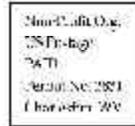


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GROUPS SUE CORPS OF ENGINEERS OVER STRIP MINE VALLEY FILL PERMITS

By John McFerrin

The Ohio Valley Environmental Coalition, Coal River Mountain Watch, and the Natural Resources Defense Council, have sued the United States Army Corps of Engineers in the United States District Court challenging its minimal regulation of the valley fills associated with mountaintop removal strip mining.

The controversy focuses on the practice of the Corps of Engineers of approving valley fills under a general permit (known as Nationwide Permit 21) rather than performing a site specific analysis of each fill. The suit also challenges the failure of the Corps of Engineers to do a proper environmental analysis before issuing Nationwide Permit 21.

The Corps of Engineers is approving valley fills under a nationwide permit which is designed for activities which have minimal impact. If the activity is one covered by the general permit, it is routinely approved without further review. The plaintiffs contend that the valley fills have more than a minimal impact.

If the Corps could not approve valley fills under a general permit, it would have to do a site specific analysis on each operation.

The purpose of the federal Clean Water Act is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." To accomplish this goal, the Clean Water Act prohibits the discharge of

any pollutant, including dredged spoil or other fill material, into navigable waters unless authorized by a Clean Water Act permit. The Clean Water Act authorizes the Corps of Engineers to issue permits, in certain circumstances, allowing the discharge of dredged or fill material into the navigable waters of the United States.

The Corps is authorized to issue two types of permits: individual permits and general permits. Individual permits are issued following a "case-by-case evaluation of a specific project involving the proposed discharge(s)." The Corps may issue general permits on a state, regional or nationwide basis in limited circumstances for certain activities having minimal impacts, in lieu of individual permit processing.

The Clean Water Act requires the Corps to make three determinations prior to issuing a general permit. First, it must determine that "the [permitted] activities... are similar in nature." Second, it must determine that the activities "will cause only minimal adverse environmental effects when performed separately." Third, it must determine that the activities "will have only minimal cumulative adverse effect on the environment." If a category of activity meets these standards for

The Corps of Engineers is approving valley fills under a nationwide permit which is designed for activities which have minimal impact. ... The plaintiffs contend that the valley fills have more than a minimal

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Does Coal Equal Oil ?**Pandering to Patriots**

By Frank Young

A few days ago I watched a "discussion" about mountain top removal coal mining issues in West Virginia. The two parties to this discussion, sponsored and moderated by the University of Charleston, were Cindy Rank, the chairwoman of the Highlands Conservancy's mining committee and Don Blankenship, Chairman and CEO of Massey Energy, a large coal mining company operating in southwestern West Virginia.

As each tossed barbs about the alleged merits and demerits associated with the surface mining ("strip mining") of coal, Blankenship's frequent refrain was that more coal mining meant that young Americans would not be fighting for energy resources around the world. Often repeating his favorite argument, Blankenship said that a healthy coal industry could keep the United States from fighting wars in the Middle East. The coal industry, he said, "is the key to homeland security."

Duhhhhh- how's that again? The coal industry is not "healthy"? More coal is being mined now than ever before!

And does coal replace oil in this nation's energy equation?

Most of the coal mined in West Virginia is used to generate electricity. Very little electricity produced in this country is generated by burning oil. And the demand for steam coal (to produce electricity) has actually been down for several years, according to coal industry sources.

I have been associated with the operations of many kinds of machinery much of my life. And I have yet to see even one automobile, truck, bus, earthmover or other machinery powered by oil based fuel that would run on coal.

The suggestion that further easing of already severely relaxed environmental restrictions on the mining of coal will bring young Americans on military assignments in Iraq home even one day sooner is but a petty appeal to political prejudices and is nothing more than phony patriotic sounding blather by the CEO of West Virginia's most notorious environmental terrorist corporation. Blankenship's pathetic pandering is an affront to honest patriots everywhere.

The best homeland security measure officials could take for southern West Virginia is to have Massey and other coal companies to simply follow the already written environmental laws. It would be the pro-American, patriotic thing to do. Allowing environmental scofflaws like Blankenship and Massey to hide behind the flag and to use the caskets of young Americans returning from war as their public soap boxes is about as un-American as it gets.



Ms. Rank and Mr. Blankenship have a chat.

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Whole lot of lawing going on (continued from p. 1)

minimal impact, then it may be allowed under the generic Nationwide Permit. If it has more than a minimal impact, it must have a site specific permit.

Nationwide Permit 21, reissued effective March 18, 2002, permits discharges of dredged or fill material into waters of the US associated with surface coal mining and reclamation operations provided the coal mining activities are authorized by the Department of the Interior, Office of Surface Mining, or by states with approved program for the regulation of surface mining. The mining company must notify the Corps of Engineers and the Corps must determine that the activity complies with the terms and conditions of the Nationwide Permit and that the adverse environmental effects are minimal both individually and cumulatively.

The plaintiff's primary contention is that it is inappropriate to approve valley fills under a general permit. Those are appropriate for activities which have a minimal impact. If valley fills are to be approved at all, they should be approved following a detailed, site specific analysis.

In addition to a challenge to the use of a general permit to approve valley fills, the suit also challenges the procedure the Corps used in issuing Nationwide Permit 21.

The National Environmental Policy Act (NEPA) requires a "detailed statement" regarding all "major Federal actions significantly affecting the quality of the human environment. This statement—known as an Environmental Impact Statement—must describe (1) the "environmental impact of the proposed action," (2) any "adverse environmental effects which cannot be avoided should the proposal be implemented," (3) any "alternatives to the proposed action," and (4) any "irreversible or irretrievable commitment of resources which would be involved in the proposed action should it be implemented."

An agency may avoid doing an Environmental Impact Statement if it determines that the activity will have no significant impact. The Corps has made a determination that the Nationwide Permit program "will not have significant individual or cumulative adverse effects on the quality of the human environment and the preparation of an Environmental Impact Statement is not required." The plaintiffs contend that this conclusion is inconsistent with the overwhelming weight of scientific evidence. and is clearly erroneous.

In a nutshell, the Corps of Engineers believes it can regulate valley fills under a nationwide general permit because they have minimal environmental impact. It also believes it can issue a nationwide permit for valley fills without an Environmental Impact Statement because the permit will not have a significant or cumulative adverse effect on the environment. The plaintiffs disagree.

The plaintiffs are represented by John Barrett and Joe Lovett of the Appalachian Center for the Economy and the Environment and by James Hecker of the Trial Lawyers for Public Justice. The case has been assigned to Judge Joseph R. Goodwin.

Some of the Evidence

As some of the evidence that valley fills have more than a minimal impact, the plaintiffs cite the following:

- Two percent (1,208 miles) of streams in Appalachia have already been buried or harmed, and an equivalent amount will be harmed if present trends continue over the next ten years.
- Valley fills are strongly associated with violations of water quality standards for selenium, a toxic metal that bioaccumulates in aquatic life. All 66 selenium violations were downstream from valley fills, and no other tested sites had selenium violations.
- Mountaintop mining causes "fundamental changes to the terrestrial environment," and "significantly affect[s] the landscape mosaic," with post-mining conditions "drastically different" from pre-mining conditions. Mining impacts on the nutrient cycling function of headwater streams "are of great concern." Mining impacts to habitat of interior forest bird species have "extreme ecological significance." Mining could impact 244 terrestrial species, including, for example, 1.2 billion salamanders. The loss of this genetic diversity "would have a disproportionately large impact on the total aquatic genetic diversity of the nation."
- Past, present, and future mining in Appalachia may cumulatively impact 1,408,372 acres, or 11.5% of the study area.

"Minimal impact?"
That's easy for them to say."



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The purposes of the Conservancy shall be to promote, encourage, and work for the conservation- including both preservation and wise use- and appreciation of the natural resources of West Virginia and the Nation, and especially of the Highlands Region of West Virginia, for the cultural, social, educational, physical, health, spiritual and economic benefit of present and future generations of West Virginians and Americans.

BACKBONE MOUNTAIN WINDMILLS A THREAT TO BIRDS?

By Frank Young

Accordingly to the ornithologist leading the bird mortality studies at the Backbone Mountain wind farm, a total of 69 dead birds have been found there between late March and mid-October of this year. There are 44 wind tower and turbine assemblies erected there.

Bat fatalities seem to be considerably higher, according to unofficial findings.

Dr. Paul Kerlinger, the avian consultant at the Backbone Mountain wind farm (Mountaineer Wind Energy Center), is Chairman of the Technical Review Committee (TRC) there. The TRC resulted from an agreement between the original Backbone Mt. wind farm applicant (Atlantic Renewable Energy), the Highlands Conservancy, and the West Virginia Public Service Commission in December, 2000.

The purpose of the Technical Review Committee is to approve the post-construction monitoring program developed by MWEC's avian consultant, and to review the results of the monitoring program. Membership on the committee includes Kerlinger (MWEC's avian consultant), and one representative each from the Conservancy, the state Public Service Commission, the United States Fish and Wildlife Service, the West Virginia Division of Natural Resources, Brooks Bird Club, and Jay Buckalew of Bethany College.

Kerlinger retains two field researchers to conduct routine searches for dead birds at the MWEC facility. He reports the findings to the TRC, and to others, from time to time.

In recent verbal reports to this writer and to *Partners in Flight*, Dr. Kerlinger reported that including the data from the spring report, there have been 69 bird carcass "finds" at Backbone Mountain this year, as of mid October. The Spring season study report indicated 42 bird deaths. So this would mean that 27 bird carcasses have been found, from summer through mid-October, by field avian researchers at Backbone.

Kerlinger also indicates that after the Fall migration surveys end in mid-November, this number will likely be adjusted upward somewhat, based on deductions made from scavenger and surveyor efficiency test surveys at Backbone, and will be reported publicly very soon thereafter, including at a National Wind Coordinating

Committee (NWCC) scientific meeting November 17 and 18th in Washington DC.

This meeting will consider how to determine the biological significance of wind farm avian fatalities, at the species level. The expected meeting attendance list suggests an rounded set of speakers, including professors who make no money on wind power, USGS biologists, along with USFWS biologists.

This anticipated spring-summer-fall survey report will include bat mortalities, according to Kerlinger. Speaking of bats, we have reports, only partially confirmed by Kerlinger, of perhaps hundreds of dead bat carcasses found at MWEC from late July through mid October.

Since Kerlinger is not a bat expert he has forwarded what information he has about the bats (including bat carcasses found) to Craig Stihler, a

bat expert employed by the WV Department of Natural Resources. Stihler is making a report, hopefully with recommendation about mitigation, about the bat mortality at Backbone. Stihler's report should be a part of Kerlinger's full fall avian report, we are told.

Exact protocols for the field researcher efficiency studies are not being made public so that the researchers will not learn exactly where and when "test" birds are "planted". Other researchers, of course, actually "plant" the test birds, and do follow up to see how many were scavenged before the "regular" surveyors found them, etc. But the protocols for both the scavenger and efficiency "tests" will be a part of the complete report when released, Kerlinger indicates. He also indicates that the procedures used in the tests are consistent with established such test protocols used at wind farms elsewhere.

Other ornithologists confirm to the Highlands Conservancy that the search methods for dead birds at MWEC are consistent with those used at other wind farms.

The Memorandum of Understanding which created the TRC requires only one year (spring-summer-fall) of avian studies at Backbone Mountain, with additional studies optional. However, some of us are hopeful that Florida Power & Light, the owner and operator of MWEC, will opt to conduct similar avian surveys, studies and reports there again next year.



MARK YOUR CALENDARS!

In order to help us plan in advance, we have already established the meeting schedule for 2004:

Winter Board Meeting--Sunday, January 24

Spring Review--April 23-25 (Board Meeting on Sunday, April 25)

Summer Board Meeting--Saturday, July 24

Fall Review--October 22-24 (Board and General Membership Meetings on Sunday, October 24)



Spice Run (the area is named for the creek in the picture)
Photo by Beth Little

HUNDREDS OF BATS KILLED ON BACKBONE MOUNTAIN

By Helen McGinnis

Between the spring and September 8th of this year, a total of 452 dead bats were picked up at the bases of the wind machines on Backbone Mountain near Thomas. Craig Stihler of the WV Division of Natural Re-

sources has identified 377 of those bats with certainty. The others are fragmentary and are unidentified or of uncertain identity. At least 15 dead bats were picked up before

July 3rd. Another 316 identified or tentatively identified bats were collected between August 18th and September 8th.

Six species are present:

Common Name	Scientific Name	No. Collected prior to July 3rd	No. Collected between Aug. 18-Sept. 8
Red Bat	<i>Lasiurus borealis</i>	2	147
Hoary Bat	<i>Lasiurus cinereus</i>	7	58
Silver-Haired Bat	<i>Lasionycterus noctivagans</i>	1	9
Little Brown Bat	<i>Myotis lucifugus</i>	3	36
Eastern Pipistrelle	<i>Pipistrellus subflavus</i>	2	61
Long-eared Bat	<i>Myotis septentrionalis</i>	0	5
TOTALS		15	316

The first three species are forest dwellers. They hang from loose foliage or hide under bark in the summer months. Red bats are North America's most common tree bat. The other three species tend to roost in caves, hollow tree cavities, and buildings.

Almost all bats feed on flying insects, which aren't available in the winter at northern latitudes. Bats inhabiting such areas have two options for survival: hibernation or migration. *Myotis* and pipistrelles hibernate in caves, selected over countless generations for temperatures that are warm enough to prevent them from freezing and cool enough for them to keep their metabolism low to avoid draining their fat reserves, which must last the entire winter to avoid starvation.

Lasiurus migrate south just as birds do. In the fall many red bats migrate to the southeastern states, following much the same route as birds. Here they hibernate, wrapping themselves in their furry tail membranes to withstand below freezing temperatures. They may come out of hibernation temporarily to

pursue insects when the temperature goes above 55° F. Some red bats hibernate in hollow trees as far north as Ohio, however.

Hoary bats in the East overwinter in the southeastern states from South Carolina to central Florida, where they may hibernate in the open, again protected from the cold in by their densely furred tail membranes. Some may fly as far as islands in the Caribbean.

Silver haired bats also migrate from northern to southern forests, where they hibernate in small tree hollows, beneath bark, in wood piles and in cliff faces. West Virginia *Lasionycteris* overwinter in the state.

In comparison to other mammals of similar size, such as rodents, bats are long-lived and have relatively few young. Red, hoary and silver-haired female bats give birth to an average of two young per year and live an average of 6 or 7 years. *Myotis* and the Eastern pipistrelle can live between 15 and 33 years, a remarkable life span for such small animals. *Myotis* have only one young per year; pipistrelles have two. Long-lived animals that

reproduce slowly may be unable to compensate for heavy mortality.

None of the six species found dead under the wind machines are endangered or rare. Whether the mortality caused by wind machines is significant will be the responsibility of bat experts to decide. These experts will also have to determine if the preponderance of red bats is related to their migration or merely a reflection of their relative abundance in the vicinity of Thomas.

For more information on these fascinating but little known creatures, visit <http://www.batcon.org/discover/species/naturalhistory.html>



CONSERVANCY OBJECTS TO COAL WASTE IMPOUNDMENT IN CLAY COUNTY

The West Virginia Highlands Conservancy has objected to the issuance of a permit for the Power Mountain Coal refuse impoundment in the Twentymile area of Clay/Nicholas counties unless the U.S. Army Corps of Engineers conducts a full and thorough study of the individual and cumulative impacts of the proposed project on the already stressed Twentymile watershed area. At final stage the proposed impoundment is to hold 84.5 million cubic yards of coarse and fine coal refuse, be contained by an embankment 1600 feet high and bury just under 4 miles of headwater streams in an

area already significantly impacted by many more miles of coal refuse and waste rock valley fills.

The Power Mountain Coal proposal inundates the entire Sugarcamp Branch. When considered with the adjacent and associated permits the project also severely impacts major portions of Robinson Run, Hardway Branch and unnamed tributaries to Twentymile Creek.

In making the request for a full Environmental Impact Statement, Conservancy Mining Committee Chair Cindy Rank said, "WVHC is cooperating with the Coal Im-

poundment Project being developed by the Robert C. Byrd National Technology Transfer Center and others at Wheeling Jesuit University and have from our participation in that project acquired an even greater appreciation for the concerns of people living in communities downstream of these refuse impoundments. Buffalo Creek, Martin County, the many blackwater spills and flooding these past several years have all highlighted the safety and environmental concerns surrounding the existence of current refuse impoundments and cast a pall of doubt over the construction of new ones."

The Passing of a Friend

Spencer Brian Dennison, 28, of Stanaford, went to be with his Lord on Thursday, Oct. 9, 2003, following injuries sustained in a four-wheeler accident the previous day. Born Jan. 21, 1975, in Lancaster, Ohio, he was the son of Ronald L. and Dianne Delbridge Dennison. While in high school, he was valedictorian, a National Merit Scholar, a student athlete and the newspaper editor.

He went to Airborne School in Fort Benning, Ga., as a member of ROTC. He attended Marietta College where he ranked in the Top 5. He was a student at Foreign Affairs College, Beijing, China, and taught English to Chinese students. He wrote a series of articles from China for the Marietta A.M. He married Theresa Garrett on Beauty Mountain in Fayette County. In Taipai, Taiwan, he taught English with his wife, Theresa.

Many in the West Virginia Highlands Conservancy knew him as a Public Interest Advocate fellow who worked with the Conservancy for two summers. The Public Interest Advocate fellowship is sponsored by the Public Interest Advocates at the West Virginia University Law School to provide fellowships for students working with public interest organizations.

Prof. Charles DiSalvo, sponsor of the Public Interest Advocates program, described Mr. Dennison this way, "Spencer Dennison was a warm, engaging and caring person who had great, great promise as an environmental lawyer. Those of us at the law school who have a special interest in the environment were delighted to see him prosper in law school -- he was an excellent student -- and were looking forward with great anticipation to the good work we knew Spencer would do when he began practice. His passing is a tremendous loss to the environmental movement and to the legal community in West Virginia."

At the time of his death he was employed as a federal law clerk for Judge David A. Faber, chief judge of the Southern District at West Virginia.

Other than his parents, left to treasure his memories are his wife, Theresa Lynn Dennison; two children, Livvy Grace and Sawyer Boone Dennison; a sister, Amber Dennison Midkiff and her son, Andre Isaak Midkiff, of Marietta, Ohio; his mother-in-law, Teresa Garrett of Stanaford; paternal grandmother, Iva Ruth Dennison of Smithfield; and several aunts and uncles.

Laurel Fork Wilderness

Photo © Jonathan Jessup

Tribal Love Song

By Betsy Reeder

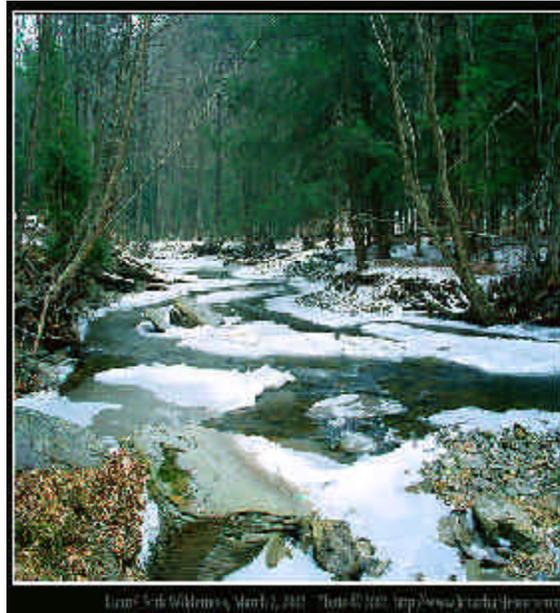
A morning a'glower,
The Highlands raked by the ragged hem
of a sagging sky
Unseasonably cold for anywhere else
of similar latitude.

They pulled on bucking raincoats
already glistening
I smiled into faces smiling back
Faces lined by hours in sunlight,
the younger ones only burnished.

A voice spoke of rocks and laurels and wind
of a mountain threatened by
One More Bad Plan
to make a lot of money
Not angrily but softly,
as a lover speaks of his beloved.

Their eyes, I thought, are
glorious
As if they've taken in beauty enough
to polish souls so bright, so sheer
they reflect back this rain
these hills
their coming snows
summer ferns and salamander skin
Both recalling and forecasting visions
known to few.

I turned away,
sucker-punched by a tender understanding:
How earnestly I love them
for what their eyes and hearts
hold dear.



Laurel Fork Wilderness, March 7, 2003. Photo © Jonathan Jessup

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Our Readers Write

Dear Editor,

The October Voice printed two letters to the editor criticizing a Charleston church for its decision to replace a productive downtown building with a parking lot. Unfortunately, the letters' authors did not stop at criticizing a bad land use decision; they went on to take what sounds like pot shots at the parishioners as Christians ("One wonders if even one of these Christians knows..." and "First Presbyterian Church, my Christian neighbors, you know better.") If I misread the letters then I apologize, but it sounds like the writers were laying on extra blame because the decision makers were Christians. One of the writers went on to do some obligatory bashing of the rich.

This is extraordinarily unproductive for the environmental cause. Rather than preaching to the choir, we need to be reaching out to the great mass of the public, including many Christians, who care about the environment but do not consider themselves to be environmentalists. Over the years, the *Voice* has given far too much space to generalized attacks on business rather than focusing strictly on abusive business practices. If we now add attacks on Christians to this class warfare, we will be driving people into the Bush camp where they will be welcomed with open arms.

Jim Waite
Charlottesville, VA

HIGHLANDS CONSERVANCY OCTOBER MEETINGS HIGHLIGHTS

By Hugh Rogers

During a very long weekend in October, from Thursday afternoon through Tuesday night, Highlands Conservancy members and friends from cooperating groups such as The Wilderness Society, Sierra Club, Trout Unlimited, and Shavers Fork Coalition, shuttled in and out of the Cheat Mountain Club. There were workshops, dialogues, long meals, laptop displays and even a good old slide show by Jonathan Jessup. Of the eleven reviews (so far) planned by Dave Saville, this might have been the most productive. We decided that for the foreseeable future CMC would be the regular site of our October meetings.

Good work was accomplished on major public lands issues: the wilderness campaign, national forest management plan revision, and the upper Shavers Fork River. On Sunday, while the board met in the dining room, a forest planning workshop continued within earshot in front of the living room fireplace.

At the Annual Meeting, we elected a new board member, Barbara Weaner, and welcomed Frank Slider as the organizational director representing the Mountaineer Chapter of Trout Unlimited. Barbara, a family nurse practitioner, lives in Tucker County, where she has been active in community organizations as well as on forest and highway issues. Incumbent board members Don Garvin, Carter Zerbe, Jonathan Jessup, and George Beetham were re-elected to two-year terms.

Mining

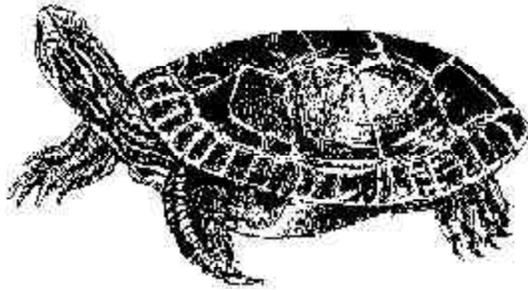
Bob Gates announced that "Mucked," a film he produced together with Penny Loeb, will be shown Nov. 8 at the American Conservation Film Festival in Shepherdstown. The film exposes the connection between mountain removal mining, timbering, and flooding in the coalfields.

In Northern West Virginia, where high-sulfur coal mining has been sharply reduced by the Clean Air Act, some companies are pushing to resume dumping acid into our air and streams. The DEP recently denied a permit for Metiki's "E" mine near the Mount Storm power plant. Unfortunately, that E does not indicate a new electronic "virtual" mining method. The mine would do real harm by dewatering and acidifying tributaries of the already-impaired Blackwater

River. The company is expected to appeal. We may be called upon to help with expenses of expert witnesses.

Special Places

Blackwater Canyon: Judy Rodd reported that 3000 post cards nominating the canyon as a WV Special Place had been presented to the Director of the Department of Natural Resources and forwarded to Governor Wise. More thousands of comments on Allegheny Wood Products' request to use



the canyon trail as a logging road are being analyzed by the Forest Service. Meanwhile, AWP has been researching a Habitat Conservation Plan that would allow their logging and possibly building.

Mt. Porte Crayon: Helen McGinnis reported on the proposed "Almost Heaven" ski and second home resort. The story that appeared on DCSki.com and in the Voice had provoked many responses and some useful information. Bill Bright, the developer of Winterplace, told Frank Young that he had not decided where the new resort would be located and he did not expect to request the use of any public lands. Jonathan Jessup brought to our attention this statistic: the growth rate of second home development in West Virginia is faster than any other state except Hawaii.

Wind

Backbone Mt. (MWEC): A Memorandum of Understanding between the PSC, the Highlands Conservancy, and state and federal agencies requires technical studies of bird and bat kills. We have received little information since the report of a "mortality event" there in May. Predictably, rumors have begun to fill the gap. The board discussed efforts necessary to obtain prompt reports, to inform the public, and to explain the protocols used in the study so it could be re-

viewed by independent scientists and the results applied to other proposed sites.

It has become clear that hundreds of bats have been killed at that facility. No one knows what to make of this, but Helen McGinnis pointed out that bats reproduce slowly, no more than one pup per mother per year. Thus the impact on the few species involved could be great.

Rich Mt. (Guascor): The company continues to work on acquiring leases. George Beetham presented maps and a photograph that show the potential visual impact, and we discussed the committee's efforts in opposition to this project.

Highways

Corridor H, another old strip job, continues to extend eastward in Hardy County. In Tucker County, WV DOT has apparently decided to revert to its original alignment across Blackwater Canyon south of Thomas. In our settlement agreement three years ago, we retained the right to sue if necessary to protect the canyon and the Blackwater Industrial Complex, a national historic site. That seems to be the way this issue is headed.

Money Matters

Bob Marshall reported, "We are on firm ground but not in Fat City." The audit required by the Secretary of State upon our reaching a hundred thousand dollar budget has delayed some fundraising efforts this year. For next year, we hope the new Community Shares program will be in operation. Frank Young is an incorporator. Environmental and social justice organizations would benefit. Also proposed for next year's budget: attack beetles! Don Gasper described a high school science project that would raise 10,000 beetles per class. The beetles attack only the wooly adelgid that is killing our hemlock trees.

Outings

Seventeen of us celebrated a year of outings by hiking to spectacular overlooks on the Roaring Plains. Jonathan made a pitch for wilderness protection there. Meanwhile, other groups hiked, paddled, and rail-roaded into the fascinating upper Shavers Fork country.

Fun and Productive at the Fall Review

WILDERNESS CAMPAIGN UPDATE

By Matt Keller

Two days of the recent West Virginia Highlands Conservancy Fall Review focused on our current wilderness campaign. A combination of meetings, outings and speakers brought wilderness advocates together to further plan our efforts to protect more wilderness areas on the Mon, get out and see some of these areas and learn more about wilderness in general.

The Wilderness Coalition met for its approximately bimonthly planning meeting Friday (10-24) afternoon and Saturday (10-25) morning. There was much to discuss as we plotted out our course that will lead us to legislation for more wilderness. With inventories of potential areas more or less finished, we shifted focus to compiling the information for each into a cohesive document that will describe its important features as well as display a map and photo. This will help us communicate to others what these areas are all about. Continuing to develop our grassroots support was another important topic. While many individuals have written personal letters to the congressional delegation in support of wilderness, we will be redoubling our efforts to communicate with members of the three wilderness

coalition groups to urge them to do the same. Likewise, we will be working hard to add more businesses and organizations to the growing list of endorsers. Check out who has already supported our work at <http://www.wvwild.org/supporters>.

A few different outings to potential wilderness areas also took place. On Thursday, a group of folks rode the Cheat Mountain Salamander downstream to the High Falls of the Shavers Fork. We had an opportunity to see a big portion of the Cheat Mountain semi-primitive/non-motorized area that has high wilderness potential.

On Saturday, Jonathan Jessup lead a good sized group of hikers on an all day trek into Roaring Plains, another area with high wilderness potential. A few other trips took place in which people were able to at least take a look at, if not be in, places that qualify for wilderness designation. We were fortunate to have great weather for all of these outing and all reports are that people had a great time!

We had two presentations that were very informative and entertaining. Friday evening, Jerry Greenberg, vice-president of

The Wilderness Society, gave a talk on happenings in Washington DC regarding wilderness and other environmental issues. He painted a rather grim picture of the Bush administration's assault on the environment and the new lows they have reached in undermining the will of the American people. He also expressed that the work we do as a statewide group is of the highest importance and keeps up forward momentum for protecting wild places as well as clean air and water. On Saturday, Brian O'Donnell and Melyssa Watson from the Wilderness Society discussed the history of wilderness and the 1964 Wilderness Act. They also discussed how other wilderness campaigns throughout the country are going.

Overall, the group of wilderness advocates assembled at the Cheat Mountain Club for this year's Fall Review made great progress in our effort to pass a wilderness bill, learned a lot and had fun. For more information on our wilderness campaign, check out the West Virginia Wilderness Coalition's web site, <http://www.wvwild.org>, or contact me by phone at (304)864-5530 or by email at mattk@tw.s.org.

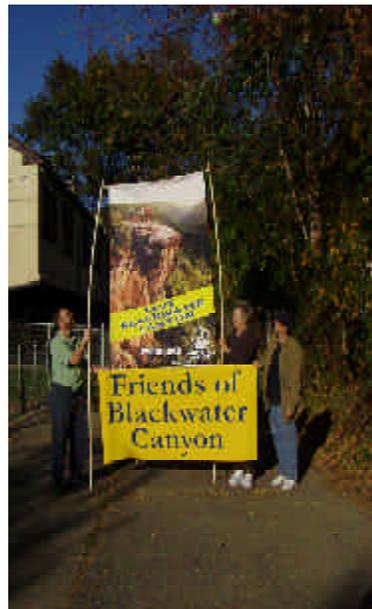
FRIENDS OF BLACKWATER LOVE A PARADE

Friends of Blackwater, a not-for-profit organization working for 100-percent public ownership of Blackwater Canyon in Tucker County, spent Halloween evening marching alongside Mother Earth in West Virginia University's Homecoming Parade.

Representing Friends of Blackwater was the Blackwater Band and Eco Chorus, Ginnie the West Virginia flying squirrel and students from the WVU Service Fraternity who operated the Mother Earth Float. Morgantown green businesses Pathfinder of West Virginia and Whitetail Cycle and Fitness sponsored the banners for the parade. In addition to its corporate support, Friends of Blackwater has 500 members in the greater Morgantown area.

Since its formation in 1997, the Blackwater Canyon campaign has collected the names of 35,000 people petitioning for public ownership of the Blackwater Canyon. Last year, when the scenic Blackwater Canyon hiking and biking trail was threatened with becoming a logging road, Friends of Blackwater mobilized citizens across the state and nation and 10,000 people sent protests to the U. S. Forest Service. These comments resulted in the Forest Service's decision to do a full Environmental Impact Statement (EIS) study which must take into consideration the recreational, economic and ecological effects of granting the logging road right-of-way.

Friends of Blackwater has 8,400 supporters nationwide. With offices in Thomas and Charleston, the organization employs five people. For information about additional campaigns to educate the public on the uniqueness and natural wonders of West Virginia's Blackwater Canyon, and to advocate its protection and public ownership, call 1-877-WVA-LAND or log onto www.saveblackwater.org.



West Virginia Mountain Odyssey



Outings, Education and Beyond

January 17, 2004 Dolly Sods Snowshoe Given up hiking for the winter? Snow is no reason to put those hiking poles away. Get those winter boots and parkas out and see Dolly Sods from another perspective. This will be an 8 mile ramble on Cabin Mountain with warm-up hot chocolate afterwards at the Whitegrass X-Country ski center. If no snow is available, we will hike in Dolly Sods. Snowshoe rentals are available at Whitegrass at reasonable rates. Contact Susan Bly 304-876-5177 (day) or 304-258-3319 (7:00 pm - 9:00 pm) sbly@shepherd.edu for further details.

February 14, 2004 Canaan Mountain Snowshoe Love the great outdoors and want to spend some quality time in it? Then join other like minded individuals as we snowshoe across the top of Canaan Mountain and fall in love with snow all over again. Warm-up hot chocolate afterwards at the Blackwater Falls Lodge. If no snow is available, we will hike on Canaan Mountain. Snowshoe rentals are available at Whitegrass X-Country ski center at reasonable rates. Contact Susan Bly 304-876-5177 (day) or 304-258-3319 (7:00 pm - 9:00 pm) sbly@shepherd.edu for further details.

Almost Anytime. Visit Kayford Mountain south of Charleston to see mountain top removal (MTR) up close and hear Larry Gibson's story about how he saved his mountain, now almost totally surrounded by MTR. Bring a lunch— there is a picnic area on Larry's mountain. Just call Larry or Julian Martin. Leaders: Julian Martin, (304)342-8989, imaginemew@aol.com and Larry Gibson, (304) 586-3287 or (304) 549-3287 cellular

HOLD ONTO YOUR HATS ON ROARING PLAINS

By Jonathan Jessup

Saturday's hike was incredible. That is, incredibly wet and windy! On the one Long Run Canyon overlook the winds were so hard we had to crouch down low in order to stay standing. I was blown over by a ~70mph gust! The clouds were beginning to clear and the gust blew the cloud away and all of a sudden the view opened up and it was a eureka moment of awe! The view blowing clouds through the spruce on the nearby slope was an incredible sight! There was no way I could have taken a photo in that wind. Only a camcorder or the like would have been able to capture the furious movement of the cloud through the spruce.

Two years of growth have started to close in the teepee trail in spots. Parts of the trail are very wet.

FS70 is drivable with decent clearance. It's best to not drive it in a car but someone did do it.



Photo © Jonathan Jessup

CAR CAMPING AT SENECA SHADOWS

By Mike Juskelis

Mark Muse, John Casto, Don Holland, Jonathan Jessup (co-leader) and Mike Juskelis (co-leader) were on the trip.

Friday was a typical cool, crisp sunny October day in the West Virginia Highlands. We trickled into camp at our leisure. Jonathan was the last to arrive and pitched his tent in the dark as the rest of us supped on home made beef stew, dinner rolls and that fine Cabernet that Don always seems to bring with him. We huddled around the campfire as the temperature dropped even more. After we exhausted the usual topics of conversation we retired to our respective tents. Then it started ... splat ... splat, splat ... the sound of rain hitting the fly of my tent. And so it went, rain throughout the night.

The next morning we arose to thick cloudy skies and the threat of more rain. We met with Jonathan and he decided to push on with his hike along the Roaring Plains Canyon. I'll let him tell that story and I'll jump forward to the next day.

Sunday morning we awoke to a totally different West Virginia. As the sun rose over Seneca Rocks, all that marred the sky was the orange contrails of high-flying jet liners. It was going to be a great day for a hike in the Seneca Creek Back Country. John decided to leave early. Jonathan had to do a photo shoot for the cover of the new edition of The MNF Trail Guide and Mark wanted to do his own shoot at a beaver bog not far from Seneca Creek. That left Don and myself to enjoy this wonderful day hiking in the watershed. We grabbed our gear, had a quick breakfast at the ever-trusty 4-U restaurant and headed south on U.S. 33 through the town of Riverton. The sign at the bank said it was 35 degrees but it seemed warmer. It must have been the several layers of clothing we were wearing.

After the long ascent up Spruce Mountain, we parked Don's car at the Seneca Creek Trail head and proceeded up the Forest road to the Lumber Jack Trail. We quickly plunged into the woods and began our



trek toward the Huckleberry trail. In previous years I've always used the Tom's Lick Trail and Allegheny trail to gain access to Seneca Creek. Today was to be a welcome change of pace. In a matter of minutes we both stopped to strip away several of the afore-mentioned layers. That 35 degrees was quickly increasing. By mid-day we would have temperatures in the 60s. The Lumber Jack Trail is an OK trail, nothing really to write home about. Except for a pair of RR bridge abutments to remind us of the region's history, it is just another "walk in the woods" kind of trail. It is, however, a necessary portal to other beautiful areas. The Huckleberry Trail is another story all together. It descends quickly to the valley floor. It passes several highland meadows with the surrounding mountains as their backdrops and then follows a small tributary to its intersection with the Seneca Creek Trail. We stopped long enough at each meadow to take some snap shoots with my digital camera but continued on until we reached our lunch spot, Seneca Falls.

After a refreshing lunch break spent staring at the sunbeams filtering through the mist created by the falls we proceeded along the last leg of our journey, making sure to visit each little rapid and waterfall along our route. There were some that are not easily accessible from the trail but I've never taken the time to visit them. We were making great time so on several occasions we dropped our packs and worked our way down the steep banks to finally steal a glimpse of what had previously gone unexplored.

We started this 10.5 mile hike at 9:15 and reached Don's car at about 3:30. I had originally considered including the High Meadows Trail as part of the circuit but that would have made the outing a 13 mile trip. I was unsure of the degree of difficulty and didn't realize how much daylight we had to work with. Believe me, if the High Meadows Trail is more of what we saw on the Huckleberry Trail, we'll be doing it next year!

Roaring Plains Hike, West Virginia Highlands Conservancy Fall Review, October 25, 2003

By Marilyn Shoenfeld

Breathtaking views, miles of boulders, lots of mud and a lost dog—just an ordinary day hike on Roaring Plains with Jonathan Jessup. One clear Saturday in late October a group of 14 friends of the WVHC (and others) arrived at the Pipeline Swath bybear Forest Road 70, having squished many bodies into few vehicles for the last three rough miles of road. Our goal was to do a five+ plus mile loop hike through Roaring Plains. As we started up the Pipeline, a pitiful looking bear-hunting dog, complete with collar and antenna, attached himself to our group. We all went off the road for the first view of the striking valleys below and ridges in the distance. A smaller group split off to start the Rim Trail immediately (the dog followed the smaller group); we went further on the Pipeline for another over-view; you could actually see a sliver of Seneca Rocks in the distance. This was a taste of what was to come. Jonathan described our route and pointed to a place far in the distance as our goal. Groans were heard from group members.

We started on the Canyon Rim Trail and walked through forests and streams. We

couldn't see much, but were told to keep the red blazes on our right because that marked the edge of the Canyon. The trail became rockier and thinner; the rocks became icy and rhodie thickets were attacking us from all sides. As the going got rougher, Jonathan kept our spirits up by telling us we were almost "there". Finally we came to the "ROCK"—an outcropping that allowed a phenomenal view in three directions. We were on top of the world, looking down into Roaring Creek and Long Run canyons and seeing mountains from North Fork and Smith Mountain around to Mt. Port Crayone—all beautiful and unspoiled. Jonathan discussed the proposed Wilderness Area plan that would encompass much of what we were viewing.

The way back was rough—lots of snow, icy rocks, black slimy mud, etc. All of the ingredients that make the end of a hike so much fun! We reached the Pipeline Road several hours later and there, waiting for us, was the Lost Dog. He had hiked with the other group, but they had left. The poor dog was skinny and shaking, although he had eaten three granola bars and two sandwiches.

Everyone was heading back to their vehicles when I asked—what about the dog? Can't leave him here. Blank stares greeted my comment. I said this dog has a collar tag and lives in Seneca Rocks; someone can drop him off. More blank stares and muttered comments about "suckers for animals", "city folks are soft touches" were heard.

More people started for their cars; Julie and I announced that we were not going anywhere without the dog and that we would take him back to Seneca Rocks. Since Julie was driving the truck, that silenced most comments. Jonathan said that we should take him to the store in Seneca Rocks and call the owner whose name was on the tag. The poor dog was too weak to get on the truck; so we lifted him up. He stayed in Julie's truck and Jonathan went into the store in to talk to the owners. We brought in the dog. One of the boys working there recognized him and said that he had been lost for a week and that his owner would be very happy to get him back. So we left him there and drove back to the CMC, feeling good about the hike and about returning a lost dog to its home.

WILDERNESS FOR WILDERNESS SAKE

By Don Gasper

Many have a great interest today in West Virginia's Monongahela National Forest. It is large, almost one million acres - one tenth of the state. It is within a day's drive of one half of the U.S. population and visited by three million citizens each year. It is a great good fortune that we have such a wonderfully unique place so near to so many. With elevations more than 4,000 feet, it is the headwaters of all of West Virginia's mighty rivers. It contains 80% of West Virginia's trout streams.

Those of us who have inherited this rich legacy from far-sighted conservationists 100 years ago, find ourselves at another crossroads, another watershed moment, in the natural history of this great forest. We know how quickly change can come upon us today, and how much of the Monongahela's emerging value as a big forest can be lost by its continued fragmentation. Today we can drastically change the destructive direction of the last 50 years of forest management. Today we have an opportunity, our last, for the nurturing of a really Great Forest standing large, unique, in an otherwise cut-over settled East.



National Forest Wilderness

Areas are taproots into the landscape of our beginnings - The Original Forest. Uniquely and collectively, the land-types of the mid-Atlantic Highlands still resonate a wildness of old. The U.S. Forest Service itself calls them "ecological anchors in a fragile landscape." Today we see Wilderness Areas, set aside 20 years ago, that are virtually all that remain of this wild forest - that are away from the evidence of man, and natural appearing and are so valued today. Wild areas are rarer and smaller today - and becoming more so.

We do not have a full understanding of the consequences of exploitation, water quality loss, soil erosion, unstable flows and fragmentation of wild-forest habitat. This Forest needs more time, and the freedom to be all it can be. The ancient recovering ecosystem structures and processes of forest life that are seamlessly woven together in an unknowable robustness that can be called "forest health" - must be given more time to develop. We need more time to study and understand this damaged forest more. The U.S.F.S. itself calls wilderness "research areas," and "aquatic strongholds for trout." It does not need aggressive management - the imagined blundering control of human domination - rather it needs custodial shepherding until more is known. This is a great ecological advantage of Wilderness status.

Societal values have changed; a unique, wild, big forest is today greatly valued. Many want to move through a wild, natural appearing forest that is perceived to get wilder the further into it they go. This can become a very intense experience, and great distances are rare. There are many personal values associated with the Wilderness experience: confidence, health, solitude, etc. The personal list is long: adventure, a sense of the unknown, a sense of deep wildness. Wild places and wild things, the undiscovered and unexplored, have captured mankind's hearts and minds throughout time - and though vanishing, still does.

Ecologically Wilderness produces most intensively the "free

services" of clean air, water, soil conservation, flood control, etc. Finally, as best we know, it is generally most conducive to "recovery." Outdoor recreation is very important to the great numbers of ordinary citizens today, and naturalness and Wilderness Status is an attractive and rare part of it - and the only way to assure its preservation.

Preserving wild-forest character, ecological integrity and future opportunities for this type of outdoor recreation, and for the economies of the entire crest of the mid-Atlantic highlands could be the result of the Monongahela Wilderness Initiative. It would

link to the adjoining Jefferson and George Washington National Forests and south to the Smokies and north through state lands to the Adirondacks and beyond. It would become a landscape of assured maturing forest on public land in large enough connected undisturbed "islands," unique within a sea of other substrates elsewhere - that could be provided nowhere else - - and at no future time.

We can create this Great Forest. This ecoregion is at a crossroads. Logging increases are inappropriate today. Eliminate what roads

we can and reduce their impact and their maintenance cost. Protect our streams, not only with adequate stream-side trees but with conservative watershed management. Use the sensitive Native Brook Trout as an indicator species. Protect roadless areas and "old-growth." Reduce flooding in these hydrologically damaged watersheds. (Flood reduction is a charter reason for the establishment of the Monongahela.) Change the direction of the last sixty years of forest management that is today so obviously destructive and disapproved of - nothing less is required. Work today to create as many wilderness areas as possible for tomorrow.

Much of what the Monongahela will become depends as much upon our vision of ourselves as stewards of this legacy - as it does upon the resource itself. It is our watershed moment - as Robert Stough has written in *The Highlands Voice* -- "It seems likely... what is left of the wild mountains will either stand or fall, becoming slowly and steadily wilder as the forest preserves grow and mature, or succumbing to fragmentation and development from every niche from ridge-crest to canyon depth...."

There is just one hope of repulsing the tyrannical ambition of civilization to conquer every niche on the whole earth. That hope is the organization of spirited people who will fight for the freedom of the wilderness.

Bob Marshall: The Scientific Monthly 1930

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THE FALL REVIEW IN PICTURES



Upper Shavers Fork Brainstorming Workday Tuesday Oct 28.

The group boarded the Cheat Mountain Salamander at the Cheat Mountain Club, traveled to the Big Cut 16 miles upstream, and had lunch at the old townsite of Spruce. On the return trip, the group inspected several pre-selected sites to assess issues of blocked cold-water inputs, impeded trout movement into tributaries, lack of shade, and other problems associated with close proximity to the railroad grade. Discussion and brainstorming brought forth ideas from a wide range of experts: hydrologists, soil scientists, aquatic scientists, fishermen, engineers, and botanists. After returning to the lodge, WVU grad student David Thorne gave an overview of his brook trout research. A delicious trout dinner closed out the day.

Participants -

kneeling: Helen McGinnis of WV Highlands Conservancy (WVHC); Matt Keller of WV Wilderness Coalition; Elizabeth Byers of The Mountain Institute; Ruth Blackwell Rogers of Shavers Fork Coalition (SFC).

standing: Dan Wallace of Wallace and Pancher; Ed Watson of Canaan Valley Institute (CVI); Ryan Gaujot of CVI; Fred Way, Greenbrier District Ranger, US Forest Service (USFS); Joel Harrison of WV Division of Natural Resources (DNR); Mike Owen of the USFS; Laura Hise of the USFS; Dave Saville of the WVHC; David Thorne of West Virginia University (WVU); Steve Brown of DNR; Casey_____ of the cavers association; Brian McDonald of DNR; Barry Edgerton of USFS; Joe Williams, of the Environmental Protection Agency; John Tichnor of WVHC; Mark Tracy of SFC; Jim Rawson of CVI; Don Gasper of Trout Unlimited; Zach Liller of WVU; Mike Shingleton of DNR.

Jim Truman entertains us.



Finance Committee (Bob Marshall, Jackie Hallinan, and Frank Young) meets.

Mary Wimmer was all smiles following our Wilderness meetings.



Bill McNeel and Anna Sale talk Pocahontas County politics as they are being watched.



Ruth Blackwell Rogers says it like it is.



Monongahela National Forest Supervisor, Clyde Thompson, addresses the group following dinner on Saturday.



Mollie Moorehead and Bob Gates enjoy the good life on the shores of the Shavers Fork.

Our friends Joan, Keith, Alice and Mike, Wolf Creek Session, entertain us on Saturday evening.



They Have Seen the Draft and They Don't Like It

U.S. FISH AND WILDLIFE SERVICE WEIGHS IN ON MOUNTAINTOP REMOVAL EIS

The federal Fish and Wildlife Service has thrown its hands up in frustration at the Draft Environmental Impact Statement on mountaintop removal prepared by the federal Office of Surface Mining, the United States Environmental Protection Agency, the Army Corps of Engineers, the United States Fish and Wildlife Service and the West Virginia Department of Environmental Protection.

That agency had originally proposed four alternatives that would have at least considered restricting or otherwise constraining most valley fills to ephemeral stream stretches. Instead, the other agencies involved rejected this approach and proposed alternatives which the Fish and Wildlife Service says are indistinguishable:

"Each of the three action alternatives offers only meager environmental benefits (thus a two-star rating" as with a budget hotel or B movie), and there is no difference between them—even in their degree of meagerness."

The Service went on to say that, "it is the Service's position that the three "action" alternatives, as currently written, cannot be interpreted as ensuring any improved environmental protection as stipulated in the settlement agreement, let alone protection that can be quantified or even estimated in advance for purposes of a NEPA analysis."

The Service went on to say, "The EIS technical studies carried out by the agencies—at considerable taxpayer expense—have documented adverse impacts to aquatic and terrestrial ecosystems,

yet the proposed alternatives presented offer no substantive means of addressing these impacts. The alternatives and actions, as currently written, belie four years of work and the accumulated evidence of environmental harm, and would substitute permit process tinkering for meaningful and measurable change."

The Draft Environmental Impact Statement on Mountaintop Removal was released in May 2003. Its purpose was to "consider developing agency policies, guidance, and coordinated agency decision-making processes to minimize, to the maximum extent practicable, the adverse environmental effects to waters of the United States and to fish and wildlife resources affected by mountaintop mining operations, and to environmental resources that could be affected by the size and location of excess spoil disposal sites in valley fills."

The study is the result of litigation previously filed by the West Virginia Highlands Conservancy and several citizens of southern West Virginia. In late 1998 the plaintiffs in that case agreed not to pursue some of their allegations. In exchange, the various agencies agreed to conduct a comprehensive study of the environmental effects of mountaintop removal strip mining and valley fills.

In mountaintop removal strip mining, the tops of mountains are blasted away to expose the coal seams beneath them. The resulting rock and dirt is then disposed of in adjacent valleys. Since the adjacent valleys almost always contain streams, the result is that streams are filled with rock and dirt.

"The alternatives and actions, as currently written, belie four years of work and the accumulated evidence of environmental harm, and would substitute permit process tinkering for meaningful and measurable change."

STILL TIME TO COMMENT ON DRAFT EIS FOR MOUNTAINTOP REMOVAL STRIP MINING

The comment period on the draft Environmental Impact Statement on mountaintop removal/ valley fill coal mining has been extended 130 days, from August 29 to **January 6, 2004**. You are free to comment that you like or don't like the alternatives presented, talk about the draft Statement, tell your own experiences with mountaintop removal, or anything else.

The Draft is 5,000 pages long although you can get a general idea of what is in it from the Executive Summary which is less than twenty pages. You can find the Draft and the Executive Summary at www.epa.gov/region3/mnttop/eis.htm.

The EPA will also accept comments via e-mail at mountaintop.r3@epa.gov.

You can also send written comments to:

Mr. John Forren, US EPA (3ES30)
1650 Arch Street
Philadelphia, PA 19103

BROCHURES

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, WVHC, Box 306, Charleston, WV 25321-0306

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