

West Virginia Highlands Conservancy
PO. Box 306
Charleston, WV 25321

Non-Profit Org.
U.S. Postage PAID
Permit No. 2831
Charleston, WV



The Highlands Voice

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

Volume 53 No. 10 October, 2020

More Drilling in the National Forests?

By John McFerrin

The United States Department of Agriculture (parent agency of the United States Forest Service) has proposed new regulations that would diminish the role of the Forest Service in decisions about oil and gas drilling on National Forest land.

Currently, the Bureau of Land Management (a part of the Department of the Interior) controls and permits all federal mineral rights, including those below U.S. Forest Service land. The Forest Service, however, has to approve all above-ground operations and construction in national forests.

The proposed regulations would change that. They would give the Bureau of Land Management the final say on approval of gas development, even in the National Forests. The proposed rule would remove environmental considerations as criteria for decisions to approve plans, limiting the Forest Service to protecting only specific, named natural resources. Gone would be opportunities to address climate change or protect vital wild places.

The proposed rule also gives the Forest Service the option of skipping some environmental reviews and diminishes the

opportunities for public participation.

So, does all this portend more oil and gas drilling in the National Forests, including the George Washington and the Monongahela? That is certainly the way the political wind is blowing. The announcement by the Department of Agriculture (parent of the Forest Service) of the proposed rule cites Executive Order 13783, Promoting Energy Independence and Economic Growth, signed by President Trump on March 28, 2017. It declared that it is in the national interest to promote clean and safe development of the Nation's energy resources while avoiding regulatory burdens that unnecessarily encumber energy production.

Beyond the politics of the matter, the answer is found in other big questions: who is the Secretary of the Interior? Who is the Secretary of Agriculture? What is the price of natural gas? What is the market for plastic like? How much have renewable energy sources developed?

A big unknown is the details of the geology of the Monongahela and George Washington National Forests. Because of geological

(More on p. 3)

What's inside:

Thoughts from our President	2	Poetry	10
Stream crossings and the Mountain Valley Pipeline		Roster of officers	10
Jefferson National Forest Update	5	Get a Hiking Guide	11
Get some baby trees	5	Hiking down Seneca	12
Book news	6	Scoop on climate change	13
How to join	7	Anniversary celebration	14
Get a history book	7	Rockwool news	15
Mammoth project underway	8	Underappreciated holiday	15
		Get stuff	16



Visit us on the web at www.wvhighlands.org Find us on Facebook

Thoughts from our President

By Larry Thomas

It's hard to believe that we are in October, but it is very evident witnessing the start of the annual transformation from green to the scarlet, purple, orange, yellow and brown of the fall foliage. While visiting Buffalo Lake, Spruce Knob Lake, Spruce Knob and Dolly Sods last week I saw individual trees that were absolutely spectacular. If Mother Nature keeps her pallet working, I believe we are in for a terrific show when the leaves reach their peak. I found Spruce Knob and Dolly Sods already crowded with visitors from all over the country even during the weekdays.

September saw a whirlwind of activities of interest to the Conservancy.

The Administration Relaxes Rules for Oil and Gas Drilling in National Forests

The administration has released its plan to make it easier for companies to drill for oil and gas on U.S. Forest Service lands, sparking strong complaints from environmentalists stating:

Specifically, the rule would:

- Reduce public input and transparency by removing the requirement that a Forest Service office give public notice of the decision to approve a Surface Use Plan of Operations, the specific plan for development.
- Allow the Forest Service to skip important and necessary environmental reviews for leasing decisions. This, together with other administration roll backs of NEPA regulations, undermines that law's role in good forest management.
- Make it more difficult for the Forest Service to stop bad lease sales by removing explicit confirmation of USFS consent as a standard step in the leasing process and limiting the USFS to only protect certain specific resources.
- Loosen the rules by giving developers unbounded discretion to extend deadlines and comply with operating standards. Currently, compliance deadlines can only be extended if the operator cannot meet them due to factors out of their control."

Comments concerning this proposed rule, the associated information collection, and/or the EA must be received by 60 days from date of publication in the Federal Register on September 1, 2020 <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-18518.pdf>.

Comments Filed Opposing Endangered Species Act Modification

Sixty-Four conservation organizations, including Allegheny-Blue Ridge Alliance (ABRA) (West Virginia Highlands Conservancy is a member of ABRA) filed comments on September 3 with the United States Fish and Wildlife Service and the National Marine Fisheries Service in response to a proposal by the two agencies to define "habitat" in the regulations governing the Endangered

Species Act (ESA). The comments, filed by the Southern Environmental Law Center on behalf of the conservation groups, argue that the agencies' proposal would limit their "ability to protect and restore the habitats species need to recover" and is "contrary to the conservation mandate of the ESA."

The comments state:

"In shaping legislation to address species extinction, Congress started from the finding that destruction and degradation of natural habitats are the primary drivers of extinction and biodiversity loss across the United States. Despite significant efforts to prevent extinction, however, biodiversity loss remains a significant and rapidly increasing problem in the Southeast (West Virginia is a part of the Southeast), across the United States, and abroad. Habitat degradation and loss are still the leading causes of extinction, a problem that will only get worse with climate change.

If we are to remain committed to the goals of the ESA in the face of these challenges, protecting both occupied and unoccupied habitat to provide for the survival and recovery of listed species is of paramount importance." The full text of the comments can be found at <https://www.abralliance.org/wp-content/uploads/2020/09/SELC-Comments.ESA-Habitat-Definition-Revision-9-3-20.pdf>



© Jonathan Jessup

Monongahela National Forest Project Reviews

The WVHC Public Lands Committee is reviewing the projects in the Mon and will continue to do so.

Grassy Ridge Project Environmental Assessment (EA)

WVHC has received notice that the Monongahela National Forest - Cheat-Potomac Ranger District is interested in receiving comments on the Grassy Ridge Project Environmental Assessment (EA).

The Grassy Ridge Project is a 5,545-acre project area located in Randolph and Pendleton counties on the Cheat-Potomac Ranger District. The project area is located near Spruce Knob Lake, just east of the town of Osceola.

activities include: 187 acres of spruce release, 31 acres of spruce-hardwood regeneration, 58 acres of red spruce planting, 83 acres of conventional hardwood regeneration, 172 acres of helicopter hardwood regeneration, 246 acres of hardwood regeneration with up to 50 acres of targeted spruce investment, use of ten existing conventional and helicopter timber landings and creation of 7 new conventional landings, 20 miles/36 acres of skid trail creation and soil restoration activities following harvest, up to 728 acres of herbicide application, potential future timber salvage opportunities within analyzed timber units, up to 1.7 miles of large woody material additions to streams, up to 60 acres of riparian planting, 40 acres of spruce release/research for habitat enhancement, and a 6-acre cutback border. Full information concerning the project can be found at <https://www.fs.usda.gov/project/?project=56948>.

(More thoughts on p. 5)

More about Gas in the National Forests (Continued from p. 1)

factors, there is some doubt about the presence of Marcellus Shale gas in the George Washington National Forest or the Monongahela National Forest. Any natural gas which is present would have been formed hundreds of millions of years ago. It would only still be there to be developed if there is an impermeable layer of rock above it that has kept it in place. Otherwise, over millions of years it would have gradually found its way to the surface and be lost to the atmosphere.

In the hundreds of millions of years since the gas that is (or was) in the Marcellus Shale was formed there have been collisions of continents and other geologic events that have resulted in folding and cracking of the Marcellus Shale and the rock layers above it. This may have resulted in cracks that allowed whatever gas was in the Marcellus Shale to escape.

On the other hand, if the gas is still there the political forces are aligning to allow somebody to drill for it.

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

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

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

A Tale of Two Plans

The accompanying story discusses proposed regulations that would diminish the role of the National Forest Service in approving oil and gas development in the National Forests. Diminishing the role of the Forest Service also calls into question the role of the Management Plans for the National Forests.

All National Forests are required to have a Land and Resources Management Plan. The Plan sets out the general plan for management of the Forest for the next fifteen years, more or less. The Plan does not approve or disapprove of any specific projects; they must be reviewed individually. Any projects which are proposed must be designed to move the forest towards the desired conditions described in the Forest Plan.

The Plans are, however, a blueprint that the Forest Service draws up to guide its own actions. If it is no longer making decisions on oil and gas development in the National Forest, are those Plans still relevant?

Assuming the Plans are still relevant, the respective Plans of the George Washington National Forest and the Monongahela National Forest treat oil and gas development quite differently.

The Monongahela National Forest last did its Plan in 2006. Even though that puts it close to what is assumed to be the end of its life, there is no new plan on the horizon. Doing a new Plan is a huge job that takes years. Because there has been no public announcement that a new Plan is in the works, it is safe to say that the 2006 Plan will be guiding decisions for the foreseeable future.

At the time of the 2006 Plan, gas drilling was not controversial. While not common, there are gas wells in the Monongahela National Forest. At the time of the Plan, there were thirty to forty. At the time, hydraulic fracturing (fracking) was largely unknown in West Virginia; the wells were the less obtrusive vertical drilling ones that caused dramatically less surface disturbance.

The 2006 Monongahela National Forest Plan recognized that there was drilling in the Forest and that it would continue. It said:

Exploration, development, and production of mineral and energy resources are conducted in an environmentally sound manner. Although some areas (designated wilderness, campgrounds, administrative sites, areas dedicated to recreation activities in a remote setting, and scenic areas, for example) are not available for exploration and development of federally owned minerals, most areas of the Forest remain available to mineral activities. Exploration and development of private mineral rights are consistent with deed terms and law, and make reasonable use of the land surface. Approved operating plans include appropriate mitigation measures. Operations are bonded commensurate with law or the costs of anticipated site reclamation. Sites are returned to a condition consistent with management emphasis and objectives.

The Plan for the George Washington National Forest was a different matter. By the time it came along in 2014 hydraulic fracturing was well known in West Virginia. While gas wells might have been a minor part of Monongahela National Forest planning, they were a source of huge controversy in the George Washington National Forest. There were extensive public comments; politicians weighed in; distant cities whose drinking water originated in the George Washington National Forest had something to say.

The result was a compromise. One proposal would have banned horizontal drilling (and effectively banned hydraulic fracturing) from the entire Forest. Instead of banning horizontal drilling in the entire 1.1 million acre forest, the final Plan allows horizontal drilling on the about 10,000 acres that were under gas lease at the time of the Plan. Although the focus of the controversy was on horizontal drilling and hydraulic fracturing, the Plan also makes the entire Forest, with the exception of these 10,000 acres, unavailable for vertical well drilling as well.

The Forest contains another 167,000 acres where the mineral rights are owned by private parties, not the Forest Service. The Plan does not restrict drilling in those areas; as a result horizontal and vertical drilling on those areas remains a possibility. Not all of the 167,000 acres where mineral rights are owned by private parties are above the Marcellus Shale. As a result, the actual number of acres where Marcellus drilling is a possibility would be considerably smaller, probably less than 100,000..

Groups Object to Mountain Valley Pipeline Stream Crossings

In May, 2020, *The Highlands Voice* reported on a United States District Court in Montana that had ruled that the United States Army Corps of Engineers had improperly allowed a pipeline crossing of a waterway based upon a nationwide permit which had been improperly issued. Now several environmental groups, including the West Virginia Highlands Conservancy, have invoked the well-known legal principle *What's Good Enough for Montana is Good Enough for West Virginia*. They have asked that the Corps not allow stream crossings by the Mountain Valley Pipeline for the same reason.

The Montana case in a nutshell

To cross streams and waterways, a pipeline has to have a permit from the Corps of Engineers. It can either apply for a site specific permit or qualify under what is called a Nationwide Permit. A Nationwide Permit is issued for a class of similar activities; companies like it because it is easier to qualify under a Nationwide Permit than it is to get a site specific permit.

In the Montana case, a pipeline tried to qualify to do stream crossings under the Nationwide Permit. The Court ruled that it could not because the Corps of Engineers had issued the Nationwide Permit without complying with the requirements of the Endangered Species Act. It ruled that the Nationwide Permit the pipeline hoped to rely upon was void. For details, go to www.wvhighlands.org to find the May issue of *The Highlands Voice*.

What Has Happened in West Virginia

For a while it looked as if the West Virginia groups could ride on the coattails of the Montana groups. The Court had said that the Nationwide Permit was void for the whole country. Then the Corps of Engineers appealed the decision of the District Court for Montana to the Court of Appeals. As part of that appeal, it asked the Court of Appeals to stay the decision while the appeal was being considered. After the Court of Appeals turned down the request for a stay, the United States Supreme Court stepped in and granted the stay. The ruling remained in effect for the pipeline before the Montana court but not for the rest of the country. No more coattails.

With no more coattails to ride on, the West Virginia groups pursued their own challenge to the Mountain Valley Pipeline, using the same law that had resulted in the pipeline in Montana being blocked. The permits were again stalled.

Recent Developments

The most recent moves in this ongoing ping-pong match came this past month. On September 4, 2020 the U.S. Fish and Wildlife Service issued a new biological opinion thus opening the way for approval of the MVP permits. Then, on Friday September 25, 2020 the Army Corps of Engineers issued new permits to allow Mountain Valley Pipeline to cross nearly 1,000 streams along its 303 mile path through West Virginia and Virginia.

Represented by Appalachian Mountain Advocates, West Virginia Highlands Conservancy and co-plaintiffs Sierra Club, the Center for Biological Diversity, the West Virginia Rivers Coalition, Indian Creek Watershed Association, Wild Virginia, Appalachian Voices, and the Chesapeake Climate Action Network requested the Corps stay/hold the permits pending a new legal challenge.

That challenge came on September 28th as plaintiffs filed a Petition for Review with the U.S. Court of Appeals for the Fourth Circuit. The basic claims are twofold: First, all the verifications are unlawful because the Corps violated the Endangered Species Act when it reissued the Nationwide Permit in 2017 (just as in Montana). Second, the instated Huntington and Pittsburgh District verifications are unlawful because they rely on a legally-defective attempt to modify Nationwide Permit 12's conditions.

What's the Candy Darter Got to Do with It?

There is one additional feature in the action the groups were pursuing specific to West Virginia: the endangered Candy Darter. Montana is home to big sky and wide-open spaces, not Candy Darters. West Virginia is, including its critical habitat.

The Candy Darter is an endangered species; one of the streams the pipeline wants to cross is part of its critical habitat. Because of this, the groups say that the pipeline developer and the Corps of Engineers have taken inadequate steps to assure the safety of the Candy Darter.

The dispute has to do with how the Mountain Valley Pipeline crosses the Gauley, Greenbrier, and Elk Rivers. The developers initially said that they intended to drill under the rivers and the Corps of Engineers approved that. Now the developers want to use what is called the open-trench method (dam the river, lay pipe across the now dry river bed, then undam the river). Before there could be such a change there would have to be a new evaluation (called a Biologic Opinion) on whether the Candy Darter would be harmed by the construction.



Note: Look for more pipeline news on the next page.

More Thoughts from Larry (From p. 2)

Gauley Healthy Forest Restoration Project

During September, the Gauley District Ranger issued an update to share information about the Gauley Healthy Forest Restoration Project <https://www.fs.usda.gov/project/?project=57335> intended to give an overview of where the actions would occur, why they are proposing them, what actions they are proposing, the status of the project and includes a project area map.

Information garnered from the update:

- a decision on the project has been delayed until early 2021
- formal consultation with USFWS will begin in September 2020
- the project area is to the south of and borders the previously proposed Big Rock project area, but there is apparently no overlap
- the “area of action” extends about 6 miles in total from north of Richwood to about 1 mile east of Summit Lake
- the total GHFR project boundary extends about 17 miles to the east, including the Cranberry Glades Botanical Area and the Falls of Hills Creek

The committee is awaiting the response to the Freedom of Information Act Request filed by ABRA on behalf of its 51 member groups for further review of the project.

I hope that you are able to get out and enjoy the transition of the mountains during October. Perhaps our paths will cross somewhere along the way.

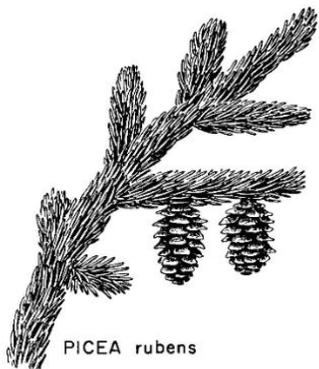
Meanwhile, in the Jefferson National Forest

So much for recent Corps and Fish and Wildlife actions. Also, on Friday, September 25th, the U.S. Forest Service released its proposal for the 303-mile pipeline to pass through the Jefferson National Forest, a prominent concern of MVP pipeline opponents in Monroe County, West Virginia, home to a small but important portion of the Jefferson (i.e. Peters Mountain, etc.).

The Forest Service release of the new environmental impact statement is meant to address flaws in erosion and sediment control measures cited by the 4th U.S. Circuit Court of Appeals in 2018, when it struck down the original Forest Service permit. The release starts a 45-day public comment period that runs through November 9th.

The Service expects to issue a final decision by year's end. Should the federal agency renew its approval, the pipeline would be allowed to pass through 3.5 miles of the national forest, in Monroe County, West Virginia, and Giles and Montgomery counties, Virginia.

Red Spruce Seedlings Available for Spring 2021



The West Virginia Highlands Conservancy currently has a limited number of Red Spruce seedlings available for Spring 2021. Quality container-grown seedlings, grown from seeds collected in the West Virginia Highlands for forest restoration and research purposes.

When we have a surplus, we make them available to the public. All proceeds support our Red Spruce Ecosystem restoration efforts.

Quantities Limited

Red Spruce (Picea rubens)

2 year plug, 10-15 inches tall. These quality container-grown seedlings are the same product we have been using in restoration projects very successfully for nearly 20 years. CASRI Partners have planted nearly a million of them!

For 2021 we have an extraordinary opportunity to offer Red Spruce plugs from 5 different seed sources: Dolly Sods, Spruce Knob, Stuart Knob, Panther Knob and Top of Allegheny. Or you can order a mix of available sources.

100 - \$250 (FOB Morgantown), 100 Shipped (via UPS) - \$300, 1,000 - \$1,250 (FOB Morgantown)

Plants are available for pick-up April 15-30, 2021 in Morgantown, WV.

Limited availability - Minimum order 100.

Trees can be purchased online at www.wvhighlands.org, or send a check to; West Virginia Highlands Conservancy, PO Box 306, Charleston, WV 25321. Specify source preference.

For more information contact: Dave Saville at david.saville12@gmail.com

To learn more about the Red Spruce Ecosystem, and our efforts to restore it, visit; www.restoreredspruce.org

If you cannot use any spruce seedlings, consider donating.



Book News:

Death in Mud Lick by Eric Eyre

Reviewed by Cindy Ellis

A book on the opioid crisis might seem a stretch for readers interested in issues of the West Virginia Highlands Conservancy. In the book no mountains are lopped off, no swaths of trees are clear cut, no water is polluted, and no air is fouled. Not exactly. But, a number of Mountain State communities are besieged and ravaged.

We care about communities here. And we appreciated those who report the facts on threats to our communities.

Eric Eyre does this, for towns in our southern counties and in our eastern panhandle, and more. In the early 2000's, millions of addicting pain pills were shipped to us. Our pharmaceutical records were mined and shared, and we were targeted. Our doctors were courted and cajoled. False claims were made for the insidious "remedies". Our pharmacists were fed misinformation and overwhelmed. Some of our elected officials lied to us about their connection to the opioid assault. We were being crushed.

No heroine nor hero rose to our defense.

But...some very human individuals, some scarred and deeply flawed, tried to make things better.

Eric Eyre tells the story of their effort. He is an excellent teller of tales and a perfectionist when pursuing facts.

I had read the news stories of this matter. I knew, loosely, how the story ended. Even so, Eyre kept me reluctant to put the book down. "And then what happened?" was the thought that restrained my hand. He let me be transported.

Beyond mesmerizing writing, *Death in Mud Lick* offers more. This review may be printed in October and before Election Day. Some of those incumbent officials hoping for re-election are featured in the book. A conscientious voter can find out about pain pill connections and our office holders, including Congressman David McKinley and particularly West Virginia Attorney General Patrick Morrissey.

The side story of the tribulations of Charleston's newspapers are told too. We have long cherished the work of those reporters and columnists who made sure to tell the environmental side of current events. Eyre noted that Vivian Stockman, of the Ohio Valley Environmental Coalition, said, "The *Gazette* actually covered both sides of issues, not just whatever side money is on." But it

is a changing world for print journalism and the decline of the Daily Mail and the Gazette are recounted with details and sympathy.

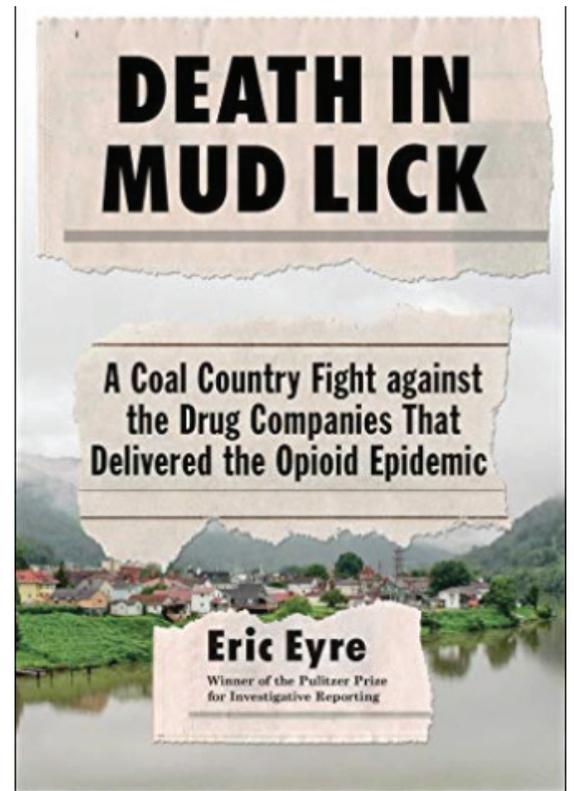
So, Eyre's employer/newspaper was experiencing tough times while he was encountering difficulties in researching and recounting the opioid story. He struggled with FOIA's. Our volunteers and allies also know the challenges in obtaining "public" information through Freedom of Information Act requests. However,

his perseverance led to court cases that did make the pertinent information public. It could be understating to say that the chapters relating those courtroom scenes are riveting too.

In sum, "Death in Mud Lick" tells of what may be seen as both a sadly familiar and a new kind of assault on our mountain communities. It was, and is, another of the unfair battles, shot through with greed, that predominate our history. Eric Eyre said, "The coal barons no longer ruled Appalachia. Now it was the painkiller profiteers."

Eric Eyre has made an important contribution to our understanding of our history. We can be grateful.

The story behind the story: Veteran WVHC member Dave Elkinton threw down a challenge for someone to write a review of this book by Pulitzer Prize winner Eric Eyre. So she did.



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

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

Leave a Legacy of Hope for the Future

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

Join Now !!!

Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ Email _____

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

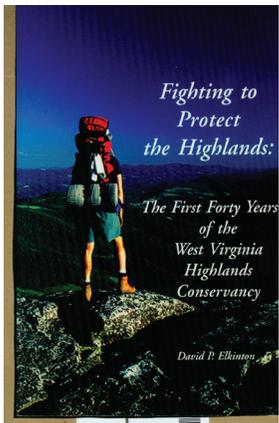
Mail to West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

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

You may also join on-line at www.wvhighlands.org

GET A GREAT HISTORY BOOK

For the first time, a comprehensive history of West Virginia's most influential activist environmental organization. Author Dave Elkinton, the Conservancy's third president, and a twenty-year board member, not only traces the major issues that have occupied the Conservancy's energy, but profiles more than twenty of its volunteer leaders.



From the cover by photographer Jonathan Jessup to the 48-page index, this book will appeal both to Conservancy members and friends and to anyone interested in the story of how West Virginia's mountains have been protected against the forces of over-development, mismanagement by government, and even greed.

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

To order your copy for \$15.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, 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.

Tell a Friend!

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

Person you wish to refer: _____

Address: _____

Email _____

Your name: _____

Filling out the form, etc. is, of course, the old school way of doing things. If you prefer, just email the information to 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.

SUCH A DEAL!

Book Premium With Membership

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

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

New West Virginia Land Trust preserve a Mammoth undertaking

By Rick Steelhammer

A 5,000-acre expanse of woodland and former surface mines along the Kanawha-Fayette County line east of Mammoth is being repurposed as a public recreation area and a demonstration site for post-mining reforestation and stream restoration by its new owner, the West Virginia Land Trust.

Mountain bike and hiking trails are among recreational amenities initially planned for the property, with the first trails likely to take shape in the un-mined segments that make up about half of the tract, named the Mammoth Preserve.

"It's not wilderness, but it looks pretty wild," said Ashton Berdine, lands program director for the West Virginia Land Trust, as he took in a miles-long view of wooded ridges and hilltops from one of the new preserve's highest ridges. At the bottom of a narrow valley between the steep, tree-cloaked spines, the path of Hughes Fork could be seen twisting its way toward the Gauley River, along with the grassy slopes of re-contoured highwalls and mine benches.

"We will be managing this preserve for wildlife habitat, water protection and recreation access," Berdine said.

"Mountain biking is only going to grow, and here we have room for maybe 50 or more miles of trail," Berdine said. Trails for hiking are also planned, and paths for horseback riding and sites for camping will likely be considered, he said.

"The preserve also gets us involved with restoration," he said. "We're proud to be a part of the restoration of this land and having the opportunity to make it available to the public for recreation and to benefit the local economy."

The West Virginia Land Trust was given the land and its management responsibilities by another nonprofit, Appalachian Headwaters. Appalachian Headwaters received the tract to use as a demonstration project for reforestation and stream restoration techniques as part of a settlement agreement in a stream pollution lawsuit against Alpha Natural Resources. The suit was filed by the Ohio Valley Environmental Coalition, West Virginia Highlands Conservancy and the state chapter of the Sierra Club, represented by attorneys from Appalachian Mountain Advocates.

Appalachian Headwaters, based in Lewisburg, was formed four years ago to support reforestation of native hardwood forests and restoration of streams on former surface mines. It is working with scientists at Green Forests Work in Lexington, Kentucky, to plan the mix of trees to be planted on mine lands at the Mammoth Preserve.

"The goal is to return the mined land to the closest possible approximation of the forest that was here before the mining took place," said Mike Becher of Appalachian Headwaters.

Once the blend of nursery-raised young trees is in the ground and growing on about 2,000 acres of former mine land in the preserve, it will be one of the largest, if not the largest, legacy mining reforestation site in Appalachia, according to scientists at Green Forests Work.

Preparation work for reforestation is already underway on about 300 acres of the preserve, where thickets of non-native autumn olive and Russian olive have been dozed into large piles, where they await burning. The two brushy plants do well in rocky, compacted soil, sometimes reaching heights of 20 feet or more,

which is why they have been used extensively in the region to satisfy post-mining ground cover requirements.

The preserve lies adjacent to the remnants of Bullpush Mountain, the nation's first mountaintop removal mine site, which Cannelton Coal began operating in 1970. Most of the mining that took place on the preserve also occurred decades ago, according to Becher.

"Past mine restoration throughout Appalachia often focused on getting anything to grow on these mine sites," according to Berdine. The two olive species, both native to Asia, have frequently been planted on reclaimed strip mines, along with black

locust, pine and certain hardy grasses and legumes, to help anchor the soil.

Where thickets of autumn and Russian olives have been scraped off old reclamation jobs at the Mammoth Preserve, dozers pulling giant, hydraulic "ripper" spikes tear up compacted soil to accommodate the successful planting of young hardwoods. The ripping is done in a crisscross pattern, at least three feet deep into the hardened soil.

"To get trees to grow in the compacted ground, you have at the Mammoth Preserve and other mine sites that were reclaimed as grasslands in the '80s, you have to rip up the soil," said Chris Barton, a professor of forest hydrology and watershed management at the University of Kentucky. "Ripping allows the natural infiltration of water to occur again," he said. "It gives young trees the water they need for growth, and allows seeds from native plants to germinate."



The West Virginia Land Trust's Ashton Berdine takes a view of the new Mammoth Preserve with Mike Becher of Appalachian Headwaters and Smithers Mayor Anne Cavalier. The preserve encompasses nearly 5,000 acres, most of it in Kanawha County.
CHRIS DORST Charleston Gazette-Mail

Land Trust's big undetaking (Continued from previous page)

Without ripping and reforestation with native tree species, former mine sites like the Mammoth Preserve remain in “a state of arrested succession,” said Barton, who founded the non-profit Green Forests Work to help owners of former surface mines plan reforestation. “Our goal is to speed up the natural process,” he said.

Starting in March or early April, young trees will be planted in the land now being processed for reforestation. “We try to mimic the native forest with a blend of 20 to 30 species of trees and native shrubs found in an oak-hickory forest like the one at the Mammoth Preserve,” Barton said.

The return of a natural hardwood forest canopy above the former mine land will also improve water quality in streams crossing the new preserve.

Leaves in the canopy can absorb large volumes of rainwater while dissipating rainfall before it reaches the soil, Barton said, “and trees are deep-rooted and use a lot of water. That means less runoff and less erosion.”

“There are five or six guys operating heavy equipment here now, and later a dozen or so tree planters will be hired,” said Becher, as he watched a dozer with a ripper bar slowly ascending a small slope. “That’s the start of the sustainable economic activity that we’re wanting to make possible on this site. We want to do good for the environment while creating economic benefits for the community.”

“In the long term, we’ll be working with the local towns and county government to find out what they would like to see happening with the preserve and how we can draw more people to the Upper Kanawha Valley,” said Berdine.

Trail development at the Mammoth Preserve “ties into a local initiative Montgomery and Smithers have for new trails on both sides of the Kanawha,” said Smithers Mayor Anne Cavalier, who visited the preserve with West Virginia Land Trust officials on Monday.

“This would be another place to hike and bike you can reach without having to drive for hours,” she said, and maybe stop in Smithers or Montgomery afterward to get a bite to eat. “The best industry to support new development is the tourism industry.”

The preserve stretches from Hughes Creek, a Kanawha River tributary, in the west to a point within one mile of the Nicholas County line in the east near the town of Dixie. Bells Creek forms much of its northern boundary. All but a 400-acre arm of the preserve that extends into Fayette County in the Mount Olive area lies in Kanawha County.

In addition to the Mammoth Preserve, the West Virginia Land Trust has protected more than 10,000 acres of land in the state, including seven public preserves, since it was created in 1994.

Note: This story originally appeared in The Charleston Gazette.

Litigation legacy – one mammoth step

By Cindy Rank

Throughout these past many years and multitude of administrative and legal battles, West Virginia Highlands Conservancy’s efforts to rein in the coal industry, stop destructive coal mining operations, hold industry and regulatory agencies accountable, and protect streams and forests and communities, there have been many court victories, and some notable attempts to reduce and/or prevent further pollution of streams and reduce impacts on local communities.

But after 40 years, to this weary heart, most of it has been bitter-sweet. Large intrusive mines are still being permitted, operations continue to make lives miserable for people living nearby, streams continue to run red and even when the pollution is colorless it often diminishes or destroys the quality of those streams, well water is still being polluted, homes still shudder from nearby blasting, good people’s lives are still being shattered, and abandoned mines leave little productive in their wake as well as sky-high reclamation costs for someone else to take care of.

When I start wandering down the dreary road of regret for all that hasn’t been accomplished, I prod myself to reflect on some of the more positive achievements of our legal efforts and I take solace in the many court orders that have required offending companies to correct problems at their operations and to pay required penalties.

Moreover, thanks to the legal beagles that have represented us and led the charge in these federal cases, I applaud agreements that have often directed monies back to the state rather than sending penalty payments to the coffers of distant federal agencies. With approval by the Department of Justice (which must OK such diversion of funds) and the blessing of the District Court, agreements resulting from litigation by WVHC and our co-plaintiffs have directed millions of dollars to worthwhile organizations working for the betterment of West Virginia and in particular to better reclaim previously mined land and improve watersheds most directly impacted by the pollution targeted in our lawsuits.

The accompanying article appeared in the September 20, 2020 WV Gazette-Mail and spotlights two of those organizations, Appalachian Headwaters and West Virginia Land Trust. The Mammoth Preserve is a tract of land that was part of another of our settlement agreements and is located in Kanawha and Fayette Counties not far from Montgomery and Gauley Bridge West Virginia.

Comfort

By Jack Slocomb

Must be that turn of year,
days more dimly drawn,
nib of freeze in the tighter
twines of air,
for those fat black polished
crickets to be in high gear
in their frenzied
lofty springing in and out
of the weave of
drooping grasses
along the loose gravel lane
when I scuff too near

Must be the last burst
of the fiery spirits of summer
before the
dropping,
dropping,

dropping,
dropping
of leaves

My leaning is to
find the revelation
in such recurring liturgies as these,
of the way they aver
one another,
the way they
befall in the same embrace of time,
yet I can only ask and ask,
all the while tasting
in the breezes that such fathoming
cannot ever be mine

And that is the abiding
comfort

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.

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

PRESIDENT: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com
SENIOR VICE PRESIDENT: Marilyn Shoenfeld, 167 Balsam Way, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com
VICE PRESIDENT FOR STATE AFFAIRS: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net
SECRETARY: John McFerrin, 202 Van Tassel Court, Morgantown, WV 26508, (304) 291-8305, johnmcferrin@aol.com
TREASURER: Bob Marshall, 2108 Emma Road, Kenna, WV 25248, (304)545-6817, woodhavenwva@aim.com
PAST PRESIDENT: Cynthia D. Ellis, 3114 Steel Ridge Road, Red House, WV 25168, (304) 586-4135, cindy.ellis.bbc@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2020)
Jackie Burns jackie.burns@frontier.com. 304 866 4093
Randy Kesling, 116 Farm Meadow Drive, Bridgeport, WV 26330; (304) 622-5982; rkesling@MA.RR.com
Kent Karriker, 344 Harpertown Road, Elkins, WV 26241 (304) 636-8651, bykarriker@suddenlink.net
Patrica Gundrum, Charleston, WV gundrum2@gmail.com
Jim Van Gundy, 210 Buffalo Street, Elkins, WV 26241, (304) 636-4736, jvvg01@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2021)
George Hack; 510 HANNA RD; Bel Air, MD 21014; 443 742-0463 Ghack102562@comcast.net
Ellie Bell, P.O. Box 48 Snowshoe, WV 26209; 304-651-4553 elbell304@gmail.com
Rick Webb, 481 Ravens Run Road, Monterey, VA 24465, (540) 468-2881, rwebb.481@gmail.com
Hugh Rogers, 531 Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

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

ORGANIZATIONAL DIRECTORS
WEST VIRGINIA CAVE CONSERVANCY: Randy Rumer; 295 Caraway Lane Renick, WV 24966; (304) 497-2657; rrumer@frontiernet.net
PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Drive, Oakmont, PA 15139, (412) 828-8983, buffrodman@hotmail.com
BROOKS BIRD CLUB: Cynthia D. Ellis, 3114 Steel Ridge Road, Red House, WV 25168, (304) 586-4135,
WEST VIRGINIA RIVERS COALITION Turner Sharp, Box 4751, Parkersburg, WV 26104 Tsharp@suddenlink.net
MOUNTAINEER CHAPTER TROUT UNLIMITED Randy Kesling, 116 Farm Meadow Drive, Bridgeport, WV 26330; (304) 622-5982; rkesling@MA.RR.com
FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304) 924-5802, clrank2@gmail.com
ALLEGHENY HIGHLANDS ALLIANCE: Vacant
SHAVERS FORK COALITION: Jeff Witten, President, 578 Falkner Rd, Elkins, 26241, (304) 362-5330, shaversforkcoalition@gmail.com

COMMITTEE CHAIRS
EXTRACTIVE INDUSTRIES COMMITTEE: Cindy Rank, 4401 Eden Road, Rock Cave, WV 26234, (304) 924-5802, clrank2@gmail.com
PUBLIC LANDS MANAGEMENT COMMITTEE: Kent Karriker, 344 Harpertown Road, Elkins, WV 26241 (304) 636-8651, bykarriker@suddenlink.net
RENEWABLE ENERGY COMMITTEE: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com
LEGISLATIVE COMMITTEE: Frank Young, 33 Carnian Ford Road, Ripley, WV 25271, (304) 372-3945, fyoung@mountain.net
ENDOWMENT FUND COMMITTEE: Larry Thomas, P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com
RIVERS COMMITTEE: Vacant
HIGHWAYS COMMITTEE: Hugh Rogers, 531 Moon Run Road, Kerens, WV 26276, (304) 636-2662, hugh.rogers@gmail.com
CLIMATE CHANGE COMMITTEE: Perry Bryant; 1544 Lee Street, East, Charleston, WV 25311, 304-344-1673, perrybryantwv@outlook.com.

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

ADMINISTRATIVE OFFICES
MEMBERSHIP SECRETARY: Dave Saville; PO Box 569, Morgantown, WV 26507; WVHC50@gmail.com; 304-692-8118

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

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; horseback and mountain bike 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.

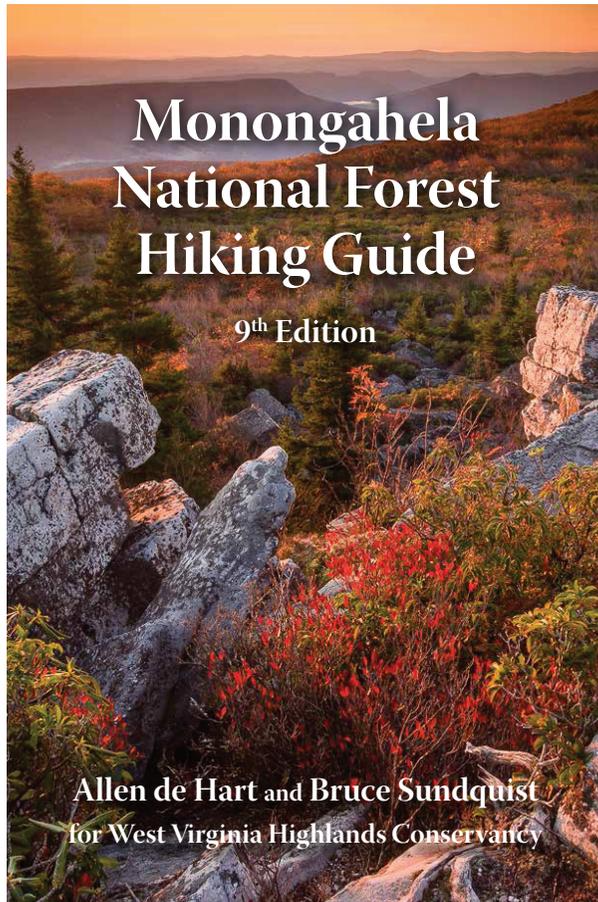
**Send \$18.95 plus \$3.00 shipping to:
West Virginia Highlands Conservancy**

P.O. Box 306

Charleston, WV 25321

OR

**Order from our website at
www.wvhighlands.org**



The Highlands Voice: It's Not Just for Reading Any More

The Highlands Voice is the main way that the West Virginia Highlands Conservancy communicates with its members. But we would like to communicate with more than our members. We have a valuable perspective and information; we would like to communicate with everybody. We still offer electronic delivery. If you would prefer to receive it electronically instead of the paper copy please contact Dave Saville at WVHC50@gmail.com. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived.

No matter how you receive it, please pass it along. If electronically, share the link. If paper, hand it off to a friend, leave it around the house, leave it around the workplace. It's not just for reading. It's for reading and passing along.

BUMPER STICKERS

To get free *I ♥ Mountains* bumper sticker(s), send a SASE to 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.)



WEST VIRGINIA HIGHLANDS CONSERVANCY, PO BOX 306, CHARLESTON, WV 25321-0306 • www.wvhighlands.org

Headwater

- By Jack Slocomb

Seneca Creek rises up out of ancient, wrinkled folds of earth, out of timelessness, an immense continuity.

When I breathe in the space and the sweep from the observation tower at the top of Spruce Knob, it is this image, this whole idea of it, that seems to be what finally distills from my last 30 hours of ranging up and down this stream.

My eyes settle on the long sunken wooded ravine below my perch where the creek has cut into the folds of the mountains, and then beyond that into the purple hued distance and the curves of the overlapping step hills of the Alleghenies that seem to assimilate into a boundaryless haze. I have to strain a little, but I think I can still hear water.

It is a muted echo and may only be a sound that is slowly dying away within my own consciousness - like the diminishing ring of a chime long after it has been struck. Yet up here I want to believe that it is the real thing, the faint descant of flow and riffle mixed in with the feckless ridge winds.

The morning before, I began my trek early in a gray chill.

I remember as I got started that there were a couple of blue jays bobbing around indifferently in the dead lower branches of some Red Spruce trees looming along side the path. I felt briefly then like I had happened in on a pulse, something that had its own inexplicable logic and rhythm, a noisome, feral ceremony of some kind, a liturgy of the dawn, of the night spirits lifting into awakening, the marking of darkness beginning to meld into slow daylight.

Late July is my time of year to come up to this country. It's good for driving away the dregs of lowland dog days. But mostly I love to track this creek, to walk with its unfoldings, to chase around its spirits. It is a trip that tugs at me all the time, like a lost and insistent child that wants to be heeded and held close and long.

Seneca Creek trickles up from the wet core of the Monongahela National Forest at about 3000 feet in the rises of Pendleton County, West Virginia, draining the high narrow valley slung in between the western dip of Spruce Knob – the

Mountain State's highest elevation – and Little Allegheny Mountain. And I am at its very beginning.

Up ahead, ground scud is just starting to burn off in the intensifying heat of the shrouded sun, slowly unveiling an open wrack of Sphagnum bogs, abandoned beaver dams, and a limberlost of decaying, lichen shackled Spruces, most half fallen over but some still spiring up defiantly into the mist.

A breeze slides down from the higher elevations. This is a zone of purity,



© Jonathan Jessup

like the clean splendor of a Canadian wild, a primordial muskeg drapery, a ghost left behind in the high Alleghenies of a boreal, glacially seized landscape, still claiming cold remembrance. But underneath it, I sense a creek, a nascent wetness below the ooze, percolating, biding its own murky time, fathering its waters, getting ready to pour out into day.

A little further on I hear pulsing. I know that the soggy puddles have coalesced into a flow. And I want to see it fresh, fresh out of the underground, fresh out of the decay and ferment. So I slip expectantly through the trees.

And, as I had guessed, Seneca Creek is there, materialized. It is all light and shadows, delicate and clear, almost as if it were celebrating its own sparkling emergence from the depths of the muck, a slick ribbon of stream sluicing over the rocks, pulling drafts of refrigerated air along with it.

I stand in place for a couple minutes, balanced on the gossamer, hypnotic

boundary between earth and water until a word is formed from the sound, from a creek mindfulness that has begun to settle in on me. *Allegheny*, it seems to whisper, *Allegheny, Allegheny* - an Algonquian expression, I remember. It translates into something akin to Eternity or Beginning of Many Waters. And it is everywhere in these mountains, Eternity, the Beginning of Waters. You are young with it, awash in it, source and sapling and spendthrift seed in it, the stream's own fresh language.

I continue down the old narrow gauge rail bed from the logging days, which is now officially designated as the Seneca Creek Trail, soon passing out of the boreal reaches of red spruce dominance into upland hardwood stands of red maple, beech, cherry, and streamside yellow birch.

After about three miles, just beyond a grassy clearing - the remains of a long abandoned farm now called the Judy Springs Walk-in Campground - the road constricts into a rocky footpath that hugs the stream banks more tightly as the valley steepens. It is after this point that the trail also becomes cloistered in tall forest and doglegs back and forth from one side of the creek to

the other. Water seeps from ragged layers of mudstone and clumps of woodland ferns and open roots. Papery crustose lichens in dark shades of green and occasional floppy liverworts glisten on the rocks where they seem to have been haphazardly pasted on.

Not too far up ahead the stream drops off an edge and begins a whole other phase of its life. After deftly negotiating a wobbly crossing on somebody's flimsy makeshift bridge made of yellow birch trunks right before this point, I cautiously ease my way down sideways along a path which cuts off steeply from the main trek. I kick up a lot of loose stones and gravel as I slide. When I reach the bottom, I am in the full view – and embrace – of the High Falls of the Seneca Creek. This is about as far downstream as I can go. The remainder of the trail was washed pretty much into oblivion by the 1985 West Virginia floods.

It is a wide waterfall, and the diving water has scoured out a bowl that amplifies

More on the next page)

Still Walking up Seneca (Continued from previous page)

the deepest resonances of the plunge into an eternal hollow roar. I feel a little like Livingston when the Zambezi brought him, finally, to the brink of Victoria Falls: suddenly it's just there in all of its huge naked thunder. The water pours over the moss slickened walls into a shallow pool where all the powers of the mountains seem to be gathering together before the final run into the North Fork - and then ultimately into a far settling in the humid, flattened expanse of the Chesapeake Bay. It is a little hard to imagine, all that distance.

Maybe in another time I would have been like Ishmael, drawn along by the articulations of the creek to the big waters and Moby Dick and the whales. But today what is being pressed into the weave of my genes is the irresistible instinct for cold upland creeks. This is where I want to stay. And I believe then that the urging will be given down through some newly minted gene and could affect generations.

I can imagine some of my progeny waking up on a hot, steamy morning and feeling sudden cool rivulets veining their bodies, driving out the hangover of sweaty heat killed sleep. What is seeping into me may be my one worthwhile segue to the future.

I may have no other such lasting connective tissue as this itinerant spirit of stream, this bloodline of heedless clear waters.

Later on, heading back toward the spongy meadows that squeezed out the creek, I set up for the night at Judy Springs near a solitary apple tree. I gather wood and, after a couple of tries, kindle a fire.

I have a strange awareness right then that I am here on a homesteading project. I'm trying to find my way to the high hidden ground where I can finally take root and tap into the eternal sweet clarity of a creek, trying to find the still point of being where longing and landscape finally meet.

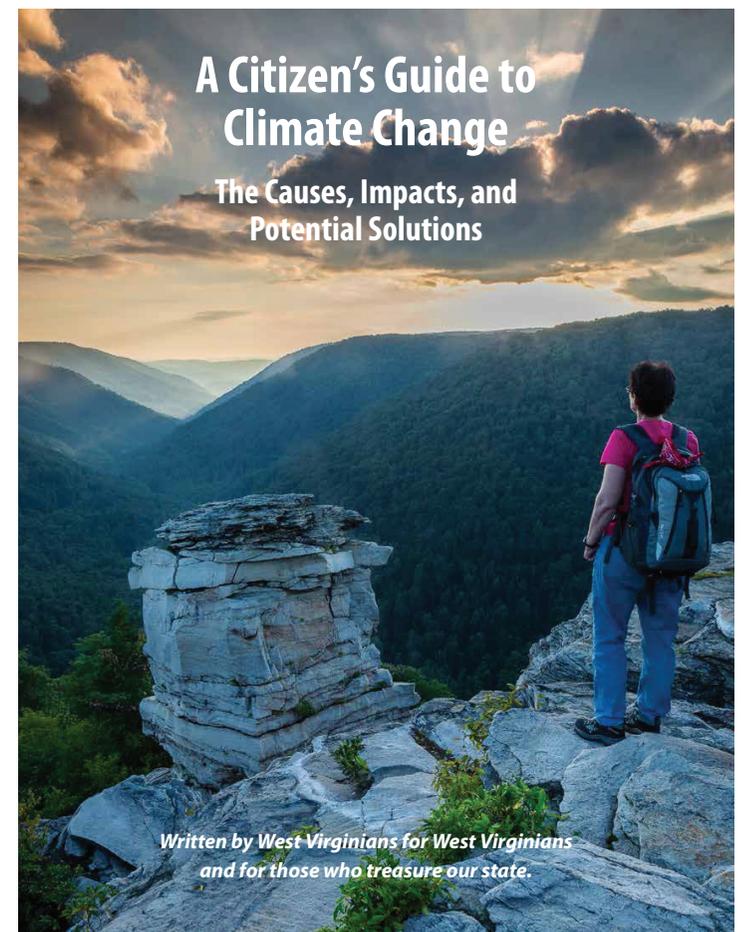
I slouch, legs lotus folded, leaning back against a big Sycamore log - which now seems to have become a permanent piece of campfire architecture. This is the best posture for fire gazing. I fix my gaze on the settling, glowing coals, almost like I was staring into the red hot hissing oven where the earth was fused, waiting until the last dying ember of my own consciousness is swirled around and swallowed up in the creek, in the long liquid beginning of time.

Learn the Straight Scoop on Climate Change

Late last month, the West Virginia Climate Alliance, an emerging coalition of environmental, civil rights, faith-based and civic organizations, released *A Citizen's Guide to Climate Change*. The Guide outlines the science behind climate change, lists some of its impacts in West Virginia and across the globe, and provides a menu of potential solutions. What sets this Guide apart from other publications is that it was written by West Virginians for West Virginians and for those who treasure our state. This colorful publication is informative and well-written. A PDF copy of the Guide can be found at <https://wvivers.org/wp-content/uploads/2020/09/wvclimate.pdf> and a printed copy can be obtained from the West Virginia Climate Alliance, 1544 Lee Street, Charleston, WV 25311.

In releasing the Guide, Perry Bryant, a member of the Alliance, said: "I firmly believe that Congress will begin considering climate change in 2021. If President Trump is re-elected, the reform maybe limited to planting trees and supporting technology development such as carbon capture utilization and sequestration. If Joe Biden is elected, the reform will be much more comprehensive. Either way West Virginians need to understand the science behind climate change and what are the menu of options for addressing climate change. We need to be fully prepared for a robust debate on climate change next year."

The development of *A Citizen's Guide to Climate Change* was supported by West Virginia Rivers Coalition, West Virginia Citizens Action Education Fund, NAACP Charleston Branch, Citizens' Climate Lobby West Virginia, Sierra Club of West Virginia, Moms Clean Air Force West Virginia Chapter, Mid-Ohio Valley Climate Action, Ohio Valley Environmental Coalition, American Friend Service Committee, Center for Energy and Sustainable Development, Christians for the Mountains, and West Virginia University Mountain Hydrology Lab.



A Little Anniversary to Celebrate

Falls of Hills Creek Scenic Area was created October 1, 1964, and is one of the first two scenic areas on Monongahela National Forest. This popular 114-acre area features three waterfalls at 25 feet, 45 feet and 63 feet tall. The lowest falls, at 63 feet, is the second highest waterfall in West Virginia. In 1993, the 0.75-mile trail, comprised of paved trails, boardwalks, and steps that leads visitors to spectacular views of the waterfalls, was completed. The trail was formally dedicated by Senator Byrd and USDA Forest Service representatives in the spring of 1994.



Hearing on Water Quality Rules Turns into Nothing

A September 23 hearing of the Legislative Rulemaking Review Committee on proposed water quality standards proved anticlimactic as the rules were taken off the agenda.

The rule at issue has to do with what are called water quality standards and the discharge limits that those standards dictate. In 1972, the federal Clean Water Act set as its goal of zero discharge of pollutants into the nation's waters. Because that goal was not immediately achievable, the Act also created a system in which discharges were allowed to contain limited concentrations of pollutants.

How much was allowed to be discharged depended upon what are called water quality standards, something that could be described as how clean we want the water to be. We would set limits on the discharges low enough that the water quality standard in a stream would not be violated.

Throughout the 1980s and 1990s, states would, with guidance from the United States Environmental Protection Agency, regularly update their standards so as to keep up developing research on human health and what water quality standards need to be to protect that.

The current dispute over the rule has been going on since 2018. In 2015 the United States Environmental Protection Agency had suggested updates to human health standards. After more than a year of public comment and deliberation, in 2018 the West Virginia Department of Environmental Protection proposed updating human health standards. About two thirds of the updates mandated that there be less of certain chemicals in West Virginia waters. About one third of the updates loosed pollution standards.

At a 2018 meeting a Senate committee agreed to a request by the West Virginia Manufacturers Associating to remove sixty of the updates. The Association said it needed more time to evaluate the rule. In 2019 the Legislature could not resolve the question, instead ordering the Department of Environmental Protection to come up with new rules by 2021.

The September 23 meeting was supposed to help move the Legislature toward adopting new rules. The Committee could have adopted new rules to present to the Legislature when it meets in early 2021. Instead, the issue remains unresolved and West Virginia's water quality standards remain outdated.

Strange Doings by Department of Environmental Protection in Eastern Panhandle

By Christine Wimer, President Jefferson County Foundation

It is time for the Department of Environmental Protection (DEP) to stop catering to corporations and start protecting the environment. Jefferson County Foundation, based in the Eastern Panhandle of West Virginia, is hip to the tricks leaving the natural resources vulnerable. Join us in taking action.

The Department of Environmental Protection administers the federal National Pollutant Discharge Elimination System (NPDES) program in WV for the U.S. Environmental Protection Agency (EPA). In doing so, the Department of Environmental Protection writes general permits that provide standards for construction and operation activities across the state that could poison or pollute water resources. The general permits are revised and reissued every 5 years by the DEP and reviewed by the EPA. The progressive permitting program requires that each new permit is at least as stringent as the last and the goal is to increase the protection for water over time.

The Department of Environmental Protection released a new Stormwater Construction General Permit in 2019, and as it should, it improved protections for water resources over the previous version. However, this permit was appealed to the Environmental Quality Board by industry and the DEP quickly settled with them, giving them all of the changes they requested, and the EQB approved. But, then the EPA objected to these changes as backsliding, and specifically told the DEP that no entity could continue to operate under the now expired and replaced previous version of the permit.

After the EPA rejected the changes, the DEP advised the EPA they were abandoning the changes and, allegedly, requiring entities to either obtain a registration under the original 2019 general permit or get an individual NPDES permit. However, instead, the DEP issued Unilateral Enforcement Orders, allowing over 730 entities across the state to operate without permit coverage, under the expired permit conditions of the previous general permit, in direct defiance of the EPA and of its own commitment to the EPA.

Jefferson County Foundation filed an appeal of the first of these orders in April, citing that the DEP was operating beyond its authority by allowing entities to operate without an NPDES permit in violation of the Clean Water Act. The case was delayed, and despite the Environmental Quality Board's previous assurances it would not be dismissed for mootness, last week the case was dismissed as moot. The mootness created by its own delays. The Foundation is considering the options for appeal pending the review of the final decision; as well as considering what other options exist for challenging this sham process.

There is a clear pattern here: 1. a fairly protective permit is approved, 2. an industry representative appeals it, 3. a quick settlement is made by the DEP with great deference to the wishes of industry, and 4. the permit conditions are relaxed. It has happened at least three times now. First, with the Oil and Gas Stormwater General Permit, then with the Construction Stormwater General Permit as described above, and it is happening again. Last fall, the Industrial Stormwater General Permit (also known as the Multi-sector) was reissued. It was appealed by another industry group with the same lawyer as the previous two appeals.

The Foundation fears that this pattern represents a systemic coordinated attempt by regulated entities to participate in the drafting of general permits, which is strictly prohibited by federal law, and

induce "backsliding" or relaxing of requirements and protections as long as possible. This case sets up a pattern that will sanction the DEP using enforcement orders as a stop gap measure to allow entities to continue working under more lenient standards whenever more convenient for them. The DEP and EQB seem to be more than complicit in this. If successful, this will specifically thwart the overall goal of the NPDES program of increasing protection for water resources and leave the natural resources of West Virginia in grave danger. Left unchecked we can expect even more of this to come.

Seeing this pattern, Jefferson County Foundation submitted a motion to intervene in this latest appeal last fall. The EQB rejected the motion citing that the DEP had already settled the appeal. The revised draft permit that was written from that settlement has now been released for public comment (Sept 23, 2020). If there is enough public interest, the Secretary may hold a public hearing. Please join the Foundation in requesting a virtual public hearing be held on this revised general permit. Any citizen or organization may request a hearing. More information can be found here https://apps.dep.wv.gov/MLists2/Archive/view_text.cfm?ListID=1&MessageID=29693

We must not allow this abuse of process, and contrived back door manipulation by industry lawyers and lobbyists to protect the polluters to continue. We must stand up for our natural resources. We must force the DEP to do its job – protect the environment, not those who endanger it. Please check out the Jefferson County Foundation website and if you are able support our effort to protect the natural resources of WV. Check out our website for discussion of the permit changes and ways to take action. Jeffersoncountyfoundation.org/make-a-difference/ and Jeffersoncountyfoundation.org/

Wishing You and Yours

A Joyous

Energy Efficiency Day

(First Wednesday in October, October 7, 2020)



What's in a Name? Paper by Susan

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 I ♥ 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