

West Virginia Highlands Conservancy  
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# The Highlands Voice

Since 1967, The Monthly Publication of the West Virginia Highlands Conservancy

Volume 50      No. 7      July, 2017

## Celebrating Old Growth in Doddridge County

By Cindy Rank

Sunday, June 11<sup>th</sup> dawned clear and warm - a perfect day for gathering to dedicate the new Forest Preserve in Doddridge County west of Clarksburg, WV.

Decades ago Marie Hall Jones, in her wisdom and with a deep respect for nature and especially old growth timber, bought the Doddridge County property at auction on the courthouse steps. Mrs. Jones then deeded the property to her son, Allen, who recently donated the property to the West Virginia Land Trust to honor his mother's wishes that the untouched forest be protected forever.

Currently residing in California, Allen and his wife were on hand to offer gracious remarks and to tell the story of how his mother sought out forested land and then out bid determined timber companies to purchase the property at auction.

The nearly 200 acres includes some 15 or more acres of old-growth trees ranging from 160-300 years of

age and will be open to the public as a nature preserve once parking and access have been developed.

The several dozen people at the dedication had the option of hiking up the hill through typical West Virginia forested beauty to the highest elevations for a walk through the old trees that escaped timbering some hundreds of years ago.

– Awesome.

While there likely are small pockets of old growth throughout West Virginia, it's particularly gratifying to know that this particular spot in Doddridge County will be preserved for future generations when so much of the county is being blanketed by endless shale gas related drilling, compressor, pipeline, separator, water processing, and salt disposal sites.

I share the feelings expressed by the local residents who attended the dedication and thank Allen and the West Virginia Land Trust for making this preserve possible.



Rick Landenberger talking with Allen Jones and his wife

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## Ramblin' the Ridges

By Cynthia D. Ellis

Our group, throughout its 50 years, has a long record of positive actions for the environment in West Virginia. It is gratifying to read, in our history book, of those wins.

But, our progress over time has not been without a few fumbles. We hope we've learned from our missteps and we consider it valuable to review our past in its entirety.

One of the first problems occurred quite soon after the organization of the West Virginia Highlands Conservancy. In our 40 years history book, author Dave Elkinton sets the scene at Seneca Rocks in the late nineteen-sixties:

"Very early the protection and ultimate management of what became the Spruce Knob-Seneca Rocks National Recreation Area [NRA] was the subject of heated Conservancy meetings. Many citizens, mostly from outside the immediate area, urged the establishment by Congress of the NRA within the Monongahela National Forest, as a means of protecting the NRA land from timber and other potential development threats. No one, least of all the members of the fledgling Conservancy, understood that the establishment of the NRA would lead to massive property acquisition by eminent domain. Local farmers, especially near Seneca Rocks, the nearby Germany Valley, and all along the North Branch and main stem of the South Branch of the Potomac, were faced with government condemnation in the name of protecting these natural areas."

One error in this push for acquisition was that the Forest Service relied on inaccurate and inflated projections of the number of visitors to the site. But, one of us---Bob Broughton---recognized this. He further advised WVHC that the plans affected "...real people, people with emotions and aspirations just like any of the rest of us living in West Virginia..." and he eloquently defended the landowners who

stood to lose their family homes.

In retrospect Elkinton reflected that there would come to be many other instances of overblown projections in our history of watchdogging developmental efforts here. Secondly, he noted that there also came to be repeated cases in



which there would be "developments that undervalued local residents' love for their land..."

However, some in the Highlands Conservancy feared the loss of opportunity to define and protect the site and they pressed for acquisition. We urged members to contact Congress in support of the Spruce Knob-Seneca Rocks NRA. But, we freely offered the podium, at our Fall Review, to landowners who felt their voices had not been heard. Not long after, our then-president, Bob Burrell, pointed out in *The Highlands Voice* that gubernatorial candidate Jim Sprouse was found to have been part of an "illegal land dealing company that bought up much of the land in the proposed Spruce Knob-Seneca Rocks area and then made a killing in profits reselling the land to the Forest Service."

At our Fall Review the following year, landowners again spoke of "the bumbling inefficiency" of the Forest Service in this

matter. The local service superintendent was in attendance and had little to say in justification. In our own organization's defense, we did publish information several times regarding the "inadequacy of the compensation laws and procedures." In wrapping up the story, most readers will know that the NRA was established; not everyone will have previously known at what cost.

The main lesson learned was clear communication. We can take some comfort in our part in allowing more folks to speak out. Two other lessons were that attention to details is vital, and that areas already belonging to the public are perhaps the fittest for preservation ideas.

This story has always gripped my imagination and especially because of my friend Carol. We had taught in adjoining classrooms for several years before I found that she was from Seneca Rocks. Really, right from the Rocks. Her family owned the land and operated a small souvenir shop there. We were still co-workers when I became active in the West Virginia Highlands Conservancy and learned about our organization's somewhat bumbled attempts at preservation. Carol is not reproachful, but does speak warmly of her wonderful childhood home and she remembers that it was painful for her family to relinquish their home. It's just ironic to me that she and I would share a connection to this beautiful Mountain State landmark, but in different ways.

We are always learning.

**West Virginia Lax in Stream Cleanup****Court of Appeals Refuses Stay in Cleanup Case**

By John McFerrin

The United States Court of Appeals for the Fourth Circuit has refused to stay an order by the United States District Court for the Southern District of West Virginia. The order required the United States Environmental Protection Agency to approve or disapprove West Virginia's list of streams that had to be cleaned up.

**The legal/bureaucratic rigmarole**

The way the system works, states have to submit lists of impaired streams to EPA and EPA has to either approve or disapprove them. West Virginia has submitted clean-up plans (TMDLs) for some streams, just not the ones that are biologically impaired by high conductivity. EPA is required to either approve or disapprove the submissions or—in the case of the biologically impaired streams—the non-submissions of cleanup plans.

In February, the District Court Judge ordered EPA approve or disapprove the plans within thirty days. His decision so sharply criticized lists that do not include streams biologically impaired by high conductivity that it is apparent that the Judge thinks that disapproval is the right answer. For a little more detail on this decision and how we got here, see the March, 2017, issue of *The Highlands Voice*, available at <https://wvhighlands.org/highlands-voice-mag/>.

Once disapproval happens, the EPA will have a duty to step in and write the necessary clean-up plans. If it does not do so, there will be more litigation seeking to require it to do so.

EPA disagrees with the District Court and has appealed to the United States Court of Appeals for the Fourth Circuit. It also asked for a stay of the District Court's decision. Had it been granted, the stay would have meant that EPA would not have to do anything until after the appeal was heard and decided. Instead, the Court of Appeals denied the stay.

**The Heart of the Matter**

Under the federal Clean Water Act, West Virginia has a duty to identify streams that are polluted and figuring out how to clean them up. While West Virginia didn't exactly spring into action when the Act was passed in 1972, it got started in the mid-1990s and has been identifying streams which were polluted along with plans to clean them up.

While West Virginia had identified several streams, it had not included streams that were impaired by what is called "ionic pollution" or high conductivity. West Virginia has between two hundred and six hundred such streams, depending upon who is doing the estimating.

Conductivity is a measure of the ability of water to pass an electrical current. Totally pure water is a poor conductor of electricity. The more substances that are in the water, the greater the conductivity. Conductivity is useful as a general measure of stream water quality. Research has shown that high conductivity can make a stream inhospitable to aquatic life, making the stream biologically impaired.

Since 2012, West Virginia has not been considering conductivity when it prepares lists of impaired streams and plans for cleaning them up. It did this largely because in 2012 the West Virginia Legislature directed it to not do any more lists until it had developed a new method of determining whether a stream was biologically impaired. Such a direction would be beneficial to the

coal industry. The West Virginia Department of Environmental Protection has been "working on" developing a new method since then but has not made much progress. It has offered no estimate of when it might finish.

The plaintiffs (West Virginia Highlands Conservancy, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, and Sierra Club) contended that submitting lists that do not include streams impaired by high conductivity is the same as submitting no lists or cleanup plans at all. EPA has a duty to approve or disapprove the lists West Virginia has submitted. Since the lists submitted do not address conductivity, it could not approve them. If it does not approve West Virginia's lists, EPA must step in and do West Virginia's job or preparing lists of impaired streams and cleanup plans.

The United States District Court agreed with the plaintiffs. It scolded the West Virginia Department of Environmental Protection because it did not do its duty to figure out what streams are messed up, etc. The United States Environmental Protection Agency is also in trouble because it stood by and allowed West Virginia Department of Environmental Protection to shirk its duty.

**What the Stay Decision Means**

In the short term the refusal means that the process to getting streams cleaned up continues to move forward. The whole process can be frustratingly long but at least we are not stopping to wait while the Fourth Circuit considers the matter. EPA will have to go ahead with its approval-disapproval decision and things will proceed from there.

The decision on the stay is also a hint on how the Fourth Circuit might rule. A court would only stay a decision if it thought there was a reasonably good chance that decision was wrong and would later be overturned. That the Fourth Circuit refused to issue the stay gives some indication of how it will rule.

**How EPA Responded**

Under the District Court's decision, EPA had a duty to either approve or disapprove West Virginia's list of impaired streams. From the Judge's decision, it was clear what he thought the right answer was. The decision talked extensively about the importance of conductivity and how any list should include streams where high conductivity indicates they are impaired.

EPA didn't take the hint. Instead of recognizing that West Virginia's lists were inadequate and disapproving them, it "conditionally approved" the lists. This was based upon West Virginia's promise to—sometime in the next nine years—compile an adequate list and set of cleanup plans. This decision allows EPA to avoid its duty to step in and do what the law requires that West Virginia do. It allows West Virginia to drag along as it has for the past decades, never completely doing its duty.

This was not the response from EPA the Plaintiffs expected. They assumed EPA would follow the letter and spirit of the Court's decision, disapprove the lists, and step forward to do the job itself. Now that EPA has refused to step forward, the Plaintiffs will be considering their next steps.

Stay tuned.

# Forever Fola

By Cindy Rank

As reported in previous issues of the Voice, mining operations on the mountain ridges along the Clay/Nicholas County line continue to pollute streams that flow into both the Gauley River to the south and the Elk River to the north.

Many of these articles have focused on mines operated by Fola Coal Company. And those mining operations continue to come under scrutiny in Federal Court as a result of citizens suits filed on behalf of West Virginia Highlands Conservancy, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, and Sierra Club.

The U.S. Environmental Protection Agency (EPA) has estimated that nine out of ten streams downstream from valley fills associated with coal mines are biologically impaired. But neither the state of West Virginia nor the EPA has taken action to require compliance and cleanup of the impaired streams.

Congress authorized citizen suits under the Clean Water Act to enforce the law directly against permit violators like Fola, and we continue to pursue litigation over violations at several of the company's mining operations in the Clay/Nicholas County area.

These legal procedures require voluminous filings by plaintiffs and defendants alike, and often one or more actual court hearings or trials with expert witnesses testifying for each side – a process that often takes a year or two or more – hence, the many Voice articles that may at times seem repetitive.

A couple of notable actions involving Fola took place too late to be included in the June issue of *the Highlands Voice*, but deserve some mention here.

## 1) Fola Monoc #2 Surface Mine.

Beginning with a Notice of Intent (to sue) in 2014, then filing a complaint on February 2, 2015, plaintiffs alleged that Fola Monoc #2 mine was polluting receiving streams Shanty Branch and Elick Hollow of Leatherwood Creek in Clay County.

Responding to a challenge by defendant Fola Coal, the court affirmed on February 27, 2017 and memorialized in a Memorandum Opinion and Order dated April 4, 2017 the validity of our standing as plaintiffs.

A trial/court hearing on the liability phase of the litigation was held March 13 & 14, 2017 to determine if Fola Coal should be held responsible for pollution of the tributaries of Leatherwood Creek below the two valley fills at the Monoc #2 mine.

A court opinion issued May 26, 2017 held that yes, Fola Coal was responsible for ionic pollution (measured by conductivity) that “caused or materially contributed to the significant adverse impact to chemical and biological components of stream aquatic ecosystems of the applicable streams in violation of narrative Water Quality Standards incorporated in the permit.”

U.S. District Judge Robert C. Chambers found that while “at one time both streams were thriving ecosystems, teeming with life that supported important functions for West Virginians and terrestrial and aquatic organisms, alike ...” “The chemical and biological

components of Shanty Branch and Elick Hollow have been dramatically affected by Fola's discharges into each stream.”

Downstream users rely on West Virginia's complex network of flowing streams for clean drinking water, fishing, recreation, and other important economic uses like tourism. These streams also serve cultural and spiritual purposes for West Virginians living near to and downstream from these once pristine rivulets. Protecting these uses is the overriding purpose of West Virginia's water quality standards and the goal of the state's permit requirements.”

Of special note in the May court opinion is the fact that this is the first court decision that uses West Virginia's more accurate and peer-reviewed method of measuring biological impairment in streams.

By way of background, in 2000 WVDEP, in partnership with private consulting firm Tetra Tech, developed a family-level identification of stream life known as the West Virginia Stream Condition Index (WVSCI) and began using it to determine stream impairment for purposes of compliance with the CWA in 2002.

Always looking to build that better mousetrap WVDEP and EPA jointly developed another methodology known as GLIMPSS (Genus Level Index of Most Probable Stream Status) in 2010. It uses genus-level identifications of macroinvertebrates (insects, bugs, generally) collected at streams to calculate a score that corresponds to the health of the stream.

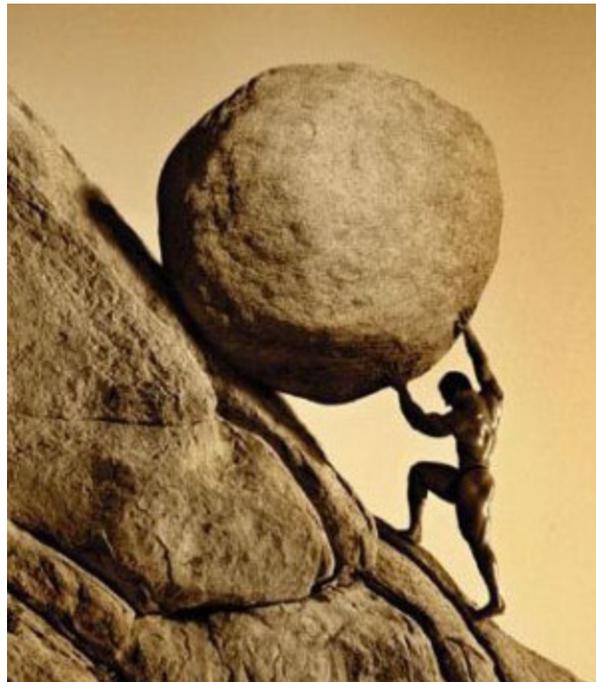
Both WVSCI and GLIMPSS are valid and accepted methodologies to test for impairment. However, expert testimony and

peer-reviewed studies have shown that GLIMPSS is a more accurate measure of impairment. Unfortunately while on the one hand WVDEP promotes the use of GLIMPSS in its Benthic Macroinvertebrate Collection Protocols, stressing that WVSCI should only be used for data that does not include genus level identifications, the agency has refused to apply that stream assessment method to mine pollution, forcing citizens to bring court actions like this one to enforce the law.

Citing expert testimony and exhibits submitted as part of the written record, the May 26<sup>th</sup> court opinion emphasizes the importance of GLIMPSS in evaluating the headwater streams impacted by valley fills.

“Since publication of WVSCI in 2000, however, available biological data and science have progressed significantly. Assessment of the health of bodies of water has progressed from family-level to genus-level identification to more accurately represent the composition of the aquatic community and increased [the] ability to detect a variety of impacts. Regarding genus-level indices compared to their family-level predecessors in southern West Virginia waters affected by mining, genus-level metrics have been found to detect impacts more effectively than WVSCI. This is in part because a site may lose several genera before an entire family was extirpated and therefore became visible to a

**(More on the next page)**



**Fola Coal (Continued from previous page)**

family level index. For example, in a recent study, sample identification at the genus level taxonomy demonstrated loss of entire functional feeding groups. Loss of an entire functional feeding group (at the genus level) indicates ecosystem imbalance . . . . By not evaluating this genus-level data, EPA has explained, important information related to impairment may be missed.”

The next step in this litigation is the remedy phase and will include another trial to discuss, debate and determine what measures Fola will be required to implement to correct the violations and stop the discharges of toxic ionic pollution.

**2) Fola 4A and Bullpen.**

On May 24, 2017 the same plaintiffs (West Virginia Highlands Conservancy, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, and Sierra Club), once again represented by attorneys with Appalachian Mountain Advocates and Public Justice, filed a complaint alleging two other Fola mines are in violation of their permits because of toxic ionic pollution.

Whereas the Monoc #2 mine discharges discussed above flow into the left fork or main stem of Leatherwood Creek, the Fola 4A and Bullpen mines at issue in this latest complaint are part of a complex of mines located on the Right Fork of Leatherwood Creek.

Fola 4A and Bullpen were also included in litigation filed in 2015 alleging toxic discharges from several Fola mines in the Leatherwood area. An opinion favorable to the plaintiffs in that case was limited to the other Fola mine discharges, but the location of sampling points downstream of

the Fola 4A and Bullpen mines left doubt in the Court’s mind as to the specific causal nature of the mine discharges in question.

On March 1, 2017 based on expanded and updated information, we sent a Notice of Intent to file suit to the company, to the U.S. Environmental Protection Agency, the Office of Surface Mining Reclamation and Enforcement, and to the WV DEP.

After the requisite 60 days of waiting (but to no avail) for substantive action by the company or any of the agencies mentioned, to correct the violations, diligently pursue administrative, criminal or civil actions, a complaint was filed May 24, 2017.

More on this and other mining and water related litigation and court proceedings in future issues of the Voice. . . . . Stay tuned.

#####

**\* POSTSCRIPT:** Until August 2016 Fola Coal Company was owned by Consol Energy Inc. Apparently Fola has been, or is being, taken over by James Booth’s Kentucky based Southeastern Land, LLC, though according to the WV DEP website, permit transfers have not yet been granted.

It’s understandable why Consol wants to rid itself of the liabilities incurred at the Fola surface mines; in fact rumor has it that Consol paid Southeastern tens of millions of dollars to take Fola. But it’s difficult to understand why James Booth wants to, or is willing to, pick up those liabilities.

WVDEP approval of permit transfers from Fola/Consol will depend largely

on Southeastern’s ability to guarantee sufficient bonding/monies to assure complete reclamation and water treatment.

Bottom line, Southeastern may have bought a pig in a poke.

**Something Else to Worry About**

The federal Clean Water Act prohibits the pollution of water or, more precisely, the “waters of the United States.” There has been an ongoing controversy over what that phrase means. Everybody agrees that big rivers (and even little rivers) are protected. Questions arise over whether the water in tiny headwater streams that are important to the whole water system is protected.

In 2015, the U.S. Environmental Protection Agency and the Army Corps of Engineers issued a rule which clarified that tens of millions of acres of smaller waterways across the United States were, in fact, “waters of the United States” and, thus, eligible for protection under the Clean Water Act.

Now President Trump has signed an executive order directing the EPA and the Corps to repeal the rule with an idea to repeal it altogether. If this happens, it will end protection for the tiny headwater streams that are so common in West Virginia.

This is an ongoing story which will be updated as it develops.

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

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

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

## ***Help Improve the Hiking Guide!!!! Win a Prize!!!!***

We are working on a new edition of The Monongahela National Forest Hiking Guide. To do it, we need your help. The Guide describes nearly 200 U.S. Forest Service trails (800 miles total). Inevitably, some have changed since our last edition was published ten years ago. Do you know of trail descriptions in the 8<sup>th</sup> edition that are no longer accurate? (Or, dare we say it, any that weren't completely accurate to begin with?) We have found a few but there are more to be done. We would like to incorporate your observations into the new edition. As a way of thanking you, we are awarding prizes.

### **Grand Prize: A \$100 Gift Certificate to REI**

### **Semi-Grand Prizes: Five West Virginia Highlands Conservancy Celebrating 50 Years T-Shirts**

**How to help/enter:** Hike a trail in the Monongahela National Forest. Write out your observations about trail conditions, difficulty, interesting features, or anything else you think should be changed in the Hiking Guide's 9<sup>th</sup> edition. Send your observations to Hugh Rogers, 531 Moon Run Road, Kerens, WV 26276, (304)636-2662, [hugh.rogers@gmail.com](mailto:hugh.rogers@gmail.com)

**Deadline: September 1, 2017**

We will draw the winners from all the entries during our 50<sup>th</sup> Anniversary Celebration, September 15-17.

**Thanks for your help, and happy hiking!**

## **West Virginia Red Spruce Trees for Sale!**

The West Virginia Highlands Conservancy organizes volunteers to collect seeds from our native plant species. We contract with commercial growers to grow seedlings for ecosystem restoration projects. All proceeds support red spruce restoration efforts in West Virginia.

### **Spring 2018 Red Spruce**

Red Spruce plugs - 2 yr old container-grown seedlings approx. 10-15 inches tall.

Order now with 50% deposit to assure availability

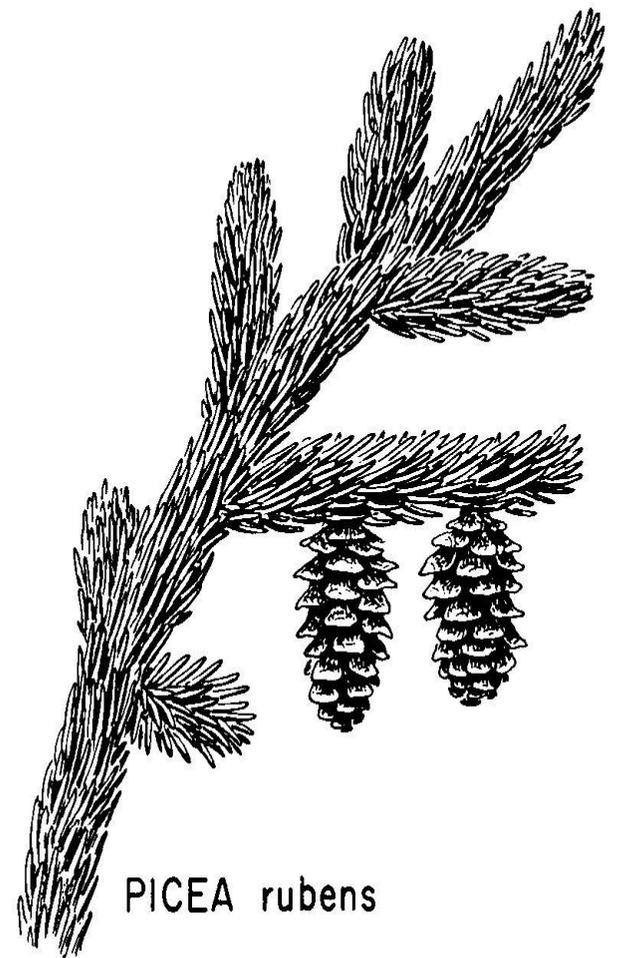
100 - \$220.00; 1,000 - \$1,100.00

After September 1, 2017

100 - \$225.00; 1,000 - \$1,150.00

Available for pick-up in Morgantown during April, 2018.

For more information contact: Dave Saville, [david.saville12@gmail.com](mailto:david.saville12@gmail.com) 304 692-8118



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

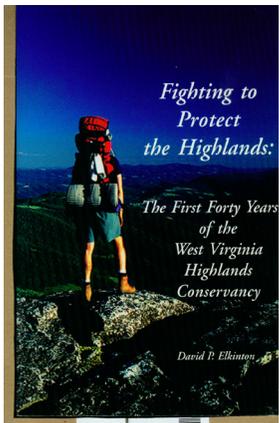
Mail to West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

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

You may also join on-line at [www.wvhighlands.org](http://www.wvhighlands.org)

**GET A GREAT HISTORY BOOK**

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.



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](http://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!**

**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.

**Tell a Friend!**

If you have a friend you would like to invite to join the West Virginia Highlands Conservancy just fill out this form and send it to West Virginia Highlands Conservancy, Box 306, Charleston, WV 25321.

Person you wish to refer: \_\_\_\_\_

Address: \_\_\_\_\_

Email \_\_\_\_\_

Your name: \_\_\_\_\_

Filling out the form, etc. is, of course, the old school way of doing things. If you prefer, just email the information to Beth Little at [blittle@citynet.net](mailto:blittle@citynet.net).

The way it works: Anyone you refer gets *The Highlands Voice* for six months. At the end of the six months, they get a letter asking if they want to join. If they join, we're happy. If not, then maybe next time.

**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.

# Planting the Seeds & Helping Them Grow

## 50 Years of Tending the Environment in West Virginia

Honoring the Partnerships that formed the Highlands Conservancy in the first place and the ever expanding network of new citizen and environmental partners we've worked with through the past 5 decades.

### Program

Tentative - Details are still being finalized

#### Friday, September 15, 2017

- Noon – Registration and Display set-up begins  
 1:00pm – Outings organize for departure  
 3:00pm - Displays, Silent Auction, Photo-sharing, Story Telling, Workshops, presentations and Round Table Discussions  
 4:30pm - Reception Begins
- ✓ **Conservation Leaders, Yesterday, Today & Tomorrow**
- 6:00pm - Panel Discussions
- ✓ **Canaan Valley – The Promised Land**
  - ✓ **Mon National Forest, Wild & Wonderful!**  
Moderated by Dr. Mary Wimmer
- 8:00pm - Keynote Speaker
- ✓ **Alan B. Mollohan, Former Congressman**
- 9:00pm
- ✓ **Music**
  - ✓ **Stars & Salamanders with Frank Slider**

#### Saturday, September 16, 2017

- 7:00am - Bird walk  
 7-8:30am - continental Breakfast  
 8:00am - Registration and display set-up (cont.)  
 8:00am - Morning and all-day outings organize  
 11:00am - Round Table Discussions
- ✓ **Poet's Round Table**
- 1:00pm - Afternoon Outings Organize  
 1:30pm - Workshops, round-table discussions
- ✓ **Partner's Roundtables**
- 4:00pm - **A Celebration of the West Virginia Highlands Conservancy**  
 5:00pm, evening reception/posters/displays  
 6:00pm, Dinner  
 6:45pm **Almost Heaven caught on Film**
- ✓ **Photo Safari with Kent Mason**
- 7:00pm - Panel Discussion/Keynote
- ✓ **Toxic Soup or a Hearty Broth?**
- 9:00pm - **Square Dance**
- ✓ **Featuring Born Old with calls by Jackie Burns and Judy VanGundy**
  - ✓ **Stars & Salamanders with Frank Slider**



*"Celebrating 50 Years"*

## Canaan Valley State Park

September 15-17, 2017

#### Sunday, September 17, 2017

- 7:00am, Bird walk  
 7-8:30am, Continental Breakfast  
 8:00am, morning and all-day outings organize  
 9am Panel Discussion  
**Maintaining Sanity - In An Uncertain Future**  
 11:00am Box lunches, afternoon outings

Contact us at; [wvhc50@gmail.com](mailto:wvhc50@gmail.com)

### Lodging

Canaan Valley State Park, 800-622-4121

- WVHC 50<sup>th</sup> special rate of \$119/night.
- Cabin Rentals available to sleep 4-12.
- Canaan Valley State Park Campground.

### Program Highlights

**Silent Auction** – Consider donating an item.

**Raffle** – we're open for suggestions.

**Displays/Posters** – We'll have plenty of space for our partners to set up displays highlighting their organization, research, or projects.

**Workshops** – We've got time and space for talks, presentations or workshops. We want to learn more about what you or your organization is working on.

**Round Table Discussions** - both structured and impromptu discussions around various topics.

**Conservation Leaders,**

**Yesterday, Today & Tomorrow**

The past meets the future as conservation leaders from all generations gather to reflect on careers, successes & failures, perseverance, friendships, tomorrow, and that common thread that binds us all - our love and appreciation for this special place. Rather than a formal sit-down dinner, we'll have a reception with plenty of fare.

**Canaan Valley – Promised Land**

Winning the battle against the Davis Power Project allowed for the creation of the Canaan Valley National Wildlife Refuge. This panel discussion will recall some of our earliest struggles and the 50 years of work that manifests itself in the Nation's 500<sup>th</sup> National Wildlife Refuge.

**The Monongahela National Forest**

Strong Forest Management Plans and Wilderness protection help to keep the Monongahela Wild and Wonderful. This panel, Moderated by Dr. Mary Wimmer, will recall citizen involvement with Forest planning and Wilderness designation.

**A Celebration of the Highlands Conservancy**

A celebratory reception honoring and recognizing our History, our Founders as well as our accomplishments.

# Celebrating 50 Years!

## Program Highlights

(continued)

### Toxic Soup or a Hearty Broth?

Where Science, Litigation, Activism and Public Interest Intersect. A Moderated Panel Discussion/keynote address.

### Maintaining Sanity - In An Uncertain Future

A panel discussion about Climate Change, renewable energy, and sustainability. What does tomorrow hold?

### Square Dance Featuring Born Old

Born Old is Paul Gartner (banjo, guitar & vocals) and Doug Van Gundy (fiddle, guitar, mandolin & vocals). Making music together for over 19 years, they perform regularly throughout West Virginia and surrounding states, and have been featured at both the Appalachian String Band Festival (Clifftop) and Vandalia Gathering annually for over a decade.

The duo plays traditional old-time music from West Virginia, as well as early country classics from the great artists of the 78 rpm era, including The Carter Family, Charlie Poole, Uncle Dave Macon, and others.

Their performances are traditional and informative without sacrificing a very high energy, raucous, and fun factor.

Contact us at; [wvhc50@gmail.com](mailto:wvhc50@gmail.com)

## Field Trips

Tentative - Details are still being finalized

### Scenic Chairlift Rides, \$7 adults

**Highlands Car Tour**, We'll have a self-guided car tour highlighting regional attractions and scenic destinations.

### Half-day outings

Abe's Run Swamp hike  
Canaan Valley and the Davis Power Project  
Canaan Valley State Park Hike  
History of the ski industry in Canaan Valley  
Red Spruce tree planting and restoration tour

### All Day outings

**Caving** – Sinks of Gandy, Stillhouse Cave  
**Canoeing/kayaking** – Blackwater River  
**Hike** - Otter Creek, South Prong Trail  
**Bike** - Blackwater Canyon Trail  
**White Water Paddling** – Dry Fork River,

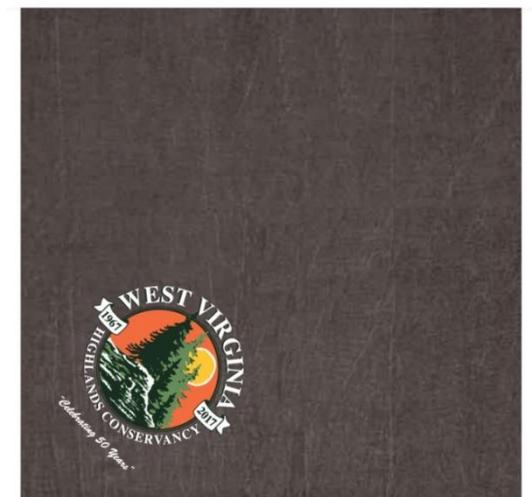
### Stars & Salamanders with Frank Slider

Join longtime WVHC activist & Master Naturalist Frank Slider for a night time hike on Cabin Mountain. We will observe the newly arrived autumn constellations, weather permitting, from a dark sky site with little ambient light. While up in this high elevation habitat, we will discuss the threatened Cheat Mountain salamander (*Plethodon nettingi*) and how fragmentation of the red spruce habitat has exacerbated the salamander's decline.

## Celebrating 50 Years T-Shirts!



**Heavy weight Black t-shirts with color "Celebrating 50 Years" logo S, M, L, XL & XXL. \$20 each, postage included**



**21" square black bandana with color "Celebrating 50 Years" logo. \$5.00 postage included.**

## Registration

<b>Friday</b> , including outings, workshops, programs, reception and with heavy Hors devours.	\$20.00
<b>Saturday</b> , including outings, workshops, programs, Continental Breakfast, Box Lunch and evening Reception/Dinner.	\$40.00
<b>Sunday</b> , including outings, workshops, Programs, Continental Breakfast and Box Lunch,	\$20.00
<b>All Weekend</b> , including all of the above	\$75.00

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Send us this form, or visit our website at [www.wvhighlands.org](http://www.wvhighlands.org) for up-to-date information and online registration.

Mail to: WVHC PO Box 306 Charleston, WV 25321



## The Monongahela Decision

By Dave Saville

In a now famous court decision called "The Monongahela Decision," Judge Robert E. Maxwell of the United States District Court for the Northern District of West Virginia in Elkins curtailed the authority of the U. S. Forest Service (USFS) to sell timber from National Forests.

In the early 1970s, the Highlands Conservancy was busy seeking Wilderness protection for Dolly Sods, Otter Creek and Cranberry. One of the reasons was because we were so very concerned about the clearcutting practices on the Monongahela National Forest (MNF).

Beginning in 1967, the Forest Service began making very large clearcuts, some in close proximity to each other. They were considered by many to be too large, too concentrated and too visible. Responding to citizen pressure, in February 1970, the West Virginia legislature took action and formed the Forest Management Practices Commission to conduct a study of clearcutting practices on the National Forest lands. In August 1970, the Commission released its Report including guidelines that would limit clearcuts to 25 acres, provisions for more interdisciplinary input into timber sales decisions, more public involvement, and an agreement that clear cutting would not be the primary logging system.

However, USFS managers on the MNF did not heed this advice. They continued to emphasize clearcuts and people became more concerned with the impacts they had on the land, as well as the effects they had on wildlife habitat. The USFS remained "aloof." "Trust us," they said "we're the experts." For West Virginians, where generations of families are fiercely attached to the land, having an outsider like

the USFS making drastic changes to "their" landscape was unacceptable. Clearly, the managers of the MNF lacked sensitivity to what the public thought of the way the new clearcutting policy was implemented.

We began to put pressure on our Congressional delegation. Under the strong urgings of Senator Jennings Randolph of West Virginia, Hearings were held in 1971 by Senator Frank Church. In addition to West Virginia, timber management practices in Alaska, Montana, and Wyoming were brought to the attention of Congress making clearcutting a National issue.

Because of the USFS's continued unresponsiveness to our concerns, the Highlands Conservancy teamed up with the Isaac Walton League to seek recourse through the courts. The November 1973 ruling stated that the USFS was in violation of the Organic Act of 1897, which stipulated that only "dead, physiologically mature, and large growth" trees that had been marked individually for cutting could be sold. Judge Maxwell placed a restraining order on timber harvests on the MNF.

The Forest Service appealed, but in August 1975, Maxwell's decision was upheld by the Fourth Circuit Court of Appeals. One week later, the Chief of the USFS ordered that timber sales on the nine

National Forests in the four states covered by the 4<sup>th</sup> Circuit Court be stopped. The Monongahela Decision set a precedent that could be cited in other appellate courts, and therefore posed a threat to timbering on the entire National Forest System.

The court decision effectively stopped clearcutting on the National Forests. In response, Congress sought new legislation that would provide authority for the Forest Service to manage our forests in an economically, biologically, and socially acceptable manner with strong recognition of the need for environmental protections, appropriate public processes, and limits on agency discretion.

In October 1976 the National Forest Management Act (NFMA) was passed as a direct result of the Monongahela Controversy. The main objectives of NFMA are to require the U.S. Forest Service to develop management plans for each national forest that would set standards for timber sales, and create policies to regulate timber harvesting. The legislation places an emphasis on interdisciplinary management of forest resources, as well as including public input as part of the decision-making process. Together with other important legislative mandates such as the National Environmental Policy Act (NEPA), Multiple Use, Sustained Yield Act (MUSY) and the Endangered Species Act, the implementation of the NFMA has sometimes been contentious but it has surely allowed greater public involvement and more concern with biodiversity and less focus on clearcutting. NFMA guides management of National Forests to this day and the West Virginia Highlands Conservancy has continued to play an important role from its establishment and through 40 years of its implementation.



## Board Meeting Coming Up

The Summer Board Meeting will be at 9:30 a.m. on Saturday, July 22, 2017, at the Yew Mountain Center in Hillsboro, WV. All members are welcome to come, listen, discuss, be in the drawing for the door prize, and otherwise fully participate. Only Board members can make motions and vote. If you want to come, contact Cindy Ellis at [cdellis@wildblue.net](mailto:cdellis@wildblue.net) for directions. There are some overnight accommodations. Beth Little ([blittle@citynet.net](mailto:blittle@citynet.net)) knows about that.

As an added bonus, the meeting will be held at the Yew Mountain Center, which is fun to visit even if there is no meeting. The Yew Mountain Center was profiled in the June, 2016, issue of *The Highlands Voice*. To learn more about it, please visit [www.yewmountain.org](http://www.yewmountain.org).

But there's more: there are birding opportunities. On a recent visit the following birds were spotted:

Canada Goose	Blueheaded Vireo	American Robin	Yellow Warbler
Mourning Dove	Redeyed Vireo	Gray Catbird	Chestnutsided Warbler
Turkey Vulture	Blue Jay	Brown Thrasher	Yellowrumped Warbler
Redtailed Hawk	American Crow	Cedar Waxwing	Blackthroated Green Warbler
Yellowbilled Cuckoo	Common Raven	American Goldfinch	Eastern Towhee
Blackbilled Cuckoo	Tree Swallow	Ovenbird	Chipping Sparrow
Redbellied Woodpecker	Barn Swallow	Wormeating Warbler	Field Sparrow
Yellowbellied Sapsucker	Blackcapped Chickadee	Louisiana Waterthrush	Song Sparrow
Downy Woodpecker	Tufted Titmouse	Bluewinged Warbler	Scarlet Tanager
Hairy Woodpecker	Whitebreasted Nuthatch	Vermivora sp.	Northern Cardinal
Northern Flicker	House Wren	Blackandwhite Warbler	Rosebreasted Grosbeak
Pileated Woodpecker	Carolina Wren	Common Yellowthroat	Indigo Bunting
Eastern WoodPewee	Eastern Bluebird	American Redstart	Redwinged Blackbird
Acadian Flycatcher	Veery	Cerulean Warbler	Baltimore Oriole
Least Flycatcher	Hermit Thrush	Northern Parula	Orchard Oriole
Eastern Phoebe	Wood Thrush	Blackburnian Warbler	

Bird list compiled by Casey Rucker, a veteran and contributing birder, compiler of quarterly "Field Notes" for the journal of the Brooks Bird Club, and president of The Friends of the 500th, a citizen support group for the Canaan Valley National Wildlife Refuge.

## Kanawha Trail Club Celebrating 75 years!

We are pleased to congratulate an ally organization on their own anniversary. The Kanawha Trail Club has been active in West Virginia for 75 years!

This Charleston-based group was the brainstorm of Daily Mail columnist Saul Padlibsky. Some history of the KTC has been written by Carl McLaughlin, member of both WVHC and KTC. Carl notes that the time was right for innovative ventures in the Kanawha Valley in the 1940's as war efforts brought new industries and new people to the state's capitol. A first hike of the KTC was in Mission Hollow, near the old baseball park, and was well attended. However, Mr. Padlibsky's enthusiasm was for ideas, not for foot travel. Carl says, "Padlibsky walked a brief 100 yards from his cameraman's car to wish these pioneer hikers well. For this effort, he was granted an Honorary Membership. Afterwards, Padlibsky continued to boost in print the organization but always boasted that he never went on a hike in his life."

Not so, for other members. They fanned out in all directions from Charleston and hosted a terrific variety of walks and outings, and continue to do so today.

The Kanawha Trail Club has been with us from the beginning. KTC's Charlie Carlson was one of our nine incorporators as we organized.

Kanawha Trail Club was a co-sponsor of our early Fall Reviews, including our third in 1967. This was our first under our WVHC name. Copies of "The Highlands Voice" in the sixties note that the trail club organized and promoted trips to the Cranberry Wilderness and other backcountry locations, despite the view of the Forest Service that these places were not much used. KTC members continue to provide helpful input for our book, "Monongahela National Forest Hiking Guide."

So, it is with pleasure that we announce a Double Anniversary Hike: WVHC and KTC, in Kanawha State Forest on September 30 at 9 a.m. Details will follow in the next Voice, or are available on our website and on our Facebook page.

We are delighted with our long partnership with the Kanawha Trail Club and wish them many more happy years on the trails.

[Check out more of their events <http://kanawhatrailclub.org/index.html> ]



## National Academies Move Forward with Health Study

The National Academies of Sciences, Engineering, and Medicine are moving forward with its study of the connection between surface mining and public health. Its mission is to review the evidence and determine what effect large surface mining operations have upon the health of those living nearby.

The study committee had its first public meeting on March 7, 2017. That meeting was mostly about getting organized, defining the problem, etc. There is another meeting scheduled for July 11-12, 2017, at the National Academies Keck Center, 500 5th St. NW, Washington, DC 20001. The meeting should be more substantive this time with testimony from experts, including Dr. Michael Hendryx (formerly of West Virginia University) and Raul Gupta of the West Virginia Bureau of Public Health.

If you want to go, you have to RSVP to Remy Chappetta at [rchappetta@nas.edu](mailto:rchappetta@nas.edu) by Friday, July 7.

You can also watch it on your computer. Go to <https://nationalacademies.webex.com/nationalacademies/j.php?MTID=m992cc149bc42c86df274b5ac35ba814c>.

For a little more background on the study and how it came about, see the stories in the September, 2016, and April, 2017, issues of The Highlands Voice.

If you want to sign up for email updates go to <http://dels.nas.edu/Study-In-Progress/Potential-Human-Health-Effects-Surface/DELS-BESR-16-03?bname=besr>.

For additional information, go to <https://www8.nationalacademies.org/cp/projectview.aspx?key=49846>

The project is supposed to take 24 months from when it began in March, 2017.

**Editor's Note: I realize that for the majority of our readers, who get the Voice in real, on paper, form, this notice is too late. It is here because we now have several hundred members who read the Voice on line and might wish to go or watch the proceedings.**

## 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.

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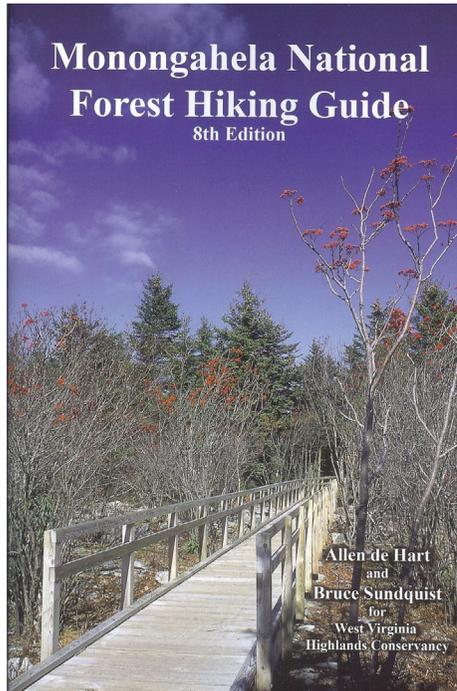
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## The Monongahela National Forest Hiking Guide

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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- Special Features not found in the printed version of the Hiking Guide: Interactive pdf format allows you to click on a map reference in the text, and that map centered on that reference comes up.
- Trail mileages between waypoints have been added to the maps.
- ALL NEW Printable, full color, 24K scale topographic maps of many of the popular hiking areas, including Cranberry, Dolly Sods, Otter Creek and many more

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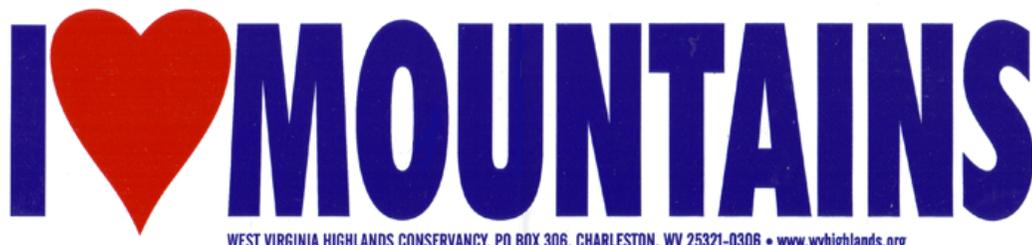
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The Highlands Voice is now available for electronic delivery. You may, of course, continue to receive the paper copy. Unless you request otherwise, you will continue to receive it in paper form. If, however, you would prefer to receive it electronically instead of the paper copy please contact Beth Little at [blittle@citynet.net](mailto: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.

### 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.



# Will FERC Protect Us From the Atlantic Coast Pipeline?

By John McFerrin

Ever since proposals for the Atlantic Coast Pipeline and the Mountain Valley Pipeline became public, we have heard much about the environmental effects of the pipelines. People talked about threatened species. They asked (without receiving satisfactory answers) just how Dominion planned to cross those mountain ridges without making a terrible mess. People asked about how it could cross through karst geology and highly erodible rock and what that would do to fish populations without getting very good answers.

The major regulator in all this has been the Federal Energy Regulatory Commission (FERC). It is the one preparing the Environmental Impact Statement. It is orchestrating all the studies, telling Dominion what it has to provide, etc.

Yet the Federal Energy Regulatory Commission has nothing to do with environmental protection. Its mission is to “Assist consumers in obtaining reliable, efficient, and sustainable energy services at a reasonable cost through appropriate regulatory and market means.”

FERC got dragged into the environmental protection business by the National Environmental Policy Act. That Act requires that the agency understand the environmental consequences of any action it takes.

The National Environmental Policy Act started with the cheery assumption that we would only damage the environment out of ignorance. It assumed that if we knew the environmental consequences of an action we would just not do it. The Act itself doesn't say anything about what an agency has to do to protect the environment. It just has to make sure it understands the environmental consequences before it takes action.

That's why the Act is all about process. Agencies that are considering an action such as building or, more commonly, approving something have procedures they have to follow. There is often litigation about the process. Lawyers argue about whether the agency followed all its rules. They argue about whether there has been enough study, whether there is more data that should have been gathered.

They don't argue about whether the project would be environmentally sound. It is all about whether the proper procedure was followed and everything was thoroughly studied.

The Pittsburgh Pirates once had a player who, before each at bat, would reach around and tug on his uniform shirt, right at the back of the neck. There was no apparent connection to hitting. He just did it. (He hit .276 lifetime with over 200 major league home runs. Not Hall of Fame material but not too shabby either. Tugging must have worked).

In our political discussion, the NEPA process has become a similar ritual. Everybody recognizes that we have to do the studies. After the studies have been going on for what feels like long enough, politicians and editorial writers start saying “we've studied this thing to death; time to move dirt.” You can almost hear the “hard headed realists” saying, “OK, we've put up with the birds and bunnies crowd long enough. Time to move dirt.” Eventually, the agencies come to agree.

What our political culture has not yet accepted is that the Environmental Impact Statement is supposed to guide decisions. People accept that we have to do studies; they just haven't accepted that those studies should guide our decisions. They haven't accepted that if the studies say the environmental impact of something would be terrible, we shouldn't do it.

We could be headed that way with the Atlantic Coast Pipeline and the Mountain Valley Pipeline. *The Highlands Voice* has been reporting on the proposed pipelines for a little over three years. There are still well founded criticisms of the quality of the data available and the studies done. If, as it appears, Dominion plans to shave off the top of some ridges, it has never explained what it will do with the dirt. Fill some streams, perhaps? Maybe it has a sound and sensible plan but is just not saying what it is.

Yet we are approach the point when the old “studied to death” line will be rearing its ugly head. If it is not here yet, it will be here soon.

I hate to be so cynical about the process but history is history. Most of the environmental impact statements that come out of the NEPA process have a “no build” option that was at least nominally considered. It just never gets picked. When we had the Environmental Impact Study of mountaintop removal mining at the turn of this century the final report had some harsh

things to say about mountaintop removal mining. Yet it didn't recommend that we not do it. It just recommended that the agencies which had a role work together more closely together in reviewing and approving permits.

FERC is the type of agency which would be particularly susceptible to this. The United States Forest Service, which has a role in approving the pipeline, has as its mission protecting the Monongahela and George Washington National Forests. It is taking its mission seriously, sounding as if it really will stand up for the Forests. FERC, on the other hand, has no institutional interest in protecting the Forests, endangered species, or anything else. It is charged with protecting consumers.

That is why the financial questions being raised are so important. It is the consumers who are going to have to pay for these pipelines. If FERC is going to meet its mandate, it is going to have consider those.

The mother of all consumer issues is the need for two pipelines—the Atlantic Coast Pipeline and the Mountain Valley Pipeline—that start in pretty much the same place and end up in pretty much the same place. There is a reasonable argument to be made that we don't need even one of the proposed pipelines. There is an even more compelling argument that we don't need two (or four, if we count the WB Xpress Pipeline and the Appalachian Connector Pipeline).

So far FERC has rejected any suggestion that it study the proposed pipelines comprehensively. See *The Highlands Voice*, January, 2016.

Even if we consider only the Atlantic Coast Pipeline, the need for the pipeline is questionable. Dominion says that it has customers for almost all of the gas that would flow through the pipeline. It points to contracts that it has with several public utilities.

The difficulty is that the pipeline developers are selling the gas to themselves. The Atlantic Coast Pipeline is a joint venture of Dominion Resources, Duke Energy, and Southern Company. These three companies own 100% of Atlantic Coast Pipeline, LLC, which is the project developer. Each is also the parent company of one or more of the pipeline's customers (shippers) that are either regulated utilities or, in the case of

**(More on the next page)**

## FERC and the Atlantic Coast Pipeline (Continued from previous page)

Dominion Resources' subsidiary Virginia Power Services, provide natural gas to a regulated utility.

Since the companies involved are selling gas to themselves, they will habitually prefer buying from themselves, buying gas shipped in the Atlantic Coast Pipeline rather than from existing pipelines.

Even if the Atlantic Coast Pipeline is not the cheapest and most efficient way for the utilities to serve their customers, it works for the pipeline developers because of the way the retail price of gas is set. The retailers of natural gas are regulated monopolies. The price they charge for gas is approved by regulatory bodies; the West Virginia Public Service Commission is an example although it would not approve the sale price of any Atlantic Coast Pipeline gas. Those bodies consider the company's costs and then approve a high enough sale price that the company can make a reasonable profit. Even if the company makes an unnecessary expense (such as building the Atlantic Coast Pipeline) it can still benefit because the system ends up making the customers pay for that unnecessary expense.

Of course, if we really do need another pipeline to provide the gas that Virginia and North Carolina need, then an additional gas transmission line is a necessary expense that the customers should expect to pay for. Whether we need another pipeline depends both on the demand for gas and what other pipelines are available to get it to where it is needed.

Much of the gas that would be transmitted by the Atlantic Coast Pipeline would go to plants that would burn it to make electricity. PJM is the regional transmission organization that manages the electrical transmission grid in all or parts of thirteen states, including Virginia and North Carolina, and the District of Columbia. Its projections for electricity demand in the part of Virginia that would be served by the Atlantic Coast Pipeline are going down, it now thinks that the demand for electricity in the future will be less than it once believed.

There is also the rise in such technologies such as wind and solar. They are expanding, replacing such technologies as the burning of coal or natural gas. As this trend continues, or accelerates, there will be less and less need for another pipeline to deliver that gas.

In determining need for a new pipeline, we also have to consider the existing pipelines. There is already a pipeline—called Transco—that goes through the region and can meet much of the need. There are also improvements currently underway on the WB Xpress project, an expansion of the existing Columbia Gas Pipeline serving West Virginia and Virginia and connecting to Transco. Requiring just 3 miles of new pipeline, an additional compressor station and other modifications, this limited construction will add capacity nearly equal to the ACP. There are also plans in the works to reverse the direction of Transco's flow of gas, making it able to supply more gas to the region that would be served by the proposed Atlantic Coast Pipeline.

The result of all this is that the proposed Atlantic Coast Pipeline may be nothing more than a five billion dollar boondoggle which the consumers will have to pay for without getting any benefit. FERC may not be an environmental protection agency and may have no institutional interest in protecting the environment from the Atlantic Coast Pipeline. If, however, it takes seriously its role as a protector of the consumer it should be all over this one.

## Thorough and Comprehensive Comments

In April, 2017, Appalachian Mountain Advocates filed comments on the Draft Environmental Impact Statement which the Federal Energy Regulatory Commission (FERC) prepared for the proposed Atlantic Coast Pipeline. It filed these on behalf of a number of groups, including the West Virginia Highlands Conservancy.

The comments addressed fourteen different topics:

- Missing Incomplete Information
- Public Necessity Market Demand
- Forest Service Special Use Permit and Plan Amendments
- Forest Fragmentation
- Endangered Threatened Species
- Waters and Wetlands
- Horizontal and Directional Drilling
- Conservation Easements
- Trout Waters
- Cumulative Effects
- Environmental Justice
- Indirect effects
- Karst impacts
- Socioeconomics Property Value

Collectively, they contain a huge amount of information. Much of the material in the accompanying article came from the section on Public Necessity and Market Demand. Anyone who wishes to read any or all of the comments may contact me at [johnmcferrin@aol.com](mailto:johnmcferrin@aol.com).

Public Necessity and Market Demand would seem out of place in a list of environmental topics to study. Yet it goes to the heart of the matter. The National Environmental Policy Act (NEPA) process is about counting the costs of a proposed project. If we really don't need a new pipeline, is any cost to build it—no matter how trivial—worth it?

Making it through all these comments is quite a task. Here is how they compare with well-known literary works:

War and Peace	587,287 words
The Grapes of Wrath	169,481 words
A Tale of Two Cities	135,420 words
The Adventures of Huck Finn	109,571 words
To Kill a Mockingbird	99,121 words
Nineteen Eighty Four	88,942 words
ACP Comments	76,068 words
The Catcher in the Rye	73,404 words
The Sun Also Rises	67,707 words
The Scarlet Letter	63,604 words
As I Lay Dying	56,695 words

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- ▶ 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

To order 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

The same items are also available at our on-line store: [www.wvhighlands.org](http://www.wvhighlands.org)

## 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