



The Highlands Voice

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GROUPS ASK FEDERAL EPA TO TAKE OVER POLLUTION CONTROL PROGRAM IN WEST VIRGINIA

By John McFerrin

The West Virginia Highlands Conservancy, Sierra Club, Coal River Mountain Watch, and Ohio Valley Environmental Coalition have petitioned the federal Environmental Protection Agency for withdrawal of the National Pollutant Discharge Elimination System program delegation from the State of West Virginia. Pointing to the systemic failure of West Virginia to administer and enforce the National Pollutant Discharge Elimination System (NPDES) program, the groups asked that West Virginia's authority to do so be withdrawn.

Passed by a strong majority in Congress during the Nixon administration, the federal Clean Water Act is designed to regulate (and eventually eliminate) the discharge of pollution into the nation's waters. Under the terms of that Act, states may request that they be allowed to administer and enforce their own National Pollutant Discharge Elimination System (NPDES) program. West Virginia made such a request many years ago and has administered its own NPDES program ever since.

The petition seeks to change that. It asserts that West Virginia has made such a mess of its NPDES program that the United States Environmental Protection Agency should step in and withdraw approval of West Virginia's National Pollutant Discharge Elimination System (NPDES). If the Environmental Protection Agency does withdraw approval, it would assume administration and enforcement of the program.

In their petition, the petitioners describe the situation this way: "The West Virginia Department of Environmental Protection's abdication of its duties to regulate water pollution requires swift action by EPA to protect West Virginia's citizens and environment. The State's capitulation to the industries it is obligated to regulate under the Clean Water Act and its resulting failure to enforce or maintain its NPDES program leave EPA no choice but to withdraw its approval of that program."

The petition points to the impairment of over 33% of West Virginia's rivers, streams,

and lakes. Causes of impairment include biological impairment (5,153 miles), iron (3,958 miles) pH (1,376 miles), aluminum (937 miles), mercury (669 miles), and selenium (160 miles). The impairments are, in large part, the result of the deficiencies of West Virginia's administration of its NPDES program.

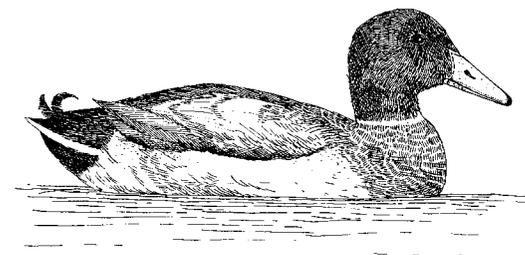
Many of the deficiencies are **coal related**. The petition points to the complete failure to effectively regulate or control selenium discharges from mine sites. The West Virginia Department of Environmental Protection's preference is for a leisurely study of the problem instead of actually doing something about it.

The petition also points to problems at mine sites where a performance bond has been forfeited. At these sites, a mining company has failed to complete reclamation and the Department of Environmental Protection has forfeited the performance bond and assumed respon-

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Feedback—and a Remembrance

Feedback on two topics I wrote about last month prompted some elaboration and an apology.

Gas drilling on the National Forest: Our Spring Review field trip to Berry Energy's gas well in the Fernow Experimental Forest was led by the Monongahela National Forest Supervisor, Clyde Thompson, and Geologist, Linda Tracy. No one from the Northern Research Station and Timber and Watershed Lab in Parsons was present.

Since the lab staff runs the ongoing experiments on the Fernow, and since they had had serious objections to the way the gas well was permitted, their absence raised some eyebrows. Their continued concerns are worth our attention because more drilling could happen there.

Last month I wrote, "So far, no effects on a nearby Indiana bat hibernaculum [Big Spring Cave] have been observed." We were told that the bats' numbers had increased. Paradoxically, that could be a sign of trouble. If the increase, which exceeded the usual annual rate, was due to an influx of bats from nearby sinkholes and chambers that had been disturbed by the well, environmental problems that accompanied the bats might not show up for some time. It's too soon to say that the well had no impact on that endangered species.

The Fish and Wildlife Service had an opportunity to consult on further measures to protect the Indiana bat, when the Forest Service forwarded its Biological Evaluation. Apparently, the wildlife people took a pass. From the point of view of the Fernow researchers there's enough blame to go around.

For the next well—and Berry Energy has suggested there could be as many as a dozen—there ought to be a full Environmental Impact Statement (EIS). The first time around, the Forest Service avoided an EIS by filing a Categorical Exclusion. Forest Service regulations allow that shortcut for "minor special uses . . . that require less than five contiguous acres of land." The well and its access road used three and a half acres. The pipeline from the well across forest land used an additional five and a half acres. Although construction of the pipeline was reasonably foreseeable, it was dealt with as a separate action.

Gas wells and pipelines amount to more than a minor use. Other factors that should compel an EIS include impacts to the research plots that embody seventy-plus years' investment; impacts to the nearby Otter Creek Wilderness Area; cumulative impacts to endangered species; and the complicated karst geology.

I should repeat here that the Forest Service is considering new regulations on how to minimize impacts from exploitation of privately held mineral rights. The Highlands Conservancy joined several national organizations in commenting on the proposed rules. Already it's clear that a local supervisor's authority (and duty) to protect the forest will be broader than had been assumed.

No reason to be mean: Janet Keating, the executive director of our ally Ohio Valley Environmental Coalition (OVEC) and a long-time friend of mine, left a voice message and then sent me an email when she read my column last month. She was troubled by my slighting references to the writer/activist Richard Louv, author of *Last Child In the Woods*. Mr. Louv was a friend of hers and she had invited him to speak in Charleston. (The Highlands Conservancy had co-sponsored the event.)

(More on p. 7)

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GROUPS PETITION EPA (Continued from p. 1)

sibility for the reclamation. In spite of being ordered to do so, (See Judge Holds West Virginia Department of Environmental Protection's Feet to the Fire in the February, 2009, issue of The Highlands Voice), the West Virginia DEP has refused to issue NPDES permits for those forfeited sites and make them part of the NPDES regulatory program.

There is a similar problem with abandoned mine lands sites. These are sites which existed before the Surface Mining Act passed in 1977 but were never properly reclaimed. Those sites are gradually being reclaimed through a West Virginia DEP program. Like the forfeited sites, the West Virginia DEP has refused to issue NPDES permits for those sites and make them part of the NPDES regulatory program.

The petition also faults West Virginia for allowing companies to avoid strict pollution control requirements if complying with those requirements would be expensive.

The petition points to what appears a general policy of **not enforcing existing standards**. It quotes a Department of Environmental Protection lawyer's explanation of why the agency could not deny permit renewals for companies with uncorrected water pollution violations: "if [DEP] did not renew permits for companies with outstanding water pollution violations, no mining permits would ever be renewed. 'Taken to its logical conclusion, that would mean no one gets renewal . . . We'll just shut down mining.'"

As further indication of DEP's super-lenient enforcement policy, the petitioners point to a recent settlement of an enforcement action brought by the United States Environmental Protection Agency against Massey Energy Company. This enforcement action resulted in an agreement to pay a \$20 million civil penalty in a corporate-wide settlement to resolve Clean Water Act violations at coal mines in West Virginia and Kentucky. This was the largest civil penalty in EPA's history levied against a company for wastewater discharge permit violations. West Virginia did not participate in that enforcement action.

The United States EPA does not take enforcement actions if a state is already doing so. Since the Massey enforcement case, dischargers have flocked to the West Virginia DEP to negotiate settlements of their violations. Negotiating and settling with West Virginia is a tool to protect the companies from EPA which, unlike West Virginia DEP, might pursue serious enforcement action.

The deficiencies in West Virginia's administration of the NPDES program are not limited to coal. It also points to a systemic failure by West Virginia in providing **public notice of agency actions**, particularly in major modifications to permits and in changes in water quality standards.

The petitioners also point to weak enforcement at PPG Industries, Inc. Chronic violations (approximately 52 in the year and a half

period that the petitioners reviewed) of discharge standards for such things as copper, aluminum, iron, and mercury led to no enforcement actions until citizens threatened to begin their own enforcement action under the citizen's suit provision of the Clean Water Act. Although the West Virginia Department of Environmental Protection action prevents citizens from taking effective enforcement action, there is no indication that the DEP will diligently prosecute its case.

The petition also points to uncorrected violations at Mountain State Carbon, LLC's Steubenville East Coke Plant and at municipal facilities in Nitro, Weston, North Beckley, Huntington and Westover.

There are other ways in which West Virginia DEP is deficient. It is also failing to keep required records of its monitoring activities. It is either **failing to regulate some pollutants** (total dissolved solids) or setting limits on some pollutants (mercury) that allow more mercury in West Virginia streams than EPA guidance says is safe.

What happens next

Now that the petition has been filed, EPA now must respond in writing. It may also inform the state of West Virginia that its program is deficient. Before EPA could withdraw the National Pollutant Discharge Elimination System program delegation from the State of West Virginia there would be extensive public hearings.

Why?

The petition acknowledges that it is asking the United States Environmental Protection Agency to take drastic action. The Clean Water Act envisions that Congress and the EPA would set nationwide policy and leave it to the states to implement and run the program. Together the federal government and the states would progress toward the Clean Water Act's ultimate goal of eliminating pollution of our streams.

While this may have been Congress's vision, in West Virginia's case it is not working. The petitioners as well as many, many others have spent years if not decades asking, begging, suing, or otherwise cajoling West Virginia to address these problems. In the petitioners' view, it is time to let the EPA fix this mess.

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

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

MOUNTAINTOP MIND BOGGLE

By Cindy Rank

There is no end to important coal related events and happenings that take place in the short months between one issue of the *Highlands Voice* and another. Please read John McFerrin's article about our petition for the Environmental Protection Agency (EPA) to withdraw WV's NPDES/water permitting authority on page one of this issue. For anyone interested in keeping up with daily blow-by-blow coverage of all things coal in WV, I highly recommend Ken Ward's Coal Tattoo blog (<http://blogs.wvgazette.com/coalatattoo/>).

My more limited offering for this issue of the Voice is a brief account of the June 25th Senate Subcommittee hearing prompted by Senate Bill (S. 696) which was introduced in the 111th Session of Congress on March 25, 2009.



Senator Alexander (left) and Senator Cardin (right)



Better known as the "Appalachia Restoration Act", S. 696 was introduced by Senators Cardin (D-MD) and Alexander (R-TN). The legislation would amend the Federal Water Pollution Control Act (Clean Water Act) to once again exclude from the definition of fill material excess spoil/rock from strip-mining operations.

You'll recall that in 2002-2003 the Environmental Protection Agency (EPA) enacted a rule change that for the first time allowed waste rock from strip mines to be acceptable "fill material", thus legitimizing the Army Corps of Engineers permitting of valley fills at mountaintop removal and other huge strip mining operations.

The "Appalachia Restoration Act" would not only reverse that rule, but also put the prohibition against filling streams with waste rock into the Act/law itself.

THE HEARING

On June 25, 2009 the Subcommittee on Water and Wildlife of the U.S. Senate Committee on Environment and Public Works held a hearing to examine the impact of mountaintop removal coal mining on surface and groundwater resources and other indirect impacts in Appalachia. Committee members indicated this was just the first of similar hearings to come.

On one hand nothing really brand new was said at the hearing. For the most part the witnesses reaffirmed what has been said in forums, studies, comments during administrative and legal appeals, and a multitude of videos over the past ten plus years.

However, what is truly remarkable is that there is now a real live piece of legislation before the U.S. Senate that focuses on mountaintop removal and valley fills and provides an opportunity to address the devastating impacts of those activities.

That is not to demean the import and depth of statements made by the witnesses. There were some significant comments that one can only hope the small but receptive group of Senators and additional sen-

ate staffers who were present actually listened to.

Randy Pomponio of Region Three EPA in Philadelphia was first to testify. It was heartening to hear him repeat basic facts from the 2002 Environmental Impact Study about the over 1,200 miles of streams filled at an average rate of 120 miles per year between 1992 and 2002. And to hear him refer to the increasing evidence that valley fills do indeed result in harmful impacts downstream — i.e. from trace and heavy metals and toxic salts.

I found it particularly refreshing to hear him talk about the interconnectedness of the forest ecosystem and its importance in fueling the food web and supporting the invaluable water quality and ecological services of headwater streams.

Citing the 2002 Cumulative Impact Assessment portion of the EIS, he pointed to "data that provide a retrospective examination of the impacts to forest that occurred over the 11-year period from 1992 to 2002. The Study estimates that 595 square miles (380,547 acres) of the forest environment (vegetation and soils) in the study area will be cleared due surface coal mining during this 11-year period."

Speaking after the EPA testimony were regulators from Tennessee and West Virginia, a scientist and a citizen.

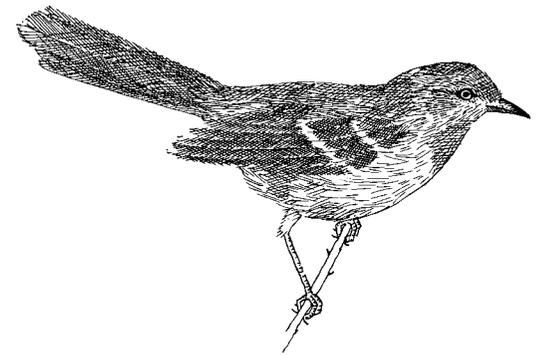
Paul Sloan from the TN Department of Environment and Conservation ruffled some feathers among the Tennessee residents in attendance by downplaying the cross ridge mining in their state. On the positive side, though the federal Office of Surface Mining (OSMRE) oversees mine permitting in TN, the state regulates water issues. Mr. Sloan emphasized that TN has made strides to protect its water resources from the impacts of mining and pointed to a law enacted in May of 2009 by the TN state legislature that prevents mining within 100 feet of most streams.

Randy Huffman (WV Department of Environmental Protection - WVDEP) was calm, but defensive about EPA's overtures to review more closely the current permitting of fills by the Army Corps and WV DEP's certification process of those permits.

Secretary Huffman went to some lengths to talk about newly enacted WV legislation to encourage more development on previously mined sites. However, he neglected to mention the 1977 Surface Mine Act actually required the same post mining land uses at mountaintop removal sites and spent no time talking about how WV rarely enforced those requirements at the 400,000 acres or so of these minesites the past thirty years. Again, nothing new here. But, it did make my skin crawl to hear him refer to the "steep, hostile terrain of southern West Virginia". As though flattening the mountains would be a blessing for those families who for generations have been comforted by the mountains that surround them, and who love and cherish their lives among the forested hillsides.

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Maria Gunnoe did a fine job representing citizens who live close to the huge strip mines — no surprise there! Anyone who has visited Maria or has heard her speak or seen her in a variety of videos knows the power and impact of her personal story and experiences. It's no wonder she was awarded the 2009 Goldman Environmental Award for North America.



MORE BOGGLING (Continued from p. 4)

And Margaret Palmer couldn't have been more direct and clear in testifying "The impacts of mountaintop removal with valley fills are immense and irreversible, and there are no scientifically credible plans for mitigating these impacts." — Dynamite.

Dr. Palmer is an expert on stream ecosystems and restoration ecology and has been a major presence in our legal battles over the 404 fill permits these past few years. Her comments and insights have become laser sharp. — No doubt experiencing the audacity and apparent ignorance of agency and industry alike has only fed the fire in her belly.

The brief overview above doesn't do justice to the testimony. I would encourage you to read the actual testimonies found on the Senate Committee on Environment and Public Works website: www.epw.senate.gov. Click on the appropriate 'previous events' link for the June 25th subcommittee hearing.

Also for links both to the testimony and to the very important additional reports submitted by Margaret Palmer, see Ken Ward's Coal Tattoo blog post: <http://blogs.wvgazette.com/coaltattoo/2009/06/26/exclusive-blockbuster-studies-describe-mtr-impacts/#more-870>

THE WAIT

Some 75-100 citizen opponents of mountaintop removal from West Virginia, Kentucky, Tennessee, Virginia, the DC area, got there early and stood in line in the hallway until the hearing room was opened for us to file in. We were more than enough to fill the hearing room - especially after the media and witnesses were allowed in the room. There were seats left for only about 2/3 of us to be seated. The rest of our contingent - as well as the bus loads of the newly formed 'citizens for coal' group who arrived later than the rest of us - were directed to other 'overflow' rooms in an adjacent section of the Senate complex to view a simulcast of the hearing.

Indeed, even Chris Hamilton, Jason Bostic, Luke Popovich and others from the mining association were treated like all the rest of us. They had to take their places in line. Despite repeated overtures from Chris, Luke, etc to the Security guards and the administrator in charge of the hearing room about having "reserved seats"; the security guard firmly explained in no uncertain terms just what the procedure was. I.e.

there were no 'reserved seats'.... After the witnesses and media, then it was first come, first served. Those in the front of the line were to be admitted first and the overflow - including Chris, et al - were to go to the overflow rooms where the hearing would be broadcast simultaneously.

[How unlike what they have come to expect as access in the halls of WV Legislature !!!.... I must admit we savored that small show of equality.]

THE METRO

And here's the truly mind boggling part of the trip...

With memories of the arrests and protests at Marsh Fork these past weeks still burning in our brains there was a certain irony in the "escapetowv.com" advertisements promoting WV that we saw throughout the Metro.

First there was the oversized picture high on the walls that showed a couple camping atop an unsullied mountain with uninterrupted vistas of more majestic ridges on the horizon. — Hardly the stark pictures from Kayford, or of the Mud or Coal River Valleys or the aerial shoots by Viv Stockman, Antrim Caskey and others!

But even more fascinating (in a warped sort of way) was the life-sized lighted picture on the train platform itself. The pictured were two young girls barefoot in a great looking tree-lined stream obviously having fun catching crawdads or minnows or other aquatic treasures. Emblazoned across the scene in big letters are the words "Give us your ENVIRONMENTALISTS". My goodness, what a stark contrast to the reception those environmentalists encounter when they get - or grow up - here.

Our minds flashed to the arrests at Marsh Fork earlier in the week, the sound captured on video of Judy Bonds being hit HARD upside the head by one of the miners wives and the bent and broken selenium impaired fish in Mud River reservoir.

In the crush of rush hour, there was Maria next to that sign and Randy Huffman's comments about the "steep hostile terrain" were still ringing in my ears.

My mind swirled in a whirlwind of images from 15 years worth of sights and sounds from public forums, courtroom hearings, visits to huge strip mines and incessant taunts of "treehuggers go home" (and worse). A flood of images washed over me as I remembered the tears and

anger of so many families who have been uprooted from their ancestral homes and those who are fighting to stay. Images that made me wonder if we truly are living in some parallel universe.



*Bringing down the mountain
Photo by Bob Gates*

DELEGATION HONORED AT LEWISBURG AND SHEPHERDSTOWN EVENTS FOR THEIR EFFORTS ON WILD MON LEGISLATION

At a reception held on May 29 at the Greenbrier County Public Library in Lewisburg, Congressman Nick Rahall joined dozens of wilderness advocates, including local elected officials, business owners and members of the faith community to celebrate the enactment of the Wild Monongahela Act, West Virginia's first wilderness legislation in over 25 years. Rahall praised the persistence and grassroots organizing efforts of the West Virginia Wilderness Coalition over the years.

As the legislation's primary author, Rahall championed Wild Mon and, as chairman of the House Natural Resources Committee, he was instrumental in shepherding this and many other conservation measures included in the 2009 Omnibus Public Lands Management Act through Congress to final passage. The Congressman was honored for his sponsorship, and was presented with a framed photo of the recently designated Spice Run Wilderness, in Greenbrier and Pocahontas Counties.

Following the reception, a group of long-time Wilderness Coalition activists traveled to the nearby, newly established Big Draft Wilderness, one of six areas protected under Wild Mon. Under cloudy skies with a threat of showers, the group embarked on a five mile hike along the Blue Bend Loop Trail, which meanders through an old growth forest, following Anthony Creek for a short distance before ascending to a high ridge, where magnificent vistas can be enjoyed. The trail provided an excellent opportunity to explore the truly wild character of one of the Mon's newest Wilderness areas.



Photo by Bob Handley

A pool on Anthony Creek Laurel Creek comes in at the lower left corner

On June 1st, in Shepherdstown, a reception was held to honor Congresswoman Shelley Moore Capito for her efforts as a co-sponsor of Wild Mon. In attendance were members of the Shepherdstown Presbyterian Church, particularly the church's youth group, which has been heavily involved in the faith community's campaign to protect the Mon.

In 2006, the youth group traveled to Washington D.C. to lobby the state's entire delegation for wilderness designation for special places on the Mon. They assembled a document entitled We Want More Wilderness, which included Bible verses pertaining to wilderness, as well as poetry, stories and reflections collected on a group trip to several of the Mon's wild places.

At the event, held at Shepherdstown's Entler Hotel, several members of the youth group and their leader, Brandon Dension, recounted stories of their trip to Washington D.C. and shared their inspirational experiences in some of the places now protected under Wild Mon. Ed Zahniser, Shepherdstown resident and son of 1964 Wilderness Act author Howard Zahniser, gave some inspiring remarks about the lasting legacy of this wilderness measure, and

the importance of the youth group's involvement.

"They traveled to some of these wilderness areas and then worked to get the Wild Monongahela Act supported and passed," Zahniser said of the youth group. "That's what democracy is all about."

FUN FACTS ABOUT OUR STATE BIRD

Research by Katherine McFerrin :)



1. When the female cardinal sings from the nest, it may be a sign to the male that she needs food.

2. Both male and female cardinals sing but the female normally sings longer and in a

more complex melody.

3. The male cardinal is the defender of their breeding territory. In fact, it can spend long hours fighting his reflection he sees in glass surfaces. The brighter red cardinal males prefer territories in thick vegetation, they feed at faster rates and are more successful in reproducing.

4. Its family was given the name cardinal as the bright red color of the male species is very similar to the vestments used by Catholic cardinals.

5. These songbirds are a picture of sweetness especially when mate feeding. During this time, the male looks for food and feeds

the female by putting the food into its mate's bill as if kissing each other.

6. Cardinals were popular in the 1800s as cage birds mainly because of their bright red color and capacity to sing different songs.

7. A study has shown that northern cardinals eat 51 kinds of beetles, four types of grasshoppers, termites, ants, flies, dragonflies and 12 kinds of homoptera which includes leafhoppers, cicadas and aphids.

8. Cardinals found in the wild can live up to 15 years as confirmed by banding studies.

THE NEW ELECTRICITY

By Don Gasper

We can remember the hardship caused by a power outage due to high winds last March. Thousands of homes and businesses were without electricity - some for five days. Recently many things have come together to create a unique opportunity for individual decentralized power sources.

Geothermal is the use of 55° F temperatures just underground everywhere to heat and cool buildings. Solar panels and smaller wind generators on residences, businesses, and government buildings could furnish on site, small scale power supply. Self - sufficient; at least reducing our electric bills, and be a standby system to heat a few rooms, run our freezers and cook. West Virginia now has a power company request to increase our electric bills by 40% - and that is probably just the beginning.

While considering money, the Federal government will pay 30% of the cost of new green energy; and states, perhaps even West Virginia, have a \$2000 incentive. Considering our nation's dependence on dirty and dangerous coal and oil, we are now all recognizing that investing in decentralized power sources is the patriotic thing to do, proudly reducing our own environmental footprint. We can create a culture of decentralized power independence. We can! It is the thing we must do to save the planet. We can have national and residential independence - yes, we can.

Considering the environment, we can, we must, reduce global warming, acid rain, mercury, and other air pollutants that harm our forest, streams and our own health. NASA's Hansen says we must make great progress on global warming - now. We must lead the world into a clean energy future for all our sakes. There is no PLAN B. Ask our new president to lead, leave the old markets behind. Set hard caps; and permit no pollution allowance trading that makes the nation's air clean up anything but transparent and nearly unenforceable. Trading would leave West Virginia a "hot spot" of pollution allowances that are paid for by West Virginia customers - without a choice - - without a cleanup.

Individual citizen power sources reduce grid use; some citizens can become entirely independent of the grid and then power companies. We really do not need a new power line at all. This is an old holdover idea from "business as usual" crowd of the previous administration. It is misleading, and we all should recognize it as such. It is a relic, wherein its justification is to carry power from more coal fired power plants to the populous East Coast. Our NASA expert says they all must be phased out by 2030 and no new ones built, at all. The present grid is adequate and can then be modified to be the "smart grid", everyone talks about. We do not need new, big power lines fragmenting our forests, intrusively degrading are scenic vistas, property values, and everything in its path.

HUGH STILL GOING (Continued from p. 2)

My statement that the author was "promoting his book" was pretty far off base, as was my remark that he had "built a career on decrying and urging." As Janet put it, "speaking in Charleston wouldn't be too high on anyone's list [of ways] to make money." Rather, his audience has come to him, demanding so much of his time he hasn't been able to get to the second book he owes his publisher. His point that children are being deprived of experiences in nature, and that this has negative effects on them personally and on our culture as a whole, has struck a chord.

I wrote that I agreed with his point but "wincing" at how he put it. My real complaint had to do with a culture in which every problem is seen as a pathology and every solution a pill. Janet asked the rhetorical question, "If it takes offering nature as an antidote to Attention Deficit Hyperactivity Disorder, so what?" In other words, Do what works. Obviously, Louv's way of framing the problem works. His book has gone into a twentieth printing.

A recent piece by Louv was featured on the cover of Orion magazine: "Do children have a right to play outside?" He had shifted his metaphor from medicine to law, a realm where I felt more comfortable. Treating nature as a pill made it a commodity. Treating nature as a right reminded me of the "freedom to roam" codi-

fied in English and Scottish law.

In law, though, every right implies a reciprocal obligation. A right to roam may be enforced against a resistant landowner. Louv referred to the civil rights struggle; those rights, set out in the Constitution, imposed obligations upon voting registrars, employers, police, and other holders of authority.

It wasn't clear who would have an obligation corresponding to children's right to be in nature. Louv wrote: "As a society, we need to give nature back to our kids." The demands we might make on behalf of a child's right were stated in the most general terms. Now, Louv wasn't writing a brief; he was educating the public. He was using every metaphor the public might find persuasive to advance his point of view. But it's no insult to him to recognize how much has to change before most children and their parents *want* to walk in the woods.

Missing Ken Politan: We learned of the death of Ken Politan from Cat Cole, the driving force in the campaign to stop a quarry on the Shavers Fork. He was Assistant Director of Mining and Reclamation at the Department of Environmental Protection (DEP). He was only 51 when he died on June 6. Cat said, "Ken was a kind man and the most honest DEP guy I dealt with—plus he let me rant and rave at him and then

we'd have a good laugh. He was my friend."

Ken went to work on water issues in 1980, right out of West Virginia University. No matter what reorganizations came with each new governor—moving hydrology from the Division of Natural Resources to the Department of Energy to the DEP—Ken was the necessary expert. But he was something even rarer, a real *mensch*.

Cindy Rank wrote this remembrance: "As someone else said, 'Ken often infuriated me, but he taught me much more of value than he ever took away in wasted time or bogus policy decisions. I will miss him.' Having argued with and learned from Ken since the early 1980's, I can only second that sentiment. Nearly thirty years of historical understanding of how and why the water permitting program for mining has developed and functions as it does is gone with Ken's passing. He was a treasure, a friend."

2009 LEGISLATURE FINALLY ADJOURNS

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

The 2009 regular session of the West Virginia Legislature finally adjourned on May 31. The Governor then convened the first Special Session for the year, which began on June 1 and ended June 2. Next the Governor convened the second Special Session of the year, which began on June 15 and ended June 17.

Charleston Gazette reporter Phil Kabler recently noted that it cost the state more than \$380,000 for lawmakers to come back to Charleston for the eight extra days of the extended session and first Special Session. From where I sat observing this session, with better management from the administration and legislative leadership, most of what was done during these extra meetings could have been accomplished during the regular session.

So now that the dust has settled, here's how things stand with environmental legislation that was left hanging on April 11, the original date for the Legislature to adjourn.

The Legislature fixed technical problems with **HB 2535**, the **Solar Energy Tax Credit Bill**, and the Governor signed the bill. The legislation provides a state personal income tax credit of up to \$2,000 for the installation of a residential solar energy system. Del. Bill Wooton (D-Raleigh), the sole author of this bill in the House, and Sen. John Unger (D-Berkeley) who sponsored a "same as" bill in the Senate, deserve our thanks for their leadership and hard work on the bill.

The Legislature amended **SB 715**, the **Chesapeake Bay Restoration Act** by deleting sections that clearly violated provisions of the federal Clean Water Act, and the Governor signed the bill. While purportedly attempting to find funding sources for Eastern Panhandle wastewater treatment plants, the bill as originally drafted was actually an attempt to extend compliance deadlines for those plants to meet federal water quality standards for nitrogen and phosphorous. The final language of the bill directs DEP to begin to develop plans for managing West Virginia's nutrient pollution contribution to the Chesapeake Bay and to locate funding sources for cleaning up that pollution.

Unfortunately, two of the Governor's energy bills that were not approved by the Legislature during the regular session were put on the agenda for the first Special Session. Both bills were passed and have been signed by the Governor.

The first of those was **SB 375**, the **Office of Coalfield Community Development Master Land Use Plans** bill. This is the Governor's post-mining land use bill, and is basically another attempt to get around the "approximate original contour" provisions of SMCRA and to promote "clean coal" projects on mountaintop removal mine sites.

The second was **SB 297**, the **Alternative and Renewable Energy Portfolio Act**. This bill creates a phony "Renewable Portfolio Standard" that includes lots of "clean coal" technologies and burning waste tires, and lacks any emphasis on implementing energy efficiency measures.

These were actually companion bills. They both use the exact same distorted definitions of "alternative" energy, to include all things related to coal. It doesn't take a genius to see where all this is going. The real goals of both bills are first to promote mining of more coal for coal-to-liquids and other "clean coal" technology projects, and the second is to justify the failure of the state to enforce the approximate-original-contour and post-mining land use provisions of the federal Surface Mine Act.

There was not much of a debate about either of these bills, and very little opportunity to influence the final outcome.

There was one minor dust up over the Energy Portfolio bill. The Governor's version had removed natural gas as an "alternative" fuel. So in House Government Organization Committee, Del. Mike Ross (D-Randolph) and Del Sam Cann (D-Harrison), both of whom make their living in the oil patch, insisted that natural gas be included. This was in a side discussion before the meeting began, and it really provided a glimpse of how special interests get their way in the sausage making process. So that's how the committee amended the bill (without any official discussion).

And in that same committee meeting administration folks FINALLY made some truthful statements publicly about the Energy Portfolio bill.

Department of Environmental Protection Cabinet Secretary Randy Huffman told the committee, "Advanced coal technologies is the main point of this bill." And Jeff Herholdt, director of the WV Division of Energy added, "This bill is aimed at incentives for clean coal projects."

Herholdt also told the committee that the bill would not be a hardship to state utilities because they are already "almost" meeting the goal of 25% from alternative and renewable sources as defined under the bill. He further explained that the credits created by the bill will only have a value in West Virginia and that there are only two utilities in the state right now that would qualify for using/trading/buying these credits. And he admitted that this bill has nothing at all to do with any federal legislation or Environmental Protection Agency rules that will regulate carbon dioxide.

Incredible.

So that's my final update on all the bills that began in the 2009 regular session.

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.

Legislature Learns That We Know Nothing About Coal Sludge, Plans To Study More

LEGISLATIVE INTERIM MEETING STUDY TOPICS

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

The June Interim Meetings were held June 15-17, in conjunction with the second Special Session called by the Governor to deal primarily with supplementary spending measures. For the most part the June meetings were organizational.

However, the Joint Legislative Oversight Commission on State Water Resources had a presentation from DEP Secretary Randy Huffman on DEP's official report on SCR 15, the coal slurry injection study.

Huffman basically told the Commission that the DEP did not have sufficient data to determine if injecting coal sludge into underground mines was impacting water supplies and human health.

And while acknowledging to the Commission that DEP has initiated a moratorium on issuing new permits for slurry injection, the agency does not intend to extend that moratorium to existing slurry injection operations.

The Commission was also told that the Bureau for Public Health is contracting with West Virginia University researchers to complete its portion of the slurry injection study by year's end.

Here is a preliminary list of study topics involving environmental issues that have been approved for 2009 Interim Committee consideration:

Joint Commission on Economic Development:

SCR 4 — Requesting a study of gray energy research benefits

SCR 51 — Requesting a study of the use of alternative fuels and biofuels

SCR 54 — Requesting a study of green initiatives (Green Buildings Act)

Joint Standing Committee on Finance:

SCR 57 — Requesting a study of a tax on high-voltage electric power transmission lines

SCR 59 — Requesting Joint a study of the severance tax on natural gas and oil

Joint Standing Committee on Judiciary:

SCR 63 — Requesting a study of coal mining near cemeteries

SCR 64 — Requesting a study of carbon dioxide cap and trade proposals

A study of workplace safety and storage (MIC)

A study of oil and gas drilling/permitting

A study of various election issues including vote-by-mail, touchscreen voting, public financing of judicial campaigns, and 527 campaign disclosure

The West Virginia Environmental Council plans to continue to provide a lobbying presence for the environmental community at Legislative Interim meetings.



The Details

Here are the details of some of the legislative studies that will be going on in the next few months:

SCR4—"Gray" energy technology: "Gray energy technologies and processes", include energy efficiency measures, energy recycling, biomass, cofiring and cogasification of biomass-based fuels with fossil fuels and wood pellets, are cost effective methods of reducing carbon emissions. It appears that there will be money in the federal stimulus package to research and develop these technologies. The Legislature wants to study how West Virginia might develop these technologies and get in on the money for doing so.

SCR51—"Alternative fuels" are things such as coal-to-liquids and biodiesel. The legislature wants to know if these have potential beneficial use in state government or private industry in "vehicle fleets and industrial processes."

SCR54—The legislature wants to study to study **green building** standards, green energy workforce and energy demand-side management in the public and private sectors, as well as potential tax credits. The study would include measures to encourage construction of more energy efficient buildings (green buildings) and the use of tax credits to encourage their use. The resolution notes that both the School Building Authority and Courthouse Facilities Improvement Authority have an interest in this topic. It also notes that President Obama has talked of spending "billions" on energy efficiency; the Legislature wants to be sure we are poised to get some of that money.

SCR57—The legislature would like to figure out if it could **tax interstate electricity transmission lines** such as the TRAIL and PATH lines without the tax being considered an unlawful restraint on interstate commerce. It also is concerned that the "current certificate of need application process at the West Virginia Public Service Commission does not take into account the full range of direct and indirect impacts of the siting of high-voltage transmission lines." It also wishes to consider the possibility that "[c]urrent and future developments in conservation, demand-side management and increased power generation capacity in the eastern sector of the PJM Interconnection may render the need for the PATH and TrAIL transmission lines obsolete." Because this is all complicated stuff the legislature wants to study it so it can intelligently address the topic when the next legislature meets.

SCR63—In recent years, there have been difficulties with the **impact of coal mines on cemeteries** (See p. 22 of the March, 2009, issue of *The Highlands Voice*). To "ensure our state's cemeteries are treated with the dignity and respect they deserve" the legislature wants to study possible legislation to address this problem.

SCR59—The legislature wants to figure out how to more efficiently **collect the current severance tax on natural gas and oil** and whether or not it would be a good idea to eliminate some current credits against that tax.

An Eyewitness Account**PROTEST IN MARSH FORK**

By Julian Martin

The story went nation-wide almost instantaneously via Twitter, YouTube, Facebook, Satellite TV and radio. My son-in-law saw it in the Santa Rosa, California newspaper the next day. No it wasn't Iran. It was the protest rally against mountain top removal in Raleigh County, West Virginia on June 23, 2009.

Our demands were that Massey:

- Withdraw plans to build a second coal silo within 300 feet of Marsh Fork Elementary School.
- Fund the building of a new school at a safe location in the children's own community.
- Withdraw its permits on Coal River Mountain in order to facilitate the Coal River Wind Project, which would provide a permanent source of clean energy and jobs.
- Stop conducting mountaintop removal operations.

We hold it self evident that these demands are just, feasible, and essential. No job or profit margin justifies Massey's ongoing threats to the community by mountaintop removal.

We drove past lines of miners with signs telling us to go home which I figured didn't apply to me being the eighth generation to have lived in the Coal River Valley. One sign mocked the Earth First organization with "Earth First, Mine the Other Planets Later." I honked for the sign that said "Honk For Miners" since many in my family have been underground miners.

At the Marsh Fork Elementary School rally site the miners limited themselves to disruptions of the speakers with loud insults and counter arguments and noise from motorcycle engines and chants of "Massey, Massey, Massey." My father and grandfather, both union

coal miners, probably turned over in their graves at hearing coal miners lovingly chant the name of their employer.

As the rally was nearing its end the miners slowly left the school property. They gathered about a thousand yards up the road just outside the mine entrance area. We walked silently two by two from Marsh Fork Elementary School to the area in the road where the miners were blocking the public area leading to the Massey mine entrance.

The miners yelled insults and invited us to come on over and take them on. If the state police had not been there a bunch of people would have been hurt. Judy Bonds, co-director of Coal River Mountain Watch and a past recipient of the Goldman International Environmental Prize, was attacked by a woman who passed up other targets to get at her. It was not a random act of violence. The woman seemed surprised that she was arrested. The mob of Massey miners cheered her.

Fortunately there were lots of state police including a swat team with body armor, shaved heads and automatic rifles. However the state police did not offer to clear the miners from the public access to the Massey mine property.

Rather than try to enter the Massey property for civil disobedience and create a confrontation that would lead to violence our leaders sat down in the middle of the road to block traffic as an act of civil disobedience. Thirty protestors were arrested including Ken Hechler who was the absolute most principled member of Congress and Secretary of State we ever had. Dr. James Hansen, Director of NASA Goddard Institute for Space Studies was arrested as was actress Daryl Hannah. Hansen

wrote in the Charleston Gazette, that "...mountain top removal and strip mining of coal is a shameful abomination." Say Amen.

Dr. Hansen also wrote that "Don Blankenship, Massey CEO and seemingly a role model for a few of his employees, suggested he would like to "debate" me about global warming. I agreed to a discussion in which I could make a presentation (of order 40 minutes) of the science, he would have as much time (before or after), followed by discussion and interaction including audience. Mountain State University eagerly agreed to provide the auditorium. It seemed fool-proof, because if Blankenship failed to show, I could give a bit longer talk and have discussion with the audience. But, after I got a room in Beckley, staying an extra day, Blankenship decided he would only do a debate in a television studio with his favorite moderator. When Mountain State University learned what Blankenship wishes were, they withdrew permission to use their auditorium. I turned on the television news and heard: Blankenship offered to have a discussion with me, but "Dr. Hansen was still trying to check his schedule" – this was a television station that knew exactly what had actually happened. It seems that even the media is owned by coal." Say Amen again.

Most moving of all at the rally was when a semi-circle was formed around the arrested Dr. James Hansen and his wife and we chanted thank you, thank you, thank you.

Op-ed on mountaintop removal is at <http://e360.yale.edu/content/feature.msp?id=2168#comments>
Also check out Charleston Gazette reporter Ken Ward's blog <http://blogs.wvgazette.com/coaltattoo>

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.

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.

Join Now !!!

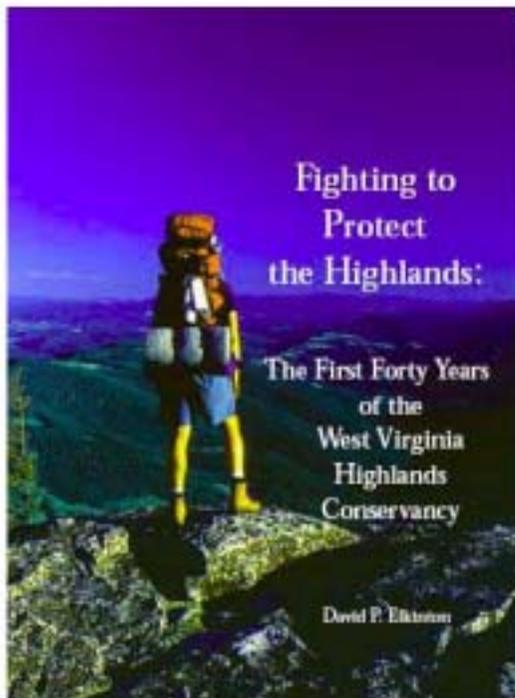
Name _____
 Address _____
 City _____ State _____ Zip _____
 Phone _____ E-Mail _____

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!



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.

Book Review

***Terrestrial Energy—How Nuclear Power Will Lead the Green Revolution and End America's Energy Odyssey*, William Tucker, 2008**

Reviewed by Vincent A. Collins and Peter Shoenfeld

We believe this is one of the most important books written in the last year, and perhaps in many years. Why? Because nothing is more critical to our environment, economy and way of life than how we respond to the energy crisis and global warming. As the author makes clear, so far we are not off to a good start.

In this thoroughly researched and beautifully written book, Mr. Tucker first acknowledges that global warming is **PROBABLY** real and **PROBABLY** at least partly anthropogenic, even though such conclusions are not provable by ordinary scientific hypothesis testing. He then makes a convincing case that even if global warming is only very slightly caused by human activity, we cannot continue to pour billions of tons of CO2 and other greenhouse gasses into the atmosphere without suffering consequences.

Mr. Tucker then proceeds to methodically and objectively examine every known source of electric power, with respect to the advantages and problems inherent to each. He then concludes that there is only one source that even comes close to satisfying the criteria of no greenhouse gas emissions, reasonable cost, and minimal environmental impact - nuclear energy.

We take issue with Mr. Tucker's far too charitable treatment of wind energy. He does point out that because electricity produced by wind is intermittent and effectively can't be stored, it cannot provide base load or peak load. He also mentions that modern grids must have reliable dispatch control over the amount of electricity going into the grid to balance load and avoid brownouts and blackouts, which wind can't provide. However, he fails to mention the need for "backup" generation from conventional power plants to cover periods of low or no wind. He concludes unconvincingly, that wind can provide "spinning reserves" to cover grid demand fluctuations. He does not explain how an unpredictable, constantly fluctuating source can provide reserves which must be instantly available when needed. These criticisms are mere quibbles, however, as Mr. Tucker makes it abundantly clear that wind, solar and other renewables are simply not going to solve our energy problems.

Mr. Tucker then moves to his main point, that nuclear energy is the answer. He gives the history, starting with Einstein's 1905 prediction of the equivalence of matter and energy, and continues through the World War II Manhattan Project and the detonation of the first atom bomb at Alamogordo, New Mexico, in 1945. Postwar, Admiral Rickover adapted nuclear technology into an electric power source for submarines and other ships at sea—the Nuclear Navy. President Eisenhower ordered a nuclear submarine "beached" near Pittsburgh in 1955 and the civilian nuclear power industry was born.

Mr. Tucker goes on to convincingly deconstruct the popular arguments against nuclear energy, such as the terrorist problem, the nuclear accident problem and the waste disposal problem. He makes it clear that these problems are either non-existent urban myths or a consequence of bad political decisions made during the last thirty years that could be remedied, if we had the will to do so. He points out that, while the rest of the world is moving toward nuclear energy, the United States has all but abandoned it. We have completed no new nuke plants since the 1970's, even though we currently generate 20% of our electrical output from nuclear reactors, most of which were built using 1960's technology. He then proceeds to demonstrate what we should have

done, by taking us on a tour of the French nuclear industry, which provides 80% of France's electricity needs.

It is downright painful to listen to the comments of French industry officials as they describe how cheap, clean, reliable and safe their nuclear industry is, and how grateful they are to us for inventing the nuclear reactor, which they have used to great advantage. If only we had done what France did 30 years ago, we would not now be having an energy crisis and our greenhouse gas emissions would be a fraction of what they are.

This book should be required reading for every public official having anything to do with energy policy, from President Obama, to regulators, governors and local officials, many of whom are making uninformed, scientifically indefensible decisions whose effects will be felt for generations. The stakes here are huge. We are committing over a TRILLION dollars to "renewable" and "alternative" energy schemes that cannot contribute more than an insignificant amount to our requirements. In West Virginia, nuclear energy has been banned and we are rapidly destroying our formerly beautiful mountain ridges with wind turbines that can never replace coal, while simultaneously increasing coal-fired generating capacity. We are doing the opposite of what we should be doing, and will pay dearly for this fundamental policy mistake.

Mr. Tucker makes it clear that the task of replacing coal with nuclear energy can be accomplished, but is not going to happen unless the public and our policymakers become educated and the myths and misinformation fed to us during the last 30 years are refuted. This book is a great start. Everyone who cares about our mountains, our environment and our future should read this book.

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.



COAL COUNTRY FILM TO HAVE WEST VIRGINIA DEBUT

Mari-Lynn Evans has announced that her new film about the effects of coal mining, *Coal Country* will have its West Virginia premiere on July 11th, 7 PM, sponsored by The South Charleston Museum in the La Belle Theater. Admission is free.

Coal Country takes us inside modern coal mining. We get to know working miners along with activists who are battling coal companies in Appalachia. We visit the homes of people most directly affected by mountaintop removal mining and hear about health problems, dirty water in their wells and streams, and dust and grime on their floors. We hear from miners and coal company officials who are concerned about jobs and the economy and believe they are acting responsibly in bringing power to the American people.

Both sides in this conflict claim that history is on their side. Families have lived in the region for generations and most have ancestors who worked in the mines. Everyone shares a deep love for the land, but mountaintop removal is tearing them apart.

Are the people fighting against mountaintop removal really protecting the earth, or do they stand in the way of affordable energy for all Americans? What is behind promises of “cheap energy” and “clean coal.” Are they achievable, and at what cost? And what are the alternatives for our energy future?

Read

By Aranna Howard

Authors through the ages
and poets great and small
communicate philosophies
through pages of a book.
Forever calling out to us
“Read in your cozy nook.”

GOOD QUESTION

American Electric Power wants to charge West Virginia customers part of the \$1.8 billion construction tab for the 300-mile PATH transmission line to carry power from the John Amos Plant to the Eastern Seaboard. The state Highlands Conservancy asks why West Virginians should bear the cost of shipping this state’s excess energy elsewhere. Good question.

This item was on the editorial page of The Charleston Gazette.

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% sales tax. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306

The Way the Voice Works

The Highlands Voice is the official publication of the West Virginia Highlands Conservancy. While it is the official publication, every story in it does not represent an official position of the Conservancy. While all of our members share the general goal “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” , our members often have differing views upon the best way to do that.

As a result, stories in The Voice often reflect different points of view. The Conservancy itself, however, only speaks through its Board. The only stories that reflect the official policies of the Conservancy are those reporting Board actions, including litigation positions we have taken, comments on proposed regulations, etc.

West Virginia Mountain Odyssey



Outings, Education and Beyond

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.

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.

BUMPER STICKERS



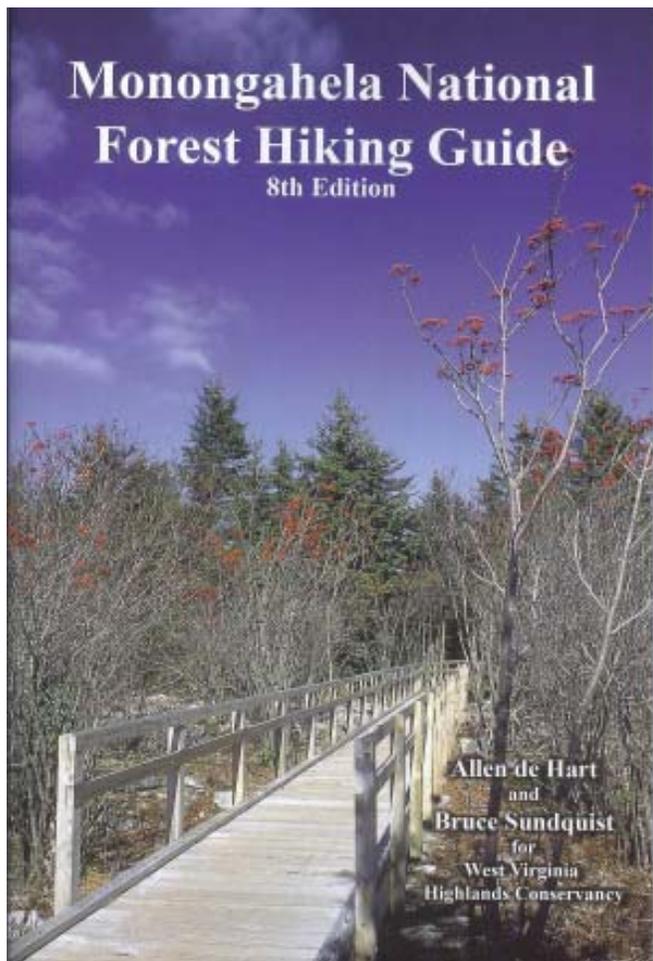
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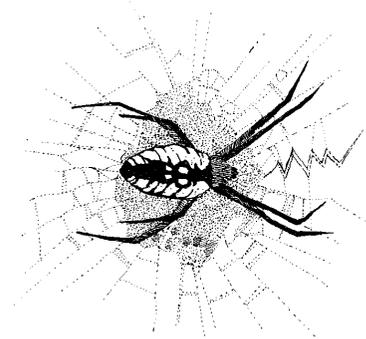
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Voice Available Over the Web

The Highlands Voice is now available for electronic delivery. You may, of course, continue to receive the paper copy. Unless you request otherwise, you will continue to receive it in paper form.

If, however, you would prefer to receive it electronically instead of the paper copy please contact Beth Little at blittle@citynet.net. Electronic copies arrive as e-mail attachments a few days before the paper copy would have arrived.



THE ATTACK OF THE C.A.V.E. PEOPLE

By John McFerrin

When people who make a living by ripping up mountains are feeling witty they make that joke about C.A.V.E. (Citizens Against Virtually Everything) people. They point to that horde that fits their stereotype of “Environmental (spit)” and grumble that “these people” are against everything. Whenever real West Virginians who just want to provide jobs and save us from dependence on foreign energy are trying to do their duty, along come the C.A.V.E. people to oppose it. Mountaintop removal—against it. Windmills—against it (never mind that this is not universally true; we’re dealing in stereotypes here.)

When people who have similar world views but better manners get on the topic, they often say such things as “If we get rid of coal how will we replace it?”

We often are sucked into answering this question, tossing out generalities about solar power, conservation, etc. Yet the true answer is, “I don’t know.”

Our job is not to identify the next technology. Our job is not to say that the solution to problems with energy supply is coal, solar, wind, or hamsters on treadmills. Our job is to make sure that the world knows about and accounts for the social costs of energy. When that cost gets too high, we have a duty to say no. This is particularly true when it is our mountains who pay that price.

Mountaintop removal is easy to figure out. People are fond of saying that coal is “cheap and abundant.” Abundant it may be; cheap it is not. The price tag on a kilowatt hour of electricity generated by coal may be small. Behind that low price are mountains laid waste, streams, wildlife, and communities destroyed. Hidden behind the low price are roads pounded to bits, houses shaken apart, pollution in the air... The list goes on and on.

When we say we oppose mountaintop removal we are really saying that the coal is not worth the costs it imposes upon society. We may enjoy the benefits of electricity but not at the costs of mountains, streams, wildlife, and communities.

Windmills are more difficult to figure out but the analysis is the same. The electricity production may be carbon free and its impact may be trivial compared to that of a mountaintop removal mine. But it is not free. It costs us some wildlife, some scenic views, etc. Our job is to point this out. When the costs are too high, we end up in opposition.

The analysis is the same with any source of energy. Looked at from an energy produc-

tion standpoint, the Hawks Nest Tunnel is a dream come true. It was built in the 1930’s. For seventy five years it has been producing all of the electricity for a substantial industrial facility, all without releasing any carbon dioxide, putting any mercury into the air, pounding any roads to pieces, or burying any streams.

Yet that electricity is not free. The April issue of The Highlands Voice had a review of a book about the building of that tunnel. Hundreds of workers died of silicosis, contracted while building the tunnel.

It is not the particular province of the West Virginia Highlands Conservancy to advocate for the tunnel workers although somebody should have. It is, however, our province to advocate for the woods and waters of West Virginia, particularly the highlands. If the social cost of energy production is too much, it is our job to say no.

Sometimes saying no has the beneficial effect of forcing projects to be modified so that they are not harmful. Had a union, a government, or somebody fought for the workers at the Hawks Nest Tunnel, we could enjoy cheap, clean energy without the stain of about (nobody knows the actual body count) 750 deaths. People speaking up about bird and bat deaths at windmills have prompted some technical changes that may eliminate or reduce that problem. It is not known how effective these measures will be but if they do work we can thank the naysayers who spurred the companies to make the changes.

It is not our job to pick sources of energy. It is our job to point out the social costs. The winning technologies will be those who can reduce or eliminate those social costs and still produce useable energy at a competitive price. If the coal industry can’t figure out a way to mine coal without the current social costs and still produce a product that it can sell at a competitive price, then it deserves to go out of business. The same is true of wind, solar, or anything else.

Figuring out what technology to support is way too complicated for anybody. One result of the talk of global warming, energy independence, etc. has been the flowering of ideas. There is supposedly a strain of yeast in Argentina that can chomp on almost any plant and produce something like diesel fuel. There are companies trying to embed microscopic fibers in ordinary window glass that could turn whole houses into solar power collectors. There are other technologies closer to being ready for commercial release. You can’t read a news-

paper without seeing a story of some new technology to produce or save energy.

No doubt the majority of these ideas are from dreamers who will never get their ideas to market. There are certainly a fair number of charlatans hoping to con their investors or the federal government for a few years until it becomes clear that their “ideas” are no more than schemes.

Yet some of these ideas are going to work. We are going to find new ways to produce and use energy. There is too much brainpower being applied to the problem not to.

Our job is not to decide which of the currently available or yet to be developed energy sources is the best. Our job is to point out the social costs—and particularly the costs to our woods and waters—that come with these sources. If pointing out these social costs sounds like opposition, then we will just have to be C.A.V.E. people. Instead of worrying about finding something to support, we should proudly continue to make clear that energy production has a social cost and that we are not going to sit still and let that cost be ignored.

