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Arch Coal Dissatisfied with Result of Earlier Public Hearings; Governor Lies Low

COAL GUYS WANT DO-OVER ON FLOODING RULES

By John McFerrin

Coal industry officials have offered changes in proposed mining guidelines designed to reduce the contribution of mining operations to flooding.

These guidelines were prepared by the Department of Environmental Protection based upon the studies and recommendations of the task force which Governor Wise appointed to study the July 2001 flooding in southern West Virginia.

The recommendations of the Department were the result of consultation with experts, receipt of public comment, and a series of public hearings. All interested parties participated in the process and presumably had their comments and suggestions considered at that time. The guidelines were published in draft form during the summer of 2002. After being subjected to criticism by both citizens and by coal and timber interests, the Department delivered a final version to Governor Wise on August 6, 2002. The entire study is available on line at www.dep.state.wv.gov/floodings. The recommendations are available at the same site as well as in the December issue of *The Highlands Voice*.

Arch Coal, Inc. apparently believes either that it did not get to participate sufficiently in the public process or assumes that the public process is irrelevant to it. In December, 2002, it made a different proposal.

At the heart of the controversy is the Department's proposal that the coal industry use "constructed valley fills." Current practice is to shove the waste material (dirt and rock) into the valley. When the

operator had disposed of what was previously the top of the mountain, it would plant grass on the fill.

Under the new guidelines, this would no longer occur. Instead of shoving or blasting the rock and dirt into the valley, the mine operators would have trucked the material to the bottom of the area to be filled, deposit it in layers, and compact each layer. As each layer was added, grass would be planted on that layer. The result would be that less of the fill would be vulnerable to erosion at any one time. While this would be a change from current practice, it would not represent a novel practice. In the past all valley fills were "constructed valley fills."



While the studies indicate that constructed valley fills would substantially reduce erosion and the contribution to flooding from the fills, Arch Coal, Inc. does not want to use constructed fills. Instead, it waited until after the public hearings, after the recommendations were available in draft form, and after they were presented in final form and then made a proposal that would allow it to continue to build fills by blasting or dumping rock and dirt into the valleys.

The Department delivered the recommendations to Governor Wise on August 6, 2002. Although he did appoint the body which came up with the recommendations and they are a product of his Department of Environmental Protection, Governor Wise has not yet indicated whether he intends to support the recommended changes in how coal and timbering is conducted.

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From the Western Slope of the Mountains

By Frank Young

Committees are WVHC's Engines

Every successful organization has its power source- its "engines".

Some groups have money to hire well paid executives and other staff.

Others depend largely on unpaid but issue-motivated volunteers. This model, issues oriented volunteers working together as a committee, provides the power- they are the "engines" of the WV Highlands Conservancy.

Cindy Rank and the several other mining committee folks have shaken the coal mining industry and coal regulatory agencies to their very cores.

Judy Rodd and the Blackwater Canyon committee have put the plight of the beloved Blackwater Canyon in the public eye- and on the agenda of public officeholders.

Sayre Rodman and Bob Marshall and the many other public lands management committee activists force state and federal agencies to include the Highlands Conservancy and others of the general public in public lands policymaking decisions.

Hugh Rogers and the highways committee let transportation officials know that we are a force to be reckoned with in major highway location considerations.

Even in controversy, our wind power committee (soon to become a part of a larger "green energy" committee) goes on trying to learn more about and inform our members about wind power and alternative energy issues.

And our outings committee, though less focused on a direct "issue", has been the springboard for many fine one day and weekend outdoor experiences for perhaps thousands in the great highlands region of West Virginia.

To the chairpersons and other devoted volunteers of these committees I deliver a hearty New Years 2003 THANK YOU!

Some of our committees are in need of renewed leadership and other volunteers. Like Uncle Sam, the currently inactive WVHC rivers committee could use a few good men and women.

And our outings committee, after several years of fantastic fun and frolic, is suggesting that new volunteers with new energy to organize and schedule events would give that program added vitality.

So to volunteer for your favorite committee contact the committee chairperson, or contact yours truly the president, at 304-372-3945 or by e-mail at fyoung@wvhighlands.org.

Want to start a committee on a new issue? That's easy, too. Under out by-laws new committees can be recognized by the president. Just let me know.

Happy New Year to all.



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Conservancy Supports 'Green' Legislation

By Frank Young

Since at least as far back as my first associations with the West Virginia Highlands Conservancy, in the 1980s, WVHC has supported- with both dollars and volunteers- legislation advocating stronger environmental protections in West Virginia.

And while the Conservancy's lobbying efforts on Wilderness designation, Canaan Valley protections and other U.S. Congressional issues have met many successes, this article is primarily about past and ongoing state level environmental lobbying efforts.

Maybe some of you with farther reaching WVHC institutional memory than mine can write about WVHC's involvement in the strip mine legislation wars of the early 1970s and of attempts in the late 1970s and 1980s to bring the West Virginia surface mining control program into conformity with the federal Surface Mining Reclamation and Control Act (SMCRA), enacted in 1977.

But by the late 1990s it was evident that the political structure in West Virginia was not sufficiently independent of the coal industry to effectively regulate that industry through laws and administrative initiatives. In 1998 the West Virginia Highlands Conservancy determined to attempt through litigation what had not been achieved through legislation- to have the state's surface mining regulation program comport with the SMCRA Act of 1977.

In the early 1990s the Conservancy and its then President Cindy Rank, along with other WV Environmental Council lobbyists, successfully lobbied the West Virginia legislature for the state's first ever Groundwater Protection Act. While a moderately effective Act was enacted that year, our elation was tempered by the virtual immunity of all coal industry activities from coverage under the Act. The coal industry can and does pollute groundwater and destroy aquifers with the Act's legally granted exoneration of responsibility.

In 1992 the state's first comprehensive solid waste law was enacted. This law, again supported by the Highlands Conservancy, was brought about by public demands for regulation of the then trickle of out-of-state garbage that was promised to be an avalanche trash. Proposals for what were styled "mega-dump" garbage landfill proposals for Barbour, Webster, McDowell and other counties were stopped in their tracks by citizen and politicians who together cried, "STOP!"

Today the Conservancy still has a legislative agenda.

The Conservancy believes that the state's lack of any comprehensive or even moderately effective timber and logging regulations is unacceptable. (see the December *Highlands Voice* for several articles detailing logging related legislative proposals, and the demonstrated need for same). Along with the Coalition for Responsible Logging (CORL), the Highlands Conservancy expends significant resources to support more effective timber and logging regulation.

Water quality issues, especially of surface waters (which often eventually become groundwater), continue to be high on our radar screen. The state's implementation of federal surface water "Anti-degradation" requirements is a political hot potato in many counties with classic, traditional stake out of adversarial positions by industrial and environmental groups.

And coal related legislative bills, as initiated by industry lobbyists or administrative agencies, continue to be addressed on a "moment's notice" basis as they arise, especially in the rulemaking

process, during the legislative session.

The Highlands Conservancy rarely directly employs its own lobbyists. But a chunk of our operating budget helps to support a small army of "green" legislative lobbyists.

CORL has one lobbyist supported partly by WVHC and partly by other funds raised through CORL, and several part time volunteer lobbyists.

And the West Virginia Environmental Council (WVEC), a consortium of individuals and dozens of state environmental groups, large and small, employs a team of part time and full time lobbyists during the entire 60 day regular session of the legislature. WVEC also has one paid and several volunteer lobbyists who monitor the interim legislative committees that meet three days a month throughout the year, when the legislature is not in regular session.

The Highlands Conservancy's financial support to these legislative teams amounts to about seven thousand dollars annually, some of which comes from contributions dedicated specifically to lobbying.

Our legislative "agenda" is determined partly by the Conservancy legislative committee's recommendations to its Board of Directors. Too, the Conservancy has several representatives to the WVEC's annual membership meeting wherein it sets a broad legislature "wish list", later narrowed to a "practical" agenda by its own government affairs committee and Board of Directors. WVHC's current direct or indirect representatives to WVEC include Don Garvin, Frank Young, Cindy Rank and Don Gasper. And WHVC Treasurer Bob Marshall is Chair of the CORL steering committee.

In addition to the above issues, the 2003 the WVEC legislative agenda may include "green energy" issues relating perhaps to "net metering" for electrical utility consumers with alternative generation capacity, siting criteria for power plants (including wind farms), fuel efficiency standards for state vehicles and alternative energy tax issues.

Basically, environmental regulation comes down to what's in the law. And that's why legislative lobbying is so vital. The team of "green" lobbyists at the legislature has a budget of perhaps \$30 thousand. It is estimated that the industry lobbyists on the "other side" have annual lobbying budgets in the millions.



Don't Forget

Bob Marshall agreed to act as chair of the committee to work on the Spring Review. He and Dave Saville will recruit volunteers to help. One possible site under consideration is the Cheat Mountain Club which is close to a potential Upper Shavers Fork Wilderness. The review is now scheduled for April 25-27, 2003. This will include the spring Board meeting.

The winter Board meeting will be January 25, 2003. Summer Board meeting and fall Review will be July 19, 2003,

Comments Needed Now!

BLACKWATER CANYON: HIKING TRAIL OR LOGGING ROAD?

By Judy Rodd, Friends of Blackwater

What's Going On

The United States Forest Service has extended until **February 3, 2003** a public comment period on the proposal by the timber company Allegheny Wood Products, owned by John Crites, to turn the scenic Blackwater Canyon Trail, on Monongahela National Forest land, into a commercial logging road.

The Forest Service has *not* decided – **repeat, has NOT decided** – whether or not to let Mr. Crites turn the Canyon Trail into a logging road. The Forest Service is currently **only deciding what to study** (this is called a “**scoping**” process) — in order to make a decision at a later time about the road proposal.

During this short but important scoping process, it is critical that thousands of people **tell the Forest Service to prepare a full Environmental Impact Statement (“EIS”)**. Lesser studies, like environmental assessments, do not look at a proposal in depth. **Only with an EIS** can the Forest Service properly evaluate all of the interconnected and cumulative impacts and threats of this most dangerous and unwise proposal.

Because so much is at stake, won't you please take just a few minutes – today – and continue your help in protecting the Canyon and its creatures? Go to www.saveblackwater.org and click on “Action Alert,” and you can quickly create and send your comments by e-mail. If you can't go to the website, read on in the **addendum** to this message — and you'll get all of the information you need.

Thank you so much – on behalf of our beloved Blackwater Canyon.

Monongahela National Forest Hiking Guide

by Allen deHart & Bruce Sundquist

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How to Comment

Your comments should address **what the Forest Service should study** in order to respond to the logging road proposal. At the end of this message is a sample letter, but the best comments, as always, are in your own words, based on your own observations, feelings, and opinions.

Tell the Forest Service that there are far too many inter-connected actions and cumulative negative impacts from the proposal for a simple “Decision Memo” or “Environmental Assessment” study to suffice. **Emphasize that a full Environmental Impact Statement study is necessary.**

These negative impacts include (be sure to discuss the ones that are most important to you):

- Long-term impacts on the local and regional tourism industry from permanently altering the Canyon Trail.
- Degradation of the historic and cultural resources of the Canyon Trail — which is eligible for the National Register of Historic Places
- Damage to sensitive, threatened and endangered species and habitat along the Trail, such as the Cheat Mountain salamander and West Virginia flying squirrel.
- Impacts on the wilderness characteristics of the Blackwater River, which has been proposed as a Wild and Scenic River by the Monongahela National Forest.
- Potential impacts of this land use change on Crites' condominium development plans for areas below the Trail, which will degrade the wild and scenic character of the area, and degrade the Blackwater River.
- Impacts on use conflicts and safety concerns for trail users who hike, bike and ski the Trail year round.
- Additionally, the Environmental Impact Statement should address the alternatives of other access to the AWP property north of the Blackwater River.

Again, tell the Forest Service that because of the numerous interconnected and cumulative impacts of the Allegheny Wood Products Application for Special Use Authorization (file code 2730) should be **fully studied using the Environmental Impact Statement process.**

HOW TO CONTACT THE FOREST SERVICE:

1. Go to www.saveblackwater.org. Click on “action alert” and follow the directions.
2. Contact the Forest Service by e-mail: r9_monong_website@fs.fed.us.
3. Or write: US Forest Service, Clyde Thompson, Supervisor, 200 Sycamore St., Elkins, WV 26241
4. By phone: (304) 636-1800, fax (304) 636-1875.

Dear friend, the campaign to save the Blackwater Canyon is entirely about people power. Each heartfelt comment will make a difference! Now here's one more challenge – can you try to get some friends to do the same thing? If you have e-mail, send them a note with our website address, and urge them to go there and make a comment. Or if you don't have e-mail, call a person today who you think loves West Virginia's natural heritage. Your taking your personal time, to show your friends how important the battle to save the Blackwater Canyon is to you, will inspire them to make comments of their own.

Sample Letter to Forest Service

SAMPLE LETTER

Monongahela National Forest
Clyde Thompson, Forest Supervisor
200 Sycamore St.
Elkins, WV 26241

Dear Clyde Thompson,

I am deeply concerned about John Crites' and Allegheny Wood Products request for Special Use Authorization (code 2730) on our public Blackwater Canyon Trail (FS 115).

I want to comment on the scope of your study of this request.

I'm sure you're aware that the complexity of the issues surrounding this request makes it far more than a simple driveway permit. I believe the scope of your study of this request must be very broad and can only be adequately analyzed in a full environmental impact statement (EIS). Without the detailed analysis of an EIS, I do not believe you will have the information necessary to make an informed decision.

The following impacts, connected actions and cumulative effects must be studied:

1. Impacts on sensitive, threatened and endangered species, some of which have already been found along the trail. Current surveys are needed along the trail and on AWP land, as well as consultation with the U.S. Fish and Wildlife Service.
2. Impacts on the historic resources of the Blackwater Industrial Complex, a National Register of Historic Places eligible district, which the Forest Service has documented along the trail.
3. Effects on water resources and the riparian zones of the Blackwater River and its tributaries from modification of the trail into a logging road, proposed logging activities, as well as proposed residential housing construction. The Blackwater River is eligible for designation as a Scenic River under the Wild and Scenic Rivers Act. Modification of the trail into a road would have negative effects on its eligibility.
4. Effects on current users and on tourism including Blackwater Falls State Park tourism and Tucker County economic growth. A significant connected action exists in that this same trail is also currently proposed as the Allegheny Highlands Trail through the Blackwater Canyon. Modification of the trail into a logging road would eliminate this possibility. The effects of this must be analyzed and disclosed to the public as a cumulative effect of granting the requested access.
5. The public has a right to use of the trail. Safety concerns, user conflicts, the degraded trail user experience and the length of time for such effects must be analyzed and disclosed.
6. The effects on the scenic values of the Blackwater Canyon from trail modification and proposed condo development.
7. A full economic analysis that examines the reasonably foreseeable future action of residential housing development and the effects likely on local towns and Tucker County.
8. Alternative access routes to AWP land north of the Blackwater River.

Any access granted to AWP must take into account all the factors above. It also must not eliminate or compromise the public's right to access. I believe that the modification to the trail as proposed would preclude too many other benefits and have severe environmental impacts. Any access must be time and activity limited and must not involve modification to the trail.

MARYLAND AIMS TO PROTECT BIRDS FROM WIND POWER PLANTS

Maryland state regulators want to require developers of two proposed wind power plants in western Maryland to shut down the giant turbines during periods when the whirling blades could kill large numbers of migratory birds.

The condition, apparently the first of its kind in the nation, is aimed at balancing the interests of wildlife advocates and wind power developers, who are racing to build the plants by Dec. 31, 2003, when a federal tax incentive expires.

"We are supporting both plants on an expedited schedule but we are building in contingencies in the event there are problems," Paul Massicot, director of the Department of Natural Resources' Resource Assessment Services division said Wednesday. "The last thing we want to happen at a wind energy plant is a big environmental problem."

One of the companies, U.S. Wind Force of Baden, Pa., has agreed to shut down its proposed windmill farm in Allegany County for up to 18 hours a year if the 25 turbines are found to kill more than 200 birds or bats per windmill in a 24-hour period, president Thomas Matthews said.

The other company, Clipper Windpower of Carpinteria, Calif., is in talks with the DNR about the agency's proposed condition

requiring shutdowns of up to 53.7 hours a year if Clipper's planned 67 turbines in Garrett County are found to kill the same number of flying creatures, Kevin Rackstraw, the company's director of East Coast development, said.



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Working to Keep West Virginia Wild and Wonderful!

COURT REINSTATES RULE ON ROADLESS AREAS IN NATIONAL FORESTS

A federal appeals court in California has reinstated a Clinton administration rule designed to protect nearly 60 million acres of national forests from logging and road construction, dealing a setback to the Bush administration and timber industry officials who have sought to weaken or kill the measure.

The U.S. Court of Appeals for the 9th Circuit in San Francisco lifted an injunction against the rule in a strongly worded decision affirming the legal basis for the new regulation and sharply criticizing a lower court for blocking the measure in May 2001. The ruling immediately put in place a long-term effort by President Bill Clinton and environmentalists to protect vast sections of federal forests -- including large tracts of Alaska's Tongass National Forest -- from most commercial logging, road construction and mining.

The administration challenged the rule -- and called for an extensive reevaluation -- shortly after President Bush took office. The rule was also challenged in court by western business interests and political leaders who said it would impede commercial activities in the national forests and thwart prevention of wildfires.

U.S. District Judge Edward J. Lodge in Idaho last year halted the Clinton plan at the request of Boise Cascade Corp. and a coalition of western logging and snowmobiling interests. He said the previous administration had hurried the rule, violated environmental laws and did not allow enough time for public comment. But the appeals court concluded yesterday that the U.S. Forest Service had met all the requirements of the National Environmental Policy Act in promulgating the new rules and that the lower court had "abused its discretion in issuing a preliminary injunction."

The judges wrote that roadless areas of national forests "help conserve some of the last unspoiled wilderness in our country" and that logging and road construction, while arguably useful in preventing for-

est fires and combating insects and disease, are "inimical to conservation."

Because the administration declined to defend in court the Clinton rule preserving 58.5 million acres of inventoried roadless areas in national forests from industry attacks, environmental groups intervened and achieved legal standing.

"This is a huge victory for our last public wild forests, but also for the 1 million people who supported this rule in public testimony," said Timothy J. Preso, a lawyer with Earthjustice Legal Defense Fund, which represented environmentalists in the case. Sen. Maria Cantwell (D-Wash.), a champion of the roadless rule, said the court ruling "tells the Bush administration that it cannot arbitrarily bypass rules it doesn't like."

Officials from the Department of Agriculture and Forest Service withheld comment pending a review of the 50-page decision. "They're looking at where the rule stands right now and where we go from here," a Forest Service spokesman said.

Logging and paper-industry officials voiced disappointment with the ruling and questioned the appellate court's decision to grant the environmental groups standing in the case. Stefany Bales, a spokeswoman for the Intermountain Forest Association, an industry group representing Boise Cascade, indicated that the industry hasn't given up and will pursue the case in the lower court. "Judge Lodge still has to rule on the merits of the case, and we'll see what happens next," she said.

Environmentalists said the strong ruling signaled that the Clinton administration rule is likely to survive future court tests. "There's still more to be done, more proceedings, but this is a major step forward for roadless areas in this country," said Eric Jorgensen, managing attorney for the Alaska office of Earthjustice.

WEST VIRGINIA RIVERS COALITION PROTECTS THE POTOMAC

With your support, West Virginia Rivers Coalition has recently experienced success protecting the water quality of the Potomac River drainage from two significant sources.

Coal Mining.

Recently, the WV Department of Environmental Protection (DEP) again denied Mettiki Coal permission to long wall mine under the trout stream, Hind Leg, a tributary of the North Branch of the Potomac. Earlier this fall, the state of Maryland permitted Mettiki to mine under the North Branch of the Potomac toward the Hind Leg site. The site may provide Mettiki a critical link to its coal reserves that extend to the Blackwater River watershed near Davis. Although the application was fast tracked through the permit process, WVRC provided detailed comment for DEP decision-makers. DEP denied the permit to prevent long-term damage to the surface water and groundwater.

Longwall mining beneath streams damages the springs and streams by creating cracks in the strata lying beneath the spring or stream. As the longwall mining

moves forward, the overlying strata would not collapse as a solid unit but would inevitably crack. These cracks would cause water that would otherwise be available to fill surface streams or springs to disappear underground instead.

Poultry

Several weeks ago, WVRC filed a Notice of Intent (NOI) against Pilgrim's Pride, a poultry processing facility on the South Branch of the Potomac. Pilgrim's was repeatedly in violation of water quality limits for fecal coliform and had not been receptive to DEP requests to remedy their waste treatment process. Diligent efforts to work with Pilgrim's, the Town of Moorefield and DEP have not resulted in a solution to this serious human health pollution problem. Finally, on Thursday, DEP took an aggressive stance to require compliance from Pilgrim's by suing for pollution discharge violations, poor maintenance practices and failing to do required water quality sampling.

Despite these milestones, the issues will remain on West Virginia Rivers

Coalition's hot plate until Pilgrim's production is using an adequate waste treatment facility and Mettiki safeguards water quality in the North Branch and the Blackwater. Our lawsuit against Pilgrim's pride remains pending. We await Maryland's response to our request for a hearing objecting to mining under the Potomac, we are monitoring the permit application for Mettiki's Blackwater area reserves, and we anticipate a Mettiki appeal to DEP's Hind Leg permit denial.

These successes are WVRC's holiday gift to the Potomac. We look forward to sharing bigger successes with our membership in 2003.



ORGANIC CONSUMERS ASSOCIATION

By Mary Wildfire

After 26 years in West Virginia, I've moved temporarily to north-eastern Minnesota, where I'm doing a six months internship with Organic Consumers Association. OCA's main office is a straw-bale structure, with a well-insulated yurt beside it, about 100 yards from the shore of Lake Superior. It's pretty, but ridiculously cold here. They have to bury water lines six feet!

Organic Consumers Association works on food issues like genetically modified organisms (GMOs) and irradiation, as well as defending organic standards and fighting for fairly traded, as well as organically grown food. They also connect consumers with sources of organically grown food. There is a campaign to pressure supermarket chains to remove GMO ingredients from their store brand lines; another to get Starbucks to push Fair Trade coffee and remove BGH from the milk and GMO ingredients from their baked goods; as well as a new campaign, Clothes for a Change, to encourage clothing producers to switch to non-sweatshop, non genetically engineered cotton, ideally also organic. The OCA website, www.organicconsumers.org, has links to these campaigns and a huge news section which is updated daily.

A recent item, for example, is on Morphotek, which is experimenting with splicing human cancer-causing genes into various organisms to enhance the mutation rate, thus speeding up the breeding process. They assure us it'll be no problem to remove the cancer genes once they find what they want. (While they're putting things back where they go, maybe they could pop a few mountains back into place in West Virginia. That's sure to be no problem either.)

Organic Consumers Association is a national organization with some international ties, including a permanent office in Chiapas, Mexico. With a network of thousands of volunteers, links to several thousand natural food stores, and 500,000 names in their database, they have the clout to make real change.

I noticed, however, that the West Virginia section of the database is awfully sparse. Chris Treter, the organizer whose territory includes West Virginia, admitted to me that he's never been there and has done little with the state. So I volunteered to make some connections.

Right now, OCA is working to expand its network. We'd like to have your name, perhaps your address and phone number, and definitely your e-mail address. We don't share our e-mail list with other organizations, but use it to send out action alerts, look for volunteers for local actions, and send out Biodemocracy News every six weeks. If you like, we'll also put you on the list for Organic Bytes, a shorter electronic newsletter that comes out every other week with one paragraph on each of the top five or so stories on the website, with links in case you want to read the whole story.

The link on OCA's webpage for organic food sources is also very incomplete for West Virginia; it has only three stores, one of which I know to be out-of-business. Please tell us about the others! Where do you buy natural foods? It helps them, of course, if new customers can find them.

You can sign up by clicking Join the Action Network on the upper right of the OCA homepage, or call Chris at (231) 256-9667, or me toll-free at 888-403-1007 (you have to ask for Mary Wildfire as there's another Mary here).

All our struggles are connected. The fight to preserve the purity of our food supply and the livelihood of family farmers comes from the same place as the fight to protect mountains and forests, and rivers and livelihoods and non-commercialized education and access to health-care. Joining OCA's network is a way to strengthen that paradigm, so that it may overtake the reductionist, profit-obsessed one now dominating our world.

VALLEY FILLS: HOW STABLE ARE THEY?

DUMPING ROCKS: HOW IT LOOKS FROM THE GROUND

By Bob Gates

After the floods of July, 2001, Penny Loeb and I did an extensive survey of causes of the flooding. Armed with mine maps we traveled thousands of miles taking photographs, shooting video, and talking to people. One mine map led us to the head of Armstrong Creek where a well traveled road crosses a sediment pond dam at the base of a valley fill. While we were there a guy on a four-wheeler comes by and we start up a conversation about the floods. He told us that one of his great concerns was that the big rocks stayed at the top of the valley fills and that over time the effects of water undercutting them would cause the valley fills to start to give way. A few weeks later when I was able to take a photograph of this valley fill I found that he was right - the little rocks go to the

bottom.

One of my next travels took me to the base of a valley fill in Wyoming County. Here large bulldozers and trucks were shoving and dumping rock over the ledge at the top of the mountain. As I was filming this I saw that a truck was going to back up and dump the mother of all big rocks over the hill. Naturally the photographer side of me was excited... this was going to be a great shot! The truck backs up with this huge rock, lifts its bed, and THUD. The rock lands a few feet below in a cloud of dust and that was it. In other video shots of rubble rolling down this fill it is clear - the smaller rocks bounce and tumble to the bottom, middle rocks tend to run out of steam at the middle, and many

of the larger rocks are held up by all the loose dirt and stay at the top, only to wait for eons of rain to erode the soft material holding them up so that their momentum can carry them down the hill in the future.

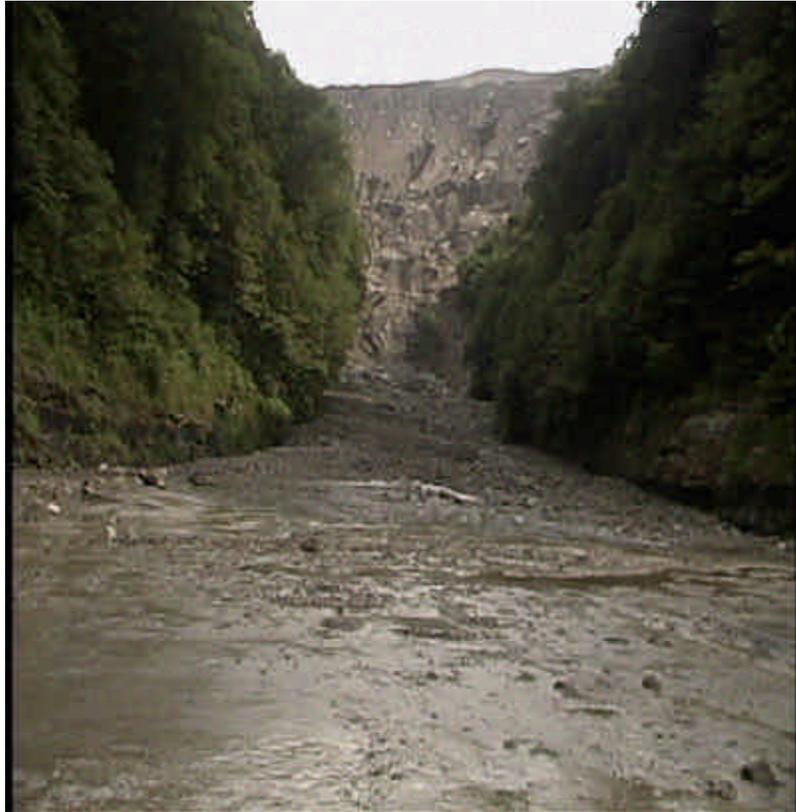
This is not always true; it is a question of slope, fill material, and other factors. At one location that I would call a mountainside fill the rock is harder and the big rocks came rolling down to the bottom. I cannot quite describe the sounds of being below these things - the relentless sound of the rocks rolling down the hill sounds like a Jeep is coming up the gravel road behind you.

These are some of the factors that caused the Massey Energy valley fill at their Bandmill Mine at Lyburn to fail with 3



1/2 inches of rain last July. Photographs show that the face of the valley fill gave way like an avalanche and sloshed all the water out of the pond sending a tidal wave of mud and water downstream to wash away the community below. This is why the Department of Environmental Protection has come to its senses and wants to return to the practice of having the valley fills be constructed from the bottom up

instead of following the myth of "end-dump durable rock fills" where rubble is dumped over the top of the hill. It does not take a mathematician to figure out why the coal industry will fight tooth and nail for a change in this policy; it certainly is cheaper to push stuff over the hill than truck it to the bottom and construct a huge fill from the bottom up.



Speakers Available!!!!

Does your school, church or civic group need a speaker or program presentation on a variety of environmental issues? Contact Julian Martin 1525 Hampton road, Charleston WV 25314 or imaginemew@aol.com or 304-342-8989.

MORE GOOD STUFF FOR FREE

The Sierra Club, Citizens Coal Council, Coal River Mountain Watch, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, Appalachian Focus(Kentucky), Big Sandy Environmental Coalition(Kentucky), Kentuckians For The Commonwealth and the West Virginia Highlands Conservancy have put together a new brochure entitled "Mountaintop Removal Destroys Our Homeplace STOP THE DEVASTATION!" For a copy send a self addressed stamped envelope to Julian Martin, 1525 Hampton Road, Charleston, WV 25314.

Quantities are available for teachers, civic and religious groups and anyone who can get them distributed.

GOOD STUFF FOR FREE

To get a free **IX Mountains** bumper sticker(s), send a self-addressed, stamped envelope to Julian Martin, 1525 Hampton Rd., Charleston, WV 25314

The Conventional Wisdom

As if filling valleys were not inherently offensive, there is another danger inherent in valley fills. It is always possible that one of the fills will become unstable and start sliding down the valley, burying or crushing everything in its path.

The industry routinely assures the public, the regulators, and anyone else who will listen that this would never happen. It refers to the fills as "carefully engineered structures" with high margins of safety, etc. While this may sound as if there is some sort of placement of the dumped material, this is not true. The material is dumped into the valley. Whether the haphazard dumping of fill material results in a stable fill depends upon two assumptions.

The first assumption is that the rocks will arrange themselves in such a way that water will freely drain from the fill. If the water does not drain freely, the fill will eventually become saturated and prone to slide. For the fill to drain optimally, larger rocks have to make their way to the bottom of the fill. The layer of larger rocks at the bottom of the fill provides a drainway to keep the fill dry.

The second assumption is that the rocks in the fill will remain rocks rather than crumbling and eroding into soil. As long as they remain rocks, the water can drain from the fill. As long as much of the fill is made up of relatively large rocks, there will be enough spaces between the rocks for water to pass through. If the rocks crumble and erode into soil then the fill cannot drain and will become saturated and unstable.

Under current law and practice, fill material on mines is tested to determine whether the material, or at least eighty percent of it, will remain as rocks and not crumble and erode into soil. The accuracy of the test used to make this determination has been the subject of some controversy in the past.

This is the conventional wisdom. It is also the basis for all, or virtually all, of the fills being created on mines today. Their stability depends upon the truth of these assumptions. In the accompanying story, Bob Gates describes his experiences in photographing fills under construction. While it is not a rigorous scientific study, it does offer one person's observations on the validity of this conventional wisdom.

BOOK NEWS

Backcountry: Contemporary Writing in West Virginia. Edited by Irene McKinney. Morgantown: Vandalia Press, 2002.

Reviewed by Kathleen Parker

We can know something of West Virginia by measuring its miles of streams, by plotting the fingerprint-ridges of its topography, by reckoning the diversity of its lungless salamanders, by calculating the board feet of lumber or tons of coal that are extracted from the land. And we can go beyond knowing quantifiable characteristics and begin to know something of the quality of West Virginia by attending to its writers. *Backcountry*, a new anthology of poetry, memoir, and fiction by twenty-two contemporary West Virginia authors, offers a remarkably sensitive introduction to the land of the Mountain State.

Place is a unifying element of West Virginia writing. Editor Irene McKinney observes, "The place may be remembered as suffocating or comforting, depending on the temperament of the writer, but it is always remembered." She emphasizes that the connection between the writers in this book "is not so much in mutual influence, though there is some of that, but in each writer's total immersion in place. Even those writers who no longer live in the state remember the feel, the physical texture, the overwhelming and enfolding vegetal surround of the place." The very first lines of the very first poem in the book brings the reader to a place: "This is where I live / at the edge of this ploughed field/ where sunlight catches meadow grasses..." begins Maggie Anderson in her poem "Marginal". And so we commence this way of knowing West Virginia right where our feet are on the ground — and from where they leave it. Another poem, "Leaving the Hills," by Mark DeFoe, suggests the active force of the landscape. In telling of a woman's effort to leave West Virginia, he says, "This land / wants to drape her in wren song, catch / her ankles in chicory, cloud her / with cool fog."

In these writings, we find a land that traps its denizens, but also rewards them. *Backcountry* includes a poem by Louise McNeill, "Granny Saunders," that is a litany of healing herbs found in this place: horehound, sage, blacksnake-tongue, wild cherry, and more, including, "for uncertain maladies / The northwest bark of dogwood trees." "The whole great rolling earth holds us," finds McNeill, "... the earth is mother, protector, the home."

The land of *Backcountry* writers is not only omnipresent; it is as ancient as the trilobites in a Breece Pancake story of that name. In her introduction, McKinney identifies this "awareness of non-human history, the history of the earth itself," as a unique feature of contemporary West Virginia writing. She notes, "Around our own small lives, there are constant reminders of geologic time which we can physically see in the folds and uplifts, the rolling quality of the hills like a slowed-down ocean, even in the telling layers of the road-cuts." A poem by McNeill finds her connection to this ancient Earth, recollecting "I am very old; / Old mud is in me—swamp black, / The dinosaur tracks in that mud". The awareness of history and heritage is not just a fanciful interest of poets, however. In a selection from Mary Lee Settle's family memoir *Addie*, we read about mines "where petrified tree trunks called kettles could loosen and kill, where the white bones of ancient fish in the coal caught the light from the miners' head lamps, and the crystal skel-

etons of plants were known as flowers of darkness, where accidents waited for millennia when the earth was disturbed..."

McKinney's introduction points the reader toward common themes in West Virginia literature: place, and a history located in place, as noted above, and the conflict that these can produce for Appalachians. Young people especially feel this conflict, whether it be a struggle against oppressive poverty as in Davis Grubb's "The Burlap Bag", an eerie story of two children who make a doll of a dead baby when they receive no Christmas presents; or a more ambiguous tension between roots in mountain culture and enticements of mainstream America, as in Henry Louis Gates' memoir "Colored People" and Lisa Koger's story "Extended Learning".

All of these common elements — place, ancient heritage, conflict — come together in coal, veins of which run thick and thin through most of the pieces in *Backcountry*. Coal is front and center in "Rondal Lloyd," a selection about a young boy's life in a coal camp from Denise Giardina's novel *Storming Heaven*, as it is in the poem "Twilight in West Virginia: Six O'clock Mine Report" by Irene McKinney. In other stories, such as Jayne Anne Phillips' "Bess," it gets a brief, matter-of-fact mention as the source of off-farm income for a family of twelve children. Likewise the foster father in Lee Maynard's "Crum" is a miner. Coal fallen from trains is gathered by an impoverished grandmother in the Grubb story, and a coal camp store is robbed in Richard Currey's "The Wars of Heaven." Coal becomes metaphor in a John McKernan poem, with a roadside view of the moon "in the anthracite starless night"; and coal echoes in the place names scattered throughout the book: Company Hill, Coalton, Bergoo Mine. Mary Lee Settle concisely summarizes West Virginia's relationship with coal: "the coal mines, the darkness, like the mark of Cain, are as deep within us as the eons that formed us both, slowly and inexorably, millions of years ago, where patient time has crushed and dried ancient seas, swamps, forests, animals into something mysterious that seduced the world we lived in, made us rich, made us poor, broke the health of some of us, made some of us refugees. Like people who have been deserted by a lover, we may hate it, but we never forget it."

Fewer West Virginians than ever make a living from coal as the number of miners has declined substantially over the past decades. One would think that our identification with coal would decline as well. Yet coal is inescapably intertwined with our land, our heritage, our understanding of what it means to be West Virginian. That is a whispered sub-text of this anthology, which is a showcase for the fine literary talent of our state. Our connection with coal is made elegantly explicit in one of the most powerful pieces in *Backcountry*, "Deep Mining" by WV poet laureate McKinney. McKinney calls up the hidden wonder of coal, beginning "Think of this: that under the earth / there are black rooms your very body / can move through..." She recalls images of those that work the coal, and those that remain outside, and concludes, "Listen: there is a vein that runs / through the earth from top to bottom / and both of us are in it. / One of us is always burning."



The Last Forest: Tales of the Allegheny Woods

G. D. McNeill (McClain Printing Company, Parsons, WV)

Reviewed by Don Gasper

The book covers from the 1890 prelogging days of the Williams and Cranberry Rivers through their logging to the 1930s when the author penned these stories of four young men who ventured from Swago near the Greenbrier Valley - west over Black Mountain 15 miles into the wilderness for a week of camping and fishing. In the early days they returned with 100 to 150 salted Brook Trout; smaller ones were eaten on the journey.

The preface is written by the youngest daughter of the author. Her father's trips "over the mountain" with his three or four friends were "milestones of her childhood" and "loomed large in the land of her dreams". She knew she could never go with them, but knew every trail as she followed them in her mind as she listened to the telling and retelling of the great adventure past High Rock, "Down onto the wild headwaters with the forest around, darkness at midday, the great oaks and the deep pavilions of shade". She remembers earlier tales of Old Tim who had seen panthers and the eastern bison. She remembered these spring and fall trips, listening as a girl-child by the winter fireplace to the men's wonder tales of great trees and sparkling streams and Brook Trout. Tales of Mountain Lick, Black Mountain Run, and other headwaters of the Williams and the Forks of Cranberry and below.

When the travelers reached the top of Black Mountain, a level top through dense woods was traversed, then a mile down the other side where a stream first started. Soon Brook Trout were seen and caught for supper and breakfast. The next morning they had caught 226 trout in 2 hours. Hours later in bigger water, fishing with 8' of cotton line and a cut birch pole, they caught a Brook Trout 18" long and another large one was on at the same time. The Forks of Cranberry were 4 miles below.

She describes their wilderness as 60 unbroken miles beyond their mountain, "a quarter million acres of hardwood forest". "For over a hundred years, our menfolks, and all the other Swago hunters, walked it as though it belonged to them."

Then a gradual change in these tales, and these trips. The North Fork of Cranberry had turned muddy - "a deep lament began to run through their stories". They had found the big trees of the big wilderness were not too big to be taken - as they had for so long thought. Men came to do it, wood slides brought great trees to the streams, splash dams pushed them downstream to the mills, and railroads finished it. They found "muddy, silted streams, the forest fires, the skid roads, bleeding down the eroded hills". The trips grew shorter, and the Brook Trout brought back were fewer. Mountain Lick, Black Mountain Run and even Tea Creek were logged.

Finally the great fire of 1930 "raged in the headwaters of Gauley to Panther Creek and then swept up the valley and almost over the Elk." They found, "The roots of the great stumps sticking up three feet above the burned out topsoil."

The change came gradually for the great trout in Williams River. Below Tea Creek is a tale of warming water and dead trout. Sawdust was noted in the water. The clean rocks blackened. The water color seemed light purple with tannic acid. Minnows and crayfish disappeared. Trout were dying.

The head of this stream extended up to Willie Cogar's farm.

As a boy of 12, he had often gone to a large pool a short distance below where it became steep. It was "an ideal place for a trout pool, but a thousand years unattended".

The last trip to The Last Forest was made after the lapse of 20 years. The group of three planned this trip though "Ye couldn't ketch a dozen trout in a week over there from what some o' the loggers tell me. Jist nacherly ain't any. The' water's too hot after the sun got in." As these mountains were over-run by logging, streams were dynamited and pools drained.

"Ye honestly couldn't even believe it." The timbering had come and gone, gone were the big spruce and the trout. They hiked to Mountain Lick. They found a horse could now reach the top Of Black Mountain from Swago. Familiar big trees and groves of them were gone. There were stumps where they had stood. An



overgrown log road extended down into Mountain Lick. The flow was milky. They noted the flow was unshaded and warm. They fished familiar reaches, and only caught one 6" trout. (On an earlier trip like this they went down Williams to Day Run and up it to home.) The next day by noon the 3 had caught only 4 or 5 small trout. Mountain Lick had turned from the spruce wilderness to throughout a "monotonous outlook - seared

ridges and mountains, covered with shale and blackberry." The Williams flowed between two fire-swept mountains and no trout were caught. Downstream they found a tiny "crick", "An' I'm doubtin' anybody fishin' in it for 50 years." They found good pools. They fished an hour and caught a 15" Native Brook Trout. In a search of the stream up and down they found no other fish. He was the last. They turned up Day Run, at the top they could see "Day's Run Gulch, and beyond it, the basin of the Williams. Yonder was Tea Creek Mountain, there, too, was the level top of Yew, and farther on, the dim folds of the Gauleys."

"Where, in other days, the boys had seen blue waves of spruce and hemlock, stretching away mile upon mile, the men now beheld desolation — bare hills, ribbed with shale, from which fire and erosion had swept every vestige of soil: long mountain ranges without a tree, save here and there a gnarled trunk with its few yellowed leaves; a monotonous panorama of destruction, as far as the eye could run."

"Well, fellers," said Zeke, "I knowed it was bad; but if I'd dreamed it was like this, I'd never a asked ye tu come up here. I'm sorry I seen it."

"Me too," said Dock. "I's like jist to hev remembered it th' way it uset tu be."

There are other stories of other characters of the time as well. There are nine stories in all. Surely adventurers from other communities in the Greenbrier Valley, and those from the Richwood area, and Webster County, and even beyond, entered this Great Forest - and similar tales were told. How greatly it was valued even then.

This book, long out of print was reprinted in 1990 by McClain. Your book dealer can obtain a copy of this 158 page entertaining and informative book of perhaps 20 characters you'll want to know or know about. I value it most for the stories of fish and that first forest, and I wonder if there ever was such a place.

Relief

What are we to make of this monstrosity—
this monument to hubris and stupidity?

How has this pathetic piece of propaganda
come to be placed on our public lands?

And what is our response to be to this abomination—
this perversion of art,
that celebrates environmental genocide?

Since this is a spit in the face
to all who care about mountains,
are we to spit upon it?

Since the mountains have been defaced and vandalized,
are we to deface and vandalize it?

Would such “illegal acts” shock the “new age” coal barons?

Why in an hour they would’ve forgotten them.

But the mountains
will be thus shocked, thus vandalized, thus defaced
from now until eternity.

There will be no shrugging off their new disabled shape
that will cauterize the eyes of our children and grandchildren
and make even God, turn, and look away in shame.

In truth, our symbolic vandalism would pale before the real carnage and chaos they’ve created.

And our protests are but a spit in the wind to the unnatural tornado that mountaintop removal is.

Too bad for all of us that this insulting metal “relief” isn’t the Coal Association’s only legacy...

What a relief for the mountains that would be!

Bob Henry Baber

Editor’s Note: Mr. Baber wrote this poem in response to the unveiling of the statute on the Capitol grounds which, while purporting to honor coal miners, includes a relief of a strip mine.

OUR READERS WRITE

Dear Editor:

I write as someone whose family has owned property near Canaan Valley for over 25 years. Three generations have enjoyed the magnificence of the region’s mountains, forests and rivers. At the same time, we are acutely conscious of the need for full-time residents to obtain jobs for themselves and their children, when they enter the job market.

I am most interested in the controversy over West Virginia windpower projects, and the differing points of view that have developed among the environmental community, as spelled out in your November 2002 issue.

Maybe one initiative which most concerned individuals might agree on is to repeal the various federal tax incentives which have

given to the developers of windpower projects. Given the level of controversy, shouldn’t the tax code be neutral in these kinds of situations? Without these tax breaks, no doubt fewer projects would be built, but at least the federal government wouldn’t be tilting the playing fields. I urge the Board of the Highlands Conservancy to consider advancing such a proposal.

James Burnham
Pittsburgh, Pennsylvania