



The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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WHO CAN FORGET BLAIR, WV ?

by Cindy Rank

1997

Joe Lovett had just read Penny Loeb's alarming article about mountaintop removal when James Weekly walked into his law office. Mr. Weekly wanted help to fight a 3,000 acre (~5square miles) mountaintop removal coal mine planned for the hollow where his family had lived for decades. Spruce #1 was to be an extension of the nearly 8,000 acre Dal-Tex mine on the other side of Rt 17 in Logan County. Joe recognized at once what James was concerned about since Penny's article talked about the multitude of problems caused by the huge Dal-Tex mine. A dramatic picture of the mine looming over the community of Blair accompanied the article.

The proposed Spruce #1 mine would blast apart the mountains surrounding the Weekly home and would bury the stream running by the house. The entire valley would be buried from its beginning high in the hills for over a mile on down to within spitting distance of the Weekly's home. WV Highlands Conservancy joined the Weeklys and five other families whose homes were threatened by other similar mining proposals in the lawsuit titled *Bragg v Robertson*.

Ruling on part of that litigation in 1998, Judge Charles Haden found that the 3,000 acre Spruce #1 mine in Pigeonroost hollow would



A 1997 U.S. News & World Rport photo of the Dal-Tex mine looming over the disappearing community of Blair, WV. The photo accompanied Penny Loeb's article *Sheer Madness* in the August issue of the magazine. Pigeonroost hollow is located just across the road to the right of the picture.

cause significant irreversible damage and ordered the company and regulatory agencies to evaluate the impacts of the mine and to consider options to reduce those impacts.

TEN YEARS LATER

Earlier this year, the Army Corps of Engineers released a draft Environmental Impact Statement (EIS) for the Spruce #1 mine and has recently issued a final EIS. The new mine plan includes a reduction in total disturbed acreage (now a mere 2,278 acres!), but the environmental impacts and the proposed "mitigation" of those impacts are not acceptable.

Comments due **November 22, 2006** should be sent to:

Mrs. Teresa Spagna,
Regulatory Project Manager
Regulatory Branch
CELRH-OR-FS

U.S. Army Corps of Engineers,
Huntington District
502 8th Street
Huntington, WV 25701

Teresa.D.Spagna@lrh01.usace.army.mil

In addition to your own concerns, the following are points you might consider when writing your thoughts.

The Mine: Mingo Logan, Spruce No 1 Mine, six valley fills with permanent discharge of fill material into approximately 36,814 linear feet of intermittent and ephemeral jurisdictional streams (i.e. approx. 7 miles) and .12 acres of wetlands. The project will also have terrestrial impacts of 2,278 acres or 3.55 square miles.

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From the Heart of the Highlands

by Hugh Rogers

Why Don't You Move?

Mary Miller, of Sylvester, West Virginia, has been hearing, seeing, and breathing the byproducts of Massey Energy's Elk Run coal mine for nearly ten years now. With her equally fed-up friend Pauline Canterbury, she left retirement and began fighting back, and "The Dust-Busters" won some notable victories. First, Elk Run Coal was forced to build a dome over their preparation plant. Then, in February 2003, a Boone County jury awarded half a million dollars in damages to fifty local plaintiffs.

Money wasn't what The Dust-Busters were after, though. "We just want our lives back," Mary said. "We've been prisoners in our homes."

By that measure, the lawsuit failed. The court-ordered dust monitors are "a joke," says Mary, three years later. "Handmade litter boxes with Rubbermaid jars." In the film "A Mountain Removed," shot this past summer, Mary can be seen wiping coal dust off her table. She turns to the camera and asks, "Should anybody have to live in this?"

This fall, Mary was in Washington with a coalfields delegation to urge Congress to put the teeth back into strip-mining laws passed as long ago as 1977. The Bush administration hasn't found it necessary to repeal those laws, it simply has declined to enforce them. Mary explained the situation to a committee staff person, a young woman from New York who had only the vaguest idea of mountaintop removal mining. The staffer was obviously sympathetic—it's hard to imagine how she wouldn't have been, given Mary's charm and the undeniable facts. Finally, the young woman asked:

"Why don't you move?"

Mary had to wait for a moment, hold her tongue, in the face of such sweet impertinence. (And we can pause to consider why each of us residents on this planet might have face that question some day, although unlike Mary most of us won't have had to deal with a coal mine that showed up next door.)

"Why don't you move?"

Mary said, "I shouldn't have to move. They should have to obey the law."

"Why don't you move?"

Mary said, "My husband and I built our dream house there." It's a beautiful house: three stories, hardwood floors, large rooms for comfortable gatherings. In most places it would be worth a million dollars. A few years ago it was appraised at \$144,000, but since the mining company bought right up to the Millers' fence line it has been devalued to \$12,000.

"Why don't you move?"

Mary said, "That's my community." But now the Boone County school board has decided to close the elementary school at Sylvester and bus the children to a much older school in Whitesville.

"Why don't you move?"

Mary said, "What you worked all your life for . . ." She didn't finish the sentence.

We truly love hearing from HUGH,
but we'd also like to hear from YOU, too.
Please consider sending us your thoughts, letters, comments
-- email the editor at clrank@hughes.net --

Roster of Officers, Board Members and Committee Chairs

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SECRETARY: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733, johnmcferrin@aol.com
TREASURER: Bob Marshall, 886-Z Divide Ridge Road, Kenna WV 25248 (304)372-7501, woodhavenwva@netscape.net
PAST PRESIDENT: Frank Young, Rt. 1, Box 108, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net

DIRECTORS-AT-LARGE (Terms expire October 2007)

Bob Henry Baber, P.O. Box 413, Richwood, WV 26261, 304-846-6661
George Beetham, 2819 Mt. Carmel Ave. #3, Glenside, PA 19038 (267) 252-3748, geobeet@hotmail.com
Perry Bryant, 1544 Lee St., Charleston, WV 25301 (304)344-1673; Perrywv@aol.com
Barbara Weaner, Rt. 2, Box 96, Montrose, WV 26283 (304) 478-2123, sweaner@plantwv.net
Carter Zerbe, 16 Arlington Ct., Charleston, WV 25301, (304)343-3175, scz3667@aol.com

DIRECTORS-AT-LARGE (Terms expire October 2008)

Don Gasper, 4 Ritchie St., Buckhannon, WV 26201, (304)472-3704
Bob Gates, 1117 Virginia St.E., Charleston, WV 25301, (304)342-2624, photonzx@ntelos.net
Russ McClain, 64 Wilmoth Run Road, Montrose, WV 26283, (304)637-2201
Bill McNeel, 1118 Second Ave., Marlinton, WV 24954, (304)799-4369, wpmcneel@gmail.com
Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820, peter@mountain.net

ORGANIZATIONAL DIRECTORS

NATIONAL SPELEOLOGICAL SOCIETY: Robert (Bob) Handley, HC 67 Box 508 Renick, WV, 24966 497-2266, gbrbat@ntelos.net
PITTSBURGH CLIMBERS: Jean Rodman, 32 Crystal Dr., Oakmont, PA 15139, (412)828-8983, jeanrodman@verizon.net
BROOKS BIRD CLUB: Cindy Ellis, RR 1, Box 163, Red House, WV 25168 (304) 586-4135, ellis_6511@msn.com
MOUNTAINEER CHAPTER TROUT UNLIMITED: Frank Slider, Rt 1, Box 163-A2, Middlebourne, WV 26149, (304) 758-2500, sliderf@ovis.net
WEST VIRGINIA RIVERS COALITION: Don Garvin, P.O. Box 666, Buckhannon, WV 26201; (304) 472-8716; DSGJR@aol.com
DOWNSTREAM ALLIANCE: Craig Mains, 137 Hoffman Ave., Morgantown WV 26505, cmains@wvu.edu
FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802, clrank@hughes.net

COMMITTEE CHAIRS

MINING COMMITTEE: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802, clrank@hughes.net
PUBLIC LANDS MANAGEMENT COMMITTEE: Bob Marshall, 201 Virginia St.W., Charleston, WV 25302, (304)345-5518, woodhavenwva@netscape.net
OUTREACH/COMMUNICATIONS COMMITTEE: Julian Martin, , 1525 Hampton Rd., Charleston, WV 25314, (304) 342-8989, martinjul@aol.com
LEGISLATIVE COMMITTEE: Frank Young, Rt. 1, Box 108, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net
WIND ENERGY COMMITTEE: Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820, peter@mountain.net
ENDOWMENT FUND COMMITTEE: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733, johnmcferrin@aol.com
RIVERS COMMITTEE: vacant
HIGHWAYS COMMITTEE: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, rogers@wvhighlands.org
OUTINGS COMMITTEE: Jonathan Jessup, 8225 Adenlee Ave. #40, Fairfax, VA 22031, (703) 204-1372 jonathanjessup@hotmail.com

MISCELLANEOUS OFFICES

SPEAKERS BUREAU: Julian Martin, 1525 Hampton Road, Charleston, WV 25314, (304) 342-8989, imaginemew@aol.com
WEB PAGE: Peter Shoenfeld, 713 Chesapeake Ave., Silver Spring, MD 20910, (301)587-6197, peter@mountain.net

ADMINISTRATIVE OFFICES

ADMINISTRATIVE ASSISTANT: Dave Saville, PO Box 569, Morgantown, WV 26507, (304)284-9548, daves@labyrinth.net
HIGHLANDS VOICE EDITOR: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733, johnmcferrin@aol.com
INTERIM VOICE EDITOR: Cindy Rank...Until further notice, please submit all articles, letters, commentaries, etc. to clrank@hughes.net

WINDMILLS AND MOUNTAINTOP REMOVAL

Commentary by John McFerrin



An interesting, if ultimately unproductive, sidelight to the controversy over the proposed windfarm in Greenbrier County was the alignment of Coal River Mountain Watch on one side and the Greenbrier County citizen group Mountain Communities for Responsible Energy on the other. The Mountain Communities for Responsible Energy adamantly opposed the project. They like Greenbrier County the way it is and don't think that the electricity produced is worth the social costs of windmills.



Coal River Mountain Watch's view is that the social costs of mountaintop removal coal mining are so great, so high, that electricity from any other source would be prefer-

able. They support the project. If we get the electricity at the cost of our streams, our air, and our mountains then it could never be worth the price.

This controversy resulted in the parties sniping at each other at the public hearing and in letters to the editor. They seemed to frame the question as one of whether windmills or mountaintop removal mining was the preferable method for producing the electricity that society needs. Inherent in this debate was the question of who would suffer the most as a result of their living in an energy producing area.

The question is not even close. It's me stepping in the ring with Mike Tyson. It's the 1976 World Series. It's the war with Grenada.

In Greenbrier County, the mountain ridges will be topped by windmills for the next twenty years. In mountain top removal areas, the mountain ridges will be gone. Forever.

In Greenbrier County, it is likely that the presence of the windmills will reduce some property values. Because the windmills are not in place, it hasn't happened yet. Since much of what makes that property valuable is its bucolic setting, even a relatively benign industrial use such as a windmill will probably reduce those values.

In southern West Virginia the mountaintop removal mines are already there; we know what they do to property values. In Blair, West Virginia, the value of a piece of residential property near the mine is approximately zero.

In Greenbrier County, people have to look at windmills on the tops of distant ridges. There are places in West Virginia where the shadow of the boom of the giant dragline used in mountaintop removal mining fell across people's houses.

From what we know, windmills in Greenbrier County will almost certainly result in the deaths of some wildlife, most notably birds and bats. In southern West Virginia the habitat that currently sustains wildlife, including those same birds and bats, will be gone. Of course, it won't be gone forever. Just a few centuries.

Beauty is, of course, in the eye of the beholder. Not even the shills from the Coal Association, who get paid to think that all aspects of mining are beautiful, contend that an active mountaintop removal mine is pretty. After the mining is over you could argue either way. For my money, even a post mining mountaintop removal site is uglier than a windmill. Others might think the windmills are uglier.

If the controversy over the proposed windfarm in Greenbrier County were merely a matter of looking at whether windmills or big strip mines resulted in greater social costs, the question would be easy. The social costs of big strip mines are so enormous that we would choose windmills every time.

This is not to say, of course, that the citizens of Greenbrier County should not continue to object to the windmills. They moved there or, having been born there, stayed because they liked the particular kind of life that Greenbrier County offers. If they don't think that whatever tax, employment, or other benefits would come from the windmills is worth what they would have to give up, then they are free to take the bit in their teeth and fight

the windmills as long and hard as they wish.

Any kind of electricity production imposes some sort of cost upon society. More sensible and efficient use of electricity would make the overall cost less but unless we are going to forego the benefits of electricity altogether, society must choose some method or methods of producing electricity and be willing to endure the costs of those methods. We would still have a duty to assure that the methods we chose operated so that they had the least possible social cost and the costs were spread fairly. We do, however, have to recognize that any energy production has a social cost.

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

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

(Windmills and Mountaintop Removal....continued from page 3)

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Unfortunately, that is not what the controversy is. That is what makes the dust up between Coal River Mountain Watch and Mountain Communities for Responsible Energy unproductive.

The controversy is not over whether we have mountaintop removal strip mining or windmills or, to put it another way, whether windmills will replace the mining. Mountaintop removal mining will continue so long as it is economical. So long as the coal is here and someone can make money mining it, we will have mountaintop removal strip mining. If the companies were forced to bear the social costs of the mining then it would be less economical and would end sooner but as long as companies can make money doing it the practice will continue. The existence of windmills won't change that.

The economics of mining make it especially likely that the practice will continue whether we have windmills or not. In its early phase, any mountaintop removal mine is a money pit. The company spends, spends, spends to get all the permits, build roads, build ponds, and do everything necessary to get ready to actually extract coal. These are essentially fixed costs; they will be about the same whether the company mines all the coal at the site or leaves some behind.

Once actual coal extraction begins the mine turns from a money

pit to a license to print money. With ruthless efficiency the coal comes out of the ground and goes to market. During this period, the companies make money hand over fist, enough to make up for the money losing periods and make the mine as a whole profitable.

Unless we have enough windmills to replace an entire mine, their existence will not determine whether any mine goes forward. We are not even close to that point. Coal companies are not going to suffer through the money losing start up phase and then abandon some fraction of the coal because that coal can be replaced by windmills. They will still mine it, even if is not quite as profitable as it would have been had the mine not faced competition from wind energy. Windmills or not, the mining will go on.

This is what makes the debate between coal and wind power unproductive. Each will go ahead independent of whatever happens with the other. So long as somebody can make money doing it and our society, including the legal and political systems, concludes that producing electricity from strip mine coal is worth the cost to society, we will have strip mining. So long as somebody can make money doing it and our society, including the legal and political systems, concludes that producing electricity from windmills is worth the cost to society, we will have windfarms.

Instead of debating the false choice of coal versus wind energy, we would all be better off spending our energy forcing the coal and wind industries to bear all the costs of their operations, including the costs to society. It would be more productive—and more fun—then sniping at each other.

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PSC APPROVES NET METERING !! by Gary Zuckett

Citizen groups and electric utilities testified before the WV Public Service Commission October 12th in support of a package of standards to allow homeowners who generate their own electricity using renewable methods such as wind and solar to “run the meter backwards” and actually send their excess power to the public electric grid.

“Net Metering,” as this is called, is already allowed in all surrounding states but the rules in each state vary widely. This agreement is a great start into Net Metering. It will give a much needed economic incentive for homeowners and small business to install wind & solar generation equipment.”

Commission staff and the Consumer Advocate, Billy Jack Greg, brought together stakeholders including, AEP, Allegheny, APCO, APC and other utilities and the WV Environmental Council and WV Citizen Action Group to work out differences in their concepts of how Net Metering should be implemented in WV.

After hearing no objections to the consensus agreement, the Commissioners took a short recess then came back in and passed the Net Metering rules.

The agreement accepted by the Commission has several benchmarks that are favorable for homeowners and small businesses that want to trade excess generated power back to their utilities to offset their electric bill:

1) An even trade for power used vs. power returned to the utility's grid. In other words power sent into the grid would be credited as an offset to the customer's future electric bill on a net kwh basis (the utility's applicable retail rate). In contrast, Ohio's reimbursement only cover's the utilities fuel costs (a wholesale rate much lower than retail)

2) This generation credit will be carried over on a rolling 12 month basis. Again, Ohio has only a one-month window to redeem such credits.

3). Maximum rating of Net Metering installations is 25 Kilowatts where many states limits are 10 KW.

William DePaulo, counsel for the citizen's groups closed his presentation to the Commission with the following comment, “My clients, WV Environmental Council and Citizen Action Group, support these Net Metering rules as a good beginning of the active promotion of domestic small-scale alternative energy generation. Our long-term goal should be to maximize production of non-fossil based energy. Future generations are depending on our commitment today to deal with potentially irreversible climate change linked to our fossil-based economy. The production of clean energy is an essential component of this critical effort to combat global warming.”

Federal tax credits can offset up to 30% of the cost of new Net Metering installations for homeowners and small businesses. In addition, many states have their own tax incentives or matching grants to promote renewable energy.

“West Virginia's new net metering standards put it in a good position to enter the emerging market of small-scale renewable energy generation. More and more households and small businesses in Ohio are opting to trim or eliminate their electric bill by becoming part of the solution to our nation's energy crisis through Net Metering,” commented Matthew Bennett of DovetailSolar.com, a SE Ohio company that specializes in solar and wind energy installations.

“Now its time for the WV Legislature to step up to the plate and provide state tax credits or other incentives to kick-start the market,” Bennett added.

In Ohio, the Dept. of Economic Development's Office of Energy Efficiency administers an “Energy Loan Fund” which includes a variety of loan and grant programs providing economic incentives for renewable energy installations for both homeowners and small business. This ten million-dollar a year development program is funded by a small surcharge on consumer's monthly electric bills.

THE CONSERVANCY'S UNIQUENESS

by Dave Elkinton

As I have been interviewing past and present leaders of the Conservancy, I have been asking what makes the West Virginia Highlands Conservancy effective or even unique in comparison to other environmental groups and even other nonprofit organizations. There have been a variety of responses and I am sure additional perspectives will be shared as this process continues.

A few of those factors mentioned so far: a sense of community; a high-level of expertise, from a wide variety of disciplines; an unusual dedication to common goals; a low level of ego conflict among the leadership; even with issues that split the membership and board down the middle (like wind power), both sides remain involved; volunteer-driven, with staffing primarily for administrative and special projects only; a research-first, policy-second approach; flexibility to react to new issues, without constraints from a national office; and the associated willingness to entertain new issues as they arise, if volunteers are committed and new funding can be generated, which cannot occur with a planned approach to programming. Let's examine some of these.

Expertise: Many organizations, both professional and issue-oriented, tend to attract members from a narrow spectrum of expertise. Examples of environmental groups might include birding organizations, caving groups, and trail maintenance clubs, to name only a few. Other organizations, like the Conservancy, are organized around a community, area, or region. Even here, however, a diversity of expertise might not always be welcome. Thankfully, the Conservancy has always found a wide diversity of interests and expertise to be essential to fulfilling its mission to address issues related to the West Virginia highlands. As many members will attest, this very diversity not only leads to interesting discussions, but also often becomes quite valuable in mounting campaigns around the issues the Conservancy undertakes.

Volunteer-driven: Many of us have either worked for, or been on boards of nonprofit organizations that were staff-driven. The Conservancy by contrast has always seen itself as volunteer-driven. In the early days, no one was paid for anything. Gradually two functions were seen as critically important, time consuming, and worth at least an honorarium. These were the membership secretary's role in keeping membership data current and renewals processed, and the role of Editor of *the Highlands Voice*. Occasionally one person filled both roles. Later the Membership Secretary became an Administrative Assistant. Under our current incumbent, Dave Saville, the membership has grown significantly, and so has the position. But even now, as Dave's position has assumed a full-time status, there is no doubt that the organization remains volunteer-driven. All one needs for proof is to attend any daylong board meeting. The board is not responding to Dave's initiatives and recommendations, but is itself structuring the meeting agenda, setting policy, and frequently delegating the workloads necessary to themselves and other members.

The Voice Editor spends a considerable amount of time each month sorting through submissions, editing those chosen, and often writing additional pieces. Then comes paste-up, and printer relations. As *the Voice* has moved to more pages, and more frequency, this job too has increased in its time requirements. The articles might be volunteered, but the nuts-and-bolts of getting them printed require a more dependable and trained hand. Ergo, remuneration is appropriate. But can anyone imagine the Highlands Conservancy without its *Highlands Voice*?

Planning and/or flexibility: Several leaders have remarked that the Conservancy benefits from not being committed to a three- or five-year strategic plan, as is the fashion among nonprofits these days. (Not that there haven't been several attempts to forge them.) Rather, the Conservancy is working on a group of issues at any given point in time,

but can always add one more, if it is brought to the board by folks willing to carry the increased workload. Over the history of the Conservancy this has been the most frequent route that has generated new issues for the Conservancy. Once presented, debated, endorsed, and undertaken as official concerns, they have often been returned, with the Conservancy's blessing, to those most interested for further study or action. A few examples would include the Davis Power Project, the Canaan Wildlife Refuge, the Blackwater Canyon, threats from mining, Shavers Fork, and many more.

A related comment mentioned is that members appreciate not being a part of a national organization, which has its own priorities and agendas. Several of our leaders have contrasted the Conservancy to the Sierra Club, which apparently does not permit much local autonomy to its chapters when dealing with conservation issues. When the Conservancy board of directors reaches a decision, it has the power to act, spend money, or even lobby. That flexibility is often important in providing a quick response to environmental crises.

Sense of Community: This is the most difficult to describe, but somehow seems to be the most meaningful to those who have mentioned it. We all understand how a family works. Even as adults, often living states apart, we make time to see each other. We are there for any crisis or blessed event. In communities, neighbors gather for a variety of occasions, cover for each other in emergencies, and join together for common activities or civic functions. The Conservancy shares some of these characteristics. A most recent example has been the life-threatening medical crisis experienced by John McFerrin, our Past President and current Secretary and Voice Editor. Thankfully John is on the road to recovery, but others, especially Cindy Rank, have stepped forward to cover his duties until he is fully recovered. While John was hospitalized, several board leaders visited him and I am sure John felt the support of the entire Conservancy community. In a lighter way, the general camaraderie experienced at each Spring and Fall Review, as old friends reunite, and new friends are made, exemplify the Conservancy as community. Without that spirit, and the enjoyment of each other's company, most first-time attendees would not return.

That the West Virginia Highlands Conservancy has been effective in preserving the highlands over the past forty years seems self-evident. But why the Conservancy has been so, however, is more difficult to analyze. As my research continues I hope to gather additional observations that might be of value both to Conservancy members, and to other organizations looking to increase their effectiveness. If you have a comment, please be in touch.



Dave ponders his notes during a discussion at Cheat Mountain Lodge during Fall Review in October, 2006

Note: Dave Elkinton can be reached at daveelkinton@hotmail.com, and welcomes comments and information as he continues his research and writing on the Conservancy's first forty years.

THE FUTURE OF THE NEW RIVER GORGE NATIONAL RIVER

by Erin Haddix St. John, National Parks Conservation Association

Nearly thirty years ago, visionary local and national leaders successfully advocated establishing the New River Gorge National River to preserve and interpret the outstanding scenic beauty, wildlife, and history of the New River. Today the New River Gorge National River (NR) is a destination point for more than one million visitors each year who pour more than \$85 million directly into the local economy. The "New" appeals to a wide range of visitors, from those who come for recreation on the river or on the cliffs, to those who come to explore the rich industrial history of the Gorge, or those who come simply to take in the scenic beauty of this national treasure.

As the New River Gorge NR approaches its 30th birthday in 2008, many wonder, "What will the Gorge look like 30 years from today?" With increasing pressures from development and ongoing threats to water quality we must re-commit to the vision of a protected New River Gorge, one whose scenic beauty, spectacular wildlife, fascinating history, clean waters, and world-class recreational opportunities continue to draw millions of visitors and their tourism dollars.

Foundations of the New River Gorge National River

On November 10, 1978 Congress designated the New River Gorge National River

"...for the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations."

When the park was founded, most understood that the National Park Service would not buy all of the land necessary to protect scenic values. Instead, the legislation directed the Park Service to "assist and consult with the appropriate officials and employees of such local governments in establishing zoning laws or ordinances which will assist in achieving the purposes of this title."

Current struggles

Over the past two years, more than 2,000 houses have been proposed adjacent to or even inside of the boundary of the New River Gorge National River. These houses have the potential to severely degrade the scenic beauty that helped inspire the creation of the park. The proposal for "Bridge View Estates," approximately 500 houses on lands that are visible from the New River Gorge Bridge, was brought before the Town of Fayetteville. Despite a clear understanding that 14-17 houses would likely be visible from the bridge, and hundreds of public comments asking them to protect the Gorge, the Town approved the development plans without modifications or serious delay, and this development is proceeding.

The second proposal from the Atlanta-based Land Resource Companies (LRC) initially included more than 2,000 houses and 600 acres inside of the Congressionally-designated park boundary. LRC withdrew this initial proposal and dropped its proposal to build houses on land inside the park boundary. However, LRC did not change its plans to develop houses along 9 miles of the Gorge in the scenic views enjoyed by park visitors, despite its repeated public assertion that "no houses would be visible from any ground level vantage point in the Gorge." Fayette County has approved LRC's plans through a flawed process, and that decision is currently being appealed.

The development debate occurring in the New River is not unique. In fact, national parks across the region and across the country are experiencing serious threats from incompatible adjacent land use and suburban sprawl. For example, up to 3,500 houses are pro-

posed on lands adjacent to and on private land inside Harpers Ferry National Historical Park in West Virginia. A remarkably incompatible proposal is one that proposes to build the country's largest slots casino within cannon range of Gettysburg National Military Park in Pennsylvania.

As America's population surpasses 300 million, and a generation of baby boomers retires, national parks and other protected lands are becoming the new beachfront. The debate in the New River is really about more than the two recent developments. It is about how the surrounding communities, the National Park Service, and other stakeholders need to come together to protect the scenic beauty of this park for this and future generations, so that the New River retains its special character. If development is allowed to move forward haphazardly, the integrity of the resource will erode, and this national treasure will succumb to mediocrity.

Vision for the Future

Given the significant development pressures faced by the park along with serious threats to water quality and a lack of enough trails for visitors, it is time to revive and recommit to a vision for the future of the Gorge. This vision must be developed and shared by local communities, the National Park Service, and other stakeholders in the region and the country.

The National Park Service has started a visioning process as they update their General Management Plan (GMP). This document will strive to identify the desired future conditions for this national treasure over the next 20 years. The NPS is has held several rounds of public meetings and is currently working on a draft plan that will be put out for comment, likely this winter. **Take Action.** Contact the park and ask to be on their GMP mailing list or visit: <http://parkplanning.nps.gov/> for updated information.

As part of this process the Park Service will be considering ways to better protect its scenic, natural, and cultural resources. The National Park Service is in the process of identifying lands that are critical to the future protection of the park and its resources including its scenic views, wildlife habitat, forest integrity, and water quality.

Some of these sensitive lands lie outside of the current Congressionally-designated park boundary. The boundary of the park needs to be expanded to take in these critical lands from willing sellers. Furthermore, a strategy to work with neighboring communities to protect the rest of these sensitive lands through compatible land use policies and practices would be helpful.

Take Action. Please write to U.S. Rep. Nick Rahall to encourage him to lead an effort to adjust the boundary to protect critical lands, and to provide necessary funding so that the Park Service can work with willing landowners to protect them. Furthermore, urge Congressman Rahall to lead a community dialogue with local leaders and stakeholders about ways for local communities and the park to work together to ensure the region's continued vitality and the park's integrity.

**The Hon. Nick Rahall
Washington Office
2307 Rayburn HOB
Washington, DC 20515**

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.

THE ARMY CORPS OF ENGINEERS TO RENEW RUBBER STAMP NATIONWIDE PERMITS FOR MINING OPERATIONS

by Cindy Rank

As we argue in court about the inadequacy of the Army Corps of Engineers' **individual** permitting process and mitigation for four specific mines, the agency is proposing to renew its Clean Water Act Section 404 **nationwide** (or general) permits for stream fills associated with mining operations.

Most - if not all - of the 1,200 miles of streams documented in the 2000-2005 Programmatic Environmental Impact Statement to have been impacted by valley fills and mountaintop removal mining were authorized using these nationwide permits.

Thanks to our legal-beagle friends who have worked tirelessly on our behalf on this issue for nearly a decade we are able to offer

the summary of concerns on page 15 of this issue to assist you in formulating your comments to the Corps about the proposed coal-related Nationwide Permits.

U.S. Army Corps of Engineers
 Attn: CECW-OR/MVD (David B. Olson)
 441 G Street NW
 Washington, DC 20314-1000
 E-mail: david.b.olson@usace.army.mil

~~~ Comments are due November 27, 2006 ~~~



photo courtesy of Vivian Stockman and OVEC

June 2005

Aerial view of the Miller-Caudill property in Mud, WV.  
 The edge of the Hobet 21 mine shows in the bottom of the photo.



photo courtesy of Vivian Stockman and OVEC

October 2006

The Miller-Caudill property as Hobet 21 mine continues to expand  
 -- the family home is in the lower left corner of each picture.

(continued on page 15)

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| Introductory/ |                   |               |            |
| Other         | \$15              |               |            |
| Regular       | \$25              | \$35          | \$50       |
| Associate     | \$50              | \$75          | \$100      |
| Sustaining    | \$100             | \$150         | \$200      |
| Patron        | \$250             | \$250         | \$500      |
| Mountaineer   | \$500             | \$750         | \$1,000    |

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

~~~~~

~ 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 DOLLY SODS GRAND TOUR

by Catherine Kelleher

There is a reason classics are classic. A group of eight backpackers took advantage of the area Indian summer and went on a grand tour of Dolly Sods – Dolly Sods North, Dolly Sods Wilderness and a little slice of Dolly Sods Scenic Area. To no one's surprise, the conclusion was that there is a very good reason why this area has such a devoted following. One doesn't even need to be a backpacker or an avid hiker to experience why people find the area so compelling.



View from Lion's Head

The mood was set merely by the journey up to the trailhead. Approaching from the east, the road climbs steadily up a winding vista of rolling hills and high pastures. About the time the road itself becomes adventurous gravel, the landscape starts to shift to a vision of Canada. The open plains of scrub, punctuated by wind beaten red spruce got the group primed for a full day of hiking. This was especially important as a light drizzle began fading in and out in the parking area while gear went through a final check and the hiking boots went on the feet. Final departure also included one of the true reasons many find backpacking so enjoyable. In this case it was a chance to indulge, guilt-free, in the wonderful homemade brownies sent along by Rodney D.'s wife who was not able to join us that weekend.

If one could go no further than the parking area, one would still come away with an understanding of the lure of farmer Dahle's former expanse. Of the group, some had been going to Dolly Sods for decades, some only recently. Assembled were Indiana Moser, Caveman, Pathfinder, Judge N. Amy, Short Stack, Cognac Jack, and Rodney D., all under the direction of M. R. Hyker. After a short march down the road, the group turned off and walked into the surreal landscape.

The general route was a counterclockwise circuit in the general shape of a big elongated rectangle, with the start at the upper right corner near Bear Rocks. The first leg was a westward trek across the Bear Rocks trail to the northern boundary of Dolly Sods North along Raven Ridge. Progress was slowed by the not-infrequent pauses to harvest a few of the ripe blueberries that were everywhere to be found along this segment. There was no chance of even coming close to eating any real portion of the abundance.

It is almost understandable why some decided during World War II that this eerie landscape was the ideal location for target practice. Fortunately no UXO's (unexploded ordnance) showed up. A spitting image of that favorite UFO rider, ET, did turn up however, at least according to the preponderance of folks walking past one particular rock. With a drizzle falling and all the backpackers clothed in disforming pack covers, the costumes and set pieces were in harmony.

At the northwest "upper left" corner of the hike, the group tuned south on the aptly named Rocky Ridge trail. About a quarter mile away, an easy

scramble up a slight mass of rocks provided an opportunity to survey the expanse of the Sods from the gentle, open 4100' ridge line. Half a mile farther down the trail, a more substantial outcropping gave the group a more dramatic full circle view of Canaan Valley off to the west, as well as Dolly Sods back to the east. A quick favorite was the colorful Mountain Ash with masses of orange-red berry clusters among the green leaves, often set against a backdrop of white rock. Even on this overcast day, the group was reluctant to leave the spot.

Another half mile or so down the trail is the gently increased elevation of Harman Knob. While there are nice views by walking out to the ledge, another interesting sight is right underfoot. Among the jumble of rocks are many clear fossils of plants and tree bark. A little farther on, before leaving the ridge, is an up close view of the long green slopes of the Timberline ski resort.

At this point, about two-fifths of the way down the western "left" side of the journey's rectangle, the group entered the Dolly Sods Wilderness area and turned down the Big Stonecoal trail. The open expanses became populated with many deciduous trees and more closely spaced spruce. The blueberry bushes disappeared and a high canopy with a dense understory of ferns became the norm. After almost four miles of hiking into the Wilderness, the group reached camp under a large grove of red spruce along the banks of Stonecoal Run, near the junction with the Dunkenbarger trail. The site afforded everyone their own choice of campsite, be it nestled in the trees on soft spruce needles or open to the sky along the creek.

After breakfast the next day, everyone opted for a double treat – a pack-less hike of a couple of miles out to see the view from Breathed Mountain at the spot known as The Lion's Head. This is where a little local knowledge is very handy. The general approach is from the Rocky Point trail. A side trail that leads to the summit is not really marked, however. A break in the trees and a swift scramble up a bank signaled the route. It would have been easy to turn back, and attribute the path only to the small campsite (which was occupied), but a little perseverance and determination up the slope and around a big rock brought what finally looked like a trail. A little farther on, the group encountered multiple trails snaking around, with frequent rock cairns to mark them, but with the choice of routes left to the hiker.

The trail maze served really as a means of further heightening the drama of The Lion's Head. The right choices finally bring one to a large expanse of flat, craggy rock with a commanding 360-degree view of Dolly Sods. The departure of the previous day's rain left postcard blue skies and a heavy layer of mist in the surrounding valleys. Mount Porte Crayon, West Virginia's second highest peak, was visible off to the south. A plantation of Red Pine was close by to the north. Part of the fun was locating the majestic Lion's Head gazing out at his domain. Those Trafalgar Square lions have

(continued on page 13)



Along Little StoneCoal

SENECA CREEK BACKCOUNTRY BACKPACKING TRIP GOES CAR CAMPING

by Mike Juskelis



Spruce Knob

September 29 through October 1, 2006: Mother Nature has absolutely no regard for meteorologists! The bad weather was supposed to move out of the area by 3:00 P.M. on Friday leaving us with a nice weekend of backpacking. Our initial plans were to car camp at Spruce Knob Lake Campground on Friday and then do a nice over-night excursion into the Seneca Creek Backcountry over the weekend. I was joined by Doc and Molly, Indiana Moser, Kathy, Craig, Da Judge and Gadget Gyrl. When we first reached camp it looked like the weather might hold true. After setting up camp some of us drove down to the lake and had an enjoyable walk around it. The fall colors were looking pretty good. The dark, ominous clouds rolling in from the west, however, did not look so good. We returned to camp and prepared dinner. Just as we were finishing up the rain started. Seems like the same thing happened last year. Once again we pulled out the trusty picnic canopy that I keep in the back of the truck and erected it in a matter of minutes. The rain continued through the night.

The next morning it was still raining. Everyone's tent was soaked on the outside and a few had issues with the insides. Dean, the campground manager, came by and offered to sell us some firewood. At that point in time we had yet to make a decision on the backpacking part of the trip so we took him up on his offer. By 10:00 the rain had nearly ended but the local radio station was calling for more. We opted to attempt the 4 mile Gateway Nature Trail Loop as a day hike while we waited out the weather. It was actually a very scenic stroll specializing in open pastures with colorful mountain backdrops and different forest types. It took us a while to figure out that we were supposed to climb

over the 3 pasture fences blocking our way at the midpoint of the loop. Once we accomplished those hurdles the rest of the trek was a non-event. We had hoped to make it back to camp by 12:00 but it was closer to 1:30 by the time we finished. All the gear was still wet so the decision was made to stay bivouacked here for the rest of the trip. This ended up being a very good decision. The rest of the day remained relatively nice with only a few sprinkles. We were even able to squeeze in a visit to Spruce Knob before most of us drove down to the Gateway Restaurant for a nice dinner.

We returned to camp and a nice fire started by Doc and Kathy just before the skies opened up again. We had added a lean-to to the canopy during the day so we were all able to "Hunker down" in relative comfort as we kept stoking the fire with dry wood. One by one we drifted off to our tents. During the night the skies really opened up and dumped a deluge on us that lasted several hours. Kathy's bivy sack totally failed, taking in at least a half gallon of rain, but she was able to retreat to Ray's van. All other gear seemed to hold firm for the most part. The rain continued into the wee hours. I lay in my tent imagining the floods of Seneca Creek becoming higher and higher. Yes, we had made the right decision to stay put! The usually easy hike out of the backcountry would definitely have been more challenging to the point of being out and out dangerous.

The next day we were greeted with a glorious sunrise. We haphazardly threw our wet gear in the vehicles and broke camp. Doc and Molly said their good-byes as they headed off in a different direction. The rest of us made a beeline to ... you guessed it: the 4-U Restaurant.

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.

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. Sizes: S, M, L and XL. **Short sleeve** model is \$10 total by mail; **long sleeve** is \$15. Send sizes wanted and check payable to West Virginia Highlands Conservancy and to Julian Martin, WVHC, P.O. Box 306, Charleston, WV 25321-0306.

**Your comments, letters, poems and other thoughtful submissions are always welcomed.
Send any such items for consideration to the editor at clrank@hughes.net.**

West Virginia Mountain Odyssey



Outings, Education and Beyond

==== OUTINGS ====

To join us for any of these outings, please sign up with the trip leader, who can give you more information. Their contact information appears after each listing. Please contact your trip leader and reserve your spot as far in advance as possible. In doing so, you may learn critical details about the outing. For instance, all available spots may be taken or the trip leader may cancel an outing if an insufficient number of people have signed up.

Our outings vary greatly in difficulty, scenery and type. Groups average between five and ten people, though we have as many as twenty people on some outings. Lower group numbers tend to provide a better experience for everyone. Trip leaders exercise a great amount of flexibility as far as leadership style, foul weather rescheduling, daily route, etc. Please be considerate of your trip leader and follow his/her instructions.

Open Dates Visit Kayford Mountain south of Charleston to see mountain top removal (MTR) up close and hear Larry Gibson's story about how he saved his mountain, now almost totally surrounded by MTR. Bring lunch for a picnic on Larry's mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com or Larry Gibson (304) 586-3287; (304) 549-3287

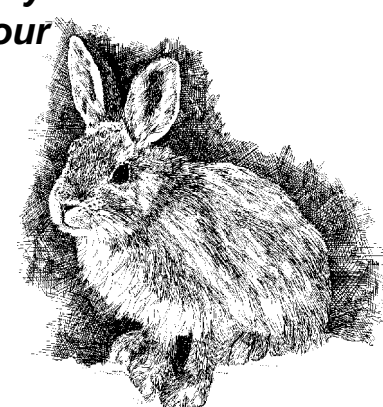
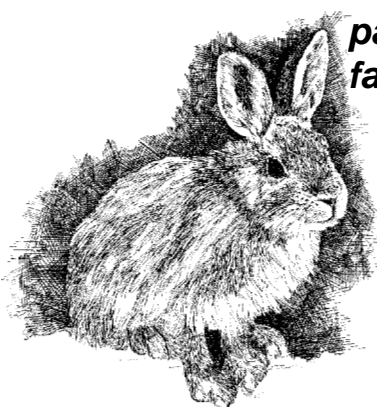
Every Weekend in November Trail work outings on Canaan Valley National Wildlife Refuge and Whitegrass Ski Touring Center. During the Winter months most of the recreational use of the Refuge takes place on skis or snowshoes at Whitegrass Ski Touring Center. Whitegrass has a special agreement with the US Fish & Wildlife Service to maintain ski trails on the Refuge to provide public access during the Winter. They are also long-time supporters of the Highlands Conservancy. It has become a tradition over the years for friendly folks who love the white stuff, to come to Whitegrass on Weekends in November to prepare the trails for the upcoming fun times. Trail crews meet at 9am each Saturday and Sunday in November. Dress for the weather, bring gloves and lunch/water to last you for the day. Please let us know, if you can, if you plan to join us, or just show up, and we'll put you to work. Contact Dave Saville at daves@labyrinth.net or 304-284-9548, or Whitegrass Ski Touring Center at 304-866-4114.

Evergreen Wreath Making Workshop Sunday, November 26, Whitegrass Ski Touring Center in Canaan Valley. 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 304-284-9548.



*It's never too early to start planning those spring time hikes —
and never too late to plan a winter trek through your favorite snowy
path.....Please consider leading an outing and sharing one of your
favorite places on the MON with others.*

**Contact Dave Saville
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THE MONONGAHELA FOREST PLAN

A Forest Manager's first rule – whether it be the County Forester approaching an individual landowner, or the National Forest Planner – is that landowner wishes must be understood. In the case of the National Forest it is not just the users but every citizen – even those that cannot spell 'Monongahela' — that should have been polled.

There was no citizen poll taken as there was ahead of the plans made for other National Forests in the Southeast U.S. In fact, in the case of the George Washington and Jefferson National Forests, some West Virginia citizens were called at random for a 15 minute interview because they were within 400 miles of those Forests. These polls showed how much naturalness, recovery, wilderness and water quality were valued by citizens today.

It is not the harmful provisions of the final Plan for the Monongahela Forest just released this October, or the undemocratic way in which it was prepared; but the lack of vision in the U.S. Forest Service's "desired future condition", and the missed opportunity represented in the Plan, that is so disappointing.

Truly: "of all sad words,
of tongue or pen,
the saddest are these,
it might have been."

Commentary by Don Gasper

MONONGAHELA NATIONAL FOREST HIKING GUIDE

by Allen deHart & Bruce Sundquist

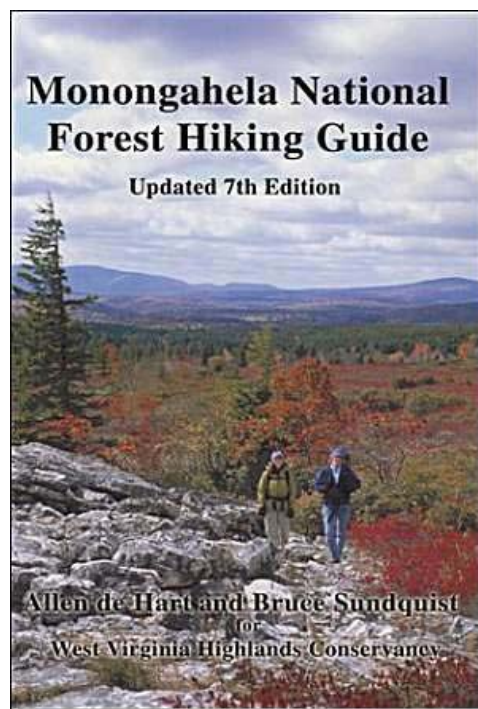
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WV Highlands Conservancy continues to bring its publications into the computer era with its latest innovation- the publication of the Electronic (CD) version of its famous Monongahela National Forest Hiking Guide, **Allen Dehart, Bruce Sundquist, 7th Edition**, with maps and many other enhancements by WVHC contributor **Jim Solley**

This premier CD edition of MNF7 includes the text pages as they appear in the printed version of the 7th edition in an interactive pdf format. It also includes the following ancillary features, developed by a WVHC dedicated volunteer, and **not available anywhere else:**

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Cranberry Backcountry Backpack

by Mike Juskelis

October 7th through October 9th: Once again Mother Nature tested the adaptability of a group of diehard hikers. Once again the hikers prevailed. This time I was joined by Doc and Molly, Gadget Gyrl, Caveman, Ted E. Bear, Dr. Ruth, Mr. Hiking Upward, Alice and Sly. We launched our trek from the Kennison Mt. trailhead on RT 39 promptly at 1:00 P.M. The initial climb up to the ridge wasn't as bad as we thought it would be. A light misting rain kept our outerwear cool. Once near the top the rain melted away and the sun came out. The hike along the mountain was nothing short of exhilarating. The yellows of the Beech and the reds of the Maples contrasted sharply against the ever present green Red Spruce and giant Rhododendron. In a few places the Spruce had regained its rightful place to the point of smothering all understory species save the soft, green moss that painted the surfaces of the boulders. Research had indicated that parts of this trail can be quite wet and we did, indeed, slog through several seeps created by the recent rains. We were, however, quite surprised to find recently constructed (within the past 5 years) boardwalks traversing the worst of them. The last and longest was approximately 100 yards long. The descent to the Cranberry River was quite steep. We gave up 1000 feet of elevation in less than a mile. As we neared the bottom the sounds of a raging river grew louder and louder. On nearly the same weekend, last year, you could rock hop across any part of the Cranberry without getting your boots wet. Today, after nearly a week of rain, we were facing a thigh high crossing of a very angry Cranberry River with the mountain to our back and no campsites on our side. As we scouted up and down the river we could see a nice grassy area under the trees complete with fire ring on the other side. We had to either cross or spend the night where we were with no place to pitch a tent.

I found what I thought was the safest crossing just above a set of rapids, donned my sandals and made it to the other side. I dropped my pack and re-crossed the river to carry the packs of those that were shorter than me. One by one we made it across, gathered up our gear and headed for that grassy spot about 50 yards up stream. We quickly set up camp and set about drying whatever got wet. Most of the wood near camp was waterlogged Birch. We made an attempt at a campfire but once the fire starter burned out we gave up. After dinner we had a meeting to discuss strategies for the next 2 days. Our initial plan was to hike down the Cranberry Forest Road and re-cross the river to join the Fisherman's Tr. We would then use the Pocahontas Tr to close the loop. Since we would be hiking down the road we would probably pass more estuaries of the river making a successful ford less likely. Still we opted to at least hike the 3.5 miles to see if the ford was in a wide part of the river making it shallower and less forceful than in the narrower stretches.

The next morning was glorious. The fall colors were in their peak. Tony got a good shot of the moon just before the sun broke over the eastern ridge. We all had a hearty breakfast and broke camp, eager to find out what the ford had in store for us. Tony decided to shorten his trip since his wife was returning from a trip the next day and he had to pick her up at the airport. The rest of us proceeded to the ford. As expected, all the feeder streams were bursting at the seams. Dogway Run was flowing especially hard. There is a vehicle bridge and service road just above that point that we could cross but the service road it lead to would only put us back on top of Kennison Mt., close to our cars. Campsite availability between the river and the top was unknown so we continued down to the ford. Once there, any notion of all safely crossing the river quickly melted away. The trail junction was in a section of the valley that was almost a canyon. I climbed up onto a boulder on the side of the river and thrust a trekking pole in until it touched bottom. The water sur-



face was at the hilt of the handle. Scanning across I could see where some pools were probably chest high. Gadget Gyrl searched below the intended ford while Caveman looked upstream. The best that could be found was thigh to buttocks high (for a tall person) sections and the water was really ripping through the cut all along the river. The decision was instantaneous and unanimous. We aborted the initial plans, reversed directions and hiked back to our last camp. Plan B called for taking a casual lunch here and then hiking a mere 3.5 miles to the shelter at the confluence of the north and south forks of the river. We reached camp by 3:30 and called it a day. Although we had plenty of daylight left we did not know if the sites closest to the end of the road would be available and we didn't want to have to do any backtracking.

It actually was a very relaxing day. The colors were still intense and the sky was a brilliant blue. That night we had a roaring campfire, compliments of some fisherman who left a lot of dry wood under the eave of the shelter. We spent the night talking the usual campfire banter before drifting off to our tents.

The final day was probably more gorgeous than the previous one. We ate, broke camp and were on the forest road before 9:00. I should note that most backpackers are not fond of long stretches of road walking and I am no different from the rest. The one exception is probably doing what we were doing that weekend, hiking along the Cranberry River at high water in the peak fall color season. It took us no time to cover the 6 miles of road although some of us were starting to cramp up from pounding the hard surface. From there we left the road and climbed back to the top of Kennison Mountain via the South Fork Tr. You don't hear much about this trail but it traverses some very nice forest scenery before its end. The fact that the long gradual climb seems to be never ending is another story. Still we made it back to our vehicles by 1:00. We freshened up as best we could and said good-bye to Doc and Molly. We finished up our trip with a quick visit to the Cranberry Botanical area and lunch at the Bob Evans in Lewisburg. On our way home I vowed to return and cross the Cranberry at the Fisherman's Tr ford. If I do I'll be sure to monitor the precipitation in the area before making the commitment.



(Dolly Sods continued from page 8)

nothing on this one's regal setting. The lure of the vista was strong enough to compel Short Stack to overcome her dislike of rocky heights and explore the area. After many pictures and determined prodding by the leader, the group reluctantly headed back, ending sunbathing, rock hopping and meditative pursuits. It was definitely worth the price of admission.

Back at camp, packs went on and after a final look around, all set off to complete the lower half of the route's rectangle. A shorter route would have been to continue around Breathed Mountain and head up north. The objective, though, was to see as much of the area as possible, and so the chosen route started off to the west and south.


The Wilderness, in the case of Dolly Sods, comes with a number of vestiges of earlier inhabitants. Sections of old iron pots augment fire rings, collections of rusty fittings nestle under spruce branches, and the occasional apple tree appears in former fields. A most welcome remnant, however, are the many old logging railroad grades. When hiking with a large pack, a steady 3% grade is much appreciated, even if it means a slightly longer route. The Dunkenbarger then Little Stonecoal trails circled around Coal Knob and descended gently to Red Creek. Creek-crossing strategy was left to each participant. Some chose a careful rock hop and some decided it was a perfect excuse for cooling off by wading across. While the water was cold, several opted for a further dip or even a brief swim as the group stopped on the other bank for lunch.

The rest of the day was a scenic walk along Red Creek up to a campsite at the Forks. Along the way, the group encountered a Forest Service ranger doing a bit of trail maintenance, digging some sidehill to keep a section of trail from further eroding into the creek. He had with him a copy of a Dolly Sods map recently produced by the US Army Corps of Engineers. It's a wonderful, waterproof, folding topo map with trails clearly identified. Copies are available free at the Cheat/Potomac Forest Service Ranger station, and possibly elsewhere, such as the Canaan Valley State Park Nature Center.

On a Sunday evening, the group had the campsite to themselves. While a nice meal was a main objective, there was time for a little sightseeing. A distinct seam of coal in the rocks on the east fork of Red Creek was a reminder of why earlier visitors came to the area.

The next day was a gradual climb along the rest of Red Creek trail and a transition from deciduous forest back to the open Sods of two days before. Skirting Blackbird Knob, the group continued north along the Upper Red Creek Trail then took a break at the crossing of a





HATS, HATS, and MORE

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 embroidered in gold above *We ♥ Mountains*. The heart is red; and lettering is black.

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

Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is \$12 by mail. Make check payable to West Virginia Highlands Conservancy and send to Julian Martin, P.O. Box 306, Charleston, WV 25321-0306.

These and other items available from the WV Highlands Conservancy online store appear on our website www.wvhighlands.org.

diminishing Red Creek fork. This time the blueberries and occasional huckleberries were eaten in brilliant sunshine. There was also a colorful set of migrating Monarchs, along with a number of Viceroy and Eastern Comma butterflies. The combination of berries, butterflies and cool stream water caused Indiana Moser much difficulty in keeping up with the group.

The last unvisited segment was a stretch of the Dobbin Grade trail. Even with the crushed stone laid to support railroad tracks many years ago, the route was perpetually soggy. Some tried to pick their way gingerly across the waterlogged stretches. Judge N. Amy pointed out it was considered bad form in New Zealand not to "walk just wherever the trail goes", and plunged right through, trusting in the ability of her gaiters to ward off excess water.

The Dobbin Grade ended at the Bear Rocks trail the group had hiked in on. The big rectangle had been completed, with a final uphill half mile to hike out and reflect on the circuit. While Dolly Sods is not that large in terms of total acreage, it afforded an opportunity to get away from all but a handful of people and experience a geography unique to the region. One look at the trail network on the new Dolly Sods map illustrates its popularity. It can be appreciated in small samples or savored in a grand tour.

(Spruce #1 EIS comments...continued from page 1)

The proposed project is located in the Spruce Fork watershed of the Little Coal River near Blair in Logan County, West Virginia.

Points to consider:

- The Corps has issued a final Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) on this mine. Under NEPA, the Corps' EIS must consider all past, present and future direct and indirect environmental harms of a proposed action. Under the Clean Water Act (CWA), the Corps cannot issue a 404 permit if it would cause significant degradation of the environment.
- The Corps' entire rationale for finding no significant environmental degradation hinges on its claim that, even though Spruce Mine No. 1 would bury seven miles of streams, those losses are offset by environmental gains due to compensatory mitigation.
- That rationale is both dishonest and unscientific.
- The company's mitigation plan is based on a phony stream assessment method that the company made up and that, according to the Corps' own regulatory chief, is "not scientifically defensible."
- Contrary to CWA requirements, the Corps has no other approved method for assessing and mitigating the biological, chemical and physical functions of buried streams.
- Despite the absence of any functional assessment method, the Corps claims that the mitigation plan has a "high" chance of success.
- That claim of mitigation success is unfounded, since the Corps itself admits that functioning headwater streams have never been created successfully anywhere in the country.
- The mitigation plan would also trade minor enhancements of a different stream (e.g. bank stabilization) for total destruction of headwater streams, even though there is no scientific evidence that this enhancement will compensate fully for the functions of the lost streams.
- The Corps requires no meaningful long-term monitoring to ensure that mitigation will actually work as planned.
- Cumulatively, past and planned mines and valley fills in the Spruce Fork watershed cover 35.5% of total stream length and an alarming 44% of first order stream length. In the entire Coal River watershed (of which Spruce Fork is a part), past and planned mines and valley fills conservatively cover 11.5% of total streams and 14.9% of first order streams. Although the Corps claims that this cumulative devastation is insignificant, expert stream biologists believe that it is very significant and alarming.
- The Corps has ignored the information it collected in preparing the October 2005 Mountaintop Removal Programmatic Environmental Impact Statement (PEIS). That information also demonstrates that the cumulative impacts of past and present mining are significant.
- The Corps fails to evaluate adequately the harmful effects of selenium contamination on streams and aquatic life, even though the Mountaintop Removal PEIS identified the Spruce mine area as a selenium hot spot.
- The Corps does not independently evaluate the risk of flooding and ignores information in the Mountaintop EIS that says flooding risk is increased at mining sites.
- The Corps erroneously claims that reforestation at mining sites has been successful despite the fact that experts say restoration of forests to former productivity under current generally used planting protocols does not occur at all and that even less desirable forests will take more than a hundred years to develop if they develop at all.
- The Corps fails to consider significant and irreparable impacts

Blackwater Canyon Trail - Heritage Preservation Campaign

by Judy Rodd, Director, Friends of Blackwater

Friends of Blackwater and our many members and allies are fighting on two important fronts of vital interest to *Highlands Voice* Readers: the Blackwater Canyon Trail, and the endangered West Virginia Northern Flying Squirrel. Despite the opposition of agency scientists and professionals, federal officials have unleashed an illegal onslaught on the history and ecology of the Highlands of West Virginia and the Monongahela National Forest. Our job – oppose these threats of environmental destruction with all our might!

The Blackwater Canyon Trail needs your comments today. — This Memorial to West Virginia Workers and Magnificent Tourism Resource Must be Saved — Not Destroyed!!

The timber company Allegheny Wood Products wants to turn the scenic Canyon Trail, on our public land, into a logging and condominium road. After months of public comment, the Forest Service is still ignoring the recommendations of the Wilderness Society, the National Trust for Historic Preservation, the State Historic Preservation Office (SHPO), the EPA, and the Advisory Council on Historic Preservation (ACHP).

The latest Service proposal for the Canyon Trail is – get this – to "evaluate" all the historic resources on the Trail, and then they can be destroyed!

Many historic railroad bridges, cut-stone archways, coke ovens, and retaining walls lie along this old West Virginia and Maryland Railroad grade (the steepest grade in the east, in the boom period of 1880 to 1920). The Blackwater Industrial Complex with the ribbon of railroad grade that ties it together has been declared eligible for the National Register of Historic Places.

The Forest Service still refuses to even consider barring Allegheny Wood Products from destroying these historic creations — the living legacy of skilled men and women from 14 countries who built the amazing coal, coke and railroad center, one hundred and twenty years ago.

Thank you everyone! for sending protest letters to the Forest Service, the SHPO, the ACHP and the EPA. Last month alone, over 700 people let them know that the historic sites on the Blackwater Canyon Trail must be preserved — not destroyed. We expect the Forest Service to come out with a final decision in November. !!

If you have not commented recently, send your thoughts to:

Clyde Thompson

Forest Supervisor

USDA Forest Service

Monongahela National Forest

200 Sycamore Street

Elkins, WV 26241

Phone: 304-636-1800

Fax: 304-636-1875

on the citizens living in the area including flooding, danger from coal trucks, traffic, dust, decline of property values, noise, blasting impacts, aesthetic loss and community disruption.

Conclusion: The Corps' FEIS for the Mingo Logan Spruce No. 1 Mine does not comply with the NEPA or the CWA. Over and over again the Corps has made unsubstantiated claims minimizing the individual and cumulative damages from MTR and embellishing the benefits of the planned mitigation. If the Corps had thoughtfully used prevailing science to evaluate the project, it would have to conclude that significant harm to the environment and communities has already occurred and the proposal will add to the devastation. Thus, because the FEIS is flawed the only alternative is for the Corps to either deny the permit or to extensively reevaluate the FEIS, the project, and the mitigation plan.

(Army Corps Nationwide Permits....continued from page 7)

ARMY CORPS PROPOSES TO RENEW NATIONWIDE PERMITS FOR COAL MINING ACTIVITIES

Include the docket number, COE-2006-0005, and/or the ZRIN number, 0710-ZA02, in the subject line of the message or in your letter.

The Issue: The Army Corps of Engineers issued a number of draft nationwide 404 permits (NWP) on September 26, 2006 and is accepting comments on the drafts until November 27, 2006. The final permits are scheduled to become effective in March of 2007. Once finalized, these permits are intended to authorize a wide variety of dredge and fill activities over a five-year period. Three of the draft permits address valley fills and other instream activities at coalmines: NWP 21 for surface mines; NWP-E for remaining activities; and NWP-F for underground mines. The Corps uses NWP to rubber-stamp the vast majority of stream-filling activities associated with coal mining projects, thereby avoiding the detailed analysis and public participation required for individual permits.

The Law: The Clean Water Act (CWA) provides that NWP can only be used for dredge and fill activities that cause minimal environmental effects, both individually and cumulatively. After a NWP is issued, individual authorizations under the NWP can be granted for dredge and fill activities without any site-specific analysis or public comment. In contrast, if the effects of the activities are more than minimal, individual permits are required, and those permits can only be issued after site-specific analysis and public comment. Before it issues a NWP, the Corps must make a reasoned determination that the cumulative effects of all activities potentially authorized by the NWP will be minimal and will not significantly degrade the environment.

1. The Corps cannot issue NWPs 21, E and F because they would have significant cumulative environmental impacts and cause significant degradation of streams in Appalachia.

- The Corps has ignored the many scientific studies contained in the Mountaintop Removal Programmatic Environmental Impact Statement (PEIS) that concluded environmental damage from mining is of "great concern" and "extreme ecological significance." The geographic focus of the study was WV, KY, VA and TN.
- From 1992 through 2002, mountaintop removal mining and associated valley fills in Appalachian destroyed over 1,200 miles of streams and nearly 400,000 acres of forests (an area about ten times the size of the District of Columbia). That destruction is continuing at an alarming pace and the mining NWP would impact hundreds of additional stream miles.
- EPA has stated, "no other NWP category produces impacts greater than NWP 21" and that coal mining and valley fill operations in Appalachia cause "significant ecological damage to the headwater stream systems."
- The U.S. Fish and Wildlife Service says environmental impact of coalmines in Appalachia on aquatic and terrestrial ecosystems as "unmitigatable" and "unprecedented."
- Other leading scientists say that valley fills have "profoundly altered the structure and function of stream networks," and that headwaters should be "at the top of the list" for preservation. These scientists compare the stream loss from valley fills to eliminating the roots of a tree and expecting it to survive, and liken water downstream from fills to a "witches' brew" of pollution.
- The Corps has also failed to assess and recognize the amount of stream destruction that will be authorized by the mining NWP. For example the Coal River, a large watershed in West Virginia, already has 12% of streams filled. Leading scientists believe this degree of destruction is "incredibly significant," but the Corps won't analyze or acknowledge its significance.
- The amount of earth moved by mining activities is sufficient by itself to demonstrate that the environmental impacts of mining are significant. A recent study singles out mountaintop removal mining and valley fills in West Virginia and adjacent states as the greatest contributor to earth moving activity in the United States.
- While the Corps asserts that NWP will not cause flooding, USGS

says, "that large-scale surface mining is especially likely to increase the severity of flooding" during certain types of storms.

- The Corps fails to consider the stream losses from longwall and underground mining. A recent study shows that underground mining has impaired nearly 100 miles of headwater streams in two western Pennsylvania counties. A West Virginia study says that nearly one half of the headwater streams in Marshall County have been impaired by long wall mining and may never recover.

2. The Corps' reliance on compensatory mitigation to offset the huge impacts of NWPs 21, E and F is irrational and unscientific, because the Corps has not shown that mitigation will work or offset the stream functions lost.

- The Corps claims that it can offset these enormous impacts through compensatory mitigation. That claim has no scientific basis.
- The Corps is required to base mitigation on an assessment of stream functions lost and then restored through mitigation. Yet the Corps has no approved method to measure stream functions, and instead simply assumes that mitigation will succeed.
- Not a single scientific study supports that assumption. The Corps generally approves two types of mitigation for permanent stream loss, stream creation and stream enhancement. The Corps' own officials recently admitted in the OVEC v. Bulen trial that they did not know of a single instance of successful headwater stream creation.
- There is also no scientific basis for believing that the "enhancement" of off-site streams, such as bank stabilization, will compensate fully for the functions of lost streams.
- In short, the Corps' entire system of compensatory mitigation is scientifically indefensible. Absent such mitigation, the impacts of the mining NWP are clearly more than minimal and therefore impermissible

3. Coal slurry impoundments should not be allowed under NWPs.

Section 404 of the Clean Water Act provides that an NWP can only be issued for activities that are "similar in nature." NWPs 21 and E could be used for both valley fills and coal slurry impoundments. Coal slurry impoundments, however, are very different from valley fills and other types of stream impacts at mines. The Corps has failed to analyze these differences, and has illegally lumped them together.

- Valley fills contain only solid materials—dirt and rock. Surface impoundments contain liquid materials like coal slurry. A surface impoundment, unlike a valley fill, can fail and release millions of gallons of liquid mining wastes into downstream watersheds or seep into ground water.
- In 2000, an impoundment failure in Martin County Kentucky spilled 306 million gallons of water and coal slurry (more than 27 times the size of the Exxon Valdez oil spill) and damaged 75 miles of streams in Kentucky and West Virginia. This was the second major breakthrough at this site, with an earlier one occurring in 1994.
- In 1996, an impoundment failure in Lee County, Virginia released six million gallons of coal slurry and harmed fish and other aquatic life in the Powell River. This river contains endangered freshwater mussels and is designated as a critical habitat for two federally listed fish.
- The Corps does not even recognize that impoundments can cause massive spills or contaminate well water.

4. If the Corps does issue NWPs 21, E and F, then, at a minimum, it must include stringent limits on the amount of stream that can be filled under those NWPs.

- If the Corps does issue these NWP, it should limit their use for activities that fill less than 300 feet of streams, as it does for other NWP that are used for non-mining activities. The 2,500-foot limit (nearly one-half mile) proposed by the Corps' Huntington, WV District Office is too high. Mining projects that exceed these limits cannot obtain NWP and must instead apply for individual permits.
- In addition, it should not allow these NWP to be used in any watershed where the cumulative amount of filled streams is already likely causing more than minimal harm.

*Once again the gracious folks at Cheat Mountain Club
hosted the Fall Review
and annual membership and Board meetings
of the West Virginia Highlands Conservancy
We'd like to thank the owners and staff
for their hospitality
and for sharing their wonderful lodge and property
with all of us .*

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Jason, Dave, Matt and Mary enjoying the snow among some virgin Spruce trees.



Whether walking outside or working inside to brainstorm plans for protecting more wilderness, everyone enjoyed the time spent in these great surroundings.



.... and the information sharing. Wilderness author and historian Doug Scott chats with Mon Forest Supervisor Clyde Thompson after their presentations Saturday night.



And of course there were the welcome meals and heartwarming conversations with friends....



Music by Tanglewood, premier string band from Morgantown, kept the festivities going well into the night.



Sunday after breakfast and the annual membership meeting, the Board settled down to chew over the many organizational and issue items on the agenda.

**ANNUAL ELECTION RESULTS**

We welcome Marilyn Shoenfeld to the Board as Vice President for Federal Affairs and Buff Rodman to her new position as Senior Vice President.  
 -- Officers re-elected for additional two year terms are Hugh Rogers - President, Julian Martin - Vice President for State Affairs, Bob Marshall - Treasurer and John McFerrin - Secretary  
 -- Elected for two-year terms as Directors-at-Large are Bob Gates, Don Gasper, Russ McClain, Bill McNeel and Peter Shoenfeld.  
 -- We also welcome Bob Henry Baber who will serve a one-year unexpired term as a Director-at-Large.

(For complete Board listing, see Roster on page 2)

These and other pictures from the Fall Review can be found on the Highlands Conservancy website:

[www.wvhighlands.org](http://www.wvhighlands.org)

- be sure to join us next year -