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# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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## Office of Surface Mining Proposes New “Stream Protection” Rule

By John McFerrin

The federal Office of Surface Mining has proposed revisions to what had been called the stream buffer zone (It even had its own acronym: SBZ) rule addressing restrictions on mining near streams. The newly proposed rule—called the Stream Protection Rule—takes a different approach to protecting streams. It also makes some other changes to other rules that—on the whole—make the rule a mixed bag for those interested in restraining the excesses of the coal industry.

### History

Present law (still in effect until the proposed Stream Protection Rule is final) prohibits mining within one hundred feet of streams. Many had thought that if mining within one hundred feet was prohibited, then filling a stream at a mountaintop removal site must be prohibited as well.

The rule had been there since 1983 but nobody had taken it seriously. At the very least nobody enforced an interpretation that would seriously limit mountaintop removal mining.

Then along came United States District Court Judge Charles Haden’s 1999 decision which did take it seriously. He interpreted the rule in such a way that it effectively prohibited mountaintop removal

ruling the merits. The Court of Appeals said that he followed the wrong procedure, not that he misread the rule. While the ruling was never binding because of the procedural error, his reading of the rule was available as guidance.

This started us down a procedural path that now—fifteen years later—has brought us to the proposed Stream Protection Rule. First, the Clinton administration decided that it agreed with Judge Haden’s interpretation. Once George W. Bush took office, federal regulators and the coal industry pushed to rewrite the rule.

The Bush administration did propose to rewrite the rule. There were public hearings, public comments, etc. but in December, 2008, the Office of Surface Mining finally adopted a new rule. The new rule effectively eliminated the buffer zone rule which had been in effect (if never fully enforced) since 1983. Litigation followed. Then more litigation. When the dust settled, we were back where



### Stream Protection

Photo courtesy of the Ohio Valley Environmental Coalition

mining. Judge Haden’s ruling was reversed on procedural grounds but there was no

(More on p. 5)

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## Ramblin' the Ridges

By Cynthia D. Ellis

# Umm...What is Fracking?

That was the question posed by an earnest and slightly apologetic man who attended a recent forum on Rogersville Shale. He confided to me, "Actually, I don't really know what fracking is."

Some of us with West Virginia Highlands Conservancy might think, "How could that be?" We are so close to the issue. We hear about fracking every day. We are alert to every source of information on the matter; print and electronic. Frack, frack, frack. Our days are filled with frack. We know the stories of people personally affected, we study the process; some of us are familiar with regulations [or lack of]. We watch the pictures and tales of highway damage and climbing rates of

debated the impacts of grid-ready wind turbine facilities on our high ridges and mountain tops. The research is ongoing.

There could have been someone, in the 1960's and 70's, who was unaware of problems surrounding clear-cutting in the West Virginia Highlands, especially in areas now bearing the "Wilderness" designation. They might not have known of effects on forest species of all kinds, nor of impacts on mountain streams. Coal became an issue in the forest areas too. It might not be known how our group forced a pre-mining survey to employ horse-drawn equipment carriers to survey with minimized damage. And that the coal project proposed for Otter Creek

was subsequently shelved.

Thank goodness. As Dr. Robert Leo Smith, WVU wildlife biology professor, wrote, "Island Creek Coal would build a processing plant a Dry Fork at the mouth of Otter Creek and on the edge of the Otter Creek tract. They would put a road through Otter Creek area to the edge of the pioneer area. There they would build an aerial tramway

across Otter Creek with a coal tippie and parking lot."\*

"They want to flood Canaan Valley!"

There could be someone who had not known of the Davis Power Project scheme of 1970, when there was a move to make a hydro-electric resource lake covering the bowl of that lovely high valley. "The Highlands Voice" of August, 1970, said,

*"Briefly, the operation will consist of two reservoirs. The larger one of 7200 acres will be made out of the Blackwater River in most of what is now the Canaan Valley. This reservoir will have a maximum drawdown of four feet and will be impounded by a 65 foot high earth-rock dam at a narrow point between Brown and Canaan Mountains. The reservoir will provide a minimum outlet of 11 cfs into Blackwater River that will assure*

*a flow over Blackwater Falls. During cycling operations, i.e. when water is pumped into the upper reservoir, there will be a change from 169,200 acre feet of storage to 142,800 acre feet or a surface fluctuation of 540 acres.*

*The upper reservoir of 550 acres will be located somewhere on Cabin*

*Mountain on the Red Creek Drainage. Although the company's prospectus is vague about the exact location, it is known that the site is not within National Forest boundaries. This reservoir will fluctuate 57 feet, will have no recreational value and will be completely fenced off. There will be an access road into it from Davis through what is now fairly inaccessible country." "Fighting to Protect the Highlands: the First Forty Years of the West Virginia Highlands Conservancy" by David P. Elkinton*

In the past, and the present, we are trying to share the information and attempting to tell the stories. Trying to help those who do not yet know.



traffic accidents. We know the history and the projections for the impacts of the future.

But certainly the man was given an answer. That has pretty much been our mission...trying to share answers and information. Do you suppose someone has not heard of mountaintop removal mining? We wonder if there is someone who does not know of blasting and protests, of homes and communities scarred or lost, of jobs eliminated or threatened, of devastated ecosystems, of programs to brainwash schoolchildren, of water resources fouled. They may have never happened to have read our newsletter and have talked with Julian Martin.

We have also shared information about the complicated issues surrounding wind. For five years, the West Virginia Highlands Conservancy researched and





## The Skillet House

Recently one of our board members was travelling Rt. 39 along the Gauley River in Fayette County. She stopped to take a picture of a unique house and was warmly invited to join in on resting in rocking chairs on the porch. The question of why frying pans were placed on all the walls did not happen to get answered in the friendly chat, but the owner did note that picture takers have come to visit from most states in the Union and from Canada and Jamaica. Love those West Virginia backroads!



## What Happens Next

The Stream Protection Rule (discussed at length on pp. 1,5) is still only a draft. There are miles to go before it is final.

The proposed rule, the Office of Surface Mining's explanations for it, and the Draft Environmental Impact Statement are all available for public review and comment. To get started, go to [www.osmre.gov](http://www.osmre.gov) and follow the links. You will find links to several documents, including analysis by the Office of Surface Mining.

There will be public hearings on both the Draft Environmental Impact Statement and the proposed rule in Charleston, West Virginia (September 17); Denver, Colorado; Lexington, Kentucky (September 3); Pittsburgh, Pennsylvania; Big Stone Gap, VA (September 15); and St. Louis, Missouri. Not all of the dates have been set but we know that the You may submit comments by any of the following methods: Federal eRulemaking Portal: [http:// www.regulations.gov](http://www.regulations.gov). The Docket ID for the proposed rule is OSM-2010-0018, while the Docket ID for the draft environmental impact statement is OSM-2010-0021 and the docket ID for the draft regulatory impact analysis is OSM-2015-0002. Please follow the online instructions for submitting comments. Mail/Hand-Delivery/ Courier: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252 SIB, 1951 Constitution Avenue NW., Washington, DC 20240. Please include the appropriate Docket ID: OSM-2010-0018 for the proposed rule, OSM-2010-0021 for the draft environmental impact statement, or OSM-2015-0002 for the draft regulatory impact analysis.

If you would like to be placed on the mailing list to receive future information on the EIS, please contact

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*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](http://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.

# Pipeline Spaghetti

By Cindy Rank

I had to chuckle the first time I heard the word “spaghetti” used to describe the multitude of gas pipelines of all sizes that are in the ground already or are being planned for West Virginia.

Where it started I know not, but I’ve heard it several times now – from staff at WVDEP and most recently in an article from the National Public Radio’s State Impact Pennsylvania entitled “Pipelines’ paths remain a risky mystery beneath our feet”

<https://stateimpact.npr.org/pennsylvania/2015/07/31/>

Everywhere across the country where the recent drilling frenzy has exploited the shale gas play infrastructure needed to carry the gas to market is now invading rural landscapes as it is here in West Virginia.

Readers of *the Highlands Voice* are familiar with at least three major Interstate 42” gas transmission lines that threaten to sear wide paths through the heart of some of our most valued public lands like the Monongahela, George Washington and Jefferson National Forests and pristine streams that flow through those forests. Articles have explained important efforts to have input in the Federal Energy Regulatory Commission (FERC) review and permitting process for these monsters and in some cases to oppose the currently proposed construction routes.

In the case of these big interstate transmission lines citizen involvement in the review and permitting process may be complicated and time consuming, but we at least have some legally mandated avenues for input.



With smaller intrastate pipelines the story is quite different. Individual land and home owners unexpectedly find themselves in the line of fire with little notice and less opportunity for citizen input. The review process that does exist is limited and not widely known or understood.

Baffled by the unexpected invasion of these pipelines many local residents are confused and angry. Unlike the 4 and 6 and 8 inch flow and gathering lines that were a concern in the early 1980s these larger gathering lines (often as large as 32”) require much wider right-of-ways up and down steep mountain slopes, more timbering and more complicated stream crossings.

There is little prior notice to landowners – save to those who are approached about leasing or selling right-of-ways (ROWs) through their property. State storm water permitting is limited and personnel to monitor the construction even more so.

Awakened by the surreal growth of massive horizontal drilling projects unlike any seen in WV prior to a decade ago, local impromptu groups of concerned citizens in counties like Wetzel, Lewis, Doddridge, Braxton and elsewhere are sounding the alarm and using social media to document problems, share concerns and rush to keep up with the inevitable additional drilling, water use and disposal, compressor stations and pipelines.

In one instance the Dominion Pipeline Monitoring Coalition (DPMC) has taken to the air to see more clearly what is happening in remote forested mountainsides with little road access in order

to document how current erosion and sediment control practices are being implemented.

But right now we’re all playing catch-up with yet another advanced technology that more quickly extracts the earth’s riches and has charged ahead of any reasonable controls or planning. [How painfully reminiscent of the extreme extraction technologies of mountaintop removal coal strip mining and longwall

deep mining that have overwhelmed laws and regulations meant to control their impact.]



**and still a ways to go**

People want and need to know more. Where are maps of this or that pipeline? Is there one single map that shows all the existing and planned pipelines in the state? How do I know when a pipeline is planned for near my home or my favorite fishing hole? What regulations are in place to control the construction of these pipelines? Who monitors them for compliance? Who do I contact if I have questions or concerns about activity in my home community? Where do I register complaints? How do I find out more?

Currently it’s nearly impossible to keep up with the fast pace of construction but WV Highlands Conservancy together with partner groups and individuals along the large and smaller pipeline routes are trying to put some of the pieces of the puzzle together for a better view of the overall picture.

Time may not be on our side to better control this newest layer of pipelines, but if left to continue in a helter-skelter way it will only add to that that big bowl of spaghetti that will eventually have to be untangled by some future generation.

**Pictures courtesy of T Berlin, J Cobb and A Keating**

## Stream Protection Rule Proposed (Continued from p. 1)

we started with the 1983 rule still in effect. Then the Office of Surface Mining published its proposed Stream Protection Rule.

### What the Stream Protection Rule Does—Buffer Zone

As a tool to severely curb mountaintop removal mining, the Buffer Zone Rule is gone. A sensible interpretation of the 1983 version of the rule—the interpretation by Judge Haden—would have dramatically restricted mountaintop removal mining. A truism of the kind of large scale mountaintop removal mining that is practiced today is that the blown off top of the mountain has to go somewhere. That is almost always in a valley which almost always contains a stream. If mining within one hundred feet of the stream is prohibited and filling is part of the mining, then the 1983 Buffer Zone Rule would effectively prohibit most mountaintop removal mining.

The proposed Stream Protection Rule does away with all that. The rule itself as well as the discussion of the rule make it clear that the federal Office of Surface Mining believes that it is acceptable under the federal Surface Coal Mining and Reclamation Act to mine through streams, fill streams, etc.

The Office of Surface Mining can say with a straight face that this is a Stream Protection Rule because of what is now supposed to happen after mining. The proposed rule adds a new emphasis on restoring the stream after mining is over, including taking extra care in the areas within one hundred feet of the stream.

The coal industry and its political minions are apoplectic about the proposed rule, pulling out their usual vocabulary: costly and unnecessary, War on Coal, agency overreach, etc. This may just be force of habit; they are apoplectic about everything the Obama administration does.

In one sense this is puzzling. For thirty two years the industry has had hanging over its head the possibility that somebody in authority would look at the 1983 rule, interpret it as Judge Haden did, and shut down a substantial slice of the industry. One would expect the industry to be glad the old rule is gone.

The solution to this puzzle lies in the dynamics of regulation. The 1983 rule may hang over the industry's head but it hangs not by a thread but by the log chain that is political power. While the threat is there, the coal industry can sleep well knowing

that there is not a regulator alive who has both the nerve to shut down a big part of the industry and a political system that would support him in doing it.

This dynamic makes the Stream Protection Rule a mixed blessing as well for those who long for more effective regulation of mining. On the one hand, a powerful weapon is now gone. On the other hand, if there really is no chance that the rule would ever be enforced then its disappearance is no great loss. A weaker rule that might actually be enforced may be better than a stronger rule that is never enforced.

### What the Stream Protection Rule does—other issues

While it started out as a revision of the Buffer Zone Rule, the Stream Protection Rule addresses other issues as well. It attempts to solve the problem of abandoned underground mines and their effect upon current mining. In the discussion, it specifically mentions the huge spill of coal sludge in Martin County, Kentucky.

The Martin County Slurry Spill incident in Martin County, Kentucky on October 11, 2000 when impounded coal refuse slurry broke through into adjacent underground mine workings that opened to the surface. In that case, the mine openings discharged 306 million gallons of slurry into two tributaries of the Tug Fork River (Coldwater Fork and Wolf Creek). The slurry covered nearby residents' yards to a depth of as much as 5 feet, visibly polluted more than 100 miles of waterways, including the Big Sandy and Ohio Rivers, and devastated aquatic life in 70 miles of stream. Six public water intakes were adversely affected and alternative water supplies had to be arranged for 27,000 residents. Cleanup costs were approximately \$59 million.

The Stream Protection Rule addresses this problem by requiring more detailed planning and analysis during permitting in hopes of heading off such problems in the future.

The Stream Protection Rule would also require increased monitoring and data collection, provide some additional protection to downstream waters, and marginally increase the responsibility of mine operators to restore harmed areas. Additionally, the new OSM rule has clarified the term "material damage" in the federal surface mining law. The 1977 law prohibits coal mines from causing "material damage" to surface waterways and groundwater.

The Stream Protection Rule also for the first time explicitly recognizes the impact of longwall mining on the nation's precious water supplies. The proposed Rule provides an explicit definition for "material damage to the hydrologic balance," a concept that is in the Surface Mining and Reclamation Act but has been so open for interpretation by state regulators as to have almost no meaning, and at great expense to the many miles of permanently damaged streams and water supplies. The Stream Protection Rule tries to fix that.

On the whole, the proposed Stream Protection Rule adds some water monitoring requirements and analysis in attempt to reduce the impact of mining on water. While these may be useful in curbing the excesses of the mining industry, the Rule does not dramatically impact surface mining.



**Part of the work of the Central Appalachian Spruce Restoration Initiative, a collaborative effort of the West Virginia Highlands Conservancy and many, many other groups**

# To Every Thing There is a Season

By Cynthia D. Ellis

This “-ology” may be new to you and me, but not to a team of graduate students at WVU. “Phenology” comes from the Greek word *phaino* meaning “to show” or “to appear”. And the students seek our help with their phenology project.

Phenology deals with the seasonal timing of plants and animals, as affected by climate. There is a surge of interest in such timing, as our collective understanding of climatic changes is somewhat limited. Those who collect data on past phenology hope their research will help in the perception of how today’s changes may shape the future.

When do flowers bloom? Are they blooming earlier? When do birds migrate? Have migration schedules changed? Finding out the answers to these and other questions could help forecast natural events and processes. A wide array of historical data, much of it personal and local, will be examined.



It will be fun too. One student has already been delving into worn leather bound journals from Hardy County, with entries beginning in 1972. That will hardly seem historical to many of us, but it is, and data from any time period will be valuable.



“Anyone who has useful observation notes has phenological data and can contribute to this project,” said Lori Petrauski, a graduate student in wildlife and fisheries resources who is coordinating submissions. “Ideal historic phenological data sources include diaries from observers with an interest in natural science, records from field stations, archives from bird and game associations, personal databases, community newspaper columns, or anything comparable.”

Lori may be contacted at [Impetrauski@mix.wvu.edu](mailto:Impetrauski@mix.wvu.edu) or (304) 293-0050. The project may also be found on Facebook and on its own site--- <https://wvphenology.wordpress.com/>

## Holding Hands to Save Our Lands

Hands Across Our Land is a Solidarity action to let the fossil fuel industry and government officials know that while we are separate grassroots groups we stand with each other in opposition to the building of new fossil fuel infrastructure. It is designed to show grassroots resistance to proposed new natural gas infrastructure including the Dominion Cove Point Liquefaction plant, the Atlantic Coast Pipeline, the Trans Pecos and Mountain Valley Pipeline natural gas pipelines.

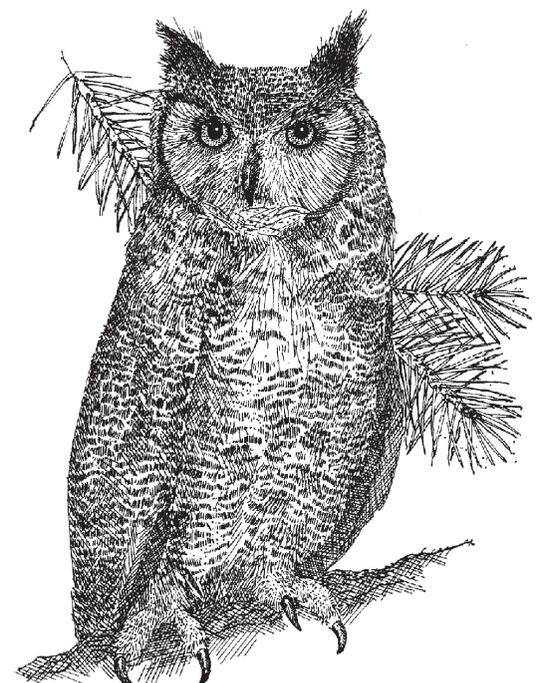
The plan is to unite groups all along the routes of the proposed pipelines for a single coordinated action called “Hands Across Our Land (HAOL)”. The action is scheduled for August 18<sup>th</sup>, 2015.

A group known as Free Nelson has recruited county and regional coordinators in communities in Maryland, Pennsylvania, West Virginia, North Carolina, Texas and beyond who are facing the same issues in their communities, as are those in Virginia dealing with the destruction caused by new fossil fuel infrastructure. Local actions are being planned in Buckingham County, Franklin County, Loudoun County, Montgomery County, Nelson County, Augusta County, Charlottesville, Front Royal, Richmond, Roanoke, and the George Washington National Forest, in Virginia, in Myersville, and Calvert County, MD, in Monroe and Greenbrier Counties in West Virginia, and the Big Bend area of Texas.

The **Greenbrier County, West Virginia**, event will take place at Ronceverte City Park on August 18. Meet at the boat ramp at 6 p.m. Bring your boat or walk up to the bridge over the river. You can bring your own sign or use one of the signs event organizers have prepared.

Hands Across Our Land is designed to express the passionate grassroots support to protect rural communities and their way of life. For a HAOL action outline, interested persons or groups can contact Free Nelson on Facebook or at [freenelson3@gmail.com](mailto:freenelson3@gmail.com).

HANDS ACROSS OUR LAND is being promoted by Beyond Extreme Energy, the Blue Ridge Environmental Defense League, the Chesapeake Climate Action Network, and the Virginia Chapter of the Sierra Club.



**Join Now !!!**

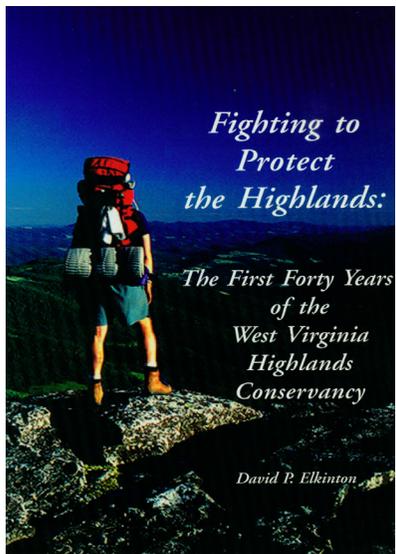
Name _____	<b>Membership categories</b> (circle one)	Individual	Family	Org.
Address _____	Senior	\$15		
City _____ State _____ Zip _____	Student	\$15		
Phone _____ Email _____	Introductory	\$15		
	Other	\$15		
	Regular	\$25	\$35	\$50
	Associate	\$50	\$75	\$100
	Sustaining	\$100	\$150	\$200
	Patron	\$250	\$500	\$500
	Mountaineer	\$500	\$750	\$1000

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

**GREAT HISTORY BOOK NOW AVAILABLE**

For the first time, a comprehensive history of West Virginia's most



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

Learn about how the Conservancy stopped road building in Otter Creek, how a Corps of Engineers wetland permit denial saved Canaan Valley, and why Judge Haden restricted mountaintop removal mining. Also read Sayre Rodman's account of the

first running of the Gauley, how college students helped save the Cranberry Wilderness, and why the highlands are under threat as never before.

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

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

518 pages, 6x9, color cover, published by Pocahontas Press To order your copy for \$14.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

**SUCH A DEAL!**  
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Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$14.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

Existing members may have one for \$10.00. Anyone who adds \$10 to the membership dues listed on the How to Join membership or on the renewal form will receive the history book. Just note on the membership form that you wish to take advantage of this offer.

**VOICE AVAILABLE ELECTRONICALLY**

The Highlands Voice is now available for electronic delivery. You may, of course, continue to receive the paper copy. Unless you request otherwise, you will continue to receive it in paper form. If, however, you would prefer to receive it electronically instead of the paper copy please contact Beth Little at blittle@citynet.net. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived. The electronic Voice is in color rather than in black and white as the paper version is.

## Home Grown Tomatoes

By Charlie Feldhake

Mid-August is the most wonderful time of the year because gardens are full of abundant goodies to harvest. Home grown tomatoes are beyond description as a delight for the taste buds. Don't get me started on what I did in the neighborhood as a kid to indulge in tomatoes from local gardens instead of going home for lunch. Even now, if there are too many tomatoes ripe in the garden it is time for Gazpacho!!

I love to eat them fresh, sliced on sandwiches, on salads and in my dreams. If a blight or early frost threatens them I quickly harvest green ones, dice and can them. Green tomatoes are great for green chili (pinto beans and dark turkey meat instead of pork) and in split pea soup. Eating the last garden tomato of the year is a melancholy ritual.

Years ago I met through a friend, a retired mechanic that claimed he loved tomatoes but couldn't eat red ones. I found a source of white tomato seeds and grew a few plants for several years to give him tomatoes which he loved and appreciated. He, as we all will, died and I kept the habit of growing a few white tomato plants every year and canning some.

I got to know someone, as part of a group of friends, who made an issue of hating tomatoes. He bragged that he wouldn't eat anything that had tomato pieces, sauce, or as an ingredient. I hosted a dinner party one night and a white sauce was appropriate for the fish and steamed veggies. On a whim I pureed a quart of canned white tomatoes and mixed it 50-50 with the white sauce. He loved the sauce, poured copious amounts on his food, and kept asking me what was in it. I didn't tell him until he had almost finished his meal. Once informed, he pushed his plate away with a look of disgust and wouldn't eat another bite.

It is an odd quirk of human nature that some come to let their prejudices define who they are. It permeates our society and in West Virginia is obvious in the coal culture. In spite of its history of using then discarding unneeded employees at any convenience, a few diehards that still make a living with it think they have to defend it, until they too are axed ("friends of coal", I'm glad my friends are people). So, in deference to those that think coal is the best thing since sliced bread, I think restaurants should add to their menus, "bacon-lettuce-and coal" sandwiches.

*Only two things that money can't buy  
And that's true love and homegrown tomatoes.*

Guy Clark

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# Groups Want Coal Company to Fix What It Broke

By John McFerrin

The West Virginia Highlands Conservancy, the Ohio Valley Environmental Coalition, and the Sierra Club have filed suit against Mingo Logan Coal Company seeking to require it to carry out the stream mitigation measures that it had previously agreed to. The suit is pending in the United States District Court for the Southern District of West Virginia.

The mine in question is Mingo Logan's Mountain Laurel Mine Complex. It consists of an underground mine, preparation plant, haul road, and coal loading facility. The operations are located in Seng Camp Creek and its tributaries near Sharples in Logan County, West Virginia.

The controversy is over mitigation. The mine, as planned, would damage or destroy some streams. In order to be allowed to do this, Mingo Logan agreed to undertake projects to create other streams on site. Since Mingo Logan has never accomplished the goals set out in a Compensatory Mitigation Agreement in their 404 permit, the groups are asking the Court to make Mingo Logan do them.

## **Background: how things are supposed to work**

Mining can be destructive. That destruction can include the filling of streams. Companies may not just fill streams or muck around in them willy-nilly. They have to get a permit from the United States Army Corps of Engineers. These permits are known as "dredge and fill" or Section 404 permits, named after Section 404 of

the federal Clean Water Act. When things work as intended, the Corps of Engineers will write the permit in such a way that if streams are impacted the activity is not as destructive as it might otherwise be. There is, of course, chronic controversy over how well the Corps is doing this and whether or not, in spite of the Corps efforts, the destruction is too great to allow, but that is the idea, the way it is supposed to work.

One of the tools the Corps uses is what is called mitigation. Companies who destroy a stream in one location can do something in another location to make up for (mitigate) the damage, or, as in this instance create alternative stream channels on site.

While issuing Section 404 permits by the Corps of Engineers is a federal matter, the state has a role. States must certify that the Section 404 permit will comply with the State's water quality standards and other appropriate State requirements. When it makes this certification, it can put conditions on the permit that will, if followed, insure compliance with state water quality requirements.

Since this is West Virginia, the Will Rogers of mine regulators ("never met a mine it didn't like"), West Virginia routinely issues these certifications.

## **What happened here**

In 2004 the U.S. Army Corps of Engineers proposed to issue a Section 404/Dredge and Fill permit to Mingo Logan Coal Company for its Mountain Laurel Mine

Complex. As a part of the approval, Mingo Logan was allowed to take the flow of what had been 5,475 feet of Seng Camp Creek and one of its tributaries and diverting it into culverts. This would result in impacts to 3.36 acres of waters of the United States.

Acting pursuant to its Section 401 authority, the West Virginia Department of Environmental Protection certified that this permit will comply with the State's water quality standards and other appropriate State requirements and allowed the Army Corps approval to proceed. It did this because Mingo Logan had entered into a mitigation agreement. In the mitigation agreement it agreed that it would do stream restoration, enhancement or other water quality improvement projects that would restore, construct, enhance or improve 6.72 acres of stream." Mingo Logan was supposed to do this within five years.

Specifically Mingo-Logan designed and constructed stream drainage channels that were to carry water as did the streams they were to replace and in a given time frame would also develop stream bed quality that would support a healthy biotic life. Neither has happened. The created ditches don't even hold a continuous flow of water.

Mingo Logan still has not done the mitigation it promised. The agreement was in 2004; the work was to be done by 2009; it still hasn't been done. The Plaintiffs want the Court to order Mingo Logan to do the work as promised.

## **Send Us a Post Card, Drop Us a Line, Stating Point Of View**

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

## ***Leave a Legacy of hope for the future***

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

# New EPA Draft Adds To Controversy Over W.Va. Selenium Rule Changes

By Ken Ward Jr.

Federal environmental officials on Monday issued a draft recommendation for new selenium water pollution limits, complicating an ongoing debate over a coal industry-based proposal for a state-level change that is making its way through the West Virginia Department of Environmental Protection's rulemaking process.

The U.S. Environmental Protection Agency published its draft changes to its national recommended selenium criteria in the Federal Register less than a week before Friday's scheduled end of the public comment period on the DEP's proposed modification of the state's water quality standard.

EPA's criteria, once finalized, will not be mandatory for states. But under the federal Clean Water Act, state water quality standards must be approved by EPA before they can be implemented. And if states choose not to adopt the federal guidelines, they must have a good scientific explanation.

Citizen groups say the EPA recommendation is better than the DEP proposal, but still needlessly complicates the ability of government agencies or environmental organizations to enforce selenium limits.

The new EPA recommendation contains at least slightly more stringent standards than the state proposal for both the amount of selenium legally allowed in rivers, streams and lakes, and for the amount of selenium in fish tissue that is considered a water quality violation.

EPA has been discussing potential changes in its recommended selenium limits for years. EPA officials did not specifically link Monday's Federal Register notice to the ongoing rulemaking process in West Virginia, but the new draft recommendation is certain to become part of that ongoing debate.

"We are taking into consideration the EPA's proposed selenium standard, but haven't made a decision yet on whether to revise our own proposed standard," said Kelley Gillenwater, a spokeswoman for DEP.

Jason Bostic, a vice president at the West Virginia Coal Association, said his group believes the DEP's proposal "is scientifically defensible and uses the most

pertinent information" for waterways in the state.

"While we will study and comment on the proposed federal criteria, we are just as interested in the underlying calculations and the internal deliberations by EPA on the number so we will seek a robust as possible public review of EPA's underlying documentation," Bostic said.

Last week, during a public hearing on a series of changes DEP is proposing to the state's water quality rules, several dozen coal miners and several pro-coal members of the Legislature turned out to show their support for the selenium revisions.

Over the last decade, selenium discharges from mountaintop removal have been increasingly linked with water-quality problems, and scientists are concerned about developmental damage and reproductive problems in fish populations downstream from large-scale surface mining operations. Citizen groups' lawsuits have forced mining companies to begin reducing selenium pollution and pressing the DEP to include selenium limits in mining company discharge permits.

Responding to calls for help from the coal industry, West Virginia lawmakers have passed legislation aimed at pressing the DEP to adopt more favorable selenium standards.

Currently, the DEP's water quality rules contain a long-term selenium standard of 5 parts per billion in water and a short-term standard of 20 parts per billion in water.

Agency officials have proposed to retain those standards, but also add a new portion of their rule that would substitute limits on selenium in fish tissue for the water-based limits. Selenium in whole-body fish tissue would be limited to 8.3 parts per million and in fish eggs or ovaries to 20 parts per million.

The draft EPA recommendation published on Monday also includes new language to base selenium limits on fish tissue. But EPA recommends a whole-body fish tissue limit of 8 parts per million and an egg/ovary limit of 15.8 parts per million. The EPA draft includes a water-based limit of 3.1 parts per billion for streams and 1.2 parts per billion for standing water, such as lakes.

Sierra Club lawyer Aaron Isherwood and other environmental group representatives said that, while EPA's new recommendation may be "marginally more protective" than what DEP has proposed, the federal draft also over-complicates the ability for regulatory agencies — let alone citizen organizations — to enforce the selenium pollution standards.

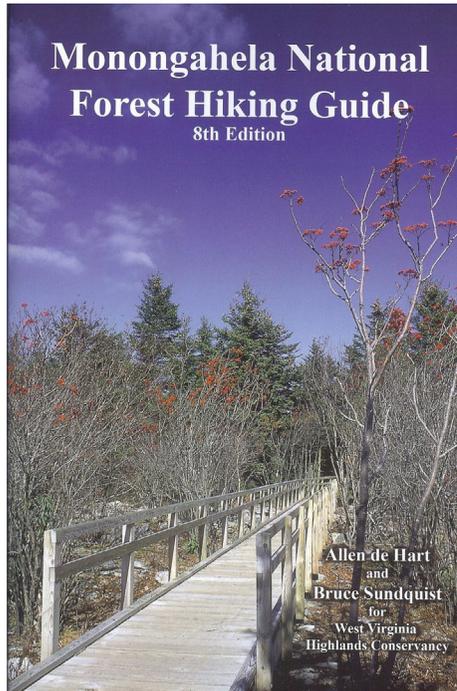
"The problem with both standards is that they're so convoluted that they're virtually impossible to enforce," Isherwood said.

Citizen groups can review coal company water sampling data that is filed with DEP or collect their own water samples from public waters downstream from mining operations, those groups say, but collecting fish for tissue-sampling is more complex and expensive, and made more difficult because fish would need to be collected from streams running through mine company property.

"One has to wonder just how these complex criterion will be included as water quality based limits in discharge permits, and even more importantly how any such limits will be enforced," said Cindy Rank, mining chairwoman for the West Virginia Highlands Conservancy.

**Note: This article previously appeared in *The Charleston Gazette-Mail*.**





## The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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

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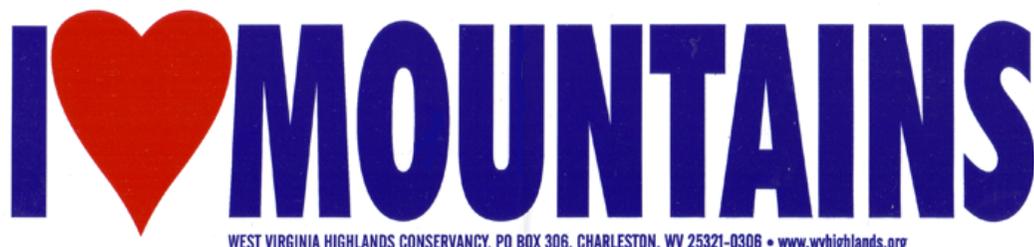
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### BUMPER STICKERS

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

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



# RULES, RULES, AND MORE RULES

By Cindy Rank

It's that time of the year again when the WV Department of Environmental Protection (WVDEP) proposes new rules or changes to existing rules governing environmental programs the agency is charged with implementing in West Virginia.

Once the agency releases its proposed rules comments about the rules are invited and public hearings held. Once comments are received and evaluated the agency files a final version of each with the WV Secretary of State's Office. From there the rules start through the legislative review process for consideration by committees, possible public hearings and additional comments - as well as pressure and lobbying by interested parties - before final passage/approval by the House and Senate usually toward the end of the Legislative session in the spring.

Some of the approved rules can be implemented right away. Others are subject to further scrutiny and approval by federal agencies before they can be enacted by the state. This is true for rules governing programs which have been primarily delegated to the state, but still overseen by, federal agencies such as the Environmental Protection Agency (EPA) and the Office of Surface Mining Reclamation and Enforcement (OSMRE). Review and approval by these federal agencies is meant to ensure state law and regulations are in compliance with their federal counterparts thus assuring at least minimum standards and a somewhat level playing field from state to state.

## **2016 PROPOSED RULES**

Acting in partnership with sister environmental organizations West Virginia Highlands Conservancy submitted comments on three major sets of proposed rules regarding Water Quality Standards, Above Ground Storage Tanks, and Horizontal Well Development.

Highlights quoting from or paraphrasing some of the comments will give a sense of our basic positions in each of these proposed rules.

### **Water Quality Standards**

Responding (mostly to industry pressure) WVDEP has proposed revised standards for selenium (Se) and aluminum (Al)

#### **-- Selenium**

Our successful court challenges to

bring mining operations into compliance with current WV water quality standards for selenium have been based on measurements of the amount of selenium in the water itself, or in the "water column".

Measuring the amount of pollutant in water samples taken from mine discharge or from the receiving stream is fairly straight forward and requires only basic sampling techniques. WVDEP proposes to add as a preferred method for measuring selenium a more complex process based on measuring the amount of selenium found by sampling fish – and seeing just how much selenium has accumulated in fish tissue or ovary and eggs of the fish sampled.



Writing on our behalf Appalachian Mountain Advocates (Appalmad) comments end with the following: "DEP must significantly reduce the concentrations allowed under its fish tissue elements to ensure they are protective of sensitive species, aquatic-dependent wildlife, and threatened and endangered species. DEP must then translate those revised tissue concentrations to enforceable water column criteria that can be practically implemented to achieve the regulatory requirements of the Clean Water Act."

NOTE: It is interesting that EPA proposed slightly different selenium criterion the day before the end of WVDEP comment period on the state proposed rule. [See reprint of Ken Ward column elsewhere in this issue.]

As one of our allies wrote about this new EPA selenium criterion, "While EPA's standard is marginally more protective [than WV's proposed rule], the problem with

both standards is that they're so convoluted that they're virtually impossible to enforce. Most states already do nothing to control selenium pollution, and EPA's criterion will make it essentially impossible for citizen groups to do so. EPA's weak and voluntary criterion is a big step backwards and a gift to the coal industry."

#### **-- Aluminum**

The proposed aluminum rule requires calculation of the Al criteria based on the hardness of the stream. We oppose the rule because the new equation in the rule would significantly weaken protections, as compared to the existing rule.

As stated in our comments submitted by WV Rivers Coalition on behalf of our WV Water Policy Working Group, "The revisions are drastic. For high hardness streams, the proposed chronic criterion is more than 40 times weaker for trout streams and almost five times weaker for warm water streams. The acute criterion is almost 12 times weaker."

Citing also Dr. James Van Gundy's statement as a member of the WVDEP Advisory Council our comments also ask the WVDEP to proceed with caution in employing a hardness-based approach to setting a new and significantly more permissive Aluminum standard.

-- "The few studies that are available do not make nearly as strong a case for the protective effects of hardness against Aluminum toxicity as has been made for divalent metals such as Cadmium, Copper, and Zinc. In addition, very little is known about the fate and biological effects of Aluminum in natural aquatic systems."

-- "The specific biological activity of the various Aluminum species is almost entirely unknown as most published studies have dealt with a very limited list of test organisms under often poorly controlled or poorly characterized experimental conditions."

-- "A great deal more sound science is needed before it can confidently be determined what levels of Aluminum are protective of the aquatic life of West Virginia's waters. Until that science is available, it is irresponsible to permit the significantly greater aquatic loading of

**More on the next page)**

## More About the Rules (Continued from the previous page)

Aluminum that this emergency rule would allow.”

### -- Variances

Two proposals for variances from current water quality standards in several streams of the Cheat and Tygart Rivers set extremely loose standards in order to allow for experimentation with lime dosers to address on a watershed basis polluted drainage from a combination of forfeited (sites mined and abandoned after 1977 and now via court order required to have WVDEP NPDES permits) and abandoned (sites abandoned prior to the 1977 Surface Mine Act) mine sites in the affected areas.

A complex set of issues are at the heart of my own personal observations and objections and I could ramble on about them, but perhaps it's best to summarize our opposition with this succinct paragraph from our comments:

“Please accept these comments on behalf of Appalachian Mountain Advocates, the West Virginia Highlands Conservancy, and the West Virginia Rivers Coalition, in regards to the proposed site specific water quality variances on Martin Creek of Preston County and its tributaries, including Glade Run, Fickey Run, and their unnamed tributaries, as well as Maple Run, Left Fork of Little Sandy Creek, Left Fork Sandy Creek and their unnamed tributaries. WVDEP is moving too fast, answering too few questions, in proposing the variances for these streams in the Cheat and Tygart watersheds. The background work and legal justification has not been provided to support the variances and too many

questions remain for WVDEP to move forward at this point.”

### Aboveground Storage Tanks

This rule pertains to the renewed chemical-storage tank safety efforts sparked by the January 2014 Elk River spill that contaminated drinking water for some 300,000 residents in the Charleston area and another dozen surrounding counties.

Commenting on the proposals in the Aboveground Storage Tank rule (commonly referred to as the Tank Bill) – environmental comments urged strengthening the proposed rule and suggested that relaxing guidelines and timelines is ill advised.

Recommendations were made to strengthen requirements including those related to registration, classification, inspection, public notice of modifications, financial responsibility and bonding. And to reinstate provisions from the 2015 Rule about requirements pertaining to “Operation and Maintenance”, “Design, Construction and installation”, and “Reporting and Recordkeeping”

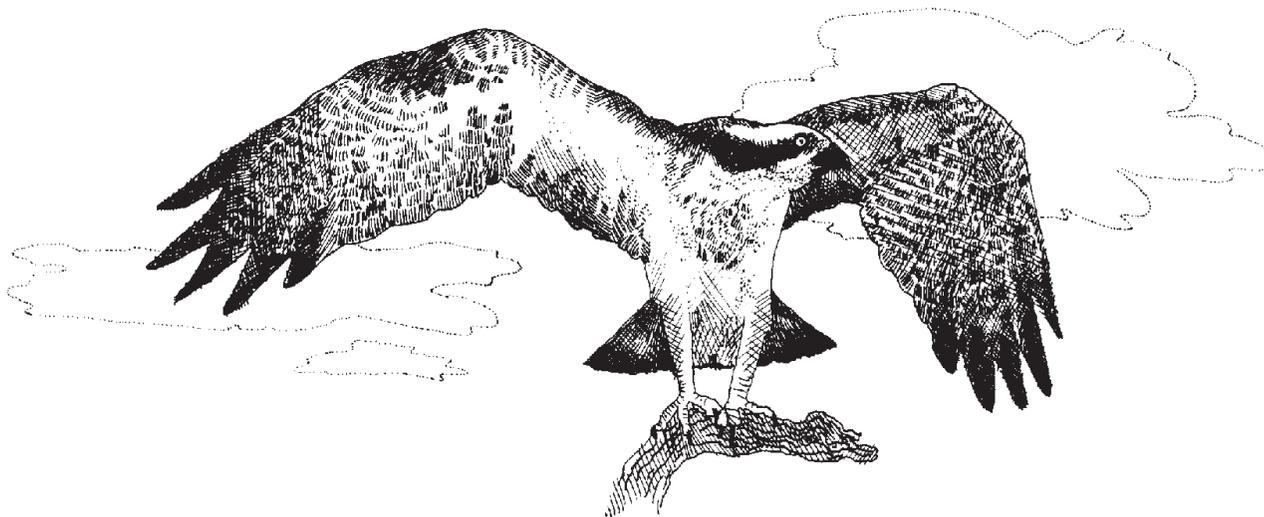
### Horizontal Well Development

Thanks to a collaborative effort with our friends in the WV Surface Owners Rights Organization (WVSORO) we submitted comments best summarized from the statement below.

“In general, we support many of the proposed changes to the rule and commends the agency for its efforts to fill in the gaps in areas such as drilling in karst terrain/ areas, quality and flow testing of water wells near supply wells, and procedures for investigation of migration, where it

was given rule-making authority under the Horizontal Well Control Act, but chose to forgo using this authority when these rules were initially proposed in 2012. Yet, despite the many positive changes proposed, we are disappointed that, with the exception of some changes to the sections of the rule regarding construction of centralized pits and impoundments, the agency did not take advantage of this opportunity to implement any of the recommendations mandated by the Act. We recognize that DEP made a recommendation to the Legislature that the distance from occupied dwellings be measured from the “limit of disturbance” rather than the center of the pad and that that requires a statutory change. However there were a number of other rules that could have been proposed that were not, including rules establishing guidelines and procedures regarding reasonable levels of noise, light, dust and volatile organic compounds related to drilling horizontal wells, and reasonable means of controlling and mitigating these factors. Nevertheless, these proposed changes do some things that are very good, and that have been needed for some time.’

Stay tuned for developments as these rules head for the Legislative Rule Making Review Committee and the WV required legislative review. For copies of the above referenced comments feel free to contact me directly ([clrank2@gmail.com](mailto:clrank2@gmail.com)) and I can email whatever documents you request.



## Board Highlights

The Board of Directors of the West Virginia Highlands Conservancy held its quarterly meeting, the usual mix of the mundane (approve the treasurer's report, listen to a plea for more articles for the *Voice*, etc.) and reports on issues in which we are interested.

The Board also discussed efforts to keep the organization running efficiently. President Cindy Ellis reminded the Board about the need to update our bylaws and to set meeting dates for future meetings. She also appointed a nominating committee to fill five at-large Board positions that expire in October, 2015. See story on p. 15 of this issue of *The Highlands Voice*. There was brief discussion about making *The Highlands Voice* an electronic only publication but there was no significant support for the idea so the *Voice* will remain both paper and digital.

Narrative and pictures for the new edition of the Hiking Guide are being reviewed by an ad hoc committee of Frank Young, Cindy Ellis, Hugh Rogers, George Beetham, and Lois Ludwig. It was decided to include at least a few color photos and ideas for a pocket sized booklet and creating an app for the guide were again mentioned for consideration at some point.

The Board heard about and considered a report on the work of the ad hoc committee on the website. The website has been a problem for a while, one which we think we are on the way to solving. See story on p. 15 of this issue.

In April Cindy Rank, Bill McNeel, Jackie Burns, and Marilyn Shoenfeld agreed to work on plans for a 50<sup>th</sup> anniversary celebration in 2017, but had nothing specific to report at this time. Suggestions from any and all will be gratefully accepted.

President Ellis reported that since the last Board meeting the Executive Committee had decided to support the policy statement by the Allegheny-Blue Ridge Alliance concerning the Atlantic Coast Pipeline, the natural gas pipeline that Dominion Resources and its partners seek to build from the Marcellus shale gas fields in West Virginia to North Carolina. That statement opposed "all of the announced routes under consideration for the proposed Atlantic Coast Pipeline (ACP) because they are not in the best interest of the public good of the affected communities and citizens of Virginia and West Virginia." To see the entire policy and the reasoning behind it,

see the July, 2015, issue of *The Highlands Voice*. Because the decision was made by the Executive Committee and not the entire Board, it had to be either affirmed or rescinded by the entire Board. After some discussion, the Board voted to affirm the decision of the Executive Committee.

Cindy Ellis reported on several outreach efforts - 1841 "likes" on Facebook; a rough draft of a new WVHC brochure; presentation at the Wild & Woolly Festival at the Tawney Farm in Nicholas County; WVHC's I Love Mountains bumper sticker featured in a news story about preserving Appalachian dialects. It was suggested we put our trademark on any new printing of bumper stickers.

The meeting also included reports on various issues in which we are involved.

In matters pertaining to Wind Larry and Wayne indicated that a draft of the working White Paper commissioned by the Allegheny Highlands Alliance (AHA) was sent to several board members for comments, will be further reviewed by the Committee, and later sent to the larger list serve. Mention was made of 9 wind projects in the PJM region - e.g. some 140 turbines proposed near Davis/Benbush - and what appears to be an ever increasing height of turbines - some 480-500' tall, presumably to improve efficiency. Larry continues to pursue his FOIA to the US Fish & Wildlife about the three projects under investigation, but is having little success.

Larry expressed serious disappointment with WV Environmental Council's inaction on legislation to direct the PSC to improve its Wind Energy Siting Rules. Though the effort was approved as part of the priority legislation the lobby team was to work on, an exchange of emails would indicate it was left hanging.

On the Oil & Gas front Rick Webb gave a powerpoint presentation about the current work of the Dominion Pipeline Monitoring Coalition of which WVHC is a member. Photos from flyovers by the DPMC Pipeline Air Force figured prominently. Highlighted was a near completed report done by Downstream Strategies with financial support from DPMC, WV Highlands Conservancy, WV Rivers Coalition and Greenbrier River Watershed Association. The report documents state and federal regulations that apply to pipeline construction in West Virginia and utilizes photos from the

flyovers to demonstrate case studies of how pipelines - large and small(er), FERC regulated and not - are inspected (or not), carved out of steep forested slopes, abide by the best practices to avoid soil erosion and stream pollution (or not) and makes suggestions and recommendations about how citizens might have input in permitting and enforcement.

Rick observed that the Atlantic Coast Pipeline and the Mountain Valley Pipeline construction cannot comply with erosion and sediment control regulations.

Representatives of WVHC, WVRC, GRWA, WVSC, DPMC met with staff from the Environmental Advocate's office of WVDEP to discuss West Virginia's involvement in permitting and monitoring of gas pipelines - both the large 42" interstate lines like ACP and MVP and the "smaller" 23 and 36 inch intrastate 'gathering' lines beginning to crisscross all over the state. Discussion centered on exploring ways to communicate with each other, to encourage more scrutiny by the agency, and to facilitate additional citizen involvement. We agreed to continue the conversation and exchange information via email and at another face to face meeting at a time and place to be determined.

On the coal front there is no end, despite the current industry PR about a "war on coal". WVHC continues our involvement in litigation old and new to strengthen mine permits and demand enforcement actions that limit the amount of pollution entering our streams and to prevent the loss of streams to subsidence and imaginary attempts at stream creation. The Arch/Leer mine near Tygart Lake expands daily as the longwall panels proceed along their destructive paths. A site visit to the massive coal waste impoundment was enough to take one's breath away standing on the massive amounts of waste underfoot on stage 4 of the impoundment and looking up to the ridgeline that is the final height of stage 12 development. Even now conductivity in the tributary downstream of the treatment ponds has increased from a background of 60 in the early 2000s prior to the waste fill to readings above 900 in July 2015.

New challenges are facing us in proposed rules on the state level that set reduced in-stream standards for Selenium

**(More on the next page)**

## Web Site Update on the Way

For a while now the West Virginia Highlands Conservancy web site has been less than fully functional. Our officers, board, and the ad hoc web site committee have been working on the problem and now have a plan to whip the web site into shape.

We have hired Dan Radmacher to get everything straightened out, spruce things up, etc. He worked as an opinion journalist for more than 20 years, winning state and national awards for his editorials and columns. In 2011, he joined Appalachian Mountain Advocates, a nonprofit law and policy organization as Communications Director. He now writes and does other work for a number of clients, specializing in advocacy for progressive causes. You can find out more at [WritingLeft.com](http://WritingLeft.com). He lives in Roanoke, Va., with his wife, son and two cats.

While he is redoing the web site, the online version of *The Highlands Voice* will have a temporary resting place at the website of the Old Hemlock Foundation. To find a link to the current issue and maybe a very few back issues go to <http://oldhemlock.org/WVHC/>

LeJay Graffious is a director off the Old Hemlock Foundation as well as a member of the West Virginia Highlands Conservancy Board of Directors. We appreciate his willingness to provide *The Highlands Voice* with a temporary home.



Dan Radmacher

## Election Time

There's an election coming up! Not that one with Donald Trump and a cast of twenty (more or less) candidates. This one is less expensive, doesn't last as long, and is not nearly so annoying. It is the election of five at-large positions on the Board of Directors of the West Virginia Highlands Conservancy. No Iowa caucuses, no freezing in New Hampshire, no TV, no fundraising. The whole thing takes place at the Annual Meeting in October, 2015.

President Cindy Ellis has appointed a nominating committee to fill these positions when the terms of current Board members expire in October 2015. John McFerrin, Bob Marshall and Cindy Rank agreed to serve with Don Garvin, Jim VanGundy, and others volunteering to suggest and contact potential candidates.

If you wish to suggest someone for the Board, please contact a member of the committee. Contact information is on page 8. Nominations will also be taken from the floor at the Annual Meeting in October.

If you would like to serve on the Board, feel free to suggest or nominate yourself. This is no time to be modest. The only requirements are membership in the organization and enthusiasm.



## More Board Highlights (Continued from the previous page)

and Aluminum and establish dangerous precedent setting variances in two large streams in northern WV. On the Federal level 1) OSMRE has proposed a new Stream Protection Rule (1,200 pages of rule 1,200 pages of a draft EIA) that includes measures to replace (supposedly without damaging streams) the Buffer Zone Rule upheld by Judge Haden in 1999. And 2) just the day before the meeting EPA released new recommendations for selenium standards that appear to be a wee bit more protective than WVDEP's proposal but are so convoluted that they'll be difficult to translate into permit limits ... and virtually impossible to enforce.

In legislative matters, Frank Young communicated a report from Connie Lewis, WVEC lobby coordinator, about WVDEP proposed rules now out for comment - rules for Air, Water Quality Standards, Oil & Gas, Above Ground Storage Tanks, Mining. Frank expressed great concern about Larry's information about WVEC handling of the proposed Wind Siting Legislation.

The Fall Board Meeting will be Sunday October 18<sup>th</sup> in Elkins at a location to be arranged by Jim Van Gundy.

In the really fun part, the door prize was a summer survival kit: a bar of poison ivy soap, a whistle with a compass to hang around your neck and keep you on the straight and narrow when out hiking, a dozen sugar cones (no ice cream included), and a mint plant for those juleps on the deck. Cindy Rank won the prize though she left the poison ivy soap with Hugh who started scratching and bemoaning the fact that they had run out of their supply.

Lunch was a scrumptious pot luck with a variety of taste treats provided by several folks and enjoyed in the ever comfortable surroundings of Saranam complete with pleasant summer breezes and delightful bird song.

# HIGHLANDS CONSERVANCY BOUTIQUE



- ▶ The baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and an infant onesie. Slogan is "I ♥ Mountains Save One for Me!" Onesie [18 mo.]---\$17, Infant tee [18 mo.]---\$15, Toddler tee, 2T,3T,4T, 5/6---\$18
  - ▶ Soft pima cotton adult polo shirts are a handsome earthtone light brown and feature the spruce tree logo. Sizes S-XXL [Shirts run large for stated size.] \$18.50
  - ▶ Order now from the website!
- Or, by mail [WV residents add 6 % sales tax] make check payable to West Virginia Highlands Conservancy and send to West Virginia Highlands Conservancy, Online Store, PO Box 306, Charleston, WV 25321-0306

## T- SHIRTS

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



## HATS FOR SALE

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

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

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