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The Highlands Voice

The Monthly Publication of the West Virginia Highlands Conservancy

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High Falls of the Cheat

By Cindy Rank

I find there are times these days when we're often so busy and hustling from one activity or chore to another so quickly that life often becomes a blur and precious moments are lost. So it's a special treat when friends visit and we take time to do something out of the ordinary.

For me one of those special times this year meant taking a train trip along Shavers Fork River through the historic "S" Curve tunnel and up between Cheat and Shavers Mountains to the High Falls of Cheat, an 18 foot high, 150 foot wide waterfall tucked away in the mountains.

We were probably a week or two too early for the fall colors, but the camaraderie in the parlor car of the New Tygart Flyer was a colorful substitute and the forest scenery was beautiful in its end of summer greenery.

Passing along the river across from the expansive fishing and hunting camp area(s) was less than spectacular for me, but that part of the trip was more than made up for by never ending views of the cascading Shavers Fork, and passing through

the historic "S" curve tunnel, and stopping at the High Falls of Cheat which were remarkable even at this low flow time of the year.

Of course this was the more touristy type visit to the Forest, and friends in the Highlands Conservancy often choose to hike the

8 or so miles to the Falls from Forest Road 44 near Glady in Randolph County (--- more information about this route in the Monongahela National Forest Hiking Guide available through WVHC at the address found elsewhere in this and every issue of *the Highlands Voice*), but it's worth the trip no matter how you get there.

The rails can also be a means of transportation to locations on the mountain where overnight or longer stays are possible. There were a couple of people who rode the Flyer to the Falls with us and unloaded their tent camping gear for an extended stay and time for hiking and exploring before catching

another train to return to Elkins ... or perhaps to go on up to Bald Knob or Old Spruce for a longer stay.



The High Falls of Cheat, September 2015

(More on p. 3)

What's inside:			
Thoughts from President Cindy	2	Roster of officers	8
Important notice	3	Delights	8
Pipeline journey goes on	3	Who's left holding the bag?	9
New hiking opportunities	4	Information on gas line	
A hearing, a rally, a circus		rights of way	10
or something	5	Get a Hiking Guide	11
DEP's role in gas lines	6	Our mini Machu Picchu	12
Pipelines everywhere	7	Chances to learn something	13
How to join	7	Salamander news	14
		Looking for hawks	15
		WVHC Mercantile	16

Ramblin' the Ridges

By Cynthia D. Ellis

There's a Long, Long Trail A-Winding

The note was very diplomatic. A member in the eastern panhandle pleaded for change, with words to this effect: "Your work on regulation and litigation is important...but please, more articles on enjoying the Highlands that have been saved."

So we are going to try. And we know it is true. In fact our editor has been saying the same thing for quite a while. He too has wanted *The Highlands Voice* to be reflective of joy as well as determination.

That same editor challenged those of us on the board to be the first to write joyfully. "Go out!" John said. "And then write about it!"

OK. Here's mine.

On a blue and gold September

day, twenty friends in the Kanawha Trail Club hiked a new rail trail in Clay County. We ambled on the three mile pathway, following rusty rails. A trestle had been refitted with decking and we gazed down at Buffalo Creek, which ran rather placidly due to weeks without much rain. One hiker, a native of the county, remarked that the creek sure looked more clear-running than in his boyhood, when the coal mines were active. A news release had designated it the Pisgah Bridge, but he said that he and his kid friends called being there "going to Pizgey."

Farther along we found a bigger-than-thumb sized caterpillar of amazing colors and a terrific specimen of the wild plant, Turtlehead [*Chelone glabra*].

We were traveling by the Elk River now, and could glimpse the town of Clay through the trees and across the water. The Apple Festival was winding down there this day, but, as we passed a church on the other side, we could hear the pleasing harmonies of an outdoor gospel sing drift along. We paused at another bridge and hoped to come back when the trail is 22 miles long. On the way back I got stung by a last-of-season yellow jacket, but at the end of our in-and-out ramble, a Gray Catbird softly mewed.

So, where have you been, outdoors, in the Highlands and nearby, lately? We would enjoy reading about your hike. And...your adventures--- fishing, caving, boating, birding, botanizing, geo caching, zip lining, skiing, backpacking, star gazing, herping, and rock climbing. Perhaps your community has a wonderful traditional event...or you could share a story about a reunion or about an old barn, or your childhood home.

Send pictures too. Or even pictures with just a brief

description.

As the seasons change, write us a bit about all the good things.

As the note said, we need to be reminded not just of the battles, but of the pleasures, here in West Virginia.

After all, as far back as the First World War, folks were dreaming of [and writing and singing about] the outdoors and the peace found there and "*the day when I'll be going down that long, long trail with you.*"



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. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived. The electronic Voice is in color rather than in black and white as the paper version is.

Chugging Up the Cheat (Continued from p. 1)

Ours was a four hour round trip with lunch included and we boarded at the renovated railroad depot in Elkins (WV). Durbin and Cheat Bridge also offer depots for boarding some of the trips.

Whether just to ride the rails, or as an alternative to hiking through the Monongahela National Forest, to see the High Falls, or sights further to Durbin, or Bald Knob, or to transfer at Old Spruce to the Cass Scenic Railroad for a journey down the other side of the mountain to the historic railroad town of Cass, the Durbin & Greenbrier Valley Railroad offers a variety of trips that may just be your cup of tea.

They also offer specialty trips: to see the stars, a traditional Polar Express much loved by the many children who travel their fantasy to the North Pole at Christmas time, dinner theatres, and other seasonal specialties.

Check it out at <http://mountainrailwv.com> or call 866-714-0012.



Excitement builds as passengers prepare to board the New Tygart Flyer in Elkins, WV

Important Announcement

The Annual Meeting and Quarterly Board Meeting of the West Virginia Highlands Conservancy will be held on Sunday, October 18. We will meet at the Community Room of the Booth Library at Davis & Elkins College, Elkins, WV at 9:30 a.m.

The Annual Meeting will include the election of five at large Board members. The Quarterly Board Meeting is open to all members. All members present may enter into discussion although they may not vote or make motions.

Let the Games Begin Continue

Dominion Resources and its partners have formally filed for approval of its proposed Atlantic Coast Pipeline with the Federal Energy Regulatory Commission (FERC). This is not really news. That it was planning a pipeline, surveying, etc. has been well known for months. This is only the next step in what Dominion hopes will be its march toward construction of the pipeline.

The opposition to the pipeline has been equally well known. People are worried about impacts to local businesses, private property, drinking water supplies, working farmland and forestland, and national forest land.

The project would require an Environmental Impact Study. Dominion has already begun that process and many, many people have weighed in with their concerns.

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

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

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

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

From Devastation to Recreation

By Beth Little

Attention all you hikers, bikers and backpackers! The United States Forest Service is preparing a whole new adventure opportunity for us.

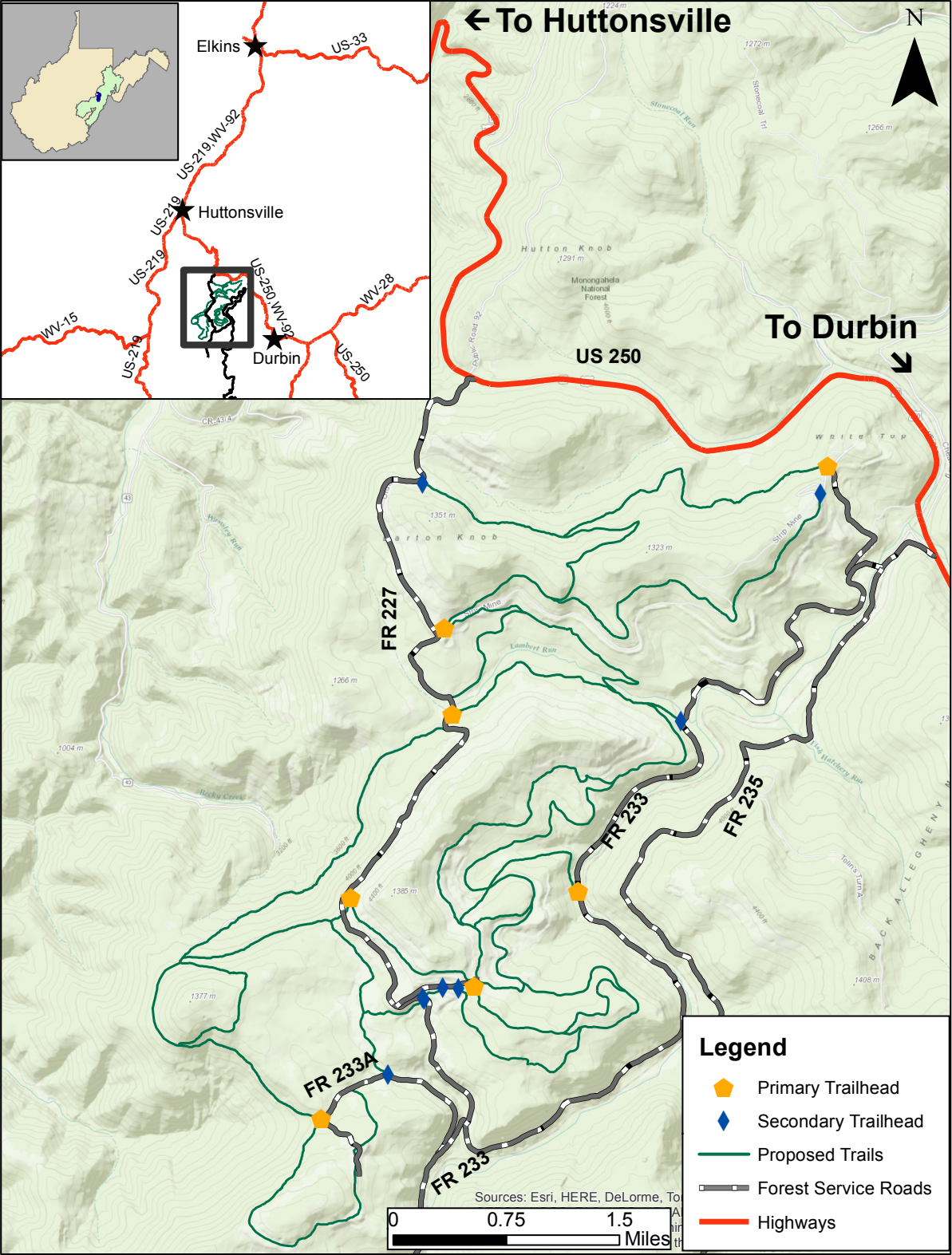
Back in the 80's, the Forest Service made a deal with the Mower Lumber Company. Mower agreed to sell a huge tract of land covering a major portion of Cheat Mountain, above the upper portion of the Shaver's Fork of the Cheat River, to the Forest Service in exchange for a period of time to do additional timbering. The ensuing logging frenzy was so intense that the FS called a halt before the specified time elapsed. Before the logging, there had been strip mining that was not very well reclaimed.

20 years have passed since the last extraction activity, so Nature has begun her usual remarkable recovery. After all, virtually the entire Monongahela National Forest was clear-cut a century ago, and look at it now. (Thank God it belongs to all of us as public lands, or it would be clear-cut again).

The result is 40,856 acres of land with rivers, high peaks – several over 4,000 feet, and sweeping “Wyoming-like” vistas dotted with ponds and evergreens. “These vistas, while man made, are perhaps among West Virginia’s best, while almost certainly being some of the least known.” That last statement comes from the Mower Tract Trail System plan developed by the Greenbrier Ranger District, continuing with “Due to its lack of formalized recreational development and unexpectedly high scenic value, the Forest Service is proposing the phased construction of a substantial multi-use, non-motorized trail system on the Mower Tract.” (See map). (Incidentally, the Atlantic Coast Pipeline preferred route would go through the northern part of the area).

More from the Forest Service plan: When fully implemented, over 100 miles of multi-use, non-motorized trail will be constructed in such a way as to create stacked trail loops. This will provide recreationists with a variety of options to choose from for length and difficulty of their trail experience. Given the proposed size of the project, a multi-phase approach with stages was decided upon.

- Phase One - Stage One will provide the core of the system and can stand alone, but will be expanded upon with the implementation of each subsequent stage and phase.
- Phase One is approximately 20 miles in total length and provides a core system of stacked loops located in the northern section of the Tract just south of highway 250.
- Phase Two is approximately 20 miles and creates additional loop opportunities. It also provides a connector trail to Snowshoe Mountain Resort, which borders the Mower Tract to the south.



- Phase Three provides loop opportunities along the Snowshoe connector trail, as well as additional outlier loops.

The first proposal is specifically for the establishment of Phase One - Stage One. The project area lies between Forest Roads 227 and 233. It is completely within Randolph County. Phase One - Stage One is approximately 9.8 miles in total length, and consists of five separate trails, configured in such a way as to provide multiple loop opportunities. Trail users will be able to access the trails from FR 227 and 233. This stage of Phase One will provide access to open, sweeping vistas and ponds.

Over the next summer we will be looking for trail volunteers for construction, brushing and other activities. If you have interest in volunteering next summer please contact the Greenbrier Ranger District at 304-456-3335.

Public Hearing and Political Rally Rolled into One

Office of Surface Mining Hears Comments on Stream Protection Rule

By Jim Van Gundy

Several members of the WVHC Board, including myself and President Cindy Ellis attended at least part of the Office of Surface Mining Reclamation and Enforcement (OSMRE) final hearing on the new so-called "Stream Protection Rule" that was held at the Charleston Civic Center on Thursday, September 17th. This was the last of six hearings on the Rule, The first five being in Denver CO, St. Louis MO, Lexington KY, Pittsburgh PA and Big Stone Gap VA.

While there were a number of people in attendance whose "Our Water Our Future" badges suggested they were there to support the rule, the vast majority of those in attendance were dressed in miner's overalls and were definitely not there in support of the proposed rule.

Registration to provide oral comments was to begin at 5:00 pm but when that time came, there was a very long line of coal miners already there. The West Virginia Coal Forum had rented a room at the Charleston Civic Center that afternoon for an informational session on the rule which was limited to "miners only". Once the hearing began, speakers were allowed just two minutes to speak and the first hour and a half or more of testimony consisted solely of miners and elected officials who were there to speak against the rule. This is not to say that those opposed to the Rule were not playing by the rules. They just understood how to use the rules better than our side did.

The evening began with an OSMRE PowerPoint presentation on both the Draft Rule and the Environmental Impact Statement (EIS) on the Rule. The Rule itself runs to 1,238 pages and the EIS adds another 1,267 pages of reading for those who are truly interested. If you don't have time for that, you can read John McFerrin's excellent article on the OSMRE Stream Rule that was published in the August issue of The Highlands Voice.

Once the hearing itself began, Governor Tomblin was the first speaker and he spoke heatedly against the proposed rule and against the EPA's "over-reach". He was followed by representatives of

Congressmen Mooney, Jenkins, and Johnson (Ohio), and Senator Manchin. All voiced roughly the same sentiments as had Gov. Tomblin. They were followed by Chris Hamilton of the West Virginia Coal Association and then by a very long list of coal miners and coal company executives, all of whom voiced strong exception to the Rule, and many of whom also took the opportunity to blast President Obama, the EPA, and environmentalists. The "war on Coal" and anti-Obama rhetoric sometimes gave the evening more an air of political rally rather than that of a public hearing. There was no shortage of dire predictions about the death of the coal industry and the death of longwall mining in particular.

There is may be some truth to that latter claim if I read the rule correctly. Longwall mining currently accounts for about 15% of U.S. coal production and a significant fraction of West Virginia's production. It involves the complete removal of coal within the mined

Area which causes nearly immediate collapse of the overlying ground surface by as much as 3-4 feet. This has occurred even if the mined seam is as much as 600 feet below the land surface. This subsidence may cause damage to man-made structures such as buildings, dams, and pipelines, but also the loss of groundwater and surface streamflow from the area above the mined panels. It is this latter problem that the new stream rule forcefully addresses.

The proposed rule requires "the protection or restoration of perennial and intermittent streams and related resources, especially the headwater streams that are critical to maintaining the ecological health and productivity of downstream waters." In a study done in Pennsylvania, all of the six studied streams lost all or part of their flow after longwall mining occurred within their watersheds. Experimental attempts to reverse or prevent this type of stream damage in southwestern Pennsylvania have met with little success, although in a study stream near Fairmont, West Virginia a 300 foot section of stream was successfully remediated by pumping nearly 6 tons of polyurethane grout into the stream bed.

Because of the difficulty or impossibility of remediating this type of stream damage it is hard to see how longwall mining can continue to be done if this part of the rule is vigorously enforced.

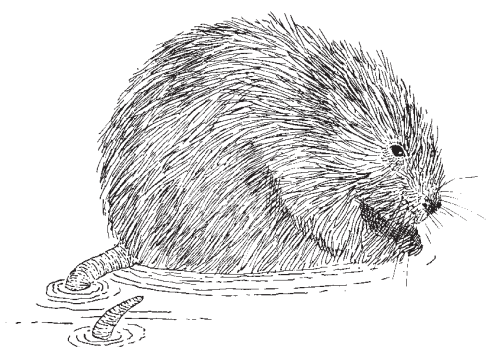
Speaking for two minutes was neither the only, nor probably even the best way to have your concerns or your support heard. It was also possible to attend a poster session and talk with individual staffers to submit either written or oral comments. It is also possible to submit comments electronically through the OSMRE website or in writing by U.S. mail. OSMRE will accept comments up until October 26th, 2015 and they have made public assurances that all comments will be given equal weight regardless of the manner in which they are delivered. Comments may be made electronically at: www.regulations.gov/. Type "stream protection rule" into the search box.

The Docket ID for the proposed rule is OSM-2010-0018, while the Docket ID for the draft environmental impact statement is OSM-2010-0021. The docket ID for the draft regulatory impact analysis is OSM-2015-0002. Please include the appropriate Docket ID for both written and electronically submitted comments.

Written comments may be submitted to:

Office of Surface Mining Reclamation and Enforcement,
Administrative Record, Room 252
SIB,
1951 Constitution Avenue, N.W.
Washington, DC 20240.

Both the Rule and the EIS are available in pdf format from the OSMRE website.



Untangling WV DEP'S Role in Gas Pipeline Permitting

By Cindy Rank

In mid-September members of a coalition of groups including West Virginia Highlands Conservancy, West Virginia Rivers Coalition and the Dominion Pipeline Monitoring Coalition released a report they commissioned to be done by the Morgantown, WV consulting firm Downstream Strategies to investigate opportunities for public input related to the onslaught of proposed natural gas pipeline construction projects bombarding the state.

The groups' initial research resulted in a report entitled *Atlantic Coast Pipeline in West Virginia: Opportunities for Public Engagement regarding Erosion and Sedimentation*, and is available at Dominion Pipeline Monitoring Coalition website: <http://pipelineupdate.org/>.

The main focus of the report is the role of the WV Department of Environmental Protection (WVDEP) in permitting the major Atlantic Coast Pipeline (ACP), a 42 inch diameter gas transmission pipeline set to cross a total of 100 water bodies within the state of West Virginia including many high quality streams in the Monongahela National Forest. The pipeline is to begin in Harrison County and pass through Lewis, Upshur, Randolph and Pocahontas before going on into Virginia and North Carolina.

Much has been written in past issues of *the Highlands Voice* about the ACP and pathways for citizens to have input into the Federal Energy Regulatory Commission (FERC) permitting process for ACP. This new Downstream Strategies report looks deeper into the role of the state West Virginia Department of Environmental Protection agency permitting process for this and other gas pipelines.

The objective of this report is to inform groups and individuals wanting to be engaged in permitting processes related to the ACP in West Virginia and Virginia about "opportunities provided by state and federal water-related regulations to effectively participate in and ensure rigorous environmental review and regulatory compliance in West Virginia.

"The report focuses on erosion and sedimentation of surface waters, which can be caused by construction within the pipeline Right of Way (ROW) as well as related roads and infrastructure, including stream and wetland crossings. Pipeline construction can also alter runoff properties of disturbed areas, leading to additional surface water flows that can cause additional erosion and sedimentation. Erosion and sedimentation causes nearby waterways to be unnaturally muddy to the point of impacting stream life and raises serious concerns for water quality.

"In addition, this report considers surface water impacts other than those caused by erosion and sedimentation as well as potential effects on groundwater resources in karst areas. It makes

recommendations for what organized groups and the public at large can do to participate effectively in two permitting processes:

1. the oil and gas construction Stormwater National Pollutant Discharge Elimination System (NPDES) permit issued by WVDEP (Chapter 2) and
2. the dredge and fill ("404") permit issued by the United States Army Corps of Engineers (USACE), including the 401 certification issued by WVDEP (Chapter 3).

"Opportunities exist for concerned citizens to participate in both of these permitting processes to ensure that issued permits protect water resources and that the regulatory agencies appropriately inspect and enforce the permits after issuance."

Whether related to the larger transmission lines like ACP, the Mountain Valley Pipeline, and the up and coming Columbia Gas Mountaineer Xpress from Marshall to Wayne counties, or the "smaller" gathering lines like the Stonewall/ Momentum line from Wetzel through Lewis to Braxton counties which enable production from individual well sites to be collected and sent to nearby compressor stations on its way to the larger transmission lines, WVDEP Storm Water Permits for Oil & Gas as well as its Section 401 authority under the Clean Water Act to certify pipeline construction activities come into play.

Residents along these gathering lines are concerned about the damage they're already seeing to their land and local streams, so we're working to be able to better educate ourselves and others about WVDEP's role in the permitting process.

Pipeline companies promise to comply with regulations and avoid impacts to landowners, but the reality on the ground is quite different. A case study of another Dominion pipeline cited in the Downstream Strategies report and more recent settlement agreement between MarkWest and WVDEP suggest that companies are willing to pay fines they sometimes see as simply the cost of doing business. As we have seen so often with coal mining operations the reality is that while showing very little respect for either people or the environment a company's non-compliance is actually cost effective.

The report lays out points for public participation in decision-making around the Atlantic Coast Pipeline; however it presents as many unanswered questions as answers. The coalition of groups is committed to seeking clarification from the West Virginia Department of Environmental Protection on the state's storm water permitting process for natural gas pipeline construction.

More to come, so stay tuned.

The Atlantic Coast Pipeline in West Virginia: Opportunities for Public Engagement regarding Erosion and Sedimentation



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July 25, 2015

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

They're everywhere! They're everywhere!!

Making Sense of Multiple Pipelines

The West Virginia Highlands Conservancy has joined with the Southern Environmental Law Center and 25 other members of the Allegheny Blue Ridge Alliance in a letter to H. Thomas Speaks, Jr., Supervisor of the George Washington and Jefferson National Forests, to request that the Forest Service support a comprehensive Environmental Impact Study for the gas pipelines that are proposed for the region.

There are currently four natural gas pipelines proposed for Virginia and West Virginia: the Atlantic Coast Pipeline, the Mountain Valley Pipeline, the Appalachian Connector, and the WB Xpress Project. As things stand now, each of these will require an Environmental Impact Study. The Federal Energy Regulatory Commission will use the studies to help it determine whether or not to approve the projects. The United States Forest Service will also use the studies to help it decide whether to allow the pipelines to cross National Forest land.

The purpose of the National Environmental Policy Act (which requires the studies) is to keep us from doing foolish things out of ignorance. Building four different pipelines that start in more or less the same place and end up in the same place is the definition of a foolish thing. We need a way to sort out what new pipelines we need, if any. If we need more, we need a way to figure out where to build whatever we need.

The signatories to the letter suggest that the tool for doing this is a comprehensive Environmental Impact Study:

A comprehensive, regional EIS is the available tool for FERC, the Forest Service, and other federal agencies to plan for pipeline development in this region. Specifically, the agencies can use the regional EIS to evaluate how many, if any, new pipelines are necessary through the central Appalachians to meet demand elsewhere. Then, if that analysis shows that some new pipeline infrastructure is needed, it is the tool to identify the route or routes that are the most protective of local communities and the environment for the entire region.

The groups who joined in the letter believe that it is sensible to consider all pipelines together before rushing off and building

pipelines we may not need in places they should not be. If just being sensible is not enough, there is also the law. The groups believe that the National Environmental Policy Act requires such a comprehensive approach. They cite language from the United States Supreme Court saying, "when several proposals for [] actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together." There are also regulations which provide for a comprehensive Environmental Impact Study when there are multiple actions being considered.

The groups have also filed their letter with the Federal Energy Regulatory Commission.

A copy of the letter is on the website of the Allegheny Blue Ridge Alliance at <http://www.abralliance.org/home/news-updates/>

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.

Birds, Trees, and Unexpected Delights

By Charlie Feldhake

Sometimes the resilience of nature surprises us. We observe events which, although maybe familiar t unexpected to us. I had one such observation about 15 years ago on May first, the day a male Baltimore Oriole usually arrived in my back yard. A pair had nested there every year for the previous 15 years, obviously not the same two. Trees were leafing out, (at 2600 ft. elevation later than some places) but there was a late snow storm and everything was covered big time.

I wondered if the Oriole would show and what he would eat if he did with emerging insects suppressed. He did show and what I saw was him eating oak pollen, a high protein food. He hopped along branch ends and stripped the catkins through his beak. How did he know to do this? He could not have been taught this by his parents while fledging.

Then the Hemlock Woolly Adelgid showed up. My back yard is a steep hill with hemlock, scarlet oak, red maple, sassafras, black locust, redbud, and an assortment of other saplings. The hemlocks are medium-large and beautiful so I thinned some and decided to protect a few by treating the soil around them for two years with a systemic insecticide, Imidaclopid (I forgot about this a few months ago when I said I didn't use pesticides).

Well, I have a few beautiful hemlocks in my back yard and all others in the neighborhood are dead. This is where unexpected consequences come in. Since this insecticide is a systemic it likely killed a lot of other critters feeding on neighboring trees. For five years I had no Baltimore Orioles in my back yard (not enough food to raise young'uns?)

I haven't treated the soil around the hemlocks for three years and am watching to see if they get re-infected with the wooly adelgid. But, this year the Baltimore Orioles were back. Are enough other insects again thriving to make my back yard a desirable habitat? If I have to treat the soil around the hemlocks again will I again lose the Baltimore Orioles? We don't know all of the consequences of our actions. As a backup I did plant a few native red spruce saplings on the hill so in the future there will be some winter greenery if I need to give up on the hemlock

This summer a pair of hummingbirds nested in a Paw Paw tree in a small grove I planted along my driveway. I enjoyed watching them buzzing around that tree and my flowers in the yard. When the corn in my kitchen garden was tasseling and shedding pollen they sat on the tassels and helped themselves to a feast.



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Regulators, Citizens Increasingly Concerned about Patriot Coal Bankruptcy Deals

By Ken Ward Jr.

West Virginia government regulators and a coalition of citizen groups are convinced that plans to sell off the operations of bankrupt Patriot Coal won't provide adequate funding for land reclamation and longterm water pollution cleanup at Patriot strip-mine sites across the state.

As Patriot's proposals to split up its holdings — selling part to a Kentucky mining company and part to a Virginia conservation group — move through bankruptcy court, lawyers for the West Virginia Department of Environmental Protection and for three citizen groups have filed strongly worded objections with U.S. Bankruptcy Judge Keith L. Phillips in Richmond.

In a court filing late last week, DEP lawyers Kevin Barrett and Michael Hissam called the original Patriot plan to sell its higher-quality assets, those without significant "legacy liabilities" for miner pensions and environmental reclamation, "little more than pie in the sky." Barrett and Hissam said the latest twist to sell Patriot sites with significant pension and reclamation costs to the Virginia Conservation Legacy Fund is "a Hail Mary pass" that can't rescue a plan that is "destined to fail."

"Patriot's plan reflects nothing more than a wing and a prayer, a 'walk-away' in coalfield vernacular, to satisfy the whims of its hedge fund investors that seek to use their position on all sides of this deal to extract unwarranted value out of Patriot's assets to the exclusion of all the other parties in interest in these cases and simultaneously shed the liabilities inextricably associated with their collateral," the DEP lawyers said in the agency's objection.

Patriot filed for bankruptcy protection in May, to reorganize again just two years after emerging from Chapter 11, amidst continued challenges for Appalachian coal producers, who face stiff competition from cheap natural gas, the depletion of the best coal seams in the region, growth of renewable energy sources and new environmental rules aimed at curtailing air pollution from coal-fired power plants.

The Patriot case is one in a series of ongoing coal industry bankruptcies that have labor organizations, environmental groups and regulators increasingly

concerned that the downturn in the mining business could prompt some operators to try to escape from growing liabilities for mine cleanup and worker benefits.

United Mine Workers officials have been warning for years about the union's troubled pension and health care plans, and citizen groups have likewise complained for many years that West Virginia regulators were not forcing coal companies to post adequate bonds or pay sufficient reclamation taxes to cover the potential costs of long-term water treatment, especially if large mining operators went belly-up.

Under Patriot's current proposals, Kentucky-based Blackhawk Mining would purchase some of the company's assets but would not acquire its unionized Federal No. 2 Mine in north-central West Virginia, its sprawling Hobet 21 mountaintop-removal complex along the Boone-Lincoln county line or large surface-mining sites in Logan County that have significant Clean Water Act obligations to clean up stream pollution.

Patriot proposes to sell those properties to the Virginia Conservation Legacy Fund, which says it will continue to mine coal at the underground Federal No. 2 Mine and will launch a major tree-planting program to reforest the sites where Patriot engaged in large-scale surface mining.

DEP lawyers, though, told the court that the VCLF "has no experience operating a coal company or performing boots-on-the-ground reclamation and water treatment." And Patriot's plans leave the foundation without the hundreds of millions of dollars needed for long-term water pollution treatment at Patriot sites, the DEP lawyers said.

They said that, while Patriot appears to be "selling" its only valuable assets to Blackhawk for "something appearing on the face of it to approach \$650 million, Patriot's estate will not see one dime of that money."

"Instead, the banks and the hedge funds backing Patriot's plan will walk off with all of that value, leaving a carcass consisting of Patriot's orphaned assets (which really amount to liabilities), no cash and other liquid assets, no apparent funding, and little if any realizable value," the DEP lawyers said.

They said the Patriot plan "threatens to expose the people of the State of West Virginia to the serious public health and safety risks associated with unreclaimed land and untreated water at former mining sites," in violation of federal and state strip-mining laws.

In a separate court filing, lawyers for the Sierra Club, the Ohio Valley Environmental Coalition and the West Virginia Highlands Conservancy recount a series of citizen lawsuits, court orders and settlements to force Patriot to comply with water pollution laws and to begin treating violations of limits on the discharge of toxic selenium from its operations.

The citizen group lawyers noted that Patriot had disclosed in its 2013 annual report a "selenium water treatment obligation" of more than \$400 million. Patriot said in that report that it would need to spend \$60 million to \$80 million in the next four years to install selenium treatment systems and an additional \$6 million to \$8 million annually to operate, maintain and monitor those systems.

Under a settlement with the citizen groups, Patriot also is required to phase out the use of large-scale surface mining in Central Appalachia.

The citizen group lawyers note that Patriot's bankruptcy plan does not include those limits on large-scale surface mining or for compliance with the water pollution treatment requirements of other court orders and agreements.

Earlier this month, the UMW announced that it had reached tentative agreements with Blackhawk Mining and with the Virginia Conservation Legacy Fund for its workers at Patriot's operations. However, the UMW said in a new court filing that, because those agreements haven't yet been ratified by its members, approval of the bankruptcy plan by the court is "at best, premature."

A hearing to consider approval of Patriot's bankruptcy plan had been scheduled for Sept. 16, but the company indicated Friday it wants to delay that until early October.

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



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Georgy.Plaugher@mail.wvu.edu

website:
http://anr.ext.wvu.edu/oil_gas

NATURAL GAS
Drilling

2015 Fall WVU Extension Service
Natural Gas Education Programs

AGENDA

- 6 p.m. **Making Sense of Natural Gas Pipelines and Right-of-Way Agreements**
Topics will include:
- Pipeline construction
 - Landowner considerations
 - Surface and landscape impacts
 - Right-of-way (ROW) agreements and addenda
 - Understanding the eminent domain process
 - Valuing ROW

Presenters: : Dave Messersmith, Penn State Extension Educator and Brad Stephens, Stephens Law Office, PLLC.

7:30 p.m. **Question & Answer Session**

For more information about the program, contact Georgette Plaugher at 304-329-1391. For questions regarding the location, please contact the WVU Extension Agent listed.

EDUCATION PROGRAM SCHEDULE

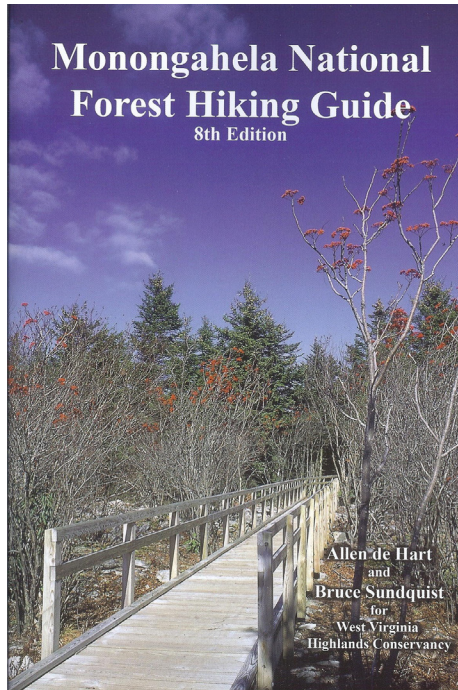
Date	Time	Location	Contact Information (WVU Extension Agents)
October 12	6 p.m.	Tygarts Valley Middle/High School Cafeteria Mill Creek, WV	Ronnie Helmondollar Randolph County 304-636-2455
October 13	6 p.m.	Summersville Arena and Conference Center 3 Armory Way Summersville, WV	Brian Sparks Fayette/Nicholas Counties 304-574-4253/ 304-872-7898
October 14	6 p.m.	WVU Jackson’s Mill Assembly Hall Weston, WV	Bruce Loyd Lewis County 304-269-4660

In association with: WVU Extension Service, Penn State Cooperative Extension Service, and Stephens Law Office, PLLC.

See directions on the back of this page.

This program is for educational purposes only. No part of this presentation is to be considered legal advice. Please consult with your attorney before signing any legal document. Where trade and/or company names appear, no discrimination is intended, and no endorsement by WVU Extension is implied.

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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)

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



A Hike and a Surprising Relic

By John McFerrin

It starts mundanely enough, a walk in the woods. A few chipmunks skittering across the trail, sounds of unseen birds, rustlings in the leaves as some creature runs, slinks, or bounds away. It is a pleasant walk with plenty of things to look at—snags ripped apart by woodpeckers, the remnants of where a chipmunk has dismembered a cone, looking for seeds.

Then, suddenly, there it is, standing in the middle of the forest, our own little Machu Picchu--the Henry Clay Iron Furnace. It is a pyramid with its top cut off, standing about thirty feet tall. It is all that is left of the iron works that once made that area a hive of activity, one of many iron works that dotted Western Virginia in the early to middle part of the 19th Century. There is moss growing up the sides and plants growing on the top. Other than that, it is much as it was when it operated.

The Henry Clay Iron Furnace was built around 1836. In its day it was a cold-blast furnace run by steam and had a capacity of about four tons of pig iron each 24 hours. The furnace converted or smelted the iron ore to pig iron. The ore was mined along the hillsides surrounding the furnace.

Once in operation the furnace was operated week in and week out, generally from the spring thaw to the winter freeze. The pig iron was sent to Jackson Ironworks for conversion into wrought iron used to make cut nails, while some iron was used to make cast-iron stoves.

The furnace was fueled by charcoal made from the hardwood in the area. To supply this need, the forest was timbered, first near the furnace and then outward.

The furnace operated until no later than 1868. In 1855 the Sault Saint Marie canal had opened, making the richer iron deposits around Lake Superior easily accessible. That was the beginning of the end for low grade ore productions in Western Virginia. By 1882 there was no ore industry anywhere in West Virginia.

The iron furnace was the center of a town where the workers lived. Estimates of its population vary. When West Virginia applied to have the iron furnace placed on the National Registry of Historic Places it estimated that the iron works employed one hundred workers who lived in a community of five hundred people occupying one hundred houses. There was also a school, a store, and a church. There were wooden tracks connecting the furnace to the ore pits.

There is a saying that nature always bats last. At Henry Clay Iron Furnace you can see that. This was a village of one hundred houses, a school, a church, a store, and buildings associated with the iron works. The trees were all cut to feed the furnace. Now, except for the furnace itself, you can see exactly nothing. If you know where to look there are some foundation stones from the houses. In the woods across Clay Run there is a mound, now covered with vegetation, formed by the waste discharge from the furnaces. Unless someone knows what to look for, it is not apparent that it was ever part of any industrial operation.

In 1840 this was a village to rival Morgantown, fifteen miles to the west. Now nature has taken it back. Except for the furnace itself and the trails maintained by the West Virginia Division of Forestry, there is nothing to show that the hand of man has touched this place. While it is not the forest primeval that it would have been had the iron furnace never been there, it has turned back into forest.

If you go

Henry Clay Iron Furnace is in Coopers Rock State Forest, located off I-68, fifteen miles east of Morgantown. If you enter the Forest on the road from the Interstate side, the road to the Furnace is a right turn. There is a sign. The parking lot for the walk to the Furnace is about two miles out that road.

The trail to the Furnace is a little less than a mile with an elevation change of 200 feet from the parking lot down to the Furnace. Round trip takes about 45 minutes. The trail has suffered from erosion in the early part so that hikers walk on rocks of irregular size. Hikers have to look at their feet a lot. After about 1-200 yards the trail flattens out and the walking surface is much better.

For those who want a longer hike, there are other ways to get there. There is a cross country ski trail that ends up at the Furnace as well another hiking trail. The one that I took is the most direct route but not the only one.

The Henry Clay Iron Furnace is far from the only attraction in Coopers Rock State Forest. In other parts of the Forest there are more trails, spectacular views, and some big boulders to scramble around on.

For the technologically savvy and chronic communicators

There is cell service at the parking lot but not down at the Iron Furnace itself. Anyone who wishes to tweet the experience will have to hold those thoughts until returning to the parking lot.



Straight Scoop on Shale Conference

November 18, 2015 8:30 a.m. - 5:30 p.m.

University of Pittsburgh University Club,
123 University Place

Presented by the League of Women Voters of Pennsylvania's "Straight Scoop on Shale" initiative and hosted by the Pitt Graduate School of Public Health.

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As in previous years, this year's conference will feature important new research on shale and public health impacts. Bruce Pitt PhD will present new research regarding birth impacts. Nationally known speaker and MacArthur Fellow Wilma Subra, who has served on EPA committees and currently chairs STRONGER's Air Quality policy and regulatory review committee, will discuss environmental health issues, air modeling, and ethane crackers based on her experiences in Louisiana. Brian Schwartz MD of Johns Hopkins, who is a Senior Investigator in the Geisinger Center for Health Research, will present research from the Geisinger data. See the website for other topics and presenters.

This year's conference includes a round-table brainstorming session where the public can interact with experts and civic leaders.

There is also a special breakout session on addressing shale issues in practice for those seeking professional credit hours.

More Information and Registration: 1-800-61-SHALE

Visit our website: <http://shale.palwv.org>

Editor's note: WVHC Board member Wayne Spiggle went last year and he gave the conference a big thumbs up.

Send Us a Post Card, Drop Us a Line, Stating Point Of View

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

Speakers at Blackwater Falls to Highlight Climate Threats, Solutions

By Tom Rodd

A 2015 report from scientists at Climate Central says that by 2050 (or before), people in the Charleston, WV area will experience more than 168 heat-related "danger days" per year — unless we reduce global carbon emissions that are heating up the planet.

Global warming and climate change are also putting the ecology and economy of the high mountains of West Virginia "on the chopping block." A new report from Penn State scientists forecasts the end of the region's snow sports industry within 40 years. Saying "adios" to skiing and snowboarding is bad news for people who live and work in the Highlands, and also for the many thousands who vacation there.

But the news on the climate change front is not all bad. Expert scientists, engineers, and policymakers, around the world and here in West Virginia, are working on climate change preparedness and solutions. They are devising strategies and policies that can adapt to and prevent the most damaging impacts of global warming.

You can meet and talk with more than a dozen of these experts at a public conference at Blackwater Falls State Park in Davis, W.Va., on Saturday, October 17. Details are at alleghenyclimate.org. There are scholarships for students and teachers.

Here is some of the important information that will be highlighted at the October 17 program:

- Researchers at WVU are helping to develop techniques for capturing CO2 from energy production, and designing energy efficiency systems for industry that reduce emissions. Communities and churches are installing renewable energy sources. By reducing carbon emissions, we can keep the specter of deadly "danger days" in check.

- Local government and flood-plain managers are preparing buildings, roads, bridges and culverts for increased loads. Wildlife managers are working to preserve species like our native brook trout and "Ginny" the West Virginia flying squirrel -- who thrive today in the beautiful, cool Blackwater Canyon.

Here in West Virginia, climate change is a tough issue to talk about. But West Virginians know how to do tough things. We can come together and learn about the science, policies, and programs that we need to build a safer future. Please join us at Blackwater Falls in October!

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.

Forest Service Still Sticking Up for Salamanders

By John McFerrin

The United States Forest Service has repeated its previous warnings that the proposed Atlantic Coast Pipeline would pose a serious threat to the Cheat Mountain Salamander and the Cow Knob Salamander. Its bottom line: "The rarity and sensitivity of these species have resulted in federal listing of the Cheat Mountain salamander and in a Conservation Agreement to protect the Cow Knob salamander. Because of the potential for serious project-related impacts to the populations and habitats of the Cow Knob and Cheat Mountain salamanders, and also because these impacts could not be mitigated, it is essential to evaluate alternatives to avoid adverse effects on these two species."

This is not a new development. In its July 30, 2015, filing the Forest Service had told Dominion about the "need to avoid the Cheat Mountain salamander populations recently discovered within the proposed pipeline route and populations potentially occurring in habitats identified as suitable but not yet surveyed." The Forest Service had specifically told Dominion that the Cow Knob Salamander is the subject of a Conservation Agreement between the Fish and Wildlife Service and the Forest Service. The Agreement also set up a Conservation Team (Team) with representatives from the

Virginia Department of Game and Inland Fisheries, Virginia Division of Natural Heritage, West Virginia Department of Natural Resources, U.S. Fish and Wildlife Service, and U.S. Forest Service. This team is to meet and discuss how to protect the Cow Knob Salamander. Measures to protect it are incorporated in the George Washington National Forest management plan. These include routing utility corridors around the salamander habitat.

The Forest Service had provided a copy of the Conservation Agreement for the Cow Knob salamander to Atlantic Coast Pipeline, LLC and extensively discussed its concerns about both the Cow Knob and Cheat Mountain salamanders during a June 30, 2015 meeting. It told Dominion that the pipeline's effects on Cow Knob and Cheat Mountain salamanders must be avoided and cannot be mitigated. It re-emphasized its concerns during a July 7, 2015 meeting.

The new development is that the Forest Service has made another filing with the Federal Energy Regulatory Commission reaffirming its concerns and reporting on the discussions of the Conservation Team. In a September 17, 2015, letter the Forest Service repeated its earlier information and added more.

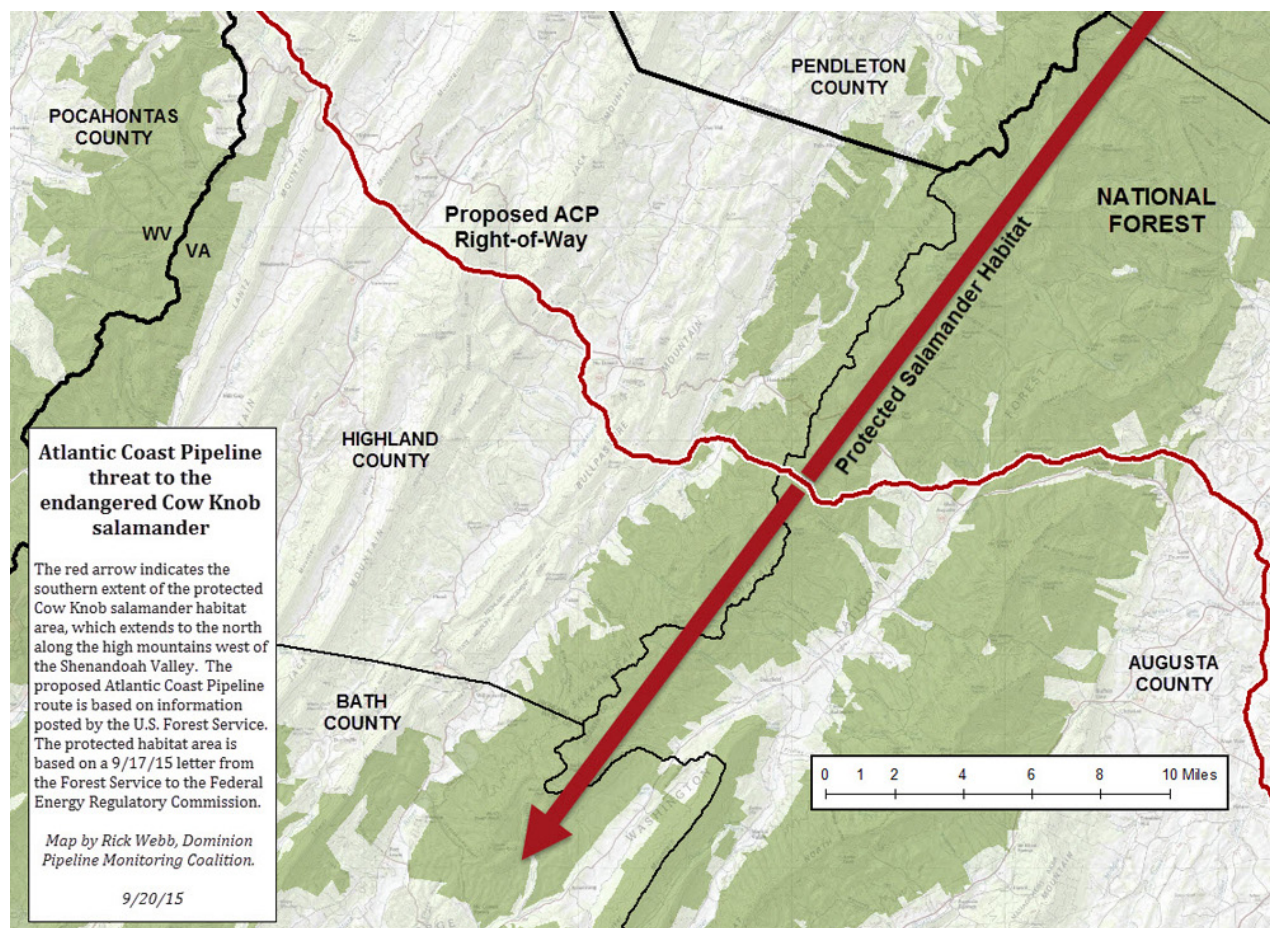
In its letter the Forest Service

described the problem this way:

Fragmentation and loss of forest cover is a primary concern for the Appalachian endemic salamanders. The largest and most extensive populations tend to occur in areas with extensive forest cover. Maintaining an extensive forest canopy is important to maintaining suitable within forest microclimates. Roads and utility corridors fragment forest salamander populations and changes in forest floor structure, especially downed woody debris and leaf litter accumulation, can substantially reduce salamander populations. Poor culvert placement and road drainage fragments salamander populations in headwater streams. Loss or reductions of woody debris and leaf litter can also reduce populations of salamanders in headwater streams. Some endemic forest salamanders also are displaced by more widespread salamanders following changes in forest structure and increased fragmentation. Amphibians can best respond to external stressors when their habitat is intact and functioning. Maintaining ecosystem integrity ensures amphibian life zones are also present and functioning. Conservation actions must focus on preserving core areas of intact habitat, restoring areas of impaired habitat, and re-establishing populations in appropriate locations.

The Cow Knob Salamander only lives in George Washington National Forest and then only on ridgetops. Because its range is so small, it faces an extremely high risk of extinction. Populations of these species are at critically low levels, face immediate threat(s), or occur within an extremely limited range. Intense and immediate management action is needed. The Cow Knob Salamander will always face a significant threat of extinction due to its limited range.

The Forest Service has previously responded to this threat to the Cow Knob Salamander. In 1994 the On January 25, 1994 the U.S. Fish and Wildlife Service, the U.S. Forest Service, and other federal



(More on the next page)

Salamanders and Pipelines (Continued from previous page)

agencies entered into a Memorandum of Understanding setting out how it intends to protect the Cow Knob Salamander as well as other threatened species.

In its latest filing with the Federal Energy Regulatory Commission, the Forest Service points out that the Memorandum of Understanding does not allow a “take” of the species. This is important because, under the Endangered Species Act, it is possible for someone to get a permit to “take” (the Act’s lawyerly, genteel word for kill) a limited number of members of an endangered species. If the Memorandum of Understanding does not allow for a “take” then Dominion does not have the option of applying for a permit to “take” some Cow Knob Salamanders as an incidental part of its pipeline construction.

In unusually direct language (no “may create the possibility” “might threaten” etc.) the Forest Service says:

Pipeline construction in the present location would kill numerous Cow Knob salamanders. Impacts to Cow Knob salamander habitat were discussed. It was estimated that the loss of habitat from direct clearing and the indirect effect of exposing the forest edge to sunlight, wind, etc. would result in a swath approximately 750’ wide through Cow Knob salamander habitat. This swath would also be a corridor for edge predators, such as raccoons, to access the heart of the Cow Knob salamander habitat resulting in increased predation. Illegal ATV access along the ROW is a real possibility that would likely result in degradation of habitat resulting from loss of vegetation, sedimentation, and soil compaction. The pipeline corridor will eliminate gene flow between the north and south part of the populations. This will isolate the southern extent of the population making it susceptible to stochastic events. Climate change is a threat, and that could realistically wipe out this southern population, because much of it is at lower elevation and on driest sites. In addition, the population north of pipeline is isolated due to the habitat fragmentation by Rt. 250.

In its filing, the Forest Service suggested how Dominion could avoid damage to the Cow Knob Salamander. It could select another route. Failing that, it could avoid the ridge of Shenandoah Mountain. Instead of running the pipeline up and over the Mountain, it could drill through the Mountain. This would leave the ridgetop intact for salamanders and recreation and would reduce illegal ATV traffic.

One purpose of this latest filing was to report on the meeting of the Conservation Team and its findings of effects of the proposed Atlantic Coast Pipeline Project on the Cow Knob Salamander. The Conservation Team was very clear in its assessment that Dominion must avoid its habitat.

Although it is a threatened species, the Cheat Mountain Salamander is not the subject of the same Memorandum of Understanding as is the Cow Knob Salamander. Because this latest letter was largely to report the meeting and findings of the Conservation Team set up under that Memorandum of Understanding, there is less discussion of the Cheat Mountain Salamander. It still remains clear that the Forest Service is very concerned about the impact the Atlantic Coast Pipeline on it.

Getting there is half the fun

Watching Hawks on Peters Mountain

By Cynthia D. Ellis

On three consecutive days in mid-September I hiked with others up the trail to the hawk watch on Peters Mountain in Monroe County. I’ve done this for three decades. The trail has not changed much. That is a beautiful thing. It is in keeping with the whole restorative spirit of Monroe County itself. Here, change is very slow and very perceptible. For those of us from the Metro Valley area of West Virginia, with its relative bustle and buzz, the mountains on the southeastern border are peaceful and serene.

The trail is somewhat rocky. The rocks can be linear in shape, as if some super hewer of stone cast about rejected bits. There are mosses, ferns, and mushrooms...on this visit **Trametes versicolor [Turkey Tail]**. There’s False Solomon’s Seal, and Rock Tripe, and sprouts of American Chestnut. The trail goes up, levels off sometimes, and then continues up. Chipmunks scold and sounds float up from faraway farms in valleys on either side of the mountain. One large fallen log figures in memories...a friend posted a little sign on it for several years after 1989, “Felled by Hurricane Hugo. Count the rings!”

On the left are large boulders and outcroppings as one nears the summit. Passing the final wooded bit near the top, a gnarled tree can be seen. It has always been here. It looks like...well, maybe a dinosaur or some mythical beast. Tons of people must have passed it and commented, “That looks like...” and imagined a great variety of figures.

Hanging Rock Migration Observatory caps the summit. The vista there is open-mouth magnificent...but...the trail has wonders of its own as well.



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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 \$15 by mail; **long sleeve** is \$18. West Virginia residents add 6% sales tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy ATTEN: Online Store, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



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 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 ♥ Mountains The colors are stone, black and red.. The front of the cap has ♥ 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 West Virginia Highlands Conservancy, Atten: Online Store, P.O. Box 306, Charleston, WV 25321-0306