



The Highlands Voice

Since 1967, The Monthly Publication of the West Virginia Highlands Conservancy

Volume 51 No. 1 January, 2018

Same Stuff, Different Pipeline

West Virginia Department of Environmental Protection Gives Away ANOTHER Chance to Protect State's Waters

West Virginia has waived its opportunity to review the Atlantic Coast Pipeline to determine whether it will cause a violation of West Virginia's water quality standards.

Under Section 401 of the federal Clean Water Act, federal agencies cannot authorize projects in a state unless that state certifies (called a 401 Certification) that the project will not violate state water quality standards. With the Atlantic Coast Pipeline, West Virginia could have refused the 401 Certification. If it did not want to refuse the 401 Certification outright, it could have conditioned its approval on the pipeline developers taking certain steps to protect water quality. Because of this power, the 401 Certification process is an excellent tool for imposing whatever conditions were necessary to protect West Virginia water.

Through this process, West Virginia could have prevented the Federal Energy Regulatory Commission from finally approving the pipeline as well as the United States Army Corps of Engineers from approving the stream crossings, etc. that the pipeline will

entail until we had assurance that West Virginia's water would not be damaged.

Instead, West Virginia punted, waiving its opportunity to review the project.

West Virginia's water quality standards specify the designated use of a stream or pollutant limits necessary to protect the designated use and policies to ensure that existing water uses will not be degraded by pollutant discharges.

If this story sounds familiar, it should. West Virginia's approach to the Atlantic Coast Pipeline is the exactly the same as it was to the Mountain Valley Pipeline. The Mountain Valley project would run from Wetzel County, West Virginia, to Pittsylvania County, Virginia. The Atlantic Coast Pipeline would run from Harrison County to southeast North Carolina. West Virginia's waiver of the opportunity to protect West Virginia waters from the Mountain Valley Pipeline was reported in the December, 2017, issue of *The Highlands Voice*. Now the same thing has happened with the Atlantic Coast Pipeline.

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2018 Begins West Virginia Highlands Conservancy Second 50 Years

Sending everyone good wishes for the New Year, and hopes that it will be filled ONLY with good health, success in all those things that really matter to you...and most of all, to many wonderful, memorable moments!

The Fiftieth Anniversary celebration of the West Virginia Highlands Conservancy was touted as a rousing success and I couldn't agree more. One hundred and thirty people went away well satisfied, inspired, and talking about the next celebration. There was a sense of what WVHC will be in the next 50 years.

I have been pondering my new role at WVHC, realizing the extremely high bar set by 50 years of exceptional leaders before me. WVHC is blessed with an extraordinary group of individuals serving on the Board. Each member brings an array of special talents, which serve the Board well in fulfilling our role. I will be leaning on every member for advice and guidance as we move into the future.

At the fiftieth celebration and through the "Voice", the Board asked members for suggestions of where they would like to

see WVHC move in the future, in addition to the many current activities. Numerous great suggestions have been received and the Board will begin discussing them at the January 21 meeting. Thanks to everyone for taking the time to submit your suggestions.

Looking ahead, 2018 promises to be a very challenging year. Recognizing the amount of destruction to our environment taking place in West Virginia, in the nation, and internationally is certainly cause for great concern. Just following my email from numerous organizations identifying current, very concerning issues that must be addressed has become overwhelming. WVHC certainly cannot take on every issue and must pick and choose our battles. National and state politics skewed toward private interests certainly do not help in our protection of our highlands. Every month in the "Voice" important information concerning many of the issues is presented. Thanks, John, for your much appreciated dedication to getting the "Voice" to our members.

The 2018 West Virginia Legislative Session begins January 10. WVHC is a member of, maintains a board seat on, and

supports the West Virginia Environmental Council (an Internal Revenue Service approved 501(c)(4) organization). One activity of the WVEC each year is to hire a lobby team to lobby the West Virginia Legislature on issues and legislation submitted by member organizations. In addition, the lobby team closely monitors proposed legislation for issues that might be of interest to member organizations. The lobby team then meets with legislators to provide information concerning the member proposed legislation or issues, pro and con, with proposed legislation. The top three priorities for 2018 are: 1. to defend air and water, 2. rein in fossil fuels and 3. promote renewables and energy efficiency. The lobby team has been hired for 2018 and the Governmental Affairs Committee has been preparing a plan of action, including recruiting citizen lobbyists.

I am looking forward to a very successful 2018.

Larry Thomas

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.

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.

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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.

A Peaceful, and Gentle, Way Forward

By Angie Rosser

On Nov. 28, I, like many West Virginians, traveled to Charleston for a hearing on the Trump administration's proposal to repeal the Clean Power Plan. The CPP was developed by scientists, economists and policy experts as a response to a Supreme Court ruling that carbon pollution be regulated.

As a resident of Clay County, I went to speak in opposition to this repeal. But there was much more on my mind than the plan itself. I wanted to share the picture of what I see happening in our state and country, and my hope of what we can change.

The repeal hearing was announced by the Environmental Protection Agency as the only one in the nation (the EPA has since said it will add more hearings). On the days of the hearing, America's eyes were on West Virginia. Usually, I think of our state as rather invisible, forgotten, dismissed as backward or hopeless. We seem to only get national attention when something terrible happens here — a water crisis, a flood, tragic mining deaths.

I wasn't surprised to see people with mainly two vastly opposing views flock to our state. Trump's EPA probably chose our state as the location because they believe West Virginians overwhelmingly stand with coal companies. They might also think the majority here support rolling back protections to the environment and public health. But here in the heart of "coal country," we know neither is true.

We all just want a better way forward for our state and our country. Still, miners are like everyone else when it comes to putting food on the table. They are hard workers and they deserve safe, good-paying jobs. Miners I talk to know that coal jobs will continue to dry up — with or without a Clean Power Plan.

But we've been pitted against each other by propaganda that tell us we will either have coal or we will have nothing. This is the lie that keeps our state poor. Not regulation.

The cause of poverty in West Virginia is the failure of those in power to tell the truth and do something about it. They provoke an artificial divide among people who share a heartfelt desire for a better future. They do this to spark deeper division, not to bring the country together on something that affects everyone.

It makes for good reality TV, but it doesn't help us deal with the reality of life in America. That reality includes the heartache of economic transformation that is leaving many rural people behind.

For generations, miners — like family farmers in rural states — took pride in their roles in creating a prosperous nation. Shuttered storefronts across rural America are a daily reminder for rural people that their place in the fabric of society is vanishing. And so it is here in coal country.

Environmental advocates also need to look at how we fuel the conflict. When we work for a clean-energy future, we need to acknowledge that, for some of our fellow citizens, they see no place in it for them. It's no wonder to me environmentalists are villainized for anti-coal positions that seem to disgrace a cultural identity deeply held by many in our state.

It's easy to point the finger at West Virginia for favoring dirty fuels over public health, but the finger-pointers might try to understand the complexities of grasping onto a way of life when it's all you've known — when you don't see the same opportunities here that are available in other, more urban states.

When I talk to people in coal communities, I sense they know that a repeal of the Clean Power Plan won't slow the decline of coal. Most commonly, the comment is, "Nothing will help bring it back the way it was." I hear coal miners wanting a different set of options for their sons and grandchildren, and that the clock is ticking to do something different than leaning on a dying industry.

Instead of a public feud over the Clean Power Plan, most West Virginians are looking for ways to create job opportunities for displaced coal miners. For example, the RECLAIM Act — currently before Congress — would invest in economic development and diversification, while addressing restoration of the lands and waters most impacted by coal mining.

West Virginians are great people. We're not backward. We're not closed-minded. We, like most Americans, are looking for a way forward in a complicated world. It's not just about West Virginia; it's about us all.

This EPA, this administration, thrives on public anger and conflict. It's a distraction. When people are fighting, they are not talking. And this is a time we need to be talking with one another. And listening.

That is my hope.

Angie Rosser is executive director of West Virginia Rivers Coalition, a statewide nonprofit organization promoting clean water and healthy rivers for all to enjoy. This previously appeared in *The Charleston Gazette*.

A Reason to Celebrate

Through the efforts of National Geographic, the National Audubon Society, BirdLife International, and the Cornell Laboratory of Ornithology, 2018 has been declared the Year of the Bird.

This year was chosen because it is the centennial of the Migratory Bird Treaty Act, passed in 1918. The Act implements a treaty that had been entered into between the United States and Canada to protect migratory birds. It makes it illegal to "pursue, hunt, take, capture, kill or sell birds listed therein." The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs and nests. Over 800 species are currently on the list of protected birds.



What's Wrong With Virginia's Review of the Atlantic Coast Pipeline

By Rick Webb, Program Coordinator, Dominion Pipeline Monitoring Coalition (DPMC)

My name is Rick Webb. I recently retired from my position as a Senior Scientist at the University of Virginia, where I spent 30 years studying the biology, hydrology, and geochemistry of high-quality streams in the mountains of Virginia. I am currently Program Coordinator for the Dominion Pipeline Monitoring Coalition (DPMC).

When I learned about the proposed Atlantic Coast Pipeline I was concerned that pipeline construction on this scale across the steep mountains, high-quality streams, and karst valleys of western Virginia could not be done without severe and unavoidable damage to water resources.

The DPMC was organized to examine proposed construction methods, including erosion and sediment control, stormwater management, and slope stabilization plans, in order to evaluate reliability and effectiveness for prevention of water resource harm.

Thus far, we have not had access to the plan details that would be required for this critical evaluation. After months of seeking information we learned that the DEQ has unreasonably found it meaningful and appropriate to exclude consideration of stream crossing plans, erosion and sediment control plans, and stormwater management plans from its water quality certification review.

Then, when we obtained access to erosion and sediment control and stormwater management plans, we learned that the plans are rudimentary in the extreme and they do not include complete site-specific details for the most difficult, high-hazard areas of the proposed pipeline route.

The DEQ would have the Water Control Board rely on what Dominion Energy calls its "Best in Class" program, which applies to construction areas with slopes of 30% or more for distances of 100 feet or more. Construction plans for these long, steep-slope areas will be developed later based on a very generalized menu of technical options to manage pipeline construction at extreme locations.

The first problem with this approach is that no one, not the DPMC, not the public, not the Water Control Board, and not even the DEQ, will get a timely opportunity to see and critique the details. Development and

submission of site-specific "Best in Class" plans will be delayed until after project review and approval.

The second problem with this deferred approach to environmental review is that it applies to a major part of the pipeline route. At least one-third of both the pipeline corridor and pipeline access roads in Virginia's mountain counties meet the "Best in Class" criteria. Site-specific details for mitigation plans have not been provided for about 39 miles of pipeline corridor and about 26 miles of access roads in Highland, Bath, Augusta, and Nelson Counties.

The very-limited site-specific "Best in Class" details we do have was obtained not by the DEQ, but by the Forest Service. Although the Forest Service sought to obtain the construction details for multiple high-hazard locations, the details have been provided for only one location in Virginia, a 0.4-mile section of steep narrow ridgeline drained by native brook trout streams in Highland County.

Although we obtained and submitted the "Best in Class" plans for this one location to the DEQ, we have seen no evidence that the DEQ considered this information in developing its recommendations to the Water Control Board.

Dominion's plans for this one-and-only-example location reveal how it proposes to handle stabilization of one steep slope and construction through one small stream. We don't have even this very limited information for other steep slopes and stream crossings, and it should be noted that we have not been able to access any site-specific plans for the extreme excavation (cut and fill) that will be required to create a 150-foot-wide flat construction corridor on the miles of narrow rocky ridges in the pipeline path.

Consider the very-limited "Best-in-Class" example that we do have:

Dominion proposes to hold the steep foot slope above Lick Draft in place by installing heavy-gauge steel wire mesh fastened to the mountainside with 8 to 15-foot steel nails installed with epoxy in 6-inch diameter holes drilled into bedrock. (See endnote on Dominion pipeline slope failures.)

Some questions need to be asked:

- In what sense can this be considered

restoration to natural conditions?

- Will the steel mesh be corrosion proof? How long will it last?
- Will this approach to slope stabilization maintain preexisting runoff characteristics as required by stormwater regulations?
- How will this installation, immediately adjacent to a stream and a narrow riparian corridor, affect wildlife?
- How many of the many similar steep-slope locations in the pipeline path will be subject to this extreme measure?
- What will be the cumulative effect of multiple such installations in single watersheds?

These are questions that the DEQ has not asked.

Dominion also proposes to use concrete to backfill where the pipeline is buried in a trench across Lick Draft. This too, raises questions:

- How can this be considered restoration to natural conditions?
- Who is responsible for restricting construction during high-flow conditions when concrete pollution, which is toxic to aquatic life, will be impossible to avoid?
- What affect will a permanent concrete barrier across a stream bed have on the morphology and ecological functioning of the stream?
- Who will review the inevitable requests for waivers of time-of-year restrictions for construction activity in native brook trout streams?
- How many of the many mountain streams in the pipeline path will be subject to this extreme measure?
- What will be the cumulative effect of multiple such stream crossings in single watersheds?

These too, are questions that the DEQ has not asked.

The critical issue is this: For at least a third of both the pipeline route and access road length, for the most problematic and extreme sections of the project, we don't know exactly what the pipeline developer will do to avoid water resource harm. The

(More on the next page)

Problems with Virginia's Review of the Atlantic Coast Pipeline (Continued from the previous page)

public doesn't know, the DEQ doesn't know, and surely, the Water Control Board doesn't know.

The public has a right to know, and it is the Water Control Board's responsibility to know. It's the Water Control Board's responsibility to know before it can make an objective determination that the proposed project will not, with reasonable assurance, harm the water resources of Virginia.

The Board has not been provided the information needed to make such a determination.

Endnote: Dominion's history of pipeline slope-failures.

A Consent Order was issued in 2014 by the West Virginia Department of Environmental Protection following a series of slope failures and other water resource problems at Dominion's (DTI's) G-150 pipeline project and other locations in western West Virginia.

Information related to this Consent Order was included in this presentation at the Virginia Water Control Board meeting on December 11th in response to multiple assertions by pipeline proponents concerning the Dominion's environmental stewardship ethic.

As described in the Consent Order, from June 12, 2013 to Jan. 6, 2014, Dominion failed to respond to repeated requests by DEP personnel to provide information about the location of earthen slips associated with pipeline construction and any efforts being made to remediate them.

Dominion's experience with the G-150 pipeline also serves to explain why Dominion would plan to go such extremes as covering steep mountainsides with steel wire mesh.

(Note though that these plans have not been presented to the public or the Virginia Water Control Board.)

It should be noted that the slope failures on the G-150 pipeline, which involved movement of earth and sediment into

streams, occurred on much-smaller mountains and shorter slopes than will be encountered by the proposed Atlantic Coast Pipeline.

The G-150 slope failures were described in a DPMC website posting in March of 2105. As stated in the posting, this was "not simply an instance where performance did not meet company expectations. It was instead a problem involving continuing violations at multiple locations, persistent noncooperation with regulatory authority, and evasion of responsibility."

In the end, Dominion paid its \$55,470 fine, provided technical reports on the problem (attached, see below), but did not repair the problems because it sold the pipeline.

In the technical submission to DEP, a Dominion Vice President described the problem as not a human error, but rather a problem with difficult landscape. This is an important point, given that the landscape problems are far greater for the ACP.

Editor's note: These are the comments of Rick Webb on the question of whether Virginia should certify (under section 401 of the federal Clean Water Act) that the Atlantic Coast Pipeline will not cause a violation of Virginia's water quality standards. They are helpful in understanding what Rick, the Dominion Pipeline Monitoring Coalition, and its members (including the West Virginia Highlands Conservancy) think is wrong with Dominion and Virginia's approach: the pipeline, as proposed, would have to cross some rough terrain. Dominion has never said how it intends to solve these difficult problems. Instead, it wants to have the project approved and then later submit plans on how it proposes to solve the problems.



Recently, the WV DEP conducted a stormwater permit hearing in regard to the Mountaineer XPress Pipeline. Long-time WVHC member Marion Harless spoke in opposition to the pipeline. Of the commenters at the meeting, slightly more than half opposed the issuance of the permit for the line. On Friday, December 29, at 4:20 pm, Federal Energy Regulatory Commission granted the certificate approving construction of the line, but with quite a few conditional requirements. Along the length of the MXP, opponents are poised to take photos and document its stages of completion.

More Aluminum for Shavers Fork?

By John McFerrin

The J. F. Allen Company has asked for a Major Modification of its NPDES permit for its Pond Lick Quarry outside Elkins. The quarry drains treated waste water into Shavers Fork, a trout water.

The federal and state Clean Water Acts prohibit any discharge of any pollutant into the waters of the United States. States may issue a National Pollutant Discharge Elimination System (NPDES) permit which allows limited amounts of listed pollutants to be discharged into streams. The limits are supposed to be as low as the technology available to control the pollutants makes possible and low enough that the discharged pollution will not violate water quality standards in the stream the discharge goes into.

For about fifteen years the J.F. Allen Company has had a NPDES permit to discharge into a “tributary” of Shavers Fork, itself a tributary of the Cheat River. That permit authorizes it to discharge limited amounts of aluminum into Shavers Fork. Now it wants to modify its permit to eliminate the aluminum limit from its permit. The result of this would be that it would no longer have to monitor the discharge for aluminum. The practical result of this would be that it could discharge an unlimited amount of aluminum with little possibility that it would be detected.

The West Virginia Department of Environmental Protection asked for comments on this proposed change. As it might have expected, the West Virginia Highlands Conservancy, and its organizational member the Shavers Fork Coalition—had plenty to say, as did several other people and organizations.

The comments point out that the request is based upon testing that should not be relied upon. The company had submitted test results of water coming from the quarry which showed that aluminum was not present in objectionable concentrations. The testing was done from January through September, 2017. During that time, the quarry did not operate. The comments contend that the tests only show that, if the quarry never operates, it will not add aluminum to the stream. This is no basis for modifying a permit which will control discharges when the quarry is operating.

The comments also suggest that, when there is testing during a period when the quarry is operating, the Department of Environmental Protection perform the testing. There may be some doubt about the reliability of testing performed by the J.F. Allen Company.

There was also a question about calling the potential discharge a discharge into a “tributary” of Shavers Fork. The pollution control system used by J. F. Allen Company involves a treatment pond which collects water from the site, allows sediment to settle to the bottom, and discharges the water. The pond spans the entire valley drained by the “tributary” into which it discharges. The pond is not discharging into a tributary; the discharge is the tributary. It would be more accurate to say that the operation is discharging into Shavers Fork.

Regardless of how one characterizes the discharge (into a tributary or not), there is still doubt about the capacity of the treatment facilities. At the time the quarry got its initial permits there was some doubt about whether or not they were adequate. There have been several instances since the permits were first issued when the facilities proved inadequate. There have been several instances when the discharges were over the

limits for iron, aluminum, and sediment even though there was only site preparation, but no production, going on at the time. Actual production would only make it worse. There is also a question of the characterization of Shavers Fork. The company assumes that it is not currently impaired by aluminum pollution. This is not true. The Department of Environmental Protection currently has data which shows that Shavers Fork is impaired. The Department should use this data in determining whether or not to grant the company’s request to remove the limits on aluminum from the permit, a move which would make possible the addition of more aluminum.

The commenters also pointed out the interplay of between the acidity of Shavers Fork and the discharge from the quarry. Shavers Fork routinely has instances of low pH; these usually coincide with times of high flow. Typically, times of high flow in Shavers Fork would also be times of high flow from the quarry. This means that large discharges from the quarry would often come when Shavers Fork had its lowest pH. The pH of the stream can have a dramatic impact upon whether aluminum remains dissolved in water, how it affects aquatic life, etc. The comments contend that the Department should consider this.

In its comments, the West Virginia Highlands Conservancy asked (as did other commenters) that the permit modifications be denied until a decision could be based upon data collected when the quarry is actually operating. The Conservancy further asked that the Department consider that Shavers Fork is the actual receiving stream and that it is already impaired by aluminum. It also asked that aluminum limits set by the permit consider that Shavers Fork is a trout stream.

Finally, the Conservancy asked that J. F. Allen Company be required to certify that its treatment facilities are adequate to meet permit limits when the quarry comes into full production.

The commenters also asked that the Department of Environmental Protection conduct a public hearing on the request.



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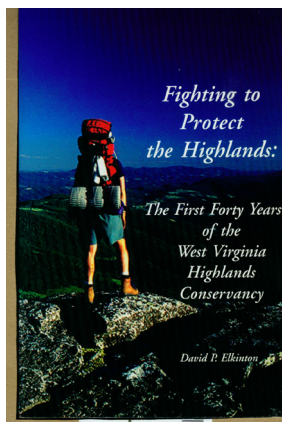
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You may also join on-line at www.wvhighlands.org

GET A GREAT HISTORY BOOK

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.



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

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

To order your copy for \$15.95, plus \$3.00 shipping, visit the Conservancy's website, wvhighlands.org, where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

Tell a Friend!

If you have a friend you would like to invite to join the West Virginia Highlands Conservancy just fill out this form and send it to West Virginia Highlands Conservancy, Box 306, Charleston, WV 25321.

Person you wish to refer: _____

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Filling out the form, etc. is, of course, the old school way of doing things. If you prefer, just email the information to Beth Little at blittle@citynet.net.

The way it works: Anyone you refer gets *The Highlands Voice* for six months. At the end of the six months, they get a letter asking if they want to join. If they join, we're happy. If not, then maybe next time.

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 \$15.95 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.

Stronger monitoring requirements agreed to.

Antero Clearwater Settlement

By Cindy Rank

The Antero Clearwater permit appeal reported in the December 2017 *Highlands Voice* led to a settlement agreement requiring stronger monitoring requirements for the landfill accepting frack waste byproducts.

On December 11, 2017 the West Virginia Highlands Conservancy and the West Virginia Rivers Coalition entered into an agreement with Antero Treatment, LLC, to settle the permit appeal involving Antero Clearwater's landfill that accepts salt by-products from their adjacent fracking wastewater recycling facility.

The new facility and landfill spans a 447-acre site across Ritchie and Doddridge Counties along Route 50 near West Union WV midway between Clarksburg and Parkersburg. The permit allows the discharge of stormwater runoff and associated pollutants from 13 outfalls into tributaries of the Hughes River, within five miles upstream of the City of Harrisville's public water system intake.

As reported in the December 2017 *WV Highlands Voice* the permit appeal was based on lack of evaluation and monitoring for the potential for radioactivity and other harmful pollutants from waste disposed at this site. The agreement modifies the landfill permit to include new enforceable monitoring requirements for at least the next twelve months:

- Monthly laboratory analysis for radioactivity of material entering the landfill;
- Monthly groundwater sampling for radioactivity;
- Regular monitoring for bromide, known to cause problems for drinking water treatment, in surface water discharges; and,
- Regular monitoring for Total Dissolved Solids in surface water discharges.

Underground injection of massive amounts of wastewater from horizontal drilling and hydrofracking appears to have created unstable geological conditions in Texas, Oklahoma and elsewhere. So, it's no wonder industry and the state are looking for better ways to deal with the ever-increasing amounts of wastewater and contaminants released during the fracking process. However, an urgent need to find safe, reliable treatment options is no excuse to permit untested methods without including essential monitoring requirements.

It's good that the settlement will result in knowing more about what is going on at this site. As Angie Rosser of the Rivers Coalition indicated, the state is tasked with evaluating new sources of pollution brought about by the fracking boom and it is incumbent upon us to find out sooner rather than later if we're seeing harmful things, like radioactivity, affecting our water supplies.

[Appellants were represented by Mike Becher of Appalachian Mountain Advocates.]

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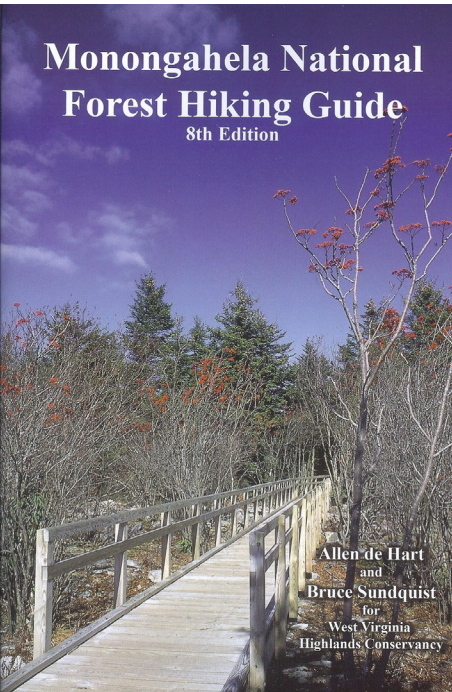
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The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

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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.

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.



Opportunity Knocks

The pages of *The Highlands Voice* are open to everyone, and **most especially to members**. Although the *Voice* does publish works by non-members, one of the privileges of membership is having your say in its pages.

The only limit is that submissions must be on topics of general interest to our members. It is not necessary that the point of view of the article agree with official positions the Conservancy has taken. Although we share the same general goals, there are routinely differences of opinion on how we achieve the goals or exactly what they mean. The *Voice* welcomes all points of view.

So, if you have an idea about an issue the Conservancy is interested in, an issue the Conservancy ought to be interested in, or anything else, grab a pencil, a keyboard, a mouse, a burnt stick, whatever and have at it. Stories are not limited to issues or controversies. If you want to write about a hike you have been on, a bird you saw, or anything else of interest, those are welcome as well.

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.

Well-Known Agricultural Historian Proposes a Federal “Community Commons Act” for Appalachia

From Paul Salstrom

Steven Stoll’s book *Ramp Hollow: The Ordeal of Appalachia* just appeared from a major New York publisher, and as reviews accumulate in the media, they often mention Stoll’s proposal of a “Commons Communities Act” for Appalachia – a federal act to reestablish “common lands” under the care of specifically-designated rural Appalachian communities. So now this proposed Act of Congress is out there. In the book itself, Stoll introduces his proposed Act by a page of discussion, and tailgates it with four more pages of discussion.

The author, Steven Stoll, has given his blessing to printing his proposal in *Highlands Voice* and he welcomes feedback. Any resemblance to the proposed “Birthplace of Rivers National Monument” is coincidental, since Stoll only learned of that after his book appeared. (Incidentally, another highlight of Stoll’s book is his reproduction of Julian Martin’s inspired public testimony in 1988 against the infamous Black Gold mountaintop removal mine that threatened Lincoln County back then.)

Here in full is Steven Stoll’s proposed “Commons Communities Act.” Kindly address your feedback to the editor of *Highlands Voice* and it will be passed on to Stoll, and perhaps be printed in these pages.

THE COMMONS COMMUNITIES ACT

Whereas coal mining is diminishing in the southern mountains, leaving thousands unemployed, and *whereas* coal contributes to climate change and the disruption of human societies all over the world; *whereas* a rural policy should incorporate ecological principles with food production on a small scale, and *whereas* the United States once included millions of households engaged in production for subsistence and exchange; *whereas* when people take care of landscapes, landscapes take care of them,

SECTION 1. The United States shall create a series of commons communities, each designed to include a specified number of households within a larger landscape that will be managed by them, the residents. This landscape will provide the ecological base for hunting and gathering, cattle grazing, timber harvesting, vegetable gardening, and farming. The ecological base will be owned as a conservation easement or land trust under the authority of the states and/or counties where each community resides.

SECTION 2. Commons communities would be organized according to the design principles developed by the economist Elinor Ostrom, who was awarded the Nobel Prize in Economic Sciences in 2009 for her work on the economic governance of common resources. Each community shall include well-defined boundaries and members. Each will devise rules for appropriation suitable to the environment, along with sanctions and penalties for those who violate the rules and take too much or otherwise abuse the resource. Each must establish a means of conflict resolution and governance. In the event that residents need to sue the community or other residents, they would use the county, state, or federal courts.

SECTION 4. Social services and education will be

paid for by an income tax on the top 1 percent of household incomes in the United States and an Industrial Abandonment Tax, attached to any corporation that closed its operations in any city or region of the United States within the last twenty years of the date of this Act and moved elsewhere, leaving behind toxic waste and poverty.

SECTION 5. Resident households with incomes under \$50,000 a year will pay no federal income tax. Residents will own their own homes, paying for them with low-interest mortgages and a \$1.00 down payment.

SECTION 6. No nonresident, trust, or corporation is permitted to purchase property in a commons community.

SECTION 7. The organization of commons communities will proceed through the Department of Agriculture. The Department will initiate the identification of suitable lands for condemnation by eminent domain or land already owned by counties, states, or the United States. The Department will determine how much land is needed to sustain a given number of residents.

SECTION 8. Allied Programs.

SUB-SECTION A. Income tax incentives will encourage teachers and medical doctors to live in commons communities and work in the schools and nearby hospitals.

SUB-SECTION B. College-age members of any commons household may apply for free tuition at their state university. Tuition shall be paid for by the Industrial Abandonment Tax.

SUB-SECTION C. Commons communities will receive special programs intended to link them to the Internet. Cooperation between communities will incorporate schools, artists and writers in residence, and scientists engaged in the study of the environment. This Act provides funds for the publication of a journal or magazine of commons life to be written and published by the residents of the various communities.

SUB-SECTION D. Another program will link gardeners with markets for their produce, including grocery stores and restaurants. Proceeds from this Market Garden Initiative will not be subject to state or federal income tax.

SUB-SECTION E. University experiment stations in every state where commons communities exist will send representatives to teach the latest methods of garden production, with the approval and consent of residents.

SECTION 9. If the members of a commons community no longer wish to be associated with the federal government, they may become independent at any time with a majority vote consisting of two-thirds of adult residents, at which time all federal programs associated with this Act will cease. Ownership of the commons would not change and residents would keep their homes.

Modern Life: A Cautionary Tale

By Dave Cooper

I have noticed that backyard fire pits have become a trendy item in the cities. It seems that Americans have finally discovered what the Scouts and WVHC members have known for a long time: There is nothing like the cozy warmth of a campfire on a cool night to stimulate some good conversation. I love to just sit back and watch the flames: it's hypnotizing, and the jokes and stories start to flow so easily. I think fire naturally stirs our primal and ancient memories. Add a guitar and banjo, wienies on a stick, and some good beverages and you have the perfect setting for a get-together with friends, even smack in the middle of suburbia.

A lot of people are fairly new to making fire, and they don't know the rules that are taught in Scouting. Since good firewood can be hard to come by in many suburbs, some people will burn whatever is handy: cardboard or scrap wood, plywood, painted wood and even chemically-treated wood from their old decks. They probably have no idea how dangerous this practice is.

I found the following interesting [post](#) on Arboristsite.com by Ray Benson of Indiana about burning old deck wood which has been treated with Chromated Copper Arsenate, or CCA:

Incineration of CCA wood does not destroy arsenic. It is incredible, but a single 12 foot 2 x 6 contains about 27 grams of arsenic - enough arsenic to kill 250 adults. Burning CCA wood releases the chemical bond holding arsenic in the wood, and just one tablespoon of ash from a CCA wood fire contains a lethal dose of arsenic. Worse yet, arsenic gives no warning: it does not have a specific taste or odor to warn you of its presence. No one disputes that the ash from burning CCA wood is highly toxic: It is illegal to burn CCA wood in all 50 states. This has serious implications for firefighters, cleanup and landfill operations.

Even more astonishing, minute amounts of 'fly ash' from burning CCA pressure treated wood, can have serious health consequences. The Journal of the American Medical Association reported on a family that burned CCA in a wood stove for winter heating. Their hair fell out, all family members suffered severe, recurring nosebleeds, extreme fatigue and debilitating headaches. The parents complained about 'blacking out' for periods of several hours, followed by long periods of extreme disorientation. Both children suffered frequent seizures described as 'grand mal'. The symptoms were finally traced to breathing minute amounts of arsenic-laden dust leaking from the furnace as fly ash. The family's houseplants and fish died, too, victims of copper poisoning from the same dust. Source: Peters HA, et al JAMA 251:18, 2393-96, 1984.

So if you have ever wondered whether it is safe to roast marshmallows over a fire containing treated lumber, here is your answer. Learning about this issue makes me wonder about some other ways that we might be unknowingly exposed to poisons in our daily routines.

For example, I once owned a 1986 VW Jetta that had a small antifreeze leak in the heater box inside the passenger compartment. There was a very slight, mild smell of antifreeze inside the car. Antifreeze (ethylene glycol) has a sweet smell, and I stopped noticing it after a while.

My mechanic urged me to get the leak fixed, but replacing the heater core is a \$500 repair that involves removing the entire dash, so I put it off for years. Finally VW issued a recall for this problem and I got it fixed, but only after years of breathing the fumes. I have since learned just how deadly ethylene glycol is: one third of a cup is a lethal dose for humans. It has also killed many dogs and cats, who are attracted to its sweet smell. And every day, backyard mechanics pour used antifreeze down the drain or into the storm sewers, where it goes (eventually) into someone else's drinking water.

I think that something so deadly should never be sold to the public, or at least it should have a giant skull and crossbones on the front label. There are less-toxic antifreeze products sold at auto parts stores, such as Sierra antifreeze and Prestone's LowTox.

Another thing: I often see people microwaving food in random plastic containers who have no idea whether their containers are "microwave safe." In small town diners I have been served reheated microwaved food where the Styrofoam plate was melting from the heat of the microwave. I even saw someone re-heating their coffee in a plastic go-cup. People are just nuts.

With toxic products so omnipresent in our lives, and with people who vote for representatives and senators who promise "less government regulation," it's a real wonder that cancer isn't even more common than it is!

What's Dave Cooper Up to Now?

Many will remember Dave Cooper from his days as the force behind the Mountaintop Removal Road Show. From 2003-2011, he was on a national speaking tour to educate communities across America about mountaintop removal coal mining, speaking over 100 times per year at colleges and universities including Yale, Vanderbilt, and Duke Universities. With a frugal budget (including some modest and irregular support from the West Virginia Highlands Conservancy) he educated thousands of people about mountaintop removal. www.mountainroadshow.com

He is the founder of the Whippoorwill Festival in Berea, KY, which offers over 60 earth-friendly and Appalachian skills workshops every summer. It was featured in the Voice in the July-August, 2012, issue and again in the July, 2015, issue of the Voice. www.whippoorwillfest.com

His most recent venture is Alternative Spring Break. It hosts groups, mostly from colleges, who want to see Service Learning and More in Harlan, Kentucky. Instead of conventional break activities, groups can visit Harlan County, learn about the history of mining, and do service projects. <https://sites.google.com/site/visitappalachia/home>

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The same items are also available at our on-line store: www.wvhighlands.org

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 \$18 by mail; **long sleeve** is \$22. 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 \$20 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