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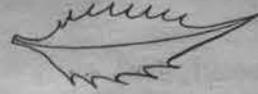


SEASON'S GREETINGS

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Highlands



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## DEAL CUT ON BLACKWATER CANYON

By John McFerrin

Governor Underwood, Senator Rockefeller, and Appalachian Wood Products have announced an exchange of land in the Blackwater Canyon for land "of equal value" in the Monongahela National Forest. As a part of the deal, Appalachian Wood Products will exchange approximately 750 of the 3,000 acres it owns in the Canyon for undetermined land "of equal value" in Tucker and Preston Counties which is currently a part of the Monongahela National Forest.

The deal was announced at a press conference on Monday, December 1. Because there were no copies of maps or of the memorandum of understanding which sets out the deal available at the press conference, the details are not readily available.

The land to be traded includes: A 128-acre strip that runs the length of the canyon along the north side of the river along the bottom of the canyon. This strip has become popular as a biking and hiking trail and would be maintained as such by the Forest Service. This strip is made up largely of steep terrain. Because of its steepness and the proximity to Blackwater State Park, logging on this strip would have been difficult at best. The strip is

bumped north of the river at one point, near Big Run, where Allegheny Wood will keep ownership of one tract of land.

A 210-acre tract on the south side of the canyon from roughly the state park to Lindy Run. This area does not include Lindy Point, a popular overlook that is included on various state tourism promotional brochures. Allegheny Wood Products officials said they don't plan to provide public access to the point, which was open to the public under previous owners.

A 337-acre tract on the north side of the canyon along the North Fork of the Blackwater.

Allegheny Wood Products would also turn over to the government its rights to use 77 acres of land for a power line, and to build a dam on part of the river. Although the right to dam the river was included in a turn of the century conveyance of land in the Canyon, under present law it would be difficult, if not impossible, to build a dam in this location. The company would also provide public access from the Canaan Loop Road and to several trails that have been blocked off for months.

See DEAL on page 3

## WEST VIRGINIA DEP CALLS FOR CUTS IN POTOMAC POLLUTION

### Poultry Growers, Farmers Would Reduce Emissions into Six Streams in Watershed

(excerpted from the Charleston Gazette)

Poultry growers and other farmers in the Potomac Valley would have to cut pollution runoff from their fields by as much as 50 percent under a proposal unveiled Wednesday by the state Division of Environmental Protection. In three complex reports, DEP officials conceded that the area's growing poultry industry is the major producer of manure that contaminates the South Branch and its tributaries. The agency called for runoff reductions ranging from 36 percent to more than 50 percent along six streams that currently contain unsafe levels of fecal coliform bacteria. The streams are the South Branch, Lunice Creek, Mill Creek, North Fork, Anderson Run and the South Fork.

Bill Brannon, assistant chief of the DEP Office of Water Resources, said much of the pollution reduction will have to come from commercial poultry operations. "That probably is fairly safe to say," he said in an interview. "Poultry is impacting streams to some degree. We don't know how much. The documents don't say it, but common sense tells you it is," he said. Brannon said there are no current plans by DEP to take enforcement action or move toward mandatory regulation of poultry farmers. Currently, the state relies on a good-faith effort by poultry growers to protect the environment. *Federal reports*

See POLLUTION on page 3

### What's Inside

Admin Asst Ad .....	3	Enviro conf in WV .....	6
Blackwater Canyon - need activists .....	12	Forest Roundtable .....	8
Blackwater Canyon - current status .....	1	Logging, WV regs .....	10
Calendar .....	12	Letter .....	7
Editorial .....	4	McFerrin Column .....	2
		Potomac pollution .....	1
		Solid waste, interim report .....	9

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

By John McFerrin

## Compromise or Cave In?

Senator Rockefeller, Governor Underwood, and John Crites, President, Allegheny Wood Products, recently announced a "compromise" that would, in their view at least, resolve the current controversy over Blackwater Canyon. In exchange for unidentified land "of equal value" within the Monongahela National Forest, Allegheny Wood Products would convey to the Monongahela National Forest approximately 750 of the 3,000 acres it currently owns in Blackwater Canyon. It also surrenders any right it may have had to dam the Blackwater River and build power lines.

There are two ways to look at this. Considered from a the-glass-is-half-full (or, in this case, one quarter full) perspective, it is a good start. Before this deal, none of the Canyon was in public ownership. If the deal goes through, one quarter will be in public ownership. That is progress.

Senator Rockefeller's comments also give reason for hope. He explicitly said that he had instructed his staff to move as much of Blackwater Canyon into public ownership as possible. He referred to the Canyon as a "recreational area." If we take these comments at face value, it appears that he recognizes the value of the Canyon for recreation and that protection of the entire Canyon is a worthwhile goal.

That Senator Rockefeller is even involved is a positive step. His presence indicates that there is at least somebody with the power to do something who has an interest in protecting Blackwater Canyon. Without him we would be left with West Virginia Division of Forestry chief Bill Maxey ranting about the spreading "cancer" of public land ownership and Governor Underwood sitting in the corner muttering about private property and free enterprise while the Canyon was stripped of its trees. At least Senator Rockefeller is interested in doing something.

Considered from a the-glass-is-three-quarters-empty perspective, this deal is at best a pitiful excuse for a compromise and at worst a corporate welfare scam.

See MCFERRIN on page 5

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**DEAL from page 1**

In response to questioning, Mr. Crites, President of Allegheny Wood Products, said he had no plans to develop the Canyon as vacation property.

The location of the land within the Monongahela National Forest which would be exchanged for the land in the Canyon has not been determined. All that is publicly known is that it is to be land "of equal value."

In announcing this deal, John Crites, President of Allegheny Wood Products noted that West Virginia had been the "land of opportunity" for him and his family and that he thought it only appropriate that he return something to West Virginia. He emphasized that timber was a renewable resource which, in his opinion, was currently growing faster than it was being cut. Because of this, he believed that Allegheny Wood Products could responsibly cut timber from those portions of the Canyon which it retains.

In announcing the land swap, Senator Rockefeller expressed his appreciation for the willingness of Allegheny Wood Products to make this exchange. Mr Rockefeller had previously instructed his staff to negotiate with the goal of placing as much of the Canyon in public ownership as possible. He also discussed a "recreation area" for Blackwater Canyon and strongly emphasized that this was only a first step in the protection of the Canyon.

Environmental groups, including the West Virginia Highlands Conservancy and the West Virginia Sierra Club, expressed their pleasure in this first step toward protection of the entire Canyon but emphasized that this first step was not a final solution to the controversy over Blackwater Canyon. ●

**POLLUTION from page 1**

*show most farmers don't comply.* [Italics added by editor]. Brannon said DEP is working to "clarify our existing compliance strategy for what we do when we find problems. It's just something we need to clarify," he said. "But we aren't contemplating regulation."

The DEP reports were quietly released two weeks after a series of Charleston Gazette stories that concluded poultry is the major pollution source in the South Branch.

Since WLR Foods Inc. bought and expanded a slaughtering plant in Moorefield in 1988, poultry production in the five-county area around the facility tripled to nearly 90 million broiler chickens a year. More than 300 new chicken houses sprouted up in the area since 1991. Studies by the U.S. Geological Survey and DEP found high levels of fecal coliform bacteria downstream from poultry houses. Fecal coliform isn't harmful itself, but it indicates the presence of bacteria that can make people sick.

In interviews before the Gazette series was published, some DEP officials initially said they had no proof poultry was the cause of the problem. They later backed away from those statements when they were confronted with government data, including their own, that showed otherwise. DEP Office of Water Resources Chief Barb Taylor said in September that she wasn't convinced that poultry was the problem. "As a regulatory agency, we can't use common sense as an approach" Taylor said, "We have to use scientific data. We have to approach our actions based on technical data. There are some actions out there by

poultry farmers that are not conducive to good water quality," she said. "But to out and out say that poultry is a major source, I'm not ready to do that without more data."

**Agriculture**

Commissioner Gus Douglass and other poultry industry boosters have tried to blame the pollution problems on wildlife or on cattle farms. But the DEP studies show that 80 percent to 90 percent of the manure produced in the six troubled South Branch streams comes from poultry farms.

The DEP reports, containing recommendations for cleaning up the six streams, were prompted by a federal lawsuit filed by Charleston lawyer Perry McDaniel on behalf of the Ohio Valley Environmental Coalition, the West Virginia Highlands Conservancy and other environmental groups. Under federal law, state regulators are required to put in place plans for cleaning up streams that are polluted above legal limits. These plans, called Total Maximum Daily Loads, or TMDLs, propose goals for reducing total loading of a particular pollutant into a stream. At this point, though, DEP has not announced a specific plan for meeting any of the TMDLs it has proposed. Such plans, which would outline pollution reductions that particular farms, manufacturing plants or municipal sewage systems would have to make, will take months or years to complete, DEP officials said.

West Virginia regulators had never written a TMDL, and a court order in the case McDaniel filed set up a timetable for the state or the U.S. Environmental Protection Agency to do so.

**OPENING FOR WEST VIRGINIA HIGHLANDS CONSERVANCY ADMINISTRATIVE ASSISTANT**

The West Virginia Highlands Conservancy is seeking a new Administrative Assistant, the position currently held by Richard DiPretoro. The salary is \$500 per month; there is also a stipend for expenses. The Administrative Assistant is expected to work from 15 to 20 hours per week. The primary duty is maintaining the membership list. In addition, the Administrative Assistant assists Conservancy committees, works on membership development, assists in the management of the endowment, and maintains the records of the organization.

Interested applicants should write John McFerrin, 114 Beckley Ave., Beckley, WV 25801 or [mcferrin@inetone.net](mailto:mcferrin@inetone.net). Applications will be accepted through December 31. ●



Proposed TMDL's for the South Branch of the Potomac as well as the Upper Blackwater River are currently available for public comment. More information is available from the DEP Office of Water Resources on Greenbrier Street in Charleston, or by calling 558-2108. The comment period ends January 9, 1998. ●

## EDITORIAL

I don't fly often and when I do it is usually either cloudy or at night. When I flew back from Florida last week in a morning with no clouds, I got a good chance to see from the air the extent of strip mining in southern West Virginia. I live in the heart of coal country, but never dreamed of the extent of the destruction going on. My main awareness heretofore of coal mining in the region where I live is to contend with the many coal trucks that are on the highways. For reasons which may either be because of chance, or purposefully, the scenes of these moonscapes from the road is not evident. I have driven along the roads in coal country for years without seeing much of any of this destruction. But there it was as plain as day.

When Penny Loeb opened my eyes with her article in the US News and World Report, I had been shocked, and felt like I'd been duped into some degree of complacency. I was still further shocked at the sight I saw below me on the airplane. Huge sprawls like massive crab-like aliens blotted the land surface in tans and blacks. I even had a "guide" of sorts – a former state senator and resident of Logan and Boone Counties was my travel companion, and he was able to attach labels of place and identity of the various strip mine operators as we progressed on the flight.

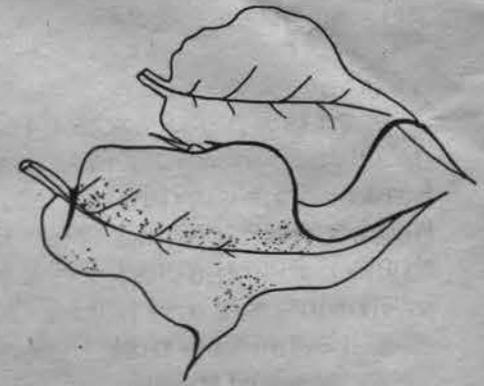
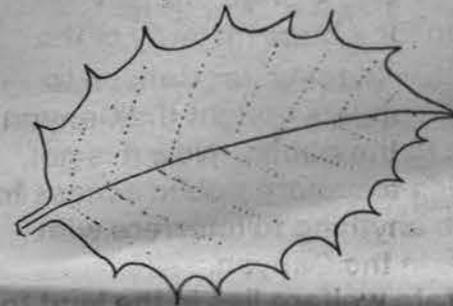
The thought provoking question keeps coming back to me over and over, "How did this outrage ever come about, and why do the citizens of West Virginia allow this to happen?!" After all, this is not the age of the robber barons who used the common folk of that former time as peons to exploit them in amassing ill-gotten gain. Now we have unions who have empowered the powerless, and a more enlightened populace.

But really where are we now? Have things really changed that much? Machines have taken the place of the vast majority of miners formerly hired, but other than that it appears to me that it is the same game as before, but the modern robber barons are much more sophisticated. They have a large stake in the media which they use to put out their propaganda. They are able to buy off many politicians and workers who will front for them. And it is all perfectly "legal." Most of the "common folks" are too busy and too harassed with a perceived need to chase the dollar to put much attention to the reality of the destruction of our mountains. So the earth rapers continue with impunity. Where will it all end? There will be the usual destruction left for those who live here to live with it. Instead of leaving huge gaping holes in the earth as in the past, there will be a lot of mostly cosmetic treatment called reclamation. West Virginians will not only be no better off on average, but many will be worse off. Our growing tourist industry will be blighted, at least in these southern mountains. The fat cats will be long gone with many millions of dollars and will not give a hoot about what they have done in the pursuit of that money.

There was one ray of hope which I encountered on my flight. I read an essay by Stephen M. Wolf, the CEO of US Airways, which was very pleasantly surprising to me. I could have written this article myself for its thought and content. He, like any informed, intelligent person, expressed a deep concern about CO2 emissions, and was advocating competent leadership (looky here, Bill Clinton!) and immediate action to head off global warming. Here is a leader of a large corporation, whose base of operations is currently dependent on fossil fuels to fly the airliners, yet one who has the guts to come out with the only attitude that makes sense in terms of the scientific reality. Mr. Wolf

"...Life began as, and is, a continuum. The divisions propounded by various philosophies and religions polarizing mind and nature, self and other, sacred and profane, are largely human constructs, used most frequently to advance a particular belief system. Without arbitrary designation as to what does and does not constitute the sacred, ordinary daily rituals – tending a garden, supporting and nurturing a family, struggling to lessen the woes of the world – can be viewed as attempts to light a candle on the altar of life and, a such, constitute sacred acts, individual steps in the choreography of a sacred ecology."

– Nancy Jack Todd



"Corporate/government collusion, endemic in OECD [twenty nine of the world's richest countries] and spreading world wide, is corrupting democracies and betraying human citizens, voters, employees, and investors. Seventy per cent of Americans no longer trust their politicians or government officials in Washington. Both Democrats and Republicans have accepted millions of dollars in illegal corporate funds. Around the world democracy is perverted to serve fictitious "persons" where corporate charters permit evading liabilities and public accountability."

– Hazel Henderson

ends his essay with the following statement: "...who gains or loses in [a plan to cope with global warming] economic terms misses the point. Yes, we ought to have solutions that do not penalize workers and families in one area while others gain. But in the long term, if we do not address this issue forcefully today, we and our children and our children's children will be penalized in ways we do not even want to contemplate." ●



Valley fill at White Oak in Raleigh County. This is about eight miles as the crow flies from Bill Reed's abode (photo courtesy of Penny Loeb and the US News and World Report)

MCFERRIN *from page 2*

It is a pitiful excuse for a compromise because it doesn't do much. Under the "compromise" the land between the current rail trail and the Blackwater River will be safe from logging. That land is so steep and so visible to the public that logging it would have been an environmental and public relations disaster. Deal or no deal it is unlikely that it ever would have been logged.

Most of the land involved in the deal is extremely steep and difficult to get to. It would have been the most difficult to log. Deal or no deal, logging is unlikely.

Under current law, there is almost no chance that Allegheny Wood Products could ever have gotten approval to dam the Blackwater River. That may have been a possibility at the turn of the century when a deed to land in the Canyon mentioned the right to dam the river. It is not a possibility today. Dealing it away means nothing.

Without a dam to generate electricity, there is no point in building power lines. Dealing away the right to build power lines means nothing.

Neither does the deal restore public access to Lindy Point. Lindy Point is featured on all the state tourism brochures. It is the destination for a huge majority of the mountain bikers who come to the Blackwater Canyon to ride. Before Allegheny Wood Products bought the Canyon, it had always been accessible to the public. Now it is not. The "compromise" does nothing to secure public access to Lindy Point. Neither does it do anything to interfere with the building of vacation homes in the Canyon.

The potential for corporate welfare lies in the land to be swapped. If Allegheny Wood Products is a sufficiently shrewd negotiator, it can persuade the government that the rights to build a dam and construct power lines actually have some value. If it can do that, then it can trade those rights for land of "equal value" in the Monongahela National Forest. If it can pull this off, Allegheny Wood Products will have managed to trade "rights" it would and could never exercise, rights which are worthless, for valuable timber land in the National Forest. In other words, Allegheny Wood Products could get something for nothing, a prospect which so riles big business when the recipient is a single mother down on her luck.

If it can manage to persuade the negotiators that the proper way to value land is to count the board feet of timber on that land, Allegheny Wood Products could make out like a bandit. The land contained in the proposed deal contains a lot of big trees; these contain a lot of board feet of lumber. They are also in areas that are steep, easily visible to the public, and thus expensive to cut.

If Allegheny Wood Products is able to confine the negotiations with the National Forest Service to a discussion of board feet, it may be able to exchange its big but inaccessible and expensive to cut trees in Blackwater Canyon for big but accessible and easy to cut trees elsewhere. This translates into a more profit for Allegheny Wood Products, a welfare grant that makes President Reagan's "welfare queens" look like pikers.

Governor Underwood hasn't had much to say about Blackwater Canyon. He didn't attend the press

conference announcing the deal. If for no other reason than efficiency in government, he should favor protecting it. Otherwise, he will have to set hundreds of state workers to work whitening out the pictures of Lindy Point from the state tourism brochures. We can't very well send such brochures all over the country, inviting people to come to West Virginia for the view, and then tell them when they get here they can't see it. Talk about false advertising.

Governor Underwood did go out of his way to praise John Crites, president of Allegheny Wood Products, for "a willingness to put the public good ahead of his company's private interests." It's difficult to see how making a trade that is at either even or a giant public giveaway to Allegheny Wood Products is putting "the public good ahead of his company's private interests."

On the question of Blackwater Canyon, Senator Rockefeller is right about some things and wrong about others. He is right that we need to do something about Blackwater Canyon. We can't just sit still and let the shining example of the best of West Virginia be destroyed. It should be, to use Senator Rockefeller's words, a "recreation area." If this is a first step toward that goal, then it is a useful first step.

He is wrong if he assumes that this controversy is over. The only appropriate solution to this problem is public ownership of the entire Canyon. The money is available to make the entire Canyon part of the National Forest. The money is available to make it a "recreation area." Preservation of the entire Canyon is possible. This controversy will not be over until we do what Senator Rockefeller says he wants: preserve as much of the Canyon as possible. Since preservation of the entire Canyon is possible, this controversy will not be over until that is done. ●

## ROUNDTABLE

*concl. fr. Page 11*

Managed Timberland Bill must encourage good stewardship for the 70% of WV forests in private/non industrial hands. Rights and responsibilities should be made clear; and with education, to all. This should be integrated with watershed associations and similar related pieces of the forest puzzle.

There you have one view of our conference. What emerged from it is inconclusive. It is a beginning of the journey toward a stewardship of our forests. We welcome more citizens to join us in seeking more informed opinions and principles we can agree on -- the common ground. ●





## WEST VIRGINIA CONFERENCE ON THE ENVIRONMENT - 1997.

By Don Gasper



This annual get together of business and industry, environmentally concerned citizens and their groups, and the regulating agencies was held again in Charleston - as it has for ten or more years. Generally nearly 100 attend. This October 23 the main topic was the new air quality regulations - though general compliance procedures with all kinds of discharges, and federal and state assistance, to particularly new and small business, was on the program. Pollution prevention assistance opportunities were presented, and the limits of self-audit (secrecy) of industry monitoring programs was discussed by E.P.A.

The Charleston Chamber of Commerce chaired the day-long meeting; and it has been heavily supported by the Chemical and Coal Industries but always with a fair representation of environmental interests on the steering committee that chooses the topics which vary from year to year. The agencies support it as a once a year opportunity for

diverse stakeholders to try to communicate. The environmental community should also recognize this as an important opportunity and support it by paying the entrance fee when able to, but surely by attending. There is always a grand opportunity for questioning real experts, and traditionally the Director (DNR/DEP) has attended the early evening snacks and conversation/questioning period that ends this important conference. It is important that you are there; look for it next year.

The Charleston Gazette that very morning carried a front page article on the E.P.A.'s more stringent Air Quality Standards and the clean-up required of W.Va. The Region III E.P.A. Air Quality Chief was there, with an expert who talked to the group, justifying the cleanup, and W.Va.'s share of it. In all, 22 Eastern states were asked to clean up. This was a logical progression upon the completion of an ozone study in the Eastern U.S. Ozone is commonly called

smog. This was reinforced by a fine talk by the National Clean Air Network. Just as surely we were convinced this was necessary and the thing to do, WV DEP Air Chief informed us WV was going to protest it. WV was going to fight improved air quality! He claimed WV air was good enough! (A citizen spoke up saying she had to increase her medicine whenever she came to the Kanawha Valley - and others were not convinced about the good quality of WV air.) It seems WV monitors 6 sites, most in the Kanawha Valley and all these show compliance with the old standards. With the new, perhaps 10 counties would be out of compliance - this means that now in 10 WV counties, 16,000 asthmatics are not getting the protection they need. This would require WV to reduce nitrogen emissions by 40% from mostly coal-burning electric power plants. Several other states also need to reduce such emissions, and four other states are protesting also.

John Johnston, the WV Air

Chief, asks how can WV have long been in compliance (as the 6 stations show) if WV is just downwind of all the air pollution sources along the Ohio River, these sources using the river water as a coolant and to barge coal supplies on? It is puzzling. Could WV's monitoring stations be in error? Can tall smoke stacks drop air pollution past WV on eastward? The ozone transport study (OTAG) showed some pollutants sometimes travel 500 miles. He suggests the states further east are not effected by WV's emissions, but it is their own. The facts remain the ozone transport study tracks many WV plumes into these states, and that WV has had to clean-up very little to date. Our state is the source of twice as much Nitrogen Oxide emissions per capita as any other state. Our power bills are among the cheapest in the nation. It may cost \$5 or even \$10 a month per home more on our electric bill to do it. The clean-up proposed has benefits

*See WVCE on page 7*

### WASTE from page 9

It will require a lot of input from citizens concerned with saving our laws to offset this lobbying pressure. If any of your legislators are on this interim committee, let them know what you think they should do. If you like the approach represented by this bill, congratulate them and ask them to resist attempts to load the bill up with special interest amendments and/or amendments that would remove caps, local control, the CON, and controls on sludge. Even if they are not yours, the chairmen of the Senate and House Judiciary committees

(Senator Wooton and Delegate Staton) should hear from you, also.

I have heard that DEP submitted language to this bill that would have allowed facilities to "stack" permits so that a facility could landfill 30,000 tons per month and compost 30,000 tons of sludge per month, for a total tonnage of 60,000 tons per month. I also heard that the DEP may introduce its own bill this session.

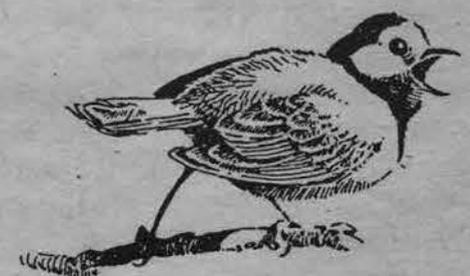
I have also heard from a couple of legislators that are attorneys that the referendum could be hard to save. Supposedly every other state that has

implemented a referendum such as ours has had it struck down in court. It may take special effort on our part to convince the legislature to stick with the referendum and not drop it as a lost cause. We have no chance of saving it on appeal if it is repealed before it gets to the appellate court.

The next interim committee meetings are December 14-16. The bill will be revised some more by then, and the committee may vote on it then. If not, it will be voted on at the January interims. It would be very helpful if concerned citizens attended these last two interim committee meetings.

The presence of voters, especially with elections coming up, is always helpful.

If you have any questions or comments, please contact me in any of the following ways:  
Phone and fax (304) 655-8651;  
E-mail,  
[Tdegen@wnpb.wvnet.edu](mailto:Tdegen@wnpb.wvnet.edu);  
address, HC 75, Box 324,  
Chloe, WV 25235.



## WVCE from page 6

over \$40 for every \$1 spent. For 20 years American Citizens, responding to Harris Polls, have said they will pay to clean up our air and protect our environment. It will reduce our Acid Rain, which is the greatest in the nation.

The Power Industry does not believe W. Va. citizens and businesses are willing to pay more. The WV Chamber of Commerce spokesman also had a chance to speak - to say they were going to help the WV DEP Air Office fight this improvement in air quality. He unfairly noted the superb ozone transport study (OTAG) only used 10 days to model their recommendations on - implying a poor read on the science. He did mislead some in the audience; but this is good science, and if they needed more days, they would have modeled more. Impartial scientists would not question it -- the EPA did not - and used it. WV with poor air quality is as much a victim as it is a source of this air pollutant. WV must play its part in the beginnings of this badly needed comprehensive clean-up of the air in the Eastern U.S.

The "Highlands Voice" last month carried a letter from our U.S. Senators to the EPA asking that the new standards that would impact our air be withdrawn. The EPA, with many compromises, exceptions and delays did keep the new standards. Now they have apportioned a large, but fair, part of the clean-up to WV. This is what the WV Air Agency is now protesting; it is wisely, however, proceeding to make a plan for EPA on how WV will accomplish its Nitrogen emission clean-up. (Next month "The Highlands Voice" may carry the address of The National Clean-Air Network executive who spoke at this meeting.) ●

## Letter to the Editor

Editor  
The Highlands Voice

I noted in the October '97 issue of "The Voice" that apparently a significant number of Conservancy members are now invoking Christian rituals and language to express themselves at Conservancy gatherings. I am an Ex-Christian, a Secular Humanist, a father of eight children, a philosopher, musician, social critic and much more.

I believe it inappropriate, counter-productive and rude for people to interject personal religion into the affairs of a secular association. Surely, the West Virginia Highlands Conservancy is neutral in matters of religion and personal taste. Therefore, members who wish to remain in good standing ought to refrain from gratuitously assuming that other members share their conviction that the Conservancy is doing the Lord's work. (an invidious choice of words on page 18 of the November issue of "The Voice").

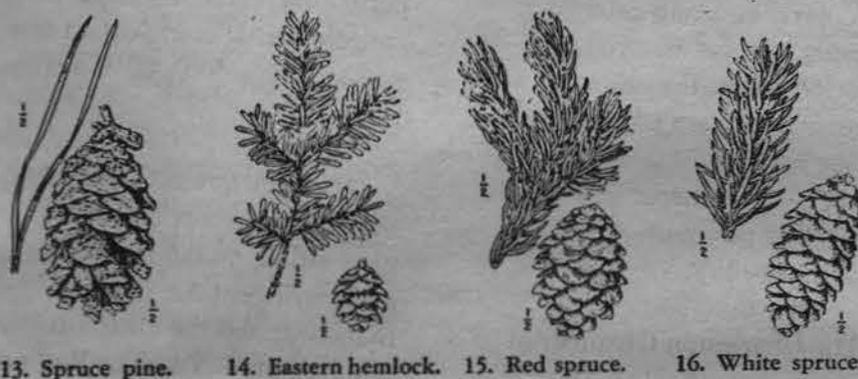
I further wish to note that some of the language in "The Voice" is inflammatory, hyperbolic and unwise. This history of super-heated rhetoric encourages the expression of privately held beliefs from people who have agendas other than the one at hand. This practice of converting a secular association into a religious congregation will vitiate the purpose of the Conservancy, membership will likely decline and credibility will be damaged.

I have noted that in this region of the United States many organizations with a secular charter fail to resist the temptation to invoke the name

"To make plane flights acceptably safe, we give constant attention to improving airframe design, upgrading air traffic control, training pilots and prohibiting them from drinking while flying, and augmenting manual controls with radar, etc. Yet, we have not been requiring equivalent protections against phenomena so powerful that they pose mountings risks of flooding coastal cities, destroying crops, spreading plague, or even bringing a new Ice Age to Europe."

— Ed Ayres

"Economists who argue that it will be difficult or expensive to find alternatives to fossil fuels — and that we should delay the transition — are beset with a pessimism that is out of place in today's world. Just as computers supplanted typewriters and slide rules, so can new energy technologies make today's energy systems look primitive and uneconomical. The result could be a new era of micro-energy systems that are virtually pollution-free." —  
World Watch Editorial, N/D 97



13. Spruce pine. 14. Eastern hemlock. 15. Red spruce. 16. White spruce.

of the local god as part of their rituals such as business meetings or fund raisers. I regard this as thoughtless, careless and anti-democratic.

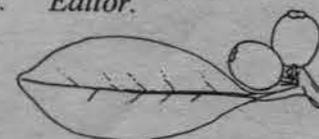
Ariel DeForest Robinson  
Hardy County  
November 11, 1997

*We welcome your opinion and your letter. You are quite correct to characterize the West Virginia Highlands Conservancy as a secular organization. Also you were very clear as to what you found offensive in Norm Steenstra's article. However, you were not clear about what language you found "inflammatory, hyperbolic and unwise."*

*Members of the West Virginia Highlands Conservancy come in all shapes and sizes. I am speaking metaphorically, of course, just as I think Norm was speaking metaphorically*

*about "doing the Lord's work." I know he works very hard for little compensation because he feels strongly that what he is doing is essential for the good of the human species, for the sustaining of biodiversity and the overall caring for the planet. So it would be easy, I would think, to use a metaphor of "the Lord's work" to convey the idea that our environmental work is good and necessary.*

*On the other hand, we do have some quite religious members (as we have "secular humanists" members). So perhaps Norm was not speaking metaphorically after all! Only he can answer that. We welcome the "biodiversity" of people who are concerned about the degradation of the planet. Editor.*





## A WEST VIRGINIA FOREST ROUNDTABLE

Reported by Don Gasper



Just prior to, and in preparation for, the historic "Seventh American Forest Congress" about two years ago, West Virginia had its first WV Forest Roundtable. The 50 attendees produced a Vision for WV forests and some principles for achieving it. From this Congress, hopefully, there may be some momentum to again bring together divergent views and values, to talk together, and to reach some common ground. West Virginia just had its second Roundtable, November 12, 1997.

The 75 or so participants represented every user of the forest - consumptive or not. The hope was to gather a subset of stakeholders. A great effort was made to be inclusive. There were: farmer/woodlot owners (some with strong landowner rights concerns), back-packers, bird watchers and bird hunters, some smaller timber operators, anglers ("Trout Unlimited" was there), Nature Conservancy, Industrial Forestry, WV Highlands Conservancy, Mountain Bikers, (the lobbyist for 4 Wheelers was invited), forestry and natural history professors, youth, agency professionals (US Forest Service, WV Department of Natural Resources, US Natural Resources Conservation Service, WV Department of Environmental Protection and others represented), developers and planners with private and "community" concerns. Many voices, each speaking for only themselves, with little identification and then more equality, were present, all with a concern for the forest.

To start with, the Honorable Vickie Douglas gave us some observations on negotiations

from her experience in the WV Legislature and the many study commissions she has served on. She characterized this as a journey. Learning deals less with right and wrong, and should not end with winning and losing, but it is multi-faceted. It requires listening and communication, to achieve a clearer vision and broader principles that may be deeper and more commonly shared. Facts and "good science" are needed. She characterized the day to follow as a continuing dialogue to identify issues, rank them, and develop action strategies. Everyone will have a chance to have their say. Speak as individuals. Listen, respond, be fair, and help make this a day of progress for West Virginia Forests.

The mixed group seated for her talk just counted off up to 9. The 1's gathered at table number one, etc. Thus the mix got mixed again. There were 8 or 9 then at each table. The same group met again at that table in the afternoon.

Through the Roundtable process and attendees' efforts, the top-ten issues or problems were identified and prioritized. The attempt is made here to fairly report the product; only the foot-notes are personal comments.

Public education was thought to be first. Forest health and sustainability were next. Jobs, private property rights and taxes were next. Then came two about public concerns about harvest and sustainability, biodiversity and old growth. Last of the top ten dealt with landowners needing more information on forest management options. There were other problems; some that may have been more important,

but did not make the list. (Next, the phrases in quotes are exact wording taken from consensus notes and those in parentheses are explanatory.)

The biggest problem identified was "education" or information. The group judged the "public knowledge of forest management concepts" was low. There was a need to "raise the level of information and understanding of principles and goals (of forestry) among landowners, the public, and policy makers".\* Policy should only be what is necessary and it should be "responsive to current data". "It should be science-based" as should management, etc., to "establish credibility for natural resource professionals". Needed most is "out-reach" providing "factual" information to be sure the "public gets the true forest story".\*\* The "quality of the forest after logging" (may be improved). "Private landowners lack of knowledge about forest management options". (Public perceptions, or misconceptions causing unfounded concern - was viewed as a general educational problem.)\*\*\*

"Forest health and sustainability" was a group of concerns considered perhaps second most important. Under "forest health" was mentioned "integrity of water, air and biodiversity". "The quality of the forest after harvest" could be mentioned again here. "Forest protection" was noted, as was the "many views of sustainability". ("Is the present harvest rate sustainable?" is noted under the next heading.)

"Management" which is "multiple use and science-

based", is needed. It was noted that there is "increased competition for forest resources," and this will continue - more use/demands on a finite resource. "Can Forest Products Industries coexist with tourism?" How great should be "harvest restrictions on public land"? "Is the present harvest rate sustainable for forest values (recreation), forest products, wildlife (habitat)?" Again, forest health - "Protect

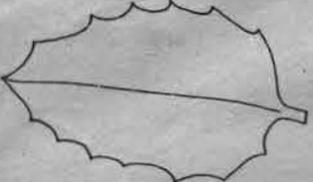
\* Professionals could have been added to this list of who needed more information and understanding. Research was mentioned by a few, but it did not make this list. Professionals seemed to know it all, never realizing that there is much they do not know and that much is unknowable. A little humility, and a conservative cautious management is warranted.

\*\* Out-reach seems to be more of a public relations effort here. The term "factual information" is often used in these ten problem statements.

\*\*\* Is citizen concern unfounded? Can professionals be trusted?

growing timber from insects and disease, fire and deer." "Deer browsing is preventing tree regeneration" (and reducing deer carrying capacity all the time). (DNR - Game programs are perhaps too successful with deer and turkey.) We need information (assessments) and "monitoring".

See ROUNDTABLE  
on page 11



## Interim Committee Report on Solid Waste (November 16-18, 1997)

By Tom Degen



You may remember that at the end of the October interim committee, a motion was made instructing staff to work with the various stakeholders on what changes should be made to the solid waste law to address Judge Stamp's ruling. Two such meetings were held.

At the first one, the two staff attorneys, Rita Pauley and Joe Altizer, started out by saying that they were looking to implement the strategy of removing the local preference language from the law in order to preserve the rest of it, most notably the tonnage caps, the CON, the sludge statute, and the local control provisions. To that end they wanted a general consensus from the group that they would agree to that strategy and not load the bill up with all their individual special interest amendments. The idea was to wait until next year for the individual special interest amendments. They did not get a consensus. Leff Moore probably summed it up for the industry perspective when he said something to the effect that he didn't care about state policy if he couldn't get his piece of the pie. That meeting ended with a request from staff that people get their ideas in about how to fix the constitutionality, and also to submit what other solid waste issues they were interested in.

The second of those meetings was last Thursday. I had another previously scheduled meeting I attended, but Pat Barker from the Kanawha County Solid Waste Authority went for me, and reported back that it was about as productive as the first meeting. But the staff did say that they were drafting a bill for Monday's interim meeting, and that people should get their ideas in if they hadn't.

Sunday the 16th I went down to Charleston and met with several legislators, met with the staff briefly and got a copy of the draft bill. There is apparently more support from the interim committee for protecting the solid waste law than there is from the industry lobbies, because the draft bill was limited to just the constitutional fix. There was a provision in it that changed the bonding requirements for landfills, which had nothing to do with the lawsuit, but it was needed for the state to get primacy of the solid waste program from EPA, and nobody objected to it.

The major provisions of the bill are:

- \* The objectionable findings and the language that gave local waste preference over other waste are removed;
- \* The tonnage caps are left intact at the same levels, and the Class A and B definitions are left intact;
- \* The Certificate of Need is left intact after removing local preference language;
- \* The sewage sludge statute is changed so that a limit of 3,000 tons a month was placed upon facilities that composted sewage sludge. That limit is NOT in addition to the tonnage cap. A landfill that landfills sludge can still take 25% of its waste stream as sludge. That is an existing requirement that is in the rules, but it was put into the Code in this bill. For example, if a solid waste facility with a cap of 10,000 tons per month wants to compost 3,000 tons per month of sludge, they can only take 7,000 tons per month of other types of solid waste. Of that 7,000 tons per month that is

being landfilled, 25% of that (1,750 tons) can be sewage sludge. The assessment fees are still levied on sewage sludge at solid waste facilities, but have also been imposed upon sludge retained for more than thirty days by publicly owned treatment works. For sewage sludge received or retained for composting, the fees have been cut in half. The fees are doubled if a facility exceeds its sludge limits;

- \* The certificate of site approval, and the siting and comprehensive plans are left intact, with local preference language removed; and
- \* The special referendum for McDowell County is repealed, since that is over and done. The three parts of the referendum--one for new Class A facilities, one for Class B expansion to Class A levels, and one for a Class A wanting to expand by more than ten percent, are made the same, in that the referendum is to be a petitioned referendum in all three cases. There are provisions added that require the county commission to publish a legal advertisement that explains the pros and cons of the proposal, with the requirement that the applicant approve of the pro description.

It was made clear to the committee that the bill is still a work in progress, especially the sludge provisions, and that it will be further refined. Some of the questions and answers were interesting:

Senator Bowman, taking exception to Ms. Pauley's characterization that there were health problems associated with Mascaro's Brooke County sludge facility (temporarily shut down by court order because of odors), said he was

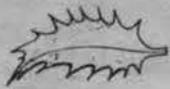
unaware of any health problems associated with that facility. Ms. Pauley apologized and said she meant "potential" health problems. Then Senator Bowman asked if there was anything in the bill that would jeopardize Mascaro's investment in that facility. The answer was that the changes were made so that all facilities processing sludge were treated the same.

Senator Ross wanted to know why only two facilities in the state were incinerating sewage sludge. He seemed to think that incineration of sludge was the way to go, and requested that language be put into the bill that encouraged incineration of sludge. Senator Deem expressed agreement with Senator Ross.

Senator Deem asked that Rex Burford, an attorney with the Attorney General's office, be allowed to answer questions from the committee. Mr. Burford had worked on the nuisance suit against Mascaro's Brooke County facility, so the questions and answers revolved around sludge and that facility. During the course of the questions and answers, Mr. Burford suggested that there be a definition of "finished compost." The lack of such a definition was a contributing factor to difficulties in enforcing portions of the sludge law and rule.

Generally, I am pleased with this bill, but I am quite certain that many others, including landfill operators, haulers, and anyone else not interested in preserving the constitutionality of the law, are not happy with it. They will be making their views known to the legislature.

**See WASTE on page 6**



## Regulating Logging in West Virginia....or Not?

By Jim Sconyers



### West Virginia BMPs

The Logging Sediment Control Act became law in West Virginia in 1992. Growing out of chronic abuses of the environment, the law specifically targets soil erosion and water siltation caused by timbering operations. Under this law a set of Best Management Practices, or BMPs, has been adopted for use by the West Virginia Division of Forestry. The BMPs are expressed as Guidelines covering:

- stream filter strips
- haul roads
- skid roads
- log landings
- seeding for erosion control
- water bars
- culverts
- drainage dips

A committee reviews BMPs once every three years. At that time new practices can be added or old ones dropped. The committee of seven includes by law "a representative of an environmentally active organization." That position is currently held by a former president of the Izaak Walton League.

So-called best management practices are narrowly focused. They are solely intended to prevent stream sedimentation. They do not address any other kind of negative environmental impact from logging. BMPs apply to all logging in the state, whether on private, state, or federal land.

### Licensing and Certification

Timber operators are required to be licensed by the WV Division of Forestry. This requires paying a \$50 fee and being registered with the WV Department of Tax and Revenue.

Logger certification by the Division of Forestry requires taking workshop-like courses in logging safely, first aid, and

BMPs. Only one certified logger is required at a logging operation. The certified logger must show up every day, but isn't required to stay on-site. Logger certification is good for three years with payment of an annual \$50 fee.

### Enforcement

Action by the Division of Forestry is triggered when "failure to use a particular best management practice is causing or contributing, or has the potential to cause or contribute, to soil erosion or water pollution..." Furthermore, in more egregious circumstances where logging practices are sufficient to "result in uncorrectable soil erosion or water pollution..." immediate action can be ordered.

In the usual case, a compliance order is written which will state what must be done to return to compliance. Correction is to be done within a maximum of ten days. In the more extreme case mentioned above, immediate suspension of the operation can be ordered.

Repeated violations (twice within two years) can result in the suspension of an operator's license or a logger's certification.

Enforcement action is frequently the result of a complaint by someone who notices that a stream appears "muddy." There are no objective quantitative standards, or measurable chemical or physical parameters, to apply.

### The Record

The law mandated, for the first time, that all timbering operations must file a notification. At least, the Division of Forestry is supposed to know who is logging where.

Since the Act became effective in September 1992:

- 15,500 logging job notifications have been filed.
- 3026 complaints were made, including those by the Office of Water Resources.
- 1600 "compliance checks" were made at random by the Division of Forestry.
- 1800 compliance orders have been issued.
- 760 suspension orders (halting the operation) have been made.
- 32 operator licenses or logger certifications have been suspended for 30 to 90 days.
- 2 licenses or certifications have been revoked (can be renewed after one year).

The Division of Forestry, like most regulatory agencies, is understaffed for the enforcement job. Complaints are responded to. Random checks (see above) were used for a year or so. But the fact of the matter is that many timber jobs are never visited or inspected.

A Division of Forestry goal for the near-term future is to visit every timber operator. A longer-range goal is to visit each actual timbering job.

### Voluntary or Mandatory?

It depends on who you ask! Ask a Division of Forestry manager, and the answer will be yes. What do they mean?

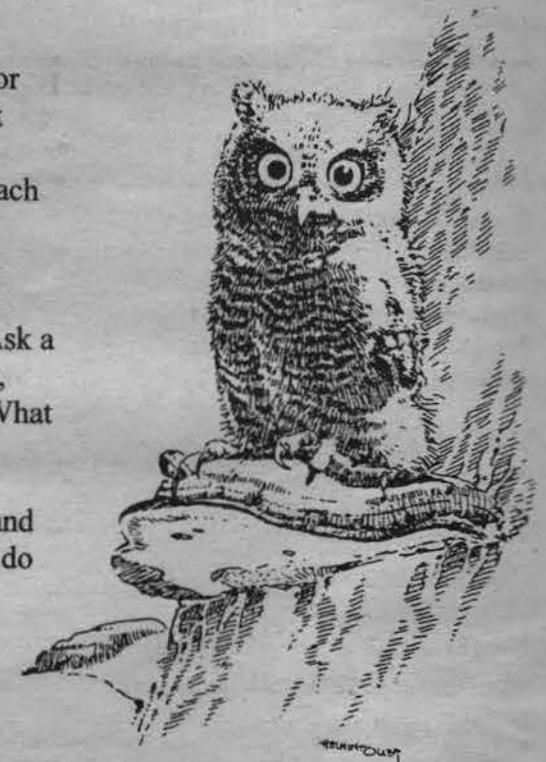
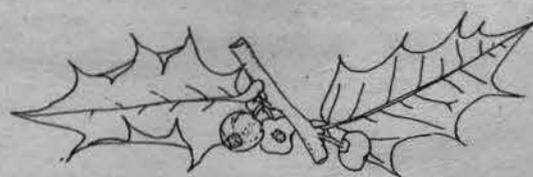
Ask environmental activists and the answer may be no. What do they mean?

Here's an example. BMPs state that haul roads should follow less than 10% grade. Steeper grades, still less than 15%, are permissible for distances of less than 200 feet.

Suppose you know of a timber job that doesn't observe these requirements. Let's say there are 20% grades. Is this a violation? Is the operator going to be required to make changes?

Probably not, unless significant, visible siltation is occurring. Why? Because of two things. First, there is a violation only when erosion and siltation follow from failure to use the BMP. So the objective numerical measure (less than 15%) isn't enforceable. Only the consequence, a muddy stream, is enforceable. But even then enforcement isn't certain. Operators may be using other practices that mitigate the excessive grade, and that may satisfy Division of Forestry personnel. In other words, there appear to be no absolutes when it comes to BMPs. ●

*Jim Sconyers is the Chair of the West Virginia Chapter of the Sierra Club.*



**ROUNDTABLE**

*from page 8*

"Lack of public input" was also identified as a major problem. "Public interest is high", as indicated by concerns about "old-growth, bio-diversity", etc. "There is a lack of forums for dialogue for multiple perspectives" (like this Roundtable). Again, all recognize "science-based information" should reduce conflicts after this information has a chance to become assimilated.

"Private property rights" and the conflict with public rights (or the individual and the community) must both be respected. (The above multi-use does not apply to private land.) The landowner should feel and practice "stewardship" on the land and must not cause off-site impacts, eg. "stream pollution."

"Jobs" were in the top-ten list, and it was noted that many more jobs would be created if "our forest resources" were made into products "in-state." (Value-added industries are needed). "Control of WV forests" must remain "in-state." (The influence on local community development is important.)

"Regulations" were also there. There should be a "responsible regulation of timber harvest". Like "policy" noted earlier, they should be "needed, current and science-based".

These items are included in the list of 10 priority issues which was the product of the morning. These statements were hastily prepared and it was distributed to all at 1 P.M. as a working guide. These were the top ten, but many important issues and good phrasing did not make this list. There is over-lap. It lacks clarity. Everyone there came with their own perspectives, did not hear or participate in every discussion, and would interpret this list somewhat differently.

Never-the-less the afternoon's challenge was to go back to "the Roundtable" group, pick a "topic" problem or interest and develop solutions, and pick the top three. Some of the top-three solutions reported to the entire group at the end were inspirational. As to the "action" at the end of the day, participants were simply invited to identify a top-10 problem they wanted to work on with a work group

during the next year or so. Thus ended the Second West Virginia Forest Roundtable, with a steering committee (a mixed group of about 20) to facilitate work groups, etc.\*

\* You can get on a work group or the steering committee, or get more information as it becomes available by requesting it from Gordon Stuart, USFS - retired, 36 Eastgate Dr., Morgantown, WV 26505 - 8405. You will probably be invited to attend the next roundtable, probably in another two years.

There follows some solutions - starting with a beautiful sounding one on sustainability from one table. "Sustainability" meant many things, but most clearly what "WV forests were, are, and might be." They considered "sustainability" to refer primarily to biodiversity. Indicating some urgency, they suggested the Governor appoint a commission with a report due January 1999. (Perhaps the Roundtable should ask him.) This was suggested by another table considering "Public Input" prior to WV preparing a State Forest Plan. A "Plan" itself was not considered broad enough for discussion and was voted down.

As noted above, another table chose "lack of public input." Their suggestions were to have a conference without bias in its design and sponsorship, and to minimize the information spin. This "Forest Forum" would produce "good science" information for a Governor's Forest Review Commission(also fairly constituted) who would produce a WV Forest Plan with full and fair public involvement for only with broad stake holder involvement would a plan be accepted. Pennsylvania and Vermont have now a forest plan. However, as noted above, such a plan was not supported by this Roundtable - only 1/3 of the 75 voted green, or go; many were cautious, voting yellow. It needed more discussion than we had time for, and this was noted.

Landowner rights were of interest to one table (Recall these participants had mixed priorities.) This group suggested landowner incentives (not present legal disincentives) were needed. Changing the tax laws was suggested. A

**ROUNDTABLE**  
*concl. on page 5*

**Join the West Virginia Highlands Conservancy**

Category	Individual	Family	Corporate
Senior/Student	\$ 12	-	-
Regular	15	\$ 25	\$ 50
Associate	30	50	100
Sustaining	50	100	200
Patron	100	200	400
Mountaineer	200	300	600
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Address:	_____		
City/State/Zip:	_____		
Make checks payable to: West Virginia Highlands Conservancy			
Mail to: P.O. Box 306, Charleston, WV 25321			



**Membership Benefits**

- \* 1 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.

## A CALL TO ACTION

From John McFerrin

Although the West Virginia Highlands Conservancy recognizes the efforts of Senator Rockefeller to address the threat to Blackwater Canyon and appreciates the first steps taken, the land swap proposed is not an adequate solution. In order to move toward a good solution to this controversy, the Conservancy is taking the following steps:

--Organizing a press conference scheduled for Tuesday, December 8, at 1:30 in Charleston. In conjunction with the other concerned groups, the Conservancy will provide additional information about the proposed Blackwater Canyon land swap and call for action to protect the Canyon.

--Asking that Conservancy members as well as all other interested persons write or call Senator Rockefeller and Governor Underwood to thank them for their efforts so far and to remind them that this controversy will not be resolved until all of Blackwater Canyon is in public ownership.

Hon. John D. Rockefeller, IV  
109 Hart Building  
Washington, DC 20510  
(202) 224-6472

[Editor's note: toll free number for the U. S. Capitol is 1-888-723-5246. Through this you can be connected to any office]

Hon. Cecil Underwood  
State Capitol Complex  
Charleston, WV. 25305  
Governor@state.wv.us  
(304) 558-2000

--Asking that Conservancy members as well as other interested persons write John Crites, President, Allegheny Wood Products, to ask that he sell all of

Blackwater Canyon to the National Forest Service. Mr. Crites has said publicly that West Virginia has been the "land of opportunity" for him and his family and that he wants to "do the right thing." The right thing is to sell the entire Canyon to the Forest Service. Because the holidays are upon us, a Christmas card to Mr Crites asking him to "do the right thing" would be appropriate.

John W. Crites  
46 Point Drive  
Petersburg, WV 26847

(304) 257-1082

--Produce and sponsor a series of radio advertisements explaining the deficiencies of the proposed deal and urging that the entire Canyon be protected. These advertisements will air beginning in mid to late December.

### Fund Raiser a Success

The West Virginia Highlands Conservancy Fund Raiser, held at the Empty Glass in Charleston on November 19 to support efforts to save the Blackwater Canyon, was termed a success by President, John McFerrin. On behalf of the WVHC, he extends thanks to all those volunteers and participants who helped to make it a success



## 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 totalling 812 miles, and a full color cover. West Virginia Highlands Conservancy is the publisher. Authors are Allen de Hart and Bruce Sundquist (same as edition 5). Allen has hiked all the trails of the Monongahela N.F. over the past few years. Bruce was the editor for the first four editions. The hiking community and the U.S. Forest Service provided trail reports and photographs. The Guide also provides information for ski-touring and back-packing.

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.

Profits 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 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

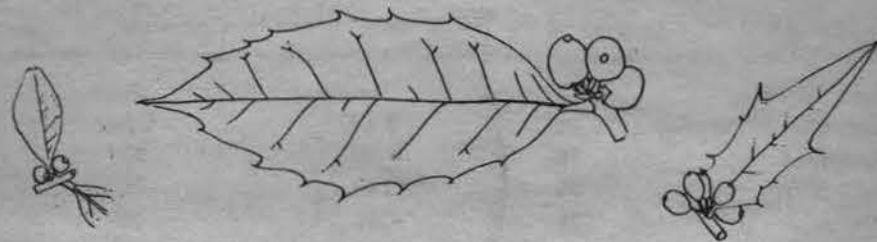
I have included a      check or      money order for the amount of \$      to WVHC for      copies of the Monongahela National Forest Hiking Guide.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

"Suburbia is when the developer bulldozes out the trees, and names the streets after them."  
-- Bill Vaughn



### Calendar

January 14 - Legislative session begins

January 17 - WVHC Winter Board meeting, time and place to be announced

February 21 - Coldwater Conservation Workshop, Penn State Conference

Center Hotel, call Ed Bellis at (814) 364-1548 for details

March 14 - Legislative session ends

March 14 - WVEC meets at CAG office

May 15 - 17 - WVHC Spring Review

July 11 - WVHC Summer Board meeting, time and place to be announced

October 9-11 - WVHC Fall Review