



The Highlands Voice

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

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Which Side Are You On? A Christmas Story

By Cindy Ellis

In the late 1800s and early 1900s a singular holiday tradition had emerged wherever hunters had access to woods, fields and waterways. “Side hunts” were held on Christmas Day. Teams were chosen and each side strove to shoot the most critters—game birds were a favorite target. Although wild birds and animals made up some part of the everyday diets of many folks in those times, and refrigeration was only newly introduced, the toll on the bird and animal populations was not easily dismissed by everyone. One who took action was Frank Chapman, an ornithologist.



(Kathy Litzinger/Great Backyard Bird Count)

Chapman promoted the first Christmas Bird Count in 1900, with the goal of counting birds rather than dispatching them. Volunteers could submit their data to Bird-Lore magazine, which later became Audubon magazine. And the new notion quickly grew in popularity. In West Virginia, the first count at Charleston was held by sisters Louisa and Faith Keeley at their farm on Loudon Heights in 1912. They observed 13 species. It should be pointed out that binoculars were not commonly available then.

But they are now. And lots of people, in the

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Thoughts from our President

By Larry Thomas

November was another busy month at the Conservancy and we are very proud of our efforts and accomplishments. During another extremely unusual year, the Board and committees have continued the hard work of “Fighting to Protect the Highlands.”

The Conservancy’s accomplishments during the significantly important campaigns to preserve the highlands during our 55 plus years of existence have served the highlands well, but so much more remains to be accomplished as we move into the future. We are proud of our continued efforts and achievements during 2022, as witnessed through the great articles and stories that are published each month in the Highlands Voice. Committees are working hard on continuing issues, some that we have been working on for years, as well as identifying new issues that are constantly evolving and are threats to the future of the highlands.

Again, this year, thousands of visitors flocked to the highlands to enjoy all that they offer for recreation and enjoyment. The continued increased use of our public lands is further proof of how essential it is to increase our efforts in the struggle to win the war against those who work behind the scenes to destroy the environment and the natural, scenic, and historic areas within the West Virginia highlands.

Protecting clean air, clean water, forests, streams, mountains, and the health and welfare of the people that live here and those who visit is what the Conservancy is all about.

A few key updates:

The West Virginia Highlands Conservancy provided scoping comments on the proposed Deer Creek Integrated Resource Project on Nov. 28, 2022.

The 89,050-acre project area is centered on the town of Green Bank and contains Deer Creek, the Greenbrier River and a portion of the Sitlington Creek headwaters. Approximately 39% is National Forest System land. Find project details at [usda.gov](https://www.usda.gov)

1. Need for a Baseline Description and Evaluation of the Degraded Aquatic Environment.

2. Need for an Assessment of the Cumulative Impact of Forest Service Land Management Projects in Watersheds that Support Critical Habitat of the Endangered Candy Darter

3. Need for an Evaluation of Project Effects on Watershed and Ecological Resilience to Changing Climate Conditions.

FOIA Request Regarding Monongahela National Forest Road 249

On May 9, 2022, the Conservancy, under the federal Freedom of Information Act (FOIA), requested the information listed below pertaining to commercial use of Forest Road 249 in the Gauley Ranger District of the Monongahela National Forest.

The Service provided an initial response to that request on July

25, 2022, advising the Conservancy that it had completed its search and would release in full 223 pages of responsive records. In addition to those records, however, the Service acknowledged that “additional records were located and were forwarded to the Regional Office for review and final release determination.”

The Conservancy has yet to receive any determination regarding those records and has sent a letter to the Regional FOIA Coordinator requesting an update on the status of the Regional Office’s review.

A few issues reported in the Charleston Gazette-Mail:

Forest Service Projects Summer 2023 Completion of the New Environmental Impact Statement for the Mountain Valley Pipeline.

The Forest Service announced that it expects to complete the final supplemental environmental impact statement by summer 2023 for the project developer’s plan to build the pipeline across the Jefferson National Forest, creating another regulatory roadblock for the Mountain Valley Pipeline.

West Virginia Faces Toxic Aftermath of Industrial Water Pollution as Clean Water Act Turns 50.

Industrial facilities released more than 193 million pounds of toxic substances into U.S. waterways in 2020, according to a recent study by the Environment America Research & Policy Center and U.S. Public Interest Research Group Education Fund.

The report calls for the nation to systematically reduce toxic chemical use and urges the federal Environmental Protection Agency to update pollution control standards to eliminate the direct release of toxic chemicals into waterways wherever possible.

The toxic threat to waterways is particularly pervasive in West Virginia. The state ranked sixth nationwide in the amount of toxicity-weighted chemicals released and ninth in weight of releases of chemicals that may interfere with people’s ability to have children, according to EPA data for 2020.

The Ohio River basin, a drinking water source for more than five million people, received the largest volume of toxic discharges by weight among all major watershed regions at slightly less than 41 million pounds.

The West Virginia Highlands Conservancy works with partners and supporters to protect the incredibly important highlands of West Virginia. It is increasingly difficult to keep up, as lots of good as well as potentially concerning information surfaces every day.

Thanks again to the Conservancy’s board of directors and committees and a special thank you to our members and supporters for your continued support. We wish everyone a wonderful and safe holiday season.

A Christmas Story

(Continued from p. 1)

Mountain State, and all over, participate in Christmas Bird Counts. Each year, from Dec. 14 through Jan. 5, tens of thousands of volunteers complete surveys across the Americas. The National Audubon Society says, “The data collected by observers over the past century allow Audubon researchers, conservation biologists, wildlife agencies and other interested individuals to study the long-term health and status of bird populations across North America. When combined with other surveys such as the Breeding Bird Survey, it provides a picture of how the continent’s bird populations have changed in time and space over the past hundred years.”

And despite lingering effects of COVID, those counts continued in 2021 in many locations, including West Virginia. Compilers in 21 places here canvassed predetermined circles of focus, and tallied a combined total of 222 species.

Here are some interesting bits from the summary of the 2021 West Virginia count, compiled by Larry Helgerman of the Brooks Bird Club:

- Searchers covered over 400 miles on foot and over 5,500 miles by car
- The five species tallied most often were American Crow, European Starling, Dark-eyed Junco, Canada Goose and Rock Pigeon
- Single birds found included Ross’s Goose, Mute Swan, Horned Grebe, Osprey and Northern Goshawk
- The Morgantown count noted 42 Tundra Swans
- Morgantown also reported 11.5 hours of nocturnal searching (owling), followed by high numbers from Inwood and Parkersburg
- Only four Ruffed Grouse were noted, as their decline continues
- Black Vultures are now seen throughout the state and were tallied on 70% of the counts

- 167 Bald Eagles and five Golden Eagles were counted
- Sandhill Cranes were found; 23 in the Ona [Cabell County] count area and one in Parkersburg

It is easy to reflect back and imagine that those shooters who participated in a side hunt repaired to a feast afterward. The same is true for stalwart seekers in modern Christmas Bird Counts. Most groups meet at the home of a generous host or at a tolerant restaurant. Cold and weary birders straggle in, eager to share the findings of the day. Some groups have a ritual recitation of numbers, speaking the name of each potential species so that someone from each sub-group may chime in with a tally to add to the totals. From the Bluestone River and the Ohio River, through the lowlands, foothills, and mountains, to the panhandles, happy bird searchers will be warming up and swapping stories of the ones that didn’t get away.

The Brooks Bird Club website points out the fun of these events and that you need not be a seasoned birder to join in. Best wishes go out to all those working on a Christmas Bird Count in 2022-2023; maybe some of our own members will find themselves among those looking up!

For more about how to find a count near you or to view the complete report, check out this link from the Brooks website under the topic “Conservation” brooksbirdclub.org/wv-christmas-bird-counts.html

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.

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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.

PFAS and Safe Drinking Water at the 2023 Legislative Session

By Luanne McGovern

One of the Conservancy's priorities for the 2023 legislative session is the passage of the Clean Drinking Water Act of 2023, modeled after HB4055 from the 2022 session [HB 4055 - 2022]. This act would take the first steps in West Virginia to regulate and treat Per- and Poly-fluoroalkyl substances (collectively referred to as PFAS) in public drinking water systems.

It seems that one can barely pick up a newspaper or watch a news report without hearing about PFAS and the potential for adverse health effects from their presence. It can be overwhelming, and the sheer volume of potential environmental contamination is quite staggering. What can be done?

What are PFAS Chemicals?

The PFAS chemical family consists of thousands of chemicals all characterized by long chains of carbon and fluorine molecules, abbreviated as C_nF_{2n+1} in chemical nomenclature. These chemicals are exceedingly stable and are found in thousands of common applications, primarily for their non-stick and water-resistant properties.

Cookware like Teflon, water resistant clothing like Gore-Tex, parchment paper used for baking, grease proof food packaging like disposable plates, pizza boxes and microwave popcorn bags, some shampoos and sunscreens, stain resistant coatings on carpets and upholstery—all these contain various PFAS chemicals. Since these substances are so ubiquitous in our everyday lives, it is estimated that each of us have PFAS in our bodies.

Why are we concerned about PFAS?

More and more studies are exposing the links between PFAS exposure and a variety of health issues, including kidney and testicular cancer, autoimmunity, immune suppression, neurodevelopmental disorders, thyroid disease, preeclampsia, and decreased fertility, among others. Consumption of contaminated drinking water and food, inhalation of indoor air and dust, and use of consumer products represent the primary PFAS exposure pathways for the general population. Most West Virginians are familiar with the contamination and subsequent health issues in the Parkersburg area, as the result of long-term industrial pollution from the DuPont Teflon manufacturing plant in Washington, West Virginia.

What is being done in West Virginia?

In February 2020, Senate Concurrent Resolution 46 initiated a "public source-water supply study plan to sample perfluoroalkyl and polyfluoroalkyl substances for all community water systems in West Virginia." [SCR 46 Text] The study, just released in July 2022, tested pre-treatment water at 279 public water systems across the

state, and at least one PFAS was detected at 67 water systems. [WV PFAS Study] At the time of the study, the 2016 United States Environmental Protection Agency (EPA) health advisory for PFOA and PFOS in drinking water was 70 ng/L. In June 2022 the EPA updated their advisory to 0.004 ng/L for PFOA and 0.02 ng/L for PFOS.

The highest levels of contamination were detected in the Parkersburg area, as expected, and in the Eastern panhandle. The highest level detected, 1540 ng/L of PFOA, was at Lubeck Public Services District near Parkersburg, 22 times the 2016 EPA guideline, or 385,000 times the current guideline! At least 36 additional sites greatly exceeded the updated EPA guidelines.

This statewide study is an excellent first step to understand the potential issues with PFAS in West Virginia drinking water and provide prioritization for remediation. It also provides West Virginia citizens with concrete data with which to approach their local and state representatives for further action. It is important to realize that PFAS contamination is not limited to industrial areas or large cities. Detectable levels of PFAS chemicals over the current EPA guidelines have been found in the drinking water systems of Davis, Sistersville, Belington, Hurricane and Moorefield, to name a few.

The West Virginia Clean Water Drinking Act of 2023 seeks to create legislation to:

- Set state specific maximum contaminant levels for certain PFAS chemicals in drinking water.
- Establish the West Virginia PFAS Action Response Team (WV-PART). This team would research, identify and recommend PFAS response actions for contaminated sites.
- Require facilities using PFAS chemicals to report their use.

For more in-depth information on PFAS and to stay updated during the 2023 legislative session:

- wvrivers.org/pfas
- wvecouncil.org
- Virginia & West Virginia Water Science Center: usgs.gov

Getting Oil and Gas Wells Plugged

By John McFerrin

The problem

Orphaned gas wells are everywhere. There are about 6,500 gas wells in West Virginia that are no longer producing and need to be plugged. West Virginia currently has a program to plug these wells and a stream (or a trickle) of money to pay for it. The difficulty is that West Virginia's program is only big enough to plug a couple of handfuls of wells each year. At a rate of a couple of handfuls per year, it will take a long time to get to 6,500.

The Bipartisan Infrastructure Investments and Jobs Act, passed by Congress in late 2021, gives West Virginia a boost toward solving this problem. It provides money to plug these old wells.

None of the state efforts, even with the support of federal grants, would be enough to solve the problem of old wells. This is particularly true if we continue to allow wells to be drilled for which no one is able or willing to be responsible. To get out of the hole we are in, we must first stop digging.

A part of the solution

In 2021 the legislature considered the Orphan Oil and Gas Well Prevention Act of 2022; it will almost certainly consider similar legislation this year.

West Virginia already has thousands of oil and gas wells that are no longer producing and need to be plugged. Many of the abandoned wells are leaking methane, a greenhouse gas, as well as other toxic materials. There are additional dangers when the abandoned wells are close to a well where hydraulic fracturing [fracking] is going on. The fracking can push oil or salty water up unplugged wells.

While the Orphan Oil and Gas Well Prevention Act would not plug those wells that are already abandoned, it would prevent any more wells from being abandoned. If these thousands of orphan wells are a hole what West Virginia finds itself in, the Orphan Oil and Gas Well Prevention Act is an attempt to stop digging.

The Act approaches the problem through requiring that operators set aside the money to plug the well as the well is being drilled. As part of the application for a permit to drill a new well, the operator must establish an escrow account with the West Virginia Treasurer. As the drilling continues, the operator is required to pay into the account in an amount determined by the West Virginia Department of Oil and Gas. The Department of Oil and Gas sets the rate at which operators must pay into the account, considering such things as the cost of plugging the well, estimates of inflation in plugging costs, and production of the well. When the Department of Oil and Gas determines that the well has been plugged, it can return the money in the escrow account to the operator.

The process is straightforward for new wells. The Act also accounts for other phases in the life of an oil or gas well.

While the gushers we see in movies occur only at oil wells and in the movies, it is true that production is usually strongest early in a well's life. It diminishes over time until it stops altogether or becomes so low that it is not profitable. The Act addresses wells at various stages of their lives.

As wells proceed through the stages, they are often transferred from one operator to another. The Act addresses this. It requires that the company which transferred the well keep the responsibility for plugging the well until the company which bought the well establishes an escrow account to pay for future plugging. The Act also address wells that are a problem at the time of transfer. If a well is causing air, surface, or water pollution the previous owner must plug it if the new owner does not.

Gas wells routinely reach a stage in which they no longer produce gas in what the Act calls paying quantities. Even without considering the cost of drilling the well, some wells produce so little gas that its value is less than the cost to produce it. The Act requires that any operator who has a well that produces gas in paying quantities pay into an escrow account to pay for its plugging.

The Act also addresses the question of what to do when a newer well drains gas from an area where there are already existing gas wells. This would typically occur when a hydraulic fracturing well is proposed to be drilled in an area where there are already conventional wells. In such a situation, the Act requires that the operator of the new well plug the existing wells.

Isn't this just another form of bonding?

Establishing an escrow account for future plugging with the West Virginia Treasurer sounds similar to requiring that the operator post a performance bond to assure plugging. This is the model the coal mining industry uses. While the mining industry bonds have their problems, that is one model.

The bonding model only works if there are insurance companies who are willing to insure the risk of a mine being unreclaimed. Typically, mining companies pay insurance companies to post the bond. If the mine is unreclaimed and the bond is forfeited, the insurance company pays.

In the oil and gas business, insurance companies are reluctant to post bonds. Because of this reluctance, bonds to assure plugging are not a good solution. Requiring an escrow account is an alternative.

A Tribute to Lenore McComas Coberly

By Cindy Rank

Thanksgiving is a time of giving thanks for many things, including special people who have touched our hearts before taking their leave of this world to walk “the Path of Souls,” the transition from death often referred to in William Kent Kreuger’s Cork O’Connor mystery series.

Lenore McComas Coberly was one of those people who graced my life and for whom I gave thanks this year.

Her experiences and travels were many and far ranging, her feelings from old roots born and nourished in the mountains of southern West Virginia.

Lincoln County native and longtime member of the West Virginia Highlands Conservancy, Lenore sent word through her publisher how distressed she was by an article I wrote for the December 2006 Voice.

That article described the huge mining operation slowly creeping from the Mud River watershed through the ridge into neighboring Big Ugly Creek—home to Lenore’s grandmother and beloved memories of years of summers spent “feeling the creek’s cool” and knowing “the narrow valley’s darkness.”

Growing up in the hills of southern West Virginia, Lenore led a full and expansive life beyond her early days in Lincoln County, but she never forgot home and was saddened to learn about the ravages of Mountaintop Removal mining in her beloved childhood home place.

Having traveled frequently to Big Ugly and neighboring Mud River to observe and document the ever-expanding destruction by mountaintop removal mining I too, in my own way, developed a special connection with the mountains and streams of the area and looked forward to knowing more about Lenore’s life and experiences.

I was first captivated by Lenore’s book *Sarah’s Girls: A Chronicle of Big Ugly Creek* and was privileged to visit with and hear her read at Taylor’s Bookstore in spring 2007. We corresponded occasionally and I wrote several articles about Lenore’s books for the Highlands Voice. (*A Big Ugly Book*, May 2007; *For I am Mountainborn*, December 2012; *From the West Virginia Hills*, March 2021.) Readers



of the Voice were also exposed to Lenore’s poetry often reprinted in the Voice by then editor, John McFerrin.

Lenore died in September of this year, but her spirit will live on in those of us who had the honor and joy of sharing time and conversation with her. Offered here is the official obituary that expands on other details of her multidimensional life.

Lenore (McComas) Coberly (Feb. 23, 1925 - Sept. 28, 2022)

Lenore (McComas) Coberly passed away at the age of 97 in Madison where she had lived since 1964. She was surrounded by all four of her children during the week preceding her death. Beloved wife and mother, poet, teacher, author, world traveler, welcoming hostess, Lenore’s life will be joyously remembered by her children and their families, her many friends and colleagues and by readers of her poems and stories.

Lenore’s long and happy marriage to Camden Arthur Coberly began in West Virginia in 1946, but soon brought her to the prairies of Wisconsin. With the GI Bill, Cam was accepted at the University of Wisconsin-Madison for his PhD in Chemical Engineering. Lenore told of how much they missed the West Virginia mountains and how happy they were to discover the Baraboo Hills.

She never forgot Hamlin, the small West Virginia town where she was born, or the cabin on Big Ugly Creek where she often spent summers. Her love and respect for her home state, for her many relatives and their way of life, shine throughout her stories and writings.

Lenore was an alumna of Hamlin High School, West Virginia University at Morgantown, and the University of Pittsburgh, where she earned a Master of Letters. She and Cam were members of the first University of Wisconsin delegation to China in 1979 and earlier spent time in Indonesia as teachers and advisers. Lenore was a longtime member of the Wisconsin Fellowship of Poets. She hosted collaborative writing groups in her home until the end of her life. She was an active member and supporter of First Baptist Church in Madison and many other organizations.

Lenore’s family carry on her many gifts including writing, teaching, and (perhaps most importantly) the baking of world-class pies. This is the last stanza of her poem *The Hills Remember* (From the *West Virginia Hills*, 2020):

***They loved children more than themselves,
They slept and woke to the
music of water over rocks
and welcomed early evening
in the shadow of hills,
then quietly prayed
their thanks to God.***

Issues with Corridor H in Wardensville

By Bonni McKeown, Stewards of the Potomac Highlands

People around Wardensville, a tiny, blossoming town in eastern Hardy County, are not certain about the West Virginia Department of Highway's plans to continue Corridor H, which now stops at the western edge of town. Like residents and tourists in Davis and Thomas in Tucker County, many fear that the new four-lane crashing through the mountains could dry up a thriving economy by carrying motorists around a bypass.

In its haste to build West Virginia's easternmost section of the 130-mile Appalachian Corridor, the Division of Highways is doing a re-evaluation of 20-year-old environmental studies, with apparently no revised Environmental Impact Statement. And there are serious issues, including long term damage to the wells and springs which supply Wardensville's water.

The West Virginia Department of Highway's maps show the four-lane going through the town's wellhead protection area. Environmental groups are raising concerns about the corridor crossing high-quality trout streams, Waites Run and Trout Run, which run through the George Washington National Forest.

Appearing before the state legislature's oversight committee on transportation accountability on Sept. 11, 2022, the West Virginia Department of Transportation Secretary James Wriston brushed aside complaints of Corridor H damage to environment, towns, and people's wells, repeating, "We're going to build this road. We're going to build this road."

However, Corridor H, which carries little traffic outside of the route's largest town, Elkins, may still be a Road to Nowhere. While it's slated to connect with I-66 in Virginia, that state's Commonwealth Transportation board has no plans to build it. On Oct. 11, 2022, the Board of Supervisors in Shenandoah County, the Virginia county most affected by the now 20-year-old plans for Corridor H, reaffirmed its opposition in a letter to the Federal Highway Administration.

Corridor H opponents in Wardensville, including the group Stewards of the Potomac Highlands and a Facebook group, No to Corridor H – Wardensville, plan a public meeting Sunday, Dec. 4 from 2 to 4 p.m. at the War Memorial Building, located at 190 Main Street in downtown Wardensville.

They are asking citizens to write to public officials and submit letters of comment to the highway department, due on Dec. 12.

View the West Virginia Department of Highway's Preliminary Alignment Map through Wardensville and the letter written to the Federal Highway Administration by Shenandoah County online at wvhighlands.org

Unregulated Coal Ash Dumping in Coal Mines

An Update from EarthJustice

November 28th, the Office of Surface Mining (OSM) received our Notice of Intent to Sue concerning their failure to respond to our 2015 petition to regulate dumping of coal ash in active and abandoned coal mines.

EPA's 2015 coal ash rule exempted coal ash dumped at minesites, and OSM has not closed this dangerous gap. In our 2015 petition, we asked OSM for safeguards to protect the health and environment of coalfield communities.

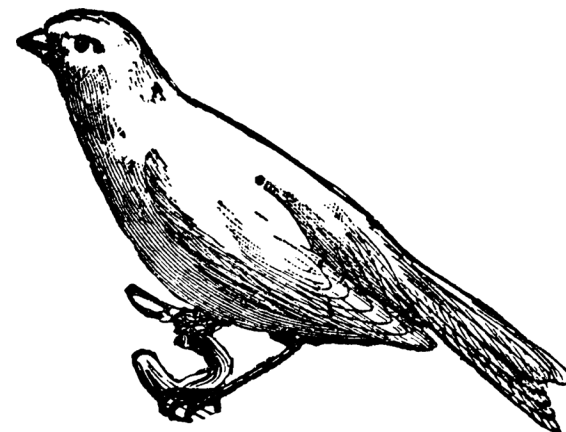
Our hope (and expectation!) is that the Biden Administration will establish stringent controls.

Appalachian Mountain Advocates and Earthjustice sent the NOI on behalf of nine organizations who signed the 2015 petition: Appalachian Voices, Citizens Coal Council, Hoosier Environmental Council, Kentucky Resources Council, Prairie Rivers Network, Sierra Club, SOCM, West Virginia Highlands Conservancy, and Western Organization of Resource Councils.

We will keep you apprised of developments and look forward to establishing safeguards to protect the air, water, health and economies of communities near U.S. coal mines.

Sincerely,
Lisa Evans
Earthjustice Senior Council

For more info about coal ash dumping in mines, read Earthjustice's short report, "Waste Deep: Filling Mines with Coal Ash is a Profit for Industry, but Poison for People" at earthjustice.org



The Failure of the West Virginia Public Service Commission to Serve the Public

By Professor James Van Nostrand, Charles M. Love, Jr. Endowed Professor, WVU College of Law

One of the most powerful and yet relatively unknown agencies in West Virginia is the Public Service Commission (PSC). The PSC is charged with regulating the rates and practices of all the investor-owned utilities in the state which, in addition to electricity and natural gas, include telecommunications, water and sewer. The PSC is composed of three commissioners, appointed by the Governor and subject to confirmation by the state senate. Commissioners serve six-year terms and, by statute, no more than two commissioners can be from the same political party.

The PSC is an independent agency, in that the commissioners have fixed terms, and can be removed before the end of their terms only for incompetency, neglect of duty, gross immorality or malfeasance. The six-year terms are “staggered,” such that every two years, one of the three commissioners’ terms will expire. Thus the ability of the Governor to implement sweeping changes at the agency is very limited; the Governor has the authority to appoint one of the three commissioners to serve as chairman, to serve at the Governor’s “will and pleasure,” but can appoint new commissioners to the agency only upon expiration of an existing commissioner’s term. The chairman serves as the chief administrative officer of the agency.

The current chairman of the PSC is Charlotte Lane, a longtime energy industry lawyer-lobbyist and former state legislator. Bill Raney, the former president of the West Virginia Coal Association, joined the PSC in August 2021. The third, and relatively silent commissioner is Renee Larrick, a former teacher and business manager for a law firm. All three of the commissioners were appointed by Governor Jim Justice.

The West Virginia PSC is charged

with setting “just and reasonable” rates, which is a very broad grant of authority. It gives the PSC considerable discretion in deciding what level of utility rates are “reasonable” and, in turn, empowers the PSC with considerable oversight authority over the utilities it regulates and the practices and policies followed by the utilities in providing utility service. The wide range of decisions by utility management overseen by the

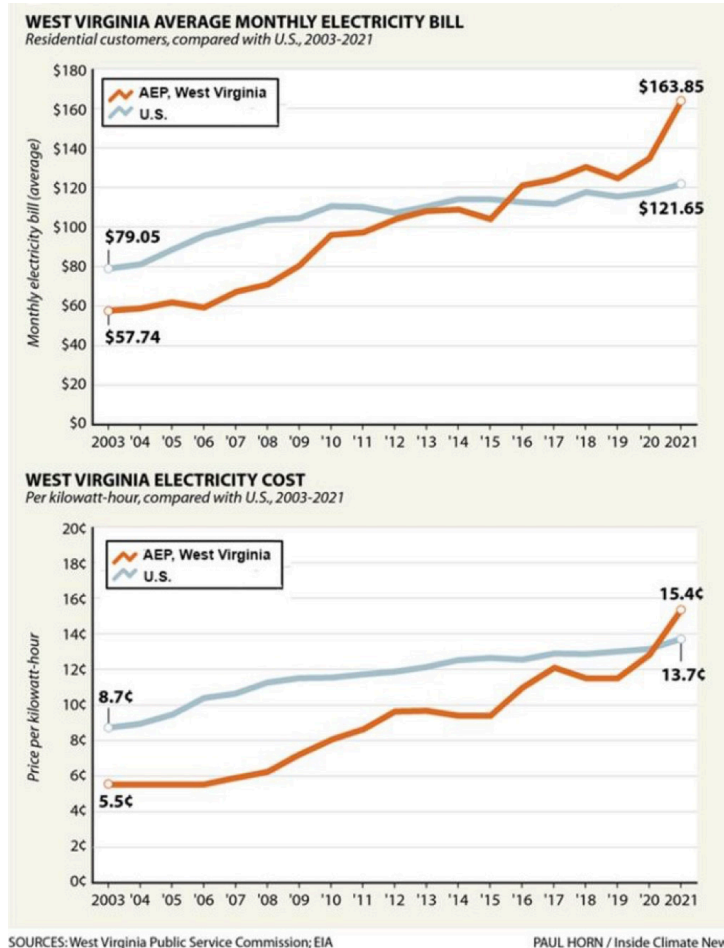
efficiency programs (such as rebates for weatherization, HVAC equipment and Energy Star appliances) to help them manage their energy costs.

For the past dozen or so years, the PSC has failed miserably in its obligation to protect the interests of utility ratepayers. Rather, its decisions have uniformly favored the coal industry, and the utilities that burn coal to generate electricity. In 2008, West Virginia had the lowest average electricity rate in the country; by 2022, 17 other states had lower residential rates. Due to the pro-coal decisions made by the PSC since 2008, electricity prices in West Virginia increased at a rate that was five times the national average between 2008 and 2020. Figure 1 to the left, from a recent article in Inside Climate News, compares electricity prices and monthly bills for customers of American Electric Power (AEP) with the U.S. average since 2003. AEP is the parent company of Appalachian Power and Wheeling Power in West Virginia.

How did we get here? It started with decisions by the PSC in 2013 and 2014 to allow electric utilities to transfer old, uneconomic coal plants from their unregulated, competitive subsidiaries, to the regulated rate base, where the losses from continued operation would be borne by West Virginia ratepayers rather than utility shareholders. In 2013, the PSC authorized Mon Power and Potomac Edison to acquire 80% of the Harrison plant, followed in the same year by Appalachian Power acquiring the Amos coal plant and, in 2014, Wheeling Power acquiring 50% of the Mitchell coal plant.

In the face of nationwide trends to move rapidly away from coal towards cheaper and cleaner natural gas, we doubled down on coal in West Virginia. As

(Not finished yet; go to the next page)



(Figure 1)

PSC includes the process for selecting the particular generating resources (coal, natural gas, or renewable resources) acquired by utilities to serve their customers, which involves integrated resource planning. The PSC’s broad grant of authority also comes into play in whether utilities will be required to offer their customers a range of energy

More about the PSC (continued from previous page)

of 2021, 91% of the electricity produced in West Virginia was fueled by coal. Meanwhile, the percentage of electricity generated from coal nationally declined from 48% in 2008 to a projected 19% share in 2023.

Compounding the continuing commitment to an uneconomic means of generating electricity (coal), the PSC refuses to do the one thing that would help ratepayers cope with their soaring electricity bills: requiring utilities to offer energy efficiency programs. Data from the Energy Information Administration shows West Virginia utilities spent about three dollars per customer in 2021 on energy efficiency, compared to a national average of \$36. Our energy efficiency policies rank 48th among the 50 states, according to the Annual State Scorecard published by the American Council for an Energy-Efficient Economy. As a result of this failure to provide ratepayers with the means of managing their energy costs, monthly **bills** have risen even more sharply than the increase in **rates**, because per capita energy consumption in West Virginia is 20% above the national average.

It has only gotten worse in the past 15 months. In August 2021, the PSC authorized AEP to spend \$383.5 million for environmental upgrades at its three West Virginia coal plants. The expenditures are necessary to keep the Mitchell, Amos and Mountaineer coal plants open past 2028. The PSC completely disregarded AEP's testimony in the case that showed the ratepayers of Wheeling Power—which owns the Mitchell plant—would be better off, by \$27 million per year after 2028, if the plant were retired, because of the availability of cheaper resources on the market.

Two months later, the price tag grew to \$448.3 million when regulators in Virginia and Kentucky said “no” to recovery of their states' share of the environmental upgrade costs. AEP simply refiled its case at the PSC to stick West Virginians with the costs

avoided by Virginia and Kentucky. And, of course, the West Virginia PSC approved the higher amount in a decision issued in October 2021.

Just to make it perfectly clear that the PSC wants these plants to keep operating—regardless of whether cheaper sources of energy might become available—the PSC's October order further directed AEP to spend whatever money it takes to keep the plants open to at least 2040 (even though AEP never formally requested approval for any expenditures after 2028). The continued investments in these uneconomic coal plants will lead to massive rate increases for AEP ratepayers in the future, given the growing inability of coal plants to compete in the wholesale energy markets in the face of cheaper alternatives, such as natural gas, wind and solar.

But the PSC has a solution for that as well, and it gets even worse for West Virginians: require the utilities to keep operating the coal plants at historical levels, even if cheaper sources of electricity are available. In hearings in late 2021 involving AEP's and FirstEnergy's annual power-cost adjustment filings, the PSC challenged the utilities' decisions to operate their systems in a manner that produces the lowest costs for customers (which, frankly, is what utilities are obligated to do). The utilities' strategy to operate economically has resulted in coal plants running less often (measured by the “capacity factor,” or a plant's actual output compared to its maximum output). Utilities were acting prudently to displace coal-fired generation with lower-cost energy supplies available from purchases in the wholesale market (in our region, the PJM Interconnection), as well as power purchase agreements with wind and solar projects. AEP's 2021 filing, for example, showed capacity factors of 34.7%, 49.6% and 57.3% for the Mitchell, Amos and Mountaineer plants, respectively. This was unacceptable

to the coal-friendly PSC.

The PSC indicated in its decisions last fall that it expects capacity factors “in the mid- to high 70% range.” What does this mean for West Virginians' electricity bills? Further massive increases in utility rates, as the PSC stubbornly refuses to allow electric utilities to join the clean energy revolution that has produced dramatic reductions in wholesale electricity prices across the country.

The narrative of “what's good for the coal industry is good for West Virginia,” has certainly guided the PSC's decisions since 2008 and, probably more than any other example, the results proved the cruel falsehood of the guiding principle. Allowing the utilities to continue to be over 90% dependent on one fuel source without diversifying into cheaper, cleaner sources of energy—including energy efficiency—might have been good for the coal industry, but it is clear that notwithstanding the PSC's futile efforts to do so, the coal industry cannot and should not be bailed out on the backs of the West Virginia electric ratepayers. They simply cannot afford it, and never have been able to.

I spent the last chapter in my book, *The Coal Trap: How West Virginia Was Left Behind in the Green Revolution*, identifying some of the policies that should be given serious consideration as the state moves forward in the third decade of the 21st century. One section of that chapter focuses on regulatory reform at the PSC, which is long overdue and has proven to be urgently needed given the developments over the past 15 months. It's essential that this powerful state agency start implementing policies that will position West Virginia's electric utilities to provide the clean energy resources demanded by the markets of the 21st century.

The Highlands Voice: It's Not Just for Reading Any More

The Highlands Voice is the main way that the West Virginia Highlands Conservancy communicates with its members. But we would like to communicate with more than our members. We have a valuable perspective and information; we would like to communicate with everybody. We still offer electronic delivery. If you would prefer to receive it electronically instead of the paper copy please contact Cristyn Bauer at WVHC50@gmail.com. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived.

No matter how you receive it, please pass it along. If electronically, share the link. If paper, hand it off to a friend, leave it around the house, leave it around the workplace. It's not just for reading. It's for reading and passing along.

BUMPER STICKERS

To get free *I ♥ Mountains* bumper sticker(s), send a SASE to P. O. Box 306, Charleston, WV, 25321. Slip a dollar donation (or more) in with the SASE and get two 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.)



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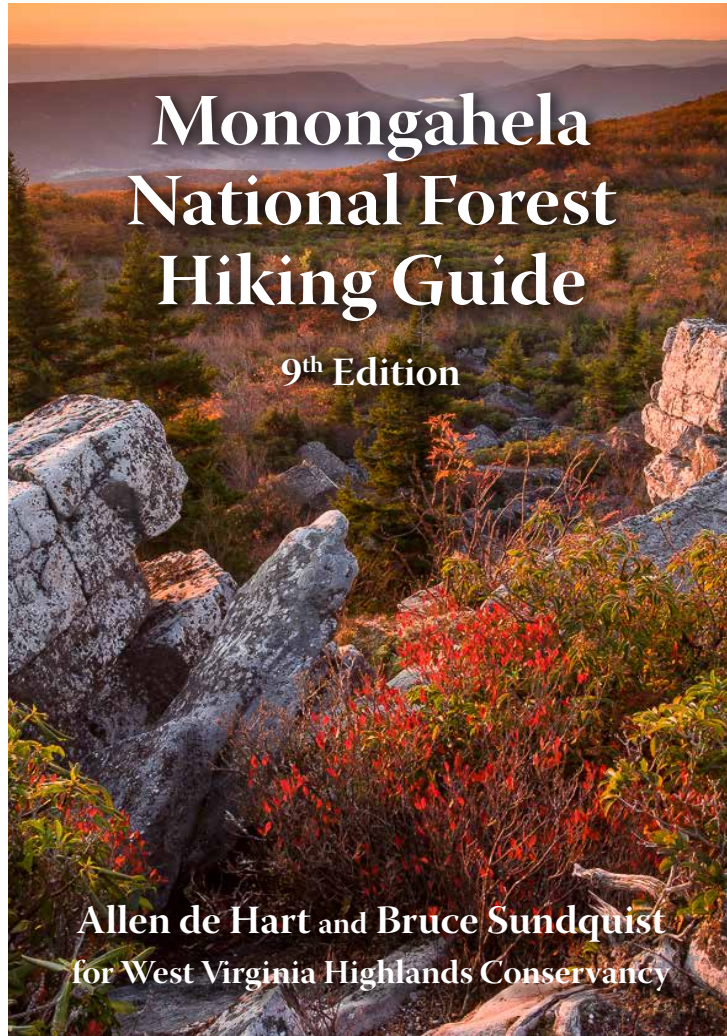
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Mon National Forest Hiking Guide



Celebrating the 50th anniversary of the West Virginia Highlands Conservancy, the new edition of the treasured guide to every trail in the Monongahela National Forest features brand-new topographic maps and Kent Mason's gorgeous photos, all in color.

The Guide has been updated with the cooperation of National Forest District Rangers and Recreation Specialists to reflect changes in the past ten years:

- newly designated wilderness areas
- new trails near campgrounds and sites of special significance
- a new complex of interconnected trails on Cheat Mountain
- rerouted and discontinued trails
- ratings for difficulty, scenery, access to water, and much else

The definitive guide to the Mon adds a wealth of information about history, wildlife, and botany; safety, preparation, and weather; horseback and mountain bike riding and cross-country skiing; as well as sources of further information on the Forest and its environs.

The Monongahela National Forest has long been known as a 'Special Place.' The hiking, backpacking, and cross-country skiing opportunities it provides are among the best in the eastern U.S. New wilderness and backcountry trails have been added to the outstanding areas we have appreciated for decades – Otter Creek Wilderness, Dolly Sods Wilderness, Flatrock Plains, Roaring Plains, Blackwater Canyon, Spruce Knob, North Fork Mountain, Shaver's Mountain, Laurel Fork Wilderness, Cranberry Wilderness -- and there are lesser-known gems to be found in between.

Profits from the sale of these guides support a wide variety of worthy environmental projects for the West Virginia Highlands Conservancy.

Send \$18.95 plus \$3.00 shipping to: West Virginia Highlands Conservancy, P.O. Box

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 with a pre-curved visor. 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 colors are stone and red. The front of the cap has I ❤️ MOUNTAINS. The heart is red. The red 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

The West Virginia Land Trust and the West Virginia Highlands Conservancy

By Luanne McGovern

I recently participated in a tour of one of the latest projects undertaken by the West Virginia Land Trust—the Mammoth Preserve in Kanawha County. It is truly mammoth—5,000 acres of woodlands and former surface mines that are being reclaimed for conservation and recreational purposes. The staff of the Land Trust gave us an in-depth look at the plans, that include separate areas for mountain biking, hiking and equestrian trails. Working with Appalachian Headwaters, they are planting hundreds of thousands of trees and removing non-native invasives, with a goal of restoring the land to a pre-mining state. The Mammoth Preserve brings the total acreage being managed by the Land Trust to over 20,000 acres in the state.

As the day progressed, the Land Trust people noticed my “I Love Mountains” bumper sticker and I mentioned that I was on the Board of the West Virginia Highlands Conservancy. Oh my! Did I know the history of the Land Trust and the Conservancy? In my ignorance, I said ... uh, no? As it turns out, various coal companies had violated the Clean Water Act, so, the Conservancy, Sierra Club, and other environmental organizations agreed to settle out of court and direct a total of \$12 million in settlement funds to the Land Trust. This allowed them to expand their staff and broaden their scope of work to acquire, restore and protect thousands of acres of land statewide throughout West Virginia. These funds were restricted to be used on projects to conserve land and protect water in eight watersheds which were impacted by the Clean Water Act violations.

In 2011, the first successful suits were brought against Massey Energy and FOLA Coal, alleging violations of the Clean Water Act and surface mining permits at the company’s surface mines. The settlements directed \$400,000 from Massey and \$200,000 from FOLA to be paid to the Land Trust to “support sustainable development and land use planning in the state.”

In 2012, two additional lawsuits were won. Alpha Natural Resources was required to clean up discharges at some 14 outlets at three large mining complexes along mountain ridges in Logan, Boone, Kanawha and Fayette Counties of West Virginia. The discharges impacted major tributaries that are part of the Coal, Kanawha and Gauley River watersheds. Over four million dollars was awarded to the Land Trust to execute a Supplemental Environmental Project, to restore riparian areas and preserve land within the watersheds impacted.

In another case, Patriot Coal was found in violation at 43 separate outfalls/discharge points at the Hobet 21 complex in Lincoln and Boone Counties, the Samples complex in Boone, Raleigh and Kanawha Counties, and at the Rum Creek operations in Logan County. The Land Trust was awarded \$6.75 million, which allowed it to increase its resources and protect

watersheds of the Kanawha, Gauley, New, and Guayandotte rivers.

None of this would have been possible without the sustained dedication of many groups and individuals, and in particular, Cindy Rank, longtime Conservancy board member and past president. She herself said it well in a past issue of the Highlands Voice:

“When I start wandering down the dreary road of regret for all that hasn’t been accomplished, I prod myself to reflect on some of the more positive achievements of our legal efforts and I take solace in the many court orders that have required offending companies to correct problems at their operations and to pay required penalties.

Moreover, thanks to the legal beagles that have represented us and

led the charge in these federal cases, I applaud agreements that have often directed monies back to the state rather than sending penalty payments to the coffers of distant federal agencies. With approval by the Department of Justice (which must OK such diversion of funds) and the blessing of the District Court, agreements resulting from litigation by the Conservancy and our co-plaintiffs have directed millions of dollars to worthwhile organizations working for the betterment of West Virginia and in particular to better reclaim previously mined land and improve watersheds most directly impacted by the pollution targeted in our lawsuits.”

The Land Trust now has projects and partnerships located all over the state, including 30 conservation easements on private land and 22 Land Trust-owned properties designated to be public nature preserves. There is something

for everyone in these beautiful, protected places. Of the 22 preserves, eight are already open to the public including:

- **Toms Run Preserve:** 320 acres south of Morgantown
- **Jenkinsburg Recreation and Natural Area:** 13.5 acres at the confluence of Big Sandy Creek and the Cheat River
- **Yellow Creek Natural Area:** 860 acres in Tucker County, adjacent to Canaan Valley Wildlife Refuge
- **Bickle Knob:** 123 acres in Randolph County
- **Camp Bartow:** 14 historical acres in Pocahontas County
- **Wallace Hartman Nature Preserve:** 52 acres in Charleston
- **Gauley River Canyon:** 665 acres along the river
- **Needleseye Park:** 283 acres in Fayette County

Plans are underway to open more public preserves in the near future, once safe adequate parking, access, signage and trails are developed. Learn more about the Land Trust at www.wvlandtrust.org



(West Virginia Land Trust)

Rambunctious Garden, Saving Nature in a Post-Wild World

By Emma Marris, reviewed by John McFerrin

Much of what the West Virginia Highlands Conservancy does involves land management. Should our state parks be managed for timber production? (No!) How should the National Forest be managed? Is the Forest Service leaning too far toward timber production or too far away from wildlife preservation? We do advocacy around all those issues.

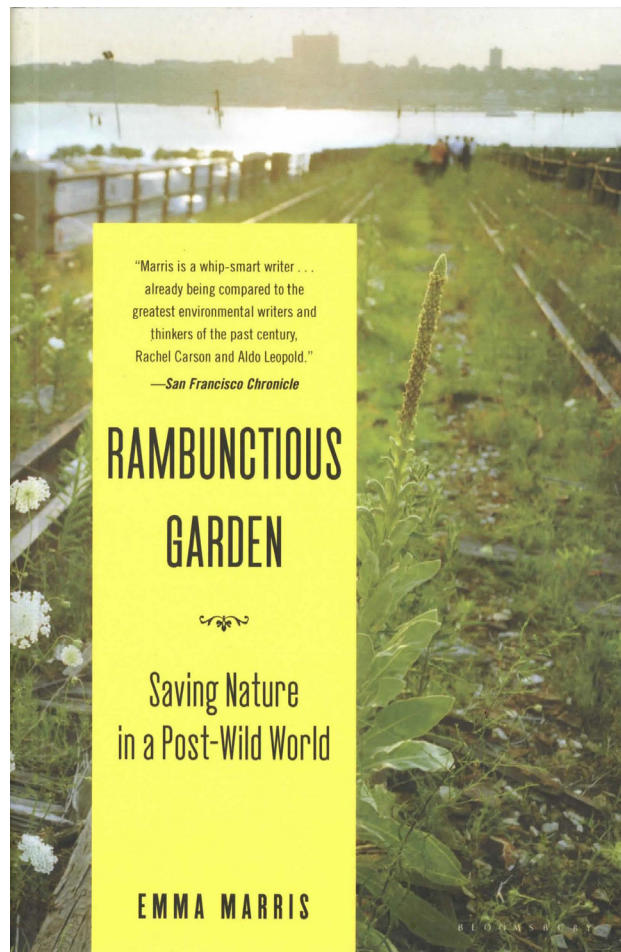
That's what makes this book interesting. It looks at our assumptions about land management and encourages us to do the same.

The book makes much effort questioning the goal of our management of the natural world, whether that be a national forest, a designated Wilderness area, or any other land. She describes the traditional goal in management of natural areas as seeking to achieve something approximating a pristine state of nature, something that existed before humans.

After defining this as the goal, she advocates tossing it aside. What was pristine and when did it exist? Does that mean before Europeans arrived? Should we manage with a goal of making natural areas look as they did in 1491? What then of the Native Americans? While not doing so on the scale or intensity of the Europeans, the Native Americans altered the landscape intentionally, burning patches of forest to create cropland or better hunting lands.

Before the Native Americans? Is that the "pristine" we should manage for? That world included giant mammals—wooly mammoths, giant sloths, etc., animals which went extinct about the time the Native Americans arrived. (There is a dispute over how much the Native Americans had to do with the extinction. She favors the theory that the early Americans crossed over from Asia to find a continent full of big, trusting animals which they hunted to extinction. There are other opinions.)

Ms. Marris's view is that chasing the idea that we can restore some sort of pristine wilderness is a fool's errand. We should quit doing it. Absent some sort of Jurassic Park level genetic magic, we are not bringing back the world as it existed before humans. She says that there is no ideal condition that we should have as our goal. Things are always changing; many of the species we now accept as part of our natural world were once invasive. She would favor embracing what is



here.

In West Virginia, we have already tossed aside the idea that something must be pristine to be protected. The Dolly Sods Wilderness is far from pristine; it was heavily logged before it became a Wilderness. Even if we are not demanding that land must be pristine to be protected, Ms. Marris's overall point is still valid: the goal of management is a cultural value. In deciding how we are to manage lands and the goals of management we are expressing that value.

Her enthusiasm for embracing what is here leads her to an unconventional view of invasive species. Conventional wisdom is that invasive species displace native plants, reduce biodiversity, etc., and should be eradicated, if possible. Her view is that invasive species are inevitable. A species may be an invader but it is one that wants to live here. She also cites research suggesting that invasive species may come to dominate in the short term but, in the long term, the rest of the ecosystem will adjust. Kudzu (not her example) may have its day (or its century) but in the long run the rest of the ecosystem will find a way to smack it down, put

it in its place.

Coloring all of this is climate change. As the climate continues to change, the species that are here now will have to adapt, move, or die out. It would be doubly hard to manage for certain kinds of ecosystems when those ecosystems are being driven out by climate change.

On one level, this approach to land management is appealing. If the landscape is being changed by invasive species, climate change, or whatever, we should accept the changes, embrace whatever comes.

The danger in this approach is that it makes it too easy to do nothing. Kudzu may eventually become less dominant, but do we want a couple of centuries of it covering everything in its path, strangling trees? It is true that, if we cut down the big, old trees, the forest would adjust, something would take their place. But do we want to do without the ecosystem that the big old trees were a part of? Managing with a goal of restoring some sort of pristine world may be a fool's errand but neither do we want to do nothing.

It's Official. WVHC is Coming to an Inbox Near You!

As many of you Voice readers know, there have been a lot of exciting changes in the West Virginia Highlands Conservancy over the past couple years. As we head into the new year, we are excited to announce that we will be connecting more with our readers, members, and supporters through email in 2023.

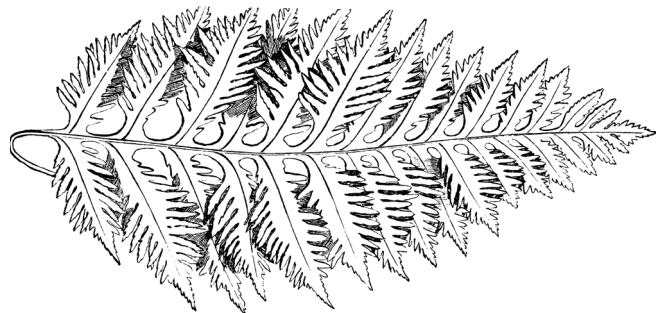
Don't worry, though, we will not be spamming your inbox with useless information; instead, we hope to provide valuable and relevant monthly emails to keep you up to date with the latest news, events and happenings at the Conservancy. If you are not interested in receiving emails from the Conservancy, please email comms@wvhighlands.org, otherwise, you will have the option to manually unsubscribe when we start sending emails in January.

We hope to connect with you more in 2023 and continue the important work of protecting clean air, clean water, forests, streams, mountains in the highlands, and the health and welfare of the people that live here, together.

Save the Date! E-Day at the Capitol

Join environmental advocates for a day of legislative action on Tuesday, Feb. 8 at the West Virginia State Capitol Upper Rotunda House. E-Day is hosted by the West Virginia Environmental Council and offers the opportunity to engage in hands-on civic engagement. Discover the importance of civic engagement, take part in citizen lobbying, and learn about our member organizations, resources, and initiatives.

More details about E-Day at the Legislature will be available in the coming months. We hope to see you there!



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: _____

Address: _____

Email _____

Your name: _____

Filling out the form, etc. is, of course, the old school way of doing things. If you prefer, just email the information to Cristyn Bauer at WVHC50@gmail.com.

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.

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 comms@wvhighlands.org or by real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

Join Now !!!

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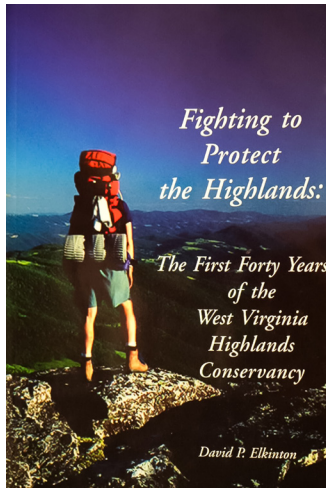
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Other	\$15		
Regular	\$25	\$35	\$50
Associate	\$50	\$75	\$100
Sustaining	\$100	\$150	\$200
Patron	\$250	\$500	\$500
Mountaineer	\$500	\$750	\$1000

Mail to West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

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

You may also join online 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 20-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.

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.



- ▶ The baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and an infant onesie. Slogan is “I ♥ Mountains Save One for Me!” Onesie [18 mo.]---\$25, Infant tee [18 mo.]---\$20, Toddler tee, 2T,3T,4T, 5/6---\$20
- ▶ Soft pima cotton adult polo shirts are a handsome earthtone light brown and feature the spruce tree logo. Sizes M-XL [Shirts run large for stated size.] \$ 25.00, 2XL \$26.50

To order by mail [WV residents add 6 % sales tax] make check payable to West Virginia Highlands Conservancy and send to West Virginia Highlands Conservancy, Online Store, PO Box 306, Charleston, WV 25321-0306

The same items are also available at our online 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 ATTN: Online Store, WVHC, P.O. Box 306, Charleston, WV 25321-0306.