

Non-Profit Org.  
U.S. Postage PAID  
Permit No. 2831  
Charleston, WV

Return service requested.



# The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

Volume 45

No. 6

June, 2012

## ENVIRONMENTAL PROTECTION AGENCY APPEALS RULING ALLOWING BIG STRIP MINE

By John McFerrin

The United States Environmental Protection Agency (EPA) has filed a notice that it is appealing the U.S. District Court decision that overturned the agency's veto under the Clean Water Act of the Spruce No. 1 mine, one of the nation's largest proposed mountaintop removal coal mines. The appeal will be heard by the U.S. Court of Appeals for the District of Columbia Circuit.

This is an appeal from the March 23, 2012, decision by the United States District Court for the District of Columbia. In that decision, the District Court held that the Environmental Protection Agency did not have the authority to veto a permit issued by the United States Army Corps of Engineers. The permit, as issued by the Corps of Engineers, would have allowed Mingo-Logan Coal Company to fill more than six miles of streams. For more details, see the April, 2012, issue of *The Highlands Voice*.

### Nutshell version

Corps of Engineers said the mining was OK. Environmental Protection Agency said it wasn't. Court said EPA didn't have the authority so the mining was OK. EPA disagrees so it is appealing to a higher court.

### What we're fighting about

As a legal matter, the question is one of the legal authorities of agencies to act. When Congress passed the Clean Water Act in 1972 it gave the Army Corps of Engineers authority of issue permits

which allowed the filling of waters of the United States. These are known as Section 404 permits, named for the section of the Clean Water Act which authorized them. At the same time, the Clean Water Act designated the Environmental Protection Agency as the lead agency to oversee all Clean Water Act activities, including those carried out by the Corps of Engineers in issuing fill permits. That authority included the right to comment on Section 404 permits. If the permits approved by the Corps were determined to contradict the water protection provisions of the Clean Water Act, then the EPA has the right to veto the permit.

The legal question before the District Court, and now the Court of Appeals, is the extent of EPA's authority and how that authority is to be exercised.

Although not parties to the original court action, the West Virginia Highlands Conservancy, along with Ohio Valley Environmental Coalition, Coal River Mountain Watch and Sierra Club have participated as friends of the court (also known as *amicus curiae*, for anyone who wants to show off his or her Latin). This status is for those who are not parties but have an interest in the outcome.

### What's at stake

As a practical, on the ground, matter what is at stake is the mining of 2,278 acres and the destruction of over six more miles of

**(More on p. 3)**

### What's inside:

Thoughts from President Cindy	2	Outings	7	Baby trees for sale	16
Roster of officers	2	Mining matters	8	Dave gets an award	16
Poetry	3	Appalachian women speak	9		
Endangered rivers	4	An uncommon book	10		
How to join	5	Get a Hiking Guide	11		
Get a history book	5	Wind	12		
Matters legislative	6	More about wind	13		
Road trip!	6	Even more	14		

## Ramblin' the Ridges

By Cynthia D. Ellis

### GET OUT! GET OUTDOORS WHILE YOU CAN!

This is the season. In the highlands all is green and new and waiting to be discovered or revisited.

As often happens, serious headlines are clamoring for our attention. Recent stories have been exciting--Coal River Endangered River Again, U.S. Judge Blocks Boone Mining Permit, Spadaro Wins Award, Women Put MTR on Trial. On the other hand there are thoughts of how to balance our interest in saving this corner of the world with the joy of being outdoors.

Casey reminded me.

Last month, WVHC member and veteran birder, Casey Rucker wrote a piece for The Voice encouraging participation in the West Virginia Breeding Bird Atlas. He listed places where he had especially enjoyed seeking birds here in the mountains. Lots of non-birders will also feel the pull of longer days and lovely weather and will be making plans and seeing things. As for me, I'm recollecting memorable places, birds, and more when doing atlas work for the original book, and while completing other surveys, such as...

\*A pair of Barred Owls; Pitcher Plants and Sundew at Olson Bog in Tucker County.

\*A Phoebe nest on Castle Rock Trail in Grandview State Park.

\*Whip-poor-wills, Dickcissels, and a Bewick's Wren at Greenland Gap.

\*Red Crossbills at Cheat Mountain Lodge and a Loggerhead Shrike near Camp Anthony in Greenbrier County.

\*A Great Egret at Altona Marsh in Jefferson County and, on a survey through apple orchard country nearby, many Northern Bobwhite quail.

\*Savannah Sparrows in the Mower Tract [Monongahela National Forest, Randolph County].

\*A hike near Cabin Mountain to see the heather.

\*A singing Brown Creeper at Watoga State Park and, in the Brooks Arboretum, a Canada Warbler.

\*A juvenile Snapping Turtle and Spotted Sandpiper at Panther State Forest. [There too, as two of us followed a trail for a bird survey just past dawn, a pair of Coyotes slipped into the understory directly ahead.]

\*An adult female Snapping Turtle determinedly laying a huge clutch of eggs near Handley Wildlife Management Area. Also Chestnut-sided Warblers; Red Elderberry and Catawba Rhododendron.

\*A Golden-winged Warbler and Trailing Arbutus at Lake Stephens, near Beckley,

\*A Common Loon at Spruce Knob Lake and, at the Sinks of Gandy, a pair of Cedar Waxwings gathering nest material, and at the sign post for the "Birth of Rivers," an Alder Flycatcher.

\*Also near Spruce Knob, at the DNR's Shot Cherry Cabin, a Slate-colored Junco's nest and an albino Song Sparrow; Dwarf Cornel, and Pink Ladyslipper.

Apologies are offered if this seems a self-indulgent trip down memory lane. But the exercise of looking back helped me realize how I've valued these experiences and these places. They especially helped in summoning up gratitude for groups and

### Roster of Officers, Board Members and Committee Chairs and Board of Directors

PRESIDENT: Cynthia D. Ellis, RR 1, Box 163, Red House, WV 25168 (304) 586-4135; cdellis@wildblue.net

SENIOR VICE PRESIDENT: VICE PRESIDENT FOR STATE AFFAIRS: Julian Martin, 1525 Hampton Rd., Charleston, WV 25314, (304) 342-8989; martinjul@aol.com

VICE PRESIDENT FOR FEDERAL AFFAIRS: Marilyn Shoenfeld, HC 70 Box 553, 23

Sands Springs Lane, Davis, WV 26260, (304) 866-3484, marilyn.shoenfeld@gmail.com

SECRETARY: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733, johnmcferrin@aol.com

TREASURER: Bob Marshall, 886-Z Divide Ridge Road, Kenna WV 25248 (304)545-6817, woodhavenwva@aim.com

PAST PRESIDENT: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662, hugh.rogers@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2012)

Don Gasper, 4 Ritchie St., Buckhannon, WV 26201; (304)472-3704

Bob Gates, Box 5130, Charleston, WV 25361; photonzx@ntelos.net.

George Beetham, 2819 Mt. Carmel Avenue, Glenside, PA 19038, (267) 252-3748, geobeet@hotmail.com

Bill McNeel, 1118 Second Ave., Marlinton, WV 24954, (304)799-4369; wpmcneel@gmail.com

Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820;

PShoenfeld@gmail.com

DIRECTORS-AT-LARGE (Terms expire October 2013)

Bob Henry Baber, 207 Howard St., Glenville, WV 26351, (304) 462-0320, mayorbobhenrybaber@yahoo.com

Dave Fouts, HC 80, Box 993, Maysville, WV 26833, (304) 749-8172, foutsberg@citlink.net

Larry Thomas P.O. Box 194, Circleville, WV 26804, (304) 567-2602, larryvthomas@aol.com

Frank Young, Rt. 1, Box 108, Ripley, WV 25271, (304)372-3945, fyoung@mountain.net

Mike Withers, Rt 2, Box 328, Grafton WV 26354, 304-265-3750, 1nastynash@comcast.net

ORGANIZATIONAL DIRECTORS

NATIONAL SPELEOLOGICAL SOCIETY:

PITTSBURGH CLIMBERS: Buff Rodman, 32 Crystal Dr., Oakmont, PA 15139; (412) 828-8983; buffrodman@hotmail.com

BROOKS BIRD CLUB: Cindy Ellis, RR 1, Box 163, Red House, WV 25168 (304) 586-4135; cdellis@wildblue.net

MOUNTAINEER CHAPTER TROUT UNLIMITED: Chris Byrd, 292 Magnolia Ave., Clarksburg, WV 26301 Tel. (304) 622-3023 <cbyrd@ma.rr.com>

WEST VIRGINIA RIVERS COALITION: Don Garvin, P.O. Box 666, Buckhannon, WV 26201; (304) 472-8716; DSGJR@aol.com

FRIENDS OF THE LITTLE KANAWHA: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802; clrank2@gmail.com

TEAM (Taylor Environmental Advocacy Membership): Beth Baldwin, Grafton, WV 26354, 304-265-3029, elbrn6e21@msn.com

ALLEGHENY HIGHLANDS ALLIANCE: Wayne C. Spiggle, RR 2 Box 97, Keyser WV 26726, 304-726-4868, wspiggle@mac.com

COMMITTEE CHAIRS

MINING COMMITTEE: Cindy Rank, HC 78, Box 227, Rock Cave, WV 26234, (304)924-5802; clrank@hughes.net

PUBLIC LANDS MANAGEMENT COMMITTEE: Marilyn Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; Marilyn.Shoenfeld@gmail.com

LEGISLATIVE COMMITTEE: Frank Young, Rt. 1, Box 108, Ripley, WV 25271, (304)372-3945; fyoung@mountain.net

WIND ENERGY COMMITTEE: Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com

ENDOWMENT FUND COMMITTEE: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733; johnmcferrin@aol.com

RIVERS COMMITTEE: vacant

HIGHWAYS COMMITTEE: Hugh Rogers, Moon Run, Kerens, WV 26276, (304)636-2662; hugh.rogers@gmail.com

OUTINGS COMMITTEE: Dave Saville, PO Box 569, Morgantown, WV 26507, (304)284-9548; daves@labyrinth.net

MISCELLANEOUS OFFICES

SPEAKERS BUREAU: Julian Martin, 1525 Hampton Road, Charleston, WV 25314, (304) 342-8989; martinjul@aol.com

WEB PAGE: Peter Shoenfeld, HC 70, Box 553, Davis, WV 26260, (304) 866-3484, (301) 642-2820; PShoenfeld@gmail.com and Jim Solley, jamessolley@comcast.net

ADMINISTRATIVE OFFICES

ADMINISTRATIVE ASSISTANT: Beth Little, HC 64, Box 281, Hillsboro, WV, 24946 (304) 653-4277; blittle@citynet.net

HIGHLANDS VOICE EDITOR: John McFerrin, 114 Beckley Ave., Beckley, WV 25801, (304)252-8733; johnmcferrin@aol.com

## MORE ABOUT THE SPRUCE No. 1

### PERMIT (Continued from p. 1)

the ecologically rich Pigeonroost and Oldhouse Branches of Spruce River of the Little Coal River and further harm to the people living near the mine, many of whom have already suffered overwhelming impacts of nearby mountaintop removal already under operation.

More specifically, the proposed mine project will:

- Dispose of 110 million cubic yards of coal mine waste into streams.
- Bury more than six miles of high-quality streams in Logan County, West Virginia, with millions of tons of mining waste from the dynamiting of more than 2,200 acres of mountains and forestlands.
- Bury more than 35,000 feet of high-quality streams under mining waste, which will eliminate all fish, small invertebrates, salamanders, and other wildlife that live in them.
- Pollute downstream waters as a result of burying these streams, which will lead to unhealthy levels of salinity and toxic levels of selenium that turn fresh water into salty water. The resulting waste that then fills valleys and streams can significantly compromise water quality, often causing permanent damage to ecosystems and streams.
- Cause downstream watershed degradation that will kill wildlife, impact birdlife, reduce habitat value, and increase susceptibility to toxic algal blooms.

At the time of the veto of the permit, an EPA spokesman said, "The proposed Spruce No. 1 Mine would use destructive and unsustainable mining practices that jeopardize the health of Appalachian communities and clean water on which they depend," said EPA Assistant Administrator for Water Peter S. Silva.

For more information about EPA's action, see the February, 2011, issue of *The Highlands Voice*.

**Editor's note: When referring back to the April, 2012, issue for information on this issue, you should be sure you read Cindy Rank's story on the myths surrounding this controversy. It appears on page 14 of that issue. That was a rerun of the story from an earlier issue but it is so helpful and insightful on this controversy that it bears rereading. The *Voice* may start running it periodically whenever this controversy comes up, just like *It's a Wonderful Life* on TV every Christmas.**

## Country Life Lessons: #7

By Linda J. Himot

In summer-heat forethought, we pile wood on the screened porch, for the stove fire we winter-huddle close beside, cocooned.

Snow obliterates the road, maroons us.  
Drifts blend to horizonless sky-gray, seal doors.  
Only Black Angus islands color the fields.

The dog, impatient and with more fortitude,  
presses through his door, leaps, a breaching whale  
in undulating whiteness. Digs nose tunnels,

sniffs mice, chipmunks, sleeping ground hogs  
he hopes to capture, drugged into inattention  
by body heat and cave-smooth cold.

Fascinated by the mole-like moving snow ridge  
we watch, faces fogging windows, the dog's eccentric  
progress. He surfaces, shakes, then dives again,

seeks rocks and sticks not frozen fast  
to the ice-locked earth. Tosses one  
he has worried loose, high in the air.

It disappears, buried like our idyllic fancies  
of easy country quiet life with time to read  
and write. Instead we too must venture out,

chop icicles from sagging eaves,  
haul water, hay to stranded cows. Wait,  
for the drip of spring thaw, the first frog.

*The Highlands Voice* is published monthly by the West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321. Articles, letters to the editor, graphics, photos, poetry, or other information for publication should be sent to the editor via the internet or by the U.S. Mail by the last Friday of each month. You may submit material for publication either to the address listed above or to the address listed for Highlands Voice Editor on the previous page. Submissions by internet or on a floppy disk are preferred.

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

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

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



# “MOST ENDANGERED” – MOST MISUNDERSTOOD

By Cindy Rank

The 2012 list of the Ten Most Endangered Rivers in America included two West Virginia rivers – the Potomac that flows through the eastern part of West Virginia into the Chesapeake Bay and Washington DC area, and the Coal that flows through several southern counties to the west where it joins the Kanawha River at St Albans and on into the Ohio from there.

Now in its 27<sup>th</sup> year, the Most Endangered Rivers list is issued annually by the national conservation organization American Rivers and highlights watersheds that are not necessarily the most polluted rivers in America, but are rivers at risk, rivers facing threats where key decisions in the coming months may well determine the rivers' fates. The list is a call to action for members of the public to help ensure the best outcomes of those decisions.

The inclusion of both the Potomac and Coal Rivers is particularly timely with the nation commemorating the 40<sup>th</sup> anniversary



**Photo by Vivian Stockman**

of the Clean Water Act this year and Congress considering drastic rollbacks to clean water safeguards.

American Rivers ranked the Potomac as number one among the most endangered because of agricultural and urban pollution and other contaminants such as pharmaceuticals. Despite improvements over the years and widespread use of the river, the pollution will only get worse if Congress rolls back national clean water protections.

The West Virginia Highlands Conservancy joined Coal River Mountain Watch and the Ohio Valley Environmental Coalition in nominating the Coal River for a spot on the American Rivers' Most Endangered list to once again shine a national spotlight on the threat mountaintop removal mining poses to clean water and public health.

The Coal River was also listed in 1999 and 2000, but this year's call to action is for the public to urge Congress to

restore protections to small streams and wetlands in West Virginia and across the country and to oppose the dirty water bill, Senate Bill 2245/House Resolution 4965, which would prevent the restoration of those protections.

For almost thirty years, the Clean Water Act was interpreted to protect small streams and wetlands from harmful pollution resulting from activities such as mountaintop removal mining, damaging floods, and other sources of pollutants. S. 2245/H.R. 4965 would effectively block the Environmental Protection Agency and the Army Corps of Engineers from finalizing proposed guidance to clarify the scope of the Clean Water Act and would ensure that the small streams and wetlands that are a source of drinking water for 117

million Americans will continue to be vulnerable to degradation and pollution.

As with the Potomac, improvements have been made to the Coal River over the past several years and use of and appreciation for the river has grown thanks to the efforts of many individuals, agencies and groups such as the Coal River Group – working predominantly in the lower half of the watershed.

But a realistic picture of the Coal River can't ignore the very real problems that continue to exist far upstream in the headwaters of Spruce and Pond Fork and Clear Fork, Marsh Fork and other tributaries where stream valleys are still being filled and selenium and sulfates and combinations of metals and salts from mining operations are gradually diminishing the quality of the water and the aquatic life in the streams that feed the downstream portions of the river.

Often buried and polluted by giant coal mining mountaintop removal operations, it is here in these headwaters where the life and health of the river begins. And it is here where the connections between the health of the environment and the health of the people are most apparent. Protecting these small streams is essential for the long term health of both.

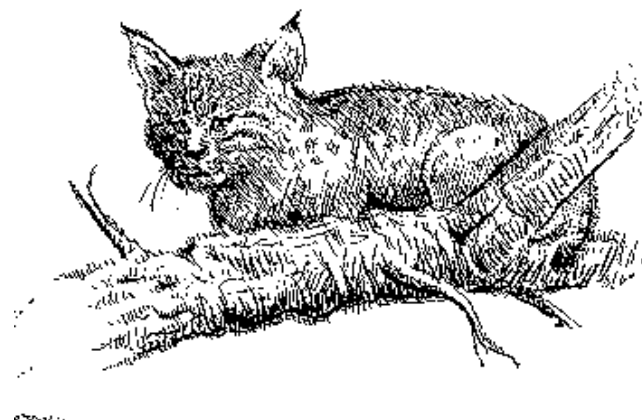
Americans want and expect clean water that is safe for them to drink, clean for them to swim in, and healthy enough to support fish and wildlife. Upstream waters must be protected from pollution and destruction if we expect the Coal River itself to be fit for drinking, recreation, and wildlife.

“The America's Most Endangered Rivers report is a call to action to save rivers that are facing a critical tipping point,” said Katherine Baer, Senior Director of the clean water program at American Rivers. “We all need healthy rivers for our drinking water, health, economy, and quality of life. We hope citizens will join us to ensure a clean, healthy Coal River for generations to come.”

For more about the list and what you can do visit American Rivers at <http://www.americanrivers.org/our-work/protecting-rivers/endangered-rivers/>.

For the complete 2012 Most Endangered Rivers report: <http://www.americanrivers.org/assets/pdfs/mer-2012/2012-compiled.pdf>

Coal River specific: <http://www.americanrivers.org/our-work/protecting-rivers/endangered-rivers/2012endangered-coal.html>



## Join Now !!!

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ E-Mail \_\_\_\_\_

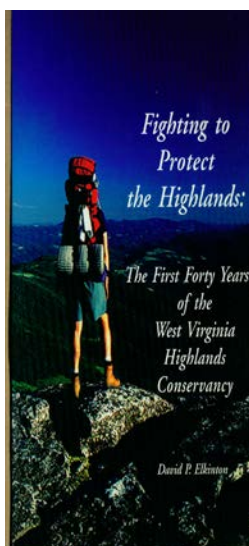
### Membership categories (circle one)

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

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

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

### 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 \$14.95, plus \$3.00 shipping, visit the Conservancy's website, [wvhighlands.org](http://wvhighlands.org), where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

### SUCH A DEAL!

#### Book Premium With Membership

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$14.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

Existing members may have one for \$10.00. Anyone who adds \$10 to the membership dues listed on the How to Join membership or on the renewal form will receive the history book. Just note on the membership form that you wish to take advantage of this offer.

### HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I (Heart) mountains caps.

The WVHC cap is beige with green woven into the twill and the pre-curved visor is light green. The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I (heart) Mountains on the back. It is soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure.

The I (heart) Mountains The colors are stone, black and red.. The front of the cap has I "HEART" MOUNTAINS. The heart is red. The red and black hats are soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone has a stiff front crown with a velcro strap on the back. All hats have West Virginia Highlands Conservancy printed on the back. Cost is \$15 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to James Solley, P.O. Box 306, Charleston, WV 25321-0306



## LEGISLATURE BEGINS 2012 INTERIM MEETINGS

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

During the months when the Legislature is not meeting in its sixty-day regular session, it convenes for three days each month in what are known as "Interim Meetings." The purpose of these meetings is to discuss and "study" issues and topics in preparation for the next regular session.

Due to the primary elections this year (seems like we have been having a primary election every year recently), there were no April interim meetings.

May interim meetings were held May 14-16, and were primarily organizational. Interim study topics were approved and assigned to committees. The only substantive meeting on environmental issues was a meeting of the Water Resources Commission, which featured an update from DEP on its progress in preparing a statewide Water Resources Protection Plan (water quantity) by 2014.

The remaining Interim meeting and legislative schedule is as follows:

June 25-27  
July 23-25  
August 13-15  
September 10-12  
October 8-10  
November 26-28  
December 10-12  
January 7-9 (the 9th is also a one day legislative session)  
February 10-12  
February 13, 2013 Legislature convenes

Like almost all official legislative meetings, Interim meetings are open to the public. The schedules for the committee meetings (and sometimes the agendas) are usually posted several days before the meetings at <http://www.legis.state.wv.us/committees/interims/interims.cfm>

The list of study topics involving environmental issues is kind of slim this year (did I mention that this is an election year?). But there are a few interesting and important issues to keep an eye on.

Notably, among a long list of other study topics:

The Parks and Natural Resources Committee will again discuss transferring partial management responsibilities for Coopers Rock State Forest from the Division of Forestry to the Division of Natural Resources.

The Infrastructure Committee will discuss "Complete Streets" legislation, which would require the inclusion of bike paths and walkways when designing new roads or improving old ones.

The Finance Committee will look again at HB 4511, which almost made it through the regular session and would establish a natural gas Shale Research Center at WVU. The committee will also take up the establishment of a "Future Fund" or other mechanism to utilize the additional severance tax revenues from Marcellus shale gas drilling.

The Judiciary Committee will take up HCR 53, a House

concurrent resolution that calls for "a study of the relationship between increases in seismic events and hydrocarbon production and exploration" in West Virginia.

The Judiciary Committee will also discuss SR 7, a senate resolution which opposes "the United States Supreme Court's interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations," and SCR 90, a senate concurrent resolution which would study campaign fundraising by elected officials.

The Agriculture Committee will discuss "non-traditional agriculture," and senior vouchers for locally grown food.

The Economic Development Committee will discuss the feasibility of a multi-county ATV trail system.

The Government Organization Committee will study the Infrastructure & Jobs Council and the Water Development Authority.

And of course the Forest Management Review Commission and the Joint Legislative Oversight Commission on State Water Resources will also be meeting during Interims.

We will keep you updated on these and other issues as they arise during the Interim meetings.



July 28, 2012 at the U.S. Capitol, Washington, DC.  
Rally at 2:00pm – March to follow

For information about the event see: <http://www.stopthefrackattack.org>

From California to New York, from North Dakota to Texas, people across the country are converging on the U.S. Capitol to tell Congress, the President and the world to end the rush to drill and \*STOP THE FRACK ATTACK\*

This is a great opportunity to use our collective power to end oil and gas drilling that harms public health, water and air quality, and the climate.

Buses from WV are being organized.

To join a bus from Morgantown contact Jim Sconyers

[jimscon@gmail.com](mailto:jimscon@gmail.com)

To join a bus from Beckley/Lewisburg contact Beth Little

[blittle@citynet.net](mailto:blittle@citynet.net)

# West Virginia Mountain Odyssey



## Outings, Education and Beyond 🇺🇸

**June 6-9, 2012, Jefferson National Forest, VAWV, Allegheny Trail/AT-Peters Mountain Section:** 25 miles, 5000 feet elevation gain. Continue the traverse of the VA/WV border as we hike this isolated ridge top. Seasoned backpackers only. Shuttle cost approximately \$35.00/person depending on the number of participants. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**June 20-21, 2012, George Washington National Forest, VA, Massanutten Trail-Edinburg Gap to Mud Hole Gap Backpack Shuttle:** 16-19 miles, 2000 feet elevation gain. Rocky ridge walk with views. Seasoned backpackers only. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**July 7-9, 2012, George Washington National Forest, VA, Great North Mountain/Elliots Knob Backpack Shuttle:** Strenuous 22 mile hike with 5000 Feet elevation gain and a panoramic view from 4463 foot Elliots Knob. Seasoned backpackers only. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**July 21-22, 2012, George Washington National Forest, VA, Torry Ridge/Mills Creek Backpack Loop:** Moderate, 14 miles, 2600 feet elevation gain. Ridge Top views and a pleasant stream valley to camp in. This trip is suitable for experienced hikers who wish to move up to backpacking. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**08/04-06/2012, Laurel Highlands Trail-Rt 30 to Rt 56 Backpack Shuttle, PA:** Moderate, 24 miles through Mature Forest, Vistas. We will camp in shelter areas. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**09/01-03/2012, George Washington National Forest, Shenandoah Trail-South Backpack Shuttle:** Strenuous, 25 miles, 5000 feet elevation gain. Ridge top hike with lots of views to the east and west. Seasoned backpackers only. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**September 11-13, 2012, George Washington National Forest, VA, Massanutten Trail-Edinburg Gap to Shawl Gap Backpack Shuttle:** 23 miles, 4000 feet elevation gain. Rocky ridge walk with views. Seasoned backpackers only. Preregistration required. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**September 15, Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge. - VOLUNTEER OPPORTUNITY -** Join us as we continue our efforts to restore the red spruce ecosystem in the West Virginia Highlands. We will meet at the Wildlife Refuge Headquarters on Rt. 32 in Canaan Valley, at 10 AM. Come dressed for the weather, wear sturdy shoes or boots and bring gloves. Lunch will be provided. Please rsvp. For more information, visit [www.restoreredspruce.org](http://www.restoreredspruce.org), or contact Dave Saville at [daves@labyrinth.net](mailto:daves@labyrinth.net), or 304 692-8118.

**September 22-24, 2012, Monongahela National Forest, WV, [Roaring Plains Base Camp Backpack and Day hike](#):** Hike in 2.5 miles and set up camp on Day 1. Day hike (no backpacks) 12-14 miles around the canyon rim with 1100 feet of elevation gain on Day 2. Retrace Day 1 steps on Day 3. Seasoned backpackers only. Contact Mike Juskelis at 410-439-4964 or [mjuskelis@cablespeed.com](mailto:mjuskelis@cablespeed.com).

**Open dates: Visit Kayford Mountain south of Charleston to see mountain top removal (MTR) up close** and hear Larry Gibson's story about how he saved his mountain, now almost totally surrounded by MTR. Bring lunch for a picnic on Larry's mountain. Call in advance to schedule. Julian Martin (304) 342-8989; [martinjul@aol.com](mailto:martinjul@aol.com) or Daniel Chiotos, (304)886-3389 – cell, (304)205-0920 – office.



# REYLAS – DOES IT MATTER?

By Cindy Rank

Always the question arises with each new legal challenge: What does it matter? ... In the overall scheme of things, what does this one permit for Highland Mining Company's Reylas mine in Logan County matter?

## SCHIZOPHRENIA

Not exactly a medically correct use of the term, but one can experience a taste of schizophrenia traveling back and forth from Upshur County WV to the lush mountains of Virginia with views of the Blue Ridge Mountains beyond.

Indeed, crossing Rich and Cheat and Shavers Mountains to attend Highlands Conservancy meetings in and around the Monongahela National Forest for over three decades has always brought me a certain sense of calm, a personal joy in seeing the vast expanses of green rolling hills. Hearing the birds, enjoying clear flowing streams.

A few weeks ago Paul and I drove even further east to join family members vacationing in the mountains of Virginia – beyond Seneca Rocks and the breathtaking views of Germany Valley and striking ridges of North Fork Mountain over into the George Washington National Forest with more of the same over Shenandoah Mountain. Such trips are so full of beautiful sights and sounds that one can be fooled into thinking all's right with the world, that humankind appreciates the natural beauty that surrounds us, that we recognize the value of these hills and hollows we call home.

## REALITY

Any more it's impossible for me to take in such grandeur without also seeing in my mind's eye flashes of the devastation happening to similar mountains not so very far to the south and west of these Allegheny Highlands, e.g. scenes of the Mud River valley where forested ridges are being leveled daily or of the view from Kayford Mountain where the Red Warrior, now Samples, mine have lowered ridges for several miles to the north and nearly circle around the Gibson family cemetery and the few homes nearby.

Within this swirl of conflicting images I ask myself what does it matter?

Other mountains fall prey to the ever broadening sprawl of the megalopolises like Washington, DC or New York City .... And obviously there are still lots and lots of green rolling hills and rich forested mountains.....So what's the point?

But before the question even reaches my lips, I'm haunted by testimony by the scientists I heard in court during the Reylas trial just days before our trip to VA and by the heartrending testimony of the dozen or more strong women from communities throughout southern WV, Ky, Tenn and southwestern VA who spoke at the Central Appalachian Women's Tribunal on Climate Justice May 10<sup>th</sup> in Charleston, good women struggling to maintain their own and their families' sanity and physical health in the midst of blasting and pollution from the mines that surround them. Their individual stories are powerful and heartbreaking and often included mention of the increasing numbers of health studies that point ever more directly to a variety of health problems that are statistically greater for people living near huge mountaintop removal mines.

## REYLAS

YES, Reylas matters.....

It is one more unnecessary assault on the human and other natural resources that we all depend on. It is one more nail in the coffin of buried and polluted streams and destroyed groundwater

and decimated communities being left behind in the wake of the phenomenon we know as 21<sup>st</sup> century strip mining.

The science is overwhelming. ...In study after study, research shows that water quality and aquatic life in streams below these big mines and valley fills is slowly declining.

Despite the fact that the laws are clear about the need to strike a 'balance' between developing one resource (coal) while protecting others (water in particular), the legal hair splitting continues. [Trust me, anyone prone to migraine headaches should never sit in a courtroom during any of these mining trials.]

In the specific case of the Reylas mine the newest legal wrinkle involves the recent (November 2011) interpretation by the Army Corps of Engineers of how it implements a section of its regulatory program that has to do with state certification of fill permits.

While the Corps issues Section 404 (of the Clean Water Act) fill permits, individual states determine state specific criteria that must be considered in granting any 404 permits. The state then 'certifies' (under the provisions of Section 401 of the CWA) whether or not a particular 404 permit meets those specific requirements – hence the terminology 401 Certification.

For nearly 40 years the Corps has viewed this certification as the floor of water quality protection needed in issuing 404 permits for activities within the individual state, the minimum protection to be afforded upon its own independent review and approval of a permit application.

As of November 2011 the Corps no longer views state 401 certification as a floor but rather as a ceiling of protection. The Corps now regards those certifications as conclusive and relies on those certifications in lieu of the agency's own independent water quality analysis.

We thought we were rid of the rubber stamp Nationwide Permits so frequently used to blithely allow filling of so many miles of rich stream valleys with waste rock from large strip mines. Now according to Corps regulatory review of November 2011 we seem to be headed back to square one.

Unless the Environmental Protection Agency specifically steps in and advises of other water quality aspects that need be considered, or some other requirement of Federal Law is unmet, state certification is the final arbiter of compliance with applicable effluent limitations and water quality standards required under provisions of section 401 of the Clean Water Act.

This practice and regulatory interpretation has had serious adverse environmental impacts in Appalachia, where the Corps has approved hundreds of permits allowing the filling of headwater streams with mining waste, causing widespread stream impairment from mine runoff containing high levels of pollutants such as total dissolved solids, sulfates, conductivity and selenium. State water quality permits, certifications, and reviews have ignored, or been inadequate to prevent, these serious impacts. The Corps has nevertheless used this interpretation to avoid analyzing these impacts and to allow ongoing stream impairments.

Of course permitting also requires consideration of the cumulative impacts of these mining operations and we know how ineffective both state and federal agencies have been on this score these past many years.

**(Continued on the next page)**



## MORE ABOUT WHAT MATTERS (Continued from previous page)

With the Reylas challenge (as with many of the other mines often referred to in the pages of the Voice) it is not just the one mine, or the one fill, or the one stream that is being destroyed, but rather the cumulative effect of the many mines in any number of watersheds in southern WV that is causing the ever downward spiral of water quality throughout the region.

In Dingess Run, though dead fish aren't floating belly up in the streams [yet], already mining in the watershed has increased selenium levels and contributed to a reduction in the quality of the entire watershed that has prompted 'impaired' status be applied to the watershed.

There is little doubt that the Reylas mine will only further negatively impact the downstream reaches of Bandmill Hollow and Dingess Run.

--- Final briefing and closing arguments in the case haven't been rendered as of the writing of this article ---

## CYNTHIA D. FINISHES UP (Continued from p. 2)

individuals that help to preserve such places. There is an extra measure of thanks for people like our editor John McFerrin and our mining committee chairwoman Cindy Rank. They waded through all the bureaucratic word jungles and explain the threats and issues in readily understandable form. They sustain our need to know, and our wish to understand how we can be helpful. They fuel our wish to keep up with the headlines and to think how hazards to the highlands might be resolved.

Meanwhile...this IS June... and when you get DO out...

Have a good time! Don't forget to write!

This column will echo our editor's perpetual invitation to share something with WVHC.

After hiking, geocaching, kayaking, fishing, spelunking, enjoying a family reunion, visiting a family cemetery, watching sunrises and sunsets, or more, consider telling us about it. Send a photo. Or an essay. Even with the crush of exciting news developments and contentious issues, there is room in *The Voice* for your contributions too.

Casey's article reminded me to send out some thanks and an invitation. It reminded me too, of why I was lured into snatching time from enjoying the highlands and into devoting some to trying to preserve them.

Consider showing and telling us what prompted you.



## CENTRAL APPALACHIAN WOMEN'S TRIBUNAL, MAY 10

Formally, this event was billed as the "Central Appalachian Women's Tribunal on Climate Justice," and West Virginia Highlands Conservancy was one of the co-sponsors. The day's program stated that the aim was to be "Raising the voices of grassroots women... *in the United States, and around the world*; exposing the impacts of mountaintop removal coal mining and its role in climate chaos. Event presenters included the Ohio Valley Environmental Coalition and the Loretto Community at the United Nations. The Loretto Community was founded in 1812 by two women who taught children in Kentucky and wished to expand their spiritual, environmental, and educational outreach. Similar gender and climate justice tribunals have taken place in Asia, Africa and Latin America. The tribunal planned to highlight how women living in persistent poverty areas and impoverished communities are being affected by climate-related issues.

The audience included women of all ages, one 6 weeks old, some 7 decades older. It was especially gratifying to meet a group of enthusiastic students from Xavier University.

The format was that of a legal proceeding, with "jurists" listening to testimony in four "cases" by "witnesses," and "experts". WVHC's mining chairperson, Cindy Rank, presented expert testimony in the case of "Damages to Air, Land, and Water." Actually, the vital nature of clean water was stressed by all participants in each of the cases. Following each presentation the jurists made responses.

The expert testimonies were detailed yet succinct and the stories told by the witnesses were heartfelt and often heartbreaking. Many attendees were moved to tears. One jurist termed the effects of mountaintop removal mining as "climate Holocaust."

Near the end of the session, the jurists read a list of recommendations they'd compiled based on the testimony they'd heard. These recommendations will be taken to a United Nations conference in Rio de Janeiro next month. There are also plans to present the list to women in positions of power here in this nation.

Just after the session ended word came that sponsors of the tribunal had won a coveted spot as an officially recognized event as part of the Rio +20 United Nations Conference on Sustainable Development in Brazil in June. Results of this and other women's group tribunals on issues around the globe will be part of that presentation.



## ***Blue Ridge Commons: Environmental Activism and Forest History in Western***

***North Carolina***, by Kathryn Newfont (University of Georgia Press, 2012), 369 pages, illustrated, paperback \$26.95.

Reviewed by Paul Salstrom

In the 1700s and 1800s, the forests that covered the eastern mountains were used by people as *de facto* “commons” on which to free-ranging their livestock and to hunt, fish, gather nuts, berries and herbs, and in many other ways. Kathryn Newfont’s new book traces the history from that early use of Appalachia’s forests as *de facto* commons to the later creation of national forests as *de jure* commons. Technically in U.S. law, the national forests didn’t become *de jure* commons until the Multiple-Use Sustained-Yield Act of 1960, but all along they have been used as commons.

Yet, how the national forests have been used all along isn’t the same as how they’ve been thought of. In fact, how we *now* think of them doesn’t even go back as far as the multiple-use law of 1960. It didn’t really start until 1973 when West Virginia’s division of the Izaak Walton League (et al.) sued to make the U.S. Forest Service end clearcutting on Monongahela National Forest – and won – and won again in 1975 at the U.S. Court of Appeals in Baltimore. From that Appeals Court decision, shockwaves went straight to Congress, which promptly voided the Organic Act of 1897 because it allowed only selective cutting on the national forests, and replaced it with a new National Forest Management Act that legalized clearcutting.

Despite Congress thereby legalizing clearcutting on national forests, fishing and hunting groups all over the U.S. took heart from the Monongahela court case victory -- including fishing and hunting groups in western North Carolina. There, Great Smoky Mountains National Park and several huge national forests added up to millions of acres under public ownership.

By coincidence at that time, Congress had just passed the Eastern (a.k.a. Omnibus) Wilderness Areas Act, and the Sierra Club and Wilderness Society were campaigning for western North Carolina (and New Hampshire) to hold the first wilderness areas in the eastern U.S. – but they hit a buzzsaw. Clearcutting timber companies in North Carolina astutely used the “public comment” mandate of the new 1976 National Forest Management Act to enlist hunters and fishers, along with ginseng, galax, and firewood gatherers, and family “car campers” too, against any designation of wilderness areas whatsoever -- and thus only a paltry 22,000 acres received wilderness designation in North Carolina (--until later).

Those combined forces of timber companies and other forest users chose the evening of a RARE II public hearing in July 1978 to orchestrate an abrasive heavy-equipment invasion of Franklin, North Carolina featuring slogans like “Stop the Sierra Club,” “We Can’t Make a Living by Hiking,” and “We Have Given All We Can to Parks.” Fortunately, however, that coalition’s arguments depended on the 1960 mandate that the Forest Service allow multiple use, and soon after its anti-wilderness victory of 1978, non-depleting forest users started turning against natural resource interests in western North Carolina -- first against oil and gas companies and then against clearcutting timber companies.

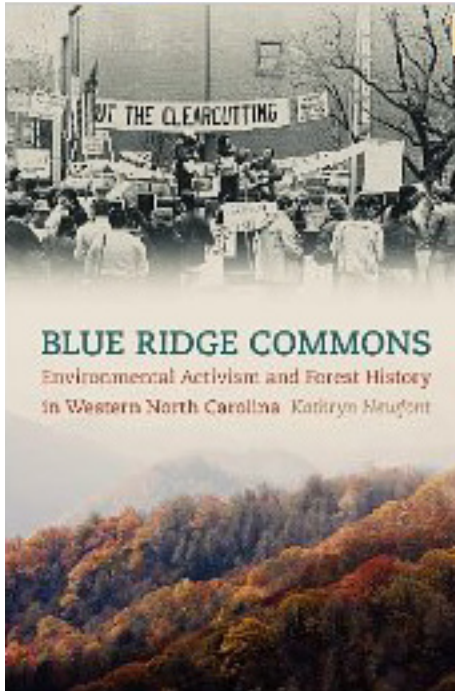
The Middle East oil embargos of 1973 and 1979 had sent fossil fuel prices soaring, and the year 1980 brought a rash of oil and gas

exploration to western North Carolina’s national forests in the vain hope of finding major oil and gas reserves in the soft sedimentary rock that lay below an “eastern overthrust” of 5,000 feet of harder rock. (Further north, the “eastern overthrust” was even thicker, and at one particular exploratory well in West Virginia, Exxon Petroleum and Consolidated Gas jointly invested \$4 million to drill down 16,000 feet before they gave up.)

It turned out oil and gas drilling was anathema to the newly politicized hunters and fishers of western North Carolina because it meant road-building, heavy equipment, noise, spills, erosion, and silted streams. With the help of David Liden who had just coordinated the West Virginia part of the Appalachian Land Ownership Task Force (financed by the Appalachian Regional Commission) and then had moved to western North Carolina, a new Western North Carolina Alliance suddenly came together that united environmentalists with hunters, fishers, and other forest users to help oust the oil and gas interests and then to take on the clearcutters. They won against oil and gas and then toward the end of the 1980s they organized an intense “Cut the Clearcutting” campaign that gathered over 20,000 petition signatures and brought over 200 demonstrators to Asheville to deliver them to the Forest Service as a single petition four blocks long. That campaign ended significant clearcutting in western North Carolina.

The second half of Kathryn Newfont’s *Blue Ridge Commons* features about a half dozen of the key activists in the Western North Carolina Alliance, including David Liden. She has tracked down and interviewed those activists – along with key U.S. Forest Service foresters and also many hunters, fishers, campers, and other national forest users. Newfont is meticulously careful to do justice to everyone’s personal viewpoint. But she also makes timely mention of outside factors that surely influenced people – such as Congress in 1976 passing the Payments in Lieu of Taxes Act. Until that law, county governments in the counties containing national forest land were partly financed by Forest Service timber sales. They got one-fourth of whatever the Forest Service got from timber sales in their county. As of 1972, *prior* to payments in lieu of taxes, the Forest Service was paying on average to the counties in Appalachia a paltry 13.5 cents a year per acre of their national forest land (--one reason why so many counties could barely keep their schools and other services going). When payments in lieu of taxes started, the yearly payment became a minimum of 75 cents per acre, and a lot of counties were paid more. Thereby, local support for timber cutting on national forests often grew weaker since some of the other sources of county revenue (such as land values and tourism) were being hurt by timbering.

The lessons of this book aren’t merely implicit or hidden away at the end. Kathryn Newfont and her family are forest users and she’s personally an adamant “commons environmentalist.” She asks that environmentalists take note of the specifics of how the Western North Carolina Alliance became such an effective vehicle





## The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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

**Send \$14.95 plus \$3.00 shipping to:  
West Virginia Highlands Conservancy**

**P.O. Box 306**

**Charleston, WV 25321**

**OR**

**Order from our website at**

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

### New 8TH Edition Now Available on CD

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

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

- All pages and maps in the new Interactive CD version of the Mon hiking guide can easily be printed and carried along with you on your hike
- All new, full color topographic maps have been created and are included on this CD. They include all points referenced in the text.
- Special Features not found in the printed version of the Hiking Guide: Interactive pdf format allows you to click on a map reference in the text, and that map centered on that reference comes up.
- Trail mileages between waypoints have been added to the maps.
- ALL NEW Printable, full color, 24K scale topographic maps of many of the popular hiking areas, including Cranberry, Dolly Sods, Otter Creek and many more

Price: \$20.00 from the same address.

### MORE ABOUT THE COMMONS (Continued from p. 10)

for a broad spectrum of renewable public resource users. She particularly emphasizes the mobilization of timely in-put during the drafting stages of new management plans for national forest units. And she suggests that "commons environmentalists" become more self-consciously so, and more outspoken. As regards Highlands Conservancy members, I realize she's "preaching to the choir," but it's nice to see it all so well-put.

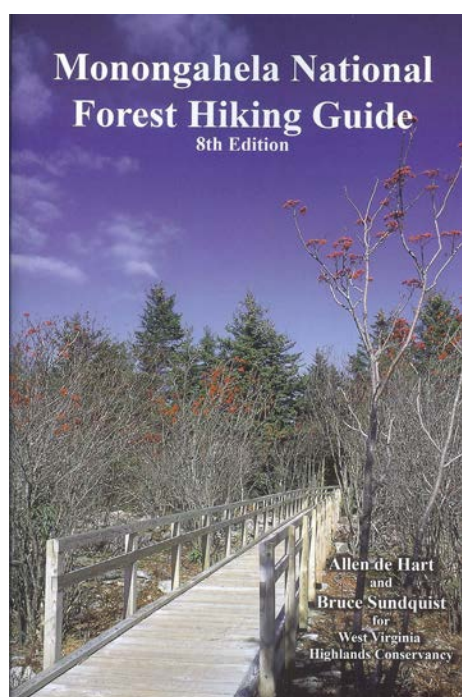
Paul Salstrom is the author of *Appalachia's Path to Dependency*, and recently co-edited *Ferdinand Hayden: A Young Scientist in the Great West* (2010).

### Voice Available Electronically

*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](mailto:blittle@citynet.net). Electronic copies arrive as e-mail attachments a few days before the paper copy would have arrived.

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



## ANOTHER LOOK AT WIND ENERGY

By Kolin Jan

I applaud the Board's effort in taking a closer view in refining its position on industrial wind. Like many West Virginians, initially I believed the hype and thought this approach would be our salvation in supplying a source of eco-friendly electricity. Much to my chagrin, after extensive research I have come to the opposite conclusion. Based purely on the science and engineering involved in this method of supplying electricity, I have come to the conclusion that this approach is folly. No number of wind turbines can satisfy demand---we will always require other sources to supply reliable, dispatchable electricity, and the amount of electricity supplied by turbines will always, from a practical application, supply only a very small fraction of our needs....at an inordinate expense.

Those who argue that the turbines harm the viewshed have a valid point....but it's subjective. Those who argue that they negatively impact the environment and the wildlife have a valid point---but to some that doesn't matter. They want their electricity no matter the environmental cost....and it is substantial. How can we conserve our environment and its occupants by clear-cutting thousands of acres, chasing away the wildlife and killing a significant percentage of the avian population? Especially when there are other, significantly less expensive ways to source electricity.

I encourage the Board to continue their deliberation, but dozens of peer-reviewed scientific papers on the topic clearly show this industry to be fallacious. Over the past several years I have requested from a number of industrial wind proponents copies of peer-reviewed scientific papers in favor of industrial wind----so far I have not been able to find a single one.

Moreover, the only green aspect of this endeavor is the cash going to developers and owners through Congress' blindness to the facts, along with the majority of the population's ignorance to the facts in how these turbines operate, and their true cost. Every taxpaying American is supporting this industry---without significant government support this industry would die immediately. Not next week or next year....immediately. The only way to make money in this business is through government grants and tax write-offs.....or charge an exorbitant rate that Americans would not tolerate.

Industrial sized wind turbines do not belong in West Virginia... or any other place, for that matter. They are a pox on the land, an unreliable source of electricity, and way too expensive.

Ask yourself one question.....would you pay 10X (or more) to hook up your house to a company that supplies electricity only from wind turbines, as your only source of electricity?

I could present a number of other arguments and rebuttals for those in favor of this industry, but I'm sure you understand my position. Again, I encourage the Board's further discussion on the topic, but I also urge the members to set aside emotion and deal with facts instead of what we hear from the media (our tax dollars are paying for the ads, by the way), or what the developers would like you to believe. Listen to the facts provided by science, along with the facts that reveal the true expenses and how this industry is financed. Every statement, regardless who makes it needs to be supported by factual evidence...not by something gained through the media or hearsay.

Unfortunately, this argument is potentially tainted because there are people involved in the discussion who have a financial interest. A good question to ask a proponent involves the level of potential personal financial gain through land leases, construction contracts, or the false promise of permanent jobs. We've seen that

first-hand around Keyser.

Finally (somewhat tongue-in-cheek), as with any contentious issue, remember there are people who live by "Don't confuse me with facts....my mind's already made up."

**Editor's note:** As part of its continuing wrestling with the question of industrial wind facilities, the May issue of *The Highlands Voice* offered a question: Industrial wind power: what should the board do? The Board solicited thoughts, facts, and opinions on this question. This article is one of three responses to that question that the *Voice* has received so far. The others are on the next few pages.



**Windmills on Laurel Mountain**

*Photo by John Terry*



# WIND POWER: SOME OBSERVATIONS FROM THE FRONT LINES

By John Terry

In response to Dr. Wayne Spiggle's request for membership input regarding industrial wind:

My wife and I are located north of Elkins and have a unique understanding of industrial wind power that most people do not. From our windows we see six AES Laurel Mountain GE 1.6 MW wind turbines. We can see ten from various locations on our property. I will not speak here about forest fragmentation, flying wildlife kills, noise, property value or any of the familiar complaints against wind energy. The subject of this letter is "wind" and how little of it there is in West Virginia. For those who hold on to a hope that somehow wind turbines will, in some way, replace mountain top removal this will be an unpleasant read and I apologize in advance for the bad news.

First a little background: There are five wind farms operating in West Virginia and two nearby in Maryland. With the exception of Beech Ridge, each is operating within sight of each other. The four in West Virginia are: Mountaineer with 44 turbines, NedPower/Mount Storm with 132 turbines, Beech Ridge with 65 turbines, AES Laurel Mountain with 61 turbines and Pinnacle with 23 turbines. In Maryland, Roth Rock has 20 turbines and Criterion has 23. The last four wind farms have gone on line since winter 2010.

Industrial wind energy is weather dependent. The striking variability of our landscape consisting of mountains, hills and river valleys is one of the reasons why wind energy is unsuited to this state. If you look at the National Renewable Energy Laboratory's Wind Energy Map [http://www.windpoweringamerica.gov/wind\\_maps.asp](http://www.windpoweringamerica.gov/wind_maps.asp), you'll notice that there are precious few locations in West Virginia that approach a marginal rating for wind generation. Those are located on the state's very highest ridges. Conversely, the NREL map shows that much of the state falls in or below the 4.5 m/s wind speed range at the bottom of the wind resource scale.

This lack of wind should be evident to all of us who've spent much time here. Think fog for a moment and how still the air is. West Virginia is one of the foggiest places in the United States with over 200 cloudy days each year thanks to our mountain terrain and abundant tree cover. <http://www.weatherwise.org/Archives/Back%20Issues/2011/March-April%202011/west-virginia-full.html> NOAA's National Weather Service has been

recording wind speed data for over 50 years. Of the 276 US cities on NOAA's list, only 8 have a lower average annual wind speed than Elkins, WV, home to the AES Laurel Mountain wind farm. <http://lwf.ncdc.noaa.gov/oa/climate/online/ccd/avgwind.html>

We know that wind varies by season and that historically we would expect the months of May through October to produce less wind energy than November through April would.

What goes unseen is an incredible variation in productivity making no season very good for wind turbines. There's really nothing predictable about them. In a string of turbines, everyone will be turning at a slightly different speed which varies minute by minute. Even on good days, turbines 1, 3, 5 and 9 may be turning while 2, 4, 6 and 8 stand idle; only to slowly begin to turn as others quit. Writing this and overlooking the wind farm, I can tell you that, at this time in May, the turbines outside my window have not generated any appreciable amount of electricity for the past five days.

Traditionally we think of electrical generation in terms of a power station's output. We hear those same kinds of numbers about wind too, but the maximum potential production of a wind farm or the number of homes that might be powered have nothing to do with the reality of how these machines will perform in real world conditions.

In a response to a letter of mine in the Cumberland Times-News May 19, 2011, Raif Sigrist, President and CEO, of the German turbine manufacturer, Nordex USA Inc. said, in effect, that the economics of the wind industry take into account that the wind does not blow at a consistent speed, but that wind energy is, "bountiful, freely available and competitively priced." He then went on to say that a Nordex turbine "achieves availability greater than 97 percent" of the time. Meaning that the turbines are ready even if the wind doesn't cooperate. <http://times-news.com/letters2/x1372148106/Future-of-U-S-wind-power-is-promising>

I can't tell you how many watts come from how many revolutions of a wind turbine's blades, but I'm quite sure that when they're stationary, the number is zero. I'm pretty sure too that less electricity is generated when the blades turn slowly rather than quickly.

Recently, a small number of observers have begun to accumulate data on turbine operation in West Virginia. It's

hit or miss at best. I've chosen a single turbine to watch which appears to be no more or less efficient as any of the others. I try to time blade rotation for ten revolutions at least five times (every two hours) on days when I'm home and it isn't too foggy.

Without going into too much detail, let me tell you that my subject turbine never turns faster than 17.857 rpm or slower than 10.052 rpm. In the 756 observations made since October, 2011, this turbine has only reached the top quarter of its speed potential 157 times or 21%. On the other hand, this wind turbine has turned in the bottom quarter of its speed potential 202 times 27%, and it was not turning at all for 257 observations or 34% of the time.

Other observers have been recording one siting a day of as many turbines as they can see since the wind farm began operation in July 2011 (about 42 turbines out of 61). From this data we know that 32% of the turbines were not in operation at the times when observations were made.

These observations may not be perfect. Turbine operation is random and individual turbines will begin spinning for several minutes then quit for no apparent reason. We are not able to see what happens after dark, but it is usually the case that what wind there is dies down after sunset, so it's doubtful if the turbines spring to life after dark.

To be sure, there's a lot about wind farm operation we don't know. There's every reason to believe that the new wind farm I watch is no better or worse than regions other six operations. We do know that West Virginia's wind farms are operated by intelligent managers who work for very large, successful corporations. West Virginia's lack of suitable wind must not be the only reason for their apparent poor results.

The question in your minds should be why are large corporations eager to invest here in West Virginia in a losing enterprise. I hope that another writer will take up where I've left off and explain the tens of millions of dollars of gifts these corporations have received from our government for building wind farms on mountains where there's simply not enough wind.

# A CLOSER LOOK AT LAND BASED WIND POWER

By Bill Howley

I have followed discussions of commercial wind farms in the Allegheny Highlands for the last few years in *The Highlands Voice*. As the Conservancy's board has pointed out numerous times, the issues are complex and often contradictory. I have seen a number of statements in the *Voice* that have been ill-informed and often just plain wrong. I am offering my comments which are based on my research and active engagement fighting high voltage transmission lines in West Virginia.

High quality wind resources have determined a lot of locations for Allegheny Highland wind farms, but the fact that numerous high voltage transmission lines already cross the mountains has been the factor which determined that early wind farm development would take place in the Alleghenies. Proximity to transmission connections has been the main reason that West Virginia wind farms have been built in their existing locations.

Wind resources are much higher quality, both in velocity and consistency, in offshore locations, but there are no transmission connections offshore. Offshore transmission connections in the United States can be relatively short, because 50% of US population lives within a 100 mile radius of prime offshore wind farm locations on the East and West Coasts as well as the Great Lakes.

In Europe, with relatively high population densities, most large scale wind power development has been off shore. The European Wind Energy Association states that there are currently 3294 megawatts of offshore wind generation built and connected off Europe's coasts, and new capacity will be added on a massive scale in the coming decades. Europeans have also made strong commitments to reduce the burning of coal for electric power, and Germany has made a strong commitment to eliminating nuclear power generation entirely by 2022. There is no such pressure driving renewable energy development in the US.

In the US there are currently 0 megawatts of installed offshore wind capacity. All of US wind power development has occurred on land. The US has much lower population density than Europe, and that is clearly one reason land-based wind has been the US preference. Land based wind turbines are less expensive to construct than offshore turbines. The most important factor in US development, however, has been that connections to existing substations and transmission connections are readily available on land.

Politics has been a big factor in how and where wind power has been developed in the United States. The notorious Koch brothers, along with former Mass. Gov. Mitt Romney and Sen. Ted Kennedy and his nephew, Robert Kennedy, Jr., have campaigned for twenty years against the Cape Wind offshore wind farm, driving experienced European companies away from US offshore wind development until just recently. [Cape Wind: Money, Celebrity, Energy, Class, Politics, and the Battle for Our Energy Future](#) by Robert Whitcomb and Wendy Williams provides a detailed look at how the Kochs and the Kennedys have held back offshore wind power development in the US for decades.

Land-based wind power now has a strong lobby in the US simply because there is now so much money invested in it. The American Wind Energy Association, unlike its European counterpart, is fixated almost entirely on the needs of land-based wind development.

Understanding transmission is the key to understanding US wind power. Most wind power development has already taken

place in the "sweet spots" where there is existing transmission infrastructure. For land-based wind power to expand further in the US, large amounts of new high voltage transmission lines will have to be built. The huge expense of this new construction will cancel out any cost advantage that land based wind power has enjoyed over offshore wind development.

New high voltage transmission lines will mostly be used by coal-fired power until wind generation is built in the area, and coal-fired power will be dispatched in times when wind turbines aren't producing power. Many national environmental groups have fallen for the lie that new transmission is needed only for new land-based wind power, and that coal-fired power can somehow be kept off of these new lines. Coal-fired giants like AEP and FirstEnergy have used wind power as a cover for their new transmission projects, including PATH and TrAIL here in West Virginia.

In his story in the May 2012 *Voice*, Wayne Spiggle incorrectly called wind power's capacity factor on PJM Interconnection's regional grid as "efficiency." Wind power's 13% capacity factor on PJM has nothing to do with efficiency. Capacity factor is used by regional transmission operators to calculate a generator's contribution to the overall generating capacity on the grid operator's system. Grid operators need to track generating capacity to make sure they have enough power to meet demand. This has nothing to do with efficiency.

There have also been a number of references in the *Voice* to "spinning reserve" and the claim that new wind power generation does not displace coal-fired generation on the PJM system. This is simply not true. PJM transmission managers dispatch power to load based on the principle of "economic dispatch" which requires them to dispatch the lowest cost power on the system to meet increases in demand. When the wind is blowing at regional wind farms, the marginal cost of producing an extra megawatt of power from a wind farm is essentially zero, putting that power at the top of most dispatch queues.

As wind generation has increased on the PJM system, this wind generation has definitely displaced coal-fired generation at times of high wind output. While coal-fired steam turbines are not entirely shut down during these periods, keeping them operating when their power can't be dispatched and sold raises the overall cost and dispatchability of coal-fired power from many plants. Numerous studies have now shown that once wind generation reaches a certain critical mass on any regional transmission organization, it will have significant impacts on displacing higher priced coal-fired power.

So what do I think about wind power in general? Long term, we need a much more diversified range of generation in the US. The Europeans are demonstrating that renewable power can be integrated into the base power generation of large scale electrical grids. The Europeans have also shown that small scale renewable generation, primarily rooftop solar, but also locally developed land-based wind power, can significantly decentralize generation, making the overall system more reliable and resilient.

The US needs large scale wind generation, but it doesn't need more land based generation. The US desperately needs massive investment in offshore wind power. Offshore wind blows stronger,

**(More on the next page)**



## MORE ABOUT WIND POWER (Continued from p. 14)

and it blows all night, unlike most wind over the North American land mass. There are also no major avian flyways at sea level 20 to 100 miles off all US coastal waters. Offshore wind farm locations also have the significant advantage of being located within 100 miles of over 50 percent of the US population on both coasts and the Great Lakes.

All of the current wind farms in West Virginia sell onto the PJM grid, essentially exporting power from our state. West Virginia already exports 70 percent of the power generated in the state. We don't need to export any more power, of any kind. We need offshore wind development, because it will eliminate the need for East Coast population centers to import coal- or wind-generated power from West Virginia.

So I don't oppose "industrial" wind power in general. "Industrial" is not really a useful category in this discussion in any case. A better descriptor would be "grid scale," which is how the electrical industry describes large scale wind farms. That is, they are wind farms big enough to sell directly onto the grid.

The claim that grid scale wind farms are not economically viable because they are "subsidized" is just silly. No power source is more heavily subsidized in the US than the coal industry. Well deployed subsidies are essential to wise development and spread of useful technologies. Recent studies have shown that if all of coal's subsidies were eliminated, coal-fired power would sell for about 30 cents per kilowatt hour.

The long term solution for the US grid is to create a widely distributed network of very diverse generation capacity. Because this generation will be near or in population centers, it will have to

be largely renewable. For the foreseeable future, that technology will probably be some mix of photovoltaic cells and wind, backed by small scale combined cycle natural gas turbines. Renewable technologies should be locally developed, where practical.

Most wind power development, given current technical limitations, will have to be larger scale. Small scale wind turbines for homes or small businesses simply aren't reliable enough to be economically viable. Just ask any of the many solar power installers in West Virginia who have stopped selling home wind turbines.

But we have a long way to go until we reach distributed generation nirvana. There will be lots of transitional technologies and generation systems. Grid scale wind power has its place, but that place is no longer on land, and certainly not on tops of mountains in major avian flyways and bat habitat. You don't have to base your arguments on inaccurate information about subsidies or capacity factors or PJM's dispatching system to make this case. You also don't have to oppose grid scale wind farms, just land based wind farms on ridge tops. We need grid scale wind power, but we need it, in a big way, off the East and West Coasts and in the Great Lakes.

*[Mr. Howley lives in Calhoun County, WV and has published the blog *The Power Line, the View from Calhoun County* for the last four years focusing on the PATH power line project and associated transmission issues.]*

## FOLA 4A – More selenium

By Cindy Rank

On March 22, 2012, James Tawney and I accompanied our lawyer, representatives of Fola Coal, WV Department of Environmental Protection and Downstream Strategies on a citizens' inspection of specific discharge areas of the Fola 4A mine complex in Clay County.

Sampling by WV Department of Environmental Protection and Downstream Strategies at discharge points and instream along Leatherwood Creek of the Elk River confirmed earlier documentation of selenium violations from the mine area (Fola's Discharge Monitoring Reports and WV DEP Watershed Assessment Branch monitoring data).

By certified mail dated May 25, 2012 Appalachian Mountain Advocates filed a 60 Day Notice of Intent to Sue Fola Coal Company for violations of the company's NPDES water discharge permits and for violations of three of its surface mine permits.

Representing West Virginia Highlands Conservancy, Sierra Club and the Ohio Valley Environmental Coalition lawyers with the Advocates cite Clean Water Act violations for failure to meet effluent standards by failing to comply with terms and conditions of the discharge permits, and ongoing violations of instream water quality for selenium.

In addition Fola Coal is violating performance standards of state and federal surface mining laws that prohibit water quality violations and require adequate treatment to avoid such violations.

Not often thought of as part of the state impacted by mountaintop removal mining, a major portion of the area around the Clay-Nicholas County line is covered by extensive and contiguous mining permits held mostly by Alex Mining and Fola Coal.

Past issues of *the Highlands Voice* have detailed settlement agreements previously reached with each of these companies to clean up selenium and other harmful discharges in the Gauley River drainage on the south east portion of the mining complex. The Fola mining areas included in this recent Notice of Intent to Sue are located more on the northwest portion of the massive multiple mine complex.

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

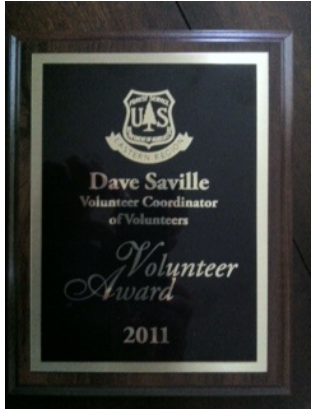
Please email any poems, letters, commentaries to the VOICE editor at [johnmcferrin@aol.com](mailto:johnmcferrin@aol.com) or real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

### 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.

## VOLUNTEERS WIN AWARDS

Dave Saville has been given the Volunteer Coordinator of Volunteers award by the United States Forest Service Region 9. He was nominated and selected for his efforts with red spruce ecosystem restoration and native plant



propagation. In the letter announcing the award, the Forest Service said of the award recipients, ".These people truly embody the spirit of working together, preserving the public lands legacy."

Also receiving an award was Andrea Brandon for her efforts in Cooperative Weed and Pest Management. Board members will remember her presentation at the April, 2011, Board meeting on eradicating invasive species.

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



West  
Virginia  
Highlands  
Conservancy

PO Box 306 Charleston, WV 25321

## West Virginia Seed Source Conifer Seedlings

The West Virginia Highlands Conservancy continues its efforts to conserve and restore the High Elevation Red Spruce Ecosystem in West Virginia, and the Central Appalachian Mountains, by offering high quality seedlings grown from seed collected locally by volunteers.

All proceeds support red spruce ecosystem restoration efforts in West Virginia.

### Red Spruce

10-18 inches, these are a 2 inch plug 6 inches deep.

#### Spring 2013

Thru August 31, 2012	1,000 minimum	\$0.85 each
Beginning September 1, 2012	1,000 minimum	\$0.95 each
Beginning September 1, 2012	100 minimum	\$2.00 each

#### Spring 2014

Thru August 31, 2012	1,000 minimum	\$0.80 each
September 1, 2012 - August 31, 2013	1,000 minimum	\$0.85 each
Beginning September 1, 2013	1,000 minimum	\$0.95 each
Beginning September 1, 2013	100 minimum	\$2.00 each

### Canaan Valley Balsam Fir Seedlings

14-20 inches, these trees, are a 1 year plug grown in a transplant bed for 2 additional years.

#### Spring 2013

Beginning September 1, 2012	100 minimum	\$2.50 each
Beginning September 1, 2012	1,000 minimum	\$1.25 each

25% deposit will reserve your trees.

Flexible availability from late March thru early May.

Quantities Limited

All prices FOB Morgantown, WV

For more information visit [www.restoreredspruce.org](http://www.restoreredspruce.org) or contact:

Dave Saville, Program Coordinator

304-692-8118

[daves@labyrinth.net](mailto:daves@labyrinth.net)