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# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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## JUDGE HOLDS WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S FEET TO THE FIRE

By Cindy Rank

The light at the end of one mining tunnel may be getting brighter.

A recent decision by U.S. District Judge Irene Keeley (Northern District of WV) takes us another step closer to improving the state's reclamation of mine sites abandoned since the passage of the federal surface mine act.

Over the years *Voice* articles have documented some of our efforts to improve the bonding system in West Virginia, but a brief overview may be in order here.

In 1977 the Surface Mine Act (SMCRA) created two distinct approaches (and two separate pots of money) to deal with abandoned mine sites. The Abandoned Mine Land fund (AML) was to be used to reclaim mines worked and abandoned before the passage of the act. A separate bonding program was to assure funding would be available to pick up the pieces at mines abandoned after 1977.

West Virginia was granted primacy for overseeing and regulating the mining program in the early 1980's. That primacy included the duty to require companies to post bonds sufficient enough to assure that the state could step in and complete full reclamation if and when companies abandoned the mining. Even before the end of the decade it was apparent that WV's bond program was inadequate. And thus began a long history of prodding and cajoling legislative committees, federal and state agencies, and as a last resort, the courts, to improve the state's handling of these sites.



In her January 14, 2009 ruling Judge Keeley faulted the West Virginia Department of Environmental Protection (DEP) for not issuing itself pollution permits with water discharge limits at 18 abandoned mine sites where the state has taken over reclamation after companies forfeited their bonds. As a result, Keeley said, the state violated the Clean Water Act and allowed high levels of iron, manganese and aluminum to flow into state waterways. She ordered DEP to acquire NPDES water discharge permits and meet legal effluent limits at those sites. [These 18 sites include the infamous DLM, T&T, Omega, F&M, etc. that have featured prominently in previous issues of *The Highlands Voice*....]

Judge Keeley confirmed once again the fundamental tenant of the Surface Mine Act that a primacy state is not only required to hold industry responsible to meet reclamation standards, but also has a duty to uphold those same standards when companies abandon their responsibilities.

According to newspaper reports DEP is likely to appeal the decision.

According to those same reports, DEP Secretary Randy Huffman said that requiring the agency to grant permits to itself when cleaning up abandoned mines sets a dangerous precedent. And that Judge

**(Continued on p. 3)**

### What's inside?

Thoughts from President Hugh	2	Get a Hiking Guide	9	Outings	16
Roster of officers	2	WVHC movie now on DVD	10	Winter at Canaan	17
Spring Review	3	Get a history book	10	Electronic delivery	17
Wilderness	4	Coal mines and cemeteries	11	Salt pollution in Mon River	18
More wind turbines proposed	5	Wildlife refuge expands	11	One final letter	19
Board meeting highlights	5	Readers' letters	12	Seedlings for sale	20
Surface owners rights	6	More letters	14		
Coal fly ash	8	Even more letters	15		
How to join	9	Speakers	15		

## From the Heart of the Highlands by Hugh Rogers

### In the Smallest As Well As the Largest Country, Change Is On the Way

Bouncing down the long road from Perquín, high up by Honduras, to the airport on the coast, we passed what seemed like hundreds of small pickup trucks stuffed with passengers. It was New Year's Day and most buses weren't running. Some pickups had benches, rails, and canvas tops, but in most the women and children squeezed together on the floor while men perched on sides and tailgates. For our son Gabriel, in his second year as a Peace Corps volunteer, the trucks were an irresistible metaphor for a tiny crowded country going who-knows-where with patience and determination.

El Salvador fits more than three times West Virginia's population in one-third its area. It is mountainous—from Gabriel's door, the view across a pasture with spreading old trees toward a blue ridge in the distance briefly reminded us of home—but with a difference. The centroamerican landscape is volcanic. It erupted as recently as three years ago. That was Santa Ana, whose broad ashy top we'd seen across an old crater lake, and whose neighbor, Izalco, also had a confirmed smoking habit. Where the cones are lower and less distinct, the highlands have become jagged badlands where tropical jungle thins into semi-desert; or they've been covered by coffee plantations; or, in remote places such as Perquín, el. 4000, they're crowned with a forest of pine.

We had driven up to Perquín to visit the Museo de la Revolución Salvadoreña. During the twelve-year civil war, this was the main base of the FMLN guerrillas and their Radio Venceremos. Red flags still waved everywhere in the department (state) of Morazán, but their meaning was now somewhat different: since the 1992 truce, the FMLN had become a political party, and the country was in the midst of a campaign. Elsewhere we saw more signs for the right-wing Arena party than for the FMLN, but that was deceptive. In spite of Arena's huge advantage in money and tight control of the media, the FMLN was ahead in the polls.

On the left as well as the right there was ambivalence about reminders of the war. The museum didn't get much support. A billboard credited a single foundation in Barcelona. Scraps of English translations that had been taped to the displays hung by a corner or lay on the floor. English would be essential to get the message across to most Americans, whose government had funded the Salvadoran army throughout the 1980's. Our guide, a former guerrilla, told us the army had spent two and a half million dollars a day to fight them, while the FMLN was spending a million dollars a month. Their support, he said, came from "workers' syndicates" in Europe.

A short, sharp-featured, nut-brown man of indeterminate age, Don José had joined the guerrillas at sixteen. He walked with difficulty; at the end of our tour, he told us he had been part of an exchange whereby the kidnapped Vice-Minister of Defense was traded for medical treatment for badly injured officers. He was airlifted to Germany, where surgeons repaired as well as they could his shattered leg.

Don José had a speech for every exhibit and they continued to lengthen as we walked outside to see the army helicopter that had been blown out of the air, the unexploded 500-pound bomb that had been dismantled and recycled as many little bombs, and so on. For

(Continued on p. 4)

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## MORE ABOUT SPECIAL RECLAMATION FUND (Continued from p. 1)

Keeley's ruling could prompt unscrupulous mining companies that pollute the environment to walk away, knowing taxpayers would have to pay to clean it up.

Huffman was also quoted in one article as saying the decision "gives the perception that we don't want to protect the environment and nothing could be further from the truth." Though the DEP is not reducing the pollution at those sites enough to meet federal standards, he says the state is meeting a lesser standard that "in our role as caretaker we think is appropriate and should be acceptable."

With all due respect, Mr. Huffman surely knows that his agency is responsible for assuring that companies won't pollute the environment in the first place. Additionally, the state committed back in 1983 to collecting enough money from mining companies for the bond program to be fully funded.

With pressure from industry, the agency has dragged its feet since day one resulting in the multimillion dollar liability that exists today. It's taken years of pulling teeth to force the agency to even begin to adequately assess liabilities at forfeited sites let alone collect enough money to ensure the state's ability to step in when a company fails. Judge Keeley's ruling merely affirms the urgency of those endeavors.

The Highlands Conservancy has been bird-dogging the ailing WV Bond program for over 20 years. From lobbying the Legislature in the late 1980's for an increase in the flat bond-per-acre amount, to a variety of regulatory and legal actions meant to improve the Special Reclamation Fund created to supplement the per acre bonds when those bonds proved to be inadequate.

You may recall that Pat McGinley and the late Phil Scott won a mandamus action

before the WV Supreme Court re: these issues in 1991. It's taken another 20 years of prodding and cajoling the agency, threats by the Federal Office of Surface Mining to take back the regulatory program and additional citizen litigation spearheaded by Pat, Suzanne Weise, Joe Lovett, Jim Hecker and others to arrive at the point of Judge Keeley's recent ruling.

Contrary to Director Huffman's belief, Judge Keeley's order puts a heavier burden on industry – not the citizens – to cough up additional monies. And the onus is on WV DEP and the state legislature to see that that happens.

The Special Reclamation Advisory Council, established in response to a court decision in our earlier 1998-99 litigation, continues to pull through the molasses of industry resistance. Even before Judge Keeley's ruling the Council in its 2008 annual report to the legislature cited dire predictions that "the Special Reclamation Fund balance is projected to fall to zero in FY 2015. Subsequently, income is projected to cover less than 50 percent of expected expenses" as reasons to recommend additional increases to the special reclamation fees collected from companies producing coal.

The WV Rivers Coalition is co-plaintiff with WVHC in the recent litigation. We also filed a similar complaint in the Southern District, but Judge Copenhaver has yet to rule. There is a potential to extend Judge Keeley's ruling to many more forfeited sites where WV DEP has the responsibility to reclaim the operations, restoring the land and assuring pH, and metals in the water discharging from the sites are within legal limits.

After decades of attention to this issue, the Highlands Conservancy is grateful for Judge Keeley's order. As plaintiffs we are also grateful for the time and attention afforded us by the

public interest lawyers who have carried us forward through legal battles these 20+ years. However, the biggest beneficiaries of their work and Judge Keeley's order are the streams and waters of the state and the people and aquatic life who depend on them.

Once again it's up to DEP to not delay, but to face up to its responsibilities to hold coal companies accountable. It's also up to the DEP and the WV Legislature to act swiftly to "fully fund the fund" and to put the burden on the industry that has profited from inadequate enforcement of SMCRA's bonding provisions.



### HANG ON! Fun Is On The Way SAVE THE DATE!

West Virginia Highlands Conservancy's Spring Review is scheduled for May 1,2 and 3, so mark your calendars. Watch the website and the next *Voice* for specifics.

Volunteers needed to plan Spring Review; please contact [marilyn.shoenfeld@gmail.com](mailto:marilyn.shoenfeld@gmail.com)

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The West Virginia Highlands Conservancy web page is [www.wvhighlands.org](http://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.*

## WILD MONONGAHELA ACT PASSES SENATE, NOW TO COME BEFORE U.S. HOUSE OF REPRESENTATIVES

By Dave Saville

On January 15, 2009, The US Senate passed the Wild Monongahela Act. It was included in the Omnibus Public Land Management Act which is a package of over 150 pieces of legislation related to public lands. This is one of the most important and significant steps in the long-awaited passage of this legislation that so many of us have worked on for so long.

The fate of the Wild Monongahela Act will soon be decided in the U.S. House of Representatives. Passage of this legislation will provide permanent protection for six special places on the Mon including; Roaring Plains, Spice Run and Big Draft as well as ex-

pansions to the existing Dolly Sods, Otter Creek and Cranberry Wilderness Areas, nearly 40,000 acres all together.

The Omnibus Public Land Management Act passed on Jan. 15 in the Senate will designate over two million acres of wilderness in nine states, including the areas in the Wild Mon Act. This legislation would also create a new 26 million acre National Landscape Conservation System, protect over a thousand miles of free-flowing rivers, and establish four new national conservation areas.

We expect the House of Representatives to hold a vote on this legislation within

weeks. And the vote could be very close. And, if the House makes any changes to the legislation, the bill would be sent back to the Senate where it could again be stalled by a lengthy filibuster or pushed aside given all the other important business lawmakers will be dealing with this year.

We can't let up now, so we are asking for your help once again to see the Wild Mon Act through to enactment. Please see the action alert below and contact our Washington Representatives.

### Take Action Now on the Wild Mon Act

It is essential that the House passes the bill without any amendments. Please put in a quick call to your member of the House of Representatives and:

1. Thank them for their sponsorship and support of the Wild Mon Act.
2. Let them know that you want to see the Omnibus Public Lands Management Act passed in the House without amendment.
3. Ask that they consider urging their colleagues to support its passage without amendment as well.

#### Contact info:

Congressman Nick Joe Rahall II  
Phone: (202) 225-3452

Congressman Alan Mollohan  
Phone: (202) 225-4172

Congresswoman Shelley Moore Capito  
Phone: (202) 225-2711

Also, please call or email Senator Byrd and Senator Rockefeller to thank them for their hard work in the passage of Wild Mon Act in the Senate. Their leadership was critical in making this happen.

Senator Robert C. Byrd  
Phone: (202)-224-3954  
Senator Jay Rockefeller  
Phone: (202) 224-6472

## HUGH HAS MORE THOUGHTS (Continued from p. 2)

this visitor, though, the way the war was waged was of less interest than the history presented inside, which went back to the 1932 uprising, suppressed with 30,000 civilian deaths, and up to the murders of Archbishop Romero, four American nuns, seven Salvadoran Jesuits, UN human rights observers, and countless students, labor activists, and unlucky farmers. None of them had carried weapons.

What's remarkable, nearly unprecedented, is that these horrors finally ended in a peace agreement; the FMLN became a political party; in the election on January 18, it won the majority of votes for mayors and legislators; and it's on the verge of electing a president. That vote will come on March 15. The peace has lasted longer than the war, and now faces its biggest test.

In his blog (gabrielrogers.wordpress.com), Gabriel wrote:

"Imagine if the Civil War had ended in a truce, and all the Union and Confederate generals lived in Washington, many of them serving together in Congress. Here in El Salvador we're . . . where they might have been in 1881. Tensions remain."

I turned to another son, Tom, who teaches Latin American History at the University of North Carolina—Charlotte, for help connecting the Salvadoran story to our own new president: "Obama's election ties our country to a decade-long trend in Latin America—the hemisphere tilts left. Accepting this premise means surrendering some sense of our own agency in accomplishing our political shift, but in exchange for a sense of kinship and common purpose with our neighbors. Chavez, Lula, Kirchner, Bachelet, Morales, Correa, Ortega, Obama, Funes. (I don't know what the hell Canada and Mexico think they're doing.)"

Surely this has been the most dramatic transfer of power in our lifetime, at least. As Gabriel remarked—and it is true of most of those countries whose presidents are named above (in order, they are Venezuela, Brazil, Argentina, Chile, Bolivia, Ecuador, Nicaragua, the U.S., and El Salvador)—tensions do remain. For instance, not a single Republican in the House of Representatives voted for President Obama's initial major legislation, the economic stimulus bill. Opposition could be expected; but unanimity? We can only hope this single-minded phalanx will break up when it comes to undoing Bush-era regulations on mining, forests, water quality, climate change, endangered species protection, and many other environmental issues.

Nevertheless, change has come. Let's help make it stick.

# WIND TURBINES PROPOSED FOR NEW CREEK MOUNTAIN; OPPOSITION GETS ORGANIZED

By Peter Shoenfeld

On December 19, 2008, AES New Creek, LLC filed a Siting Certificate Application for the New Creek Mountain Project in Grant County with the Public Service Commission under Case No.08-2105-E-CS.

AES is represented by Chris Callas and Robert Alsop of Jackson Kelly PLLC.

The project would be sited along the New Creek Mountain extending 7 miles from south to north from a point approximately a mile north of Greenland Gap to the Grant/Mineral county line. The facility is proposed to include up to 66 turbines with "total output" of up to 160 MW. The turbine string will feed an existing 500 kv transmission line near Greenland Gap. Alternative selections for the turbines themselves include Clipper 2.5 MW Liberty Wind Turbines with total height of 425 feet and 1.5 MW GE units of 389 foot total height.

On January 18, 2009, a group of perhaps 50 local citizens met in Keyser to organize themselves in opposition to the proposed project. Speakers included Larry Thomas, of Friends of Beautiful Pendleton County, and Pam and Art Dodds, of the Laurel Mountain Preservation Organization. The new organization has named itself the Allegheny Front Alliance ("the Alliance") and is represented by attorney Brad Stephens. The Alliance has met again since then,

On January 25, the Highlands Conservancy, at its regular winter Board meeting in Charleston, voted to oppose the project, in a non-

unanimous vote after some discussion. A letter of protest is being submitted to the PSC .

AES' counsel has stated that they intend to pre-file direct testimony on February 13. The Commission staff has asked that they be allowed until February 19 to recommend a procedural schedule including an evidentiary hearing date.

The Alliance and the state Building Trades Council, AFL-CIO, have petitioned to intervene. This means that when their petitions are approved, they will become parties-of-record in the case.

As of January 27, 79 letters of protest and no letters of support had been filed in this case.

## And the windmills just keep on coming...

On January 30, 2009, Pinnacle Wind Force, LLC, subsidiary of US Wind Force, LLC filed a thirty day notice to file an application to construct an industrial wind energy facility on Green Mountain in Mineral County, West Virginia.

To keep up with where else windmills might be coming, go to [www.windwatch.org](http://www.windwatch.org). It tracks windmill projects for the country, not just West Virginia.

## BOARD MEETING HIGHLIGHTS

The West Virginia Highlands Conservancy's winter board meeting was the usual mix of ordinary administrative business, reports on what our committees are up to, and the obligatory discussion of wind energy.

In the administrative business, Treasurer Bob Marshall reported that we came in more or less on budget for 2008. We approved a budget for 2009. The finance committee had met in December to work out the details of the budget, making it much easier for the entire Board to consider it. Treasurer Bob reported on behalf of Mae Ellen Wilson that, while we are a very long way from making money hand over fist, for the times we live in we were doing OK.

Cindy Ellis reported on her project to distribute *Fighting to Protect the Highlands, The First Forty Years* of the West Virginia Highlands Conservancy to all the public libraries. She has mailed or delivered 174 copies and has been well received.

We discussed briefly Bob Gates' movie on the 40<sup>th</sup> Anniversary Celebration. He has put it on DVD and is offering it for sale. (See story on p. 10 of this issue of *The Highlands*

*Voice*). He will have a viewing and make a presentation at the Appalachian Studies Conference this spring.

Wind Committee chair Peter Shoenfeld made a report of that committee. It engendered considerable discussion of our position on industrial wind energy in West Virginia. There was no blanket change in our position although several Board members expressed skepticism about the utility of wind energy in the highlands of West Virginia. We did vote to oppose the AES project on New Creek Mountain. (See story on p. 5 of this issue of *The Highlands Voice*).

Dave Saville and Marilyn Shoenfeld reported on activities of the Public Lands Committee, including (but certainly not limited to) a planned public meeting with the Forest Service to discuss the implementation of the Monongahela National Forest plan.

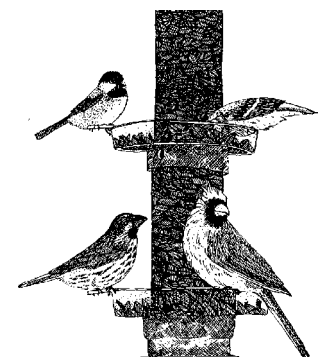
Cindy Rank reported on mining matters; it was updates of pending actions so there was nothing to vote on.

Frank Young reported on the PATH powerline. We voted to intervene before the

West Virginia Public Service Commission in opposition to that project. Frank also reported that the TrAIL powerline has not moved forward. Both sides objected to some or all of the Public Service Commission's decision; nothing is happening while we wait for the PSC to resolve those objections.

Don Garvin reported on matters legislative. He thinks there will be some sort of action on a surface owners rights bill (See story on p. 6 of this issue of *The Highlands Voice*) as well as bills on green buildings, energy efficiency, and renewable energy use. He is to meet with Governor Manchin soon to discuss the Governor's plan for renewable energy.

Cindy Ellis brought lunch which received rave reviews.



# SURFACE OWNER'S BILL OF RIGHTS TO BE INTRODUCED IN WEST VIRGINIA LEGISLATURE

Summary prepared by WV Surface Owners' Rights Organization, [www.wvsoro.org](http://www.wvsoro.org)

West Virginia's oil & gas surface owner protection laws were first enacted 1983. But surface owners were given only 15 days' notice before the drilling can commence, with no options for input about what parts of their property will be taken by the operators, etc. The damage compensation law enacted that year also was limited. There have been no improvements in 25 years.

The tripling of well permits in recent years has brought to a head the need for changes to give surface owners more help enforcing the common law rights they have had but cannot enforce when a well is drilled on them.

Changes needed to ensure good stewardship of the land & economic fairness in West Virginia's oil & gas fields include:

## Earlier notice to surface owners that the driller is coming:

- Require notice before the driller or surveyor comes onto the surface owner's property.
- Require the surface owner be given a copy of the relevant statutes and rules.
- Require a face-to-face meeting between the "operator" (driller) and the landowner well before the permit application is filed to try to come to an agreed "surface use and compensation agreement" – in writing.

These would be in addition to the current requirement that a surface owner get notice of the well permit application. That notice comes only after the well site and road have been surveyed and the soil erosion and sediment control plan is submitted. And the surface owner can only comment on how the road and site are built, not where on their land they are built!

## Pre-permit "Surface Use and Compensation Agreement" process:

- If the driller and the surface owner can not come to an agreement at the first meeting, require the driller to give the surface owner a copy of his proposed plans. If the parties still cannot agree on a written surface use and compensation agreement, allow the parties to request a mediation to try to reach an agreement before the drilling begins. (The current arbitration process that happens only after the damage has been done that is not effective and is rarely used.) This new process can be limited by the operator to sixty days.
- Surface owner can determine the road location, unless valid reason not to use what he chooses.
- Surface owner picks type of road construction – big wide gravelled, or minimal disturbance.
- Surface owner gets choice of vegetation replacement type.

## Fair & equitable damage compensation:

- If no pre-drilling surface use and compensation agreement is reached between the driller and the surface owner, require the driller to post an individual well bond, if and make that bond guarantee the surface owner's compensation is determined.
- Compensate for the surface owner for not only the lost value of the land actually used, but the lost value of adjacent lands caused

by the driller's activities.

- Value the land at market value, not just the value of its current use.
- Require the driller to offer the surface owner residential gas service, at cost, from the wells on their land.

## Property tax notification:

- Require a notice to the surface owner that the surface owner can have his land re-assessed after the drilling has been done.

## MORE LEGISLATION NEEDED FOR SURFACE OWNERS

### West Virginia Land Reunion Act:

- **If mineral property taxes are unpaid**, instead of selling at auction, let ownership revert to the surface owners; **and**
- **Surface owner chance to purchase** – Allow surface owners some way to have a chance to purchase the minerals under their property if they go up for sale.

### Well spacing and royalty sharing Legislation:

- Require drillers to space wells and share the royalties from each well among all of the mineral owners – This will result in fewer wells drilled, no legalized stealing of gas from neighboring mineral owners, and more total gas produced from a pool. More total gas from the pool will benefit investors, royalty owners, responsible operators, and maybe even consumers!

See [http://www.wvsoro.org/resources/pooling\\_unitization/index.html](http://www.wvsoro.org/resources/pooling_unitization/index.html)



# WHY WE NEED A SURFACE OWNERS RIGHTS BILL

Right now the only notice the surface owner is required by law to receive is a copy of the driller's application to Department of Environmental Protection for a drilling permit. The landowner gets the copy of the application only at the time the drilling permit is filed with D.E.P. The landowner then has 15 days to comment on the permit application.

The problem is that by that time the driller has already selected and paid for a survey of the well site and access road location! By that time, the driller will have committed to a position for the well and be less willing or able to negotiate a location more convenient for the landowner. The landowner can comment only on HOW the site and road are built, not WHERE!

The common law/case law gives the landowner some rights but it is ineffective. The driller has the right to do only what is "fairly necessary" to the surface. The surface owner has no way to enforce those rights without going to court:

- Very few surface owners can afford a lawyer to go to court.
- If they can afford a lawyer they probably cannot afford an injunction bond.
- If they can afford an injunction bond, they don't have time to get to court.]

All this bill does is:

- Make the driller offer to meet with the surface owner before going onto his land.
- Make the driller give the surface owner copies of the applicable statutes and rules.
- Make the driller show the surface owner their plans first.
- Give the parties time to try to negotiate a "surface use and compensation agreement" on the location of the road and site, and on the amount of compensation for the land and timber.
- Allows either party to request a mediator if they cannot work it out themselves.

There is already a compensation arbitration statute. But it has awards AFTER the driller finishes drilling the well – when all the damage has already been done.

That arbitration is RARELY used. We need something to negotiate land use and damages BEFORE the drilling. If the parties cannot come to an agreement, then the driller posts a small bond to guarantee that damages are finally paid. Right now most surface owners are too intimidated by the arbitration process or for other reasons do not do the arbitration and never get compensated.

Other portions of the bill:

- Give the surface owner the right to pay for gas out of the well – not free gas – pay for it.

Right now the surface owner cannot even use gas from a well drilled on his land.

- Give the surface owner damages at the market value of the land.
- Give the surface owner damages for the decrease in value of the land around the road and well site.
- Allow the DEP to deny the drilling permit if the DEP finds that the driller is in violation of a law or rule, whether or not the DEP has previously cited him for it.

## UPDATES

Things are always changing as bills move through the legislature. For updates on the progress, regress, or both of the surface owners rights bill, go to [www.wvsoro.org](http://www.wvsoro.org) (West Virginia Surface Owners Rights Organization) or [www.wvecouncil.org](http://www.wvecouncil.org) (the West Virginia Environmental Council)

## 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 \$11 total by mail; **long sleeve** is \$16. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



## 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](http://www.wvhighlands.org). Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is \$13 by mail. Make check payable to West Virginia Highlands Conservancy and send to West Virginia Highlands Conservancy, ATTN: James Solley, P.O. Box 306, Charleston, WV 25321-0306

# COAL FLY ASH BILL INTRODUCED, .... BUT IS IT ENOUGH ?

By Cindy Rank

Over the past several years WV Highlands Conservancy has joined with other local and national groups to weigh in on the question of how best to dispose of coal combustion waste (CCW).

The question has been simmering in the halls of Congress, the offices of the Environmental Protection Agency (EPA) and the Office of Surface Mining Reclamation and Enforcement (OSMRE) since the Solid Waste Disposal Act Amendments (SWDA) were enacted in 1980.

The SWDA directed EPA to report back to Congress about whether or not CCW is Hazardous Waste and to determine how those wastes should be managed. In the ensuing years EPA has been straddling the fence shifting first to one side and then the other as political pressure demands.

But while EPA straddled, the combustion wastes from coal-fired power plants piled up in a variety of wet and dry lagoons, landfills and impoundments across the country and every state developed its own method of regulating the disposal.

Then FOOM! .....The failure of the big ash containment facility at Tennessee Valley Authority power plant in Harriman, TN a couple days before Christmas 2008 awakened everyone from the 29-year stupor and all have focused on the potential problems at the thousands of sites across the country.

According to a report issued January 7, 2009, by the Environmental Integrity Project, "...dozens of contaminated sites have occurred all over the US and EPA has admitted that many more probably exist but have not been discovered due to the lack of any monitoring at most sites. In all there are approximately 2,000 CCW dumps in America, 600 operating landfills and surface impoundments, 750 closed dump sites, 400-500 minefills, and hundreds of largely unknown structural fills. Most are ticking time bombs with citizens living around them unaware of any danger – like lab mice in some never-ending experiment."

While the TVA failure in Tennessee may have been a wake up call, the disposal of coal ash (and other combustion wastes from power plants – slag, bottom ash, flue gas desulfurization materials, etc. is a national problem that demands a national solution.

On January 14, 2009 Congressman Nick Rahall (D-WV) introduced "A Coal Ash Reclamation and Environmental Safety Act of

face waters or monitoring for possible contamination.

As for **existing** impoundments, the bill requires an inventory of all impoundments within 12 months and a report to Congress no later than a year after the inventory is completed. The inventory is to include an assessment of design, stability and engineering of embankments, basin characterization, an assessment

of risks to surface and groundwater and a determination on the degree of risk each impoundment poses to human and environmental health.

At first blush some environmental organizations that have been involved with CCW issues over the years see the Rahall bill as a possible good first step, but continue to see as essential more involvement and coordination with EPA.

For those of us who have encouraged EPA to man-



2009" and is planning a hearing in the U.S. House of Representatives in the near future.

Congressman Rahall's proposed bill seeks to prevent any failure or breach of ash containment "impoundments" (i.e. "dams or embankments used to retain ...coal ash, slag, and flue gas desulfurization materials stored or disposed of in liquid, semi-liquid or solid form.") The bill gives the Secretary of the Interior the authority to promulgate regulations re: design, construction and maintenance "suitably similar" to the requirement for impoundments under the Surface Mine Act.

The regulation suggested in the Rahall bill may result in better engineering and design of **new** containment facilities and may provide for more thorough and frequent monitoring of the stability of the impoundments. However, it says nothing of liners to prevent the leaching of toxic contaminants into ground or nearby sur-

age this metal laden waste as hazardous, the Rahall bill falls short of dealing with the potential water contamination or requiring liners, leachate collection, groundwater monitoring and routine analysis of CCW's. (the waste contains numerous hazardous materials including arsenic, selenium, lead, mercury, cadmium, chromium, boron, thallium and molybdenum. Water pollution has resulted in Pennsylvania, West Virginia, Indiana, North Dakota and New Mexico.) Nor does the bill give any incentive to move away from wet dumps entirely and move toward properly managed dry storage.

.... As I've heard some say, even our household waste is regulated more carefully than these toxic ash dumps.

Whatever national regulation can be worked out, the time is now to take action before the fervor of the moment fades.



## Join Now !!!

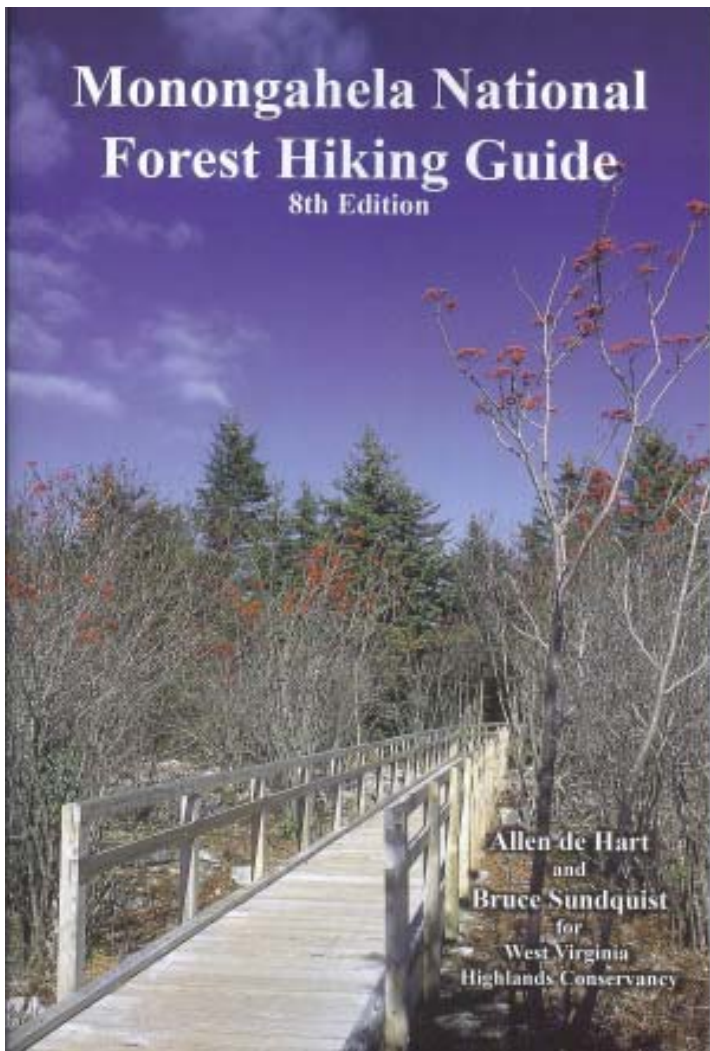
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**Membership categories (circle one)**

	<u>Individual</u>	<u>Family</u>	<u>Org</u>
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!**



## 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

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

### New 8TH Edition Now Available on CD

WV Highlands Conservancy proudly offers an Electronic (CD) version of its famous Monongahela National Forest Hiking Guide (8th Edition), with many added features.

This new CD edition includes the text pages as they appear in the printed version by Allen deHart and Bruce Sundquist in an interactive pdf format. It also includes the following mapping features, developed by WVHC volunteer Jim Solley, and not available anywhere else:

- All pages and maps 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.
  - ALL NEW Printable, full color, 24K scale topographic maps of many of the popular hiking areas, including Cranberry, Dolly Sods, Otter Creek and many more
- Price: \$20.00 from the same address.

## CELEBRATING 40 YEARS - THE WEST VIRGINIA HIGHLANDS CONSERVANCY DVD NOW RELEASED

In 2007 the West Virginia Highlands Conservancy celebrated its forty years anniversary, as documented in David Elkinton's excellent and thorough book "Fighting to Protect the Highlands: The First Forty Years of the West Virginia Highlands Conservancy". At the fall meeting that year, held at the Cheat Mountain Club on Shavers Fork, former presidents and members were recruited to attend.

Charleston filmmaker and Conservancy board member Bob Gates documented the event. This fast paced 58 minute video converses with many of the attendees and summarizes the accompanying panel discussion.

Attendees talk about the founding of the WVHC and the issues they dealt with. A few tall tales are thrown in too. The panel discussion focuses on the many successes and some of the failures through the four decades of the Conservancy's activity. Successes include saving the Canaan Valley from being turned into a pumped storage reservoir and working on Monongahela National Forest issues including wilderness designations. Fighting mountaintop removal coal mining remains an up-hill struggle.

West Virginia Library Commission film librarian Steve Fesenmaier reviewed the video as follows: "I found the 58 minute documentary to be fascinating, including interviews not only with the founders of West Virginia's oldest environmental organization but also many other

West Virginia activists from a wide spectrum of activities."

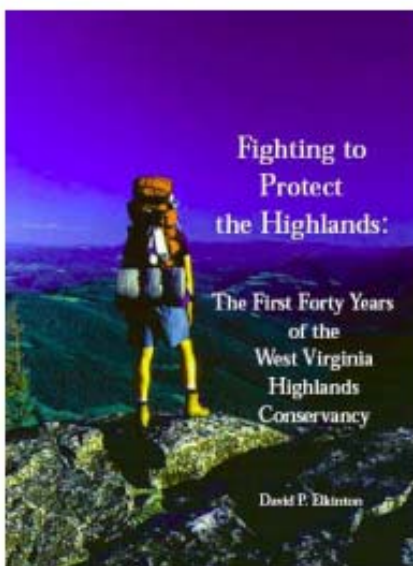
Seen in the video are: newcomer Mike Buransky, longtime member Perry Bryant, former president Bob Burrell, founder and wilderness activist Rupert Cutler, "Monongahela National Forest Hiking Guide" author

Allen deHart, former president and '40 Years' book author Dave and Jan Elkinton, stream expert Don Gasper, a fleeting shot of filmmaker Bob Gates, founder Lou and Jackie Greathouse, first president Tom King, Julian Martin, Helen McGinnis, former president John Purbaugh, coal issues activist and former president Cindy Rank, outdoors enthusiasts Ray and Mary Ratliff, Buff and Jean Rodman, current president Hugh and artist Ruth Blackwell Rogers, Monongahela National Forest activist Dave Saville, techno whiz Jim Solley, summer interns James and Susan Tawney, and former president Frank Young.



This video makes an excellent introduction to the book and should interest viewers to look up the details of the stories alluded to in the film. It provides a snapshot of the impact the West Virginia Highlands Conservancy has had on the environment of West Virginia.

Contact Bob Gates at Omni Productions, Box 5130, Charleston, WV 25361 304-342-2624 omni@ntelos.net for ordering information. Copies for personal use are \$25 ppd. Institutional copies are priced according to the size of the Institution.



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](http://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.

## MINING OUR PAST

By Cindy Rank

In mid January a *Daily Mail* article about a Patriot Coal wanting to move a family cemetery in Monogalia County so that the company can strip mine the site brought back floods of memories of other families who have struggled with similar plans for mining.

I think I first awakened to the audacity of the industry to do such things in the early '80's. Island Creek Coal Company – or perhaps it had become ENOXY by then, proposed to move the Shaw family cemetery from the Shaw homeplace at the head of Tenmile Creek to a larger Church cemetery down the road.

Paul Shaw and his family had fought to stay on their family homestead for many years before the blasting, constant noise of heavy equipment, county roads torn up by mining truck traffic and the advance of the mining itself finally broke their spirit. Reluctantly they had sold their property and moved to a farm on the other side of Buckhannon.

Little did they (or I) know or realize that the Surface Mine Act that said strip mining couldn't be done within 100 feet of a cemetery, didn't always mean what it said. Or more correctly, couldn't be twisted to mean something other than what it said.

Frantic phone calls, letters, appeals to the company and to local magistrate court were for naught and the company's plans were approved.

Tenmile may have been my first rude awakening, but in 1995

local residents in Turtle Creek area of Boone County told me of a cemetery that was dozed through as Hobet 21 advanced across Rt 10 to the Lincoln County side of the Mud River. I never knew if the cemetery appeared on any topographic maps used by the company, but it was one of those small older family cemeteries that had become overgrown. Local folks knew of its existence but had no idea of the mining plans that would doze through it with nary a nod to the sacred nature of the ground. It was only when the folks on out the road toward Corridor G drove by the crossing that they realized what had happened.

Anyone who has been to Kayford mountain, or the Jarrell family cemeteries in the midst of Performance mines near Whitesville, or the one on Berry Branch or on any other hillside can empathize with what Frederick Elliot and family must be going through as ICG/Patriot pushes them aside.

The many family cemeteries – large and small, well tended or forgotten for lack of surviving family members – that dot our hillsides and mark the homeplaces of our ancestors deserve more.

Our friends in the Ohio Valley Environmental Coalition (OVEC) are pursuing better protection for cemeteries threatened by proposed mining operations. Chuck Nelson, retired coal miner and volunteer with OVEC, said it best when he emailed:

*"Let the dead rest in peace. When it comes to digging up graves to dig the coal, it's time to leave them both in the ground undisturbed."*



## CANAAN VALLEY WILDLIFE REFUGE ADDS 120 ACRE TRACT

By Rick Steelhammer

A 120-acre tract encompassing the headwaters of Flat Run and containing meadows, wetlands and mature hardwood forest has been added to Canaan Valley National Wildlife Refuge.

The tract straddles W.Va. Route 32 north of the refuge's visitors center and abuts the Monongahela National Forest on the slopes of Canaan Mountain on the western edge of Canaan Valley, according to refuge spokeswoman Jackie Burns.



**Winter snow in Canaan Valley.** Photo © Jonathan Jessup

The addition brings the refuge's acreage to just more than 16,000.

The Conservation Fund, a nonprofit preservation group, bought the land from North Lake II LLC, a Maryland-based housing developer, and held the property until the U.S. Fish and Wildlife Service obtained the funding needed to complete the purchase.

Part of the money for the purchase came from American Electric Power as part of a Clean Air Act settlement agreement.

"This acquisition protects some of the most significant natural resources within the Canaan Valley National Wildlife Refuge," said refuge manager Jonathan Schafner.

The U.S. Fish and Wildlife Service identified the tract as a top acquisition priority because of its critical linkage to other protected lands, as well as its high-value nesting habitat for grassland-dependent and forest-dwelling migratory songbirds.

Flat Run, a Blackwater River tributary, supports a native brook trout population.

Sen. Robert C. Byrd and Rep. Alan B. Mollohan secured appropriations from the federal Land and Water Conservation Fund to help pay for the property.

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

*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 life.

## Our Readers Write

### Anniversary video--get it!

Dear John,

As one of the founders of the West Virginia Highlands Conservancy and a participant in the Conservancy's 40th Anniversary Reunion at the Cheat Mountain Lodge, I would like to strongly recommend to Conservancy members and other Highlands Voice readers that they purchase a copy of Bob Gates' new DVD, "Celebrating 40 Years—The West Virginia Highlands Conservancy." This professional quality video is the perfect companion to Dave Elkinton's book on the Conservancy, "Fighting to Protect the Highlands," because it includes lively, sometimes very emotional interviews with many of the individuals whose roles are portrayed in the book and "brings them to life."

I would think everyone who participated in the event at the Cheat Mountain Lodge would want a copy because it includes highlights from all of the speakers in the evening forum featuring Conservancy past presidents. Bob Gates sells the DVD for \$25 through the address Omni Productions, Box 5130, Charleston, WV 25361.

Rupert Cutler  
Roanoke, VA

### Wind power--the debate continues

Jim Kotcon, representing the Sierra Club, recently wrote one of the most uninformed, despicable letters in support of limited liability wind technology companies I have ever read. Claiming to know what he does not, his characterization of the motives of Vince and Margie Collins is an ad hominem attack that is mean-spirited and careless of the facts, while his blithe statements about the ability of industrial wind turbines are unsupported—and unsupportable—by physical evidence.

As a life long environmentalist (co-founder of the North American Bluebird Society, longtime friend of both Chan Robbins and Roger Tory Peterson, consultant with the Roger Tory Peterson Institute, among other bona fides), I became an intervenor with the Maryland Public Service Commission in two wind hearings. Although I initially wanted to support wind technology because I believed (falsely) it might mitigate coal mining/burning practices, I was concerned about what miles of huge wind machines located across mountains ridges would do to migrating birds. I still am. But during the PSC hearing process, it became clear that wind salesmen could not substantiate a single one of their claims on behalf of this behemoth technology, including claims that it would backdown coal, replace our aging electricity infrastructure, and meaningfully offset CO2 emissions throughout a grid system. More on this momentarily.

I met the Collinses several years ago in a forum I arranged in Garrett County, Maryland, to call public attention to what I had learned as a PSC intervenor. Over the years, I've come to know them well and can personally vouch for their integrity, their commitment to a better world, and to their concerns about the problems with fossil fuel consumption, including that from coal. But they are not fools or wishful thinkers. And they would not allow themselves to be seduced by the Enronesque rhetoric enabling the wind mess. They no doubt will address Kotcon's scurrilous personal attack themselves—and do so effectively.

Kotcon's other statements also deserve contempt. There are over 60,000 huge wind turbines encumbering the world—more than 13,000 in California, nearly 10,000 now in Texas; Germany has over 20,000; Spain over 8,000; Denmark, 6,000. All of those states have increased their CO2 emissions over the last decade. Why? Why aren't the substantial public subsidies devoted to wind—on a kilowatt hour basis 25%

greater than coal, hydro, and natural gas, and 16% greater than nuclear—indexed to actual measured reductions in CO2 emissions? Here's why:

Wind is not David to coal's Goliath. It's a foster sibling to coal, related because the same corporations that own most of the nation's windplants also own and control the majority of the nation's coal operations. Contrary to public perception, wind technology has been around since the Bronze Age, and over the last 25 years has received billions in public financing. Enron owned the country's largest stock of wind facilities before selling them to General Electric. Today, G.E., along with the nation's third largest utility, Florida Power and Light, BP, and AES, control most of the nation's wind projects—as well as most of the country's dirtiest burning coal facilities. They use wind's unearned environmental cachet as public relations while cashing in on wind's lucrative subsidies. What's particularly galling is their practice of using wind's cap-and-trade and renewable energy credits—provided by the most cynical or gullible of politicians—to avoid the cost of cleaning up their coal plants. These politicians give the appearance of challenging Big Coal when in reality they're reinforcing it, especially since more wind facilities very likely will result in more coal plants. Although conventional power is also heavily subsidized, these subsidies result in reliable service. The subsidies for industrial wind, which can provide virtually no effective capacity to the system while delivering energy in fits and starts, will be used to make ineffective and uneconomical technology falsely appear to be effective and economical. To see the absurdity, consider requiring 20% of American airlines to use glider transport while remaining highly productive, safe, reliable—and competitive. Then watch their CO2 emissions escalate as they compensate....

Award winning energy journalist Robert Bryce, in his recent book, *Gusher of Lies*, says that limited liability wind companies are "the electricity sector's equivalent of ethanol," which he documents as one of the worst of our energy "scams." He continues: "The hype [for wind] has lost all connection with reality." Those who would profit from this industry mill a forest of half-truths to frame a house of lies.

Let's start with the claim that wind technology provides "power." Physicists define energy as the ability to do work, while power is the rate at which work is done. Huge turbines can convert wind energy into electrical power. But they do so with the same capacity standards that powered sailing craft and water pumps in the early nineteenth century. For nearly two hundred years, industry has deployed far more effective ways to produce power. Contrast the ability of sleek clipper ships to



Continued on the next page

deliver small, typically specialized cargo across the Atlantic in three or four weeks with today's freighters that can make the same trip in days, often on schedule, while carrying many thousands of tons of diverse cargo: the power (the rate work is accomplished) of the latter is many times greater, allowing exponentially more productivity. Although we may applaud the skill of the sailor, we rely for our well being on the performance of highly responsive power.

The ability to convert prescribed amounts of energy at high rates of power at specified, convenient times—effective capacity—is a cornerstone of modern society. Imagine the long lines at filling stations if wind power pumped the gas: your tank might get filled eventually but the wait would be infuriating, costly both to your time and that of your fellow travelers. Like its power source, wind energy is unpredictably intermittent and highly variable. Typically, it generates most when demand is least and, at times of peak demand, often produces nothing. More problematically, it produces only a statistical fraction of its installed capacity in a highly desultory, sporadic fashion.

Given contemporary performance expectations, boasts about wind power, with its hit or miss fluttering rate of production, are buffoonish bluster. Supplying the annually increasing demand for electricity is much like continuously replenishing a large, leaking tub of water. Whimsical wind power can add only a few sporadic drops, which cannot even keep pace with the water loss (demand increases). The real work is accomplished by high-powered, precision-tuned machines that reliably pump in just the right amount of water at critical times to keep the tub from overflowing or from eventually emptying out. Although wind technology does provide energy, it is inconsistent, even incompatible, with modern machine power performance.

The worm at the core of wind technology is its skittering variability, which is considerably above and beyond demand fluctuations, ranging unpredictably as it does from zero to 100% of any wind project's rated capacity. It must be compensated for by reliable conventional generators, for it cannot be loosed on the grid by itself. In the PJM, with so little hydro (.9%) and natural gas (5-7%), the primary compensation must come from coal plants not designed to provide this compensation efficiently, in the process increasing thermal activity on the grid. Typically for older coal plants, a 20% reduction in performance (from say 100% to 80%) will result in ~40% degradation in heat rate. It's true that not any one plant gets reduced by the total (it's spread out) but more thermal plants get bigger penalties as wind penetration increases.

Wind proponents often cite wind's capacity credit, which is an historically-derived, statistical average of the amount of a wind projects' rated capacity measured to be available at critical peak demand times. Let's say that, over a three year history, an average of 10% of the rated capacity of existing wind projects in a grid was achieved (in Germany, the aggregate capacity credit for wind is 8%). Wind proponents have maintained that grid planners can "credit" that amount of wind energy to be available—and therefore are able to "avoid" deploying that volume of conventional generation. Typically, wind proponents imply that avoided generation would be coal, in most cases.

There is scant evidence to support this implication, given the many other dispatch models in play, including economic dispatch considerations (the requirement to dispatch the lowest cost power unit available to engage demand). As I said, any capacity credit for wind is a statistical average—and no one can as a consequence predict how much wind will be available at any time ahead interval, much as one can rarely predict what even a good hitter will do in his next at bat. If, for example, grid operatives use wind's 10% capacity credit literally, avoiding the

dispatch of a high capacity conventional unit, then find that the wind projects are generating only 2% of their rated capacities, they will have to scramble on the spot market to shore up the difference, greatly increasing the dollar cost and likely the cost of carbon emissions.

Among the: (1) uncertainty about what power sources wind energy would replace or avoid from minute to minute (it must be rapidly responsive units), (2) the operational inefficiencies inherent in switching conventional power sources off and on to accommodate wind's continuously changing intensity, (3) the transmission constraints inherent in bringing the wind energy across long distances, and (4) the emissions created in the construction and operation of the wind facilities, actual measurement of emissions offsets due to wind installations is difficult to calculate accurately. This is made even more problematic because wind operatives typically refuse to make public how their turbines are actually performing on the grid, claiming this information is proprietary. However, one certain way of threatening the growth of industrial wind projects would be to insist that their performance be fastidiously tied to meaningful reductions in CO2 throughout a grid system.

There are ways of getting at this measurement, using transparent algorithms that model at least hourly load dispatch and perhaps even more finely grained time intervals. As stated above, there are many wind projects in place already, such that we don't need to reinvent the wheel—and don't therefore need to rely on hypothetical wind installations. But the wind industry steadfastly resists such a measurement. Suffice it to say that not a single coal farm has been closed due to wind technology anywhere. And as long as Robert Byrd sits in his Senate catbird seat, the rapacious practice of mountaintop removal coal extraction techniques will continue, even if the mountains of the state were festooned with wind projects, with many located on coal-ravaged sites.

As an artist and environmentalist who values aesthetics and the methods of science—and wants an effective energy policy, I've looked for independent evidence substantiating claims made for wind technology by those who would profit from it, financially and, in Kotcon's case, ideologically. By evidence, I mean real world encounters with actual performance to see if its key premises are true. Of all people, environmentalists should embrace the skepticism of science, rather than be seduced by deceits of fashion. They should not confuse the trappings of science—the engineering grandeur of a huge wind turbine, for example—with the real work of science, which would insist upon verifying the machine's performance. My values are green; I believe we should conserve, minimizing our footprint on the earth, and not intrude on it with bombast and self-serving incivility. Although I understand why well-intentioned people support the wind industry, I'm mindful the road to hell is often paved with good intentions. Environmental history is the chronicle of how adverse consequences flowed from the uninformed decisions of the well intentioned. Simply because an energy supply is "clean" does not mean it is green.

Finally, let me mention one of the ironies of the Sierra Club's support for such an oafishly intrusive technology as industrial wind. It's founder, John Muir, rightly became apoplectic about the aesthetic loss of his Hetch-Hetchy Valley due to the building of a massive hydro dam—and he used all the muscle of his fledgling Club to oppose this highly effective but environmentally treacherous renewable energy source. Simply because an energy supply is renewable does not mean it is desirable, even if it is, energy-wise, effective—which wind is not.

Jon Boone  
Oakland, MD 21550

## Yet Another Letter

To the Editor:

In his letter published in the January *Highlands Voice*, responding to my article debunking wind energy in the November issue, Jim Kotcon attacks my math, my conclusions, my credibility and even my husband! His letter is so full of misstatements and outright falsehoods that it demands a response.

First, Mr. Kotcon states that my article is “simply wrong” and accuses me of “double counting” and “exaggerating” in my assertion that wind energy will not displace fossil fuel emissions. He provides no analysis or explanation to back up his assertions, nor does he cite any study quantifying the amount of CO<sub>2</sub> supposedly avoided by the thousands of wind turbines currently in operation worldwide. Perhaps he should read the 2005 report of E. ON Netz GmbH, the largest grid operator in Europe, which states that “Wind energy cannot replace conventional power stations to any significant extent...The more wind power capacity (on) the grid, the lower the percentage of traditional generation it can replace.” The report also states that “wind energy will require up to a 90% backup from fossil fuel plants.”

As stated in my article, none of these calculations take into account the unique environmental damage resulting from erecting wind turbines on forested eastern ridgetops as opposed to California desert or North Texas wasteland. Clearcutting thousands of acres of CO<sub>2</sub>-absorbing forests to place hundreds of wind turbines on ridgetops and build the necessary roads, new transmission lines and attendant infrastructure will, without question, increase the CO<sub>2</sub> footprint of wind turbines, let alone destroy the last, best places in the East.

Mr. Kotcon further illustrates his misunderstanding of grid mechanics by stating that “If a 100 MW wind farm actually only generates 30 MW, a big percentage of that 30 MW displaces fossil fuel-based electricity because the fuel needed to keep a plant idling is much lower than the fuel needed to maintain it at peak power.” What Mr. Kotcon fails to recognize is that base load fossil fuel plants cannot ever come close to following the minute by minute variability in output of wind facilities. It takes hours, not minutes, to shift from “spinning reserve mode to “peak output mode” which would be necessary to match any significant amount of wind energy generation. Furthermore, the amount of thermal cycling required creates great inefficiency, as plants that were never intended to do so would have to ramp up and down constantly. This will greatly increase the amount of greenhouse gasses produced. Therefore, it is a fact that fossil fuel plants will have to over-generate to accommodate the skittering nature of wind.

Mr. Kotcon then recites the latest mantra be-

ing pushed by wind developers by claiming “While it is true that the wind does not blow everywhere at top speed all the time, the wind is blowing somewhere all the time. So even if the wind is calm at Mount Storm, it will be blowing at Beech Ridge or Backbone Mountain.” This statement is simply absurd. There are many days, especially during the summer peak demand months, when the entire eastern United States is under a high pressure area, with little or no wind anywhere. These “dog days” of summer can last for days, and even weeks. Where will our electricity come from during these periods? Can we import electricity from California? Of course not, but even if we could, what would California then do to replace the elec-



tricity removed from their grid? There simply is no avoiding the fact that we will have to have more conventional fossil fuel facilities built and producing to cover these peak load/minimal wind periods. This will, of course, increase CO<sub>2</sub> emissions.

Mr. Kotcon states that “Collins implies that the capacity factor of wind turbines is zero much of the time and is wildly unpredictable the rest of the time.” I didn’t imply it. I stated it as a fact. One need only review the computerized output records of any wind facility to verify this.

Finally, after all these paragraphs of unresearched, unsubstantiated nonsense criticizing my article, Mr. Kotcon proceeds to employ that favorite tactic of those who cannot substantively refute arguments – the personal attack. He questions my credibility because, as he claims, my husband “is the attorney that wrote the tax breaks for the Longview power plant.” He goes on to say that my husband is an “active supporter of coal” and a “Friend of Coal.” These claims are patently false. At no time in his legal career of over 30 years has my husband ever represented a coal company, an energy company or a utility, and neither he nor I are “Friends of Coal,” whatever that means.

It is a matter of public record that after Monongalia County officials had decided to support the Longview plant, they contacted my hus-

band to represent them in trying to extract the maximum tax payments they believed the project could support. In other words, he was not trying to get tax breaks for the power plant, but to get the most tax money from Longview for the County, given that the project had already been approved. How does this make him “an active supporter of coal?” Mr. Kotcon knows or should have known this, since he sat in on many of the meetings regarding the negotiations. If Mr. Kotcon has an ounce of decency or honor, he will write a public apology for this intentional misstatement of fact, which creates the false impression that I am against wind turbines because I am for coal plants.

I would like to make two final points. First, Mr. Kotcon has apparently ignored the second half of my article, which argues that even if wind energy could displace CO<sub>2</sub>, the amount of displacement would be miniscule in comparison to the environmental damage it is going to create. Why is Mr. Kotcon willing to live with, and even encourage, every last wild and scenic ridge in West Virginia being plastered with 450-foot wind turbines, access roads, new transmission lines and all of the attendant damage that will be necessary just to build a few hundred wind turbines? Don’t Mr. Kotcon and other “believers in wind” realize they are being manipulated by wind developers who care nothing for our state and only seek to exploit it for money? Even assuming that wind turbines would work as advertised, the total mitigation of CO<sub>2</sub> would be too small to even measure. I honestly don’t understand how anyone who professes to “love mountains” could support this craziness. The scenario that is about to unfold is almost too awful to contemplate, but it will happen unless rational people make their voices heard, and quickly.

Finally, I believe Mr. Kotcon is sincere, as am I, in his wish for clean air and water, and keeping what’s left of the wilderness that makes West Virginia such a special place to live. We both agree that we cannot continue to spew millions of tons of CO<sub>2</sub> into our atmosphere without suffering consequences. Nowhere in my article do I espouse the idea of “clean coal.” Even if “clean coal” could be achieved, “clean coal mining” is difficult to imagine. Where we part company is in Mr. Kotcon’s belief, based on nothing other than faith and popular misconception, that wind energy will have any salutary effect in achieving this goal. It won’t.

Margaret M. Collins  
Morgantown, WV

## And More Letters

### Marsh Fork residents pay true cost of coal

As I read the Letter to the Editor dated Jan. 21 by a resident of Shady Spring attacking two of my community members, I was reminded how easy it must be for people who do not live in a mining community to attack those of us whose lives are ravaged by the coal company every day.

I was shocked that she stated she reads the newspapers every day and sees no alarming numbers of obituaries of children from the Marsh Fork district. Is that what it will take for her and those in agreement with her to understand those of us who pay the true cost of coal?

Given the recent sludge dam break in Tennessee and the results of the recently released air quality study, children's obituaries are exactly one of the things we are worried about.

No, living in Shady Spring, you surely do not have a child at Marsh Fork Elementary. As a mother of four children who attended school in this building, I may have more reason to care about little kids' obituaries than you do.

People say, "Why don't you just move?" We have generations buried in family cemeteries here. We live in homes that were built by loved ones who are no longer with us. We have a sustainable way of life that was practiced long before we got here. We have memories and a sense of place that we would not have anywhere else.

Even if we wanted to sell and move, our property has been depreciated by the coal company that moved in next door. We don't live where they mine coal; they mine coal where we live.

Lorelei Scarbro  
Rock Creek, WV

**This letter was originally published in the Beckley Register-Herald.**

### Coal Companies Cause of Economic Hardship

As I read the article in Friday's Gazette "Patriot Coal cutting 220 jobs" I thought to myself, "What's this? Coal miners are losing their jobs and out-of-state tree huggers are not to blame?"

No, instead it's the out-of-state coal company costing them their jobs because market conditions have made it not "economically feasible." Just let these big out-of-state based corporate giants start to lose a little bit of profit and look how quickly the miners are thrown under the bus.

So, why aren't we seeing marches at the Capitol with little children holding signs up that say "Don't lay my Daddy off for greed"?

Are there a bunch of coal miners dressed in their neon striped uniforms road tripping to St. Louis to protest for their jobs? But just let someone who's worried about the health and wellbeing of their own child try to make them follow the laws to protect the environment they live in and see how fast the WV Coal Association organizes a demonstration.

Friends of Coal, Walker Machinery, the coal operators and some of our elected officials have convinced them that environmentalists with no connection to West Virginia are coming in here and costing them their jobs when in reality it's the coal companies themselves that are costing miners jobs. Coal operators cost miners their jobs when strip mining became the more "economically feasible" way of doing things and why is that? They replaced the miners with machines.

Look at the facts. There are 100,000 fewer coal mining jobs today than there were in 1950 with just as much coal being produced. So who's producing the coal? Big machines. Walker Machinery machines.

Local people who live here and in the thick of it all don't want to see miners lose their jobs either. We just want them to obey the laws and do it underground.

§ 380,000 acres of mountains impacted between 1992 and 2002. (This is over four times all of WV State Parks combined.)

§ 1,400,000 acres will be impacted by mountain top removal by 2012. (A swath one mile wide from New York to California.)

§ Over 1,000 miles of West Virginia streams buried in Valley Fills. (This is longer than the Ohio River.)

§ 3,000,000 pounds of explosives are used against West Virginia mountains every day.

§ Selenium from the mines is blamed for deformed fish found in a lake below mountain top removal.

§ Of the mountains destroyed by mountain top removal less than 5% have any economic development.

Walker Machinery and the coal companies can run all the commercials they like about how they're such good stewards of the land, but it doesn't make it so. Maybe they could take the money they spend on all their propaganda and keep these miners working until the market turns around and it once again becomes "economically feasible."

James Tawney  
Summersville, WV

**This is a longer version of a letter that originally appeared in The Charleston Gazette.**

### Speakers Available !!!!!

Does your school, church or civic group need a speaker or program presentation on a variety of environmental issues? Available topics include a slide show presentation on mountain top removal including up to date information on coal sludge pond and coal ash pond failures in Kentucky and Tennessee. Contact Julian Martin at 1525 Hampton Road, Charleston, WV 25314, or Martinjul@aol.com, or 304-342-8989.

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

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

# West Virginia Mountain Odyssey



## Outings, Education and Beyond

**Sunday February 8, Gateway To The Refuge - Animal Tracking;** 10 am Whitegrass Ski Touring Center. Ski or Snowshoe trek led by Canaan Valley National Wildlife Refuge Wildlife Biologist Ken Sturm. This very popular event will give you information needed to figure out what critters make all those impressions in the snow. These Sunday walks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday February 15, Carefree Snowshoe Tour;** 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. Led by Canaan Valley National Wildlife Refuge Intern Corey Bonasso, this tour will include Natural history and local lore. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Saturday February 21, Winter Bird Walk;** 8am, meet at the Canaan Valley National Wildlife Refuge Visitor Center, led by Casey Rucker.

**Saturday February 21, Valley Vibes - *Living Legends, the History and Ecology of Red Spruce Forests*, 7pm at the Canaan Valley National Wildlife Refuge Visitor Center. Before the logging era the red spruce ecosystem in these mountains was vast. Why didn't it all come back after the logging? What animals, dependant on the red spruce ecosystem, have become endangered? What can we do to help? Presented by Environmental Educator Corey Bonasso.**

**Sunday February 22, Gateway To The Refuge - *GPS mapping skills*;** 10 am Whitegrass Ski Touring Center. Trek led by Dr. Rick Landenberger, Executive Director of a non-profit geospatial research and education network, and West Virginia University faculty member in Geology & Geography. Rick will provide an introduction to GPS technology including principles for mapping points and routes, with particular emphasis on central Appalachian forest ecology and wildlife applications. Bring your own GPS if you'd like, but Rick will have loaner units for first timers. All are welcome. Skis or snowshoes. These Sunday treks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday March 1, Carefree Snowshoe Tour;** 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. This tour will include Natural history and local lore. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Sunday March 8, Carefree Snowshoe Tour;** 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. Led by Canaan Valley Master Naturalists Bruce and Andy Dalton, this tour will include Natural history and local lore. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Saturday March 14, Winter Bird Walk;** 8am, meet at the Canaan Valley National Wildlife Refuge Visitor Center, led by Casey Rucker.

**Sunday March 15, Gateway To The Refuge - *Canaan Valley Balsam Fir*;** 10 am Whitegrass Ski Touring Center. This trek, led by The Nature Conservancy's Mike Powell, will visit a local balsam fir swamp where you will learn about this unique species of tree and the efforts that are being undertaken to protect and conserve it. These Sunday treks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Saturday March 21, Valley Vibes - *A Sense of Wonder*;** 7 pm, at the Canaan Valley National Wildlife Refuge Visitor Center. In 1962 Rachel Carson alerted us to the problems of overuse of pesticides. Actress Kaiulani Lee portrays Rachel Carson in her one woman show, now captured on video. How has Ms. Carson's work changed how we use pesticides today? Join us to view the video and explore.

**Sunday March 22, Carefree Snowshoe Tour;** 1 pm Whitegrass Ski Touring Center. Your chance to appreciate the simple beauty of snowshoeing on the Canaan Valley National Wildlife Refuge. This tour will include Natural history and local lore. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**(More on the next page)**



## MORE OUTINGS (Continued from previous page)

**Sunday March 29, Gateway To The Refuge - Appalachian Stream Ecology;** 10am Whitegrass Ski Touring Center. Snowshoe walk led by Canaan Valley Institute Stream Ecologist Ryan Gaujot. Ryan will take the group on a trek along Freeland Run to look at stream health, impairments, and ways they might be repaired. These Sunday treks are free of charge and offered at Whitegrass each year to expand our appreciation of the Canaan Valley National Wildlife Refuge. Visit [www.whitegrass.com](http://www.whitegrass.com) or call 304-866-4114.

**Saturday to Monday, May 23-25, Seneca Creek Backpack** with a day hike to the High Meadows. We hope to cover some previously unexplored trails on the first day. Daily mileage 8/8/7. Pre-register with Mike Juskelis 410-439-4964, [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**Saturday to Tuesday, July 25-28, Seneca Shadows Car Camping** with 2 day hikes, MNF, VA. This campground is meticulously maintained. The hikes will include a 10 mile shuttle hike across North Fork Mountain with tons of views and a 10 mile circuit in Dolly Sods North. Optional hike to the top of Seneca Rocks for early arrivals. Pre-register with Mike Juskelis 410-439-4964, [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**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](mailto:martinjul@aol.com) or Larry Gibson (304) 542-1134; (304) 549-3287.

## WINTERTIME ON THE CANAAN VALLEY NATIONAL WILDLIFE REFUGE

Don't let the winter weather keep you inside this year. The Canaan Valley National Wildlife Refuge has the perfect prescription to cure those wintertime blues and cabin fever. With help from Whitegrass Ski Touring Center and Refuge volunteers the Refuge is offering weekly opportunities to get out and learn about the natural history and ecology of the area. These outings also provide the restorative benefits of getting out into the wide open spaces, beautiful vistas and fresh air of Canaan Valley.

Whitegrass proprietor Chip Chase has been organizing the Gateway to the Refuge Outing Series for several years now and once again this year has a busy schedule of weekend outings lined up. "Over the years we have had some of the State's greatest naturalists leading outings here at Whitegrass and this year is no different," says Chase. "This past weekend Barnes Nugent from the WV Geologic Survey conducted a workshop on Mountain Geology and on Sunday, February 8, Wildlife Biologist Ken Sturm will lead an outing focused on Animal Tracks. The Refuge's Winter Intern, Corey Bonasso, has been a great help organizing and co-leading the outings."

Corey, a 2008 Graduate from West Virginia University, is helping with outreach and educational work on the Refuge this winter. A native of Carolina, WV, in Marion County, Corey studied Forest Resource Management at WVU and did a Senior Project on the High Elevation Red Spruce Ecosystem in West Virginia.

Corey's Internship on the refuge is centered around the ski areas on Cabin Mountain. As a Refuge interpreter, he contacts skiers along trails, on busses and at the ski lodges to provide information to Refuge visitors. He also conducts programs and guided tours focusing on the U.S. Fish and Wildlife Service and Canaan Valley National Wildlife Refuge including general topics of ecology. Corey has been working on a series of interpretive wayside trail signs, a facebook page and also helps to staff the Refuge Visitor Center which is open Monday, Wednesday, Friday 8:30 am - 3:00 pm and Saturday 10:00 am - 4:00

pm during the wintertime.

The Gateway to the Refuge Outings Series is a great way to beat the winter blues while learning about the important natural resources of Canaan Valley and how the US Fish & Wildlife Service is working to protect and restore them. See the Mountain Odyssey schedule of outings in the Highlands Voice for a complete listing of winter outings on the Refuge. For more information or to check on the latest scheduling, contact the Canaan Valley National Wildlife Refuge at 304-866-3858, or visit [www.whitegrass.com](http://www.whitegrass.com) or call the Ski Touring Center at 304-866-4114.



### Electronic Delivery Available

*The Highlands Voice* is now available for online delivery. Instead of (or in addition to) regular paper delivery, you can have it delivered to you as an e-mail attachment. It would come a few days before the paper copy would normally arrive.

*The Voice* is also available on-line at [www.wvhighlands.org](http://www.wvhighlands.org).

If you would like electronic delivery, please contact Beth Little at [blittle@citynet.net](mailto:blittle@citynet.net).

**Marcellus Shale and Mine Discharges Provide a Double Whammy!****SALT POLLUTION IN THE MONONGAHELA RIVER**

By Jim Kotcon

As many readers may know, Pennsylvania reported serious problems in fall, 2008 with high "Total Dissolved Solids" (TDS) in the Monongahela River. A variety of salts make up the main components of TDS, and while not necessarily harmful to human health, high TDS creates a host of water quality-related problems. Early reports attributed the high TDS to Marcellus Shale brine waters disposed of through local sewage treatment plants. I went to a meeting of the Upper Mon River Association (UMRA) on January 9th, and it was very informative. UMRA has held a series of such meetings monthly since fall, and this has been an important public service on this emerging issue.

The meeting was predominantly a Q&A session with Pat Campbell of the WV-DEP Division of Water and Waste Management and Scott Mandirola, who deals with oil and gas well issues for DWWM. UMRA had asked DEP to respond to 10 questions regarding the high TDS situation in the Mon River, and the Q&A went on for almost 3 hours. Highlights include the following:

1. The TDS issue was first discovered in September/October when the Hatfields Ferry plant in Greene County, PA reported excessive particulate discharges from their cooling towers. Other problems in Pennsylvania included scale build-up on boilers and at coking plants, scale-build-up inside residential hot water heaters, spots on dishes and glassware coming from dishwashers, etc. At the peak of the problem this fall, water supplies for 800,000+ people were affected with exceedances of the PA TDS standard, and some communities had to shift to bottled water

The TDS problem was exacerbated by low river flows due to the prolonged drought during this period in fall 2008, however monitoring data clearly showed spikes in TDS immediately downstream from discharge points of Pennsylvania municipal treatment plants that had accepted brine waters from Marcellus Shale gas well drillers. PA-DEP ordered the local municipalities to drastically limit the amount of brine they discharge, creating disposal problems for some drillers.

However, when data on the chemical makeup of the TDS were analyzed, they showed convincingly that a large part (perhaps a majority) of the TDS problem is from mine water, not just Marcellus Shale gas drilling, and that the Dunkard Creek watershed is a major contributor to the problem (certainly not all of it,

or even a majority of it, but nevertheless Dunkard Creek creates a sizable pulse of TDS in the Mon River that is quite significant numerically).

(Note to readers: Dunkard Creek is a large tributary draining western Monongalia County and is heavily impacted by both surface and deep mining. The Longview Power Plant under construction near Morgantown had originally proposed to treat mine pool water from under the Dunkard Creek watershed and use it for cooling water. Longview has since decided that the mine water is too heavily polluted to treat cost-effectively. Longview's proposal to alter their cooling water source, and reduce the level of treatment of mine pool water is under appeal at the WV Public Service Commission, because it would exacerbate pollution discharges to Dunkard Creek and the Monongahela River. The TDS problems in the Mon River illustrate that the water quality of discharges from these mines to Dunkard Creek has a significant impact on the Mon River, hence decisions by Longview to renege on early promises to treat this water would have significant adverse impacts to downstream users.)

Here is the BIG NEWS!!!

2. Allegheny Energy indicated that, although this year was unusually bad, they have had problems in past years with their water quality. They need to do extensive and expensive clean-up on their "boiler make-up water" at Hatfields Ferry and as a result, have tried to re-use and recycle this water as much as possible. Unfortunately, the more they re-use the water, the more they concentrate the TDS into the remaining water, which is eventually discharged under their NPDES permit. PA-DEP is now requiring an upgrade in their NPDES permit, which will mean a \$61 million treatment plant which will cost \$4 million per year to operate, and will consume about 4 MW of their generating capacity. This \$61 million+ will have to come from ratepayers, a direct cost of high TDS that will have to be borne by all Allegheny Energy ratepayers.

Other highlights of the meeting that help put this in perspective include the following:

3. PA has adopted the EPA-recommended water quality standard of 500 mg/L for TDS, but WV has no TDS standard. DEP is "considering" whether to promulgate one, but this would be a real concern for mining and gas industries, and even most of the sewage treatment

facilities in WV, so it would be very controversial. By way of comparison, rain water is usually less than 10 mg/L, fresh water streams are usually <100 mg/L, the Mon River reached a peak of over 1500 mg/L, and ocean water is at 35,000 mg/L. West Virginia does have a requirement for large water users to report the amount of water they withdraw, but these reports are often as much as one month after the withdrawal, and nothing specifically limits the amount of water that can be taken from a stream or well.

4. About half the TDS in the Mon River in PA was from sulfate (usually calcium sulfates, a byproduct of acid mine water).

5. The TDS in the Monongahela River at Morgantown was approaching 500 mg/L this fall, about 250 mg/L was from sulfate, while sodium chloride (salt) there was around 10-20 mg/L. Sulfate in Dunkard Creek (downstream from Morgantown) is normally around 100-200 mg/L, but peaked at 800+ in October, and chloride reached 200 mg/L in Dunkard Creek at this time. Some of the mine pools in that basin have very high chloride levels. There was some discussion about whether gas companies are injecting brine water into deep mine pools, or are injecting below the mines, with the brine then leaking into the pools, or whether these strata are just naturally high in chlorides. Neither DEP representative claimed to be knowledgeable about mine pools, but acknowledged they are interconnected, and some PA mine pool discharges may eventually be discharging in WV.

6. Scott Mandirola (WV-DEP) insisted that gas companies are prohibited from discharging into surface waters in WV, (most brine water is disposed of by injecting it back into deep wells), that no new rules were needed, and that the gas companies were very forthcoming in terms of disclosing the materials they inject into "frac"ing fluids. This was contradicted by several people, including the representative from the Clarksburg Sewage treatment plant who admitted their plant was accepting and discharging water from a gas well operation and a coalbed methane operation.

Scott Mandirola repeated his assertions that surface water discharges were prohibited several times, but eventually admitted that if a gas company disposed of brine at a sewage

**(More on p. 19)**

## Another letter

### Green Mountain is more than a view shed

Most of the discussion about industrial wind turbines on Green Mountain has been related to its view shed on Keyser and the New Creek Valley.

This change in the landscape of Keyser and the New Creek Valley should be reason to not want them on Green Mountain.

Let's look at both sides of the mountain. Green Mountain is a unique area of wildlife and recreational opportunities. On the eastern slope from Pinnacle toward Pine swamp there are five thousand acres belonging to the public Allegheny Wildlife Management area. The other part of the Allegheny Wildlife Management area, which consists of eleven hundred acres, is at the base of the western slope. These areas are home to many species of wildlife that could be affected by these industrial wind turbines. It has been documented that song birds, bats and raptors have been killed by industrial wind turbines.

The beaver dam is on top of the mountain. This wetland could be affected by the twenty foot deep craters built for the foundations of the 400 foot industrial turbines. How will this affect the over all hydrology of the watershed?

Bear hunters should be alerted to the fact that fences and gates enclosing these turbines will alter the routes of their dogs and hunting. It will not be the same.

On the Western slope, the other side of the mountain that we don't see from Keyser lies the Jennings Randolph Lake project. The Jennings Randolph Lake project is operated by the US Army Corp of Engineers and is not advertised like our state parks. The project is described on the events and attractions web page of Mineral County. This unique recreation area attracts over one hundred thousand visitors a season. These visitors come to camp, fish, boat, hike, picnic, view wildlife, and to enjoy the scenery.

They love the wildness of the area. They desire to seize the moment! They appreciate the peace, beauty, and quiet of the area. I heard

these comments on a daily basis when I used to work as a seasonal park ranger for the Army Corps.

Will US Wind Force ruin this? I say yes! Industrial wind turbines will be within a mile and one half of the campground. Will the noise and lights at night intrude on the stillness of the night? Who wants to see industrial wind turbines on the ridges while visiting the recreation area? Why would anyone want industrial monstrosities next to a recreational and public wildlife management area? The answer is big money! We are all currently seeing how greed in our society works.

Also, Jennings Randolph Lake is home to a nesting pair of Bald Eagles. They are one pair of only eleven pairs in the entire State of West Virginia. They have produced two young each year for the last twelve years. The adults stay and mate for life, but the young are chased away to take up residents elsewhere.

These eagles are within the danger zone of the industrial wind turbines. Why should we put these prized symbols of our country at risk?

Congressman Alan Mollohan has seen the potential of the Jennings Randolph Lake project as an economic source for Mineral County. Through his efforts, the Corps received one million dollars for the Shaw Beach development at the lake. The beach, campground, and picnic area have already obtained several awards. The Jennings Randolph Lake recreational area will continue to be developed as one of America's Top Spots for recreation.

So in honor of our late, great United States Senator Jennings Randolph, and the great state of West Virginia, "The Mountain State," we need to say "no" to the proposed 23 industrial turbines on Green Mountain.

Mike Wilson  
Keyser, WV

## MORE ON SALTS IN THE RIVER (Continued from p. 18)

treatment plant, the salts would get into the River as sewage treatment plants can not remove dissolved solids. (Jim Green from the Morgantown Utility Board indicated that they had declined to accept such waters, but would consider it if the companies would pay for the reverse osmosis treatment facility to take the salt out of their water.)

7. To alleviate the problems in the Mon River in PA, the Army Corps of Engineers requested additional water releases from West Virginia's Tygart Lake and Stonewall Jackson dams in October and November. These produced an immediate reduction in the high TDS as they "flushed" the Mon River. However, this resulted in a draw down of Tygart Lake to the point where they had only a couple more weeks of water in reserve. While it seems unlikely that this would have halted barge traffic on the Mon, this practice could not have kept Mon River water at adequate drinking water quality if the drought had continued.

8. Mr. Campbell presented historical data to compare the drought this fall with previous droughts. While this was certainly a somewhat drier than usual fall, it was by no means as dry as the 1998 drought, and far less severe than the record drought of the Dust Bowl years of 1938. As Marcellus Shale gas drilling ramps up, and mine pools continue to fill, high TDS will be an issue during every dry season.

Mr. Campbell indicated that this issue was one of the major issues he has worked on at WV-DEP for the last two months. The final word was when the DEP reps said "Nobody is thinking that this isn't going to happen again next year."



## For Sale: West Virginia Seed Source Red Spruce and Balsam Fir Seedlings

Once again in 2009 The Highlands Conservancy will be providing high quality seedlings grown from seed collected locally by volunteers. All proceeds go to support red spruce ecosystem restoration efforts in West Virginia.

We are excited to announce that 2008 saw a good crop of balsam fir cones in West Virginia, the first crop since 2003. In August we were able to collect in Canaan Valley in Tucker County, Blister Run in Randolph County and Blister Swamp in Pocahontas County. While not a bumper crop of red spruce, we were also able to collect several bushels of spruce cones this fall on the Monongahela National Forest.

### Red Spruce

12-18 inches tall, these are a 2 inch plug 6 inches deep. These quality seedlings, available nowhere else, are the same product we have been using in our restoration projects very successfully for many years.

### Canaan Valley Balsam Fir

12-18 inches, these husky trees, are a 1 year plug grown in a transplant bed for 1.5 additional years.

### Spring 2009 Price for Balsam Fir or Red Spruce Seedlings

100 - \$205

1,000 - \$1050

Flexible delivery dates during April 2009. Limited availability - Minimum order 100.

500 trees at 1000 price

### One gallon containerized Trees for 2009

Because many people would like to use our red spruce and canaan fir trees for landscaping, or have a use that requires a larger tree, we now have a limited number of one gallon container grown red spruce and canaan fir trees available. These trees are about 3 feet tall. Look for us at some of the local festivals this Spring or contact us to make pick-up or delivery arrangements (Morgantown area). \$10.00 ea., 3/\$25, or 10/\$75.

For more information visit our website at [www.wvhighlands.org](http://www.wvhighlands.org)

or contact:

Dave Saville

304-284-9548 office

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daves@labyrinth.net

Your comments and opinions are important to us.

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

### BUMPER STICKERS



To get free I ♥ Mountains bumper sticker(s), send a SASE to Julian Martin,

1525 Hampton Road, Charleston, WV 25314. 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 Julian know which (or both) you want.

