



The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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Two Steps Forward and Now a Big One Back

COURT OF APPEALS REVERSES JUDGE CHAMBERS, DEFERS TO CORPS OF ENGINEERS

By Cindy Rank and John McFerrin

What Happened

Normally cautions about Friday the 13th are just a tale, a concern for triskaidekaphobes but few others. Friday, February 13, 2009, was a different matter. It proved to be a sad day for the people and the headwaters streams throughout Appalachia.

In 2007 Judge Chambers carefully considered actions by the Army Corps of Engineers and decided two things. First, he decided that the agency must do a better job of reviewing and assessing streams, and loss and mitigation before approving any more valley fills. Second, he decided that stream segments between the toes of valley fills and sediment ponds were entitled to the protection against pollution found in the Clean Water Act.

On February 13, 2009, the United States Court of Appeals for the Fourth Circuit reversed Judge Chambers. It deferred to the Corps of Engineers, assuming that the Corps must know how to do its job and that if the Corps said what it was doing was OK then it must be OK. So long

as the agency in making technical decisions did not make them arbitrarily, it would defer to that agency.

The upshot of all this is that the flood gates have been opened for some 100 permits now in the queue with the Army Corps of Engineers and ready to be unleashed upon the land and water in West Virginia and Kentucky. For West Virginia and Kentucky there are permits either pending or issued for over 400 fills which will bury over 200 miles of streams.

The decision directly and immediately affects four mines: Aracoma Coal's Camp Branch Surface Mine; Elk Run Coal Company's Black Castle Mine; Alex Energy, Inc. Republic No. 2 Surface Mine; Independence Coal Company Laxare East Surface Mine

All together, the four challenged permits authorize the creation of 23 valley fills and 23 sediment ponds, and they impact 68,841 linear feet of intermittent and ephemeral streams, or just over 13 miles.

In commenting on the decision, Jim Hecker (one of the lawyers for the citizens groups) said it pointed out that "The problem is that the Corps and the court are not listening to the scientists ... who tell us that the plans to mitigate stream losses have no scientific basis. The court gave blanket deference to Corps bureaucrats, and none to the contrary opinions of stream scientists. The court's decision will open the floodgates to many more

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Not the Forest For the Turbines

Lifting a sack of birdseed in an Elkins store, I bumped into an old friend. Or leaned into him. He happened to have in his pocket a copy of the Voice that he had picked up at a local café. "I read it every month," he said. "But I'm not going to renew my membership until you all really go after these wind projects."

Still bothering him that day was what he had seen on a hike in Dolly Sods North. The Nedpower/Shell turbines along the Allegheny Front were clearly visible from Raven Ridge, and it was worse at night, when the lights cast a pinkish glow. Like camping in a big-city suburb, he said.

He's not the only person who's complained to me about the Highlands Conservancy's stand on wind power in our mountains. Not to mention the gusts of letters that have blown into Editor John's mailbox.

Speaking for myself—and not for our Board—I think most of the people I have heard from misunderstand our position. But I don't blame them.

Early on, we not only intervened in proceedings before the Public Service Commission, and got involved in negotiations to reduce the impacts of the two projects that are now up and running, but we also helped the Commission develop siting standards to protect the special places that are central to the Conservancy's mission.

It's a shame we couldn't prevent the pinkish glow, but we did keep the string of turbines much farther away from Dolly Sods than they would have been. And the siting standards shot down what to my mind was a more egregious project on Jack Mountain in Pendleton County.

Since then, the projects have come fast and furious, slowed only by a couple of hiccups when Congress delayed renewal of a certain tax credit. Sheer numbers have stiffened our resistance. What people like my friend in Elkins may not have noticed is that, for better or worse, we have opposed every one.

Yes, we've had long and sometimes heated debates about projects on Beech Ridge, in Greenbrier County; Laurel Mountain, in Randolph and Barbour Counties; and most recently, Green Mountain, in Mineral County. But each time, we have voted against—and we have actively supported intervenors.

I understand that board members have voted to oppose specific wind energy projects for a variety of reasons, and may prefer not to revisit our official policy because they don't think it's worth the hassle.

But I think the new policy we adopted last year veered away from our historic mission to conserve the Highlands. Instead, we declared that we would oppose "large, utility-scale wind energy projects" in our state unless the proponents could prove that the electricity produced by them would replace electricity produced from coal. (We supported the utility-scale Coal Mountain project proposed by local citizens' groups because it would clearly replace energy that would have been produced by coal strip-mined from that mountain.)

Since then, arguments over wind power in the Voice and elsewhere have been technical and inconclusive. Sure, doubts about the efficacy of wind may undermine its appeal—but isn't that putting the cart before the horse? A policy based on our values, not our doubts, would be more persuasive.

That's why I'm happy to see in this issue Chris Bolgiano's open

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THE PATH NOT YET BEATEN

- Application Delayed, Again
- WVHC to Join in Legal Opposition
- Stop PATH Rally to be on E-Day!

By Frank Young

In January the WV Highlands Conservancy (WVHC) board of directors voted unanimously to become an intervening party against the proposed PATH long distance electricity transmission line.

On February 24th PATH company attorney John Philip Melick with the firm of Jackson Kelly, filed a request to postpone PATH's filing for a Certificate of Need with the WV Public Service Commission (PSC) from March 2009 to "on or about April 1."

PATH is an acronym for Potomac-Allegheny Transmission Highline. PATH is a proposed joint venture between American Electric Power Company (AEP) of Columbus, Ohio and Allegheny Energy Company of Greensburg, PA. PATH, if approved by regulatory agencies and constructed, would be a giant 765 Kilovolt electrical power transmission line that would run 290 miles from AEP's John Amos power plant substation near St. Albans, W.Va., to near Frederick, MD.

PATH would include a right-of-way swath 200 feet wide through farms and forests and other public and private properties, across up to a dozen or more WV counties, and through the state's Eastern Panhandle into Virginia and Maryland. The apparent purpose of PATH is to transfer coal generated electricity from the Ohio Valley to eastern cities near the Atlantic Coast.

Over the past several months strong both local and statewide citizen opposition to PATH has developed. STOP PATH rallies and informational meetings have been held or are soon to be held in almost every county through which PATH would pass.

In connection with its annual E-day! events on March 11th, the WV Environmental Council, along with other organizations and interested individuals, will sponsor a late afternoon rally and informational meeting in opposition to the proposed PATH transmission line

The STOP PATH rally in Charleston on E-day! will be held at the same location as the WVEC E-day! dinner and awards ceremony at the Woman's Club of Charleston building at the corner of Elizabeth Street and Virginia Street East, less than two blocks from the state Capitol, from 3:30 to 5:00PM.

And the grassroots organization Citizens Against PATH will have an informational table at the capitol building rotunda on E-day!, with maps, petitions against PATH and other information.

If you are planning to file as an intervener in the PATH case, you can contact a lawyer, or you can contact the PSC office in Charleston to get information on filing without a lawyer (called pro se intervention).

For daily updates about developments in the PATH application, you can go to this STOP PATH web site: <http://calhounpowerline.wordpress.com/>

Tax deductible contributions to the STOP PATH campaign can be made to WV Highlands Conservancy, P.O. Box 306, Charleston WV 25321. Please put "Stop PATH" or "Stop Power Lines" on the memo line of your check.

For further information, or to help with the STOP PATH campaign, contact Frank Young by e-mail at frankyoung@mountain.net.

TRAIL PROJECT GETS GO-AHEAD

The West Virginia Public Service Commission has given its final go-ahead to Allegheny Power's construction of the Trans-Allegheny Interstate Line, or TrAIL. TrAIL would cross eight counties from north of Morgantown to northern Virginia.


The Public Service Commission had previously given tentative approval subject to a comprehensive hearing to determine compliance with the PSC's order granting approval. Allegheny lawyers objected that the compliance hearing would have required the company to obtain all necessary environmental permits and other regulatory approvals before it could start construction of any of the 120-mile project.

Under the new PSC ruling, Allegheny can use "phased construction" that breaks the transmission line into smaller segments that obtain separate approvals from various state and federal agencies.

The PSC could still hear concerns about whether the project had met other permit requirements through its normal review process. The recent Order just eliminates the requirement for a comprehensive compliance hearing.

In the same Order the Commission also turned down requests from the Sierra Club and several citizens to reconsider its overall approval of the TrAIL project.

The PSC approval can now be appealed to the state Supreme Court.

TrAIL is one of two major power line projects proposed in West Virginia. The other is American Electric Power's Potomac Appalachian Transmission Highline, or PATH, which would run from the John Amos Power Plant near St. Albans to Martinsburg. See story right over there 

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The West Virginia Highlands Conservancy is a non-profit corporation which has been recognized as a tax exempt organization by the Internal Revenue Service. Its bylaws describe its purpose:

The purposes of the Conservancy shall be to promote, encourage, and work for the conservation—including both preservation and wise use—and appreciation of the natural resources of West Virginia and the Nation, and especially of the Highlands Region of West Virginia, for the cultural, social, educational, physical, health, spiritual, and economic benefit of present and future generations of West Virginians and Americans.

CLEAN WATER PROTECTION ACT WEEK IN WASHINGTON MARCH 14-18

By Cindy Rank

Friday, February 13, 2009, the United States Fourth Circuit Court of Appeals in Richmond, VA overturned a 2007 Federal Court decision that ruled the Army Corps of Engineers had improperly issued permits for mountaintop removal coal mining operations.

This ruling lends added urgency to encourage the new Congress to pass the Clean Water Protection Act (CWPA).

Introduced in previous sessions of Congress, the CWPA will have a new bill number and new sponsors but the intention remains the same: i.e. To amend the Federal Water Pollution Control Act to clarify that fill material cannot be comprised of waste. This would effectively reverse the notorious "fill rule" change the Bush administration enacted in 2002. The action repealed a 25-year prohibition on the issuance of Clean Water Act permits for "dredge and fill" activities that involve waste disposal. The Corps and EPA rewrote its long-standing rules prohibiting "fills" for the purpose of waste disposal to say that "fills" can now be made for almost any purpose, including waste disposal.)

The Clean Water Protection Act would sharply reduce the size of mountaintop removal coal mining, protect local waterways, prevent the wholesale burying of valuable headwater streams under tons of rubble, and protect the quality of life for Appalachian communities living in the shadow of these huge mining operations.

Unfortunately we lost one of the tireless supporters of the CWPA when co-chair Christopher Shays (R-CT) lost his seat in the House of Representatives in this past election.

The good news is that co-chair Representative Frank Pallone (D-NJ) remains steadfast in his support and he and Congressman Dave Reichert (R-WA) are preparing to introduce the Clean Water Protection Act in Congress in the coming days. Already, 89 of their fellow members of the 111th Congress have agreed to co-sponsor the CWPA when it is introduced.

You can also help move the CWPA through Congress by joining other passionate Appalachian activists from around the country for the 4th Annual End Mountaintop Removal Week in Washington, taking place

the March 14th-19th.

You'll meet and work with others who want to stop the destructive practice of mountaintop removal; develop and hone your outreach skills in outreach workshops; and meet face to face with legislators to help inspire and educate them to pass legislation to prevent filling streams valleys with mine waste.

The Week in Washington the past 3 years has effectively educated many members of Congress about just how important the CWPA is – especially to people living in the shadow of huge strip mines and valley fills in Appalachia.

If you're reading the Highlands Voice online there may still be time to meet up with others heading to Washington. Call or email me, Cindy Rank, for additional information (304-924-5802 or clrank@hughes.net). For others reading a hard copy of the Voice it may be too late to plan on a trip to DC, but we'll continue to update you about what else you can do to advance the Clean Water Protection Act through calls and letters to your Congressional Representatives.



MORE FROM PRESIDENT HUGH (Continued from p. 2)

letter to the new President. Focusing on the land we love, she puts the threat of mountaintop wind energy plants in a better perspective.

On a related subject: When New York Times columnist Gail Collins was a young reporter, she got a complaint that city workers were planting dead trees along a parkway in the Bronx. The men tried to assure her that the trees had lost their leaves because it was winter. They seemed not to notice that the late trees had been evergreens. Recently, in an interview about waste in the stimulus bill, Collins mentioned that story to a high-ranking Obama administration official who had worked on the plan. "There will be a dead tree planted, figuratively speaking," he said somberly. "That will happen."

"How could it not?" she wrote. "Much of the stimulus money is being channeled through state and local governments, through tens of

thousands of governors, mayors, county executives, transportation commissioners, parks superintendents and so on. Try to imagine the person in that pyramid with the lowest I.Q., and you'll understand that there's a dead-tree planter hidden in there somewhere."

Even those who are hoping the President's economic rescue plans succeed will know some dead trees (and dead-tree planters) when we see them. At the top of my list is the \$21 million our Department of Transportation wants to spend on a section of Corridor H in Grant and Tucker Counties. The mile or so of four-lane will parallel WV 93, a fairly level, gently curving stretch through old strip mines west of the Mt. Storm power plant. It has long passing zones, though one seldom has to use them. If ever there was a road that didn't need to be replaced, this is it. But it's "shovel-ready" for planting.

In the same way, an indiscriminating en-

thusiasm for alternative energy fueled by blank checks on the Treasury could destroy huge swaths of our wildest forests. Up there, one can find remnants from a previous Great Depression, when the Civilian Conservation Corps was employed to build fire lookout towers. The towers served us well for up to fifty years. Now, most have been disassembled, leaving small concrete footers among the trees. Compare what would be left after the twenty-five-year life span of wind energy turbines: along the wide roads, hundreds of tons of concrete per machine, a chain of permanent dead zones.

MORE ABOUT VALLEY FILLS (Continued from p. 1)

mountaintop removal mining permits that will destroy streams and threaten communities in Appalachia.

Legal Stuff

The National Environmental Policy Act is a procedural statute. It does not control the results of any governmental action. It only requires that the agency take a serious look at possible environmental consequences. Even if this serious look reveals environmental consequences of an action, NEPA itself does not require that those consequences be avoided.

Because of this feature of the National Environmental Policy Act, NEPA cases are typically fought over what the agency considered. Plaintiffs typically claim that the agency did not examine all possible environmental impacts.

In this case, the Highlands Conservancy, Ohio Valley Environmental Coalition, and Coal River Mountain Watch contended that the Army Corps of Engineers had a duty under NEPA to consider the environmental effects of the entire valley fill and the surrounding area. The Corps, on the other hand, contended that it only had jurisdiction over the stream itself, not the entire valley that contains the stream to be filled. Because of this, it only had to study the environmental impact upon the stream and its banks, not the whole fill.

In baseball, ties go to the runner. In law, both ties and close cases go to the agency. The Court determined that the Corps of Engineers had authority to determine the extent of its study. So long as it did not act unreasonably in making this determination the Court would not overturn it.

The Corps of Engineers had also allowed for what is called "mitigation" at these four permits. In general terms, this means that for every stream destroyed the company must create or improve another stream in the area so that the net result of the projects is zero.

The District Court had decided that the Corps had not even considered some of the ecological benefits of the headwater streams. The appeals Court once again deferred to the agency, reasoning that if it looked like mediation to the Corps of Engineers then it must be mediation.

The Corps of Engineers is also required to consider the cumulative effects of the permits it issued. The plaintiffs had argued that the Corps was just assuming that the "mitigation" it endorsed would reduce the effects of the operations to zero. The Corps concluded from that assumption that the cumulative effects would also be zero. Since the mitigation was flawed, the study of cumulative effects must also be flawed. The plaintiffs also argued that the Corps did not adequately study the cumulative



effects. *Photo by Vivian Stockman*

While the District Court agreed with the plaintiffs, the Court of Appeals said that the Corps of Engineers did what it believed to be an adequate study of the cumulative effects. If the Corps of Engineers did not act unreasonably then the Court would defer to its judgment. It also noted that the West Virginia Department of Environmental Protection had a duty to study the cumulative impact of mines it permitted. If the Corps missed anything, the West Virginia DEP would take care of it.

The Court of Appeals also considered the legality of what are known as "silt snakes." The valley fills themselves are generally located in the upper reaches of the valley. Water flows from the toe (the lowest point) in the fill and down the stream to a sediment pond where dirt settles out and relatively clean water is released.

The sediment ponds are typically some distance below the fill. Before the water from the fill reaches the sediment pond, it must travel some distance along these stream segments

(the "silt snakes") to the pond.

If these stream segments are waters of the United States which deserve protection under the Clean Water Act, then they could not be used for transporting silt from the toe of the fill to the sediment pond.

The Corps of Engineers treated these stream segments not as water that deserved protection but as part of a waste treatment system. Because of this interpretation, it was not required to protect them.

The Court of Appeals concluded that the Corps had never treated these stream segments as waters entitled to protection. By years of practice, this had turned into a longstanding agency policy which the Court did not consider to be unreasonable. Because of this, it allowed the policy to stand and did not require protection of these segments.

The decision was not unanimous. Judge Michael (the only judge on the panel that decided this case from West Virginia) dissented, noting "Today's decision will have far-reaching consequences for the environment of Appalachia. It is not disputed that the impact of filling valleys and headwaters streams is irreversible or that headwater streams provide crucial ecosystem functions."

What It All Means

The upshot of all this is that the flood gates have been opened for some 100 permits now in the queue with the Army Corps of Engineers and unleashed upon the land and water in West Virginia and Kentucky. For West Virginia, this means permits for 61 fills (32.5 miles of streams) which had already been issued but were held up by the litigation can now go ahead. West Virginia also had pending applications for 186 fills (102 miles of streams)

Kentucky has five fills (2.4 miles of streams) for which permits had been issued but were held up by litigation. Kentucky also has pending applications for 180 fills (76.5 miles of streams).

There are probably additional applications pending before the West Virginia Department of Environmental Protection in which the operator has not yet applied for a permit from the Corps of Engineers.

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.

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 John McFerrin, WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

SPRUCE AND FIR PLANTING ON CANAAN VALLEY NATIONAL WILDLIFE REFUGE

By Dave Saville

For over ten years now the West Virginia Highlands Conservancy has been working to protect and restore the red spruce and balsam fir forests in West Virginia. One of the ways we have been doing this is by collecting cones from these species of trees, extracting the seeds, growing seedlings and planting them back where we got the cones from.



This April, with the help of USF&WS cost share funding, we will be planting over 5,000 spruce and fir trees on the Refuge. Two AmeriCorps volunteers with the Appalachian Forest Heritage Area will be assisting with this effort.

2009 marks the 6th year that the Highlands Conservancy has organized a special weekend for West Virginia University students to come to the Refuge and help with this project. Several WVU student organizations have participated in the past, and this year will be no different. The annual 2-day restoration outing has benefited from the Sierra Student Coalition, Plant & Soil Science Club, Forestry, Wildlife & Fisheries, and Parks & Rec clubs. We often have students join us from other area Colleges



too including Fairmont State, Davis & Elkins, and Garrett Community College.

Because the spruce/fir forests have been severely reduced and fragmented in the central Appalachian highlands, our efforts are focused on expanding and connecting existing patches of spruce and fir.

These forests create unique wildlife habitat that is home to several rare, threatened or endangered species. Because the mission of the US Fish & Wildlife Service is to protect wildlife, they are very interested in protecting and restoring its habitat. The Canaan Valley National Wildlife Refuge staff has been very active since the Refuge's establishment in 1994 in doing just that. Refuge biologists have worked very hard to develop plans, seek funding, and undertake important, innovative and significant projects to protect and restore these forests therefore enhancing the habitat for the wildlife that lives there.



Other groups and individuals are welcome to attend. We have had several Boy Scout Troops, and local residents that help us each year too. This year's event will be held on April 18&19. We will meet at the Wildlife Refuge Headquarters and Visitor Center each day at 10am and travel to the planting site. This year we will also have an additional day, Sunday May 3, of tree planting. The Shepherdstown Presbyterian Church Youth Group will be spending the day finishing up this spring's planting effort. Others are welcome to join us as well, meeting at the Refuge Headquarters at

10am. Bring gloves and dress for the weather. We've seen it all over the years, and we plant trees rain or shine!



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.)



MON VOLUNTEER PROJECT (MVP)

By Dave Saville

The Forest Service faces a daunting task maintaining all the recreational facilities and protecting the ecological integrity of the nearly million acre Monongahela National Forest. It has faced serious staff and budget cuts and has had to close or curtail some of its public services. None of this makes it any easier for the agency to coordinate volunteer activities. Unfortunately, the district offices just don't have the man power to properly and adequately manage the potential benefits that volunteers could provide.

There are several organizations, including the Highlands Conservancy, that do their best to help with volunteer labor on various projects. Over the years we have been involved in numerous volunteer efforts. There has been very little however in the way of an organized coordinated program. The Appalachian Forest Heritage Area has a crew of AmeriCorps volunteers working on various projects in the area including a few who are assigned to work

on the Mon. This is good news indeed, as these talented enthusiastic folks can work with the agency to organize projects for volunteers to help with.

Nathan Welch, AmeriCorps volunteer working on the Gauley Ranger District has set up a series of trail work outings in the Cranberry Wilderness area for this summer. He is working on projects along the Middle Fork, North Fork and County Line Trails. These trails need more work than we can accomplish in a year, but workday projects will include drainage work, installing and maintaining water bars, placing stepping stones, cleaning out ditches as well as clearing the trail and brushing.

Nathan has scheduled 6 work days so far. Visit the Mountain Odyssey Outings schedule in the Highlands Voice, or online at www.wvhighlands.org, to keep up with the latest news and information about volunteer opportunities. We hope to soon be adding some volunteer trail work days on the northern Mon

too.

Another AmeriCorps volunteer, Evan Burkes, is working at the Mon Forest Supervisor's office in Elkins. He has been working with the new Forest Ecologist, Cynthia Sandeno, on invasive species control. Look for another article about this effort elsewhere in this issue of the Highlands Voice. Evan and Cynthia have scheduled 3 volunteer work days this spring for a "Garlic Mustard Challenge" to rid some of the Mon's special places of the serious threat of this invasive exotic plant.

We have just begun to discuss ways to maximize the benefits of volunteerism on the Mon. The MVP is the beginning of something we hope will grow into a more coordinated volunteer program for the Forest that will engage the public, improve recreational facilities, protect the resource and build a better sense of appreciation for this special place.

Conference on Ecology and Management of High-Elevation Forests of the Central and Southern Appalachian Mountains

May 14-15, 2009

Snowshoe Mountain Resort
Slatyfork, West Virginia

The Conference will bring together managers, practitioners, and researchers to provide a comprehensive examination of the state of our knowledge about high-elevation forests of the central and southern Appalachian Mountains. It will be jointly hosted by West Virginia University Division of Forestry and Natural Resources, USDA Forest Service, Northern Research Station, USDA Forest Service, Monongahela National Forest, US Fish and Wildlife Service, and The Nature Conservancy. It is also co-sponsored by the West Virginia Highlands Conservancy which is providing student scholarships.

Topics addressed in the Conference include Soils, Acid Deposition, Nutrient Cycling, Ecological Classification, Forest Dynamics, Birds, Wildlife, Fisheries, Forest Pests, Climate Change, Regeneration & Restoration.

Registration: The registration fee is **\$125**. After April 15 the late registration fee is **\$150**. This will cover handouts, breakfast, breaks and lunches on Thursday and Friday, and transportation for fieldtrips.

Conference Schedule: The conference will begin Wednesday night (May 13) with a reception (cash bar) at Snowshoe. Thursday's agenda will include plenary speakers in the morning, and breakout sessions in the afternoon. Oral presentations/breakout sessions will continue Friday morning, and field trips will be offered Friday afternoon. The schedule is still being developed, for details visit http://www.forestry.caf.wvu.edu/wvu_divforestry/SpruceAgenda.doc

Plenary Speakers: *Charles Cogbill* (Harvard Forest) will speak on the biogeography of high-elevation forests of the region, *Carolyn Copenheaver* (Va. Tech) on the history of the resource, *Greg Nowacki* (USDA Forest Service) on the current status of the resource, and *Mark Anderson* (TNC) on the resource under a climate change scenario.

Questions: If you have any questions, contact:

James Rentch, Division of Forestry and Natural Resources, West Virginia University, Morgantown, WV 26506-6125, 304-293-6466, jrentch2@wvu.edu



SPREADING THE WORD...

We are donating *Fighting to Protect the Highlands*, *The First Forty Years of the West Virginia Highlands Conservancy* to all the public libraries. Cindy Ellis has mailed or delivered 174 copies and has been well received.

Here are some photos of her adventures. Going clockwise from the top left, the photos are of Jackson County, Putnam County, Cabel County, and Buffalo. In comments that accompanied the donations, Hugh Rogers praised the book:

In comments accompanying the donations Conservancy President Hugh Rogers praised the book: The organization “has been working to preserve the beauty of our state’s mountain regions since 1965,” he said. “So, who is the West Virginia Highlands Conservancy? Where did it come from and what has it done? How has it survived?”

“The answers may be found in a new book by David Elkinton, ‘*Fighting to Protect the Highlands: The First Forty Years of the West Virginia Highlands Conservancy*.’

“For those who want to learn what the Highlands Conservancy has done, it is all here: Stopping the road building in Otter Creek, fighting to save Canaan Valley from a dam that would have flooded the area, restricting mountaintop removal mining and other illegal mining practices, working to preserve wilderness and free-flowing rivers, and advocating siting rules for wind farms.”

Elkinton’s book attempts to explain why these efforts turned out the way they did. Some of the issues discussed are:

- Why parts of the Monongahela National Forest are designated wilderness
- Why Corridor H follows the route it does
- Why Canaan Valley is home to a wildlife refuge rather than a pump storage reservoir.

“Without the West Virginia Highlands Conservancy, these and other controversies would have come out differently,” In addition to telling the organization’s story, Elkinton profiled 24 of its past and present leaders.



Join Now !!!

Name _____

Address _____

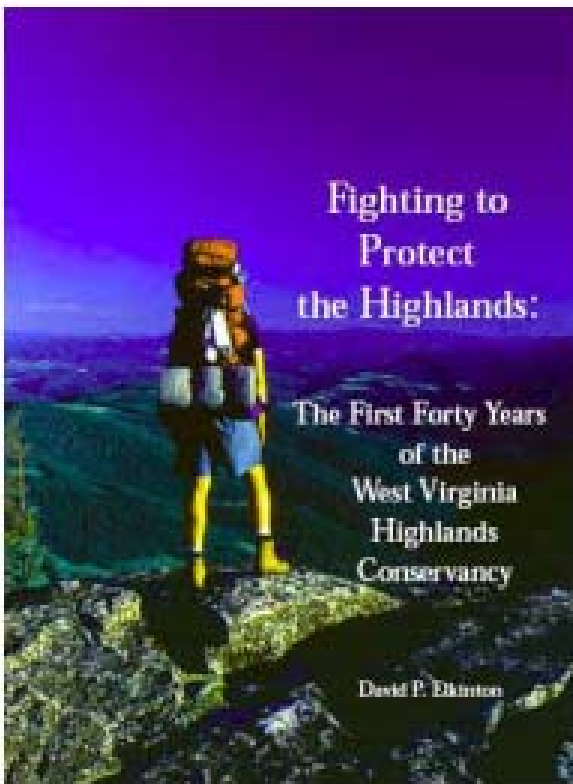
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Membership categories (circle one)			
	<u>Individual</u>	<u>Family</u>	<u>Org</u>
Senior	\$ 15		
Student	\$ 15		
Introductory			
Other	\$ 15		
Regular	\$ 25	\$ 35	\$ 50
Associate	\$ 50	\$ 75	\$ 100
Sustaining	\$ 100	\$ 150	\$ 200
Patron	\$ 250	\$ 500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

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

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



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 rerouted around key environmental landmarks, and concluding with the current controversy over wind farm development. One-third of the text tells the story of the Conservancy's never-ending fight to control the abuses of coal mining, especially mountaintop removal mining. The final chapter examines what makes this small, volunteer-driven organization so successful.

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

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

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

Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

AMERICAN CITIZENS IN APPALACHIA ARE LIVING IN A STATE OF TERROR

Dear Mr. President,

As I write this letter, I brace myself for another round of nerve-wracking explosives being detonated above my home in the mountains of West Virginia. Outside my door, pulverized rock dust, laden with diesel fuel and ammonium nitrate explosives hovers in the air, along with the residue of heavy metals that once lay dormant underground.

The mountain above me, once a thriving forest, has been blasted into a pile of rock and mud rubble. Two years ago, it was covered with rich black topsoil and abounded with hardwood trees, rhododendrons, ferns and flowers. The understory thrived with herbs such as ginseng, black cohosh, yellow root and many other medicinal plants. Black bears, deer, wild turkey, hawks, owls and thousands of [other] birds lived here. The mountain contained sparkling streams teeming with aquatic life and fish.

Now it is all gone. It is all dead. I live at the bottom of a mountain-top-removal coal-mining operation in the Peachtree community.

Mr. President Obama, I am writing you because we have simply run out of options. Last week, the 4th U.S. Circuit Court in Richmond, Va., overturned a federal court ruling for greater environmental restrictions on mountaintop-removal permits. Dozens of permits now stand to be rushed through. As you know, in December, the EPA under George W. Bush allowed an 11th-hour change to the stream buffer zone rule, further unleashing the coal companies to do as they please.

During your presidential campaign, you declared: "We have to find more environmentally sound ways of mining coal than simply blowing the tops off mountains."

That time is now. Or never.

Every day, more than 3 million pounds of explosives are detonated in our state to remove our mountains and expose the thin seams of coal. Over 470 mountains in Appalachia have been destroyed in this process, the coal scooped up and

hauled away to be burned at coal-fired power plants across our country and abroad. This includes the Potomac River Plant, which generates the electricity for the White House.

Mountaintop removal is the dirty secret in our nation's energy supply. If coal can't be mined clean, it can't be called clean. Here, at the point of extraction, coal passes through a preparation plant that manages to remove some, but not all, of the metals and toxins. Those separated impurities are stored in mammoth toxic sludge dams above our communities throughout Appalachia.

There are three sludge dams within 10 miles of my home. Coal companies are now blasting directly above and next to a dam above my home that contains over 2 billion gallons of toxic waste. That is the same seeping dam that hovers just 400 yards above the Marsh Fork Elementary School. As you know, coal sludge dams have failed before, and lives have been lost.

My family and I, like many American citizens in Appalachia, are living in a state of terror. Like sitting ducks waiting to be buried in an avalanche of mountain waste, or crushed by a falling boulder, we are trapped in a war zone within our own country.

In 1968, I served my country in Vietnam as part of the 1st Battalion 12th Marines, 3rd Marine Division. As you know, Appalachians have never failed to serve our country; our mountain riflemen stood with George Washington at the surrender of the British in Yorktown. West Virginia provided more per capita soldiers for the Union during the Civil War than any other state; we have given our blood for every war since.

We have also given our blood for the burden of coal in these mountains. My uncle died in the underground mines at the age of 17; another uncle was paralyzed from an accident. My dad worked in an underground mine. Many in my family have suffered from black-lung disease.

These mountains are our home. My family roots are deep in these mountains. We home-

steaded this area in the 1820s. This is where I was born. This is where I will die.

On Jan. 15, 1972, U.S. Sen. John D. Rockefeller made a speech at Morris Harvey College. He declared: "The government has turned its back on the many West Virginians who have borne out of their property and out of their pocket-book the destructive impact of strip-mining. We hear that the governor once claimed to have wept as he flew over the strip mine devastation of our state. Now it's the people who weep."

Our state government has turned its back on us in 2009.

Peachtree is but one of hundreds of Appalachian communities that are being bombed. Our property has been devalued to worthlessness. Our neighbors put their kids to bed at night with the fear of being crushed or swept away in toxic sludge. And the outside coal industries continue their criminal activity through misleading and false ads.

Mr. President, when I heard you talk during your campaign stops, it made me feel like there was hope for Peachtree and the Coal River Valley of West Virginia. Hope for me and my family.

Abraham Lincoln wrote that we cannot escape history: "The fiery trial through which we pass, will light us down, in honor or dishonor, to the latest generation."

I beg you to re-light our flame of hope and honor and immediately stop the coal companies from blasting so near our homes and endangering our lives. As you have said, we must find another way than blowing off the tops of our mountains. We must end mountaintop removal.

I also ask you to please put an end to these dangerous toxic-sludge dams.

With utmost respect, yours truly,
Bo Webb
Naoma, W.V.

A FLICKER OF HOPE

The "Appalachian Mountain Preservation Act" has been introduced into the Georgia legislature. It which would limit and then ban the use of coal from mountaintop removal mines. The bill would also put a five year moratorium on the construction of new coal fired power plants.

The response of the power industry was less than enthusiastic.

Thanks to long time WVHC member and Georgia resident Lou Greathouse for scoping out this item.

Speakers Available !!!!!

Does your school, church or civic group need a speaker or program presentation on a variety of environmental issues? Available topics include a slide show presentation on mountain top removal including up to date information on coal sludge pond and coal ash pond failures in Kentucky and Tennessee. Contact Julian Martin at 1525 Hampton Road, Charleston, WV 25314, or Martinjul@aol.com, or 304-342-8989.

NATIONAL PARK SERVICE CONCERNED ABOUT STRIP MINES NEAR GAULEY RIVER

The National Park Service has expressed concern over the proposed Bridge Fork West Surface Mine proposed by Powellton Coal Company. Here is its letter setting out its concerns.

January 22, 2009

Ed Wojtowicz
Permit Supervisor
DEP Regional Office
116 Industrial Drive
Oak Hill, WV 25901

RE: Powellton Coal Company, LLC 's application for renewal of Article 3 Permit Number S-3003-01

Dear Mr. Wajtowicz:

Please accept the following comments on the above referenced permit renewal application for the Powellton Coal Company LLC's Bridge Fork West Surface Mine. New River Gorge National River, the Gauley River National Recreation Area and the surrounding environs contain nationally significant aquatic, terrestrial, and recreational resources. The continued operation of Bridge Fork West Surface Mine, and its associated extensive violations for discharge of pollutants into waters of the United States causes us great concern for potential threats to these resources.

Associated with the mining permit is National Pollutant Discharge Elimination System (NPDES) Permit # WV 1019449 for discharging into Softwood Hollow, Grassy Lot Hollow and unnamed tributaries of Bridge Fork at Rich Creek. Rich Creek flows into the Gauley River just downstream of National Park Service administered lands of the Gauley River National Recreation Area (GRNRA).

Performance standards under the Federal Surface Mining Control and Reclamation Act (SMCRA) require that all discharges from permitted mining operations be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining. The West Virginia Surface Mining Rule states a similar standard that "Discharge from mining areas distributed by surface mining shall not violate effluent limitations or cause a violation of applicable water quality standards" 38 C.S.R. 2-14.5.b. According to Powellton's Discharge Monitoring Reports (DMR's) for WV/ NPDES Permit WV1019449 including reports through September 2008, Powellton has been exceeding permit limits for discharge for daily and monthly averages at an extremely high frequency, registering a substantial number of violations for multiple parameters including suspended solids, iron, manganese, and aluminum.

These pollutants pose a threat to aquatic life and human welfare. Precipitates of aluminum, iron, and manganese can coat stream bottom substrate limiting the available habitat for aquatic life, suspended solids are also harmful to aquatic life through the erosion of gills, and aluminum is known to be toxic to aquatic life, and has been associated with neurological and bone diseases in humans. The frequency of exceeding permit limits indicates a lack of commitment on the part of the permittee to employ adequate controls that will limit the impacts of this operation on downstream resources. The proximity of these activities and discharges to GRNRA may limit the abundance and productivity of aquatic life in and around GRNRA, particularly mobile species that oth-

erwise might use Rich Creek and its tributaries as refugia, spawning habitat or rearing habitat.

Prior to issuance of the original permit for this mining operation, it is assumed that a Probable Hydrological Consequences (PHC) determination and a Cumulative Hydrological Impact Analysis (CHIA) would have been required by the state. Considering the extent of violations to WV/NPDES Permit WV1019449 through operations of Bridge Fork West Surface Mine under Article 3 Permit Number S-3003-01 any rationale for determining "No Material Damage" to surrounding hydrology would no longer be valid since the determination would be dependent on discharge remaining within permit limits. We request that the PHC and CHIA be reconsidered and evaluated with the actual mine operations and associated discharges utilized instead of projected discharges or other now irrelevant measures.

The National Park Service is concerned about the continued operation of this mine as a stand-alone operation but is even more concerned about the cumulative impacts of this mine in association with other nearby mining operations (some operated by Powellton) within the same and adjacent watersheds. It appears that some of these operations have a propensity to grow beyond their original permit boundaries and/or scope of operations. Individual operations may be located within close proximity to other operations in a manner that they appear to be the same mine with extensive disturbance occurring concurrently within the same watershed. However, the permit process does not address these cumulative effects to the surrounding and downstream resources. When evaluated as a whole, the extensive mining operations in the vicinity of Rich Creek are jeopardizing the health of the watershed and the other values that are dependent upon it.

In consideration of the water quality violations at this site, apparent violations at other mine sites operated by Powellton, and the cumulative impacts to the environment, we request that DEP deny this permit renewal until a full evaluation of cumulative effects can occur with public input. In addition, site conditions, and current violations be fully investigated, and until Powellton can fully demonstrate compliance with all State and Federal standards throughout the site and all mine related activities.

If there are any questions please feel free to contact Scott Stonum, Natural Resource Specialist, at 304-465-6531.

Sincerely, Don Striker
Superintendent

cc: Laura Hill, Acting Field Supervisor, U.S. Fish and Wildlife Service, West Virginia Field Office, P.O. Box 1278, Elkins, WV 26241-1278

Ginger Mullins, Chief-Regulatory Branch, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701

ELECTRONIC VOICE AVAILABLE

The Highlands Voice is now available by e-mail. If you wish to continue receiving the printed version, you don't need to do anything. If, however, you would prefer to receive it by e-mail then contact Beth Little at blittle@citynet.net. It would come as an e-mail attachment and arrive a few days before the paper copy would have arrived.

Gone With The Windmills? A Plea to President Obama to Save the National Forests of Appalachia

Dear President Obama:

Thanks to you, America is turning green again, nearly forty years after I went “Back to the Land” as part of the first Earth Day generation. You came within twenty miles of my passive-aggressive solar homestead on Cross Mountain last October, when you spoke in Harrisonburg, Virginia.

Surely, as you flew into the Shenandoah Valley airport, you noticed to the west the long, sinuous lines of forest-covered mountains, fall colors blazing in faux fire.

A century ago you would have seen smoke billowing from real fires, caused by a rampage of steam-powered logging. Flooding caused by deforestation of the mountains became so costly by 1911 that Congress passed the Weeks Act, authorizing the U.S. Forest Service to buy land from willing sellers and repair environmental damage. Some of the highest ridges you saw when you looked westward are in national forests that were established then, along the spine of the Southern Appalachian Mountains.

These forests now face their greatest threat in a century.

Reflecting a nearly 50% nationwide increase in wind electricity plants in 2007, developers are arriving in what they themselves called “a gold rush” at a recent industry conference. There, a wind map ranked thin red currents along the highest Appalachian ridges as just possibly strong enough to power turbines for massive industrial wind installations.

Glossy ads for wind power always show turbines in open fields, never in forests. That’s because every turbine requires up to five acres of deforestation. Hundreds of turbines are being built here, burgeoning to tens of thousands if the U.S. Department of Energy indiscriminately pursues its “20% Wind Energy By 2030” program. Do the math, and factor in the forest fragmentation that multiplies the loss of habitat, and the super-wide new roads that destroy the last remote, wild ridges.

Slender, rocky ridges are blasted and bulldozed to flatten pads for turbines. Each pad requires hundreds of tons of concrete. After the 25 year life span of the huge machines, the pads remain as dead ground but possibly good tennis courts in a summer camp for giants in the future.

Deforestation is the largest source of greenhouse gas emissions after fossil fuel burning.

The rest of the world agreed at the recent U.N. climate summit to protect maturing forests that sequester huge amounts of carbon

dioxide — like those now healing from old abuse in the Southern Appalachians. In Transition to Green, the 400 pages of nature tips sent you by a coalition of environmental organizations, the first recommendation for the U.S. Department of Agriculture is to “manage the national forest system to secure climate benefits.”

Industrial wind will blow this opportunity

Florida Power & Light’s 44-turbine installation at Mountaineer, WV, where thousands of bats were killed in 2003, the first year of operation. The company now denies access to independent wildlife scientists. Courtesy of www.vawind.org.



away. It’s already blowing away a lot of wildlife. Turbine blades reach 450 feet above ridge crests where songbirds migrate, bats feed, and eagles rise on thermals. Just across the state line in West Virginia, thousands of creatures are being killed every year at new wind plants, the highest kills ever documented worldwide from turbines. The U.S. Fish and Wildlife Service strongly recommends against turbines on nearby Shenandoah Mountain due to the likelihood of killing endangered species, yet several projects are underway.

Some of the people living near turbines suffer from chronic sleeplessness and other symptoms of Wind Turbine Syndrome (including depression over loss of property values). Death, destruction and insomnia are marketed to urban consumers as “green” electricity, what little there is of it. Turbines produce only about 30% or less of their maximum rated capacity, and some of that is lost along hundreds of miles of transmission lines. When the wind does blow, the aging lines can hardly handle the surge.

What drives this high-cost/low-benefit gold rush is the federal production tax credit. More tax breaks beckon in national forests, where no local property taxes are levied so local communities wouldn’t share in revenues produced by turbines, plus the Forest Service helps

pay for building roads. In the three years that the federal tax credit hasn’t been reauthorized since first enacted in 1992, the skyrocketing wind industry plateaued like a mountaintop-removal coalmine.

The coal mining that has ravaged the land and people in part of Appalachia for a century is our major source of electricity, and is

obscenely destructive to forests. But destroying more forests in order to stop destroying forests doesn’t make sense. And building industrial wind plants in Appalachia isn’t change. It’s a 21st century version of the same old pattern of taking value out and leaving costs behind.

These ancient mountains are well-documented as the biologically richest temperate woodlands in the world, one of North America’s greatest natural treasures, rich in globally rare species and communities, including human ones. So you can’t dismiss my aging hippie protest merely as NIMBY, which in any case is simply love of place. It breaks my heart to see these murdered old mountains assaulted again.

Since 1911, the Forest Service has salvaged the land and regenerated trees in watersheds that, today, supply drinking water to millions of people (not to mention clean air). Tens of millions of people depend on these national forests for access to the outdoors, spending in local economies as they go. Timber from regulated harvests supports local companies.

National forests are the last vestige of the rural commons, where, as you noted in a recent speech, “the proud tradition of hunting is passed on through the generations.” Deer eat my flowers and I eat the deer in an Appalachian adaptation of flower power.

(More on the next page)

MORE FOR MR. OBAMA (Continued from p. 12)

No flowers bloom now; the mountain forests you saw in autumn glory are bark naked and blue with winter cold. Warmed by firewood from my hundred acres of oaks, I'm writing you on a computer plugged into nine solar panels that power my house. I believe in green energy so much that I've started a new savings fund to buy one of those million plug-in hybrid cars that you've promised to get on the road by 2015.

Industrial wind power has a place, and T. Boone Pickens knows exactly where that is: On the plains, where winds are incessant. Other potentially low impact sites are mid-western cropfields, eastern strip mines, and off-shore waters, much closer to the coastal cities that need the power.

But in forested rural areas like Appalachia, community-scale rather than industrial-scale would better contribute to your goal of 10% of our electricity from renewable sources by 2012. Solar panels and small wind turbines have enormous potential for on-site, small-scale power generation, with hardly a ripple on the grid.

Consider how much stronger our nation would be against disasters both natural and criminal if schools, hospitals, community centers, businesses, nursing homes, farms, houses and apartment buildings across the country made enough electricity to pump drinking water and refrigerate food.

Americans haven't enjoyed that kind of independence since they drank from dippers and packed pond ice in sawdust for the summer icebox. The decentralization of electricity represents a new perspective on the old rallying cry of democracy, "Power to the People!"

Can't we make some of that \$150 billion you want to invest in "building a clean energy future" available to ordinary people, small businesses and neighborhoods, as well as distant corporations? And can't we keep our national forests intact for future generations?

My hope for change is that you will answer, "Yes We Can!"

Yours in the Red, White, and Blue Ridge,
Chris Bolgiano

Ms. Bolgiano is a writer living in Fulks Run, Virginia. She may be reached at bolgiace@jmu.edu, www.chrisbolgiano.com. She is a long time member of the West Virginia Highlands Conservancy. Mr. Obama is the President of the United States, living in Washington, D.C.

WINDMILLS IN MINGO COUNTY?

According to a report in *The Williamson Daily News* the northern part of Mingo County has been identified as a potential site for a wind turbine project, which would harness the wind to create electricity. Just and Open Businesses that are Sustainable (JOBS) says the area around Kermit, Breeden and Dingess was selected by use of meteorological research and airflow data gathered from airports. J.O.B.S. is a citizens group working for community improvement in southern West Virginia.

JOBS has been cooperating with Gamesa, a wind turbine manufacturer, in an effort to bring the wind turbines to southern West Virginia.

Supporting Documents Suggested by Ms. Bolgiano

Arnett, E.B., et al. 2007. Impacts of wind energy facilities on wildlife and wildlife habitat. Wildlife Society Technical Review 07-2. Bethesda, MD: The Wildlife Society. The Wildlife Society is a national association of natural resource managers.

National Library of Medicine. <http://www.nlm.nih.gov/> Pubmed and Environmental Health and Toxicology databases (approx. 30 other citations available):

- Harding, G. et al. Wind turbines, flicker, and photosensitive epilepsy: characterizing the flashing that may precipitate seizures and optimizing guidelines to prevent them. *Epilepsia*. 2008 Jun;49(6):1095-8.

- Findeis, H. and E. Peters. Disturbing effects of low frequency sound immissions (sic) and vibrations in residential buildings. *Noise Health*. 2004 Apr-Jun;6(23):29-35.

- Pedersen, E. Wind turbine noise, annoyance & self-reported health and well-being in different living environments. *Occup. Environ. Med*. 2007 Jul;64(7):480-6.

National Research Council of the National Academies. Environmental Impacts of Wind-Energy Projects. 2007. Washington, D.C.: The National Academies Press. www.nap.edu

Pierpont, Nina. Wind Turbine Syndrome: a Report on a Natural Experiment. In publication. Excerpts at www.windturbinesyndrome.com/.

Transition to Green: Environmental Transition Recommendations for the Obama Administration. Nov. 2008. docs.nrdc.org/legislation/leg_08112401.asp

U.S. Fish and Wildlife Service. Elkins, West Virginia Field Office. November 16, 2007. 12 page letter "Re: Proposed Construction and Operation of a Wind Power Facility, In Pendleton and Hardy Counties, WV." vawind.org/Assets/Docs/USFWS-111607.pdf

Please see also www.vawind.org for extensive further coverage of wind power issues in eastern forested areas. See also www.windaction.org, www.nationalwind.org/, www.stopillwind and hundreds of other sites for the worldwide grass-roots struggle to make industrial wind responsive to environmental and human health concerns.

West Virginia Mountain Odyssey



Outings, Education and Beyond

Sunday March 8, Carefree Snowshoe Tour; 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. Led by Canaan Valley Master Naturalists Bruce and Andy Dalton, this tour will include natural history and local lore. Visit www.whitegrass.com or call 304-866-4114.

Saturday March 14, Winter Bird Walk; 8am, meet at the Canaan Valley National Wildlife Refuge Visitor Center, led by Casey Rucker. Questions call 1-304-866-3858.

Sunday March 15, Gateway To The Refuge - Canaan Valley Balsam Fir; 10 am Whitegrass Ski Touring Center. This trek, led by The Nature Conservancy's Mike Powell, will visit a local balsam fir swamp where you will learn about this unique species of tree and the efforts that are being undertaken to protect and conserve it. These Sunday treks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit www.whitegrass.com or call 304-866-4114.

Saturday March 21, Valley Vibes - A Sense of Wonder; 7 pm, at the Canaan Valley National Wildlife Refuge Visitor Center. In 1962 Rachel Carson alerted us to the problems of overuse of pesticides. Actress Kaiulani Lee portrays Rachel Carson in her one woman show, now captured on video. How has Ms. Carson's work changed how we use pesticides today? Join us to view the video and explore. Questions call 1-304-866-3858.

Saturday, March 21 Holly River State Park Tour. Meet at Headquarters at 11 a.m. Hike down left fork of the Holly nine miles to Old Lick Creek and then one mile (flat, slow) along the creek. Some fishing opportunities. We come out at Sutton Lake, skirting it with a ten mile drive through hills and farms to I-79 near Sutton. We will arrive there at about 5:00 p.m. For more information contact Don Gasper at 472-3704. Otherwise just show up. You may get your feet wet.

Sunday March 29, Gateway to the Refuge – The Stream Morphology of Freeland Run; 10am Whitegrass Ski Touring Center. Snowshoe walk led by Canaan Valley Institute Geologist Ryan Gaujot. Ryan will take the group on a trek along Freeland Run to look at stream type, channel and floodplain stability, causes of impairment, and lead a discussion how specific sites might be repaired. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit www.whitegrass.com or call 304-866-4114.

Saturday & Sunday April 18&19, Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge; Join the Highlands Conservancy, WVU students, Wildlife Refuge Staff and others for our annual red spruce and balsam fir tree planting weekend. Meet at the Wildlife Refuge Headquarters on Rt. 32 at 10 am on each day. Rain or shine, dress appropriately for the weather, bring gloves. Tools and lunch provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, April 25, Garlic Mustard Challenge, Big Bend Campground; Meet at 9am at the Campground check-in station. Join us as we get our garlic mustard eradication effort underway. Volunteer for the whole day, or join us for any part of it. Come dressed for the weather, bring gloves and take matters into your own hands. Visit <http://www.appalachianforest.us/> for more information or contact Evan Burks at 304-636-1800 ext. 224

Sunday May 3, Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge; Join the Highlands Conservancy, Wildlife Refuge Staff and others in our efforts to restore the high elevation red spruce ecosystem by planting red spruce and balsam fir trees. Meet at the Wildlife Refuge Headquarters on Rt. 32 at 10 am. Rain or shine, dress appropriately for the weather, bring gloves. Tools and lunch provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday May 9, Driving tour of Spruce Knob area. Meet at the lake spillway at 11 a.m. Very short easy hikes to look over the forest and trout streams. We will leave from the Spruce Knob parking lot at 4:00 p.m. For more information contact Don Gasper at 472-3704. Otherwise just show up.

More on the next page

MORE OUTINGS (Continued from previous page)

Saturday, May 23, Garlic Mustard Challenge, Summit Lake; Meet at 9am at the Campground check-in station. Volunteer with us as we work to eradicate garlic mustard at the Lake. Volunteer for the whole day, or join us for any part of it. Come dressed for the weather, bring gloves and take matters into your own hands. Visit <http://www.appalachianforest.us/> for more information or contact Evan Burks at 304-636-1800 ext. 224

Saturday, May 23, North Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday to Monday, May 23-25, Seneca Creek Backpack with a day hike to the High Meadows. We hope to cover some previously unexplored trails on the first day. Daily mileage 8/8/7. Pre-register with Mike Juskelis 410-439-4964, mjuskelis@cablespeed.com.

Saturday June 20, Day hike into Lower Otter Creek Wilderness. Meet at McDonalds in Parsons at 11:00 a.m. After creek crossing the three mile trail out along the beautiful stream is easy. Out by 5:00 p.m. For more information contact Don Gasper at 472-3704. Otherwise just show up.

Saturday, June 20, County Line Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the County Line Trailhead along the Williams River Road. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, July 11, Middle Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, July 18, County Line Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the 3 Forks of Williams Trailhead. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday to Tuesday, July 25-28, Seneca Shadows Car Camping with 2 day hikes, MNF, VA. This campground is meticulously maintained. The hikes will include a 10 mile shuttle hike across North Fork Mountain with tons of views and a 10 mile circuit in Dolly Sods North. Optional hike to the top of Seneca Rocks for early arrivals. Pre-register with Mike Juskelis 410-439-4964, mjuskelis@cablespeed.com.

Saturday, August 1, North Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, August 8, Middle Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the 3 Forks of Williams Trailhead. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday to Tuesday, October 24-27, Douthat State Park Car Camp with 2 Day Hikes, VA. Camp in the oldest park in the Old Dominion. Hikes are moderate to strenuous in difficulty and ranging from 7 to 10 miles in length. Lots of views. Pre-register with Mike Juskelis 410-439-4964, 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.

JOIN THE 2009 GARLIC MUSTARD CHALLENGE!

“WEST VIRGINIA: WILD AND WEED FREE”

By Cynthia Sandeno and Evan Burks

Finding quality time outdoors that everyone can enjoy and learn from can be difficult. The Appalachian Forest Heritage Area (AFHA), AmeriCorps, West Virginia Highlands Conservancy and Monongahela National Forest have joined forces to offer outdoor enthusiasts an opportunity to help make a difference in the forests across the state of West Virginia. We will be sponsoring our first annual “Garlic Mustard Challenge” to provide an opportunity for people to learn about nonnative invasive species and to help us remove 10,000 pounds of garlic mustard from public lands.

Garlic Mustard has gained much attention in recent years for its ability to rapidly invade wooded habitats from disturbed areas. Garlic



mustard threatens the abundant wildflowers and diverse forest ecosystem of West Virginia. Many native wildflowers that hikers enjoy seeing during the spring (such as spring beauty, wild ginger, bloodroot, Dutchman’s breeches, trilliums, and toothworts) occur in the same habitat as garlic mustard. When garlic mustard is introduced to a new area, it outcompetes our native plants by aggressively monopolizing light, moisture, nutrients, soil, and space. Many wildlife species that depend on spring native plants for their foliage, pollen, nectar, fruits, seeds, and roots are deprived of these essential food sources when garlic mustard becomes established. And, we are deprived of the vibrant display of beautiful spring wildflowers.

Originally introduced by European settlers for medicinal purposes and use in cooking, garlic mustard is now spreading throughout river floodplains, forests, roadsides, edges of woods, and along trails. That’s why we have teamed up to challenge you to do your part to keep West Virginia “Wild and Weed Free.” We will be hosting

three garlic mustard pulls across the state (others may be added at a later date), and we need your help. You can get a group of friends together and join one of our organized pulls, or you can even pull from your own yard. Every bag counts. And, a trophy will be given to those that pull the most! We will even teach you how to cook the plants that we collect (there are many popular recipes).

The “2009 Garlic Mustard Challenge” will bring together a diverse range of people from all backgrounds and walks of life to work together to stop the spread of one of the most invasive species found in our state. This event is designed to be an enjoyable and memorable experience for all. And, we definitely need your help. The dates and locations for individual garlic mustard pulls are:

- Big Bend Campground – April 25, 2009,
- Pocahontas County 4-H Camp – May 16, 2009, and
- Summit Lake – May 23, 2009.

Our website will be up and running in early March, so be sure to visit <http://www.appalachianforest.us/> for final information on the

“2009 Garlic Mustard Challenge.” Or, contact Evan Burks at 304-636-1800 ext. 224. Take matters into your own hands and join us for this important event!



Cynthia Sandeno is a Forest Service Ecologist on the Monongahela National Forest and Evan Burks is an AmeriCorps Volunteer with the Appalachian Forest Heritage Area working on the Mon National Forest.

NON-NATIVE INVASIVE SPECIES

WHAT ARE THEY AND WHY SHOULD I CARE?

By Cynthia Sandeno

Chances are that you will be out hiking this summer, and when you do, it is almost guaranteed that you will encounter non-native invasive species (NNIS). A non-native invasive species is one that is not native to the area, but has been introduced, is starting to spread, and is causing damage to the natural environment. Since these plants are in a new location they lack natural predators, parasites, and competitors allowing them to spread quickly. Non-native invasive species rapidly form large populations that can displace native species, reduce wildlife habitats, disrupt ecosystems, and harm recreational activities such as fishing, boating, and even hiking.

Invasive Species introduced into the United States from around the globe are affecting plant and animal communities on our farms, in our parks, waters, forests, and backyards. They also have impacts on the economy and have proved to be one of the main drivers behind the loss of biodiversity in many ecosystems. In the United States alone, damage and control costs associated with invading nonnative species add up to over \$138 billion per year. And, these costs do not include the environmental damages that these species cause. How can you assign a monetary value to species extinctions or losses in biodiversity and aesthetics? Currently, it is estimated that about 42% of the species that are listed as threatened or endangered under the Endangered Species Act are at risk primarily because of

competition with and predation by non-native species.

Invasive species (such as kudzu, garlic mustard, zebra mussels, hemlock woolly Adelgid, emerald ash borers, tree of heaven, hydrilla, West Nile virus, and Sudden Oak Death pathogen) have had devastating impacts on our native communities, agricultural yields, recreational opportunities, and ultimately our local economy. They are one of the greatest threats to the natural ecosystems of West Virginia including our forests, grasslands, wetlands, lakes, and streams. At this time, there are an estimated 1,000 non-native species established in the state. And, it is estimated that nonnative species make up:

- 28% of West Virginia's plants,
- 6% of its mammals,
- 3.5% of its birds,
- 2.5% of its fish,
- 10% of its insects, and
- 2.5% of aquatic invertebrates.

For these reasons, invasive species are of national and global concern. And, they should be our concern as well. Although people play a major role in spreading invasive species, we can also help control them. Together, we can save our favorite places. One of the most important things that we can do is raise awareness about invasive plants. Become aware about the differences between native and non-native species that threaten our native commu-

nities in West Virginia. A great place to get more information is <http://www.wvdnr.gov/wildlife/invasivewv.shtm>. Once you know more about these species, help educate others about the potential impacts of non-native species.

Controlling invasive species is difficult and getting rid of large populations can be nearly impossible. Therefore, prevention is by far the most cost-effective strategy. When you go hiking in a natural area, be sure that you have clean boots, clothing, and gear. These items can contain soil, seeds, vegetative debris, or other material from past outdoor experiences that could contain non-native seeds or plant parts. You don't want to help spread these species.

Also, early detection of invasive species and a rapid response is important to keep infestations of these plants from becoming too large to manage. If you find an unfamiliar plant and it appears to be spreading, have it identified by your public land manager or local extension agent. If it is a non-native species, you can play a role in keeping the species from spreading. And, of course, you can always take a more active role - volunteer. Many groups have organized weed pulls and need help to successfully remove non-native invasive species. See this newsletter to learn more about a great opportunity to help stop the spread of one of the most invasive species found in our state, garlic mustard! Help keep the forests of West Virginia wild and weed free!

WATERKEEPERS BEGIN "CLEAN COAL" CAMPAIGN

Waterkeeper Alliance has launched a campaign designed to challenge the widely disseminated (at least by the coal industry and its supporters) view that coal can be clean. It has established a web site (www.thedirtylie.com) with information challenging this assumption.

From cradle to grave, coal is a filthy source of energy that impacts all of us. The campaign address the entire coal cycle from mining to transportation to burning to waste storage and climate change and the effects each has on public and environmental health, miner and community safety, economics, and renewable sources of energy.

The website contains scientific and legal facts, videos, and graphics challenging the assumption that coal can ever be clean.

This campaign is comprehensive; it considers coal from cradle to grave. While many other groups are focusing on a singular aspect of coal use, such as climate change, this campaign is targeting the entire coal cycle. The Waterkeepers' approach negates industry's stop-gap responses to specific issues, like carbon sequestration technologies to address climate change or sorbent injection for mercury capture. Its position is that no matter what the coal industry does, coal can never be clean.

The website also contains a "Take Action" portion dedicated to citizen engagement and advocacy, and includes tools such as petitions and action alerts to elected officials and industry representatives; downloadable banners, desktops, and widgets; template letters to the press, grocers, and utilities; energy conservation measures; and The Dirty Lie posters and "Missing Mountain" flyers to hang in your community.

Waterkeeper Alliance is one of the world's fastest growing environmental organizations, with nearly 200 local Waterkeepers patrolling rivers, lakes and coastal waterways on six continents. These Waterkeepers include Cindy Rank, chair of the Mining Committee of the West Virginia Highlands Conservancy. For more information please visit www.waterkeeper.org.

GROUPS CALL FOR REGULATION OF POWER PLANT WASTE

The recent disaster at TVA's Kingston Plant stands as a startling reminder of the dire need for federal standards for the disposal of coal combustion waste (CCW).

Neither Congress nor the Environmental Protection Agency (EPA) has stepped up to set federal standards for the safe disposal of coal combustion waste. Five years ago, they ignored the plea of over 125 environmental groups to ban the dangerous use of "wet" disposal of coal combustion waste—the precise disposal method that led to the Kingston breach. In 2007, they again refused to adopt regulations to ensure safe CCW disposal practices, even after we presented them with a complete set of model regulations based on similar EPA regulations as a guide—they have repeatedly refused to act despite their promise in the 2000 Determination to develop regulations.

The Tennessee TVA disaster spurred a Senate hearing immediately after the incident and in February 2009 the House of Representatives sponsored a hearing on Congressman Rahall's call for the Office of Surface Mining to regulate at least the safety aspects of impoundment structures used to contain coal ash waste. Citizen groups who have contacted EPA repeated over these past several years have stepped up their efforts.

The letter below was sent to EPA Administrator Lisa Jackson, urging her to finally act to set federal standards for CCW disposal and outlines some broad principles her administration can use as a guide in their creation. Drafted by the Environmental Integrity Project and Earthjustice, the letter was signed by over 100 citizen groups – including the West Virginia Highlands Conservancy.

Honorable Lisa Jackson
Administrator, United States Environmental Protection Agency

February, 2009

Dear Administrator Jackson:

Coal combustion waste poses a serious threat to the environment and public health across the United States. Nearly a hundred million tons of toxic coal ash and related combustion wastes pile up in unlined ponds and pits across the United States every year. The disaster at TVA's Kingston plant dramatized the need for federal standards for safe disposal of these wastes, which are virtually un-

regulated by the U.S. Environmental Protection Agency (EPA). After eight years of counterproductive backpedaling, we are confident that you will chart a new, responsible course for the Agency by supporting the adoption of standards, whether reflected in legislation or new regulations, that reflect the gravity of the situation and are guided by a consistent set of principles. In this regard, we urge you to recognize the following:

1. The EPA has been weighing whether and how to regulate coal combustion wastes for at least a decade, while this toxic material has continued to leak or spill from unsafe dumpsites. Nearly five years ago, a coalition of 125 environmental groups petitioned the Agency to stop disposal of coal ash in the kind of wet "surface impoundment" that gave way in Kingston. The evidence is in, and the Agency needs to act now to regulate the disposal of coal combustion wastes under Subtitle C of the Resource Conservation and Recovery Act.

2. The EPA should consult with the Office of Surface Mining and other federal agencies as appropriate. But the EPA must assume the lead responsibility for writing the rules, as it is the federal agency with the broadest statutory mandate to protect both human health and the environment, and because it has the expertise and experience to write and enforce hazardous waste regulations.

3. Standards should be designed to protect both public health and natural resources, taking into account existing federal and state standards for protecting drinking water and aquatic life.

4. Regulations should apply to all forms of land disposal, not just surface impoundments, and should be designed to prevent slow leaks as well as catastrophic structural failures. EPA's 2007 "Human and Ecological Risk Assessment from Coal Combustion Wastes" documented the highest cancer risks from surface impoundments, but also found unacceptable health risks from clay-lined coal combustion waste landfills leaking arsenic into groundwater. The same study showed that both impoundments and landfills threaten to overwhelm aquatic ecosystems with toxic levels of other heavy metals.

5. The wet storage or disposal of coal combustion waste should be phased out. All con-

tainment structures around coal combustion waste surface impoundments should be examined immediately to ensure their structural stability, and contained wastes should be transferred to lined and consistently covered landfills located outside of flood plains. Active surface impoundments should be closed and emptied within two years. Monitoring and cleanup standards should be required for impoundments that have already closed, and any remaining ash should be transferred to dry disposal sites within five years.

6. Coal combustion waste should be carefully analyzed to determine its toxic constituents and the likelihood that contaminants will leach under real world conditions. This characterization should include test measures called for in the National Research Council's 2006 report, Managing Coal Combustion Residues in Mines, and recommended by the EPA's own Science Advisory Board to evaluate the hazards of coal combustion waste at existing and proposed disposal sites.

7. The topography and hydrogeology of proposed disposal sites should be carefully examined to evaluate the likelihood that toxic metals and other contaminants will migrate offsite. Siting requirements should keep coal combustion waste landfills out of locations that are vulnerable to leaks, contamination, or major breaches of waste into the surrounding environment, such as flood plains, wetlands, sandy or gravel soils, shallow groundwater tables, active seismic fault lines, karst zones, and sensitive wildlife habitat.

8. Coal combustion waste disposal facilities should be designed to prevent offsite contamination. Standards should include placement of waste well above the water table, composite synthetic liners to prevent leaks, leachate collection systems to trap and treat any wastes that do escape, caps and covers to minimize the creation of leachate, and fugitive dust controls to eliminate dispersion of dust or fine particles. The discharge of any wastes into groundwater, surface water or air should be strictly prohibited.

9. Groundwater and surface water should be sampled to fully characterize baseline (pre-disposal) water quality and monitored above and below a disposal site and in likely pathways for offsite migration of toxic metals or other pollutants. Samples should be collected frequently enough to detect contami-

MORE ON POWER PLANT WASTE (Continued from previous page)

nation and long enough to take into account that pollutants may be released over an extended period of time. Monitoring should be designed with clear corrective action standards to detect and prevent contamination from the full range of pollutants that are associated with coal combustion waste.

10. Site owners and operators should assume responsibility for monitoring of disposal sites for at least 30 years after closure, and for cleaning up any contamination that may result during that time. Owners or operators should be required to demonstrate that they have the financial means to meet these obligations and post appropriate financial assurance to ensure these obligations are promptly met.

11. Federally enforceable permits should be required for the construction or operation of new or expanded coal combustion waste disposal sites. The public should have the opportunity to participate in permit proceedings, submit comments, request a public hearing, and appeal a final decision by EPA or the authorized state agency.

12. Unsafe practices should not be sheltered under so-called "beneficial use" exemptions. In particular, the use of coal ash to "reclaim" surface or underground mines, including abandoned mines, should be subject to the same stringent standards to prevent offsite contamination that apply to land disposal facilities. As recommended by the National Research Council, the characteristics of both coal combustion waste and potential reclamation sites should be evaluated to determine whether minefilling is suitable for specific locations. EPA, in consultation with the Office of Surface Mining, should promulgate enforceable federal regulations governing the disposal of coal ash in mines.

We hope these principles provide a useful framework as the Agency moves forward to address this important issue. We also recognize that you have inherited a backlog of urgent environmental problems that need your attention.

But we feel confident that you will agree that it is important for the EPA to act as soon as possible. The Agency first recognized coal ash to be a contingent hazardous waste requiring safe standards for disposal in the regulatory determination dated March 5, 2000, which it posted on its website. That decision was based on years of study, and

over the past decade, the evidence to support federal standards has continued to accumulate. For example:

--The number of damage cases where ground water and surface water have been contaminated by coal ash has more than doubled since the publication of EPA's Final Regulatory Determination on Wastes from the Combustion of Fossil Fuels, 65 Fed. Reg. 32214 (May 22, 2000). This has occurred despite the fact that EPA has not searched independently for damage cases since 2000 nor has the Agency updated its damage case list since 2005. As a result, dozens of documented cases of substantial releases and contamination are absent from the agency's list.

--Reports published by EPA's Office of Research and Development indicate that coal combustion waste leaches hazardous constituents such as arsenic, cadmium, antimony, selenium and other pollutants in much greater quantities than was previously recognized in EPA's March 1999 Report to Congress: Wastes from the Combustion of Fossil Fuels. The Agency's Office of Research and Development has recognized that air pollution controls will transfer even larger quantities of heavy metals into ash, scrubber sludge, or other combustion wastes, and these will be dumped into impoundments or landfills that are not designed to contain toxic waste.

--EPA reports published in 2005 and 2006 have documented that the majority of states still lack regulations mandating basic safeguards at waste disposal sites, including liners and groundwater monitoring. See U.S. Dep't of Energy & U.S. Env'tl. Prot. Agency, Coal Combustion Waste Management at Landfills and Surface Impoundments, 1994-2004 (Aug. 2006) and DPRA Inc., Estimation of Costs for Regulating Fossil Fuel Combustion Ash Management at Large Electric Utilities Under Part 258 (prepared for the Office of Solid Waste, U.S. Env'tl. Prot. Agency) (Nov. 30, 2005).

--The National Research Council warned in 2006 that coal ash used to reclaim abandoned mines could release their toxic burden into groundwater or surface water, unless the federal government established safe standards for this practice.

--As noted above, the EPA's 2007 assessment estimated risks to both human health and aquatic life from surface impoundments and landfills to be well above levels that EPA generally considers "acceptable."

EPA's failure to act to prevent the hazards documented extensively in the Agency's

own studies is difficult to understand. So is the Agency's refusal to respond to a Petition for Rulemaking submitted in February 2004 and signed by 125 environmental groups, which requested the prohibition of disposal of coal ash in water and the regulation of disposal sites under Subtitle C of RCRA. EPA has essentially done nothing to move toward regulation of the waste since the publication of a Notice of Availability in August 2007.

We hope that under your leadership, the Agency will put an end to this waiting game, and we are ready to do our part. In January of 2007, a coalition of more than forty environmental groups delivered a detailed model of coal combustion waste regulations that the Agency should use as a template for new federal regulations. Our proposal provides a good starting point, but should be supplemented to account for what has been learned from the disasters in Tennessee and Alabama, as well as EPA's Human and Ecological Risk Assessment and the documents cited above.

It is time to face the obvious: coal combustion waste needs to be regulated as the hazardous waste that it is, before even more damage is done. The evidence is in, and the time to act is now.

Thank you for considering our views.

HATS FOR SALE

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

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

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

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

Pride

By Dawn Baldwin

Look at that bird.

I stop what I'm doing to crane my neck and stare. The bird soars higher and still higher, climbing a thermal as if it were a spiral staircase. He's following a flight plan charted long ago by Icarus. He's clearly unconcerned by his closeness to the sun.

The bird gives no sign of effort and rises as if pulled. For a moment I rise on the current with him. Pulled along waves of wind and light, I forget to breathe. I forget myself.

Until I notice the pronounced dihedral—the distinctive deep “V” in which the turkey vulture holds its wings—and catch sight of the unmistakable, two-toned, black-and-silvery under-wing feathers.

It's just a vulture.

Disappointment washes over me, not unlike the hot flush of embarrassment that follows being asked to dance by the least suitable person in the room.

When I was so very much expecting to spend the evening dancing with someone else.

Just a vulture.

Merely, only, nothing more than a vulture. Not a redtailed hawk, not an osprey, nor a heron. Certainly no golden eagle.

Just a vulture. The raptor of least-suitable genus. And yet, for a moment, a bare moment, the *fact* of this bird soaring in the sky overwhelms all of my cultural bias against him. For this bare moment, thought recedes, words fail. The internal chatter stops.

I am receptive.

Wonder silences prejudice.

The distance I'd learned to put between us contracts. My heart rises to meet the bird and my very bones are lightened.

I'm not thinking in such a moment. Wonder is not a thought. Wonder is not a choice. Wonder is not willed into life; it is only received. And very much like love, it is most powerful when I get out of the way. When I turn off the old tapes and my voice is silenced. When it's replaced with a heartbeat, with the sound of wind in upturned feathers.

When there's nothing to do but listen.

That fleeting moment when I am truly humbled. When I'm not all wrapped up in cultivating or exalting or protecting *me*. When Self, with all its weighty baggage, ceases to matter. I leave it behind, on the ground, beneath me.

And then, the moment passes.

Ego anchors my heart with words, allowing my mind to reel it in, to bring it back down to Earth. To claim it as *mine, all mine, mine alone*. Ego tells me my heart is half-empty—I haven't enough to share. Far too often, I believe every word. They are, after all, words I've grown up with, words I'm accustomed to hearing.

It's just a vulture.

My mind engages and the name adheres: *Vulture*. Then the *just* attaches and wonder turns into scorn. The momentarily blurred boundary is crisply redrawn, and the distance between us re-established with the use of a well-worn labeling system: *grotesque, nasty, scavenger, carrion-eater*. Each word relays one message loud and clear: *The vulture is nothing whatsoever like me.*

Why do I do this?

The energy that fuels such prejudice would seem to come from an unhinged, delusional pride. Delusional because it's based on a presumed superiority that simply *cannot be known*. Not with the certainty that prejudice burns as fuel.

Still, I feed it.

Just a robin. Just a wren. Just a garter snake. Just a sugar ant. Just a field mouse. Just a grey squirrel. Just a dove—which is, after all, merely a pigeon. No healthy parent thinks of her children in such icy, stingy terms. Surely the Creator has equivalent fealty for all creations, whether numerous or rare, flashy or plain. Regardless of the type of service each provides—his or her particular, designed-in duty to existence. I can't imagine the Creator making arbitrary judgments as to worth, or cursing any creation *mere*.

So how dare I, a creation myself, append a minimizing qualifier—*just*—to any of my innumerable kin?

Yet this is what I do. I do it reflexively—for the most part unaware that I am, indeed, making a choice. Choosing to reinforce my boundaries, rather than let them dissolve. Choosing to tether my heart and hold tight, rather than allow it to soar.

The choice is mine, all mine

STILL IN NEED OF SOMETHING TO READ: BOOKS AND BLOGS

The Hawks Nest Tunnel: An Unabridged History by Patricia Spangler. Published by Whthe-North Publishing, 2008

Reviewed by Dave Fouts

Using mostly primary source materials, Patricia Spangler has written what may be the definitive work on America's worst industrial disaster, the Hawks Nest tunnel. From an extensive collection, gathered over the last ten years, Ms. Spangler has selected a wide range of documents, including: a Congressional Committee investigation, reports and letters from physicians and attorneys, interviews with surviving workers and family members, and many articles from the local and regional press. What becomes clear is a sordid tale of greed, deception, bigotry, and violence on the part of two corporations in their quest for excessive financial gain. The following summary is taken from her book.

In the Spring of 1930, drilling began on a tunnel to short circuit two curves in the New River between Hawks Nest and Gauley Junction in Fayette County, West Virginia. After buying thousands of acres along the New and Kanawha Rivers, Union Carbide formed the New-Kanawha Power Company, apparently as a ruse to convince the West Virginia Public Service Commission to approve an application to build a dam across the New River at Hawks Nest, since the company was soon dissolved and never for a day operated as a public service utility. A tunnel was planned that would short circuit two curves in the New River and deliver water down a 163 ft. drop to generate electricity at Gauley Junction, for a planned metallurgical plant. When it was discovered that they would be drilling through nearly pure silica, Union Carbide enlarged the tunnel's diameter in order to obtain silica for a manufacturing process. However, they conveniently forgot to publicly mention that the rock was silica, known to be a threat to miner's health since antiquity.

The actual tunnel construction was contracted to an engineering firm (Rinehart and Dennis of Charlottesville, VA) to be completed in two years. This company also failed to inform employees of the high concentration of silica that they would be drilling through and no provisions were made to reduce dust exposure. In fact, in an effort to beat the deadline (the tunnel was completed in 18 months) most of the drilling was done dry which greatly increased dust volumes. Water was only turned on when state inspectors arrived.

Respirators were not provided and there was virtually no ventilation in the tunnel where men labored 10 to 12 hour shifts 6 days a week. The dust was reportedly so thick workers could not see more than a few feet in front of them. One manager stated that he thought men would get silicosis but not until long after the tunnel was completed.

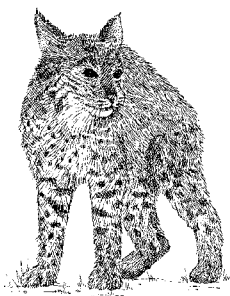
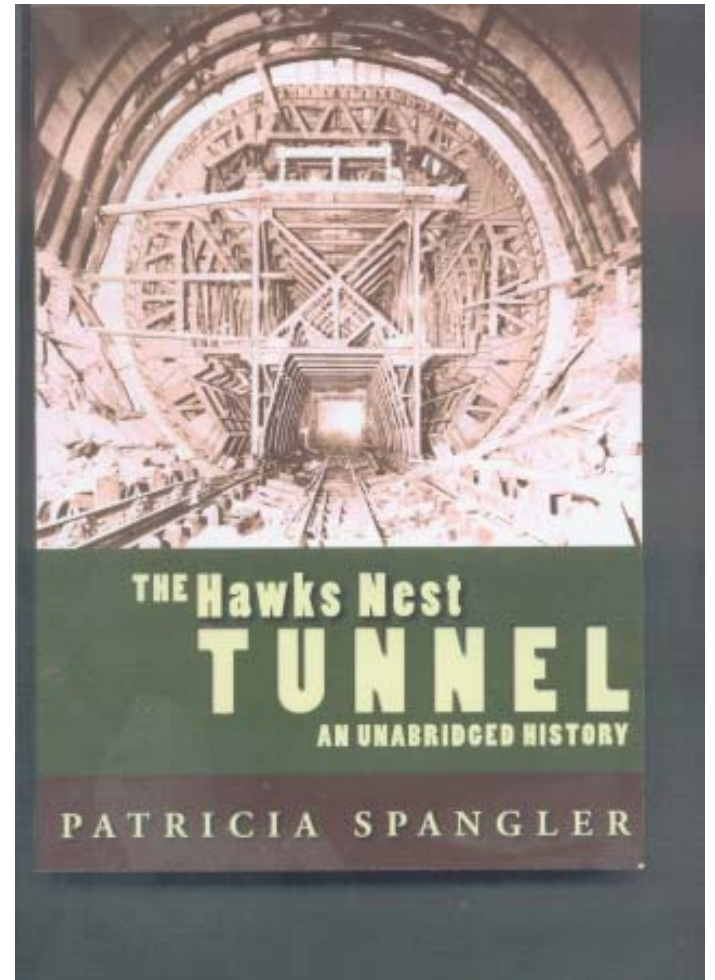
When the tunnel was begun in the Spring of 1930, it was the Depression and millions were unemployed and hungry. so it was easy for recruiters to round up thousands of men from several nearby states with the promise of steady work and ship them to Fayette County. However, the high silica concentration in the dust soon took its toll and men began to get sick and to die within weeks. The sick ones were fired, the dead ones buried and more were hired.

About 3/4 of the workers were African-Americans which probably made it easier for management to ignore their plight. Accurate records were not kept but it is estimated that as many as 700 died and many hundreds more received varying degrees of lung damage.

Perhaps not so surprising, little has been written about this incredibly shocking event in our history. Spangler notes that Union Carbide issued gag orders and even death threats to employees who talked about the "problems" with the tunnel. One author, Hubert Skidmore, wrote a novel in 1941 that so closely described the events and actual people that the publisher, Doubleday, under

pressure from Union Carbide withdrew all copies of the book and not long thereafter Mr. Skidmore died in a mysterious. house fire. As late as the 1970's a professor at Virginia Tech quit investigating the tunnel disaster after receiving multiple death threats. Perhaps we are now far enough away from it that emotions have died down.

Read this book if you want to get a clear picture of what happened at Hawks Nest in those dark and terrible days. It documents the struggles of ordinary working people and reminds us once again of the results of unbridled capitalism and laissez-faire governmental oversight. The next time you're in the vicinity of the Hawks Nest State Park, take the tram down to the canyon floor, observe the dam and tunnel entrance and spend a few moments remembering the workers who lost their health and their lives on that job.



FOR MORE NEWS ABOUT COAL

For news about coal, visit Ken Ward's blog at: <http://blogs.wvgazette.com/coaltattoo/> Mr. Ward is a reporter for *The Charleston Gazette* who routinely covers coal related matters.

SEEKING PROTECTION FOR CEMETERIES

By Dianne Bady, Co-director Ohio Valley Environmental Coalition

Delegate Don Perdue and the Ohio Valley Environmental Coalition (OVEC) are working toward the passage of state laws that will protect family cemeteries in the coalfields. Along with several other delegates, Perdue filed two cemetery protection bills in mid February, and we expect that another bill will be forthcoming.

Why are we working on the issue of family cemeteries? Because as a consequence of the mad rush to blow up mountains and dump them into valleys to get the coal out as quickly as possible, family cemeteries all over the coalfields are disappearing – and many more are now being threatened.

Cemeteries are yet another casualty of “cheap” coal—another heartbreaking loss that accompanies mountaintop removal, and the overture to global warming.



We've heard numerous stories about people being unable to visit their family cemeteries that are now surrounded by desecrated mountains. State law requires coal companies to allow people to visit cemeteries, but mining companies are refusing to grant access. Our committee took a copy of the law to DEP and State Historical Preservation Office officials. The officials

say that the law does not give any state agency the authority to enforce it.

Worse yet are the stories of cemeteries that no longer exist... the stories of people's pain upon finding out that their loved ones' and ancestors' bones now apparently lie at the bottom of a valley fill or are part of the “overburden” used to shore up highwalls from old mining sites. Are family remains literally part of the “reclamation” that we hear so much about?

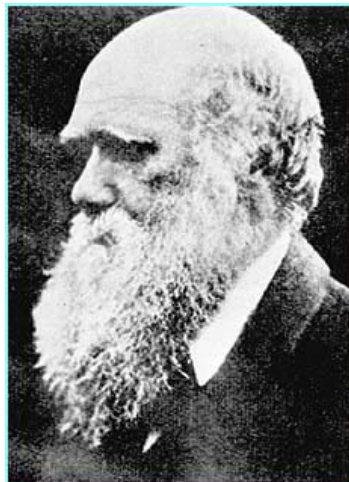
HAPPY BIRTHDAY CHARLES DARWIN

By Don Gasper

Darwin was so revolutionary in thought that it is still disturbing much of humanity's peace of mind.

His 200th birthday was in February (Born, February 12, 1809) and it should be acknowledged, even celebrated. Even after 200 years some people find “natural selection” and “survival of the fittest” conflicting. It is, after all, a concept associated with beasts. Mankind, in his conceit, had thought he was better than that. Listen to the way his Origin of Species ends:

Thus from the war of nature, from famine and death, the most exalted object which we are capable of conceiving, namely, the production of the higher animals, directly follows. There is grandeur in this view of life, with its several powers, having been originally breathed into a new form; and that whilst this planet has gone cycling on according to the fixed law of gravity, from so simple a beginning endless forms most beautiful and most wonderful have been, and are being evolved.



Walter Young of Mingo County tells of his vanished family cemetery:

So the coal waste impoundment up above me is being constructed each and every day now, ever since 2001, I guess. It's being built in little stages, but upon completion and when full it will be 56 acres big, and could be allowed to expand. My ancestors were buried right at the toe of (what is now) that impoundment, in a little cemetery that I thought was safe. But it wasn't.

I called up one Memorial Day—my great-grandmother was buried there. And I asked the coal company, it being surrounded by mining, “What's your rules or policy on me coming up to visit that cemetery?”

And they said, “That cemetery is no longer there.”

I said, “Where is it at? My ancestors were buried there.”

The boy on the phone at the mining company says, “Well I'll find out for you and let you know.”

So he calls back a couple days later and says, “I'm returning your call about the cemetery.”

“Yeah? Right. Where's my family at?”

“I'm sorry, that's the reason I called. We don't know.”

They didn't know where they moved the cemetery to! Or the people that's in the cemetery.

Another Mingo County resident says, “I went to Kayford Mountain and looked at Mr. Gibson's plight. I watched them set a drill right in the middle of a family cemetery that had been there over a hundred years. I watched them drill a borehole right in the middle of it.”

Stories like these will continue to multiply, and more and more pieces of our Appalachian past will disappear forever, unless we do something about it. We need your help! If you'd like to get involved or have information on cemeteries that are threatened or destroyed, please call Robin Blakeman at 304-522-0246.

DAVE REACHES THE SUMMIT

By Dave Saville

The Benchmark on top of Mt. Porte Crayon, one of West Virginia's highest points. Very difficult and long journey. There is a route that must be followed very carefully or else get caught in impenetrable laurel “hells.” Before the Mountain was named to honor “Porte Crayon,” the pen name of David Hunter Strother, famous author and artist, it was called “Thunder Struck Mountain.” On an expedition there in June 2006, I'm not sure that we would have found that spot that day had we not had GPS units with us. From Laneville, this hike has 2250ft of vertical (2510-4760) making it one of the greatest elevation gains of any hike in the state, (that I can think of). We got lost on the way down and had to bushwhack for several miles. 16 miles round trip.



Lost Jobs and Lower Property Values**PATH and MOUNTAINTOP REMOVAL MINING**

By Danny Chiotos

Who benefits most from the coal-fired electricity produced in West Virginia?

For more than a century, West Virginia coal miners have sacrificed their backs, lungs, and health to put food on their families' tables. For more than fifty years, West Virginia communities have seen not only massive job loss, but an escalating loss of our mountains to strip mining, more commonly known as mountaintop removal. For more than twenty years, West Virginia miners have had their most powerful voice, the United Mine

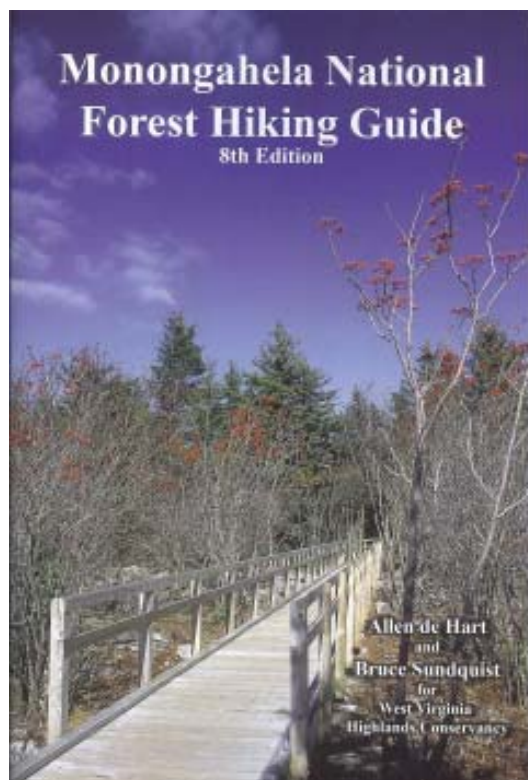
Workers of America, broken by aggressive coal companies with Don Blankenship & Massey Energy leading the union-busting charge. For more than ten years, West Virginians have seen the ultimate taking "the taking of our homes" to Mountaintop Removal and the Valley Fills it creates.

Right now, the same people who have been responsible for all of the above are pushing for a giant power line to ship electricity from the Charleston (WV) area to the Eastern Seaboard. The Potomac-Appalachian Transmission Highline (PATH) starts in Putnam County, WV then cuts its way across the mountains and valleys of 17 West Virginia Communities on its way out of state.

If built, this line would be a 765-Kilovolt Transmission line. An Administrative Law Judge for the Pennsylvania Public Service Commission has said that the proposed 550-Kilovolt Trans Allegheny Interstate Line (TrAIL) would require four additional coal plants. PATH, at 765 KV, has double the transmission capacity of TrAIL and simple multiplication dictates that there would be eight additional coal plants needed for this line. This is at a time when West Virginia is already exporting about two-thirds of the electricity (98% of WV's electricity is coal-fired), we don't need this power line to further ship our power out of state. If you think we've already seen too much profit for Don Blankenship & his buddies, too much union busting, and too much mountaintop removal "you ain't seen nothing yet."

If all that above isn't enough for you this monstrous power line harms local property values, increases harmful herbicides sprayed on the ground near the lines, and harms human health. All of this for a line that West Virginians would end up paying for through increased electricity rates. It's clear who benefits most from coal-fired electricity produced in West Virginia and it's not West Virginians.

Editor's Note: Danny Chiotos is the President of the WV Environmental Council.



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:
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P.O. Box 306
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OR
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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.

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- 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.

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--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.

PROJECTS THE FOREST SERVICE IS UNDERTAKING ON THE MONONGAHELA NATIONAL FOREST

West Fork Greenbrier Rail-Trail Gets Facelift and more

In 1986 the Forest Service purchased the right-of-way of the abandoned CSX Railroad from Greenbrier Junction at the Shaver's Fork to the Town of Durbin on the West Fork of the Greenbrier River. Since then, all rails and ties have been removed, trestles restored, gates installed and a gravel base applied.

It is the premier trail on the Greenbrier Ranger District of the Monongahela National Forest. The Rail-trail is currently open for 22 miles along the banks of the West Fork.

In 2008, a Congressional Earmark was approved for \$450,000 to do a variety of projects associated with the trail. Unfortunately, the funds got diverted to fight western forest fires last Fall, so much of the work is yet to be done. The good news is that it looks like the funding will be restored in the 2009 budget so the effort can go on.

An engineering study is being conducted to determine the structural integrity of the Tunnel at Glady. A restoration and stabilization plan and cost estimate will be developed. Currently the trail is closed in both directions at the tunnel. In addition, the trail's right-of way boundaries are being surveyed.

With the help from West Virginia University, an interpretive plan is being developed, and the Forest Service is undertaking \$80,000 worth of on-the-ground improvements to the trail. Culverts will be replaced, trailhead parking will be improved, poorly drained areas will be improved, rock slides removed, improving gates to prevent unauthorized motorized vehicular traffic on the trail, maintain access trails, add mile marker posts, and hardening the surface in soft areas are all projects slated to be done.

Thanks to our Congressional Delegation in Washington for procuring the funds to undertake these important recreational infrastructure improvements on our National Forest.

Improvements at the Horseshoe Recreation Area

Horseshoe Campground was constructed by the CCC in the 1930s. It provides an array of developed recreational opportunities including camping, picnicking, fishing, horseshoes, field sports and other group uses. The area is in need of modernization and upgrading.

Funding has been applied for to undertake a variety of projects;

- Paving parts of the campground's roads, improving access and parking and upgrading of the camp site spurs.

- Replace toilet buildings with handicapped accessible units.
- Replace existing water system and seal three existing wells.
- Replace wastewater collection and treatment system.
- Install electrical hook-ups at some campsites.
- Plant native trees and shrubs to provide shade and landscaping.
- Update signing, replace grills and improve volleyball, horseshoe and other recreational facilities.

Spruce Knob Communications Tower

Did you know that the unsightly tower on Spruce Knob is on Forest Service property? YUP! One of the grandest vistas in the state, at our highest point, where almost no other signs of man can be seen, north, south, east or west, is marred by the sight of this communication tower on lands leased by the Forest Service.

The Spruce Knob Communication Site was first developed for communications purposes during the time the property was in private ownership. The property was acquired by the USDA Forest Service in 1981. At the time of acquisition, the site held one 10 ft x 12 ft metal building and one 300 ft guy tower, both of which were privately owned. These facilities housed equipment that was owned by the local company who owned the tower and building; a ham radio operator; the USDA Forest Service; and the WV Department of Public Safety. The ham radio operator, USDA Forest Service, and the WVDPS continue to use the site, as does Homeland Security, who was authorized to install a small resource monitoring facility at the site.

Over time, the privately owned building has deteriorated, resulting in water leaks and damage to equipment. To avoid equipment damage and to meet the need to maintain a separate and secure building solely for government use, the Forest installed a new 12 ft x 22 ft prefabricated building next to the base of the tower.

The WV Department of Public Safety already has moved its equipment to the new building. The Forest hopes to move its equipment this spring.

The private users of the tower are currently seeking permission to replace the existing, privately owned building, to make it possible to accommodate additional use at the site.

Replacement of the building would also prevent damage to the equipment currently housed

in the privately owned building.

While the Forest Service's new management plan specifically allows for this communications site, it seems that such an inappropriate obtrusion to such a special place should be phased out, and certainly its use should not be allowed to proliferate, making its eventual removal that much more difficult. The current lease on the tower expires in 2018, the goal should be to see it's use phased out as much as possible until it can be decommissioned and removed at the end of the lease contract period.

Grazing Allotments

The Forest Service is proposing to re-authorize 8 different grazing Allotments in the Spruce Knob/Seneca Rocks National Recreation Area of the Monongahela National Forest. Totaling 1,075 acres, the Agency is proposing to establish new grazing capacities and more appropriate grazing systems. They will be applying lime and fertilizer to some areas and controlling brush and non-native invasive species. They will be constructing, repairing and replacing existing facilities such as fence, gates and holding areas to protect sensitive areas, streams, riparian areas and cultural locations. Water and access improvements and will also be undertaken.

Grazing was one of the uses of National Forests specifically accommodated and allowed for in the Multiple Use Sustained Yield Act (MUSY) of 1960. This important legislation, still in effect today, is one of the principle laws guiding the management of National Forests.

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% tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTEN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.