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The Highlands Voice

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FIGHT OVER GAS WELLS IN CHIEF LOGAN HEADS TO SUPREME COURT

By John McFerrin

The West Virginia Highlands Conservancy, Friends of Blackwater, and former West Virginia State Park Chief Cordie Hudkins have taken the fight over the proposed drilling for natural gas in Chief Logan State Park to the West Virginia Supreme Court of Appeals. There they have been joined by the West Virginia chapter of the Sierra Club as well as the West Virginia Division of Natural Resources and the West Virginia Department of Energy who also oppose the drilling.

The controversy is over a proposal by Cabot Oil and Gas to drill several gas wells inside Chief Logan State Park. The Department of Environmental Protection had originally denied the permit to drill based upon a statute which it believed prohibited drilling for gas in a state park. Cabot Oil and Gas (the driller) appealed to the Circuit Court of Logan County which reversed the Department of Environmental Protection and ordered that the permit be issued.

A state statute, West Virginia Code §20-5-2, appears to prohibit developing of minerals on state park land. The Department of Environmental Protection had originally denied the application for a permit to drill a well based upon this statute.

Although the Department of Energy assumed that the statute

prohibited the drilling, the Circuit Court made a different interpretation. It ruled that the statute only applies to minerals not owned by the state. Since the minerals at Chief Logan State Park were not owned by the state, the Court ruled that the statute did not prohibit drilling for those minerals.



In addition to interpreting the statute to allow drilling in the Park, the Circuit Court ruled that only the Department of Natural Resources, not the Department of Environmental Protection, may enforce the statute.

Most of the appellants (West Virginia Highlands Conservancy, Friends of Blackwater, and former West Virginia State Park Chief Cordie Hudkins West Virginia chapter of the Sierra Club, and the West Virginia Division of Natural Resources) did not participate in all parts of the case before the Circuit

Court of Logan County. They applied to intervene only after the judge had made a ruling. Because of this, much of the important evidence about the history of state policy on drilling in parks was not presented until the judge had already ruled. This evidence will, however, be available to the Supreme Court.

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From the Heart of the Highlands
by Hugh Rogers

Solvitur Ambulando: Some New Year's Questions

One early winter day when too many windows were stacked on my screen and I had bounced between emails and replies and links and attachments until my eyes were jiggling, I tied my shoes blindly and went outside.

"Solvitur ambulando" was a maxim of Kierkegaard's. He got it from a Roman stoic: "It is solved by walking." Often, for the Danish master, melancholia was the thing to be solved, and once that happened the philosophical knots he'd tied himself in could be unraveled or at least put into words. But his method has a broad application.

When the fit comes on me I don't take the time to drive to a forest trailhead, although the nearest are less than twenty minutes away—and Otter Creek isn't so much farther. I throw a water bottle in a knapsack and start down the driveway, and by the turn at the culvert, under an old hemlock, I'm in the rhythm.

That particular day was sunny. The snow had melted, little rivulets ran in the ruts, and down at the junkyard, in the part of our lane that a friend calls the Ho Chi Minh Trail, the craters were ice-free. When I reached the road where our kids used to wait for the school bus my shoes struck dry pavement.

Past the neighbors in rented, or hard-earned, or (in one case) craftily obtained houses; past the trailer bristling with scaffolds for a project that might take a few more years; past the house where the farmer moved across the valley from his ancestral home, which he tore down, replaced, and returned to; and past the house on the corner where a man who used to work outside all the time now sat in a wheelchair in warmer weather and watched young church folks work, I turned onto a long straight between fenced pastures and a meadow where the sky was wide and the western hills could be seen stepping up to Laurel Mountain.

This back road had earned two yellow stripes. More traffic meant more litter. I hadn't gone far before I felt obliged to pick it up.

When I walk to the post office, in the opposite direction from the bus stop, I can tuck a few cans or napkins or burger wrappers in my pockets and drop them in the fire department's dumpster. There was a lot more along the back road. But I had something for that, a large trash bag in the bottom of the knapsack that I used to spread on the ground to sit on.

OK, I thought, I'll turn around at the next intersection instead of doing the loop; meanwhile, the chore could wait. It was such a beautiful day. The grass, the gnarled meadow oaks, the snowy ridges and scudding clouds were freshly polished. As the writer Andrea Barrett put it, "You can fall in love with the natural world in the same way you fall in love with a person. There's that same sense of helplessness, of lacking control over how much of your life you want to devote to it." She could have been talking about environmental activism, or about an afternoon walk.

My usual walk falls between finding a solution and falling in love. Put it this way: the walk *is* the solution.

The pick-up routine altered my rhythm. So much trash! Since I was going to cover the same mile and a half both ways, maybe I should have done one side and then the other; now I had to scurry

(Hugh's not finished; the rest is on p. 14)

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SECRETARY: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733, johnmcferrin@aol.com

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

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

DIRECTORS-AT-LARGE (Terms expire October 2010)

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Bob Gates, Box 5130, Charleston, WV 25361; photonzx@ntelos.net

George Beetham, geobeet@hotmail.com

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

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

DIRECTORS-AT-LARGE (Terms expire October 2011)

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

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

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

Carter Zerbe, 16 Arlington Ct., Charleston, WV 25301, (304)343-3175; scz3667@aol.com

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

ORGANIZATIONAL DIRECTORS

NATIONAL SPELEOLOGICAL SOCIETY: Robert (Bob) Handley, HC 67 Box 508 Renick, WV, 24966 497-2266; leatherwing@frontiernet.net

PITTSBURGH CLIMBERS: Jean Rodman, 32 Crystal Dr., Oakmont, PA 15139, (412)828-8983; jeanrodman@verizon.net

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

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

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

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

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

COMMITTEE CHAIRS

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

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

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

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

ENDOWMENT FUND COMMITTEE: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733; 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: Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com and Jim Solley, jamecsolley@comcast.net

ADMINISTRATIVE OFFICES

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

HIGHLANDS VOICE EDITOR: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733; johnmcferrin@aol.com

MORE ABOUT DRILLING AT CHIEF LOGAN (Continued from p. 1)

The West Virginia Highlands Conservancy and the other appellants contend that much of the Circuit Court's ruling was based upon a misunderstanding of the facts. Based upon representations by the drilling company and the mineral owner, the Court believed that it had always been the policy of the Division of Natural Resources to allow drilling for gas in state parks.

The appellants contend that this contradicts fifty-plus years of application of the statute by the WVDNR. Dr. Will Hertig, former WVDNR Director, submitted a letter stating that, during his tenure, all requests to drill for privately-owned gas from State Park land were "summarily dismissed;" In another letter, former WVDNR Director Ira Latimer said that WVDNR routinely denied permission to drill for private gas from State Park property. A letter from former Director David Callaghan said the same thing. An affidavit of former West Virginia State Park Chief Cordie Hudkins, explained that any existing gas wells on State Park land were drilled before the land was made part of a Park.

It also appears from the record that not even the owner of the minerals under Chief Logan State Park believes that the statute allows mineral extraction in state parks. In a separate transaction, not involved in this case, it acknowledged that lands deeded to Division of Natural Resources to be made part of Chief Logan State Park could not be used for any new extraction of minerals.

By clarifying that the law prohibits oil and gas drilling in state parks, this case would affect other state parks as well. The outcome of the case would affect the other parks where West Virginia does not own the mineral rights--Babcock, Blackwater Falls, Canaan Valley, Cedar Creek, Pipestem, Twin Falls and Watoga.

The case also has the potential to interfere with an important source of funding for West Virginia's parks and recreation. West Virginia receives extensive funding for its parks from the federal Land and Water Conservation Fund. A condition of that funding is that the land dedicated for park use remain so and not be converted for non-recreational use. If West Virginia allows part of Chief Logan to be converted from recreational use to minerals extraction, this would interfere with funding under this program.

Right now no drilling or preparation for drilling is going on. Although the Department of Environmental Protection has been ordered to issue the necessary permits to drill, it has not done so and probably will not do so until this matter is resolved in court.

The West Virginia Supreme Court will probably make its preliminary review of the case in the late winter or early spring, 2010. At that time it will decide whether it will accept the case for full review. If it does so, there would probably be a decision in late 2010.

Hold that date: May 7-9, 2010
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For more information and/or to make reservations contact Cindy at

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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.

500 CLAY COUNTY MINERS TO KEEP JOBS

By Ken Ward Jr.

Nearly 500 workers at two Clay County coal mines will keep their jobs for another year. A federal judge this week agreed to allow CONSOL Energy Inc. to continue mining, despite a major flaw in the company's Clean Water Act permit.

On Monday, U.S. District Judge Robert C. Chambers granted CONSOL's motion to continue operations at subsidiary Fola Coal Co.'s Ike Fork Mine, a mountaintop removal operation along the Clay-Nicholas County border near Bickmore.

The move will allow CONSOL to continue to operate for at least 12 months, according to a sworn affidavit signed by Fola general superintendent John Goroncy.

CONSOL lawyers had told Chambers the company already started to fill in streams at the site before the court ruling, and therefore any damage to the environment was already done.

"We are very pleased by Judge Chambers' ruling, which is welcome news to our nearly 500 Fola employees and their families, especially during this holiday season," CONSOL vice president Nicholas J. Deluliis said in a news release. "This ruling will allow us to re-focus our attention on operating the Fola Complex safely, efficiently and in an environmentally sound manner."

Earlier this month, CONSOL threatened to lay off 378 workers at Ike Fork and another 104 at a related underground mine operated by CONSOL's Little Eagle Coal Co. subsidiary. Chambers had blocked a Clean Water Act permit for Ike Fork because the federal Army Corps of Engineers did not allow public comment on a key portion of that permit.

The potential layoffs brought an outcry from the coal industry and from many state political leaders, including Gov. Joe Manchin and Reps. Nick J. Rahall and Shelley Moore Capito. CONSOL blamed the potential layoffs on a "repeated assault from nuisance lawsuits and appeals of environmental regulations."

Environmental groups had asked Chambers to block the Fola permit, in which the corps approved the company's proposal to bury more than 6 miles of streams with waste rock and dirt from their mining operation. They argued that the corps robbed them of their ability to provide meaningful comments by not making key documents available during the public review process.

At issue was Fola's mitigation plan, which outlined steps - such as building man-made streams - the company planned to take to compensate for burying natural waterways with mining waste.

Environmentalists (including the West Virginia Highlands Conservancy) and many scientists believe coal company mitigation efforts have not been shown to work, and don't properly compensate for the ecological damage from burying miles of headwater streams. But without being able to review mitigation plans before they are issued, citizen groups can't offer specific comments on those plans.

Chambers ruled that such documents are key parts of the permit review process. Corps officials and the industry use mitigation plans to offset environmental damage, and allow the corps to argue the effects of mining are not significant enough to warrant further study or permit denial.

In the case of Fola, the company submitted a permit application in October 2004. A few weeks later, the corps asked the company for more information, including a copy of its mitigation plan. But the corps went ahead with the public notice, and accepted comments on

the permit in April and May 2005, without first having a copy of Fola's mitigation plan.

Fola did not submit an initial mitigation plan until October 2006, or a final one until December 2007. Neither was put out for public comment, and the mitigation plan wasn't made available to the public until after the permit was issued in March 2008. Company lawyers and attorneys for the corps had argued there was no need to allow public comment on the mitigation plan, and that the corps was not required by law to do so.

In court papers filed about a week before Christmas, Fola lawyers asked Chambers to save jobs at the site by allowing the company to continue burying streams where valley fills had already been started.

"With regard to each of these fills, clearing and grubbing has been completed, the existing streambeds have been removed, the substrate has been collected and stockpiled, and [runoff control] structures have been constructed in the former stream channels within each of these valley fills," the Fola lawyers wrote.

Fola lawyers wrote that allowing the mining to go on would not interfere with the public having a chance to comment on the mitigation plan, if the corps decides to hold another public comment period on that part of the permit.

Also in their motion, Fola lawyers outlined several previous instances where environmental groups or Chambers agreed to modify court orders or take other steps to allow the Ike Fork operation to continue, despite legal questions about its permit.

Editor's note: This article appeared originally in The Charleston Gazette. For more about the judge's decision, see the article on page 3 of the December, 2009, issue of The Highlands Voice (still available in your pile of stuff you intended to read after finishing your Christmas cards or online at www.wvhighlands.org).

Voice Available Electronically

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

Speakers Available !!!!!

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

OIL AND GAS DRILLING RULE WILL KICK OFF LEGISLATIVE SESSION

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

The 2010 regular session of the West Virginia Legislature begins on January 13 and lasts for 60 days.

And the political debate over new regulations for drilling oil and gas wells may not conclude until the final hour of the final night.

The debate will actually begin in the final Legislative Interim Committee meetings that occur three days before the regular session convenes. During that time the Legislative Rulemaking Review Committee will consider changes to 35 CSR 4, the oil and gas well drilling rule, proposed by the Department of Environmental Protection.

Some of DEP's proposed changes to the rule are beneficial, such as *finally* requiring synthetic liners for drilling pits and new construction standards for waste pits and water storage impoundments.

However, environmental groups by and large feel the proposed changes fall far short of protecting water, land, and human health from the threats posed by recent increased drilling activity in the state.

At issue are the multitude of new environmental concerns surrounding the drilling of Marcellus Shale natural gas wells. Drilling into the Marcellus Shale formation requires the use of new techniques, such as "horizontal" drilling and large-volume "fracs." These new techniques use huge amounts of water to drill and "fracture" the gas formation, and in turn produce huge amounts of wastewater that is high in total dissolved solids and chlorides.

Environmental groups want to know what chemicals are in the "frac" water (heretofore considered an industry "trade secret"), and they want the DEP to require that the wastewater from these wells be removed from the site and disposed of either in underground injection wells or at authorized

commercial wastewater treatment facilities.

A working coalition of concerned environmental groups convened earlier this summer and drafted comprehensive comments in support of the changes to the rule proposed by DEP, but also urged the agency to adopt an extensive list of additional changes.

The oil and gas industry, of course, opposes even the modest rule changes proposed by DEP.

This will be a complicated and controversial rule for the Legislative Rulemaking Review Committee to deal with. The committee almost never rejects or sends a rule back to the agency that originates it. So it is likely that the committee will pass the DEP proposed rule, perhaps in an amended form, on to the full Legislature for consideration by the various committees in both the House and the Senate.

However, there are other issues involving the drilling of Marcellus Shale wells that are not covered under the statutory authority of the oil and gas well drilling rule. Those include the regulation of water withdrawals from rivers and streams for use in drilling and fracturing the wells, and establishing a statewide water quality standard for total dissolved solids.

The Joint Legislative Oversight Commission on State Water Resources (another Interim Committee) is considering new legislation that would set up a system for regulating water withdrawals as well as addressing some of the issues regarding frac fluid content and wastewater disposal. Committee co-chairman Delegate Tim Manchin (D-Marion) recently said publicly that if the committee does not pass the bill out, he would sponsor it on his own.

And Delegate Barbara Fleischauer (D-Monongalia) has said she will once

again sponsor comprehensive legislation addressing Marcellus Shale drilling operations, including setting a statewide water quality standard of 500 ppm for total dissolved solids.

So the debate on oil and gas well drilling regulations is almost guaranteed to continue throughout the 60-day session.

There will be some notable changes in the House of Delegates this session.

Delegate Carrie Webster (D-Kanawha), chairwoman extraordinaire of the powerful House Judiciary Committee, has resigned from the Legislature and was recently sworn in as Kanawha County's newest circuit judge.

Governor Manchin has appointed Charleston lawyer Meshea Poore to fill Webster's vacant seat, representing the House of Delegates' 31st District. In last year's Democratic primary election, Poore lost to Webster by fewer than 120 votes.


Speaker of the House Richard Thompson (D-Wayne) has appointed Delegate Tim Miley (D-Harrison) to serve as the new chairman of the House Judiciary Committee, and Delegate Mark Hunt (D-Kanawha) to serve as the committee's vice chair.

And finally, in this legislative game of musical chairs, the Speaker has appointed Delegate Barbara Fleischauer to replace Miley on the Legislative Rulemaking Review Committee.

My, oh, my . . .

Lastly, if you want to stay up-to-date on all matters environmental at the Legislature, just log on to the West Virginia Environmental Council web site at <http://www.wvecouncil.org/> to read our weekly *Legislative Update* newsletter (you can even join on-line now and contribute to the lobby team's efforts!).

T- SHIRTS

White, heavy cotton T-shirts with the  **Mountains** slogan on the front. The lettering is blue and the heart is red. "West Virginia Highlands Conservancy" in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$12 total by mail; **long sleeve** is \$15. West Virginia residents add 6% sales tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



2009 – ALBATROSS OR RAY OF HOPE ?

By Cindy Rank

Even as the first year of the new 'administration of change' in Washington DC comes to an end, we find ourselves welcoming 2010 with an all too familiar mixture of hopes and disappointments.

First and foremost I must say I find inspiration and strength in the numbers of people (locally, nationally and worldwide) who are actively working to move us beyond our decades old abusive relationship with coal - and all fossil fuels.

And yet, coal in particular remains an albatross around our societal neck. As is true with any abusive spouse, coal wields a (not so) mysterious power that blocks our transition away from that relationship.

Spurred on by reports of our use of fossil fuels huge contribution to global climate change, more and more people worldwide are mobilizing to overcome our dependence on this mineral. Cracks are beginning to appear in what has been a fundamental belief that coal has been and must continue to be our main source of energy.

Industry in turn is pulling out all stops to defend itself, to debunk what it holds to be unsubstantiated untruths about its beloved black gold. Desperate attempts are being made to paint coal 'green' and 'clean' – not to mention 'carbon neutral'. Its devotees seek to develop old and new schemes such as coal-to-liquid and carbon sequestration and transmitting coal-by-wire electricity to far away locales in hopes of extending our dependency on the diminishing resource.

Here in Appalachia in 2009 lawsuits, protests and a growing number of dedicated

citizens brought more public attention than ever before to one of the industry's more monstrous activities - the huge strip mining operations that blow apart mountains, fill irreplaceable headwater stream valleys and impact generations old communities.

There is new resolve. On the ground and perched high in trees, brave residents who live at the base of the mountains most under attack and friends from near and far document the destruction and challenge the powers that be, the intruders into their homes and communities.

Industry has responded by ratcheting up the dissatisfaction and fear of miners and heavy equipment operators in danger of losing the jobs and incomes to which they've become accustomed.

The recent decision to allow mining to continue at the FOLA mines in Clay County (see article about FOLA coal elsewhere in this issue) serves as stark reminder of how powerful the threats of job loss and violence can be and how creative coal companies can be.

These are the same threats that ultimately caused Judge Haden to stay his 1999 court order that may well have put an end to all but the smallest of valley fills. You may also recall the incident involving the Magnum/Patriot coal North Rum mine permit a couple of years ago. When faced with a court decision that would delay mining at the North Rum mine the company miraculously produced pictures showing the entire streambed in question had magically been covered with rock and, therefore, was

no longer technically within reach of the legal challenge before Judge Goodwin.

And so it goes. As the size of these strip mines increase so do a variety of impacts to the human communities and so do efforts to combat them.

- The battle by Paul Shaw to preserve his family cemetery here in Upshur County in the mid-1980's is being repeated over and over again as the heavy equipment moves closer to family cemeteries wherever mining is being done. Thanks to people like Robin Blakeman of the Ohio Valley Environmental Coalition, more and more families are organizing to defend their ancestral burial grounds, to publicize the harm and to work for legislation to protect these sacred sites. [Talk about your familiar stories !]

- The practice of disposing coal sludge from coal preparation plants (as well as coal ash from power plants) in unlined impoundments or injecting it underground is being looked at more closely thanks to years of organizing and testing and speaking out by people in communities like Prenter where well water turned toxic after underground injection began at nearby mines.

- Despite overwhelming odds communities continue to organize even as others empty and disappear in the face of expanding mining operations. – Lindytown in Boone County is but the latest in long list of decimated communities.

- There may be some small bit of consolation in knowing we have fewer mine

(Continued on p. 7)



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.

CINDY LOOKS BACK AT 2009 (Continued from p. 6)

related deaths than the hundreds of mine workers who die in China and elsewhere on a regular basis. Though painful memories remain, we pray that disasters like Sago and Crandall Canyon and Jim Walker are behind us. But safety concerns at similar deep mines continue; efforts to improve safety laws are slow and stories from retired miners like Butch Sebok, Chuck Nelson and others tell us that many still have to fight for health benefits most of us thought were guaranteed by laws hard fought for and enacted decades ago.

- Pools of water in deep mine voids in northern West Virginia continue to threaten groundwater supplies and streams. Discharges like those from Consol mines mixed with gas well brine discharges killed some 40+ miles of Dunkard Creek and impacted the Mon River this past year. Subsidence caused by longwall mining continues to sink portions of interstate highways, permanently damage homes and wells, alter streams and springs causing some to become cesspools and others to dry up.

- As for mountaintop removal and other huge permits that decimate entire mountains and miles of streams, there is hope in EPA's resolve to review permits with more scrutiny, but will it be enough to effectively rein in the practice? Even as that process evolves, more permits are being granted that expand the cancer upon the land....

One need only consider Coal River Mountain, the Mud River valley, the area from Stirrat and Cow Creek to Twilight and Edwight. Even as hopes soar and courageous protestors challenge blasting at the BeeTree permit precariously located on the edge of the giant Brushy Fork slurry impoundment and propose alternative uses for the ridge tops, if one looks at the WV DEP GIS mapping of pending permits it's difficult to hold out any hope that needed 'change' is coming.

Take for example Blair/Blair Mountain area where the mountaintop removal controversy first exploded on the national scene first with Penny Loeb's 1997 *Sheer Madness* article in *U.S. News and World Report* and with the *Bragg* litigation that challenged the 3,000 acre Spruce #1/Pigeonroost permit. While the infamous Spruce #1 mine has for the most part been held at bay except for the Seng Camp side of Pigeonroost hollow, just last week routine public notices from WVDEP included a new 1,225 acre permit for just southwest of Pigeonroost. This new Coyote Coal permit looks to be but the last piece in the puzzle that will totally engulf the area. --- From Rum Creek and Buffalo Creek to Sharples and Monclo all that will be left are the main county and state roads through Spruce Fork, Kelly and Rum Creek. It's all too clear why Vicki Moore's family was prohibited from resettling in any of this area when they were forced to move away from their home in Blair.

~~~~~  
I first witnessed mountaintop removal on a 1994 state sponsored tour of many of these same mine sites in southern West Virginia. Walking along the edge of a thousand foot deep grand canyon like cut at the Dal-Tex mine above Blair, standing beside the not yet assembled mammoth drag line at Catenary/Samples and flying in the state helicopter over other sites with Dave Callaghan (then director of the state regulatory program) the terror I felt that day was not from my fear of heights, but from the realization that the horror of what was taking place below had only just begun.

My personal faith and fundamental belief that law and science should and do provide a ballast that prevents our world from capsizing

into some blind abyss is shaken as much now by this past year and decade as ever before. Even as scientific evidence of the harmful impacts of our reliance on coal and other fossil fuels is mounting and community organizing is strong, legal challenges are narrowing and political reality has once again moved into the spotlight.

I want to believe our communal wisdom will pull us through. But as emotions flare and tensions rise among neighbors in the coalfields, we also see WV state politicians seriously suggest holding hostage much needed national health care reform unless Congress bends once more to the whims of the coal industry with regard to climate change. Our own Governor touts the short sighted notion that WV is the "extraction state" as if we have nothing more to offer, nowhere else to turn.

Early this past December, Dave Callaghan wrote an op-ed in the *Charleston Gazette*. In it he offered suggestions for reducing the size and impacts of the huge strip mines known generally as 'mountaintop removal'. Admirable as his suggestions are, many were discussed but not accepted in our negotiations during the *Bragg* litigation and may well have made significant difference were they enacted ten years ago. Now however, I fear these are too little too late.

I wonder, too, if EPA's recent efforts will be enough to make a real difference. FOLA has been given the green light and according to Congressman Rahall's office two days ago EPA is also allowing the newest 500 acre Berry Branch addition to the already selenium hell of Hobet 21 to go forward.

Could it be that Senator Byrd, long a staunch defender of the coal industry, will provide the strongest voice of reason even at this late date?

His harsh words from the floor of the Senate in 1999 decrying Judge Haden as being WRONG! still ring in my ears. But only weeks ago Senator Byrd called for calm, reprimanded industry saying "Scapegoating and stoking fear among workers over the permitting process is counter-productive". He urged that industry recognize that market and demand for coal, not permitting, is the factor most affecting the current state of the industry and said "the time has come to have an open and honest dialogue about coal's future in West Virginia."

Most notable for me were his words that follow: "It is also a reality that the practice of mountaintop removal mining has a diminishing constituency in Washington. It is not a widespread method of mining, with its use confined to only three states. Most members of Congress, like most Americans, oppose the practice, and we may not yet fully understand the effects of mountaintop removal mining on the health of our citizens."

~~~~~  
I don't think I've lost all hope. But the past year – perhaps I should say the past decade – has yielded few answers and little comfort...and only a hint of hopeful days ahead.

With apologies to those who haven't seen the movie, if there's any parallel to be made with the AVATAR story about the quest for the precious mineral 'unobtainium' and a community's fight to hold onto its history and ancestral lands, things will be getting much worse before they get better.

May 2010 bless us all with the wisdom to see our communal responsibilities more clearly, the strength to respond as best we can, and at least occasional moments of joy to sustain us.

Join Now !!!

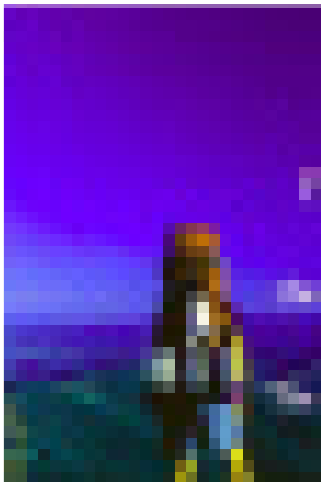
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Mail to West Virginia Highlands Conservancy PO Box 306 Charleston, WV 25321

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



GREAT HISTORY BOOK NOW AVAILABLE

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

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


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

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

518 pages, 6x9, color cover, published by Pocahontas Press
 To order your copy for \$24.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal.
 Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

SUCH A DEAL!

Book Premium With Membership

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$24.95, we are offering it as a premium to our members. Anyone who adds \$10 to the membership dues listed on the How to Join membership form (right up there ) will receive the history book for free. Just note on the membership form that you wish to take advantage of this offer.

This offer is available to current members as well as new members. Current members may add \$10.00 to the amount they pay when they renew their memberships and receive a book as well.

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.

West Virginia Seed Source Red Spruce and Balsam Fir Seedlings for Sale

The West Virginia Highlands Conservancy continues its efforts to conserve and restore the High Elevation Red Spruce/Balsam Fir Ecosystem in the West Virginia Highlands. Our restoration program has resulted in over 100,000 trees planted in the highlands so far.

Once again in 2010 we are able to provide high quality seedlings grown from seed collected locally by Highlands Conservancy volunteers. All proceeds go to support red spruce ecosystem restoration efforts in West Virginia.

Seedlings for Spring 2010

Red Spruce

12-18 inches, these 2 year old seedlings are grown in a 2 inch plug 6 inches deep. Available no where else, these are the same trees we have been using in restoration projects very successfully for many years.

Spring 2010 Price for Red Spruce

100 - \$205

1,000 - \$1050

Canaan Valley Balsam Fir

12-18 inches, these husky trees, are a 1 year plug grown in a transplant bed for 2 additional years.

Spring 2010 Price for Balsam Fir

100 - \$205

Flexible delivery dates during April 2010. Availability is very limited - order early!
Minimum order 100.

For more information, or to place an order, visit our website at:

www.wvhighlands.org

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Dave Saville

PO Box 569

Morgantown, WV 26507

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304-692-8118 cell

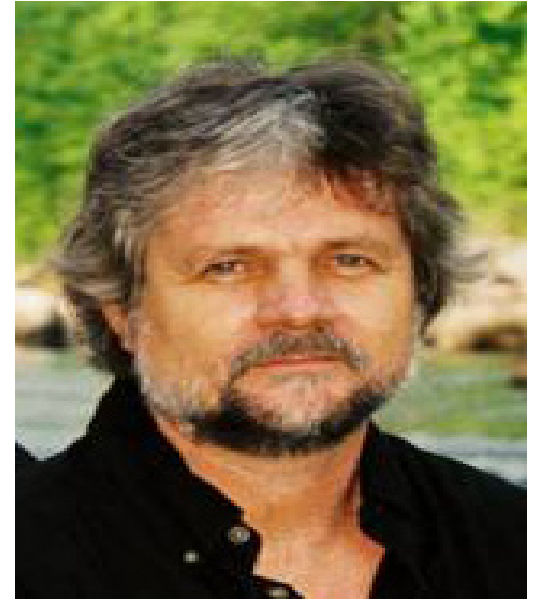
daves@labyrinth.net

THE PASSING OF A FRIEND

Keith Pitzer, executive director of Friends of the Cheat since 2001, died on the morning of December 22nd following a year and a half long battle with cancer.

Under his leadership, Friends of the Cheat dramatically expanded its efforts to restore, preserve, and promote the outstanding natural qualities of the Cheat River Watershed.

Key milestones under the Pitzer tenure include establishing three public river accesses, completing an interpretive driving trail, invasive species eradication, and a major expansion of the organization's primary focus, cleaning up acid mine drainage that has rendered many miles of streams in the watershed unable to support life for decades.



Today the Cheat River, once considered dead below Albright, is making a comeback. The water is visibly cleaner, and fish, eagles, herons, and otters have been sighted, although much work remains to further improve water quality in the river and tributaries.

Keith also laid the foundation for ongoing projects including developing rail trails in the Kingwood area and from Albright to Rowlesburg, building an outdoor classroom, developing a key river and trail access at the confluence of Pringle Run and the Cheat River, and many additional acid mine drainage remediation projects throughout the lower Cheat watershed.

Despite his deteriorating health, Keith remained actively involved in leading Friends of the Cheat through mid-November of this year. On December 1st, co-founder and past president and executive director Dave Bassage was named interim director to keep the organization and small staff moving smoothly forward.

An accomplished musician and songwriter, Keith and his wife Joan recorded albums and played at festivals and other venues throughout the East Coast. They were instrumental in establishing fine music tradition of the annual Cheat River Festival, the region's first outdoor festival each year, held the first weekend in May.

In lieu of flowers, The Keith Pitzer family has asked that donations be made in his memory to Friends of the Cheat, website www.cheat.org. Condolence notes can be sent to his email: kpitzer@foc.org.

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.

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

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

THE OTTER CREEK TREK

By Don Gasper

Editor's Note: *An outing led by Don Gasper is more than a hike. Because that's just the way he is (and because he knows a lot of stuff) the hikes often turn into combination hike and natural history seminar on whatever Don sees along the way. The report of this trip is divided into two parts, one on the hike itself and another on the seminars. The seminar part is not a transcript, just Don's ideas and the things he talked about.*

JUST THE HIKE

West Virginia Highlands Conservancy's scheduled trek down into lower Otter Creek took place in June. It looked like rain when we gathered in Parsons at 11:00 that day, but it turned out to be a nice after all. Four hardy folks joined me. Two were slender, tall recent graduates of Fairmont State University. The other two were older, but not as nearly as old me. They were a very able and interesting couple.

My delay in reporting the trek is because I lost everyone's names. I've been looking for the list, to no avail and finally decided I had better write up the events anyway. Perhaps the couple could contact me if they are still interested in serving on a Highlands Committee. My address is on page two.

The group motored through the US Forest Service's Femow Experimental Forest, stopping at one of Femow's "catchment" watersheds.

We left our cars at the top of the Elklick watershed and began our half mile descent to Otter Creek. Water was everywhere and the trail was good. Though water flowed in smaller channels on the hillside the main channel was often dry - we thought subterranean drainage.

Otter Creek's flow itself was formidable. Fortunately a tree was down across our "ford". The tree and the help of our young outing participants enabled the party to cross the strong knee deep flow. We rested, dried off, ate a bit and shoved off for our 3+ mile hike along a wide level streamside foot trail. In some reaches the toe of the hillside encroached along the trail. There were 4 to 5 landslides - some partially blocking the trail.

Otter Creek is so beautiful that we took some photos. The sun on the waterfalls made cascades appear white at times and the flow rushed everywhere between giant boulders.

At one place where the valley floor was a little wider we observed that a couple of big trees had blown over making a gap in the otherwise closed canopy. The sun lit some ferns and grasses. The group saw excellent campsites at the Otter Creek stream-side and a few campers. We rested and I embarked on a lecture on the necessity of calcium.

We forded a little side the stream, again with some difficulty, and emerged from the Wilderness Area, crossing over Dry Fork on the big swinging bridge. A car to take us back to our cars on the mountain was waiting.

THE SEMINAR NOTES

The group motored through the US Forest Service's Femow Experimental Forest, stopping at one of Femow's "catchment" watersheds. These are 70 to 80 acre "long term" study watersheds. The Forest-Service researchers carefully measure flow at weirs and collect other chemical and sediment data from these areas.

Femow gets about 58 inches of a precipitation annually. Water runoff accounts for 24 inches of the 58 inches of precipitation. The forest's scientists believe that 27 inches--most of the water that falls on the forest--is either evaporated or transpired by the forest. It is intercepted by forest where the water is suspended on foliage and branches and then evaporated. The transpired portion is drawn up by tree and other plant roots from soil moisture and exits the forest through leaves. The last 7 inches is believed to seep deep into the ground to become ground water.

The Femow data enabled me to tell the participants that most precipitation that falls on a forest is evapotranspired (27 inches), while surface run off accounts for less (only 24 inches). Most people would be surprised at that. What would happen if all the trees were cut down, as in a clearcut timbering operation? The stream channels after a clearcutting would have to carry their previous flow of 24 inches plus additional flow of 27 inches that had previously been caught by the forest. This means stream channels would suddenly need to carry over twice as much flow.

When flows increase in stream channels (some small and underground), they will scour and generate additional sediment loads. Studies have found that as flows increase "headcutting" can occur. This occurs when the upper end of the drainage enlarges upslope. The "headcutting" generates even more sediment loads for the stream. Sediment can then form gravel bars that deflect current into stream banks causing additional erosion and sediment. The sediment from erosion often fills channels causing out of bank flooding and often cuts new channels with truckloads of sediment generated.

Sometimes sediment can be identified as a "sediment wave". This must work its way downstream far off-site. Bank erosion, sometimes with tree toppling and new channel cutting, cascade and magnify as the channel becomes destabilized downstream.

When we finished our drive up Elklick in the Fernow Forest, I explained that the West Virginia DNR stocked catchable size trout in the stream's twelve pools. The Elklick native population of brook trout died out in the seventies. A hatchery strain of brook trout was stocked in the eighties and some may still persist.

In the past the original Elklick forest had a thick floor of roots and soil causing cool seeps to enter the channel. The flow was so cold all summer that no other fish except brook trout were present. Because there is a barrier at the mouth of Elklick now that could be used to keep other fish from competing with native trout, once the

(Continued on p. 11)

MORE ON NATURAL HISTORY (Continued from page 10)

other fish are removed, a true native Brook Trout population could be reintroduced into this stream.

In the original eastern forest gaps could average two acres, this enabled tree species that require sunlight to generate and maintain themselves. An old forest experiences a gap of 0.1% each year, totaling 1% in ten years and 10% in one hundred years.

This was an old 300 year old forest of big trees. It was not then entirely an even age forest. Although its composition changed in some places, it maintained its character over vast areas reflecting differences in precipitation, steepness, aspect, elevation, soil depth, etc. Into this great forest came disease, fire, great storms etc. that would devastate huge areas. The great forest was so big that it grew back maintaining its character. Ecologist today worry that our forests are not large enough to recover like the old forest did.

When we rested I embarked on a lecture on the necessity of calcium.

The West Virginia the DNR limes this stream with ground limestone (calcium carbonate). We don't know about the presence of native trout in Otter Creek or its tributaries in the original forest, but families of the first loggers say the fish were never there.

About 1960 there were natives in Turkey and Big Spring. These were springtime refuges with greenbrier limestone influences. The influences of these springs would sparsely populate the lower 3 miles of the main Otter Creek with native trout in the summer.

A few other fish are present in this lower reach today. With West Virginia's DNR 30 years of liming, brook trout now populate the entire 11 miles of Otter Creek. You can stand on top of one of Otter Creek's waterfalls and look into a 50 foot by 50 foot by 10 foot deep pool and see up to 50 brook trout. Two anglers regularly caught 50 each in a day, releasing all but their limit of six.

Brook trout can absorb more calcium through their gills than through dietary calcium. In low calcium water trout will elevate their metabolic rate as if they were held in 15° F warmer water. Warm water stress is well known to lead to brook trout mortality. Without liming there is not enough calcium, and perhaps other nutrients, for trout to survive. It could be said that Otter Creek in its natural state is "too pure for trout".

Other fish species have long since disappeared from Otter Creek. These barren streams drain the hard infertile Pottsville sandstone that is extensively exposed in the Monongahela National Forest. The Pottsville influenced watersheds produce so few soil nutrients that 40% of The Monongahela will not be harvested, because there may not be enough plant available nutrients to grow a new crop. This is a good management practice and took a lot of courage on Monongahela's part to implement it. The West Virginia Highlands conservancy strongly supported them in this decision.

We went on talking about acid rain and how our environmental groups took the U.S. EPA to court to force polluters to reduce acid rain by half in 1996. Acid rain in 50 years washed away many nutrients available to the forest, further impoverishing the Pottsville and other associated geologies. There are some amazing figures from barely a dozen studies all sloped by President Reagan and industrial forestry.

The annual input of calcium in our eastern forest is two pounds per acre per year as a dust, two pounds per acre per year as rain and snow and almost two pounds per acre per year from rotting

rock entering the soil column. Calcium export from watersheds is in a range from eight to fourteen pounds per acre per year. The average calcium export of hundreds of eastern forest streams is eleven pounds per acre per year.

The forest is not at steady state. If the forest exports eleven pounds of calcium per acre per year and only receives six pounds per acre per year, that means that the annual impoverishment rate is -5 pounds. An annual deficit of five pounds means a deficit of 250 pounds per acre of calcium in fifty years. This is not a good recipe for healthy forest and watersheds.

The 250 pounds per acre calcium deficit incidentally about equals the calcium in an acre of tree trunks. Chemically we have forgone the equivalent of a clearcut harvest over the entire eastern forest in the last 50 year period. As we contemplate a harvest of eastern forest today we must realize that in reality, chemically, this is our historic third, not our second cutting.

One last point in this long report, on this long tutorial / discussion we have about 6000 pounds per acre of calcium above rotten rock today. The forest lost about 1000 pounds per acre at the first logging in the harvest, fires, attempts at farming. etc... Our forest today is attempting to regrow with 14% fewer nutrients than the original forest had.

The Forest will require about the 250 pounds of calcium in an acre to grow tree trunks, and another 250 for developing crowns, and finally to complete their growth the forest will require another 250 pounds in the next 100 years. In a natural setting the trees will then fall and recycle their nutrients. We should realize as a tree grows it impoverishes the very soil it is growing from. This plus the extensive infertile geology and further impoverishment (leaching) by 50+ years of acid rain, that was 10 times more acid than originally, has resulted in the low values of plant available nutrients, and base saturation, calcium to aluminum ratio, etc. We should ask if this forest, so reassuringly looking, is really robust - is it ready for another harvest where available nutrients are trucked away to the mill impoverishing the forest further?

HATS FOR SALE

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

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

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

Pictures of both appear on our website www.wvhighlands.org. Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is \$15 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306

West Virginia Mountain Odyssey



Outings, Education and Beyond 🗺️

Saturday, January 9: Winter Trails Day at White Grass, meet at White Grass Lodge. Free lessons/clinics and rentals to all first time interested skiers or snowshoers. Cross country ski lessons every hour. 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. Contact White Grass at (304) 866-4114 for more information.

Sunday January 10: Gateway To The Refuge - GPS mapping skills, 10 am at White Grass. 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. Dr. Landenberger 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. Contact White Grass at (304) 866-4114 for more information.

Saturday, January 16: Valley Vibes: Changing Light and Weather: Dolly Sods and Canaan Valley, 7 pm at the Canaan Valley Resort State Park lodge. Presented by Photographer and local resident Joe Henry. See some of Joe's work at <http://www.canaanvalleyphotography.com>. Contact the Refuge at (304) 866-3858 for more information.

Sunday January 17: Carefree Snowshoe Tour, 1pm at White Grass. Learn about local history and ecology with Master Naturalists Andy and Bruce Dalton. Long-time residents of Canaan Valley, Andy and Bruce are volunteers for the Wildlife Refuge with the Friends of the 500th the Refuge's volunteer citizen's support organization. Contact White Grass at (304) 866-4114 for more information.

Saturday, January 23: Winter Bird Walk, 8 am, meet at the Wildlife Refuge Visitor Center. Led by Volunteer Casey Rucker. Contact the Refuge at (304) 866-3858 for more information.

Sunday, January 24: Gateway to the Refuge - Brook Trout, West Virginia's Native Trout, 10am at White Grass. This outing will explore the native habitat of this important bio-indicator of our headwater stream's health. Outing leader, Gary Berti, is the Program Manager of Trout Unlimited's Potomac River Headwaters Home River Program. Learn why this species is important and what Trout Unlimited is doing to protect and restore its habitat. Contact White Grass at (304) 866-4114 for more information.

Sunday, January 31: Gateway to the Refuge - Living Legends, the History and Ecology of Red Spruce Forests, 10 am at White Grass. Before the logging era the red spruce ecosystem in these mountains was vast. Why didn't it all come back after the logging? What animals are dependants on the red spruce ecosystem, and why have some become endangered? What is being done and what can we do to help? Presented by Environmental Educator Corey Bonasso, 2008 Forestry graduate from West Virginia University, and Nathan Beane, Doctoral student in Forestry at WVU. Contact White Grass at (304) 866-4114 for more information.

Sunday, February 7: Gateway to the Refuge -Animal Tracking, 10 am at White Grass. This very popular event, led by Refuge Wildlife Biologist Ken Sturm, will give you information needed to figure out what critters make all those impressions in the snow. Contact White Grass at (304) 866-4114 for more information.

Saturday, February 13: Winter Bird Walk, 8 am at the Wildlife Refuge Visitor Center, led by Volunteer Casey Rucker. This walk will take place during the Great Backyard Bird Count, a national volunteer effort to compile a snapshot of bird observations in one weekend. Our walk will include an introduction to the GBBC and encourage participants to take part in the effort. Contact the Refuge at (304) 866-3858 for more information.

Sunday, February 14: Carefree Snowshoe Tour, 1pm at White Grass. Your chance to appreciate the simple beauty of snowshoeing. Natural history and local lore are featured. Led by naturalist Dave Saville. Contact White Grass at (304) 866-4114 for more information.

(More Outings on p. 13)

MORE OUTINGS (Continued from p. 12)

Saturday, February 20: Valley Vibes - South Africa through the Eyes of a Wildlife Biologist, 7 pm at the Canaan Valley Resort State Park lodge. Presented by Refuge Biologist Ken Sturm. Contact the Refuge at (304) 866-3858 for more information.

Sunday February 21: Gateway To The Refuge - Geology of Canaan Valley and the West Virginia Highlands, 10 am at White Grass. Ski or Snowshoe trek led by Geologist Barnes Nugent of the West Virginia Geologic Survey. Barnes will discuss the unique geology of the area and how it affects the plants and animals that live there. Contact White Grass at (304) 866-4114 for more information.

Saturday, March 13: Winter Bird Walk, 8 am at the Wildlife Refuge Visitor Center. Led by Volunteer Casey Rucker. Contact the Refuge at (304) 866-3858 for more information.

Saturday, March 20: Valley Vibes - Woodcock and Constellations, 7 pm at the Wildlife Refuge Visitor Center. At dusk, check out the mating ritual of this inland shorebird with no neck. Then when darkness falls, learn the legends of, and find some of, our spring time constellations. Led by Refuge Naturalist Jackie Burns. Contact the Refuge at (304) 866-3858 for more information.

Note: These outings are a part of the Winter on the Refuge program, a series of Naturalist Led Outings Sponsored by Canaan Valley National Wildlife Refuge, White Grass Ski Touring Center, and West Virginia Highlands Conservancy

ALL ABOUT WINTER ON THE REFUGE

By Dave Saville, Outings Committee Chair

As I write this, on January 1, 2010, there are 15" of snow at the 4,000 ft stake at the Canaan Valley National Wildlife Refuge and White Grass Ski Touring Center. They have had 59 inches of snow so far this winter and have been skiing for 25 days. That sweet sweet powder is coming down heavily right now!

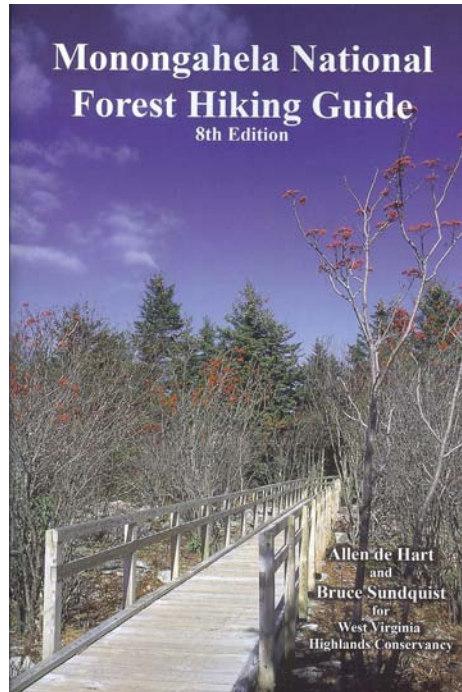
White Grass partners with the National Wildlife Refuge to provide recreational access and educational opportunities for the public during the winter months. White Grass maintains over 50 km of ski trails that allow people to see and learn about the unique wildlife habitats that are being managed and protected on the Refuge. Ski trails are groomed and there is a variety of terrain to more than satisfy beginner to advanced skiers.

The Refuge has developed a series of interpretive signs that are placed at various places around the ski trail system. A Gateway Kiosk displays a map and other information about the Refuge. The Highlands Conservancy has helped organize the *Winter on the Refuge* outings series this winter with the help of WVU Recreation Student Maddy Hodden.

The outings take place during the winter months and are led by knowledgeable professionals and Master Naturalists. There are numerous opportunities to learn about a diverse array of natural and cultural features of Canaan Valley. The outings begin at White Grass unless otherwise noted. Check out the complete schedule in the Mountain Odyssey listings.



Snow in Canaan Valley Photo by Jonathan Jessup



The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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

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

New 8TH Edition Now Available on CD

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

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

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

Price: \$20.00 from the same address.

HUGH FINISHES UP (Continued from p. 2)

back and forth, shading my eyes from the sun, checking to see what I'd missed. For a while it was good: I was part of a natural conspiracy to put a fresh shine on the world. And few cars passed. Let 'em wait 'til I'm done.

But the load began to drag. Pepsi cans, Busch cans, beef stew cans, stomped and bagged, were the least of it. Guys who troll the roads for cans to redeem know you don't want to be paid by the pound for aluminum. Bottles were heavy. But cans and bottles were both cleaner than paper or paperboard, and the dirtiest and heaviest paper product was a used disposable diaper. Sounds like an invitation: "Disposable."

I wondered how much of the stuff had blown out of the beds of pickup trucks and how much had been thrown out. By drivers? Passengers? How much had been brought from home, and how much left over from

food, drink, or smokes consumed in the car? One smoker or pals with the same taste had gone through several packs of grape-flavored cigars. Yes, there is a market for grape-flavored cigars.

I wondered whether a one-time clean-up would have any long-term effect. Did trash invite more trash? Were some drivers perversely spurred to mess up virgin berms? I thought some club ought to adopt the road—and not this club of one member.

If any one bit finally pushed me over the edge, it was the rotten deer meat soaking through butcher paper. Someone who'd gone to the trouble to have his venison cut and wrapped had thrown it in the ditch. Maybe there was a long story between, but I didn't care. It stunk.

Now, would I let my walk in the sun be ruined by disgust? Would my virtuous effort be soured by vexation? Oh yes it would.

I doggedly continued while stewing about my fellow sentient beings. Then I heard in my mind's ear, "What does it profit a man to gain the whole world but suffer the loss of his soul?" Except I heard it as *clean* the whole world.

It was dusk when I finished hauling the bag all the way to our garage. I told Ruth about my experience. What I should have done, I said, was quit while I was ahead: at the first sign of irritation, I should have tied the bag and walked on. Some other time I could go back and pick up the rest.

The more fundamental question was why so many tasks became self-defeating. Because I do suppose that in disparaging others we lose our own souls. If one could truly gain the whole world, what separate soul could be lost?

WINDMILLS vs. ENDANGERED SPECIES

IN GREENBRIER COUNTY

A United States District Court in Maryland has ruled that operators of the Beech Ridge wind farm in Greenbrier County must alter or cease operations in order to avoid injury to the endangered Indiana bat.

The plaintiffs in the case--Mountain Communities for Responsible Energy, David Cowan, and the Animal Welfare Institute—contended that the Beech Ridge project would damage the bat. The bat is protected by the federal Endangered Species Act.

The Court conducted extensive evidentiary hearings and concluded that “there is a virtual certainty that Indiana bats will be harmed, wounded, or killed imminently by the Beech Ridge Project in violation of ... the Endangered Species Act, during the spring, summer, and fall.”

In holding that the project is “certain to imminently harm, kill, or wound Indiana bats,” the court relied heavily on testimony by bat biologists Dr. Thomas Kunz of Boston University, Dr. Michael Gannon of Penn State, and Dr. Lynn Robbins of Missouri State University. Dr. Kunz – whom the court has described as the “leading expert in the field of bat ecology in the United States” – testified that the project will not only kill endangered Indiana bats, but may kill more than a quarter of a million bats during the estimated twenty year life of the project, including species already being decimated by threats such as the devastating disease known as white-nose syndrome.

A determination that the facility will harm the endangered Indiana bat is not necessarily a death sentence for the project. The Endangered Species Act allows the issuance of what is called an “incidental take permit.” Such a permit allows a person or other entity to lawfully take an endangered species, without fear of incurring civil and criminal penalties, “if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.”

An “incidental take permit” must be issued by the United States Fish and Wildlife Service but only when the Fish and Wildlife Service attaches strict and enforceable conditions designed to minimize the impact on imperiled species.

Forty of the 122 planned wind turbines have already been erected. Those are generally farthest from known winter populations of Indiana bats. The Court enjoined the construction of any additional turbines until the operators have applied for and received an incidental take permit from the Fish and Wildlife Service. It also enjoined the operation of existing turbines between April 1 and November 15. This is the time of the year when Indiana bats are active. Existing turbines could operate from November 16 through March 31 when the bats are hibernating.

IN HIGHLAND COUNTY, VIRGINIA

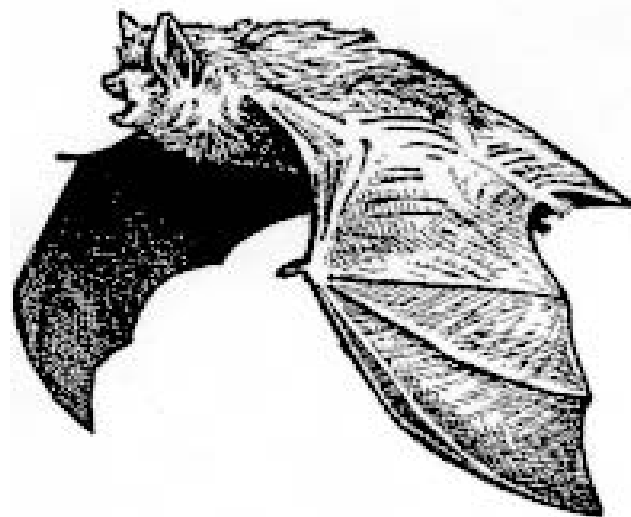
The concerned citizens of Highland County, Virginia, have written a letter to the Highland County Board of Supervisors, advising it that the Board of Supervisors would place the county in legal jeopardy if it allows Highland New Wind Development to proceed without first obtaining an Incidental Take Permit required by the federal Endangered Species Act.

In their correspondence, the concerned citizens pointed out that the Highland New Wind Development project threatens two endangered species as well as both bald and golden eagles.

The threats to endangered species do not necessarily mean that the project can never be built. The Endangered Species Act allows the issuance of what is called an “incidental take permit.” Such a permit allows a person or other entity to lawfully take an endangered species, without fear of incurring civil and criminal penalties, “if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.”

In its correspondence the concerned citizens told the Board of Supervisors that such a permit would be necessary before the project could proceed. Both the US Fish and Wildlife Service and the Virginia Department of Game and Inland Fisheries have advised Highland New Wind to obtain an Incidental Take Permit before proceeding. Based on the importance of the site as a migratory pathway for birds and bats, the Virginia Department of Game and Inland Fisheries contended in testimony presented to the State Corporation Commission that the project may result in the highest mortality rates for any wind energy project in the eastern U.S.

In their letter, the concerned citizens noted the recent decision by the United States District Court in Maryland (see adjoining story) holding that an incidental take permit was required and stopping construction until the permit was obtained.





West Virginia filmmaker and Highlands Conservancy board member Bob Gates will be showing some of his films at the La Belle Theater in South Charleston on Saturday, January 9th, at 7:00 p.m. At the request of film programmer Steve Fesenmaier, Bob will be showing his original "Buffalo Creek Disaster" film of 1972 and his more recent "celebrating 40 Years - the West Virginia Highlands Conservancy" video. Film aficionado Bill Perrine also asked Bob to show his 1977 "Morris Family Old Time Music Festival" film which Bob is currently putting out on DVD, so this will be a premiere of sorts. The La Belle Theater is across the street from the South Charleston Public Library.

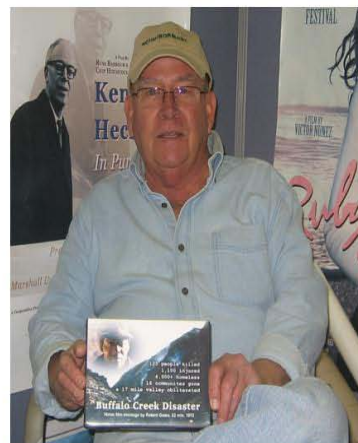


At the Historic La Belle Theater

311 D Street

South Charleston, West Virginia

**Robert Gates Film Night -
Two New Films—40 Years—
The WV Highlands Conservancy + Original
Buffalo Creek Disaster+
Morris Family Old-Time Music Festival
Saturday, January 9th, 7 PM Admission \$4**



Bob Gates with the finally released 1972 footage he took of one of America's worst industrial disasters at Buffalo Creek, Logan County, WV.

40 YEARS - THE WEST VIRGINIA HIGHLANDS CONSERVANCY

2008 60 mins. Omni Productions

Charleston filmmaker Robert Gates filmed the 40th anniversary celebration of the West Virginia Highlands Conservancy at Cheat Mountain Club on Shavers Fork in October 2007. Founded in 1967, they are the state's oldest environmental advocacy organization. Successes include saving the Canaan Valley from being turned into a pumped storage reservoir, working on Monongahela National Forest issues including wilderness designations and fighting mountaintop removal coal mining. WVHC published a book in 2007 titled "Fighting to Protect the Highlands- The First Forty Years of The West Virginia Highland Conservancy", written by Dave Elkinton, who is also a former WVHC president, with an introduction by Ken Hechler. Website - <http://www.wvhighlands.org/> Access: Robert Gates, Omni Productions, 304-342-2624, omni@ntelos.net

BUFFALO CREEK DISASTER

2009 (1972) 22 mins. Omni Productions

On February 26, 1972, the gob pile dams at Pittston's Buffalo Mining failed at Three Forks above Lorado on Buffalo Creek. A tidal wave of sludge and water swept down Buffalo Creek obliterating a 17 mile valley, killing 125 people, and leaving thousands homeless. The following day Citizens to Abolish Strip Mining flew over Buffalo Creek and Gates filmed the valley on a gray, windy day. The next day Gates filmed the Amhurstdale area. After State Police spotted Gates with his 16 mm Bolex camera in the back of a pickup truck, they were blocked from proceeding into the upper valley (Governor Arch Moore had imposed a news blackout, stating "the only thing worse than the disaster was the black eye West Virginia got in the press.") Access: Robert Gates, Omni Productions, 304-342-2624, omni@ntelos.net

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