DIAMOND DARTER GETS ENDANGERED SPECIES PROTECTION

The Diamond Darter (Crystallaria cincotta) has been listed as an endangered species under the Endangered Species Act (Act). The United States Fish and Wildlife Service, which does the listing, has also announced that it will be designating critical habitat for the Diamond Darter under the Endangered Species Act in the near future. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range.

The West Virginia Highlands Conservancy had voted in April to join with the Center for Biological Diversity as well as several other groups in support of the Fish and Wildlife Service’s proposal to list the Diamond Darter as an endangered species.

The Diamond Darter is a member of the perch family, but differs from most other perch by their smaller size and more slender shape. Some darters, including the Diamond Darter, lack a swim bladder. This characteristic increases the density of the fish and allows it to remain near the river bottom with little effort. Adults reach 3 to 5 inches. This species is found in large warm-water rivers with very clear water and extensive sand and gravel bars free of mud and silt.

Diamond Darters are crepuscular, meaning they are most active at dusk and dawn. They will lie on the river bottom looking for bottom-dwelling invertebrates. To hide from predators during the day, they bury themselves in the sand, leaving only their eyes protruding. They may use this same buried position to ambush prey.

Due to its rarity, little is known about the life of Diamond Darters, but with current research on this species in captivity, biologists are beginning to learn more about them. Recently, scientists learned that females lay eggs from late March through May, and young are born shortly afterwards. Biologists believe that the Diamond Darter feeds primarily on stream bottom-dwelling invertebrates, such as mayfly larvae and other aquatic insects.

Years ago, the Diamond Darter lived throughout the Ohio River basin in Kentucky, Ohio, Tennessee and West Virginia before the construction of dams. But, after years of changes to rivers by dams and river channeling, the Diamond Darter is extremely rare.
ELECTIONS COMING UP

At the Annual Meeting of the West Virginia Highlands Conservancy (Officers are elected in even numbered years, not this time). President Cynthia D. Ellis has appointed a Nominating Committee with Larry Thomas, Beth Baldwin, and Rich Rodman to propose names for the members consideration. If you know of anyone (including yourself; no time to be modest) who would make a good Board member, please contact a member of the committee. Contact information is on p. 2.

The West Virginia Highlands Conservancy is a non-profit corporation which has been in existence since 1981, an affiliate of the West Virginia Highlands Coalition and a 501c3 organization exempt from federal income tax under 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 present and future generations of West Virginians and the Nation, and especially of the Highlands Region of West Virginia, for the cultural, social, educational, physical, and spiritual benefit of the community in which it is located. The West Virginia Highlands Conservancy web page is www.vhgh.org.

GROUPS CHALLENGE PUBLIC FINANCING OF COAL EXPORTS

By John McFerrin

The West Virginia Highlands Conservancy has joined with six other groups to sue the Export-Import Bank of The United States and its parent, the Export-Import Bank of Washington, D.C., for alleged violations of a federal environmental law known as the National Environmental Policy Act. The suit alleges that the Export-Import Bank provided financing for coal exports by Xcoal, headquartered in Latrobe, Pennsylvania. The suit requests that the Court declare NEPA was violated by the environmental impact of its actions, a violation of the National Environmental Policy Act (NEPA).

The Export-Import Bank of the United States is the official export credit agency of the United States federal government. It was established for the purposes of financing and insuring foreign purchases of United States goods for customers unable or unwilling to accept credit risk. The mission of the Bank is to create and sustain U.S. jobs by financing sales of U.S. exports to international buyers. The Bank's purpose is achieved by making guarantees on sales and/or loans to purchasers of United States goods for customers unable or unwilling to accept credit risk. The mission of the Bank is to create and sustain U.S. jobs by financing sales of U.S. exports to international buyers.

The Plaintiffs contend that NEPA would require such an action to be undertaken only if it is determined that making such a loan or guarantee is consistent with the public interest. They further request that the Court declare that the Export-Import Bank violated NEPA when it approved the loans as inconsistent with the public interest.

The Plaintiffs have requested that the Court declare that making the loan guarantees without doing the studies of the environmental impact is a violation of NEPA. They further request that the loan guarantee be rescinded and that the Export-Import Bank be required to comply with NEPA before it does anything else to facilitate Xcoal’s coal exporting activities.

The case is pending in the United States District Court for the Northern District of California where some of the Plaintiffs have their headquarters.

ROSTER OF OFFICERS, BRIDGES AND MEMBERSHIP COMMITTEES

By Cynthia D. Ellis

The Highlands Voice is published monthly by the West Virginia Highlands Conservancy, 300 Box 33, Grafton, WV 26528. It is non-profit corporation which has been in existence since 1981, an affiliate of the West Virginia Highlands Coalition and a 501c3 organization exempt from federal income tax under the Internal Revenue Service. Its bylaws describe its purpose.

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APPEALS COURT REFUSES TO RECONSIDER EPA’S VETO OF MINING PERMIT

By John McFerrin

In a one-sentence order, the United States Court of Appeals for the District of Columbia has refused to reconsider its earlier ruling which held that the United States Environmental Protection Agency has authority to veto a previously issued permit to discharge fill material into streams.

Had the Court decided otherwise and agreed to reconsider its earlier ruling, this could have been a significant development. Instead, the Court said no more than that it thought it was right the first time and had no interest in reconsidering the case. As it turned out, this decision not to reconsider did no more than eliminate the possibility that Mingo-Logan Coal Company will get relief from the Court of Appeals. This forced it to decide whether it would live with the decision or ask that this United States Supreme Court review it. The parent company of Mingo-Logan has announced that it intends to ask for Supreme Court review. Although it has not filed anything with the Supreme Court yet, it has ninety days to do so.

The ruling that the Court refused to reconsider indirectly, this case is about whether Mingo Logan Coal Company can go ahead with its plans to mine in Pigeonroost and Oldhouse Branches and their tributaries. Mingo Logan seeks to bury over six miles of pristine streams, including all wildlife living in those streams, with millions of cubic yards of mining waste, disturbing over 2,000 acres (about 3.5 square miles), releasing toxic pollutants into downstream water bodies and devastating wildlife and watersheds.

The Court of Appeals did not directly decide whether this is a good idea or whether the federal Clean Water Act allows it. Like much federal litigation, this case is directly about who gets to decide that question. Mingo-Logan and its supporters had argued that the Corps of Engineers has the authority to veto the permit, in this case it exercised its authority in an arbitrary and capricious manner.

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The southern Monongahela National Forest, in particular the area in and around the Cranberry Wilderness, is understandably special. This unique area contains features such as Cranberry Glades, Falls of Hills Creek, Honeycomb Rocks, the former Mill Point Federal Prison and a long history of acquisition of private minerals from willing sellers with the monument. Commercial logging would be prohibited in Wilderness and special backcountry areas, just as it is today. Areas managed to promote restoration of the red spruce ecosystem would continue to emphasize this important management objective, enhancing the viability and overall resilience of the landscape and its special resources.

West Virginians from all backgrounds have come together to defend a vision for the Birthplace of Rivers National Monument. Establishment of the monument would keep the area under the management of the Forest Service, and would result in, if any, changes to the landscape itself. Birthplace of Rivers would be the first USFS-managed monument in the East, and would place an emphasis on protecting the natural and cultural resources that have made our connection to this land as strong as it is today. As long as our public lands are under attack, the Mountain State’s leaders in Washington have an incredible opportunity to honor West Virginia’s iconic beauty and outdoor heritage, by supporting protections for the Mon under national monument designation.

By Mike Costello

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Take Action!

Congressional leaders in the Mountain State need to hear from West Virginians who want to ensure protection of the Birthplace of Rivers for future generations! Take a quick moment to call our U.S. Senators, tell them why the southern Mon is important to you and ask them to support the Birthplace of Rivers National Monument.

Senator Jay Rockefeller
(304) 347-6377

Senator Joe Manchin
(304) 342-6865

The Threats

Like all National Forests, the Monongahela – the “Mon,” as many of us know it – is managed to emphasize multiple uses. Some of these uses include backcountry recreation and restoration of resources, such as the historic red spruce ecosystem – those old trees that once stood on nearly all lands considered for monument designation.

Other uses however, include commercial logging and mineral development, such as gas drilling on federally-owned minerals. Perhaps the greatest threats to public lands, however, are those made by members of Congress. Since 2010, certain members of Congress have launched an attack on America’s treasured public lands, through repeated attempts to strip protections for roadless areas such as Tea Creek or Turkey Roost. These threats could open these special federal public lands that possess special features of federal public lands to multi-million acre tracts wild lands in the West. National Monuments may be established either by an act of Congress or by presidential proclamation. Most importantly, national monument designation is statutory, meaning that the area must be classified as a national monument, and our eastern wilderness has been recycled.

The Opportunity

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during Our 50th anniversary, the wilderness as we know it may be more important than ever. As West Virginians, we are particularly sensitive to the importance of public lands. All too often Australia’s nature and the pressing environmental issues we face. The thought occurred to me that maybe we can focus on some of the accomplishments of the Highlands Conservancy and perhaps look at the nature of the land as we seem to have lost sight of it.

The fact that much of that land is now federally designated wilderness may in part be large, the Highlands Conservancy’s leadership and partnerships with other environmental groups, businesses, faith leaders and partnerships with other organizations and others. Many of our members also participated in one way or another in the recent efforts for more wilderness in West Virginia — efforts that paid off with the enactment of the Wild Monongahela Act of 2009. Highlands Conservancy members and Otter Creek and it also created three Wilderness Areas; Dolly Sods, Cranberry Laurel Fork North and South, and Cranberry.

Since 2009 the Highlands Conservancy has seen a number of events at such legendary locations as the Elk River Inn at Stilly Fork, or at the historic Cheat Mountain Club. The newly designated Areas provided by the Wild Mon Act were sorely needed, both to participate in public information meetings.

The newly designated Areas provided by the Wild Mon Act were sorely needed, both to preserve ecologically unique areas, and also to provide more wilderness recreational opportunities. The fact was, parts of the existing wilderness areas were being loved to death by hikers and backpackers. The new Wilderness Areas cover a wealth of ecosystems from the broad plains of Dolly Sods and Roaring Plains to the biologically unique areas of Spice Run and Big Draft. Much of the new wilderness will get visited infrequently. Other areas will serve as a recreational use.

Dolly Sods North, for example, was drawing visitors long before it was acquired by the National Forest Service. Roaring Plains to the biologically unique areas of Spice Run and Big Draft. Much of the new wilderness will get visited infrequently. Other areas will serve as a recreational use.

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CITIZEN ACTION FOR REAL ENFORCEMENT

The Need for Action

Citizens have a right to expect protection by their government. West Virginia is failing to protect its citizens from chronic pollution, environmental degradation, human suffering and costs resulting from inadequate regulation of coal extraction by state government. In the interest of citizens’ health and well-being, legal recourse is required to hold the government accountable in its duty to protect the people of West Virginia. Decades of citizen complaints have not resulted in acceptable responses or improvements to state government’s regulatory responsibilities on coal extraction, particularly around the devastating consequences of unenforced regulations for surface mining in West Virginia communities.

A serious injustice is being done to West Virginia citizens by their own government, and all West Virginians are affected by their government’s failure for intervention. West Virginia gives citizens no choice but to appeal to the federal government for intervention. Eighteen civic, environmental and religious groups representing the public interest filed an administrative petition to force meaningful changes in mining regulation in West Virginia.

A New Approach

The DEP has issued permits for more than 1,000 coal mining operations that have failed environmental reviews. More than half of all fines issued are less than $1,000. One mine that received 57 violations in a 58 month period received just under $76,000 in fines with no greater penalties. Violations are often not issued at all. Mine sites across the state were found to have violated their limits on water pollution discharges for more than 36 months without a single violation issued under SMCRA. Illegitimate Permitting

The DEP regularly issues and renews permits illegally. A DEP staff member admitted that the agency regularly illegally renews permits with ongoing water quality violations but defended the practice by claiming that following the law would “shut down mining.” throughout the permitting process, the DEP bends or breaks the rules to make it easier to issue and renew permits.

CARE: Citizen Action for Real Enforcement - Petition

We, the undersigned SUPPORT the CARE campaign’s petition to the Office of Surface Mining Reclamation and Enforcement to terminate West Virginia’s mining program and implement a program that is accountable to the people of West Virginia.

A Failed State Agency

A study on serious human health impacts resulting from coal mining in West Virginia was passed by Congress, but at the Department of Environmental Protection citizen complaints and comments are often ignored, or worse, discouraged.

A look at where the DEP puts its money shows the problem. Between November 2010 and November 2012 the DEP spent nearly $1 million fighting the U.S. Environmental Protection Agency to protect the mining industry at the expense of public health and the environment. During this same period, DEP spent only $130,000 on a study on serious human health impacts resulting from coal mining in West Virginia. Not adequate for the purpose of the DEP’s mission.

A Study on floodings

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Floods, contaminated water, coal companies side-stepping the law... When it comes to keeping a check on the coal industry, the WV Department of Environmental Protection is failing to protect our communities from chronic pollution, environmental degradation and human suffering.

We have a right to redress, and are exercising that right! Learn more, get involved!

CARE: Citizen Action for Real Enforcement

TEACH-IN: 6-8 p.m. Thursday, August 15 at the Unitarian Universalist Congregation 520 Kanawha Blvd West, Charleston, WV 25302
Free and open to the public. Pizza and beverages served.

The CARE Teach-In Will:

• Review a petition for the Office of Surface Mining to take over WV DEP's mining program.
• Discuss DEP's failures to protect communities and public well-being.
• Explore ways you can help address those failures.

Floods, contaminated water, coal companies side-stepping the law...

WV Should CARE About Our People

The CARE Teach-In Will:

By Cindy Rank

Janice Nease, one of Coal River Mountain Watch's founders and former executive director, passed away July 8, 2013, from a heart attack.

Janice lived in Poca, WV when she died but what I remember best are two things:

One is the twinkle in her eye when she talked about her country-western dancing and winning awards, apparently including the 1999 World Championship.

The other is how she talked about and described her original home in Cabin Creek Hollow in southern Kanawha County, West Virginia.

Her hometown has long since been lost to the huge mountaintop removal coal mine complex begun as the Red Warrior mine and now known as Samples Mine. I first visited the Samples Mine and saw my first dragline in 1994 and have ever since been moved by the stories of friends like Janice.

"I am a child of Appalachia, and I say that with pride."

I was born and raised in a coal camp up Cabin Creek Hollow near Kayford, West Virginia. As was often the practice then, my family shared a house with my paternal grandparents. The home in which I was born is still standing; but it is standing in a ghost town. Little is left of my hometown but the footprints of my ancestors and my memories.

As a small child I thought the mountains were timeless; now I must face the cruel fact that they may not be. The mountains played an important part in the daily life of those who lived in the hills and hollows of West Virginia. They provided recreation and food to supplement our meager income. They also provided medicinal herbs to cure us when we were ill and a place to bury our dead when it was time for them to go. They offered us solace when times were hard and inspiration when we needed to refresh our soul. The mountains also reminded us of who we were and upon whose earth we walked. The mountains surrounded our modest homes with beauty. Most importantly, they gave us our sense of time and our sense of place....

The future of Appalachian culture is clouded. There are those who say the culture is dying. I say that the culture is still alive and will remain so if we honor the values, customs and commitment of our ancestors. If we do nothing, it will surely die. The greatest danger to Appalachian culture is mountaintop removal mining. This egregious system of mining is destroying both the physical and human environment throughout the southern coalfields. Mountaintop removal mining makes moonscapes out of mountains, buries streams under tons of rubble, contaminates drinking water, creates flooding, demolishes one of the oldest and most diverse temperate forests and wildlife habitats, causes blasting damage to residents' homes, destroys our mountain culture and heritage and permanently destroys entire communities."

I join Janice’s coworkers at Coal River Mountain Watch in saying “Rest in peace, Janice, and thank you for your service to Appalachia”.

Janice among other familiar faces portrayed Massey Energy Board members at a protest outside a Massey Energy’s shareholder meeting. ... She and the late Judy Bonds (also shown holding bars) were “arrested” by EarthCops. Julian Martin brought the swine noses. Photo by Vivian Stockman

CARE: For your community, your kids, your health and your future.

Take action right away here: http://tinyurl.com/krowqtz.

When it comes to keeping a check on the coal industry, the WV Department of Environmental Protection is failing to protect our communities from chronic pollution, environmental degradation and human suffering.

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JOIN NOW!!!

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.

Meet New Members and Fundraising

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 the membership form that you wish to take advantage of this offer.

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. The Confusion began when it was announced that construction of a 10-mile segment of the four-lane that parallels state route 93 between Davis and Scherr had been underway for more than a year. As we noted here back in April 2012, a self-appointed Corridor H Authority sponsored the belated event.

TOGS FOR TOTS

Baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and in nine one-size. Slogan is “I ♥ Mountains—Save One for Me!” One size (18 mo.—1-2T, toddler tee) is $15, Toddler tee, 2T, 3T, 4T, 5/6—$18. The front of the cap has West Virginia Highlands Conservancy and send to James Solley, PO Box 306, Charleston, WV 25321-0306.

West Virginia Highlands Conservancy

Working to Keep West Virginia Wild and Wonderful!

West Virginia Highlands Conservancy

Working to Keep West Virginia Wild and Wonderful!

STAY TO ATTENTION ON A SLOW-MOVING DISASTER

By Hugh Rogers

Headline, Charleston Gazette, July 15: “Corridor H proponents look to hasten project.” Yeah, we know. Some pro-road guys keep wishing it could be finished by 2020. Even their new scheme to pay for it was boring: a bond issue.

Buried eight paragraphs down was the bomb. “During Monday’s meeting, it was announced that construction of a 10-mile segment of Corridor H linking the Tucker-Taylor counties of Davis and Parsons is scheduled to begin within the next two years—three years ahead of a previous timetable.”

Maybe the actual voice was mistaken or misquoted. He or she could have been talking about the section from Kerens to Parsons, where construction was scheduled to begin in 2018—except that section is 15.5 miles. The 10-mile figure would be accurate for Davis to Parsons, or a compromise.

Eventually, the Division of Highways (DOH) straightened it out. I was told, “That was an error.” The timeline has not changed (see below).

The confusion began at a “ceremonial groundbreaking” for a 20-mile segment of the four-lane that parallels state route 93 between Davis and Scherr. Work had been underway for more than a year, as we noted here back in April 2012. A self-appointed Corridor H Authority sponsored the belated event.

Funding was their primary topic. When the current project is done, possibly late next year, an estimated $830 million worth of additional construction will remain to complete Corridor H from I-79 at Weston to the Virginia border. By the formula set in last year’s national surface transportation bill, the federal and state governments are spending $40 million per year on Corridor H. At that rate, it will take until 2034 to finish Corridor H, according to Marvin Murphy, state highway engineer.

Stephen Foster, of Buckhannon, president of the Corridor H Authority, had announced that construction could be completed by 2030 if a bond issue were to provide the construction cash up front. The $40 million-a-year revenue stream could be used to retire the bonds. Apparently, Foster couldn’t convince other states in the Appalachian region to give up the federal highway money they’re not using right now (for more on that strategy, and the origins of the “Authority,” see the Voice, July 11, 2011). He was hustling a new source.

It’s helpless to remember that publicity is, whether the story is true or false. I suspected it was Foster who announced the starting new development on the Davis to Parsons section. For one thing, he was quoted right after that statement, saying, “I now believe in my gut that we’re heading down the homestretch.” For another, the news splash coincided with an announcement of his intention to run for a seat in the House of Delegates.

While Foster was out hustling his new source, the actual voice was mistaken or misquoted. I was told, “That was an error.” The timeline has not changed (see below).

To make his story more believable, the DOH’s state highway engineer, Marvin Murphy, of Buckhannon, announced that construction could begin within the next two years. According to the Charleston Gazette’s story, July 15, 2011: “Apparent, Foster couldn’t convince other states in the Appalachian region to give up the federal highway money they’re not using right now (for more on that strategy, and the origins of the “Authority,” see the Voice, July 11, 2011). He was hustling a new source.”

The confusion began when it was announced that construction of a 10-mile segment of the four-lane that parallels state route 93 between Davis and Scherr has been underway for more than a year.

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By the formula set in last year’s national surface transportation bill, the federal and state governments are spending $40 million per year on Corridor H. At that rate, it will take until 2034 to finish Corridor H, according to Marvin Murphy, state highway engineer.

So the schedule remains:

(1) Current construction: 4 miles from Scherr to Bismarck, up the Allegany Front, and 16 miles from Bismarck to Davis—projected completion late 2014.

(2) Kerens to Parsons, 15.5 miles: final design underway, construction to begin by 2018.

(3) Wardensville to Virginia border, 6.8 miles: final design to begin in 2020, construction by 2027.

(4) Parsons to Davis, 10 miles: final design anticipated to begin in 2025, construction in 2033.

Rummaging through the Galaxy, I was told, “That was an error.” The timeline has not changed (see below).

I’ve been a critic of the DOH’s in the past, but I’ve never blamed them for being slow. I’ve complained about the road on the horizon that never seems to get closer. I’ve been accused of having a road-related preoccupation. I’ve said that the DOH’s road program is like a long journey to the edge of the universe—never seems to get closer.

In 2011, the DOH was behind schedule by about 20 years. In 2012, I was told, “That was an error.” The timeline has not changed (see below).

So the schedule remains:

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(4) Parsons to Davis, 10 miles: final design anticipated to begin in 2025, construction in 2033.

HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I ♥ Mountains caps. The WVHC cap is beige with green woven into the twill and the pre-curved visor is West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The heart is red. The red and black caps are softball, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.” The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.” The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.” The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.” The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.” The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I ♥ Mountains on the back. It is soft twill, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone is “I ♥ Mountains The colors are stone, black and red.”

To order your cap for $14.95, plus $3.00 shipping, visit the Conservancy’s website at 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.
OUTINGS

The West Virginia Highlands Conservancy is now sponsoring two kinds of outings. This page has information about both. The first is a new Highlands Conservancy program, This Land Is Your Land, will be spending a day or more each month in 2013 to explore, and learn more about our public lands. Those outings are labeled as This Land Is Your Land. The second kind is made up of miscellaneous outings which will not be specifically connected to public lands. The West Virginia Highlands Conservancy has a long and rich history of advocating for the protection and wise management of our public lands. That history is equally as rich in giving back to these lands through service projects to protect and restore them. West Virginia is not particularly rich in public lands, but it does have a good diversity and distribution.

Who manages these lands that belong to all of us? What agencies are responsible? What is the difference between the Park Service and the Forest Service? What laws provide guidance to these agencies? How did we acquire these various lands and how can we acquire more of them? What are the current management issues and are they facing any threats? How can the public become involved and engaged in their management? How can we work to benefit them and ascertain a long and healthy future for them?

These are just a few of the questions that the Public Lands Committee’s new program can help Highlands Conservancy members, and the public, discover the answers to. The Program will assemble a dynamic calendar of events, published in the Highlands Voice each month and at www.wvhighlands.org, where we will visit, explore, and discuss the issues facing our various public lands. The events will generally include informational meetings with the area’s managers, and they will also include an outing or explore some of the wonders of that particular area of our land. Some events will be dedicated to particular public lands issues and activities of the Highlands Conservancy’s Public Lands Committee.

Below is the current calendar of events, and more will be added as the year progresses.

Because, from West Virginia’s highest Point, at Spruce Knob, to its lowest, at Harper’s Ferry, This Land was Made for You and Me!

This Land is Your Land - Events Calendar

Please RSVP if you are planning to attend an outing! For more information, visit www.wvhighlands.org, or contact Dave Saville at daves@labyrinth.net.

Saturday, August 10, 2013, This Land Is Your Land – Ohio River Islands National Wildlife Refuge, Williamstown, WV, 1 pm. Meet Refuge Manager Glenn Klingler and Assistant Manager, Sara Siekierski, of West Virginia’s first National Wildlife Refuge, established in 1990. Scattered along 362 miles of the Ohio River, the refuge restores and protects habitat for wildlife in one of our Nation’s busiest inland waterways. It includes 22 islands and 4 mainland properties for a total of 3,440 acres. Half of the refuge acreage is underwater, providing crucial habitat to about 240 species of freshwater mussels. Hear from our refuge leadership about the challenges the refuge faces and what their team is doing to help safeguard a future for wildlife. Afterwards we’ll go for a hike around Middle Island.

September 8, 2013, This Land Is Your Land – Kanawha State Forest, Charleston, WV, 1 pm. Meet Assistant Superintendent, Kevin Diats at one of West Virginia’s most popular State Forests. Unique among State Forests, Kanawha is managed more like a State Park by the West Virginia Division of Natural Resources and offers an opportunity for outdoor fun, all year round, for families, groups and individuals. The 9,300 acre forest is noted among naturalists for its diverse wildflower and bird populations. Rich forest trees provide nesting habitat for 19 species of wood warblers. We’ll join with members of the Kanawha State Forest Foundation, a citizens group acting on the forest’s behalf, for an afternoon visit.

Saturday, September 14, 2013, McClintic Trail – Cranberry Wilderness Day Hike. This hike will follow trails, and do some bushwhacking, into the headwaters of the Middle Fork Williams River. We’ll follow the path of the historic ‘McClintic Trail’ to see the remains of an old splash-dam. Built in the 1890s it is a relic of an early logging failure. Logs were horse-drawn into the streambed and splash dam releases were to flush the logs to the mill downstream. While this practice was used with success in some places, it didn’t work here. See the story, and some pictures of the remains, elsewhere in the August issue of the Highlands Voice. Limited to ten people. This will be an all-day hike in rugged terrain. For details contact Dave Saville at daves@labyrinth.net.

September 21, 2013 - Red Spruce Ecosystem Restoration, Canaan Valley National Wildlife Refuge. Join us as we continue our efforts to restore the red spruce ecosystem in the West Virginia Highlands. This tree planting event will take place on the Canaan Valley National Wildlife Refuge. We will meet at the Refuge Headquarters and Visitor Center at 9 am. Following an orientation about the red spruce ecosystem and our work to restore it we will car pool to the restoration site. Come dressed for the weather, wear sturdy shoes or boots and bring lunches. Lunch will be provided. Please RSVP! For more information, visit www.restorespruce.org, or contact Dave Saville at daves@labyrinth.net.

Sunday, October 6, 2013, This Land Is Your Land - Greenbrier Ranger District, Monongahela National Forest, Bartow, WV 1 pm. For the second of our visits to the Greenbrier Ranger District, we will once again meet with District Ranger, Jack Tribble and District Wildlife Biologist, Shane Jones. The discussion of current activities will focus on the upper Greenbrier North project. This large and diverse project involves numerous management activities including spruce restoration and stream habitat improvement. We’ll take a car tour and some short hikes into the upper Greenbrier north project area to learn more about the activities and proposed activities associated with that project.

Open dates. Visit Kayford Mountain and/or Mud River Mountain south of Charleston to see mountain top removal (MTR) up close. Bring lunch for a picnic on Kayford mountain. Hear the story on how the late Larry Gibson saved fifty acres from mountain top removal on Kayford Mountain. Call in advance to schedule. Julian Martin (304) 342-8989; martinjul@aol.com.

BUMPER STICKERS

To get free I ♥ Mountains bumper sticker(s), send a SASe to Julian Martin, 1525 Hampton Road, Charleston, WV 25314. Slip a dollar donation (or more) in with the SASe and get 2 bumper stickers. Businesses or organizations wishing to provide bumper stickers to their customers/members may have them free. (Of course if they can afford a donation that will be gratefully accepted.)

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

Price: $20.00 from the same address.

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The Monongahela National Forest Hiking Guide
By Allen de Hart and Bruce Sundquist

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THE MCCLINTIC TRAIL

By R.D. Carpenter

The McClintic Trail starts from the top of the mountain between the headwaters of Swago Creek and those of the main Williams River on the Gauley Ranger District of the Monongahela National Forest. It crosses around the headwaters of the Williams River, follows along the top of Black Mountain, and drops down the left hand fork of the Middle Fork of the Williams River to a point near the last forks. The trail bears its name, "McClintic Run," from the trail. This name appears wrongly, however, on the topographic maps of the U.S. Geological Survey because they switched the name to the right hand fork of the Middle Fork of the Williams River.

The trail itself took its name from Withrow McClintic, who was responsible for its construction. Withrow was a brother of the present Judge McClintic, judge of the United States District Court for the Southern District of West Virginia. The trail starts from a farm which was then owned by Withrow McClintic and is now owned by his brother, the judge.

Between the years of 1894 and 1900, the Gauley Lumber Company, predecessor of the Cherry River Boom and Lumber Company, began to operate the softwood, spruce and hemlock in the drainage of the Middle Fork of Williams River. Their mill was located at Gauley Mills, approximately one mile above Camden-on-Gauley and there was no mill at Richwood at that time.

The heads of the Gauley Lumber Company figured it would be possible to drive softwood logs down the Williams River to their mill. Stream improvements in the form of splash dams and channel improvements were consequently made and negotiations initiated for the cutting.

Logging on all these operations was done by contract and it was to Withrow McClintic that the contract went to cut and skid 10,000,000 feet of softwood logs from the watershed of the Middle Fork of Williams River to the banks of the stream. The company intended to do its own driving.

In an effort to stop this wild cutting, the company forbade McClintic to take his supplies over their land up the Middle Fork of Williams River to his camps. It was in reply to this that McClintic, from his farm to the site of the present McClintic Trail, established c a m p s. Due to the impossibility of driving the logs out and the lack of other facilities for feeding them to the mill, the entire 10,000,000 feet of logs were lost to the company.

Today masses of these logs can be seen scattered along the banks of the Middle Fork Williams River, where they have been stranded by high water and only partially rotted away.

After more than forty years the McClintic Trail exists today and can be easily followed through the woods. In only a few spots is it grown up to brush enough to noticeably impede foot travel. Originally, of course, it was constructed for wagon travel. At the halfway point on Black Mountain there formerly existed a house known as the "half-way house" and for many years was kept by two brothers of rather eccentric character who during their residence contributed greatly to the stock of local legends. At the half-way house horses hauling in supplies were put up and rested overnight.

Splash dam remains on the main stem of the Middle Fork Williams River. This is the river on the right side of the dam looking up a portion of the Middle Fork.

Splash Dam remains where McClintock Run enters the main stem of the Middle Fork Williams River. See the log structure and the upright boards on the upstream side.

MORE ON THE MCCLINTIC TRAIL (Continued from previous page)

Confederate forces during the Civil War. It was simply a road to waste and heartrending ruin.

Notes: Dave Saville

R.D. Carpenter wrote this for the "Gateway", the newsletter of the Monongahela National Forest, in 1937. He was the Assistant Ranger on the Gauley Ranger District of the Forest. Most of this district is made up of lands of the former Cherry River Boom and Lumber Company purchased in 1933 by the USA in a single tract of 153,000 acres.

Although I have not been able to follow the entire route of the McClintic Trail, I have been on several segments and seen the remains of the piles of logs that were never floated down the Middle Fork, still recognizable after 120 years. The remains of a large splash dam on the main stem of the Middle Fork of the Williams River are still visible (see photos). Much of the original trail is along the route of the Highlands Scenic Highway and therefore impossible to locate. The Middle Fork of the Williams River lies entirely within the Cranberry Wilderness Area.

Withrow's farm, the Swago Farm, was acquired by his brother, the Judge, later to his daughter. She gave the farm to its caretaker who still lives there today. She was also a philanthropist in Pocahontas County, including donations to support the public library, the McClintic Library, home to the largest West Virginia and Appalachian collection of any small library in the state.

Photos taken in 2007. Dave Saville

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DARTING BEHIND THE ENDANGERED SPECIES ACT (Continued from p. 1)

Today.

The widespread loss of this dart has been caused by impoundment of rivers from dams, siltation of the river bottom habitat and poor water quality. Large dams, changes to the river channel and flow, and soil erosion from urban and rural sources all contribute too much fine sediment entering the river and sinking into the riverine. Fine sediments in the river bottom fill the spaces between the sand and gravel that the Diamond Darter needs for protection and to find prey and make nests.

The only Diamond Darter population known to exist is found in the Elk River of West Virginia. The Elk River is one of the most ecologically diverse in the state, supporting over 100 fish species and 30 mussel species, but many threats loom for the remaining Diamond Darters. Coal mining, oil and gas drilling, timber harvesting, all-terrain vehicles, improper sewage treatment, and stream bank erosion all occur in the Elk River watershed. Together, these activities compound the amount and type of pollutants flowing into the river, reducing the water quality and degrading the habitat needed by Diamond Darters.

The West Virginia Department of Natural Resources concurred with the proposed designation and stated that the Fish and Wildlife Service has "convincingly substantiated that the only known population of this species... is vulnerable to destruction, modification, or curtailment of its habitat or range, and is without adequate existing regulations to assist its continued survival. The agency further stated that the Service has provided an "overwhelming amount of data" that the species meets the criteria for endangered status, and that the only known population of this species could be extinguished by a single adverse event or from chronic pollution or sedimentation.

The comments of the West Virginia Department of Environmental Protection were more nuanced. It agreed that the Diamond Darter’s small remaining population has made it vulnerable. It disagreed that water quality degradation—such as that which may result from mining—was a significant contributor to the decline in population.

It is unclear what impact this decision will have upon mining in the areas where the Diamond Darter is found. The West Virginia Oil and Natural Gas Association, West Virginia Coal Association, West Virginia Forestry Association and West Virginia Chamber of Commerce all submitted comments opposing the fish’s protection.

Withrow McClintic (1864 – 1931)
By Cindy Rank

The gas industry’s current shift of focus to the Marcellus and Utica ‘wet gas’ operations in northeastern West Virginia, southwestern Pennsylvania and Ohio has left Buckhannon WV and Upshur County a smaller number of new wells and drilling than we experienced during the boom of two years ago.

Buckhannon, however, remains a center of attention for the gas industry and for its representatives who reside in the area. Promotional events and presentations to civic organizations continue to promote the purported wealth and energy independence the recently expanded shale gas exploration and development is supposed to bring. And once again this year West Virginia Wesleyan College (WVWC) hosted its Annual Oil and Gas Equipment Show that included tributes to local Oil and Gas notables, and seminars about health care reform and crisis and safety management.

It should not go unnoticed that industry reps at these events make little or no mention of the serious down sides of these developments — except perhaps to dismiss the claims of citizens who experience breathing problems, skin rashes, and other internal and mental health maladies when drilling comes to their neighborhoods.

Nevertheless, health concerns and discussions of water and air pollution and dangers of careless waste water disposal as well as the dangers of increased and overlay truck traffic on narrow, local roads were topics of discussion by citizen groups and activists at West Virginia Wesleyan College (WWC) on weekends both before and after the Oil and Gas Equipment Extravaganza.

The second annual Water and Wellness Conference preceded the Oil and Gas Show on June 29th and 30th and the third annual Marcellus Academy took place July 13th and 14th. Two days after the Equipment Show.

Both were held at West Virginia Wesleyan College and provided informative educational workshops about shale gas development in the Appalachian region while also serving as regional networking efforts for communities experiencing the negative impacts of these forms of energy extraction.

The Marcellus Academy

Two weeks following Wellness & Water (on July 13-14, 2013), more than 40 activists from around the state gathered again in Buckhannon for another educational opportunity sponsored by the WV Chapter of the Sierra Club. The goal of the club’s third annual Marcellus Academy was to provide those working to address Marcellus drilling related issues in their communities with tools to organize others, to monitor industry practices, and to help guide local and legislative leaders toward implementing sound policies to address these issues.

On Saturday morning, Dr. Michael McCawley of the WVU School of Public Health kicked off the weekend with a discussion of the results and recommendations from his assessment of air, noise and light impacts from horizontal drilling operations. Gene Smith and Rick Campbell with the WV DEP Office of Oil & Gas followed with a presentation on the results of the recent survey of West Virginia landowners he conducted to determine what impacts (both positive and negative) shale gas drilling has had on surface owners. (We’ll be discussing these and the results of the studies mandated by the Horizontal Well Control Act in our next WV-SORO newsletter, as we will be working to get the legislature to pass DEP’s recommendations. I should note that the DEP’s one recommendation from the studies — to measure the setback distance from occupied dwellings from that limit of disturbance (‘edge of the pad’) rather than the center.)

The weekend also featured a series of presentations focused on monitoring industry activity. This included Bill Hughes’ trucks and heavy equipment on our roads — what they are, what they do and what drilling phase is happening when certain trucks and equipment arrive at a well site. Upshur County residents Cindy Rank and Tim Higgins presented a slide show of a nearby well site from site preparation to current production phase in preparation for a visit to the site before attendees departed for home.

Wellness and Water

The Wellness and Water Conference was once again organized by OVEC (Ohio Valley Environmental Coalition), WV-SORO (WV Surface Rights Organization), WHC (WV Highlands Conservancy), Doddridge County Wetlands Association, and SClab.

The focus of Wellness and Water is health impacts associated with extreme forms of energy extraction — in this case the health impacts experienced by those living near shale gas developments and mountaintop removal coal mining operations. The impacts to air, water and human health and general community structure are reflected in neighborhoods and along rural roads all across West Virginia where the wealth that lies beneath our homes is being taken away without proper care for the people and environment left behind.

Some two dozen groups were represented at the Wellness and Water 2013 gathering and a lot of good information was shared. The following is nice summary of the event written by Robin Solar, Samantha Malone of FracTracker, Aaron Sutch with the Mountain Institute, and Laura Rigell with the Swarthmore College Divestment Consortium. We also had some testimonies from five coal and gas affected residents. Many participants said this was the most powerful portion of the program.

You know some major problems exist when approximately 75 people devote a large amount of time on a summer weekend to exploring an issue in depth.

On June 29-30, 2013 the second Wellness and Water public education event was held, in Buckhannon, WV. Starting with the first event in September, 2012, these gatherings have provided opportunities for people from different environmental and citizens’ rights groups to gather for networking and information sharing opportunities. Education and information has been provided to all who attended.

Speakers for this year’s event included scientific experts like Yuri Gorby, Rensselaer Polytechnic Institute, public policy experts like Leslie Fields, Sierra Club, and progressive thinkers like Grant Smith, of the Civil Society Institute. Representatives from various organizations which seek to provide information and assistance to people who are concerned about their water quality and/or finding alternatives to fossil fuel usage were also on hand. These included Marc Glass of Downstream Strategies, Rob Goodwin of Coal River Mountain Watch, and Brian Gram - an environmental consultant. Also presenting were Dave Hanna with New Visions

This Land is Your Land Heads to Canaan Valley

This Land is Your Land is a Highlands Conservancy outings program designed to introduce the public to the many different public lands in West Virginia. There are numerous ways to enjoy them, numerous threats to that enjoyment, and many opportunities for the public to be engaged and involved in management, planning and programming. Recently it had an outing to the Canaan Valley State Park.

Outings participants at the Canaan Valley State Park after hiking along the Blackwater Trail.

Park Ranger Don McFarlan, shows us the new Shooting Park Ranger, Don McFarlan, shows us the new Shooting Park Ranger, Don McFarlan, shows us the new Shooting
GROUPS CHALLENGE ANOTHER MINE THAT HARMS WEST VIRGINIA STREAMS

The West Virginia Highlands Conservancy, the Sierra Club, and Ohio Valley Environmental Coalition have filed another action against a mining company for significant pollution that has biologically impaired a headwater stream in West Virginia.

The lawsuit, filed in federal court in Huntington, alleges that mine runoff from a mine operated by Fola Coal Company, LLC (Fola) has contaminated the water in a Leatherwood Creek tributary—Right Fork—with sulfate and other dissolved solids that are harmful to aquatic life.

These claims are based on the same legal theory that the two groups used to obtain a 2012 settlement against Fola, requiring it to clean up another biologically-impaired tributary—Boardtree Branch—in the Twentymile Creek watershed. In both cases, the groups contend that the mining companies have violated West Virginia’s “narrative” water quality standards, which set general criteria for water quality, rather than “numeric” water quality standards, which set limits on the concentration of specific pollutants in water.

Some tributaries of Leatherwood Creek show significant damage to aquatic life compared to that in unpolluted reference streams. Levels of conductivity measured in Right Fork have been five to ten times higher than levels shown to impair aquatic life. More than 60% of the land area in the Leatherwood Creek watershed has been permitted for coal mining.

This new lawsuit is in addition to four existing lawsuits against Alex Energy, Elk Run Coal Company, and Fola that allege that contaminated mine runoff has contributed to biological impairment of other streams in West Virginia. So far, the groups have filed lawsuits targeting eight streams that are biologically impaired by coal mining operations—Boardtree Branch, Mudlick Fork, Robinson Fork, Stillhouse Branch, Spruce Run, Road Fork, Cogar Hollow, and Right Fork.

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

“...Mooshine and spring-shine, cold and fire have tempered our blood and here we yet stand. Here we dream and begin again…”

And

“...Listen again the old tunes…”

“...Scrape and trill, drone and run like a river through the mountain’s heart…”

Then the words encourage us to rise!

“...Take up the patches of this history quilt, this dream-flagged quilt. ...

...And let no man haul it away, no coward with a bankroll buy us out, no circus fast-talkers take what’s ours…”

Finishing with history once more, and:

“...Again that bell, again those trumpets, fiddles, drums, hands together, how sweet the sound. Let us clap! Let us sing!...

“...West Virginia...you are my home, our home. Forever may you sing, and forever may you shine.”

I saw indeed why my young friend was enthusiastic and count him fortunate to have heard it recited by the poet in person.

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Marc Harshman is an author, poet, and storyteller, and, since May 2012, West Virginia’s Poet Laureate. He has published eleven children’s books which have been recognized with several prizes and are printed in Swedish, Spanish, Korean, and Danish.

He came to West Virginia to attend Bethany College and stayed here, writing and teaching. Marc lives in the Northern Panhandle and has been a member of the West Virginia Highlands Conservancy for more than three decades, which makes us especially proud and pleased to share news of his works.

Commemorative copies of this Sesquicentennial piece are available through the Wheeling National Heritage Area. The poem may also be viewed online at wvencyclopedia.org.

The complete poem includes this epigraph, by Irene McKinney, “We give the mountains our names/ and they stand still…”

Mystery Item! Mystery Item! What is it? What is it? Coming Soon! Coming Soon!

Voice Available Electronically

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