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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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Common sense and the Clean Water Act--the next step... continued

MAKING LANDOWNERS PAY FOR POLLUTION

By Cindy Rank

Our most recent legal challenges involving water pollution from coal mined sites in West Virginia concern three areas where coal removal activities have ceased and the mine permits have been released but the mine sites themselves continue to discharge illegal amounts of selenium.

While discharging pollutants is permissible within limits legally contained in a Clean Water Act water discharge permit known as NPDES (National Pollution Discharge Elimination System) permits, discharging toxic pollutants such as selenium without a permit is open to legal challenge and action taken to assess appropriate penalties and require clean-up efforts to bring the discharge into compliance with the federal and state law.

Recent water sampling shows high levels of selenium emanating from the three areas in question where discharges through and from specific valley fills at previous mine sites are the only potential sources of the illegal selenium discharges. There are no NPDES permits for those discharges.

Waters at Issue

The landowners and location of the illegal discharges are

- 1) Shepard Boone Coal Company owning land south of Bim in Boone County, previously mined under permit as Colony Bay Surface Mine and discharging into Beaver Pond Branch of Pond Fork of Coal River.
- 2) David L Francis Trust, owning land near Rawl in Mingo County, previously mined under permit as Sprouse Creek West Surface Mine and discharging into Lick Creek of Tug River.
- 3) Pocahontas Land Company owning land in Mingo County previously

mined under permit as the Pounding Mill Surface Mine #1 discharging into Pounding Mill Branch of Ben Creek and Surface Mine #8 discharging into Meador Hollow of Mate Creek both of Tug River.

In January of this year, we gave 60 day notices of the violations and our intent sue (NOIs) to the Defendants in each of the cases, the United States Environmental Protection Agency (EPA), and the West Virginia Department of Environmental Protection (WVDEP), as required by federal and state law.

Neither EPA nor WVDEP took action to remedy the situations by commencing administrative penalty actions or diligently prosecuting civil or criminal actions to redress the violations or to require clean up of the illegal pollution.

And now in May 2013 we have filed complaints in federal court.

As stated in our complaints,

“Valley fills are a result of the expansion of rock that occurs when mountains are blown up. Excess rock and soil are placed in nearby valleys, covering headwater streams and forming valley fills.

“Valley fills are engineered structures. They are designed with a rock core underdrain, to direct water under the fill. They also sometimes have drainage ditches along the sides of the fill or down the center surface. The water percolating through the fill and draining along the sides and center are discharged at the toe of the fill as surface water.

“Precipitation and groundwater percolate through overburden on the mine site and valley fills, dissolving minerals in the rock, such that

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Ramblin' the Ridges

By Cynthia D. Ellis

SING IT! ---A SESQUICENTENNIAL MELODY

On June 20, 1863, West Virginia became a state. This year, celebrations abound for the 150th birthday, including historical reenactments, traveling exhibits, hikes, and a special quilt. [Here is a link to events, <http://www.wvcommerce.org/travel/featured/150-events.aspx>]

The state song will be sung.

While there is one designated official song, a number of others have gained popularity and fame in recent years. Nearly all of them note the magnetic beauty of our mountains and the strong ties that are forged among the people here.

Some of us grew up learning that official song--- "The West Virginia Hills"--- singing lustily, "Oh the Hills! Beautiful Hills! / How I love those West Virginia Hills! / If o'er sea or land I roam, still I think of happy home/And my friends among the West Virginia Hills." This song originated in 1885, in Gilmer County, when Ellen King wrote the poem that became the lyrics, while she was visiting relatives in Glenville. Edward Engle wrote the music, added the chorus, and the song was published in *The Glenville Crescent* newspaper. Teachers made it a classroom tradition and marching bands tooted it too.

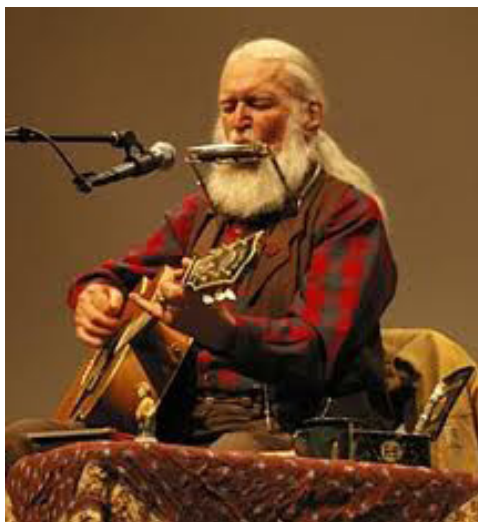
Another song though, gained international fame. "Country Roads" has been performed world-wide. Nit-pickers can point out that many of the lyrics don't strictly apply to the Mountain State, but it certainly is recognizable. It was written by Taffy Nivert, Bill Danoff, and John Denver; and although the three had few real ties to our state, Denver's initial recording and his own accomplishments, as a performer and environmental activist, helped many people think of West Virginia when they might not have ordinarily done so. "Almost Heaven!"--- A whole new generation of school kids grew up trilling out that one.

Like John Denver, Colleen Anderson is not from here. But she liked the hills and hill folk so much that she wrote, "West Virginia Chose Me." Her experiences while working in Cabin Creek with VISTA, and then with Cabin Creek Quilters, prompted this writer and designer [and WVHC member] to write: "And West Virginia chose me, sure as my own mother knows me/ If I leave you West Virginia, it don't matter where I roam/ I don't know where I'm going, but I know I'm coming home..."

<http://www.youtube.com/watch?v=-yAW5LQ1SDc>

"Utah" Phillips got his inspiration when just passing through.

The labor organizer, folk singer, storyteller, and activist recalled, "I visited West Virginia a number of years ago," Phillips said. "We were driving in an old car that had a bad leak in the radiator. We stopped every now and then in these hollers to get water and to talk to the people. In one place, there was a woman about 50-years-old who let us use her pump. I commented to her that down in the town, it seemed that everybody I ran into wanted to get out, wanted to go north or go west and find some decent work. The young guys in the bars would



(Continued on p. 11)

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TREASURER: Bob Marshall, 2108 Emma Road. Kenna WV 25248; (304)545-6817, woodhavenwva@aim.com
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Jackie Burns jackie.burns@frontier.com .
George Beetham, 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com
Bill McNeel, 1118 Second Ave., Marlinton, WV 24954, (304)799-4369; wpmcneel@gmail.com
Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067pshoenfeld@gmail.com
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Dave Fouts, HC 80, Box 993, Maysville, WV 26833, (304) 749-8172, foutsberg@citlink.net
Michael (Mike) C. Morgan, RT 4 Box 231, Keyser, WV 26726; mctmorgan@gmail.com; 304-788-6496; 717-793-6743
LeJay Graffious, P. O. Box 69, Bruceton Mills, WV 26525; lejay@oldhemlock.org.
Mike Withers, Rt 2, Box 328, Grafton WV 26354, 304-265-3750, 1nastynash@comcast.net

ORGANIZATIONAL DIRECTORS
NATIONAL SPELEOLOGICAL SOCIETY:
PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Dr., Oakmont, PA 15139; (412) 828-8983; buffrodman@hotmail.com
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FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com
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ALLEGHENY HIGHLANDS ALLIANCE: Wayne C. Spiggle, RR 2 Box 97, Keyser WV 26726, 304-726-4868, wspiggle@mac.com

COMMITTEE CHAIRS
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MISCELLANEOUS OFFICES
SPEAKERS BUREAU: Julian Martin, 1525 Hampton Road, Charleston, WV 25314, (304) 342-8989; martinjul@aol.com
WEB PAGE: Jim Solley, 51 Wanshop Road, Reading, PA 19606, jamessolley@comcast.net
ADMINISTRATIVE ASSISTANT: Beth Little, 214 Black Gum Lane, Hillsboro, WV 24946 (304) 653-4277; blittle@citynet.net
HIGHLANDS VOICE EDITOR: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

MAKING THE OWNERS OF COAL LANDS FIX THINGS (Continued from p. 1)

the water discharged out the toe of the fill may include additional pollutants.”

Who is responsible for the water?

Allow me to repeat portions of an article I wrote about a similar action for the May 2012 issue of *the Highlands Voice*.

So, who is responsible for the water and water quality running through and off these older mine sites?

That may seem like a simple question with a simple answer. If you or I have pollution running off our property we are legally responsible.

In the case of mining operations the WV Highlands Conservancy has consistently argued for and urged strong enforcement of both the Surface Mine Act (SMCRA) and the Clean Water Act (CWA) and has often had to resort to litigation in an attempt to hold various coal companies and other responsible parties accountable for the quality of water coming off mine sites – old and new.

Since at least the late 1970's when I joined the WV Highlands Conservancy the organization has held repeatedly that mine operators/companies whose activities result in discharges of pollutants (acid mine drainage, iron, aluminum, manganese, selenium, any combination of salts that cause reduction in aquatic life of streams, etc.) are responsible for controlling and treating their discharges to prevent ongoing pollution.

We've been to the WV Supreme Court and to Federal Court to affirm our belief that reclamation under SMCRA and the CWA includes not only putting the land back in stable and usable condition, but also assuring that discharges from those sites don't pollute our waterways. ... And we've won.

We've gone to court first and foremost to hold the mining companies responsible for clean-up and preventing future violations of permit limits and water quality standards in receiving streams.And we've won.

We've appealed to the WV Environmental Quality Board and gone to federal court to require WVDEP to include appropriate effluent limits in water discharge permits for mining operations – including selenium. And we've won.

We've gone to court to hold the regulatory agency responsible when companies have gone bankrupt or otherwise deserted the mine operations before they were complete, thus forfeiting bonds to the state for its use in completing reclamation as required by law. ...And we've won.

We've gone to court to assure the State of WV will be subject to the requirements of appropriate water discharge NPDES permits

at those forfeited mine sites where the state has the responsibility to treat water ... And we've won.

We've gone to court to insist the bond program be strengthened and the bond amounts and reserve bond pool (Special Reclamation Fund) be increased to provide monies sufficient enough for the state to fulfill its legal responsibility performing reclamation at these sites ... and we've won – well, sort of. There have been improvements, although it remains to be seen if the advances these last few years will be enough to guarantee the bond pool or new Water Trust Fund will ever be funded in sufficient amounts to adequately care for whatever new sites that may be forfeited in the future.

We've gone to court to urge the federal Office of Surface Mining to take over the portion of the WV Regulatory Program that enforces the Bonding provisions of the Surface Mine laws. --- Well, that one is still pending and really depends on how fully funded the bond program will be once all is said and done.

And now with these three recent complaints we are continuing our attempt to address another layer of responsibility – the land owner.

Bottom Line

So, who is responsible for the quality of water coming from these older mine sites?

As stated at the beginning, WV DEP released the individual mining companies from their bonds a year or so ago, but recent water testing has shown an unacceptable amount of toxic selenium still discharging from the mine site properties.

We're now asking the court to enforce the Clean Water Act by requiring the current land owner to pay appropriate civil penalties and further to control the pollution and to ensure compliance with the state and federal water quality standards.

It is the belief of the plaintiffs and the attorneys representing us in these lawsuits that assuring abandoned or reclaimed mine sites don't pollute our water resources continues to be a responsibility of the land owner – whether that be the coal company that mined in the first place, or the state in its stead when bonds are forfeited, or whoever maintains ownership of the land after the mining is done.

[Plaintiffs WV Highlands Conservancy, Ohio Valley Environmental Coalition and Sierra Club filed the three lawsuits in the U.S. District Court for the Southern District of West Virginia, and are represented by Joe Lovett, Derek Teaney, Michael Becher and Amy Vernon-Jones of Appalachian Mountain Advocates.]

Register now

WHIPPOORWILL FESTIVAL COMING UP

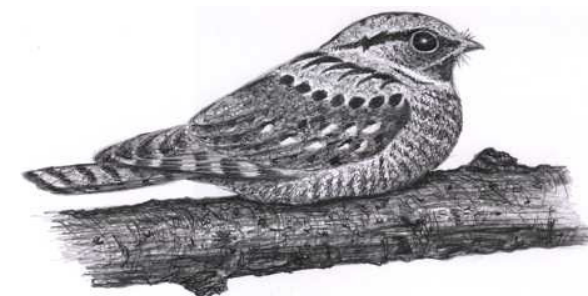
The third annual Whippoorwill Festival - Skills for Earth-Friendly Living is coming up Thursday - Sunday July 11-14 near Berea KY. This four day outdoor festival offers over 75 earth-friendly workshops, plus music and dancing in the evenings. You are invited!

The goal of the Whippoorwill Festival is to encourage and teach simpler ways of living that consume less fossil fuel and promote a healthier mind and body. Using Appalachian traditions, we teach old time skills and encourage participants to envision a new way of living, where communities come ahead of multinational corporations, and where coal no longer dominates the political landscape in Appalachia.

We have some great evening music at this year's festival, including Berea's The New Coon Creek Girls, Cincinnati's The Tillers, The New Old Cavalry from Bloomington Indiana, old time mountain ballads with Saro, and Possum Riot from Knoxville. There is also a contra dance Thursday night. This is a low-cost, family friendly festival with tent camping and meals are served. The first two years have been really fun, and this year's festival is going to the biggest and best yet.

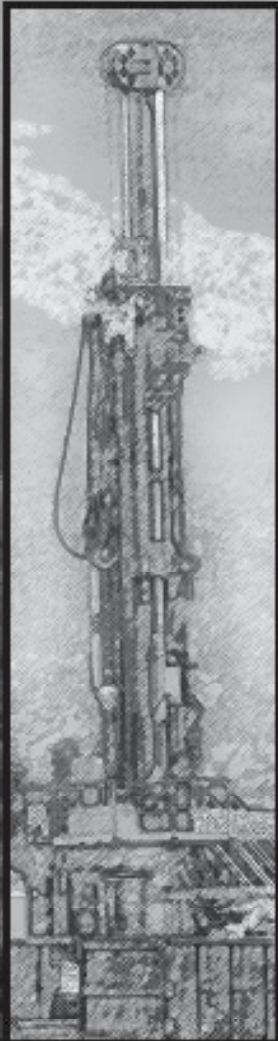
The workshops all sound interesting—everything from Snakes and Salamanders of Kentucky to Straw Bale Construction to Indian Curry Cooking, Crocheting, Basic Bicycle Maintenance, an Anarchy Discussion Group and one workshop just billed as “Weeds.” Even if you can't go to the festival just reading the listing of the workshops is worth a trip to the website.

Registration is going on now for the 2013 festival. Hope to see you there! More information at www.whippoorwillfest.com.



What is the future of our drinking water?

Wellness and Water II – June 29-30, 2013



Where

West Virginia Wesleyan College, Buckhannon, WV

Agenda

SATURDAY, June 29: Full day of events including two plenary speakers, panelists and workshops addressing drinking water impacts and health problems associated with mountaintop removal coal mining and unconventional gas well drilling, as well as waste disposal problems from both of these industries. Movie and/or music in the evening.

Hear testimonies from residents whose drinking water has been impacted.

SUNDAY, June 30: Half day of solution-focused speakers and roundtable discussions.

Registration each day starts at 8:00 a.m.; events start by 9:00 a.m.

Meals

Sat/Sun—continental breakfast provided; Sat—lunch & dinner, Sun—lunch available on site

Fee

\$40 for entire event, above meals included; lodging not included.

Speakers

- **Dr. Tom Darrah, Duke University**—He is a medical geologist who focuses on the environmental and human health impacts of exposure to geological materials.
- **Leslie Fields, Esq., Sierra Club, Director of Environmental Justice & Community Partnerships**—She has worked extensively on oil/gas natural resource extraction issues on an international level, as well as on climate change and water privatization.
- **Grant Smith, Energy Policy Analyst, Civil Society Institute**—He will address the potential of truly renewable energy sources to alleviate health problems and water pollution.

Contact

- Bill Price at bill.price@sierraclub.org or 304-389-8822 for information on scholarships.
- Julie Archer at julie@wvsc.org or 304-346-5891 for general information.
- Register online at: <https://donation.towercare.com/ovec-registration>.

For event directions visit: www.wvwc.edu/about/directions.php.

For overnight lodging information: www.wvwc.edu/about/lodging.php.

Scholarship donations for Wellness and Water II can be made at:

<https://donation.towercare.com/ovec-donation>; please note the name of the event.



The Highlands Voice is published monthly by the West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321. Articles, letters to the editor, graphics, photos, poetry, or other information for publication should be sent to the editor via the internet or by the U.S. Mail by the last Friday of each month. You may submit material for publication either to the address listed above or to the address listed for Highlands Voice Editor on the previous page. Submissions by internet or on a floppy disk are preferred.

The Highlands Voice is always printed on recycled paper. Our printer uses 100% post consumer recycled paper when available.

The West Virginia Highlands Conservancy web page is www.wvhighlands.org.

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.

Close calls, and not so close calls, go to the Corps**APPEALS COURT APPROVES MINING IN REYLAS FORK**

By John McFerrin

The United States Court of Appeals for the Fourth Circuit has affirmed an earlier decision by the United States District Court for the Southern District of West Virginia allowing surface coal mining adjacent to Reylas Fork in Logan County.

History

As with all mines, this mine was required to get permits from both the West Virginia Department of Environmental Protection and the United States Army Corps of Engineers. Because this operation would involve filling a stream, it would require what is known as a §404 permit from the Corps. Such a permit would allow the filling of a stream. Under guidelines issued by the EPA, the Corps could issue a § 404 permit only after concluding that the mining activity would not cause or contribute to violations of the State's water-quality standards or to the significant degradation of waters of the United States

In making its evaluation, the Corps of Engineers was required to evaluate the potential environmental impact of the operation. It does this in one of two ways. It may make an Environmental Assessment, followed by a Finding of No Significant Impact (for those seeking to build their acronym vocabulary, that would be a FONSI). The alternative is to perform the more thorough and demanding Environmental Impact Study.

The Corps of Engineers and the United States Environmental Protection Agency collaborated in the review of the proposed mine. The EPA submitted comments stating that "this proposal is likely to cause or contribute to an excursion from the State's water quality standards downstream resulting in an impairment of the aquatic life use." The EPA warned that "the direct and cumulative impacts from this and future mines will be persistent and permanent and can not be sufficiently or effectively compensated through the proposed mitigation."

After the EPA made the comments, the Corps, the EPA, and Highland Mining (the operator) consulted each other and agreed to modifications to the conditions of the permit. Under the agreement reached, Highland Mining would eliminate approximately 400 feet of impact to Reylas Fork and apply a mitigation plan involving best management practices and monitoring. After the Corps made these changes, the EPA advised the Corps, "We believe that with appropriate permit conditions that the applicant could move forward with the issuance of the permit." With this blessing from EPA, the Corps went ahead and issued the permit.

Once the Corps of Engineers issued the permit, the West Virginia Highlands Conservancy, the Ohio Valley Environmental Coalition, Coal River Mountain Watch, and the Sierra Club appealed that decision to the United States District Court for the Southern District of West Virginia. There, the District Court (Judge Chambers) said that the scientific evidence clearly shows mountaintop removal is damaging water quality and aquatic life downstream from mining operations.

In spite of this, he upheld the Corps of Engineers decision. In his view, a previous appeals court ruling tied his hands. The previous court ruling forced him to defer to the Corps of Engineers' permit approval.

What has happened now

Now the Court of Appeals has affirmed the decision of the

District Court in upholding the permit. In doing so, it did not dispute the District Court's observation that the evidence showed that mountaintop removal is damaging water quality and aquatic life. Instead it focused on procedure. It satisfied itself that the Corps of Engineers had considered relevant information before making a decision and that it had taken a hard look at the environmental issues. Whether, having taken the hard look, it came up with the right answer was largely irrelevant to the Court. Once the Court was satisfied that the Corps had considered the proper questions, it would defer to the Corps in the answers to those questions the Corps reached.

What we can learn from this

First, we learn that the Environmental Protection Agency's "war on coal" is not so virulent or effective as common rhetoric would have us believe. Here the Environmental Protection Agency had objections to the permit issuance and grounds to oppose it. Yet it stopped short, settling for some modifications.

Second, we learn that review of a Corps decision will be largely procedural. If the Corps followed the correct procedure and considered the relevant information, courts will defer to its decision. Unless the decision on the merits is wildly wrong, the courts will let it stand.

Finally we relearned, as Cindy Rank wrote in the November, 2011, issue of *The Highlands Voice*, "Everything about the Highland Mining Reylas permit screams for denial and yet the Corps marches on."

Note: For more background about this permit and the substantive issues involved, see the November, 2011, issue of *The Highlands Voice*. There is some additional information in the May, 2011, and June, 2012, issues as well.





Bobby Mitchell is a well-known figure amongst Highlands Conservancy members and West Virginia conservationists. He has been active in numerous issues around the state over the years including red spruce ecosystem restoration efforts in the Highlands, first getting involved while a student at West Virginia University in 2006 (left picture) in Canaan Valley, and more recently in May 2013 at Thunderstruck Rock. Bobby has planted thousands of red spruce and balsam fir trees over the years, and has made a real difference in helping to ensure a better future for coming generations.



Chip Chase, Ben McKean, and Dave Saville plant some red spruce seedlings at Thunderstruck Rock.

Join Now !!!

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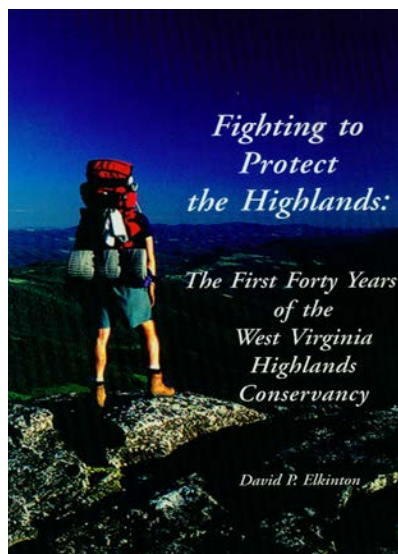
Membership categories (circle one)

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

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

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

GREAT HISTORY BOOK NOW AVAILABLE



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

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

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

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

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

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

SUCH A DEAL!

Book Premium With Membership

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

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

MOUNTAINTOP REMOVAL UP CLOSE AND PERSONAL

Visit Kayford Mountain and/or Mud River Mountain south of Charleston to see mountain top removal (MTR) up close. Bring lunch for a picnic on Kayford mountain. Hear the story on how the late Larry Gibson saved fifty acres from mountain top removal on Kayford Mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com.

WANT TO BECOME MORE INVOLVED?

In addition to reading *The Highlands Voice*, visiting the website, or going on an occasional outing, the West Virginia Highlands Conservancy offers ways of becoming involved. We have a variety of active committees. Please consider joining one, or more. Here is a description of what those committees do and the person to contact to get involved:

Highways: Although it is entitled Highways, this committee has historically focused on Corridor H. It has led the Conservancy's opposition to the highway and litigation over the route it would take. The committee's current concern is preventing construction in Blackwater Canyon. Contact Hugh Rogers. Moon Run, Kerens, WV 26276, (304)636-2662; hugh.rogers@gmail.com

Legislative: This committee monitors action at the West Virginia Legislature, works with the lobbying team of the West Virginia Environmental Council, and does public education about legislative matters. Contact Frank Young. 33 Carnian Ford Road, Ripley WV 25271 (304)372-3945; fyoung@mountain.net

Mining: This committee leads the Conservancy's advocacy on all mining related matters, including both advocating for enforcement of current laws and for proposed laws or regulations. Its work has in recent years expanded beyond coal mining to include oil and gas drilling. Contact: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com

Outings: This committee organizes and either leads or arranges for leaders for outings. In the past, outings have been hikes, bird walks, snowshoeing, canoe trips, etc. They can be either educational or just for fun. Contact Dave Saville.; PO Box 569, Morgantown, WV 26507, (304)692-8118; daves@labyrinth.net

Outreach: This committee distributes information about the West Virginia Highlands Conservancy. Its work includes everything from managing the WVHC Facebook page to staffing our exhibit at events to distributing bumper stickers. Contact Cindy Ellis. RR 1, Box 163, Red House, WV 25168 (304) 586-4135; cdellis@wildblue.net;

Public Lands: This committee leads the Conservancy's advocacy on management of publicly owned and managed land. In the past it has largely focused on the National Forests, particularly the Monongahela National Forest. Its work has also extended to advocacy on issues involving other publicly managed land, including National Park, National Wildlife Refuge, state Forest lands, and Wilderness designation. Contact Dave Saville, daves@labyrinth.net; PO Box 569, Morgantown, WV 26507, (304)692-8118

Wind Energy: Contact: The wind committee is concerned about the impacts of large industrial wind projects and has successfully discouraged certain projects and portions thereof. We have studied the technology and economics, concluding that grid scale wind installations are harmful to the Highlands environment and that benefits as a clean energy source are often overstated. We hope to collaborate with other organizations in developing prospective WV public policy that would mitigate the negative impacts. We welcome new members. Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067 pshoenfeld@gmail.com

BULLET DODGED

As reported in the May, 2013, issue of *The Highlands Voice*, a United States Court of Appeals has ruled that the Environmental Protection Agency clearly acted within its legal authority when it rejected a permit for one of the largest mountaintop removal mines in West Virginia history.

The friends of coal did not take this lying down. Senator Joe Manchin (D, W.Va.) immediately proposed amendments to the pending Water Resources Development Act of 2013 that would have limited the authority of the Environmental Protection Agency to object to or stop permits which have a significant adverse effect on drinking water, fisheries, wildlife or recreational areas. Not to be outdone, Senator Rand Paul (R. Ky) introduced an amendment that would reduce the number of streams covered by the Clean Water Act. The streams eliminated from protection included the headwater streams which are filled in mountaintop removal mining.



An amendment to the Water Resources Development Act of 2013 would almost certainly become law. That Act approves of many projects in many states, giving the Act as a whole overwhelming support. An amendment to the Act could hitch a ride leading straight to becoming law.

The proposed amendments were the subject of intense lobbying, including phone calls from citizens, etc. As a result of this, and possibly (or possibly not) the workings of inside Washington known only to insiders, the amendments failed, the bullet was dodged, and the authority of environmental Protection Agency to enforce the Clean Water Act remained intact.

For a poetic view of this, see the poem by Bob Henry Baber elsewhere on this page.

MTR/EPA

when the long overdue 'foul' is finally called,

the 'coaches' question the rules—

and then try to change them,

retroactively

Bob Henry Baber



The West Virginia Highlands Conservancy Initiates a New Public Lands Outing Program

By David W. Saville, Chair, Public Lands Committee

A new Highlands Conservancy program, *This Land is Your Land*, will be spending a day or more each month in 2013 to explore, and learn more about our public lands.

The West Virginia Highlands Conservancy has a long and rich history of advocating for the protection and wise management of our public lands. That history is equally as rich in giving back to these lands through service projects to protect and restore them. West Virginia is not particularly rich in public lands, but it does have a good diversity and distribution.

Who manages these lands that belong to all of us? What agencies are responsible? What is the difference between the Park Service and the Forest Service? What laws provide guidance to these agencies? How did we acquire these various lands and how can we acquire more of them? What are the current management issues and are they facing any threats? How can the public become involved and engaged in their management? How can we work to benefit them and ascertain a long and healthy future for them?

These are just a few of the questions that the Public Lands Committee's new program can help Highlands Conservancy members, and the public, discover the answers to. The Program will assemble a dynamic calendar of events, published in the Highlands Voice each month and at www.wvhighlands.org, where we will visit, explore, and discuss the issues facing our various public lands. The events will generally include informational meetings with the area's managers, and they will also include an outing to explore or restore some of the wonders of that particular area of our land. Some events will include discussions of public lands issues and activities of the Highlands Conservancy's Public Lands Committee.

Below is the current calendar of events, and more will be added as the year progresses.

Because, from West Virginia's highest Point, at Spruce Knob, to its lowest, at Harper's Ferry, *This Land was Made for You and Me!*

This Land is Your Land - Events Calendar

Please RSVP if you are planning to attend an outing! For more information, visit www.wvhighlands.org, or contact Dave Saville at daves@labyrinth.net.

Sunday, July 14, 2013, *This Land is Your Land* - Canaan Valley State Park, 1 pm. At this event, we will visit with Park Superintendent, Rob Gilligan, at the Canaan Valley State Park Nature Center. Rob will discuss the management of the State "Resort" Parks as well as the new Lodge and Conference facilities. We will then take a car tour, and a few short hikes, to visit some of the Park's most outstanding features.

Saturday, August 10, 2013, *This Land is Your Land* - Ohio River Islands National Wildlife Refuge, Williamstown, WV, 1 pm. Meet Refuge Manager Glenn Klingler and Assistant Manager, Sara Siekierski, of West Virginia's first National Wildlife Refuge, established in 1990. Scattered along 362 miles of the Ohio River, the refuge restores and protects habitat for wildlife in one of our Nation's busiest inland waterways. It includes 22 islands and 4 mainland properties for a total of 3,440 acres. Half of the refuge acreage is underwater, providing crucial habitat to support over 40 species of freshwater mussels. Hear from refuge leadership about the challenges the refuge faces and what their team is doing to help safeguard a future for wildlife. Afterwards we'll go for a hike around Middle Island.

September 8, 2013, *This Land is Your Land* - Kanawha State Forest, Charleston, WV, 1 pm. Meet Assistant Superintendent, Kevin Dials at one of West Virginia's most popular State Forests. Unique among State Forests, Kanawha is managed more like a State Park because of an action of the State Legislature. The 9,300 acre forest is noted among naturalists for its diverse wildflower and bird populations. Rich cove forest sites provide nesting habitat for 19 species of wood warblers. We'll join with members of the Kanawha State Forest Foundation, a citizens group acting on the forest's behalf, for an afternoon visit.

Sunday, October 6, 2013, *This Land is Your Land* - Greenbrier Ranger District, Monongahela National Forest, Bartow, WV 1 pm. For the second of our visits to the Greenbrier Ranger District, we will once again meet with District Ranger, Jack Tribble and District Wildlife Biologist, Shane Jones. The discussion of current activities will focus on the upper Greenbrier North project. This large and diverse project involves numerous management activities including spruce restoration and stream habitat improvement. We'll take a car tour and some short hikes into the upper Greenbrier north project area to learn more about the activities and proposed activities associated with that project.

Book Review: *The Cranberry Wilderness Story*, (Little Beechy Creations; Canvas, WV; 368 pages)

Reviewed by Dave Tabler

Luther D. Baker's recently published "The Cranberry Wilderness Story" accomplishes two things. First, it introduces the impressive

WV timber industry documentary photography of John Finley Taylor (1887-1976). Second, the book places Taylor's body of work in a broader historical context — that of how the parcel of land we know today as the Cranberry Wilderness has been shaped over the millennia, first by nature and then by man.

It's almost a certainty you've never heard of Finley Taylor (he dropped the use of 'John'). Taylor ran a commercial portrait photography studio in downtown Richwood, WV from 1912 until he retired in 1949. In addition, he regularly ventured out with his camera to the operations of the Cherry River Boom & Lumber Company, whose lumbering activities took place 10 miles outside of town. "Perhaps business was slow on Main Street," notes Baker. "The area was timbered between 1926-1933, and the Depression fell right in the middle of this period. We know he sold copies of his pictures to many of his subjects."

Indeed, a great many of the Cherry River portraits reproduced in "Cranberry" employ a classic studio approach: the subjects are carefully centered in the frame, looking straight at the photographer, usually surrounded by their tools of the trade. Taylor faced his subjects with a 5x7 field camera waist high on a tripod, using a standard lens, and his lighting is straightforward mid-day light, neither high-key nor low-key. There's nothing tricky or gimmicky about his portraits. Their assured style feels akin to the portraits of German photographer August Sander, who worked in the same era.

Finley Taylor left behind more than 400 images of almost every aspect of timber harvesting, not only the lumbermen portraits he hoped to sell. "It seems apparent that he was keenly interested in the logging operations," Baker points out, "because many of the images were probably not photographs he could sell very readily."

And thank goodness for that keen interest! Finley Taylor's photographs are invaluable to historians of WV's timber industry for their unmatched depth. His status as a longstanding local gained him access to areas and activities that 'outsider photographers' would never have been privy to. Lewis Hines and Dorothea Lange may be household names today in documentary photography from that era, but when it comes to WV timbering, Finley Taylor got the day-to-day visual goods close-up from the inside.

In today's era of discreet pocket digital cameras and their push button controls, it's hard for us to envision just how much of a physical intrusion the clunky 5x7 camera, with its tripod and head cloth, really was during the 1920s and 1930s. The mere presence of a photographer and his demanding equipment changed how people behaved.

Finley Taylor overcame this drawback brilliantly: his familiar presence in the camps over many years is reflected both in the faces and the body stances of his subjects. He regularly stayed at several

of the loggers' homes as a guest. And so his subjects relaxed around him. They dropped that frozen camera face look. They gaze calmly into the camera. They stand or sit quite comfortably for him.

Taylor's photographic efforts were by no means all work and no play. "Cranberry" shows us a teamster standing atop a fence and leaning w-a-y out, Charlie Chaplin style, to reach the neck of his horse. There's a shot of a group of 4 or 5 people making goofy faces and pointing guns at each other in mock feud pose. And did you notice the cap on the foot of the fellow on the right in the photo just above? Taylor managed to find little moments of joy and silliness that instantly have the power to delight us.

Enter Luther Baker. "In the late 1970s and early 1980s I was about the only professional photographer

working in Nicholas County. Finley Taylor passed away in 1976, and a few months after his passing, his daughter approached me about purchasing what remained of the contents of his studio."

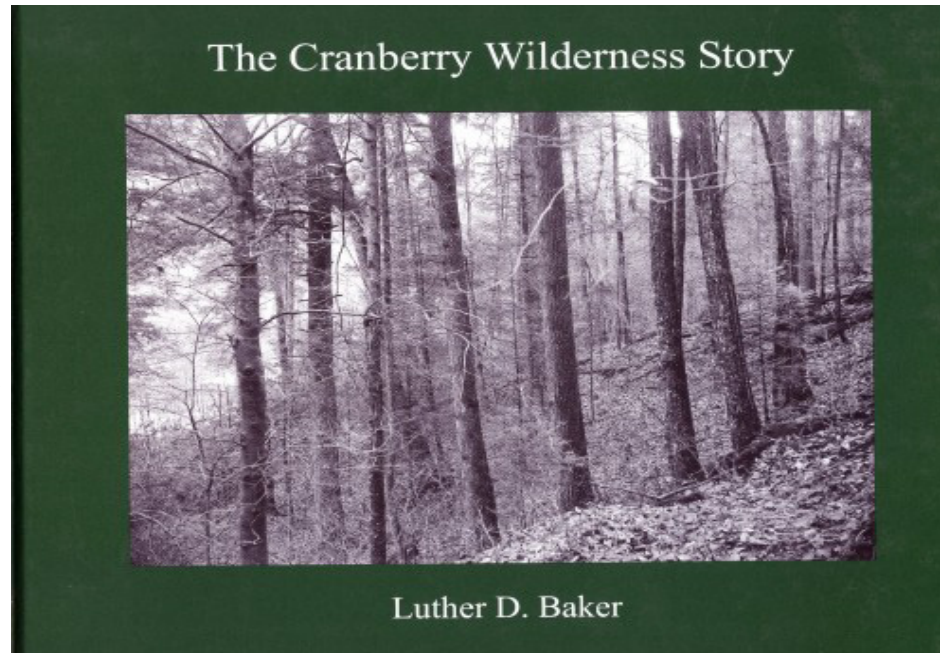
Luckily for us, Baker went ahead and made the purchase. He tells his readers that there were very few incorrectly exposed images in the many storage boxes. Taylor was either a careful craftsman to begin with, or he weeded things out as he went along.

Luther Baker has taken great care in reproducing Taylor's negatives. In "Cranberry" they are presented in straight B&W (Baker explains that Taylor's original prints were often gold toned or full color), using a fine 300 dots-per-inch halftone screen (magazines by comparison use a coarser 133 dots-per-inch screen). The hardcover book is beautifully printed in oversized 9x12 horizontal format, most often showing 1 image per page for greatest impact and clarity of detail.

The one shortcoming of the "Cranberry" presentation of Finley Taylor photographs is the lack of subject identification, for which Baker readily apologizes. "One of my life's regrets is not to have interviewed [more] people before they passed away," he says. "Given the length of time that elapsed from the time I obtained Finley Taylor's negatives from his daughter, I never thought I would be fortunate enough to interview individuals who lived among the hundreds of people depicted in these pages."

The 6 or 8 oral histories that Baker has included do help to bring the pictures to life. "See this fellow with the peg leg?" says Anna Mary Aiken Woods, whose family resided in a Cherry River logging camp called Dogway. "He is my father, Jimmy Aiken. He lost his leg when he tried to jump from one flatcar to another and he fell onto the track. He traveled to a rehabilitation hospital out of state and refused to return until he was walking on his new peg leg."

(More on the next page)



TIMBERING BOOK REVIEW (Continued from previous page)



About 2/3 of the pages of “Cranberry” consist of Finley Taylor photographs. Luther Baker could easily have stopped with that and still had a compelling product. Instead, he has sought to place Taylor’s photographs in a sweeping timeline, and to make the land itself the central subject. You can almost hear Baker chuckling about this editorial choice as he tells his readers “I once worked under a county school superintendent who used to say to people, ‘You cannot ask Luther the time without him giving you a detailed account of how to first make a watch’.”

And so “Cranberry” begins with a discourse on geologic time and the various eras that shaped the land mass below our study area, leapfrogs quickly to Native American capsule summaries, compresses the 17th and 18th century into 4 pages, then starts to slow down as the 19th century approaches. Baker spends a good bit of time on the biography of Johnson Newlon Camden, an oil well developer, railroad owner, and land speculator whose many business dealings led directly to the formation of the Cherry River Boom & Lumber Company.

At the other end of Finley Taylor’s photographs is a section titled ‘Wilderness Reborn,’ which leads us quickly through the CCC activities in the study area, the rise of the conservation movement as a backlash to 19th century clear cutting techniques that heavily damaged America’s virgin forests, and profiles of four local conservationists relevant to our story. Finally, Baker uses a series of short newspaper clippings from the Inter-Mountain, Richwood’s News Leader, and the Beckley Register-Herald to steer the reader through the twists and turns that led to the political creation of today’s Cranberry Wilderness.

(Finishing up in the next column)

MORE SINGING FROM PRESIDENT

CYNTHIA D. (Continued from p. 2)

ask me where I had come from, and if there was any work out there. Of course, there wasn’t.

“But, back in the hollers, it seemed like the people were rooted to the land, didn’t want to go anywhere, even though there wasn’t any work. She gave me a lot of reasons I didn’t understand. But, she gave me one I could understand because I have a great affection for the mountains in my state, and I miss them when I spend a lot of time in the east. She said to me, ‘It’s these hills. They keep you. And when they’ve got you, they won’t let you go.’ “

That sparked him to write “The Green Rolling Hills of West Virginia,” which begins, “Oh the green rolling hills of West Virginia/Are the nearest thing to heaven that I know...”

Then there is an equally poignant song---“West Virginia, My Home”--- and it does come from a native. Hazel Dickens was born here; the eighth of eleven children in a Mercer County coal mining family. She left, became active in bluegrass music, and developed her own style of “high lonesome” sound. But home and Appalachia were always on her mind and she and her songs wafted back. She appeared in the movie *Matewan* and her music was a part of the documentary *Harlan County, USA*.



When celebrating the present and past of one hundred years for West Virginia, for its mountains and mountain communities, Hazel’s words may best describe our celebration feeling:

“West Virginia, oh my home.

West Virginia, where I belong.

In the dead of the night, in the still and the quiet,

I slip away like a bird in flight,

Back to those hills, the place that I call home.”

Finley Taylor’s thoroughness and unique access to his subjects resulted in a body of photographs invaluable to those interested in WV’s lumber industry. We are indebted to Luther Baker for his elegant presentation of them to the public, and for his careful accompanying research.

You can obtain a copy of “The Cranberry Wilderness Story” directly from Luther Baker for \$42.35 for WV residents, \$39.95 for out of state residents. Contact him at lbaker4@hotmail.com or (304) 872-4752.

Note: This review first appeared in *Appalachian History Weekly*, a website dedicated to stories, anecdotes, and quotes about Appalachia (www.appalachianhistory.net). Thanks to Frank Slider for spotting it and obtaining permission to reprint it.

Next Birthplace of Rivers Public Workshop Scheduled

The Birthplace of Rivers National Monument Initiative will host another public proposal workshop on Wednesday, June 19 at 7 p.m. at the Pocahontas County Opera House in Marlinton.

Following a well-attended meeting in April, the upcoming workshop will focus on reviewing input received throughout the collaborative proposal process, and will give participants a chance to provide feedback on the monument proposal.

The facilitated workshop will solicit feedback on specific alternatives regarding boundaries, management, recreation and access based on feedback from the April meeting.

The Birthplace of Rivers National Monument Initiative is backed by a coalition of individuals, citizen groups and business owners throughout the greater Monongahela National Forest region. National Monuments are areas of public land protected for their unique ecological, historic or cultural value.

In early 2013, Tom Tidwell, Chief of the U.S. Forest Service, penned a letter to the Pocahontas County Commission, providing additional providing additional clarification on what a Forest Service-managed National Monument would look like.

«If such activities are recognized and prioritized under the forest plan in place at the time of monument designation, then there's no reason that a national monument designation wouldn't allow for the continuation of such activities,» Tidwell states regarding recreational uses, hunting, fishing, trout stocking and vegetative management. As for wildlife management, monuments *“do not enlarge or diminish the existing jurisdiction of any State wildlife and fisheries managing agencies,»* according to the letter.

The letter goes on to state the value of monument designation in promoting currently emphasized uses, such as active spruce restoration and backcountry recreation.

“National monument designation can bring many public benefits including increased visitation and additional opportunities for potential federal resources to be matched by other federal, local and private resources for broader restoration objectives.”

“And, because monument designation is statutory, it ensures the permanent viability of the very attributes for which a particular place was designated, whether historical and cultural access and resources, unique fish or wildlife communities, or other aspects of scientific interest,» the letter states, indicating monuments and their intended uses become protected by law, rather than subjected to potential changes at the hands of future administrative decision makers.

More information about the initiative is available at www.birthplaceofrivers.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.

A Monument to 150 Years of Wild and Wonderful!

Celebrate West Virginia's sesquicentennial by sharing your stories and photos of the southern Monongahela National Forest

Establishment of the Birthplace of Rivers National Monument will preserve some of the Monongahela's best recreational experiences and most remarkable ecological resources. This unique designation would be an honor for this storied landscape and the Mountain State's rich cultural heritage, which is tied to the rugged mountains of the southern Mon. Special features of the potential monument include Cranberry Glades, Falls of Hills Creek, the Highland Scenic Highway, Tea Creek, Cranberry and Turkey Mountain Backcountry Areas and headwater resources within six critical watersheds – the Cranberry, Cherry, Williams, Gauley, Elk and Greenbrier Rivers.

The southern Monongahela National Forest means so much to Appalachia's outdoor heritage, but its future is far from certain. Several bills introduced in Congress aim to open roadless areas such as Tea Creek to potential industrial development, while others would streamline industrial activities on National Forests and other public lands without proper environmental review. From the establishment of the Cranberry Wilderness to the Wilderness expansion achieved with passage of the Wild Monongahela Act in 2009, West Virginians have a strong history of advocating for the area's protection through citizen conservation initiatives.

The Birthplace of Rivers National Monument would extend stronger, more permanent protections to this landscape while preserving access to all currently-permitted recreational activities. West Virginians have a deep connection to this special place, and ensuring its protection would be a tremendous gift to future generations.

Do you have photos or stories from this special area? If so, please consider sending them to info@birthplaceofrivers.org. The Birthplace of Rivers initiative will be featuring guest posts on the Birthplace of Rivers Blog (birthplaceofriversblog.org) throughout the summer.

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

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

COAL MINING AND PUBLIC HEALTH: THE LEGISLATIVE RESPONSE (AND NON-RESPONSE)

By John McFerrin

As regular readers of *The Highlands Voice* know, there is a growing body of evidence suggesting that there is a strong correlation between poor public health and the presence of coal mining, particularly mountaintop removal mining. (*The Highlands Voice*, October, 2012; May, 2013). The scientific evidence is piling up associating living near mountaintop removal sites with birth defects, low birth weight births, cancer, poor physical health, poor mental health, cardiovascular difficulties, and pulmonary difficulties. This is true even after considering other health risks such as smoking, poverty, obesity, age, or access to health care.

Now there has been a legislative response to this growing body of evidence: the Appalachian Communities Health Emergency Act or ACHE Act. It would impose a moratorium upon new permits for mountaintop removal coal mining until the Secretary of Health and Human Services conducts or supports comprehensive studies on the health impacts of mountaintop removal coal mining on individuals in the surrounding communities.

The Congressional Research Service provides this summary:

Appalachian Communities Health Emergency Act or ACHE Act - Requires the Director of the National Institute of Environmental Health Sciences to conduct or support comprehensive studies on the health impacts of mountaintop removal coal

mining on individuals in the surrounding communities. Directs the Secretary of Health and Human Services (HHS), upon receipt of a report on study results, to publish a determination of whether such mining presents any health risks to individuals in those communities. Defines "mountaintop removal coal mining" as surface coal mining that uses blasting with explosives in the steep slope regions of Kentucky, Tennessee, West Virginia, and Virginia.

Prohibits issuance of an authorization for any mountaintop removal coal mining project (or expansion), under the Federal Water Pollution Control Act (commonly known as the Clean Water Act) or the Surface Mining Control and Reclamation Act of 1977, until and unless the Secretary publishes a determination that such mining does not present any health risk to individuals in the surrounding communities. Imposes requirements for continuous monitoring of air, noise, and water pollution and frequent monitoring of soil until a determination by the Secretary is made.

Directs the President, acting through the Office of Surface Mining Reclamation and Enforcement of the Department of the Interior, to assess a one-time fee upon persons that conduct such mining projects, sufficient to cover

the federal cost of the health studies and pollution monitoring required by this Act.

The Act makes no assumptions about the outcome of the studies it requires. It only requires that the relationship between mountaintop removal mining and human health be studied and that no new permits be issued until the Secretary determines that the mining does not present any health risk.

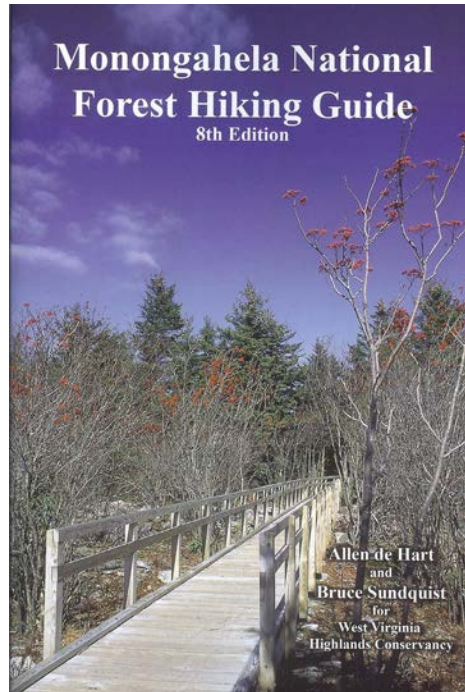
The ACHE Act's principal sponsors are John Yarmuth (D, Ky.) and Louise Slaughter (D, NY). There are twenty nine co-sponsors in all. None of the co-sponsors is from West Virginia. Mr. Yarmuth is from a coal producing state, Kentucky, but he represents Louisville where no coal is produced. Ms. Slaughter is originally from Harlan County, Kentucky, where a lot of coal is produced. She now lives in and represents a district in western New York. Of the twenty nine sponsors, three live in states that would be directly affected by the legislation. None of the three live in parts of their home states where coal mining is present.

Soon after it was introduced the bill was referred to committees on Natural Resources, Transportation and Infrastructure, and Energy and Commerce. None of these committees has taken action on the bill. Nick Rahall (D, WV) is the Ranking Member of the Transportation and Infrastructure Committee.



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



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.



MARCELLUS ACADEMY 2013

Presented by the WV Sierra Club

A Weekend of Presentations and Workshops on Marcellus Shale
Gas Drilling

July 13-14, 2013 at WV Wesleyan College in Buckhannon, WV

You are cordially invited to attend a special weekend workshop on Marcellus shale drilling on the campus of WV Wesleyan College on July 13-14, 2013.

Marcellus Academy 2013 will train a new cadre of emerging activists who can proactively work on Marcellus gas drilling issues in their communities. Since industrial-scale drilling sites are causing major problems with our water, our land, our air and our health, this workshop will focus on giving you the tools to effectively organize others, build grassroots networks of reporters who can monitor industry practices, and help guide local leaders toward environmentally sound Marcellus policies.

This is not an introductory course on how Marcellus drilling works. Instead, emphasis will be on education, outreach, recruiting concerned citizens and activism. Participants will be limited to those who can clearly commit to organizing people in their area by holding meetings, giving presentations, organizing house parties and speaking out to build public education and awareness. The goal is to empower more everyday citizens to take the initiative in protecting their communities and to serve as leaders for building public support.

A detailed agenda will be forthcoming. Speakers and workshops on both days will cover topics such as the status of gas wells in West Virginia...new, old, and abandoned; problems caused by the gas industry; health issues associated with Marcellus drilling; ad practices used in underground injection wells; Citizen Watch Groups that can monitor industry activity; organizing gas industry study committees within your county commission; citizen participation in the gas permitting process; open session for guest videos, slide shows and personal stories; ell site field trip; the WV Legislature - Who's who and how it works; and organizing local watershed groups

All of your expenses for the workshop (lodging, meals, and mileage) will be covered by WV Sierra Club. Applicants are not required to be affiliated with any particular environmental organization. Our program will run from 9:30AM Saturday until 3:30PM Sunday.

Only a limited number of registrations will be accepted. Applicants will be considered based primarily on geographical region, resulting in new organizers in as many regions as possible. We do hope to see more than one person from a community, so they can work as a team, but the number will depend on applications from the rest of the state.

Space is limited, so please apply as soon as possible listing your name, address, county, phone number and email. Contact information is below. If you cannot attend but know of someone in your community who fits our guidelines and could benefit from joining us, please let us know. Again, they should be people who can make a clear commitment to do what it takes to build local grassroots action on their home turf.

We hope you will take this opportunity to grow our numbers in West Virginia and create a strong, intelligent response to the challenge of Marcellus drilling in our neighborhoods.

Contact: Chuck Wyrostok, Sierra Club Outreach Organizer

Toll free 877 252 0257 outreach@marcellus-wv.com www.marcellus-wv.com

By Kendra Hatcher and Nathan Askins

Due to an influx of mining activity in Taylor County, local citizens and groups became concerned about the fate of their water supply. The Taylor Environmental Advocacy Membership (TEAM) water quality monitoring project began in the summer of 2008, with funding from the West Virginia Highlands Conservancy. Downstream Strategies, a Morgantown-based consulting company, developed a baseline water quality monitoring plan for TEAM. Downstream Strategies visited the sites and collected samples six times over five years, in various seasons. These results will provide a baseline for comparison to results from any future sampling events.

Water quality sampling was conducted around the Leer Mine, an underground longwall mine run by Arch Coal, Inc. Coal production began in 2011. The mine is located southeast of the town of Grafton. Surface and groundwater samples were taken on or near tributaries of Three Fork Creek, which flows along the north side of the mine, and then drains into the Tygart Valley River just downstream of Tygart Lake.

Results were compared against drinking water and surface water standards. In comparison to federal drinking water standards, no samples during any visit came close to the health-based maximum containment levels (MCLs), but several exceeded the secondary standards. Secondary standards are non-mandatory, non-health-based levels; these values provide guidelines for aesthetic concerns such as color and taste. These parameters include aluminum, iron, manganese, and pH.

At one sampling site, iron and pH values were above the West Virginia surface water quality standards for warm waters. Within each category, the state has both a "chronic" and an "acute" limit. These sampling visits yielded results exceeding chronic values. Long-term exposure to waters exceeding chronic limits have been found to be detrimental to fish and wildlife. Exceedances of acute standards may result in ill effects to fish and wildlife even in the short-term. However, few exceedances were observed.

Overall, the values for the parameters stayed relatively consistent throughout the sampling visits, with some slight variation most likely due to weather conditions or discharge volume. As of now, there does not appear to be a measureable change in the tested parameters due to mining activity. These results will provide a baseline for comparison to results from any future sampling events if water quality impacts are suspected.



HIGHLANDS CONSERVANCY BOUTIQUE

NEW STUFF



► Our newest online store items are here just in time for holiday shopping. The baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and an infant onesie. Slogan is "I ♥ Mountains Save One for Me!" Onesie [18 mo.]---\$17, Infant tee [18 mo.]---\$15, Toddler tee, 2T,3T,4T, 5/6---\$18

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

► Order now from the website!

Or, by mail [WV residents add 6 % sales tax] make check payable to West Virginia Highlands Conservancy and send to James Solley, PO Box 306, Charleston, WV 25321-0306

SAME STUFF

T- SHIRTS

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



HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I ♥ Mountains caps.

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

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