



The Highlands Voice

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HUNDREDS OBJECT TO SCRAPPING STREAM BUFFER ZONE RULE

By Cindy Rank

On October 23, 2007, hundreds of people (including representatives of the West Virginia Highlands Conservancy) testified at four hearings in Pennsylvania, West Virginia, Kentucky, and Tennessee on the Federal Office of Surface Mining's proposal to change the Stream Buffer Zone rule. The majority of those speaking at all four hearings objected to a change in the Rule. The change had been proposed by the Federal Office of Surface Mining Reclamation and Enforcement (OSM) in a Federal Register notice dated August 24, 2007.



Outside the public hearing, protesters speak.

August 24, 2007.

"PULL THE RULE, ENFORCE CURRENT LAW !!" was the unified cry across Central Appalachia.

Residents of southwestern Virginia, the mid-western states, the northern plains and as far away as Alaska are also being impacted by mining within 100 feet of streams but were not granted the opportunity to comment at public hearings in their state. They were however, acknowledged in the testimony of several people in the four states that DID have hearings and have themselves commented on the proposed rule change directly.

In fact over 2,000 comments have already been submitted on line at the government documents website. [See information elsewhere in this issue about how and where to make comments, or go to www.wvhighlands.org and comment from there.]



Inside the hearing, WVHC Board member Julian Martin is moved to testify.

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Here We Go Again

On the Monday morning after our 40th Anniversary Fall Review, I got a call from a Highlands Conservancy member in Elkins. She'd heard that the Fernow Experimental Forest was going to be trashed by gas well drilling. Could we do anything?

Like the unexploded shells on Dolly Sods, this threat has been around for a long time. The ordnance was left when the Sods were used for training during World War II. The danger that someone would take advantage of mineral rights under the Fernow has existed even longer, indeed before its founding in 1934.

The very first land purchased in 1915 for the Monongahela National Forest, U.S. Tract 01, did not include mineral rights. It took fifty-five years for that situation to blow up in our faces. You can read all about it in Chapter 2 of Dave Elkinton's *Fighting to Protect the Highlands*. The fight didn't directly involve the Fernow, or gas wells—it was all about prospecting for coal under an adjacent part of Tract 01, the proposed Otter Creek Wilderness.

The Highlands Conservancy secured an injunction against road-building in the Otter Creek watershed; the coal company then agreed to transport its core-drilling equipment on horseback; and after five holes were dug, the company decided to withdraw. It was the Conservancy's first major victory. Otter Creek was preserved, and four years later our campaign for wilderness succeeded when Congress passed the Eastern Wilderness Areas Act.

However, the problem of the outstanding mineral rights remained. One could speculate about Forest Service disinterest: beginning in the 60's, it had strongly opposed the wilderness designation, and after 1970 it may have been lulled by the coal company's judgment that the coal was not worth the trouble. Ultimately, the solution must be found in the same forum where wilderness status is won. Congress can appropriate the funds to purchase those rights. We're fortunate that West Virginia's delegation is well positioned to achieve that, as Senator Byrd and Congressman Mollohan both serve in the leadership of the appropriations committees, and Congressman Rahall chairs the House Natural Resources Committee.

One gas well has been permitted by the Forest Service and the West Virginia Department of Environmental Protection. If it turns out to be productive, Otter Creek will be in jeopardy again. The lease in question extends under the northern quarter of the wilderness. State property law on pre-existing ownership rights takes precedence over federal rules. It has no respect for wilderness.

Neither does it respect the scientific research that has been the Fernow's purpose and main product for more than seventy years. In addition to the projects described on its bear-damaged signs that sound like traditional forestry, e.g., uneven-age management, diameter-limit selection, and the like, many studies are hot right now, e.g., prescriptive burning, variable intensity harvests, long-term soil nutrient changes and their effects on forest productivity. The Fernow, also known as the Northern Research Station, is irreplaceable.

The threat to the Fernow first showed its face above ground about two years ago, when Berry Energy of Clarksburg announced that it had leased the mineral rights from the large group of heirs.

Berry originally proposed to drill on the Fernow's "long-term reference" site, the control for hydrological, nutrient, and other studies. The Fernow was able to persuade the state permitting agency that it would result in significant impacts to public resources, and the

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NOTHING GREEN ABOUT GREENBRIER COGEN PLANT

By Cindy Rank

Like promotions for a similar coal waste burning power plant proposed for the 2,000 acre Tenmile strip mine site in Upshur County, public pronouncements about the proposed Western Greenbrier cogen plant in Rainelle, West Virginia promise benefits, but ignore the threats to water, air, communities in the county.

Eliminating acid producing gob piles is a noble goal, but the harmful impacts of the coal burning plant on the air and water are unacceptable tradeoffs. . . . Furthermore, additional coal mining that may well be needed to supply better burning coal to supplement the waste coal will further harm the mountains, streams and communities in the area.

The financial viability of the over \$215 million coal waste-fired power plant in Rainelle has always been questioned. Nonetheless Western Greenbrier Co-Generation, LLC received its air permit from the Division of Air Quality of the WV Department of Environmental Protection in April of 2006.

The regulations involved in such a permit recognize the evolving nature of pollution con-

trol technology. . . . What constitutes the “best available control technology” (BACT) at any given time can change rapidly. Consequently, a permittee has a limited time to begin construction of a source under its existing Best Available Control Technology determination. If 18 months pass before construction commences, then the BACT determination must be reviewed.

18 months have passed since Division of Air Quality granted the permit and Western Greenbrier has not begun construction.

To ensure that the pollution control technology that a facility will use is up to date — i.e. the Best Available, the permitting agency has at least three mandatory duties under the law.

First, the agency must revoke or suspend the PSD permit for any major source for which construction has not commenced after 18 months. Second, at a minimum, the agency must request proof of the commencement of construction from the permit holder. Third, the agency must review and modify as appropriate the BACT determination for a facility for which construction has not commenced within

18 months of the issuance of the PSD permit.

Given the foregoing facts, lawyers representing the West Virginia Highlands Conservancy have issued a 30 Day Notice of Intent to seek a writ of mandamus and a declaratory judgment action against DEP Secretary Timmermeyer and DAQ Director Benedict to perform their mandatory duty under the law.

As of October 29, 2007, the Secretary and Director must (1) revoke or suspend Western Greenbrier Co-Generation’s PSD permit, (2) require Western Greenbrier Co-Generation to submit proof that it has commenced construction, and (3) review and modify as appropriate the outdated Best Available Control Technology determination for Western Greenbrier Co-Generation’s facility. (An extension of the 18 month period is not sufficient to fulfill this requirement.)

T- SHIRTS

White, heavy cotton T-shirts with the **I ♥ Mountains** slogan on the front. The lettering is blue and the heart is red. “West Virginia Highlands Conservancy” in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$10 total by mail; **long sleeve** is \$15. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



“If we can’t preserve enough habitat for the Cerulean Warbler to thrive then it’s an indication that we’re not preserving the habitat or the air or the water in the way that humans need to survive.” Greg Butcher, Director of Bird Conservation, National Audubon Society
(Quote submitted by Cindy Ellis)

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The West Virginia Highlands Conservancy web page is www.wvhighlands.org.

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.

CONSERVANCY STANDS UP FOR KATES MOUNTAIN

By John McFerrin

The West Virginia Highlands Conservancy has taken a position before the West Virginia Supreme Court of Appeals in favor of the preservation of Kates Mountain in its natural state.

Kates Mountain is about 3,500 acres in Greenbrier County adjoining Greenbrier State Forest. It is owned by a family in California that has never done anything to develop it. The family has been in California ever since someone emigrated from WV decades ago. Now the family members are at odds on the future of the property.

Some family members want to sell part of the property that is most remote from Greenbrier State Forest for development and sell the remaining 2,500 acres to a buyer who would protect it and ultimately arrange for it to be publicly owned. Such groups as the Trust for Public Lands and the Nature Conservancy routinely take such actions although neither of them has announced any intention to do that at Kates Mountain.

Other family members want to sell the land or develop it with no particular concern for the plants and animals who live there.

The Highlands Conservancy filed a Motion for Brief as an Amicus Curiae.

This is in support of the family members who seek to manage the property in a way that would result in its being protected.

This was an unusual step for the Highlands Conservancy. Families and other joint owners of land frequently have disputes over how the land is to be managed. Most people steer clear of such disputes.

While appreciating that the middle of a family feud is the last place anybody wants to be, the Conservancy felt compelled to speak out because of the public interest at stake. In Court filings it avoided the legal dispute, limiting itself to a description of the public interests involved.

Kates Mountain is a recreational asset to West Virginia. The Conservancy has members who use Kates Mountain for recreation. Because it is adjacent to the Greenbrier State Forest and because it is not posted, it is used by hunters, hikers, scientists (botanists, birders), writers, etc. Conservancy members routinely use it for hiking, birdwatching, etc. as if it were an extension of the State Forest. Many in Greenbrier County assume

that Kates Mountain is already part of the Forest.

The West Virginia Highlands Conservancy has this provincial interest in seeing that its members are allowed to continue hiking on Kates Mountain as they always have. There is, however, larger public interests, both in its value as a recreational asset and in its value as home to rare plants and animals.

Kates Mountain is home to several rare, threatened, or endangered species. The Shale barren rock cress (*Arabis serotina*) has been listed as a federally protected endangered species. It is found on Kates Mountain. The rare or threatened nodding onion (*Allium oxyphyllum*), Appalachian blazing star (*Liatris turgida*), swordleaf phlox (*Phlox buckleyi*), white haired leather flower (*Clematis albicoma*), the and the smooth sunflower (*Helianthus aevigatus*) are located there. The habitat is suitable for the small

whorled pogonia (*Isotria medeoloides*), a federally threatened species. Although the small whorled pogonia has been identified in Greenbrier County and probably exists on Kates Mountain, there is no firm documentation of it being found there.

The box huckleberry is also there. While it is not listed as threatened or endangered and does exist in a few isolated spots elsewhere in the state, it is the

basis for West Virginia's claim as home to the world's oldest plant (see sidebar).

The cerulean warbler is also found there. In October, 2000, twenty eight organizations (including the West Virginia Highlands Conservancy) petitioned the United States Fish and Wildlife Service to list the Cerulean Warbler as an endangered species pursuant to the Endangered Species Act. After making an initial determination that the listing may be warranted, the Fish and Wildlife Service deliberated for another four years before concluding on December 6, 2006, that the listing was not warranted.

Although the Cerulean Warbler was rejected for inclusion on the Endangered Species List, it remains a species of concern, subject to a Conservation Action Plan produced for the United States Fish and Wildlife Division of Migratory Bird Management Focal Species Program (June 30, 2007).

According to the Action Plan, "Cerulean Warbler numbers have declined at the steepest rate of any North American warbler species

monitored by the North American Breeding Bird Survey." Published analyses of Breeding Bird Survey data report an average decline of 3.04%/year from 1966-2000. In the Conservancy's view, if the Cerulean Warbler can migrate here all the way from Columbia to spend its summers on Kates Mountain, it would be downright inhospitable not to make sure there is a place for it to live when it gets here. The only way that the dramatic decline in the populations of Cerulean warblers can be halted is to protect places such as Kates Mountain as intact ecosystems.

The Supreme Court has not yet indicated whether it will consider the case.

Who Is This Kate and Why Does She Have a Mountain Named for Her?

By Bob Handley

Kates Mountain was named for Kate Carpenter. She and her husband owned the mountain (back in the middle 1700's) including a good portion of the Howard Creek Valley - including The White Sulphur Spring. There was an Indian raid just west of their cabin so they high tailed it to the Covington area (and supposed safety) but this was a serious raiding party and they proceeded on east to Covington and possibly beyond.

Her husband was killed and Kate and her daughter escaped and made their way back to the mountain overlooking their home. It was a successful refuge but eventually she returned with her daughter. So, the mountain was named for her. Her family, over the following years, developed the sulphur spring, built cabins, then a hotel which is now known as The 5 Star Greenbrier Resort.

During the Civil War the family seriously supported the Confederate cause financially. As a result (after years of court battles) they finally sold all their holdings to the C & O railway for a pittance. The major portion of the mountain was either sold earlier or possibly never belonged to them.



BOX HUCKLEBERRY: WORLD'S OLDEST PLANT?

By John McFerrin

The State Road Commission once erected a marker in Greenbrier County:

Kates Mountain. Named for Kate Carpenter, whose husband, Nathan, was killed by the Indians. Fine scenic view. Home of Kates Mountain Clover and other rare plants, such as the Box Huckleberry 6000 years old—the oldest living thing.

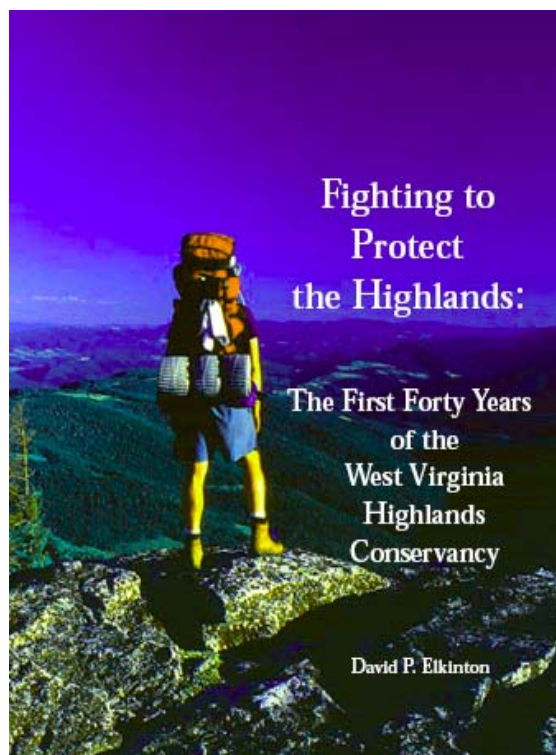
There is not much doubt that West Virginia, and more particularly Kates Mountain, is home to the box huckleberry.

The box huckleberry is a small evergreen shrub. It does not produce fertile seeds. As a result of this, it only endures by sending out underground shoots. While it may appear to be a group of plants above ground and may stretch hundreds of yards, each patch is a single plant. It was first identified in 1790 in either what is now Virginia or what is now West Virginia by French botanist Andre Michaux. In 1800 it was identified again in what is probably Greenbrier County. It is found at about 100 sites in six eastern states and is considered globally as a "rare" plant.

Because the box huckleberry has no rings to count, botanists estimate the age of the plant (appearing on the surface as a patch of plants) by measuring the size of the plant. They assume that it spreads at a certain rate and then calculate the plant's age by calculating how long it would take to reach the present size, expanding at that rate every year.



Using this method, there is a plant in Pennsylvania that is estimated to be over 12,000 years old. At fewer than 4,000 years the giant Sequoias are relative whippersnappers. While the box huckleberry in Greenbrier County may not claim to be that old, at the age of 6,000 assigned it by the State Road Commission it is no sprout either.



GREAT HISTORY BOOK NOW AVAILABLE

For the first time, a comprehensive history of West Virginia's most influential activist environmental organization. Author Dave Elkinton, the Conservancy's third president, and a twenty-year board member, not only traces the major issues that have occupied the Conservancy's energy, but profiles more than twenty of its volunteer leaders.

Learn about how the Conservancy stopped road building in Otter Creek, how a Corps of Engineers wetland permit denial saved Canaan Valley, and why Judge Haden restricted mountaintop removal mining. Also read Sayre Rodman's account of the first running of the Gauley, how college students helped save the Cranberry Wilderness, and why the highlands are under threat as never before.

With a foreword by former congressman Ken Hechler, the book's chapters follow the battle for wilderness preservation, efforts to stop many proposed dams and protect free-flowing rivers, the 25-year struggle to save the Canaan Valley, how the Corridor H highway was successfully re-routed around key environmental landmarks, and concluding with the current controversy over wind farm development. One-third of the text tells the story of the Conservancy's never-ending fight to control the abuses of coal mining, especially mountaintop removal mining. The final chapter examines what makes this small, volunteer-driven organization so successful.

From the cover by photographer Jonathan Jessup to the 48-page index, this book will appeal both to Conservancy members and friends and to anyone interested in the story of how West Virginia's mountains have been protected against the forces of over-development, mismanagement by government, and even greed.

518 pages, 6x9, color cover, published by Pocahontas Press

To order your copy for \$24.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal.

Or write: WVHC, PO Box 306, Charleston, WV 25321.

Proceeds support the Conservancy's ongoing environmental projects.

THE BUFFER ZONE RULE: HISTORY AND ANALYSIS

By Cindy Rank

Readers of the VOICE will recognize this proposal to change the Stream Buffer Zone Rule as another in a series of actions by the powers that be in Washington primarily to gut long-standing safeguards against the wholesale burial and pollution of streams in Appalachia by the coal mining industry:

- In May 2002, the U.S. Army Corps of Engineers (the Corps) repealed a 25-year-old prohibition on dumping waste material in streams.
- In December 2003, the Office of Surface Mining (OSM) proposed to weaken its oversight of state mining programs, by making federal takeovers for state violations of federal law discretionary rather than automatic.
- In October 2005, the Administration released its final Programmatic Environmental Impact Statement on Mountaintop Mining/Valley Fills in Appalachia (PEIS), which proposed no meaningful mining reforms or limitations on valley fills.
- Now, OSM proposes to gut the stream buffer zone (SBZ) rule, the most important safeguard under the Surface Mining Control and Reclamation Act (SMCRA) for protecting streams.

Taken together, these actions can only accelerate the pace of mountaintop removal mining and valley filling, which has already destroyed 1,200 miles of Appalachia's streams and well over 400,000 acres of its forests.

It is true that the Surface Mine Act envisions mountaintop removal mining. However, the size and extent of that mining was limited by the stream buffer zone rule which - if enforced properly - would allow only the uppermost reaches of any stream to be filled with waste rock from any mining operation.

The proposed rule would eliminate the standing prohibition against mining within 100 feet of streams if that mining will have an adverse effect on water quantity, water quality, and other environmental resources of the stream. In its place, the proposed rule would merely ask coal operators to "minimize" harm to the extent possible.

This is an open invitation to industry to ignore a rule that, as a practical matter, has been routinely abused and violated as federal and state regulators looked the other way.

Clearly burying 1 or two miles of stream under millions of tons of rock violates the intent and letter of the existing rule. To paraphrase the late Judge Haden in his 1999 ruling interpreting the existing stream buffer zone rule in

our Bragg litigation, there is no greater harm to these streams than obliteration. Once the stream is filled with tons of waste rock, there is no more stream, no more water quality.

Additionally, in a "fact sheet" offered as background, OSM would have us believe that burying some upper reaches of streams that fall within the permitted mining area is OK as long as the downstream reaches beyond the permit boundaries are not harmed. Addressing this erroneous perception, Judge Haden wrote that "[n]othing in the statute, the federal or state buffer zone regulations, or the agency language promulgating the federal regulations suggests that portions of existing streams may be destroyed so long as (some other portion of) the stream is saved." *Bragg v. Robertson*.

(It may be well to note that although the 4th Circuit Court of Appeals ruled – incorrectly we believe – that federal court was not the proper venue for us to challenge the state's programmatic approach to enforcing the Buffer Zone Rule, that same 4th Circuit did NOT overturn the substance of Judge Haden's 1999 ruling in *Bragg*.)

Extensive technical and legal comments about the proposed stream buffer zone rule change are in draft form and will be submitted before the November 23rd close of comment period. What follows is a brief and partial overview of some of the highlights of those comments.

- Contrary to OSM's contention that the proposal merely 'clarifies' the Stream Buffer Zone Rule, the proposal actually guts the existing rule and reverses OSM's prior interpretation of that rule.
- OSM's reasons for gutting the rule are inconsistent with Congressional intent to protect the environment.
- The Draft Environmental Impact Statement offered as support for the rule change is inadequate because it doesn't consider all reasonable alternatives.
- The Draft Environmental Impact Statement finds that valley fills already cause significant degradation and are likely to continue under the proposed rule change. Available scientific evidence as well as the Draft Environmental Impact Statement itself demonstrates that valley fills are causing significant degradation to streams, to water quality and quantity, to communities and to aquatic diversity.
- Despite this scientific evidence that such fills are causing and will continue to cause

further significant degradation, the Draft Environmental Impact Statement totally ignores any alternative that would limit the size or number of fills in any given watershed.

- Despite this scientific evidence, the Draft Environmental Impact Statement contains a mere 1/2 page analysis of cumulative effects. Granted, reference is made to two other Environmental Impact Statement documents from 1979 and 1983 as further proof of limited impact of valley fills. However, the 2005 Mountaintop/Valley Fill Programmatic Environmental Impact Statement conducted as a result of our 1998 Bragg litigation concluded that fills are 72% larger in the 1990's than they were when those studies were done, and the length of streams buried has increased 224%! !!!It's LUDICROUS that no additional analysis was done.
- Contrary to OSM's claim that the proposed rule complies with federal and state statutes and regulations, the proposed rule not only violates the original intent of the Surface Mine Act, but also violates the Clean Water Act by allowing further stream degradation.

The proposed rule should be withdrawn and enforcement of the Surface Mine Act, the Clean Water Act and other related federal laws strengthened.

BROCHURES

The West Virginia Highlands Conservancy has joined with the Sierra Club, Coal River Mountain Watch, Ohio Valley Environmental Coalition, West Virginia Rivers Coalition, Appalachian Voices, Kentuckians for the Commonwealth, Keeper of the Mountains Foundation and Christians for the Mountains 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 James Solley, WVHC, P. O. Box 306, Charleston, WV 25321..

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

MOUNTAINTOP REMOVAL PROJECT BLOCKED

By Ken Ward Jr.

A federal judge on Thursday [October 11, 2007] blocked a coal operator from starting a new valley fill at a mountaintop removal mine in Boone County.

U.S. District Judge Robert C. Chambers issued a preliminary injunction that stops new mining at Jupiter Holdings LLC's Callisto Surface Mine near Bob White.

Chambers ruled that permanent damage to streams and forests outweighed temporary and speculative economic harm to the company.

"Money can be earned, lost and earned again," Chambers wrote in a 12-page opinion, "a valley once filled is gone."

Chambers said it is "undisputed" that the mining would damage the environment. Also, the judge said, the permit approval was based on the same flawed environmental evaluation and mitigation techniques as others he previously has ruled were illegal.

The preliminary injunction issued Thursday blocks further mining until Chambers can hold a full trial on allegations about the permit's legality.

In the meantime, the ruling could cost at least 39 miners at the strip operation their jobs. Another 180 miners at a related underground mine also might be affected, company officials have said.

"They were very disappointed," Magnum Coal engineer Mike Day said after telling workers of the ruling. "With the holidays coming soon, it was tough to deliver that message." Magnum is Jupiter Holdings' parent company.

Chambers ruled in favor of a request by the Ohio Valley Environmental Coalition and other groups that he block a U.S. Army Corps of Engineers permit for the mine.

That legal effort comes after Chambers ruled in March that the corps had not fully evaluated potential environmental damage before approving four other strip-mining permits owned by Massey Energy.

The judge later allowed three of the four Massey permits to continue dumping waste because they already had started operations. Massey is seeking a similar ruling for the fourth mine.

After Chambers' March ruling, environmental group lawyers added the corps' permit for the Callisto Mine to their lawsuit in U.S. District Court in Huntington.

In Thursday's ruling, Chambers explained that all environmental laws contain "numerous provisions that serve as checks on development, industry and other economic activities in order to ensure that environmental consequences are considered and valuable environmental resources are protected.

"While it is true that these statutes contemplate a certain amount of environmental degradation, they also mandate a certain amount of economic loss," Chambers wrote. "Economic gain is not to be pursued at all costs, and certainly not when it is contrary to the law."

Chambers concluded that environmental group lawyers have "made a strong showing that the permits issued by the corps are arbitrary and capricious, contrary to law, and contrary to the economic and environmental balance struck by Congress in the passage of the relevant environmental statutes."

Initially, officials from Magnum Coal said that they would not need to begin new valley fills until after the 4th U.S. Circuit Court of Appeals hears an appeal of Chambers' previous decision, probably sometime next year. However, in mid-December, Magnum general counsel Richard Verheij told environmental groups the company planned to move forward much sooner on at least one valley fill.

During a Sept. 26 hearing in Huntington, company officials said their existing valley fill is almost full of waste rock and dirt. To continue mining, company officials said, they needed to start a new valley fill much sooner.

The fill in question would bury more than 2,000 feet of streams. It would give the company coal reserves and fill space to continue operations for about 18 months.

Chambers explained that Jupiter's "main interest in opposing this motion is its own economic interest.

"While the court must certainly consider the economic effect of this decision on Jupiter's employees and the surrounding communities, these effects are distinguishable from the harm suffered by Jupiter itself," Chambers wrote.

"While Jupiter may or may not be a good employer or a beneficial corporate citizen, it is certainly out to make money," the judge wrote. "Whether it is environmental enforcement or other market forces that cut into profits, Jupiter's interest in its own bottom line may cause it to lay off its workers."

Chambers said the "main harm suffered by Jupiter, therefore, is a delay in reaping economic benefits from the Callisto mine.

"This temporary economic harm can be outweighed by the permanent harm to the environment that comes from the filling of streams and valleys," Chambers wrote.

Day, the company official, said environmental groups are to blame for the lost jobs. "It's a direct result of the actions of OVEC, and they have to be held accountable," he said.

Asked to explain, Day said he thinks environmentalists should have to pay the miners' salaries until they find other jobs.

Cindy Rank, mining chairwoman for the West Virginia Highlands Conservancy, praised Chambers' ruling.

"No one wants to put another person out of work, but the promise of jobs based on illegal permits is not fair either," Rank said. "Inch by inch, mile after mile, these illegal fills are changing the face of West Virginia, burying valuable stream valleys and destroying the lives of people who have lived in these valleys for generations."

Editor's note: This story originally appeared in The Charleston Gazette.

BUMPER STICKERS

To get free I ❤️ Mountains bumper sticker(s), send a SASE to James Solley, WVHC, P.O. Box 306, Charleston, WV 25321. Slip a dollar donation (or more) in with the SASE and get 2 bumper stickers. Businesses or organizations wishing to provide bumper stickers to their customers/members may have them free. (Of course if they can afford a donation that will be gratefully accepted.)

Also available are the new green-on-white oval Friends of the Mountains stickers. Let Jim know which (or both) you want.

HAVING YOUR SAY

It's still not too late.

Although the public hearings have passed, it is not too late to submit written comments on the proposed buffer zone rule. Submit comments by November 23, 2007 to Dennis G. Rice, Office of Surface Mining Reclamation and Enforcement, US Dept. of Interior, 1951 Constitution Avenue, NW, Washington, DC 20240, Telephone: 202-208-2829; email drice@osmre.gov

- Identify communication by Docket number 1029-AC04.
- You can use the federal rule-making portal at <http://www.regulations.gov>. The rule is listed under the agency name of OSM
- By mail/hand delivery or courier: OSMRE, Administrative Record, Room 252 SIB, 1951 Constitution Avenue, NW, Washington DC 20240. Please identify comments by RIN 1029-AC04.

AN OPPOSING VIEWPOINT

“The proposed clarification of the stream buffer zone rule is necessary in order to put an end to the regulatory uncertainty and litigation spawned in recent years by opponents of coal mining,”

David Moss
Kentucky Coal Association

HATS FOR SALE

West Virginia Highlands Conservancy has two models of caps for sale.

One is khaki and the pre-curved visor is forest green. The front of the cap has West Virginia Highlands Conservancy in gold above We ♥ Mountains. The heart is red; and lettering is black.

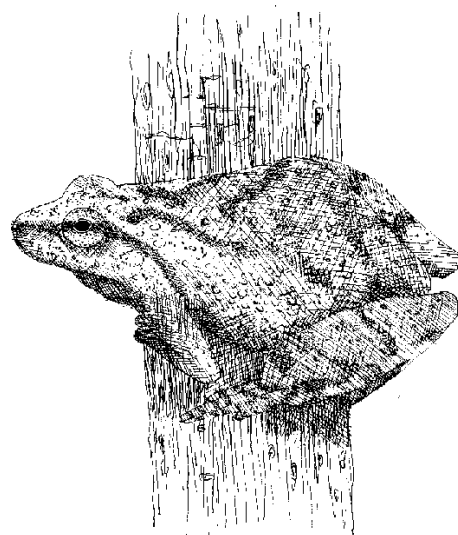
The other model is tan with a muted green pre-curved visor. The front sports the lovely, in color, logo that appears on the VOICE masthead. Beside the logo is “West Virginia Highlands Conservancy” in green. The lower back of the hat has the We ♥ Mountains slogan.

Pictures of both appear on our website www.wvhighlands.org. Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is \$12 by mail. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306

Speakers Available

!!!!!!

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



Disastrous News

by Betsy Reeder

Crossing the old bridge
Traveled in younger days by Buicks and VW
bugs
Before that weathered wagons and horses with
knotted manes
I'm rooted by a train that shudders by beneath
Black cargo glinting in a summer sun
Narrow procession of pain
With neither end in sight

Heart-of-a-mountain
Soul-of-a-people
Heart-of-a-mountain
Soul-of-a-people

Snaking along the Kanawha and New
Piercing gaps of the Blue Ridge
Shaking the Piedmont and smudging her sky
Rattling blackbirds out of coastal marshes

Nothing thundering below my feet compares
To the blasts that shear a mountain of its crown
By then stripped of oaks and swings
Of beagles sleeping in the shade
And ferns and fawns
And contemplative turtles on sturdy legs
Half-dead already, past protesting
Sending up prayers of dust so fine
To float like a final labored breath

Hundreds of millions of years old
At time of death

Heart-of-a-mountain
Soul-of-a-people
Heart-of-a-mountain
Soul-of-a-people
Heart-of-a-mountain

The final car caboose-less rounds a bend
Greenbrier's wooded walls close the spot
Snuff the sound

Raging at the empty tracks
Like blaming a courier for disastrous news
I want to imagine with the hopeful spirit of a
sheltered child
That sad black load
Is the very last one
And every mountain at my back
Has a million centuries to go.

Join Now !!!

Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ E-Mail _____

Membership categories (circle one)

	Individual	Family	Org
Senior	\$ 15		
Student	\$ 15		
Introductory			
Other	\$ 15		
Regular	\$ 25	\$ 35	\$ 50
Associate	\$ 50	\$ 75	\$ 100
Sustaining	\$ 100	\$ 150	\$ 200
Patron	\$ 250	\$ 500	\$ 500
Mountaineer	\$ 500	\$ 750	\$ 1000

Mail to West Virginia Highlands Conservancy PO Box 306 Charleston, WV 25321

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

NEW PLAN FOR THE NEW RIVER GORGE

The National Park Service is working on a new General Management Plan (GMP) for the New River Gorge National River. It will guide management of the park for the next 15-20 years. It will set the overall management direction for the Park, with a long range, broad, conceptual view.

The Park Service has been working for over 2 years to gather the public's ideas, issues and concerns for what they would like to see for the future of one of our state's great public natural resources. They have taken the gathered information and developed 5 alternatives and will be issuing a formal "Draft" GNP in the near future. Before this happens, the Park Service is asking for one last round of public comments before it finalizes the draft alternatives and selects a preferred alternative.

Some of the important topics the Plan will address are hunting, biking, water quality, boundary adjustments and Wilderness. We like Alternative #5. This alternative would preserve primitive recreational experiences throughout the Park. It would also identify cultural and interpretive focal areas and allow visitors to experience the river and enjoy a variety of recreational experiences.

Alternative #5 combines many of the best aspects of the other 4 alternatives. It envisions a "through the Park" connector composed of scenic roads and trails. It would partner with gateway communities to improve rim to river experiences and focal areas would allow visitors to explore the Park's historic sites. This alternative also balances

frontcountry and backcountry management zones providing for both developed and primitive recreational experiences.

The Park Service, and the Wilderness Coalition have identified 3 areas of the Park that would make good Wilderness candidates; Glade Creek, Dowdy Creek and Backus Mountain. Currently Alternative #5 supports wilderness designation for only Glade and Dowdy Creek areas. We hope the final General Management Plan recommends all deserving areas including Backus Mountain to Congress for Wilderness designation.

We expect the formal Draft Plan to be released this winter, and we appreciate the Park Service giving the public one more opportunity to shape the draft alternatives. We encourage folks to get involved in this planning process by contacting the Park Service to express your concerns. The latest Planning Newsletter is available online at www.nps.gov/NERI. The newsletter does a very good job of explaining the process and the various alternatives. Send your comments to:

Superintendent
New River Gorge National River
104 Main Street
PO Box 246
Glen Jean, WV 25846

Media Tour 'Big Draft' Area

In October the W.Va. Wilderness Coalition ventured with television media into the "Big Draft" proposed Wilderness area, located in Greenbrier County. Station coverage included WCHS-TV8 / FOX 11 (Charleston), WVNS Channel 59 (Beckley), and WOAY (Oak Hill).

Wilderness Resolutions Pass Throughout the State

In recent weeks the Wilderness initiative has generated increased support from various local governments, with pro-Wilderness resolutions passed by the municipalities of Morgantown, Montgomery, Weston, Nitro, White Hall, and Matoaka. Volunteer Michael Price moved a similar resolution before the W.Va. AFL-CIO, where the labor group unanimously passed the measure.

FALL REVIEW A BIG SUCCESS

By John McFerrin

The 2007 Fall Review/40th Anniversary Celebration was a huge success. The room was full of old timers and not so old timers, all catching up with each other, talking about the good old days, the good new days, great hikes they had been on, great hikes they had planned for the future, etc. etc. etc.

Most of Saturday was taken up with outings. There were the usual hikes as well as a session of shared drawing with Barbara Weaner (they went into the woods and drew pictures together).

Allen DeHart, co-author of the Hiking Guide, started off the afternoon and evening programs with a discussion of the 8th Edition as well as a display of the photographs that didn't make the cut for the new edition. If the ones he displayed couldn't make the cut, the ones in the book must be spectacular. Mr. DeHart has been at this for decades and now know the trails of the Monongahela National Forest better than anyone. He is still out there checking, measuring trails, and noting changes so that the book can be kept up to date.

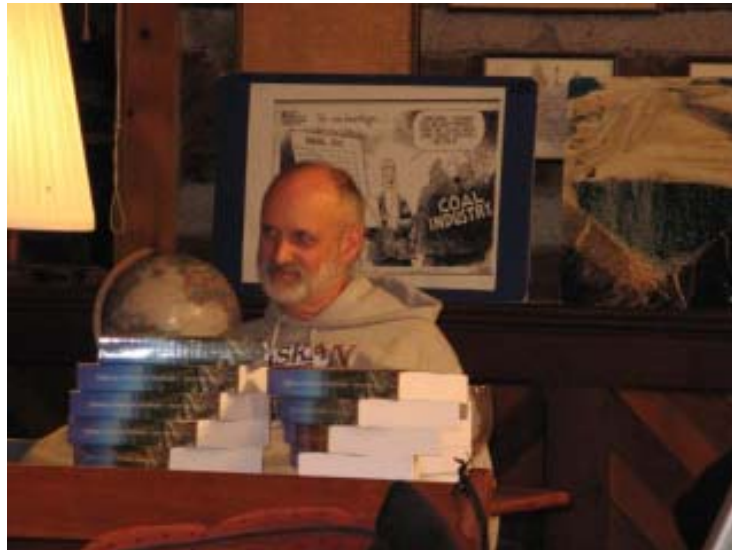
Then came the banquet, attended by forty two people. Yum, yum!

The after dinner program began with a panel discussion by three presidents from three different decades, moderated by Rupe Cutler.

After an introduction by Mr. Cutler, including a history of eastern wilderness designations, early president and Highlands Voice editor Bob Burrell took the floor. His understated description of his presidency was that all he did was Akeep track of paper clips and answer the phone@ while legions of Conservancy members did all the heavy lifting. He remembered fondly campaigns for Otter Creek Wilderness, Dolly Sods, and the Cranberry backcountry. He quoted former Gazette reporter Skip Johnson as describing the Otter Creek effort as AWest

Virginia Highlands Conservancy=s finest hour.@

He did not remember early board meetings. Everybody had lots of ideas about how we should get organized, ideas they were not shy about sharing. It made the board meet-



ings rancorous and interminable.

Cindy Rank, president from the late 80=s and early 90=s, followed Mr. Burrell. She talked about how she had come to the Conservancy looking for help when her community was threatened by coal mining. Eight years later she fell into the presidency, an office for which she felt unqualified because she had never focused on Wilderness areas or Corridor H. She had to learn quickly.

She still works most with mining where the tension about who we are still simmers. The Conservancy has focused so much upon A special places@ such as Otter Creek and Blackwater Canyon. Yet the places where mining is going on, while not on any official list of special areas, are just as special.

Then Frank Young, president from the late 90=s until the early 00=s took over. He

noted that by the time he took over the Conservancy had become an institution. It was all set up and running; all the president had to do was keep from running it in a ditch. He listed work on coal, Blackwater Canyon, Corridor H, the Coalition for Responsible Logging, forest planning, and the Wilderness campaign. He commented on the challenge of maintaining membership levels that existed when he became President and how visible campaigns addressed that problem. If you do it, they will join.

He expressed frustration that we could never reach consensus on a policy on wind energy.

Mr. Young saved his harshest comments for public officials, both administrative and legislative. It is his opinion that the environmental enforcers are "co-conspirators with the coal industry", a relationship that reduces them to "sham enforcers of environmental law.." He also observed that the "legislature doesn't do anything related to coal without the permission of the coal industry.."

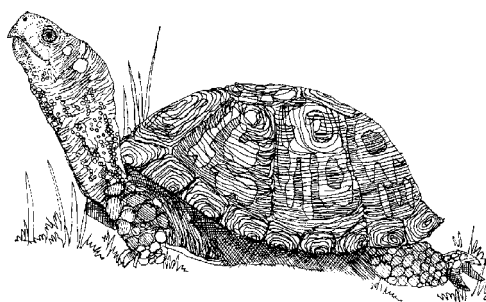
Mr. Young was followed by Lou Greathouse. Even though he had not been part of the announced program, he offered a few observations about forest planning in West Virginia and the early days of the Conservancy.

Then we got down to the really fun stuffBthe music. Jessie Milnes and Andy Fitzgibbon, both of Elkins, as well as Rory Mullenex, (aka a cousin of WVHC intern Abram Racin)

The Review also featured both the first and second book signings in the history of the Highlands Conservancy. Allen DeHart was available to sign copies of the Hiking Guide; Dave Elkinton was available to sign copies of *Fighting to Protect the Highlands, the First Forty Years of the West Virginia Highlands Conservancy*.

Leave a Legacy of hope for the future

Remember the Highlands Conservancy in your will. Plan now to provide a wild and wonderful future for your children and future generations. Bequests keep our organization strong and will allow your voice to continue to be heard. Your thoughtful planning now will allow us to continue our work to protect wilderness, wildlife, clean air and water and our way of



Send us a post card, drop us a line,
stating point of view

Please email any poems, letters, commentaries to the VOICE editor at johnmcferrin@aol.com or real, honest to goodness, mentioned in the United States Constitution mail to John McFerrin, WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

MEETING HIGHLIGHTS

By John McFerin

As is the practice at the Fall gathering, we began with the Annual Meeting followed immediately by the Board Meeting.

At the Annual Meeting, we didn't do anything except elect new board members to replace those whose terms had expired. Newly elected were Dave Fults, Larry Thomas, and Roger Forman. For departing members Perry Bryant, Barbara Weaner, and George Beetham there were huzzahs all around in celebration of their service and expressions of regret that they will no longer be part of the Board.

The Board meeting immediately followed the Annual Meeting.

Allen DeHart reported on the status of the Hiking Guide. One potential issue is the status of trails that exist on the ground within the Monongahela National Forest but are not official Forest Service trails. Mr. DeHart pointed out that anyone could go anywhere in the forest he wished to go. In this addition of the Hiking Guide, we are listing only the trails that are found on Forest Service maps and are recognized by the Forest Service.

John McFerrin reported on our activities on behalf of Kates Mountain. It is a 3,500 acre tract of land in Greenbrier County adjacent to Greenbrier State Forest. It is the subject of litigation among family members over what is to happen to it. We filed an amicus brief with the West Virginia Supreme Court of Appeals supporting the position of the family members who are more likely to preserve it as a natural area. There is a story about this elsewhere in this issue of the *Voice*.

Treasurer Bob Marshall reported that we are cooking right along financially. We are not rolling in dough but our revenue from membership is running ahead of budget projections so we are in good shape. We all continue to be pleased at how we are supported by the members. He noted that the Finance Committee will be meeting to develop a budget for 2008. Anyone who wants to make a **funding suggestion** has to get it to Treasurer Bob by **December 1**. He pointed out all the great work Mae Ellen Wilson is doing on whipping the endowment into shape.

Digital Guru Jim Solley reported on the web site. He distributed a report that befuddled most of us but the long and the short of it is that we are getting more and more traffic to our web site all the time as well as selling more and more stuff (hiking guides, shirts, hats, etc.) through the web site.

On **public lands**, Dave Saville reported that we are getting close to having a wilderness bill introduced in Congress. Exactly what will be in it is not yet clear. Part of the Monongahela National Forest is located in each of the three districts represented by each of West Virginia's three Congressional representatives. No area could be in the bill to be designated for wilderness status unless the Congressional representative whose district it is in supports it. All will support what the Forest Service recommends; some of the delegation may be willing to support areas not recommended by the Forest Service.

The Board noted that the Public Lands Committee has been totally focused on wilderness in recent times. Because of this, we have not been as active on other issues on the Monongahela National Forest that are not wilderness. Helen McGinnis, Marilyn Shoenfeld, Dave Fults, Beth Little, Peter Shoenfeld, and Don Gasper agreed to coalesce as

an informal subcommittee of Public Lands to address these needs. These would include trail issues as well as some sort of forest watch program. We need to monitor proposed actions by the Forest Service and participate where appropriate.

We discussed in general terms the need for some sort of forest watch program. Those who had been keeping an eye on the Forest Service are now consumed by Wilderness issues. It was the sense of



the Board that this is something we need to address although we had no concrete plan on how to address the problem.

Peter Shoenfeld reported on **wind**. He reviewed the various proposed wind projects. We noted that we still do not have a specific policy on wind farm siting. We supported the siting criteria promulgated by the Public Service Commission and have said we will oppose them in "special places" but we still don't have firm criteria for determining what one of those "special places" would be.

Cindy Rank reported on **mining**. She gave a general update of the many activities in which we are involved. Comments are due on the stream buffer zone rule by November 23. We could go to earthjustice.com for suggestions on how to comment.

Don Garvin talked about matters **legislative**. There had been legislative interim meetings on carbon sequestration and conservation easements. He would anticipate another anti-Wilderness resolution next year. He also reported that the 2007 legislature did nothing on any Department of Environmental Protection rules because it reached an impasse on the Tier 2.5 list. He expects those rules to be back for consideration.

Beth Little reported that the Western Greenbrier Cogeneration Plant was "dead." It borrowed money to do the design. Now it has no more money either to construct anything or pay back the money it borrowed for the design.

Frank Young reported on **TrAIL**, the large power line proposed to cross West Virginia. The Sierra Club expects to be very active in proceedings before the Public Service Commission. The Commission has to balance the cost of and need for the project.

Hugh Rogers reported on highways. The saga of Corridor H continues.

Lou Greathouse and Sue Broughton



Hugh Rogers, Tom King, and Don Gasper



Jean Rodman visits with Nick Zvegintzov



Hiking Guide co-author Allen DeHart



Rupe Cutler



Saturday night banquet. Photo by Perry Bryant, who would be in the empty chair were he not up taking the picture.



First President Tom King

The Review in Pictures



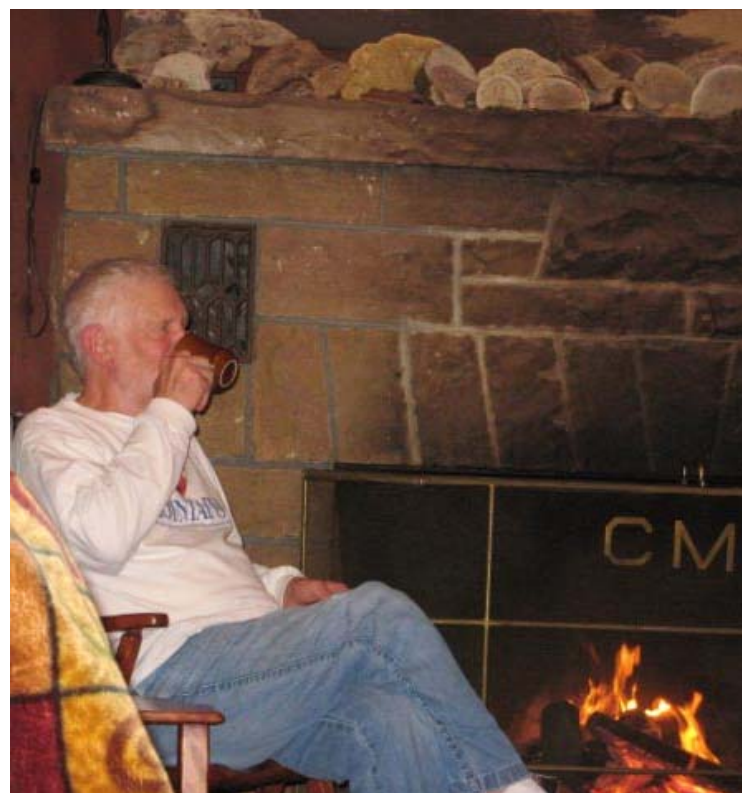
Dave Elkinton introduces the panel.



Panelists Rupe Cutler, Frank Young, Cindy Rank, and Bob Burrell



Former president Tom King, Former Administrative Assistant Dave Savile, and Future Former President Hugh Rogers



Julian Martin in a moment of quiet contemplation.

WEST VIRGINIA WILDERNESS WEEK IN DC A HUGE SUCCESS!

In late October over 25 volunteers from all over West Virginia ventured to Washington D.C. for a three-day trip to lobby West Virginia's members of Congress for expanded Wilderness pro-



Congressman Nick Rahall and Mary Wimmer enjoy the reception held for Wilderness Week participants.



Coalition Coordinator Dave Saville addresses the crowd gathered for the reception

tections on the Monongahela National Forest. The volunteers represented various groups, including the West Virginia AFL-CIO, West Virginia Council of Churches, Fayette County Commission, Mountaineer Chapter of Trout Unlimited, Pocahontas County Convention & Visitors Bureau, Healthcare Professionals for Wilderness, several West Virginia business owners, and various other WV organizations.

After a lobby training session and meeting planning, volunteers met personally with Con-

gressmen Nick Rahall and Alan Mollohan, and met with staff members of Congresswoman Shelley Moore Capito, Sen. Robert Byrd, and Sen. Jay Rockefeller.

A reception was held in honor of the participants in which Congressman Nick Rahall and staff from other WV delegation offices attended. Supporters from throughout the region attended to celebrate wilderness and were treated to old time music courtesy of Keith McManus and Bob Shank.

"Each meeting provided the opportunity to demonstrate a broad support base for Wilderness expansion," said Campaign Coordinator Dave Saville. "The volunteers really made an impact and their efforts are greatly appreciated."



After a hard day of pounding the pavement on Capitol Hill to protect wilderness, the group enjoys dinner together

ACTION ALERT: Urge Congress to Protect East Fork of Greenbrier and Seneca Creek as Wilderness!

We need your help today to protect some of West Virginia's most spectacular wild areas: East Fork of Greenbrier and the glorious Seneca Creek proposed Wilderness.

Right now, our leaders in Congress are considering these and other areas in the Monongahela National Forest that the West Virginia Wilderness Coalition has proposed for Wilderness protection. Will we see protection for East Fork of Greenbrier, home to one of West Virginia's premiere native brook trout streams? Or Seneca Creek, one of the largest unprotected wild areas in the East?

Please contact your Member of Congress today and urge them to support Wilderness designation for East Fork of Greenbrier, Seneca Creek, and all of the areas proposed by the West Virginia Wilderness Coalition.

Congressman Nick J. Rahall – Contact his D.C. office at: (202) 225-3452.

Congresswoman Shelley Moore Capito – Contact her D.C. office at: (202) 225-2711.

Support for Wilderness in West Virginia is building! More than 130 businesses and 135 health care professionals in West Virginia have endorsed our efforts to keep West Virginia wild and wonderful. That is in addition to the West Virginia Council of Churches, several WV chapters of Trout Unlimited, League of Women Voters of WV, and the Greenbrier and Pocahontas County Convention and Visitor's Bureaus.

We as West Virginians truly value our wild waters, woods, mountains, and wildlife. The East Fork of Greenbrier area is in need of Wilderness protection to prevent sedimentation and damage to its prized trout stream. This area is also known for excellent family hiking and camping opportunities and is the headwaters for the Greenbrier Watershed, which supplies drinking water to many West Virginia communities.

Seneca Creek is rated one of the best trout streams in the country and the proposed wilderness area is one of the largest unprotected wild areas in the eastern United States. With its wide-spread system of hiking trails, Seneca Creek allows for some of the most spectacular scenic vistas in the area. West Virginia's proposed Seneca Creek Wilderness area is truly one of our nation's wild treasures.

Wilderness protection for some of the last, best wild areas on the Mon forest can provide us the diversity of economic opportunities and wildlife habitat that can sustain our economy and our people, over time. Please contact Congressman Rahall and Congresswoman Shelley Moore Capito today and urge them to support keeping West Virginia wild and wonderful!

CONNECTING THE DOTS — the judge, the rule and the book

Submitted by Cindy Rank

It isn't often that business writers with the Daily Mail Newspaper pass along the slightest complement about our (and other groups and individuals) efforts to curtail the voracious appetite of the coal industry.

But comments at the Charleston public hearing about the proposed change to Stream Buffer Zone rule prompted an interesting column by George Hohmann in the October 28, 2007 Sunday Gazette-Mail newspaper.

Steve Walker (President of Walker Machinery Co.) followed me as the 21st speaker (of about 50) at the October 23rd hearing and referred to opponents of coal (and the proposed rule) as ranging from "uninformed citizens to eco-terrorists".

Thanks to the timely publication of his 40year history of the WV Highlands Conservancy Dave Elkinton provided Mr. Hohmann sufficient and apparently persuasive information to counter that comment. (His column appears below.)

Passions running high as the hills

by George Hohmann, Daily Mail

The head of one of West Virginia's premier companies voiced frustration last week about coal's opponents and what he sees as an anti-coal U.S. District Court.

The Cecil I. Walker Machinery Co. has 775 employees and a \$40 million annual payroll. The company's primary business is the sale and repair of heavy equipment used by the coal industry — specifically, the surface mining industry.

President Steve Walker was feeling the pain of laying off eight employees earlier this month. He also was upset about losing a bright young West Virginian who had come to work at Walker but witnessed the layoffs and decided to return to North Carolina.

Coal companies are hesitant to invest in Southern West Virginia mining operations because of a March ruling by U.S. District Judge Chuck Chambers, Walker said. The ruling rescinded valley fill permits for mountaintop removal mines that had been issued to four Massey Energy mines.

Chambers' ruling restricts valley fills and settlement ponds. It is being appealed. Meanwhile, Walker said the ruling has sent a chill through coal and coal-related businesses. He predicted that if the ruling isn't overturned, it could eventually shut down the southern coalfields.

Walker said coal's opponents range "from uninformed citizens to eco-terrorists."

"It's sad we've allowed ourselves to get a very negative bias in the media," he said. "I don't know what these people want. There's a religion now of global warming, that man has caused everything. It's hard to understand where all of this has come from in the last several years."

Walker might want to read "Fighting to Protect the Highlands: The First Forty Years of the West Virginia Highlands Conservancy."

This new 516-page book traces the environmental movement in West Virginia from the Highlands Conservancy's perspective. The conservancy was among the environmental groups whose suit against Massey led to the ruling by Chambers that has Walker stewing.

Author David Elkinton's stories don't strike me as being about uninformed citizens or eco-terrorists. Rather, he tells about concerned citizens who rally to save cherished natural wonders like Canaan Valley and the Cranberry Backcountry.

I don't agree with all of the fights. For example, I am a big fan of Corridor H. You can guess the conservancy's position from the book's chapter title: "The Billion-Dollar Boondoggle."

A major portion of the book is devoted to the conservancy's fights with coal companies. Over and over it tells stories about mining plans and the citizens who organize to oppose them. The fights are expen-

sive, drawn-out, messy, frustrating. But time and again there's a settlement. Nobody gets everything they want. It is, in other words, a series of stories about democracy in action.

Thanks to the industries — including coal — that employ people and pay taxes.

And thanks to people like Steve Walker who strive daily to run companies that are good corporate citizens.

Thanks also to the activists like Dave Elkinton who seek to hold bad actors accountable, watch governments and strive to protect our most cherished resources.

West Virginians are passionate about our state. We take things personal. It's one of our endearing — and strongest — features.

Editor's Note: Information about ordering Mr. Elkinton's book may be found on p. 5.



This photograph of North Fork Mountain doesn't illustrate any story. It is only here because everybody needs a little extra beauty in their lives. It comes from the website www.mountainwander.com, a collection of nature photos around West Virginia.

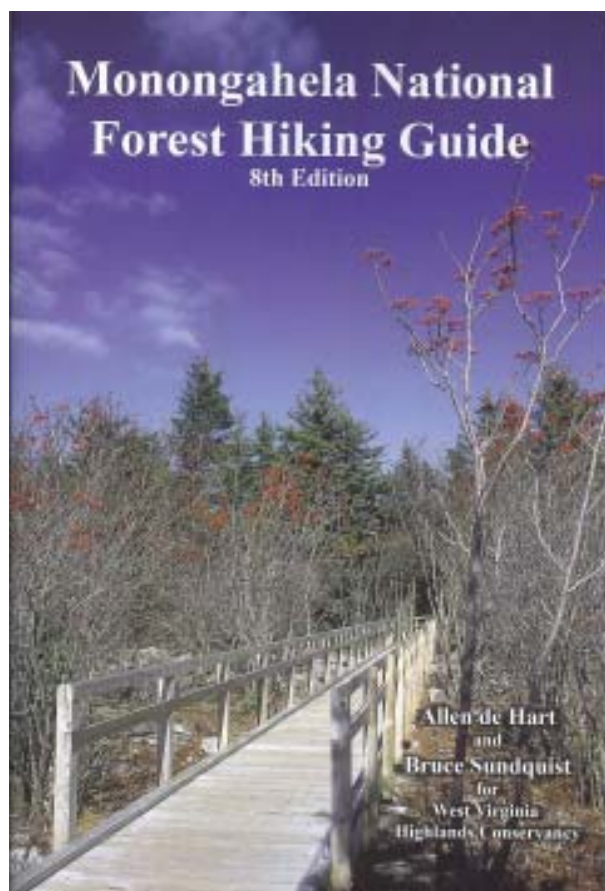
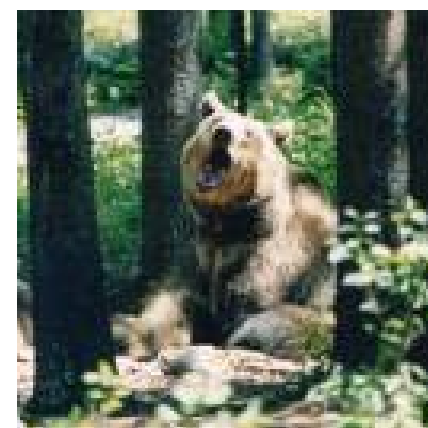
West Virginia Mountain Odyssey



Outings, Education and Beyond

Open Dates: 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 lunch for a picnic on Larry's mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com or Larry Gibson (304) 542-1134; (304) 549-3287

As happens every fall, the hikers and backpackers are all getting ready to hibernate until the weather gets warm again. There may be a snowshoe hike some time this winter; the outings program will pick up again in the spring.



The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

Describes 180 U.S. Forest Service trails (847 miles total) in one of the best (and most popular) areas for hiking, back-packing and ski-touring in this part of the country (1436 sq. miles of national forest in West Virginia's highlands). 6x9" soft cover, 368 pages, 86 pages of maps, 57 photos, full-color cover, Ed.8 (2006)

Send \$14.95 plus \$3.00 shipping to:
West Virginia Highlands Conservancy
 P.O. Box 306
 Charleston, WV 25321
 OR

Order from our website at
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HIKING THE UNKNOWN TRAILS OF THE CRANBERRY BACKCOUNTRY

By Michael Juskelis

Initially we had 10 folks signed up for this trip but come D-day we were down to four. In a way it was a good thing since tent sites for both nights would be at a premium and we had over 30 miles to cover over 3 days. The longest would be a 14 mile day 2 with over 1400 feet of elevation gain.

Gadget Girl was already there when we arrived so we put on our boots, strapped on our packs and headed up a service road to the Pocahontas Trail. Once there we turned east and set a really good pace.

This trail is mostly a combination of old woods roads once used by Native Americans and pioneers. The tread was pretty smooth. When we arrived at Mike's Knob we had plenty of daylight left so we dropped our packs and made the quick detour. We were pretty disappointed when we reached the top. All of the grand views mentioned in the trail guide were grown in. In a way this was a good thing because it meant that the forest was successful in reclaiming its territory.

We grabbed our packs and once again assumed a brisk pace. We rolled into camp at around 5:30. I was concerned about water since all of the streams we had crossed to this point had been as dry as a bone. Fortunately the Left Branch was still flowing with a couple of deep pools to filter from. We set up camp and prepared our dinners. We called it a very early night since we knew we had to cover 14 miles the next day to reach a water cache that two trail angels had humped up Fork Mountain for us the previous Tuesday night. (Susan Chappell and Larry Kearns packed 48 pounds of water for over a mile and stashed it between a boulder and a rock.)

We were on the trail by 9:00 the next day. Since none of us had ever backpacked 14 miles in a day before, we intentionally tried to retard our pace until we reached the top of Fork Mountain. The next section of the Pocahontas was more of a footpath than a road until we crossed Route 39. We crossed the headwaters of Hills Creek and

climbed to the junction with the Fork Mountain Trail where we turned west. Upon arriving at the Falls we topped off our water and paid a brief visit to the first two falls. The slow trickle we encountered did not warrant further exploration of the lower falls. We still had around 11 miles and 1200 feet of elevation gain to complete before dark.

We started the long climb up. The grade was moderate but all along the way were earthen berms you had to climb over. After the first eight or so they were starting to get quite old. Once on top we increased our pace again as we hiked through alternating hardwood and coniferous forests. Along one section the presence of busted rock and yellowish Red Spruce fighting to maintain a foothold was evidence of long ago strip mining.

After passing through a field of huge boulders, my eye caught the glistening of clear plastic at the base of a tree about 40 feet away. It was our water cache!!! We were quite relieved but too tired to gather up the water and schlep it to a campsite so we made do with the ground around us. By the time we hit the trail the next day we had used or replenished our reserves with all but two bottles. Chuck volunteered to carry one out and Pam packed up the other.

The final day was spent "roller coasting" up and down small knobs as we once again passed through magnificent stands of Spruce, Hemlock and hardwoods. There were several rock formations that, at times, looked more like miniature fortresses than rock piles. We came upon one gigantic vista but it was created by a massive clear cut logging operation. You could even see where the forest on the distant ridge had recently been logged. After a brief discussion of the pros and cons of clear cutting versus thinning we packed up our cameras and continued on.

We found the North Bend Trail easily

enough and began our descent back to civilization. About halfway down we came upon a gravel road but no trace of trail signage or blazes. We turned downhill at first and cautiously walked for a bit. I continually watched the evolution of our track on the GPS and it indicated that we were walking away from the trail and towards last night's camp-



site but at a lower elevation. We reverse marched back up the road until we came to a dead end. The trail sign and blaze were right there. This little "jog" in the trail wasn't shown on any of our maps. Once assured that we were heading in the right direction we increased our pace again only slowing down to maneuver through or around some serious blowdowns.

These little episodes were beginning to take their toll on us but eventually we reached the flood plain of the Cherry River. We were at the picnic area in about 20 minutes. We did most of our freshening up at the picnic area, said our quick good-byes, and began our long drive back to MD and Ripley, WV feeling good about completing a pretty difficult adventure.



OTTER CREEK FALL FESTIVAL

By Susan Bly

Otter Creek must surely be at its finest during the fall color season...or is it during the summer whenever one can cavort in cool waterfalls on a sweltering day? Either way, Otter Creek is a grand place to see fall at its finest. Three other autumn enthusiasts joined me for a ramble through God's country during this time. They included Terry Major – our camp comedian, Dave Paxton – our WV wilderness expert, and Karin Birch – artiste extraordinaire.

We ascended and descended the Mylius Trail to a camping spot next to Otter Creek to set up base camp. From there, we conducted an eight mile out and back hike on the Otter Creek trail amidst golden and scarlet carpets with sunbeams filtering through amber leaves overhead. We encountered a few folks out day hiking and several backpackers, but the wilderness was relatively uncrowded. We want to give a big thank you to the person(s) who have taken the time and energy to clip back the rhododendron in part of that section. It doesn't take long before the rhodies create a tunnel effect and one has to fight with a machete to get to the trails.

On our way back to our campsite, we took time to slide down the bank to Otter Creek and explore what we have dubbed, Terry's Waterfall. This is a waterfall about 5 feet high and is approximately 25 – 30 feet down the side of the bank, not readily accessible from the trail. We putzed around there before doing some stream whacking above the falls.

The interesting thing about this hike is that the water levels in Otter Creek are so low. On all the other trips I have been here, one's boots must be taken off at all the crossings of the creek because the water is usually too high to step from rock to rock. This situation is indicative of all the streams in the middle to southeastern regions of the U.S.

We eventually made our way back to camp and made supper. After doing our nightly dish duties, most of us went down to the Creek to gaze at the luminous blanket of stars overhead, the Milky Way directly overhead. Several satellites and falling stars provided the evening's entertainment before we headed towards our warm sleeping bags.

The next day, we rose to a temperature of 33 degrees. Terry's temperature reading showed a low of 30.5, which we must have hit sometime during the wee hours of the morning. The low did not remain there long as there was no frost or freezing of water bottles. The sun rose and made us forget our cold and numb hands as we anticipated a beautiful day of hiking.

Terry and Dave had to bid us farewell as their jobs wouldn't allow them to take a three day weekend. Karin and I were on our own and decided to take a 10.6 mile circuit hike using the Otter Creek to Possession Camp to Green Mountain trails and returning along Otter Creek. The blue skies gave the colored leaves a brilliant background.

We ascended Possession Camp through rhodies and spruce trees which is a gentle way of obtaining the summit of Green Mountain instead of ascending the nearly 1300 feet from the Otter Creek side up the Green Mountain trail. There is, however, a stretch of greenbriers that made the going a wee bit tough and less than inviting.

I must make a note about whom I have dubbed, the rhododendron wrangler. This person or persons likes to help clear the trail by breaking the branches of the offending aforesaid item. But rather than complete the process of completely removing the branch, lets it dangle like a lifeless arm on the plant. This will lead to dangling brown leaves someday which will look like a blight has hit the plant. Please, if you are a rhododendron wrangler, take the time to complete your wonderful aim

of clearing the trail by cutting it off completely. I will get off of my soap-box now.

We took a snack break at the North Branch of Possession Camp creek and viewed the old logging railroad bridge, or rather the remnants of the embankment. Further along the Green Mountain trail, we encountered a smoldering campfire, two men, and this object hanging in the branches. What could this be? Being of an enquiring mind, I asked the folks what this antenna was being used for. Turns out that they were with the military and were practicing land navigation. Each soldier had to pass this way station, while following their map and coordinates. Interesting.

Further down the trail along Otter Creek, we came across a backpacking couple who had actually encountered the troops as they came along the Creek trail. The troops were dressed in camos, with full backpacks and M-16's. This encounter would make anyone think that the wilderness was a last stronghold against terrorists. Head for the hills!

Upon close inspection of the trail and rabbit tracks going off into the woods, Karin and I found the only truly easy accessible overlook of the Otter Creek area along the Green Mountain trail. This overlook is reached by looking off to your right (if heading north), just before heading down the steep trail to the Creek. We ate lunch there and then relaxed in the warm sunshine, letting life pass us by and letting our minds go out to lunch as well. What better place to do so?

Back down at the creek, we gazed at some of the falls and watched how the light shone on the surface of the creek. What I found to be interesting and very soothing, was watching how the leaves and bubbles made blobular shadows as they skimmed along the flat bed of the stream. When you placed your finger or hand in the water, the shape of the sunlight changed along the bottom. I nearly fell asleep watching the leaves float along ever so gently, before they reached the never exhausted gravitational pull of the rivulets and falls below.

In camp, we made supper and almost achieved full success before Karin's stove conked out due to lack of gas and pressure. I ate my noodle soup almost at the al dente stage, but at least the broth was warm. We viewed the stars again before settling in to warm sleeping bags and listening to the creeks' flowing to soothe us to sleep.

The next day we packed up our belongings and ascended and descended Mylius to our waiting cars. Blue skies to light our way overhead along with hay scented ferns and the musky smell of the rhododendrons delighted us on our journey. I really hate to leave the mountains and head back to ordinary life but am very thankful that I had the opportunity to revisit this wonderful gem here in Wild, Wonderful West Virginia.



River Water Quality a Significant Concern

By Mark Blumenstein

This summer the Greenbrier River along with many of our state's other major rivers has been running very low, possibly at record low levels. When the water in our great rivers becomes so low that one pool seems to just drain into another, we all know that this can be a very dangerous for any kind of recreation. This is what has happened along the Greenbrier River this summer.

I called and spoke to the Department of Environmental Protection showing concern since we in the lower reaches of the river have four known sewage treatment plants upstream for us and many direct pipes that we cannot seem to get the Department of Environmental Protection to investigate nor cite.

Speaking to John Wirts of the Department of Environmental Protection, he pointed me to a state Department of Environmental Protection PDF chart of levels of bacteria over several years time.

From what I could determine from this chart, in 2004 the bacteria levels were unsafe three times during the year—April, July, and October. But this chart only offered testing 4 times each year and only once in the highest use time. Who knows when the numbers were released from the Department of Environmental Protection. Was there public notice of such conditions at that time?

What we feel the citizens of WV need is a regular testing of high use rivers and streams during the low flow months, which are normally the months of highest use! There needs to be a website that the public can go to, to see in plain English and simple charting the levels of bacteria in the river and an alert system put in place to make all aware of conditions when they become dangerously high. Samples need to be taken from areas of high use and not just at the confluence of the Greenbrier and New at Hinton as the chart I received showed. Just one area of testing for the entire region is not acceptable!

I know of two incidents this summer when individuals have come out of the river with severe infections to an abrasion and one situation where a young girl was hospitalized for 3 days after a romp in the river. Its time that the Department of Environmental Protection did more to protect the citizens of WV.

I was told that there was a public meeting several months back and that, the Department of Environmental Protection spokesperson 'was asked if the river was safe. He said I would shower after getting out, I would not open my eyes underwater nor would I swallow any.

Although this was a third hand quote, we all get the idea. Lets Change policy in West Virginia. Call the Department of Environmental Protection's number (800 654 5227) and request such a program for all our rivers that get a lot of use.

AES WIND TURBINES PROPOSED ON RANDOLPH-BARBOUR COUNTY LINE

By Marion Harless

The Elkins chapter of the American Association of University Women's September meeting permitted a general audience to hear a presentation by Art and Dr. Pamela Dodds on the negative aspects of the wind turbine design proposed by AES. The Dodds and AES had presented information to numerous individuals, government, utilities, and commercial enterprises.

On September 20, the Randolph County Commission hosted a public forum on the proposed turbines.

AES hosted informational walk-through programs in Elkins on October 8 and in Belington on October 9. Numerous small citizen groups continue to meet.

For more information check the websites of AES and laurelmountainpreservationassociation.org.

More About the Fernow (Continued from p. 2)

well site was moved a short distance away to a level spot on Fork Mountain, a boundary of the forest. The research station cut its own trees to clear the site. Nothing else happened for more than a year. It was said that Berry couldn't get hold of a drill rig.

Instead, Berry found a new geologist. He proposed a site at the mouth of Elklick Run that proved to be steep, rocky, and unworkable. Finally, he identified a site in the southwest portion, in the midst of several study areas. Berry now plans to begin drilling at the end of December.

Tree cutting there must be delayed until after the 10th. The new site is above and within half a mile of the Big Springs cave, an Indiana bat hibernaculum. Indiana bats are protected by the Endangered Species Act. Any surface disturbance must wait until the bats are hibernating. The ordinary standard for an illegal "take" of the bats is whether a tree could fall on a nest in another tree, but the drilling poses a more profound risk.

The well is located in karst geology, which means drilling through limestone riddled with sinkholes. For the same reasons that the proposed sewage treatment plant on the upper Elk River is a bad idea, this well puts the bats at risk. Predictable and difficult to control effects include impairment of water quality and changes of airflow leading to changes in cave temperature. If the colony is weakened it could die.

The Mon's office in Elkins prepared a Biological Evaluation (BE) as part of its decision document. It imposed a few special measures in an attempt to limit the risk to the bats, the cave, and the groundwater—these include extra steel casings on the well bore and geotextile covers over any sinks or voids the drillers encounter. The BE has been forwarded to the Fish and Wildlife Service for Endangered Species Act enforcement. They could impose additional restrictions, although rules for private parties are more lenient than the rules for federal action.

There's no doubt that ongoing studies in the Fernow will be interrupted, and some data lost, if the drilling proceeds. What really scares us, though, are the foreseeable impacts if gas is found in marketable quantity.

First, Berry would have to lay a pipeline. If they didn't follow the road, many long-term research compartments would be affected. This outcome would effectively end the Fernow's use as a research forest. In case the reader suspects an overreaction here, please see the "slide show" tracking a typical gas well project, available online at <http://wvsoro.org/galleries/>.

Second, there could be an additional eight to twelve gas wells on the Fernow—and more in Otter Creek.

Berry Energy has been heard suggesting that the Forest Service could buy them out. Any gas well is a gamble, and for this one the stakes are enormous. Meanwhile, it should be closely monitored.



United States Department of the Interior
FISH AND WILDLIFE SERVICE



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Dave Saville
West Virginia Highlands Conservancy
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Morgantown, WV 26507

October 2, 2007

Dear Dave,

I wanted to write a sincere 'thank you' for once again making the effort to come down to Canaan Valley National Wildlife Refuge this September to join our effort in red spruce restoration. This marks the 7th year of the partnership between the West Virginia Highlands Conservancy and the Canaan Valley National Wildlife Refuge in the restoration and conservation of balsam fir and red spruce habitat.

As you know and as we explain to the variety students working on this project, historic red spruce forests were decimated by logging and fire around the turn of the century. More than 90% of the historic range of this tree and forest ecosystem has been lost and converted into different forest community types. The red spruce forest in the southern Appalachians creates unique northern forest habitat for a variety of migratory birds and mammals as well as the threatened Cheat Mountain salamander and endangered West Virginia northern flying squirrel. The refuge is keenly interested in helping to increase the acreage of this historic plant community to help improve habitat patch size and corridor connectivity within refuge boundaries and between the refuge and other protected lands in the region.

Without the help of the West Virginia Highlands Conservancy and particularly the support that you personally provide, the ability for agencies and organizations to conduct red spruce and balsam fir restoration projects would be severely limited in this state. Your tireless hours of organizing volunteers, fund raising, cone collecting and facilitating the growth and distribution of native balsam fir and red spruce trees are the backbone of the conifer restoration program in West Virginia.

With the invaluable support from partners like West Virginia Highlands Conservancy, West Virginia University, Davis and Elkins College and The Nature Conservancy, over 16,000 red spruce and balsam fir trees have been planted in high priority areas on the Canaan Valley National Wildlife Refuge in the past seven years. Additionally, through grant opportunities and volunteer events, we have helped to educate college and high school students on the importance of the red spruce ecosystem and the value of lending a hand in active conservation practice. Again I want to thank you for continuing to support red spruce and balsam fir conservation and of course helping out with this fall's red spruce planting efforts. The refuge looks forward to the time when we can work together again.

Sincerely,

Ken Sturm
Wildlife Biologist

