the mine void to seal off and isolate acid producing rock and hopefully to neutralize or inhibit the production of acid in the first place. Though successful in some respects, the efforts have failed to halt the flow of acid. Even as recently as early 2008 sludge from acid mine drainage treatment at the Omega site was being trucked to another Special Reclamation site in Preston County (F&M) for disposal.

**BACKFILL MATERIAL.** Years ago the WV Highlands Conservancy challenged ANKER Coal’s proposal to incorporate flyash as part of backfilling in new strip mining at the notorious acid producing Tenmile site on the Buckhannon River in Upshur County. A couple of reports since that time indicate that our concerns may well have been more than just frivolous fears.

- In 2005 the Morgantown based Downstream Strategies issued a report entitled Water Quality Impacts of Coal Combustion Waste

(CCW) Disposal in Two West Virginia Coal Mines. The report focused on the Stacks Run and Albright sites in Preston County. An analysis of monitoring reports for both Stacks Run (a disposal site for coal refuse and power plant ash) and Albright which was reclaimed with the use of CCW in the backfill showed very high levels of several toxic metals downgradient in surface and groundwater. The report concluded that ash disposal at mine sites does not appear to keep metals out of nearby waters.

In 2007 Earthjustice and the Clean Air Task Force issued a report about 15 coal mines in Pennsylvania where coal ash was utilized according to the PA DEP Coal Ash Beneficial Use Program which encourages the placement of coal combustion waste in active and abandoned mines. The study concluded that Pennsylvania’s plan to improve the environmental condition of mines by adding massive quantities of CCW is failing. At 10 of the 15 sites examined, monitoring data indicated the coal ash contaminated groundwater or streams.

**MONITORING.** In 2005 a former DEP permit reviewer commented on the inadequate requirements for metals testing and monitoring in a NPDES water discharge permit for Allegheny Energy at its power plant and accompanying storage and disposal site on the West Fork River. This lack of sufficient testing and monitoring for contaminants known to exist in coal ash has been ignored for at least the past two decades.

**IMPOUNDMENTS.** Amazing as it seems to me the WV DEP issued a public notice this past month to allow the addition of sulfuric acid to the discharge from an ash containment site in Marshall County. The December 2008 DEP public notice is for a modification to the NPDES water discharge permit for the Conner Run fly ash impoundment along the Ohio River. The Conner Run site receives fly ash mixed with miscellaneous plant wastewaters from both the Mitchell and Kammer power plants. The area also “receives and provides treatment for coal preparation wash waters and treated acid mine drainage from Consolidated Coal”. Recently the resulting toxic stew has become too alkaline so now they’re adding sulfuric acid (from what sounds like a floating platform dispenser and tubing) to a point upstream

**Continued on p. 5)**

## GROUPS CHALLENGE BUFFER ZONE RULE (Continued from p. 1)

"It appears OSM and EPA have finally and totally caved to industry, revising the rule that had become too inconvenient to enforce and turning a blind eye to damage being done to our headwater streams and mountain communities they support" said West Virginia Highlands Conservancy Mining Chair Cindy Rank. "All the tears in Appalachia can never restore those streams, nor bring back what has already been lost."

Opponents of the rule change argue that it violates the Clean Water Act and that EPA failed to fulfill its duties under the law when it signed off on the rule change, proposed by the Department of the Interior's Office of Surface Mining.

Generally, the buffer zone rule - approved in its current form in 1983 - prohibits mining activities within 100 feet of streams. Coal operators can obtain waivers, but to do so must show that their operations will not cause water quality violations or "adversely affect the water quantity and quality, or other environmental resources of the stream."

The Office of Surface Mining wrote the buffer zone rule to implement a congressional mandate in the 1977 strip mine law that the agency "minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation."

"The notion that coal mining companies can dump their wastes in streams without degrading them is a fantasy that the Bush administration is now trying to write into law," said Judith Petersen of Kentucky Waterways Alliance. "What part of the goal of the Clean Water Act: *To restore and maintain the chemical, physical, and biological integrity of the Nation's waters*, did EPA not understand when it approved this rule?"

The change has not been popular with most public officials. Top decision-makers in Kentucky urged EPA to block the rule change. Kentucky Gov. Steven Beshear, Attorney Gen-

eral Jack Conway, and Reps. Ben Chandler and John Yarmuth each wrote letters to EPA head Stephen Johnson asking him not to sign off on the repeal of the stream buffer zone rule. Tennessee Governor Phil Bredesen has also weighed in with EPA, voicing concerns on behalf of his state. (See story in the December, 2008, issue of The Highlands Voice).

West Virginia Governor Joe Manchin has not taken a public position on the rule change.

"With the stroke of a pen, President Bush has made unlawful acts by the coal industry legal and will allow their assaults on our homes, our way of life and the destruction of our headwater streams to continue," said Chuck Nelson, a former deep miner, now a volunteer organizer and board member of the West Virginia-based Ohio Valley Environmental Coalition. "A change in the stream buffer zone rule on Bush's watch only adds to his pathetic legacy as one of the worst presidents in our nation's history."

"This administration chose its allegiance, that of protecting the economic interests of the coal industry over protecting our mountains, streams and watersheds," said Kathy Selvage of Southern Appalachian Mountain Stewards. "We could live without coal, but the human race cannot survive without reasonably pure water. I wonder when the American people will pound the desk they sit at, and say loudly, 'No, No, No! You can't have our water.'"

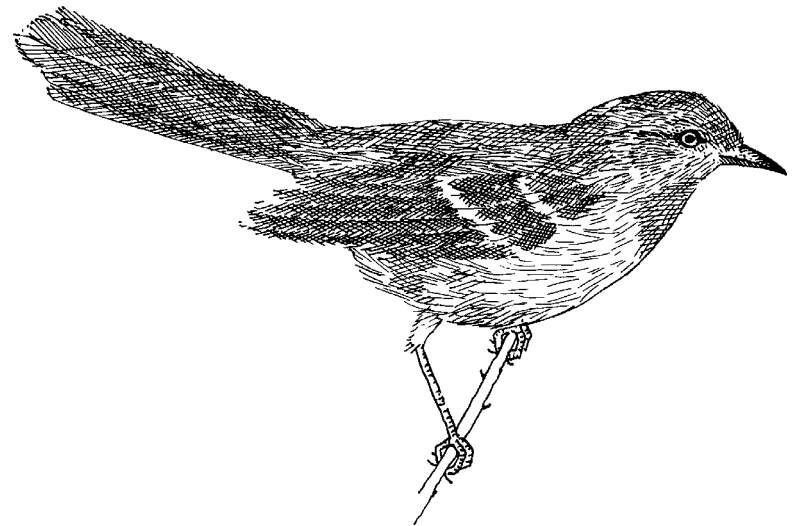
"This is among the 11<sup>th</sup> hour landmines planted by the Bush administration that an EPA headed by Lisa Jackson stands to inherit," said Earthjustice attorney Jennifer Chavez, who filed today's complaint. "We are doing what we can to make it easier for the incoming administration to undo the damage wrought by the last one and restore our nation's commitment to protecting the waters and summits of the Appalachians."

"Local communities depend on these waters, and the EPA's own scientists have concluded that dumping mining waste into streams devastates the water quality," said Bill Price, Sierra Club Environmental Justice organizer in Charleston, West Virginia. "The Bush Administration's last-minute rulemaking violates the spirit of the Clean Water Act much the same way that mountaintop removal coal mining violates the spirit of Appalachia."

"We were holding the line against mass decapitation of our mountains by the coal industry," said Ann League, Vice President of the Board of Save Our Cumberland Mountains. "But with stream buffer zone protection rules now essentially buried under a pile of mine waste, we're very worried about what could happen here in Tennessee."

Since coal companies began the practice of mountaintop removal mining in earnest, the topography of Appalachia has been forever altered: More than 400 mountaintops have been stripped of trees and flattened, and 1,200 miles of mountain streams buried under rubble. Already the lush forests which once cloaked 387,000 acres of the world's oldest mountain range have been replaced by apocalyptic lunar landscapes. If industry is allowed to proceed at the current rate, an area the size of Delaware will have been lost.

For a copy of the complaint filed today in federal district court in Washington, DC, please visit: [http://www.earthjustice.org/library/legal\\_docs/sbz-rule-final-complaint-12-19.pdf](http://www.earthjustice.org/library/legal_docs/sbz-rule-final-complaint-12-19.pdf).



### BUMPER STICKERS

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

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



## WHERE DOES THE COAL DIRT GO? (Continued from p. 3)

of the offending outlet that normally discharges approximately 7 to 8 million gallons/day. Already notorious for selenium and now apparently too alkaline, the Conner Run ash site appears even more sinister in light of the TVA event. And in an area rife with acid mine drainage it's really strange to think we need to add more acid. — What a world of hurt we're in!

**RECYCLING.** As mentioned above, there are those in industry and academia who search for ways to recycle/reuse the ash waste. The national center of the Combustion Byproducts Recycling Consortium (CBRC) is located at West Virginia University. With Regional Directors and a national board CBRC coordinated efforts to identify "beneficial" applications for the more than 120 million tons of CCB's (Coal Combustion Byproducts – or CCW's as in Coal Combustion Wastes) produced by U.S. utilities every year.

As far as I know federal funding for the Consortium has dried up, but experimentation continues. With increased use of high sulfur coal and tougher requirements for additional scrubbing at power plants, the amounts of coal combustion waste will increase. One can only hope that the benefits of recycling even a small portion of this waste into usable products will outweigh any potential hazards posed by use of those products in homes and hearths across the country.

**REGULATION** of these various activities is like a free-for-all where each state does its own thing absent federal regulation. After decades of discussion and prompting by Congress to decide whether power plant waste should be considered "hazardous waste" and subject to the requirements of the Resource Conservation and Recovery Act (RCRA), in 2000 the Environmental Protection Agency (EPA) agreed that the disposal of CCW should be more strictly regulated.

With a new administration in Washington, nothing was done to write those new rules. Furthermore, despite the fact that EPA admits this waste poses high human and ecological risk in landfills and surface impoundments, the agency hasn't addressed the use of fly ash as backfill for at mine sites. Nor has it discussed the possible threats posed by the use of ash in wallboard, cement, tiles, bricks, countertops, siding, road base and other products. The National Research Council arm of the National Academy of Sciences released a study in 2006 entitled Managing Coal Combustion Residues in Mines. The study suggested several regulatory options and emphasized the need for

greater cooperation and coordination between the Environmental Protection Agency and the Office of Surface Mining.

In February 2008 WV Highlands Conservancy joined with more than 60 other groups in calling for federal CCW regulations, emphasizing to the Environmental Protection Agency that its own recognition that power plant waste must be considered "hazardous" and subject to the requirements of the Resource Conservation and Recovery Act (RCRA). And that open dumping such as using ash in mine backfills should not be permitted.

Despite the more than 10,000 other individual and group comments that were received by EPA at that time and an impressive Congressional hearing in June 2008, still at the 11<sup>th</sup> hour of the Bush administration OSM proposed it's own regressive proposal for "minefilling" with CCW. Sadly ironic is the fact that many of us sent a letter to the new Obama administration just a day before the Tennessee TVA ash disaster once again alerted the nation to the potential hazards of fly ash.

### WEST VIRGINIA PREPARATION PLANT WASTE

Just as the recent TVA incident shines a bright light on the disposal of coal combustion waste, the 2000 Martin County KY sludge impoundment disaster heightened awareness about sludge dams such as Brushy Fork and Marsh Fork in Boone and Raleigh Counties. And just as concerns about fly ash disposal prompted an extensive study by the National Academy of Sciences (NAS), so too did the Martin County breakout. The National Research Council's 2002 study titled Coal Waste Impoundments – Risks, Responses, and Alternatives prompted the formation of the Coal Impoundment Project at Wheeling Jesuit University. The project maintains an interactive website ([www.coalimpoundment.org](http://www.coalimpoundment.org)) which provides a location and information system available to interested individuals and communities near the hundreds of impoundments in KY, PA, OH and WV. Beyond that, little was done to carry out the recommendations contained in the report.

Though different in many respects from coal combustion waste, the "dirty" remnants of coal and chemicals used in the washing process at coal preparation plants pose some of the same questions and raise similar concerns about the disposal of those wastes. According to the National Research Council report between 20 and 50 percent of the material delivered to coal preparation plants may be re-

jected and stored in impoundments. These impoundments contain coarse and fine refuse or slurry along with any chemical used to wash and treat the coal before shipping it on as processed coal.

Some Mingo county residents believe their water has been poisoned and health affected due to leakage from nearby sludge dams and people in and around Prenter have reason to believe their health and water problems started when underground injection of coal waste began several years ago.

Testimony at hearings and meetings with WV legislators prompted an ongoing agency study of the potential pollution from coal sludge disposal. Results of the study are due to be released soon.

Unlike coal combustion waste, federal standards do exist for the stability of sludge dams and impoundments. Whether or not the safety aspects of those regulations are effective or adequately enforced is subject to debate, but the unlined disposal areas lead many to doubt there is adequate protection of water supplies.

Underground injection requirements also differ from state to state, and residents of Prenter WV believe WV's program is not adequate to protect nearby water supplies. Whole communities of people have been forced to obtain water barrels to store trucked in fresh water for drinking, cooking and bathing. People in the communities are working tirelessly for a more permanent solution, but extending public water systems is costly and residents can't help but wonder if it will ever become a reality.

### FEDERAL STANDARDS AND STRONGER ENFORCEMENT NEEDED

Several things are clear. The gaps in oversight and lack of adequate regulation must be addressed. New federal standards are needed for coal combustion waste disposal and any other coal waste disposal where water sources are not protected and long-term monitoring for the appropriate contaminants is not now required. However, the creation of federal standards alone will not be sufficient.

Those new standards – as well as current requirements for all coal waste disposal regulated by the Mine Safety and Health Administration, the Office of Surface Mining Reclamation and Enforcement, and the Environmental Protection Agency – must be fully and effectively enforced.

**The bottom line? .... "Dirty" doesn't disappear. It just goes someplace else.**

# HIGHLANDS CONSERVANCY WORKING FOR BALSAM FIR CONSERVATION AND RED SPRUCE RESTORATION

By Dave Saville

The West Virginia Highlands Conservancy has been working for over a decade to protect, conserve and restore the spruce-fir forests in West Virginia. Beginning in the mid 1990s an effort was initiated to conserve balsam fir in West Virginia where it reaches its southern most extent in North America. This work led to further efforts which have focused on the restoration of the broader red spruce ecosystem that was once prevalent in the West Virginia Highlands.

The project initially sought to protect the genetic diversity of the various stands of balsam fir around the state that were coming under threat from the exotic insect pest the balsam woolly adelgid. Research by Ohio State University and others suggested that there were significant genetic trait differences, genotypes, between West Virginia stands and with those of balsam fir located further north.

Conservation actions ensued to protect this diversity by fostering regeneration of existing stands of Balsam. Volunteers were organized to collect cones from each of the known stands of balsam fir in West Virginia. Seed was extracted and stored separately at the NRCS Plant Materials Center in Alderson, WV.

Stand regeneration in many areas was not occurring because of heavy deer browse. Through cooperative efforts with state and federal land managers, as well as private land owners, numerous deer exclosures are being constructed in natural balsam stands to allow both natural regeneration and careful restoration activities using seed, and seedlings grown, from the locally collected cones. Seedlings have since been grown annually for over 10 years for use in restoration projects.

Efforts have also been undertaken to restore the red spruce forests and the ecosystem associated with it. Once covering as much as 500,000 acres of the West Virginia Highlands they provide a unique habitat for numerous rare, threatened and endangered species. Logging, fires and development have significantly reduced and fragmented these forests.

Cones have been collected and seed banked at the NRCS Plant Materials Center. Landscape scale Restoration Plans have been developed focusing on the expansion and connection of patches of red spruce forest. Over 100,000 red spruce seedlings have been planted implementing these plans in numerous restoration and reclamation projects across the highlands.

Photo ©  
Jonathan  
Jessup



The Highlands Conservancy has also been working on an educational outreach program to build awareness of the historical as well as the current and future ecological importance of the high elevation red spruce forests in West Virginia.

Each year we have contract grown enough seedlings to make them available to the public. Watershed Associations, Home Owners Associations, private landowners, developers and mine reclaimers have all been using our local source seedlings for reclamation, conservation and restoration projects. We still have trees available for the Spring 2009 planting season. The trees are shipped to us for an April 1 delivery date. They are available for purchase at the Highlands Conservancy website [www.wvhighlands.org](http://www.wvhighlands.org), or by sending a check to the Highlands Conservancy at PO Box 306, Charleston, WV 25321.

## T- SHIRTS

White, heavy cotton T-shirts with the *I ♥ Mountains* slogan on the front. The lettering is blue and the heart is red. "West Virginia Highlands Conservancy" in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$10 total by mail; **long sleeve** is \$15. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



## For Sale West Virginia Seed Source Red Spruce and Balsam Fir Seedlings

Once again in 2009 The Highlands Conservancy will be providing high quality seedlings grown from seed collected locally by volunteers. All proceeds go to support red spruce ecosystem restoration efforts in West Virginia.

We are excited to announce that 2008 saw a good crop of balsam fir cones in West Virginia, the first crop since 2003. In August we were able to collect in Canaan Valley in Tucker County, Blister Run in Randolph County and Blister Swamp in Pocahontas County. While not a bumper crop of red spruce, we were also able to collect several bushels of spruce cones this fall on the Monongahela National Forest.

### Red Spruce

12-18 inches tall, these are a 2 inch plug 6 inches deep. These quality seedlings, available no where else, are the same product we have been using in our restoration projects very successfully for many years.

### Canaan Valley Balsam Fir

12-18 inches, these husky trees, are a 1 year plug grown in a transplant bed for 1.5 additional years.

### Spring 2009 Price for Balsam Fir or Red Spruce Seedlings

100 - \$205

1,000 - \$1050

Flexible delivery dates during April 2009. Limited availability - Minimum order 100.

500 trees at 1000 price

### One gallon containerized Trees for 2009

Because many people would like to use our red spruce and canaan fir trees for landscaping, or have a use that requires a larger tree, we now have a limited number of one gallon container grown red spruce and canaan fir trees available. These trees are about 3 feet tall. Look for us at some of the local festivals this Spring or contact us to make pick-up or delivery arrangements (Morgantown area). \$10.00 ea., 3/\$25, or 10/\$75.

For more information visit our website at [www.whighlands.org](http://www.whighlands.org)

or contact:

Dave Saville

304-284-9548 office

304-692-8118 cell

[daves@labyrinth.net](mailto:daves@labyrinth.net)

### **Speakers Available !!!!!**

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



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

Please email any poems, letters, commentaries to the VOICE editor by e-mail at [johnmcferrin@aol.com](mailto:johnmcferrin@aol.com) or real, honest to goodness, mentioned in the United States Constitution mail to John McFerrin, WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

### *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.

# ENVIRONMENTAL COUNCIL SETS LEGISLATIVE PRIORITIES

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

At the West Virginia Environmental Council's board meeting in November, WVEC's member groups and individual members adopted a wide-ranging list of environmental concerns as priority issues for the 2009 Legislative session.

The WVEC board will meet again in January to further refine (and most likely narrow) the priority list. WVEC committees will also work on honing the list.

Here is a brief description of these priority issues, in no particular order of importance.

**Renewable Energy:** WVEC will continue its Renewable Energy Campaign, which was initiated almost six years ago. Governor Manchin is expected to announce a renewable energy incentives proposal in his State of the State Address, and there appears to be some substantial legislative support for an incentives package. Manchin is also expected to announce some initiatives to address climate change, including a renewable energy portfolio standard.

WVEC's positions on energy use/development and climate change were carefully considered and spelled out in our Citizens' Energy Plan released last year — see [http://www.wvecouncil.org/issues/renewable\\_energy/WVEC\\_Citizen\\_Energy\\_Plan\\_2008.pdf](http://www.wvecouncil.org/issues/renewable_energy/WVEC_Citizen_Energy_Plan_2008.pdf). WVEC will continue to support funding and a wide array of incentives for renewable energy development, including "green jobs" initiatives, and will push for the adoption of a renewable energy portfolio that is truly significant and real. WVEC will continue to support legislation that mandates that all state buildings are constructed using "green building" codes.

**"Clean Coal" and Coal-to-Liquids:** Governor Manchin is also expected to propose funding and other initiatives that support coal-to-liquids and other "clean coal" projects. WVEC will continue its opposition to these proposals.

**Coal Sludge Injection and Impoundments:** WVEC will continue to push the Department of Environmental Protection to report to the Legislature on the coal slurry study, and will continue to push the Department of Health and Human Resources to provide a thorough and accurate analysis of the health impacts from slurry injection and sludge impoundments as part of the study authorized by the Legislature.

WVEC will support initiatives to provide clean and safe drinking water for coalfield communities.

**Oil and Gas Issues:** WVEC member groups and individual members are up in arms about a variety of oil and gas issues, and many members of the Legislature are listening.

Foremost among these are both water quantity and water quality concerns evolving from the recent drilling of Marcellus shale gas wells. Marcellus shale wells incorporate drilling and "fracturing" techniques that use large amounts of fresh water and create large quantities of wastewater. Additionally, this new "boom" in drilling is stressing the DEP's inspection capabilities. WVEC will support initiatives to adequately regulate oil and gas drilling operations.

WVEC will also continue its support for a Surface Owners Bill of Rights, which would provide additional land protections to surface owners who do not own the minerals under their land. The efforts for this legislation are being led by the Surface Owners Rights Organization, a project of WV Citizens Action Group.

**Clean Elections:** As a member of the West Virginia People's Election Reform Coalition (PERC-WV), WVEC will continue to support legislation that would provide public funding for election campaigns. This is the one reform that would make all other reform possible.

**Bottle Bill/Recycling:** WVEC will continue to support legislation

establishing a refundable deposit on beverage containers, and other recycling and waste reduction initiatives.

**Cemetery Protection Bill:** WVEC supports OVEC's campaign to protect cemeteries from mining operations.

**Public Health Impact Bill:** WVEC will continue to support legislation that would require the Bureau of Public Health to provide an assessment of the public health impacts of Department of Environmental Protection proposals to change water quality or air quality standards.

**Toxic Chemicals:** WVEC supports the efforts of People Concerned about MIC (methyl isocyanate — the same chemical that killed and injured thousands in the Bhopal disaster) to require industry to release an inventory of what hazardous chemicals are being stored at their plants.

**Playing Defense:** Of course, one of the highest priorities for the WVEC lobby team is playing defense against the numerous bad proposals that industry inevitably proposes each and every year. This year will be no different.

The 2009 Session of the West Virginia Legislature will convene on February 11 and will close on April 11 at midnight.

Let the games begin.



*Preparing to make more sausage*

## BROCHURES

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

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



## Join Now !!!

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ E-Mail \_\_\_\_\_

### Membership categories (circle one)

	<u>Individual</u>	<u>Family</u>	<u>Org</u>
Senior	\$ 15		
Student	\$ 15		
Introductory			
Other	\$ 15		
Regular	\$ 25	\$ 35	\$ 50
Associate	\$ 50	\$ 75	\$ 100
Sustaining	\$100	\$ 150	\$ 200
Patron	\$ 250	\$ 500	\$ 500
Mountaineer	\$500	\$ 750	\$ 1000

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

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

## MORE FROM PRESIDENT (THE REAL THING, NOT PRESIDENT ELECT) ROGERS

(Continued from p. 2)

they are “not on the same page” on the issue of climate change. I wouldn’t count on his pagination any more than I would study investors’ bets for reliable clues to what will happen with coal.

The environmental activist community’s reaction to the appointment has been mixed, not to say confusing. Salazar was called a “staunch conservationist” who opposed oil shale development on public lands, and he was criticized for his willingness to allow some drilling in national forest roadless areas. Kieran Suckling, of the Center for Biological Diversity, said, “It’s a very disappointing choice for a presidency which promised visionary change.” But Carl Pope, national director of the Sierra Club, said the Club was “very pleased with the nomination.” The same compromise over natural gas exploration on the Roan Plateau in Colorado was cited both for and against him.

The Highlands Conservancy paid close attention to the Interior position (and communicated with the Presidential Transition Team) because the Office of Surface Mining, Reclamation, and Enforcement—usually known as OSM—is located within that department. But why is it there?

One Secretary of Interior said the department should have been called the Department of Western Development. In the 20<sup>th</sup> and 21<sup>st</sup> centuries, every Secretary but one has come from the West. By far the greater proportion of the public lands it deals with is in the West. The National Park Service, Bureau of Indian Affairs, Geological Survey, Bureau of Land Management—all deal primarily with the West. The Bureau of Reclamation doesn’t reclaim, it builds and runs dams. The Minerals Management Service manages minerals on public lands—not coal fields in the East.

In 1970, the EPA was established as a separate agency because Interior was too pro-development. A few years later, for the same reason, the Mine Safety and Health Administration was made independent of Interior’s Bureau of Mines. So when Congress passed the Surface Mine Control and Reclamation Act (SMCRA) in 1977, why did it put OSM in Interior?


A long-time ally on surface mining issues who was present at the


creation told me the answer was simple: The late Mo Udall, who shepherded SMCRA through Congress, was chairman of the House Interior Committee, and he wanted to retain oversight of OSM. He was “the man” through its early years. Since then, the agency had lost its way. Even under the more enlightened administrations, it could not get traction because it was such an odd duck in Interior. “Better EPA, Energy, anywhere other than the department responsible for . . . natural resource exploitation,” said this informant.

Politics always comes back to people. No resolution is permanent.

### HATS FOR SALE

West Virginia Highlands Conservancy has two models of caps for sale.

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

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

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

## Our readers write

### Wind Can Replace Coal Plant Emissions

To the editor, Highlands Voice:

There are several problems with the article against Wind energy by Margaret Collins in the November *Voice*. One is that it is simply wrong. Another is that, as a source, Collins lacks real credibility. Finally, she might have a point if there actually were such a thing as "Clean Coal" as an alternative. Unfortunately, "Clean Coal", exists only in the minds of advertising executives.

First, Collins first exaggerates, then double counts greenhouse gas emissions associated with wind. According to her math, 2 plus 2 equals 7. It makes great PR hype, but it is not a reasonable basis for decision-making, or even for environmental advocacy, not if we want to be taken seriously.

Adding wind-powered electricity to the grid does not increase emissions of greenhouse gases because it does displace fossil fuel emissions. Wind does not provide a perfect 1-to-1 replacement of fossil fuels, because utilities do need to retain a "spinning reserve", as Collins noted. Where she erred is the claim that the emissions associated with this reserve generation equal or outweigh the emissions displaced by wind. If a 100 MW wind farm actually only generates 30 MW, a big percentage of that 30 MW displaces fossil fuel-based electricity because the fuel needed to keep a plant idling is much lower than the fuel needed to maintain it at peak power. Power plants already know how to maintain a spinning reserve fairly efficiently, it is unrealistic to think they would waste all that fuel at today's prices for coal and natural gas.

While it is true that the wind does not blow everywhere at top speed all the time, the wind is blowing somewhere all the time. So even if the wind is calm at Mount Storm, it will be blowing at Beech Ridge or Backbone Mountain. The wind industry is pretty good at identifying the locations with the best wind resources, where it is blowing at optimal speeds the greatest percentage of the time. The capacity factor of 30% of nameplate capacity is realistic, but Collins implies that it is zero much of the time, and is wildly unpredictable the rest of the time, and both claims are clearly wrong. Collins simply is misusing simple math for her own ends.

This brings up Collins' second problem, her lack of credibility. It is my understanding that Margaret Collins is married to Vince Collins, who is the attorney that wrote the tax breaks for the Longview power plant.

The mere existence of a successful wind project highlights just how dirty, and unnecessary, coal is. If the Collins really wanted to reduce greenhouse gases, or fight unwise tax breaks, they had their chance, but the Collins appear happy to profit from yet another outdated coal plant.

Since Vince Collins is such an active supporter of coal, it raises questions in my mind about the credibility of Margaret. The failure to disclose this relationship, in my opinion, constitutes a major deception on her part. Those who have legitimate concerns about wind power, and there are some, need to publicly distance themselves from the Friends of Coal if they wish to retain any credibility in the environmental community.

So why do the Friends of Coal repeat misinformation to attack wind? Because global warming is a real and urgent issue, and they know that coal's days are numbered if wind is perceived as part of the solution.

That is why they talk about "Clean Coal" and "carbon neutral coal". But Clean Coal does not exist. Out of approximately 600 commercial

coal-fired power plants in the US today, not a single one captures and permanently stores its carbon dioxide. Out of approximately 120 new plants proposed or in some stage of development, almost all of them plan to release 100 % of the carbon dioxide they produce into the atmosphere.

There are no commercially available technologies that could capture and store carbon dioxide, nor are there any sites where long-term storage has been demonstrated on a commercial scale, and neither are expected to be available for at least a decade. Not a single home in America is powered by "Clean Coal".

I certainly appreciate the need for proper siting of wind farms, and it is certainly true that wind can not, by itself, replace the need for coal, especially if America does not curb its ever-expanding gluttony for electricity. But, in combination with a serious commitment to energy conservation, wind can play an important role. And if any kind of carbon tax or cap and trade program is adopted, simple economics will drive rapid development of a lot more wind and overwhelm any opportunity for rational regulation.

So I believe that West Virginia needs to get serious about developing proper siting rules and operating parameters, but that these must also apply to smokestacks, transmission lines and even housing developments. We need to develop stringent rules to protect streams and wildlife habitat, but these must also apply to strip mines, gas drilling pads, and ski resorts. And these have to be based on credible information about real problems; not misinformation, distortions of reality, and bad math.

Jim Kotcon  
Chair, Energy Committee  
West Virginia Chapter of Sierra Club  
Morgantown, WV 26508

## MEMBERS STAMPEDE TO ELECTRONIC VOICE

Each month a few more members switch from getting a paper *Voice* to an electronic version. While it may be more of a steady trickle than a stampede, it does indicate that switching to an electronic *Voice* is becoming a more popular option with readers.

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

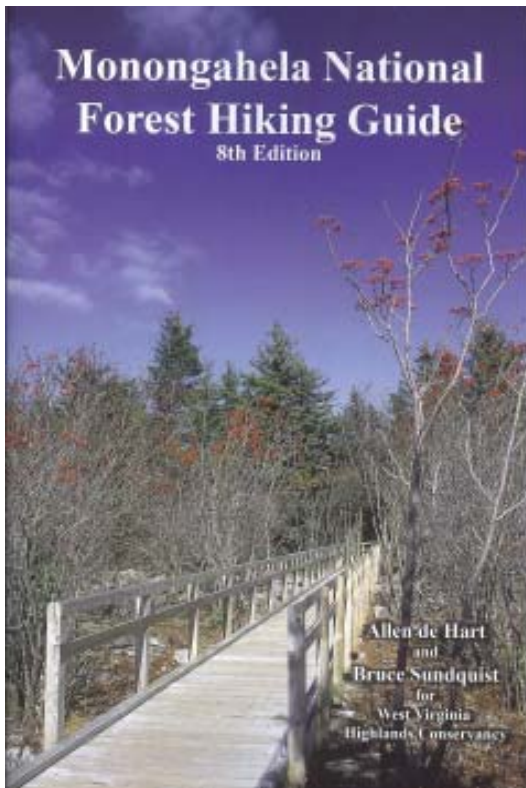
If, however, you would prefer you can switch to receiving it by email. You get it the instant it goes to the printer – no waiting for a week or more. It's in color, so you can print it out on your deskjet on nice paper and have a spiffier *Voice* to grace your coffee table.

How to receive it by email? Just send an email to [blittle@citynet.net](mailto:blittle@citynet.net) requesting it.



## The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist



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

Send \$14.95 plus \$3.00 shipping to:  
West Virginia Highlands Conservancy  
P.O. Box 306  
Charleston, WV 25321  
OR

Order from our website at  
[www.wvhighlands.org](http://www.wvhighlands.org)

### New 8TH Edition Now Available on CD

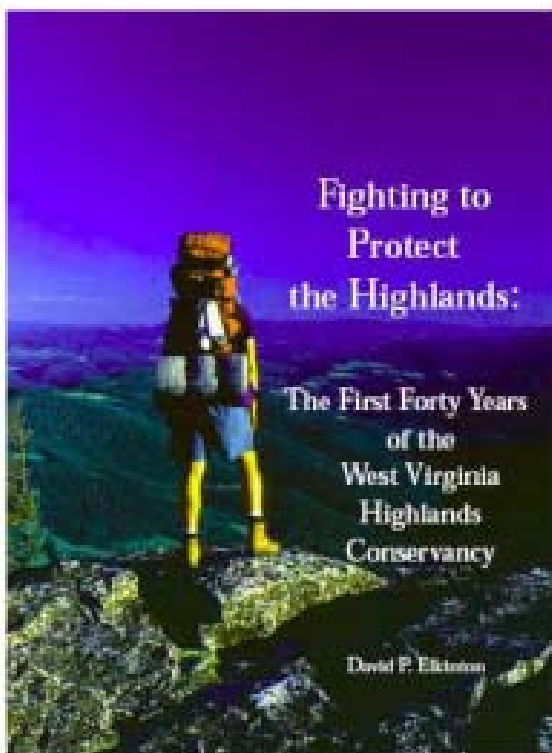
WV Highlands Conservancy proudly offers an Electronic (CD) version of its famous Monongahela National Forest Hiking Guide (8th Edition), with many added features.

This new CD edition includes the text pages as they appear in the printed version by Allen deHart and Bruce Sundquist in an interactive pdf format. It also includes the following mapping features,

developed by WVHC volunteer Jim Solley, and not available anywhere else:

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

Price: \$20.00 from the same address.



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

Learn about how the Conservancy stopped road building in Otter Creek, how a Corps of Engineers wetland permit denial saved Canaan Valley, and why Judge Haden restricted mountaintop removal mining. Also read Sayre Rodman's account of the first running of the Gauley, how college students helped save the Cranberry Wilderness, and why the highlands are under threat as never before.

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

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

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

To order your copy for \$24.95, plus \$3.00 shipping, visit the Conservancy's website, [wvhighlands.org](http://wvhighlands.org), where payment is accepted by credit card and PayPal.

Or write: WVHC, PO Box 306, Charleston, WV 25321.

Proceeds support the Conservancy's ongoing environmental projects.

# West Virginia Mountain Odyssey



## Outings, Education and Beyond 🇺🇸

**Saturday January 10, Celebrate Winter Trails Day** ([www.wintertrails.org](http://www.wintertrails.org)); Free lessons/clinics and rentals to all first time interested skiers or snowshoers. XC lessons every hour and a 10 am and 2 pm clinic on types of snowshoes, clothing, basic techniques, and outdoor winter snow travel followed by a natural history tour on snowshoes into our neighboring National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday January 11, Gateway To The Refuge** - High elevation red spruce ecosystem; 10 am Whitegrass Ski Touring Center. Join naturalist and regional conservationist Dave Saville for a 1-2 hour ski or snowshoe trek and learn about the historical, ecological and future significance of our High Elevation Ecosystem as well as efforts to protect and restore it. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday January 18, Carefree Snowshoe Tour**; 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. Natural history and local lore are included. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday January 25, Gateway To The Refuge - GPS mapping skills**; 10 am Whitegrass Ski Touring Center. Trek led by Dr. Rick Landenberger, Executive Director of a non-profit geospatial research and education network, and West Virginia University faculty member in Geology & Geography. Rick will provide an introduction to GPS technology including principles for mapping points and routes, with particular emphasis on central Appalachian forest ecology and wildlife applications. Bring your own GPS if you'd like, but Rick will have loaner units for first timers. All are welcome. Skis or snowshoes. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday February 8, Gateway To The Refuge - Animal Tracking**; 10 am Whitegrass Ski Touring Center. Ski or Snowshoe trek led by Canaan Valley National Wildlife Refuge Wildlife Biologist Ken Sturm. This very popular event will give you information needed to figure out what critters make all those impressions in the snow. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday February 15, Carefree Snowshoe Tour**; 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. Natural history and local lore are included. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday February 22, Gateway To The Refuge - Geology of Canaan Valley and the West Virginia Highlands**; 10 am Whitegrass Ski Touring Center. Ski or Snowshoe trek led by Geologist Barnes Nugent of the West Virginia Geologic Survey. Lifelong mountaineer and outdoorsman as well as White Grass skier. Barnes will discuss the unique geology of the area and how it affects the plants and animals that live there. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Open Dates:** Visit **Kayford Mountain** south of Charleston to see mountain top removal (MTR) up close and hear Larry Gibson's story about how he saved his mountain, now almost totally surrounded by MTR. Bring lunch for a picnic on Larry's mountain. Call in advance to schedule. Julian Martin (304) 342-8989; [martinjul@aol.com](mailto:martinjul@aol.com) or Larry Gibson (304) 542-1134; (304) 549-3287.