



# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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## COURT OF APPEALS MAKES APPROVAL OF MOUNTAINTOP STRIP MINING EASIER

The United States Court of Appeals for the Fourth Circuit has overturned a lower court decision that would have required closer, individual scrutiny of valley fills associated with mountaintop removal strip mining. In doing so, it allowed valley fills to be approved under a nationwide general permit issued for coal mining. This nationwide general permit is

The United States Court of Appeals for the Fourth Circuit has overturned a decision by a District Court in West Virginia that would have prohibited the use of a general permit to authorize valley fills associated with mountaintop removal strip mines.

Under the federal Clean Water Act, the United States Corps of Engineers may authorize the dredged or fill material into the waters of the United States by one of two methods. They may authorize a specific activity at a specified disposal site. This requires a case-by-case analysis of the discharge and the site, including notice and an opportunity for public hearing.

The second way to authorize a category of similar activities under a single general permit. The activities covered by this general permit could only be those which "will cause only minimal adverse environmental effects." Authorization of an activity (a valley fill) under this general permit would not require public notice or

opportunity for comment.

The plaintiffs in the case, led by the Ohio Valley Environmental Coalition, contended that fills associated with mountaintop removal strip mining could not be approved under a general permit but must be consid-



*Valley fill near Lyburne, West Virginia. It is for illustration only; it is not part of the mine that was at the center of the controversy described in the accompanying story. Photo by Bob Gates.*

ered on a site specific basis. The United States District Court for the Southern District of West Virginia had agreed.

In its November 23, 2005, ruling, the Court of Appeals disagreed. It reversed the District Court and held that valley fills could be authorized by the general permit.

In making this ruling, the Court determined that it was not necessary that all the activities covered by a general permit "cause only minimal adverse environmental effects." It was only necessary that the Corps of Engineers study the issue and believe that there would be minimal adverse environmental impacts.

If the Corps determined that activities authorized by a general permit were having adverse environmental effects, it could revoke the general permit or fix those problems on a site specific basis. It did not trouble the Court that there would be no public participation in the Corps determination of whether or not a valley fill would have an environmental effect. In the Court's view, the agency which determined in the first place that valley fills in general have a minimal environmental impact could be relied upon to determine that a specific one was having more than a minimal environmental impact.

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# From the Heart of the Highlands

by Hugh Rogers

## Alone On Top

In the preface to their charming and informative book, *Above the Smoke: A Family Album of Pocahontas County Fire Towers*, LeAnna Alderman and Eleanor Mahoney write that mountaintop fire towers, like manned lighthouses, have become “romantic images” in the age of aerial patrols and GPS systems. But even in their heyday, from about 1915 to 1980, fire towers had a romantic aura.

Gary Snyder’s early collection, *Riprap and Cold Mountain Poems*, showed him lounging in the doorway of a glassy cabin perched on a bare rock peak. Tethered to its antenna was a Japanese fish kite. Snyder was known as one of the Beats, but his true, solitary, stripped-down home seemed far from their hangouts in San Francisco. Years later, in the notes to his poem, *Mountains and Rivers without End*, he reflected on that time in the high country:

Two seasons on lookouts (Crater Mountain in 1952, Sourdough Mountain in 1953) in what was then the Mount Baker National Forest, not far south of the Canadian border, gave me full opportunity to watch the change of mood over vast landscapes, light moving with the day—the countless clouds, the towering cumulus, black thunderstorms rolling in with jagged lightning strikes. The prolonged stay in mountain huts also gave me my first opportunity to seriously sit cross-legged, in the practical and traditional posture of Buddhist meditation.

The fire observers interviewed in *Above the Smoke* do not identify themselves as either Buddhists or romantics (with perhaps a single exception), but their experience was often meditative. They were not city folk looking for solitude, but local folks who wanted a job, and most of them already knew the terrain they found themselves looking down at. As Bill McCloud said, “I had always liked the outdoors and all it contains.”

Jim White recalled, “If you’ve never been in the woods in the evening, up away from all the noises, you just can’t imagine it. We’d come out of the tower just before dark, just at twilight, . . . and it was so quiet it scared you. It seemed like all the birds went to nest, all the little squirrels quit hollering, no animals was moving, you couldn’t hear a thing. There’s something very special about that, when you get that quiet. It’s something that people never seem to get enough of these days. Those peaceful moments all alone are the outstanding thing I remember about the tower.”

Lillian Morris, one of the few women who worked the Pocahontas fire towers, said, “It may sound boring, but it wasn’t. In fact, it was really interesting. Like sometimes, I’d get up on that high catwalk when the fire danger wasn’t too high, and I’d just lie down and look up at the clouds. They were so close it was just like you could reach up and touch them, really beautiful.”

Corenia Jordan’s experience was special: “Before we had the children, I went up to the towers all the time. Harry and I were married in 1955, and those first four years were a real long honeymoon for us. Since I didn’t work, I was with him every day. It was very romantic . . .”

Lest we lose perspective, Bill McCloud reminds us, “Being up in the air like that, it was just like being in a deep freeze, sort of like how the bridges always freeze up first, before the ground does. So it wasn’t all glory by any means, and the other towermen who’ve spent time up

*Continued on p. 5)*

## The Highlands Voice December 2005 p.2 Roster of Officers, Board Members and Committee Chairs

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# PUBLIC SERVICE COMMISSION CONSIDERING GREEN-BRIER COUNTY WIND FARM

By Frank Young

The West Virginia Public Service Commission (PSC) is receiving comments about a 130 turbine wind farm proposed for location in northern Greenbrier County.

Beech Ridge Energy LLC has applied for a siting certificate to authorize the construction and operation of a wholesale electric generating facility and related transmission line of less than 200 kV, in Greenbrier County and Nicholas County, West Virginia.

The applicant proposes to construct an approximately 186 Megawatt wind turbine electric generating facility and certain ancillary facilities on a tract of land owned by Westvaco Corporation, located approximately nine miles northeast of the Town of Rupert in Greenbrier County, and to construct a transmission support line and associated interconnection facilities in Greenbrier and Nicholas Counties to interconnect the facility with Allegheny Power's Grassy Falls Substation located near the town of Nettie, in Nicholas County.

Beech Ridge Energy LLC is owned by Invenergy Wind LLC. Beech Ridge Wind estimates that construction of the facility will cost approximately \$300 million dollars.

The facility would be located on a dozen or so "spur" ridges off what is generally known as Beech Ridge, at the headwaters of picturesque Williamsburg Valley, near the town of Trout in Greenbrier County.

Local opposition to the project is running very strong, with hundreds of individual and form letters of opposition being filed at the state PSC, the site permitting agency. The local opposition seems to revolve primarily about perceived effects of the proposed wind farm facility on tourism and property values- and with ecological, esthetic and a plethora of other issues listed as concerns. After the project was formally announced in late summer, a local organization called Mountain Communities for Responsible Energy, headquartered at Williamsburg, WV was formed to oppose the

project.

At its October meeting, the WV Highlands Conservancy Board of Directors voted to intervene on the project application- limiting the Conservancy's participation to areas involving the protection of bats and birds and their habitats.

Beech Ridge Wind LLC is indicating some willingness to accept PSC siting certificate language that would include provisions requiring that the applicant work with bat and/or bird conservation organizations to develop operating protocols designed to lessen the deleterious effects on, for example, bats- as has been documented to occur at the Mountaineer Wind Energy facility on Backbone Mountain in Tucker County. While bird mortality at Backbone Mountain has been considerably less than many predicted, bat mortality has been surveyed and calculated to be in the thousands each summer.

At Backbone Mountain, the Bat Wind Energy Cooperative, a wind industry and bat conservation study association, has developed a working understanding of certain kinds of conditions (primarily weather related) during which more bats are believed to be killed than during some other conditions. Based on those and future anticipated studies, the WV Highlands Conservancy and wind farm operators are looking at developing firm operating protocols for limiting some turbine operations under conditions most conducive to bat mortality at wind farms.

There are identified avian issues at the Beech Ridge location in Greenbrier County, as well. Brooks Bird Club members and other interested birders have concerns in the region regarding raptor migration, forest songbird populations, and effects upon Loggerhead Shrike.

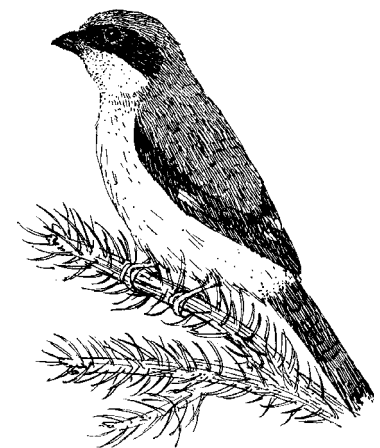
The area immediately south of the proposed wind farm ridges is notable for sightings of Loggerhead Shrike, a bird of "significant population decline," and, like the Golden-winged Warbler, listed as a "Species of Conservation Concern."

This unusual "songbird" has many behaviors similar to birds of prey, and is renowned for its habit of impaling its prey (insects and smaller songbirds) on thorns of shrubs. Among listings for the bird on the archives of the Audubon-sponsored West Virginia Bird Listserv are sightings in the Williamsburg, WV area for 2002, 2003, and 2004. The West Virginia Breeding Bird Atlas (published 1994) notes only 8 confirmed breeding locations in West Virginia, and one is shown quite near the Beech Ridge area.

Public comments about the Beech Ridge wind farm application may be submitted to:

Executive Secretary- WV Public Service Commission  
201 Brooks Street  
P.O. Box 812,  
Charleston WV 25323

Refer to PSC Case number 05-1590-E-CN Beech Ridge Energy LLC



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The West Virginia Highlands Conservancy is a non-profit corporation which has been recognized as a tax exempt organization by the Internal Revenue Service. Its bylaws describe its purpose:

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

## LOGGERHEAD SHRIKE (*Lanius ludovicianus*), and a CALL FOR LONG TERM STUDIES

By Cindy Ellis

As the environmental community tries to deal with the issue of large-scale wind turbine projects, concerns continue to surface about the impact of those structures on birds. Such concerns have arisen in regard to a recent proposal to construct wind turbines in Greenbrier County. Concerns exist for nearby forest songbirds, both in breeding and migration activities. These species have been documented in annual Breeding Bird Surveys, conducted under the auspices of the United States Geological Survey.

Concerns exist for birds of prey that traditionally use the air currents of the valleys and ridges for their migrations. Those flights have been documented since the 1950's in counts conducted at an observation tower and published on the watch site's website [www.hangingrocktower.org](http://www.hangingrocktower.org). And concerns exist for another bird found in Greenbrier County—the Loggerhead Shrike, also known as “French Mockingbird” and “Butcher Bird.”

“French Mockingbird” sounds graceful and appealing and the Loggerhead Shrike is a beautiful and exquisitely unique bird. Slightly smaller than a Robin, this gray, black, and white bird superficially resembles a Mockingbird. The head, however, seems large for the body, and includes a black mask and black, hooked bill. There are large white wing and tail patches. Its flight is usually low, direct, and the wing beats are rapid. Males are slightly larger than females, and juveniles have plumage that is more barred brownish-gray.

However, the “Butcher Bird” has been described as a songbird that thinks it's a hawk. That black hooked bill sets this bird apart. Unlike any other small perching bird, it uses that falcon-like appendage to capture and dispatch prey, even those larger than itself. The large bill has a sharp tip and is also equipped with a pair of toothed edges to increase its predatory efficiency. The shrike uses a shrub or tree as a hunting platform; its eyesight is unexcelled. With a swoop, it strikes with a fatal blow, or captures prey and uses the beak to sever the victim's spinal chord. But, Loggerheads have small feet, and have had to devise a method for completing the kill, in the absence of talons. They impale their prey on a thorn or other sharp object and then are free to employ that specialized bill to rip and tear. So the impaling stick serves as a “fork” for making a meal right away, or as a “larder” for another day. Not all cached items are consumed, but males make much use of them in breeding season, as they provide food for the mate on the nest.

Shrikes eat mainly insects. Grasshoppers and locusts are favorite prey. In the winter, shrikes switch to a diet of small birds and mammals, and have been known to tackle other birds as large as Mourning Dove and Yellow-shafted Flicker. One bird stuck a frog on a cattail! Poisonous toads and butterflies are strung up and left for approximately three days, so that their toxins lessen.

Historically, Loggerhead Shrikes are thought to have thrived before European colonization, when grazing buffalo and occasional fires left the open areas that they favor. The early settlers helped the birds too, as small farms with hedgerows are the habitat they prefer. John James Audubon said, “[the shrike]...is of some use to the planter, as it destroys the field-mice in great numbers, as well as many of the larger kinds of grubs and insects, upon which it pounces in the manner of a Hawk.”

However, in the 1960's through the present, shrike numbers have been declining. Some factors involved in the decline are thought to be changing land use patterns and pesticides, but the causes for the downward trend are still unclear. West Virginia's “Partners in Flight,” a consortium of groups dedicated to the conservation of wild birds and their habitats, lists the bird as a “Species of Special Concern.” The West

Virginia Breeding Bird Atlas (Buckelew & Hall, 1994), lists only 9 locations of confirmed breeding in our state. Two were noted in Greenbrier County; one is near the proposed turbine area. The Audubon Society-sponsored West Virginia Bird Listserv, a computer service for bird sightings, notes observations of shrike in the Williamsburg, WV area (at the foot of the proposed mountain turbine sites) in each of the last 4 years.

Across North America, individuals and groups have recognized the special nature and low numbers of the birds and are channeling concerns for shrikes into action. In Canada, especially, groups as diverse as cattlemen's associations, timbering corporations, railroads, communities and provinces, and even a tourist area's “general store” have banded together to protect and re-establish shrike hedgerow habitat and to fund population restoration efforts. The primary component of such actions is the conducting of preliminary field surveys, prior to any change in known shrike areas.

Loggerhead Shrikes, for all their interesting character, are birds of small numbers, birds that live in hedgerows and fly low. How could wind turbines built high upon mountains to the northwest impact them? We don't know. We didn't know that migrating bats would collide with wind turbines. It seems, at the very least, prudent to call for the kinds of studies suggested by a resolution of the Hawk Migration Association of North America. In part, the resolution calls for “...rigorous peer-reviewed scientific evaluation of the risks to birds and bats and the requirement of multi-year avian risk studies...before the approval of siting of any proposed projects...”

Such surveys could help

1. the 97 species noted on the nearby annual Breeding Bird Survey/USGS route # 29
2. the 13 usual raptor (birds of prey) species noted from nearby Hanging Rock Migration Observatory in Monroe County and
3. the Loggerhead Shrike.



*The loggerhead shrike; photo by Matt Orsie*

**See related letter, p. 12.**

# Join Now !!!

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Introductory/ Other	\$15		
Regular	\$25	\$35	\$50
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Sustaining	\$100	\$150	\$200
Patron	\$250	\$250	\$500
Mountaineer	\$500	\$750	\$1,000

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

**MORE FROM PRESIDENT HUGH  
 (Continued from p. 2)**

there know for sure what I'm speaking of."

Fire season generally ran for three months at a time, in the spring and the fall—it wasn't a summer job. Early and late in those periods, a fire lookout could curl up in his clothes under ten army blankets and still not get warm. The little stoves always ran out of wood or gas. When you'd go outside, said Earl Wanless, "the icicles would come right off the side of your head." The towers swayed in the wind and attracted lightning. During a bad fire season, a lookout might be required to remain at his lonely post for thirty or more days at a stretch.

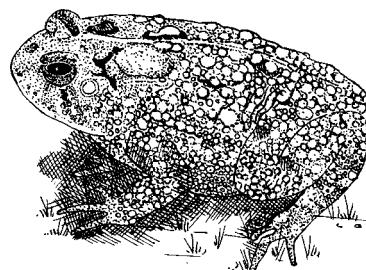
Oral history wants context, and it's generously supplied here. The first wave of clearcutting in the Alleghenies was followed by fires and floods. In 1908, more than 1,700,000 acres, roughly one-tenth of West Virginia's surface area, burned. Congress passed the Weeks Act in 1911. Many of us know that act as the beginning of the National Forests; less familiar is its provision of matching funds for cooperative fire control efforts. Before the Weeks Act, fire patrolmen walked the forests. One route in Pocahontas County was shared by three men, who traded their assigned sections a week at a time so they could sleep at home once in three weeks.

The first fire towers in Pocahontas County were constructed by the state in 1914 and 1915. By the mid-20's there were seven. 1930 was another bad fire year in the Alleghenies. That was one factor in the federal government's push to put towers on the Monongahela National Forest. The other was the Civilian Conservation Corps, the CCC, a New Deal program that combined employ-

ment with environmental protection. Pocahontas County had more CCC camps than any other West Virginia county, and by 1940, thanks to the "CCC Boys," it had five new towers. Unstable old towers were phased out or rebuilt. From the 30's to the late 70's, there were about a dozen towers in the county. All but two have been torn down. It's not surprising that the old towermen consider that a bad idea.

The authors include "biographies" of the towers, a comparative chart, a map, descriptions of equipment such as the alidade, or "fire finder," and many photographs. Along with notes on each of their dozen informants there are portraits of related figures. "Pop" Wriston, a West Virginia conservation pioneer, built the Bald Knob tower. The film he made in 1929 for the Game, Fish, and Forestry Commission, titled "The Careless Smoker," was the first movie many West Virginians ever saw.

Eleanor Mahoney and LeAnna Alderman were VISTA volunteers assigned to the Pocahontas Communications Cooperative. Their book may be ordered directly from the cooperative at Dunmore WV 24934 (\$12 plus \$2 for shipping and handling).



**HATS FOR SALE**

West Virginia Highlands Conservancy caps for sale. The cap is khaki and the pre-curved visor is forest green. The front of the cap has West Virginia Highlands Conservancy in gold above the I [Heart] Mountains. The heart is red; we and mountains are black. It is soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. \$10 by mail. Make check payable to West Virginia Highlands Conservancy and send to Julian Martin, WVHC, P.O. Box 306, Charleston, WV 25321-0306.

**T SHIRTS**

White, heavy cotton T-Shirts with the I [heart] Mountains slogan on the front. The lettering is blue and the heart is red. Sizes S, M, L, and XL. \$10 total by mail. Send sizes wanted and check made out to West Virginia Highlands Conservancy to Julian Martin, WVHC, Box 306, Charleston, WV 25321-0306

**LONG SLEEVE MODEL**

We now have I [heart] Mountains long sleeve shirts in sizes S, M, L, XL. The shirt is heavy cotton and white with blue lettering. The heart is red. \$15 total by mail. Send sizes wanted and check made out to West Virginia Highlands Conservancy to: Julian Martin, WVHC, Box 306, Charleston, WV 25321-0306

Antidegradation Comment Period Extended . . . Tell DEP to Keep Our Rivers and Streams Clean

# Degrading the Waters: We're Agin' It

By Donald Garvin, Jr., Legislative Coordinator, West Virginia Environmental Council

The West Virginia Department of Environmental Protection has extended the public comment period on streams to be protected under WV's Antidegradation Implementation Rule. The new deadline for filing comments is Dec. 31, 2005.

Remember "antideg"? I can hear your collective groan.

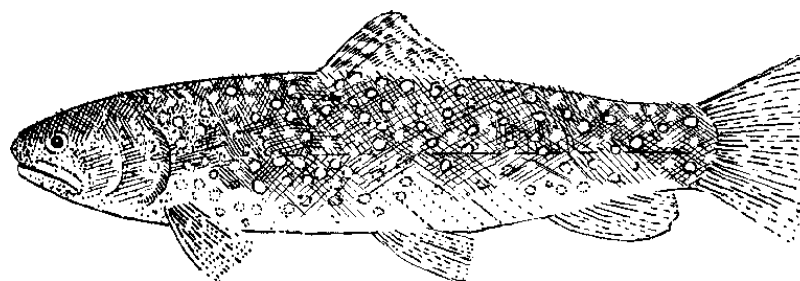
The concept of "antidegradation" is really quite simple. Under the federal Clean Water Act states are required to clean up their polluted rivers, lakes and streams, and to protect their clean waters from becoming dirty. Protecting rivers, lakes and streams from becoming more polluted is what "antideg" is all about.

West Virginia's Antidegradation Implementation Rule contains a list – the Tier 2.5 list – of the state's high quality streams that deserve special protection. However, in a last minute concession to the state's polluting industries, the Legislature made this a "presumptive" list, requiring DEP to hold public hearings on the list of streams and to come back once again to the Legislature for approval of the list.

Well, the WV Legislature passed the rule and approved the "presumptive list" of Tier 2.5 streams way back in 2001! Since that time,

the DEP has moved slower than a turtle at implementing the rule. In late September DEP announced that it was *finally* moving to the next phase of approving the list of high quality streams that qualify for Tier 2.5 protection under the rule.

In early 2002, the original list of 444 streams was put out for comments from land-



owners who opposed the listing of certain streams. DEP says they received more than 4,000 objections (we know these were primarily form letters provided to landowners by the Farm Bureau).

According to DEP 38 streams received no objections and automatically go to the final Tier 2.5 list. The agency also has removed 50 streams from the list "because the information used to list the streams was flawed," and is putting out the remaining list of 356 streams

for additional consideration and public comment.

So now is your chance to tell DEP to keep our streams clean. And it may be the only chance the public has to tell DEP that **ALL the streams on the original "presumptive" Tier 2.5 list should be kept on the list.**

This is YOUR chance to tell DEP how important clean water is – to you, your family, your kids, and to the future of all West Virginians. Water is one of our most precious resources, and it should be protected. Your comments – no matter how long or short – are essential to support DEP's original list.

The list of Tier 2.5 streams and maps showing their locations can be found online at [www.wvdep.org/antideg](http://www.wvdep.org/antideg) or hard copies can be obtained by calling (800) 654-5227.

Comments on the entire list, or on specific streams on the list, must be **made** by Dec 31. Send your comments to the West Virginia Department of Environmental Protection, Attn: Tier 2.5, 601 57th St. S.E., Charleston, WV 25304. Written comments may also be sent by E-mail to [antideg@wvdep.org](mailto:antideg@wvdep.org).

## A CHRISTMAS SUGGESTION

My wife, Mae Ellen Wilson, and I decided that we don't want any more stuff we don't need. We have complained about the obscene commercialization of Christmas but over and over again we have with some shame participated. This Christmas we have asked our children and stepchildren and grandchildren and step grandchildren to, instead of sending us Christmas presents we don't need, to make a donation in our names to the West Virginia Highlands Conservancy.

If your children are all grown and out of the house and you don't really need anything, I invite you to join us in another way to support the West Virginia Highlands Conservancy's efforts to protect and preserve our wild and wonderful West Virginia.

Have a happy and merry Christmas!

Julian Martin  
Vice President for State Affairs



# WV Business Owners Speak Up: Protect Jobs AND The Mon

By Harrison Case

The recently completed public comment period for the Monongahela National Forest management plan was an exciting success for West Virginians and friends of the Mon from a variety of backgrounds. Hunters, anglers, church groups and outdoor enthusiasts came together and spoke with one voice to tell the Forest Service that the special places on the Mon must be given the highest of protections.

Among the thousands of comments received by the Forest Service were those of nearly a hundred business owners from West Virginia and surrounding states. Their words illustrate how vital the Monongahela National Forest, and its unique wild lands in particular, is to the current and future economic climate of West Virginia.

“The Monongahela National Forest is an economic cornerstone for many of our communities and for the state as a whole,” wrote one Harpers Ferry outfitter in her letter to the Forest Service. “As tourism continues to grow – more than eleven percent annually according to the State’s own study – the things that draw people to our state must not be threatened.”

These hard-working entrepreneurs know value when they see it, and the pristine areas on the Mon stand out as precious to them. “I firmly believe that the wilderness areas of our state are invaluable today, and that they will increase in value through the future as more and more of the American landscape gets carved up by developers and suburban sprawl,” wrote a bed and breakfast operator in the the Eastern Panhandle.

In the coming months, these business owners and their colleagues will work to make sure that their local, state and federal representatives understand the critical need to protect the few remaining wild areas on the Mon. If you or someone you know owns a business of any size, please contact the West Virginia Wilderness Coalition (Harrison Case: 304-906-9317; Matt Keller: 304-864-5530) or log onto the Wilderness Coalition website, [www.vvwild.org](http://www.vvwild.org), and click on Supporters.



## DREW FORRESTER: a friend remembered

The West Virginia Highlands Conservancy is one of a number of environmental organizations that received a significant bequest upon the death of the still young G. Drew Forrester.

He was not yet sixty years old. He hiked and camped a lot in the West Virginia Highlands. He was a social worker who held two masters degrees but often headed to the deep woods and their streams. He combined social and environmental concerns, as many of us do. He was one of us, and will be missed.

Mr. Forrester was a resident of and property owner in Greenbrier County from 1974 to 2001. At the time of his death in 2004 he was living in Martinsburg, West Virginia.

There are many traits in people who support causes like ours that are trying to make a difference. Some people loudly wave their hands and proclaim that they are there for what we’re doing. Some will send a check, while others will actually come to rallies and events as well as dig deep into their pockets. It is rare that one does all of the above and in his final days realizes that what we are doing is very special and that he wants to contribute even after his body can no longer be counted present with the rest of the faithful.

Drew Forrester was that kind of guy. He was subtle and interesting. He was low-key but a person of conviction and presence. He would show up if possible and took great care to support causes that helped his fellow West Virginians.

The Highlands Conservancy divided its bequest into four parts. One part will be used to support ongoing committee work in public lands, mining, wind energy, and outreach. One part will be placed in reserve for another printing of the Hiking Guide, one part will be used for organizational development (website enhancement, advertising, membership development) and one part will be used as a cash reserve to guard us against unexpected financial difficulties.

We routinely budget in such a way that all of the income goes out to do the work of the Conservancy. While spending money on our work rather than sitting on it is a good thing, it is nerve wracking to our board and particularly to our treasurer to do it this way. Having a cushion of some sort will make us more stable financially.

The Highlands Conservancy sincerely appreciates Mr. Forrester’s generosity and his faith in us to use this legacy to carry forward his values. We hope that we can make his faith justified.

*Don Gasper, Mark Blumenstein, and John McFerrin contributed to this story.*

## COAL RIVER MOUNTAIN WATCH CORRECTS MISINFORMATION

In the past few months the idea that “clean coal” can be an acceptable alternative to petroleum has been widely circulated. In response, Coal River Mountain Watch has produced a letter on the theme that there can be no such thing as “clean coal” or coal as a responsible alternative to petroleum so long as coal is mined in such a destructive manner as mountaintop removal strip mining.

Many organizations and individuals have endorsed the letter. To add your support, contact Coal River Mountain Watch at 304/854-2182, [crmw@charter.net](mailto:crmw@charter.net), or P.O. Box 651 Whitesville, WV 25209.

# Mon Forest Comment Drive a Huge Victory for Wilderness, Wildlife and Watersheds!

By Matt Keller

As the dust settles on the Mon Forest's 90 day public comment period on its draft management plan revision, it is clear that the people have spoken...a lot of them. We've been informed that the Forest Service has received an unprecedented **15,000+ comments on their draft plan!**

This massive turnout could not have been achieved without the hard work and creativity of many individuals. Volunteers from across the state and region held house parties showing our 'Vision for a Wild Mon' video, talked to groups, tabled at community events and helped with phone banking among other things. This was a big team effort and it showed just how important the Mon's wild places are to so many people.

While the analysis of comments has yet to be done, we are confident that the vast majority of them will be in support of Alternative 3 and of recommending significant new wilderness areas for designation. As many of you know, their 'preferred' Alternative 2 poses a significant threat to the Mon by more than tripling logging, increasing clear-cut sizes and reducing or eliminating protections for special places like Roaring Plains, Seneca Creek and others. The Forest Service will not be able to ignore this overwhelming response and must act to improve their draft plan dramatically.

In addition to individuals commenting, there was an impressive response from the business community in West Virginia. Over 75 business owners submitted comments to the Forest Service and Governor Manchin in support of Alternative 3.

A wide array of organizations also weighed in for Alternative 3 including several Trout Unlimited Chapters, Potomac Valley Audubon Society, West Virginia Native Plant Society, West Virginia Horse Council and many, many others.

A team of experts from the West Virginia Highlands Conservancy, West Virginia Chapter of Sierra Club, The Wilderness Society and the West Virginia Rivers Coalition and West Virginia Wilderness Coalition worked together to draft an extremely comprehensive set of comments that covers every conceivable aspect of the plan in great detail. We hope this will serve the Forest Service as constructive criticism on the hard work they put into devel-

oping the draft plan. There is much room for improvement and we will be working hard to hold the Forest Service accountable to what the



Photo © Jeremy Tooley

public has overwhelmingly demanded.

While this is a big win for the Mon, the battle is far from over, particularly as new Wilderness recommendations are concerned. The West Virginia Wilderness Coalition will be working very hard in a variety of ways to first, make sure the Forest Service recommends all deserving areas for designation in the final plan and secondly, continuing the momentum we've built up towards the introduction of a bill in Congress that will make protection for these special areas a reality. There is much work to be done still, which won't be possible without your involvement.

With the public comment period at an end, we'll be shifting our focus back to working with West Virginia's congressional delegation on the forest plan revision and Wilderness designation. We will again need letters from car-

ing citizens to their elected officials in Washington D.C. in support of wilderness and encouraging them to introduce a solid bill.

In this edition of the Voice, you will find an action alert with talking points for your letter to both Senators Byrd and Rockefeller, your Representative (Mollohan, Capito or Rahall) and Governor Manchin.

We will continue to distribute our 'Vision for a Wild Mon' video for folks wanting to show it at house parties or other gatherings in their communities. There are many other ways to get involved in the work we are doing in big and small ways. Please feel free to contact me anytime to get involved or with questions, comments or concerns. [matk@tw.org](mailto:matk@tw.org), 304-864-5530.

## Wisdom from the Past

In all the category of outdoor vocations and outdoor sports there is not one, save only the tilling of the soil, that bends and molds the human character like wilderness travel. Shall this fundamental instrument for building citizens be allowed to disappear from America, simply because we lack the vision to see its value? Would we rather have the few paltry dollars that could be extracted from our remaining wild places than the human values they can render in their wild condition.

Aldo Leopold  
1925

Quote sleuthed out by Don Gasper.



# ACTION ALERT

## ACTIONALERT!

Now that the USFS comment period is over, letters in support of wilderness are again needed for our Congressional Delegation and Governor Manchin. We need to let them know that we support Alternative 3 as well as the West Virginia Wilderness Coalition proposal for new wilderness designations. Below, you will find talking points that could be included in a letter as well as contact information for the delegation. Additional information about the campaign, citizens' proposal and forest plan revision can be found on our web site: [www.wvwild.org](http://www.wvwild.org).

***The more you personalize your letter, the more effective it will be!***

- Talk about experiences you've had on the national forest, especially in areas that are proposed for Wilderness (see 'A Vision for a Wild Mon' brochure) Mention areas by name.
- The Mon has some of the best wild places left in the east, but is well below average for the amount of wilderness designated. No areas have been designated in the past 21 years.
- These special places are threatened by logging, mining, and other forms of development and need to be protected for future generations.
- Wilderness areas are important for watershed protection, flood control, wildlife habitat and recreation. They provide ideal locations for people to hunt, hike, fish and enjoy other forms of recreation in a scenic and natural setting.
- Proposed Wilderness areas contain some of our best trout streams which need to be protected to remain healthy
- Wilderness areas are part of a national system and are a major tourist draw.
- I strongly urge you to support efforts to designate new wilderness areas on the Mon. Please support the West Virginia Wilderness Coalition's proposal and support an MNF Forest Plan that recommends the maximum amount of wilderness designations.



Photo © Jonathan Jessup

**The Honorable Robert C. Byrd**

311 Hart Building  
Washington, DC 20510  
202-224-3954  
Fax: (202) 228-0002

**The Honorable John D. Rockefeller IV**

531 Hart Senate Office Building  
Washington, D.C. 20510  
(202) 224-6472  
Fax: (202) 224-7665

**The Honorable Alan Mollohan**

2302 Rayburn House Building  
Washington, DC 20515  
(202) 225-4172  
Fax: (202) 225-7564

**The Honorable Shelley Moore-Capito**

1431 Longworth House Office Building  
Washington, DC 20515  
(202) 225-2711  
Fax: (202) 225-7856

**The Honorable Nick J. Rahall II:**

2307 Rayburn HOB  
Washington, DC 20515  
(202) 225-3452  
Fax (202) 225-9061

**Gov.**

**Joe Manchin III**

1900 Kanawha Boulevard, E.,  
Charleston, WV 25305  
1-888-438-2731

**West Virginia Wilderness Coalition**

P.O. Box 6  
Masontown, WV 26542  
[info@wvwild.org](mailto:info@wvwild.org)



Photo © Mary Wimmer

# BOOK OF NOTE

**The Eastern Cougar: Historic Accounts, Scientific Investigations, New Evidence** edited by Chris Bolgiano and Jerry Roberts (Stackpole Books, 246 pp, ISBN 978-0-8117-3218-5). Send a check for \$24.00 to Chris at 10375 Genoa Rd., Fulks Run, VA 22830 for an autographed copy of the book. Part of the proceeds will be donated to the Eastern Cougar Foundation.

Review by Helen McGinnis

This is a collection of original contributions and previously published articles. The first part traces the changing European perception of *Puma concolor* from 1497, when Amerigo Vespucci first reported seeing one. During the 16<sup>th</sup> and 17<sup>th</sup> centuries, naturalists back in Europe believed that cougars were Old World lions. By the time that Audubon and Bachman were able to write a reasonably accurate description in 1845, the big cats were becoming very rare in the East.

By the early 1900s, they presumably had been extirpated, but reported sightings refused to disappear. Wildlife officials routinely dismissed these accounts, so grass roots organizations formed in the late 1900s to carry on investigations.

The second part begins with an overview that recognized 12 documented occurrences of cougars in the East and Midwest in 2000. It is following by accounts of confirmations from many states and eastern Canadian provinces, including Arkansas (several confirmations), Missouri (ditto), Illinois, Iowa, Ontario, Quebec, New Brunswick, Massachusetts, Maine, West Virginia, Kentucky and Delaware. The controversy between the Michigan Wildlife Conservancy, which maintains that cougars are present on both the Upper and Lower Peninsulas, and the state Department of Natural Resources, which insists no breeding populations exist, is touched only lightly here.

Of special interest to West Virginians are the documents related to the two cougars that were taken in Pocahontas County in 1976. First, a young male was shot while preying on sheep in the Droop-Lobelia area. Two days later, a female missing half her tail was captured alive not far away. A veterinarian said it was pregnant and weighed between 65-75 pounds. This is small for a western cougar and, in this reviewer's opinion, supports claims that both cats were recent releases from captivity.

Todd Lester of the Eastern Cougar Foundation (ECF) spent much time investigating these incidents. Despite information obtained under the Freedom of Information Act many years later, Lester never did find out what happened to the female. Perhaps it was released in what is now the Cranberry Wilderness, or perhaps it was traded from the WV Dept of Natural Resources French Creek Wildlife Center to another zoo.

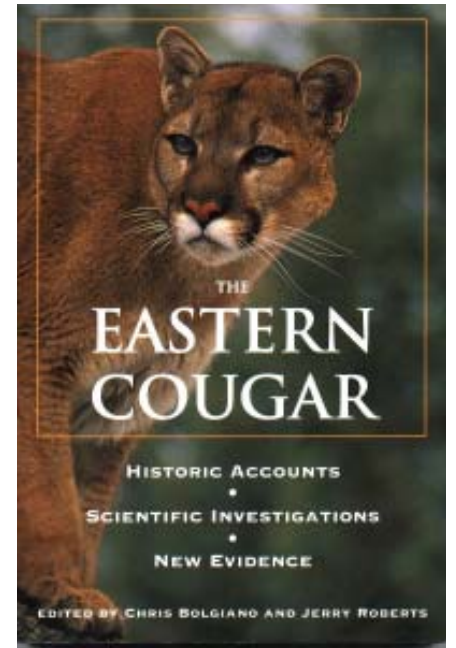
The next section is entitled *Outlook: Can They Come Back?* Here we have the 1982 Eastern Cougar Recovery Plan, which was never implemented, and a journal article by two wildlife biologists with the Massachusetts Division of Fisheries and Wildlife published 20 years later. Both these documents call for a systematic search for evidence by professionals and/or trained volunteers. This hasn't happened. Searching is still conducted mainly by non-professionals.

An essay by Melanie Culver alone is worth the price of the book. Here, for the first time in print in plain English, Dr. Culver discusses her study of DNA of cougars from throughout their range and its implications. She concluded that there are only six "subspecies" of cougars—only one in North America.

Other DNA researchers who are looking for distinct populations in various regions of the West have followed her groundbreaking work. We learn what an eastern cougar was—a cougar of the North American genotype that happened to live in the East. Its DNA cannot be distinguished at the subspecific level from other North American cougars. Several genetically distinct populations in the East may have existed when the White Man arrived. We will never be able to document them because fewer than a dozen historic specimens have yielded DNA suitable for analysis.

This section also includes ECF's request in 2000 that all cougars living as wild animals in the East be protected because former captives cannot be distinguished from wild presumed eastern cougars in the field. The US Fish and Wildlife Service turned down this request.

If you are even casually interested in eastern cougars, this belongs on your bookshelf.



## 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](mailto:imaginemew@aol.com) or 304-342-8989.

## BUMPER STICKERS

To get free *I (heart) Mountains* bumper sticker(s), send a SASE to Julian Martin, 1525 Hampton Road, Charleston, WV 25314. Slip a dollar donation (or more) in the SASE and get 2 bumper stickers. Businesses or organizations wishing to distribute free bumper stickers please send \$0.25 (includes postage) per sticker.

## 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, 1525 Hampton Road, Charleston, WV 25314.

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

# GRANT RESIDENTS SUE TO BLOCK WIND TURBINE PROJECT

By Ken Ward Jr.

Seven Grant County residents have filed suit to try to block construction of 200 giant wind turbines proposed near their homes. Jerome E. Burch and six other residents sued developers of the \$150 million Mount Storm wind project.

In their 14-page complaint, the residents allege that the NedPower Mount Storm LLC project will be a “nuisance” and “an eyesore” that creates excess noise and kills birds and bats.

The suit also alleges that the project will generate little power but receive lucrative federal and state tax breaks.

“The wind energy facility planned by NedPower will reduce the property value of tens of thousands of acres of land, but ... produce very little electricity,” the suit states.

The suit also claims that “The ecological value of wind energy facilities is an illusion.

“Uninformed proponents of environmental protection are led to believe that wind energy facilities can make a serious contribution to America’s energy needs without causing the pollution that carbon fuel energy facilities produce,” the suit says.

“This, however, is false.

“The primary benefit to be derived from wind energy facilities are tax deductions and federal and state subsidies to out-of-state oil companies like Shell Windenergy Inc.’s parent, Shell Oil, and not from the delivery of a significant amount of power that substitutes for power manufactured through carbon-based fuels,” the suit says.

The suit was filed Nov. 23 in Grant Circuit Court by Charleston lawyer Richard Neely, a former state Supreme Court justice. Along with NedPower, the suit named as a defendant Shell Windenergy, which has announced plans to buy the project.

“They’ve constantly been trying to delay the project,” Maisano said Tuesday afternoon. “This is another attempt to just delay what is a very beneficial project, not only for the county, but for the environment in general.”

In April 2003, the state Public Service Commission approved NedPower’s plan to build about 200 tur-

bines on a 14-mile strip of the Alleghany Front east of Mount Storm Lake.

The project is one of three wind-energy sites to have received state approval over the last few years.

One much smaller project is already up and running outside Thomas, and the third is awaiting construction near the NedPower site. At least two other wind projects are also in the works in West Virginia but have yet to receive state regulatory approval.

In January, the PSC rejected calls for a moratorium on new projects. Later, in September, a federal audit found that the PSC is not equipped to fully examine the potential impacts of such projects. The lawsuit says that the “highest and best use of Grant and Tucker counties is for the construction of second homes, the construction of retirement homes, tourism and recreation.”

The wind project “by making the affected area of Grant County less attractive to

second home buyers, retirement home buyers and those who would spend money in Grant County on tourism and recreation will directly and substantially reduce the property value of plaintiffs’ homes and land as well as the property values of all persons similarly situated.”

A Shell spokesman declined comment. NedPower referred questions about the suit to Frank Maisano, a Washington lobbyist and media spokesman working for the wind industry.

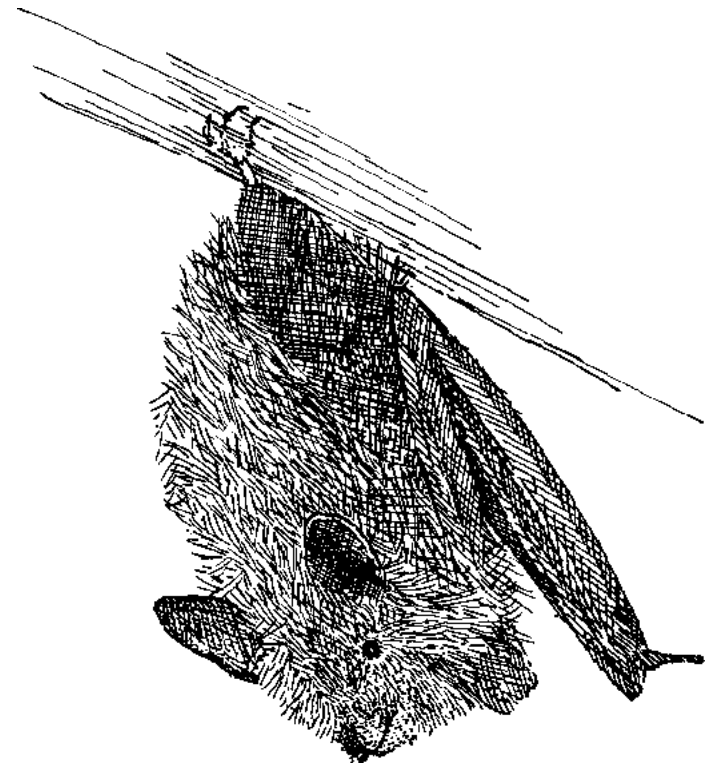
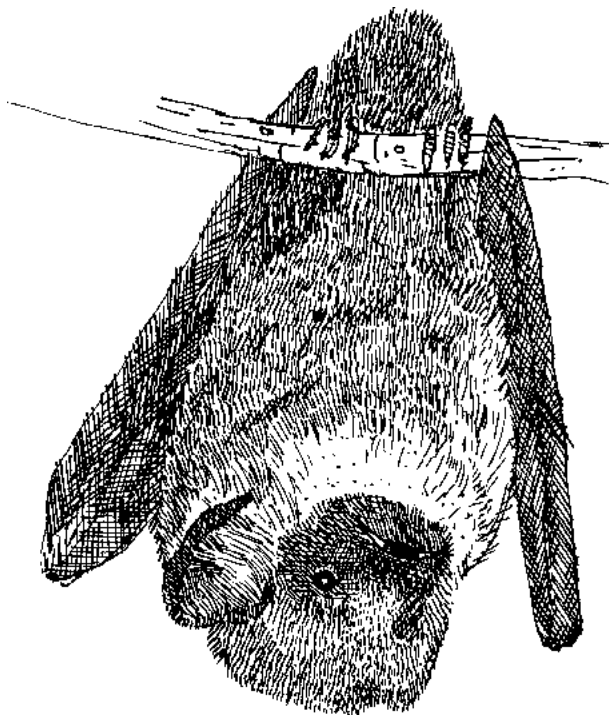
Maisano said that neither he nor NedPower officials had seen the lawsuit yet, but that it sounded like “part of a long line of delay tactics that opponents of this project have been using for some time now.”

Six of the seven residents who filed the suit live less than 1 mile from the wind-power site. The seventh lives 1.8 miles away, according to the suit.

Maisano said that any allegation that a wind-power project will be an “eyesore” is “generally a claim that is without merit.”

He declined to say if he would want such a project built within two miles of his home. “I’m not living next to one, so I’m not going to answer hypothetical questions for you just for the sake of answering them,” he said.

**Editor’s Note:** This article originally appeared in *The Charleston Gazette*.



## MONONGAHELA FOREST HIKING GUIDE

### Monongahela National Forest Hiking Guide

by Allen deHart & Bruce Sundquist

Published by the  
West Virginia  
Highlands Conservancy

The 7th edition covers:

more than 200 trails for over 700 miles

trail scenery, difficulty, condition, distance, elevation, access points, streams and skiing potential.

detailed topographic maps

over 50 photographs

5 wilderness Areas totaling 77,965 acres

700 miles of streams stocked with bass and trout

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PO Box 306 Charleston, WV 25321

Or, visit our website at

[www.wvhighlands.org](http://www.wvhighlands.org)

### Compact Disc version of Monongahela National Forest Hiking Guide

WV Highlands Conservancy continues to bring its publications into the computer era with its latest innovation- the publication of the Electronic (CD) version of its famous Monongahela National Forest Hiking Guide, **Allen Dehart, Bruce Sundquist**, 7th Edition, with maps and many other enhancements by WVHC contributor **Jim Solley**

This premier edition of MNF7, on computer disc, includes the text pages as they appear in the printed version of the 7<sup>th</sup> edition in an interactive pdf format. It also includes the following ancillary features, developed by a WVHC dedicated volunteer, and **not available anywhere else:**

- All pages and maps, or even a single page in the new Interactive CD version of the Mon hiking guide can easily be printed and carried along with you on your hike
- All new, full color topographic maps have been created and are included on this CD. They include all points referenced in the text.

Special Features not found in the printed version of the Hiking Guide:

- Interactive pdf format allows you to click on a map reference in the text, and that map centered on that reference comes up.
- Trail mileages between waypoints have been added to the maps.
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To receive the latest in printable hiking trail descriptions and printable topographic trail maps send \$20.00 to:

Hiking Guide CD  
West Virginia Highlands Conservancy  
P.O. Box 306  
Charleston WV 25321

## HIKERS HOLE UP FOR THE WINTER

Now that the snow has come (it's snowing in Beckley; what must it be doing on Roaring Plains), the West Virginia Highlands Conservancy's Mountain Odyssey is dwindling away for the winter. Last winter we had one snow shoe hike scheduled. This year there may be more winter outings although none has as yet been scheduled. If you are interested in leading or scheduling an outing, please contact the outings committee chair.

Just like last year, when the weather starts to warm up in the spring the hikers will emerge from hibernation, more outings will be scheduled, and the Mountain Odyssey will go on bigger and better.

Any outings that are scheduled during the winter will be announced in the *Voice* and on the web site as will the outings as they are scheduled in the spring.

## Letter to the Editor

Dear Highlands Voice,

I, and our newly formed group, Mountain Communities for Responsible Energy, would like to thank you for opposing the Beech Ridge wind project in Greenbrier County. Thank you also Frank Young, for giving support and advice at our early meeting. We are becoming better organized and focused as time passes. We are also close to securing a lawyer(s).

Enclosed find information on this project and general info on severe problems associated with wind energy sites in the Appalachians.

We look forward to you addressing these issues.

April Crowe, Trout, WV

p.s. keep up the good work! thank you