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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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Forest Service Denies Pipeline Application to Cross National Forests

By John McFerrin

The United States Forest Service has denied (more or less, see accompanying box, p. 4) the application by Dominion Resources, developers of the Atlantic Coast Pipeline, to cross the Monongahela and George Washington National Forests. As planned, the Atlantic Coast Pipeline would run over 550 miles through West Virginia, Virginia, and North Carolina, crossing both Forests in the process.

The Forest Service based its denial upon two categories. First, it concluded that the pipeline would do unacceptable harm to threatened or endangered species, particularly the Cheat Mountain Salamander, the Cow Knob Salamander, and the West Virginia Northern Flying Squirrel.

Second, it would interfere with red spruce restoration efforts.

The Monongahela and George Washington National Forests both have Forest Plans. These are huge planning documents, developed or revised every 10-15 years to serve as the master plan for how the Forests are to be managed.

Plans for both the Monongahela and the George Washington contain provisions for how the Forest Service is going to protect the Cheat Mountain Salamander and the West Virginia Northern Flying

Squirrel (in the Monongahela) and the Cow Knob Salamander (in the George Washington). In its decision, the Forest Service concluded that the proposed pipeline was inconsistent with its plans for protecting these and other sensitive species.

In this denial the Forest Service did not foreclose the possibility of a pipeline through the Forests. It just rejected the

route that Dominion had proposed. It invited Dominion to submit a modified application which would address the problem it identified. Its suggestions included developing a route that avoids Cheat Mountain and Back Allegheny Mountain in the Monongahela National forest and Shenandoah Mountain in the George Washington National Forest.

Also relevant is the Conservation Agreement for the Cow Knob Salamander, entered into by the United States Forest Service and the

United States Fish and Wildlife Service in 1994. At that time the Fish and Wildlife Service was actively considering listing the Cow Knob Salamander as an endangered species under the Endangered Species Act.

Instead of listing the salamander, the agencies came up with a plan to protect it. The Agreement specifically provides

(More on p. 4)



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Ramblin' the Ridges

By Cynthia D. Ellis

The Ants Go In, The Ants Go Out

Think warm thoughts.

Imagine a summer afternoon in a small town in West Virginia, several decades ago. Kids are playing everywhere. One mother glances out from the window of a brown bungalow, to check on any youngsters who may be in view. A small figure lies, relaxed, on the warm, sunny sidewalk out back, head pillowed on a curled-up arm. "Whatcha doing, Stevie?" she asks. "Watchin' ants" is the reply.

I've always loved that story. And...I have done a little ant watching myself. At Girl Scout camp we stopped on the trail once and marveled as black ones fought red ones; a real battle raged. Who could not be amazed at their ferocity, and their ability to hoist huge loads, along with their absolutely entirely dogged determination?

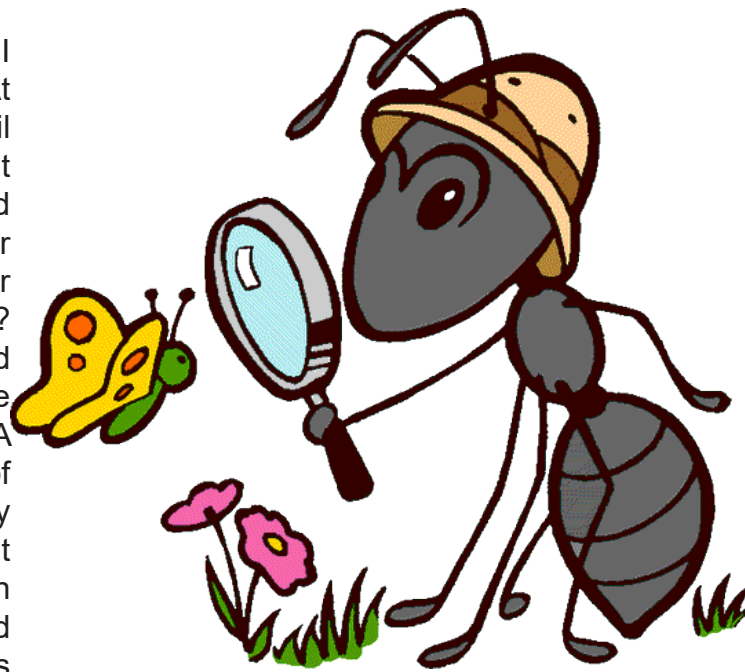
They are tucked up underground now...and we are tucked in too...maybe doing some winter catch-up reading. A friend had tipped me off to the writing of Edward O. Wilson, so his autobiography "Naturalist" was on my list. This preeminent scientist has had, since childhood, an overarching interest in the wildly varied world of insects. Any of us casual students of the outdoors and how things fit together can learn fascinating fun facts from Wilson and others.

Bulldog ants, for one. The workers measure up to three centimeter in length and possess large bulging eyes with excellent vision. They have long saw-toothed mandibles, and painful stings and are among the most belligerent insects in the world.

Another species uses old bits of its colony's own cocoon silk as "wallpaper" in passageways of their underground home. Thus the interior is kept moister than if it were left unadorned.

These factoids can make a person wonder about what species are here in our state.

They are Carpenter Ant, Black Carpenter Ant, Formica Ant, and Red Pavement Ant [those bite]. Red Formica Ants herd aphids to the best spot for honeydew production, which the ants then take. They can spray formic acid from their abdomens. It seems that Red Imported Fire



Ants have made their way to neighboring Virginia, but not West Virginia.

Also not here in West Virginia, but, in Arizona, there are mineral wonders called Ant Hill Garnets. Where ground conditions are right for the formation of ruby-red garnet stones, ants shove them up out of the way of their colonies. So gem hunters look for discarded treasure beside ant hills.

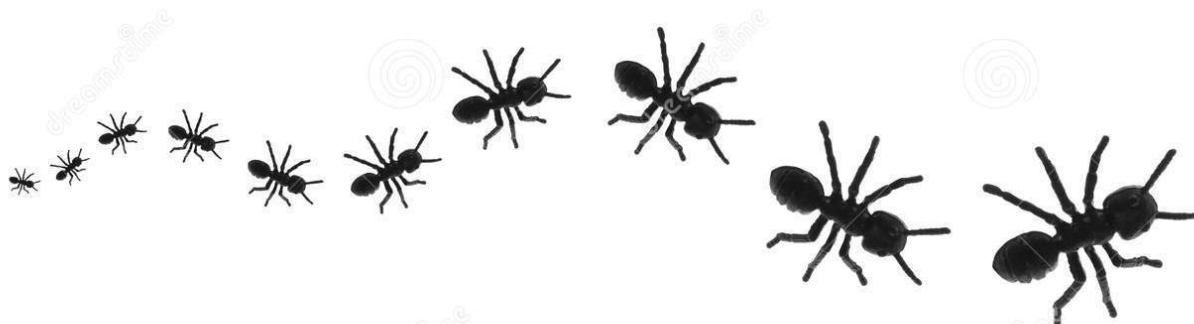
But, gems and fun facts aside, one will find that Edward Wilson's decades of studies of ants and their habitats caused him to develop concerns for those creatures, and for us. He saw the effects of too much

development and too much human activity intruding upon ants and all the plants and creatures linked to them and to the health of our planet.

"While ants exist in just about the right numbers for the rest of the living world, humans have become too numerous. If we were to vanish today, the land environment would return to the fertile balance that existed before the human population explosion. Only a dozen or so species, among which are the crab louse and a mite that lives in the oil glands of our foreheads, depends on us entirely. But if ants were to disappear, tens of thousands of other plant and animal species would perish also, simplifying and weakening land ecosystems almost everywhere."

Too much. Too many. Wilson makes us reflect. So...here we are...in West Virginia where the highlands environment is beautiful but, in many cases, scarred...by the "too much and too many". And a quote about ants mentions our own dispensability. It may follow then, in the season of reading and reflection that we can think and learn more than we knew before about interconnections...and what needs to be done to preserve them and every living thing that sustains them, and us.

And we can dream of spring and summer days---perfect for flopping down on a warm square of concrete or patch of grass--- perfect moments for just watching ants.



Attorneys General Ask US Supreme Court to Step In

Court Refuses to Block Clean Power Plan

By John McFerrin

The United States Court of Appeals for the District of Columbia has refused to block Clean Power Plan adopted by the United States Environmental Protection Agency. The decision came in a case previously filed by West Virginia Attorney General Patrick Morrisey and Attorneys General from 23 other states which seeks to delay and ultimately invalidate the Clean Power Plan adopted by the United States Environmental Protection Agency.

This was not a final decision. The Attorneys General had asked the Court to suspend the Plan's regulations from going into effect while the case is pending. The Court said that it would only issue a stay suspending the regulations under extraordinary circumstances, circumstances which did not exist in this case. This decision only means that the regulations remain in effect and States can keep moving forward with their Implementation Plans

The Clean Power Plan is designed to reduce emissions of carbon dioxide. Under the Plan, each state is required to develop a plan on how it intends to achieve the emission reductions. Under West Virginia law, the Governor, with the help of the West Virginia Department of Environmental Protection, will develop this "State Implementation Plan" and it will be reviewed by the West Virginia Legislature before it is submitted to the United States Environmental Protection Agency.

Those keeping score at home may mark this down as a win for the Environmental Protection Agency and those

who support it. It is, however, not much of a win, roughly the equivalent of coming out of Spring Training with the best winning percentage in the league. Had the Court granted the stay it might have signaled that the Clean Power Plan is a dead man walking and that the Court just has to go through the motions before putting it out of its misery. By denying the stay it just signaled that it was going to do what Courts usually do—listen to what everybody has to say and then decide.

The Attorneys General are not satisfied with this approach. They have made a request to the United States Supreme Court, asking it to stay the Clean Power Plan while the matter is pending in court. They contend that the Clean Power Plan is obviously illegal and that the states will suffer irreparable harm during the time it takes the Court of Appeals to decide. West Virginia Attorney General Morrisey has estimated that a final ruling from D.C. Circuit Court could take at least six months and perhaps stretch into 2017. The Attorneys General want the United States Supreme Court to stop the Clean Power Plan now and, in their view, prevent any damage which will happen while we wait for the Court of Appeals to decide.

To call this approach unusual would be an understatement. While the United States Supreme may have the authority to grant a stay, the probability that it will do so is extremely low, somewhere between the odds of sighting an Ivory Billed Woodpecker and the odds of spotting a unicorn.

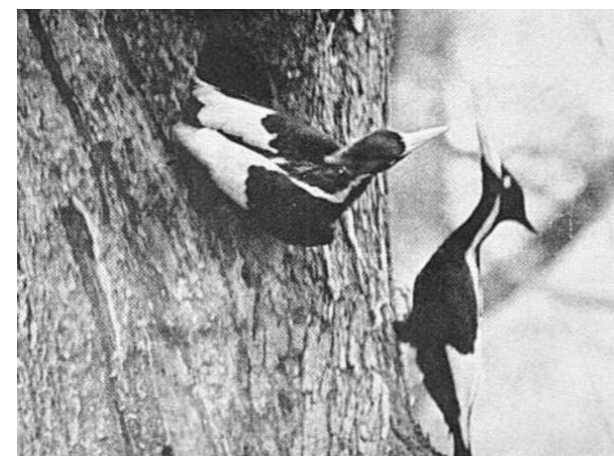
Assuming that the Attorneys

General's Supreme Court filing does not disrupt things, the case will proceed in the Court of Appeals. In its Order denying the Request for Stay, the Court made an attempt to manage the amount of material that it will receive as argument. About forty eight petitions for review of the Clean Power Plan have been filed; almost all represent multiple parties. About as many requests for intervention (including the request by the West Virginia groups) have been filed.

The Court previously suggested that groups with similar interests join together and submit a single brief. In this Order, it warned the lawyers (in more judicious language) not to go blathering on as lawyers like to do but to get to the point, say what they have to say, and shut up.

Argument has been set for June 2, 2016. Between now and then the parties will be submitting written arguments. The Court also held open June 3, just in case it can't fit in all the argument in one day.

West Virginia groups are being represented by William DePaulo, an attorney based in Lewisburg, W.Va.



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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.

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.

Forest Service Denies Pipeline Request (Continued from p. 1)

for protections against “taking” (the Endangered Species Act’s euphemism for “kill”) the salamander and against fragmenting the salamanders’ habitat. In its letter denying the request to cross the Forest, the Forest Service specifically said that any new route proposed must comply with these requirements, including those on taking and on fragmentation.

This decision by the Forest Service should not come as a surprise to Dominion. As reported in the September, 2015, issue of The Highlands Voice, the Forest Service had made comments last summer on the proposed pipeline. At that time the

Forest Service’s thinking on balance and how it applies here. It is a truism of forest management that the National Forests are to be managed for multiple uses including recreation, range, timber, watershed, and wildlife and fish values. One way of thinking about the balance among these interests would be to conclude that these values should be balanced by tolerating some damage to threatened species and their habitats so that we can accommodate the competing value of pipeline construction.

That is not how the Forest Service is looking at the pipeline. It says

Therefore, alternatives must be developed to facilitate further processing of the application. Alternatives must avoid the Cheat Mountain and Cow Knob salamanders and their habitats, the West Virginia Northern Flying Squirrel and its habitat, and spruce ecosystem restoration areas. These resources, and any other resources that are of such irreplaceable character that minimization and compensation measures may not be adequate or appropriate, should be avoided.

Waiting in the wings is the Forest Service’s decision on the Mountain Valley Pipeline. As proposed, it would cross the Jefferson National Forest. Although it has

its own Management Plan, it is managed by the same branch of the Forest Service that denied the request to cross the Monongahela and the George Washington.



Voice reported, “From the tenor of these comments, it is apparent that the Forest Service was not kidding with these protections and intends to enforce them.” In a September 17, 2015, letter, the Forest Service warned the Federal Energy Regulatory Commission that “Pipeline construction in the present location would kill numerous Cow Knob salamanders.”

In addition to protection of the habitats of these threatened species, the Forest Service denial is also based upon the effects of the proposed pipeline upon red spruce forest and previous efforts to restore that habitat. It is apparent that the Forest Service considers red spruce forest as critical and a significant part of its management plan. In the past it has cooperated with the Central Appalachian Red Spruce Initiative to plant spruce trees in appropriate places in the Monongahela National Forest with an eye toward restoring the forest that once existed there. It does not think it would be appropriate to allow a pipeline to interfere with these efforts.

Also apparent in this denial is the



It Ain’t Over ‘til It’s Over

While it might be theoretically possible that the Forest Service could have said, “You’re not crossing the Forests; go away, don’t bother us.” it didn’t do that. It only rejected this route and invited Dominion to suggest another route. It said,

The Forest Service remains committed to cooperating with FERC [Federal Energy Regulatory Commission] and ACP [Atlantic Coast Pipeline] on continued development of the project in such a way that addresses public needs, both for growing demand for natural gas in Virginia and North Carolina, and for the sensitive resources that the Forest Service is entrusted to protect.”

E Day at the
Legislature
where we all

♥ Mountains



Wind Farm Gets Comeuppance

In the November, 2011 issue *The Highlands Voice* reported, in an article by Peter Shoenfeld, a bird kill at a wind facility:

“On October 1st and 2d, 2011, approximately 500 birds were killed in an accident at the new Laurel Mountain industrial wind facility, according to Division of Natural Resources Ornithologist Rich Bailey. The fatalities occurred by collision and exhaustion at the Laurel Mountain substation, where the lights were left on during foggy weather. Over thirty species of mixed migratory songbirds were included, primarily blackpoll warblers. A Green Heron was also a victim and is mentioned here to emphasize the general nature of this avian threat.”

Later on the article noted, “Other similar events have been documented in West Virginia at least twice in the not too distant past.

“Through their short collective memory and other failings, the wind facility operators are fast earning a reputation as unfit stewards of the little bit of nature left after their developments are complete.”

Now those companies have finally gotten their comeuppance. Wind power generation plant AES Laurel Mountain LLC has pleaded guilty to two federal misdemeanors for failing to comply with the Migratory Bird Treaty Act by not using “reasonable, prudent and effective measures to avoid or minimize the impact of lighting on migratory birds.” The company also failed to provide proper training to employees about compliance with the Act.

The company could face a fine of up to \$15,000 for each count, incarceration of up to 6 months, or both when sentencing is imposed at a later date by U.S. Magistrate Michael John Aloï.



Blackpoll Warbler

Spruce Forest Restoration in the Central Appalachians

The Western Mountains Chapter of the Maryland Native Plant Society will hold its regular meeting at Frostburg State University, Compton Science Center, Room 328, on Tuesday February 16th. The guest speaker will be Dave Saville, Program Coordinator for the West Virginia Highland Conservancy's Red Spruce Ecosystem Restoration Program. His presentation titled, “Restoring the High Elevation Red Spruce Forests of Central Appalachia” will begin promptly at 7:00 pm. The public is welcome to attend this free program.

Red spruce and red spruce-northern hard-wood forests once dominated the highest elevations of West Virginia, over one million acres. Extensive logging in the late 1800s and early 1900s reduced much of the mature forest in the Appalachians, including the red spruce-dominated stands. Today less than 50,000 acres of high elevation red spruce forests remain in the State. Besides being reduced in size, the remaining spruce forests are highly fragmented. The Central Appalachian Spruce Restoration Initiative (CASRI) is a partnership of diverse interests with a common goal of restoring historic red spruce-northern hardwood ecosystems across the high elevation landscapes of Central Appalachia. It is comprised of private, state, federal, and non-governmental organizations which recognize the importance of this ecosystem for its ecological, aesthetic, recreational, economic, and cultural values.



Dave Saville grew up in Western New York in a horticultural/agricultural family. He attended West Virginia University earning a BS in Resource Economics and MS in Forestry. He has been active with the West Virginia Highlands Conservancy for many years, serving in various administrative, programmatic and project level capacities. He helped found the Morgantown Farmers Market and the West Virginia Land Trust. He worked for nearly a decade on a successful legislative campaign leading to the passage of the Wild Monongahela Act, signed by President Obama in 2009, it protected nearly 40,000 acres of Wilderness on the Monongahela National Forest. Dave has also spent considerable time in academia, formerly at the West Virginia Water Research Institute at WVU, and currently in the Biology Department at Wheeling Jesuit University where he is working on a water quality study of the Upper Ohio River. A plantsman and amateur botanist, Dave sold cut flowers at the Farmers Market for many years. He enjoys collecting seeds from native plants to be grown and used for restoration purposes. He helped organize, and works to facilitate the work of, the Central Appalachian Spruce Restoration Initiative.

Directions: From I-68 take exit 33 (Braddock Rd & Midlothian Rd exit). Follow Braddock Road approximately 1.3 miles to stop sign. Turn left onto Park Avenue. Drive a short distance and turn left, following signs for the Compton Parking Lot.

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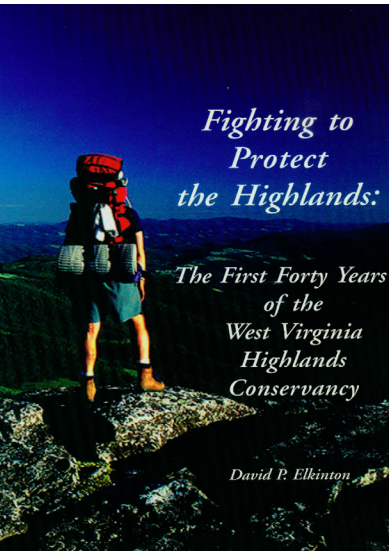
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West Virginia Highlands Conservancy
Working to Keep West Virginia Wild and Wonderful

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 \$15.95, 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.

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Book Premium With Membership

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$15.95 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.

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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.

A Painless Path to Supporting the West Virginia Highlands Conservancy

The West Virginia Highlands Conservancy has registered to participate in the Community Rewards program operated by Kroger. This makes it possible for supporters to financially support the Conservancy by shopping at Kroger. Once a supporter has registered, Kroger will donate a small fraction of purchases to the Conservancy.

Our NPO number is 85577. You don't have to know this to register but it helps. If you don't know the number you have to search through the list of several hundred organizations to find WVHC. If you know the number you don't have to search.

The Directions (from Kroger)

TO USE THE KROGER COMMUNITY REWARDS PROGRAM:

- Register online at krogercommunityrewards.com
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BANKRUPTCY ? – ARCH Coal, the Latest to File

By Cindy Rank

I confess to not knowing much about bankruptcy laws, but I do believe they can legitimately assist families and individuals who find themselves between a rock and a hard place through no fault of their own, due to circumstances beyond their control that overwhelm their financial abilities (e.g. unanticipated health emergencies and insurmountable hospital and doctor bills).

However, it confuses the bejeebers out of me just how recent bankruptcy filings by business minded major coal companies are equally justifiable.

With profits historically high enough to richly reward company executives with bonuses and perks aplenty, and to keep stockholders happy – though sometimes misinformed about a company's liabilities, it is difficult to sympathize with those same companies pleading poverty and asking for relief from obligations to their workers and responsibilities to reclaim land and protect water from contamination and pollution.

Last Fall during Patriot Coal bankruptcy proceedings and after much discussion and wheeling and dealing back and forth Blackhawk Mining bought Patriot's viable mines and Virginia Conservation Legacy Fund (VCLF)/Tom Clarke assumed responsibility for some 153 other permits with water and reclamation liabilities as well as operations at Hobet 21 in Boone-Lincoln Counties and the Federal mine in Harrison County.

Time would/will tell how much the settlement not only relieved the company's immediate burdens but also takes care of the problems it leaves behind. Now some results have begun to play out.

Blackhawk made big headlines as it accepted hundreds of rehiring applications for jobs at the mines bought from Patriot. ... But recent news reports indicate Blackhawk is already closing mines and laying off miners.

As for Tom Clarke and the promise to plant trees all over the place as carbon credits/offsets for the coal mined and sold? Well, that practice isn't recognized as a legit means of offsetting carbon.

... And his commitment to reclaim at Hobet 21? Well, in the January State of the State address West Virginia Governor Earl Ray Tomblin spoke about state financing and shared investment in proposals to develop "the largest industrial site in West

Virginia history at the former Hobet surface mine -- large enough to fit virtually every major economic development project in recent history – including Toyota, Procter & Gamble, Gestamp, Macy's, Amazon and more – with thousands of acres left over."

So at this point in time it appears that promises for jobs, continuation of health and pension benefits for miners and their families, and reclamation by the companies stepping into Patriot's shoes have already begun to fade with a goodly portion of the financial liabilities now expected to be borne by other than the companies responsible.

As the United Mine Workers Union at the time of the Patriot bankruptcy hearings predicted:

"The losers in this scheme would be the miners who generated profits over the years and the taxpayers of the state of West Virginia, the Commonwealth of Kentucky and the United States, who ultimately pay for the reclamation of the environment and the income replacement for injured and breathless miners."

OK – so that was Patriot. What about the Alpha Natural Resources bankruptcy late last year? Surely lessons were learned and West Virginia has done better this time around?

Well... no, not really. When applying for mine permits Alpha asked the state to "trust them" and offered company assets rather than a third party guaranteed bond as a guarantee the company would meet safety and reclamation responsibilities at all their mine sites. They sought and received permission to "self-bond and ... oh... but oops WV Department of Environmental Protection ended up agreeing to settle for over \$200 million dollars LESS than Alpha had promised would be available [*Highlands Voice January 2016*].

That brings us to the next biggie: the recent ARCH Coal bankruptcy. Resolution of this one is yet to come, but already questions

loom large.

Environmental concerns about water pollution and adequacy of bonds to accomplish necessary reclamation, and the company's ability to fulfill promises included in court approved settlements of litigation about water treatment previously written about in *the Highlands Voice* are uppermost in our minds. Of particular concern to WVHC members is what will happen at the 6,000 acre longwall mine (the Leer Mine) near Tygart Lake/Grafton and to the property owners whose homes and pastures are being disrupted, damaged and destroyed and whose water sources are altered or gone completely as the longwall panels sink the ground that lies above the extensive blocks of coal being removed?

Who will be responsible and how much compensation will be available for needed repair and replacement?

... And why, pray tell, would ARCH subsidiary Shelby Mining be allowed to substantially alter a nearby mine permit from a traditional room and pillar operation to a longwall operation? Initially granted in 2013 as a conventional deep mine Shelby is now applying (under an INCIDENTAL BOUNDARY REVISION no less!) to change its mining method to longwall, complete with total ["planned"] subsidence and severe impact to property, water and lives of rural Taylor County to the west of Tygart Lake?????

I must live in a different universe where language and laws have different meanings than the ones I know.



Birthplace of Rivers National Monument on President Obama's short list for action in 2016

West Virginians Push To Get State's Only National Monument Over The Finish Line!

With one year remaining in his term, President Obama is expected to make some big moves on the conservation front. Those actions will certainly include permanent protections for special places on federal public lands. Which of those lands become protected remains to be seen, but there's a strong possibility the Monongahela National Forest could soon host the only wildlands national monument in the Eastern United States.

An unprecedented coalition of West Virginia business owners, sportsmen, local elected officials and conservationists has pushed to make the Birthplace of Rivers National Monument is a strong candidate for protection by the Obama Administration. Through executive action, President Obama has protected more land and waters than any other president – over 260 million acres. He has used the Antiquities Act to either create or expand national monuments 19 times.

For years, the Birthplace of Rivers National Monument has been on the short list of areas considered for designation by President Obama. The proposed monument – including the Cranberry Wilderness, Falls of Hills Creek, Highland Scenic Highway, Cranberry Glades and Tea Creek Backcountry – would be the only national monument of its kind in the East. The monument is projected to increase visitation for countless recreation activities, supporting local economies in need of a boost. The designation would provide stronger protection against expanded industrial development, and would enhance current efforts to restore native trout streams and high elevation spruce forests in the area.

"The Obama Administration places a high priority on supporting conservation

efforts that encourage a strong recreation and restoration economy," Forest Service Chief Thomas Tidwell wrote in a 2013 letter to the Pocahontas County Commission.

West Virginia's efforts got a tremendous boost this fall, when Birthplace of Rivers landed on a short list of five of the nation's top conservation campaigns. KEEN Footwear teamed up with local advocates and outdoor industry leaders to put on the Live Monumental Tour, a cross-country tour aimed at generating support

incredible honor for the Mountain State and its wild places can become a reality!

Get involved!

If the southern Monongahela National Forest gains the protection it deserves as the Birthplace of Rivers National Monument, it will be because West Virginians continued to push for action in 2016. Here are some easy ways you can get involved!

Send a message to the President

Visit birthplaceofrivers.org to send a message to President Obama. Tell him

what the Monongahela National Forest means to you, and why you think the Birthplace of Rivers deserves special protection.

Tell your Birthplace of Rivers story

Do you have a favorite hike in the Cranberry Wilderness? What about a fishing tale from the Cranberry or Williams River? Send your stories to info@birthplaceofrivers.org, so we can be sure the story of West Virginians and our strong connection to 'Wild and Wonderful' is told through designation of the Birthplace of Rivers National Monument.

Sign up for Birthplace of Rivers E-News

Stay up to date on news, action items and events. Sign up for the monthly Birthplace of Rivers E-Newsletter at birthplaceofrivers.org.

Become a monumental leader

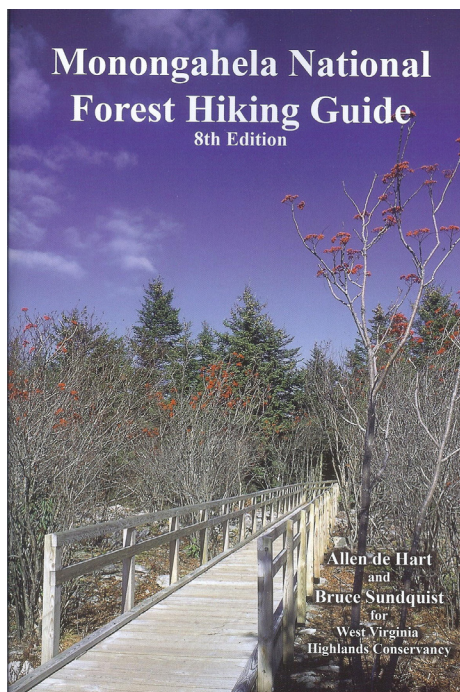
Do you want to host a house party of Birthplace of Rivers supporters? Lead an outing in the proposed monument? Recruit businesses and community organizations to ask President Obama to protect the Birthplace of Rivers? Visit the 'Get Involved' section of birthplaceofrivers.org and let us know how you would like to push West Virginia's only national monument over the finish line!

**Falls of Hills Creek**

Photograph by Randall Sanger, www.randallsanger.com

for protection of these five special areas, which were widely considered some of country's the most likely candidates for national monument status. Over the course of several months and many tour stops, including two in West Virginia, the Live Monumental Tour generated over 100,000 letters of support, asking President Obama to protect Birthplace of Rivers and four other proposed national monuments across the United States.

Thanks to the hard work and perseverance of so many supporters, Birthplace of Rivers is well positioned heading into 2016, but now is no time to let up. The Obama Administration needs to hear from West Virginians to ensure this



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

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- ☐ Trail mileages between waypoints have been added to the maps.
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Please email any poems, letters, commentaries, etc. to the VOICE editor at 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.

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.



Our Readers Write (and send pictures)

Editor, The Highland's Voice,

I have been told a West Virginia University professor "saved" Dr. Core's Arboretum from destruction during the construction of the Coliseum. (Maybe a future reader can identify this hero.) Now I've been told this pristine place is threatened again in the name of progress. I cannot picture in my mind looking up at traffic above on a bridge. And bridge abutments would further destroy the atmosphere.

Every springtime I try to visit the Arboretum. I must confess to have missed the blooming of Twinleaf when I have arrived too late; the little flower blooms early in April. And if I do not visit too late in early May, the Bluebells are spectacular. My friend from Wheeling loves the Trout Lilies in the lower areas near the river. Dr. Core called them Yellow Fawn Lilies from their spotted leaves. Nearby are the Sessile Trilliums and Ramps. At the trail's beginning are pure white Bloodroots; at its end at the gorge Rue Anemone grows.

I enjoy seeing again the great trees which grew there at our nation's beginning. Historically, there is a remnant of the Wagon Road over which travelers carried items from across the river at Granville. For those having an interest in geology, the Ames Limestone outcrops near the Elk Lick Coal seam. The massive Morgantown-Grafton Sandstone overlooks the trail below the Coliseum.

Both geological features can be seen as I drive south from Follansbee to Short Creek on Route 2 paralleling the Ohio River and the Pioneer hiking and biking trail.

Let's tell those with influence that the Arboretum is not an acceptable location for a bridge to and from Morgantown.

Carl M. Patsche
Weirton, WV



Star Magnolia. Look for it in early April on the Circular Trail. Photo by Carl Patsche



Bloodroot. It contains a chemical that is now used in toothpaste.
Photo by Carl Patsche



The Mourning Cloak butterfly is named for its dark coloration, resembling the cloak one would wear during mourning. Photo by Carl Patsche

Industry gearing up for another run at drinking water rule

By Ken Ward Jr.

A legislative mandate for another review of the issue by the state Department of Environmental Protection has industry lobby groups gearing up to once again try to get West Virginia regulators to abandon a longstanding policy of protecting all state rivers and streams as potential sources of public drinking water.

Last week, DEP officials held a public meeting where they focused on moving forward with a directive from lawmakers to “consider potential alternative applications” of the statewide application of “Category A” drinking water standards.

Laura Cooper, assistant director for water quality standards at the DEP Division of Water and Waste Management, recounted for those attending the meeting the history of controversy -- dating back more than 20 years -- over various proposals to do away with the policy.

“It turns out a lot of this stuff has happened before,” Cooper said. “This has been examined many times in the past, and we’ve never been able to come up with a consensus on what kinds of changes we should make.”

Under the law, streams that are designated as “Category A” for drinking water use sometimes have to meet tighter water quality standards. This means that pollution limits for companies are sometimes more strict, meaning permits allow lower levels of discharge into rivers and streams.

Historically, state regulators have mandated that all streams statewide be designated as drinking water sources, even if no one was using them as such at the time.

Among other things, supporters say [including the West Virginia Highlands Conservancy, which has said it approximately one bazillion times] this policy protects residents who get their drinking water directly from small streams, instead of municipal water systems. They also say it keeps streams more viable for drinking in case new residents move in and want to use currently unused streams. Industry officials say that the statewide application is legally incorrect, and that the current process of having a particular stream reclassified as not being for drinking water is too costly and time consuming for companies that face tougher limits where

drinking water isn’t really an issue.

During last week’s meeting, industry lawyer Dave Yaussy tried several times to argue about how his clients believe that the state’s currently policy and practice is contrary to existing law.

Scott Mandirola, director of DEP’s water division, encouraged the group not to keep re-arguing those disagreements, and instead focus on the current legislative mandate.

Cooper and Mandirola noted that DEP had tried to propose a compromise in 2008, with a rule change to maintain statewide applicability of Category A, but also making it easier for industry to seek site-specific exemptions. That proposal died.

“There was absolutely no consensus at all among the interested parties,” Mandirola said. “It just didn’t seem like it was going to go anywhere.”

Last year, lawmakers passed a DEP-initiative that gives drinking water protections to a section of the Kanawha River that runs through Charleston. For years, a 72-mile stretch of the Kanawha from just upstream of Belle through Charleston and on to the Ohio River was exempt from the traditional statewide Category A designation. After the Freedom Industries spill, DEP Secretary Randy Huffman pushed to get rid of that exemption, a move that opened up the possibility of using the Kanawha as an alternative drinking water supply for West Virginia American Water.

As Huffman’s proposal was making its way through the 2015 legislative session, industry officials tried to use the bill as a vehicle to remove statewide application of Category A. Huffman vocally opposed that maneuver, saying it was a move “backward” and encouraging citizen groups to fight the industry effort.

In the end, the Legislature passed Huffman’s proposal for the Kanawha but HB 2283 also included a requirement that DEP include in its next triennial review of water quality standards consideration of alternative ways to implement Category A water use designations, including looking at “stream flow, depth, and distance to a public water intake.”

DEP has already held one public comment period on these issues, and received letters from American

Electric Power, Bayer CropScience, the West Virginia Chamber of Commerce, the West Virginia Coal Association and the West Virginia Manufacturers Association urging the agency to abandon statewide application of Category A.

Rebecca McPhail, president of the manufacturers association, said that the current DEP policy for statewide application is “an unnecessarily restrictive and expensive practice.”

“The study mandated by the Legislature presents an opportunity for the DEP to reconsider its application of the Category A use, by exploring the function of the Category A use and how alternatives to the DEP’s present approach might provide relief to industry without affecting the use,” McPhail wrote in a September 2015 letter to DEP.

In its own letter to DEP, the West Virginia Rivers Coalition and six other citizen groups encouraged DEP to maintain statewide application of Category A.

“While some rivers and streams are currently used for public drinking water intakes, others are used for private intakes. And all rivers and streams may be used as drinking water sources in the future. Category A criteria protect us from exposure to pollutants that are most harmful to human health,” the groups wrote. “Applying Category A to all streams recognizes the potential future use of all rivers and streams as drinking water sources, thus keeping options available for finding water suitable for drinking in the future. This policy keeps West Virginia attractive for businesses and citizens that are currently in West Virginia, or that might locate here in the future.”

Note: This story originally appeared in *The Charleston Gazette*. It is a reminder of the obscure, but important, battles that are going on at the Legislature all the time. It also reminds of us the debt of gratitude that we owe people such as the West Virginia Environmental Council and its member organizations for keeping an eye on such battles.

Fish and Wildlife Service backs off from greater protection**Northern Long-Eared Bat Listed As Threatened Species**

The United States Fish and Wildlife Service has listed the Northern Long-eared Bat as a threatened species. This will provide it some protection, including protection of caves where bats hibernate and the forests where they live in the summer.

The northern long-eared bat is a medium-sized bat about 3 to 3.7 inches in length but with a wingspan of 9 to 10 inches. As its name suggests, this bat is distinguished by its long ears, particularly as compared to other bats in its genus, *Myotis*, which are actually bats noted for their small ears (*Myotis* means mouse-eared). The northern long-eared bat is found across much of the eastern and north central United States, including West Virginia. It is also found in all Canadian provinces from the Atlantic coast west to the southern Northwest Territories and eastern British Columbia. The species' range includes 37 states.

Northern long-eared bats were once one of the most common bats found in the country, living in states from North Carolina to Montana and Wyoming. The bats are voracious hunters and play a big role in controlling insects.

The white-nose syndrome was first identified in 2007, earning its name from white fungus found on infected bats' faces. It has since spread to 26 states and is poised to turn up in Nebraska this winter. The spread of the disease isn't expected to stop until it reaches the West Coast.

White-nose syndrome, a fungal disease known to affect bats, is currently the predominant threat to this bat, especially throughout the Northeast where the species has declined by up to 99 percent from pre-white-nose syndrome levels at many hibernation sites. Although the disease has not yet spread throughout the northern long-eared bat's entire range (white-nose syndrome is currently found in at least 25 of 37 states where the northern long-eared bat occurs), it continues to spread. Experts expect that where it spreads, it will have the same impact as seen in the Northeast.

The decision was not without controversy. The Fish and Wildlife Service had the option of adding the bat to the list of endangered species. In October, 2013, it had proposed such a listing. After public comments it chose to reduce the protections by listing the species as threatened rather than endangered.

Listing as an endangered species gives the greatest protection. Listing it as threatened rather than endangered favors wind farms, loggers, oil and gas companies, and any others who might operate in the bat's habitat.



Happy Groundhog Day!

SAVE THE DATE!

(Whenever that might be)

The West Virginia Highlands Conservancy is turning 50! In 2017 we will be fifty years and we are having a celebration. We're just now starting to plan to we don't know exactly what the celebration will be or even exactly when. We just know that we have made it for fifty years and are still kicking. That is worth celebrating.

Watch for developments as planning continues. If you have ideas, let us know.



The West Virginia Highlands Conservancy and the West Virginia Land Trust have cooperated in the past. In many of the cases to enforce the federal and state Clean Water Acts, the miscreants have been ordered to pay a penalty. The parties in those cases have often agreed that part of the penalty will be paid to the West Virginia Land Trust for its work. To learn about the West Virginia Land Trust and its work, go to its website, <http://www.wvlandtrust.org>. To purchase a ticket to the Bluejean Ball, go there and click on Get Involved. The West Virginia Highlands Conservancy is one of the sponsors of the Bluejean Ball.

Local Energy Efficiency Partnership (LEEP) Act Introduced

The Local Energy Efficiency Partnership Act has been re-introduced this year and been assigned bill number SB 370. According to its supporters, it is in a much stronger position to pass than was a similar bill last year. LEEP is a funding mechanism that empowers commercial building owners to make their buildings more efficient and pay for the upgrades on their tax ticket. The upgrades are funded by privately held bonds that are backed by the energy savings. It was one of the items that the West Virginia Highlands Conservancy recommended to the West Virginia Environmental Council that it adopt as one of its legislative priorities. See, *The Highlands Voice*, January, 2016.

The Senate sponsors are Senators Walters (R, Putnam) and Miller (D, Greenbrier). In the House, it is being sponsored by Delegates Hanshaw (R, Clay) and Fleischauer (D, Monongalia). As of press time it had not been assigned a number in the House.

Note: This is the last piece of accurate legislative information in *The Highlands Voice*. The road from introduction to passage has more twists and turns than a bag of fishhooks. Right now (early in the session) things move slowly enough that it is possible for a monthly publication to publish something accurate. Later in the session, bills take another twist or turn every day, hour, minute. A monthly publication can't keep up. For a good source of news, try the website of the West Virginia Environmental Council, <http://wvecouncil.org>. It is updated frequently and is as good as it gets for news about environmental matters at the legislature.

Charleston Gazette Mail gives strong endorsement of proposed Birthplace of Rivers National Monument

Sunday, January 17, 2016

The historic 2014 pollution mess that ruined the public water supply for 300,000 West Virginians showed the crucial importance of protecting Appalachia's clean streams.

Therefore, we hope Congress or President Obama finally approve the proposed Birthplace of Rivers National Monument in Monongahela National Forest, giving special status to 123,000 acres where six West Virginia streams originate. They are the Elk, Greenbrier, Gauley, Cherry, Cranberry and Williams.

For years, outdoors-lovers have urged leaders to declare the zone as the state's first national monument, a designation for certain wild places. It would be mostly a label-change, because the region already is owned by the public in the national forest and administered by the U.S. Forest Service.

"It takes an area that we think is managed well and keeps it that way in perpetuity," the head of the West Virginia Council of Trout Unlimited once explained. A national monument gets extra care and safeguards.

The designation would draw more tourists to the Mountain State. One study projected \$5 million additional spending yearly by hikers, campers, hunters, anglers, mountain bikers and other nature fans.

A Web site promoting the project warns that some Congress members want to unleash greater industrial development in national forests — or even sell the forests for commercial gain.

Either Congress or the president can prevent that misfortune by declaring the national monument. We hope all West Virginia leaders press for action.

Note: See the related story, p. 10.

No More Floppy Disks!

Last month a sharp eyed reader noticed that the *Voice* was still soliciting stories, etc. on, among other things, "floppy disk." (see box on p. 3) The *Voice* hadn't gotten a contribution on floppy disk since at least 2012. Don Gasper, our only floppy disk holdout, died in early 2013. So, in an attempt to plant itself firmly in the 21st Century, *The Highlands Voice* is putting its foot down: no more floppy disks.

For readers whose preferred communication is quill pen, *The Highlands Voice* does accept submissions written with a quill pen as well as other time tested means of communication.

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.]---\$25, Infant tee [18 mo.]---\$20, Toddler tee, 2T,3T,4T, 5/6---\$20
- Soft pima cotton adult polo shirts are a handsome earthtone light brown and feature the spruce tree logo. Sizes S-XL [Shirts run large for stated size.] \$ 25.00, 2XL \$26.50
- 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 \$18 by mail; **long sleeve** is \$22. 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 \$20 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