

Non-Profit Org.  
 U.S. Postage PAID  
 Permit No. 2831  
 Charleston, WV



# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

Volume 46

No. 3

March, 2013

“Cutting red tape?” What did he mean by that?

## MARCELLUS GAS DRILLING COMING TO THE MON FOREST?

By John McFerrin

As part of his State of the Union address, President Obama said these words:

*In the meantime, the natural gas boom has led to cleaner power and greater energy independence. That's why my Administration will keep cutting red tape and speeding up new oil and gas permits.*

These words, like all words in the speech, raise the question: what did he mean by that? More specifically, what do those words mean for our national forests, including the Monongahela National Forest? Like any other words, they could be a throw away line, inserted to please some constituency or other. By definition, throw away lines don't mean anything.

At the same time, “cutting red tape” may be a euphemism for minimal environmental review. For lands where the Forest Service owns both minerals and the surface, it may be code for “leases will be easier to get.” “Cutting red tape” may mean less oversight of impacts on land, water, and air. “Red tape” may mean the steps the Forest Service could require to reduce or mitigate the inevitable impact that any drilling would have upon land, air, and water.

Language elsewhere in the speech indicates that he is talking about permits on public lands. He proposes an Energy Security Fund that would use royalties from sale of oil and gas on public lands to “drive new research and technology to shift our cars and trucks off oil for good.”

On much of our public lands, including much of the Monongahela National Forest, the Forest Service owns only the surface. The minerals are still privately owned. Producing these minerals would not result in any royalties. On lands where the government owns the minerals, production would result in royalties. If Mr. Obama is talking about funding research from oil and gas royalties, he must be thinking about leasing oil and gas on public lands.

Those whose focus is mainly upon the Monongahela National Forest can take some comfort from the fact that most of the public lands are in the west. Mr. Obama may be thinking about vast tracts in Alaska or one of those big square states. At the same time, when the words “cutting red tape” appear in the same speech as discussion of



**(More on p. 12)**

**What's inside:**

Thoughts from President Cindy	2	Spring review	11	Poetry	18
Roster of officers	2	How to join	13	Turbines near the Mon	19
Changing locations	3	Get a history book	13	Stuff for sale	20
Dancing the dance	5	New job for Senator Joe	14		
Selenium legislation	6	Gas well seminar	14		
Environmental Quality Board	7	Outings	15		
Board highlights	8	Major adventure	15		
Another little Don Gasper story	9	Aluminum rules	16		
Acid mine drainage	10	Get a Hiking Guide	17		

## Ramblin' the Ridges

By Cynthia D. Ellis

### THE BIRDS AND THE BEES

Or, mainly... bees!

For me, spring time has sparked thoughts of the importance of bees to the mountain highlands and to everything that grows here. For example:

“Cut an apple in half by slicing across its middle and you'll find a central compartment in the shape of a five-pointed star. If the apple has two seeds inside each point of the star---ten all together---it was completely pollinated by bees. If there are fewer than ten, not enough pollen reached the flower's stigmas to develop all of the seeds. A poorly pollinated flower will develop into an apple that's small and lopsided. An unpollinated flower won't develop into an apple at all.

This apple is at the heart of why you should care about pollinator conservation. According to the national Academy of Sciences, close to 75 percent of the flowering plants on the earth rely to some degree on pollinators in order to set seed or fruit. From these plants comes one-third of humankind's food and even greater proportions of the food for much of our wildlife. Yet now, in many places, pollinators are at risk.”

This introduction is from “The Xerxes Society Guide, Attracting Native Pollinators: Protecting North America's Bees and Butterflies.” The society hosts workshops, nationwide, to promote pollinator protection. Meanwhile, the West Virginia Highland Conservancy's “Voice” routinely tells us about activities that could put pollinators at risk.

Basically, the importance and diversity of bees and all pollinators is astounding.

Although I knew some butterflies, until attending a pollinator workshop I only knew a few kinds of bees, hornets, and wasps. As it happens, there are 4000 species of bees in North America, wasps and others aside. The bee families are

- Sweat
- Mining
- Polyester---they secrete a cellophane-like substance
- Oil-collecting
- Leaf-cutter & Mason
- Bumble, Carpenter, Honey, and Other

Bees can be solitary or social. They can be general foragers or specialists. They may build their own nests or parasitize those of others. [Bird note: this behavior is like that of Brown-headed Cowbirds or the Common Cuckoo of Europe...but cuckoo bees find host nests by smell!]

There's more to learn:

Pollinators are both keystone species and indicator species. They keep things going and let us know when there is trouble.

Pollen distributed by bees has a higher nutritional value than that of wind-transmitted pollen. And a distinction must be made for native pollinators; they're recognized for greater efficiency. Non-native honey bees are the ones known to most of us, but their history and current status are both interesting and shot with problems. This is so problematical that in 2001 the U.S. Fish and Wildlife Service made a provisional policy excluding honey bees from wildlife refuges in eight upper-Midwest states.

In Bumble bee colonies, the queen can control the gender

**(More buzz over on p. 3)**

### Roster of Officers, Board Members and Committee Chairs and Board of Directors

PRESIDENT: Cynthia D. Ellis, RR 1, Box 163, Red House, WV 25168 (304) 586-4135; cdellis@wildblue.net

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

VICE PRESIDENT FOR STATE AFFAIRS: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net

VICE PRESIDENT FOR FEDERAL AFFAIRS: Marilyn Shoenfeld, HC 70 Box 553, 23 Sands Springs Lane, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com

SECRETARY: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

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

PAST PRESIDENT: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

#### DIRECTORS-AT-LARGE (Terms expire October 2014)

(Vacant)

Jackie Burns jackie.burns@frontier.com .

George Beetham, 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com

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

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

#### DIRECTORS-AT-LARGE (Terms expire October 2013)

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

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

Michael (Mike) C. Morgan, RT 4 Box 231, Keyser, WV 26726; mctmorgan@gmail.com; 304-788-6496; 717-793-6743

LeJay Graffious, P. O. Box 69, Bruceton Mills, WV 26525; lejay@oldhemlock.org.

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

#### ORGANIZATIONAL DIRECTORS

##### NATIONAL SPELEOLOGICAL SOCIETY:

PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Dr., Oakmont, PA 15139; (412) 828-8983; buffrodman@hotmail.com

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

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

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

FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com

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

ALLEGHENY HIGHLANDS ALLIANCE: Wayne C. Spiggle, RR 2 Box 97, Keyser WV 26726, 304-726-4868, wspiggle@mac.com

#### COMMITTEE CHAIRS

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

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

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

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

ENDOWMENT FUND COMMITTEE: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

RIVERS COMMITTEE: vacant

HIGHWAYS COMMITTEE: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662; hugh.rogers@gmail.com

OUTINGS COMMITTEE: Dave Saville, PO Box 569, Morgantown, WV 26507, (304)284-9548; daves@labyrinth.net

#### MISCELLANEOUS OFFICES

SPEAKERS BUREAU: Julian Martin, 1525 Hampton Road, Charleston, WV 25314, (304) 342-8989; martinjul@aol.com

WEB PAGE: Jim Solley, jamesolley@comcast.net

#### ADMINISTRATIVE OFFICES

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

HIGHLANDS VOICE EDITOR: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304)291-8305, johnmcferrin@aol.com

## MORE ABOUT THE BEES (Continued from p. 2)

of offspring. Also bumbles use “buzz-pollination,” in which they disengage their wings from flight muscles and use those muscles to shake their entire body at a frequency close to middle C. This increases the flow of pollen from some flowers, notably food crops.

Speaking of food crops, the specific pollinators for some crops are:

- Mason bees-pea, mint, apple, cherry, and plum;
- Leaf cutter bees-alfalfa, carpenter bees-blackberry, pepper;
- Cactus bees-sunflower, mallow; squash bees-squash, pumpkin, watermelon;
- Digger bees-cherry tomatoes, mining bees-mesquite.

Bumble bees are the most important and most diverse pollinators.

The list of threats to all these creatures is, unfortunately, familiar. It includes habitat loss, impacts of exotic plants and animals, climate change, and pesticides. Genetically modified crops, are suspect---both those resistant to insects and those resistant to herbicides. Light pollution is a hazard.



**Polyester Bee**

Suggested solutions concentrate on habitat--- Recognize, protect, and provide [new] habitat, and manage land properly. All this leads into understanding the nesting, egg-laying, and wintering sites for these vital “bugs.” The guide notes, “Remember that buried underground are possibly hundreds of bees. “ One communal nest was 16 feet deep! Also---same as for

birds and other wildlife--- dead trees and standing snags are refuges. “Leave some bare, unmulched ground.” It is possible to make habitat corridors, construct a wooden bumble bee box, to create an “ecolawn,” and plan personal and community gardens... wherein some bees will fall asleep by holding onto plants with their jaws. Helpful plant and tree lists are noted and include some of our native and favorite species ---redbud, serviceberry, and sourwood.

The interconnectedness is unceasing.

So, sadly, when *The Highlands Voice* reports on more incidences of the disruption of natural areas in the mountains, some of us will be thinking of the effects on pollinators as well as all the other components of the land. But, through efforts of groups such as the Xerxes Society, and our own, perhaps impacts can be reduced and some species of pollinators can be helped.

More information is available on the Xerxes Society website. The “Attracting Native Pollinators” book can be found there and at Amazon.

A few hours after I finished writing this column, I read a small notice in the WV Citizen Action Group’s “Action Alert.” In the West Virginia Legislature, House Bill 2144 was introduced by Delegates Williams and Canterbury to “require reclaimed strip mines to be populated by plants that are beneficial to local bee populations.”



**Green Sweat Bee**

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

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

The West Virginia Highlands Conservancy web page is [www.wvhighlands.org](http://www.wvhighlands.org).

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

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

## FILMMAKER MOVES TO ANOTHER LOCATION

Longtime West Virginia Highlands Conservancy Board member and activist Bob Gates died on February 2, 2013.

Robert Franklin Gates Jr., was born March 18, 1944, in Wilmington, Delaware, and passed away February 2, 2013, in Charleston. He is survived by his family, wife, Mollie Moorhead; father and mother, Robert F. and Jean of Cornwall, Pa.; brother, Henry (Jaquiline) of Cambridge, Mass.; sisters, Virginia (Frank) May of Buck Hill Falls, Pa., Elizabeth (Rich) Petrunis of Mays Landing, N.J.; daughter, Erica Gates of Beltsville, Md.; son, Christopher Gates of Tampa, Fla.; many nieces and nephews; and Dexter Dog.

Before coming to Charleston, Bob grew up in Kansas City Missouri, Virginia and Ocean City, N.J., where he played trumpet in the band, became an Eagle Scout and won a science award that came with a prize of a chemistry lab. He graduated with a degree in chemical engineering from the University of Delaware and was hired by Union Carbide.

Gates worked as a chemical and computer engineer for Union Carbide until 1971, when he was laid off. Soon after, he became a full-time photographer and filmmaker, shooting video as well as recording music and sound tracks for his movies.

A day after Pittston Coal's sludge dams collapsed at the head of Buffalo Creek on Feb. 26, 1972, Gates visited the 17-mile-long hollow in Logan County.

Gates took scores of photographs -- on the ground and in the air -- documenting the devastation created by the flooded river, which killed 125 people and left thousands homeless. He later released a DVD featuring many of the photographs he took.

In 1977, Gates released his first film, *In Memory of the Land and People* -- about the environmental damages caused by strip mining in Appalachia and other areas of the country. The music of composer Béla Bartók, local songs and comments from local people are featured throughout the film.

Steve Fesenmaier, a film historian who worked for the West Virginia Library Commission for 31 years, wrote that the film was shown in Congress and helped motivate national legislation regulating strip mining.

Gates later produced two more films about the impacts of mountaintop removal mining -- *All Shaken Up: Mountaintop Removal Blasting and Its Effects on Coalfield Residents* and *Mucked*. Other films include *Building a Cello with Harold*, *Buffalo Creek Disaster*, *Morris Family Old Time Music Festival*, *Mucked*, *Communication from Weber*, *Flood Stories*, *Trip to Kayford Mountain*, and many more. He also made *Celebrating 40 Years – the WV Highlands Conservancy*, a movie of the weekend in 2007 when the West Virginia Highlands Conservancy celebrated its 40<sup>th</sup> anniversary.

Bob passed away on his favorite holiday, Groundhog Day. He liked to push the season and considered February 2 the first day of spring. He was well and happy, but mad about missing his party.

Bob loved Charleston and West Virginia. He participated and created in every facet of civic life. He did good stuff.

Instead of flowers, Bob requested that donations be made to the West Virginia Highlands Conservancy and the Ohio Valley Environmental Coalition.



**Bob Gates and his wife, Mollie Moorehead**



**In Memory of the Land and People is one of the most powerful and gut-wrenching indictments of strip-mining ever made. I write this in memory of Bob Gates and his good work to bring our cause to the screen early on. Bob Henry Baber**

An Editor's Note**HOW THE GAME IS PLAYED**

By John McFerrin

Although the stories on the next two pages are, on the surface, four separate stories, they are really just faces of the big dance that is environmental regulation.

It all starts, of course, with a statute designed to correct some problem. While that is the foundation—the platform, if you will—it is no more than providing the hall and deciding to hire the musicians. It can be a part of the solution to the problem but the statute is a long way from deciding how the dance will turn out.

Regular Voicereaders will recall that the West Virginia Highlands Conservancy, the Sierra Club, the Ohio Valley Environmental Coalition, and Coal River Mountain Watch) have had some success in helping see that state waters are protected from selenium pollution (for an example, see *The Highlands Voice* December, 2012). This sent the coal industry scurrying to the West Virginia Legislature to “clarify” relevant regulations and reverse as much of the progress as possible. A bill to accomplish this is pending. **(LEGISLATURE CONSIDERING WEAKENING WATER QUALITY STANDARDS).**

That bill is the subject of a public hearing on this bill, currently scheduled for March 4. **(PUBLIC HEARING ON SELENIUM STANDARDS).** The hearing was originally scheduled for a week earlier. Some suspect political perfidy in the change. Lobbyists for the industry are at the Legislature all the time. A change in the hearing date is of little consequence. Ordinary citizens must plan transportation, arrange child care, reschedule their real jobs, etc. Having to do that once is a barrier to coming. Doing it twice is a bigger barrier. Keep moving hearing dates around and you end up with a larger proportion of lobbyists to ordinary citizens.

While Legislative perfidy is possible, and shenanigans have been known to occur, it is also possible that the schedule change is innocent. There is always something happening at the Legislature and it always has plenty to talk about. The change might have been a neutral thing, something somebody needed to do to make the Legislature's overall work more convenient.

Another little wrinkle is that a public hearing is not required. Somebody has to know about the bill and make a request. Otherwise there is no hearing and the bill just slides along. This time the West Virginia Environmental Council spotted the bill, asked for the hearing, etc.

As reported in the February, 2013, issue, the West Virginia Highlands Conservancy (along with others) has had some success in getting the stream buffer zone enforced, or at least noticed. That rule prohibits mining within one hundred feet of streams. Many had thought that if mining within one hundred feet was prohibited, then filling a stream at a mountaintop removal site must be prohibited as well.

The rule had been there since 1983 but nobody had taken it seriously so it didn't bother the coal industry. Then along came Judge Haden's decision which did take it seriously. While the

industry got that ruling overruled on procedural grounds (saying Judge Haden followed the wrong procedure, not that he mis-read the regulation), the bullet had whizzed by within earshot. After a collective, “Oh, fiddlesticks” (or words to that effect) it scurried off to the Bush administration to fix its problem before anybody had a chance to reload. The Bush administration changed the regulation to the industry's satisfaction; along came the Obama administration which tried to change it back. Apparently it is not trying all that hard; the Highlands Conservancy and other groups are back in court trying to get it moving. (*The Highlands Voice*, February, 2013).

This buffer zone controversy has sent the coal industry scurrying to Congress. Now we have Congressmen writing letters to the Office of Surface Mining, demanding that it issue a new rule, one which would remove it as a threat to the coal industry.

**(CONGRESS CONCERNED ABOUT STREAM BUFFER ZONE RULE)**

For another example of this, see the October, 2011, issue. Coal's Congressional friends held an oversight hearing in Charleston to solicit the public's reaction. This gave coal lobbyists and their friends a chance to say the usual things about “hard working West Virginians”, “war on coal”, etc.

The Environmental Quality Board story illustrates a similar, but related dance step. After the coal company had successfully waltzed the Department of Environmental Protection around the dance floor on the question of whether the company had to control its pollution, the Sierra Club appealed the agency decision to the Environmental Quality Board. The Board listened to that often neglected band member--Mr. Science--and reversed the

Department of Environmental Protection.

The company moved on to a sympathetic judge, who reversed the Board. Now it is freer to pollute as it pleases. **(JUDGE OVERTURNS ENVIRONMENTAL QUALITY BOARD RULING ON MINING POLLUTION).**

A subplot in the Environmental Quality Board saga not mentioned in the story in this issue is that while the case was pending before the Board Governor Tomblin replaced Ted Armbricht and Jim Van Gundy on the Environmental Quality Board. These two members had reputations as the members most sympathetic to environmental issues. If Mr. Tomblin's intention was to influence the decision, it didn't work that time. The decision was the same as it probably would have been with Mr. Armbricht and Mr. Van Gundy's participation.

And so it goes. It starts with what sounds like a simple formula: problem, law, solution. Along the way the pattern is that when citizens manage to make a step toward having the law enforced, the industry dashes off to the Legislature where its political power makes reversal of that step possible. It and its supporters take whatever steps are

**(More on the next page)**



# LEGISLATURE CONSIDERING WEAKENING WATER QUALITY STANDARDS

Commentary by Dan Radmacher

Following Kentucky's lead, the West Virginia Legislature is considering a bill (HB 2579) that would weaken state water quality standards for selenium, a toxic pollutant often discharged from mountaintop removal mining operations.

A note in the bill says, "The purpose of this bill is to protect state waters by creating an implementation plan to establish state specific selenium criteria."

That's simply untrue. The new criteria would severely weaken standards, protecting not state waters or the life they support, but the coal industry and its profits.

Selenium pollution is extraordinarily expensive to treat. How expensive? Actions Appalachian Mountain Advocates brought against Patriot Coal resulted in \$440 million in selenium cleanup liabilities.

Always remember this: If the Legislature helps the coal industry successfully evade these costs, the liability will almost certainly end up on the taxpayers.

The bill's authors hang the proposed change on the flimsiest of rationales: "The Legislature finds that [the U.S. Environmental Protection Agency] has been contemplating a revision to the federally recommended criteria for several years but has yet to issue a revised standard."

Therefore, the bill declares, the DEP should deal with the resulting "uncertainty" about whether the current standard is applicable by implementing its own standards.

But there is no uncertainty. The EPA under President George W. Bush proposed a change in 2004, but withdrew it after a multitude of critics eviscerated the proposal as unsupported by the science. If anything, the science suggests current standards should be more restrictive, not less.

There is no current proposal on the record to revise federal criteria for selenium, only persistent rumors. Any change eventually proposed would undergo significant scrutiny.

It's not possible to tell what the final standard would be from the West Virginia bill, but the Kentucky attempt will undoubtedly be instructive. There, regulators wanted to allow greater than 10 times more pollution than the current water-based standard for one-time exposure.

The standard for long-time exposure would be shifted from water-based to exposure in fish tissue -- even though selenium pollution can decimate aquatic life, making it very difficult to even find fish to test.

If this isn't about the science, and it isn't about phantom proposals by the EPA, what is it about?

The answer is as obvious as it is distressing: West Virginia lawmakers are putting the profit of a declining industry above the best interests of the people and environment of the state. Again.

Weakening selenium standards will make it harder to hold coal companies accountable for the damage they cause. It will keep the massive destruction of mountaintop removal mining affordable -- for the coal industry, if not the taxpayers.

Such actions will make it more difficult to attract industries that, unlike Appalachian coal, aren't on a clear glide path to irrelevancy.

Lawmakers can weaken the standards, but changing the law won't change reality: Selenium pollution will continue to harm aquatic life and destroy the biological integrity of streams. Eventually, the pollution will have to be treated, and the enormous cost will fall on the taxpayers of the state.

Citizens of West Virginia shouldn't let that happen without a fight.

**Mr. Radmacher is communications director for Appalachian Mountain Advocates. This commentary originally appeared in *The Charleston Gazette*.**

## MORE ABOUT THE BIG DANCE (Continued from p. 5)

available to them to make sure the right people are in the positions to make decisions. It goes to court, and keeps going until it finds a sympathetic judge.

The only major dancers not covered in one of these stories are the sources of the fountains of money going to the election campaigns of the politicians involved. The *Voice* has had little coverage of these, although much has been written elsewhere. All anyone needs to know about their role is contained in the phrase, "dance with what brought you."

This is not to say that any of this is illegal. Mr. Tomblin was elected; he has the statutory right to appoint whomever he wishes to the Environmental Quality Board. The coal industry has the right to petition the government for redress of grievances, even if the grievance is that it is being forced to behave responsibly. Governor Tomblin has the right to appoint agency heads, including agency heads who will make a practice of as gentle and understanding an

enforcement policy as the law might possibly allow.

This is only to say that this is no simple problem, law, solution process. It is two steps forward, one step back, and times of struggle just to stay still and not get pushed backward.

That's why Cindy Rank so often ends her *Voice* stories with "And so it goes.." or "Stay tuned..." She has been at this for over thirty years. She knows that the dance never ends. She and other Conservancy giants before her such as like Tom King, Bob Burrell, Nick Zvegintzov and others who followed have fought the fight, constantly pushing for clean water, clean air, and liveable communities. It has never been simple.

# JUDGE OVERTURNS ENVIRONMENTAL QUALITY BOARD RULING ON MINING POLLUTION

By Ken Ward Jr.

A West Virginia state court judge has for the second time overturned the state Environmental Quality Board's ruling that demanded tougher permit reviews and tightened water quality limits when the state Department of Environmental Protection issues water pollution permits for coal-mining operations.

For those who have forgotten, here's what the case is about:

*EQB members ruled in a case in which the Sierra Club challenged DEP's approval of a water pollution permit for Arch Coal subsidiary Patriot Mining Co.'s New Hill West Mine along Scotts Run near Cassville in Monongalia County.*

*Sierra Club lawyers argued the DEP wrongly did not perform a "reasonable potential analysis" of the mine's possible sulfate, total dissolved solids, or TDS, and conductivity pollution. They argued that such studies would have forced DEP to include additional water pollution limits in the permit.*

And here's some more background:

*"The board finds that a growing body of science has demonstrated that discharges from surface coal mines in Appalachia are strongly correlated with and cause increased levels of conductivity, sulfate, and TDS in water bodies downstream from mines," the board ruling said. "The science also demonstrates that these discharges cause harm to aquatic life and significant adverse impacts to aquatic ecosystems in these streams."*

*In this instance, the board said that DEP "overlooked or discounted information that, had it been considered, would have compelled" the agency to include additional pollution limits to prevent violations of the state's water quality standards.*

*Board members ruled that evidence of water quality damage from existing mining in the state's coalfields was "un-refuted" by witnesses from DEP or the mining company.*

Some readers may recall what WVDEP Secretary previously said about the EQB's original ruling:

*This was the worst ruling I've ever seen out of the EQB as far as a lack of respect for the rule of law.*

In short, this is what Judge Stucky said:

*After a thorough review of the record, it is evident that the EQB **accorded no deference to WVDEP's interpretation of water quality standards.** In fact, the EQB orders that the EPA's narrative guidance be followed, instead of using WVDEP's Narrative Guidance. This Court finds that to apply EPA's Narrative Guidance would infringe on the authority afforded to WVDEP. Therefore, the Court concludes that the EQB's decision was arbitrary and capricious.*

One thing that's interesting about that is that for many years, the law in West Virginia has clearly been that WVDEP is not due any deference in cases before the EQB. At least that's what the state Supreme Court said in this case from 1997:

*Appeals of a final agency decision issued by the director of the division of environmental protection shall be heard de novo by the surface mine board as required by W.Va. Code, 22B-1-7(e) [1994]. **The board is not required to afford any deference to the DEP decision but shall act independently on the evidence before it.***

**Note:** This article first appeared in *The Charleston Gazette*.

## CONGRESS CONCERNED ABOUT STREAM BUFFER ZONE RULE

The Chairman of the United States House of Representatives Committee on Natural Resources Chairman, Doc Hastings (R-Wash.), has released a letter he wrote to the Secretary of the Interior complaining about the delay in the rulemaking over the Stream Buffer Zone Rule.

There are three versions of the stream buffer zone rule that are relevant: (1) the Reagan era (1983) version which, while it has been mostly ignored by regulators, could do much to protect streams from mountaintop removal; (2) the George W. Bush era rule that would largely eliminate any protection for streams that the rule might provide; (3) the Obama era rule which would largely restore the protections for streams of the 1983 version. For more on the legal and political twists and turns that got us here, see the February, 2013, issue of *The Highlands Voice*.

In the letter he expresses strong support for the second version, the one that would largely eliminate any protection for streams that the rule might provide. He asks why consideration of the third version is taking so long and suggests the Department of the Interior and the Office of Surface Mining adopt the second one and be done with it.

He also asks for all documents connected with the rulemaking, including correspondence with a list of citizen groups (West Virginia Highlands Conservancy, Coal River Mountain Watch, Sierra Club, etc.) concerning the rule.

## PUBLIC HEARING ON SELENIUM STANDARDS

There will be a public hearing on House Bill 2579 Monday, March 4th at 2:00 PM. In the House Chambers. This bill weakens the state water quality standards for selenium, a toxic pollutant often discharged from mountaintop removal mining operations.

The hearing was previously scheduled on February 28, after having been originally scheduled on a slightly earlier date.

# JANUARY BOARD MEETING HIGHLIGHTS

By Buff Rodman, filling in for John McFerrin

January Board meetings, in addition to committee reports, are usually a time for a little housekeeping as we transition from one year to the next. This past January 27<sup>th</sup> in Charleston, the board welcomed new Board members Mike Morgan and LeJay Graffious who will fill Director-at-Large seats vacated by Larry Thomas and Frank Young, who moved to Senior Vice President and Vice President for State Affairs, respectively. We also welcomed long-time member and former WVHC Administrative Assistant, Dave Saville back to the table as the new Chair of the Public Lands Committee.

Cindy Ellis confirmed that the Spring Board meeting will take place at Tygart Lake State Park on April 28<sup>th</sup> and asked for possible program ideas to fill out the weekend. The remaining Board Meetings for 2013 fall on July 27<sup>th</sup> and October 20<sup>th</sup>. We are looking at possible locations for the fall meeting within the Mon Forest.

Mae Ellen Wilson, who helps the board manage the West Virginia Highlands Conservancy's Endowment Fund, reported that despite the rather stormy seas of recent and current financial markets, the Endowment Fund has recovered nicely from the 2007 "crash" and is growing slowly but steadily. We posted a solid 6% gain on the principal for 2012! Our assets are distributed in a mixed field of Socially Responsible Mutual Funds.

Closing the books on 2012, Treasurer Bob Marshall noted that everything looked good. Our programs all stayed within budget. Some of our projected revenues fell a little short of their targets, but Membership, the Fund Appeal, and Hiking Guide sales remain strong despite a year with a still struggling economy. The Draft 2013 Budget, very similar to the 2012 budget, was passed after some minor tweaking to help account for the recently announced increases to postage.

Speaking for Editor John McFerrin, Cindy Ellis voiced the recurrent appeal for more articles for The Voice. Everyone is encouraged to contribute.

Beth Little reported that total membership was down very slightly on the year. We have 1526 members, down from 1539 last year. There has been a marked rise in number of members choosing to receive the Voice via email rather than the printed copy.

Webmaster Jim Solley is still seeking someone to help with the website. He is looking for an interested person to sign on as his apprentice and start learning the details specific to our site. Our website is a critical part of WVHC's public presence and outreach. With this in mind, Cindy Ellis has appointed a new committee made up of herself, Frank Young, and Larry Thomas to look into a backup plan to give Jim the support he has requested and ensure the smooth running of the website and online store as needed. Larry Thomas also volunteered Mike Morgan to the committee. For any short term needs, Beth Little is able to run the web store, and Jackie Burns, who has some experience with the relevant software, felt she could probably help with content updates for the website.

Frank Young reported on the progress towards a Birthplace of Rivers National Monument. This will be a citizen's collaborative effort of many groups including the West Virginia Wilderness Coalition, Trout Unlimited, the International Mountain Biking Association, and Pocahontas County Commission among others. They have a very informative website at <http://birthplaceofrivers.org>. The Monument area would include approximately 72,000 acres of existing National Forest land, currently under other management designations, that are adjacent to the Cranberry Wilderness area, as well as the Cranberry Wilderness itself. Frank noted that National Monument designation can be done as an act of Congress, but doesn't require that. It can, and often is, made by Presidential Order.

Beth Little commented that there has been some vocal opposition on the part of local sportsmen, possibly due to misconceptions about what exactly National Monument designation would mean. The website does an excellent job of answering questions and hopefully dispelling some unfounded rumors. Fishing and hunting would still be allowed, for example. Frank Young then submitted a motion that "The West Virginia Highlands Conservancy supports the Birthplace of Rivers National Monument designation now under consideration." The motion was seconded and passed unanimously.

New Public Lands Committee Chair, Dave Saville talked about a proposal to rejuvenate the Public Lands Committee that would include a once per month field trip with a local public lands manager. His idea is to put the WVHC name firmly on our actions, so that we benefit from these actions in terms of membership and organizational development. Dave would also like to see WVHC funds more directly used in our name and to make sure that our name appears on any action where our resources are used. There followed a lively discussion about the merits and faults of withdrawing our support from other organizations and the best use of limited resources, whether monetary or the people to do the work.

Frank Young passed out a long and inclusive list of the West Virginia Environmental Council's 2013 Legislative Priorities. At the top of the list are opposing SB 615 (2011) mining rules, working on Marcellus Shale Rules, a ban on gas drilling in karst areas until there are regulations, establishing Integrated Resource Planning for Utilities, Energy Efficiency Resource Standards for Utilities, and an Amendment

**(More on the next page)**





## MORE BOARD HIGHLIGHTS (Continued from previous page)

for Solar 1% “Carve Out” (a Renewable Portfolio Standard).

Don Garvin was pointed out that WVEC would not be the lead lobbying organization for all of these priorities, just some of them. He also mentioned two new issues on the list. One is the Severance Tax “Future Fund” that would designate some percentage of the Severance Tax to bank it for future restoration. There is a lot of interest in this idea.

Another is the “Complete Streets” Initiative bill that would compel the Division of Highways to include sidewalks and bike paths on all road plans. Don further reported that E Council will be scaled back this year due to financial difficulty but that E Council has an active calendar online and people can sign up for WVEC Action Alerts on their website: <http://www.wvecouncil.org>. Jackie Burns asked if more detailed descriptions of the topics on the list were available. Frank allowed that a more detailed description should be published in an upcoming issue of the Voice (and, in fact, it was last month), but that the Legislature is delayed this year, as it is every 4<sup>th</sup> year, so, at the time of the board meeting, things were still very much in draft-form.

Hugh Rogers was recently in Washington DC and reported that permits for Corridor H road building are coming closer and closer to Davis and Blackwater Canyon, but aren’t there yet. He anticipates that if and when permits that threaten Blackwater Canyon are issued, the opposition will be there waiting for them.

Cindy Rank reported for the Mining Committee that we continue to try and get Federal and State agencies to toe the line over existing mining rules but that it often boils down to playing one side off of the other. Cindy briefed us on a possible new lawsuit to try and get Federal EPA enforcement of a law relating to the federal Clean Water Act and the State’s evaluation of the bio-integrity of streams. She wrote a more thorough article for last month’s Voice about this, as well. Cindy also reported that the committee will be focusing some effort on the Patriot long wall and surface mines near Tygart Lake.

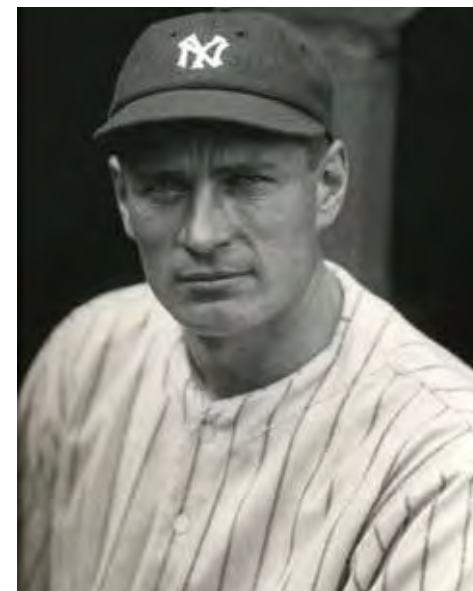
Beth Little had some encouraging news on the natural gas front. A State legislative in-house audit was released criticizing the management of gas wells, in particular abandoned wells, issuing of new permits, and their website. So, various environmental organizations are doing more to research violations, report them to the State, and are getting a better reception from the State.

On wind, Peter Shoenfeld reported that Federal Tax Deferments for wind energy development, due to expire at the end of 2012, were extended before the deadline. This should have the effect of increasing industrial scale wind power development. However, the continued boom of cheap natural gas has the opposite effect, so the final result remains to be seen.

Larry Thomas talked about a new bill in Virginia that seeks to strip any municipal oversight on wind energy, while Massachusetts is establishing a fund for decommissioning wind turbines and giving money to people harmed by the wind industry. There are also some new reports about health issues related to wind power. A wind turbine project at New Creek Mountain (Grant & Mineral Counties) has started road building even though the FAA revoked their permit because they increased the proposed height of the turbines. Mike Morgan also mentioned that the life span of the wind turbines is turning out to be more on the order of 12-15 years rather than the industry reported 20-25 years. This is from a research study of turbines in Scotland and Denmark.

And finally, Cindy Ellis reported for the Outreach Committee that our Facebook page now has 763 “likes”. When you consider that every time one of those 763 people shares or comments on a WVHC post, all of their Facebook friends can see it, well, the numbers really start to add up. The outreach potential is gigantic. Additionally, WVHC will table a display at West Virginia Environmental Council’s Annual E-Day!, Thursday March 14<sup>th</sup>.

**Editorial comment: Great highlights. Easily the best substitute since Wally Pipp took a day off (June 2, 1925).**



**Wally Pipp**

## TALKING THE TALK, WALKING THE WALK

Last month’s issue of *The Highlands Voice* contained a remembrance of Don Gasper, who died in late January, 2013. Another aspect of Don was his role as prolific contributor to the *Voice*. A count of the archives shows 171 articles. These were ones that were at least one fourth page or more. There were lots of smaller notices submitted in addition. Without plodding through the index and the archives again, we can’t say that he is the most prolific writer in history but he is certainly up there on the leaderboard. This does not count the many more articles, reprint ideas, and article ideas that he sent in that didn’t end up in print. Don was a continuous flow of data, ideas, reprints and suggestions, as he was at board meetings.

While careful readers would notice that Don wrote a lot, there was another aspect of his character that only editors and perhaps presidents know. Most of those articles, reprint ideas, etc. arrived in used envelopes. If Don got something in a big envelope from his insurance company, he would save the envelope and use it to send something in. If he had just a short note, he would write it on the back of his junk mail.

Reduce, reuse, and recycle is a cliché of the modern world. We hear it, we nod, and then we do it. Or maybe not, or sometimes do it. Not Don. Don’s reusing envelopes may have been no more than a drop in the great ocean of stuff that we throw away each year. It was, however, his stuff and he was going to do what he could. It was just the way he was.

**Note: Thanks to Dave Elkinton for doing the counting.**

# TENMILE - DECADES OF DEGRADATION

By Cindy Rank

Much to my surprise the following headline appeared in our local Buckhannon newspaper the Record-Delta on Monday February 25, 2013:

## **DEP SUES UPSHUR COAL MINE.**

Reading further I saw the object of the litigation was the infamous 2,000 acre mine complex along Tenmile Creek of the Buckhannon River. – Known to many WV Highlands Conservancy members (and to the State of West Virginia truth be known) as an albatross around our collective necks if there ever were one.

### BRIEF BACKGROUND

Don't get me wrong; it's not unreasonable that the state should take action against Upshur Property for the water mess at its mostly 'reclaimed' strip mine and sludge dam/lake filled with refuse from the preparation plant formerly located across the road. Water problems have existed there ever since I became aware of the operation in the late '70s.

What IS unreasonable – or at least curious, is why it's taken so long.... And why WVDEP is taking this action now when for decades the agency - and its predecessor WVDNR before it - have bent over backwards to help each of the series of companies who have owned and operated the mine complex since it's inception back in the mid '70s.

Starting with Island Creek Coal Company - the company that began the operations, then on to the Italian based Enoxy, to Anker Energy, to ICG (International Coal Group) and Arch Coal, to now what is known simply as Upshur Property, Inc (I'm a bit fuzzy on just what specific legal relationship Upshur has to any parent company, but it's pretty much operated by Wolf Run Mining, a subsidiary of Arch Coal) the owners of this complex have gotten away with murder.

.... Quite literally if you consider the trout that once populated the Left Fork or main stem of Tenmile or the fish and other aquatic life in Laurel Run on the north side of the sludge impoundment and those that once inhabited the first couple of tributaries to the Right Fork of Tenmile.

What's left of the human community has somewhat adapted to the imposition of the past mining and troubles, but families like the Shaws, Zirkles, Hinkles, Russells and many others no doubt remember with deep sorrow the personal sacrifices and suffering that accompanied the first couple of decades of mining at Tenmile.

### THE COMPLAINT

The West Virginia Department of Environmental Protection (WVDEP) through its Offices of Mining & Reclamation and Water & Waste Management is seeking civil penalties for ongoing violations of water quality standards, permitted effluent limits and damage to the hydrologic balance. WVDEP is furthermore seeking injunctive relief to force the company to come into compliance with the law and to modify its permit to accomplish that.

The complaint, though far less detailed than those WVHC has been party to and have been written about in previous issues of *the Highlands Voice*, is similar to those filed on our behalf in federal court.

However, years ago the state of West Virginia was granted primacy for implementing and administering federal law through federally approved state law and regulations that are no less stringent than their federal counterparts. The appropriate venue for WV DEP's legal action is state court. Hence WV DEP's complaint vs. Upshur Property was filed Upshur County Circuit Court (January 31, 2013) and alleges violations of the Clean Water and Surface Mining portions of WV state code.

Exceedances of effluent limits and water quality standards for iron, aluminum, and manganese, as well as narrative water quality standards that include visible staining and discoloration of the stream, and material damage to the hydrologic balance are all cited as reasons for the complaint.

Well, DU-U-H !!

None of this should come as a surprise to anyone with half a memory of the iron deltas in the Buckhannon River below Tenmile, the black and red ooze out of the side of the road down to the village of Tenmile, the white seep almost directly across from the Zirkles' driveway, the coffee creamer curdling in Buckhannon residents morning cup of joe in 1988 when low flow in the River consisted mainly of treated water from the Tenmile complex, the increased need for the Buckhannon Water Department to add more specialized treatment of the Buckhannon River that serves as drinking water for the city and an increasing number of communities beyond the city limits, the dead fish in the Lee's pond and mysterious seeps down dip from the sludge impoundment to Laurel Run, and the iron seeps that continue to appear further and further downstream in Tenmile as rain and discharge water continues to wash through the unlined sludge impoundment, the fish kills and the really gross looking water logged dead stream life decimated by overflow from on-bench drains during one of the July downpours in 1986, the absurdly colored water in the coffer pond part of the central treatment system (check it out on Google satellite images). ..... The list goes on as long as anyone cares to remember.

### WVHC AND FOLK INVOLVEMENT

As for WV Highlands Conservancy numerous articles in the Voice and references in the 40 year history book attest to some of WVHC involvement.

The WV Highlands Conservancy has a long history of challenging many of the unwise decisions and permits for the Tenmile operation and of supporting efforts to protect the lightly buffered streams that were and continue to be degraded.

Among those efforts we joined with Mountain Stream Monitors and the previous WV Rivers Coalition to file a Lands Unsuitable for Mining Petition in 1980. The mining at Tenmile as well as DLM upstream provided a substantial portion of our reasons for filing. John Purbaugh and John McFerrin helped pull together Trout Unlimited, Sierra Club and other interested individuals into the Buckhannon-

Tygart River Coalition to educate the region by publicizing the destruction that was occurring at Tenmile and to stress the importance of the Buckhannon River for maintaining buffering for the acid mine drainage impacted Tygart River into which the Buckhannon flows, and to pursue actions against the company to prevent further permitting and more doomed-to-fail experimental mining processes.

Obviously we didn't fully succeed in stopping the destruction or this month's action by WVDEP wouldn't be necessary, but our efforts added some amount of pressure to slow down and finally stop what could have been hundreds and hundreds more acres of terrible mining on up the Right Fork of Tenmile, another trout stream.

My own introduction to the strip mining at Tenmile followed in the wake of core drilling and proposed mine permits in our communities on the other side of the ridge that divides the upper reaches of the Buckhannon and Little Kanawha Rivers.....

We on the Little Kanawha side of those ridges were assured by state agency and company personnel alike that the planned mining would not harm our communities nor would it result in long-term acid mine drainage that haunts so many other strip mines to the north of us. --- As a model, the Tenmile operations were held up as examples of the latest and greatest mining techniques and models we should look to for what we could expect from mining in the Little Kanawha headwaters.

Well, we did look. .... And in so doing were appalled by what we saw and later learned through researching files and records....

Fortunately for the Little Kanawha our personal and legal battles successfully warded off the mining --- at least until the present day in this the Chinese Year of the Snake, 2013.

But for me personally Tenmile remains a stark reminder of what may still await the Little Kanawha headwaters as more mining moves back to the northern region of West Virginia. .... Sagging manila files about the past 35 years of permitting at Tenmile still collect dust on the open shelves of our living area and even more fill several of the bulging storage boxes stashed around me in my cubbyhole loft workspace.

It will be interesting to follow this recent legal action to see just what comes of it Presumably civil penalties will be assessed for the ongoing violations of permit limits and water quality standards and for allowing damage to the hydrologic balance. Presumably there will be improvements in the permits and compliance with the same. .... But I'll have to wait and see.



## **WEST VIRGINIA HIGHLANDS CONSERVANCY SPRING WEEKEND**

April 26-28, 2013

Join us at Tygart Lake State Park just south of Grafton WV.

Casual get-together Friday night

Day trips Saturday morning and afternoon

Evening Program Saturday 7 p.m. at the Park Lodge

Discussion with Michael Hendryx and others

~~ health issues and the extractive industries ~~

LODGING IS AT A PREMIUM; PLEASE CONTACT THE PARK DIRECTLY TO RESERVE ROOMS, CABINS OR CAMPING SPACE.

[www.tygartlake.com](http://www.tygartlake.com) 304-265-6144

~~~ for planning purposes please contact us to let us know you're planning to attend:

Cindy Rank, [clrank2@gmail.com](mailto:clrank2@gmail.com), 304-924-5802 ... or ...

Marilyn Shoenfeld, [marilyn.shoenfeld@gmail.com](mailto:marilyn.shoenfeld@gmail.com), 304-866-3484

### **How to get there:**

Located in the north central part of West Virginia, Tygart Lake is easily accessible by taking north/south U.S. Route 119 or east/west U.S. Route 50 to Grafton. From Grafton take Rt. 50 to South Grafton and follow signs to the park.

### **For GPS navigation**

Enter this information: Bathhouse Road, Tygart Lake State k, Grafton WV, and it will route you to the state park.

### **Voice Available Electronically**

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

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

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

## COMING TO A NATIONAL FOREST NEAR YOU? (Continued from p. 1)

drilling on public lands, it is time for those who are interested to prick up their ears, if they haven't already done so.

### What has happened so far

At least as far back as 2010 some of the people who are concerned about the Monongahela National Forest have been asking about drilling, and particularly drilling in the Marcellus Shale formation, in the Mon. One of the themes was that drilling in the Marcellus Shale, particularly as it applies to the Mon, has never been evaluated.

Management of the Monongahela National Forest, as with all national forests, is governed by a management plan which is revised every fifteen years, give or take a few years. It is a major effort with multiple studies, assessments, public participation, etc. Many individuals and many groups, including the West Virginia Highlands Conservancy, participate.

The Forest Service most recently did a plan for the Monongahela National Forest in 2006. At the time, drilling in the Marcellus Shale was little more than a gleam in the eye of gas company researchers. (The Marcellus Shale was first mentioned in *The Highlands Voice* in April, 2008; the *Charleston Gazette* had its first story at about the same time). As a result, the Forest Service did not consider it. While the Forest Service did consider the drilling technology that existed at the time, it did not address in any way drilling to the Marcellus Shale formation.

Yet Marcellus drilling is different. The wells are much deeper; it takes more water, produces more waste, takes more land, pollutes more air.

Those who were concerned about drilling in the Mon pointed out that Marcellus drilling was different, its impact was greater, and that the Forest Service should study it more closely, including some environmental assessment, before considering any possible future proposals for drilling.

When new information becomes available after the forest plan is complete, the Forest Service has an option of doing a Receipt of New Information. For those wishing to expand their acronym vocabulary, that would be a RONI.

In March, 2012, the Forest Service completed its Receipt of New Information. To read the whole thing, go to [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5288559.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5288559.pdf). In a nutshell, it said that, even though the 2006 Plan did not consider Marcellus gas drilling, it did consider the gas drilling that was practiced at the time. The Forest Service didn't think that Marcellus drilling would be all that different. As a result, it was not going to change the 2006 Plan or do any further environmental assessment.

At the time, people who were concerned about Marcellus drilling were disappointed in this RONI (see, that new acronym vocabulary is coming in handy already). Reading between the lines, they concluded that the Forest Service must not be terribly concerned about the environmental impact of Marcellus drilling. Although there is absolutely nothing in the document that explicitly says that, if the inference is correct it would be an ominous portent.

### Is there any Marcellus gas in the Monongahela National Forest?

On maps of the Marcellus shale, it is shown as lying under the Monongahela National Forest. Its presence indicates at least a presumption that there is gas present.

At least part of the reason for the Forest Service's reluctance to do anything with the new information about Marcellus drilling was

its doubts about the presence of economically recoverable Marcellus gas in the Mon. The Receipt of New Information has this to say, "The combination of low natural gas prices, high drilling and completion costs, the paucity or otherwise unavailability of natural gas pipelines to transport gas to markets, and uncertainties associated with potential for successfully finding natural gas in the MNF's geologic setting act to slow, delay or possibly preclude development of Marcellus shale gas development in the foreseeable future in the MNF."

The Forest Service based this conclusion in part upon a report from the West Virginia Geologic Survey. That report said that the Marcellus shale is more faulted in the Mon than it is in other locations, particularly areas to the west of the forest. This makes drilling more difficult and the presence of recoverable gas less likely.

There has been exploration. In 2011 there was exploration for gas in and around the southern part of the Forest, near Richwood. See the April, 2011, and September, 2011, issues of *The Highlands Voice* for some details. The results of that exploration are not available from any readily available public source.

### Coming attractions?

So far as can be determined from readily available public sources, there are no concrete proposals to drill to the Marcellus shale on the Monongahela National Forest. At the same time, a fair inference from Mr. Obama's State of the Union address is that federal policy would favor such a proposal.

Maybe "cutting red tape and speeding up new oil and gas permits" was just a throw away line that doesn't mean anything. All the same, now would be a good time for all ears to assume pricked position.



## Join Now !!!

Name \_\_\_\_\_

Address \_\_\_\_\_

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

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

### Membership categories (circle one)

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

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

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

### GREAT HISTORY BOOK NOW AVAILABLE



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

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

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

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

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

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

### SUCH A DEAL!

#### Book Premium With Membership

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

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



## MANCHIN WILL CHAIR SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING

U.S. Senator Joe Manchin (D-W.Va.) was recently appointed chair the United States Senate Energy and Natural Resources Committee's Subcommittee on Public Lands, Forests and Mining that oversees national mining policy, mining education and research, public lands and wildlife refuges.

"It is an honor and a privilege to chair the Subcommittee on Public Lands, Forests and Mining since it oversees so many issues that West Virginians care about the most, especially when it comes to mining policies and public lands," Senator Manchin said. "I am very grateful to our Chairman of the Energy Committee, my dear friend Senator Ron Wyden of Oregon, for offering me this position. I am also pleased with the Energy Committee's ranking member, Senator Lisa Murkowski of Alaska. Both have visited our great state and are committed to working toward an all-of-the-above energy approach that leads to energy independence."

The Subcommittee on Public Lands, Forests, and Mining has jurisdiction, including oversight and legislative responsibilities, for the following subject areas, among others:

- National mining and minerals policy;
- General mining laws;
- Surface mining, reclamation, and enforcement;
- Mining education and research;
- Federal mineral leasing;
- Public lands administered by the Bureau of Land Management and U.S. Forest Service; and
- Establishment of wildlife refuges on public lands and wilderness designations.

## GAS WELL WORKSHOP

In March, 2013, the West Virginia Sierra Club, in partnership with citizen experts George Monk and Molly Schaffnit, will conduct an online Gas Well Workshop for people in West Virginia who are interested in looking at gas wells in their area for regulatory compliance and environmental issues. The workshop is for anyone interested in or concerned about new, or old, gas wells in West Virginia.

Enroll in the workshop and you can become a "citizen gas well watcher!"

The Workshop will have three weekly sessions with videos, documents, an exercise, and conference calls.

### The Way the Workshop Works

Each class session is scheduled for a week in March. Participants will watch videos, read materials, and complete a session exercise early in the week at their own pace. Then there are two dates/times later in the week to join in a conference call for questions and discussion based on that session.

After completion of the workshop sessions there will be a field trip to an actual well. There workshop participants can see how the online training translates into on-the-ground observation.

Additional resources are available for each session for those who want to learn more. These include links to regulations, Office of Oil and Gas documents, and so on.

"The Workshop videos, documents and additional resources are what we wished we had available when we first started looking at gas wells," said George Monk, workshop leader.

Yet this is not an "academic" workshop. It's practical, and the goal is to equip citizens with the basic skill and information to observe gas wells. We expect graduates to look at wells, and to report what they find.

### To sign up

To register for the workshop, contact Jim Sconyers at [jimscon@gmail.com](mailto:jimscon@gmail.com) or 304-698-9628.

The first workshop session is March 10 - 14.

### 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.

# West Virginia Mountain Odyssey



## Outings, Education and Beyond 🇺🇸

**Full Moon Skiing Trips** are around each month's lunar glare Dec 28, Jan 27, Feb 25, Mar 27. We usually head out around 7:30 pm. Good snow, surprising visibility, mysterious sense of control.

**April 20 & 21, 2013 - Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge.** Join us as we continue our efforts to restore the red spruce ecosystem in the West Virginia Highlands. This tree planting event will take place on the Canaan Valley National Wildlife Refuge. We will meet at the Refuge Headquarters and Visitor Center at 10 am each day. Following an orientation about the red spruce ecosystem and our work to restore it we will car pool to the restoration site. Come dressed for the weather, wear sturdy shoes or boots and bring gloves. Lunch will be provided. Please RSVP! For more information, visit [www.restoredredspruce.org](http://www.restoredredspruce.org), or contact Dave Saville at [daves@labyrinth.net](mailto:daves@labyrinth.net), or 304 692-8118. Sponsored by Central Appalachian Spruce Restoration Initiative.

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

### COLD, DARK, AND WET

By Heather Hicks, age 10 ¾

Last October, George Dasher first took us to the Sinks of Gandy. My friend Sammie [age 10] and I were rock hopping outside it and my Mom said, "Be careful and do not fall in the water."

Sammie fell into Gandy Creek and started to cry because it was so cold. So my Mom's boyfriend George promised to take me on a cave trip through the Sinks of Gandy in the summer [Sammie didn't want to go because she thought it was cold and miserable]. We couldn't go in October because it was way too cold. It had been snowing in October.

So we went in July after it rained a lot. We camped, and it rained all night on the tent. When I was at the NSS Convention in Lewisburg, I went in a bunch of caves with George. We were on a scavenger hunt for skulls. We found 11 of the 12 skulls, and came in second place. We didn't go far enough into one cave to find the last skull [George said the directions were wrong]. So I know about caves. I've been in seven or eight.

Some of the adults went first into the Sinks of Gandy, with the kids in the middle, and parents following. There were also two dogs. The dogs led.

We got in the cave and I thought it was extremely cold, even in the summer. I didn't have my cave suit because George didn't tell my Mom to bring it. My Mom says George doesn't communicate well. My Mom says some people go through the Sinks of Gandy naked. I shook my head and said, "Those people should have

brought clothes." So I ended up wearing George's Under Armour with the sleeves and legs rolled up, and shorts over top.

In the deep parts [there were deep parts because the water was high], I felt like I couldn't breathe because the water was so cold. I wanted to get out as soon as possible. I tried to stay up on the banks as much as I could. I stayed close to my Mom and George. The dogs, on the other hand, were yelping, fighting, slipping, and falling. The dogs were very excited and wanted to continue through the cave. Some kids' teeth were chattering and some kids were brave and kept going. I had to rest. Mom or George carried me through the deepest water.

At the end of the cave, George asked me if it was fun. I thought back; I thought it was fun in some ways. I liked sliding down the mud banks and I could tell the other kids liked that too. I liked not falling, like the other adults and kids. My Mom fell in up to her neck and said some bad words.

This is the experience when the water is high in the Sinks of Gandy.

**This article originally appeared in *The West Virginia Caver*. Any article about caving reminds us of Bob Handley whom we remember with great affection.**

# DEPARTMENT OF ENVIRONMENTAL PROTECTION PROPOSES EMERGENCY RULE ON ALUMINUM AND BERYLLIUM

By Donald S. Garvin, Jr., West Virginia Environmental Council Lobbyist

On January 30, 2013, the Office of Water Resources in the Division of Water and Waste Management of the Department of Environmental Protection filed with the Office of the Secretary of State a "Notice of an Emergency Rule" which would amend the "Requirements Governing Water Quality Standards" contained in 47CSR2.

Specifically, the Department of Environmental Protection is proposing this emergency rule to *drastically weaken* the dissolved aluminum criteria and human health Category A beryllium criterion contained in 47CSR2.

On February 25 WVEC submitted comments to the Secretary of State on behalf of the West Virginia Environmental Council, the West Virginia Rivers Coalition, the West Virginia Highlands Conservancy, and the West Virginia Chapter of the Sierra Club, urging rejection of the Emergency Rule status proposed by the DEP.

In our comments to the Secretary of State, we stated that the WV DEP has not demonstrated that there is any actual "emergency". While some coal companies have procrastinated in meeting earlier compliance schedules, ***the only emergency seems to be that the water is too clean.*** Delaying the proposed change in standards through the regular rulemaking process does not place the health of any person or any stream in danger, whereas there are legitimate scientific questions about the environmental consequences of weakening the standard.

At this time we do not know how the Secretary of State will respond to our request.

In the meantime, DEP has scheduled a public hearing and comment period on the proposed Emergency Rule. The comment period runs from February 8, 2013 to March 27, 2013. The hearing date has been set for March 27 at 6:00 P.M. at the Coopers Rock Training Room at DEP Headquarters, 601 57th Street, S.E., Charleston, WV 25304. Written comments can be mailed to that address.

Dr. Jim Kotcon, Conservation Chair for the WV State Chapter of Sierra Club and longtime water and air quality rules monitor in the state, has written the following preliminary comments about the science involved in this issue:

"Because WV-DEP has not promulgated any actual standards for Total Dissolved Solids (TDS) in spite of the overwhelming evidence of harm to aquatic life in West Virginia streams from high TDS levels, and because the hardness criteria used in the proposed aluminum standard are directly correlated with TDS, the interaction of aluminum and TDS creates a potential for adverse impacts to streams and aquatic life that were not considered by DEP.

"The risk of aluminum toxicity is great in the moderate pH ranges covered by the proposed standard (e.g., pH 6.5), and these ranges are likely to be common in effluent from mining operations. (Besser, et al. 2007. Impacts of historical mining on aquatic ecosystems - an ecological risk assessment. Professional Paper 1651. US Geological Survey).

"Aluminum forms soluble complexes with ions such as sulfate, nitrate, and chloride, all frequently found to be at high levels in mining effluent, thus, no single parameter (such as hardness) can accurately predict the amount of soluble aluminum. Under some water conditions, solutions of aluminum will approach equilibrium rather slowly, again suggesting that a hardness measure is a poor predictor of the dissolved aluminum concentration. (EPA, 1988. Ambient Water Quality Criteria for Aluminum. EPA 440/5-86-008). In particular, they noted that even the particulate forms of aluminum may be harmful to aquatic life in the field because the flocculates physically block movement and clog the pore spaces of benthic organisms, effects that would not appear in laboratory studies of aluminum toxicity. They conclude, "Bottom-dwelling organisms might be impacted more by aluminum floc in the field than in the laboratory."

"DEP's Emergency Rule Justification includes a section on "Scientific Justification" that claims that numerous scientific studies have validated the impact of hardness on toxicity to aquatic communities, yet it does not actually cite ANY studies, nor does it provide any actual data. The proposed standard appears to be little more than an attempt to weaken a standard simply because Colorado adopted something similar for certain waters in that state. (Colorado Department of Public Health and the Environment. 2012. Regulation No. 34 Classifications and numeric standards for San Juan and Dolores River basins. 5 CCR 1002-34.) Note that these Colorado equations appear to generate values that are more protective than the values proposed by WV-DEP."



## The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist



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

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

### New 8TH Edition Now Available on CD

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

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

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

Price: \$20.00 from the same address.

### BUMPER STICKERS

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

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



## All Around Blennerhassett Island

Woodcock returns to the wetlands  
with its whinnying spiral flight  
and weird dance  
White-maned eagle returns  
to its branch over Ohio fish-pools  
Loon and grebe to haunt river-currents  
The sun is recovering its strength  
We go on our pilgrimage  
to see the peregrine falcon  
Our legs weak but our hopes strong  
We see it in a halo of sun  
fierce eye, tearing beak,  
dark crescent on its face  
icon of grace and freedom  
Our bodies ebb as our joy grows  
We go down to the river shore  
where mud and sticks  
are sprinkled with pearly mussel shells  
and gaze at the mysterious island.  
~Arlene R. Thorn

## First Snow

October 28, 2011

Reminder and rebuke, blackened branches  
now blanketed, cool glistening white  
believe the flames, forty feet high  
that leave blackberry, cherry, locust  
to stand, silent snagging thorns  
no longer succession forest, home  
to golden wing warbler, grouse, chipmunk and fox.

An August morning, sky clear, no wind, not even puffs.  
Perfect day to burn that brush, piled low beside the road.  
Two hours tending, all it takes, turns debris into ash.

By afternoon ignored, forgotten a freshening breeze  
fans spent embers, brown crimson clouds  
fill the sky – smoke and flames – angry rumble –  
joined by generators and pumps – hoses – heat –  
blackened – hands and faces – hacking, blowing –  
fire breaks – surround – until having only itself  
to consume the conflagration is controlled.

Smell of smoke and steaming ground linger for days.  
The cicatrix and anger at myself remain  
until today – grouse tracks in the snow.

© Linda J. Himot

## TURBINES NEAR THE MON?

By Peter Shoenfeld

In October 2010, the US Fish & Wildlife Service (USFWS) received a letter from Western Ecosystems Technology, Inc. (WEST), inquiring about environmental suitability for a wind power facility of a huge area in Randolph, County, with total area about 100,000 acres. Apparently, the prospective wind turbines would be sited on the ridge lines atop Cheat or Shaver's Mountains, or both. The final USFWS response was dated July, 2011, and was obtained by a more recent FOIA request. At this point, we do not know if this project is still active, but are trying to find out.

WEST is a capable and well-regarded environmental and statistical consulting company that participates in many wind projects and has developed the sideline of "fronting" for developers in such matters.

The area referenced lies east of Elkins, extending past the Glady Fork, on both side of US33. It approaches the Otter Creek wilderness to the north, extends past the Glady community on the south, and is all within the proclamation boundary of Monongahela National Forest. Most of it lies within a large Monongahela National Forest in-holding. See map showing the area as well as the species mentioned in the correspondence on the next page.

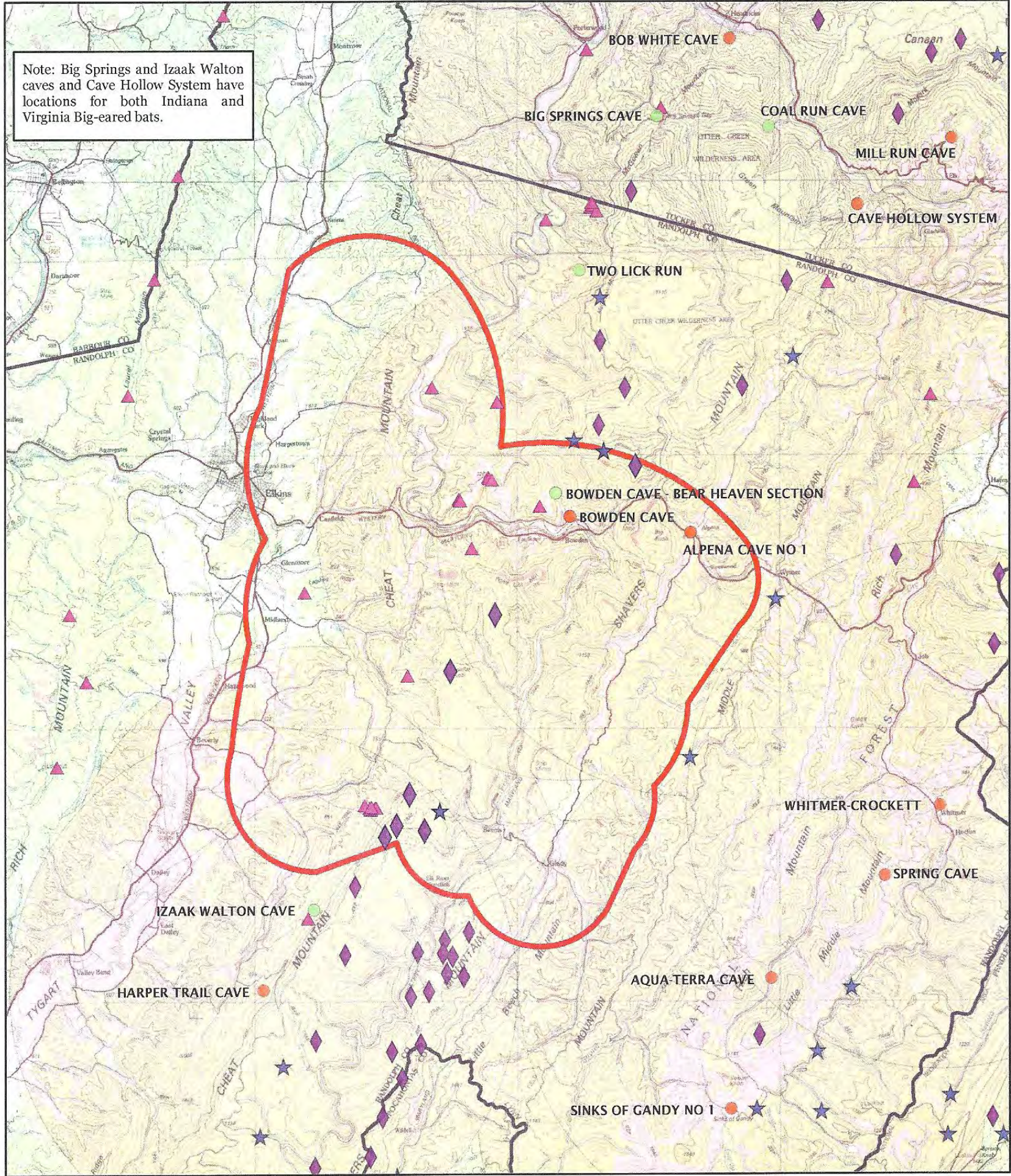
USFWS was generally negative and went into great detail and specificity about their concerns for such a project, although they did include the obligatory statement of support for properly sited wind energy projects. They spoke of many caves and threats to the endangered Indiana and Virginia Big-eared bat species. Also the Cheat Mountain salamander, West Virginia northern flying squirrel, and running buffalo clover. WVDNR rare species of concern mentioned included the timber rattlesnake, northern red salamander, northern goshawk, golden-winged warbler, Allegheny wood rat, southern rock vole, pale frilly orchid, Spruce Knob three tooth, and Appalachian blue violet.

They also expressed concern about the cumulative effect on non-endangered bats associated with wind power facilities such as these along ridges of the Appalachian plateau.

The recreational and aesthetic impact of project(s) in this area would be very great. The Shaver's Fork and Glady Fork rivers are included. The turbines would be highly visible from Spruce Knob and locations in the Otter Creek wilderness.

**Note: Because the print version of *The Highlands Voice* is in black and white, the map that illustrates this story may not be as informative as it might be. To see the map in color, try the online version of the *Voice* at [www.wvhighlands.org](http://www.wvhighlands.org).**

# Sensitive Species/Sensitive Habitat Review Wind Energy Project, Randolph Co., WV - Map 1



### KEY



Area of Interest

6-mile Buffer of Virginia Big-eared Bat Caves



Cheat Mountain Salamander



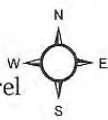
Running Buffalo Clover



WV Northern Flying Squirrel

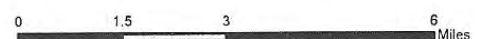


Indiana Bat



**US Fish and Wildlife Services  
West Virginia Field Office**

updated June 10, 2011



# HIGHLANDS CONSERVANCY BOUTIQUE

## NEW STUFF



Serious cuteness going on in new baby outfit.



Polo shirt

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

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

► Order now from the website!

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

## SAME STUFF

### T- SHIRTS

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



### HATS FOR SALE

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

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

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