



The Highlands Voice

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

Volume 51

No. 3

March, 2018

Proposal to Timber in State Parks Dead (we think)

As *The Highlands Voice* goes to press the proposal to timber in West Virginia's State Parks is almost certainly dead. What began as a rumor reached the status of conventional wisdom and even had a Senator issuing a statement announcing its death. "Crossover day" came and went without action. Crossover day is the deadline by which a bill must have been acted upon by either the Houses or the Senate. If a bill has not been acted upon by either the House or the Senate by that date, the other chamber may not act upon it.

The original proposal would have allowed timbering in all State Parks. Faced with substantial opposition, leaders proposed a "pilot project" that would allow timbering in only Watoga State Park. This got people in Pocahontas County even more riled up without appreciably reducing the opposition elsewhere.

In the face of this opposition, leaders have apparently given up on this idea, at least for now. At the West Virginia Legislature bad ideas have a way of reviving themselves between sessions so it may always be back next year.

Everyone can be pleased to see the effectiveness of people's voices and the Legislature's responsiveness. There was widespread and vocal opposition to the proposal and the Legislature listened.

Of course, fat possums run late (see Glossary, p. 3). Nothing is truly safe until the Legislature turns out the lights and goes home. Someone with enough power and enough knowledge of how to manipulate the rules of the Legislature has the power to bring dead bills back to life. If we see a flash of lightening and hear shouts of, "It's alive! It's alive!" we will know that this has happened.

For right now, however, the proposal is dead.



What's inside:

Thoughts from our President	2	Officers	10
Glossary	3	Get a Hiking Guide	11
Spruce planting	4	Investigating the pipeline	12
Fun forums	6	EPA still "listening"	13
How to join	7	Lure of flat land	14
ATVs in a State Forest?	7	Migrating birds	15
Pipeline in National Forest	8	Get stuff	16
Legislative matters	9		
Volunteer workshop	10		



Thoughts from our President

By Larry Thomas

A Bad Idea Bites the Dust

The February 2018 Highlands Voice was dominated by great articles and informative information concerning issues with the legislation introduced, at the request of Governor Justice, to allow commercial logging in West Virginia's State Parks ending the 80-year ban on logging in State Parks. Thanks to all who provided the articles and information for the benefit of our readers.

Senate Bill 270 and House Bill 4183 were introduced in the Senate and the House in the middle of January. Immediately a diverse coalition of conservation organizations, professional foresters, state park advocates, impacted communities, sportsmen, loggers and volunteer advocates across the state united to oppose SB 270 and HB 4183 and any commercial logging in West Virginia State Parks. Save Our State Parks, or SOS Parks, coordinated through West Virginia Rivers Coalition, sprang into action, compiling research on alternative ways to fund state park capital improvements and weighing in on forest management issues providing organizations, the general public and legislators with information as to why this proposal was a bad idea.

As a result, the governor's office and the Senate Natural Resources Committee members started receiving letters, email and telephone calls primarily opposing the legislation. Op-eds appeared in newspapers all over the state. During the process, an amended version of the bill was introduced wherein Watoga State Park was designated for a test project for commercial logging. That resulted in even more letters, email and telephone calls. It was reported that 16,866 letters were sent to legislators and the governor! Who knows how many emails and telephone calls they received. One senator shared that he had received more citizen opposition to SB270 than any other bill this session and I am sure many others can make that same claim.

Because of this monumental effort, the legislation has been as many have said "killed". I believe the press release from Save Our State Parks making that announcement deserves reprinting here.

Critics of State Parks Logging Bill Cheer Its Demise

The broad-based opposition to SB 270 included a wide range of citizens and organizations

News that legislation to allow logging in state parks has been derailed prompted cheers from public lands proponents and the public across West Virginia. The news, first announced in a press release from Senator Mike Woelfel, brought relief to thousands of West Virginians who had voiced their concerns that logging within the state park system would do irreparable harm to the state's Wild and Wonderful image and its most cherished public resources. The bill, SB 270, had been introduced to enable commercial logging in all state parks. It was later revised to permit commercial logging only in Watoga State Park. In both forms, the idea brought on sustained public outrage.

"The depth and diversity of support for public lands across West Virginia is inspiring and makes me proud to be a Mountaineer," said Matt Kearns, coordinator for West Virginians for Public Lands "We hope to use this positive energy to help DNR figure out a way to make our parks more sustainable. Senate Bill 438 passed the Senate yesterday and may be one way to help."

When the measure was announced in January, several West Virginia conservation organizations quickly rallied under the umbrella campaign, Save Our State Parks. They compiled research on alternative ways to fund parks and weighed in on forest management issues. Soon, spontaneous opposition came from all corners of the state as sportsmen wrote letters to the legislature, park supporters organized public meetings, and professional foresters voiced opposition to the bill. In the end, the public chorus was heard.

"West Virginians of all backgrounds and political views came together to take a stand for our shared love of our state and our mountains. Our public land is literally our common ground, and thousands of West Virginians spoke up loud and clear to demand that these special places remain protected," said Chad Cordell of Kanawha Forest Coalition.

One sportsman took it upon himself to gather over 2,200 signatures opposing the bill from fellow outdoors people at an annual hunting and fishing show in Charleston. "We would like to say thank you for listening to our voices and exercising the will of 'We the People,'" said Kevin W. Hughart, a lawyer and sportsman who led the petition effort. "This is the way government is supposed to work regardless of your political party."

"With the logging issue behind us," said Kearns, "West Virginians will turn their attention to other pressing needs, such as working with the WV Congressional delegation to shore up funding programs relating to WV national forests, parks, and wildlife refuges."

Partners in the Save Our State Parks campaign shared the following comments:

"When a senator told me he had received more citizen opposition to this bill than any other this session, it reinforced that the preservation of our state parks is very personal for many people," said Angie Rosser, executive director of West Virginia Rivers Coalition. "It is part of what we take pride in as West Virginians. The message to keep logging out of our parks was loud and clear, and it won the day."

"The folks said: Don't log our state parks and the legislature got the message," said Judy Rodd, director of Friends of Blackwater.

April Keating, WV Chapter of the Sierra Club, said: "West Virginia's state parks are a microcosm of the wild that has been set aside and made accessible so that people tired of the ever faster pace of a hectic, high-tech life can experience the grandeur and healing force of undeveloped forest. Folks know that our state parks and old growth forests are rare treasures that deserve to be protected. In a world that is increasingly industrialized, these wild places provide the antidote, and that is something that money can't buy."

Larry Thomas, president of WV Highlands Conservancy, said, "Thanks to the numerous organizations and individuals who made their voices heard through email, telephone calls and social media, to defeat

(More on the next page)

Demise of the Park Logging Bill (Continued from previous page)

the preposterous idea that to keep the forests healthy in our West Virginia State Parks we must cut down trees.”

“The ill-conceived SB 270 accomplished one thing, which was to demonstrate how many West Virginians appreciate and feel a deep personal connection to our state parks and their beautiful, mature forests, as these citizens combined their voices into a groundswell of passionate opposition to this proposal to allow commercial logging in our parks. We’re pleased that state legislators listened and then responded to the overwhelming public preference for maintaining existing protections on our state park forests,” Jim Waggy, Kanawha Forest Coalition.

Senate Bill 438 in its current form provides for The Economic Development Authority to issue revenue bonds to be used to pay for all or a portion of certified capital improvement projects in any of the state parks. Starting in the fiscal year beginning July 1, 2018, and each fiscal year thereafter funds from the lottery commission for the state parks are to be used in part for the retirement of the bonds. This was just one of the suggestions submitted for alternate ways to pay for the needed capital improvements to our state parks.

Soon after the announcement of the governor’s proposal, I received a telephone call from a concern individual who very strongly opposes logging in our state parks. After a long discussion of his reasons for his objections, he told me that I needed to travel to Kumbrabow State Forest and observe the logging activity currently taking place on that state forest. I traveled to Kumbrabow and could not believe what I found. It appeared that a tornado had touched down in that section of the forest. I took numerous photos of what I judged to be violations of best management practices for logging. I plan to visit again in a few months to see if those conditions still exist. I believe what the logger was telling me what I found could happen to our state parks if the proposed legislation had passed.

Glossary

By John McFerrin

For years, if not decades, persons in the know about the West Virginia Legislature have been offering the observation that “fat possums run late.” For a while it was attributed to some early legislative leader. From there it was quoted and repeated so many times that, at least as early as 2012, the Charleston Gazette was referring to “the proverbial fat possums” that move late at night.

It has never made a bit of sense to me.

From the context in which it is used, it is more or less understandable as meaning that pieces of legislation that are controversial, backed by powerful interests, or both often move through the legislative process late in the legislative session. They also move stealthily.

How does “fat possums run late” describe that?

Most expressions mean something. They came from somewhere and often made some sort of comparison. “That dog won’t hunt” means an argument is weak, will convince no one, and is therefore useless.

The expression is a folksy way of comparing a useless argument to a dog that won’t hunt and is, therefore, useless. “Keeping my powder dry” means the speaker intends to not act now but remain ready to act later. It is a reference to the time when gunpowder had to be kept dry so it would be useful later. “Eating our seed corn” describes foregoing future benefit in exchange for something of lesser value now. If we eat the corn we had saved to plant next year, there will be no crop next year.

I have heard about fat possums so many times that I can more or less guess what the expression means. At the same time, I still don’t get it.



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.

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.



THE CENTRAL APPALACHIAN SPRUCE RESTORATION INITIATIVE

The Central Appalachian Spruce Restoration Initiative **2017 Highlights**

YEAR-END REVIEW

We are pleased to share highlights of the Central Appalachian Spruce Restoration Initiative!

CASRI is a diverse partnership of private, state, and federal organizations who share a common goal of restoring historic red spruce-northern hardwood ecosystems across the Central Appalachians.

CASRI envisions a functioning red spruce-northern hardwood forest ecosystem with the scale, connectivity, and maturity to support the natural communities dependent upon this ecosystem. To achieve this landscape scale restoration, CASRI works on both public and private lands, promoting the health of forested, riparian, and agricultural lands, as well the multitude of plant and animal species which make their home in the central Appalachian mountains.



Students receive spruce seedlings to plant on Spruce Knob.

CASRI PARTNERS



















MAJOR HIGHLIGHTS

2017 proved to be yet another year of impressive accomplishments for CASRI:

- Over 1,451 acres of high-elevation lands placed on a trajectory to develop into functioning red spruce ecosystems, bringing our restoration total to over 7,245 acres.
- 60,000 red spruce seedlings and 53,564 native plants planted on high-priority conservation and restoration sites.
- 195 acres of red spruce forest protected from damage by livestock use.
- Over 480 acres of non-native invasive species treated in high-elevation red spruce systems.
- Over 264 volunteers dedicated their time to restoring red spruce habitat and planted more than 10,100 seedlings.
- Over 80,000 red spruce seedlings grown.



A volunteer plants a seedling of a native plant on the Mower Tract.

- **U.S. Fish and Wildlife Services** in cooperation with **Trout Unlimited** constructed live stock exclusion fences on two farms protecting more that 195 acres of spruce habitat from livestock grazing practices.
- **Canaan Valley National Wildlife Refuge** constructed an underpass on a trail to increase Cheat Mountain Salamander habitat connectivity and built a 3 mile trail to support wildlife crossings in the red spruce forest.
- **U.S. Forest Service** Greenbrier Ranger District hosted two educational and tree planting days on the Mower Tract, teaching 90 students ranging in age from elementary to college about ecological restoration of red spruce habitat.
- **CASRI partners** engaged in valuable research including new findings on canopy gap dynamics, spruce genetic connectivity in Central Appalachia, and habitat selection of the Virginia Northern Flying Squirrel.

SPRUCING THINGS UP

CASRI includes a diverse group of partners, each addressing spruce restoration from their own angle.

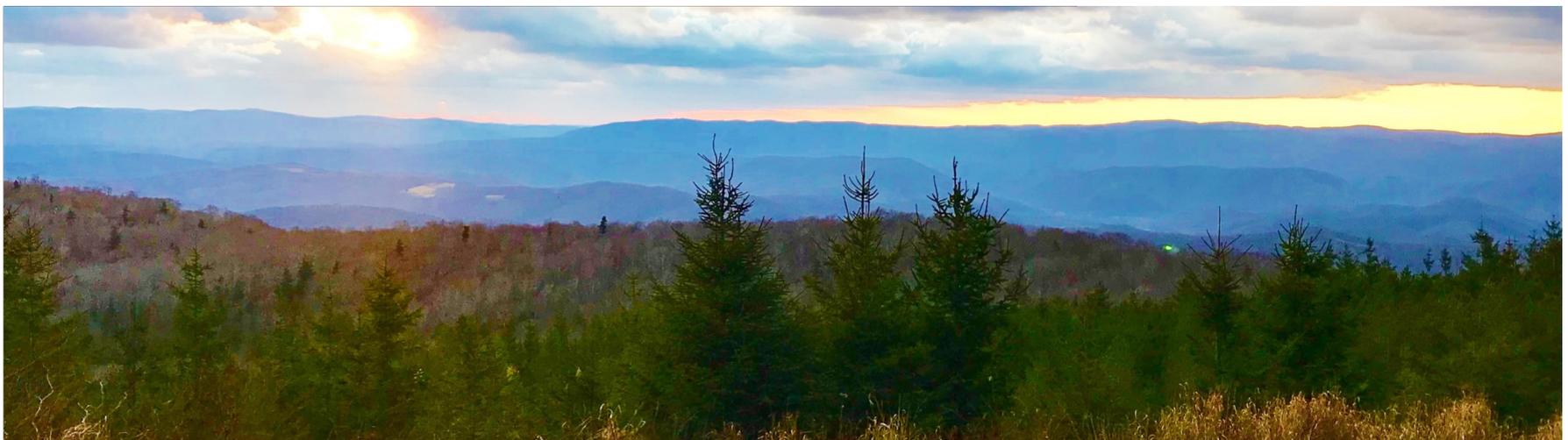
- **Green Forests Work** in partnership with **U.S. Forest Service** and **Natural Resource Conservation Service** restored 96 acres of reclaimed mine land, planting more than 76,000 native plants on the Mower Tract in the Greenbrier Ranger District
- **The Nature Conservancy's Ecological Restoration Team** released understory red spruce on 575 acres of land on the Upper Greenbrier North work area amounting to roughly 150,000 trees.
- Together the **West Virginia Division of Forestry**, **West Virginia Division of Natural Resources**, **The Nature Conservancy**, and **U.S. Forest Service** planted 1,950 red spruce seedlings in a recently clear cut area in Kumbrow State Forest.



Volunteers pose for a picture after a day of planting in Canaan Valley National Wildlife Refuge.

To learn more about CASRI and view the complete 2017 annual report, visit:

<http://www.restoreredspruce.org/>



Community Organizing Summit hosted by the Appalachian Gas Working Group

The Appalachian Gas Working Group invites grassroots groups, organizations, activists, and socially conscious folks who are interested in efforts to end public harm from oil and gas extraction, and its growing infrastructure, to attend our Community Organizing Summit, April 6-8, in Weston, WV.

The goal of the Community Organizing Summit is to empower and strengthen grassroots activism with leadership training, coalition building, and outreach. The Summit will also provide opportunities for in-depth learning on select topics.

Schedule and session topics will be posted on West Virginia Highlands Conservancy Facebook event page.

What: Community Organizing Summit, hosted by the Appalachian Gas Working Group
Where: Jackson's Mill, 160 WVU Jackson Mill, Weston, WV

When: Friday, April 6 – Sunday, April 8

Registration: Registration is required by March 30. Complete your registration for attendance, meals and lodging through Eventbrite: <https://www.eventbrite.com/e/community-organizing-summit-hosted-by-the-agwg-tickets-43440355272>.

Limited scholarships are available for those who need financial assistance to attend. If you are applying for a scholarship, please fill out the form at (<https://goo.gl/forms/2sfvxLsXclf9pRhr2>). Individuals applying for a scholarship do not need to register through Eventbrite. Scholarship applications are due by March 23.

The Appalachian Gas Working Group (AGWG) is a consortium of green minded groups and organizations. Their vision is to support healthy communities, property rights, and a just transition to clean renewable energy, while leading a coordinated effort to end public harm from fracking and gas related extraction and infrastructure.

Our Partners: WV Rivers Coalition, Ohio Valley Environmental Coalition (OVEC), WV & VA Sierra Club, WV Highlands Conservancy, Appalachian Voices, Appalachian Mountain Advocates, PA League of Women Voters, Preserving Our Water Heritage and Rights (POWHR), Ohio River Citizens Alliance (ORCA), Friends of the Harmed, Mountain Lakes Preservation Alliance, Wetzel County Citizen Action Group, Headwaters Defense, Greenbrier River Watershed Association, Indian Creek Watershed Association, Eight Rivers Council, Christians for the Mountains, Preserve Monroe, Summers County Residents Against the Pipeline, Doddridge County Watershed Association, SW PA Environmental Health Project, Southwings, WV Citizens Action Group, WV Surface Owners Rights Organization.

Tri-State Water Defense Public Forum

Curious about all the fracking, pipelines, and the fracked gas liquids storage hub/petrochemical complex proposed for our area? Then come to this public meeting!

We will have short films, speakers, and a public discussion concerning the fairness of the use of our natural resources, and how massive Oil, Gas, and Petrochemical development will affect average people in the Tri-State Area and our water resources. The "Tri-State" - in our case - means KY/OH/WV, or Huntington/Ashland/Ironton areas.

This meeting is a chance to hear from other concerned residents in the area, share information, and maybe even have a chance to talk with officials. This meeting is a chance to hear from other concerned residents in the area, share information, and maybe even have a chance to talk with officials.

Where: Marshall University Drinko Library Room 402

When: Tuesday, March 6, 6 p.m. to 8 p.m.

Cohosted by: Marshall Native American Student Organization, Four-Pole Creek Watershed Association, Tri-State Indivisible, OVEC, WV Highlands Conservancy, Huntington Citizens Climate Lobby

Apologies/explanation: For those who receive the *Voice on paper (the majority of the readers)*, this notice will be too late. We are sorry. Those who get the *Voice electronically* would see the notice soon enough to attend. Even if this notice is too late, it is included since members would like to know about the activities their organization is involved in.

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.

Join Now !!!

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

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

Legislature will decide

ATVs in Cabwaylingo State Forest?

There is currently a bill in the West Virginia Legislature (SB 498) which would establish a pilot project to allow all terrain vehicles in Cabwaylingo State Forest. As of press time it had passed the Senate. It has also passed the House Committee on Agriculture and Natural Resources.

It is currently pending in the House Committee on Government Organizations. How it fares there will be part of the hurly burly that is the last few days of the Legislative session. There are currently almost eighty bills pending in the House Committee on Government Organizations. Some have been there for over a month; if there were much enthusiasm on the part of the Committee those older ones would have been acted upon by now.

The all-terrain vehicles bill was referred to the Committee on February 27. Whether it advances depends upon the will of the Chair, what support it has, and all the other ingredients that go into the sausage.

All-terrain vehicles on public lands have always been controversial. They can cause damage to trails and plant life. They bring, noise pollution, air pollution, and litter is a guarantee. It is also well established that, in areas that do allow all-terrain vehicles, ATV riders seem to be psychologically incapable of staying on designated trails. Every time they leave a trail, they create a new one, creating a spreading website of damage to the forest floor and increasing erosion. Attempts to enforce rules requiring that riders stay on officially established trails have been ineffective.

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.

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.

Only Way Around Law for Atlantic Coast Pipeline to Cross Forest Is to Trample Over Law

By Beth Little

The Atlantic Coast Pipeline could not be built through the Monongahela National Forest without violating the law, so the law has been suspended. I will explain.

I say "suspended" because the amendments to the forest's Land and Resource Management Plan included in the permit issued by the Forest Service are "project-specific plan amendments." They apply only to construction of the Atlantic Coast Pipeline.

The Land and Resource Management Plan is law. It is the regulations for how the forest is to be managed. It was developed by the staff of the Forest Service, including scientists and technicians, who are charged with protecting the forest from the ravages of the late 1800s and early 1900s, when a frenzy of logging resulted in massive flooding, huge fires, loss of life, destruction of local economies, and disappearance of wildlife. Unregulated practices left a wasteland that took more than a century to recover significant productivity.

The Monongahela National Forest includes the highest mountains in West Virginia and the origin of major rivers in the East. These rivers have been cutting their channels for millennia, resulting in ravines with startlingly steep slopes. To truly appreciate how steep they are, you have to stand at the top and look down what appears to be a straight drop of hundreds of feet to rushing water. It is hard to believe trees can grow on slopes so steep, but then it's the trees that maintain the slopes by holding the soil on them.

The forest also gets some of the highest rainfall in the continental US. So, if the trees (and all other vegetation) are removed, and a heavy rainfall comes, the soil is washed away, making the rivers run with sediment.

There are four standards in the forest's management plan to be modified for the pipeline construction. The shortest example:

"Standard SW06: Severe rutting resulting from management activities shall be confined to less than 5 percent of an activity area."

This language is specific and easy to enforce.

The modified standard reads:

"Standard SW06: Severe rutting resulting from management activities shall be confined to less than 5 percent of an activity area with the exception of the construction of Atlantic Coast Pipeline, where the applicable mitigation measures identified in the COM (Construction Operations & Maintenance) Plan and SUP (Special Use Permit) must be implemented."

The next standard, SW07, involves limitation of the use of wheeled and/or tracked motorized equipment on steep and very steep slopes with soil types prone to slips and landslides. Again, the standard is replaced with the Construction Operations & Maintenance Plan.

The Construction Operations & Maintenance Plan, developed by Dominion, has reassuring sounding language, but it is general and almost impossible to enforce:

"Atlantic recognizes the increased risk of instability associated with pipeline construction while traversing steep slopes. As a baseline, Atlantic developed a program for use on projects within steep terrain." (A long list of engineering measures follows)

"Selection of the most appropriate engineered prevention measure or combination is dependent on the individual site conditions and constraints during the time of construction."

The Construction Operations & Maintenance Plan wasn't available for comment when the draft environmental impact statement was issued. When the final statement was issued on July 21, 2017, it was labeled a draft with critical sections missing.

It wasn't until October 27, 2017, three months later, that a final version was identified in the [Forest Service Record of Decision](#).

How could Federal Energy Regulation Commission properly evaluate the environmental consequences of the pipeline, when they didn't have all the pertinent information? This has been the basis of media reports that several agencies have issued postponements after requesting more information. Why didn't the commission postpone the environmental impact statement until they had a completed COM Plan?

The Land Management Plan for the Monongahela National Forest took several years and thousands of hours of Forest Service personnel to develop at taxpayer expense. You might question whether it is appropriate that a private, for-profit company can arrange for a federal law to be brushed aside because they can't abide by it. Dominion will tell you that their substitution is better; but, if so, why do they have to suspend the existing regulations? And why wasn't the Construction Operations & Maintenance Plan available for public comment?

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

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 or by real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

Leave a Legacy of hope for the future

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

Dodging Bullets

WV E-Council Battles @ Legislature

By Frank Young

As this is written we are but 8 days from the end of the WV legislature's 2018 regular session. At this stage if things move at all they usually move quickly. A monthly publication such as the *Highlands Voice* is, at best, always playing "catch up" with the state legislature. It can take weeks of political posturing to push and pull the lawmaking process along. The first half to three quarters of the legislative session is mostly just that- committee meetings and political jockeying to thrash out some consensus on issues.

Then when something is ready for a vote, rules of the legislature require a minimum of three days of reading and voting on a bill for it to become law. But House and Senate leadership can push for "suspension of the rules" so that big things that most everyone wants can come and go and be sent to the Governor all within less than one day, too. The bills discussed herein are but a legislative snapshot of today- March 1st. Some things could change dramatically within days- or even hours.

WV Environmental Council (WVEC) lobbyists have been most successful so far this session at defeating some terrible legislation.

For example, Senate Bill 270 would have allowed commercial timbering in State Parks. Initially the stated purpose of this bill- requested by Governor Jim Justice on the first day of the session- was to furnish funding via the sale of State Park timber for a backlog of maintenance issues at State Parks. But within days after this bill was introduced there developed a diverse coalition of sportsmen and women, state park advocates, conservation, organizations, professional foresters, impacted communities and volunteer advocates working under the new Save Our Parks (SOSParks) banner. Elected officials including WV Agricultural Commissioner Kent Leonhardt was among those opposed to commercial logging in State Parks.

The result was that an avalanche of more than 16,000 letters, phone calls and e-mail expressions of opposition caused this bill to die in committee before the crucial 50th day of the legislative session. The bill never made it to the floor for a vote in either house of the legislature. This writer observes that the groundswell of public opposition to commercial logging in State Parks rivals that which developed in response to the West Virginia "garbage wars" in the late 1980s and early 1990s and the proposal for a giant pulp and paper mill at Apple Grove in Mason County in the mid-1990s.

Related to failed SB270 is another bill (SB438) that would fund State Park maintenance needs via bonds secured by the State Excess Lottery Revenue Fund. As this is written, this bill had passed the Senate and was under consideration in the House Finance Committee. WVEC supports this bill as an alternative to cannibalizing State Parks to save them.

Another bill, Senate Bill 600, would have directed the WV Public Service Commission (PSC) to lower electricity rates for certain high volume electricity users such as manufacturing and certain commercial facilities, and would have directed the PSC to increase home and small business rates accordingly. The environmental nexus with SB600 is that the lower rates would likely discourage energy efficiency by high volume users of electricity. After passing in the house, the bill was defeated on a 17-17 Senate vote. The bill was successfully opposed by, among others, organizations supporting energy conservation and economic fairness.

Observers noted that Senate Bills 270 and 600 were both promoted by Governor Justice and Commerce Commissioner Woody Thresher as somehow conducive to promoting tourism (SB270) and promoting economic development (SB600).

SB410 would have established a new position within the WV Department of Environmental Protection (DEP), called the *industry advocate*. It has not progressed this session. House Bill 2909 would have abolished the office of the *environmental advocate* within WVDEP. It, too, has not progressed beyond a House committee.

One of the biggest legislative disappointments for water quality advocates is the failure of the legislature to even consider the recommendations of the West Virginia Public Water System Supply Study Commission (PWSSSC). The Commission was established by the legislature following the Charleston area water contamination crisis in 2014. The Commission had been charged by SB373 (in 2014) with making recommendations related to five specific tasks. Recommendations were submitted to the Legislature in 2014, 2015, 2016 and 2017. The 58 page 2017 report- assembled by the 5 PWSSSC working groups- is designed to avoid a repeat of the 2014 Charleston water contamination crisis. But, as it did with the 3 previous PWSSSC reports to the legislature, the legislature has ignored this most recent report and recommendations. Some observers are afraid that it will take another similar water crisis to get the legislature's attention.

In ending this legislative report I am, sadly, unable to report on any legislative "victories" we've had this legislative session other than those based in purely defensive battles- the defeat of a couple of bad bills such as SB 270 and SB600, described above. These bills were defeated because they generated such intense public outrage that the legislature- especially those legislators desiring to be re-elected- could not afford to thumb their noses at giant hordes of outraged citizens.

Why are there no pro-actively WVEC sponsored bills to report as successfully passed by both legislative houses? My answer is simply that the membership of the current WV legislature is not amenable to what most of us would consider reasonable initiatives toward sane environmental policies. This legislature is concerned more with model bills offered by the American Legislative Exchange Council (ALEC). ALEC is an organization of "right wing" conservative state legislators and private sector representatives who draft and share model state-level legislative bills for distribution among receptive state governments.

Can we ever overcome the current conservative monopoly of the WV legislature? Yes, we can. How? We can overcome only by becoming more effective at electing our political friends to public office than our opponents are.

West Virginians for Public Lands to Host Volunteer Leadership Workshop

Ready to take your public lands activism beyond writing letters to decision makers? Ready to inspire others in your community to act? You're ready to be a West Virginians for Public Lands volunteer leader. West Virginians for Public Lands has a fun daylong training to get you there. Whether you are new to volunteering or you are already a conservation leader, this workshop is for you. No prior organizing or volunteer experience is required.

During the workshop, you'll join a corps of regional volunteer leaders from across the state who are already successfully defending West Virginia's public lands. They'll help facilitate the workshop, and will share strategies that work and experiences from the field.

Joining the WVPL volunteer leaders are Pat Lane, a seasoned veteran of national campaigns, and WV Rivers' Matt Kearns, who will provide background on public lands policy. This free informal and interactive workshop takes place on Saturday, March 24, in Thomas, WV.

What: West Virginians for Public Lands Volunteer Leadership Workshop

When: 9:30am-4:00pm, Saturday, March 24

Where: Buxton Landstreet Gallery, 571 Douglas Rd., Thomas, WV 26292

To register and get more information, go to <http://wvrivers.org/2018/02/volunteerworkshop/>

Deadline: Apply by Friday, March, 16

Questions: Email Megan Hamilton, mhamilton@WVRivers.org

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

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

Roster of Officers, Board Members and Committee Chairs, and Board of Directors

PRESIDENT: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com

VICE PRESIDENT FOR FEDERAL AFFAIRS: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com

VICE PRESIDENT FOR STATE AFFAIRS: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net

SECRETARY: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304) 291-8305, johnmcferrin@aol.com

TREASURER: Bob Marshall, 2108 Emma Road, Kenna, WV 25248, (304)545-6817, woodhavenwva@aim.com

PAST PRESIDENT: Cynthia D. Ellis, 3114 Steel Ridge Road, Red House, WV 25168, (304) 586-4135, cdellis@wildblue.net

DIRECTORS-AT-LARGE (Terms expire October 2018)

George E. Beetham Jr., 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com

Jackie Burns jackie.burns@frontier.com. 304 866 4093

Bill McNeel, 1234 Jericho Road, Marlinton, WV 24954, (304) 799-4369, wpmcneel@gmail.com

Randy Kesling, 116 Farm Meadow Drive, Bridgeport, WV 26330; (304) 622-5982; rkesling@MA.RR.com

DIRECTORS-AT-LARGE (Terms expire October 2019)

Adam Casseday, 212 Davis and Elkins St, Elkins, WV 26241, 304-636-4944, dr_casseday@yahoo.com

George Hack; 510 HANNA RD; Bel Air, MD 21014; 443 742-0463 george.hack@db.com

LeJay Graffious, P.O. Box 69, Bruceton Mills, WV 26525, lejay@oldhemlock.org

Rick Webb, 481 Ravens Run Road, Monterey, VA 24465, (540) 468-2881, rwebb@virginia.edu

Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

ORGANIZATIONAL DIRECTORS

WEST VIRGINIA CAVE CONSERVANCY: Randy Rumer; 295 Caraway Lane Renick, WV 24966; (304) 497-2657; rrumer@frontiernet.net

PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Drive, Oakmont, PA 15139, (412) 828-8983, buffrodman@hotmail.com

BROOKS BIRD CLUB: Cynthia D. Ellis, 3114 Steel Ridge Road, Red House, WV 25168, (304) 586-4135, cdellis@wildblue.net

MOUNTAINEER CHAPTER TROUT UNLIMITED: Randy Kesling, 116 Farm Meadow Drive, Bridgeport, WV 26330; (304) 622-5982; rkesling@MA.RR.com

WEST VIRGINIA RIVERS COALITION: Taylor Sharp

FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304) 924-5802, clrank2@gmail.com

TEAM (Taylor Environmental Advocacy Membership): Beth Baldwin, 222 Westwood Ave Bridgeport, WV 26330; elbrn6e21@msn.com

ALLEGHENY HIGHLANDS ALLIANCE: Dr. Wayne C. Spiggle, 3987 Knobley Road, Keyser, WV 26762, 304-726-4868, wspiggle@mac.com

SHAVERS FORK COALITION: Jim Van Gundy, 210 Buffalo Street, Elkins, WV 26241, (304) 636-4736, jjvg01@gmail.com

COMMITTEE CHAIRS

EXTRACTIVE INDUSTRIES COMMITTEE: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304) 924-5802, clrank2@gmail.com

PUBLIC LANDS MANAGEMENT COMMITTEE: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com

RENEWABLE ENERGY COMMITTEE: Peter Shoenfeld, 167 Balsam Way, Davis WV 26260, (304)866-3484, pshoenfeld@gmail.com

LEGISLATIVE COMMITTEE: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304) 372-3945, fyoung@mountain.net

ENDOWMENT FUND COMMITTEE: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com

RIVERS COMMITTEE: Vacant

HIGHWAYS COMMITTEE: Hugh Rogers, 531 Moon Run Road, Kerens, WV 26276, (304) 636-2662, hugh.rogers@gmail.com

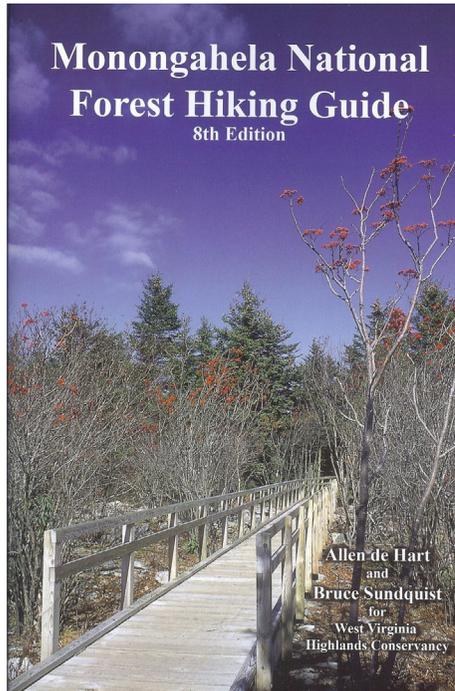
MISCELLANEOUS OFFICES

WEB PAGE – DIGITAL PUBLISHING: Dan Radmacher, (540) 798-6683, dan.radmacher@writingleft.com

ADMINISTRATIVE OFFICES

MEMBERSHIP SECRETARY: Beth Little, 214 Black Gum Lane, Hillsboro, WV 24946, (304) 653-4277, blittle@citynet.net

HIGHLANDS VOICE EDITOR: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304) 291-8305, johnmcferrin@aol.com



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)

Send \$15.95 plus \$3.00 shipping to:
West Virginia Highlands Conservancy
 P.O. Box 306
 Charleston, WV 25321
 OR
 Order from our website at
www.wvhighlands.org

8TH Edition Now Available on USB Drive

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

This new CD edition includes the text pages as they appear in the printed version by Allen deHart and Bruce Sundquist in an interactive pdf format. It also includes the following mapping features, developed by WVHC volunteer Jim Solley, and not available anywhere else:

- All pages and maps in the new Interactive CD version of the Mon hiking guide can easily be printed and carried along with you on your hike
- All new, full color topographic maps have been created and are included on this CD. They include all points referenced in the text.
- 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

Price: \$20.00 from the same address.

VOICE AVAILABLE ELECTRONICALLY

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

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



Pipeline CSI

Compliance Surveillance Initiative

THE SEVEN STEPS OF INCIDENT INVESTIGATION

By Rick Webb, Chair, Pipeline CSI, Allegheny-Blue Ridge Alliance

Construction of the proposed Atlantic Coast Pipeline (ACP) presents an extreme risk to water and other environmental resources. We cannot solely rely on government agencies to reliably monitor, prevent, or even document the damage. The Allegheny-Blue Ridge Alliance and member organizations have therefore developed the Pipeline Compliance Surveillance Initiative (CSI) to support citizen efforts to ensure strict application of environmental laws and regulations in the event the pipeline goes forward.

The need for citizen oversight of pipeline construction has been made clear by observations of recent pipeline projects and inadequate regulatory agency response to repeated violations and water resource harm. Adding to our concerns, the regulatory agencies have failed to require submission of complete environmental plans prior to project approval. This deferral of critical review and analysis, along with political pressure to expedite the project, sets the stage



Failure of slope stabilization resulting in stream impact on Dominion's G-150 pipeline in West Virginia. (WVDEP photo)

for significant and long-term degradation of high-quality streams and groundwater supplies.

The ACP still faces substantial regulatory and legal challenges. The proposed pipeline project is not a done deal, nor will it be if the system works as it should. In any case, construction will not proceed on the "business as usual" basis described to industry officials and investors by Dominion Energy executives. The Pipeline CSI will ensure a dramatically new level of public scrutiny and oversight.

The Pipeline CSI will focus first on the approximately 200-mile section of the proposed ACP route extending from Harrison County in West Virginia to Buckingham County in Virginia. The extreme earth disturbance required for construction of the ACP in this area of steep mountain sides, high-quality streams, and karst valleys presents an unacceptable risk to water resources.

If the ACP project is allowed to proceed, the Pipeline CSI will work to limit the inevitable environmental damage through a

program designed to investigate and follow-up on reported incidents of both downstream surface water impact and noncompliance with construction requirements in areas of direct disturbance, including the pipeline corridor, access roads, and stream crossings. Incident follow-up by the Pipeline CSI will include confirmation, thorough documentation, and complaint submission to regulatory agencies when warranted.

Incident investigation and follow-up will involve a sequence of seven steps:

1. Initial Incident Observation

Citizen observers, working independently, with local watershed groups, or with regional volunteer stream monitoring programs, will identify water resource problems associated with pipeline construction and submit incident reports directly to CSI Central or to local watershed groups or regional volunteer monitoring programs. Incident information will also be obtained through routine surveillance flights conducted by the Pipeline Air Force.

For more information on citizen reporting, see [Guidance for Citizen Observers and Citizen Reporting Options](#).

2. CSI Central Reviews Incident Reports

CSI Central will monitor incident reports and contact report sources for additional information when needed.

3. Case File Opened; First Responders Dispatched

For significant incidents, a case file will be opened to track incident investigation and review, as well as regulatory agency performance. CSI First Responders will be dispatched, including (1) expert teams to collect evidence-grade water data and observe construction activities and (2) the Pipeline Air Force to conduct aerial surveillance and obtain high-resolution imagery.

4. Case Investigation Announced; Case Information Added to CSI Mapping System

For significant incidents, CSI Central will provide an early alert to the general public and to the responsible regulatory agencies, using pre-established agency points-of-contact and reporting formats. At the same time, information related to the investigation will be added to the online CSI Mapping System, an interactive multi-layered GIS map that provides access to information concerning pipeline infrastructure, construction plans and requirements, and environmental sensitivities. Case information added to the map will include high-resolution imagery of the construction activity and related water data.

5. Evaluation of Case Information by CSI Environmental and Forensic Review Teams

CSI experts will review case information provided through the

EPA Still “Listening” on the Clean Power Plan

On November 28 and 29, 2017, the United States Environmental Protection Agency held a public hearing in Charleston on the repeal of the Clean Power Plan. To read all about it, see the December, 2017, issue of *The Highlands Voice*. At the time, this was to be the only public hearing on the proposal to repeal the Plan. EPA was to come to the heart of coal country, sponsor a pep rally in support of what it wanted to do anyway, and then announce that the people had spoken in opposition to the Clean Power Plan.

Now EPA has reversed course, on the listening part if not on its intention to repeal the Clean Power Plan. It held a “listening session” in Kansas City on February 21. The *Kansas City Star* commented, “KC listening session came up with no good reason for the EPA to repeal the Clean Power Plan.”

It had another in San Francisco on February 28. The final session will be on March 27 in Gillette, Wyoming.

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.

It has also reopened the public comment period until April 26, 2018.

The Clean Power Plan was an Obama era initiative, part of his plan to fight climate change by limiting carbon dioxide emissions. President Trump, on the other hand, is skeptical about climate change. Earlier this year he signed an Executive Order directing the Environmental Protection Agency to eliminate the Plan.

Monitoring the Pipeline (Continued from previous page)

CSI Mapping System and determine if formal complaint submission to regulatory agencies is warranted. Public access to the CSI Mapping System will allow other knowledgeable individuals and professionals with erosion and sediment control and stormwater management backgrounds to contribute to case review.

of Environmental Protection, the Virginia Department of Environmental Quality, the U.S. Forest Service, the U.S. Army Corps of Engineers, and the Federal Energy Regulatory Commission. Submitted reports will include documentation and an assessment of regulatory and statutory compliance.

performance and evaluate environmental harm resulting from construction of the ACP in high-risk mountain landscape.

See pipelineupdate.org/csi for referenced documents and the CSI Mapping System

6. Complaints Submitted to Regulatory Agencies

In cases where noncompliance with construction requirements is established or implementation of required measures fails to prevent environmental harm, incident reports will be completed and submitted to the responsible regulatory agencies, including the West Virginia Department

7. Agency Responses Tracked; Case Reports Published

Agency response to complaints and the success of enforcement and remedial efforts will be closely monitored. In cases of ineffective enforcement or serial noncompliance, stop work orders and citizen suits or other legal challenges will be pursued. Case reports will be published to document regulatory

Intentional discharge of sediment-laden water to a wetland and stream during construction of the Stonewall Gathering Pipeline in West Virginia. (Pipeline Air Force photo)



The Lure of Flat Land

By John McFerrin

Even if West Virginians are called Mountaineers, have we been lured by the idea of flat land? Were we so charmed by the promise of flat land that we were lured into questionable decisions about how we treat our mountains?

The earliest West Virginians—or at least the earliest European ones—certainly were drawn to flat land. When the Europeans first came over the mountains into what is now West Virginia, they first stopped in Lewisburg or Shepherdstown. They are both in the great valley that runs in Virginia and into eastern West Virginia. There was flat land there, land someone could farm. The ones who did not stop in Lewisburg kept going until they got to the Kanawha Valley. Since the first settlers did not appreciate the fortunes to be made in the coal business, they skipped over what we now call the coal fields as too rugged. There were scattered people and settlements but the real development of that part of the state did not occur until somebody realized that there were fortunes to be made in coal and timber.

In 1977 we were presented with a chance to get more flat land: mountaintop removal. If flat land was what we needed to get this state going, we could create for ourselves the flat land that Mother Nature had neglected to provide.

The opportunity came in the federal Surface Mining Reclamation and Control Act. It allowed mountains to be flattened. The idea of the Act was that mountaintop removal would be rare. The Conference Committee Report before the Act finally passed specifically declared “that most of the nation’s coal reserve can only be mined by underground methods.” Of the land that was strip mined, most would be returned to its original contour. Land would be left flat only if there was a specific need for flat land. If we needed a spot for a school or a factory, we could mine the spot and leave the land flat.

With the lure of all this flat land, we jumped at the chance. (Actually, whether we jumped or were pushed is an open question, with “pushed” being the stronger contender. When West Virginia passed its version of the federal Act, there were no “Give Me Flat Land or Give Me Death!” picket signs, no “Ho, ho, hey, hey, get these mountains out of the way” chants.) Had there been a referendum on the question, the flat land creation enterprise probably would have lost. In any event and no matter how the decision was made, we allowed mountaintop removal.

The flat land creation allowed by the federal and state Acts did not get going right away. By the 1990s, however, the flat land creation business was going great guns. The coal industry was creating flat land left and right, creating the conditions that would usher in a new era of prosperity.

By 1998 mountaintop removal—with all its flat land creation and the consequences to the water and communities that it brought—was becoming more prominent and there was a lot of unrest about the issue. Governor Underwood appointed a task force on mountaintop removal. It had public hearings, took comment, and did a report.

Some of the testimony came from economic development officials in southern West Virginia counties. The impression they gave was that there were companies sitting just across the state line, motors running, just waiting for some flat land to appear. If we could just mine some more coal and create some more flat land they

would flood into the state, build factories, and usher in a new day of prosperity.

The economic development officials spoke with great certitude. By nature they are an optimistic bunch, always working and hoping for a better future for their communities. It is impossible to know how much of their enthusiasm for flat land creation came from how perfectly that position served the interests of the coal industry.

The truth of the matter is told by the Hobet Mining site. It is in Boone and Lincoln Counties, not too far south of Charleston. The mining is about over, leaving 12,000 acres of flat land.

There is a railroad that goes to it. A four lane highway runs right past it. In spite of these advantages, the companies are not flooding into the state. If there are not companies flooding to that site with the location and access the Hobet site enjoys, it is hard to see them flocking to other locations that are much more remote. If you can’t attract industries to a site just south of Charleston, how are you ever going to attract industries to mined land in Blair?

When Earl Ray Tomblin was Governor he had an ambitious plan for the Hobet site. He described it as containing enough flat land to relocate the entire city of Huntington. He described it as “large enough to fit virtually every major economic development project in recent history—including Toyota, Proctor & Gamble, Gestamp, Macy’s, Amazon and more—with thousands of acres left over.”

Governor Tomblin wanted to spend one hundred million dollars to build an access road to the property. Since Governor Tomblin left office Governor Justice has announced a much less expensive access road. Now the plan is to use it for a National Guard training facility. It would be used for training on operating military vehicles, the kind intended for use in rough terrain.

If the National Guard facility does come about, we can add it to the three per cent of mountaintop removal sites that are being used for commercial development. The rest of the flat land will just have to sit there, all flattened up and no place to go.

Many Thanks

Many thanks to the many stores that distribute our newsletter, *The Highlands Voice* and our bumper stickers (see picture on page 11). One of these is the Water Stone Outdoor shop in Fayetteville.

Other merchants who wish to distribute *The Highlands Voice* or our bumper stickers can arrange to have bumper stickers or monthly packages of [usually small] numbers of Voices delivered to them each month. To request, contact Beth Little at blittle@citynet.net.

One Hundred Years of Bird Protection Now Threatened

By Jackie Burns

Imagine you are a duck on migration. Flying high overhead, the view is great. But it is getting to be time to rest and feed, so you are looking for a place to stop. Ahead you see a reflective pond. Looks like a good place to land. Just as you're landing you notice a peculiar smell. Then you are there and trapped. What looked like water was really an oil pond.

Well groomed feathers insulate the bird by trapping air. Oil fills those spaces inhibiting the bird's ability to keep its body temperature steady. Also, the bird now begins to sink instead of float. Let's say our bird was close to the edge, and manages to climb out. Now it begins to groom, ingesting the oil, causing internal injuries.

What is the Migratory Bird Treaty Act (MBTA)?

This year, 2018, is the 100th anniversary of the Migratory Bird Treaty Act (MBTA). In 1918, this law codified an agreement between the US and Great Britain (for Canada) to protect birds that spend parts of their lives in each of our countries. It was a time when birds were over-harvested, primarily for feathers that were used in the fashions of that day, or for meat. Just a few years earlier the passenger pigeon became extinct.

Fashions have changed, and most of us don't eat enough wild bird meat to threaten their existence. The types of threats birds face have changed, but the need to protect birds has not. This hundred-year-old law, because it was written in broad language has served well to protect birds, but a new interpretation threatens to gut its effectiveness.

The Migratory Bird Treaty Act does three things:

1. It prohibits hunting, taking, killing, capturing, possessing, sale, transporting, and exporting migratory birds, their feathers, eggs or nests.
2. It provides for the establishment of refuges to protect bird habitat.
3. It encourages monitoring bird populations.

Under this treaty and law, non-native species are not protected. Game species, such as wild turkey and waterfowl, have limited protection with regulated hunting and monitoring of population.

Since that time other countries have been added: in 1936 with Mexico, in 1972

with Japan, and in 1976 with the Soviet Union (now Russia). Even with this treaty and law our bird populations are a fraction of what they were in 1918, primarily due to habitat loss.

What threatens Bird Populations Today?

Today's threats to bird populations include things like high tension power lines, communication towers, oil pits, and windmills. Those building and maintaining these things don't intend to kill birds, but combined, these four things kill millions of birds each year. Since the 1970s if the losses are egregious, these companies might be prosecuted for this 'incidental take' under the MBTA. Fines for oil spills, like the Exxon Valdes, and the BP Deepwater Horizon spills have been substantial, with the proceeds going to treat oiled birds and clean and protect their habitat. These fines and the work for birds that they afforded would not have happened without this law.

This treaty and law have also brought people together to work on solutions that save birds, or at least limit losses. With the law as incentive, companies have worked with conservationists. Now smaller oil ponds are often covered so that birds can't land in them, windmills are designed to make it difficult for birds to perch on them, high tension power lines are spaced so that long-winged birds can't touch multiple lines at once – electrocuting themselves and lighting on towers may be modified to keep them visible to planes while making them less attractive to birds ... inexpensive effective solutions

Current Changes

So, why am I talking about what will happen without this landmark law? For two reasons: the Trump administration has re-interpreted the law and a bill is in the House of Representatives, that, if passed, will change the law.

At the end of the year, while we were celebrating the holidays the Department of the Interior, under Secretary Zinke, issued its re-interpretation of the Migratory Bird Treaty Act. Under the new interpretation, companies are not liable for 'incidental take.' That is, individuals and organizations can not be fined or prosecuted for accidentally killing birds, incidental to the work (such as power transmission) that they do.

The second change--the 'Secure American Energy Act' (HR4239)--is awaiting a vote in the House of Representatives. It

includes what National Audubon Society has called the 'bird killer amendment.' This amendment, introduced by Liz Cheney of Wyoming, protects energy operators from having to prevent bird deaths. Ms. Cheney says, "Our operators take multiple precautions to ensure migratory birds, as well as other wildlife, are not injured during their operations, but if these precautions fail, the current language could impose criminal liability for the taking of the bird, even though it's accidental."

Many operators take precautions that help birds because of the incentive the law provides. Without the law as an incentive some companies might continue the solutions that help birds, but they may lose a competitive advantage to those willing to skimp on things that don't add to the bottom line.

Year of the Bird

So, here we are starting 2018, which National Audubon Society, and 100 other non-profits have designated 'The Year of the Bird' facing new threats to our feathered friends. What can we do? Write to your congressional representatives opposing HR4239. Also write to Secretary Zinke, US Department of Interior opposing the re-interpretation of the Migratory Bird Treaty Act. Thanks.

References:

- Cornell Lab of Ornithology. April 1, 2009. "What Is The Migratory Bird Treaty Act?" [All About Birds](#). Online.
- Hart, David. November 4, 2014. "Conservation Corner: How Oil Dependence is Killing Ducks." [Wildfowl](#), Online.
- Leslie, Jacques. February 14, 2018. "Another Trump Victim: Migratory Birds," LA Times. Online.
- National Audubon Society. January 26, 2018. "The Migratory Bird Treaty Act, Explained." Online.
- Petrusich, Amanda. Feb. 28, 2018. "Don't Mess With the Birds!" [The New Yorker](#). Online.
- US Fish and Wildlife Service. "Migratory Bird Treaty Act." Online.

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

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

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