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The Highlands Voice

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Volume 44

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Blair Mountain and Coal River Mountain

A BIG WEEK FOR TWO MOUNTAINS

By Cindy Rank

For those who love the mountains of West Virginia – especially the endangered species in southern West Virginia, the first week in June 2011 turned out to be a big week in the spotlight for at least two of those sister mountains.

1) MARCH TO BLAIR MOUNTAIN

To commemorate the 90th anniversary of the Battle of Blair Mountain hundreds of people from far and wide made the 50 mile march from Marmet, WV to what remains of the town of Blair in a reenactment of the long march made by thousands of union coal miners wanting to help organize non-union coal mines in Logan and Mingo counties.

The 1921 march ended in the Battle of Blair Mountain, a historic event where some ten thousand union coal miners were met by thousands of law enforcement officers and security guards hired to defeat them. From August 25 to September 2, 1921, the two sides fought a series of violent battles. This significant event in the history of the U.S. labor movement was only brought to a close by the intervention of federal troops by Presidential order. The Battle ended when federal troops were sent into the area.



The Marchers Photo by Julian Martin

The Battle is said to be the largest armed confrontation in United States labor history and the largest armed uprising since the Civil War. Several died in the battle, many more were wounded, and painful scars live on in the lives and memories of descendents today.

The 2011 march was far more peaceful and but took place in beastly hot and sometimes rainy weather. Hundreds walked the entire 50 miles from Marmet WV to the town of Blair in Logan County. Hundreds more met them in Blair for a rally and climb up the mountain to the ridge where the Battle of Blair Mountain was waged.

Much of the mountain is owned by two Coal companies whose plans for mining threaten the very existence of this historic ridge. The hundreds gathered on the mountain in June 2011 raised their voices in support of preserving this ridgetop

landmark and to demand sustainable job creation in all Appalachian communities, abolish mountaintop removal and strengthen labor rights.

Others will have more to say about their personal experiences on the march this year. I remember a similar commemorative 50

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Parula Warbler

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Can't Get There From Here?

Corridor H is back in the news. On June 6 in Elkins, several groups led by the Hardwood Alliance Zone (HAZ), a timber industry association, convened a "Corridor H Summit" to talk about speeding up federal funding for the road.

Their lobbying arm, the Corridor H Authority, held its first meeting over lunch in a private room. Is that "CHA", as in Corridor H Alternatives? Possibly, but I suspect the mimicry was unintentional. Most of these people haven't kept up with the nuances of the project's long history. They don't seem to have looked at maps, either.

The kickoff press release for the campaign asserted that timber producers needed the road to get their wood to the Virginia Inland Port at Front Royal and thence by rail to Norfolk. Hardwood Alliance Zone board member Steve Foster told public radio reporter Ben Adduchio, "without the completed road, the industry has to go to Baltimore to ship its goods. That creates a backlog and can mean higher costs."

At the Summit, Mr. Foster delivered the keynote address and repeated complaints about Baltimore. He had recently toured the Front Royal facility. The "port" is a transfer station where containers are lifted off trucks and double-stacked on railroad cars for a quick trip to Norfolk, the biggest seaport in the eastern U.S. As a port for Navy carriers, it's kept in tip-top shape.

Having discovered the Inland Port, Hardwood Alliance Zone members may soon figure out that it's already closer than the Port of Baltimore. Truckers who insist on sticking to interstate highways all the way around, I-79 to I-68 to I-70 to I-81 at Hagerstown, Maryland, will find at that point Front Royal is twenty miles closer than Baltimore. (Following the direct route from I-79 through Elkins and Moorefield, Front Royal is 90 miles closer.)

In fact, according to Patrick Donovan, another speaker at the Elkins Summit, shippers in our region do use Norfolk and the Inland Port. Donovan surveyed area export shippers for Marshall University and the Rahall Transportation Institute. He found that 44% of exports went through the two Virginia facilities, while only 16% went through Baltimore. Baltimore is used more for imports—retail stuff—than for exports.

But just for argument's sake, let's take the timber merchants' complaint seriously. Some of them have sent wood to Baltimore, and it sat on the docks so long waiting for a ship that it had to be fumigated a second or third time, and all the delay and extra chemicals cost them money. Why? Surely they didn't go through all that to be poster companies for Corridor H.

Mr. Donovan suggested an explanation. "Transportation decisions are often outsourced," he said. Many companies rely on freight forwarders to handle their shipments, and those brokers and/or truckers don't necessarily make the best decisions for their customers. If a Baltimore deal works better for them, that's where they'll go. And the shipper will pay the freight.

We shouldn't waste too much time on the campaign's talking points. It's not that timber can't get to Front Royal, or skiers to Canaan, or escapees from a terrorist attack can't get west of I-81 (to cite an example given at the Summit)—it's just that travel would be a little easier, and the "vistas" along the way would be more wide-

(Hugh finished up on p. 16)

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LEGISLATURE TO TRY AGAIN TO REGULATE MARCELLUS DRILLING

By Donald S. Garvin, Jr., WVEC Legislative Coordinator

In a move that caught many lobbyists and legislative pundits off guard, the West Virginia Legislature's Joint Committee on Government and Finance voted on the last day of June Interim Committee meetings to form a "Select Committee" to attempt to develop Marcellus Shale drilling regulations.

The goal is to develop a bill that both the House and the Senate can agree upon.

Acting Governor Earl Ray Tomblin has said publicly that he would call a Special Session to deal with a Marcellus bill if the House and Senate could reach agreement on a bill.

In his latest statements to reporters, Mr. Tomblin said that a Marcellus Special Session could occur as early as August 1, to coincide with a Special Session on redistricting which he plans to convene at that time.

The Select Committee on Marcellus consists of ten members, five from the House of Delegates and five from the Senate. The members were appointed by the Speaker of the House Richard Thompson and the Acting Senate President Jeff Kessler, respectively.

The Senate members include Senator Doug Facemire (D-Braxton), Co-Chair, and Senators Karen Facemeyer (R-Jackson), Orphy Klempa (D-Ohio), Corey Polumbo (D-Kanawha), and Herb Snyder (D-Jefferson).

The House members include Delegate Tim Manchin (D-Marion), Co-Chair, and Delegates Bill Anderson (R-Wood), Tom Campbell (D-Greenbrier), Barbara Fleischauer (D-Monongalia), and Woody Ireland (R-Ritchie).

What caught lobbyists and pundits off guard was the fact that prior to the formation of the Select Committee most Delegates and Senators were saying privately that it was unlikely that the issue would be dealt with before the 2012 Regular Session.

Even now as I write this update on June 30 it is unclear how the Select Committee will proceed. The schedule for the July Interim meetings, July 11 – 13, has already been posted on the Legislature's web site, and no meetings of the Select Committee are included in that schedule.

The 2011 Regular Session ended with the Senate having passed SB 424, its version of a Marcellus drilling regulatory bill, and the House having sent to the floor a Committee Substitute for the Senate bill. The House Committee Substitute for SB 424 was never brought up for a vote.

There is talk that the Select Committee will begin its deliberations by looking at the bill passed out of the Senate.

But complicating all this is the fact the Department of Environmental Protection has said publicly that its thinking on what should be in a bill has been "evolving," and it has been developing a new bill draft of its own.

So the only thing that seems clear right now with regard to Marcellus Shale drilling legislation is that it's going to be an interesting couple of months.

LEGISLATIVE INTERIM COMMITTEE STUDY TOPICS ANNOUNCED

By Donald S. Garvin, Jr., WVECI Legislative Coordinator

Just before the June Interim meetings convened, the Legislature announced the members of the various Interim Committees and a list of study topics assigned to each committee. Here is a list of study topics that might be of interest to *Voice* readers.

Joint Commission on Economic Development -- HCR 162, requesting a study of the feasibility of an energy efficiency resource standard for West Virginia.

Joint Standing Committee on Finance -- SB 242, dedicating portion of coal severance tax to county of origin; SCR 58, requesting a study advisability of establishing an "Economic Diversification Permanent Fund" using mineral severance taxes; and "Funding Issues Regarding Marcellus Shale."

Joint Standing Committee on Government Organization -- SCR 44, requesting a study utility services; SCR 66, requesting a study of implementation of procedures by DEP relating to environmental sampling; and HCR 107, authorizing a study of the independence of the Office of Environmental Advocate.

Joint Standing Committee on Judiciary – a study of the Legislative Rulemaking process; and a study of federal requirements for municipal wastewater treatment systems.

Parks, Recreation & Natural Resources -- HCR 120, requesting a study on the effect of transferring supervisory and jurisdictional responsibilities of all or part of Coopers Rock State Forest.

Also during the 2011 Legislative Interim meetings the Joint Standing Committee on Government Organization will be receiving Legislative Performance Audit reports of the Department of Environmental Protection.

The Rulemaking Review Committee will be considering the new Department of Environmental Protection rules proposed for 2012 (there are proposed changes to 10 air quality standards rules, among others).

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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.

MORE MOUNTAINS (Continued from p. 1)

mile march that took place in 1999 when marchers were confronted by a mob of angry miners on the first day as we turned a blind bend in the road. Reporters for the media were long gone and the mob put upon Ken Hechler, threw eggs and generally roughed up Larry Gibson, Carol Jackson wearing her extra large phenomenal Mother Jones costume and others. I'm pleased to know no such physical violence took place this year and thankful so many were able to take part in the march.

For more see <http://marchonblairmountain.org/>

2) EPA AND BLAIR MOUNTAIN.

Early in the week of the march a number of folks representing Appalachia Rising, and other groups participating in the march from WV, KY and VA split off for a day and travelled to Washington DC to hold a peaceful informative media event in front of the Environmental Protection Agency (EPA) Headquarters offices.

The group presented inspired and passionate statements in support of the agency's decision to veto the 404 fill permit for the Spruce #1 mine in Pigeonroost Hollow across the road from Blair Mountain Battleground, and pleaded with EPA to hang tough in spite of the public bashing the agency is hearing from industry, state regulators and even from members of Congress.

[Along these same lines WV Highlands Conservancy and other West Virginia citizen groups have filed a motion to intervene and support EPA in a lawsuit by Arch Coal that challenges the legality of EPA's veto of the 404 fill permit for Spruce # 1 mine. ...See more detail elsewhere in this issue of *the Highlands Voice*.]

3) COAL RIVER MOUNTAIN

On Friday night of the week long Blair Mountain march while stalwarts continued marching through the excessive heat and occasional rains, another endangered mountain was being recognized at the West Virginia State University Capitol Theater in downtown Charleston.

A packed full theater was treated to a free screening of *The Last Mountain*, the latest documentary about mountaintop removal coal mining that focuses mainly on Coal River Mountain in Boone County WV. Hot from their success at the Sundance Film Festival Director and Co-producers Bill Haney, Clara Bingham and Eric Grunebaum delighted the audience with a post show Q&A

session that also included Bobby Kennedy and local citizen activist/heroes who are integral to the film.

It was a far different crowd than the one that gathered at the Cultural Center months ago to view *Coal Country* - another fine documentary by Mari-Lyn Evans and Phyllis Geller. Perhaps the most striking contrast was evidenced by the reception given to Ken Hechler. At *Coal Country* Ken received boos and other loud derogatory comments when he appeared on the screen. But as he was escorted into the theater at *The Last Mountain* he received a standing ovation from the crowd that continued for quite a while.

As the crowd filed out of the theater that warm June evening, many were already preparing to return to the final day of the march to Blair Mountain -- Including Bobby Kennedy and his family, filmmakers Haney and Evans and Josh Fox, creator of the shale gas drilling film *GASLAND*.

[*The Last Mountain* is now showing in major theaters across the country. For dates and locations, see: <http://thelastmountainmovie.com/>]

4) LANDS UNSUITABLE FOR MINING PETITION

Several legal efforts are underway to preserve the landmark historic ridge of Blair Mountain where the bloody 1921 battle for workers rights took place.

Most recent and notable in connection with the March to Blair Mountain however was the June 2, 2011 filing of a PETITION TO DESIGNATE THE BLAIR MOUNTAIN BATTLEFIELD AS UNSUITABLE FOR SURFACE COAL MINING.

The petition was filed with the West Virginia Department of Environmental Protection the Friday before the March to Blair Mountain began on behalf of the Sierra Club, National Trust for Historic Preservation, Friends of Blair Mountain, the Ohio Valley Environmental Coalition, the West Virginia Labor History Association, and the West Virginia Highlands Conservancy. The petition was filed by attorney Derek Teaney from the Appalachian Center for the Economy and the Environment, and attorney Jessica Yarnall

from the Sierra Club.

The petition, which was directed to Randy Huffman, the Secretary of the West Virginia Department of Environmental Protection (WVDEP), requests that Blair Mountain Battlefield be designated as lands unsuitable for surface coal mining under the West Virginia Surface Coal Mining and Reclamation Act. The law provides that where mining operations could result in



The Marchers Photo by Julian Martin

significant damage to important historic lands or where reclamation is not technologically or economically feasible, the DEP may set aside these lands from surface coal mining.

The Petition states that the Blair Mountain Battlefield should be deemed unsuitable for surface coal mining by the WVDEP due to its historical significance, natural beauty and the important archaeological sites located there.

The Petition seeks to designate as unsuitable approximately 1668 acres along some ten miles of the crest of Spruce Fork Ridge in Logan County, WV. The boundary of the district encompasses the area between the 1400-2073 foot elevations on either side of the ten-mile long Spruce Fork Ridge. This particular area of Blair Mountain was selected because it includes the line of battle defined by the coal company defensive forces and was where the most intense battle activity occurred.

The required allegations of fact and supporting evidence presented in the Petition rely heavily on the original research done for listing Blair Mountain on the National Register of Historic Places with some additional research and updating of maps.

(Keep reading on the next page)

MORE ABOUT THE MOUNTAINS (Continued from p. 4)

Given the historic nature of the Blair Mountain Battlefield, and given its important place in the history of labor organizing and in the history of West Virginia, efforts to nominate the site for listing in the National Register of Historic Places date back 25 years or more.

The National Trust for Historic Preservation listed Blair Mountain Battlefield as one of America's 11 Most Endangered Historic Places in 2006. And finally after many ups and downs and twists and turns, Blair Mountain was listed in the National Register by the National Park Service on March 30, 2009. However, nine months later, the Park Service, responding to pressure from coal companies eager to strip mine the site altered the list of property owners based on what appear to be one-sided "corrections"

presented by the coal companies, and decided that a small majority objected to listing the site. On this basis, the Park Service removed Blair Mountain Battlefield from the National Register

Several of the same groups involved in the Petition for Unsuitability filed suit last fall requesting that Blair Mountain be returned to the National Register of Historic Places. The site remains eligible for listing.

As we await WVDEP's response to the Lands Unsuitable Petition all eyes are on the never-ending, always-convoluted permitting process that threatens to allow mining within the carefully defined Battlefield boundaries described in the Petition.

"Blair Mountain is an important part of my family's history," said Julian Martin of the West Virginia Highlands Conservancy. "My

grandfather and great uncle fought at Blair Mountain in 1921 on the side of the United Mine Workers of America. It would be a huge loss for Blair Mountain to be unprotected from mountain top removal strip mining."

[A electronic copy of the Petition is available for review on the WVDEP website:

<http://www.dep.wv.gov/pio/Pages/Settlements,Ordersouttopublicnotice.aspx>

It can also be seen at WVDEP's main office located at 601 57th Street, SE, Charleston, WV 25304, and the Logan field office, located at 1101 George Kostas Drive, Logan, WV 25601.]

ALBRIGHT POWER PLANT FILLING STREAMS WITH ASH

By John McFerrin

The West Virginia Highlands Conservancy, the West Virginia chapter of The Sierra Club and The West Virginia Rivers Coalition have given notice to the owners of Monongahela Power's Albright Power Station in Preston County, West Virginia. In the Notice, the groups report that the company is filling tributaries of Daugherty Run of the Cheat River with ash, a violation of the federal Clean Water Act. The Notice informs Monongahela Power of the groups' intention to sue if the violation continues.

This follows on the heels of an earlier notice which the groups filed in February, 2011 (See *The Highlands Voice*, March, 2011). In that notice, the groups complained of unlawfully high levels of arsenic flowing into the Cheat River from coal ash in the water that comes from the ash dump and flows into the Cheat River watershed.

In response to that notice, the company suggested that we lower the quality of the receiving stream. Discharge limits are set low enough that the pollution that is discharged will not affect the use that can be made of the receiving stream. Monongahela Power suggested that we lower the use that can be made of the receiving stream. That way, it could discharge the same amount of pollution but the discharge would be legal because the standards would be lower.

This notice addresses a different but related problem. The earlier filing was based largely upon the company's Discharge Monitoring Reports. Anyone who discharges

water to the waters of the United States must get a permit which sets a limit on how much of a named pollutant it may discharge. It then must test that water that is discharged and report the results. In the earlier filing, the groups noted that Allegheny Energy's discharge monitoring reports show a pattern of harmful arsenic discharges.

In this notice, the allegation is not that the company has gotten a permit and is not following it. The allegation is that the company has not gotten a permit.

The ordinary procedure for building a coal ash impoundment would be to get a permit which would have discharge limits setting forth how much pollution could come from the site. In this case, Monongahela Power is disposing of coal ash in an impoundment for which it has never received a permit. It has never even applied. It is filling three unnamed tributaries of Daugherty Run of the Cheat River. Each of these streams is a water of the United States. Because Monongahela Power does not possess permits for these discharges, it is in violation of the Clean Water Act.

By filing Freedom of Information Act requests, the groups have determined that there is no permit. Had the company asked for and gotten the mandatory permit, there would have been an environmental analysis, evaluating the possible impacts to this high-quality fishing and boating stream. Instead, Monongahela Power ignored its legal responsibility to obtain a permit and

thus bypassed the necessary independent review of potential consequences to local trout habitat and recreational potential.

It is unlikely that the United States Army Corps of Engineers or the West Virginia Department of Environmental Protection would approve such a permit. Daugherty Run is a trout stream; it is not likely that a permit to fill its tributaries would be issued.

Under the federal Clean Water Act, citizens have the right to go to court to require that polluters comply with the Act. Before they may do so, they must give the company sixty days notice of the violations. Unless the Environmental Protection Agency or the State of West Virginia takes enforcement action within the sixty days, the citizens may file suit to enforce the law. By filing the notice of intent to sue, the groups have begun the process.

The sixty day period also gives the company an opportunity to show that it has sought and obtained the required permit, that the responses to the Freedom of Information Act requests were in error, or something else to indicate that it is in compliance with the Clean Water Act. Otherwise, the groups are free to proceed with litigation.

The groups are represented by Mike Becher with the Appalachian Center for the Economy and the Environment.

JUMPING IN TO HELP EPA

By John McFerrin

As reported in the February, 2011, issue of *The Highlands Voice*, the United States Environmental Protection Agency previously decided to stop mining waste discharges to high quality streams at the Spruce No. 1 mountaintop removal strip mine located in Logan County, West Virginia. EPA's decision prohibits five proposed valley fills in two streams, Pigeonroost Branch, and Oldhouse Branch, and their tributaries.

In response to this decision, Mingo Logan Coal Company has sued the Environmental Protection Agency. It attacks the Environmental Protection Agency's decision and its finding that the Spruce No. 1 mine will have unacceptable adverse effects. It also claims that EPA acted outside its authority by issuing this veto after the Corps issued the permit and by considering new information. Mingo Logan asks the Court to declare that the EPA was wrong in its decision and that it has exceeded its authority.

Now the West Virginia Highlands Conservancy, Coal River Mountain Watch, Ohio Valley Environmental Coalition, and the Sierra Club have asked the Court that they be allowed to intervene in that case. They support the decision and seek to have it upheld.

The company--Mingo Logan Coal Company—has responded by saying none of your beeswax, or several thousand words to that effect. It contends that the groups have no interest to protect and that, if they do, the Environmental Protection Agency will adequately protect that interest.

More specifically, Mingo Logan contends that the streams it intends to bury are on its private property and that none of the groups

or their members could use or otherwise benefit from them without trespassing.

The groups respond by noting that they and their members do use and enjoy the benefits of streams in the area. In addition, the groups pointed out that the impact of the fills is not confined to the streams buried. They quote a finding by the Environmental Protection Agency:

EPA has concluded that the full construction of the Spruce No. 1 Surface Mine will transform these headwater streams

from high quality habitat into sources of pollutants (particularly total dissolved solids and selenium) that will travel downstream and adversely impact the wildlife communities that utilize these downstream waters.

The company also argues that if the groups do have an interest, the Environmental Protection Agency will protect it. "I'm from the government and I'm here to help you."

may be the punch line of an old joke but it also contains a grain of truth. The only interest that the groups have is protection of the streams. The EPA may have broader, institutional interests which are not necessarily the same as those of the groups. They will not necessarily represent the interests of the groups.

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



WHAT IS AT STAKE

The decision of the Court in this case will, of course, serve as a precedent for future cases in which the Environmental Protection Agency seeks to reduce the impact of mining. At the Spruce mine alone, the proposed mine project would have:

- Disposed of 110 million cubic yards of coal mine waste into streams.
- Buried more than six miles of high-quality streams in Logan County, West Virginia with millions of tons of mining waste from the dynamiting of more than 2,200 acres of mountains and forestlands.
- Buried more than 35,000 feet of high-quality streams under mining waste, which will eliminate all fish, small invertebrates, salamanders, and other wildlife that live in them.
- Polluted downstream waters as a result of burying these streams, which will lead to unhealthy levels of salinity and toxic levels of selenium that turn fresh water into salty water. The resulting waste that then fills valleys and streams can significantly compromise water quality, often causing permanent damage to ecosystems and streams.
- Caused downstream watershed degradation that will kill wildlife, impact birdlife, reduce habitat value, and increase susceptibility to toxic algal blooms.
- Inadequately mitigated for the mine's environmental impacts by not replacing streams being buried, and attempting to use stormwater ditches as compensation for natural stream losses.

FRIEND AND FOE

By Cindy Rank

Hero on wilderness and other issues near and dear to the heart of the West Virginia Highlands Conservancy, Congressman Nick Joe Rahall is one of those people we often work with while quietly acknowledging we don't always agree on all subjects. Nonetheless his recent actions to thwart long awaited and much fought for strong enforcement of the Clean Water Act cannot go without comment.

We need note his continued advocacy for wilderness and recognize his support for and shepherding of the recent Wilderness Bill was indispensable and unquestionably essential to its passage.

Also laudable have been his advocating for continuing the Abandoned Mine Lands Fund for years beyond its original termination date, for advancing the idea of stronger regulations for hard rock mining (gold, etc.), and his critical attention to preserving the Surface Mine Act over the years.

Nonetheless, few can forgive him for turning a blind eye to the destruction caused by the enormous strip mines of today – be they technically classified as mountaintop removal, area, steep slope or whatever.

And now his most recent actions joining in fierce opposition to Environmental Protection Agency (EPA) attempts to genuinely enforce Federal environmental laws are no less than reprehensible.

COAL ASH AND RCRA/SOLID WASTE ACT

Along with Congresswoman Shelley Moore Capito of West Virginia's 2nd District Congressman Rahall joined in co sponsoring HR 1391—a bill proposed by West Virginia's newest Representative from the 1st District, David McKinley.

HR 1391 is McKinley's response to an EPA proposal to reclassify coal ash — a byproduct of coal combustion often disposed of in unlined waste impoundments and used in such things as cement and drywall, and on surface mines to mitigate acid drainage — as a hazardous waste.

Despite the highly toxic components of coal ash, the proliferation of unlined waste impoundments (such as the now infamous Tennessee Valley Authority's impoundment that broke loose in December 2008 and the coal ash impoundment at the Albright Power Plant that is subject to recent legal actions by WV Highlands Conservancy, WV Sierra Club and WV Rivers Coalition, and other similar impoundments in and around West Virginia) and nagging questions and concerns about pollution even from those 'beneficial uses' (e.g. as in the sickening drywall found in temporary trailers used to house refugees from Hurricane Katrina, and in mine backfill in several northern WV strip mines like Patriot Mining's New Hill West mine being challenged by local residents and others) Congressman McKinley's bill would curtail EPA's authority to improve or strengthen rules pertaining to the disposal of this toxic waste.

McKinley's bill was advanced by the subcommittee of the House Energy & Commerce Committee but awaits further act by the full committee sometime after the July 4th holiday.

COAL AND THE CLEAN WATER ACT

As has often been written about in the pages of *the Highlands Voice*, the Clean Water Act is one of our nation's most important and fundamental laws.

Enter Congressman Rahall and his HR 2018 - yet another attempt to weaken the Clean Water Act (CWA) and EPA's authority

to guarantee enforcement of that landmark legislation by the states – including our fair state of West Virginia.

HR 2018 – the “Clean Water Cooperative Federalism Act of 2011” – would reverse many key provisions of the Clean Water Act by appointing the states, rather than the EPA, as the ultimate arbiter of water quality standards and final authority on Clean Water Act permits, shifting regulatory powers over water, wetlands (and mountaintop removal mining regulation) from EPA to the states. The result would be a patchwork of state water quality standards in which the EPA would be powerless to intercede, even if the agency found a state-issued Clean Water Act permit to be questionable.

By allowing states to opt out of implementing federal water quality standards citizens of communities near and downstream of polluters would be negatively affected if and when those states are willing to adopt scientifically indefensible water quality standards that sacrifice public health for corporate profits.

HR 2018 was passed in the Transportation and Infrastructure committee and House Majority Leader Eric Cantor (R-Va.) said he hopes to have a floor vote on the bill this summer.

Congressman Bishop (D-NY) objected to the committee's fast-track consideration of the measure, noting the markup was announced just days earlier -- and held in advance of another subcommittee hearing scheduled for two days later which was meant to explore several of the relevant Clean Water Act issues.

In addition, Congressman Bishop said “This go-it-alone approach flies in the face of science, common sense and decades of experience implementing the Clean Water Act”.

Congressman Rahall replied to questions about the bill saying that it re-establishes the “cooperative federalism” in Clean Water Act enforcement and cited the slowdown of mining and job losses in West Virginia. Among the legislation's provisions is a clause to limit EPA's ability to veto “dredge and fill” 404 permits issued by the Army Corps of Engineers. [Note the recent veto by EPA of the 404 fill permit for the Spruce#1 mine in Logan County.] States would have to approve such a move.

“What we are experiencing at least in the Appalachian region is an overreach by EPA,” he said.

... Always hoping for better, we have to urge Congressman Rahall – and the rest of the West Virginia delegation in Washington – to break free from the whirlwind of EPA bashing and let the agency get on with the business of protecting our water and air and environment we all rely on for our very health and well being.

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.

Join Now !!!

Name _____

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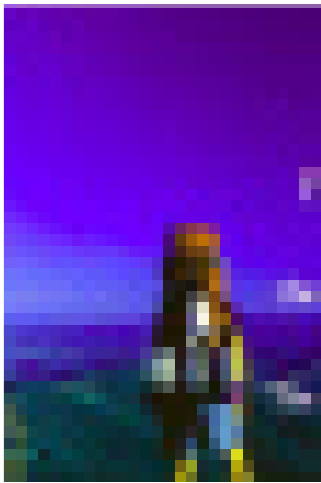
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Membership categories (circle one)

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

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

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



GREAT HISTORY BOOK NOW AVAILABLE

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

Learn about how the Conservancy stopped road building in Otter Creek, how a Corps of Engineers wetland permit denial saved Canaan Valley, and why Judge Haden restricted mountaintop removal mining.

Also read Sayre Rodman's account of the first running of the Gauley, how college students helped save the Cranberry Wilderness, and why the highlands are under threat as never before.

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

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

518 pages, 6x9, color cover, published by Pocahontas Press
 To order your copy for \$14.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

SUCH A DEAL!

Book Premium With Membership

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$14.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

Existing members may have one for \$10.00. Anyone who adds \$10 to the membership dues listed on the How to Join membership or on the renewal form will receive the history book. Just note on the membership form that you wish to take advantage of this offer.

MEMBERS STAMPEDE TO ELECTRONIC VOICE

As we continue to offer *The Highlands Voice* in an electronic version, more and more members are switching 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 requesting it.

Bits remembered by a part-time marcher and shuttle driver from the March on Blair Mountain**MARCHING MEMORIES**

By Cindy Ellis

Amazing! Different. Those were words that come to mind when trying to describe the experience of the March on Blair Mountain.

It felt different, beginning with the orientation on Sunday, from other protests here. There was a good natured earnestness that seems, at other times and places, to have been sidetracked by fear and tension. The variety and number of attendees was amazing, as was the degree of organization. There was an encompassing dedication to a peaceful event, and sweet-tempered determination. In a way similar to the original Blair Marchers, these participants formed themselves into a kind of army---with discipline, procedures, and focus. There were so many young people! Some of us were not young, but the collective energy was infectious.

We met in a rented warehouse, with the glass windows all papered over, and most of us listened intently as details were explained. Quietly, on the edges, some artistic folks completed vivid signs for marchers to carry, while copies of directives urging respect and restraint were distributed.

The amazing feeling continued while meeting lots of West Virginians! We kept finding one another---in get-acquainted sessions, and later in shuttle cars, and on the marching line. These meetings paralleled the astounding array of out-of-state marchers and support workers. I saw a woman from France, met a woman from Australia [and heard about ownership of mineral rights there], met someone from Georgia, shuttled folks from Texas and Vermont, met high school kids from California ---their dad/uncle brought them and they enveloped me in their own version of a Twenty Questions game as we traveled over the bridge into Madison--- met young adult marchers from Ohio, New York, Virginia, and Wyoming. There were Buddhist monks drumming, American Indian activists from Arizona, and a young West Virginian just back from the Peace Corps.

"Have you had a chance to see Kayford Mountain," I asked. Many said they had. Whether the topic was history, labor, or mining, they knew why they were there. From what I saw, organizers had done an

excellent job of working with state and local law officials. The lawmen responded in kind. They seemed very vigilant in preventing confrontations.

Did I mention the signs! There was one for each mountain nearby that no longer exists.

The music! I only heard little bits, wished I'd heard more---especially of the ones new to me. I'm still humming, "Ain't Gonna Let Nobody Turn Me Around, " and "Keep Your Eyes on the Prize."

The logistics! The work of the Seeds of Peace kitchen crew in seeing that everyone



Photo by Paul Corbit Brown

was fed was terrific. The guy who towed the Porta Potties on a trailer---a set-up also known as "Rolling Thunder"---had overcome much to be there to help.

Problems? Well, sure, even a part-time participant saw and heard some instances of unwelcoming words and gestures from those watching us go through. But often, the harsh words from a by-stander would be yelled... only to fade away with no seconding or chorus from others nearby. These happenings were balanced out by smiles, waves, offers of cold drinks, and grateful words on signs. Several teens sat on a bridge railing and offered high-fives. I remember one woman with 3 little boys, each about 4 years old, and they all just waved and waved as the whole long line went by. Oh, the line was indeed long. Around some of the county road curves, we could not see the entire line of marchers.

The weather was very, very hot. Temperatures one day in the middle of the week registered as high as 97 to 102 degrees.

The mayor of Madison arranged for our large towed water containers, the "buffaloes, " to be filled at the town so everyone could get enough to drink. Plenty of younger marchers waded or floated in the river at our lunch time stop.

On reflection, among the things that made this march different were the attitudes and numbers of the marchers, the far-reaching publicity, the involvement by many different West Virginians, and the notable amount of positive local reaction. It was deeply gratifying to be there.

Oh yes. A list was made of birds seen and heard on one day of the march. Thirty-one species were counted. Gray Catbirds were especially vocal along the Little Coal River, and the ascending "brr-rrr zip!" of a Parula Warbler was the last birdsong heard when wrapping up the count.

Many more accounts and pictures of the march are available on line; especially on these sites:

www.marchonblairmountain.org
www.appalachiarising.org
www.flickr.com [search "March on Blair Mountain"]

Cindy Ellis attended the March on Blair Mountain, June 4-11. A commemoration of an historical march by coal miners in 1921, the march had these purposes: "We march to preserve Blair Mountain, strengthen labor rights, abolish mountaintop removal in Appalachia and invest in sustainable job-creation for all Appalachian communities." For 5 days, 100 to 200 people marched on sections of the 50 mile route from Marmet to Blair. Problems prevented the planned camping and marchers had to be shuttled by cars to march sites each day. The march ended with 1000 participants, including Ken Hechler, Kathy Mattea and Robert F. Kennedy, Jr. celebrating at a rally before the final part of the march.

Note: For another Blair Mountain memory, look on the next page.

POETRY CORNER

HEADWATERS

Begins the river from dark forest
of hemlock and pine, from this
long-backed mountain, springs
from moist, green earth as rivulet,
and as it falls, grows to creek,
through pasture, through canyons to pass
its youth in wild exuberance
before it spends itself upon the plains,
bent to the unyielding thrust
of industry, shackled
to the pauper spirit of our times.

Begins the river on Allegheny upland,
this deep-cut plateau of wind and sky,
begins this beast of man's narrow greed,

Here yet unburdened and ever new.

Headwaters is from Michael Adam's book Steel Valley, published last year by Lummo Press.

MINING THE EARTH: CONSCIOUSNESS RAISING

By BH

The explosives fired with a force so great
That all who heard felt the turmoil.
Then Nature screamed and vomited pain
While a blood-mist dirt sprayed skyward.
With beauty gone and a wound exposed,
Began a violent death, the start of a long decay.

"How sad, what a shame," you say.
"This shouldn't have happened!
Why do 'those people' do such horrible things?
On a happy note, I enjoyed the widened road today,
The new four-lane that sped me on my way
Through mountains beautiful, beneath the sky."

To you I reply that *all* participate in the orgy, *all* create the death.
Concrete and asphalt, granite counter tops,
A driveway to the home with mountain view,
Elaborate stone work, an air-conditioned home
Create the destruction, continue the need
For flesh severed from mountain loins.

HUEY ELWOOD HAGER AND THE BLAIR MOUNTAIN MARCH

By Julian Martin

I told my son about shuttling Blair Mountain marchers to their starting points on two days of the march. He reminded me that it is a family tradition—in 1921, his great grandpa Huey Hager shuttled the original marching union miners from Jeffrey to Blair Mountain.

Huey told us that he was part of a group of miners who climbed Blair Mountain and ambushed and killed a Logan County mine guard who had been firing a Browning automatic rifle at them. For this, Logan County officials indicted Huey Hager for murder.

And he told of arresting two men and John Chafin, notorious Logan County sheriff Don Chafin's brother. As a young man with a pistol held under his bib overalls he gave Chafin's group the choice of surrendering or facing 300 miners who had surrounded the house they were in. They chose to surrender and Huey took their guns. He was indicted for robbery for taking the guns.

After the battle was over Huey fled "far away" to Morgantown to escape the murder and robbery indictments. In Morgantown he worked in a non-union mine and had it unionized within a year. Huey told us that two African-American miners showed up at the mine, "They knowed me. I said I never saw you fellers before. They told me I had drove them up the holler from Jeffrey to Blair Mountain when they was down there for the fight against the scabs. Those fellers came all the way down from Pennsylvania to help us out."

This most recent march on Blair Mountain was the second re-enactment of the original march. West Virginia Highlands Conservancy members Ken Hechler, Andrew Maier and Cindy Rank, our mining chair, walked in the first re-enactment in 1999. That group was physically attacked on the first day by a mob that had driven from Logan County to Kanawha County.

This march was peaceful and met with support as well as hecklers along the way. The mayor of Marmet made the marchers feel welcome and the mayor of Madison filled their water tanks. I was impressed with the discipline, commitment to principle and non-violence of the marchers and their organizers. The ambiance of the march reminded me of the peaceful civil rights and anti-war demonstrations of the 1960's.

SPEAKERS AVAILABLE !!!!!

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

YOUR COMMENTS AND OPINIONS ARE IMPORTANT TO US.

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

West Virginia Mountain Odyssey



Outings, Education and Beyond 🇺🇸

July 9-10, 2011, Quebec Run Wild Area Backpack, Fuller SF, PA: 15 mile moderate circuit with pretty streams and campsites shaded by Hemlocks. This trip is suitable for experienced hikers who want to try backpacking. Pre-registration required. Contact Mike Juskelis @ 410-439-4964 or mjuskelis@cablespeed.com.

Saturday & Sunday, July 23 & 24: 10 am each day, Canaan Valley National Wildlife Refuge Visitor Center. Balsam Fir Cone collecting volunteer outing. Join us for a day, or 2 days, of volunteer work to help with an important component of our efforts to restore the red spruce ecosystem. We'll be collecting cones from balsam fir trees in Canaan Valley. We will extract the seeds and use them to grow seedlings for our restoration program. Tasks include climbing or carrying ladders, transporting sacks of cones, and helping with the logistics of cone collecting. Rain or shine. Dress for the weather, wear sturdy shoes or boots and bring work gloves and a water bottle. Cones are resinous, so be prepared to get sticky! Lunch will be provided. For more information, visit www.restoreredspruce.org or call Dave Saville at 304 692-8118.

August 6-8, 2011, Dolly Sods Backpack/Rohrbaugh Plains to Bear Rocks, Monongahela National Forest, WV: 18 mile moderate shuttle featuring vistas, waterfalls, streams, forest, open plains and bogs. Short first and third days. Pre-registration required. Contact Mike Juskelis @ 410-439-4964 or mjuskelis@cablespeed.com.

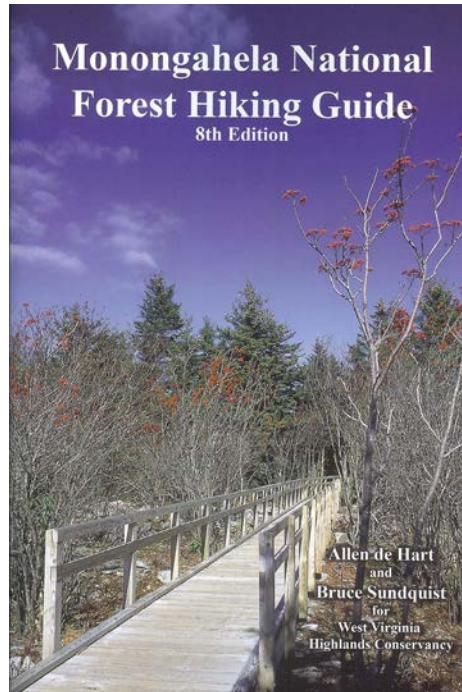
September 3-5, 2011, Reddish Knob Backpack, George Washington National Forest, VA: 20 mile Circuit featuring views from one of the highest peaks in VA at the halfway point. Daily mileage: 3/12/5 (Subject to change.). Pre-registration required. Contact Mike Juskelis @ 410-439-4964 or mjuskelis@cablespeed.com.

September 11, 2011, Dolly Sods, meet at Red Creek Campground, Introduction to the Allegheny Front Migration Observatory bird banding station. Pre-register with Cindy Ellis cdellis@wildblue.net

September 25, 2011, Monroe County, meet at trail parking lot, Introduction to Hanging Rock Migration Observatory annual fall hawk watch. Pre-register with Cindy Ellis cdellis@wildblue.net

October 29-November 1, 2011, Coopers Rock State Forest Car Camp, WV: Two hikes: Scotts Run Loop and a hike through a virgin Hemlock Forest, both about 8 miles. Campsite reservation and pre-registration required. Contact Mike Juskelis @ 410-439-4964 or mjuskelis@cablespeed.com.

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 or Larry Gibson (304) 542-1134; (304) 549-3287



The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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

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

New 8TH Edition Now Available on CD

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

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

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

Price: \$20.00 from the same address.

BUMPER STICKERS



To get free *I ♥ Mountains* bumper sticker(s), send a SASE to Julian Martin, 1525 Hampton Road, Charleston, WV 25314. Slip a dollar donation (or more) in with the SASE and get 2 bumper stickers. Businesses or organizations wishing to provide bumper



stickers to their customers/members may have them free. (Of course if they can afford a donation that will be gratefully accepted.)

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

WHERE ARE THE BUMPER STICKERS?

In the time we have offered bumper stickers, we have distributed thousands. Where are they now?

This month we had reports (courtesy of Josh Stevens) of sightings in Bozeman, Montana, Anchorage, Alaska, and on a water bottle in Lake Baikal in Russia. We also had a report of one in Cheticamp campground in Cape Breton Highlands National Park, Nova Scotia (courtesy of Bruce Dalton)

If you have spotted one in a far away place or an unusual location, send it to the editor, Highlands Voice.. The address is in the roster on page 2.

CAR CAMPING AND DAY HIKING IN THE OHIOPYLE AREA

By Michael Juskelis

Janet, the dogs and I arrived at the campground around 1:00 and did some hiking in the Ferncliff Natural Area. The views were great but the trail was too wet and rocky for a fast sneaker walk.

We assembled the rest of the crew that night and the next morning. The plan was to do an 11.5 mile circumnavigation of the preserve. We started on Tissue Lane, a double track road. This section was pretty pedestrian, but we were rewarded with views of fields of wildflowers with a backdrop of the Laurel Highlands.

We stayed on the double track too long, unknowingly turning away from the desired route and climbing to the top of the meadow to a nice home nestled in the woods. I'm glad we made this accidental detour because as we turned around to correct our now obvious error, we were treated to yet another great view.

We retreated until the point where the road had made the 90 degree turn and noticed that there was a wide mowed swath that continued straight ahead. We followed it for a few yards and soon turned left onto the Peninsula Trail, a footpath at this point.

The forest was luxurious as the trees, ferns and understory exhibited several hues of green. The initial section of trail was pretty easy, well maintained and with no rocks. I began to wonder if we were really in Pennsylvania. A brief side bar took us to the Paradise Vista. We barely caught a glimpse of the river as the forest blocked most of our view, but we did get to observe two young Copperheads basking on the rocks. As we hiked what I consider to be "the front" of the peninsula, the trail became rockier and sidehilled up and down for a while.

We stopped for a break where the trail would soon start changing directions. That's when the Mad Hatter pointed out a problem with one of my light hikers (Landau Renegades). At first I thought just the toe guard was separating but within another 500 yards of hiking I found myself humming a Jimmy Buffet song: "I blew out my flip-flop, stepped on a pop top" The sole had separated all the way to the instep. I borrowed Alan's duct tape and wrapped it up the best I could.

By this point we had joined a pleasant old woods road or railroad grade. It also started to rain. It felt good because until then

the morning had been pretty muggy. The boot repair didn't last long but I continued to flip-flop along the grade which by now had become the Laurel Run Trail. There were side trails down to the run but we bypassed them as the rain continued to fall.

We crossed Rt. 381(?) which bisects the preserve and took a brief lunch. I tried the duct tape repair once again but this one also soon fell off. I could see that this was going to require an amputation, so I borrowed John's pocket knife and removed the damaged rubber. The flip-flopping was now gone but I was left (literally) with the sensation that I was walking with a slipper on my left foot, feeling every stone and twig I stepped on. We truncated the hike by turning onto the mostly grassy Snow Bunny Trail. We passed a couple of nice backcountry campsites along the way, both close to a stream. (This might be a good venue for a beginners' overnight trip.) By the time we got back to our vehicles we had hiked a bit over 8 miles. While we didn't get to do our entire

The next day John, the Mad Hatter and I set up a shuttle, leaving Mad's car at a lot near the Yough and then driving the truck to Maple Summit Road. We hiked the southernmost 11.2 miles of the Laurel Highlands Trail.

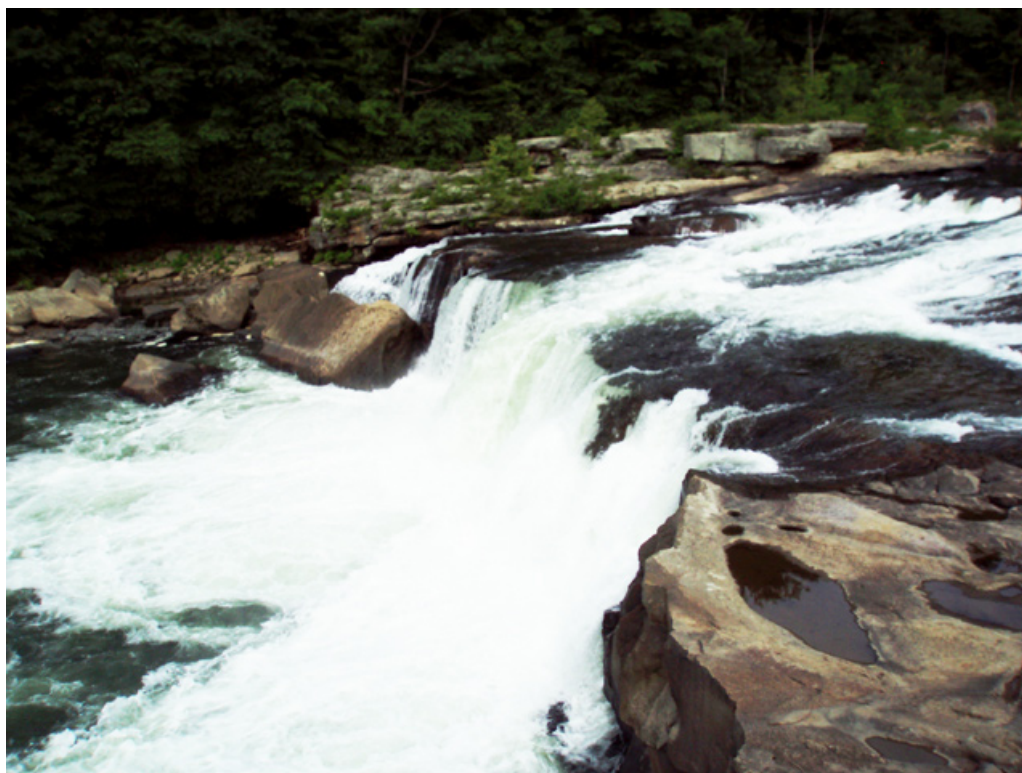
If yesterday's hike was nice than this one was grand. Initially we found ourselves hiking through mature hardwood forest and then younger Hemlocks. We passed through several rock cities, the boulders covered with emerald moss and ferns. We continued on, passing through more rock cities and a nice westerly view before a long and steep 1200 foot descent. Window views of the Yough and the surrounding mountains were had as the descent joined an old road of

sorts. These are probably more numerous during leaf off.

We took lunch at the Ohiopyle shelters before crossing a stream and beginning a 700 foot climb. The gradient of the trail was such that little effort was required except near the top.

From there it was down again, cross a couple more trails and climb again. This time the E.G. was only around 450 feet but was much steeper. After crossing a forest road, the trail zig-zagged up a set of very short "teaser" switchbacks. I'm not sure if they were really physically helpful but psychologically made a difference. As before the trail joined another road which led us to two views of a bend in the river with Sugarloaf Mountain immediately to the right. We spent a few moments here before making the final descent to the valley below. The final leg consisted of hiking 2 miles on nearly flat haul roads.

We had a nice fire that evening but I was nearly falling out of my chair after two nice hikes so we wrapped things up around 9:00. The next day, after breaking camp, Janet and I returned to town for a quick breakfast at the Falls Restaurant and Market and then made one more visit to the falls before pointing the truck eastward and heading home. It was a very good trip. I will be returning to hike the rest of Bear Run and the trails in the park itself.



CONGRATULATIONS AND THANK YOU TO KEN STURM

By Dave Saville

Congratulations to Ken Sturm, Wildlife Biologist, and often acting Manager, at the Canaan Valley National Wildlife Refuge, who has accepted a Refuge Manager Position at the Missisquoi National Wildlife Refuge in northern Vermont.

During his 12 years working for the USF&WS in Canaan Valley Ken has provided continuity and a steady management presence at a time when the new Refuge was becoming established. In recent years



Ken shows off a Canaan Valley Balsam Fir seedling, one of thousands he has planted.

he has been instrumental in the development and enactment of a Comprehensive Conservation Plan (CCP) which took several years to finalize and will guide the management of the Refuge for at least the next 15 years.

Ken has been a pioneer in the movement to restore the High Elevation Red Spruce Ecosystem in West Virginia. He has been a leader in planning and implementing restoration actions and in raising awareness of the importance of this endangered ecosystem. He has also been a leader in developing partners and collaborating with other federal and

state agencies, conservation organizations, businesses and local landowners. His work and influence has been instrumental in the formation of the Central Appalachian Spruce Restoration Initiative (CASRI).


Congratulations also to Ken and his wife Angie, as they recently welcomed the birth of their first child, a son, Finn Carson Sturm in October 2010. They will be leaving Elkins to their new home in St. Albans, Vermont, in late June. A dinner and reception was held in Ken's honor at the Canaan Valley State Park Lodge on June 10. Ken was presented with several gifts including a framed Kent Mason photograph from the CASRI partners. Refuge staff, volunteers, and friends commissioned an original water color painting by local artist Titi Ferguson depicting the "Big Cove," an especially beautiful and remote area of Canaan Valley.

Ken's positive influence on one of West Virginia's most treasured natural resources will last for generations. Thank You and best wishes!



Ken and his wife Angie on one of the Highlands Conservancy's annual volunteer red spruce planting events.

T- SHIRTS

White, heavy cotton T-shirts with the **I  Mountains** slogan on the front. The lettering is blue and the heart is red. "West Virginia Highlands Conservancy" in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$12 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.



HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I (Heart) mountains caps.

The WVHC cap is beige with green woven into the twill and the pre-curved visor is light green. The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I (heart) Mountains on the back. It is soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure.

The I (heart) Mountains The colors are stone, black and red.. The front of the cap has I "HEART" MOUNTAINS. The heart is red. The red and black hats are soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone has a stiff front crown with a velcro strap on the back. All hats have West Virginia Highlands Conservancy printed on the back. Cost is \$15 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306



**LAUREL MOUNTAIN WINDFARM—A
BIRD’S EYE VIEW**

Photos by John Terry, March 29, 2011



Over Barbour County looking toward the Southeast into Randolph County.

A.E.P. PROTESTS TOO MUCH

American Electric Power, one of the nation's largest utilities, warned last week that new air quality rules could force it to "prematurely" shut down about two dozen big coal-fired units and fire hundreds of workers. This is a deceptive and particularly cynical claim. The utility is making a business decision that has little to do with the rules.

Here is what A.E.P. is not saying: These units are, on average, 55 years old. Some are running at only 5 percent of capacity. Many had long been slated for retirement, in part to comply with a 2007 settlement with the George W. Bush administration in which the company agreed to settle violations of the Clean Air Act by spending \$4.7 billion to retire or retrofit aging units.

Blaming the rules is a transparent scare tactic designed to weaken the administration's resolve while playing to industry supporters on Capitol Hill. Fortunately, Lisa Jackson, head of the Environmental Protection Agency, which proposed the rules, refuses to be bullied.

Ms. Jackson called the A.E.P. charges "misleading at best" and made clear she would not retreat from her statutory duty to protect public health. She said she would stick to her timetable and make the rules final this year. We hope that the White House is equally determined.

Two rules are at issue. One, proposed last year, would require utilities to sharply reduce emissions of already-regulated soot and smog-forming pollutants like sulfur dioxide. The other, for the first time, would mandate reductions in toxic pollutants like mercury. Coal-fired plants, which generate the vast bulk of A.E.P.'s power, are by far the biggest producers of all these pollutants. Companies will have to begin complying with the soot and smog rules next year and the air toxics rule by 2015.

A.E.P. says this timeline is "unrealistic" and asks for a delay of up to five years; otherwise, it says, it will have to shut down one-fourth of its coal-fired capacity and lay off up to 600 workers. Yet in a June 1 meeting with investors, Michael Morris, the utility's chairman, who last week warned about the impact of the proposed regulations on "our customers and local economies," told investors that the closings were "the appropriate way to go" for customers and shareholders.

As for the utility's claims of undue haste, they don't stand up to even minimal review. Both rules have been in the works since the Clinton administration, and companies that have made their plants more efficient or invested in cleaner-burning fuels or up-to-date pollution control technologies are by now well prepared to deal with them.

A.E.P., by contrast, has always seemed much more interested in fighting the Clean Air Act than in finding sensible ways to meet its requirements. It fought the statute after it passed in 1970 and resisted efforts to strengthen the law under President George H. W. Bush. Even now it is shopping a bill around Capitol Hill that would block or delay the proposed new standards.

The bill does not so far have a sponsor, though it will likely have plenty of sympathizers among Republicans and some Rust Belt Democrats. It does not reflect the interests or wishes of the vast majority of Americans, for whom cleaner air is rightly a higher priority than any company's bottom line.

Note: This editorial originally appeared in the June 19, 2011, issue of *The New York Times*. While West Virginia is generally sufficiently opinionated on its own without resorting to opinions from New York, the editorial offers a perspective different from that of most local reporting. Local reporting largely repeated AEP's public statements while editorializing about rogue EPA, blah, blah, blah. The rare exception was a June 14 posting in Ken Ward's *Coal Tattoo* blog for *The Charleston Gazette*.

HUGH FINISHES UP (Continued from p. 2)

open (yet another example from the Summit). Who cares about the damage done? Who wants to hear about better alternatives? A cost-benefit ratio was calculated more than fifteen years ago, and we're supposed to forget the corridor flunked.

So let's get back to the purpose of the Summit. Right now, the Departments of Transportation, state and federal, estimate the highway will be completed in 2035. The boosters would like to make that 2020.

They're wishing for a bigger share of a shrinking federal budget. A second problem they face is that the cost per mile is rising steeply, because in West Virginia, as all over Appalachia, the easy parts were built first.

Still, they rallied around a slim hope: the \$2 billion appropriated to other Appalachian states that aren't using it right now. Elsewhere, the last and least-used corridors have not been a priority during the recession. Those states have been reluctant to match the federal funds. West Virginia would like to borrow the money.

However, the Appalachian Regional Commission's highway system manager, Ken Wester, told the audience, "Getting other states to give up their allocated funding could be a challenge."

A perceptible melancholy shadowed the go-go talk. Some in the room were unaware of yet another potential delay. Following the 2000 agreement that settled our lawsuit, the Departments of Transportation were compelled to explore new alignments to avoid Blackwater Canyon and its early industrial era historic district. If they nevertheless insist on following the original alignment into the canyon, they'll be stopped by another lawsuit.