Destroy and Mitigate

by Hugh Rogers

"All they have to do is Build Corridor H up at Elkins, cut the trees down and pave the whole place, and we'll be having this every other week."

-Flood disingenuously in Philipps, interviewed by Jeff Young on West Virginia Public Radio, May 17, 1996

Planful scenarios? People are looking for reasons for the repeated severe flooding in the Tygart and Cheat river basins—and they're anxious about what could make it worse. It's a timely topic as we consider our comments on the Corridor H Final Environmental Impact Statement (FEIS). Note: the comment deadline is June 14.

Flooding—flooding—flooding: flood zone encroachment; yes, it is possible to find something in the FEIS. But not in the index. That whimsical list of 11 items includes "cone" and "J. Allen Hawkins Community Park", but ignores "flooding", "interwater runoff", "division of the waters", and many other troublesome subjects.

In the "Flooding" section, the FEIS admits that Corridor H would increase flooding. The Federal Emergency Management Agency, or FEMA (no need to get it out here), has set standards for government actions that "limit ... flood elevation increases to one foot." Thus it isn't surprising to find this conclusion for each floodplain: "Detailed hydraulic studies have shown that these encroachments [from construction of Corridor H] will not result in flood water elevation increases more than one foot."

Can we reassure the man in Philipps that the new highway won't add more than a foot of water to the contents of his basement? If we look closer, we won't be so sure. The hydraulic studies were directed at the need for larger box culverts or longer bridges "to accommodate a greater floodflow"—in other words, the engineers focused on letting water pass through. They didn't raise their eyes from the streams. They didn't examine whether the highway itself would contribute to the flooding.

With its miles of culverts, its giant cuts and fills, its colossal acreage of pavement, Corridor H would drastically affect the hydrology of the region. That's what the man in Philipps thought.

If we look at a specific floodplain—the one closest to Philipps—we find other problems. The FEIS says the "Preferred Alternative," i.e., the four-lane on the final alignment, "would encroach on 13.6 acres of Leading creek's 100 year floodplain. That figure came from the Draft EIS, but the Draft also noted that Line 1 at the interchange with I-279, north of Elkins, "would result in 66 percent more flood haxed zone encroachment than would Line A." Line 1 was chosen as the preferred alternative, but the FEIS still uses the smaller figure. Discrepancies don't end there. Table XII-41, "Summary of Flood Zone Encroachment by Watershed," shows that Line A would encroach on 15.8 acres of Leading Creek—not 13.6—and Line 1, the preferred alternative, would encroach on 19.1 acres. Which figure was used in the "detailed hydraulic studies?" How much higher will the water rise in Philipps? Prrr

Let's pull back and try to gain some perspective. For twenty-five years, the Conservancy has been dealing with the proposal to build corridor H east of Elkins. Reams of environmental studies have been landfilled. The current FEIS is the next-to-last document in a series that began with the 1992 Transportation Needs Study. In 1993, (see page 8)

Bathrobes, Elephants and Zebras

by Tom Rodd

A. Class, May I Have Your Attraction?

I spent fifteen Wednesday evenings this Spring at Davis and Elkins College, teaching a class in environmental law. It was great. I started the first class by un-packaging two bathrobes from my Joel, and getting two students to put the robes on—then a pair of work gloves. Each. A green shrill went on another student. I had her sit in the center of our circle, while another student drobled scraps of paper over her. No one was allowed to speak (who wanted to, this teacher looks like a madman?). I kept a moderate cacophony going on a tambourine and duck call.

I sent one of the bathrobe students to try to stop the paper dribbling, and then sent the other one to interfere and battle the first one. Then I passed out a long clotheline, and we formed a roped area around the robed students, who pretended to douse it out. I kept moving the rope up and down, and changing the shape of the enclosure. I briefly tied one student's hand behind her back, and otherwise interfered. I got several rope holders to put on gloves and join the fray. Now we have a tag-team match!

When the desired level of chaos seemed well achieved, we stopped. Everyone was smiling. I then elicited from the students what this all was supposed to mean, and they eventually got it. My substantive "pedagogic goal" was to teach the lesson that environmental law is not a fixed body of knowledge, it is a fluid arena of struggle (my other lesson was that effective communication begins at a pre-literate, pre-verbal level):

—Say, what is the law on how high the ropes should be off the ground?

—Depends on who's the referee. And all of the action isn't in the ring, you can be sure.

—Who won the fight?

—Wait and see what happens on appeal. Remember, too, there's an election for boxing commissioner next month. Things could change.

All this is by way of introduction to the following selections from the court's opinion in the Hughes River case. Readers who are compiling their "life lists" should note this rare event: a court found an Environmental Impact Statement (EIS) deficient. Such cases are like whopping cranes — very beautiful, and pretty darn scarce.

Government agencies compile a paper "record" to support their decisions. The usual practice is to build as big as possible a pile of studies, reviews, maps, plans, questionnaires, printouts, and construct a robust and daunting edifice. Courts usually approach these xerographic monoliths with gingerly caution and deference.

—By God, that's quite a record! Must be all of three feet across and built like the back leg of a bull elephant! I guess it'll support just about any decision!

In the Hughes River case, Conservancy member Tom Michael, an attorney in Clarksburg, West Virginia and Bob Dreher of the Sierra Club Legal Defense Fund (and numerous colleagues) were able to persuade the Fourth Circuit Court of Appeals in Richmond, Virginia, that the Hughes River dam proposal "record" was deficient and flawed.

(see page 7)
Live with the River

What is to be done about the Greenbrier River? Every time we turn around it is flooding something. Should we build a dam, creating a permanent lake? Should we build a "dry dam", creating a lake only during periods of heavy rain? Should we leave the river alone, instead helping the people adjust to the river by floodproofing their houses and businesses?

The U.S. Army Corps of Engineers, which would in all likelihood carry out whatever flood control measures we decide on, has taken the position that it would pursue whatever steps the local residents wanted. Although cost will have to figure in somewhere, it appears from the Corps’ comments that it prefers to wait until the area residents agree on what they want. Then the Corps will pursue that option.

In general, local control is a good idea. Having a federal agency announce that it will stand at the ready, eager to carry out whatever local consensus dictates, is a charming idea, one we should all applaud.

As charming as the idea is in general, here it is a recipe for nothing ever happens. Some want the Greenbrier River to be left alone for aesthetic reasons. Some want it left alone because damming it up would cost them their property. Some want it dammed up because that would protect their property. They will quit battling the flood and move to higher ground.

People are adaptable, they won’t just sit there. They will do something.

In the Eastern Kentucky town where I grew up, people had already done this. People who lived in the higher parts of town didn’t worry about flooding; they built their houses so that the first floor was at ground level. People who lived where it routinely flooded built their houses on foundations a dozen cinder blocks high. They still got flooded periodically but the water didn’t get into their houses. The people had made adjustments.

Given the current impasse over what kind of dam, if any, is appropriate, there is only one sensible course to take. We should let the Corps of Engineers help people with the adjustments necessary to live with the River. They have done this before in other places. They could help people relocate, show people how to floodproof their houses and businesses, and do whatever needs to be done to make the adjustments to the River easier.

If we don’t do this, then we will end up doing nothing. We will sit and argue about what kind of dam to build as the decades roll past. The flooding continues, and people make their own adjustments at their own expense. Eventually the problem will have solved itself when Marlinton and all the other river towns have either ceased to exist or gradually moved themselves to higher ground.

Politics is the art of the possible. A dam is not possible. So long as the Corps of Engineers waits for consensus there will be no dam. What is possible right now is assistance to people in making adjustments to the River. We could agree on that. Rather than wrangling for a few more decades about what kind of dam to build, we should do what is possible right now.

---from the heart of the plateau---

by John McMerrin

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The Highlands Voice is published by the West Virginia Highlands Conservancy, P.O. Box 306, Charleston, WV 25321. Articles, letters to the editor and other information for publication should be sent to the editor via fax, modem, disk or even hard copy via the U.S. Mail.

The Highlands Voice is always printed on Recycled Paper. Our printer uses 100% post-consumer recycled paper when available.
Dear Editor,

It comes to my attention via a couple of paragraphs in the Elkins newspaper that my government, using any tax dollars, is embarking on a new program here in WV that has already been a controversial failure in the western states. The people of our state, and the whole country have largely been kept in the dark regarding the carnage their tax dollars have been helping to purchase.

Nowhere are they asking about the US Dept. of Agriculture's Animal Damage Control program (ADC). Just who is paying for this project? Is it the federal government? Who will decide who gets killed? Will they really just be killing harmful animals or protected wildlife? Who is being paid the money for this program? Where can I go to get the names of the people doing this project?

The program was discussed at a meeting in Elkins. It is a federal program that is mandated to control damage caused by wild animals and predators. Their goal is to eliminate animals that are seen as a public nuisance.

Recently in WV, hiding behind the politically correct name of "Wildlife Damage Control," the ADC has started bringing their failed policy of federal predator control techniques to the mountains of West Virginia. WSGF 580K is spreading this program where they are now employing the most indiscriminate and lethal methods known to man. And who is paying for all this? The people of West Virginia, who are impounding sheep raising profits in Randolph, Pocahontas, and Pendleton Counties. These methods are to include (1) the M-44 ground device, a 6 inch long land mine-like device that is staggered between cadmium cyanide granules up to 5 ft. The ADC itself has reports of 20 injuries to humans between 1983 and 1993 associated with this device and there is a long history of misuse of the M-44 in the West. The program will be testing use of a sheep lasso in 1995 by an ADC employee with the help of the extension service and farm home. The lone scientific credentials noted are those of a "wildlife management biologist" for the ADC. This is a very questionable methodology.

The survey estimates $338,700 in sheep losses to predators. Predators listed in decline are livestock, deer, elk, and wolves. Perhaps the most shocking part of this survey is that all the data has been inferred from the ADC's bovine records. The upshot is this: ADC is very definitely making money off this program.

The program estimates deletions of sheep losses to predators, making their program a "profit" program for ADC employees. The survey is inadvisable in its methodology, as it is certainly true that not even half of the livestock losses to predators. Less than half are lost to a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear. The survey is only looking at a single predator, black bear.

Dear Editor,

I write with considerable interest to Rick Landsberger's report on finding old-growth thickets in the Thornwood pipeline vicinity. Rick's work in discovering and defining these remnants of the Great Forest was exemplary. His scientific methodology was thoroughly professional, and there can be no doubt of the accuracy of his results. This kind of effort is invaluable in helping us to find and protect what remains of the ancient forest in the highlands.

However, it seems that as far as the Forest Service is concerned Rick's work was a complete waste of time and that the two line to is them already a fait accompli, irreversible by any kind of scientific evidence or reevaluation of the biological significance. The fact that this has happened is a case where the duplicity and known to "control" of the Forest Service is glaringly obvious is no doubt regrettable to the public, but is not an unprecedented result in the past and clearly will not be so in this instance.

Perhaps the Forest Service should just change its name to someplace that more accurately reflects its operating principles, such as the Logging and Mining Service. At least then they would not have to hypocritically pretend that there are no important factors that motivate their decisions other than corporate profits.

Unfortunately for the current Forest Service, though, they are only as strong as their public relations. If there are few, if any, of those that could not be eliminated as 'viable' old-growth by the arbitrary manipulation of the public or more of the Forest service's criteria, it seems to me that the only salient question at this point is whether a patch of forest is old-growth should be simple. Whether the area is ever substantially disturbed by human activities. This is admittedly often difficult to determine. The use of the Forest Service criteria can sometimes be helpful in this regard, but in the end some of these criteria can be considered definitive, especially since many of the remaining old-growth remnants are located in areas whose rugged and often very rocky character make them particularly unapproachable.

The contention of the Forest Service that the Thornwood patches and any others must meet all of their criteria to be considered viable old-growth strikes me as more omnibusary maneuvering rather than good science. The long-standing and well-documented prejudice of the Forest Service against preserving old-growth requires one to be extremely skeptical of their methodology.

Anyone who has had bad experience with ancient forest remnants in Randolph, and 165 wolves. This will come as no surprise, it is predictable, and can be a benefit in return for a change in policy, but in any case we must not let them continue to shape the parameters of this debate. If we were managing public forest to nurture and encourage old-growth instead of eliminating it there would be no such thing as a renewable resource. The fact that smaller remnants are especially vulnerable to edge-effect disturbances ought to be a compelling argument for their preservation and possible expansion, certainly not their occupation into the bureaucratic wasteland.

But that of course is what is going to happen to the Thornwood old-growth and any other remnants that have the temerity to be located in an 'opportunity area,' or in the path of a road or pipeline or any-thing else the Forest Service wants to multiple-use. Meanwhile the forest itself becomes that much more fragmented, that much more controlled and manipulated, and that much less wild and free. This may be good for logging and mining companies, although it is the result of and reason for multiple-use, does not necessarily mean it is good for the environment, or the future of the forest.

The path of the road to multiple-use and the power it gives to Forest Service is going to make it difficult to save what is left of the great forest for the future, with all of its wondrous but fragile diversity. Stashing a new and highly questionable pipeline through what is now an unbroken forest and old-growth remnants and then maintaining that right-of-way, as will undoubtedly occur, with poisonous herbicides, just doesn't make sense from any sort of ecological perspective. But I almost forgot that this isn't about ecology, only economics. I only hope that may be someday we will have Forest Stewards who can see further than the end of the road.

For the wild - Bob Stough

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Thornwood Old Growth - Part 3

by Rick Landenberger

The following is a copy of Tom Demos's report on the Old Growth path in the proposed Thornwood Pipeline right of way plus Rick's response. For those of you missing the result of field investigations on April (forestry student at WVU) found this patch of Old Growth in the right-of-way area along the proposed "Gapipeline", which the Forest Service has continued to try to ignore. Rick's comments are bracketed by dashed lines - bill r

Tom Demos/USFS ecologist letter to Linda Tracy - 29 April 1996
Subject: Investigation of Possible Old Growth Along Thornwood Gasline right-of-way

"Ms. Linda Tracy, Thornwood Gasline Environmental Assessment Team Leader

During the comment period for this environmental assessment, Rick Landenberger raised the issue of possible old growth along the Thornwood Gasline Right-of-Way. In November 1995, a team of Forest Service personnel visited the site of concern, on Spruce Ridge near Buffalo Lake, to investigate this possibility. Using an increment borer, they cored three trees, reporting that the cores appeared to be about 80 years old. Linda Tracy subsequently gave the cores to me for office verification of the age.

The forest service still has not answered any specific questions about exactly what happened with the original cores.

In early April 1996, Rick again visited the site, documenting trees well over 100 years old. Finally examining the cores that Linda had given me, I concurred with Rick's assessment.

This mistake on our part led to a need to reevaluate the site. As a result of field investigations on April 12 and April 19, 1996, I conclude the site is too small in area to be considered a viable old growth stand. It is a residual clump of old growth attributes from the previous forest. Similar clumps occur across the mountainside in the nearby vicinity. Following is the site description and rationale used to reach this conclusion.

Site Description

The site in question is located along the proposed Thornwood Gasline right-of-way at an elevation of about 3500 ft on a northern aspect. It is referred to as "Site 1" on the attached map. The north side of Spruce Ridge runs from approximately 3200-3800 ft ASL. It is a northern hardwood type forest with some northern hardwood type forest plus some white pine. Although the name suggests it was once dominated by red spruce. Today it is an older second growth mix of beech, eastern hemlock, sugar maple, black cherry, black birch, mountain magnolia, and occasional other species. Searched clumps of residual trees from the previous forest remain, presumably missed or ignored by extensive turn-of-the-century logging.

"first, the site is incorrectly identified as a northern hardwood type. Kuchler's classification shouldn't be used in this case because the scale is completely inappropriate; Kuchler's classification is regional in scale, and as such is meaningful for purposes of forest-related work, this part of the area is unquestionably a hemlock-birch forest, which is quite rare on the Monongahela NF. It would be easy to quantitatively classify the site using any of a variety of objective vegetation classification schemes, for instance relative frequency or RA of overstory trees, "importance," or another quantitative method that lends itself to replication. Also, this bit about the area being "called Spruce Ridge" is extremely dubious as an ecological reference. Places were named without much due to proper identification back at the turn-of-the-century. The assumptions regarding exactly what went on at this location is also complete speculation, all we know for certain is that there are numerous old trees on the site, the stand is not a "clump of old growth attributes" - nothing is a clump of old growth attributes, there is a stand that has certain quantifiable attributes that are accepted by the scientific community as an indication of old-growth period.

Evaluation of the Site in Question

The current Forest policy is to use the following set of attributes in defining old-growth sites.


These attributes are explained more fully in the Monongahela National Forest white paper "Classification of Forest Plan Intent for Designating Old Growth Areas on the Monongahela National Forest" (DeMoe et al. 1995).

"...this issue DOES NOT have anything to do with "designating old-growth"; it is simply an issue of appropriate environmental assessment methods. Certainly tom can use this as a guide if he wants; but it is itself a pretty tenuous and does not necessary have anything at all to do with this issue: one thing that ought to be done here is to identify the issue properly.

Using the above list as a guide, I evaluated the site as follows:

1. Age: Rick's work has clearly shown that the site has trees well over 100 years old, at least one beech exceeds 200 yrs. From field investigation I am convinced that there is a sufficient density of old trees on the site to consider it as meeting this attribute.

3. Multiple Canopy Layers: These are evident, understory trees of different height and diameter classes were well represented.

4. Structural Diversity: Locations of all trees 2.5 cm or greater in diameter at breast height were mapped; these field data are available upon request. As with canopy layers, the diameter class distribution is diverse.

5. Woody Debris: Downed wooded debris is evident, in a variety of species and diameters. Pilotwood topography, characteristic of small-scale windrow gap-formation processes, is also well-represented.

6. Snags: Snags of at least three species and of varied diameters are present. Cavities suggest they are well-used by wildlife.

7. Gap Formation: One gap 11 m in diameter was documented, as well as one about 5 m in diameter. The 11-m gap is probably of sufficient size to facilitate tree regeneration over time (Hibbs 1982); the 5-m gap is not.

I'm not sure what's going on here. hemlock can certainly regenerate in a 6.1 square meter gap, and there's plenty of research to document this. Also, a lot depends on what else happens over time. Will additional gaps form? Will branches in the overstory break off and form a larger gap? No one can answer these questions, but we could assign a probability to these events, based on what we determine to be the situation in representative surrounding areas; unfortunately, there are few.

8. Minimum Area

The area in question was measured as 33 m by 55 m, or 0.18 ha.

...here is where the (second) major mistake is made (the first being the mishandled, misanalyzed cores). tom's estimate of area, which he claims is so crucial, is way, way off the actual extent of this stand, it is at least twice as large, and probably much more. keep this in mind, it is an extremely important point.

Minimum area is a critical consideration, since it relates to old growth viability and function (Har ris 1984, Thomas et al. 1988, Hunter 1990, Noss and Cooperider 1994). Evidence is accumulating that some small Eastern old growth remnants may not be viable over time, or at least unusually vulnerable to disturbance events (Boerner and Kooser 1991, McEwan 1986, Parker et al. 1985, Abrams and Downs 1990). The beech-scallen disease complex appears to be well-established in the vicinity, as evidenced by a high density of beech snags across the mountainside, as well as signs of the disease on trees on or near the site. This leads me to believe the site in question will experience beech mortality in the near future.

I checked out these references and they are very wonderful (see page 6).

Wise Use at Kumbrabow - all this wood is "junk" even the 3' diameter sugar maple in photo center. Its a good thing Kumbrabow experiences such high rainfall, with Coastal Lumber piling up acres of trees they can't make a buck on but cut anyway, a fire could devastate the woods. There have been fires in the past.
It's Ok To Kill Trout In Order To Cut Timber

By Donald S. Garvin, Jr.
from the newsletter of Trout Unlimited, Mountaineer Chapter

US Forest Service Says...

By seemingly total disregard for its own mandate to protect the trout in the Monongahela National Forest, the US Forest Service has decided in favor of a massive timber project which threatens almost the entire wild trout fishery in the Elk River watershed.

And in another decision they've done themselves one step better: they have actually put in writing that they are willing to kill a trout fishery in order to cut timber!

The stream in question is the Elk River, a native trout stream located in the Frank Mountain Project area just east of Barbour near the West Virginia-Pennsylvania state line. Members of the Mountaineer Chapter of Trout Unlimited have filed this challenge.

In reaction to concerns about increased siltation at Old House Run, the Pennsylvania Fish & Game Commission's plan together has decided to close the Old House Run road, which runs along most of the stream's length, and build a new road on Grassy Knob Ridge.

However, their own Environmental Assessment of the project clearly states that the overall plan could contain "substantial short term sediment effects - as temporarily eliminating its (Old House Run's) native trout population."

In an attempt to justify this action, the Environmental Assessment states: "However, in the long term, both the Proposed Action and Alternative 1 would be expected to improve native trout habitat in Old House Run (though not to the same extent), and trout may be able to recolonize this stream."

So let's see if we've got this straight. The increased siltation will "TEMPORARILY" kill the trout, and the proposed mitigation will "improve" the trout habitat "THOUGH NOT TO THE SAME EXTENT" and afterward the trout fishery "MAY BE ABLE TO" be re-

There, well you have it. Forget about the native trout populations as called for in the Fisheries Amendment to the Monongahela National Forest Plan. Forget that they have the option of selecting a "No Action" alternative that would protect the fishery. At least now the US Forest Service has finally admitted its true priorities in writing. Full speed ahead - cut the timber!

Now back to the decision affecting the Elk River watershed. That plan, known as the East Gauley Mountain Timber Project, combines several Opportunity Areas into one large proposal, and would allow the Elk River from Slaty Fork downstream to below Whittaker Falls. It covers almost 12,000 acres of National Forest land, µ with much of the upper Elk as a boundary it includes the Chinnery Rock Run, Blackhole Rock Run, Big Run (of the Elk), Props Run and Laurel Run drainages.

Occasionally, a trout stream in a proposed Forest Service project area is of such exceptional value as a resource that it merits greater concern than normal on our part, and greater protection than normal on the part of the Forest Service. The Elk River and its tributaries fall into that category. The Elk River, as Mountaineer Chapter members know, has reproducing brown trout populations. Its tributaries have populations of native brook trout and both wild brown and wild rainbow trout. The Elk River, in its many segments, is in fact unique as a trout fishery in this area, due in no small part to major initiatives by the West Virginia Division of Natural Resources and thousands of hours of volunteer work by Trout Unlimited members from across the state.

That is it a trout fishery of such high quality (or a trout fishery at all) is of somewhat of a miracle in itself and can only be attributed to mother nature and the constant vigilance of those who care about the stream - because someone is always wanting to put mud in this stream.

The timber Analyst, prepared by Marlestone District Range Cynthia Schaffer, considers four alternatives for the project. Alternative A is the "no-action" alternative. Alternatives B, C and D call for harvest levels from 15 to 35 million board feet to 18 million board feet, with only minor differences in the details of these three options. For example, the range of harvest alternatives includes 50 to 75 acres of clearcutting, 85 acres of shelterwood cuts, 459 to 548 acres of two-age cuts (shelterwood and two-age cuts are really just less obstructive forms of clearcutting), 2983 to 3502 acres of timber thinning, 2.5 to 2.9 miles of new roads, and 5.6 to 9.5 miles of road reconstruction.

The timber analyst team is apparently willing to accept 40%+ spawning mortalities due to increased siltation.

A final note: the Mon Forest Plan classifies this as a 6.1 area, with a primary management emphasis as "remote habitat for wildlife species insensitive of human disturbance," such as wild turkey and black bear. Recognizing the steepness of this mountainous terrain, the area, the Timber Analyst team is recommending the extensive use of heli-copter and cable logging. Does that kind of operation sound to you like it's compatible with remote habitat for these "insensitive" species?

The Mountaineer Chapter strongly recommended the "no-action" alternative of both of these proposals. We are considering appealing the decision.

WWVC SPRING REVIEW - THE DAM STORY

The Dam Control Act, currently administered by the Dam Control Section of the West Virginia Division of Environmental Protection, was passed by the West Virginia Legislature in 1903. The act sets forth the manner in which the dammers are to be regulated, the safety of dams, and the operations of dams.

On Saturday, May 15, Brian Long, Chief of the Dam Control Section of the West Virginia Division of Environmental Protection, made a presentation on the Dam Control Act on that Act, how it systematizes this, and dam safety, to the West Virginia Highlands Conservancy. This talk was part of the Conservancy's Spring Review.

Mr. Long noted that his Section has no control over whether or not a dam is built. It is not charged with determining whether or not putting a dam on a particular stream is prudent. It only tries to assure that, if a dam is built, it will be safe.

Although Mr. Long's Section has no control over whether or not a dam will be built, his experience with dams has exposed him to a specific application of Doofroofing an area as an alternative to controlling flooding by dam construction. He reported on a community in Pennsylvania which had responded to repeated flooding by making structural modifications to homes and businesses in the flood plain.

This involved such things as raising the buildings, relaxing electrical equipment above the usual flood level, etc. It was Mr. Long's understanding that the community was quite satisfied with the results. The Dam Control Section inspects and regulates all dams in West Virginia which meet minimum size requirements. To be within the jurisdiction of the Dam Control Section, a dam must be at least 25 feet high and impound 15 acre-feet of water or be at least six feet high and impound 100 acre-feet of water. An acre foot is a volume of water necessary to cover an acre of one foot of depth. Dams under the control of the federal government are excluded, as are dams which are part of a mining operation. These are regulated by another Section.

The dam controls section still has jurisdiction over approximately 350 dams in West Virginia. It classifies these as high, medium, or low hazard, depending upon whether or not a failure of the dam could be expected to result in loss of life. Of the dams it regulates, the Dam Control Section considers a substantial fraction of these 350 dams to be unsafe because of various problems with construction, maintenance, and upkeep.

One difficulty the Dam Control Section faces is that the Dam Control Act does not require bonding, insurance, or any other showing of financial responsibility. As a result, many dams are owned by people who do not have the resources to correct problems as they arise.

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Effects of dams on mussels

Mussels need a riffle habitat in the adult stage; riffle habitat being found usually in alternation with pools. The number of species of mussels in pools is lower than in riffles.

In pools, and this is even more true for water impounded by dams, there is a decrease in oxygen and increase in pollutants due to stratification in still water (offices of course keep the water stirred up). Mussels populated can also be affected downstream by mud carried in water flow, and other factors caused by stratification in the impounded water such as temperature, and increased pollutant load.

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In spite of these exclusions, the Dam Control Section still has jurisdiction over approximately 350 dams in West Virginia. It classifies these as high, medium, or low hazard, depending upon whether or not a failure of the dam could be expected to result in loss of life. Of the dams it regulates, the Dam Control Section considers a substantial fraction of these 350 dams to be unsafe because of various problems with construction, maintenance, and upkeep.

One difficulty the Dam Control Section faces is that the Dam Control Act does not require bonding, insurance, or any other showing of financial responsibility. As a result, many dams are owned by people who do not have the resources to correct problems as they arise.

Effects of dams on Plants

For countless eons rivers have flooded, scouring portions of their banks. Nature has adapted and evolved species that depend on this renewal of habitat. Dams interrupt this timeless process.

Two species currently known from the Greenbrier River which require the secured riverbank habitat are Barbary's-buttons (Mamillaria sandreitalis) and Blue-spotted sedge (Spina virginiensis). They have only one location on the Greenbrier for each of these. It is important to stress that the secured cobble community found along the Greenbrier is very unique. Loss of this community type can be serious. It is also found locally in lower Tug, and those rivers have their own group of rare plants associated with the community.

Along the Gauley secured banks you will find Barbary's-buttons, blue-spotted sedge (Reneouic papercrust), sand plum (Plumsul pamilla) and spires. Along the Elk River you will find more spires and aquatic-weather. The Shavers Fork have many more rare plants. What is important to stress is that the sand-cobble-beach habitat and the rivers' flooding (the F word, nowadays) regime.
Conflict Over Thornwood Pipeline Intensifies

adapted from an article by Jim Scoonies from the Mountain State Scream. I'd only like to add that I previously wrote a decision statement that the WVHC has filed comments as an interested party.

Over two decades of controversy over the proposed Thornwood Pipeline entered a new phase in April and May.

Now the Forest Service has issued an Environmental Assessment, or EA, for the proposed project. Not surprisingly, agency administrators endorsed the protective plans put forth by the out-of-state developer, Thornwood Gas Inc. The EA basically ignored the serious problems for recreation, wildlife, old growth, and more raised by Sierra Club and other groups. The Forest Service absurdly claims that the pipeline would have "no significant impact." This is the justification for refusing to prepare a full-scale Environmental Impact Statement which would assess the environmental impacts comprehensively.

The EA is accompanied by a FONSI (pronounced "Fonzie" like in the old TV series). This is a Finding Of No Significant Impact. It is the only way an agency can justify its refusal to do an EIS. The Sierra Club and its allies have now appealed this decision by the Forest Service. The FONSI was long anticipated by the pipeline's opponents. Forest Service policy allows just 45 days to file an appeal. Represented by the Southern Environmental Law Center (SELC) in Virginia, the environmental community struck back on crucial issues and deficiencies in the EA. SELC has provided essential legal expertise and coordination for pipeline opponents.

The table of contents of the 66 page brief highlights the major grounds for the appeal.

1.) The EA and FONSI erroneously determine that an EIS is not required.

2.) Impacts from the proposed pipeline may be severe, and development will be significant. If there is significant impact, the agency must prepare an EIS, a much more complete study than an EA.

3.) The Forest Service has failed to properly consider the cumulative and indirect effects of the Thornwood gas pipeline.

4.) Effects of future gas development are not considered in assessing the significance of the pipeline line. Engineering and economic studies make it clear that gas development over thousands of acres in the Mon National Forest would be undertaken if the pipeline were to be built.

5.) Reliance on previous general NEPA (National Environmental Policy Act) studies is inadequate for this project. Furthermore, these documents don't consider significant new information. This includes discovery of remnant old growth forest in the path of the pipeline. Forest Service staff, one way or the other, completely missed this area of 150-200 year old trees.

6.) The agency incorrectly determines that the Thornwood pipeline proposal and future drilling are not "connected actions." This is an important point; if future plans are "connected actions" they must be included in an EIS. The Forest Service stubbornly and irritatingly claims that future plans to drill dozens of new wells and develop them are not "connected" to this pipeline, which would enable bringing these new wells on-line. Expert documentation makes it clear that the pipeline would be overbuilt and a financial failure without this future development.

7.) The agency failed to consider reasonably foreseeable future gas development. In its documents, USFS steadfastly maintained they only wished to study the 6 existing wells. They claim that if future exploitation is undertaken, then they'll study it, not now. This completely contradicts their mandate to take a holistic, ecosystem view.

8.) The Forest Service determined significance on an issue-by-issue basis. This way the whole impact is never seen.

Thornwood Old Growth - Part 3

(from page 4) exhibit of citing completely inappropriate research without exception, they address oak forests, from the lowlands and central hardwood region (although one is from Pennsylvania). They simply don't apply here, nor do they address the mystical concept of "viability," which no self-respecting ecologist would ever refer to as an ecosystem that very little is known about. "Viability" is not defined, nor is it implied, nor is it a conclusion concerning how it might be measured or estimated. Any term of such importance needs to be described in sufficient detail so that evidence can be gathered either to prove or disprove the hypothesis that it rests upon. Also, the disease hypothesis is well-known in forestry and conservation circles. It's the same argument made time and again when old trees are considered for logging (salvage timber sales, timber sales, etc.). The undeniable fact that this stand has survived to this point is apparent of no consequence. Furthermore, it doesn't matter one bit if the beechnut in question have scale or not. I cited two of them, and they were, surprisingly, absolutely solid at 200+ years old.

Finally, how was the size of the area determined? What criteria were used? how were boundaries established? Were they based on the "evolution," the entire thing rests on the mystical "minimum area" because this "critical" area relates to "viability," what is the minimum area? No information gives us the boundaries. The area might be, its definitely larger than this particular stand, how does it relate to "viability?" no information provided, but we've told that it has some substantial, undeniable relationship. I conclude the site does not meet the area requirement for viable old growth.

anyone surprised? using the logic applied in this case, how could it be otherwise? by citing inappropriate literature and building an illogical and completely non-defensible argument, the conclusion becomes completely meaningless. The fact that the trees are successfully reproducing (the basic idea of "viability" as its used in the conservation biology literature) seems to have been overlooked. why is there some reason that successful reproduction would not be considered in an evaluation of "viability"? this is as blatant a mistake as aging a broken, incomplete core when two complete (and very old) cores were available as references, and then concluding that the stand was only as old as the broken, incomplete reference core. what is "viability" if it isn't successful reproduction?

9. Adjacency and Scale Considerations

This leads to the final considerations on the above attribute list: those of adjacency and scale. The site in question should be considered in the context of the surrounding landscape (Franklin et al. 1981, Hunter 1990). To assess this, clumps of residual old growth attributes were also evaluated in nearby areas across the north side of Spruce Ridge. Data were collected on patches encountered, with the attributes above documented where present. Several cores were taken from trees in each patch. The dimensions of each patch were measured or estimated. For the purposes of this evaluation, patches were considered to meet the age requirement for old growth if at least some overstory trees were at least 120 years old at breast height. The mountainside contains at least several other clumps of old growth attributes. While it is difficult to say which is the most valuable, the site in question has the oldest documented timber tree and is slightly larger than the next largest patch.

no, it is impossible to say which is most valuable in an objective, scientific evaluation, since value is a human concept and, at the very least, requires some type of reference point. But, getting back to "adjacency and scale considerations", how do these relate to the question of "viability?" we know that there are "at least several" other "changes of attributes" (?), but what is the ecological-environmental relationship between the stand in question and the others? how is this a relevant characteristic of the landscape? one way biologists look at similar situations is to ask the basic question "do these individuals exchange gametes? do they interbreed? typically, in population viability analysis (which is how the term is used), the idea is that underbreeding increases genetic variability and thus the probability that the population or metapopulation will survive over the long term the problem is, this hasn't been thoroughly demonstrated in plant populations (although it has for animals). thus, we've left to ponder what all this means. one thing is certain, however, we know where the forest service stands on this issue: i wonder how that old tree in my backyard was able to survive all these years, and what all those seedlings are doing underneath of it.
Bathrobes, Elephants and Zebras

(from page 1) B. Highlights of the Hughes River Workshop

The North Fork of the Hughes River is a free-flowing river located in a rugged and mountainous area of northwestern West Virginia. In addition to its extraordinary scenic value, the North Fork is the habitat of an extensive variety of fish and wildlife. It supports a population of twenty-two freshwater mussel species, including two species under consideration for listing as threatened or endangered under the Endangered Species Act. It also contains wetland areas, riffles and pools suitable for the support of diverse habitats for various species. The North Fork is listed on the National Park Service's National Recreational River Study System. The Sierra Club, the Department of the Interior, and the Environmental Protection Agency informed the NRCS that they considered the draft EIS to be deficient for several reasons. They pointed out that the EIS did not adequately analyze the adverse environmental impacts of the Project, did not adequately consider methods of mitigating these effects, and did not adequately explore possible alternatives to the Project. Additionally, the Department of the Interior and the EPA expressed concern that the Project would eliminate Fifth Fish Island for being designated as part of the National Wild and Scenic Rivers System. And the Sierra Club questioned the reliability of the NRCS's estimate of the Project's economic benefits.

Both the EPA and the Department of the Interior's Fish and Wildlife Service responded to the public notice by recommending that the $404 permit be denied because the Project would result in substantial and unacceptable damage to the North Fork. The EPA also warned the Corps that the Project would probably cause infestation of the North Fork by zebra mussels, a non-indigenous mollusk that destroys native mussel populations. During the reevaluation process, the Conservancy wrote to the District Office, requesting that a supplemental EIS be prepared to address zebra mussel infestation and to evaluate the potential of the North Fork to be included in the National Wild and Scenic Rivers System.

The EPA and the FWS forwarded to the Corps the views of Dr. Richard News, a professor of botany at Virginia Polytechnic Institute and State University. According to Dr. News, the project would result in substantial and unacceptable damage to the North Fork. The EPA also warned the Corps that the Project would likely cause infestation of the North Fork by zebra mussels, a non-indigenous mollusk that destroys native mussel populations. During the reevaluation process, the Conservancy wrote to the District Office, requesting that a supplemental EIS be prepared to address zebra mussel infestation and to evaluate the potential of the North Fork to be included in the National Wild and Scenic Rivers System.

Old Growth in West Virginia - A Hands-On Workshop

(from page 8) Workshop Program


We begin with a classroom meeting for introduction to the continental divide, landform features, unglaciated areas, etc. Then the workshop quickly moves to the field, where it remains except for the lunch break. This is primarily a hands-on, field study session with an emphasis on field observation and the collection of data. Participants are encouraged to bring their own field guidebooks and tools for field work.

The Monongahela National Forest Hiking Guide

The Monongahela National Forest Hiking Guide, 6th edition, is bigger and better than ever, with 368 pages, 96 pages of maps, 49 photographs, 177 trails totaling 812 miles, and a full color cover. The guide also provides information for skiing and backpacking. The growing throngs of visitors and the public at large regard the Monongahela National Forest as a 'Special Place'. And indeed it is. The hiking, backpacking, and ski-touring opportunities it provides are among the best in the eastern U.S. The more outstanding areas are becoming known far and wide - Otter Creek Wilderness, Dolly Sods Wilderness, Flatrock Plains, Roaring Plains, Blackwater Canyon, Spruce Knob, North Fork Mountain, Shaver's Mountain, Laurel Fork Wilderness, Cranberry Back Country, Cranberry Wilderness, among others.

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

To order your copy of Edition 6 of the Monongahela National Forest Hiking Guide, send $12.95 (this includes $3.00 first class shipping) to West Virginia Highlands Conservancy PO Box 306 Charleston, WV 25321

I have included a check for $____... to WVHC for ____ copies of the Monongahela National Forest Hiking Guide.

Name:
Address:
City, State, Zip:

MARSHALLIA grandiflora
Destroy and Mitigate

(from page 1) when scheme D-5 was chosen, the FEIS was expected by July, 1994. The Record of Decision, to permit construction, would have followed a month later.

Taking the process seriously, we wanted to keep this alive over two more years during which the road was not built, the damage was not done, the funds were not spent. Taking the process seriously meant filing comments on the drafts, and sometimes sharing comments with agencies that have more clout than we do. Any number can play, and the more the better, since discrepancies and bold-faced lies may not surface at first reading. We'll play this game as long as it lasts.

But remember: the name of the game, from WVDOT's point of view, is "Destroy and Mitigate." Volume III of the FEIS is the "Mitigation Document" where they keep score for every impact, a promise. (Although there are no promises specifically directed at flooding.) The long perspective helps us see this isn't going anywhere, as it ever was, a stupid project. We have never conceded its "purpose and need." We will continue to comment on that, and if necessary we will rise in court. We are somewhat encouraged by a recent interview with the EPA's regional administrator, Michael McCabe, who said, "We feel there are serious environmental impacts, many of which are unmitigable. You need to demonstrate the economic benefits of this project seem to be adequate for a project of this size, given the adverse impacts." The Federal Highway Administration has a different perspective. In March, we pointed out that the new alignment around Corricken Ford Bellfield had been called "impossible" in the Draft EIS. FHWA's division administrator replied, "Nothing is really impossible. If it takes a lot more dollars, you pay a lot more dollars." Part III

It pays to keep looking. An unsectioned section of the document on purpose and need shows that corridor II would increase risks even for people who used it (as well as people who would be flooded by it).

According to the Transportation Needs Study, the accident rate on existing routes from Elkton to Strasburg, Virginia, is 3.24 per million vehicle miles traveled (VMT). So our highway department wants to make us more equal! They want to build a "partial access controlled road," that is, a road with many at-grade intersections and a few fully controlled interchanges. In their document, the accident rate for such roads is 4.56 per VMT, which is 65% worse than the roads we have now.

A transportation engineer who was asked about these figures suggested that partially-controlled-access highways fill drivers to expect protection from cross traffic. On the smooth-open stretch of Corridor II between Buckhannon and Elkton, most accidents have occurred at intersections. Four people have been killed already.

Under "Purpose and Need," the FEIS refers readers to the 1992 Transportation Needs Study, and it enumerates seven factors. The "Safety" discussion quotes the 3.24 accident rate for existing roads—but instead of using the rate on partially-controlled access highways for comparison, it refers to the "true primary four-lane controlled access" highways. That is not what WVODT proposes to build. That would be a far more expensive project. But the FEIS cheats to make Corridor II look better. On other important subjects, such as economic benefits to be derived, the FEIS gives up on earlier claims. Ben Hark, the chief of the Division of Highway's environmental section, said last year, "The actual purpose and need is to improve capacity and ease congestion. That's the original, traditional reason." Capacity? Congestion? At fewer than 3,000 vehicles per day? Ultimately, that is the reason Corridor II won't be built: it isn't needed. It's a billion-dollar dinosaur from a different age. Dinosaurs didn't die all at once, though, and this one will take more time to kill. WVODT plans to build a bypass at Elkton, using Corridor II funds. They are studying another bypass at Moorefield. They may add more passing lanes on the mountains. The "alternatives" we have suggested may be adopted piecemeal, without acknowledgment. Meanwhile, we have to continue the fight over FEIS.

More News on WV Bird Decline

Migratory Bird Banding Update adapted from an article in WV Monitor News by Dr. George Hall

The 38th year of bird-banding at the Allegheny Front Migration Observatory, located on Dolly Sods in Grant County, was the poorest banding season since there has been full time coverage. The weather was dry and warm, but a number of front systems did develop. The station was in continuous operation from August 13 to October 16, as well as five additional days in late October. Some banding was carried out on 69 days.

A total of 3,181 birds (third poorest) of 78 species (average value) was handied with a station effort of 7,586 net hours (second highest), giving a capture rate of 4.13 per 100 net hours (lowest). The late season flight of kinglets and juncos prevented this from being the poorest season ever.

As a group the neotropical migrants were 56% below average. The 1,540 warblers banded were 51% below average. Bay-breasted warblers - 76% below; Tennessee - 75% below; Cape May 71% below, Hermit thrush - 47% above, veerys - 33% below, wood thrushes - 58% below.

One can only speculate about the reasons for the poor year. It is not known how the hot dry weather influenced the migratory pattern, but these conditions may have caused most species to have poor breeding seasons. There have been mixed reports from other points in the East as some stations have had fairly good migratory movements, while others had results much like ours. Blue jays and American goldfinches were counted in record numbers.

Membership Benefits

A year subscription to the Highlands Voice

Special meetings with workshops and speakers

Representation through WVHC efforts to monitor legislative and agency activity

The WVHC, at age 29, is the oldest environmental group in West Virginia. The Conservancy has been influential in protecting and preserving WV's natural heritage. Your support will help WVHC to continue its efforts.