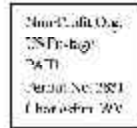


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The Highlands Voice

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2004 LEGISLATURE: WHAT CAN WE EXPECT?

By Donald S. Garvin, Jr., Legislative Coordinator, West Virginia Environmental Council

The 2004 session of the West Virginia Legislature is "on the verge." Opening day is January 14, with the Governor's "State of the State" address slated for that evening.

This legislative session has been "on the verge" since the monthly Interim legislative sessions began way back in the Spring, when it appeared likely that the citizens of the Mountain State would face major industry attacks on clean water, coal regulations, and the state's environmental regulatory structure.

For months we have heard rumors, backroom gossip, and vague generalities about the legislative agendas of the various "special interests" that dominate West Virginia politics. But the specific details have been lacking.

However, some of those details became clearer at the December Interim sessions. The coal industry has made clearer its list of "demands," and the "Dirty Water Coalition" has revealed some of its particular proposals to gut the EQB water quality standards package.

But specific amendments, with specific legislative sponsors, are still not formally on the table.

So, being "on the verge" has not been a pleasant experience for me. And the anticipation has been painful. Unlike previous years and legislative sessions, I am seriously anxious for this session to begin. The Interim sessions have given these ridiculous anti-environment proposals a legitimacy they don't deserve. It's time to get on with this claptrap!

Now, having gotten that off my chest, your editor and I wanted to attempt to bring VOICE readers a better look at the "sawage making" process that is about to unfold in Charleston. This may be more information than you possibly want to know about some very arcane issues. But with environmental regulations, the devil is almost always in the details.

In addition, from the inception of the West Virginia Environmental Council, the West Virginia Highlands Conservancy has been an active member and has provided WVEC's lobbying effort with far more financial support than any other single group or individual. So you deserve to know how your

money is being spent, and what the issues are, and how you can help as well.

Just how does WVEC spend your money? This one's easy. WVEC spends no money, not one penny, on dinners or gifts or donations for legislators. Almost all of WVEC's lobbying budget goes to pay salaries and stipends for the lobby team members, the folks who walk the marble halls for sixty days doing the actual lobbying for environmental issues. In addition, we have a small office with very low overhead in the basement of David Grubb's law firm at 1324 Virginia Street East, and we spend a very small amount on fundraising efforts. We also have a sizable budget line item for copying and mailing our Legislative Update newsletters, which we send to our members every Friday during the session. So that's how WVEC spends its money.

In the last issue of the VOICE I mentioned that WVEC sets its legislative priorities at its annual fall meeting. This is a democratic process in which input is solicited from all our members and member groups. The result is actually simply a prioritized list of all the various environmental

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From the Western Slope of the Mountains
by Frank Young

19 Million Pounds of new Air Pollutants Annually?

That's almost 10,000 tons a year, 27 tons a day, more than a ton an hour. This is the amount of air pollution a draft permit would allow for operation of the proposed Longview coal fired power plant near Morgantown in Monongalia County.

More than half of the emissions permitted would be the noxious compounds sulfur dioxide and nitrogen oxides. These compounds would contribute to both acid rain and haze in the mountains of West Virginia, including in the Monongahela National Forest and the Dolly Sods and Otter Creek Wilderness areas. Acid rain already seriously affects the ecological balance there. And haze is an almost constant visual problem, especially from mid-spring through mid-fall, in these areas.

And according to federal Environmental Protection Agency officials, significant reductions from these emission amounts could be realized if the plant builders just used more efficient "scrubber" technologies in the plant's design. Instead, state DEP Division of Air Quality regulators are leaning toward allowing the Longview plant to purchase air pollution credits from other coal fired plants, either within or outside the region.

As an added insult, this power plant would be a visual blight for many, many miles, including from Cooper's Rock State Park in Preston County. It's to be located near the top of a mountain, and its smokestack is said to be more than *twice* the height of the towers and wind turbines at the wind farm on Backbone Mountain in Tucker County. (For visual perspective, think of a Dominion-Mt. Storm type power plant, located near the top of Cabin Mountain, overlooking Canaan Valley or Blackwater Falls State Park). While one state agency, the WV Public Service Commission, labors mightily over the visual and ecological effects of totally pollution free wind farms, another agency, the DEP Division of Air quality, gives a virtual pass to yet another 19 million ton a year coal pollution belching monstrosity.

Good grief! Are state regulators going mad?

Are we so desperate for electrical power that we're willing to allow newly constructed power plants to avoid the best available technology to reduce air pollution? Where is the much ballyhooed "clean coal" technology that coal operators, their political minions and their advertising agencies have been raving about for years now? Apparently, according to the EPA, better technology already exists. Why, then, are state regulators willing to have a "settle for" coal powered facility instead of a state-of-the-art one?

Once again it seems that King coal and its corporate cousins are being issued a new crown by West Virginia politicians.

Board of Directors Meeting January 24th:

The winter meeting of the WVHC Board of Directors is scheduled for Saturday, January 24th. The meeting will begin at 9:30 AM, and will probably be held at or near Elkins.

If you have not yet received the meeting agenda, it will be mailed soon, by both U.S. Mail and electronic e-mail.

Frank Young, President

Roster of Officers, Board Members and Committee Chairs

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Legislative News (Continued from p. 1)

issues from across the state. There are always more issues listed than we can deal with.

Here again is the list of legislative priorities from WVEC's 2003 annual fall meeting:

- Mountaintop Removal Mining
- Water Quantity/Use
- Clean Elections/Campaign Finance Reform
- Logging Regulations on Private Lands
- Bottle Bill
- ATV Bill
- Air Quality
- Coal ("No More Stringent Than" rollbacks)
- Expand Overweight Coal Truck Penalty
- Electricity Net Metering/Green Energy Issues
- Study Waste Water Treatment
- Statewide Trails Coordinator
- Save EQB, (Environmental Quality Board)
- Anti-Sprawl Regulations



As you no doubt have noticed, there is some overlap in several of these priorities. For example, the coal "no more stringent than federal regulations" issue directly relates to mountaintop removal mining, and the biggest air quality issue in the state comes from burning coal in our power plants, and the overweight trucks issue is directly related to coal mining practices.

Ideally, our list of legislative priorities would constitute the environmental community's own pro-active agenda – our "wish list" of new legislation that we feel would lead to a healthier and safer

environment. But we do not live in a vacuum, and over the years it has been a rare occasion that we have been able to successfully "push" an agenda of our own.

The more normal practice is that we are forced to spend most of our precious time and resources playing defense – fighting back terrible proposals from one industry group or another that would roll back or outright gut environmental regulations in West Virginia.

This year will be no different. In fact, it may be worse than ever, because the "regulated community" – the polluters – think they have the political support to advance most of their agenda. Some of the items on the priority list above reflect that reality.

What follows in the rest of this "legislative section" of the VOICE is an overview of the various legislative issues we are likely to deal with this session, and some more detailed articles dealing with some of those specific issues.

Finally, how you can help: Join WVEC, or renew your membership, by sending \$25, or whatever you can afford, to WVEC, 1324 Virginia St. E, Charleston, WV 25301. For this contribution you will receive our excellent weekly Legislative Update, by mail or email, so you will know what specific actions you need to take as the session unfolds. The Updates and our regular newsletters are also posted on our web site at www.wvecouncil.org.

We can also use all the volunteer help we can find out there. So if you are interested in actually lobbying your legislators, or attending public hearings, or helping in our office, just call us at our office (304) 346-5905, and leave a message if we aren't in. See you in the trenches.

WEST VIRGINIA ENVIRONMENTAL COUNCIL'S LEGISLATIVE PRIORITIES: AN OVERVIEW

By Donald S. Garvin, Jr., Legislative Coordinator

Here is a quick look at the environmental issues established as legislative priorities at the 2004 West Virginia Environmental Council annual fall meeting.

Coal Mining Regulations

Mountaintop Removal Mining, Coal

("No More Stringent Than" rollbacks), and Expand Overweight Coal Truck Penalty – these issues are all related, of course.

There can be little doubt that mountaintop removal coal mining is the most devastating environmental issue facing this state. It has left thousands of acres of mountains leveled and barren of vegetation. It has

buried hundreds of miles of streams under tons of debris and overburden. It leaves communities and families wasted in its wake.

This method of mining has become a national issue. Citizens across the coun-

(Continued on p. 4)

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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.

Legislative Priorities (Continued from p. 3)

try are outraged. Because the practice is arguably "condoned" under the federal Surface Mining Control and Reclamation Act, the real battles on this issue are being fought in the courts. At the state level, we are only given the opportunity to "tweak" the regulations governing the practice promulgated by the Department of Environmental Protection (DEP).

During the 2003 legislative session, the coal industry brought forth its rant that WV mining regulations are "more stringent than" federal laws require. Their claims were so absurd and laughable that all they could get from even their pro-coal legislators was a resolution calling for a study of the claims. So a select committee on coal, composed entirely of pro-coal legislators, has heard arguments pro and con during the 2003 Legislative Interim Sessions. With only the January Interims remaining, no proposals have come out of this committee.

But the coal industry is seeking relief via other avenues, such as relaxing water quality standards for manganese, mercury and selenium and relaxing DEP mining regulations for reclamation, blasting, etc. This will be a big battle in the 2004 Legislature.

And while WVEC would like to see penalties increased for overweight coal trucks, we are hearing that there will be attempts this session to increase the weight limits and decrease the penalties. And so it goes.

Water Quantity/Use

West Virginia is one of only two states east of the Mississippi that do not have regulations establishing ownership of state waters and the use of those waters. This is a huge issue involving the acquisition of WV water supplies by out of state or even multi-national corporations. It is both a trade issue and a resource use issue. It is a matter of protecting the state's growing bottled-water industry, and adequate supplies for agriculture, recreational users and community drinking water.

An attempt by Senator John Unger to pass water quantity legislation was defeated on the last night of the 2003 Session. However, a special committee, chaired by Sen. Unger, was formed to deal with the matter during the 2003 Interims. Members of the environmental community have been serving on the committee's work group that is developing proposed legislation for the 2004 Session.

This committee will hold a public hearing on the water quantity issue on Monday, January 12, 6:00 PM to 8:00 PM in the House Chamber. We need to get as many folks as we can to speak in support of a "water quantity" bill which acknowledges that WV's water resources belong to the citizens of the state and provides a mechanism for long-term "planning" to assess and protect those resources. It is very important to have a healthy turnout in order to rev up support for the bill.

Regulation of ATV's

Legislation regulating the use and safety of all-terrain vehicles also died in the 2003 Legislature. Again, we are one of the few states without such regulation. An Interim committee has developed new legislation that will be introduced this Session. The proposal outlaws ATV use on all paved state roads and leaves the management of the use of these vehicles in state parks and other state lands up to the DNR. It will be our task to try to improve this legislation and help get it passed.

Saving the Environmental Quality Board

Under state law West Virginia's water quality standards are promulgated by the Environmental Quality Board (EQB). The board also serves an appellate function, to hear appeals to DEP permit decisions. Currently the board consists of five members, all of whom must have "expertise in water husbandry," they are appointed by the governor, only three can be of the same political party, and none can work for any company that gets NPDES permits from the DEP.

The Farm Bureau, and other business and industry groups that collectively make up the "Dirty Water Coalition," has basically been upset with EQB since the antidegradation battles a couple of years ago. So last year they fought hard in the Legislature to replace EQB with a new and highly politicized board that they could more easily control. They failed.

But they are back again this year with another attempt to gut the EQB. While the environmental community has never been overly fond of many of the decisions handed down by EQB, the board does have excellent (yet underpaid) staff, and the process is heavily reliant on public participation.

This will be a big battle in the 2004 Session.

Other Issues

Please read the articles on Clean Elections, Net Metering, and the Bottle Bill that are included in this issue of the VOICE.

For several years, putting real teeth into the Logging and Sediment Control Act has been a priority issue for WVEC. It remains a priority issue this year, but we are not likely to offer legislation this year. Instead we are going to "regroup" while we continue to educate legislators about the need for reform of logging regulation on private lands.

In the defense mode, there are a couple of DEP proposals that may cause us some heartburn. One is a proposal for recognizing businesses and industry for "Environmental Excellence." The other is entitled the "Environmental Good Samaritan" Bill and would basically eliminate any future regulatory liability for landowners who offer to clean up environmental problems on their own land.

As I said before, the devil is in the details.

Don Garvin goes to work.



BOTTLE BILL EFFORT TO CONTINUE IN LEGISLATURE

By Linda Mallett, West Virginia Citizens Action Group

On December 16, activists from across the state met in Flatwoods to put our heads together on how to make a West Virginia container law a reality in this session of the West Virginia Legislature. We put names with faces and shared a lot of great ideas. Our to-be-named coalition is forming and this core of enthusiasts is committed to making sure it grows and has a diverse statewide membership of organizations and individuals.

We are currently working with legislators to coordinate bipartisan sponsorship of this year's bill. We expect to see the bill introduced once again in the House and Senate. We also hope to organize Deposit Day at the Capitol during WVEC's annual E-Day activities (February 17, 2004). To illustrate how refunding a deposit will boost recycling rates, we will pay folks 10-cents for each container they bring to our booth. This event is currently taking shape and we will keep you updated.

Background

West Virginians use over 1 billion beverage containers each year, the majority of which end up in landfills or along our highways. A simple and effective West Virginia "container law" would do ALL of the following: increase recycling rates, reduce litter, and reduce landfill tonnage; reduce the overall burden placed on taxpayers and municipal waste management systems, save taxpayers money (West Virginia spends \$3 million a year on litter clean-up), and reduce costs to West Virginia farmers for damage to crops and livestock caused by litter; and, lastly, place the responsibility of beverage container recycling on the producers and consumers of the beverages instead of the state's taxpayers.

Many states have had "bottle bill" laws on the books for years. Our proposed

legislation is modeled after Michigan's container law, which was enacted in 1976 and requires a 10-cent deposit on plastic, aluminum and glass beverage containers.



Enactment of our bill will:

- Likely create \$25 million annually from unclaimed deposits that can be used to fund statewide recycling efforts.
- Require a **fully refundable** 10-cent deposit on single-use beverage containers including glass, plastic and aluminum.
- Allow West Virginia to join the other eleven bottle bill states whose legislation enjoys strong public support.
- Establish a statewide standard for beverage container reuse and recycling and ensure that beverage consumers in all regions of West Virginia enjoy access to beverage container reuse and recycling services.

Resolutions of support for this legislation have been passed in Charleston, Huntington, South Charleston, Morgantown, St.

Albans, Fairmont, Addison, Athens, Harrison County and Fayette County. A statewide petition drive has already collected thousands of signatures in support of a West Virginia bottle bill.

How You Can Help

Here are just a few of the things YOU can do to promote the Bottle Bill:

- Write a letter to the editor of your newspaper
- Call your newspaper's comment line
- Contact your legislators four times during the Legislative Session about the Bottle Bill
- Talk about the Bottle Bill at meetings you attend
- Ask for endorsements/resolutions of support from other organizations of which you are a member

(sample resolution available at wvcag.org).

- Forward us names of organizations, friends, neighbors and co-workers who are interested in finding out more about the bottle bill
- Continue to collect petition signatures
- Ask your friends to sign the on-line petition at wvcag.org.
- Come to E-Day!, work at the Deposit Day booth, and lobby your legislators.

We want to hear your ideas and suggestions on other ways we can promote this legislation. So call me at 304-346-5891 or you can reach me by email at linda@wvcag.org. And look for lots more info in WVEC's Legislative Updates during the session.

NET METERING: WHAT'S IT ALL ABOUT?

By Jim Kotcon

Net metering is a term used for a policy to encourage diversification of energy generation sources by requiring utilities to "buy back" excess electricity. In essence, the home-owner or small business installs equipment to generate electricity from solar or wind power. When the wind does not blow, or the sun does not shine, they get electricity from the local utility through the grid, like anyone else, and the utility bills them for the amount indicated by the electric meter.

Under a net-metering program, any excess electricity they generate but do not use is returned to the grid. In effect, they "run the meter backwards" during periods of excess generation. The bill they pay to their utility is for the "net" amount used as indicated by their meter.

The effect of this program is to encourage the installation of small renewable energy sources, sized to optimize the generation capacity they need. To meet needs in winter when the sun is low, more solar panels would be required than in summer when the sun is high and days are long. The excess electricity generated in summer will help pay for the installation cost of the solar panels.

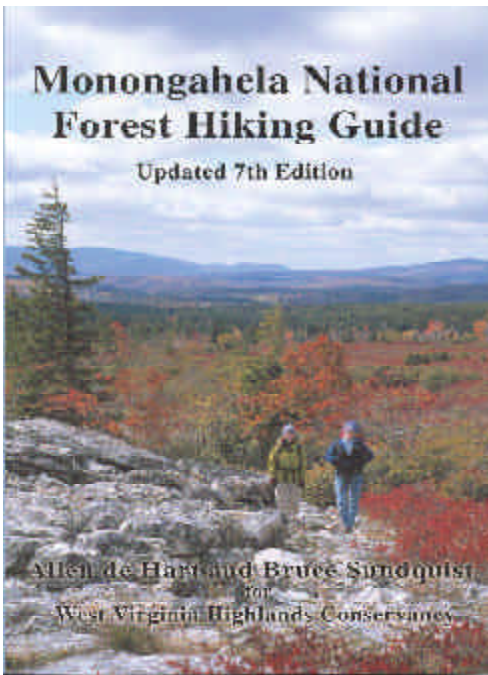
Net metering is especially important for harvesting "dispersed" forms of energy such as solar or wind. But utilities often object, claiming that they should not have to pay someone else for electricity when they are trying to pay off their own power plants. Utilities often insist on burdensome "safety precautions" and "interconnection" standards and equipment that makes renewable sources un-economic. What utilities do not admit is that they can turn around and sell the excess "green" electricity at premium prices

in many states.

Net metering was initiated in some states after the oil embargoes of the 1970s. It was added in many more states during the utility deregulation process. West Virginia retains a regulated utility industry, so net metering would need to be accomplished through the state Public Service Commission.

Although the PSC could implement net metering through rule-making they have not done so. New legislation may be needed to encourage the maximum possible use of renewable energy, and to implement net metering in West Virginia.

For more information, contact Jim Kotcon at 594-3322.



Monongahela National Forest Hiking Guide

by Allen deHart & Bruce Sundquist

Published by the
West Virginia

Highlands Conservancy

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CLEAN ELECTIONS CLEARS MAJOR LEGISLATIVE HURDLE

By Janet Fout and Julie Archer

The West Virginia Clean Elections Act is a voluntary system modeled after laws in Maine and Arizona where 63% and 37% of the state legislators, respectively, are now free from special interest ties. "Voter-owned" elections had broad bi-partisan support, saw more women and people of color get elected, and increased voter participation. Arizona elected the nation's first governor who owes her successful campaign to the people, not special interests.

To qualify for public financing a candidate must pass a threshold test by collecting a substantial number of small contributions from registered voters in his/her district. Qualified candidates must agree to accept no private contributions and refrain from spending their own money and in exchange they receive a modest amount of public money to run their campaign.

Over the past several months Sub-Committee B of the Joint Judiciary Committee has been studying The WV Clean Elections Act (now the "Public Campaign Financing Act").

In November, Senator Larry Rowe offered a significant amendment that includes providing public financing to candidates for the circuit court and the State Supreme Court. As amended, availability of public financing for the various offices would be phased in starting with judicial and gubernatorial candidates in 2008. Candidates for State Senate would become eligible for public financing in 2010, followed by candidates for House of Delegates in 2014.

In December, Clean Elections cleared a major hurdle. Both Sub-Committee B and the full Joint Judiciary committee voted the bill out without recommendation. While we certainly would have preferred the bill pass with a recommendation, overall we're pleased with the time and

rent funding system it is increasingly difficult for the average West Virginian to effectively participate in our democracy, either to be elected to public office or to be heard above the special interests that finance campaigns. Comprehensive campaign finance reform is needed to reduce the influence of special interests in the political process and to enable more qualified candidates to seek elected office.

Undoubtedly, a major hurdle for passing a Clean Elections law will be finding a stable funding mechanism. The legislative interim committee studying the Clean Elections Act received a report from a Charleston-based law firm on potential sources of funding for public financing. This analysis identified sources outside of general revenue accounts. The Reform Institute, a Washington, DC based educational organization working on campaign finance and election reform issues, commissioned the study. Hopefully lawmakers will take a closer look at this analysis as they consider the Clean Elections Act during the regular session.



consideration it received during interims. Its passage even without recommendation, allows the discussion and debate to continue. Several legislators have been very vocal and supportive of Clean Elections during the subcommittee meetings – including but not limited to Senators Larry Rowe, Randy White and Jon Blair Hunter, and Delegate Barbara Fleischauer.

Central to the debate had been whether or not it is fiscally responsible to use taxpayer dollars to fund candidate campaigns. Unfortunately, under our cur-

Janet Fout is the Coordinator of the Citizens for Clean Election, a coalition of twenty-eight organizations supporting Clean Elections legislation in West Virginia, and the Co-Director of the Ohio Valley Environmental Coalition, Huntington, WV 304-522-0246. Julie Archer is Research Director, West Virginia Citizen Action and the Mountain State Education and Research Foundation, Charleston, WV 304-346-5891.

BROCHURES

The Sierra Club, Citizens Coal Council, Coal River Mountain Watch, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, Appalachian Focus(Kentucky), Big Sandy Environmental Coalition(Kentucky), Kentuckians For The Commonwealth and the West Virginia Highlands Conservancy have put together a new brochure entitled "Mountaintop Removal Destroys Our Homeplace STOP THE DEVASTATION!" For a copy send a self addressed stamped envelope to Julian Martin, WVHC, Box 306, Charleston, WV 25321-0306

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

BUMPER STICKERS

To get a free I[heart]Mountains bumper sticker(s), send a self-addressed, stamped envelope to Julian Martin, WVHC, Box 306, Charleston, WV 25321-0306

T SHIRTS

White, heavy cotton T-Shirts with the I[heart]MOUNTAINS slogan on the front. The lettering is blue and the heart is red. Sizes S, M, L, XL, XXL, XXXL \$8 total by mail. Send sizes wanted and check made out to West Virginia Highlands Conservancy to:

Julian Martin
WVHC
Box 306
Charleston, WV 25321-0306

Getting and spending

STOCK PORTFOLIOS AND VALUES

By Missy Wheeler

Have you checked your investment portfolio lately? You might just find some companies that remove mountaintops, or companies that swallow up greenspace and destroy main street America, or companies that burden monocultured land with chemicals and decimate small family farms, or companies that produce and distribute harmful, addictive substances. A semi-annual report from a retirement fund finally got my attention and encouraged me to further investigate.

Categorizing many of these companies under the heading "Consumer Staples", the S&P 500 constituents' list serves as the benchmark for many retirement funds, including the federal governments' TSP (Thrift Savings Plan) C Fund. The government website describes this fund as the "large-company domestic stock fund ... invested in the Barclays Equity Index Fund, a commingled stock index fund that tracks the Standard & Poor's 500 stock index." They go on to describe a commingled fund as one in which the assets of many plans are combined and invested together. The website claims that "the Barclays Equity Index Fund holds stocks of all the companies represented in the S&P 500 index." The TSP C Fund seems to show the highest rate of return on investments of all the TSP options.

Many retirement and investment funds track other indexes such as the Russell 3000 and the Wilshire 4500, which

include even more US companies. And then there are the international market funds on which many of us are banking our futures and our world's future. Wow.

The money industry lingo alone would send most of us running for our nearest financial planner or at least to the signature page of our employers' 401(k) plan. I know as a young and overwhelmed new employee, the last thing I wanted to scrutinize was the retirement-options booklet that accompanied the pounds of paperwork put in front of me.

It all seems so sophisticated, too, doesn't it? To be able to mention "the market" in casual conversation, or share our disappointments in the latest crash, is to speak smartly, isn't it?

Where did the wisdom go with all this sophistication, though? How in the world could we as individuals keep on top of the goings on in the 500, or 3000, or 4500 or more companies we invest in? How can we be sure that we are not supporting companies that go against our most personal values? As I age and have more time to consider the complicated systems that have become part of our lives, I really fear that mindfulness has become endangered in our everyday affairs – from the sources of our "consumer staples", to the companies that we support through our investments.

Socially responsible and environmentally responsible investing options do

exist, although they might not be present in some employer plans. While we must still be mindful of the filters through which companies pass to find themselves in these accounts, I believe it's a good start. What could indeed happen if we all switched over to funds that excluded the types of companies we disdain? I am also rereading David Korten's When Corporations Rule the World, now in its 2nd edition, to remind myself of even more hopeful ideas.

It is very disappointing to constantly read and hear about the "bottom lines" and the this-and-that average and the so-and-so product when these figures rarely are accompanied by any real commentary on the quality of our lives. Numerical gains do not necessarily reflect health and happiness. I wonder what kind of discussion might ensue if we choose to include this in casual conversation?

Ms. Wheeler is a West Virginia Highlands Conservancy member who was born and raised in the Eastern Panhandle of West Virginia. She now lives in Athens, Georgia.

**Getting and spending, we lay waste our powers:
Little we see in Nature that is ours.**

William Wordsworth

Back Allegheny Mountain WV High Elevation Bog In April.
This high elevation bog is in the upper Shavers Fork drainage. The elevation here is four thousand feet. Beaver activity flooded the bases of these spruce trees, depriving their roots of air, which killed them. This meadow is much more fertile as a result of the pond and many life forms enjoy the benefits. The remnants of the pond are barely visible in the distance. Photo taken early April 2002. Photo © Jonathan Jessup.



Back Allegheny Mountain WV High Elevation Bog In April 2002 © by Jonathan Jessup.com

HIGHLANDS CONSERVANCY COMMENTS BLAST DRAFT EIS ON MOUNTAINTOP REMOVAL MINING

By John McFerrin

The West Virginia Highlands Conservancy (along with the Ohio Valley Environmental Coalition) has filed extensive comments upon the Draft Environmental Impact Statement on Mountaintop Removal Mining. The deadline for comments was January 6, 2004.

The draft Environmental Impact Statement is the result of litigation previously filed by the West Virginia Highlands Conservancy and several citizens of southern West Virginia. In late 1998 the plaintiffs in that case agreed not to pursue some of their allegations. In exchange, the various agencies agreed to conduct a comprehensive study of the environmental effects of mountaintop removal strip mining and valley fills.

In mountaintop removal strip mining, the tops of mountains are blasted away to expose the coal seams beneath them. The resulting rock and dirt is then disposed of in adjacent valleys. Since the adjacent valleys almost always contain streams, the result is that streams are filled with rock and dirt.

The comments elaborate upon two major themes. The first theme is liar, liar, pants on fire, or a more genteel articulation of that sentiment. The Comments suggest that the agencies involved did not conduct the kind of study to which they agreed.

The Comments point out that the Conservancy did not agree to an Environmental Impact Study which, like the present Draft Environmental Impact Statement, proposes no action. It had been the Conservancy's position that mountaintop removal mining had a substantial environmental impact even if nobody knew exactly how substantial that impact was. The point of doing the study was to determine the scope of the impact and identify ways to reduce that impact.

This is how the agreement which led to the study described what the parties to the litigation were agreeing to

... a proposal to consider developing agency policies, guidance, and coordinated agency decision-making processes to minimize, to the maximum extent practicable, the adverse environmental effects to waters of the United States and to fish and wildlife re-

sources affected by mountaintop mining operations, and to environmental resources that could be affected by the size and location of excess spoil disposal sites in valley fills.

The final Draft Environmental Impact Statement does not propose any actions by any agency that would result in



MTR? Nevermore!

minimizing adverse environmental impacts. Although it proposes changes designed to streamline the granting of permits for the mines and associated fills, it does not suggest any way in which the fills could be made smaller, the mining could be done differently, etc. It suggests ways to streamline the process of granting permits. It does nothing to suggest ways that the adverse environmental effects could be minimized.

Earlier drafts of the Study did this. They contained three action alternatives that restricted valley fills to ephemeral or intermittent streams, retained the 100-foot stream buffer zone rule, and required adequate soil practices and forestry.

Current practice is to not only fill ephemeral or intermittent streams but to fill perennial streams as well. Current law requires that all parts of the operation, including fills, be located at least one hundred feet from a stream (the "buffer zone rule"). The Conservancy has maintained in various proceedings that staying one

hundred feet away from streams means that one cannot fill the streams. The West Virginia Department of Environmental Protection makes a contrary interpretation.

The final Draft Environmental Impact Statement drops all these actions as possibilities. Instead, it recommends that the buffer zone be "clarified" out of existence and that the permitting process be streamlined.

The Conservancy's comments on the final Draft Environmental Impact Statement point out that the change in direction of the Draft coincide with the change of administrations in Washington. The comments quote from correspondence from the Deputy Secretary of the Department of the Interior:

We believe the [MTM/VF] EIS is the logical vehicle to address environmental protection and promote government efficiency, while meeting the nation's energy needs... We do not believe that the EIS, as currently drafted, focuses sufficiently on these goals. We must ensure that the EIS lay the groundwork for coordinating our respective regulatory jurisdiction in the most efficient manner. At a minimum, this would require that the EIS focus on centralizing and streamlining coal mine permitting, and minimizing or mitigating environmental impacts. (emphasis added)

With the change of administrations, the emphasis of the Environmental Impact Statement went from seeking ways to reduce the impact of mountaintop removal mining to seeking ways to streamline the process of permitting the operations.

In a nutshell, the first theme of the Conservancy's comments was that they agreed to drop some of their claims in the litigation in return for a study that sought alternatives that would reduce the environmental impact of mountaintop removal mining. What it got was a study that recommended ways to streamline the process for getting a permit to do mountaintop re-

(Continued on p. 10)

MONONGAHELA NATIONAL FOREST PLAN PROGRESSES

By Don Gasper

The Monongahela National Forest's staff agreed to meet with the West Virginia Highlands Conservancy on December 12, 2003, to discuss nutrient limits imposed on multi-use by their infertile geologies. Candidly, and thoroughly addressed was the suggestion that timber harvests would further impoverish already infertile watersheds. Many of these are endangered Brook Trout streams. (These valued populations should be considered "indicator species" of watershed "health".) No doubt the report from U.S.F.S. Researcher M.B. Adams, and others, published in 2000, helped prepare the participants. All agreed that nutrients in the soil and above ground are a limiting factor, and to truck them off-site is a further impoverishment. Not only is this qualitatively operating but the quantities (as crude as they are) are accepted as very significant.

This was not a contentious confrontation that was so dreaded. The staff, seeking outside help too, has embarked on a courageous, complicated, project of pulling all this together in a 50 year era of Acid Rain leaching of nutrients. This will be more than

just a plan "revision". This is the first National Forest to do this.

Not only is this work underway in all its implications, but they have about finished a status report, an "Analysis of the Manage-



ment Situation". It may restate goals for societal values today and recognize resource limitations - like nutrients. (This discussion was restricted to nutrients.)

A "Risk Map" is being developed based on geology; soil minerals and water; this soilwater calcium to aluminum ratio; and pH; soil cation exchange capacity; etc. Some nutrient concentrations in leaves, needles and probably wood would be checked. Nutrient content in streams; nutrient cycling, loss and supply; and the effects on fish. (Some of this information has been detailed in earlier issues of *The Highlands Voice*.)

Lastly Highlands noted that some prospective "Wilderness Areas" had been given to the U.S.F.S., and that such "Wild Recovery Areas" would be the best management for these extensive nutrient poor regions.

This nutrient concern is being vigorously and competently addressed by the Monongahela. Highlands will stand ready to help, and there are other matters that they offer to talk about.

Draft EIS (Continued from p. 9)

removal mining.

The second theme of the Conservancy's comments is more technical. Even were the Draft Environmental Impact Statement not in violation of the settlement agreement, it is in violation of the National Environmental Policy Act and the Clean Water Act.

The National Environmental Policy Act requires more than a process to justify a decision already made. It must be a fair consideration of alternatives for reducing or eliminating environmental damage.

According to the comments, the Draft does not do that. It doesn't consider any alternatives that would reduce environmental damage. The alternatives it presents are so similar that they could not be considered to be alternatives. None of them would do anything other than decide what agency takes the lead in issuing permits for mountaintop removal operations.

The comments also contend that the Draft violates the Clean Water Act by assuming that the use of "Nationwide Permits" is legal and will continue. Current law al-

lows approval of activities under a "Nationwide Permit" if those activities, both individually and cumulatively, have minimal environmental impact. Current practice is to assume that fills associated with mountaintop removal mining have this minimal impact and approve them under a Nationwide Permit. The Conservancy has long contended that this practice is illegal. The comments on the Draft contend that it is improper to base the Environmental Impact Statement upon a practice that is illegal.

The comments also contend that the Draft improperly ignores current violations of the Clean Water Act that have resulted from fill construction. The comments also take the agencies involved to task for minimizing the effects of blasting damage resulting from mountaintop removal operations as well as the failure of the Draft to consider possible violations of the Endangered Species Act.

The overall thrust of the Conservancy's comments is that the technical portions of the Draft recognize the environmental impacts of mountaintop removal operations. Yet the proposed alternatives only seek to improve the efficiency of issu-

ing permits while not suggesting any alternatives that would reduce or eliminate these environmental impacts.

Speakers Available!

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

WHISTLE BLOWER FEELS THE HEAT

By Julian Martin

On February 26, 1972 at 8:05 am, Pittston Coal Company's sludge dams failed. A black sludge wave twenty feet high roared down Buffalo Creek. One hundred and twenty five people were killed. Four thousand people were made homeless. Pittston officials said it was an "Act of God", that the dam was "incapable of holding the water God poured into it."

Jack Spadaro was a twenty three year old mining engineer in 1972. He went to Buffalo Creek as a staff member of Governor Moore's commission to investigate the Buffalo Creek disaster. Jack told me that, "Everything was covered with black sludge, from hillside to hillside. I have never seen anything like it...Those dams had failed several times as they were being built. They were really not engineered in any sense of the word. Coal refuse was just dumped across the valley as needed to hold the coal sludge back...I saw what happens if coal companies are allowed to do that they want and the government doesn't have the gumption to make them follow the law."

The Buffalo Creek disaster was the foundation for everything Jack has done. "I was determined to do all I could to protect people from that ever happening again." Jack said.

Jack wrote most of the final report that detailed the construction of the dam and why it failed. The chairman of the Governor's Commission was the Dean of the School of Mines at West Virginia University. Jack was on his staff at the school. Jack says that the Dean wanted to "soft pedal" Pittston's role in the disaster. Jack wanted the blame put right where it belonged. The Dean threatened to fire Jack, so he resigned from the School of Mines. This was his first encounter with attempted cover-ups.

Jack then worked for the West Virginia Department of Environmental Protection for five years. In 1978 he became field office manager in Logan for the federal Office of Surface Mining(OSM). While with OSM he wrote federal regulations for coal refuse and dams. Jack became an expert on sludge dams. Under the Clinton administration he was appointed director of the federal Coal Mine Health and Safety(MSHA) Academy near Beckley.

On October 11, 2000, a giant Massey Coal sludge pond at a mountain top removal site broke through into old underground mines and shot two hundred and fifty million gallons of black sludge out into Coldwater Creek in Martin County, Kentucky. (For comparison, the Exxon Valdez spill was twelve million gallons.) The sludge went downstream into the Tug Fork of the Big Sandy River choking all wildlife, big and small. It covered people's yards, gardens, wells and homes in the tar-like gook. The mess went all the way to the Ohio River, one hundred miles away.

Jack Spadaro was appointed to a team to investigate the Martin County disaster. After Bush was elected the investigation was narrowed. The team was going to recommend that eight citations against Massey be reduced to two and MSHA was not to be cited for its share of the blame for the disaster. Jack did not want his name on this coverup, so he filed a complaint with the inspector general of the U.S. Labor Department. He alleged that the Bush administration was soft on Massey, a bankroller of Republican politicians. Later Jack questioned several no-bid contracts awarded to friends and associates of MSHA officials. Then the roof caved in.

In June of 2003, Jack was suspended from his job while he was being investigated. The Bush administration's investigation came up with four charges. One was that Jack let an academy teacher, who was crippled with MS, stay for free in the academy

dormitory. Another concerned \$22.60 in ATM fees. A third charge was a minor personnel problem and a fourth was for not reporting an accident until the day after it happened.

Three Democratic members of House Committee on Education and the Workforce wrote to Labor Secretary Elaine Chao telling her that "Ensuring that whistle blowers within the Department may speak out without fear of retaliation is of utmost importance to both the Secretary's and the Committee's broader mission of ensuring the highest standards for safety and health for both mine workers and those living near mines."

On National Public Radio's "Living on Earth" program, Spadaro said that the attempt to fire him was because he told the truth about the mine disaster and insisted that the agency responsible for investigating it hold the mining company accountable for its negligence.

A Charleston Gazette editorial said that, "Obviously, the administration is using trivia to try to silence an engineer who spoke out against a pollution horror. We'll bet that such minor matters wouldn't result in action against any engineer favored by the White House."

If you would like to help Jack get his job back and continue his fight to protect the people of the coal fields please call Senator Judd Gregg and Senator Ted Kennedy, the senior members of the Labor Committee, and ask them to immediately investigate the silencing of Jack Spadaro. You can reach their offices by calling the switchboard number at 202-224-3121 or toll free 1-800-839-5276.

You might also contact Senators Byrd and Rockefeller at the same numbers.(Or Byrd 202-224-3954 and Rockefeller 202-224-6472). Please ask them to investigate this attack on a man who has devoted his life to protecting miners and families in the coal fields.



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Mail to: West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

COMMUNICATION FAUX PAS

OOPS, we goofed

Every few months we do our best to purge our mailing list of long past due members and subscribers who have not responded to repeated renewal reminders. The last action we take before actually removing someone is to attach a fluorescent colored label next to their address label that says "LAST ISSUE renew now." We very carefully prepare the mailing in groups, so only the correct addressees get the LAST ISSUE label. In the past, this has been a reliable and effective component of our efforts in keeping our database current and up to date.

Unfortunately, mistakes happen. On the December issue of the Highlands Voice, we applied a periodic LAST ISSUE label to a couple hundred copies. A mix-up occurred at our printers, where the labels are affixed, and it appears, from our best reconstructionist

theory, that about 18 people received the special labels in error. We have heard from about 6 of them, and received renewals from about 6 more. Thank you. We know that there are several others out there that also got this label by mistake.


If your December issue of the Highlands Voice had this label

attached correctly (because you had not renewed) you were removed from the list. **For those who got the label mistakenly, we took no action.** They are owed this apology. There is no problem with our database; our expiration dates are correct. For those who sent in dues anyways, we will update your membership accordingly and apply the funds to your next year's dues. We

have no way of knowing exactly who got the erroneous labels, unless you tell us, but rest assured that if your dues are current, you will continue to receive the Voice. Our apologies for the confusion. Thanks for bearing with us.



West Virginia Mountain Odyssey



Outings, Education and Beyond

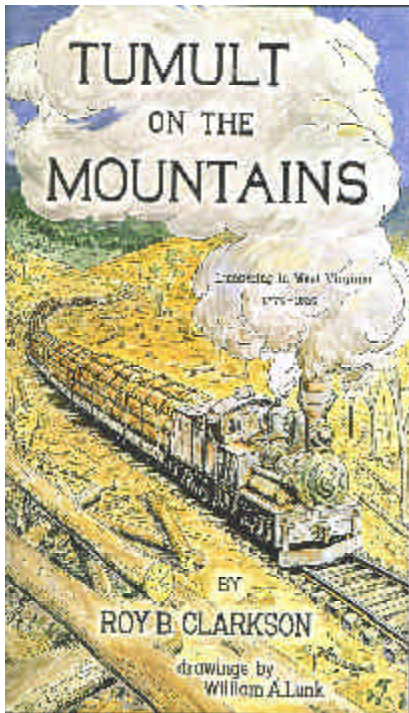
Jan 17, 2004. Sat. Dolly Sods Snowshoe. Given up hiking for the winter? Snow is no reason to put those hiking poles away. Get those winter boots and parkas out and see Dolly Sods from another perspective. This will be an 8 mile ramble on Cabin Mountain with warm-up hot chocolate afterwards at the Whitegrass X-Country ski center. If no snow is available, we will hike in Dolly Sods. Snowshoe rentals are available at Whitegrass at reasonable rates. Contact Susan Bly (304)876-5177 (day) or (304)258-3319 (7-9PM) sbly@shepherd.edu for further details.

Feb 14, 2004. Sat. Canaan Mountain Snowshoe. Love the great outdoors and want to spend some quality time in it? Then join other like minded individuals as we snowshoe across the top of Canaan Mountain and fall in love with snow all over again. Warm-up hot chocolate afterwards at the Blackwater Falls Lodge. If no snow is available, we will hike on Canaan Mountain. Snowshoe rentals are available at Whitegrass at reasonable rates. Contact Susan Bly (304)876-5177 (day) or (304)258-3319 (7-9PM) sbly@shepherd.edu for further details.

Feb 21, 2004. Sat. Pond Run, Great North Mountain/GWNF, VA-WV. Strenuous 11 mile circuit hike in George Washington National Forest. Several small stream crossings, 1600 ft. change in elevation - 1400 ft in the first 2.5 miles, beautiful streams and runs. Contact Mike Juskelis for details (410)439-4964 or mjuskelis@cablespeed.com.

Feb 28, 2004. Sat. Half Moon Lookout/Buck Tail Trail Loop Scouting Trip/Great North Mountain/GWNF. Moderate 9 mile circuit hike to an outstanding view of Trout Run Valley. Contact Mike Juskelis for details: ph# 410-439-4964 or Email at mjuskelis@cablespeed.com.

Almost Anytime. 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 a lunch— there is a picnic area on Larry's mountain. Just call Larry or Julian Martin. Leaders: Julian Martin, (304)342-8989, imaginemew@aol.com and Larry Gibson, (304) 586-3287 or (304) 549-3287 cellular.



Tumult on The Mountains by Roy Clarkson
McClain Printing Company – Parsons, West Virginia 1964

"Tumult on the Mountains – Lumbering in West Virginia, 1770-1920" portrays the lumber industry from its inconspicuous beginnings through a century and a half of progress. As long as the virgin timber supply lasted, the industry grew, slowly at first, then with ever increasing impetus to a crashing climax in 1909. By this time much of the original timber was destroyed and the industry rapidly declined.

Much of the information was obtained from letters and personal interviews with remaining "old-timers" who fondly recalled the old days and shared their experiences with him. 257 full-page pictures are used in the book to depict every phase of the lumber industry. The preservation of these photographs along with the comments of the vanishing "old-timers" is a most valuable contribution to the history of West Virginia.

The West Virginia Highlands Conservancy has a limited number of these books, signed by the Author, Roy Clarkson, below his hand written message: "Keep West Virginia Wild, Wonderful." Roy is a long-time member of the Highlands Conservancy. Proceeds will benefit the campaign to designate more Wilderness on the Monongahela National Forest. This book is a must-read for anyone with even a casual interest in the forests of West Virginia. Thanks to Roy for this generous contribution to our efforts.

We are selling these signed editions of Tumult on the Mountains for \$45. Price includes shipping.

BUSH ENVIRONMENTAL ATTACK REFLECTS DEEPER ATTACK ON DEMOCRACY THAT ENVIRONMENTALISTS MUST COUNTER

Guest commentary by Craig Etchison, WVHC member, Ft. Ashby, WV

The Bush assault on the environment has continued unabated almost from the moment he took office and blithely announced that his campaign promise to reduce carbon dioxide gases was a mistake. One can almost imagine the earth shuddering at the news that Bush's environmental promises were mistakes—mistakes that garnered votes, of course.

The White House motto regarding our natural resources is clear—if resources can be cut down, dug up, or drilled out for the profit of a greedy few, nothing else matters. Not wildlife. Not natural beauty. Not public health. Not what citizens desire—even when voiced by overwhelming majorities of the electorate. Not when profits can be turned by a few, select corporations.

We watch a greedy few abetted by an administration packed sardine-like with former lawyers and lobbyists of King CONG—coal, oil, nuclear, gas—seek to destroy the heritage we hold in trust for future generations. Destroy the Arctic National Wildlife Refuge for a six-month supply of oil so a few of the president's big contributors will reap enormous profits. Dump 42 million tons of pollutants into the atmosphere, especially from aging coal-fired electric plants, so the vice-president's wealthy friends can pocket obscene

profits. Cut down giant Sequoias for roof shingles. Snowmobile Yellowstone to death.

But what of coming generations? What of our moral obligation to pass on to the future more than a wasted planet populated with people with fading memories of an abundant, sustaining environment? If the present trend continues unabated, our progeny will suffer dearly in terms of polluted water, polluted air, record numbers of extinct animals, and our last wilderness areas clear cut, bulldozed, and raped—all done in the name of economic growth and profit.

Such are the sad facts—facts easily found in government documents and conservation research. But why is this assault on the environment occurring when a majority of citizens support environmental stewardship? What has changed between the Reagan administration, when we told James Watt that destroying the environment was unacceptable, and today, when the EPA is run by the ex-governor of the second-most polluted state in the union, when the deputy secretary of Interior is a former powerful lobbyist for the National Mining Association and several of the country's largest coal companies?

The answers to the questions above lead inevitably to another quietly insidious attack taking place in America—a terrorist attack unnoticed by most Americans, but an attack that should revolt every citizen, regardless of party affiliation or political propensity. Attacks on the environment reflect an attack on democracy itself—on the very fabric of our freedom.

The life-blood of democracy is the free exchange of ideas and information in open discussion. When citizens are excluded from the decision-making process, democracy becomes an empty word, and exclusion is the hallmark of the Bush administration. Environmental decisions are made by a few greedy people behind

closed doors, with no public input, certainly no input from environmentalists, and often completely ignoring scientific data because it doesn't conform to predetermined policy.

The current energy policy of the U.S.—if one can call the multi-billion dollar giveaway to King CONG an energy policy—was decided by a few King CONG

representatives behind the closed doors of vice-president Cheney's office. Energy policy affects the entire world—after all, the U.S.

spews 25% of all greenhouse gases into the atmosphere—and that has a major affect on what kind of world we pass on to he world's children. Yet there was no public discussion to determine the kind of energy policy this country should have. No national debate about the need to conserve—something as easily achieved as increasing vehicle efficiency—or developing renewable sources such as wind when we know the wind on the east front of the Rockies could supply three times the current energy needs of the entire country.

Science is regularly buried by the Bush administration when that science does not support profits for King CONG. As the Bush administration continues its efforts to open the Arctic National Wildlife Refuge to drilling, it has squashed a twelve-year scientific study that supports protecting ANWR. Is that an open discussion in a democratic society?

Rollbacks of environmental protections—protections that have benefited us with cleaner air and water over the past 30 years—are done on Friday afternoons or on holidays when reporters are few and the news doesn't make the 6 p.m. broadcasts. The recent rollback in power plant emissions was announced on Thanksgiving eve. Is that an open discussion in a democratic society?

Some information is buried. Other times, administration officials lie. When Senators McCain and Liberman asked for an EPA analysis of an economic impact statement, the EPA informed the senators that such an analysis hadn't been done. In fact the EPA had conducted the study, but the results didn't support the Bush administration's position, so the EPA lied to our elected officials to keep critical information out of the decision making process. Most of us are now aware that Bush eliminated an entire section of climate research in a published report because it didn't fit his agenda. Is that the kind of free and open exchange of information and ideas democracy demands?

Totalitarian regimes labor to control information so the people they rule have no leverage. Totalitarian regimes work behind closely guarded doors—keeping all out except a privileged few representing elite corporations that make huge profits at public expense. One has only to think of Halliburton, Bechtel, and a few others in the Bush/Cheney context. The government turns its back on ordi-



(Continued on p. 12)

President Bush's Environmental Policy (Continued from p. 11)

nary citizens so the anointed few make obscene profits. Think of Enron and what that company did to California while Bush did nothing but count campaign contributions from Ken Lay.

We must ask the question that Tolstoy asked—"What then shall we do?" Those of us who care—and I believe they are legion in the United States—must become even more involved in the political process. The hefty porkers in Congress feeding at the trough of corporate donations must hear from us. If we flay them with enough letters, with enough e-mails, with enough calls, even the worst abusers in Congress will have to take their noses out of the trough and take note.

We must throw our weight behind those candidates who stand up for the environment, who acknowledge by their votes—fine words mean nothing, as Mr. Bush has so aptly demonstrated—that protecting this earth is essential if the earth is to continue supporting us and those who come after us. When politicians ignore the majority, we

need to throw them out in the next election by diligently informing the electorate and mobilizing voters.

President Hough of Union Theological Seminary recently gave a scathing indictment of the present state of affairs in the U.S. Among other things, he pointed to the "obscene" differential between the wages of corporate workers and corporate bosses. He also said that if we don't change as a society, if we don't stop the unadulterated greed that permeates our society, especially at the highest levels, then those of us who care may have to resort to civil disobedience.

The democratic process is being subverted daily by the Bush administration. The citizens of this country should be outraged. Every person concerned about the unparalleled attack on the environment should be seething. Did we elect him to do this?

Another 4 years of Bush destruction may be more than we can overcome—more than this wonderful old earth can survive. At the very least, we may suffer the irreparable loss of natural gems such as the Arctic National Wildlife Refuge. Many in this country will suffer and die from the virtually

uncontrolled pollution the Bush people are permitting—especially women and children. The estimated cost of health problems attributable to Bush's Clear Skies Initiative alone is \$115 billion per year.

What's happening to our environment and what's happening to our democracy are inextricably linked. If we are unable to see the connection, we may well lose both.



U.S. FOREST SERVICE MAKES MID-COURSE CORRECTION ON MOTORIZED VEHICLES IN THE CRANBERRY BACKCOUNTRY

By Dave Saville

In last month's issue of *The Highlands Voice*, I wrote about the Fall opening of the Cranberry Backcountry to public motorized use for the first time in its 70 year history. Despite the Forest Plan prohibition of such a use, Gauley District Ranger, Doug Oliver, insisted his decision was warranted, and was still considering doing it again.

Soon after *The Highland Voice* went to press, Monongahela National Forest Supervisor, Clyde Thompson, Mr. Oliver's boss, wrote a letter of apology agreeing that opening the Cranberry Backcountry to public motorized use "was outside the intended scope of the Forest Plan Standards and Guidelines" for the area. He adds: "it will not happen again," and "Please accept my apology." This is a refreshing dose of good faith diplomacy from Supervisor Thompson.

Thanks to all who voiced their concern on this matter. If you get the chance, please thank Supervisor Thompson for his honesty in admitting the mistake. In the words of former United States Supreme Court Justice Felix Frankfurter, "Wisdom too often never comes and so one ought not to reject it merely because it comes late."



Here is the text of the letter:

December 4, 2003

Dave Saville
West Virginia Highlands Conservancy

Dear Dave,

Thank you for expressing your concerns with our recent two day opening of the road through the Cranberry Backcountry. I appreciate your willingness to call and talk to me.

After more thorough review of the opening I have to agree that doing so was outside the intended scope of the Forest Plan standards and guidelines for 6.2. That will not happen again. The Ranger had the best of intentions, and applied his experience from other Forests to this action. In this case I should have been more attentive and provided him with better advice. Please accept my apology.

Thanks for staying in touch and working with us through all the ups and downs.

Sincerely
Clyde Thompson
Forest Supervisor
Monongahela National Forest

A HOLIDAY OUTING ALONG THE BLACKWATER CANYON RIM

By Tom Rodd

On the Saturday after Christmas, my wife Judy and I and our two sons Ira and Solomon took a winter hike along the Blackwater Canyon Rim.

We originally planned to come in from the Olson Fire Tower, but the snow was too deep on the road to the Tower that turns off Rte 219. So we drove on through the towns of Thomas and Coketon, arriving at Douglas, where the road-plowing came to an end. (Going by way of Thomas gave us a chance to get coffee at the Purple Fiddle – “where the beat meet the elite” in Tucker County – live music every weekend!)

In Douglas, we parked the car and put on winter-friendly footwear. I lent Ira my extra Gore-Tex socks/booties, a great investment that transform the otherwise mediocre hiking shoe into a wilderness-terrain-eating machine. We were well equipped for snow-over-the-shoe-top conditions, if not total immersion.

We set out on Forest Road 18, which runs along the Canyon Rim for six or seven miles before turning away from the Blackwater River. Below us, Douglas Falls was crashing, and some of the spray was getting up to our level.

The sky was blue and cloudless, the snowfall fresh and

sparkling on the trees and ground. Some kindly soul (one could also say “nut”) in a four-wheel-drive had broken trail, so we could walk at a pretty good pace without dragging lots of snow with every step.

The road ascends from Douglas for a long way, which is nice for the return trip. Off to our left, we could see the other side of the Canyon, a half a mile away. The evergreens on the far Canyon Rim give good habitat for the West Virginia flying squirrel — one reason why development plans for this part of the Canyon were scotched — after a citizen lawsuit.

Ira and Sol got out ahead of Judy and me. We found ourselves lingering at the bends in the road, where the low winter sun breaks through the trees and warms the loiterer. We caught up with our sons where a stream crossed the road, and a big rock outcrop was perfect for photos.

We looked across the Canyon, and saw the magnificent overlook at Lindy Point — now owned by the people of West Virginia, thanks to the hard-fought efforts of citizens.

Then, looking back where we came from, we could see a similar overlook that we had missed when we came along the road. This overlook was on our side of the Canyon — and I had seen it from Lindy Point.

“We *must* go out there,” said Sol.

Then I remembered a trip to Seneca Rocks, when I had huddled against a tree while my then-teenaged kids scampered on the narrow spine of rocks, hundreds of feet above the South Branch of the Potomac. (As I recall it there was a large sign proclaiming that people had DIED there. Great.)

“Let’s go!” said Sol, and he plunged off the trail into the undergrowth. Judy and I followed.

Ira said, “I’ll stay and call 911,” — but in a minute, he was on our track.

We climbed down a slope, across a couple of ledges, and then up a rock staircase (a little icy!) Then the climbing was over. We stood on a wind-swept rock platform, looking out over a 270-degree vista of the Blackwater Canyon. The Blackwater River carved its ancient way, a thousand feet below us.

Sky and water, rock and trees.

No condominiums. No logging jobs.

Silence. Beauty.

“Now, Mom, let me stand *near the edge* here and take a picture . . .”

“No, *don’t go so close!*”

What is more fun than torturing your worrywart parents? Did I mention that my sons are well into their thirties? Those dirty bums!

The sun was low — we were tired and had to head back. Thank goodness for the downhill.

It was dark when we got to the car. A good time to drive four miles for a pizza at Siriani’s in Davis. We shared a table with folks from Fairmont who have a retirement home on the Dry Fork. Their son had hiked every trail in Dolly Sods, deer hunting.

It was a great outing — and it’s a pleasure to share it with readers of the *Highlands Voice*.

To help save Blackwater Canyon (it’s worth it!), please join Friends of Blackwater. Call 1-877-WVA-LAND; or visit www.saveblackwater.org.



Douglas Falls Photo © by Jonathan Jessup