



The Highlands Voice

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

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We Have Wilderness; Now We Need to Work to Keep It Wilderness

By George E. Beetham Jr.

On October 13, 1746, Thomas Lewis, a surveyor from the Shenandoah Valley of Virginia was a member of a survey team headed by Peter Jefferson, father of Thomas. The party's mission was to survey the boundaries of Lord Fairfax's large estate. Near the ridgeline of Allegheny Mountain they encountered a 16-foot high cliff. They managed to get to the top. What they found surprised them. It was a wide plateau, not a standard ridgeline. There were flat rocks and a marsh.

Farther across the plateau they encountered:

"Laurel and Ivy as thick as they can grow whose branches growing of an extraordinary length are so well woven together that without cutting it away it would be impossible to force through them ... from the beginning of

the time we entered the swamp I did not see a plane big enough for a man to lie on or horse to stand..."

Leaving the plateau, he noted in his journal,

"Never was any poor creature in such a condition as we were in, nor ever was a criminal more glad by having made his escape out of prison as we were to get rid of those accursed laurels."

A little more than a hundred years later, not much had changed. David Hunter Strother, who wrote under the pen name Porte Crayon (French for pencil case), wrote in 1852:

"In Randolph County, Virginia, is a tract of country containing from seven to nine hundred square miles, entirely uninhabited, and so savage and inaccessible that it

(More on p. 4)

What's inside:

Thoughts from President Larry	2	Roster of officers	10
New Hiking Guide	3	Get a hiking guide	11
Wading out after bugs	6	Reconnoitering the pipeline	12
How to join	7	Atlantic Coast Pipeline tries to	
Get a history book	7	take shortcut	14
Land and Water Conservation Fund	8	Pipeline map	14
Board highlights	9	Feckless pipeline enforcement	15
Pipeline kicked out of Jefferson NF		Powerful words	15
National Forest	10	Get stuff	16



Thoughts from our President

By Larry Thomas

Old-Growth Forest in West Virginia

To the untrained eye it is a group of really big trees, but to Doug Wood, a retired Department of Environmental Protection water-quality official, who is helping spearhead an effort to identify old-growth tracts, particularly on public lands, it represents another potential stand of old-growth forest here in West Virginia. Perhaps you remember the articles that dominated the February and March issues of the Voice concerning the Governor's decision to log in the West Virginia State Parks and the tremendous public outcry generated by that decision.

In an article in the Charleston Gazette Mail by John McCoy on July 26 titled "WV Has More Old-Growth Forest Than Once Thought. Group Believes", Doug states that he believes there are



Photo by Katherine McFerrin

more old-growth stands scattered throughout the state, perhaps many more. The decision by the Governor generated a grass roots effort, headed by Doug, to identify and protect old-growth stands found within West Virginia State Parks.

During the interview Doug says, "Based on criteria established by the U.S. Forest Service, there are plenty of places in West Virginia that qualify as secondary old-growth forest, where

the forest has grown back up after being logged," he said. "Several areas of secondary old growth have already been identified, and I'm convinced that more will be found.

So far, we've found tracts on several pieces of public land that have old-growth characteristics," he continued. "Here in Kanawha State Forest, but also in Watoga, Cedar Creek, Twin Falls, Cacapon, North Bend, Holly River and Beech Fork state parks.

Those of us who enjoy our state parks, and walking among these big trees, were worried that we might see some of these trees felled," Wood said. "So we began to look for a way to help other people to gain an appreciation for how many of our parks contain old-growth areas."

When Doug finds a potential tract, he notifies The Old Growth Network. <http://www.oldgrowthforest.net/> The Old Growth Network is a non-profit group interested in helping designate old-growth areas," Doug explains. "They like the effort to be driven by the local citizenry, so they have county coordinators to help get citizens interested in identifying old-growth tracts."

At a recent presentation on how to identify old-growth forest Doug explained the methods that he uses to identify potential stands which include, scattered, dominant canopy trees greater than 20 inches in diameter at breast height; trees with "stag-headed" crowns that have nearly horizontal branches; nearby trees of varying heights and ages; a lack of shade-intolerant species, except in canopy gaps; large logs on the forest floor; scattered, large dying trees and standing dead snags; small canopy gaps created by dead or fallen trees; few, if any, cut stumps; few, if any, visible signs of logging roads or skid trails; 100-percent ground cover by leaf litter; and the presence of wildlife species that are mature-forest specialists.

As you hike through our West Virginia public lands, keep an eye peeled for a tract of potential old-growth forest. If you find a candidate, please contact me at larryvthomas@aol.com and we will do the research to determine if the tract can be added to those already found.

The article that I have quoted from can be found at: https://www.wvgazettemail.com/outdoors/wv-has-more-old-growth-forest-than-once-thought-group/article_cd132b2e-f3af-5385-b1f9-7180f95ee4c8.html

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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.

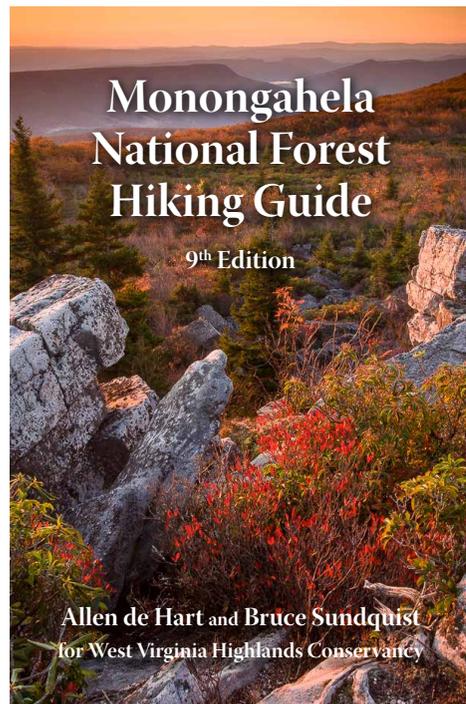
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Please email any poems, letters, commentaries, etc. to the VOICE editor at johnmcferrin@aol.com or by real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

New Hiking Guide Brings Color Photos, Maps, and 200 Trails

By Hugh Rogers

It's been a long hike to a new edition of the Monongahela National Forest Hiking Guide. Some of our companions didn't make it all the way. We miss our primary author of the 5th through 8th editions, Allen De Hart, and our former editor, Bruce Sundquist. Both men died in 2016.



Fortunately, Allen had begun working on the 9th edition, opening a trail for us to follow. An informal publications committee, including Frank Young, George Beetham, Lois Ludwig, and me, shared our findings and ideas with him throughout 2015, but toward the end of that year his communications slowed. He was 90 years old at the time of his death. He had written—and kept up—eleven different guidebooks on hiking in West Virginia and the Southeastern states; he had also campaigned for new trails in many of them, he had taught for thirty-six years at Louisburg College, in North Carolina, and he had founded and endowed botanical gardens both at Louisburg and near his birthplace below the Blue Ridge in Virginia. We were lucky to know him.

The Hiking Guide first appeared as a committee-written text in the Fall of 1972. Coaxed by Bruce Sundquist, a writer, hiker, and river-runner from Pennsylvania, its subsequent editions became fuller, better illustrated, and more widely used. Allen retained the basic format while expanding the book to compete with others that had begun to appear (to this day, no other guide covers every trail on the Mon).

Our new edition continues the Guide's evolution. For the first time, all maps and photos are in color. Kent Mason's vivid images leap off the pages. We are grateful for his generous donation, which will attract many more to the book. It's a gallery as well as a guide.

When we needed new maps, Rick Webb introduced us to Dan Shaffer, who has worked with him on pipeline issues at the Allegheny-Blue Ridge Alliance. Dan built the topos with digital layers that weren't available for previous editions. The layers did not always agree. Working through puzzles, he produced the most accurate maps possible.

The more I got involved in the details, the harder it was to see the forest for the trees. What had seemed at first a simple update ultimately became a new book. When we needed help with layout and design, I knew who to call: our friend Colleen Anderson, whose studio in Charleston is called Mother Wit. Her expertise, imagination, and cheerfulness made every problem a fun exercise.

There are many other people to thank, but that's what the acknowledgments page is for. However, we would like to note our mutual dependence on the Monongahela National Forest staff. They provide us with their best information on trails; we provide them with the best advertising for their resources, and a service that may keep some people from getting lost.

Our relationship with the Mon has changed over the years. Allen and Bruce used to have sharp arguments (occasionally refereed by Frank Young) over the Guide's role in criticizing forest policies. That came to a head in the run-up to the latest Land and Resource Management Plan (2006, revised 2011). Today, we find ourselves generally allied with, and admiring of, the staff in Elkins and the ranger districts. Our disputes are with their superiors in Milwaukee and Washington.

Readers familiar with former editions of the Guide will note changes in the writing and arrangement along with the trails that have been added or dropped. We hope you will flip through its pages and find new places to explore. If you're put off by the crowds around Bear Rocks in the fall, consider heading south to Laurel Fork Trail (p. 170) and the network of trails beyond it. Or go west to the new complex of trails on Cheat Mountain (p. vii), or south again to Big Draft Wilderness (p. 229). The Cranberry Wilderness (p. 239), already the largest in the East, was further expanded in 2009—backpackers are as likely to see a bear as another hiker. Remember to hang your food.

With all the changes, we kept the best features of the previous editions, and followed Allen De Hart's absolute rule: there must be a photo of a bear.

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.

Holding Onto Wilderness (Continued from p. 1)

has rarely been penetrated even by the most adventurous. The settlers on its borders speak of it with a sort of dread, and regard it as an ill-omened region, filled with bears, panthers, impassable laurel-brakes, and dangerous precipices. Stories are told of hunters having ventured too far, becoming entangled, and perishing in its intricate labyrinths."

The West Virginia Central and Pittsburg (sic) Railway up the valley of the North Branch of the Potomac River would change all that. It opened the wild region to logging and mining in the waning decades of the 19th Century. The timber was stripped, leaving only the small branches and shrubs that were not marketable. Forest fires swept the region, burning even the forest floor down to mineral soil. The resulting wasteland was deeded to the federal government to form the Monongahela National Forest.

Under Forest Service stewardship, the forest returned. Under the multiple use concept, the land was used for logging in some areas, pasture, some extractive mining, and recreation.

Move up a bit more than another hundred years from Strother and a bit more than 200 years from Lewis to September 3, 1964. that is when President Lyndon B. Johnson signed the Wilderness Act into law. Once designated by Congress and signed by the president, federal wilderness areas are protected forever.

The Act defines wilderness:

"A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain."

Three acts since then have designated wilderness areas within the Monongahela National Forest, signed into law in 1975, 1983, and 2009. They are:

- Big Draft Wilderness
- Cranberry Wilderness
- Dolly Sods Wilderness
- Laurel Fork Wilderness
- Otter Creek Wilderness
- Roaring Plains West
- Spice Run Wilderness

By far, Dolly Sods, both North and South, is the most popular. It is closest to major metropolitan areas on the Mid-Atlantic state: Pittsburgh, Washington, Baltimore, and Richmond. It is within a day's drive of many other cities. Trailhead parking is at a premium on weekends, and nearly impossible on holiday weekends. Yet, within the wilderness area, it remains possible to find a measure of solitude.

In other wilderness areas solitude is even easier to find. In some cases it's possible to wander for days without seeing another person. As they say in real estate, it's location, location, location. For the areas that get the most use, location carries a price.

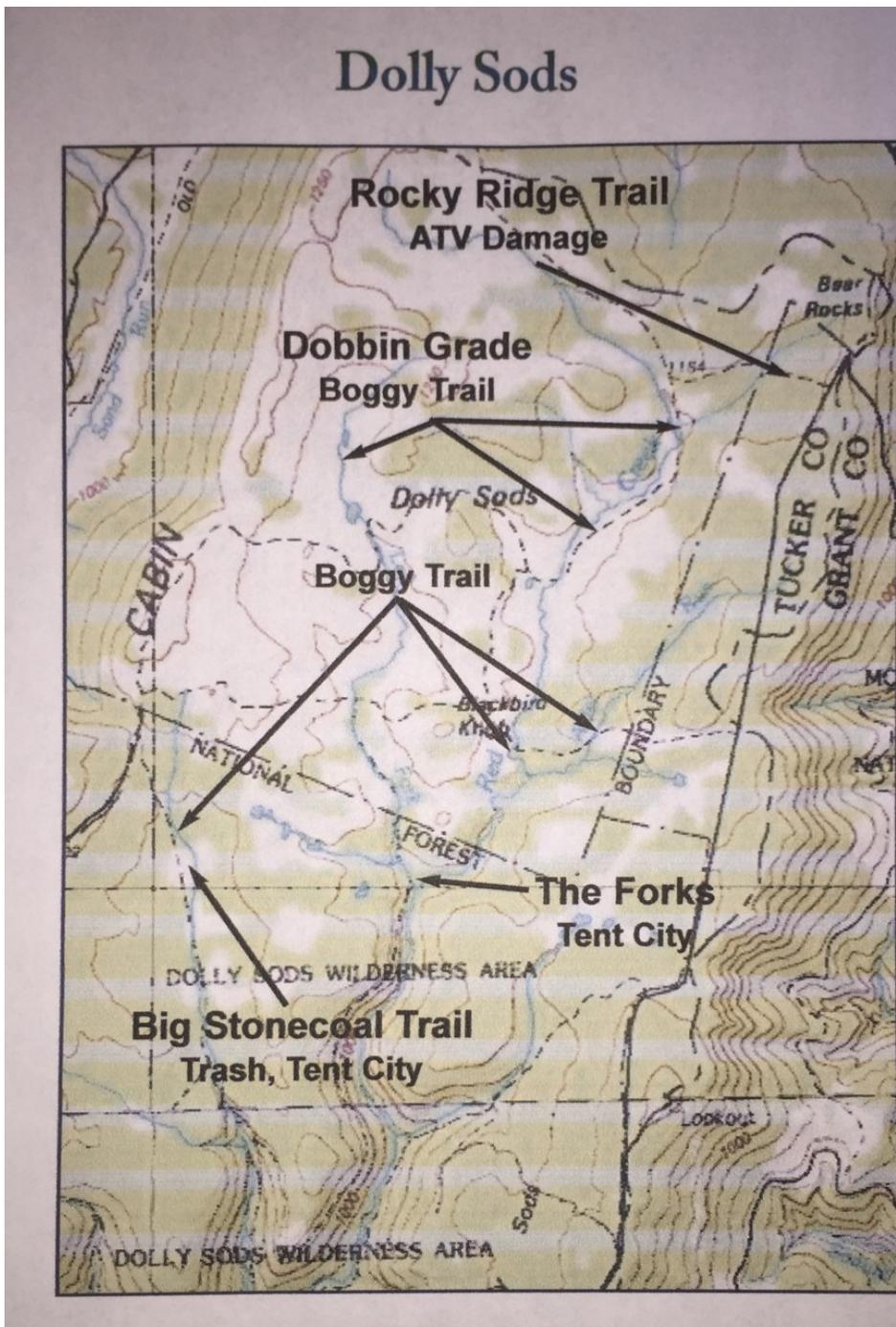
At this point I need to make clear that nothing in this story is meant to condemn anyone: wilderness users or the National Forest Service. There are certain realities at work. If this piece educates some, points to areas where action is needed, and improves things, it will serve its purpose. Wilderness is now our birthright: all of us. We should get out and enjoy it, be a visitor who does not remain.

There are, of course, responsibilities involved here. We should not litter. We should camp well away from streams to avoid contamination from food scraps or human waste. We should pack out our trash. we should leave our campsite cleaner than we found it. We should not cut down live vegetation. There are more, of course. We call it wilderness etiquette. Hiking guides, Forest Service regulations, and wilderness rules posted at trailheads all cover these issues.

Despite all that, there are areas in wilderness where people are "loving nature to death." On weekends campers tend to gather in popular spots. "Tent cities" go up. Long after the tents are struck and the owners gone, evidence of their presence remains. Cleared understory, stumps of trees cut for firewood, litter, improperly buried human waste ... all point to conditions that detract from the nature of wilderness and most likely contribute to stream degradation. It does not have to be that way.

Shenandoah National Park, for one example, requires wilderness users to camp well away from streams and out of sight

(More on the next page)



Map of issues on Dolly Sods Map compiled by George E. Beetham Jr.

More about Wilderness (Continued from p. 4)

from trails. Enforcement rangers patrol the back country on foot to educate, and if necessary issue citations. The National Park Service is blessed with funding for more enforcement rangers than the National Forest Service. Still, more rigorous enforcement is possible. Monongahela Supervisor Clyde Thompson, interviewed for this story, noted that he can direct resources to areas where education and enforcement are needed.



Hikers have cleared out space for tents along the Big Stone-coal Trail on Dolly Sods. Photo by Susan Posey.

“Everybody wants to camp by the creek,” he commented. That is where tent cities are located despite the fact that many acres of wilderness are unoccupied. “There are so many areas for campers to disperse, Thompson noted. That and the size of parties are issues that will draw attention. “We have resources to deal with that,” he added.

Another area of concern is maintenance. Particularly on Dolly Sods where boggy areas are common, but in other areas



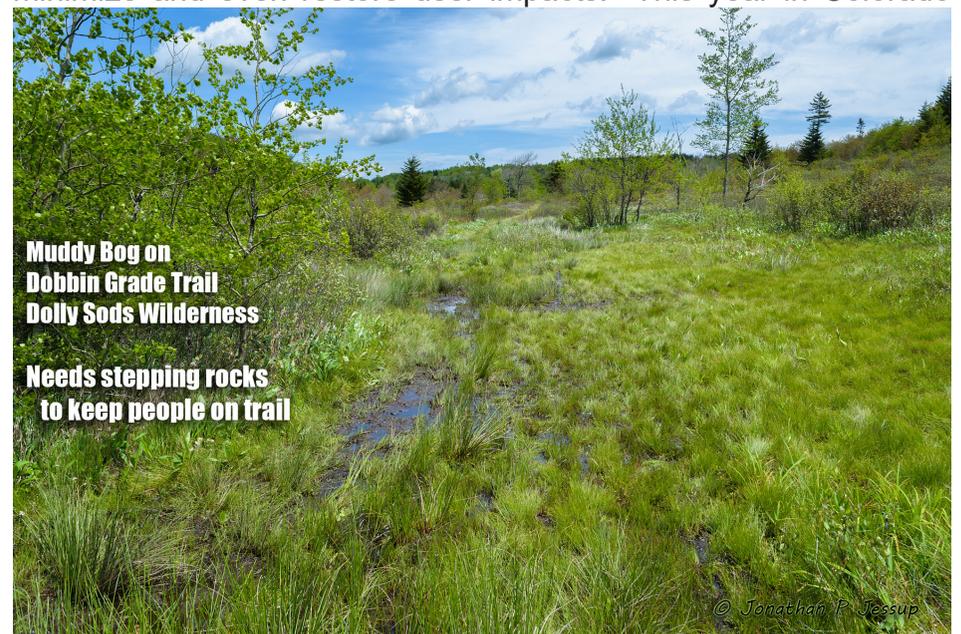
Trash left in camping area along Big Stonecoal Trail. Photo by Sandy Posey

as well. Nor is that issue unique to the Monongahela. Anywhere people hike, wet spots get churned into mud pits by hundreds of hiking boots each year.

Jonathan Jessup, whose striking photographs of West Virginia natural lands are well known, offered some thoughts, as well as photographs of the situation.

“The actual problem is the poor and deteriorating state of many of the trails and campsites as noted. My opinion is that they are ‘very under maintained’ or ‘not maintained.’” he said.

“What I would like to see is that trail crews were sufficiently maintaining the Mon trails especially the poor state and damaged trails of which there are many. I would also like to see the USFS staff taking corrective and preventative measures which can greatly minimize and even restore user impacts. This year in Colorado



Lack of maintenance along the Dobbin Grade on Dolly Sods has resulted in erosion. Photo © Jonathan Jessup

there was a miles long ‘riparian restoration zone’ along a formerly heavy use/impact area. The vegetation has rebounded there,” he continued.

He offered potential solutions:

“These corrective measures might include:

Creating riparian restoration areas where camping is prohibited

Rerouting trails away from sensitive areas

Designating campsites locations away from high use areas where they are less impactful

Placing stepping stones through bogs and muddy sections of trails to keep people on the trail

Closing the heavily used roads like FR75 (at least during busy weekends or permanently)

Moving the busier vehicle-accessible campgrounds away from the Wilderness areas in order to dislocate demand such as moving Red Creek Campground halfway down the mountain on FR19 towards Rt 28/55.

Encouraging campers to use hammocks instead of tents

In various ways, encourage people to minimize their use of the Wilderness”

(Not all of Jessup’s suggestions will meet with universal approval.)

(Finishing up on p. 6)

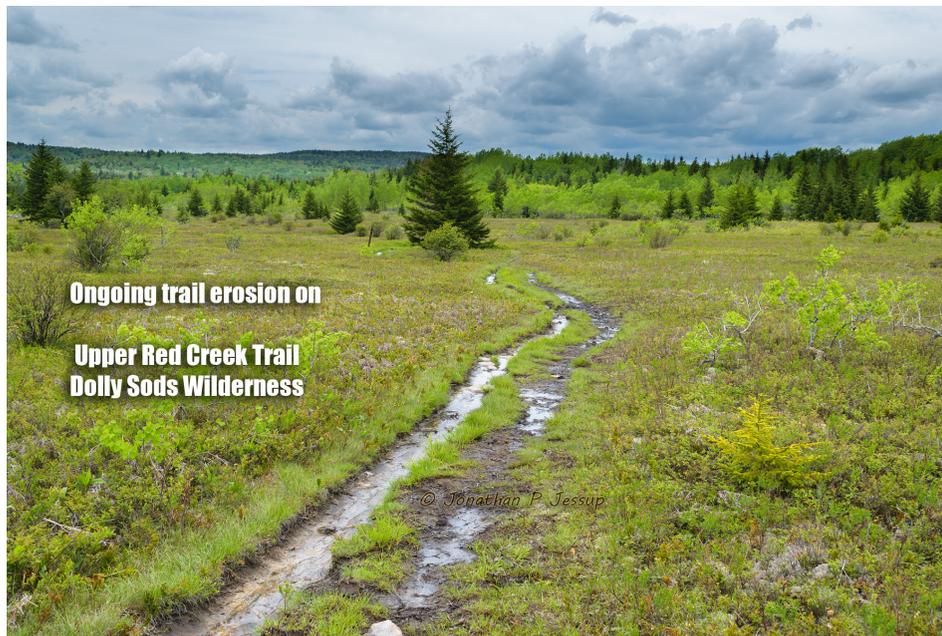
Holding on to Wilderness (Continued from p. 5)

Thompson responded to those concerns:

“We have to keep working on the problem of erosion,” he said. “We have some 854 miles of trail. We have been fairly successful in finding some funding help. We do have the ability to keep these funds (rather than passing them on to the General Fund). Some of these trails are just in the wrong place. We also have roads to maintain. I do have a plan for how this can be handled,” he said.

Helen McGinnis, whose tireless efforts helped facilitate the first West Virginia Wilderness Bill in 1975, raised a concern about vandalism, particularly to trail signs and message boards.

“I have been to the trailheads at the upper end of Otter Creek and the Mylius Trail many times. When I first started going there, they had very nice signboards with various info for visitors tacked on. The signboards may still be there, but the actual signs are tattered or even gone,” she said. “I recall last year there was a sign at the Mylius Trail head advising people not to camp right alongside Otter



Ongoing trail erosion on

Upper Red Creek Trail
Dolly Sods Wilderness

© Jonathan P. Jessup

Erosion on the Upper Red Creek trail from lack of maintenance. Photo © Jonathan Jessup

Creek, but away from it, because of the heavy camping use along the creek. This fall the signs were no longer there, she commented.

Thompson agreed. “The signage thing has always been an issue,” he noted that trail signs also seem to draw a large number of bullet holes. In some cases, people steal signs, likely for souvenirs, he said.

Given limited budgets for the Forest Service as a whole, it is probably unrealistic to expect solutions to emerge overnight. Still, Thompson believes there are initiatives that can be pursued. He mentioned the idea of communities working with the Monongahela staff.

The Central Appalachian Spruce Restoration Initiative (CASRI) has been working to plant red spruce and other high elevation native species in the highlands (The Highlands Conservancy has been very involved in that effort, spearheaded by Dave Saville). This science-based group is also removing invasive species from the Forest.

The Nature Conservancy acquired land on Dolly Sods North that is now part of the wilderness and purchased mineral rights for Forest lands. That conservancy was also instrumental in acquiring the Mower tract which is now a fairly mature forest formerly logged and mined.

Trout Unlimited, the Youth Conservation Corps, and other groups have helped.

“We do like the idea of communities,” Thompson said. It’s really all about the people. It’s the people’s forest,” he remarked.

Author’s Note: This article covers only a few of the issues with which Foresters will need to work on. There are many more than can be covered in any one story. We will continue to focus on these issues and work with the Monongahela National Forest staff to get answers and hopefully solutions.

Training on Benthic Macroinvertebrates hosted by the Save Our Streams program of the WV Department of Environmental Protection in cooperation with WV Rivers Coalition and Trout Unlimited. Volunteers met on June 19 at Shavers Fork in Stuart Recreation Area near Elkins. Benthic Macroinvertebrates are an indicator of water quality; it is possible to infer something about water quality from their presence (or absence). Photo by Angie Rosser



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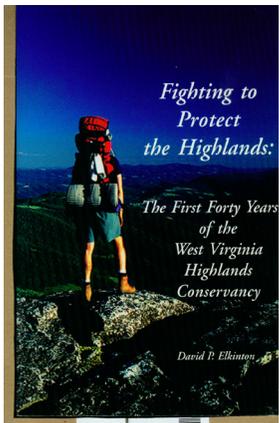
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If you have a friend you would like to invite to join the West Virginia Highlands Conservancy just fill out this form and send it to West Virginia Highlands Conservancy, Box 306, Charleston, WV 25321.

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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.

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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.

Land and Water Conservation Fund in Peril

The Land and Water Conservation Fund is scheduled to expire on September 30, 2018. There are efforts afoot to keep that from happening and to keep it authorized permanently.

The Land and Water Conservation Fund (LWCF) was created by Congress in 1965. It represented a bipartisan commitment to safeguard natural areas, water resources and our cultural heritage, and to provide recreation opportunities to all Americans. National parks like Rocky Mountain, the Grand Canyon, and the Great Smoky Mountains, as well as national wildlife refuges, national forests, rivers and lakes, community parks, trails, and ball fields in every one of our 50 states were set aside for Americans to enjoy thanks to federal funds from the Land and Water Conservation Fund (LWCF).

The Land and Water Conservation Fund uses revenue from one of our natural resources: offshore oil and gas. Every year, \$900 million in royalties paid by energy companies drilling for oil and gas on the Outer Continental Shelf (OCS) is available to be put into this fund. The money is intended to create and protect national parks, areas around rivers and lakes, national forests, and national wildlife refuges from development, and to provide matching grants for state and local parks and recreation projects.

The LWCF state assistance program provides matching grants to help states and local communities protect parks and recreation resources. Running the gamut from wilderness to trails and neighborhood playgrounds, LWCF funding has benefited every county in America, supporting over 41,000 projects. This 50:50 matching program is the primary federal investment tool to ensure that families have easy access to parks and open space, hiking and riding trails, and neighborhood recreation facilities.

Over the life of the program, more than \$3 billion in LWCF grants to states has leveraged more than \$7 billion in nonfederal matching funds. But funding levels have been unpredictable; not all the money that is available to the Fund is appropriated to it each year.

Around the country, the LWCF program has permanently protected nearly five million acres of public lands including some of America's most treasured assets such as Grand Canyon National Park, the Appalachian National Scenic Trail, the White Mountain National Forest, and Pelican Island National Wildlife Refuge, the nation's first federal refuge. According to the United States Department of the Interior website, every county in the United States has had some project that was funded in whole or in part by the Land and Water Conservation Fund.

In West Virginia, the Land and Water Conservation Fund (LWCF) has provided funding to help protect West Virginia's most special places and ensure recreational access for hunting, fishing and other outdoor activities. Public lands such as the Canaan Valley National Wildlife Refuge, Harpers Ferry National Historic Park, Monongahela National Forest, Chief Logan State Park,

and New River Gorge National River have all benefited. Forest Legacy Program grants, funded under LWCF, help protect working forestlands while enhancing wildlife habitat, water quality and recreation at places such as the Potomac River Hills in Morgan County. LWCF state assistance grants have supported hundreds of projects across West Virginia's state and local parks.

All public access points along West Virginia's Lower and Middle Gauley River, which is used by over 50,000 people annually, were made possible by LWCF funding. LWCF has also protected 57,000 acres in the Gauley River and New River Gorge Recreation Area that includes not just river access but over 2,000 named rock climbing routes. LWCF has also funded protection of the remnants of 19th and 20th century mining towns in the New River Gorge. These historic sites protect unique West Virginia heritage and diversify the base of visitors to the area. Roughly 1.2 million visitors enjoy these two parks annually.

Now the continuation of the Land and Water Conservation Fund is threatened. It began in 1965 and was authorized for twenty five years. It was reauthorized in 1990 for another twenty five years. In 2015 it was reauthorized for only three years so it will expire on September 30, 2018.

In considering the extension of the Fund, there are two questions to be addressed. The first is the extension itself. The option favored by the West Virginia Highlands Conservancy, as well as other conservation groups, is to make it permanent so that it never expires. Congress could, of course, always repeal the act that authorizes the Fund but, barring affirmative action by Congress, the Fund would continue permanently.

The second question to be addressed is how much of the royalties from oil and gas drilling must be spent by the Land and Water Conservation Fund. The royalties from offshore drilling provide the money for the Fund. Congress must still, however, decide to appropriate that money to the Fund. Historically, Congress has rarely appropriated the entire amount that is available from the royalties to the Land and Water Conservation Fund. Many years only a small fraction of the money that would be available to the Fund actually goes to the Fund.

Now Congress must decide on the future of the Fund. Senator Shelly Moore Capito has co-sponsored a bill that would permanently reauthorize the Land and Water Conservation Fund. Senator Joe Manchin has supported a similar bill that would accomplish the same result. This would correct the problem of the Fund periodically expiring and having to be renewed.

Senator Manchin has gone a step farther and supported legislation that would help ensure that the Fund is fully funded each year.

Board Highlights

By John McFerrin

A lot of the July meeting of the West Virginia Highlands Conservancy Board meeting was the same old, same old: we still have members; membership secretary Beth Little told us how many; we still have money; treasurer Bob Marshall told us how much. Nothing much has changed.

The most significant thing we did was agree to financially support the work of the Pipeline Compliance Surveillance Initiative (CSI). It is a project of the Appalachian Blue Ridge Alliance; we already belong to that. The money will be spent on, among other things, a field agent for West Virginia, the expenses of the monitoring air force, travel, and equipment such as cameras.

CSI is designed to support citizen efforts to ensure strict application of environmental laws and regulations in the event the pipeline goes forward. It is mostly carried out by volunteers who watch construction activities. If they see any water related violations, they can report them to CSI Central. It will have experts that review the information and make complaints to regulatory agencies, and then follow up on the complaints and agency action. They will also add the complaint to a map of the route. Most of the work will be done by volunteers although CSI intends to pay an attorney and a mapping specialist.

Right now most of its activities are in Virginia; there is not much coverage in West Virginia. There need to be citizen monitors because West Virginia only has three inspectors to cover the entire state. This effort does not just helps compensate for the lack of inspectors ; it is based on experience with pipelines on steep slopes, which has demonstrated that they cannot be built safely and in compliance with legal requirements. Some of the results of CSI's efforts so far are on pages 12-13 of this issue.

In addition to taking this action, the Board also heard about various things that we are involved in or may be on the horizon. President Thomas reported on some of his activities. Nationally there is a rule (known as the "roadless rule") that designates areas of National Forest as roadless areas. There is currently an effort in Alaska to eliminate the rule as it applies to some area. This would facilitate logging. There is some concern that the effort in Alaska in just the beginning; if it works there then there will be efforts to open roadless areas

elsewhere, including West Virginia. Larry has been cooperating with The Wilderness Society and is spokesperson for the effort in West Virginia.

Larry also talked about the Land and Water Conservation Fund. This is a federal program which provides funding for parks, natural areas, etc. It is set to expire on September 30 and requires legislative action to extend it. Senators Manchin and Capito both support some sort of extension. The effort now is to get it made permanent so that it does not have to be extended every few months or years. See the story about it on p. 8.

The problem with the Spruce Knob Observation Tower keeps growing. Once upon a time the tower was above the trees so that visitors had a panoramic view. Now the trees have grown so that now visitors see nothing but trees. What to do, what to do? It would be problematic to cut the trees, not just because cutting trees is always problematic but also because the endangered Cheat Mountain Salamander lives there. Making the tower taller is one solution. Larry is keeping an eye on this.

We currently have one at-large Board seat open. We also have two at-large Board members who have had difficulty making it to the meetings. They have indicated a willingness to resign when there are suitable candidate to take their places.

Two candidates have recently come to our attention as possible at-large Board members: It was the sense of the Board that Larry should appoint one immediately and that the Nominating Committee should recommend the other for election at the annual meeting in October.

Adam talked about Experience Learning, the new name for what used to be called the Mountain Institute. It has lots of programs for young people, including such things as day long or week long camps for things such as environmental education. He had been having conversations with its director. The director had suggested that some cooperation between Experience Learning and the West Virginia Highlands Conservancy would be beneficial. We are considering its beautiful site on Spruce Mountain for a future review.

Frank reported on matters legislative. The Environmental Council is taking advantage of the time between

sessions of the Legislature to plan for next year. There are not many interim sessions scheduled. The Environmental Council has a coordinator (Karan Ireland) who is working on developing the legislative agenda and meeting with groups to rally support.

In matters of outreach, we discussed the possibility of a fall review. A committee of Larry Thomas, Jim VanGundy, Cindy Rank, and Marilyn Shoenfeld will continue to consider the possibility. A review would include outings, evening discussion/panel, etc.

In renewable energy, Larry discussed the rules for siting of electrical wholesale generators, including industrial scale wind facilities/projects. The Renewable Energy Committee is working on a formal request to the Public Service Commission to amend its rules to better reevaluate the siting electrical wholesale generators, including industrial scale wind facilities/projects. It is likely that the Public Service Commission will refuse the request. A refusal would provide an argument that the Legislature should address this problem.

In extractive industries, Cindy Rank reported on continuing disputes. At Blair Mountain, parts of what was the original battlefield have been listed on the National Registry of Historic Places. Listing is not, however, the end of the story. We are still working with the Department of Environmental Protection to make sure it designates those areas as unsuitable for mining.

Cindy Ellis updated us on the Mountaineer XPress [MXP] pipeline, the Appalachian Gas Working Group, the TriState Water Defense group and the continuing meetings of ally groups with the WVDEP regarding pipelines and streams. She also spoke of recent meetings of the Citizens for Clean Elections.

Larry noted the ongoing study of timber in West Virginia. The West Virginia Department of Commerce has received a grant to inventory timber resources in West Virginia. It is possible that this study will be used as justification for another attempt to authorize logging in state parks.

The door prize (brought by Cindy Ellis) was a bag of No Pipeline Wild Rice from South Dakota. Buff won.

Court Vacates Federal Decisions on MVP Construction

By Kate Mishkin

The 4th Circuit Court of Appeals vacated the Bureau of Land Management's decision to grant a right of way, and the U.S. Forest Service's decision to allow a right of way and construction through the Jefferson National Forest after both were challenged by a coalition of citizen and environmental groups.

"American citizens understandably place their trust in the Forest Service to protect and preserve this country's forests, and they deserve more than silent acquiescence to a pipeline company's justification for upending large swaths of national forestlands," Judge Stephanie Thacker wrote in the 44-page decision that Judges Roger Gregory and William Traxler joined.

Those decisions to green-light construction violated the National Environmental Policy Act, the Mineral Leasing Act and the National Forest Management Act, the group, which includes the Sierra Club, Wild Virginia and Appalachian Voices, argued.

Specifically, the decisions threatened impacts to sedimentation and the interior forest, Nathan Matthews, a lawyer for the Sierra Club, argued in court in May.

When it's built, the underground pipeline will run 300 miles from Wetzel County, West Virginia, to Pittsylvania County, Virginia. The project will require a 75-to-125-foot right of way for construction, and a permanent 50-foot right of way. EQT Corporation, the project's parent company, had promised a late 2018 in-service date, but announced this week that the project would actually be done in the first quarter of 2019 instead.

Now, the Bureau of Land Management and U.S. Forest Service will have to reevaluate their decisions, essentially forcing construction out of the Jefferson National Forest in the meantime.

"Today's decision from the federal appeals court upholds the principle that agencies responsible for protecting the public's lands and resources must conduct thorough and honest reviews and reject proposals that would harm our interests," David Sligh, Conservation Director of Wild Virginia, said.

Construction in the Jefferson National Forest only amounts for about "one percent of the overall project route," Natalie Cox, a spokeswoman for the Mountain Valley Pipeline, said Friday. She said Mountain Valley Pipeline was evaluating the court's decision, and noted that the court didn't completely side with the environmental groups.

Neither the U.S. Forest Service or Bureau of Land Management responded to requests for comment Friday.

"We are evaluating the court's decision, which rejected many of the claims raised by the petitioners and largely upheld BLM's and the Forest Service's compliance with the National Environmental Policy Act," Cox said in an email. "The court also concluded that the Forest Service did not fully explain its rationale on sedimentation impacts and that BLM did not address the impracticality of different alternative routes."

In June, developers for Mountain Valley Pipeline asked for and received an extension to continue cutting trees in the Jefferson National Forest, claiming protesters had gotten in their way.

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

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Mon National Forest Hiking Guide

Celebrating the 50th anniversary of the West Virginia Highlands Conservancy, the new edition of the treasured guide to every trail in the Monongahela National Forest features brand-new topographic maps and Kent Mason's gorgeous photos, all in color.

The Guide has been updated with the cooperation of National Forest District Rangers and Recreation Specialists to reflect changes in the past ten years:

- * newly designated wilderness areas
- * new trails near campgrounds and sites of special significance
- * a new complex of interconnected trails on Cheat Mountain
- * rerouted and discontinued trails
- * ratings for difficulty, scenery, access to water, and much else

The definitive guide to the Mon adds a wealth of information about history, wildlife, and botany; safety, preparation, and weather; trail riding and cross-country skiing; as well as sources of further information on the Forest and its environs.

The Monongahela National Forest has long been known as a 'Special Place'. The hiking, backpacking, and cross-country skiing opportunities it provides are among the best in the eastern U.S. New wilderness and backcountry trails have been added to the outstanding areas we have appreciated for decades – Otter Creek Wilderness, Dolly Sods Wilderness, Flatrock Plains, Roaring Plains, Blackwater Canyon, Spruce Knob, North Fork Mountain, Shaver's Mountain, Laurel Fork Wilderness, Cranberry Wilderness -- and there are lesser-known gems to be found in between.

Profits from the sale of these guides support a wide variety of worthy environmental projects for the West Virginia Highlands Conservancy.

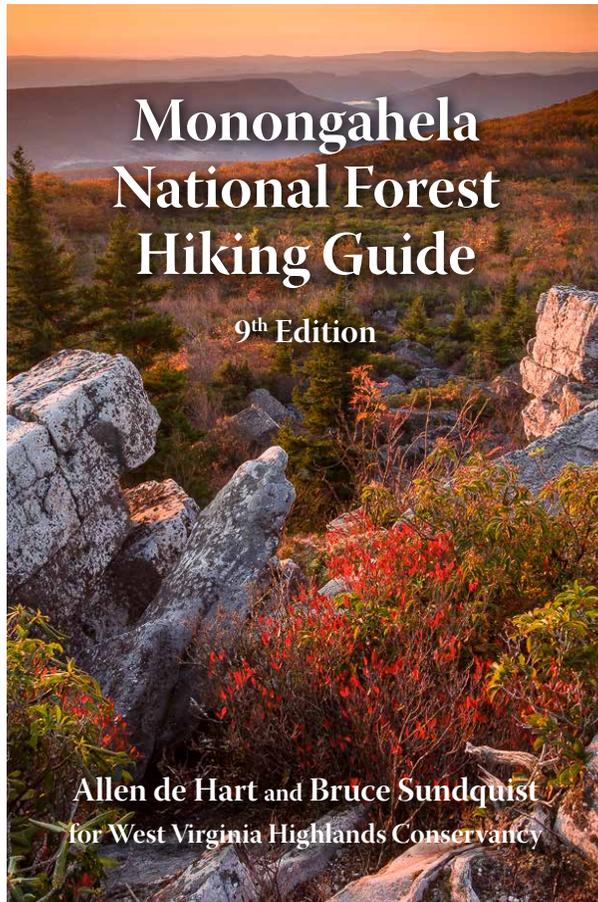
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Charleston, WV 25321

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www.wvhighlands.org**



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

Locking the barn after the sediment is in the stream**INDUSTRY STANDARD NONCOMPLIANCE**

By Rick Webb, Highlands Conservancy Board Member and Chair of the Allegheny-Blue Ridge Alliance CSI Program

The Pipeline Air Force, a component of the Pipeline Compliance Surveillance Initiative (CSI), has conducted multiple surveillance flights over Atlantic Coast Pipeline (ACP) construction areas in West Virginia in recent months.

This report includes some of the thousands of aerial photos of ACP construction obtained by the CSI. Consistent with observations of other pipeline projects in the region, these photos provide compelling evidence that citizen oversight of pipeline construction is needed.

We cannot simply rely on regulatory claims of good stewardship to ensure water environmental requirements. The established has proven dysfunctional.

The regulatory agencies have failed available measures for prevention of water construction across the steep mountains, karst of the central Appalachian highlands. Beyond no reason to expect strict compliance with that are in place.

The agencies are too understaffed willing to waive basic requirements, and too reluctant to inconvenience pipeline developers. And the developers are in too much of a hurry for diligent adherence to their own approved plans.

The CSI photos of Atlantic Coast Pipeline construction reveal that installation of runoff and erosion and sediment controls is occurring after rather than before or concurrent with construction-related earth disturbance. Our studies of previous pipeline projects, along with continuing reports of problems with other pipelines under construction in the region, indicate that delayed installation of runoff and erosion and sediment controls is standard industry practice and a major cause of water resource degradation.

Dominion Energy has taken this delayed approach to installation of environmental controls in the first phases of ACP construction. Apparently it intends to build the entire project on this incautious and noncompliant basis.

The CSI photos of Atlantic Coast Pipeline construction reveal that installation of runoff and erosion and sediment controls is occurring after rather than before or concurrent with construction-related earth disturbance

system oversight or pipeline industry resource protection and compliance with system for pipeline approval and oversight

to objectively evaluate the effectiveness of resource harm associated with pipeline valleys, and high-quality headwater streams concerns about technical capability, we have even the marginally protective requirements

for effective inspection and enforcement, too

THE REQUIREMENTS

The accompanying photos show initial land clearing and excavation for the Atlantic Coast Pipeline in West Virginia's Upshur, Randolph, and Pocahontas Counties. The photos reveal noncompliance with the approved West Virginia Storm Water Pollution Prevention Plan (SWPPP) for the ACP project, including the following specific requirements:

13.2 CONSTRUCTION SEQUENCE, 13.2.1 General Pipeline Construction, Site Preparation

4. Install perimeter Best Management Practices incrementally in advance of bulk earth-moving activity.

5. Conduct progressive clearing with installation of temporary sediment barriers and temporary equipment bridges keeping pace with clearing.

13.4 STRUCTURAL CONTROLS, 13.4.1 Temporary Structure Control Measures, 13.4.1.1 Temporary Sediment Barriers

Sediment barriers, which are temporary sediment controls intended to minimize the flow and deposition of sediment beyond approved workspaces or into sensitive resource areas, will be installed prior to mechanize clearing of trees, brush, and vegetation. They may be constructed of materials such as silt fence, compacted earth (e.g., drivable berms across travel lanes), compost filter sock, sand bags, or other appropriate materials

13.4 STRUCTURAL CONTROLS, 13.4.1 Temporary Structure Control Measures, 13.4.1.2 Belted Silt Retention Fence

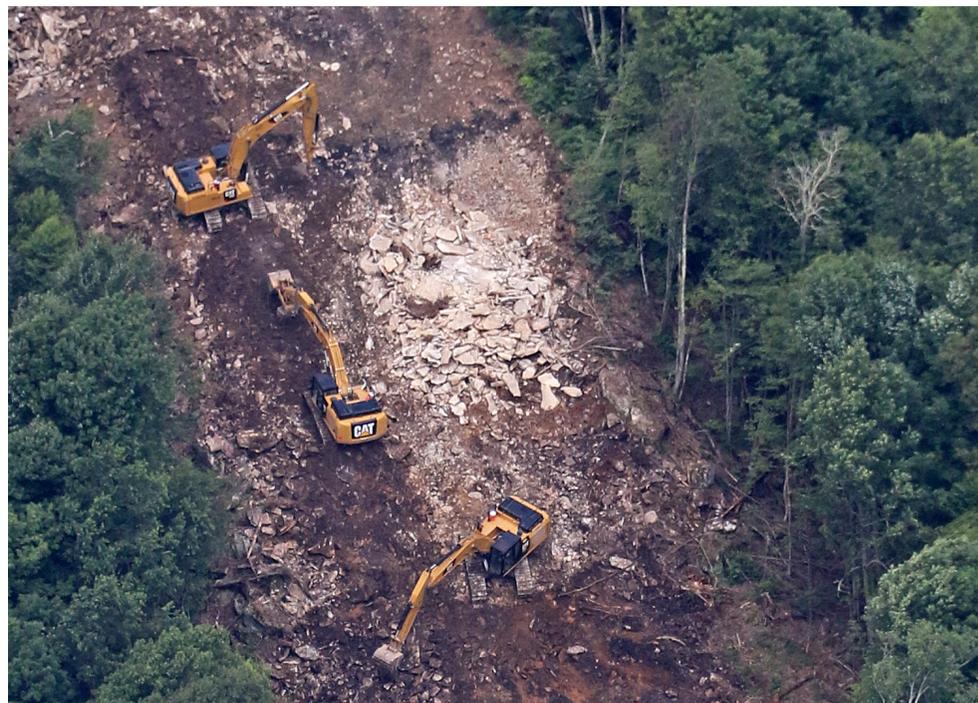
Belted Silt Retention Fence will be used to intercept and detain small amounts of sediment from disturbed areas during construction operations to minimize the potential for sediment from leaving the site. . . . BSFR will be installed where indicated on the Construction Alignment Sheets. . . .

Note: The pictures on the next page are only a few of the bazillions of pictures that the Compliance Surveillance Initiative has taken. To see more, as well as maps showing where the pictures were taken, go to <http://pipelineupdate.org/2018/07/29/industry-standard-noncompliance/> The maps also show where the steep slopes are located, where in-stream blasting is planned, proposed limits of disturbance, where the silt fences are supposed to be, and the location of the Mauch Chunk geologic formation, which is associated with extreme erosion and landslide potential.



Early-stage ACP construction activity in the Milepost 34-35 area approximately 600 feet upslope from the Buckhannon River in Upshur County. Tree removal has been completed and rough grading and excavation are underway. The required perimeter controls, the Belted Silt Retention Fence and Super Silt Fence shown on the Construction Alignment Sheet, have not been installed. Slopes exceeding 40% are present in this area.

Early-stage ACP construction activity in the Milepost 60-61 area upslope of Valley Fork of Elk River. Tree removal and excavation are underway without installation of perimeter controls shown on the Construction Alignment Sheet. Slopes range from 30% to greater than 60%.



Early-stage ACP construction activity in the Milepost 93-94 area at Thomas Creek and Seneca State Forest. Perimeter controls, including silt fence and compost socks are present at the Thomas Creek crossings but not upslope in the Seneca State Forest area, where tree clearing, steep-slope equipment use, and initial grading is underway.

Another day, another pipeline with a faulty permit

Groups Ask That Atlantic Coast Pipeline be Halted

Several citizen and environmental groups, including the West Virginia Highlands Conservancy, have asked that construction of the Atlantic Coast Pipeline be halted because it does not have the proper permit to cross streams and wetlands. The groups took two actions. First, they filed a petition for review with the Court of Appeals for the Fourth Circuit. Second, they formally asked the United States Army Corps of Engineers to stay the stream construction permit during litigation.

In earlier episodes

The July issue of *The Highlands Voice* reported that construction of the Mountain Valley Pipeline was blocked because its developers had relied upon the wrong kind of permit for stream and wetland crossings. The Clean Water Act requires that all pipelines that cross streams or wetlands have a permit. Developers may either seek an individual permit for each crossing or seek to qualify under a Nationwide Permit.

Nationwide Permits are issued for large classes of activities. They are appropriate for projects with minimal individual and cumulative environmental impacts. It is a one size fits all for lots of nearly identical activities that have small impacts. Individual permits are site specific; developers would submit an individual plan for each crossing and regulators would look at each one individually.

Developers of the Mountain Valley Pipeline chose to operate under the Nationwide Permit. Initially, the

United States Army Corps of Engineers approved of this. Then several citizen and environmental groups, through their lawyers at Appalachian Mountain Advocates, pointed out some flaws in this approval. More specifically, they pointed out that Nationwide Permit 12, upon which the MVP relied, did not allow the kind of stream crossings that planned for the MVP.

Two things happened. First, the Corps of Engineers suspended construction at four river crossings. Second, the United States Court of Appeals for the Fourth Circuit suspended all stream and wetland crossings in West Virginia until it could hold additional proceedings, now scheduled for September.

Now what happened

Now several citizen and environmental groups have made a similar request for suspension of construction of the Atlantic Coast Pipeline.

The argument is largely the same. Nationwide Permits are appropriate for several small but similar projects that, either individually or collectively, have a small impact. With pipelines, this type of permit is appropriate for a single pipeline crossing a single stream. With both the MVP and the ACP, they're crossing hundreds and hundreds of these small headwater streams without considering the overall impact on the watersheds.

The MVP tried to use this shortcut as a way to avoid having to get an individual permit for each crossing. When the groups

questioned this assertion, the Court agreed (at least preliminarily).

The Atlantic Coast Pipeline is trying to take the same shortcut. The groups now say, as they said with the Mountain Valley Pipeline, that the Atlantic Coast Pipeline is too big and the terrain it crosses is too varied to be covered by a Nationwide Permit. It should be stopped until its developers get site specific permits for each crossing.

There has been some small (and possibly temporary) progress in preventing the ACP from using the Nationwide Permit shortcut. The Corps of Engineers has temporarily prohibited the developers of the ACP from relying upon this shortcut for stream crossings in West Virginia. This effectively halts all streams crossings by the ACP in West Virginia, at least for the time being.

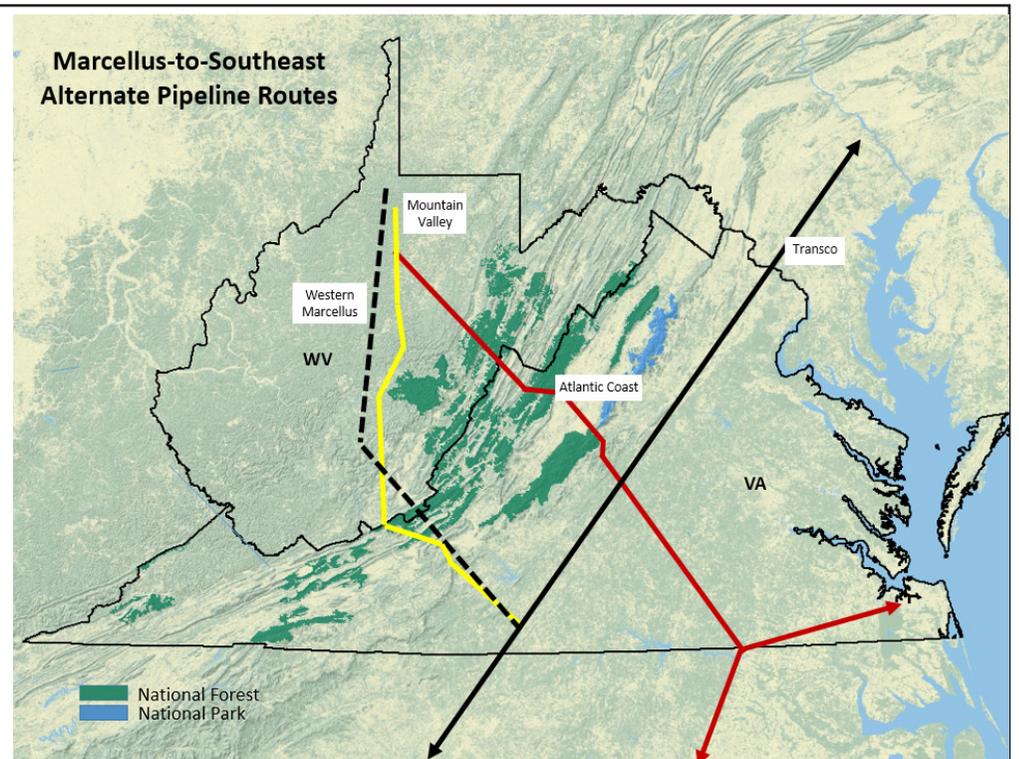
The Corps of Engineers has given the developers of the ACP an opportunity to submit additional information, seeking to justify its eligibility for the Nationwide Permit shortcut. If the developers are able to convince the Corps that the Nationwide Permit shortcut is appropriate, the Corps will probably allow the ACP to go ahead, using the shortcut. This would be subject to court challenge or approval.

We will see if the Court agrees with the citizen and environmental groups that using the Nationwide Permit shortcut in such difficult terrain is appropriate.

Stay tuned.

Programs! Programs! Get your programs! Can't tell the pipelines without a Program!

The West Virginia Department of Environmental Protection's website shows eight major natural gas pipelines proposed or under construction in West Virginia. No wonder our heads are spinning, keeping them all straight. This map shows only the two biggest ones—Atlantic Coast Pipeline and the Mountain Valley Pipeline. To see the locations of all eight, go to <https://tagis.dep.wv.gov/majorpipelines/>. There is no point in copying that map here; it is color coded and would not reproduce well.



DEP goes bear hunting with a switch

Groups Say Rover Pipeline Fine Is Too Small

By John McFerrin

The West Virginia Highlands Conservancy has joined with the West Virginia Rivers Coalition (which led the effort) and seventeen other organizations in criticizing the actions taken by the West Virginia Department of Environmental Protection against the Rover Pipeline. The groups consider the actions to be insufficiently vigorous.

The Rover pipeline is mostly in Ohio and Pennsylvania but does cross West Virginia's northern panhandle.

Beginning in April, 2017, and continuing through April, 2018, West Virginia Department of Environment Protection inspected the Rover Pipeline, issuing fourteen notices of violation and two cease and desist orders. Rover created conditions not allowable in state waters ninety two times. Most of the violations were for poor (or non-existent) sediment control.

After this year of chronic noncompliance, the DEP decided to take what it considered to be serious enforcement action. It bundled together the violations into what is called a Consent Order. A Consent Order is an agreed upon document in which the company agrees to pay a fine and promises, in a nutshell, to not do it again.

Consent Orders such as this are made available for public comment. Given the opportunity, the groups had a lot to say. So far as the substance of the violations were concerned, the groups said this:

Rover was repeatedly cited for the same violations. Specifically, Rover created conditions not allowable in state waters approximately 92 times. They were cited for failing to prevent sediment-laden water from leaving the site approximately 14 times at numerous locations each time. They were cited 13 times for failing to comply with their approved Stormwater Pollution Prevention Plan. Silt fences, filter socks, water bars, water bar outlets and other erosion control devices were either not installed at all, not installed properly, or not maintained as required. They failed to provide stone access entrances at their work sites and then failed to clean the resulting debris from the road on several occasions. In multiple instances, they used inappropriate Best Management Practices (BMPs); for example, using sheet flow BMPs where concentrated flow BMPs were needed. They used straw bales for erosion control which are not approved erosion control devices. They removed the erosion control devices prior to the soil being stabilized. They failed to stabilize exposed soil after 21 days of inactivity. They did not protect fill slopes allowing earthen slips to occur. They then failed to report the non-compliant slips endangering health and the environment. The repeated nature of these violations is inexcusable. It signals that this is a company that harbors total disregard for the law and the people who stand to be adversely impacted by that disregard. Based on these actions, Rover does not deserve the privilege of doing business in West Virginia.

Had they conducted their routine inspections, they could have corrected these errors; however, they even failed to conduct inspections every seven days as required by

their permit. As a result of these repetitive and egregious negligence, hundreds of sites in approximately 35 streams were flooded with dirt and debris.

With their repeated negligence and blatant disregard for the environmental laws they agreed to abide by, they should receive the most severe monetary penalty. They should also be banned from applying to construct further projects in the State of West Virginia.

In cases such as this the fine assessed is the result of a formula. The formula takes into account such things as the number of violations and their severity. Application of this formula resulted in a fine of \$430,030. The formula also allows for adjustments for

- Loss of enjoyment of the environment
- Size of the violator
- Economic benefits derived by the responsible party
- Public interest
- Staff investigative costs

The Order did not make any adjustments for any of these.

Rover did get a \$34,400 discount for "Cooperation with the Secretary". The Order does not explain how we came to live in such a topsy turvy world where someone can commit the same violations over and over for a year, ignore anything the Department of Environmental Protection says, and end up with a discount for "Cooperation with the Secretary."

A fine of \$430,030 sounds like a substantial amount until one considers the party involved. The Rover Pipeline has construction costs of \$4.2 billion. A fine of \$430,000 is only one ten thousandth of the cost of the project. Energy Transfer Partners, the parent company of Rover, had \$29 billion in annual revenue in 2017 and grossed \$6 billion in profits. The regulations allow for penalties to be adjusted for the "Size of violator." In their comments the groups insist that the penalty be adjusted for the size of the violator.

"Whether it's coal to Asia, coal waste to oil, coal to plastics, or coal to rainbows and unicorns, that coal is mined from the bones and the lungs of people who can never be fairly compensated for their injuries or their lives."

~ from Vernon Haltom's (Coal River Mountain Watch) written testimony to the House Subcommittee on Energy and Mineral Resources oversight hearing titled "Assessing Innovative and Alternative Uses of Coal" July 24, 2018. His spoken testimony included citing a 25-year high in black lung cases and names of friends and family who've died of mountaintop removal-related diseases: Judy Bonds, Joanne Webb, Larry Gibson, Carol Judy, and Vickie Terry.

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