



The Highlands Voice

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Key Initiatives Bite the Political Dust for 2019

Legislature Makes Little Progress on Environmental Issues

By Frank Young

For 75 days—including for one week prior to and a week following the end of the recent 60 day regular session of the WV legislature--lobbyists for the WV Environmental Council (WVEC) walked the hallways of the capitol, attended uncoun­ted legislative committee meetings, schemed with lobbyists from allied social justice organizations, encouraged citizens “back home” to contact legislators in support of environmental law sanity- all in an effort to recruit political support for WVEC’s 2019 legislative agenda.

As reported in the February issue of the *Highlands Voice*, WVEC’s 2019 legislative agenda included:

- Water protection including updating state water quality stan­dards with EPA recommended human health criteria;
- Renewable energy inducements including individual retail cus­tom­er Power Purchase Agreements (PPAs);
- Protecting public lands, including continuing prohibition of com­mer­cial logging in State Parks;

- Ensure that extractive industries pay severance tax into the West Virginia Future Fund;
- Election law updates- pro-democracy, anti-corruption election law updates;
- Oil and gas issues including abandoned wells and health study of fracking regions.

So what did WVEC get in the way of good legislation in 2019? Not much, frankly.

Enhancement to water quality standards (lowered pollution limits) got a good start early in the session, but then got weakened in the face of intense industry lobbying- with the WV Manufacturer’s Association (WVMA) apparently successfully arguing with a straight

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Thoughts from our President

By Larry Thomas

March was again another busy month for the environmental community both federally and within West Virginia.

New Study Details the Increasing Risks of the ACP

“The ACP is facing a triple threat,” so concludes a new study released March 25 by Oil Change International and Friends of the Earth. *Atlantic Coast Pipeline – Risk Upon Risk* cites three principal threats to the viability of the Atlantic Coast Pipeline: 1) extensive legal and regulatory challenges that are delaying construction and raising costs; 2) fundamental challenges to its financial viability in the face of lack of growth in domestic demand for methane gas and increased affordability of renewable energy options; and 3) an unprecedented citizen initiative positioned to ensure strict compliance with environmental laws and regulations.

Some further highlights from the six-page study:

- “The ACP is a climate, environmental and human rights boondoggle.”
- “The ACP is facing an onslaught of legal challenges and losses. Seven federal permits have been stayed, suspended or vacated; in fact, all construction on the pipeline is currently stopped. When — or if — construction will start up again is unknown. Environmental groups, Indigenous Peoples and others have brought at least nine court challenges to ACP permits and certifications, most of which are ongoing.”
- “In Dominion’s 2018 long-term Integrated Resource Plan (IRP), four out of five modeled scenarios showed no increase in methane gas consumption for power generation from 2019 through 2033.9 However, in December 2018, this IRP was rejected by Virginia state regulators, in part for overstating projections of future electricity demand.”
- “The most recent IRPs of Duke Energy Progress and Duke Energy Carolinas also revealed that previously planned methane gas plants have been delayed by at least five years beyond the original proposal, and none have been approved by the state regulator.”
- “Over the next decade, it is likely that the demand for methane gas in Virginia and North Carolina will decrease further as renewable energy and storage technologies continue to rapidly decline in price and undercut the cost of running methane gas-fired power plants.”
- “If construction proceeds, an

unprecedented, highly coordinated science and technology-based Pipeline Compliance Surveillance Initiative (CSI) is positioned to make sure environmental laws and regulations are strictly applied and enforced during construction. It is spearheaded by the Allegheny-Blue Ridge Alliance and member organizations.” WVHC is a member organization.

Land and Water Conservation Fund Reauthorized

The March *Highlands Voice* reported that the Land and Water Conservation (LWCF) was permanently reauthorized by the Senate. The reauthorization was subsequently approved by the House of Representatives. However, it was reauthorized without funding. WVHC is working with West Virginians for Public Lands and other national organizations requesting that congress provide permanent funding for LWCF.

Forest Service Projects

The Public Lands Committee continues to monitor the Forest Service projects in the Monongahela National Forest to determine if comments are warranted and for which WVHC has submitted comments concerning what are considered major flaws in terms of protecting sensitive resources and potentially conflict with the Forest Plan.

On March 26, 2019, WVHC submitted comments on the Draft Environmental Assessment (EA) for the Beulah Wildlife Enhancement Project located in Randolph County. <http://www.fs.usda.gov/project/?project=51533> . Comments submitted included:

- Cheat Mountain Salamander and the Modified Proposed Action
- West Virginia Northern Flying Squirrel
- Watershed Protection
- Prevention and Control of Non-native Invasive Species Infestations
- Heritage Resources Analysis
- Blue Ridge St. John’s Wort
- Minor Factual Errors

The Forest Service is in the process of finalizing the environmental assessment for the Spruce Knob Grouse Management Area NEPA project and will soon be preparing the draft decision. April 2, 2019 a gut check follow up meeting to the March 7, 2019 meeting is scheduled to share updated maps, design features, and mitigations that will be incorporated into the decision notice.

We are anxious to see the modifications after the prior meeting. A representative of the Public Lands Committee will attend the meeting.

Proposed Big Run Pump Storage Project in Tucker County, West Virginia

The January 3, 2019 United States Department of Agriculture, Forest Service second comment letter to FERC stated:

“Our assessment remains unchanged; the Big Run Project is not consistent with the management goals, objectives, and standards identified in the Forest Plan for Management Prescriptions 8.2 and 4.1. Therefore, should FreedomWorks apply for a special use permit to the MNF, it is unlikely that a special use permit would be issued for the Big Run Project.”

On January 31, 2019 FERC sent a letter to the Forest Service asking that if FreedomWorks, LLC files for the special use permit, would the Forest Service would allow access to lands within the Monongahela National Forest (MNF) to conduct licensing studies that would include land disturbing activities.

On March 4, 2019 the Forest Service responded that it has determined that Freedom Works’ licensing studies proposed in the SUP proposal are not consistent with the management goals, objectives, and standards identified in the Forest Plan for Management Prescriptions. Therefore, because Freedom Works’ proposal to the MNF had been denied, Freedom Works will not be able to access NFS lands within the MNF to conduct licensing studies for the proposed Big Run Project.

On March 17, 2019 and again on March 18, 2019, FreedomWorks filed requesting that FERC continue with the process to grant preliminary permit number, while they work through an appeal to the U.S. Forest Service for reconsideration of their decision. No response has been received from FERC to date.

West Virginia Legislature

As stated in the March issue of the “Highlands Voice”, following the West Virginia legislature this year was very interesting. The West Virginia Environmental Council (WVEC) lobby team did a great job in keeping up with and reporting on legislation of concern. There were many concerning bills introduced with various outcomes. See the report on the legislative session in this issue of the Voice (p. 1)

Forest Service Pours Cold Water on Big Run Pump Storage Project in Tucker County West Virginia

By Randy Kesling

FreedomWorkd LLC has submitted a proposal to the Federal Energy Regulatory Commission (FERC) to construct a Pump Storage Hydro Project (Project) In Tucker county. The Project would cover over 2500 acres of land, including United States Forest Service (Forest Service) land subject to potential impacts to environmentally sensitive areas. The Project will pump water from a lower reservoir to an upper reservoir located 1000 feet above in times of lesser electric demand and release water from the upper reservoir back down to the lower reservoir to generate electricity in times of peak electric demand. As of this writing, the Forest Service has rejected a proposal from Freedom to perform feasibility studies for the Project on Forest Service land.

FERC had previously queried the Forest Service as to whether it would grant a Special Use Permit (SUP) to Freedom Works LLC (Freedom) to allow Freedom to perform feasibility studies on Forest Service Land. On March 4, 2019, the Forest Service notified Freedom that it had rejected Freedom's unsolicited proposal to perform feasibility studies for the Project on Monongalia National Forest System lands. The Forest Service returned Freedom's Proposal to Freedom stating that the Proposal "shall not receive further evaluation and processing". The Forest Service's rejection of Freedom's proposal obviates FERC's original query.

The Forest Service's rejection of Freedom's proposal was based on a regulatory finding under 36CFR 251.54(e) that "the proposal is inconsistent, and

cannot be made consistent, with applicable forest land and resource management plan standards and guidelines for management of the area". Proposed vegetation and earth disturbances in the highly environmentally sensitive Big Run Bog (Bog) area were deemed inconsistent with the Monongahela National Forest Land and Resource Management Plan.

On Mar 18 and 19, 2019 Freedom sent letters to FERC regarding the Forest Service's rejection and asked FERC to grant a preliminary permit which would allow Freedom to proceed with feasibility studies under it proposed Special Use Permit while Freedom seeks Forest Service reconsideration of its rejection. In its letter to FERC, Freedom questions the regulatory appropriateness of the Forest Service's rejection of its proposal and reinforced its position that changes to the project prompted by comments from the Highlands Conservancy have insured that even in an emergency situation, water would never be released into the Bog. Freedom also asserts its previous understanding that the Forest Service would allow it to undertake feasibility studies and that it was Freedom's understanding that the Forest Service, and the WV Department of Natural Resources had concluded that the BOG would not be affected by the Project. Freedom also reinforces its position that the Special Use Permit feasibility studies are discreet and are only the first of a number of approvals that would be required to authorize the project.

Freedom recognizes only two potentially fatal issues that could terminate

the project: the presence of unsuitable geology, and the presence of endangered species in the project area. Freedom is relying on feasibility studies under the Special Use Permit to ascertain the extent to which either of these fatal conditions exist.

We note at least one other fatal issue that Freedom fails to recognize: the destruction of a Tier 3 trout stream, which is prohibited by state regulations.

Freedom is relying on feasibility studies under the SUP to ascertain if any of these fatal conditions exist. Our position is that the feasibility studies should not be permitted due to the already known Tier 3 stream issue, which should kill the project without further studies. We await FERC's response to Freedom's request as we continue the somber countdown of the remaining life span of the native trout in the Tier 3 waters of Mill Run as well as the Forest land that this Project will obliterate.

Big Fun on the Horizon!

The West Virginia Highlands Conservancy will be Oct. 18-19-20, Friday, Saturday and Sunday. Put it on your calendar now, in big letters, and plan to be there. Details to be announced.

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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.

Legislative News (Continued from p. 1)

face before a joint House-Senate Rules Committee that because West Virginians are physically heavier (fatter) than people in other states, our bodies can tolerate higher levels of cancer-causing chemicals. Yes, our lobby team leader witnessed this obviously non-scientific suggestion by the Manufacturer's Association during the legislative committee hearing.

The state of West Virginia is required by U.S. EPA regulations to conduct water quality assessments and re-designate pollution limits for designated pollutants every 3 years. This is related to West Virginia having chosen to retain "primacy"- setting its own water quality standards rather than have the U.S. EPA impose standards that may be more stringent than West Virginia industries that discharge waste products into streams would like. This required water quality re-assessment every 3 years is called a Triennial Review. Supposedly the WV Department of Environmental Protection (DEP) makes scientifically sound recommendations to the WV legislature for renewal of water quality standards. But in actual practice we who have witnessed numerous legislative hearings on water quality and human health standards have seen DEP scientific recommendations summarily dismissed by legislators in deference to industry- especially in deference to the WV Manufacturers Association lobbyists. So the higher human health standards for water quality will again be set aside for another three years until the next federal EPA required Triennial Review of water quality standards comes around.

Perhaps WVEC's biggest disappointment was that Senate Bill 409, which would have amended West Virginia utility law to allow residential scale Power Purchase Agreements (PPAs) between a retail electricity customer and the owner of a renewable or alternative energy resource facility located on the premises of a retail electric customer, died in the Senate's Energy, Industry & Mining committee.

PPAs are Power Purchase Agreements- contracts which assure that a market exists for those kilowatt hours of electricity generated by the solar panels, wind turbines, coal fired steam turbines, or other electricity generating mechanisms. Such contract agreements are necessary to allow the financiers of electricity generating facilities to know that willing buyer-seller agreements from which to market the electricity produced are in place.

Under existing WV law, only licensed utility companies can sell electricity on a retail level to a consumer of electricity. This means that electricity sold at retail (directly to consumers) in WV is sold by subsidiaries of either American Electric Power Co. or of First Energy Corp. Currently Power Purchase Agreement contracts are exclusively wholesale level power sales contracts between electricity producers (for example owners of steam generated power plants like First Energy Corp. and their subsidiary retail marketers such as Monongahela Power Co.) PPA contracts are also used by, for example, the owner of a wind energy facility (such as Invenergy Corp., the owner of the Beech Ridge Wind Farm in Greenbrier County) that generates electricity for the wholesale electricity market and a public utility electricity retailer such as Appalachian Power Co. or Monongahela Power Co.

Retail level PPAs are not allowed in West Virginia. I cannot contract a Power Purchase Agreement (PPA) with XYZ Solar Co. to put solar panels on the roof of my home and then sell me the

electricity thereby generated. Why not? Because XYZ Solar Co. is not a designated public utility that is set up to serve all customers in a designated service area.

The effort toward allowing retail level PPA contracts this legislative session related mostly to rooftop solar panel installations on residential structures such as a home or an apartment building. This would be a revolutionary approach to how electricity is produced, distributed and marketed. The big utility companies currently display no interest in furnishing their customers rooftop generated electricity. And so the existing electric utility companies fight against legislation to allow contracts (Power Purchase Agreements) between consumers and rooftop solar panel leasing companies.

Why is this important to WVEC and its organizational members such as WV Highlands Conservancy? It is important because small scale (sized to provide electricity to individual households, for example) renewable energy resources such as solar panels would reduce the market demand for fossil fuel fired electricity. This would reduce the amounts of coal or other steam produced electricity fuels that would need to be mined, transported and burned. This would, in turn, reduce the local miseries caused by mining coal and of drilling and fracking for natural gas, as well as allow an overall reduction of the harmful effects of burning fossil fuels on regional and worldwide climate. Less fossil fuel combustion equals less both local disruptions and worldwide pollution.

Re: clean elections: several bills to decrease electoral corruption did not make it out of legislative committees. Summaries of **SB 115** **SB 118 & HB 2445** **-SB 236** **-SB 276** **-SB 429** **-SB 438** **-SB 491** **-HB 2008 & SB 108** can be seen here: <https://wvoter-owned.org/pro-democracy-platform-update-voting-rights-restoration-court-bills-advancing/> . These bills were sponsored by West Virginians for Clean Elections- which is allied with WVEC.

Ironically Senate Bill 622, a bill to increase by several fold the amounts of money that can legally be contributed to or by Political Action Committees or directly to candidates' campaigns passed both houses of the legislature with flying colors. Some of us think that under existing law public elections are absolutely corrupted by campaign contributions and quid pro quo expectations by office holders and their campaign contributors. But obviously the WV legislature thinks that the cure for campaign money and corruption is to simply increase the amount of campaign money allowed into political campaigns.

Sometimes the best legislative victory comes about because an expected bill was never introduced. For example, an anticipated bill to allow commercial logging in WV State Parks never got introduced this year. Word around town is that the governor did not want a repeat of the gigantic public clamor against a bill that would have allowed logging in State Parks as occurred last year. Opposition to that bill generated in excess of 20,000 comments of opposition in 2018.

Not only were severance taxes on coal, gas and oil not increased in support of the WV Future Fund, the legislature actually

(More on the next page)

The Legislature: the rest of the story (Continued from p. 4)

decreased the severance tax rate on steam coal (used mostly to generate electricity) by forty percent.

Despite some successes, most of the bills introduced to address the issue of unplugged oil and natural gas wells across West Virginia did not cross the finish line during the state's 2019 legislative session. One such bill appeared poised to pass in both houses but fell through during the last night of the session. This was Senate Bill 665 which had the goal of allowing expedited permitting on natural gas wells in exchange for a higher well permit fee. If passed, the extra money would've been used to hire more Division of Environmental Protection staff to speed up the process and

go to actually plugging abandoned wells.

Another bill that failed to pass was House Bill 2779, which would have placed proceeds from severed oil and natural gas interests into a special fund for well plugging. But this would've only applied in cases where the royalty owners could not be located.

One bill that did make it through the legislature was House Bill 2673, also known as the IOGA tax bill. This legislation lowers the severance tax rate on natural gas from five percent to 2.5 percent. However, the money from these taxes is to be devoted to sealing uncapped wells. Estimates are that this would plug somewhere between 40-123 wells a year- "just a small dent in the grand scale of abandoned wells, but at least

something", according to the WV Surface Owners Rights Association (SORO) . But for whatever reasons this bill was vetoed by the governor.

WVEC is continually assessing and re-assessing its lobbying priorities and strategies to gauge what might be both environmentally sound and politically doable. The history of West Virginia is that political manipulations by industrial interests outpace sound environmental policies almost every time. But we keep trying because just giving up and throwing in the towel is not palatable to our psyches.

Time to Comment to Protect Wetlands, Headwater Streams

The United States Environmental Protection Agency (EPA) is considering changing the rules under the Clean Water Act. Now it is asking what the public to comment on proposed changes.

The controversy is over the definition of the term "waters of the United States." The federal Clean Water Act protects the "waters of the United States." Everybody agrees that these "waters" include major rivers and streams. The dispute is over how far beyond those major rivers protection extends. More specifically, it is over whether wetlands and intermittent streams are protected.

Why this is important

Nationally, the proposed rule removes protections for millions of acres of wetlands and small streams. In West Virginia, we are particularly concerned with protections for headwater streams, including intermittent and rain dependent streams. It makes a difference in the regulation of mountaintop removal mining. Some of the streams that are being filled are headwater streams that would no longer be protected under the proposed rule.

West Virginia is the headwaters for two of America's great rivers, the Ohio and the Potomac. Together these rivers provide drinking water, as well as water for business and recreation, to millions of Americans. The proposed changes could put many of these waters at further risk.

Over half of West Virginia's 1.8 million residents rely on public water systems for their drinking water that originates in part in intermittent, ephemeral or headwater streams. These are the very types of streams which would not be protected under the proposed rule.

The EPA website provides a Geographic Information Systems Analysis of the Surface Drinking Water Provided by Intermittent, Ephemeral, and Headwater Streams in the U.S. The national map is interesting and informative, as are the individual state maps and narratives. (http://water.epa.gov/lawsregs/guidance/wetlands/surface_drinking_water_index.cfm)

The narrative for West Virginia describes our dependence on these small streams for drinking water: *"In West Virginia, 14,825 total miles of streams provide water for surface water intakes supplying public drinking water systems; of this, 8,387 miles, or 57%, are intermittent, ephemeral, or headwater streams. Over 1 million people in West Virginia receive drinking water from public drinking water systems that rely at least in part on intermittent, ephemeral, or headwater streams."*

Add to those numbers the many individuals who depend on surface water for their own private springs and cistern systems and the numbers are greatly increased. These are the waters that would no longer be protected if the definition of waters of the United States is revised as proposed.

How to Comment

To protect wetlands and headwater streams, we need lots of comments. To comment, go to <https://www.regulations.gov/document?D=EPA-HQ-OW-2018-0149-0003>. The docket number is identified by Docket ID No. EPA-HQ-OW-2018-0149. You can submit comments by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- **Email:** OW-Docket@epa.gov. Include Docket ID No. EPA-HQ-OW-2018-0149 in the subject line of the message.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Briefing: Atlantic Coast Pipeline – Risk Upon Risk

Oil Change International and Friends of the Earth U.S.

March 2019

The Atlantic Coast Pipeline (ACP), a proposed fracked gas pipeline owned by Dominion Energy, Duke Energy, and Southern Company, faces some of the stiffest community and environmental opposition in the country today, comparable to that faced by TransCanada's ill-fated Keystone XL project. Seventeen months after the project was granted certification by the Federal Energy Regulatory Commission, construction has barely progressed due to this opposition and other sources of risk.

The ACP, if completed, would be a 600-mile, 42-inch-diameter pipeline carrying fracked gas from the Appalachian Basin in West Virginia through Virginia to North Carolina.

First announced in 2014, the project is two years behind schedule and substantially over-budget. The latest update from Duke Energy estimates the project cost at between \$7 to \$7.8 billion – 37% to 53% higher than the original estimate of \$5.1 billion – with the latest date for full operation now pushed back to 2021.

The ACP is facing a triple threat of challenges that combine to present serious obstacles for the project to reach completion:

- Extensive legal and regulatory challenges that are delaying construction and raising costs, which may lead to cancellation;
- Fundamental challenges to its financial viability in the face of lack of growth in domestic demand for methane gas and increased affordability of renewable energy options; and
- The Pipeline Compliance Surveillance Initiative, an unprecedented citizen initiative positioned to ensure strict compliance with environmental laws and regulations, even in remote locations, if construction proceeds.

These challenges and the accompanying risk are likely to further delay construction and raise the project's price tag even higher. If completed, state utility regulators in North Carolina and Virginia are unlikely to justify passing the full cost of methane gas transportation contracts onto ratepayers.

It would be prudent for investors in Dominion, Duke, and Southern to question whether pursuing the ACP further is a good use of capital. As the transition to clean energy gathers pace, the risks and growing costs of this major methane gas pipeline project look increasingly unwise to ratepayers, regulators and investors alike.

What You Can Learn from this Story

By John McFerrin

The story on this page is a summary of a longer report that was produced by a group called Oil Change International. To see the whole report, go to <http://priceofoil.org/research/>.

Reading the whole report will have several benefits. First, your head will stop spinning. The project is so big and crosses so many hills, streams, forests, communities, National Forests, etc. that there are bound to be lots of controversies. Many of these controversies have been covered in *The Highlands Voice* as they developed. There are so many controversies that it is hard to keep up with them all. If you try, your head starts spinning.

The longer report lists all the controversies and their current status. With everything there in one place it is possible to see what all the controversies are and their status.

Second, there is a discussion of the economics of the pipeline. A wise man (Tom Rodd) once said, "More decisions about whether coal mines go in are made by banks than are made by regulators." Although he said it about coal mines, the principle applies to pipelines as well. When the investors determine that they cannot make money, the project is over.

The discussion of the economics of the Atlantic Coast Pipeline is not definitive. The bankers would no doubt do additional analysis before deciding that the game is not worth the candle. The report does, however, give a taste of the economic difficulties that the pipeline faces. There are footnotes that would lead to more in-depth discussion.

Third, it gives an insight into the work of the Compliance Surveillance Initiative, a project in which the West Virginia Highlands Conservancy is a partner. In late 2014, Rick Webb observed, "My view is that Dominion, its investors, and its contractors will only pursue this project if they can count on the relaxed implementation of environmental laws that they have grown used to. Our job is to make it clear that the "business-as-usual" model does not apply." Rick is the chair of the Compliance Surveillance Initiative.

Now, largely through the efforts of the Compliance Surveillance Initiative (CSI), we are about to find out. It has developed a system of monitoring the construction of the pipeline. If it is not being constricted in according to the law, CSI presses for enforcement action. CSI opposes illegal corner cutting. If Rick was right, and the pipeline cannot proceed without corner cutting, then it will not go ahead.

The report gives an overview of the work of the Compliance Surveillance Initiative and places it in the context of the future of the pipeline.

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.

An idea whose time has not yet come

Modern Jobs Act Can't Get off the Ground

By John McFerrin

In spite of its catchy nickname (The MOJO Act), the Modern Jobs Act did not make much progress during the 2019 session of the West Virginia Legislature. It was not passed by either of the committees to which it was assigned.

The MOJO Act takes several realities and tries to put them together in a way that benefits West Virginia. Those realities are:

- West Virginia has more than 550 square miles of strip mined land and other degraded lands. 98% of this land is just sitting there. The idea that there is this much strip mined land might make some of our hearts hurt but that is the reality. There are 219 square miles of land that are suitable for large scale solar farms.
- There are major companies who have made commitments to using renewable energy at their facilities.
- West Virginia gets more than 90 per cent of its electricity from coal.

These realities are set out in Legislative Findings in the bill; they are supported by research by the bill's lead sponsor (Evan Hansen) and a company where he works (Downstream Strategies).

One difficulty with recruiting modern jobs to West Virginia is that two of these realities are in conflict. If a company has a commitment to renewable energy, it will not come to a state where over 90 percent of the electricity comes from coal.

The MOJO Act attempts to make West Virginia more attractive to modern jobs by using the first reality (vacant strip mined land) to reconcile the second and third realities. It does this by encouraging the building of solar energy facilities on old strip mine sites.

Of course, encouraging solar facilities on old strip mines does not guarantee that they will start popping up like dandelions in the spring. That requires financing, customers, and a whole host of other things. The MOJO Act just tries to remove barriers to this

happening and encourage it.

Neither would the MOJO Act guarantee that modern jobs would flock to West Virginia like West Virginians to Myrtle Beach. Modern jobs require modern workers, good roads, etc. The MOJO Act just seeks help make renewable power more available and, by doing so, remove one of the barriers to a substantial portion of those jobs coming here.

The MOJO Act would only apply to large industrial users, those who use more than one megawatt per month. It would encourage solar facilities by removing them from the control of the Public Service Commission. Under present law, someone who wished to produce and sell electricity would be classified as a public utility, subject to the Public Service Commission. Under the MOJO Act, someone could build a solar farm on an old strip mine and sell the electricity to a large industrial user free of the control of the Public Service Commission.

As originally introduced, the MOJO Act would have only applied to solar farms on strip mines. As it advanced through the legislative process, co-generation was discussed and would have been added had the bill gone farther.

Co-generation is a process of using excess heat produced in some industrial processes. Instead of allowing that heat to simply float away unused, co-generation turns that excess heat into electricity. Under an expanded version of the MOJO Act such facilities would have been exempted from Public Service Commission control if they supplied electricity to a limited number of large customers.

Unless they have the enthusiastic support of the Governor or one of the big dogs of the Legislature, new proposals often do not make much progress in the Legislature their first year. The MOJO Act may well be back next year when its supporters hope that it will make more progress.

World Water Day—a Reflection

March 22 was World Water Day. West Virginia Highlands Conservancy member Buff Rodman happened to be in Mexico and offered this reflection:

It's World Water Day. I am in Mexico and it's giving me a different perspective on the value of freshwater. Here, freshwater, aka drinking water, means bottled water. So typically those big water cooler jugs, having a stand that holds one or two, and arranging to get full ones and hand over empties. Just arranging drinking water (filling jugs to put in the fridge...) takes up a portion of each day. All the other water, while relatively clean, is not potable. So, sink, shower, toilet, hose... Not drinkable. This also means you need to wash your dishes in expensive drinking water, or really make sure that they get dry before you use them. Or boil your tap water to wash dishes. No rinsing out your glass at the sink and reusing it again immediately. And wastewater treatment is nonexistent outside of a few places, resorts (maybe), parts of some cities.

This house we have rented has a pretty progressive but low tech system for using gray water to water the trees and plants immediately surrounding the house. It's possible to move hoses and pipes to direct sink water where you want it to go. But it's still detergent water going right onto the ground untreated. But most people are still just dumping water and sewage over the hill, so to speak. Which, of course, makes the whole freshwater problem even bigger.

So, next time you pay your water bill, thank your lucky stars. Yes, we have problems with our water infrastructure in the states, but not like much of the rest of the world. Most of us don't plan our day around how we are going to get enough to drink.

Nurdles and Crackers and More, Oh My!

By Cynthia D. Ellis

In the mountains of West Virginia, we have concerns about the mega-pipelines that are proposed and progressing across private and public lands. But we must not overlook the larger picture.

Those pipelines are being vigorously promoted by a gas industry and its allies who see a wealth-generating boom in the production, transportation, storage, and use of natural gas, primarily for plastics and an additional array of industrial components. One centerpiece of the projects is sometimes called “The Appalachian Storage Hub”.

Boosters envision this boom encompassing areas beyond and within the Ohio River valley. Gas would be stored underground for use with an array of five or more “cracker” plants that would extract the ingredients of gas for industrial purposes.

There are threats associated with such plans. These include:

- Massive increase in use of water
- Risks of water, land, and air pollution
- Creation of “Cancer Alley” type localities, with clusters of health harms
- Precipitous use of tax funds in support of the projects
- Exacerbation of climate change
- Adding to the burden of pollution by plastics
- Massive increases in drilling and pipelines
- Increased waste truck traffic.

Several of these harms are directly attributable to the “cracker” plants that are a component of the Hub. “Crack” is a nickname for the process in which ethylene is separated out of natural gas. Emissions from cracker plants may include benzene, volatile organic compounds, and nitrogen oxides, sulfur dioxide and particulate matter.

“Nurdles” are very small pellets of plastic which serve as raw material in the manufacture of plastic products. The escape or loss of such pellets happens during both the manufacturing and transport stages of plastic. Another ironic name for them is “mermaid’s tears”. Sadly, nurdles are now a significant part of river and ocean contamination.

Despite these concerns, some West Virginia figures are striving intently to make the Hub a reality. According to a January report by DeSmog Blog, “On November 9, the Energy Department’s National Energy Technology Laboratory (NETL) named as its new director former West Virginia University Professor Brian Anderson.

NETL, which spearheads federal energy-related research and development (R&D) efforts, is currently deciding whether to grant \$1.9 billion in R&D money toward building out the proposed petrochemical complex, known as the Appalachian Storage Hub.”

So, it seems that some West Virginians are overlooking the possible harms. Not so, for many others of us.

We don’t want the pipelines.

We don’t want the crackers and the nurdles.

We want the mountains---and the foothills and the rivers---to be clean and safe and preserved.

No to nurdles. No to the Hub and all.



A handful of nurdles

Ticking Time Bombs in Appalachia

By Jeff Witten

In early April, the President and CEO of Trout Unlimited, will testify before the House of Representatives in support of the Community Reclaimers Act (HR 315)—a bill to speed up the ability of groups such as Trout Unlimited to clean up abandoned coal mines. Trout Unlimited has 300,000 members and supporters of which about 3,000 call WV home.

Abandoned coal mines dot the Appalachian landscape like ticking time bombs. Pollution from abandoned coal mines affects over 10,000 stream miles just within Pennsylvania and West Virginia. TU has made great strides in cleaning up abandoned mines thanks to a tax on the production of coal, funds from which are placed into the federal Abandoned Mine Land (AML) Fund. The AML Fund has contributed \$11 billion toward health, safety and restoration of abandoned coal mines.

Funding is one limiting factor. The other is liability. Consider: TU might spend \$X to improve water quality by 80 percent and restore the fishery on a stream damaged by past mining practices. But to get the stream to meet Clean Water Act standards, we might need to spend \$10X more. Existing law leaves us open to the government, or others through a citizen-lawsuit, coming after us to get to 100 percent.

Cleaning up abandoned coal mines is not always overly complicated, either. Often it involves rerouting the stream or drainage from an old mine through a series of settling ponds and wetlands that have limestone and compost, allowing toxic metals to fall out of the water.

This would be good for the Highlands of WV and our rivers and streams many of which are home to our State fish, the native Brook Trout. It’s also good for people.

Keep your fingers crossed.

Join Now !!!

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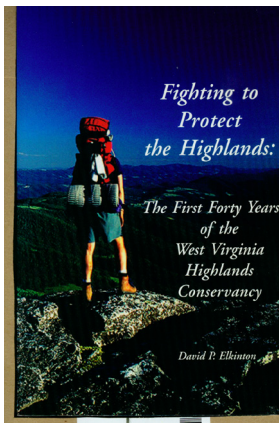
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518 pages, 6x9, color cover, published by Pocahontas Press

To order your copy for \$15.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

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Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$15.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

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

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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: _____

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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 Dave Saville at WVHC50@gmail.com.

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

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

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

Our Readers Write

Dear Editor:

Do you remember the 2010, British Petroleum disaster in the Gulf of Mexico? This is the spill that fouled beaches as far as Florida and ruined Gulf Coast fisheries.

According to a New York Times investigation, those pesky rules enacted to keep that from happening again are among the 78 federal environmental regulations guarding our health and economy that have been, or are being, rolled back. A Harvard analysis has found these rollbacks could lead to at least 80,000 extra deaths per decade and cause respiratory problems for more than one million people. The two main agencies responsible are Trump's EPA and Dept. of Interior. The New York Times wrote that their rule changes will significantly increase air and water pollution from the energy industry and farm chemicals.

Placing fossil fuel concerns above all, Interior gutted rules on royalty rates for oil and gas leases on federal property, rescinded water pollution regulations for fracking on federal and Indian lands, changed the well control and blowout preventer regulations that were tightened after the 2010 Deepwater Horizon disaster, greenlighted seismic testing on the Atlantic Coast, (a precursor to offshore oil and gas drilling), accelerated offshore oil auctioning and reduced the royalty rates.

Also to favor drilling, the Trump administration moved to minimize wildlife protections, scrapped the requirement for oil and gas companies to report methane emissions, partially repealed limits on those emissions-and on flaring-and has plans to weaken fuel economy standards .

Although Mercury contamination from electric utilities was reduced by 80% under the Obama regulations, on December 28, 2018, arguing that the current restrictions were too costly for improvements gained, the EPA proposed to allow greater releases of mercury and other air pollutants.

However, scientists have reported that the estimated benefits from existing limits should be much higher while the cost of seven years of compliance has been far lower than EPA projections. According to the Union of Concerned Scientists, mercury exposure can lower IQ and cause nervous system impairments. Other studies have found a direct connection between cardiovascular disease and mercury pollution.

Meanwhile without vigorous public opposition such environmental damage could continue for at least the next two years

Barbara Daniels
Richwood

Note: The writer included a link to a most interesting list of the 78 environmental regulations that the Trump administration has eliminated or is in the process of eliminating. It is an impressive list. For a real understanding of what the Trump administration is doing, read the list. You can see it at <https://www.nytimes.com/interactive/2017/10/05/climate/trump-environment-rules-reversed.html>

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Monongahela 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
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- * rerouted and discontinued trails
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The definitive guide to the Mon adds a wealth of information about history, wildlife, and botany; safety, preparation, and weather; horseback and mountain bike riding and cross-country skiing; as well as sources of further information on the Forest and its environs.

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

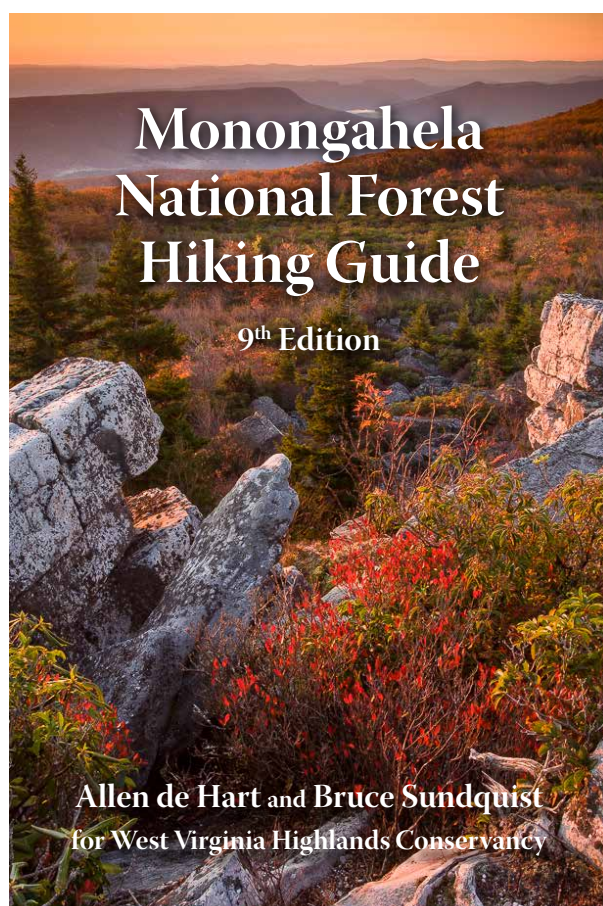
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BUMPER STICKERS

To get free *I ♥ Mountains* bumper sticker(s), send a SASE to West Virginia Highlands Conservancy, P.O. Box 306, Charleston, WV 25321. 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.)



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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

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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