

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. 9 September, 2013

SPRUCE NO. 1 – PIGEONROOST UPDATE... THE SQUEEZE CONTINUES

By Cindy Rank

Fifteen years after Judge Charles Haden declared the Spruce No.1 permit for the 3,100 acre mine in and around Pigeonroost hollow a bad deal and very much in violation of the buffer zone rule, etc. the question remains – How much of Pigeonroost in Blair, WV will survive the onslaught of mining by Mingo Logan Coal Company, now an affiliate of Arch Coal.

Even after the 1999 federal court ruling the wheels never stopped turning..... And the threat of mining in Pigeonroost has weighed heavily all these years.

Beginning in 1998 numerous articles in *the Highlands Voice* have traced the see-saw up and down, on-again off-again, nature of the mine plans and legal challenges for the Spruce mine. (See <http://www.highlands.org/Pages/Voiceback.html>).

The years of debate and legal arguments have included the Surface Mine Act, Clean Water Act, a Programmatic EIS of Mountaintop Removal Mining and Valley Fills, Environmental studies by the Corps of Engineers specific to the Spruce No. 1 mine, and ongoing environmental review of the Buffer Zone Rule and potential regulatory change by the Office of Surface Mining, and many side issues far too many and mind-numbing to recall in detail here.

For many of us our eyes glaze over and our brain synapses frizzle when thinking or reading about all the twists and turns and political and legal wrangling and nuances connected to this one mine.

But no one feels the impact of the back and forth more directly, more personally, more concretely than Jimmy Weekley who continues

to live in a small house on the side of the stream not far up the road into Pigeonroost Hollow ... and every year has brought the reality of mining ever closer to Jimmy's home.....

BRIGHT SPOT

Spirits were high earlier this year as we celebrated the most recent chapter in the history of this mine when a federal appeals court in D.C. upheld the 2010 Environmental Protection Agency (EPA) veto of the Clean Water Act (CWA) 404 fill permit for the Spruce No. 1 mine in Logan County. (*Voice* May 2013)

The U.S. Court of Appeals for the District of Columbia had reversed a lower court ruling that threw out EPA's veto of the fill permit for Spruce No.1 and upheld both EPA's veto of the 404 permit for the Spruce No. 1 mine and the agency's authority to do so even after the issuance of the permit by the Corps.

However, lurking in the shadows of our celebrations was the understanding that even this veto doesn't signal the end to mining in Pigeonroost hollow, but merely presents some limited boundaries for the hotly debated mine that has been the focus of litigation and media attention since the *Bragg* lawsuit in 1998.

And that reality is about to rear its ugly head again.

ON THE GROUND

The bottom line for these past many years is that Mingo Logan holds mining (WVSCMRA) and water discharge (NPDES) permits from the state of West Virginia for the Spruce No. 1 mine. But until the required 404 Clean Water Act fill permit was approved the overall mine

(More on p. 4)

What's inside:

Thoughts from President Cindy	2	Home for the diamond darter	8
Roster of officers	2	Outings	9
"Shield" no shield to polluters	3	Silt in Beaver Creek	10
Mystery	5	Get more involved	11
Water symposium	5	Get a Hiking Guide	12
Field trip to wildlife refuge	6	Poem	13
How to join	7	Board highlights	14
Get a history book	7	A thank you letter	15
A hearing???????	8	Place to get stuff	16



Ramblin' the Ridges

By Cynthia D. Ellis

PREDICTIONS

This is not January...not the traditional time for looking ahead. But sometimes late summer days can be ideal for looking back. So, on a steadily raining day, old mementos may be examined in a leisurely way.

On one such a day we opened an old box here at home. A relative had saved Charleston newspapers from 1963---West Virginia's Centennial year.

Fifty years ago. What was life like in West Virginia in 1963? On the yellowing pages, there were pictures of the Centennial Queen, ads for cars [Studebaker!], soft drink bottling plants [Pepsi, Coke, and Royal Crown Cola], one for Humble/Esso Oil, lumber companies, and a double full page ad for Union Carbide Corporation. One headline read, "King Coal's War: He Fights to Retain Markets in Battle Destined to Grow in Intensity for Years." There were ads for the Kanawha Coal Operators Association which included 17 companies and at least 5 other separate companies.

One article enthused about sending coal to other states via pipelines and about using nuclear power to assist in coal gasification.

William C. Blizzard wrote extensively on coal mining history, including the Mine Wars, for this celebratory edition.

The gas and oil industries received much less coverage.

On forests, one headline was, "Once Exploited, West Virginia Timberlands Now Controlled for Maximum Production."

The "Transportation" section displayed a map showing the planned route of the "Highland Scenic Highway" slicing through the mountains from Richwood to Gorman in Grant County, through Dolly Sods and Roaring Plains.

The "Leisure" section noted, "Considering the amount of water we have, particularly clean water, West Virginia offers pretty fair fishing."

Then naturally, there were Predictions for the Future.

Several public figures made disclaimers about their crystal ball powers, but here are some thoughts.

Ken Hechler, then our Congressman, pinned hopes on young people. "As the young people gain positions of influence, I see them demanding an end to the tired old politics of factionalism and selfish grabs for power."

Senator Robert C. Byrd said, "Present economic difficulties in West Virginia cannot obscure the fact that our tremendous natural wealth may soon afford a golden future for the state."

Labor leader Miles Stanley called for diversification of industry and for capitalizing on our greatest gift---our natural beauty.

Maurice Brooks, biologist, forester, author, and ornithologist from French Creek contributed that, "...our future growth seems dependent on a greater use of renewable resources. Forests, wildlife, water and recreations seem especially promising."

F.D. Drake, of the National Science Foundation, felt differently, "Increased tourism appears overrated as a salvation, and largely pushed by amateurs exhibiting a startling starry-eyed naiveté."

From an Episcopal Bishop, Wilburn C. Campbell--- "Much of our past and present leadership... reminds me of a hunter shooting rabbits with an elephant gun. For instance, 'Let us strip the coal seam, refuse to restore the damage, despoil forever the mountains and then wring our hands because we live in a depressed area.'"

(For the rest of the story, go to p. 12)

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, 167 Balsam Way, 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, 2108 Emma 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)

Sara Bird 127 East Main St., Buckhannon, WV 26201, (304) 545-5695; sarapearlbird@hotmail.com

Jackie Burns jackie.burns@frontier.com

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

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

Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (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, mayorbobhenrybabber@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, 4401 Eden Road, 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, 4401 Eden Road, Rock Cave, WV 26234, (304)924-5802; clrank@hughes.net

PUBLIC LANDS MANAGEMENT COMMITTEE: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067

(301) 642-2820; Marilyn.Shoenfeld@gmail.com

LEGISLATIVE COMMITTEE: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945; fyoung@mountain.net

WIND ENERGY COMMITTEE: Peter Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, (304) 704-9067pshoenfeld@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, 51 Wanshop Road, Reading, PA 19606, jamesolley@comcast.net

ADMINISTRATIVE ASSISTANT: Beth Little, 214 Black Gum Lane, Hillsboro, WV 24946 (304) 653-4277; blittle@citynet.net

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

STATUTE NO SHIELD FROM LIABILITY

By John McFerrin

The United States District Court for the Southern District of West Virginia has ruled that a statute passed by the West Virginia Legislature does not shield coal companies from liability for failure to meet water quality standards.

The Plaintiffs in the case--- West Virginia Highlands Conservancy, Inc., Ohio Valley Environmental Coalition, Inc., Coal River Mountain Watch, and the Sierra Club—contended that the companies involved had caused a violation of water quality standards by discharging selenium into the waters of West Virginia.

Selenium, a toxic element that causes reproductive failure and deformities in fish and other forms of aquatic life, is discharged from many surface coal mining operations across Appalachia.

The Way the Clean Water Act Works

Both the federal Clean Water Act and a corresponding statute in West Virginia prohibit discharge of any pollutant in any amount unless certain conditions are met. The most prominent of these conditions which allow limited pollution is the discharge permit, known as the National Pollutant Discharge Elimination System (NPDES) permit.

The NPDES permit, issued in this case by the West Virginia Department of Environmental Protection, protects streams by limiting the concentration of pollutants that are allowed in water that leaves the mine. The permit allows no more than certain concentrations of pollution such as iron, manganese, and aluminum. The permit is supposed to set these discharge limits low enough that the water coming from the mine will contain small amounts of pollution but not enough to impair the waters that it flows into.

The second way in which the Clean Water Act protects streams is through water quality standards. Water quality standards are regulations which set forth how clean streams have to be in order to support designated uses such as fishing, swimming, etc. They say that streams may contain no more than so much of this pollutant, so much of that one, etc. They also prohibit certain conditions which are not allowed in state waters, conditions such as a visible color. (Aside: if the story on p. 10 of this issue shows a legal violation, it would probably be a condition not allowed in state waters, a violation of the water quality standards).

The water quality standards are supposed to be a backup. The discharge limitations are supposed to protect the uses of streams. If, for some reason, compliance with the discharge limitations is not enough to protect the stream, then the person discharging the

pollution would still have a duty to avoid causing a violation of water quality standards.

What Happened Here

Marfork Coal had a permit which included discharge limits upon iron, manganese, and aluminum. It was in compliance with these limits. From the evidence presented to far (all the evidence is not in yet) it appeared that it was also discharging selenium. The discharge of selenium appeared to be causing there to be too much selenium in the stream, a violation of water quality standards.

Marfork argued that it did not have to meet water quality standards because it was complying with its discharge limits. (Things get tricky here; just hang in there and it will make sense.) Since its permit didn't have a selenium discharge limit, it didn't have to worry about a violation of the water quality standard for selenium.

Marfork relied upon what it called a "permit shield" provision added by the West Virginia Legislature in 2012. That provision said that if a company was in compliance with the discharge limits it was immune from liability for any violation of water quality standards in the stream. Under Marfork's interpretation of the shield, for pollutants for which there was no discharge limitation, the sky's the limit. No matter if those pollutants caused a violation of water quality standards, if there were no discharge limits for those pollutants the "permit shield" provision would protect the polluter from prosecution. Even if their actions were causing a violation of water quality standards, they had the shield and were home free.

The Court saw the matter differently. It ruled that the water quality standards were, in fact, supposed to be a backup to the discharge limitations. Even companies such as Marfork who were in compliance with the discharge limitations still had to avoid causing a violation of water quality standards.

The case is not over yet. The Court has ruled that Marfork cannot rely upon the "permit shield" and is not home free. It still has to determine exactly what the violations of water quality standards were. It will conduct additional proceedings to determine the appropriate remedy for the any violations.

Note: The "permit shield" comes to us courtesy of West Virginia Senator Art Kirkendoll, D. Logan, with the support of the Tomblin administration. It could be another paragraph in "How the Game is Played" which appeared in the March, 2013, issue of *The Highlands Voice*.

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

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

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

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

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

THE BIG SQUEEZE (Continued from p. 1)

plan was not viable.

As stated in preceding paragraphs, the Spruce 404 fill permit has been the focus of studies by the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) as well as any number of legal challenges by the WV Highlands Conservancy and several co-plaintiffs.

Unable to prevent the state authorized mining and water discharge permits, WV Highlands Conservancy and other co-plaintiff citizen and environmental organizations set about legal challenges of the federal 404 permit.

While litigation regarding a handful of similar Individual 404 Permits was proceeding in federal court, the Corps chose to grant the permit for Spruce No.1.

Unfortunately, the Corps had no legal obligation to notify plaintiffs and was apparently not motivated to do so even as a matter of courtesy. So within days, and before any of us knew that the permit had been issued, Mingo Logan began tearing into the mountain on the northern edge of the Spruce mine in the head of the Right Fork of Seng Camp, the site of one of three fills proposed for the mine. Were it not for local residents who noticed the activity the company may have moved into the larger Pigeonroost area itself.

Once work had begun in the headwaters of Seng Camp it was too late to challenge that portion of the fill permit. But in light of the ongoing court cases involving similar permits and the gathering of forces, local and national, to encourage EPA to veto the Corps permit for Spruce No.1, we reached an agreement with the company in February 2007 whereby Mingo Logan agreed not to go beyond the Right Fork of Seng Camp (some 600 acres) without giving us 20 day notice of their intention to move beyond that designated area.

Again, EPA's veto of the Spruce 404 permit may prevent the other two proposed valley fills in Pigeonroost and Oldhouse Branch, but Mingo Logan retains state issued surface mine and water discharge permits for the area and those permits allow a great deal of mining as long as that mining doesn't encroach upon "jurisdictional waters" as defined by the Corps. Mining activity in streams so designated would require a 404 permit.

[At the risk of terrible oversimplification – even of the Corps' definition, "jurisdictional waters" have some visibly discernible stream bed and high water mark ---- Defining "streams" has been a huge issue during all these proceedings. Definitions differ from one agency to another and from one field of study to another and various laws rely on different definitions and lay out a variety of standards – often conflicting – about who and how to protect what streams.]

Consequently, even honoring our 2007 agreement Mingo Logan has their state issued permits and mining can proceed in the upland portions of the permitted area as long as no "jurisdictional water" is involved and as long as they give us 20 days notice of any expansion beyond the original 397 acres in Seng Camp.

The practical implication for us is that the twenty day notice gives us time to visit the proposed expansion areas and consider any possible legal action.

And the notices have come....

The first notice came in June of 2008. The company stated it would be expanding another 170 acres into and along the ridge between Seng Camp and Pigeonroost. Three of us accompanied a Mingo Logan representative to verify the companies claim that there were no "jurisdictional waters" within the proposed expansion area. We found no clear reason to challenge the company and Corps' determination.

The second notice came in August 2011, this time for an additional 40.49 acres along the same ridge above Pigeonroost but further to the east and upstream. Again we hiked the boundary of the

proposed expansion, but found no evidence of "jurisdictional waters", no legal reason to challenge the expansion as needing a fill permit.

And now it looks like the mining will proceed across the same ridge to the west, toward Rt. 17 and directly above the Weekley home. [See map that accompanies this article]

On August 12, 2013 Mingo Logan gave notice of its intention to expand its operations another 143 acres finally consuming the meditation rock that some of us will recall visiting in years gone by.

The proposed mining would blast 300-350 feet into the mountain from the 5 Block down through the Upper Stockton to the Middle Coalburg seams of coal with any excess overburden to be stacked higher on the Seng Camp fill and/or on the previously mined areas.

The expansion may be legally far enough from the house below, but as so many other residents in southern WV can attest, it surely won't be far enough away for Jimmy Weekley.....

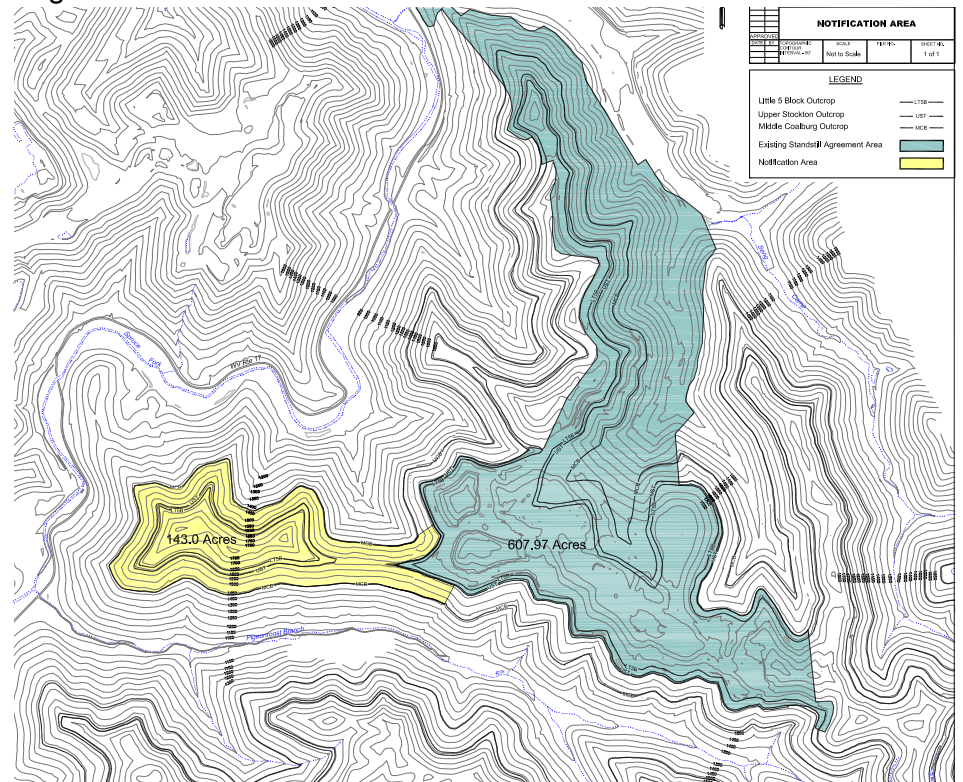
THE END OF MOUNTAINTOP REMOVAL ?

Every now and then I hear someone say or imply that we've seen the end of mountaintop removal.

--- Hardly.

Granted these expansions at Spruce No. 1 may not represent the most egregious form of mountaintop removal mining that the original Spruce No.1 permit proposed, or that of the ongoing operations in the Mud River valley, or along the Clay/Nicholas county line, or near Whitesville or Kayford or Twilight or so many other parts of southern West Virginia.

But let's face it, this is still mining that will blast deep within the mountain, removing the mountain top and completely dismembering some 350 feet or so, still disrupting forever the generations old geological formations and water catchments that currently supply life to the lush vegetation and hardwood forests above as well as providing source water for the wet areas and valuable headwaters that flow out of the mountain and down into the valley below taking care of the critters large and small who have existed there for centuries.



THE PROPOSED EXPANSION OF MINING. Pigeonroost Branch flows right (east) to left (West) just below the colored portion of the map. Blair, WV is located roughly where Pigeonroost Branch enters the Spruce Fork of the Little Coal River (flowing upwards from the bottom left on the map). Jim and Sibby Weekley's homeplace is on Pigeonroost Branch at a point on a straight line drawn down from the number 3 in the lighter colored expansion area.

MOUNTAIN STREAM SYMPOSIUM II ANNOUNCED

The second Mountain Stream Symposium will be held at James Madison University in Harrisonburg, Virginia on Saturday, September 21st. This symposium will highlight emerging research and management to understand challenges facing mountain streams in the Appalachian region. The symposium is a follow-up to the first Virginia Mountain Stream Symposium held at the University of Virginia in 2004. The organizing committee includes Christine May and Tom Benzing, with James Madison University, and Conservancy member, Rick Webb, with UVA. Symposium speakers will include scientists and resource managers associated with universities, state and federal agencies, and conservation organizations. Contributed poster submissions are encouraged. Registration is free and open to the public but required. Seating is limited to the first 120 participants. Lunch will be provided. For more information, visit <http://www.jmu.edu/4-va/MSS2.shtml> or contact Kyle Snow at snowkj@dukes.jmu.edu.



It's coming; it's coming! But what is it? Fair or fowl? Beast or fowl? Terrestrial or not? The mystery will be solved soon. Watch for it!

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

OHIO RIVER ISLANDS NATIONAL WILDLIFE REFUGE

By Cindy Ellis, Enthusiastic Participant

Some "I ♥ Mountains" folks went down to western river banks in August for the third in our series of "This Land is Your Land" outings. We visited the Ohio River Islands National Wildlife Refuge at Williamstown in Wood County. The refuge's handsome visitors' center is solar powered and uses geo-thermal for climate control. An expanse of glass showed a river view; there were binoculars, a spotting scope, and a whiteboard to list daily sightings of birds. Visitor Services Manager Matthew Magruder and intern Crystal Ambrose made us welcome. We gathered at a conference table to hear Refuge managers Glenn Klingler and Sara Siekierski tell us their own background and the beginnings of the Refuge.

The Ohio River Islands National Wildlife Refuge, established in 1990 as West Virginia's first, was boosted by Senator Robert Byrd. Ohio River Islands National Wildlife Refuge has a total of 3440 acres.

The Refuge encompasses 3 mainland tracts and 22 islands of the Ohio River. Two islands are in Pennsylvania, two are in Kentucky; the others range up and down 360 miles along the watery western border of the mountain state. All islands were acquired from willing sellers. Generally, national refuges exist for 6 uses: hunting, fishing, wildlife observation, wildlife photography, environmental education, and environmental interpretation. Among the goals for this refuge were to ensure protection for the islands from the sand and gravel industry and to allow our state to acquire its own NWR. Its stated purpose is to improve the quality of the river and wildlife for the people of the Ohio River

Valley; the primary focus has become protecting and fostering those efficient organisms known for their filtering capabilities--freshwater mussels. Forty species have been noted-- six are endangered.

We then walked on two trails down to a river access area and looked across the water to Buckley Island; continuing to ask questions and learning more. A variety of pleasure boats took advantage of the sunny-but-not-scorching day. We saw someone bring a kayak to her car. On the car's back glass was one of our "I ♥ Mountains!" bumper stickers!

Here, we were told, the river's locks and dams have interrupted the flow of water and prevent seasonal sedimentation from floods. Locks, river traffic, and dredging have led to shrinking of the islands, so longitudinal dikes are built to try to deflect erosion. Today, the refuge works with the Corps of Engineers and others to protect the islands and habitat. Some work is completed underwater by a dive team. Bank re-generation projects have been tried; some new growth of plantings can be seen. "The water quality here is improving, due in part to our efforts, and to the Clean Water Act," say refuge staff.

Staff replants tree species and erects nest boxes for birds. True to the history of the area, there are vestiges of old glass-making operations on nearby Upland Trail. Education is a big part of efforts at the ORINWR, particularly for local elementary school children.

We re-grouped for carpooling and headed next to Middle Island. This is about 15 miles upriver from the visitors' center and

is accessed by a bridge. Wide paths wound through lush growth of the island forest with late summer wildflowers blooming. Hikers could feel like Huck Finn or Margaret Blennerhassett, depending on their inclination. Refuge staffer Matt Magruder led our hike here and continued telling us all about this 235 acre spot.

Matt reminded us that the purchase of a yearly federal Duck Stamp provides funds that help support this refuge and others. [I realized I had not bought one yet this season and ordered one online that evening.]

The outhouse has a solar powered vent fan.

Glenn, Sara, and then Matt told us of threats and problems for the Ohio River Islands National Wildlife Refuge. Rules must be enforced against illegal firewood cutting and poaching of mussels and paddlefish. The paddlefish have valuable "caviar," and mussels are used in cultivation of pearls.

An especially catastrophic industrial spill nearby in 1999 impacted an approximately 10 mile stretch of the Ohio River and resulted in a total loss of mussels. Roughly one million were destroyed.

Now biologists bring gravid mussels to this facility to protect the young. They work with fish hatcheries to insure that the mussels are interacting with the most appropriate species of fish hosts.

Fracking water is a concern. There is no permit necessary to withdraw water from the river. For all operations that challenge the river and the islands, impacts are not always immediately visible and refuge enforcement resources are

stretched.

The staff itself drinks filtered water due to the "C8" [perfluorooctanoic acid] issue from another nearby factory. Another threat is the invasive Zebra mussels. They are present, but seem to be somewhat diminished in number by high water temperatures.

As elsewhere, surplus deer is a problem. Bow hunting is permitted on the islands, but the tangled undergrowth is a deterrent to some who might otherwise make the effort.

Maintenance is difficult. The long distance nature of the refuge complicates. Trees fall. Mud flows.

Like so many other spaces, both public and private, this place struggles with invasive plant species. These include multiflora rose, Japanese knotweed, mile-a-minute, Ailanthus, non-indigenous honeysuckle, Japanese hops, and kudzu. Staff members feel they are fighting spot fires on this matter and want to develop a programmatic approach.

Our visit ended with thank-yous and good-byes. As we left Middle Island, we saw a local group begin a hay ride.

Once again we had seen an area of public land with some problems but much beauty and potential. We had met dedicated personnel who are enthusiastic about their work. And...we remember, "Water is Life. Keep it Clean." That's another of our bumper stickers. Through "This Land is Your Land" outings, we are reminded of the importance of this everywhere we go.



Join Now !!!

Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ E-Mail _____

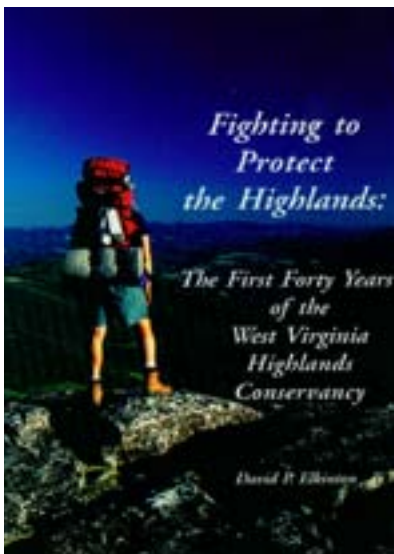
Membership categories (circle one)

	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, 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.

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

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

Leave a Legacy of hope for the future

Remember the Highlands Conservancy in your will. Plan now to provide a wild and wonderful future for your children and future generations. Bequests keep our organization strong and will allow your voice to continue to be heard. Your thoughtful planning now will allow us to continue our work to protect wilderness, wildlife, clean air and water and our way of life.

A HEARING, OR SOMETHING ELSE?

By Julian Martin

Franz Kafka, an author known for some hopelessness, must have been the inspiration for the reorganization of the Department of Environmental Protection's public hearings. Until a couple of years ago the Department of Environmental Protection (DEP) held formal public hearings on strip mine permit applications. Those public hearings were often confrontations between large groups of angry strip miners and a few folks concerned about the destruction of strip mining in all its gory manifestations.

The Department of Environmental Protection has defanged the hearings into a toothless "informal conference." Only one person gets to hear and be inspired, angered or depressed by oral testimony—a DEP employee sits off to the side with a recording device and lets anyone talk to the machine.

At a meeting organized by the Coal River Mountain Watch someone asked the DEP director how many permits had been rejected on her watch—she could not think of one and she was not old so it was not a Rick Perry moment.

A while back I attended a public hearing in Ansted on a strip mine permit. Bored DEP employees sat at tables in the middle of a gymnasium floor. A recording device sat on one of the tables. Anyone present could go to the microphone and speak to the audience and for all it was worth to the DEP employees and with as much affect to the recording machines.

From the bleachers I yelled a question to the DEP boss of the hearing. I asked how many permits he had evaluated--about three thousand, he answered. I then asked how many had been denied—he said two. As a DEP director once declared, the DEP is a permitting agency. Indeed it is.

I recently attended what will probably be my last informal conference. It was an application to expand what was originally the Keystone mine. It is one of the bookend strip mines that squeeze Kanawha State Forest in between and does its damage within sight and hearing of Charleston residents living near Rush Creek and the Mount Alpha road.

Almost ten years ago, the Keystone mine started out as a 375-acre mountain top removal operation within sight and hearing of Charleston homes in the Rush Creek and Mount Alpha Road area. Of course the DEP approved the permit. The nearby residents appealed to the Surface Mine Board. The company settled by agreeing to a buffer zone between the mining and the homes.

Many of the neighbors of the mine showed up to question the DEP about the expansion asked for by Revelation Energy, LLC, the new owners of the former Keystone mine. The neighbors are concerned about the blasting within earshot, the dust, the noise and bright lights at night—the machine monsters of mountain destruction don't sleep. The neighbors say the expansion request violates the intent of the buffer zone deal they made with Keystone.

Cindy Ellis, the West Virginia Highlands Conservancy president, overheard one pair of residents ask about water concerns and well testing. The DEP guy assured, "We'll do that." Resident said, "Several times?" "Well no," replied DEP. "Just the one time."

Informal conferences are bizarre settings with uniformed DEP employees standing behind tables with maps laid out showing what is going to happen. Just two or three people at a time could see the map displays and permit records and hear the explanations. DEP had to repeat their party line many times.

Someone asked if the amended permit would be visible from Kanawha State Forest. DEP has computer software that allows them to predict visual impacts from mining, but they haven't used it to show if Revelation's amendment will make the mine even more visible from the Forest. During the leafless season I have heard the blasts and viewed the mine from a Kanawha State Forest trail.

The only follow ups to the several formal hearings and informal conferences I have attended informed me that the permit had been approved. It will be interesting to see if DEP approves this permit expansion that is only about two miles from the state Capitol. I wonder—can the mountain right across the Kanawha River from the Capitol be removed?

A HOME FOR THE DIAMOND DARTER

As reported in the August, 2013, issue of *The Highlands Voice*, the U.S. Fish and Wildlife Service has listed the diamond darter (*Crystallaria cincotta*) as an endangered species under the U.S. Endangered Species Act. Now the Fish and Wildlife Service has designated critical habitat for the diamond darter.

The designated critical habitat consisting of a total of 123 river miles in Kanawha and Clay Counties, West Virginia and Edmonson, Hart, and Green Counties, Kentucky. The 28 mile critical habitat unit in the Elk River, West Virginia is currently occupied by the species and the 95 mile critical habitat unit in the Green River, Kentucky is not currently occupied by the species, but was historically occupied and currently includes suitable habitat necessary for diamond darter conservation.

The diamond darter is a freshwater fish currently restricted to a small reach of the Elk River in West Virginia. It historically occurred in several watersheds within the Ohio River Basin including the Muskingum River in Ohio; the Ohio River in Ohio, Kentucky and Indiana; the Green River in Kentucky; and the Cumberland River Drainage in Kentucky and Tennessee. A factsheet on the diamond darter can be found at: http://www.fws.gov/northeast/pdf/DiamondDarter_1010.pdf.

Critical habitat designation does not set up a preserve, and it does not allow government or public access to private land. Critical habitat is a term in the Endangered Species Act that refers to specific geographic areas that contain features essential to the conservation of a threatened or endangered species. For the diamond darter, these features include large,

warm water streams with pools and riffles, clean sand and gravel substrates, insects for food, and other elements.

Designating critical habitat under the Endangered Species Act is for the purposes of consulting with Federal agencies, which have to make special efforts to protect aspects of these areas. It applies only to activities carried out, funded or authorized by a Federal agency. These Federal actions can include granting mining permits. The Endangered Species Act is designed to ensure that those actions do not destroy or adversely modify the diamond darter's essential areas.

The diamond darter's habitat is threatened by siltation, alteration of stream banks and bottoms, nutrient enrichment, and

(For more, dart to the next page)

OUTINGS

The West Virginia Highlands Conservancy is now sponsoring two kinds of outings. This page has information about both. The first is a new Highlands Conservancy program, *This Land is Your Land*, which will be spending a day or more each month in 2013 to explore, and learn more about, our public lands. Those outings are labeled as *This Land is Your Land*. The second kind is made up of miscellaneous outings which may not be specifically connected to public lands.

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

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

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

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

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

Events Calendar

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

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

Saturday, September 14, 2013, McClintic Trail - Cranberry Wilderness Day Hike. This hike will follow trails, and do some bushwhacking, into the headwaters of the Middle Fork Williams River. We'll follow the path of the historic "McClintic Trail" to see the remains of an old splash dam. Built in the 1890s it is a relic of an early logging failure. Logs were horse-drawn into the streambed and splash dam releases were to flush the logs to the mill downstream. While this practice was used with success in some places, it didn't work here. There is a the story, and some pictures of the remains, in the August Issue of the *Highlands Voice*. Limited to ten people. This will be an all-day hike in rugged terrain. For details contact Dave Saville at daves@labyrinth.net.

September 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 9 am. 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.restoreredspruce.org, or contact Dave Saville at daves@labyrinth.net, or 304 692-8118.

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

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.

MORE ON THE DARTER

other water quality concerns. These threats could be linked to the following categories of activities: resource extraction (coal, gravel and rock mining, and oil and natural gas exploration) and utilities; timber management, agriculture, and grazing; other in-stream work (meaning work related to pipeline crossings, dams, culverts, etc.); transportation (roads, highways, bridges); and water quality/sewage

management. The Service will work with Federal agencies on these activities to avoid adverse effects to the diamond darter or its habitat.

SILTATION IN BEAVER CREEK

By Walter Marshall

I'm a boat head and love water. Water has power to soothe you or kill you. You can relax with it or have adventure. Alligators live in it and delicious fish too. It will carry you into urban Mecca or hidden, unseen places. It's great stuff.

Tucker County WV has some really nice water. Rugged mountain streams filled with waterfalls. Good trout water hiding lunker size fish. We also have Acid Mine Drainage. I got interested in the Acid Mine Drainage coming out of the North Fork of the Blackwater River. The huge size and incredible destructive power of the pre-law Coketon-Kempton Mine Complex intrigued me so I started researching on the web. Then I saw a problem with Beaver Creek which runs into the Blackwater River.

Last spring after a deluge of rain Beaver Creek was very heavy with silt. So heavy that it looked like boiling clay. I thought it came from the construction of Corridor H and mentioned it to a friend who started telling me when he saw the river was muddy. We were seeing that every average rain was enough to wash a lot of silt into Beaver Creek. I didn't know what to do about it and wondering why nothing was being done, after all the Blackwater is an important trout stream and it's being pummeled with silt. Little did I know that one of the people who were going to do something was me. It started when Judy Rodd from Friends of Blackwater knocked on my door.

She was looking for someone to monitor the North Fork Acid Mine Drainage sites. Because I'm really interested in AMD and old mines I couldn't say no. I put together a kit of equipment, got training in procedures (thanks Paul Baker, Save the Tygart) and have been enjoying myself out in the woods gathering stream data, exploring places hidden and unseen.

I wanted a way to measure the silt coming out of Beaver. A good turbidity meter, although very accurate, is expensive and money's not as cheap as it used to be. It took some digging. I didn't know quite what I was looking for. Then I found the turbidity tube on the Web. My friend Bij (our staff technician) and I incorporated turbidity into our watershed measurements with attention to Beaver Creek.

Turbidity tube: (<http://www.cas.umn.edu/assets/pdf/Turbidity%20Tube.pdf>.) Inexpensive and fairly accurate it's a clear plastic tube, graduated in cm and Nephelometric Turbidity Units (NTU.) It has a black and white Secci pattern on the bottom. You pour water into the tube and look until you can't make out the pattern through the column of water. Then read the height of the water and NTUs off the side of the tube. Dirt in the water means more NTUs.

At our test site near the mouth of Beaver Creek on June 18, 2013, the turbidity was 6 NTU and you could see through 80cm (31 1/2") of water. That's good. On June 26, after moderate rain, turbidity was 90 NTU at 13cm which is bad. On July 11, after moderate rain, turbidity was 24NTU at 30cm. Not too terrible but

I think regulations allow somewhere around 16-18 NTU max.

Then we had several days of rain in the second week of August. On August 13th after the rain let up I went to the Friends of Blackwater office; Bij and Katie (she runs the office) were there. Katie said "Beaver Creek is silted real bad, track it to the source." So that's what we did. When we got to the creek, what we saw, well, it was bad. Real bad but as bad as it was, it was only a fraction as bad as the early spring event. We had a way to measure it this time. At our site near the mouth of Beaver Creek turbidity was over 240NTU. You could only see through 5cm (2") of water.

I took a photo from the bridge just above the site. We



took off upstream taking measurements and photos along the way. We got to the Corridor H construction site where we found inundated silt fences, ditches and a beaver pond draining water heavily laden with silt into Beaver Creek. Above the recent road excavation the stream cleared up with 19NTU at 35cm (almost 14".)

On the Blackwater River below Beaver Creek we took photos of the two waters mixing. We went to the State

Park about one river mile downstream to test the water after it mixed. The measurement was 100NTU at 10cm (4".) Whatever happens to the Beaver happens to the Blackwater. We started complaining and I wrote a report.

The Blackwater River used to be a dead river from Beaver Creek on down. A lot of work was done and the killer Beaver has been getting better. So much better that below Beaver the Blackwater contains a catch and release trout area. These huge slugs of silt smother the bottom and run the trout off. Beaver Creek has been silt embedded which will take years to recover. I'm not qualified to assess the damage to the Blackwater River but I know that as a class B-2, Tier 3 stream it shouldn't have tons of silt washing into it during every average rainfall.

The Blackwater River is recovering from logging and mining. Starting from when the CCC was hauling two bushels of dirt from the valley to plant one tree on the fire scarred mountain, incremental improvements have been made. Beginning with those trees and continuing with the work of West Virginia Department of Environmental Protection mine reclamation and groups like Friends of Blackwater, the river was getting nicer all the time. It's silly to sacrifice that progress just to get the new road here a little quicker.

Thinking about it now as I write, we should have complained sooner. We should have called Department of Environmental Protection when my friends and I first saw it was bad and started keeping a record. Even so it was getting hard for everyone to keep ignoring mud flows in the Beaver. The Department of Highways dropped the ball and the contractor for the road should have known

(More on the next page)

WANT TO BECOME MORE INVOLVED?

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

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

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

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

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

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

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

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

MORE FROM CYNTHIA D. (Continued from p. 2)

State Director of Health, Dr. N.H. Dyer reported an increase in longevity here and also said, "In this atomic age, our people must be protected against above-tolerance levels of radiation hazards."

Football Hall of Famer Sam Huff, under the headline, "Athlete Raps Strippers, Roads," was blunt. "West Virginia will have to do something about the strip mining situation which is ruining the beautiful landscape that is natural to our state."

Former Governor Homer A. Holt had much to say, in his piece, "Prosperity Seen Ending Blighted Areas." "In all probability the number of persons living in our distinctive coal mining areas will be fewer than even those living there now---much fewer than the number which in some earlier years there lived. However, those who continue to live there will be happily employed and will enjoy better economic and social conditions and standards than those which prevailed prior to the decline of employment in the coal mining industry."

He continued, "After the passing of the next 20 to 40 years, West Virginia will no longer be referred to as a backward, impoverished state. Even today its status in those respects has been grossly exaggerated." He ended with "I have no desire to live elsewhere on planet earth."

It must always be difficult to imagine 50 years ahead.

How about 2063???

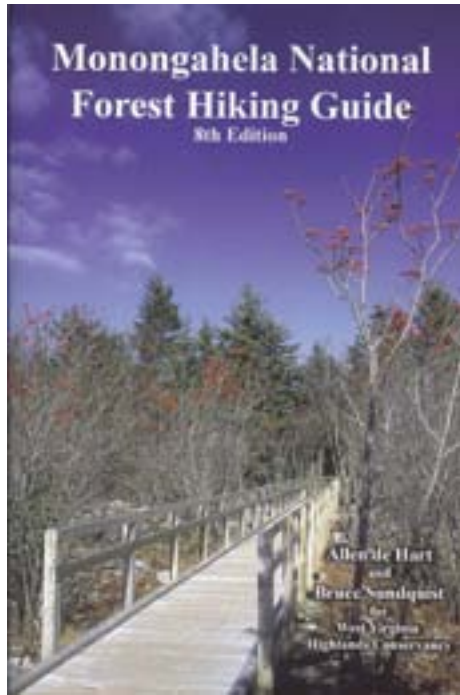
One prediction is that when threats to the mountains persist, West Virginia Highlands Conservancy will be here, fighting back.

MORE ABOUT BEAVER CREEK (Continued from previous page)

better. The water is down now and silt covers the bank of the Blackwater. I'm afraid to look too closely. I hope it stops so I can get back to Acid Mine Drainage.

I like being a water monitor and highly recommend it. Chasing silt isn't my favorite but I've found some interesting things in my AMD tracking that will help experts in planning for remediation. One person can make a difference working in their watershed especially with a group like Friends of Blackwater. They have a long track record so I know the information I collect will go to good use.





The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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

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

New 8TH Edition Now Available on CD

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

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

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

Price: \$20.00 from the same address.

BUMPER STICKERS

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

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



* The Voice

When the wee child
wails in church
on a summer's morn
Let her, for there's
Victory in her bones!

She knows
to sing full out:
The grief work
stricken her throat

She does
pave blues for us,
so that when
great night
come rattling
Our hearts will go out
to welcome the dance,
The fire circle and
The next round.
J King



Mika
Her nose ble

For The Voice

BOARD HIGHLIGHTS

By John McFerrin

The Setting

The Board met at Kumbrabow State Forest. The cabin was new, much more uptown than the five older cabins. It has no electricity and water only via hefty pump at the road, but is fully accessible with ramp, concrete-floored and spacious outhouse (about as uptown as outhouses get). Cabin has three bedrooms, extra roll-out beds, high ceilinged open living and dining space, gas stove top as well as stove and fireplace. It has a gas cookstove, gas lights, gas fireplace logs, gas room heater, and wood cook stove. For those raised on 20th and 21st expectations on illumination the gas lights makes it feel dim although still plenty bright by the standards of most of human history.

The Business

The fall, 2013, meeting is scheduled for October 19. Hugh offered the use of Surinam as a possible location. There was no real decision but it appears that the momentum is trending in that direction.

We talked about the fall, 2014, meeting. That will roughly coincide with the 50th anniversary of the Wilderness Act. The national celebration of the anniversary is planned for September. There was some consideration of moving our meeting to September so as to coincide with the national celebration. After some discussion, we decided to keep our meeting in October as it had always been.

The Sierra Club, the Wilderness Coalition, and the Highlands Conservancy intend to cooperate on a local celebration of the anniversary. The details of that celebration are yet to be worked out. Dave Saville is representing us in that cooperation.

Treasurer Bob Marshall reported that we are right on track for most items. We have finished half of the year. In most categories we have received about half of the budgeted revenue and spent about half the budgeted money

Administrative Assistant Beth Little reported that membership was down but not alarmingly so. Revenue from membership remains stable because members still continue to renew at high levels. She discussed the possibility of a "comeback campaign." This would involve contacting those who have been members in the past but whose membership has lapsed and invite them to return. She has been sending letters to members whose membership is about to lapse asking them to return. In the past we had just put a sticker on the *Voice* saying that this was the last issue. She gets

about a 10% positive response on those.

Hugh Rogers reported that **Corridor H** is as it was. There was a flurry of activity by the Corridor H Authority, including holding a groundbreaking for a segment that has been under construction for a year. There has been no decision by the Federal Highway Administration to approve any new segments and no indication that it is any great hurry (or any small hurry, for that matter) to do so.

Cindy Rank reported on the Spruce veto decision, selenium appeals, the Diamond Darter, mining near Kanawha State Forest, and the Export-Import bank. The substance of her remarks may be found in several stories in the August and September issues of *The Highlands Voice*. Beth Little reported on the Marcellus Academy and the permit hearing for an underground injection control well in Fayette County. Cindy Rank reported on the second annual Wellness and Water conference. These were covered in the August issue of *The Highlands Voice*.

We discussed the possibility of trademarking I (heart) Mountains. It was the sense of the Board that we should do so, if only to prevent someone else from trademarking it. Cindy Ellis will look into that. We also discussed the possibility of an "I Love Mountains" license plate. We would have to get some substantial number to commit to paying the extra for such a plate before we could do it. Cindy Ellis will look into it. Cindy E. reported that we now have 1036 likes on Facebook.

The Fun

Before the luncheon interlude, President Ellis drew for the Door Prize. Cindy Rank won. It was a game in which the player tries to flip a ball on a string into a cup on the end of a stick. Several Board members tried it out with mixed success.

Immediately after the luncheon interlude President Ellis treated us to a dramatic reading of "A Song for West Virginia" by Marc Harshman, West Virginia's new Poet Laureate



The Gang



The water supply

A LITTLE LEMONADE FROM SELENIUM LEMONS

As regular readers of *The Highlands Voice* know, the West Virginia Highlands Conservancy (along with the Sierra Club, the Ohio Valley Environmental Coalition, and Coal River Mountain Watch) frequently files citizen suits against coal companies, seeking to enforce the Clean Water Act. In addition to substantial financial penalties and installation of effective selenium treatment systems at mountaintop removal/valley fill mine sites throughout southern West Virginia, settlement agreements with a number of coal companies in several of our lawsuits these past 5-10 years have also provided funding for the West Virginia University Law Clinic to educate the public and public official, etc. about the ins and outs of land use planning.

This funding has resulted in initiation of a series of workshops for local land use leaders -- those from local government, non-profits, and the private sector. This series is called the Mountain State Land Use Academy; the inaugural two-day session this past spring. The house was packed. The Clinic received much positive feedback, including this letter

To read more about it, go to the land use clinic's website: <http://landuse.law.wvu.edu/>

CONFUSION/ CORRECTION

The article on the McClintic Trail which appeared in the August, 2013, issue of *The Highlands Voice* has produced some small confusion. Except for the comments by Dave Saville which are appended to the original article, it was written in 1937. The Judge McClintic whom the article refers to as owning the land and being alive has long since died and no longer owns the land.



City of Beckley

P. O. BOX 2514 • BECKLEY, WEST VIRGINIA 25802-2514 • PHONE 256-1768 – AREA CODE 304

ANN WORLEY
Councilwoman, Ward II, City of Beckley
councilwoman2@yahoo.com

June 17, 2013

Jesse J. Richardson, Jr., Esquire
Lead Land Use Attorney
Land Use and Sustainable Development Law Clinic
WVU College of Law
P.O. Box 6130
Morgantown, WV 26505-6130

Dear Jesse:

I would like to take this opportunity to thank you and your team for the fantastic Mountain State Land Use Academy Leadership Conference you presented in the spring at the Glade Springs Resort. It was great to see a packed house of versatile, enthusiastic professionals who very obviously enjoyed the conference! You and your team members were not only knowledgeable in the Land Use field, but had wonderful organizational and people skills as well.

My grandfather, Karl Douglas Bowers, not only graduated from the WVU School of Law but was on the Board of Governors and very instrumental in getting the current Law School built. He was so proud of his profession and believed that getting a good education was extremely important. The men and women on your team have certainly taken their law school education seriously, and it shows. Lee Iacocca once said "Apply yourself. Get all the education you can, but then, by God, do something. Don't just stand there, make it happen".

You and the Law Clinic students are making it happen! If my grandfather were alive today, he would be so proud to see that an innovative program such as the Land Use Clinic has been developed. He and others of his generation had the foresight to make the WVU School of Law into a physical reality. All of you are the "future generation" that he envisioned making new programs a reality. How proud he would be! Go Mountaineers!

Sincerely,

Ann Worley
Councilwoman, Ward II
City of Beckley

The City With a Mine of Its Own

HIGHLANDS CONSERVANCY BOUTIQUE



A double dose of adorable (triple dose if you count the shirts as adorable as well)

► Our newest online store items are here. 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

T- SHIRTS

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



HATS FOR SALE

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

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

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