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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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CONGRESS PASSES THE WILD MONONGAHELA ACT!

By Dave Saville

On March 30, 2009 President Obama signed the Wild Monongahela Act into law permanently protecting 37,771 acres of the Monongahela National Forest. Championed by House Natural Resources Committee Chairman, and West Virginia Congressman, Nick Rahall, it was sponsored by West Virginia's entire Congressional delegation. This long-sought legislation will expand 3 existing Wilderness Areas, Cranberry, Dolly Sods and Otter Creek, as well as establish 3 new Areas, Roaring Plains, Spice Run and Big Draft. This is the first Wilderness protection granted federal lands in West Virginia since 1983 when the Cranberry and Laurel Fork Wilderness Areas were designated.

The House of Representatives passed the Omnibus Public Lands Act by a margin of 285 - 140 giving final approval to over 160 federal lands bills, including the historic Wild Monongahela Act. The Senate had previously passed the bill by a vote of 77-21.

"Congressman Rahall, and the rest of our delegation, has demonstrated remarkable leadership in preserving the very places West Virginians love and that draw visitors to our state," said Lewisburg Mayor John Manchester, whose city lies just miles from the newly established Big Draft Wilderness. "We've protected more than just forests through this effort. For many communities, we have safeguarded future opportunities to build our economy around a truly 'wild and wonderful' West Virginia."

Mike Price, of United Steel Workers/West Virginia AFL-CIO, ap-

plauded the measure's economic benefits. "Amidst the uncertainty of the nation's financial crises, this bill ensures that, by protecting these places and their resources, we hold on to sustainable economic opportunities and an improved quality of life for West Virginians," Price said.

Because it shielded critical wildlife habitat and native trout streams from development threats, the measure received support from many hunters, anglers and sporting groups, including several chapters of Trout Unlimited. "As a resident of Pendleton County, WV, I am extremely proud of the fact that the recreational opportunities found in these areas generations ago will remain intact well into the future," said Bob Bittner, Jr., of Mountaineer Trout Unlimited. "Our leaders in Washington have taken an important step in ensuring that our state's outdoor traditions can be passed on and enjoyed on our wildest lands and some of our last remaining untrammelled brook trout streams."

The Highlands Conservancy extends a heartfelt *thank you* to our Congressional delegation and to everyone who helped make this possible. Since its earliest days in the 1960s, The Highlands Conservancy has championed the cause of Wilderness protection for our precious public lands. We hope that many of the supporters of our efforts will join us at this year's Spring Review, May 1-3 at Camp Horseshoe, to help us celebrate. See p. 12 for details.

For a timeline of the efforts that led to passage of the Wild Monongahela Act, see p. 4; for a map showing the affected areas, see p. 5.

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Can You Stand It?

“Good news two days in a row! Can you stand it?”

That was Fran Hunt, of the Wilderness Society, calling to report that the House had just passed the Omnibus Public Lands Bill, including our Wild Monongahela Act designating three new and three expanded wilderness areas. Stand it? We’re jumping up and down!

The day before, the Environmental Protection Agency (EPA) had announced that it would enforce the law in its review of mountaintop removal mining permits. Enforce the law! Can you imagine that?

You will find much more about the good news elsewhere in this issue. Here, I add a couple of comments. After the initial tizzy when the EPA released its letters to the Corps of Engineers on mines in West Virginia and Kentucky, the conventional wisdom said, “calm down, folks.” There was no moratorium. Review would proceed case by case. We heard this from politicians, lawyers, and agency officials, as well as from the Charleston Gazette’s Ken Ward, the most reliable reporter on coal mining issues.

Well, some of us think EPA’s turnaround is worth celebrating right now, even as we watch to see what happens next. The coal guys are right to be scared. This is a tremendous change for them. For eight years, they had it all their way. The EPA was a zombie agency. Now that it has been wakened from its stupor, anything can happen. Staff scientists’ reports can be read. Cumulative impacts can be considered. Permits can be denied. It’s a revolution.

For the wilderness bill, here’s a special thank-you to the Representative for the Second Congressional District, Shelley Moore Capito. Wilderness is not a Republican issue. Once upon a time—say, during the long career of Gifford Pinchot, friend of John Muir and Bob Marshall, first chief of the Forest Service under Theodore Roosevelt, Governor of Pennsylvania—there were Republicans who cared about wilderness, but now they’re awfully hard to find. Your contemporary Republican flinches at the word “public” (as in “public lands”) as if it should not be used in polite company. So Congresswoman Capito’s cooperation with the Democratic members of our delegation was especially welcome.

It must be said that the likeliest candidate areas for future expansion of wilderness are concentrated in the Second District. All these proposals from our Wild Mon campaign remain unprotected: Seneca Creek (the big one), Cheat Mountain, Upper Shavers Fork (part), Lower Laurel Fork, and the rest of the Roaring Plains. Within the district, only the Roaring Plains West made it into the final bill.

Not that I’m complaining! We did very well, and this official designation of the Roaring Plains should take some pressure off the overused Dolly Sods. It’s not surprising that more than 60% of the new wilderness acreage is in Congressman Nick J. Rahall’s district: he’s the chair of the House Natural Resources Committee, he shepherded the bill to passage, and many people in his district felt that they deserved some wilderness besides the Cranberry.

Now there are Big Draft and Spice Run, and the Cranberry has been enlarged by a third. In fact, more than half of the acreage in the bill consists of additions to existing areas. Designation of entirely new wilderness is a very difficult task and it’s not likely to happen again soon. All the more reason to celebrate the present.

CORRECTION: Last month, I criticized the West Virginia Department of Transportation’s (DOT’s) plan to spend \$21 million of its federal “stimulus” allocation on a stretch of Corridor H “in Grant and Tucker Counties.” That location was in the DOT’s initial announcement. A later, more specific description said the appropriation would be used for two bridges in Grant County, near Greenland Gap.

It’s still a waste of money, and another place where a big road should not go.

(More on p. 10)

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Petitioning for Redress of Grievances and All That

THE PEOPLE GO TO WASHINGTON

150 people (including WVHC members) from 30 states converged in Washington this past March to promote the Clean Water Protection Act (HB 1310) with large contingents from Kentucky, Virginia, Tennessee and West Virginia, but we had people from as far away as Oregon, Arizona and Mississippi. The Clean Water Protection Act is a two sentence bill that returns the Clean Water Act to its original language and intent of Congress, which the Bush Administration played games with, and would eliminate the use of the waters of the United States for disposal of waste material, in this case mountain valley streams filled in with destroyed mountaintops.

In addition to lobbying Congress, we had three teams headed to the Admin-

istration. One group met with Council of Environmental Quality, one Office of Surface Mining and one to Environmental Protection Agency who, believe it or not, had them come back the second day. Apparently Office of Surface Mining was stunned to have a delegation from Appalachia visit them and were not aware of the problems with their regional offices. Recent developments with the EPA and the



Corps of Engineers suggest we had some impact.

Now two U.S. senators from coal producing states — Senator Benjamin Cardin (D-MD) and Senator Lamar Alexander (R-TN) — introduced the Appalachia Restoration Act (S 696), which would amend the Clean Water Act to prevent the dumping of toxic mining waste from

mountaintop removal coal mining into headwater streams and rivers.

Progress to end mountaintop removal coal mining is being made on all fronts. We left with 134 House co-sponsors and counting, and had many receptive meetings in the Senate. (Photo by Bob Gates)

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The *Highlands Voice* is always printed on recycled paper. Our printer uses 100% post consumer recycled paper when available.

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

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

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

WILD MON TIMELINE, A PERSONAL 15 YEAR WILDERNESS JOURNEY

By Dave Saville

Going through my old calendars and issues of the Highlands Voice, I have assembled a list of the following events related to the years-long campaign that led to the passage of the Wild Monongahela Act. This is a personal reflection on some of the milestones for the campaign. There were hundreds of supporters and events of all kinds that were all critical to the eventual success of the effort, these are but a few.

From the bottom of my heart, I thank all those who came along with me on this journey. So many people contributed so much in so many different ways that I couldn't begin to name them all. Special thanks, however, to Mary Wimmer and Beth Little who were the wind beneath the wings of this effort. Their contributions and my gratitude for them cannot be overstated.

1994

May: Dave receives his Masters degree from the WVU Division of Forestry studying wilderness and public lands management policy.

June: Dave begins a 2 season term working for the US Forest Service as Cranberry Wilderness Ranger.

November: At the National Wilderness Conference in Santa Fe, New Mexico, Dave and Steve Hollenhorst meet Ed Zahniser following his keynote address to the hundreds of attendees. The idea to mount a comprehensive Wilderness Campaign for the Monongahela National Forest in West Virginia is born.

1998

March: Dave accepts an administrative position working for the Highlands Conservancy.

1999

December: First annual Christmas Wreath sale begins to raise funds for Wilderness Campaign.

2000

September: Dave attends National Wilderness Conference in Denver Colorado. Campaign's foundation continues to build.

2001

February: Dave attends a 3-day New England Wilderness Training workshop in Vermont.

April: Celebrating West Virginia's Wilderness was the theme of the Spring Review. Ed Zahniser delivered his passionate "Wilderness in the Blood" speech. This was the official "kick-off" event for the Wilderness Campaign.

May: Dave attends Wilderness Mentoring Conference in Arizona.

June: Dave, Peter Shoenfeld & Don Gasper make the first lobby trip to Washington, DC to introduce the Wilderness Campaign to our Congressional Delegation.

August: First Annual Garden Party at Walnut Farm. This annual fundraising event has been key to funding the establishment and maintenance the Campaign over the years.

2002

March: Frank Slider and Dave develop a Sierra Club Campaign Plan Matrix to formally bring the West Virginia Chapter into the Wilderness Campaign.

April: Along with the Friends of Allegheny Wilderness, we hold our first annual Wilderness Workshop.

May: Forest Service begins to revise the Management Plan for the Monongahela National Forest.

October: Sierra Club hold its ExComm Meeting at Shot Cherry Cabin where Mary Wimmer & Beth Little take on official Sierra Club representation for the Wilderness Coalition.

November: 4th year of Christmas wreath fundraiser.

2003

March: Pooling the resources of the Highlands Conservancy, Sierra Club and The Wilderness Society, the Wilderness Coalition hires a full time coordinator, Matt Keller.

August: 3rd annual Garden Party at Walnut Farm.

August: Delegation staff tour proposed areas on the Mon.

October: Fall Review at Cheat Mountain Club, Wilderness Coalition meets.

2004

April: Wilderness Coalition holds its second meeting with WV DNR Director and staff.

July: Annual Wilderness workshop in Pocahontas County.

September: Wilderness Coalition unveils its Citizen's Wilderness Proposal for the Monongahela National Forest.

September: Rick Steelhammer writes a 2 page article about the Wilderness proposal in the Charleston Gazette including area descriptions and maps.

September: Senator Byrd joins Mary Wimmer, Matt Keller, Helen McGinnis, Jim Solley Beth Little and myself at the 40th anniversary celebration of the Wilderness Act at the National

Press Club in Washington DC where he is presented with the Wilderness Leadership Award before nearly 500 wilderness advocates from across the country. Mary Wimmer receives the Wilderness Volunteer Award.

October: Dave and Matt Keller attend the National Wilderness Conference in Lake George, NY.

2005

March: Wilderness Coalition representatives meet for the 3rd time with representatives from the mountain biking community.

April: Spring Review at Elk River Touring Center, Congressman Rahall receives Conservation Leadership Award from the Wilderness Coalition. Beth Little receives Wilderness Hero Award.

June: Annual Wilderness Workshop held at The Mountain Institute's Spruce Knob Campus.

July: Coalition releases the Vision for a Wild Mon video, professionally produced with Larry Groce narrating and Keith & Joan Pitzer providing the music.

August: Wilderness Coalition hires Harrison Case as Outreach Coordinator.

August: Forest Service releases draft Management Plan for the Mon beginning a 90 day comment period.

September: Wilderness Coalition releases "West Virginia's Wild Mountain Treasure" a 20 page color glossy magazine about the Mon.

September: Governor Manchin proclaims September "Wilderness Month."

September: West Virginia Lobby Week in Washington with reception in the US Capitol, Congressmen Rahall and Mollohan and staff from other offices attending.

November: Buy a Christmas Wreath, support Wilderness continues (7th year).

2006

January: Forest Plan comments near 15,000, over 90% support significantly more Wilderness.

June: Annual Wilderness Workshop at The Mountain Institute.

July: Bob Handley named "Wilderness Hero" by Campaign for America's Wilderness.

July: Doug Scott tours West Virginia to promote his book, "The Enduring Wilderness."

August: 5th annual Garden Party at Walnut Farm.

August: Congresswoman Capito tours proposed Wilderness Areas in her district.

(Continued on p. 5)

Land, an award winning video by BJ Gudmundsson about protecting the Mon from a Christian perspective, is released by Christians for the Mountains.

September: Healthcare Professionals for Wilderness letter tops 150 sign-ons.

October: Numerous municipalities pass pro-wilderness resolutions as does the Fayette County Commission, WV Council of Churches and the WV AFL-CIO.

October: West Virginia Wilderness Week in DC was again a huge success.

November: Mike Costello joins the Coalition as Outreach Coordinator.

2008

January: Wild Monongahela Act is introduced in the US House and Senate. Led by Congressman Rahall, the Bill is sponsored by West Virginia's entire Congressional delegation.

February: US House of Representatives Natural Resources Committee holds a hearing on the Wild Mon Act. Testifying in favor were the US Forest Service, AFL-CIO, Lewisburg Mayor, Trout Unlimited, Pocahontas County CVB and WV Council of Churches.

March: Brandon Dennison is hired by the Coalition to do Faith outreach work.

April: The U.S. House of Representatives passed the Wild Mon Act by a vote of 368-17.

December: Time runs out on the 110th Congress, the Senate fails to take up the Wild Mon Act. Senator Reid promises to take it up early in the 111th Congress.

2009

January 15: by a vote of 73-21 the US Senate, in the newly convened 111th Congress, passes the Omnibus Public Lands Act containing the Wild Mon Act, one of about 160 pieces of legislation in the package.

March 11: by a vote of 282-144 the Bill fell two votes short of the two-thirds needed for passage under suspension of House rules.

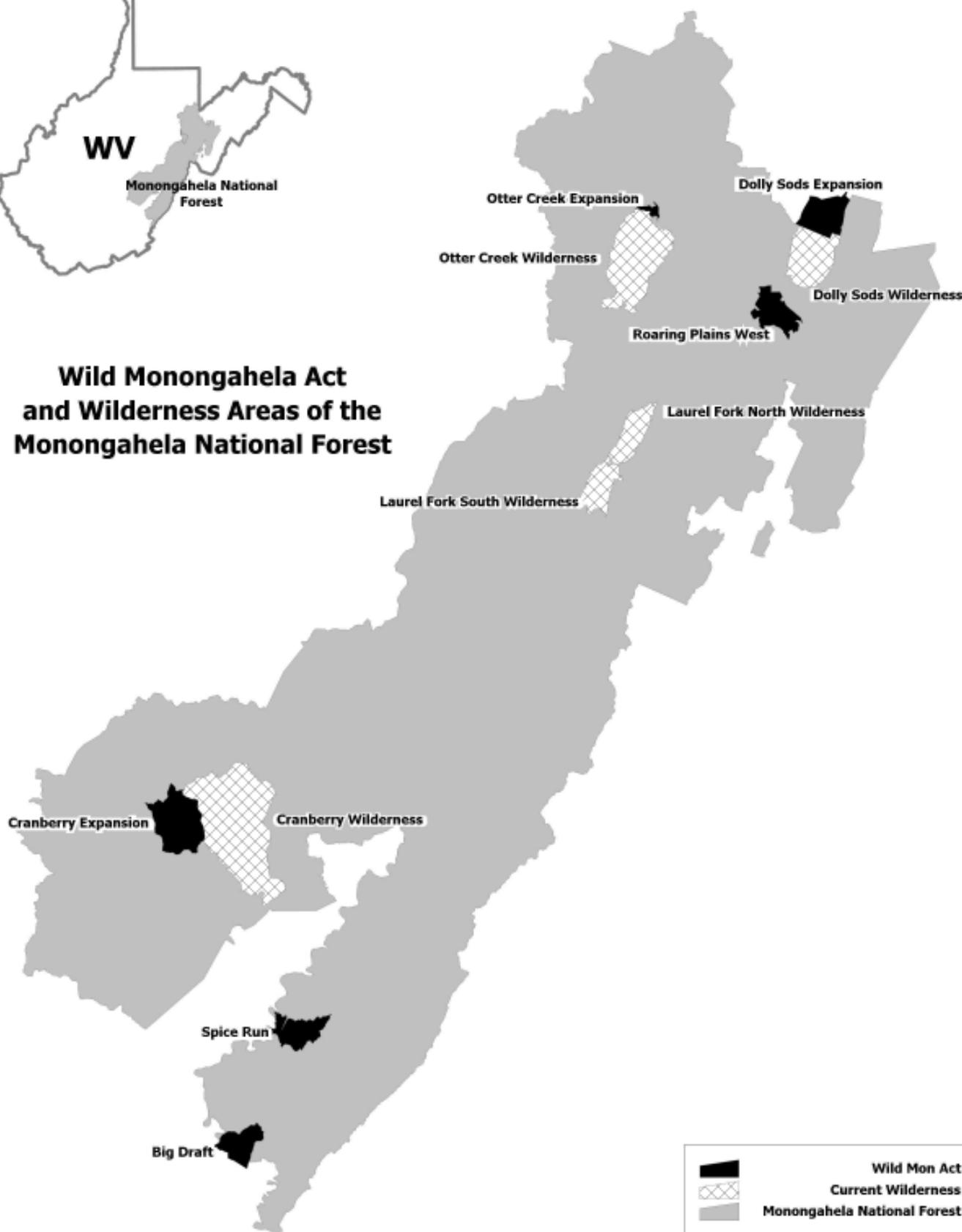
March 19: After clarifying language in the Bill concerning wildlife management, the US Senate once again passed the Omnibus Public Lands package by a vote of 77-20.

March 25: By a vote of 285-140, the U.S. House of Representatives passed the legislation which is now on its way to President Obama's desk for his signature.

March 30: President Obama signs Wild Monongahela Act into law.



Wild Monongahela Act and Wilderness Areas of the Monongahela National Forest



TIMELINE (Continued from p. 4)

August: Congressman Rahall visits Big Draft Area with Bob Handley, Beth Little and Mary Wimmer.

October: Jason Keeling joins Coalition staff as Outreach Coordinator.

2007

April: Dave takes over as Coalition Coordinator as Matt Keller takes a position with the Wilderness Support Center in Durango, CO.

March: Anti-Wilderness resolution in the State Legislature is defeated for the 3rd year in a row

thanks in part to the WV E-Council.

June: Lewisburg Mayor John Manchester and Richwood Mayor Bob Henry Baber receive Wilderness Hero Awards from The Wilderness Society.

June: 5th Annual Wilderness Workshop at The Mountain Institute.

July: Wild Mon Poster featuring Jonathan Jessup's self portrait on Roaring Plains is released. (these are still available).

August: Over 300 wilderness supporters attend the 6th annual Garden Party at Walnut Farm fundraising event attended by Congressman Mollohan for the second time.

Rich Louv to speak in Charleston

Sunday, April 26, 2006

2 p.m.

Unitarian Universalist meeting hall

cosponsored by Ohio Valley Environmental Coalition, West Virginia Highlands Conservancy and Olgebay Institute and many more

Rich Louv is the author of "last Child in the Woods", founder of the Children and Nature Network (www.childrenandnature.org) and coined the term "nature deficit disorder". The Children and Nature Network is largely responsible for winning the passage of the federal bill entitled "No Child Left Inside".

Join us for an afternoon of delightful and insightful conversation.

For more information contact Cindy Rank 304-924-5802 clrank@hughes.net

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 \$12 total by mail; **long sleeve** is \$15. West Virginia Residents add 6% tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTN: James Solley, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



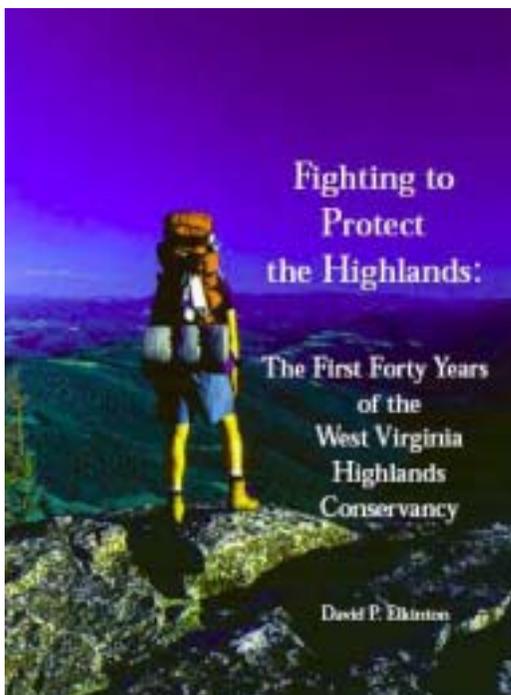
BUMPER STICKERS



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.) Friends of the Mountains stickers also available. Just say which you want.



GREAT HISTORY BOOK NOW AVAILABLE



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

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

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

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

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

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

Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

CONSERVANCY POSTURE ON NUCLEAR POWER RE-VISITED?

By Peter Shoenfeld

The West Virginia Highland Conservancy's opposition to most coal operations in the state has been well-publicized, overwhelmingly justified, nationally supported, and recently successful.

Opposition to most wind energy projects proposed for the state has been less explicit but almost un-avoidable given our chartered purpose to "work for the conservation... of the Highlands Region of West Virginia" and most specifically "to preserve and protect areas of particular scenic, geologic, biologic, historic, wilderness, and/or recreational importance...." Wind energy projects generally require gluttonous land use and are sited in just such areas.

Less clear is the Conservancy's position on nuclear power facilities in the state. It is not clear to me whether a public position has ever been democratically validated by our Board or Membership, although I do think it needs to be. In 1996, section §16-27A-2 of the West Virginia State Code was enacted with (I am told) the full support of the Conservancy. It is often referred to as a "nuclear ban" but actually stipulates only that any nuclear facility must be approved by the Public Service Commission, comply with environmental requirements, be economically feasible for in-state rate payers, and, most importantly also that

"A functional and effective national facility which safely, successfully and permanently disposes of any and all radioactive wastes associated with operating any such nuclear power plant, nuclear factory or nuclear electric power generating plant has been developed and that such facility has been proven safe, functional and effective by a minimum of twenty-four months' operation or experience."

The United States Department of Energy has long been at work on such an undertaking, as is directed by the Nuclear Waste Policy Act of 1982. After over 20 years of science, mostly field work, a disposal site was chosen at Yucca Mountain, Nevada. Although this entire subject is very controversial, there is some agreement that there is probably no safer place in the country for a nuclear repository. Yucca Mountain is about 90 miles from Las Vegas in a remote desert region where seismic activity is minimal. It lies on the edge of an area formerly used for nuclear testing.

The Yucca Mountain project has been widely opposed, is far behind schedule, and consequently would have inadequate capacity

almost from day one of completion according to present plans. The key opposition figure in recent years has been Nevada Senator Harry Reid, the Democratic majority leader, whose views reflect familiar NIMBY considerations. Work on Yucca Mountain is zero'd in President's Obama's budget for the coming fiscal year. When Energy Secretary Steven Chu was asked "What's wrong with Yucca Mountain?" he is quoted as responding only that Yucca Mountain was not an option for storing spent nuclear fuel and that "I think we can do a better job." The press now considers Yucca Mountain a dead issue, at least for the duration of the Obama Presidency. The West Virginia ban demands such a project, although it's sponsors have not followed up with their support.

In this year's West Virginia Legislative session, a proposal to repeal the 1996 ban was introduced by

Sen. Brooks McCabe. Legislative committees have been wrestling with this proposal and another to include nuclear in Governor Manchin's portfolio of alternative and renewable energy sources. There was not yet any clear disposition at the time the Voice went to press.

In press reports, the person usually quoted in favor of the ban is a representative of the West Virginia Environmental Council, a group that receives substantial support for legislative work from the Highlands Conservancy. Such events contribute to the perception of the Conservancy as anti-nuclear and, by extension, "anti-everything," so far as energy alternatives are concerned. This does not help our credibility.

The hope for preventing or mitigating the destruction inherent in development of industrial wind facilities all over our beautiful Allegheny Mountains appears increasingly bleak. One reason for this is conflict with President Obama, who is enormously popular and widely applauded for his ability, his political philosophy, and most of the things he's done.

I believe Obama's rise to power is comprises a historic turning point for the nation and state and that in the future decisions on West Virginia energy initiatives will increasingly flow from Washington rather than from Charleston and corporate Boards. The prognosis with regard to meaningful regulation of the coal industry is now hopeful.

In major legislative initiatives to date, including next fiscal year's budget and the "stimulus," the Presidents team has shown great will-

ingness to spend, enthusiasm for wind power, and disdain for nuclear. The implications for our Allegheny mountain are ominous. I believe we need credible positions on energy issues to have influence at this time. These are the reasons I've chosen to bring these subjects to Voice reader's attention at this time.

I don't think the President and his team have much understanding of the drawbacks of wind power as part of the electric grid. Also, I don't think either the administration's or our own positions opposing nuclear power are well-founded. They are guided more by political considerations and historically-influenced prejudices than by reality. The nuclear risks that we fear tend toward possible events that are both catastrophic and exceedingly unlikely during a foreseeable span of time. Such risks are difficult to ponder. However, there are criteria and assessments. Current nuclear policy requires that nothing be done which increases immediate fatality and cancer risks to persons near a nuclear facility by a factor greater than 1.001 (0.1 %). In a 60 expert project completed in 1974, the Atomic Energy Commission calculated that the probability of any conventional water-cooled reactor's having an accident in any given year that would kill 1,000 people is about 1 in a million. For accidents killing ten people, the odds drop to 1 in 250,000.

Currently, in the United States, there are 104 commercial nuclear generating units licensed to operate, producing a total of 100,000 megawatts, which is approximately 20% of the nation's total electric energy supply. There are currently 26 more under development. This is far too much to summarily ignore in the search for and development of additional alternative energy sources.

It is not my intention to advocate for nuclear power so much as it is to stop ignoring it. I believe the West Virginia Highlands Conservancy should systematically develop and publicize a clear position on alternative energy sources which recognizes nuclear as a candidate. I also believe the views of our membership should be canvassed in this regard. To not do these things can only exacerbate the ongoing drive to cover our beautiful mountains with wind energy installations whose utility has not been demonstrated and which despoil the resources which our organization was created to protect.

EPA REFINDS RELIGION — AND COAL RESPONDS

By Cindy Rank

The March 2009 issue of *the Highlands Voice* included a two-page story about the 4th Circuit Court of Appeals reversing Judge Chambers in our litigation re: the Army Corps of Engineers issuing 404 Fill permits.

One would think that would be the end of that saga. But we all know better than to think that about anything having to do with coal ... or water issues related that mining.

So, here goes my feeble attempt to summarize what has been a whirlwind of activity surrounding these matters the past two weeks.

THE COURTS

1) On February 13, 2009 the Fourth Circuit Court of Appeals did indeed decide to reverse Judge Chambers and defer to the Corps 'expertise' in evaluating fill permits.

2) However, that Appeals Court decision doesn't take effect until the court issues a 'mandate'. And as was explained to us at court, that 'mandate' can not be written before the plaintiffs (the Highlands Conservancy, Ohio Valley Environmental Coalition and Coal River Mountain Watch) have had the opportunity to ask for a hearing before the full court to review the opinion of the three member panel that ruled on the appeal.

3) By the time this issue of the Voice reaches your mailbox - or you read it online at www.wvhighlands.org - we will have petitioned for that 'en banc' review. 'En banc' review is review by the entire Court rather than by just the three judge panel that originally heard the case. Such review is not routing but is only done when a party requests it. Even if requested, it is not routinely done. Only after such a hearing is held, or denied, will the official 'mandate' be issued.

4) In addition to the four mines which were the subject of the February 13th Appeals Court decision there are 11 additional mines included in what I will call companion pieces of litigation before Judge Chambers.

5) On March 23, 2009 Judge Chambers held a status conference in District Court in Huntington to hear from lawyers about the current legal and operational status of each of the above mentioned fifteen mines. Lawyers for Plaintiffs (our three organizations), Defendants (the Corps) and a multitude of Intervener coal companies as well as a few reporters and 10-20 members of the Conservancy, OVEC and Coal River attended the hearing.

6) I'll not go through the 15 individual permits in question, but suffice it to say all have been held to work within a limited amount of the permit area through 'standstill agreements' or the earlier orders of Judge Chambers. One company (Loadout in the Nellis/ Fork Creek Hunting and Fishing area) is pushing to move forward and a trial is scheduled for late in April.

All right, so all of this is ho-hum, been there-done-that process type stuff. What is most notable is the Department of Justice (DOJ) perspective on all of this. Department of Justice lawyers have been in court every step of the way vigorously defending any and all Corps actions with regard to the 404 permits in question.

But, on March 23rd we heard the very same DOJ lawyers saying things like "the Administration's position is in flux" and "in a state of transition" and the Administration has not developed "a firm view".

Baffled but not all together displeased, we left the courtroom to cogitate on just what those words meant..... Was DOJ signaling the change we had all hoped for with the new administration ?????? If not, just what did it mean?

I hardly had time to return home when the rest of the news broke.

EPA STEPS IN

The very same day (March 23, 2009) letters were sent to the Corps offices in Huntington WV and Louisville KY expressing the Environmental Protection Agency's (EPA) serious concerns about 2 permits for West Virginia mines and one in Kentucky.

Later that day EPA issued a news release about the letters.

Somehow the clock seemed to have been turned back 10 years. EPA was saying things unheard since similar letters from the late 1990's and at the initiation of the Mountaintop/Valley Fill EIS (Environmental Impact Statement). ... The recent release and letters include statements such as:

"EPA believes that this proposal is likely to cause or contribute to an excursion from the State's water quality standards downstream resulting in an impairment of the aquatic life use, and that the direct and cumulative impacts from this and future mines will be persistent and permanent and can not be sufficiently or effectively compensated through the proposed mitigation."

I shook my head to clear my mind as I read further.... "EPA believes that this project will result in significant impacts to the human environment requiring an environmental impact statement pursuant to Section 102 of the National Environmental Policy Act."

EPA even criticized WV's certification of the Corps 404 permits because evidence shows that proposed mining operations will likely lead to impairment of the aquatic life use downstream ... and that the cumulative and synergistic impacts of past and proposed mining must be evaluated.

At least one of the letters even stated that "Accordingly, EPA must recommend denial of the permit as proposed."

And I have to ask your indulgence as I repeat one of my many favorite paragraphs from the letter re: the Reylas Surface Mine near the town of Ethel in Logan County:

"EPA has expressed its significant concern regarding the impact to the human environment through a lack of avoidance and minimization efforts undertaken for this project, the cumulative impacts on the watershed, forest and habitat destruction and fragmentation within a globally significant and biologically diverse forest system and the impairment of downstream water quality. In addition, EPA has concerns regarding the success of the proposed mitigation and that it will not adequately offset the persistent and permanent impacts to the aquatic ecosystem communities and functions."

Dazed by the overwhelming and unexpected similarities to those hopeful signs from regulators back in 1998, I read and re-read the information several times, and was still relatively unprepared to respond coherently to calls from media folks.

REALITY SETS IN

Of course it didn't take long for industry to react...

Before the dust settled, WV Governor Manchin was meeting with Counsel on Environmental Quality staff, state and national Mining Associations sent dire warnings of collapse and 77,000 + miners losing their jobs (a number that appears to represent every mining job in the entire US of A), Congressional representatives were reassuring industry that all would be balanced and fair, and the EPA DC offices released a milder statement.

(More on p. 9)

MORE ABOUT EPA (Continued from p. 8)

This second release from EPA included the conciliatory message for industry that “We fully anticipate that the bulk of these pending permit applications will not raise environmental concerns.”

No doubt the pressure on Lisa Jackson at EPA is severe.

Industry reps have the audacity to cry foul, exclaiming utter surprise about the new turn of events, declaring that companies are acting in full compliance with the law and conditions of their permits and even saying that EPA’s actions “came out of the blue”.

DUH — I know those people and they have been as intimately involved in this process as I have been these past 30 years (and some even more directly than I).

WHERE TO FROM HERE ?

So here we are, some ten years after the infamous decision by the late Judge Haden upheld the Buffer Zone Rule and caused near chaos in the state. EPA seems to have been reborn out of the ashes of the past 8 years and has at least made a strong fist move to return to the careful scrutiny the agency was committed to in the late ‘90’s.

I know of no one with a crystal ball sturdy enough to predict where we are headed. But we can hope for the best and work to support the strongest efforts that EPA and other agencies can make to rein in this extreme and destructive mining practice.

On the bright side there is more support for those efforts because there is more evidence that valley fills and the huge surface mines they make possible cause significant harm to the environment and communities.

On the dark side there is more evidence that valley fills and the huge surface mines they make possible cause significant harm to the environment and communities.

[It’s hardly possible to compress all the important facts and references into a single *Highlands Voice* article. For those craving more detail and intrigue and links to essential documents, I highly recommend checking out Ken Ward’s coaltattoo blog at:
<http://blogs.wvgazette.com/coaltattoo/>]

[For those inclined to write Lisa Jackson, I’m sure she needs all the thanks and support she can garner for her brave action in saying she would hold the coal companies to the letter of the law on mountain top removal valley fills. email: jackson.lisap@epa.gov or fax: 202-501-1450]

HATS FOR SALE

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

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

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

Pictures of both appear on our website www.wvhighlands.org. Both are soft twill, unstructured, low profile with sewn eyelets, cloth strap with tri-glide buckle closure. Cost is \$15 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to Julian Martin, P.O. Box 306, Charleston, WV 25321-0306

PATH POWER LINE APPLICATION COMING SOON

By Frank Young

The long anticipated application for a nearly 300 miles long West Virginia segment of a new 765 Kilovolt electrical power transmission line is expected to be filed with the WV Public Service Commission (PSC) by early to mid April.

The Potomac-Appalachian Transmission Highline (PATH) is a joint venture of American Electric Power (AEP) and Allegheny Energy to build the new high-voltage interstate transmission line that would eventually run from southwestern West Virginia into New Jersey.

Once the application for a Certificate of Convenience and necessity is filed, a procedural time clock starts running. Potential interveners (legal parties) will have an initial 30 day period in which to file a protest against the PATH project, ask for a public hearing, and ask to be recognized as interveners.

It is reported that dozens of individuals, citizen organizations and even city and county government entities across West Virginia expect to file as interveners against the PATH application.

The PATH case has been assigned the pre-application case number: NOIE PATH 08A. But once the application is actually filed, a new case number will be assigned.

The purpose of PATH is to be able to transport coal fueled electricity from Ohio Valley power plants to cities near the east coast. It is calculated that to use the full electricity transport potential of the PATH line would require six or seven additional medium sized coal fueled power plants.

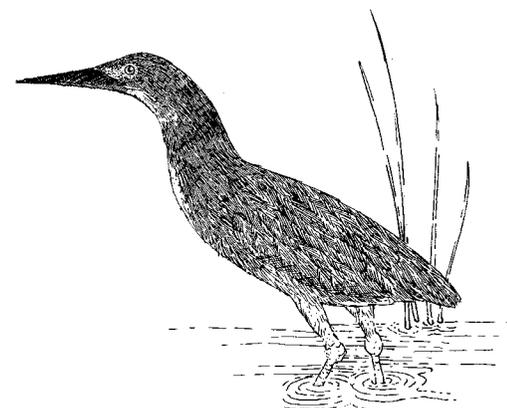
Comments about the pending application, and protests and letters of intervention once the application is filed, may be sent to:

WV Public Service Commission
Sandra Squire, Executive Secretary
201 Brooks Street
Charleston WV 25301

The WV Highlands Conservancy will be a joint intervener, along with WV Chapter of the Sierra Club, against the PATH application.

Your tax-exempt contribution for the legal effort against PATH can be made to WV Highlands Conservancy. Please write “PATH power line” on the memo line of your check. Mail your PATH contribution to:

WV Highlands Conservancy
P.O. Box 306
Charleston WV 25321



An Attempt at Regulation, But Not Enough

WEST VIRGINIA LOOKS AT MARCELLUS SHALE REGULATIONS

By Beth Little

West Virginia does not have adequate regulation for drilling for natural gas in the Marcellus shale formation. Despite a recently released Guidance Document (<http://www.wvdep.org/FrontNews/Marcellus%20Guidance%20Document.pdf>) West Virginia has no limits on water withdrawals, no limit on total dissolved solids in rivers and streams, and too few inspectors to properly monitor gas drilling sites.

This is the conclusion of members of the Upper Mon River Assoc (UMRA) who have expertise in waste water treatment and have been dealing with the recent problems in the Monongahela River, as well as authorities in several states where there has already been extensive drilling.

The state of Colorado just passed a revision of oil and gas regulations. This was because of serious problems that developed from the newer technologies that had a much greater impact on the land and water than earlier drilling.

Regulations developed for gas drilling of 15 or even 10 years ago are not sufficient to cover the new methods.

The New York State Department of Environmental Conservation, Division of Mineral Resources, Bureau of Oil and Gas Regulation, suspended new permits on gas drilling and stated:

The Department has determined that some aspects of the current and anticipated application of horizontal drilling and high-volume hydraulic fracturing warrant further review in the context of a Supplemental Generic Environmental Impact Statement.

One of the reasons listed was that New York's existing regulations were based on the use of 80,000 gallons of water for a typical hydraulic fracturing operation. Marcellus shale drilling, on the other hand, may require the use and management of millions of gallons of water for each well.

In Pennsylvania, where there has been much recent gas drilling activity, the Pennsylvania DEP had to step in because of unexpected problems in the Monongahela River. There is a report about this on the UMRA website (http://www.uppermon.org/Marcellus_Shale/Mon-Oct-Dec-2008.htm) along with links to numerous new articles about the situation.

Some corporations, like Haliburton, complained about the new regulations in Colorado and threatened to pull out of the state. Gas drilling com-

panies might be attracted to West Virginia because of less regulation, but good regulations protect them as well.

Robbie Matesic, Executive Director of Environmental Development in Green Co, PA, said that when the Pennsylvania DEP ordered waste treatment plants to stop receiving gas well waste water, it had a negative impact on the entire economy of the county. She was at a meeting of UMRA Friday, March 20, to join their efforts to persuade the WV DEP to adopt a strategy for dealing with water quality problems, because the Mon River, which caused the problems, flows into Green Co, PA. Upper Mon River Association wants to avoid a repeat in West Virginia of the drinking water crisis that affected several hundred thousand Pennsylvania residents.

The gas drilling companies in Pennsylvania were also affected. They had to shut down or truck their waste somewhere else, which cost them dearly. Regulations cause lots of grumbling, but a lack of proper regulations can result in serious problems, whether it's Wall Street derivatives trading or gas drilling. It's much harder to go back and fix problems after they occur than to take precautions to avoid them in the first place. Some problems, like contaminated wells, are extremely difficult, if not impossible to fix. Buying bottled water is an unwelcome solution for rural residents and not even an alternative for their farm animals.

The document is currently available as a draft. The Department of Environmental Protection is accepting comments until April 17. A copy of the draft document is available for review on the agency's website at [Marcellus Guidance Document](#). Comments about the draft can be submitted by email to DEP.Comments@wv.gov or mailed to the Public Information Office at 601 57th Street SE, Charleston, WV 25304.

Comments on the DEP Guidance Document should call for:

- Ø A permitting process for water withdrawals that guarantees protection of existing water needs.
- Ø A maximum for total dissolved solids (tds) in our rivers and streams and a process for ensuring that it is not violated.
- Ø Specifications for safe disposal of waste water, both drilling brine and fracking fluids that do not include land application.
- Ø Removal of pit liners (and contents) to hazardous waste facilities instead of burying them on site.
- Ø Incorporation of landowner protections recommended by the Surface Owner's Rights Organization – www.wvsoro.org

MORE FROM PRESIDENT HUGH (Continued from p. 2)

By the way, "Continental 1" is back in the news. That's the proposal to four-lane US 219 from Buffalo, New York, to Elkins, as part of a "global corridor" connecting Toronto and Miami. Visions of grandeur obscure this silly project.

From the list of Frequently Asked Questions (FAQ's) put out by the Continental 1 advocacy group: Q: How will Continental 1 connect major East Coast cities if it is just one road and it doesn't run through any major cities? A: Continental 1 will cross the lines of two major rail carriers and fourteen east-west interstate highway systems, providing inland access to all major East Coast air and marine ports.

Fifteen years ago, when a few people in little towns along 219 in western New York and Pennsylvania came up with this notion, Continental 1 would have continued south from Elkins, dili-

gently following the old road's alignment through Pocahontas, Greenbrier, and Monroe Counties on its way to sunny Florida.

The boosters seem to have abandoned that plan. Now the big One would take a sharp right on Corridor H and use existing Interstate highways—I-79, I-77, I-95—to reach its goal. Crossing other Interstates all the way. Definitely a cheaper solution: nothing to add but signage.

Which raises the less frequently asked question, how do people get from Toronto to Miami today? Well, they use those same existing highways, but they get on I-79 a bit farther north, in Erie, Pennsylvania. I-90 connects Buffalo to Erie. The cheapest solution of all. Welcome to the global corridor!

Then why is Continental 1 in the news? It seems the U.S. Department of Transportation gave

the advocacy group \$1.5 million to shill for the project. From the FAQ's: "Over the next three years, Continental 1 is required to create public awareness, generate public support, position itself for long-term success and conduct economic and transportation research."

At least we can't blame the new administration for this particular boondoggle. The money was appropriated in 2008. Expect lots of P.R. on the project. These guys are getting paid to convince you that they deserve more of your money.

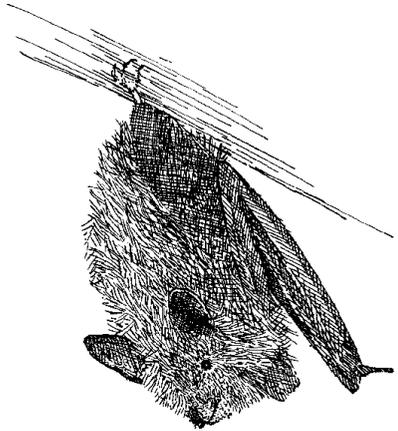
CAVE BATS ARE DYING IN EASTERN CAVES

By Bob Handley

The death of numerous cave bats was first noticed in New York state caves during 2006. The dead and dying bats had a white fungus growing on their muzzle and wing bones. The name "White Nose Syndrome" (WNS) was given to the strange malady. It's not known at this time whether the fungus actually kills the bat or just settles on sick ones.

The malady was later detected in a Vermont cave; then in old mines in Pennsylvania and New Jersey, and then this winter (2008/2009) it has been found on bats in Pendleton County WV and Bath, Giles, and Highland counties in VA.

State authorities began studying the situation during the winter of 2007/2008 when as much as 90% of the bat population in the NY caves had died. Very few conclusions were forthcoming though. One problem has



been the lack of funding for the necessary research. The National Speleological Society and the National Speleological Foundation and private donors made \$27,000 available in the summer of 2008 for on going research. Much more funding will be necessary to save the bats.

So far the only federally endangered bat affected is the Indiana Bat. The most affected in our Highlands is the Little Brown with the Big Brown, the Indiana bat, and the Eastern Pipistrelles to some lesser degree. The fear is that White Nose Syndrome could spread to

other endangered bats in other regions of the US.

Because of the possibility of cavers picking up soil (dirt, mud, or dust) in an infected cave and then transporting the contaminated soil to other caves, caves started being closed to all except those conducting WNS research. This past winter (2008/2009) with WNS spreading to West Virginia and Virginia, VA recommended that all (except commercial) caves be closed from 15March09 to 15April09 (and possibly longer). On 27Mar09 the US Fish and Wildlife Service (US F & W) recommended that all non-commercial eastern caves be closed to human traffic and promised Quarterly Reports. These are states from Alabama and Georgia to New Hampshire and Vermont (14 in all).

The US F & W also recommends stringent decontamination procedures for clothing, boots, and equipment for anyone who does go caving. Come out of a cave and decontaminate before entering another. This procedure is required for all those studying WNS in caves and mines.

Most significant bat hibernaculas are gated and closed to caving from September through April, to protect hibernating bats. The only humans entering these caves would have been involved in bat research (checking for problems or shifts in roost locations, and bat counting – for population studies). These were the people who found WNS, and not knowing the seriousness of the situation, possibly helped spread the malady.

Hopefully with US F & W involved, the necessary funding and talent for research will be available. There are many unanswered questions; the fungus has not been identified before – where did it come from? Does the fungus actually kill the bats? How far has it spread? Really, how serious a problem is it? Is it only a coincidence that this malady appeared shortly after genetically altered crops (GMO) were grown extensively? Maybe bats eat insects that have eaten their final meal and the genetic alteration somehow changes the bats hibernation functions. Monsanto and Bayer haven't done much, if any, research in this area.



Incidentally, honey bees started experiencing "colony collapse disorder" at that same time (2006/2007). In some

areas 60% of the bee hives have been lost. Also, many wild bee trees are now vacant. We still don't know what affect GMO foods will have on our bodies and so far our government won't allow GMO food to be identified on food labels?

Seems like Rachel Carson's "Silent Spring" in coming closer? Somehow "we the people" must find a way to gather the forces necessary to bridle GREED – the headlong rush to destroy our world for a few more bucks.

Anyway, PLEASE stay out of all wild caves until the all clear sounds.

You can call up US F&W (http://www.tws.gov/northeast/white_nose.html) or for US F&W updates (<http://www.tws.gov/northeast/wncaveadvisory.html>) the Service WNS Web site.

For NSS WNS Liaison Web site: www.caves.org/WNS/WNS%20Info.html

Speakers Available !!!!!

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

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.

Wild and Wonderful Spring Review

May 1,2 & 3, 2009
Camp Horseshoe
Monongahela National Forest

Join us as we spend a weekend enjoying the Mon and learning about its management with officials from the Forest Service. And most importantly, to celebrate the passage of the Wild Monongahela Act.

Schedule:

Friday evening, 5-9 pm: Social at the McGinnis Building, Camp Horseshoe; hors d'oeuvres.

Saturday, 9am, tour of Camp Horseshoe and perspectives on recreational facility development with Forest Service Recreation staff.

Saturday afternoon: Tour of the Berry Energy gas well site in the Fernow Experimental Forest with the Forest Service Oil & Gas specialists.

Saturday evening: Dinner and an informal social event with guest Forest Service Resource Specialists who will be on hand to provide information on the implementation of the new Forest Management Plan and the Wild Monongahela Act.

Sunday, 9:30am WVHC Board of Directors Meeting.

Sunday 10am, Red Spruce ecosystem restoration tree planting event at Canaan Valley National Wildlife Refuge.



We welcome the participation of Forest Service Officials and resource specialists to discuss recreation activities, oil & gas development, vegetative management and what these things mean to our local communities and forest visitors.

Forest Supervisor, Clyde Thompson has 35 years service to the Agency, 7 of which have been in his current position. Prior to coming to the Monongahela National Forest, Clyde has served in a variety of positions including District Ranger, Deputy Forest Supervisor, and Forest supervisor in MN, MI, AZ, WY, and UT.

Nadine Pollock is the Natural Resources Staff Officer for the Monongahela National Forest. Nadine has worked more than 20 years with the Forest Service coming to the Monongahela NF from the national headquarters in Washington, DC. Prior assignments have been in the public affairs and public involvement arenas in Virginia and Pennsylvania.

Linda Tracy, the Monongahela's forest geologist has over 25 years experience in minerals and geology with the Forest Service. She has served as the Forest OGM program manager for a large portion of her career. In addition, she serves as an instructor with the national training cadre for classes including minerals decision making and minerals administration.

David Ede is the Monongahela Forest Planner and NEPA Coordinator. David has 29 year of service with the Forest Service. Prior to coming to WV, David has served in Utah and Idaho.

Will Wilson, district geologist and OGM administrator came to the Monongahela in June of 2008 from the Humboldt-Toiyabe National Forest in Nevada. Will has also worked on forests in Utah and Nevada, but started his career here in WV. In addition to his 17 years of mineral experience, Will has served internationally in 2007 as a USDA agriculture advisor to Afghanistan.

Eric Sandeno came to the Monongahela NF in 2008 as the forest's recreation program manager. Prior to coming to WV Eric had worked in similar recreation and wilderness assignments in Indiana and Wyoming.

Camp Horseshoe is operated by the Ohio-West Virginia YWCA in partnership with the US Forest Service.

Accommodations: Cabins contain single and bunk beds, 8 to a room. Bring your own bedding. Bathrooms and bathhouses are separate. Meals available are breakfast, bag lunch and group dinner on Saturday; breakfast and bag lunch on Sunday. Meals are served family style. Bag lunches will be available on Saturday and Sunday. Reservations are required.

Cost: 2 nights and 5 meals: \$78.00 per person, 1 night and 3 meals: \$60.00 per person, Meals alone are \$8.00/each.

Please make reservations for meals and lodging by Monday, April 20th.

Contact: Marilyn Shoenfeld; 304-866-3484, 304-940-5737 or marilyn.shoenfeld@gmail.com

Directions to Camp Horseshoe:

From Elkins: Take Rt. 219 north to Parsons. At the light go straight ahead onto Rt. 72 north for about 5 miles. Turn right across Cheat River Bridge to St. George. In St. George, turn right and drive about 6 miles to Camp Horseshoe (left at the fork in the road).

From Morgantown and points north and east: I-68 to Rt. 219 south go through Oakland and Redhouse, MD and continue another 9.3 miles and turn right on Leadmine Mt. Rd. (NOT Leadmine Run Road). Drive to bottom, turn left and drive about 3 miles to Camp Horseshoe.

Join Now !!!

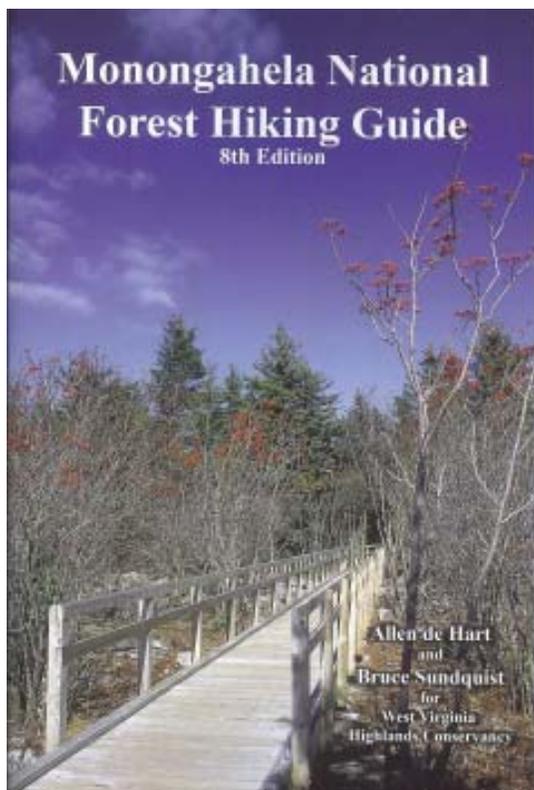
Name _____
 Address _____
 City _____ State _____ Zip _____
 Phone _____ E-Mail _____

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, backpacking 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

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.

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

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

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.

West Virginia Mountain Odyssey



Outings, Education and Beyond

Saturday & Sunday April 18&19, Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge; Join the Highlands Conservancy, WVU students, Wildlife Refuge Staff and others for our annual red spruce and balsam fir tree planting weekend. Meet at the Wildlife Refuge Headquarters on Rt. 32 at 10 am on each day. Rain or shine, dress appropriately for the weather, bring gloves. Tools and lunch provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, April 25, Garlic Mustard Challenge, Big Bend Campground; Meet at 9am at the Campground check-in station. Join us as we get our garlic mustard eradication effort underway. Volunteer for the whole day, or join us for any part of it. Come dressed for the weather, bring gloves and take matters into your own hands. Visit <http://www.appalachianforest.us/> for more information or contact Evan Burks at 304-636-1800 ext. 224

Sunday May 3, Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge; Join the Highlands Conservancy, Wildlife Refuge Staff and others in our efforts to restore the high elevation red spruce ecosystem by planting red spruce and balsam fir trees. Meet at the Wildlife Refuge Headquarters on Rt. 32 at 10 am. Rain or shine, dress appropriately for the weather, bring gloves. Tools and lunch provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday May 9, Driving tour of Spruce Knob area. Meet at the lake spillway at 11 a.m. Very short easy hikes to look over the forest and trout streams. We will leave from the Spruce Knob parking lot at 4:00 p.m. For more information contact Don Gasper at 472-3704. Otherwise just show up.

Saturday, May 23, Garlic Mustard Challenge, Summit Lake; Meet at 9am at the Campground check-in station. Volunteer with us as we work to eradicate garlic mustard at the Lake. Volunteer for the whole day, or join us for any part of it. Come dressed for the weather, bring gloves and take matters into your own hands. Visit <http://www.appalachianforest.us/> for more information or contact Evan Burks at 304-636-1800 ext. 224

Saturday, May 23, North Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

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.

Saturday June 20, Day hike into Lower Otter Creek Wilderness. Meet at McDonalds in Parsons at 11:00 a.m. After creek crossing the three mile trail out along the beautiful stream is easy. Out by 5:00 p.m. For more information contact Don Gasper at 472-3704. Otherwise just show up.

Saturday, June 20, County Line Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the County Line Trailhead along the Williams River Road. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, July 11, Middle Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, July 18, County Line Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the 3 Forks of Williams Trailhead. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

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.

(More on the next page)

JUDGE KEELEY TELLS DEP SOONER NOT LATER

By Cindy Rank

THE COURT

The February issue of *The Highlands Voice* featured an article about U.S. District Judge Irene Keeley's order that orders WV Department of Environmental Protection (WVDEP) to abide by the law and do a better job reclaiming mine sites that were abandoned after the 1977 Surface Mine Act was passed.

The court's ruling applied to 18 sites in northern West Virginia where long term acid mine drainage continues to be a problem. WVDEP is using money from the Special Reclamation Fund for some work at these sites, but the discharges still do not meet the legally required water quality standards.

At a follow-up permanent injunction hearing March 25, 2009 Judge Keeley said enough is enough. It's time to comply with the law with no more foot dragging.

WVDEP had requested some 42 months to comply despite the fact that the agency has been piddling around at some of these sites since at least the early 1990's.

Judge Keeley rejected that 3½-year timeline. Instead, in granting the request for permanent injunctive relief filed by the WV Highlands Conservancy and the West Virginia Rivers Coalition, the court ordered WVDEP to file for the 18 NPDES permits within 180 days (~6 months) and to obtain those permits within 360 days (an additional 6 months beyond filing the applications).

The court also denied WVDEP's motion to stay the injunction pending appeal (to the 4th Circuit) concluding "that the WVDEP is unlikely to succeed on the merits of its appeal, that it will not suffer irreparable injury in the absence of a stay, and that harm to the public which

would result from granting a stay outweighs any administrative harm that the WVDEP may suffer by its denial."

As we, our co-plaintiffs, our lawyers have been saying for months – no for years, or more accurately decades – WVDEP must face up to its responsibilities, start treating to the limits required by law, and raise the special reclamation tax to adequately fund the bond pool to pay for those efforts. **(Editor's note: to verify that it has been decades, see *Fighting to Protect the Highlands: The First Forty Years of the West Virginia Highlands Conservancy* by Dave Elkinton. It notes an instance in 1988).**

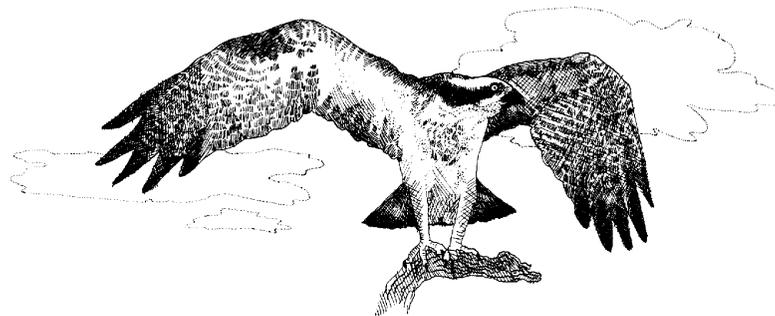
THE LEGISLATURE

So what is the legislature doing with regard to increasing and/or extending the special reclamation tax ?

Well, WVDEP Director Huffman spoke in favor of a proposal to maintain the 14.4 cents a ton for five years, to be reviewed at the end of that time and then every five years after that.

In it's always surprising lack of wisdom, the Senate Committee on Energy, Industry and Mining (EIM) ignored Mr. Huffman's recommendation, retained the 14.4 cents a ton tax, but reduced to two years the time WVDEP was authorized to collect that amount. ... As a result, if this version of the legislation successfully passes out of the Senate and the House follows suit, the issue will be back to the legislature in 2011.

Oh — and for those of you who have lost track of numbers we've reported from the various audits and studies done for the Special Reclamation Fund Advisory Committee these past couple of years, the level of funding being considered by the legislature pretty much guarantees the fund will be broke even sooner than current projections of 2015.



MORE OUTINGS

Saturday, August 1, North Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the North-South Trailhead along the Highlands Scenic Highway. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday, August 8, Middle Fork Trail Maintenance, Cranberry Wilderness; Join the Appalachian Forest Heritage Area, AmeriCorps, Highlands Conservancy and Forest Service as we put some quality work time into improving our Wilderness hiking trails. Meet at 10am at the 3 Forks of Williams Trailhead. Volunteers should bring lunch, water, gloves and dress appropriately. Severely inclement weather would cancel the work day. Tools will be provided. Contact Dave Saville at daves@labyrinth.net or 304-284-9548.

Saturday to Tuesday, October 24-27, Douthat State Park Car Camp with 2 Day Hikes, VA. Camp in the oldest park in the Old Dominion. Hikes are moderate to strenuous in difficulty and ranging from 7 to 10 miles in length. Lots of views. Pre-register with Mike Juskelis 410-439-4964, 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 or Larry Gibson (304) 542-1134; (304) 549-3287.

Our Readers Write

What about personal windmills?

Dear Editor:

In the debate about wind energy, there is minimal discussion about the role of small scale wind generators. As a member of Friends of Beautiful Pendleton County, I have gone on record as being against the development of industrial wind turbine farms in the Appalachian highlands. Like many, I have concluded that the energy contribution to be expected from the current state of that technology does not warrant the damage to the fragile ecosystems, topography, and cultural life of our eastern mountains.

However, I lived for a number of years in a home primarily powered by a small wind generator. Some of the problems debated for turbine farms are more easily addressed on a smaller scale. I offer these observations:

1) Our generator was supported by a large pack of batteries that allowed us to store a certain amount of energy. This mitigated the problem of wind variability. It smoothed the system out enough to make it manageable.

2) We had backup power from the power company, available by throwing a switch inside the house, when the wind supply was insufficient.

3) We were also able to "run the meter backward" with the power company during surplus energy supply, offsetting our costs.

4) We just naturally adjusted our energy use to meet peaks and valleys in the supply flow. Living in this way raised our consciousness. We became attuned in a practical way to the ebb and flow of wind power. "Oh, the wind is high, I'll run the week's wash this afternoon." At the same time, this did not ever amount to a sense of inconvenience because we had the backup when we needed it.

5) We set up our wind generator in the early 1980's, when the country was keenly aware of energy issues following the gas crisis of the 70's. We were able to afford our system due to household tax credits for alternative energy offered under President Reagan. Today's tax incentives for wind energy are going to big corporations. Some people have argued that the tax incentives themselves are the main financial payoff from these turbine farms. Promoting household tax incentives for small scale

energy solutions, such as wind generators, might be a position that could be advocated by those on either side of the industrial turbine controversy. Without financial help, these home systems are too costly compared to continuing to rely on the grid. If we are trying to promote alternative energy sources, why don't we offer the support to citizens, not just to corporations?

6) Home wind generators end run the problem of transmission lines and the loss of power as it is carried from isolated settings to high use areas. Furthermore, decentralizing power sources strengthens communities by spreading out vulnerability to outage events.

Home wind generators are not trouble free. They require more wind availability than many people realize, they require careful monitoring, and they are costly. Still, when the subject of wind energy comes up, my mind jumps from the image of a denuded mountain ridge covered with towering, strobe-lighted blades to the sound of a small generator whirring in the wind, reminding me that it is a good time to do the laundry.

Sincerely,
Jennifer Taylor-Ide
Franklin, WV 26807

FILMMAKER RELEASES 1972 FILM OF THE BUFFALO CREEK DISASTER ON DVD

Filmmaker and WVHC board member Bob Gates has just released his 1972 film montage of the Buffalo Creek Disaster on DVD. He decided to release the film in its original silent form as an historic document, but with the addition of annotations to tell the story of how the disaster occurred. With aerials and shots on the ground just after the flood, the impacts of the dam failures are clear. The recent Martin County sludge flood and last year's Tennessee coal ash spill helped inspire the film release.

On February 26, 1972, the gob pile dams at Pittston's Buffalo Mining failed at Three Forks above Lorado on Buffalo Creek. A tidal wave of sludge and water swept down Buffalo Creek obliterating a 17 mile valley, killing 125 people, and leaving thousands homeless. The following day Citizens to Abolish Strip Mining flew over Buffalo Creek and Mr. Gates filmed the valley on a gray, windy day. The next day Mr. Gates and others filmed the Amherstdale area. After State Police spotted him with his 16mm Bolex camera in the back of a pickup truck they were blocked from proceeding into the upper valley (Governor Arch Moore had imposed a news blackout, stating "the only thing worse than the disaster was the black eye West Virginia got in the press"). A month later the Citizen's Commission was allowed to go up the valley to the dam site.

Mr. Gates edited this film into a 22 minute silent film montage. Recently the History Channel transferred the 16mm film to video for use in one of their programs. In honor of the 35th anniversary of the Buffalo

Creek Disaster, Gates annotated the original unchanged silent montage to tell the story. Today there are many communities in peril from sludge and coal waste impoundments. Recent disasters have wiped out entire watersheds.

Copies of the DVD are available from:

Omni Productions
Box 5130
Charleston, W. Va. 25361
304-342-2624

omni@ntelos.net

Cost: copies for personal use \$20 + 5 s/h; small institutions \$50, large institutions \$250

