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Statement's Conclusions: MTR is Devastating But We Should Keep Doing It Anyway

ENVIRONMENTAL IMPACT STATEMENT ON MOUNTAINTOP REMOVAL ISSUED

By John McFerrin

The United States Army Corps of Engineers, the United States Environmental Protection Agency, the United States Department of Interior's Office of Surface Mining and Fish and Wildlife Service, and the West Virginia Department of Environmental Protection have issued a long awaited draft Environmental Impact Statement on mountaintop removal strip mining. The agencies are now accepting public comment on that draft.

The study 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 draft Environmental Impact Statement identified several effects of the practice:

- Approximately 1275 square miles of land has been or will be affected by the practice in the area studied (southern West Virginia, eastern Kentucky, western Virginia, and scat-

tered areas of Eastern Tennessee).

- 1200 miles of headwater streams were directly impacted by mountaintop removal strip mining. 724 miles of streams were covered by valley fills from 1985 to 2001.
- Streams in watersheds where mountaintop removal valley fills exist are characterized by an increase of minerals in the water as well as less diverse and more pollution tolerant macroinvertebrates and fish species.
- Streams with fills are less prone to flooding during smaller rains but more prone to flooding during larger rains.
- Mining sometimes creates wetlands, either inadvertently or intentionally. These wetlands "provide some aquatic function, but are generally not of high quality."
- Valley fills are generally stable. The study found fewer than twenty "reported slope movements out of more than 6800 fills constructed since 1985."

The streams directly affected by the practice are largely headwater streams. The draft study describes the headwater streams: "Headwater streams are generally important ecologically because they contain not only diverse invertebrate assemblages, but some unique aquatic species. Headwater streams also provide organic energy that is critical to fish and other aquatic species

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From the Western Slope of the Mountains

By Frank Young

After 26 years! ??

The federal Surface Mining Reclamation and Control Act (SMCRA) was enacted into law in 1977. SMCRA was enacted because Congress found then that: **“many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources”**. (from SMCRA, “findings”)

Among other things, the ACT created the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE). That agency was charged with regulating the surface mining of coal, including “reclamation” of lands debauched by mountaintop removal, contour and bench mining, and other types of coal mining where the soils overlaying coal is removed to get at the coal, rather than digging under the earth’s surface to get the coal, leaving the surface soils more or less intact.

In most states, SMCRA’s regulatory responsibilities are actually performed by a state agency, under a bureaucratic mechanism called “primacy”. But even under such delegation, OSMRE is to oversee the state regulatory programs to insure compliance with the federal law.

In that regard, the WV Highlands Conservancy has had a hand at monitoring the implementation of SMCRA’s provisions since its enactment. For two decades we lobbied state and federal agencies for honest enforcement of SMCRA’s provisions. But agency and coal operator compliance with SMCRA was not incomplete, to the point of being not acceptable.

In 1998 WVHC and other plaintiffs sued state and federal agencies for failure to properly implement SMCRA along with failure to implement related parts of the federal Clean Water Act. As part of settling that lawsuit, a Federal District Court ordered the defendant agencies to develop an Environmental Impact Study (EIS) of the effects of mountaintop removal-valley fill type surface mining. This EIS, compiled by several state and federal agencies, was due in late 2000, but was not completed and released until late last month (May 2003).

What did this EIS find? Well, not unlike Congress found in 1977, the E.I.S. found that, among other things, mountaintop removal/valley fill mining operations **destroy forests and forest soils, decrease songbird and salamander** (but not snake) populations, **cover streams**, and both intentionally and unintentionally **create wetlands “that are not of high quality”**, and **cause or promote the severity of flooding** after rainfall.

Duhh? Well, that was the predicate for the SMCRA legislation in the first place, in 1977, that surface mining disturbs and too often destroys ecological infrastructures.

Why does it take the agencies of state and federal government charged with implementing the law 26 years, and then only after lawsuits and court orders, to come full circle and determine that the need to enforce the law does in fact exist after all?

(Continued from p. 1)

throughout an entire river. Ecologically, the study area is valuable because of its rich plant life and because it is a suitable habitat for diverse populations of migratory song-birds, mammals, and amphibians.”

While the study does contain some recommendations for eliminating the destruction of these streams, it does recognize their importance.

The draft study makes no recommendations and presents no alternatives that would restrict the practice or limit it. While earlier drafts had contained alternatives that would have restricted fill construction, this draft does not

The draft study’s recommendations are largely for better coordination among agencies in streamlining of the process of evaluating applications for permits authorizing mountaintop removal strip mining and valley fills. It says, “Cross-program actions include rulemaking; improved data collection, sharing and analysis; development of a joint application, harmonized public participation procedures, Best Management Practices and Advance Identification of Disposal Sites evaluations; and close inter-agency coordination. These actions would serve to further minimize the adverse effects on aquatic and terrestrial resources and protect the public.”

The agencies who would be coordinating their efforts presided over the practices which resulted in the environmental damage described in the Draft. The Draft offers no explanation on how the same agencies doing the same thing would “minimize the adverse effects on aquatic and terrestrial resources and protect the public.”

The draft does recommend that the agencies continue efforts to eliminate three barriers to mountaintop removal and valley fills. The first of these barriers is the prohibition upon mining within one hundred feet of a stream, often called the “buffer zone rule.” Under current law, mining within one hundred feet of a stream is prohibited. If mining within one hundred feet of a stream is prohibited, then one would assume that

filling that stream with dirt and rock would also be prohibited. The federal Office of Surface Mining is currently pursuing a rule change that would eliminate this buffer zone rule so as to allow the filling of streams. The draft study recommends that these efforts continue.

The second of these barriers is status of the rock and dirt that is used to fill valleys and streams under the federal Clean Water Act. The discharge of waste material into the waters of the United States is prohibited by that Act. If the Act is interpreted in such a way as to include the rock,



Environmental Protection Device (preferred alternative)

dirt, etc. (formerly the mountain top) as waste, then it could not be disposed of in streams. The draft study recommends that the Environmental Protection Agency and the U.S. Army Corps of Engineers continue in their efforts to define “fill” in such a way that disposal of this rock and dirt would be allowed.

The third of these barriers is the system of nationwide general permits currently used by the U.S. Army Corps of Engineers. The Corps issues general permits for categories of activities which, while they are regulated under the Clean Water Act, cause minimal environmental damage. It also issues site specific permits for activities which have the potential to have a greater impact.

These site specific permits require much more careful environmental review than does the nationwide general permit.

Historically, the Corps had approved valley fills under a nationwide permit. When mountaintop removal strip mining became more controversial in recent years, the Corps indicated that it would begin doing some site specific evaluations of proposed valley fills and issue site specific permits.

The just issued draft Environmental Impact Statement endorses more extensive use of the nationwide general permit to approve valley fills. They would be approved under a general permit that assumes that they have limited environmental impact.

In summary, the draft Environmental Impact Statement documents the environmental destruction of mountaintop removal strip mining. It makes no recommendations to avoid that destruction. Instead, it recommends that the agencies carry on their currently ineffective regulation in a more coordinated manner. It does recommend that possible legal barriers to the continuation of the practice in its current form be eliminated.

GOOD STUFF FOR FREE

To get a free **I & Mountains** bumper sticker(s), send a self-addressed, stamped envelope to Julian Martin, 1525 Hampton Rd., Charleston, WV 25314

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, 1525 Hampton Road, Charleston, WV 25314.

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

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

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

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

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

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

VOLUNTEER BOARDWALK CONSTRUCTION ON THE CANAAN VALLEY NATIONAL WILDLIFE REFUGE

On May 17 West Virginia Highlands Conservancy volunteers joined forces with the Friends of the 500th to continue work on a boardwalk on the Canaan Valley National Wildlife Refuge. The boardwalk has been in the design phase for a couple years since the Friends received a grant from the Fish and Wildlife Foundation for its construction. It will provide handicap accessible access to a wetland and beaver pond complex. Friends of the 500th is a citizens group supporting the Refuge, the nation's 500th.

Friends' president, Elliott Ours, was up at the crack of dawn, getting the tools and materials loaded up and ready for a day of activity. We arrived at the site on Freeland Road, just across the street from Whitegrass Ski Touring Center, and folks got right to work. Some began to wheelbarrow gravel down the path to lay the foundation for the boardwalk, others began carrying boards and materials along the already completed section of the walk.

Until the skies opened up.

We had barely gotten started when we got a downpour of rain. We all ran back to our vehicles at the trailhead, but not before getting pretty well soaked. We waited out the deluge until it diminished to a drizzle and light rain. We donned our rain jackets and went back to work. The wind picked up and the temperature dropped. I think the nasty weather caused the metabolism rate to elevate in all the volunteers.

Workers quickly became efficiently functioning cogs in a boardwalk manufacturing machine. Some folks were putting down fabric, others moving and spreading gravel. Some were attaching and leveling the stringers, still others were fastening the decking boards. There was a steady stream of materials moving down the line to feed the machine's appetite. You could literally see the boardwalk grow as the workers got busy.



We were functioning so smoothly that we didn't even stop for lunch. At about 1:30, someone mentioned a hunger in their belly and suggested it was time to eat. It was still lightly raining. Since we were all pretty wet and cold by this time, and because we had made such excellent progress on our work, we decided to call it a day. We finished up the tasks at hand, packed up the tools, admired our handiwork and headed for home.

The Friends of the 500th is an active organization that I have been a member of since it was founded. They publish a newsletter called the *Timberdoodle*. Friends Volunteers staff the Refuge Visitor Center, help with grant writing, promote monthly events including outings and educational programs. Other Friends activities this year include the construction of two blinds for handicapped hunters, bird feeder stations at the Visitor Center, Nest boxes, and helping with Refuge research and educational programs.

Later this summer, The Friends will join forces again with the West Virginia Highlands Conservancy to construct a second deer enclosure on the Refuge as part of our balsam fir conservation efforts. For more information about the Friends of the 500th, or to join, write to them at PO Box 422, Davis, WV 26260. Dues are \$10 individual and \$20 family. We are extremely grateful for the hard work and dedication the Friends have provided the Refuge and encourage anyone interested in this most ecologically important area of our state to get involved in its management and protection. Thanks to President Elliott Ours for organizing the volunteer work day and to all the Friends and Highlands Conservancy members who came out to get involved.

Important disclosure: the boardwalk shown is for illustration only. It is not the one actually constructed. But you get the idea.

THE PURPOSES OF NEPA

By John McFerrin

The Draft Environmental Impact Statement on the impacts of mountaintop removal strip mining was carried out according to the National Environmental Policy Act of 1969 (NEPA). This Act preceded most of the major environmental legislation. It makes the assumption that we would only pursue environmentally unwise policies out of ignorance. It mandates studies of policies and assumes that, if we understand the results of our actions, we will work to avoid those results. The Environmental Impact Statement on mountaintop strip mining assumes it is acceptable to find that something has an adverse impact and then go ahead and do it anyway. In considering whether this is faithful to the intent of NEPA, it is useful to consider the declared Congressional intent:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

The stated policies that were to be achieved by NEPA were:

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and es-

3. thetically and culturally pleasing surroundings;
4. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
5. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
6. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
7. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

In considering the Draft Environmental Impact Statement, it is useful to ponder how, in view of these purposes, it is possible to study something, determine that it is environmentally damaging, and then respond by recommending that permitting be streamlined so that we might continue this activity.

To Comment Or Get More Information

Federal agencies will accept public comments on the draft Environmental Impact Statement through Aug. 29. A final version will be issued after the comments are considered. Written comments on the study may be submitted to John Forren, U.S. Environmental Protection Agency (3EA30), 1650 Arch St., Philadelphia, Pa., 19103.

Public hearings have been scheduled for July 22 in Hazard, Ky., and July 24 in Charleston. Copies of the study are available via the Internet at <http://www.epa.gov/region3/mtntop/>.

CHEAT RIVER CANYON SOLD TO LOGGING COMPANY

By Rick Steelhammer

By Rick Steelhammer

A 9-square-mile tract of Preston County canyon land that the state had hoped to buy and convert into a wildlife-management area will be sold to one of the state's largest timbering firms.

Allegheny Energy Inc. announced on May 29, 2003, that a subsidiary, West Virginia Power and Transmission, had finalized a sales agreement to transfer 5,600 acres in the Cheat River Canyon and nearby Big Sandy Creek Gorge to Allegheny Wood Products.

Allegheny Wood Products, which owns 60,000 acres of woodland and has exclusive cutting rights to an additional 166,000 acres, bought the Preston County property for \$9.75 million. The Petersburg-based company's holdings include a 3,000-acre tract in Blackwater Canyon, which it bought in 1997, and has since begun logging, drawing protests from conservationists who have been lobbying for national park status for the land.

"It's an important piece of property for the citizens of West Virginia," said Susan Small-Plante, who represented the governor's office in preparing the state's bid on the land.

Small-Plante said that, with help from The Conservation Fund and Friends of the Cheat, a "patchwork quilt" of grants and pledges had been raised, allowing the state to make a \$9.4 million bid on the land.

When Allegheny Energy interim president Jay S. Pifer called Thursday morning to inform her that Allegheny Wood Products was the successful bidder, Small-Plante said she had put together another \$500,000 that would have raised the state's bid to \$9.9 million.

"It would have made ours the highest offer," she said.

No money from the state's general revenue fund would have been used to purchase the land. The state's bid package included \$2 million from an air pollution settlement negotiated by the Environmental Protection Administration to mitigate sulfur and nitrogen emissions from Dominion Virginia Power generating plants at Bayard and Mount Storm, in Grant County.

It also included U.S. Fish and Wildlife Service habitat-acquisition grants to protect the threatened three-toed land snail, which lives only in the Cheat River Canyon, and the endangered Indiana big-eared bat,

a colony of which hibernates in a cave on the tract.

The state also had planned to use a Forest Legacy grant to help pay for the property, and would have allowed sustainable-yield, selective-cut timbering - the same type of harvesting Allegheny Wood Products envisions for the tract - to take part on a segment of the property.

Donna Reckert, spokeswoman for

Allegheny Energy Inc. announced on May 29, 2003, that a subsidiary, West Virginia Power and Transmission, had finalized a sales agreement to transfer 5,600 acres in the Cheat River Canyon and nearby Big Sandy Creek Gorge to Allegheny Wood Products.

Allegheny Energy Inc. announced on May 29, 2003, that a subsidiary, West Virginia Power and Transmission, had finalized a sales agreement to transfer 5,600 acres in the Cheat River Canyon and nearby Big Sandy Creek Gorge to Allegheny Wood Products. State officials had been working since last summer to put together a bid that would allow the Cheat Canyon-Big Sandy tract to become the state's largest wildlife-management area. But in March, the power company announced that it was opening the sale of the tract to other parties who might have deeper pockets.

Gov. Bob Wise wrote a letter to Pifer complaining about "this surprising news," and stating that it was his understanding that the state had been on the verge of acquiring the land.

Allegheny Energy entered the wholesale-energy trading arena just before the Enron collapse,

and has been raising cash through the sale of real estate to counter stock sell-offs, credit downgrades and debt.

In announcing the sale on May 29, Pifer said Allegheny Wood Products "shares our commitment to sound land-management practices, while protecting the environment and recognizing the public's interest in continued access for recreational opportunities."

The power company described the sale as being "part of an ongoing process of divesting property that does not fit with the company's strategic plans."

This article originally appeared in The Charleston Gazette.



Allegheny Wood Products, said AWP officials would meet with whitewater outfitters and other groups that use the property "to try to keep access open."

She said the Cheat Canyon property abuts a tract of AWP land, and is close to its Kingwood sawmill and Hazleton kiln operation.

Keeping the tract in private ownership "will keep up the tax base in Preston County and provide a resource to us and the 300 people who work at our mills in Preston County," she said. "We hope to keep the recreational opportunities open, and we will work with the government agencies to protect the endangered species."

One side of the Cheat River Canyon tract has been logged during the past decade, Reckert said.

"We're disappointed that the property is not going to be under public ownership, but we're hopeful that public access can continue to be maintained," said Keith Pitzer of the Friends of the Cheat.

"The aesthetics, recreational opportunities and biological importance of the Cheat Canyon are still our concerns, and we hope to have a dialog and a spirit of cooperation with the new owners," Pitzer said.

Allegheny Energy also owns a 1,100-acre tract adjacent to Coopers Rock State Forest, which was not included in the Cheat Canyon sale.

Reminder: Summer WVHC Board Meeting July 19th

The Summer Board of Directors meeting of the WV Highlands Conservancy will be held Saturday, July 19th, starting at 9:30 AM. The location, probably at or near Elkins, will be announced on the WVHCBOARD e-mail list serve, and in the pre-meeting packet mailed to Board members.

THE MONONGAHELA NATIONAL FOREST AT A GLANCE

By Frank Slider, Conservation Chair, WV Chapter of the Sierra Club

The Monongahela National Forest, at 909,000 acres, is the only national forest that lies entirely within the borders of WV. The Mon National Forest is the fourth largest national forest in the northeast and it is within one day's drive of one-third of the population of the U.S. The Mon is home to five federally designated wilderness areas: Laurel Fork North, Laurel Fork South, Dolly Sods, Otter Creek, and Cranberry. The Mon National Forest is also home to one national recreation area, Spruce Knob-Seneca Rocks.

Among the most stunning features of the Monongahela National Forest are the unique regions within the forest. Visitors are treated to the high mountain vistas and alpine ecosystem of Dolly Sods Wilderness. Ten miles away one can canoe or kayak on the rushing whitewater of the North Fork of the South Branch of the Potomac. Twenty miles over the Allegheny Front Mountain you can hike through unfragmented, old growth forests in the Laurel Fork Wildernesses. These varied regions make the Mon a unique asset that needs to be protected from degradation so everyone, including future generations, can enjoy this priceless gift.

Unfortunately, of these 909,000 acres, only 78,000 acres are permanently protected. The remaining ninety two percent

of the MNF is vulnerable, to one degree or another, to logging and other destructive activities. An average of 30 million board feet of timber is harvested in the Mon annually. On the other hand, over three million visitors come to the Mon each year to take advantage of its varied recreation opportunities including quality hunting and fishing experiences. Recreation income to communities far exceeds the revenues generated by logging.

The Monongahela National Forest was established specifically to protect West Virginia watersheds, which provide clean drinking water for millions of Americans. The MNF is the birthplace of six major river systems: Monongahela, Potomac, Greenbrier, Elk, Tygart, and Gauley. Ninety percent of the trout waters in WV are located in the MNF. Unfortunately, this mission of protecting headwaters has been lost in the rush to access valuable timber such as black cherry. There is concern that this focus on timber production could seriously change the forest structure, limiting habitat for many species, including threatened and endangered species like the Cheat Mountain salamander and the WV northern flying squirrel.

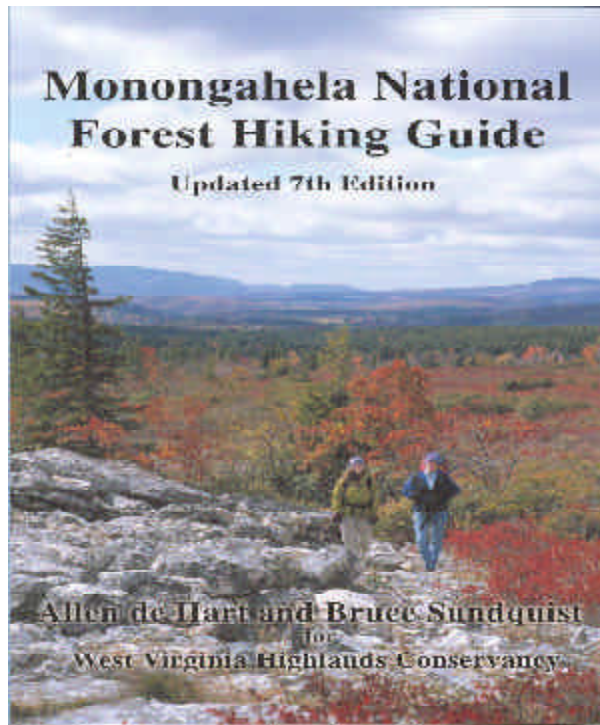
A major threat to these rivers is sedimentation from timbering and ill-conceived roadbuilding. Sedimentation covers gravel

in spawning beds and prevents reproduction of native fish and smothers other aquatic life. Nationally, there are more than 380,000 miles of National Forest roads, most of them constructed to access timber sales. The Mon has been plagued by the fragmentation of habitat and sedimentation that these roads cause. There are alternatives to such extraction, such as science-based restoration projects to restore lands already damaged by such activities. These projects can put West Virginians to work for generations and boost our sagging economy.

NATIONAL FOREST PLAN

The Forest Service is moving ahead with the Plan Revision for the Monongahela National Forest. The result of this process will be a plan that will guide the Forest Service for the next ten to fifteen years in how it manages the forest.

A planning team is in place and a timeline has been established. Because the plan is so important, it is essential that citizens remain involved at all stages. Future issues of the Voice will contain more on the Plan Revision as it moves forward.



Monongahela National Forest Hiking Guide

by Allen deHart & Bruce Sundquist

Published by the West Virginia

Highlands Conservancy

The new 7th edition covers:

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West Virginia Mountain Odyssey



Outings, Education and Beyond

June 7, Sat. Ramsay's Draft, VA. Hike this unlogged stream from about noon to 4. About 6 mi., not steep. Meet at Marlinton's River Restaurant at the Bridge at 10 AM, Call Don Gasper, (304)472-3704.

June 7-10, Sat.-Tues. Backpacking, base-camping and hiking on Red Creek/ Roaring/ Flatrock Plains—one of the highest, most rugged, and most scenic parts of the West Va. Highlands and Monongahela National Forest. Near the peak of spring colors (azaleas, pink ladyslipper orchids). We will camp on, and explore, the rims of Allegheny Front and Long Run that offer some of the best views (and scenery) in the area - much of it rarely seen. Hopefully we will have time to visit Haystack Knob, Thunderstruck Rock, Mt. Porte Crayon and much of the north Rim of Long Run. Prior backpacking experience required. 16 miles of backpacking. Limit: 10. Contact Bruce Sundquist, 724-327-8737 or bsundquist1@juno.com

June 20-22, Fri-Mon. Spruce Knob Bushwhacking/Backpack Trip. Ever wondered what lay beyond the trail's end? Or how about the "abandoned trail" listing on an older map? Come find out as we bushwhack through spruce and laurel, trying to find our own hidden Shangri-La. Strenuous. Contact Susan Bly at sbly@shepherd.edu or 304-258-3319 between 7:00 and 9:00 pm.

June 21. Canoeing. A flat-water float trip through the 5 mi. long Buckhannon River pool. We may fish; we will paddle. Meet at 11 AM at Sheetz at Corridor H in Buckhannon. Call Don Gasper at (304)472-3704.

June 28-29, Sat.-Sun. - Mountain Laurels Bloom Hikes in Bear Rocks and Dolly Sods Scenic area. Join for one or both days (with camping) to hike in countless acres of open meadows full of flowering mountain laurels. Spectacular mountain views and cool temperatures make for a nice summer escape in West Virginia's best alpine-like country. See web link. Contact Jonathan Jessup. (703)204-1372 Contact jonathanjessup@hotmail.com.

July 4-6, Fri.-Sun. - Roaring Plains - Canyons Rim Trail. Explore and witness spectacular, remote, rocky and rarely visited high elevation country. Many excellent views. Be prepared for cool temps and weather extremes. Despite high elevation, climbs are gradual. ~23 miles. Experienced backpackers only please. See photos at <http://www.jonathanjessup.com/rp-set1.html> Hosted by Jonathan Jessup. (703)204-1372 jonathanjessup@hotmail.com.

July 12-13, Sat-Sun. Two day backpack trip in Middle Mountain Roadless Area. Venture up into a very wild yet little know area of the Mon. We will set just above Anthony Creek and follow the Bear Branch up Middle Mountain and along its spine. Previous backpacking experience required. Contact Matt Keller mattk@twos.org

July 13, Sun. Sinks of Gandy. Walk-crawl-wade-swim almost a mile underground following the Gandy Creek through the mountain. A unique opportunity for an unforgettable adventure. Led by professional geologist and naturalist Barnes Nugent. Suitable for caving novices. Limited to group of 20. Contact Barnes Nugent, (304) 284-9548, barnes@geosrv.wvnet.edu.

July 26-27, Sat-Sun. Two day backpack trip to Seneca Creek Roadless Area Seneca Creek has very high Wilderness potential. Come out and see why! We'll hike the creek and up the flanks of Spruce Mountain for some spectacular views of the WV. Highlands. Prior backpacking experience required. Contact Matt Keller mattk@twos.org

August 8 - 10, Fri-Sun. Dolly Sods Waterways. Looking for a way to cool off this summer? How about dowsing your head under a waterfall in one of WV's premier hiking destinations? Help find swimming holes in Red Creek as we backpack both in and out of the Creek. This trip is moderate to strenuous. Contact Susan Bly at sbly@shepherd.edu or 304-258-3319 between 7:00 and 9:00 pm.

October 4th, Sat. - Roaring Plains - Canyons Rim Trail Day Hike. Explore and witness spectacular, remote, rocky and rarely visited high elevation country. Many excellent views. Be prepared for cool temps and weather extremes. Only one 400ft climb. ~5 miles See photos at <http://www.jonathanjessup.com/rp-set1.html>. Hosted by Jonathan Jessup. (703)204-1372 jonathanjessup@hotmail.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.

BACKPACKING ON ROARING PLAINS

By Susan Bly

On May 2, 2003, seven backpackers disappeared into the gaping void of Roaring Plains for two days. They emerged back at their cars on May 4 with tales of nature's splendor. Their story is as follows:

The party of seven (Judy Smoot, Dave Paxton, Kisun Han, Jeff LeBlanc, Jonathan Jessup, Tom Stokes, and Susan Bly) were joined by Mary Ann and Alex Honcharik at the South Prong trail head at 1000 hours. Mary Ann and Alex split off from the group to execute a fallen tree which was blocking the trail, while the main force moved ahead. The weather was overcast and moody, typical for the top of this plateau which contains Dolly Sods as well. But this weather was the "just wait an hour" weather. It ran nearly its full gamut, from cloudy, to sunny, to distant thunderstorms. This group was blessed in that they didn't encounter full blown showers or 1 inch hail as predicted by the ever "faithful" Weather Channel.

Following a lead story written by Bruce Sundquist for the unofficial Canyon Rims trail and Jonathan Jessup's personal experiences, the team stepped off the South Prong trail and walked into history. After going through the Hidden Passage, which is comprised of a thicket of rhododendron, the team set forth on their sole purpose which was to mark the unofficial trail better by removing deadfall, cutting face slapping branches, and putting small markers of tape in the trees.

They scouted out several overlooks and made mental notes of their existence. After noting the hazy view, they went on through the open forest, making sure to follow any pre-existing cairns and ribbons. They added a few of their own to help future explorers when the path seemed unclear. They were next seen by a pair of backpackers eating their lunch in a meadow just after coming out of the woods. Following their lead they had lunch a little further off and dropped their heavy burdens, not wishing to spoil this couples' view of the surrounding mountains. Thunderclouds loomed in the distance so they didn't waste much time resting after lunch.

Passing beneath thorn trees and through a bog, they reached the power line and looked down into the Roaring Creek canyon with its usually stunning views of North Fork Mountain in the distance.

The haze disturbed the view but the approaching front was going to clear the air for them this evening. The group lost the trail for awhile in the open forest just after the gas pipeline, but was able to pick it up again later when they approached a closed thicket. They also ran out of ribbon right in the middle of the forest, making a dead end for anyone trying to find their way through there. They did remember to remove a portion of the tape later on their way out.

The rest of the day was spent clearing the path before resting their weary heads at base camp, approximately 6 plus miles into their hiking day.

The following day was spent exploring the continuation of the trail, marking the way with cairns and cutting foliage. They lost the thread of the trail after a large boulder field and had to give up as the afternoon was growing shorter. Their first objective had been to scale Mount Porte Crayon but by 3:00, the Mount was acting like a mirage in the wilderness. What with an on-again, off-again drizzling rain, it was decided to fore go Mount Porte Crayon as they may have twisted their ankles on the lichen covered, gray sandstone upon returning in the dusk. One lone hiker spotted the crew on their way back to base camp. He had found the Canyon Rims trail description on the WVHC website and was following ribbons and cairns through the woods. Another believer.

Back to base camp to enjoy views of mist rising out of the valleys, covering the mountains and then disappearing in a puff of forgetfulness. One awesome spectacle was the lenticular cloud which appeared over Spruce Knob. The cloud cupped itself like a black hand up and over the top of the mountain. There were spasms of lightning darting out of this and other clouds throughout the evening.

The next day dawned foggy and overcast as the crew stepped out into the misty wilds on their return to civilization. Relying mostly on compass readings to pass through the open forest maze, they reached the pipeline and then took the high road to their cars. This area is a worthy challenge for any experienced day hiker or backpacker. Enjoy the wilds (yes they still exist) of West Virginia!!



Jonathan, Tom, Judy, Kisun, Dave, Jeff - the happy backpackers!

Photo by Susan Bly

FISH AND WILDLIFE SERVICE SAYS NEDPOWER WIND FARM NEEDS BETTER WILDLIFE STUDIES

By Paul J. Nyden

The state Public Service Commission is failing to require NedPower Mt. Storm to perform needed environmental studies before it begins constructing the state's largest wind turbine project, the U.S. Fish and Wildlife Service charges. The Service criticized the PSC in recent letters to NedPower and to environmental consultants hired by the company to study the dangers windmills may pose to migrating birds and endangered species.

On April 2, the PSC issued NedPower a "certificate of convenience and necessity" allowing them to begin constructing part of a project that would ultimately include 200 huge wind turbines. The turbines will rise more than 400 feet above the ridge line along the Allegheny Front, one of the state's most scenic areas. The structures will stretch over 14 miles from Mt. Pisgah south to an area east of the Stony River Reservoir, near the town of Stack Rock.

"We believe the PSC's conclusion that the project will be environmentally responsible regarding migratory birds is premature considering that avian field work has not been conducted," wrote William A. Tolin, a field supervisor for the Fish and Wildlife Service.

Tolin made his comments in an April 14 letter to Dale Strickland of Western EcoSystems Technology, a Cheyenne, Wyo., consulting firm hired by NedPower. "Conclusions that construction and opera-

tion of this project will avoid incidental intake of migratory birds cannot be made," Tolin wrote.

Tolin criticized the Public Service Commission for stating that studies about migratory birds can be made after NedPower begins building wind turbines, each of which will be taller than a football field. The Fish and Wildlife Service believes those studies must be done before any construction begins, since survey results might require that some proposed turbines be moved to other sites and that some be eliminated completely.

The Public Service Commission is only requiring that NedPower conduct six-month post-construction studies about the dangers turbines will pose to birds and endangered flying bats.

Killing migratory birds is illegal under the Migratory Bird Treaty Act, Tolin stated in his letter to Strickland. In a March 14 letter to NedPower, Tolin said that the Fish and Wildlife Service is also concerned about specific birds and animals in the area, including: the threatened bald eagle, endangered Indiana and Virginia big-eared bats, the threatened Cheat Mountain salamander and the endangered West Virginia northern flying squirrel.

Tolin told NedPower it risks violating the Endangered Species Act by proceeding with construction without "fully evaluating the impacts" of its project.

On May 2, Friends of the Allegheny Front challenged the NedPower wind tur-

bine project by filing a legal appeal to the state Supreme Court. The appeal charges the PSC has failed to review the economic, environmental and cultural impacts the wind turbines will have on the residents and property values in Grant County.

Judy Rodd, a member of the group, said, "No consideration was given to how the facility will affect property values, tourism and other aspects of the local economy."

The appeal asks the high court to overturn the PSC ruling or send it back to the agency for new hearings.

This story originally appeared in The Charleston Gazette.



Drawing by Tom Kelley, United States Fish and Wildlife Service.

ROCK CLIMBING, ANYONE?

The National Park Service has published a Draft Climbing Management Plan for public review and comment. This Plan would guide agency policy in its management of rock climbing at the New River Gorge National River in Fayette County, West Virginia.

According to a Park Service announcement, there has been increased rock climbing and it is having an effect upon soils, plants, and possibly wildlife. There have also been complaints about "conflicts indicating conflicts between commercial use groups, nonprofit groups (scouts, school groups, and church groups) and individuals climbers." With these impacts and conflicts, the Park Service wants to more actively manage the rock climbing.

The Park Service's Draft Climbing

Management Plan presents three alternatives. One is to keep doing it as the Park Service is doing it now. The other two, including the preferred alternative, involve more active management of rock climbing.

To view the Draft, go to www.nps.gov/neri/cmp or write Gary Hartley, Chief Ranger, New River Gorge National River, P. O. Box 246, Glen Jean, WV 25846.

Comments will be accepted until June 30, 2003.



IMMIGRANTS FLOODING OUR SHORES

The Union of Concerned Scientists recently announced the publication of a new booklet "Invasive Species: West Virginia"

This informative 16-page booklet is designed to increase awareness of the invasive species issue, and encourage sound and timely policy solutions in West Virginia and nationally.

The report begins with a short introductory section on invasive species and explores the severity of the problem in the United States. The remaining sections look at the damage invasives cause to West Virginia's environment and economy.

To download the report and to learn more, visit: www.ucsusa.org/westvirginia.html

If you prefer a printed copy, or several printed copies, please contact us at invasives@ucsusa.org and let us know how many you would like and how you plan to use them.

Longwall mine under trout stream gets OK

TROUT LEFT HIGH AND DRY

By Ken Ward

A state appeals board voted Thursday to allow a Maryland company to longwall mine under a Grant County trout stream. By a 5-1 vote, the state Surface Mine Board overturned the Department of Environmental Protection's denial of the permit application. Board chairman Tom Michael voted against the permit. Mettiki Coal sought the permit to mine coal with a longwall machine under Hind Leg, a trout stream that feeds into the North Branch of the Potomac River.

Previously, the board had upheld DEP permit denials for two previous applications Mettiki submitted for the mining proposal. Matthew Crum, director of the DEP Division of Mining and Reclamation, said that the agency would consider an appeal to circuit court.

"Overall, we're disappointed with the ruling," Crum said. "Hind Leg is a high-quality trout stream in an area that has precious few trout streams because of historic mining abuses."

Mettiki wants the permit to expand its D Mine, which operates in both Maryland and West Virginia. The operation, using a sophisticated longwall mining machine, has already mined beneath the North Branch itself.

Crum has denied previous Mettiki permit applications for the Hind Leg area, concluding that the operation was not designed to prevent long-term damage to the stream. Environmental groups,

including the West Virginia Rivers Coalition and Trout Unlimited, have questioned the company's proposal as well. They fear it will damage Hind Leg, and hamper efforts to restore the North Branch as a prime fishery.

Mettiki officials and lawyers have said that the company could fix any damage that its mining happens to do to the stream.

In its ruling Thursday, the mine board ruled that Mettiki could mine one of two longwall panels proposed in its original application.

The board also required the company to post a \$400,000 reclamation bond to cover restoration of the stream.

Joe Lovett, a lawyer for environmental groups, said that the board does not have authority to issue such a ruling.

Before the company can be allowed to mine one of the two panels, Lovett said, DEP must be provided with a detailed permit application that explains the potential impacts of that operation.

"This is the Surface Mine Board doing rough justice instead of following the law," Lovett said. "The Surface Mine Board has short-circuited the entire permit process."

This article originally appeared in The Charleston Gazette.



BOOK NEWS

"Lord, We're Just Trying to Save Your Water": Environmental Activism and Dissent in the Appalachian South, by Suzanne Marshall (Gainesville: University Press of Florida, 2002, 343 pages, illustrated, hardbound only, \$55)

Review by Paul Salstrom

What's been happening in the mountain areas of Georgia and Alabama these past thirty years bears uncanny resemblance to what's been happening in West Virginia. Down there, state highway departments have been concocting unnecessary roads, corporations have been dumping toxins into water that people drink and fish, waste-management companies have been siting dumps where they think they can get away with it because the local residents are poor, National Forest officials have been subsidizing timber-cutting with tax dollars and trying to 'fly under the radar' of public scrutiny, the army has plans to burn chemical weapons, and the activists down there think their state's environmental protection agency is the worst in the country.

For me this book brings back wonderful memories of West Virginia, and I'm not being sarcastic. It's a book about people---about activists, volunteers mostly---people who care enough to try saving everyone's water, air, and forests. When Professor Marshall recounts the personal lives and water-protection struggles of the Coosa River Basin Initiative (pages 11-108) it's as though she's telling the adventures of Richard diPreto, Linda Cooper, Cindy Rank, Tom & Judy Rodd, et al. trying to protect the Monongahela and Cheat watersheds. The details match right down to the water-testing kits for the water-monitor teams.

And when Prof. Marshall recounts the lives and struggles of Georgia ForestWatch volunteers and their many allies (pages 111-226) it's West Virginia Highlands Conservancy folks who fill my mind's eye. Incidentally, let me add that Prof. Marshall knows the federal regs inside out, right down to the length of each USFS comment period, the criteria for protection under RARE and RARE II, and the diversity of legal atrocities in the Timber Salvage Act. She even knows what the activist folksinger Si Kahn did for Georgia forests after he left West Virginia back in the mid-1970s (pp. 133-135).

After devoting her Part One to water-protection efforts, and her Part Two to forest protection (including the Mon National Forest clear-cutting battle), Prof. Marshall devotes her third part to strip-mining. In this case the proposed stripmine was in northeastern Alabama and didn't want coal but platinum. That late 1990s fight wasn't ultimately one of the victories for its participants, but it reminded me of the epic efforts against stripmines by residents in Lincoln County and elsewhere around W. Va. And again, the story in this book revolves around the people involved.

This is the kind of book that could be written about W. Va. environmental activists. It was initially done as a doctoral dissertation but it reads beautifully. Prof. Marshall acknowledges the limited success that activists have achieved when they have tried to convince their fellow citizens to consume less---that was one aborted dimension of the north Georgia garbage struggles---but she also says "all the activists I met described the intellectual and spiritual journey they made as they realized ... the linkages among all things on earth" (p. 292). My hat goes off to them.

Paul Salstrom is an historian and the author of Appalachia's Path to Dependency.

CALLING ALL CONSERVATIVES

"Conservation IS Conservative"

By Allan Tweddle, WV State Coordinator, Republicans for Environmental Protection

In "Design As If Life Depends On It", an article in the publication Lessons Learned: High Performance Buildings, author William McDonough paraphrases Thomas Jefferson's letter to James Madison: "The Earth belongs to the living. No man may by natural right oblige the lands he owns or occupies to debts greater than those that may be paid during his own lifetime. Because if he could, the world would belong to the dead and not the living."

The biggest energy hogs that we all control are the buildings that we own and operate. For most of us, it's our homes. For some, it also means business facilities.

Most of us just accept our utility bills, perhaps grudgingly. In the past, most of us did little to curb the basic cost drivers, i.e. the amount of gas and electricity we use and when we use it. But we have choices and, for a moment, walk with me as we review our use of electricity and some dramatic things that have been done. For some of you, we may cover old ground, but a review never hurts.

The sun delivers more energy in one day than the entire world needs in a year. The challenge that engineers face is how to economically harness, distribute and use this infinite resource. While we wait for my engineering colleagues to solve the economic challenges, there is a lot that we can do as individuals who are not encumbered by analysis paralysis.

First, the obvious daytime benefit is light. How many times have you walked into a meeting room that has blinds or drapes drawn and the lights on full blast? Make it a habit to ask "Why?". More often than not, you can find a way to achieve a satisfactory "natural" light level.

If natural light *must* be supplemented, look at the location and type of lamps and ask "Why?". We all know (don't we?) the no-brainer economics of folded fluorescent bulbs compared to incandescent. They use up to 80% less energy and last years instead of months. Manufacturers even guarantee them up to 10 years.

Lighting is also a matter of aesthetics and distribution or scattering. The amount of light drops off at an exponential rate according to the distance from the source, so getting close to the source not only improves the quality of light to a task, but can reduce the amount of light the source must generate. Yet, offices, reception rooms, elevator lobbies, hallways have all been ceiling lit

for decades. Next time, look up and ask "Why?".

For years, power companies promoted lighting levels that were designed to sell power. Smart, especially if you work for or are a stockholder in the energy industry. But *smarter* designers today look for ways to reduce or even eliminate this wholesale washing of rooms with lights.

Artificial lighting is, with the exception of security needs, normally only needed for occupancy. So turn off the lights as you leave the room. Fluorescent bulbs aren't damaged by frequent off-on switching. The surge of power that we see when an incandescent bulb is turned on shortens their life to a degree, but we're all going to stop using incandescents, right?

Photoelectric dimming switches and occupancy switches are available and being used in most energy conscious buildings. They automatically turn the lights on when motion is detected in the room and turn off when motion disappears after a few moments. Of course, they can be overridden for motionless occupancy, such as a meeting in which all attendees fall asleep.

Now, let's look at some dramatic imaginative choices. Natural light can be captured, managed and distributed deep inside of buildings if the architect designs for it. Skylights and atriums are the most obvious, but light wells and light tubes can be incorporated at home as well as in commercial buildings. They are relatively inexpensive and are particularly effective in interior rooms like baths or kitchens.

Energy conscious new building designers take natural lighting managements into the design as a basic requirement. Light Shelves on south- and west-facing walls bounce daylight onto the interior spaces while cutting the sun's radiation load that would increase the air-conditioning demand. When interior partitions are glass and not full height, natural light can be more easily distributed all across the space.

Another benefit? From a humanistic standpoint, workers are more calm and comfortable, therefore more productive and deliver lower absenteeism, when a naturally lit environment exists.

Naturally, I hope that this casts a new light on the subject for you.

Well-designed truly "green" buildings today do not cost more to design and build, and cost a lot less to operate. Next time, we'll look into other avenues to explore.

BENEFIT RECEPTION FOR WEST VIRGINIA RIVERS COALITION

On Thursday evening, June 26, 2003 the West Virginia Rivers Coalition will host a benefit reception for the Potomac River. The 5th annual gala will be held at The Old Ebbitt Grill in Washington, DC from 7-9 p.m.

This is a fun opportunity to gather with friends who share an interest in the Potomac River and the West Virginia headwaters. Please plan to attend and meet friends, meet the supportive business partners who believe in clean water, and aid WVRC in the efforts to continue to keep water clean in the Potomac Headwaters and throughout our state.

This past year has been one of tremendous struggle and success for the Potomac River. Join us Thursday evening on June 26, 2003 to celebrate our combined efforts and further our work. We hope to see you at the Old Ebbitt Grill. For any question call 304-637-7201.

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.

T Shirts for Sale

White, heavy cotton(Fruit of The Loom) T-Shirts with the [heart]MOUNTAINS slogan on the front. The lettering is blue and the heart is red. Sizes S, M, L, XL, XXL, XXXL \$6 plus \$2 postage etc. \$8 total by mail. Send sizes wanted and check made out to Julian Martin to:

Julian Martin
1525 Hampton Road
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Mail to: West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

Lights at the substation the culprit; company turns them off

DEAD BIRDS AT BACKBONE MOUNTAIN WINDFARM

As a part of the discussions surrounding the approval of the Backbone Mountain windfarm by the West Virginia Public Service Commission, the West Virginia Highlands Conservancy got a seat on the Technical Committee. This Committee receives monthly reports of ongoing avian mortality monitoring at the Backbone Mountain windfarm (now called the Mountaineer Wind Energy Center) as well as special reports when there is an unusual event.

The monitoring is carried out by Dr. Paul Kerlinger, the ornithologist in charge of the avian mortality monitoring for this project for Florida Power and Light, the owner of the windfarm.

In addition to his regular monthly reports, Dr. Kerlinger reported an unusual mortality event that occurred the night of May 23-24 at the Mountaineer wind plant. A total of about 25-27 birds were found dead at turbine number 23 and the substation, which is 40 meters from the turbine. A small number of these birds collided with the substation structure it-

self. The birds involved were a variety of species including Blackpoll, Magnolia, Canada, and other warblers, Red-eyed Vireos, cuckoos, and other songbirds. This event occurred on the same night that the 100-car pileup occurred on Route 68 in Maryland--in dense fog.

Dr. Kerlinger is confident that the event attributable to the presence of 6 bright lights that were on constantly at the substation. Efforts to have the lights extinguished were made immediately and the lights went off within 48 hours. They were on the night following the event, but no dead birds were found on the following day. Florida Power and Light was notified; the lights will be turned off at the substation on all nights.

Subsequent checks revealed only 1-2 birds at more than 20 turbines checked. Dr. Kerlinger noted that a proportion of the small number of birds found prior to the May 24 event were also found at turbine number 23. Again, the lights at the substation probably attracted the birds.

Although this mortality event was unexpected, there is some good news. There were almost no fatalities at the other turbines, even those with FAA lighting. What this strongly suggests is that the type of lighting on the turbines at Mountaineer do not attract migrants as do bright lights or communication tower lights that are on constantly.

To date, there have been only about 10 fatalities found at turbines other than turbine number 23 at Mountaineer.

Dr. Kerlinger will next report in June, 2003, when the spring migration will have been finished and he will have had an entire season of migration to evaluate impacts.

