



The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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HEARING ON VALLEY FILLS PERMIT TURNS INTO MOB SCENE

WHAT WAS SUPPOSED TO HAPPEN

By John McFerrin

Even though it turned into a pro-coal rally, a chance to bully anybody who disagreed with the pro-coal forces, etc., (see accompanying story) there was actually some serious business to be conducted at the October 13, 2009, public hearing. Instead of what it was about (intimidation, railing against the Environmental Protection Agency, braying about environmentalists, etc.) it was supposed to be about a proposal by the United States Army Corps of Engineers to Suspend Nationwide Permit 21.

Nationwide Permit 21 is what is known as a “general permit.” General permits are designed for activities that produce minimal environmental impact. They allow such activities to go forward with less scrutiny than there would be for activities that produce a more substantial impact.

Nationwide Permit 21 was issued in 1982 to allow dredged or fill material to be discharged into the waters of the United States from all surface mines without the scrutiny that would come if projects were examined individually.

The world has changed since 1982. Here is how the Corps of Engineers explains it:

(More on p. 8)

WHAT ACTUALLY DID HAPPEN

By Joe Stanley

My name is Joseph C. Stanley and I am writing to give comments about Nationwide Permit 21. Before I do so, I would like to tell you about the public hearing held in Charleston, WV on October 13, 2009.

When I arrived at approximately 5:30 pm, a huge number of people wearing reflective mining clothing were on the outside of the Charleston Civic Center where the meeting was being held. The purpose of this meeting was to give comments concerning the Nationwide Permit 21 (NWP 21).

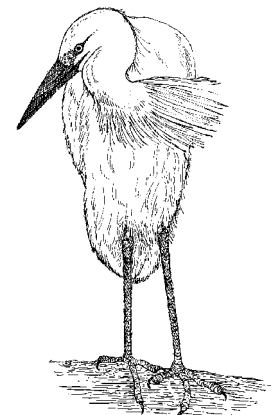
As we approached the Charleston Civic Center, I and the two I was with were approached by people insisting that we accept Friends of Coal shirts or Friends of Coal stickers—I told them I didn’t want any. At that point several people in reflective clothing began calling us insulting names. There were no police present to prevent this onslaught of abusive language. We entered the building and passed through a metal detector. People inside were also giving out Friends of Coal stickers and t-shirts directly in front of the table where I had to register to be able to speak at this federally

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From the Heart of the Highlands

by Hugh Rogers

He ♥'d Mountains: Part 2

I arise in the morning torn between a desire to improve the world and a desire to enjoy the world. This makes it hard to plan the day.—E. B. White

John Muir's desire to improve the world never equaled his desire to enjoy it—yet somehow, to our benefit, he became a public advocate and presidential adviser. He once wrote that since eight members of his family were “useful” members of society, surely “one may be spared for so fine an experiment.” What experiment was that? “I will follow my instincts, be myself for good or ill, and see what will be the upshot. . . . I'll acquaint myself with the glaciers and wild gardens, and get as near the heart of the world as I can.”

The internal struggle that E.B. White viewed with wry humor was for Ralph Waldo Emerson a matter of earnest concern. When he met Muir, Emerson was one of America's most famous men. Muir, then thirty-three, was a part-time employee at a Yosemite sawmill; but he was also a full-time botanist, geologist, and mountain climber, who showed Emerson his plants and sketches and favorite places in the valley. Muir became one of Emerson's projects. The great essayist invited Muir to stay with him in Cambridge, to meet eminent friends such as Louis Agassiz, who from his post at Harvard had transformed American geology.

Muir turned him down. He did appreciate the gift of Emerson's essays—the volume, now in Yale's Beinecke Library, is thoroughly marked—and he brooded on the great man's appeal for him to take a public role. “Always the seer is the sayer,” Emerson had written (and Muir underlined) in the “Divinity School Address.” Eventually Muir followed the route from seeing to writing to advocacy. But he begrudged every step of the way.

The person who sent Emerson to Muir—as earlier she had sent a professor from the University of California and the president of MIT—had been the first to urge Muir to write up his findings and theories about glaciers in Yosemite. She was the wife of a professor whom Muir had studied with a decade before at the University of Wisconsin. The professor had influenced how Muir viewed the world, but the wife changed his view of his life. Her name was Jeanne Carr.

Here I should backtrack. In my September column I called Muir “unschooled.” That was an overstatement. He did have three years at his Scottish village's grammar school, studying Latin, French, and English, along with math and geography. Evenings, he worked on memorizing the Bible to his father's satisfaction. Learning was enforced by the whip. By the age of eleven, as he later recalled, he had “about three-fourths of the Old Testament and all of the New by heart and by sore flesh.”

Emigration changed everything. During his second eleven years, Muir had no school at all. He did not miss it. When the opportunity to learn in a classroom came again, he made sure it would be on his own terms.

At home, Daniel Muir would allow no book but the Bible. But among the nearby Scots in that part of Wisconsin were some who had small libraries, and the young John Muir began a secret reading program. He also developed a practical talent for invention, and that proved to be his means of escape. His first contraption dumped him out of bed at an early hour to pursue his self-education. He went on to build wooden locks, waterwheels, hygrometers, barometers, and an

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THE PATH TO NOWHERE?

By Frank Young

In late October the staff of the West Virginia Public Service Commission (PSC) recommended dismissing the application for an interstate electricity transmission line proposal known as PATH.

Potomac Appalachian Transmission Highline, or PATH, was to be a nearly 300-mile, \$1.8 billion proposal to construct an electrical transmission line from western West Virginia, across the state, then through Virginia, and end at a proposed substation near Kemptown, MD. Nearly 225 miles of the project would be in West Virginia.

But after a hearing in July, the Maryland PSC voted 3-1 to reject the application for PATH. The rejection was based primarily on the issue that the application was filed by PATH Allegheny LLC- which is not a Maryland utility company- rather than by the legal Maryland corporate utility entity, Potomac Edison, for such applications. The Maryland PSC did not reject the project itself in the decision, only the legality of the application.

As an alternative to dismissal of the PATH application, the WV PSC staff recommends suspending action on the application and tolling the procedural schedule, pending further action by the PATH companies in Maryland.

To "toll" means to set back the procedural schedule. WV law allows the PSC 400 days from the date it was filed to rule on the PATH application. But if the applicant agrees, the PSC can change (extend) this deadline to almost anything agreeable to the applicant. If tolling were to take place, a new procedural schedule- including the dates of evidentiary hearings and final case order- would be developed.

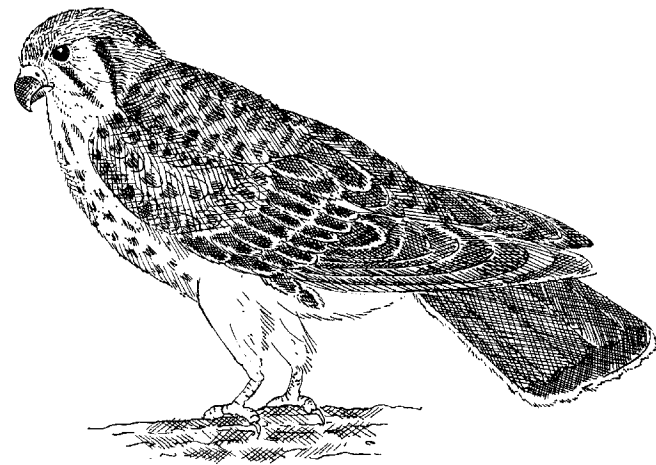
The WV PSC staff motion stated, "Almost 50 days after the dismissal by the Maryland PSC, however, PATH's joint venturer, PE (Potomac Edison), has not filed an application for regulatory approval in Maryland and has left this commission with the possibly futile task of reviewing the application for an incomplete project".

In mid-October a similar motion was filed by the staff of the State Corporations Commission of Virginia- and which also cited the PATH application's dismissal by the Maryland PSC.

Todd Meyers, an Allegheny Energy spokesman, said the company is reviewing the staff motion. "A decision with regard to a possible refiling of an application for approval of the PATH project in Maryland will be announced in the near future," Meyers said. "I cannot offer a precise timeframe."

Several of the more than 200 interveners against PATH at the WV PSC have joined in support of the PSC staff's motion to dismiss.

The WV Highlands Conservancy (WVHC) submitted a supporting memorandum in which WVHC attorney Bill DePaulo wrote, "PSC Staff correctly points out that PATH's failure to resubmit a timely application in Maryland by October 9, 2009 (as required by the Maryland PSC's September 9, 2009 order dismissing the prior application), leaves this Commission with a proposed transmission line beginning in W. Va. but with no termination point. No assessment of the need for, or environmental impact of, the proposed line, as required by W. V. Code § 24-2-11a, can be made in these circumstances."



Voice Available Electronically

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

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

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

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

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

RAIN CAN'T STOP WV E-COUNCIL FALL CONFERENCE

By Frank Young

The West Virginia Environmental Council (E-Council / WVEC) held its annual fall conference on a rainy weekend in late September. But despite the weather, by several accounts it was the best attended and most successful WV E-Council conference in several years.

WVEC is an umbrella group of many active WV environmental organizations. The purposes of the Council are to facilitate communication and cooperation among citizens in promoting environmental protection in West Virginia, to assist in organizing grass-roots groups and facilitating interaction among established environmental organizations, and to correspond with local, state, and federal agencies involved in the management of West Virginia's environment.

The seventy-five 2009 E-Council fall conference delegates attending held regional meetings to focus on local issues and to select regional delegates to the E-Council's board of directors. County's Holley Gray Park campgrounds to attend many ing schemes, power lines, and mountaintop removal

The setting of E-Council's annual legislative ence. We entertained a wide variety of suggested leg-transmission lines and PSC reform, wind energy siting Protection accountability and budget/funding, green bill, chemicals, public health impact assessment of rules, and "Farm to School Program", among others. and develop these issues for a more comprehensive

The inspirational social highlight of the confer-morning talk by America's favorite populist, Jim Hightower's homespun humor and sage advice offerings.

Asked about the Obama administration's "promised a seven course dinner, and all we got was a pos-gonna' be as good as we make him be", and that, "It's lite, for too long."

"The first job of a citizen is to keep your mouth nected to a brain." Hightower further opined that, "The butt ugly".

Asked about the media, Hightower quipped that "I am the media". He then advised that, "You need a speaker's bureau. We need to become the media."

But the beast summation of Hightower's message came early in his remarks. "Those who say it can't be done should not interrupt those who are doping it", he said. Fortunately for WVEC, Mr. Hightower declined any honorarium for appearing at the E-Council gathering.



And we slogged through the rain and mud at Braxton workshops on such issues as wind power, carbon trad-mining, among others.

agenda began to take shape for 2010 at the confer-islative issues, including clean and secure elections, issues and regulation, Department of Environmental jobs, water quality issues, other energy issues, bottle Department of Environmental Protection proposed The WVEC legislative committee will further prioritize WVEC agenda for 2010.

ence was a Friday night reception for and a Saturday Hightower.

were appreciated by all who enjoyed his 45 minute

gressivism", Hightower replied that, "We were prom-sum and a six-pack". He added that, "Obama is only up to us, you and me. We've been too quiet, too po-

open", he said, then added that "But it helps if it's con-emporer not only has no clothes, he is buck naked and

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.



FIGHT FOR CHIEF LOGAN STATE PARK GOES ON JUST THE FACTS, MA'AM

By John McFerrin

The West Virginia Highlands Conservancy, as well as Friends of Blackwater and Cordie Hudkins, has been allowed to intervene in litigation in the Circuit Court of Logan County over whether gas well drilling in Chief Logan State Park.

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

West Virginia Highlands Conservancy, Friends of Blackwater, and Mr. Hudkins had originally sought both to intervene and then to request that the judge reconsider his decision. The judge allowed them to intervene but refused to reconsider his decision.

It would have been unusual for a court to both allow intervention and reconsider a decision that was made before the new parties asked to intervene. Once rendered, decisions are considered final and are rarely changed.

Being allowed to intervene does give WVHC, FOB, and Mr. Hudkins the opportunity to appeal the decision to the West Virginia Supreme Court of Appeals.

The most significant development was that the WVHC, FOB, and Mr. Hudkins were allowed to put into the record substantial new evidence. The circuit court had made its decision based upon an incomplete understanding of the history of the park and the West Virginia Division of Natural Resources' policy concerning drilling for gas in state parks. Cabot Oil and Gas as well as the owner of the minerals, Lawson Heirs, had contended that the Division of Natural Resources routinely allowed gas wells to be drilled in parks.

The new intervenors presented evidence that this is not true. According to the evidence submitted, the Division of Natural Resources will allow gas wells that exist when land becomes a park to remain. It will not allow drilling once land has become a park.

Having this new evidence will make it possible for the Supreme Court to make a more informed decision on the drilling in Chief Logan.

The West Virginia Department of Natural Resources was also made a party to the case. Although it has taken the position publicly that it opposed the drilling, it had remained on the sidelines up until now. The Department of Environmental Protection is in charge of issuing drilling permits; Natural Resources is in charge of parks. Because of this, both are now involved.

The West Virginia Chapter of the Sierra Club was also permitted to intervene. It has the same goals in the litigation as the WVHC, FOB, and Mr. Hudkins.

ATMOSPHERE

By Julian Martin

I rode with Cordie Hudkins to the Chief Logan State Park court hearing on drilling for gas in the park. He was Chief of West Virginia state parks for ten years. I first heard of Cordie when he leant his support to the effort to save Blackwater Canyon from logging. We discovered that we were two years apart at St. Albans High School—West Virginia is a small state, often with only one degree of separation. Cordie understands and laments the impact coal mining and logging have had on West Virginia. He observed that if the mountains of Logan County and other coal producing counties had been left in a natural state they would be as beautiful as the Smokey Mountains. He was going to Logan where he successfully became an intervener, along with the West Virginia Highlands Conservancy, the Friends of Blackwater, and the Sierra Club, in the lawsuit to stop the possibly 35 gas wells proposed for the park.

Logan has suffered perhaps the worst coal industry devastation of any West Virginia county. Just before arriving in the town of Logan there is a huge Wal-Mart based shopping center built on a former strip mine. (Ironically the Department of Environmental Protection Logan office is located on an undeveloped section of this gouged out land). This sort of "development" came like a kick to the gut after the victim was already down. Unemployment caused by mechanization and mountain top removal strip mining has just about brought the town of Logan to its knees. It looks like Wal-Mart has finished it off. Those working in the natural resources and mining industry make wages of a little over \$1,000 a week. But the average wage of all workers in Logan County is less than \$500 a week compared to a national average of \$841 a week. The top three employers in Logan County are the Board of Education, Logan General Hospital and Wal-Mart followed by four coal companies.

There is a lot of opposition against drilling for gas in Chief Logan State Park. A man who works in the coal industry told me that 80% of the people in Logan County oppose the drilling. I heard it said that the state park was all they had in Logan and to let it get roughed up by gas well drilling was just too much.

Speakers Available !!!!!

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

Big Doings at the Big House**LEGISLATIVE UPDATE**

By Don Garvin, Legislative Coordinator, West Virginia Envi-

Next year – 2010 – is an election year. So there is not a lot of controversial legislation being talked about in Interim Committee meetings *this* year.

There are three more months of Interim meetings remaining before the regular session convenes on January 13, so it is likely that activity on and discussion of environmental issues will begin to pick up in November. Here's a brief rundown on what's happened so far, and what to look for the next three months.

Legislative Rulemaking Review Committee: This is the Interim committee that gets the first shot at considering all of the legislative rule changes proposed by the Department of Environmental Protection (DEP), before they are sent to the full Legislature for consideration during the regular session.

Most of the proposed rules this year are non-controversial. However, two of the proposed air quality rules have been held up because of recent actions by EPA (45CSR14 and 45CSR19). We have filed comments asking for changes in those rules.

The most controversial DEP rule this year proposes changes to the Oil and Gas Well drilling rule (35CSR4). While some of DEP's proposed changes to the rule are beneficial – such as *finally* requiring synthetic liners for drilling pits – the proposed changes fall far short of being protective of the threats to water and land resources and human health posed by the increased activity from Marcellus Shale drilling operations. The industry, of course, opposes even these modest changes.

A working coalition of concerned environmental groups convened earlier this summer and drafted comprehensive comments in support of the modest changes to the rule proposed by DEP, but also urging the agency to adopt an extensive list of additional changes. This ad hoc working coalition consisted of representatives from West Virginia Rivers Coalition, West Virginia Highlands Conservancy, West Virginia Sierra Club, West Virginia Citizen Action Group, West Virginia Surface Owners Rights Organization, Appalachian Center for Economy and the Environment, and the West Virginia Environmental Council (WVEC).

This is certain to be a hot button issue during the upcoming legislative session.

Joint Committee on Finance: Interim Subcommittee B has had two presentations on the Governor's proposed transmission line tax, which failed to pass in the 2009 legislative session. The first presentation was from the Governor's General Counsel, and the second was from a representative of the Public Service Commission. The overall response from committee members was skeptical, at best, and it does not appear likely that the committee will endorse this legislation again in 2010.

Joint Legislative Oversight Commission on State Water Resources: In June this committee received the long-overdue DEP report on its portion of the Slurry Injection Study on groundwater contamination. In July the committee heard a presentation in response to the DEP report from the Sludge Safety Project folks. The committee is now waiting for the Bureau of Health and Human Resources to complete the health impact portion of the study.

The committee has also already heard a presentation from Jim Martin, Director of Oil and Gas at DEP, on the proposed Oil and Gas Rule, and has had a few other presentations on Marcellus Shale water quality and quantity issues.

In October the committee heard a presentation on the disastrous Dunkard Creek fish kill from both the Division of Natural Resources and DEP.

Joint Committee on the Judiciary: In October Interim Subcommittee A had some powerful presentations from OVEC, the Council of Churches, and coalfield residents on the protection of cemeteries from mining operations and other types of development. There appears to be sufficient interest in this issue so that the committee may actually draft a bill.

Forest Management Review Committee: This committee is hearing each month a presentation from the Division of Forestry on a different section of a proposed Statewide Forest Management Plan revision. The final product is due to be presented to the committee in December.

That's about where things stand with Interims at this point. So stay tuned, folks, and stay involved. Things are just beginning to get interesting.

**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 Ì 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 Ì Mountains slogan.

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



MORE ABOUT THE ATMOSPHERE

(Continued from p. 1)

sponsored USACE hearing. I filled out a card and checked that I was an independent speaker.

We enter the meeting room, by the time the meeting started it was at maximum capacity and I was surrounded by people from the mining industry. The meeting started at 7:00 with opening remarks by Col. Robert D. Peterson, Commander of the Huntington District. After the panel was introduced, Chief Ginger Mullins of the Huntington District laid out the time limits of three minutes for each speaker. The first speaker was WV State Senator Truman Chafin who spoke against the Corps that was conducting the meeting, the U.S. EPA, and the Obama administration. During and after his cheerleading session for the coal industry he received a standing ovation. Based on the pro-coal rhetoric he was spouting I thought the panel should have taken control of the situation but no attempt was made to do so.

After numerous speeches on the merits and the goodness of the coal industry the first opposing view was presented by Maria Gunnoe. No respect was given her by the crowd. The court reporter said he could not hear her comments and Ms. Gunnoe was shouted out many times.

The panel made no reasonable attempt to control the crowd. The insults and the profanity were great. The meeting should have been controlled then and there. All of the opposing views that followed were greeted with the same insults. The opposing views could not be heard by the court reporter and he indicated so on several occasions.

When it was my turn to give my comments, I asked the panel before I started if my time would be adjusted if I was interrupted; Colonel Peterson said it would not and that my time had already started. I tried to speak but a constant roar of profanity and insults drowned me out. I was not able to comment in a federal hearing because of the lack of control by the panel. The panel was asked to remove the people who were disrupting the meeting but refused to do so. As each person who had an opposing view to the coal industry spoke, they were shouted at until their message could not be heard. The panel made no viable attempt to control the uproar and I felt that our well-being was in danger. Just before Bill Raney of the West Virginia Coal Association spoke, Michael Morrison and I began to make our way out of the room. We were shouted and screamed and cursed at constantly.

We came out to the lobby and were redirected to a side entrance away from where we came in. As we were moving towards the side entrance Maria Gunnoe asked Michael Morrison and I to please wait for her and some others. We went to the side door and waited with some Charleston police officers. Maria Gunnoe, Robin Blakeman, Vivian Stockman and a few others joined us and we left. Upon exiting we were surrounded by people wearing reflective clothing. A very large man started toward me calling me names. I sidestepped him and he continued toward Michael Morrison continuing to shout profanity. The other people close behind him were saying they were getting paid to "stomp our a**". The man cursing at Michael Morrison kept his right hand under his chest clothing which made me think he was armed. He bumped into Michael Morrison and said he would "kill him".

I told Michael to keep moving. He did and crossed in front of me. The large man and his followers pursued us and I then saw the large guy push Maria Gunnoe who was spun around by the contact. At this point a Charleston Police Officer came directly up and into the face of the large man and told him "Do not touch her". As the police officer told him and the others to "move back, turn around and leave," I told the police officer we don't want any trouble. The police officer put his hand on his gun and told them (face to face with the big guy) "Don't follow them. Leave the

area."

A second Charleston Police Officer came running up to back up the other officer. The two officers stayed between our group for several blocks until we were at one of the parking lots where Maria Gunnoe, Robin Blakeman, and Vivian Stockman were parked. The mob had continued to follow the policemen. The policemen waited at the corner. Vivian Stockman thanked them and told them that there were others inside that needed help getting out.

The women got into their cars. The young couple that was with us had parked on the second level of the parking garage so, after taking them up, Michael and I left in our car.

It is a miracle that one of us was not killed by the men who threatened to kill us. I have been around mining people all of my life and I haven't seen anything like this. It seems to have been planned.

The USACE failed to take the security issues seriously. When capacity was reached, the overflow should have been moved away from the entrances and exits. This mob did not have a permit to assemble in front of the Civic Center. Not enough police protection was provided and no West Virginia State Police were present. This was a U.S. Government sponsored meeting and we were blocked by an organized effort to prevent us from expressing our opinions. I believe the U.S. Department of Justice should investigate what occurred.

The following morning, I contacted Ginger Mullins at the Corps of Engineers office in Huntington. I told her we had been threatened and assaulted. I also asked that the security tapes inside and outside the Civic Center be protected and that another meeting should be held to allow the opposing side to comment. Rather than hold another meeting, she said comments could be submitted until October 26th, 2009. I asked her if she understood that the security tapes should be protected and she acknowledged that she understood that.

This is an excerpt from Mr. Stanley's letter to the United States Army Corps of Engineers. Mr. Stanley is a native of West Virginia and a retired coal miner. He worked my entire mining career in Mingo County, both underground and at a coal processing plant. He worked the first 14 ½ years non-union and the rest of his career as a union employee. He was elected President of the Local Union 93 in 1993 and was also a member of the Health and Safety Committee. His comments favored the Corps' proposal to suspend NWP21.

...FILM AT 11

(Or, this being the 21st Century and all, right now)

Mr. Stanley's account is not the only one of the events that night. For a video of the crowd, go to <http://www.youtube.com/watch?v=EtwceseZz4w>. It is not slick by Hollywood (or by anyone's) standards but it does give an idea of what things were like.

MORE ABOUT THE COMMENTS

(Continued from p. 1)

Since NWP 21 was first issued in 1982, surface coal mining practices have changed, and surface coal mining activities in the Appalachian region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia have become more prevalent and have resulted in greater environmental impacts. Mountaintop surface coal mining activities increased because many of the remaining coal seams in the Appalachian region were less accessible to non-surface coal mining techniques. Since the late 1990s, there have been increases in concerns regarding the individual and cumulative adverse effects of those activities on the human environment and the natural resources in this region, including streams and other aquatic resources.

In light of this new reality, the Corps of Engineers wants to suspend NPW 21. This would mean that mining projects which discharge dredged and fill material into the waters of the United States after more exacting scrutiny of review of individual projects.

It has, of course, been the position of the West Virginia Highlands Conservancy for many years that NWP 21 was bad policy and probably illegal as well. As United States Supreme Court Justice Felix Frankfurter said, "Wisdom so often never comes that we should not reject it simply because it comes late." Even if the Corps of Engineers should have eliminated it decades ago, it is doing it now.

As it does with many new rules, the Corps of Engineers is holding a series of public hearings on the proposal to suspend or modify NWP21. These included the one in Charleston on October 13.

The mob atmosphere that existed at the October 13 hearing prevented there being any real discussion of the proposal. Fortunately, there were other opportunities for commenting on the proposed change. The West Virginia Highlands Conservancy, as well as several other groups (Ohio Valley Environmental Council, Coal River Mountain Watch, Kentucky Riverkeeper, Kentucky Waterways Alliance, Kentuckians for the Commonwealth, Southern Appalachian Mountain Stewards, the Strip Mining Committee of Save Our Cumberland Mountains, Sierra Club, National Wildlife Federation, and Natural Resources Defense Council)

made written comments upon the proposal.

The comments objected to the language in the proposal indicating that the Corps intended to continue processing permits under NWP 21 while it considers suspending NWP 21. (Perhaps attributing "wisdom" to the Corps of Engineers was too generous.)

The comments also pointed out that, even were one able to say with a straight face that the effects of one fill were minimal, the cumulative effects of NWP 21 activities on streams are unquestionably more than minimal. The United States Fish and Wildlife Service and the United States Environmental Protection Agency have both made comments to the Corps of Engineers to this effect, as have senior aquatic scientists.

The comments quote letter from Univ. of Georgia Institute of Ecology:

The available scientific evidence clearly demonstrates that the length of headwater streams in the landscape has been significantly reduced because of the mining and development activities that have been permitted under this program. . . . This loss of headwater streams has profoundly altered the structure and function of stream networks, just as eliminating fine roots from the root structure of a tree would reduce its chances of survival.

The breadth of the impact, particularly in individual watersheds is striking. In some watersheds, well over half of the watershed is disturbed. This leads to destruction of headwater streams and the degradation of water quality in streams that are not buried. The impact on aquatic life as well as hardwood forests is dramatic.

The comments included attachments documenting the things asserted in the comments themselves.

The comments by the groups are full of technical arguments, data, footnotes, etc., as they should be.

A more simplified (and more teenagerish) approach would be, "For twenty seven years the Corps of Engineers has regulated valley fills on the assumption that they produced a 'minimal impact.' Now it thinks that assumption might not be true. Well, Duh!"



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BOARD MEETING HIGHLIGHTS

By John McFerrin

The Annual Meeting was uneventful. None of the officers were up for re-election so we just had to elect Board members. We reelected Larry Thomas, Carter Zerbe, Dave Fouts, and Bob Henry Baber. We added as a new member Mike Withers. Many may know him as a former West Virginia state Senator. Before and since (and during, for that matter) his tenure as a Senator he was active in various environmental efforts in the northern part of West Virginia.

The regular quarterly Board meeting followed the annual meeting. We welcomed a new organizational member and said goodbye to another. The new organizational member is TEAM (Taylor Environmental Advocacy Membership). It is active around Grafton, near Tygart Lake, and has been concerned with the International Coal Group longwall mine that is proposed for that area.

The departing member is Downstream Alliance. It was organized years ago as an alliance of groups who were concerned about watersheds around Morgantown and in nearby counties. While some of the groups are still active, the Downstream Alliance has not been active in several years. Our bylaws say that a group should lose its Board seat when it ceases to be active so we have lost it as an organizational director.

We have a possibility of another new organizational member in the Allegheny Mountain Alliance. It is a collection of groups who have been discussing issues with wind power in the Appalachians. It is only now getting organized and has not asked to become a member.

We had informative but not remarkable reports from the treasurer and the administrative assistant on the state of our finances and our membership. We are moving along about as expected in both areas.

We decided to spend an additional \$2,500 on interim legislative lobbying. We had already spent what we had budgeted. The legislature has moved more and more toward being full time. They have interim meetings about one weekend a month. At these interim meetings they hash out the major bills for the upcoming session. Because of this, it is important that we have a presence there.

There was a legislative report by Don Garvin. It appears elsewhere in this issue of *The Highlands Voice*.

In issue reports, Peter Shoenfeld and Larry Thomas reported on various wind energy projects. They are popping up everywhere. By

Larry's count there are now twenty three industrial scale wind projects in some stage of planning or development. This raises the question of the cumulative impact of so many projects, something Larry has been continually raising with public officials.

Marilyn Shoenfeld reported on activities on public lands. Much of her discussion appears elsewhere in this issue of *The Highlands Voice*.

We voted to endorse a project by Glenville State College to repair damage at the Charleston airport. The airport had cut a lot of trees and generally made a mess of things in the course of construction of a runway extension. Glenville State has undertaken a project to help repair the damage by arranging for volunteers to plant trees on the affected area. The motion generated some controversy since to many Board members it seemed more appropriate that the airport and the contractor who did the work should either have avoided creating the mess or should fix it. Volunteers allow them to escape responsibility. In spite of the controversy, the motion passed.

John McFerrin reported on our efforts to prevent drilling for natural gas in state parks, particularly Chief Logan State Park. There is a story on this elsewhere in this issue of *The Highlands*



Voice.

Cindy Rank reported on mining related activities. As usual, there are many, many things going on.

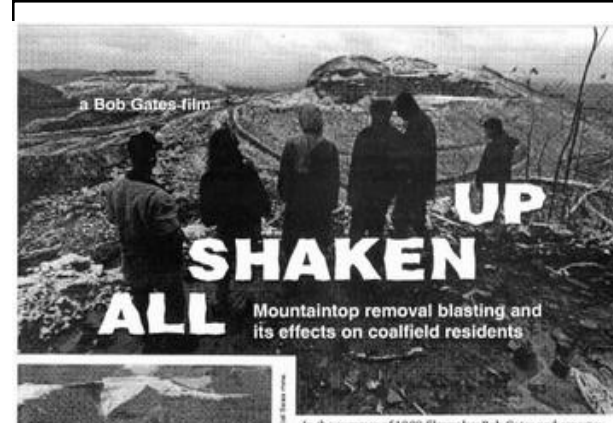
Frank Young talked about the ongoing PATH powerline project. There is legal wrangling in three states over this. There have been public hearings all around the state with the pro-powerline speakers largely (if not exclusively) coming from the ranks of those who stand to make money from the project. Frank reported that the formal evidentiary hearing before the West Virginia Public Service Commission is scheduled for February 10, 2010, with a decision scheduled for June, 2010. (Since the meeting, there has been a major development, putting this date in some doubt. See the story elsewhere in this issue.)

We also had an excellent lunch provided largely by Hugh Rogers topped off by a homemade pumpkin pie provided by Carter Zerbe.

Becky Young won the door prize, a bag of coffee from a company that grows coffee in such a way that the birds of the area can thrive. Many of those birds are also West Virginia birds after the finish their spring migration. Cindy Ellis brought the coffee.

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.



In another Board meeting development, Bob Gates announced that his film on mountaintop removal blasting is now available on DVD from Omni Productions PO Box 5130 Charleston, WV 25361 omni@ntelos.net

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Working to Keep West Virginia Wild and Wonderful!



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

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

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

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

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

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

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

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

The harm is greater than the good

GET RATIONAL ABOUT APPALACHIAN WIND ENERGY

By Rick Webb

It was only a few years ago that habitat loss was front and center among causes for concern about the future well-being of the American ecological landscape. Not much has changed to allay this concern; sprawling development continues, and the alteration and loss of natural habitat is largely unchecked.

What has changed is the focus of many mainstream environmental organizations. Concerns about the projected future effects of climate change have taken precedence over the immediate and observable effects of habitat loss. Some who label themselves environmentalists would now allow and even advocate industrial-scale renewable energy development in our remaining wild areas, including national forests and other lands set aside for permanent preservation.

Notable among the evidence for this shift in perspective was the near silence of environmental organizations when environmental review requirements were eliminated from the American Recovery and Reinvestment Act of 2009, an economic stimulus package that will provide grants to large corporations covering as much as 30 percent of the cost of megamillion-dollar industrial scale wind energy projects. The act explicitly exempts the award program from provisions of the National Environmental Policy Act. It's fair to say that national environmental organizations simply turned their back on what has apparently become yesterday's issue.

The assumption seems to be that any trade-off is worth it; that long-held concerns about habitat conservation and the need for careful environmental assessment are now irrelevant in the context of climate change. Perhaps nowhere is the need for objective analysis made more clear than in the forested Appalachian Mountains where the wind industry and its advocates argue that ridgeline wind development can replace coal and other problematic energy sources.

Tennessee Sen. Lamar Alexander addressed this thinking recently in a Wall Street Journal commentary with the title "We're about to destroy the environment in the name of saving it."

To put things in perspective, he pointed out that we could line 300 miles of mountaintops from Chattanooga, Tenn., to Bristol with 50-story wind turbines and still produce only one-quarter of the electricity provided by one TVA nuclear power plant.

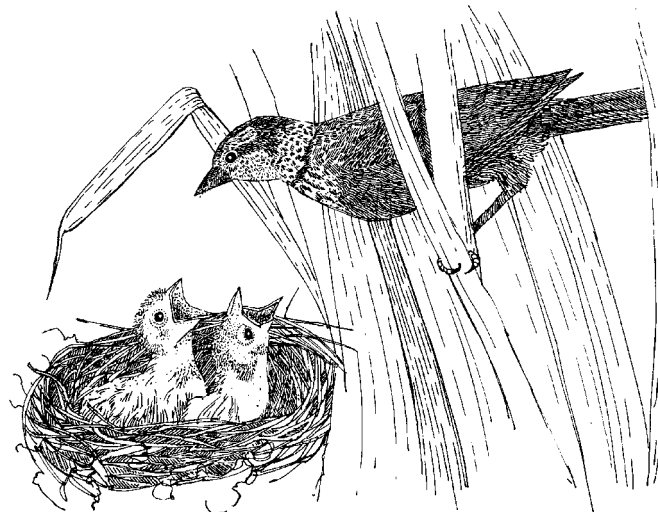
Similar comparisons can be made even closer to home. For example, it would require more than 300 miles of wind turbines, stretching the entire length of the Blue Ridge Mountain chain in Virginia, from Mount Rogers to Harpers Ferry, to match the August peak-demand period output of Dominion's controversial new coal-fired power plant in Wise County.

It's not necessary to deny that climate change is a real problem nor is it necessary to support either coal or nuclear power to conclude that wind energy development on Appalachian ridges is not a realistic alternative.

One can even acknowledge that industrial-scale wind energy development might make sense in other places with perhaps less environmental trade-off. And certainly the better alternative in the eastern U.S. is offshore, where the wind resource is dramatically more reliable, where deforestation and road construction are not required, and where turbines can be arrayed in relatively compact and efficient grids rather than in single-file corridors along ridge crests.

The next time you see wind turbines portrayed on television and in other advertising, notice that the turbines are depicted in treeless landscapes, typically plains and deserts, or in the ocean, and then ask yourself why it is that images of turbines strung out along forested ridge crests are almost never part of the wind industry's PR campaign. Once enough people ask this question, we will perhaps start to take a more rational and conservation-minded approach to wind energy development and solving the climate change problem.

Mr. Webb is a senior scientist with the Department of Environmental Sciences at the University of Virginia, manager of the Virginia Wind website: www.VaWind.org, and a longtime member of The West Virginia Highlands Conservancy. This article previously appeared in The Roanoke Times.



FRIENDS OF THE LOWER GREENBRIER RIVER DOING WATERSHED PLAN

By Mark Blumenstein

In August 2008, Friends of the Lower Greenbrier River (FOTLGR) watershed organization began considering a watershed plan for a portion of the Lower Greenbrier. Together with Fritz Boettner of Downstream Strategies and local stakeholders, the FOTLGR board elected to proceed with a Watershed-Based Plan for the Muddy Creek watershed, where several streams are impaired by fecal coliform from onsite septic systems, agriculture, and residential run-off.

The Watershed-Based Plan has been completed and awaits approval from the US Environmental Protection Agency. The plan presents the current state of the watershed and proposes a plan to remediate Muddy Creek and its tributaries. Once the plan is approved by the US Environmental Protection Agency, the Muddy Creek area will be eligible for federal funding to assist in implementing the proposed projects.

This fall, the Muddy Creek Watershed planning efforts received additional grant support from the West Virginia Department of Environmental Protection (WVDEP). This additional funding will take the planning effort to the next level of detail in the form of a more comprehensive plan for Muddy Creek. The Downstream Strategies project team has with WVDEP and the West Virginia Conservation Agency (WVCA) for the comprehensive watershed plan and begun work on the next stages of the project.

Much of the Greenbrier Valley, including Muddy Creek, is underlain by karst and riddled with sinkholes, which complicate the water flow patterns in the area. Muddy Creek and many of its tributaries appear on West Virginia's list of polluted waters as having high levels of fecal coliform bacteria.

In order to address this impairment, several area farmers have expressed an interest in implementing best management practices (BMPs) on their land. BMPs include fencing pasture off from streams, creating vegetative buffer zones to filter runoff, natural stream design, and other means of preventing fecal coliform from entering the waterways. In addition, failing septic systems have also been identified as a contributor to the high fecal coliform levels in the Muddy Creek watershed; the WBP will work to identify and mitigate these issues.

BROCHURES

The West Virginia Highlands Conservancy has joined with the Sierra Club, Coal River Mountain Watch, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, Appalachian Voices, Kentuckians for the Commonwealth, Keeper of the Mountains Foundation and Christians for the Mountains have put together a new brochure entitled ***"Mountaintop Removal Destroys Our Homeplace STOP THE DEVASTATION!"*** For a copy send a self addressed stamped envelope to Julian Martin, 1525 Hampton Road, Charleston, WV 25314.

Quantities are available for teachers, civic and religious groups and anyone who can distribute them.

ENERGY FROM BIOMASS MOVING FORWARD

By Don Gasper

In April the Columbus dispatch reports an Eastern Ohio Power Plant near Wheeling on the Ohio River is being retrofitted to produce electricity from biomass instead of from pollution producing coal. Biomass is a general term that refers to the use of wood and plant waste instead of traditional fuels to generate electricity. It could be any type of plant matter including wood chips, lawn waste and unused crop fibers such as corn stalks.

First Energy Corporation, which powers 190,000 homes faced a court deadline to either close the plant, install \$330,000,000 in pollution controls, or convert to biomass. The plant will spend \$200,000,000 and convert, saving 95 jobs. The Sierra Club representative notes "this cleaner fuel will not emit mercury, a potential neurotoxin, or sulfur dioxide, the compound that helps create smog soot and acid rain". We might note it took a court order to do it. Crops grown locally would create a carbon sink absorbing carbon dioxide as they grow, and producing near carbon neutrality as they are burned, while producing power. The plant had been emitting 1.3 tons of carbon dioxide per year in burning 800,000 tons of coal.

Ohio wants "25% of the electricity to be generated from renewable resources or advanced energy sources". Ohio Governor Ted Strickland said, "There was a lot of joy in Shadyside". - "It's good for the economy, it's good for the environment, and its newer technology that I think is moving us in the right direction".

MONONGALIA COUNTY, 1965

By Julian Martin

Today I saw the Humphrey mine belching large quantities of foul colored smoke into the air. It appears from their activities that coal companies in this area own the streams and the air. They are intent on destroying both the air and water and endangering those of us who drink and bathe in their acid mine water and breathe their smoke-filled air.

Perhaps the air was stolen at the same time they stole the once beautiful Monongahela and killed its fish and began to feed us the acid mine water. They even told us that we were lucky because the mine acid was killing the bacteria in the water. It was as if they dumped the acid into the river in a spasm of civic responsibility.

The coal interests take our coal almost free of taxes. They pollute our air and streams and seduce our politicians. Coal barons don't build anything more lasting and beautiful than a rusted out coal tipple or a mountain top stripped bare of its natural beauty. They ask us to consider them our number one asset.

Editor's note: This is something that Julian wrote in 1965 and recalled recently.

CONSERVANCY COMMENTS ON FOREST SERVICE PLANS

By Marilyn Shoenfeld

The United States Forest Service's Greenbrier Ranger District is proposing a large project in the part of the Forest called Upper Greenbrier North. It would affect 67,000 acres and includes vegetation management, aquatic and watershed improvement and recreation improvements. Each scoping notice includes a public comment period. West Virginia Highlands Conservancy, along with other groups and individuals, took the opportunity to provide comments.

The plan's Proposed Actions are numbered 5.1-5.9 and are described in the Scoping Notice. A brief summary of each action and the appropriate WVHC comment follows.

Proposed Action 5.1 – Commercial Timber Harvest and Thinning

Several thousand acres are listed as being suitable for commercial timber harvest. The methods used would be clear-cut with reserves, shelterwood or treatment by thinning or herbicide application. The goal is to regenerate stands of more than 70 years of age to create early successional habitat.

The WVHC does not, in general, support these activities. We would implement actions that emphasize trout potential, channel recovery and recreation by eliminating incompatible multiple uses. Such actions would provide a more stable and sustainable economy for local communities.

Proposed Action 5.2 – Noncommercial Timber and Wildlife Stand Improvement

Precommercially thin an estimated 2067 acres that were previously harvested with a regeneration prescription to improve the health and vigor of those stands. Maintain wildlife openings by prescribed burns. Emphasize mast producing tree species.

The WVHC agrees that some thinning is needed but we are not concerned with the regeneration of mast producing species. Forest regrowth has been haphazard. Generally, we like "big" trees and believe their nutrients should be recycled.

Openings and savannas do not properly characterize this forest and are plentiful on private land nearby.

Proposed Action 5.3 – Noncommercial Spruce Treatments

Treat an estimated 3500 acres with herbicides to remove undesirable understory hardwoods and release seedling and sapling size red spruce.

The WVHC is concerned about treating any areas with pesticide due to the innate danger of such chemicals and their effect on forest habitat and streams

Spruce regeneration is everywhere so this should be a low priority.

Proposed Action 5.4 – Road Work Related to Timber Harvest

Construct, reconstruct and/or maintain roads necessary for vegetation management and possible public access. Evaluate the road system to determine how road access should be managed to meet the desired conditions.

The WVHC does not support building more roads to harvest timber. There are almost 100 miles of road in this area. The hydrological damage caused by roads is cumulative in time and space and cascading.

Proposed Action 5.5 – Road Maintenance for Watershed Improvement

Increase the level of maintenance for an estimated 16 miles of roads in order to address runoff and erosion that degrade certain aquatic habitats.

Proposed Action 5.6 – Road and Trail Decommissioning for Watershed Improvement

Decommission an estimated 47 miles of Forest System roads and 69 miles of inventoried "woods" roads that are contributing to degraded watershed conditions.

Proposed Action 5.7 – Aquatic Passage Restoration

Restore aquatic passage at an estimated 58 sites in streams by treating road-related structures that presently impair or prevent aquatic passage.

Proposed Action 5.8 – Aquatic and Riparian Restoration

Improve aquatic habitat in streams throughout the project area by delivering large wood (felling trees) to stream channels. Restore aquatic and riparian habitats by improving riparian conditions along numerous streams within the project area.

The WVHC supports PA 5.5,5.6,5.7,5.8 and the activities outlined to "improve watershed, aquatic and soil conditions.

Proposed Action 5.9 – Recreation Improvements

Various actions including installing culverts, rerouting trails and closing 3-4 dispersed recreation sites.

The WVHC would support a more comprehensive recreation plan that would include the East Fork of Greenbrier as well as the Island Park Campground.

The East Fork of Greenbrier was a proposed candidate for wilderness; we would ask that the agency actions maintain this area as roadless and respect its wilderness characteristics.

We anticipate working the the United States Forest Service as this project moves forward and will keep WVHC members informed.

Evergreen Wreath Making Workshop November 29

Join us for an afternoon of fun learning how to make your own holiday wreath. Bring a hand pruner and any decorations or adornments you'd like to add to your wreath. We'll have all the materials you'll need including a variety of firs to construct your very own piece of artwork. We'll get started at 1pm and be around all afternoon. Contact Dave Saville daves@labyrinth.net or 304-692-8118

Visit Kayford Mountain South of Charleston

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

OUR READERS WRITE

Thanks to Senator Byrd

Dear Senator Byrd,

I am writing yet another letter to thank you for your recent actions, this time in response to the Gazette article outlining your grievances with the Massey Energy Company in their refusal to help fund a safe school for students at Marsh Fork Elementary.

I worked at the Cabin Creek Clinic as Benefits Counselor in their federally funded Black Lung Clinic program, 1980 to 1987, and in that capacity became quite familiar with coal miners, the health and safety hazards they faced at work, and also toured a couple of underground coal mine facilities in the Cabin Creek service area. I also visited Dr. Rasmussen's practice in Beckley, where I watched him perform exercise blood gas studies in conjunction with Coal Miners' Pneumoconiosis claims.

So I am no stranger to coal miners and coal mining health and safety issues. In that regard, I am alarmed at the current level of mining practices in West Virginia, where not only our natural environment, but the social and economic environments are also badly compromised.

It seems that with the advent of more widespread, less labor-intensive mining as is exemplified by mountaintop mining, we have seen the employment in the coalfields plummet, and an alarming increase in problems ranging from water quality for community drinking and well water, to genuine, significant risks to communities due to the impoundment of coal waste water and coal ash from electric power plants.

I am convinced, Senator Byrd, that if we more effectively regulated and enforced mining practices in order to protect the natural environment to the maximum extent possible, and at the same time required safer and more effective ways to clean and treat coal mine by-products, we would put far more people to work than is the case under today's rather reckless practices. This would of course increase the costs associated with coal mining and power generation, but those costs are rational and necessary. We can no longer afford to let coal be mined in ways that destroy the environment, destroy coal mining communities, and destroy our state's economic future.

No matter how stringent are the coal mining laws and regulations, coal will necessarily be mined to supply our generating facilities until we gradually adopt more energy efficiency practices and less destructive generation technology.

I thank you, Senator Byrd, for your leadership on these issues and I implore you to give your full consideration to stronger laws, regulations and appropriate, necessary energy taxes so that West Virginians and other Americans can enjoy a brighter, healthier and more economically productive future.

Best wishes for your health and happiness!

Mike Harman
Charleston, WV

This is a copy of a letter that WVHC member Mike Harman wrote to Senator Byrd.

Missing Bill Grafton

Editor:

Thank you for informing me about the loss of our outdoor comrade, Bill Grafton. Surprised, but not sad, we feel instead elation having known another special West Virginia mountain person.

Bill was helping a Pilgrimage participant identify flower photographs inside the lodge at Blackwater Falls State Park when last we talked. Because of the flower arrangement along the stem, Bill suggested one might be *ilex verticillata*. Obviously, he enjoyed sharing and helping others with botanical topics.

On Stuart Knob or McGowan Mountain where I saw bear scat and tracks, we discussed invasives while eating our bag lunches. Bill Grafton was always open to questions from fellow naturalists. Not aloof, he shared ideas regarding the outdoors with others. Not a birdman, he appreciated the visit by a calling rose-breasted grosbeak.

Associations with naturalists like Bill Grafton help us to look into the unknown and learn. As a retired teacher, I saw Bill as one who encouraged students to observe. A glance will not do. They help us enjoy the outdoors. Their students carry-on and share what they've learned with future students. And they remind all of us to be approachable; every person is special.

Carl Patsche
Weirton, WV

POETRY

Madness

By Betsy Reeder

Chief Joseph:

"We were content to let things remain
as the Great Spirit Chief made them.

They were not, and would change the mountains and rivers
if they did not suit them."

Now our dust-stung eyes look for streams and wooded slopes
Vanished like smoke into the sky.

Whole communities of life,
Whole landscapes,
Cherished views,
Sacred places.

Gone.

Visions of Paradise converted to landscapes of the damned.

Chief Joseph saw madness for what it was.

If he were here he might have the answer to this question in my heart:
When did the American Dream become

this
apocalyptic
nightmare?

CONGRESS URGES STUDY OF FRACK FLUIDS

The U.S. House of Representatives has approved a provision authored by Congressman Maurice Hinchey (D-NY) that formally urges the U.S. Environmental Protection Agency (EPA) to conduct a new study on the risks that hydraulic fracturing poses to drinking water supplies. The Senate is due to pass the identical bill in the coming days and President Obama is expected to sign the measure into law soon after that.

“While natural gas certainly has an important role in our national energy policy, it’s imperative that we take every step possible to ensure that our drinking water supplies are not contaminated or adversely impacted in any way,” Hinchey said. “This legislation puts Congress on record in support of a new, comprehensive study that will examine the impact that hydraulic fracking really has on our water supplies. The study results will put us in a position to take any further steps that are necessary to protect our drinking water supplies from the chemical concoctions being pumped into the ground by energy companies.”

In May, the congressman asked EPA Administrator Lisa Jackson at a House Interior Appropriations Subcommittee hearing about the need for such a study. Ms. Jackson told Mr. Hinchey that she believed her agency should review the risk that fracturing poses to drinking water in light of various cases across the country that raise questions about the safety of the natural gas drilling practice. Mr. Hinchey’s measure would formalize that congressional request for an EPA study on the risks that toxic chemicals used in hydraulic fracturing pose to drinking water supplies in New York and across the nation.

The EPA did conduct a study on the matter in 2004 under the Bush administration, but that study is widely considered to be flawed for a variety of reasons, including the way data was selectively collected from sources that had a vested interest in the oil and gas industry while other relevant information was ignored.

The language that Mr. Hinchey had inserted into the report reads, “The conferees urge the EPA to carry out a study on the relationship between hydraulic fracturing and drinking water, using a credible approach that relies on the best available science, as well as independent sources of information. The conferees expect the study to be conducted

through a transparent, peer-reviewed process that will ensure the validity and accuracy of the data. EPA shall consult with other federal agencies as well as appropriate state and interstate regulatory agencies in carrying out the study, and it should be prepared in accordance with EPA quality assurance principles.”

In the 2005 Energy Policy Act, which Hinchey strongly opposed and voted against, the then Republican-controlled Congress exempted hydraulic fracturing from the Safe Drinking Water Act (SDWA), which was designed to protect people’s water supply from contamination from toxic materials. This loophole created an extremely dangerous set of circumstance.

In June, Hinchey, Congresswoman Diana DeGette (D-CO), and several of his colleagues introduced the FRAC ACT — Fracturing Responsibility and Awareness of Chemicals Act, which would close the loophole that exempted hydraulic fracturing from the SDWA and require the oil and gas industry to disclose the chemicals they use in their hydraulic fracturing processes. Currently, the oil and gas industry is the only industry granted an exemption from complying with the SDWA.

“It is critical that our communities are assured that the process of hydraulic fracturing is safe and will not contaminate drinking water supplies,” said DeGette (D-CO), Vice Chair of the Committee on Energy and Commerce. “I will continue to work with EPA to encourage a robust study of hydraulic fracturing and its potential impact on drinking water.”

Hydraulic fracturing, also known as “fracking,” is used in almost all natural gas wells. It is a process whereby fluids are injected at high pressure into underground rock formations to blast them open and increase the flow of fossil fuels. This injection of unknown and potentially toxic chemicals often occurs near drinking water sources. Troubling incidents have occurred around the country where people became ill after fracking operations began in their communities. Some chemicals that are known to have been used in fracking include diesel fuel, benzene, industrial solvents, and other carcinogens and endocrine disrupters.

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T- SHIRTS

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

FREEDOM OF SPEECH: USE IT OR LOSE IT

By Julian Martin

Our constitution says that Congress shall make no law prohibiting the freedom of speech. George Washington declared that if the freedom of speech is taken away we may be led, like sheep to the slaughter. Ben Franklin knew that there can be no such thing as public liberty, without freedom of speech.

Noam Chomsky wrote that "If you believe in freedom of speech, you believe in freedom of speech for views you don't like. Stalin and Hitler, for example, were dictators in favor of freedom of speech for views they liked only. If you're in favor of freedom of speech, that means you're in favor of freedom of speech precisely for views you despise."

On the evening of October 13, 2009, the Army Corps of Engineers held a hearing in Charleston, West Virginia, to hear the testimony for and against their proposal to modify the Nation Wide Permit 21(NWP21) concerning mountain top removal valley fills.

Speakers in favor of the Corps' proposal were shouted down. Colonel Peterson of the U.S. Army Corps of Engineers allowed the

screams, shouts and booing. He would say please let the gentleman or lady speak, then a thank you, whereupon he would allow the shouted insults and booing too continue. There were no state police present, no county deputy sheriffs and just four or five city police.

Outside both before and after the hearing, people in favor of the Corps proposal were verbally abused and threatened. One large man even threatened to murder two people who were leaving the Little Theatre. To their credit two Charleston policemen got between the potential murderer and his victims and escorted those being threatened to their cars.

There were some respectful people at the hearing who were on the opposite side of the issue from me. As I arrived outside the Civic Center, a former student, a fifteen year strip mine worker, greeted me and he and his friend and I had a civil discussion of the issue. Others were verbally abused as they waited in line to get in at the Civic Center. Amazingly one group being threatened was forced to leave the line by city police. Nothing was done to those mak-

ing the threats.

What happened under Colonel Peterson's watch did not have to happen. At the Kentucky hearing on NWP21, I am told that an official of the Kentucky Coal Association asked the crowd to let all speakers have their say without interruption. In Pittsburgh the presiding Army officer told the crowd that when he put on his uniform he took the oath that he would support the U.S. Constitution and that everyone would get to speak and be heard.

A biographer said, in describing Voltaire's sentiments, "I may disapprove of what you say, but I will defend to the death your right to say it." At future strip mine hearings, I hope our elected officials agree with Voltaire and provide police protection. No matter which side of the mountain top removal issue you are on, I hope you will be present at future hearings, defending the freedom of speech. If you don't use it, you will indeed lose it. If freedom of speech is denied one group it can be denied to other groups as well. Your group might be next.

MORE FROM PRESIDENT HUGH (Continued from p. 2)

automatic horse feeder; eventually he got into clocks. A neighbor suggested that he show his stuff at the State Fair in Madison. Against his father's wishes, he set off, and later that fall of 1860 he learned that a student at the university could board for a dollar a week.

Muir attended classes on and off for the next two and a half years; as Jeanne Carr later wrote, he did not follow any usual course of study "but daintily picked such crumbs of literature and science as suited his needs."

In his subsequent wandering through Canada, Indiana, Florida, and finally, at the age of thirty, to California, Muir earned his bread with his mechanical skill. He applied the academic learning to his solitary time in the woods. He would credit Professor Ezra Carr with opening to him the great book of nature; but he *wrote* to Mrs. Carr.

Long before he was published, Muir was a prolific journal keeper and letter writer. He might have agreed with the young scribbler who had told Mark Twain, "How can I know what I think till I see what I say?" And once he knew what he thought, he must explain himself to those he was close to: his brother, his sisters, and Jeanne Carr. When he finally yielded to her push to go public, he assembled his essays from pieces he had written to that intimate audience.

Late the same year he met Emerson, Muir sent "Yosemite Glaciers" to the New York *Tribune*. The dam had burst. Soon he was a regular contributor to newspapers and journals, and his opinions were consulted in many corners of civilization, from scientists to sheep ranchers to state representatives. His passion for the preservation of wild places caught the attention of activists. By the time he was forty, Muir's time was seldom his own. He might escape to the Sierras or Alaska, or take a detour on a trip others had organized—breaks that evoked what

he'd given up. Even the writing projects that were closest to his heart had to wait on more urgent issues. *My First Summer in the Sierras* did not come out until 1911, more than forty years after the event.

When old friends and acquaintances founded the Sierra Club in 1892, Muir was persuaded to become its first president. He advised the U.S. Forestry Commission; conducted a very public debate with Gifford Pinchot, founding head of the Forest Service, over the meaning of "conservation;" and at the peak of his influence, camped alone for three days in the Mariposa Grove with President Theodore Roosevelt and convinced him of the necessity of federal protection for Yosemite.

Now, of course, his name is legend. But when we discover that he had to be dragged, as it were, out of the wilderness in order to defend it, we want to know how that happened. How was the public man made? First, his gift for descriptive and persuasive prose, inspired by the Bible, was recognized by the few who first read him. (Some said he talked even better than he wrote.) Second, he loved the Sierras so much he could not turn down appeals to protect them. And third—well, *Cherchez la femme!*