

October / November 2018

FREE

The Appalachian VOICE



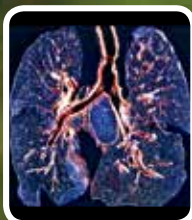
For the Love of Birds
Volunteers survey breeding birds to build better conservation policies



Imbalance of POWER

Part One of a two-part series examines the system that keeps power companies and regulators from acting in ratepayers' best interests

ALSO INSIDE



BLACK LUNG
Battling for benefits while the disease is on the rise



HIKING THE HIGHLANDS
West Virginia's Bluestone Turnpike Trail

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About the Cover

Robert J. Baker took this photo of a juvenile red-shouldered hawk in his backyard in Ruckersville, Va. He started taking photos of the birds that visited his feeders to more easily identify them, and the hobby soon developed into a full-blown passion for wildlife photography. Over the years Baker has counted over 90 different species of birds at his feeder, 75 of which he has captured on camera.

A note from our executive director

Passions are running high in our Appalachian states and across the country. I turn 44 this fall, and there hasn't been a political moment like this before in my lifetime.

If a majority of Americans weren't responding to current political events with anger, worry and frustration, we would have even more reason to be gravely concerned about our country. Yet if these negative emotions were all we were feeling it would be awfully hard to get out of bed in the morning!

Fortunately, the blatant amorality, recklessness and dishonesty on display at the highest levels of government — plus the subtler, more long-standing injustice and corruption we're now seeing more clearly — are being met with another natural reaction: a surge in joyful power-building, winning strategies and action. And in a time known for its divisiveness, we also see people joining together to stand up for things we all love.

Our region is one place where this impassioned and thoughtful uprising is hard to miss.

The behemoth companies bent on controlling our energy system, with help from the Trump Administration and some of our states, are being met with a citizen resistance spanning the political spectrum and all walks of life, on a scale



Tom Cormons and his daughter observe the Virginia House of Delegates from the upper gallery. Photo by Mark Keam

they never imagined.

Their efforts to deepen our addiction to fossil fuels by ransacking public lands and waterways, private property and vulnerable communities to build two completely unnecessary fracked-gas pipelines are facing a formidable coalition of ordinary people, citizens' groups and courageous political leaders in a monumental David and Goliath battle.

Some of these same energy companies have long acted as if they own the state governments charged with regulating their monopolies — and, given the millions of dollars they spend on campaign

contributions and lobbying, that's understandable. But now the people that a Dominion Energy executive derided in the Washington Post as "the general citizenry" are giving them a run for those millions in purchased influence. (See "Power Play" on the centerspread).

I am proud to say that "the general citizenry" means you and me. Embracing our power as citizens is among our most important traditions and responsibilities. Protecting this region we love and our children's futures ultimately falls to us.

This is why Appalachian Voices is gearing up to take "Energy Democracy" to the next level. If the best interest of citizens like us determines how we generate, transmit, and use energy, we can protect our health and natural heritage, build community wealth where it's most needed, and curtail the energy cost burden that's felt most acutely by those unable to afford it.

From working in rural places to create solar jobs and fight fracked-gas pipelines and mountaintop removal, to advocating for ordinary folks and our land in our capitals, our strength has never been greater or more needed than now. We believe our ambitious plans for the next three years, described on page 27, reflect this. With your help, we can make them a reality.

Tom

Tom Cormons, Executive Director

GET INVOLVED environmental & cultural events

See more at appvoices.org/calendar

Spruce Creek Camp-Out

First three weekends of October: See the natural beauty at stake on private land in the path of the Atlantic Coast Pipeline. Family-friendly, limited space. Free. Nelson County, Va. For info or to register, call (434) 260-3298 or visit friendsofnelson.com

Forest Farming: Mushrooms and Medicinals

Oct. 18, 5-6 p.m.: Learn about growing, using, and selling some of Appalachia's most valuable plants, including ginseng, goldenseal and a variety of local gourmet mushrooms. Free. Bledsoe, Ky. Visit pinemountainsettlements.school.com or call (606) 558-3571.

2018 Fall Summit on Kayford Mountain

Oct. 19, 6 p.m.-Oct. 22, 12 p.m.: Join RAMPS and Appalachians Against Pipelines and camp atop a protected mountain in Stanley Heirs Park to discuss a range of issues affecting Appalachian communities. Suggested donation is \$50-\$200. Kayford Mountain, W.Va. Learn more and register at tinyurl.com/fallsum.

Circle of Protection

Oct. 21, Nov. 18, and Dec. 16 at 1:30 p.m.: Participate in an interfaith prayer vigil to help protect Buckingham County, Va. from the proposed Atlantic Coast Pipeline and Union

Hill ACP Compressor Station, followed by a potluck and speaker. Free. Union Hill Baptist Church, Buckingham, Va. Learn more at tinyurl.com/circlepray.

Pipeline Compressor Station Hearing

Nov. 8 and 9: Virginia's Air Pollution Control Board will make a decision on an air pollution permit for the Atlantic Coast Pipeline's proposed Buckingham Compressor Station in historic Union Hill. Details TBA, likely in Richmond, Va. For updates, check appvoices.org/buckingham-permit

Student and Fall Heritage Days

Nov. 9-10: Experience pioneer traditions such as sheep herding, molasses making, and quilting with the Museum of Appalachia in Clinton, Tenn. Tickets prices vary. Call (865) 494-7680 or visit museumofappalachia.org.

Biodynamic-French Horticulture Workshop

Nov. 10, 1:30-7:30 p.m. and Nov. 11, 10 a.m.-3:30 p.m.: Join Craig Siska at Living Web Farm to learn about this intensive approach to horticulture and the garden. Mills River, N.C. Suggested \$15 donation or sliding scale. Registration required at livingwebfarms.org.

Solar Now and in the Future

Nov. 15, 6:30 p.m.: Attend a lecture by Ivan Urlaub, executive director of the NC Sustainable Energy Association, at the Center for the Environment at Catawba College to hear how

state policy has historically benefited the solar industry and outlines its future. Salisbury, N.C. Free. Register at centerfortheenvironment.org.

Voices of Wisdom

Nov. 17, 9 a.m.-5 p.m. and Nov. 18, 6-9 p.m.: Join a fire circle and hear the wisdom of two indigenous elders. Asheville, N.C. \$50/adults, free age 14 and under. Camping, limited lodging available. Register at sacredfire.foundation

CARE's Mtn State Racial Justice Summit

Nov. 30, 3 p.m. and Dec. 1, 6 p.m.: Join the CARE Coalition for West Virginia's first racial justice summit, covering topics relating to racial justice organizing in Central Appalachia. Beckley, W.Va. Location and registration details TBD. Visit carecoalitionwv.org.

National Energy Conference 2018

Dec. 1, 9 a.m.-5 p.m.: Hear from experts about recent climate change and energy developments, issues and practices. Sponsored by the Friends of Blackwater. Free. Morgantown, W.Va. RSVP at saveblackwater.org.

Appalachian Voices Membership Meeting

Dec. 13: Join us to discuss our work and vision for the next three years. Gatherings will be held at our offices in Boone, N.C., Charlottesville, Va., Norton, Va., and Knoxville, Tenn. Call (828) 262-1500 or visit appvoices.org/membership-meeting.

Across Appalachia

Appalachian Horses Still at Risk of Slaughter Over the Border

The final American horse slaughter plant was shut down in 2007. Still, 70,000 to more than 100,000 American horses, including equines in Appalachia, are shipped each year to Canada or Mexico for slaughter, according to estimates from animal welfare organizations. Awareness of this practice has increased as activists gain support for legislation to end the industry of shipping American horses abroad for slaughter.

There are "many cases of individuals posing as good homes, knocking on doors or answering Craigslist ads, who then sell the horse that they buy or take under false pretenses to kill-buyers," most of whom are contracted buyers for slaughter plants, says Katie Kraska, manager of federal legislation for the American Society for the Prevention of Cruelty to

Animals. Once in foreign slaughter facilities, horses are processed for meat products which are considered a delicacy in some countries.

Tinia Creamer, founder of Heart of Phoenix Equine Rescue in West Virginia, explains that Appalachian horses are at risk. "You won't ever have an auction operating in those regions without either a known kill-buyer or a trader that ultimately sells to a kill-buyer," she says.

Andrea Kovacs, a resident of Greene County, Tenn., has rescued horses from slaughter and is actively protesting the practice. "Anyone who goes to a local horse sale, they have to realize that by entering their horse in the arena, that horse is one bid away from slaughter," Kovacs warns, calling it "a very

predatorial practice."

Kovacs and the ASPCA are promoting legislation in Congress that could end this industry in the country. In September, activists celebrated a majority of the House of Representatives cosponsoring bill H.R. 113, the Safeguard American Food Exports Act, which would end the practice of selling and shipping American horses for human consumption. A similar bill is in the Senate with 29 cosponsors. Both bills await decision in House and Senate committees.

"We believe bringing public attention to this needed policy reform and pressuring leadership to bring the issue for a vote are both critical elements of a winning strategy," ASPCA's Kraska says.

— By Eric Halvarson

Elk Knob Art Trail Celebrates Nature and Creativity

In June, 15 Appalachian State University students in Scott Ludwig's Relief Printmaking course hand-printed, engraved and painted wood blocks to display along the Beech Tree Trail, an easy 1-mile loop within Elk Knob State Park in Todd, N.C. The new artwork is designed for all ages and includes colorful flowers and animals. Local potter Jimmy Savely of Ashe County also provided several pieces featuring native plants.



"Flame Azaleas" by Adam Smith greets hikers at Elk Knob State Park. Photo by Hannah McAlister

The project is a revitalization of the Elk Knob Community Heritage Organization's Art Plan proposed in 2015 to promote sustainability of the Elk Knob communities' culture, heritage and natural resources. Research conducted by Ap-

palachian State students informed the first series of art pieces on the trail.

"Unfortunately between 2015 and 2018, some of the pieces were stolen

and others suffered weather damage," says Brenda Sigmon, a volunteer at Elk Knob State Park and a volunteer distributor of this newspaper. According to Ranger Brandy Belville, the new art pieces have been constructed with this concern in mind; the posts are cemented, and the art is secured with heavy duty screws and coated with a weather protectant.

The Beech Tree Trail, which journeys through a large American beech forest at 4,500 feet, is also a TRACK Trail, part of the Kids in Parks initiative.

The program rewards kids with small prizes for their hiking achievements.

— By Hannah McAlister

North Carolina Elk Given More Space to Roam

As of August 2018, the elk near Maggie Valley, N.C., have an additional 500 acres of grazing area in the William H. Silver Game Land. This land grant was established by a partnership between the North Carolina Wildlife Resources Commission and The Conservation Fund, a nonprofit land conservation organization. Elk were reintroduced to the Great Smoky Mountains National Park in 2001.

When the William H. Silver Game Land was established in 2017, it secured about 2,000 acres for North Carolina's growing elk populations and other wildlife. The recent expansion around the Sheepback Knob area provides further space for the elk and

other animals to roam. According to The Conservation Fund, preserving this land will help protect the area's water resources and bring more economic opportunities to the Haywood County area.

Wildlife biologist Mike Carraway told WLOS News that the area "went from 52 elk on the initial release to somewhere around 150 to 160 elk."

According to the news outlet, some elk have been spotted off the game land. "Ideally, we can create some good habitat on this new game land so the elk will have a good place to stay where they won't be crossing roads or getting onto private property," Carraway told WLOS. — By Kennedy Kavanaugh

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Across Appalachia

Hurricane Florence Devastates the Carolinas

Hurricane Florence made landfall in North Carolina on Sept. 14, but its effects will be felt for long after. Florence shattered North Carolina's rainfall record from a single storm. The hurricane flooded roads, homes and public facilities throughout the Carolina coasts as well as inland towns along major rivers.

Contaminated floodwaters and the economic and social disruption caused by the disaster threatened the wellbeing of people and animals throughout the region. According to WTNH News 8, as of early October, the storm had resulted in at least 48 deaths, and nearly 1,500 people remained in evacuation shelters while uncounted thousands

more were staying with relatives and friends or at hotels.

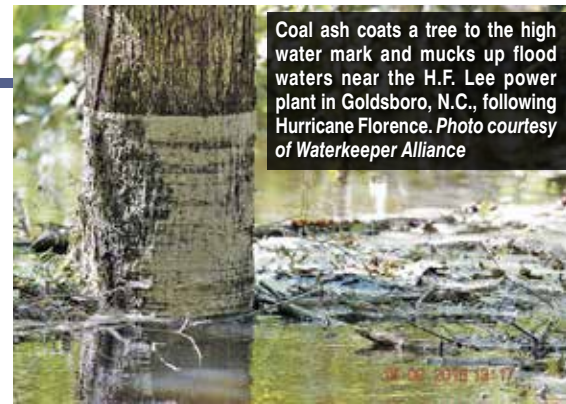
"Where the hurricane hit the hardest are the counties that have the highest number of black populations and poor populations," national civil rights leader and former North Carolina NAACP president Rev. William Barber told The Guardian. Barber's hometown of Goldsboro, N.C., was severely impacted by the storm.

The more than 8 trillion gallons of rainfall from Florence flooded pig waste lagoons at industrial-scale hog farms and caused breaches at Duke Energy's Goldsboro and Wilmington coal ash impoundments, releasing con-

taminants into the region's floodwaters and rivers.

The floodwaters carried heavy metals from coal ash, bacteria from millions of dead farm animals, hog waste lagoons and malfunctioning sewage and septic systems, and a mix of fertilizers, antibiotics and pesticides. As of press time in early October, the storm's aftermath still posed significant threats to public health and safety.

Scientists from Stony Brook University, the Lawrence Berkeley National Laboratory and the National Center for Atmospheric Research were projecting



Coal ash coats a tree to the high water mark and mucks up flood waters near the H.F. Lee power plant in Goldsboro, N.C., following Hurricane Florence. Photo courtesy of Waterkeeper Alliance

the rainfall during Florence to be more than 50 percent worse and the diameter about 50 miles wider than it would have been without climate change, due to warmer ocean and atmospheric temperatures. Post-storm analysis is yet to be released.

Read more about the coal ash spills related to Hurricane Florence on page 25. — *By Kennedy Kavanaugh*

Blue Ridge Discovery Center Celebrates 10 Years

This fall, the Blue Ridge Discovery Center, an outdoor education nonprofit organization in Troutdale, Va., will celebrate their 10-year anniversary with an open house on October 13 at what will be their new center location. The event will feature nature walks, arts and crafts, scavenger hunts and cider making.

The organization plans to move to a historical building that dates to 1926,

which is on the same property as the current office. The space will function as an educational facility, biological field station and base for youth and adults exploring the natural wonders of the Mt. Rogers area.

Blue Ridge Discovery Center focuses on connecting the local community with the environment through programs including nature explorations, habitat restoration projects, and educational

youth field trips and summer camps. The organization hosts programs that draw adults as well, such as the Mount Rogers Naturalist Rally, which attracts people from all over the region to explore the area's natural history. In the past, the rally has occurred twice yearly as a camping event, but the new facility will allow the organization to host the event four times a year by providing lodging.

According to Executive Director

Aaron Floyd, the new building will also allow the organization to operate multi-day programs and host people traveling from farther away.

"Whereas in the past a lot of our programs were on a short timeframe, we hope to engage those individuals over an extended period and hopefully have a bigger impact on their lives and reconnect them with the outdoors and wildlife, and hopefully increase awareness of our community in the long run," says Floyd. — *By Kennedy Kavanaugh*

EPA Removes West Virginia Site from Superfund List

On Aug. 23, the U.S. Environmental Protection Agency announced the removal of a Morgantown, W.Va., site from the Superfund list. The Ordnance Works Disposal Areas Superfund Site consists of a six-acre disposal area and a 100-acre manufacturing plant. Beginning in 1941, nearby private companies operating chemical production facilities and a coke plant dumped hazardous materials into the disposal areas on the site.

Since being added to the EPA's Su-

perfund list in 1986, cleanup efforts have included the excavation and treatment of all tar-like materials from the site's water sources and the installation of a multi-layered covering at the on-site landfill that contains contaminated soils, according to the EPA. Additionally, the remediation includes the long-term monitoring of the site in order to prohibit disturbing the landfill cap, use of groundwater, and non-commercial use of any kind.

— *By Kennedy Kavanaugh*

Land Conserved Along Little South Fork of Cumberland River in Kentucky

Under their Wild Rivers Program, the Office of Kentucky Nature Preserves secured more than 1,000 acres along the Cumberland River in the Little South Fork area in August. This land will be added to the Steele Hollow Watershed Conservation Area.

The Wild Rivers Program establishes a corridor stretching up to 2,000 feet from the banks of the river to monitor and maintain habitats for rare species such as the palezone shiner, an

endangered fish only found in one other rivershed in the world. Other species benefitting include the endangered fluted kidneyshell mussel, Indiana bat and threatened northern long-eared bat.

Funding was provided by the Kentucky Heritage Land Conservation Fund, the Imperiled Bat Conservation Fund and the U.S. Fish and Wildlife Service's Kentucky field office. — *By Eric Halvarson*

For the Win!

It's your last chance to join during Membership for the Win! Become a member at the \$35 level or above by Oct. 31 and you'll be entered to win our "Boone, N.C., Ski-cation" package including 2 adult lift tickets to Appalachian Ski Mountain (good any day or night session except holidays and Saturdays) and a \$100 gift certificate to Mast General Store.

Visit appvoices.org/for-the-win

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Hiking the Highlands

The Bluestone Turnpike Trail

A Taste of the Wild

By Tamara Marshall Whiting

To simply walk a trail that is rarely walked by others through untouched land can be a profound experience. Time spent in wild nature feeds my soul and leaves an important imprint on my life, inspiring me to protect these special places. For me, hiking the Bluestone Turnpike Trail was one of these experiences.

The trail runs between Bluestone State Park to the north and Pipestem Resort State Park to the south in southern West Virginia. It is about 10 miles in length and follows the Bluestone River at the bottom of a deep gorge. This section of the river is listed as a National Wild and Scenic River, which grants the highest level of federal protection for free-flowing waterways.

The trail is a relatively undiscovered gem, partly due to its length. There is no camping allowed along it, since it runs through a wildlife management area. My husband Jamey and I decided to set up camp at Bluestone State Park, hike five miles in and back, and then drive the next day to Pipestem and do the same.

When I asked Ranger Ben Leedom at Bluestone if the path was well-maintained, he answered, "We just had a ranger-led hike of the full length two weeks ago, so it should be in good shape." During warm weather months, periodic guided hikes are offered.



The Bluestone Turnpike Trail is managed by the National Park Service as part of the Bluestone National Scenic River. Above, the river passes the former town of Lilly, W.Va. Photo by Dave Bierl/NPS. At right, a ranger leads a hike on the Bluestone Turnpike. Photo by Eve West/NPS



At our campsite in Bluestone, I awoke before dawn to rain on my tent and the most beautiful birdsong I have ever heard. After breakfast, Jamey and I drove past the Old Mill Campground and parked our car at the end of the road. A bright orange gate marks the beginning of the trail. With an umbrella to double as a walking stick, we began our hike.

The trail follows the Bluestone River closely for the first two miles, and its sound is a constant companion. Rock walls flank your right and the river runs to your left. The flora is lovely and lush under the mix of deciduous and conifer trees. These trees and plants hugged us close on each side and arched above us like a living tunnel, making us feel isolated from the rest of the world. Rich birdsong surrounded us, and we saw many different animal tracks on the soft ground of the trail.

After the first two miles, the trail ascends away from the river and narrows considerably. When the path leveled

there was a small stream to ford, which was running briskly from the rain, but we easily stepped on stones across it.

After another mile, a bridge spans a small tributary of the Bluestone called the Little Bluestone. The trail then crosses a dirt road near where the town of Lilly once stood and then rejoins the river, widening and passing through open spaces with a beautiful variety of wildflowers.

As we continued, the rain fell steadily harder. We now walked with tall grasses and wildflowers on each side, but the trail became muddier. After almost five miles in, the path became impassible. We had to turn back despite having come close to our goal.

The next day brought better weather. We drove to Pipestem and took the aerial tram from the Canyon Rim Center 1,000 feet down into the gorge. From the tram the views of the gorge were breathtaking. Below us a stream tumbled down the mountain with a succession of waterfalls. Once off the tram we found the entrance to the Bluestone Turnpike Trail just north of the Mountain Creek Lodge.

This side of the trail had a different feel; it was wide and had less undergrowth, so we could see much further. From its beginning, we gradually climbed until we walked about 50 feet above the river. You could see and hear the rapids below. Many healthy hemlock trees lined the trail and the river.

After we had hiked about two miles, the trail descended to be level with the river. But suddenly the path narrowed with tall overgrowth and deep mud. We found ourselves again at

an impasse and had to turn back.

When I thought of Ranger Leedom's words about the ranger-led hike, I remarked to my husband, "The ranger must have had a machete or a goat in tow to be able to get through that overgrowth!" But he didn't have to deal with the mud as well. If it had not been for the full day of rain the day before, we would have pressed on also.

All in all, it was a wonderful hike through a lovely river gorge. Once deep into the trail the feeling of walking through a wild area was ever-present, and a great peace followed us in being somewhere where we saw and experienced only a non-human world. As poet Robert Frost once wrote, "Two roads diverged in a wood, and I—I took the one less traveled by, and that has made all the difference." ♦

Bluestone Turnpike Trail

- Length:** 9.5 miles
- Difficulty:** Moderate, though sections may be impassable after heavy rain
- Contact:** Call the Bluestone National Scenic River at (304) 465-0508, or visit nps.gov/blue
- Fees:** Taking the tram from the base of Pipestem State Resort Park to the top costs \$7 for adults and \$5 for children; traveling down is free.
- Guided Hikes:** Ranger-led hikes are offered on a regular basis from May to September. Visit nps.gov/blue/planyourvisit/ranger-programs.htm for details.
- Other:** Wear blaze orange during hunting season. Check wv.dnr.gov for dates.

For the Love of Birds

Volunteers across Virginia participate in a statewide survey of breeding birds to create better conservation policy

By Eric J. Wallace

More than 30 years ago, the Virginia Society of Ornithology partnered with the Virginia Department of Game and Inland Fisheries and a variety of other organizations to conduct one of the most comprehensive wildlife studies in the state's history.

Enlisting the help of hundreds of birding enthusiasts and citizen scientists, the organizations conducted a five-year-long survey monitoring the status and distribution of the state's breeding bird population. From the Great Dismal Swamp to the D.C. Beltway and the mountains of far Southwest Virginia, volunteers scoured the commonwealth in search of nests, eggs, fledgling chicks and mating pairs from as many as 205 avian species.

Now, they are at it again. "This spring will mark the beginning of the second Virginia Breeding Bird Atlas' fourth season," says avian ecologist and program coordinator Ashley Peele.

Presently, it's the program's off-season. Peele sits at a computer in her office at the Virginia Tech Conservation Management Institute analyzing field data compiled by nearly 1,000 citizen-science volunteers. "During the late-fall and winter months, I'll spend most of my time looking at data and developing



strategies for the upcoming spring and summer," she says.

Logging information in an online database curated by the Cornell Lab of Ornithology, ebird.org, volunteers observed more than 684,000 individual birds and 174 breeding species in 2016 alone. As of this June, there were more than half-a-million entries in what Peele lovingly refers to as her "massively sprawling living data set." Spanning 42,775 square miles, the entries are organized according to 12 regions. These are, in turn, divided into "blocks" that are about nine square miles each.



An indigo bunting, above. Photo by Frode Jacobsen, flickr.com/photos/frodejacobson. A pair of purple martins, at left. Photo by Virginia Bird Breeding Atlas volunteer Bob Schamerhorn, iPhotoBirds.com

At this point, Peele is trying to figure out which blocks she needs to convince birders to focus on in 2019.

"As you can imagine, we have strong data for the areas closest to population centers," she says. "The trick is identifying gray zones where we have less information and then trying to inspire people to help atlas and record bird activity in those blocks."

One such area is Southwest Virginia. Last spring, Peele went on a whirlwind tour of the region, giving talks and presentations and leading guided bird walks at area clubs, schools and organizations to drum up interest in the program.

"The goal is to be as comprehensive as possible," she says. "The more data we collect, the more we'll know about the current distribution of breeding birds across the state." In turn, the information will be used to guide additional species-specific studies and create more targeted — and therefore effective — conservation policies.

By comparing current statewide avian populations, breeding status and distribution patterns with information collected during the first

study, Peele and her partner organizations will learn more about how migratory and native birds are adapting to changes in the environment that are leading to the rampant decline of many avian species.

"With the first [Virginia Breeding Bird Atlas], we confirmed that 196 species were breeding in Virginia, and we used that information to generate distribution maps showing where those species were occurring," says Sergio Harding, non-game bird conservation biologist and lead project liaison for the Virginia Department of Game and Inland Fisheries. "By contrasting those findings with this new information, we'll be able to better identify the bird species or habitats that are most in need of conservation efforts."

A Study with an Impact

Virginia isn't the only state in Appalachia conducting breeding bird atlases. Under the umbrella of the Appalachian Mountains Joint Venture — a primary partner in the current Virginia Bird Breeding Atlas — the citizen science projects are being implemented throughout the region. Most recently, bird breeding atlases were completed in West Virginia in 2015, Pennsylvania in 2008, Washington, D.C., and Maryland in 2006, and Georgia in 2003.

"We're a partnership of more than 45 state and federal agencies, conservation organizations, and uni-

Continued on page 8



L-R: Virginia Bird Breeding Atlas Coordinator Ashley Peele and volunteers VABBA2 Regional Coordinator Ellison Orcutt, Kim Harrell with Richmond Audubon, and Assistant Professor Sujana Henkanathgedara of Longwood University admire a summer tanager. Photo by Megan Marchetti, VDGIF

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For the Love of Birds

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versities working to conserve habitat for birds in 12 states in the core of the Appalachians,” explains Appalachian Mountains Joint Venture Coordinator Todd Fearer. The coverage zone encompasses more than 103 million acres and includes portions of Georgia, Kentucky, Tennessee, North and South Carolina, Virginia, West Virginia, Ohio, Maryland, Pennsylvania, New Jersey and New York.



While surveying for the Virginia Bird Breeding Atlas, volunteer Bob Schamerhorn photographed this Brewster's warbler, top, in Highland County and great horned owl chick (bottom) in Richmond. View more of his work at iphotobirds.com

“These areas contain some of the largest expanses of deciduous forest remaining in the eastern United States,” Fearer says, “and are home to more than 230 known species of birds.”

As a self-directed partnership, Fearer says the strength of the joint venture lies in its “ability to strategically deliver conservation actions at a scale and scope unachievable by any single agency or organization.” By compiling and sharing data collected from breeding bird atlases and other studies, Appalachian Mountains Joint Venture works with state and national agencies, as well as private landowners, to recommend, design and implement avian conservation measures.

“Breeding bird atlases work by answering four essential questions for each species,” says Sergio Harding. “What is its current breeding distribution, estimated population size, and where is it most and least abundant?” Once compiled, the statistics can be used to draw conclusions — or, in many cases, suggest better questions — about diversity, territoriality and reactions to habitat loss, reforestation and existing conservation policies.

What’s more, because the data for the Virginia Bird Breeding Atlas and other atlases is stored in Cornell University’s digital databases, they can be accessed by anyone with an internet connection. This makes them a treasure trove for budding ornithologists.

“We’re already seeing a wave of graduate students digging into our information and fashioning studies targeted at specific species or conservation issues,” says Ashley Peele.

For instance, after sightings of threatened Swainson’s warblers were recorded in Southwest Virginia, a Virginia Tech student acquired funding



While surveying for birds, Ashley Peele (left) of Virginia Tech’s Conservation Management Institute and volunteer Kim Harrell discuss spotting nests in tree canopies. Photo by Megan Marchetti, VDGIF

to undertake a population study. “The usefulness of this dataset cannot be underestimated,” Peele adds. “In the future, we’re going to see some very exciting studies come out of this.”

Fringe benefits aside, Fearer says the big-picture goal is to steer large-scale avian conservation management strategy.

According to Harding, the strength of studies like the Virginia Bird Breeding Atlas derives from a combination of breadth and specificity. On one hand, long-term monitoring projects like the North American Breeding Bird Survey provide excellent data about population trends and can tell scientists whether a given species is increasing, stable or declining.

“But when you augment that information with area-specific data, you get a much clearer picture of what’s actually happening on the ground,” says Harding. The long-term monitoring “tells you a given species has been declining,” whereas the state atlas “reveals how that decline is unfolding across the landscape.” The information enables scientists to “focus species conservation efforts on specific geographic areas where they are most in need of help or where the biggest conservation outcome can be achieved.”

Harding plans to use the information to recommend updates for the Virginia Wildlife Action Plan. The Appalachian Mountains Joint Venture is putting bird atlas data to use as well.

One of its most specific and wide-reaching efforts is the flagship Cerulean Warbler Appalachian Forestland Enhancement Project. “Cerulean warblers

are one of our partnership’s highest priority species,” says Fearer.

Since the first atlas studies were conducted in 1966, the small, blue warbler’s population has suffered a decline of more than 70 percent. Problematically, about 75 percent of their range occurs on private lands. “We needed to work with landowners to affect sustainable forestry practices, thereby improving habitat and enhancing forest health,” he says.

Toward achieving that goal, in 2015, the partnership “won an \$8 million grant from the [U.S. Department of Agriculture] and raised another \$8 million in direct, in-kind, and logistical support from more than 20 partnering agencies,” explains Fearer. The funds enabled the group “to implement active forest management to improve 12,500 acres of forest habitat and 1,000 acres of reclaimed mine lands for cerulean warblers in West Virginia, Pennsylvania, Kentucky, Ohio, and Maryland.”

Fearer says the project is still underway and continues to “create a tremendous opportunity for our partnership to engage private landowners and promote contiguous areas of viable working forests to help ensure long-term conservation of these amazing and endangered birds.”

A Volunteer Effort

With so much territory to cover, atlases rely on volunteer coordinators to generate local interest and drive participation. The second Virginia Bird Breeding Atlas is no different.

In the sparsely populated southwestern portions of the state, Peele says she gets a boost from Steven Hopp’s

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Naturalist’s Notebook

Versatile Vultures Misunderstood Scavengers of the Sky

By Eric Halvarson

With anecdotes about them often scary and myths misleading, the turkey and black vultures are some of the most recognizable yet generally maligned birds in North America. But beneath the myths, these raptors are extremely unique, skilled and unconventional scavengers.

The two types of North American vultures are often conflated with one another even though they can be distinguished from afar.

“Black vultures have a dark, wrinkly head and a noticeably short tail” says bird watcher Doug Rogers of Monticello Bird Club in Virginia, while “turkey vultures have a red, wrinkly head and longer tail,” and resemble common wild turkeys.

You won’t hear any calls from vultures, as they lack vocal organs to make bird songs. Instead, they hiss or let out a low whine. But by far, it is not their lack of vocal chords that sets them apart: it is the way they eat.

The vulture “exists outside the typical food chain, beyond the kill-or-be-killed law of nature” Katie Fallon

writes in her book “Vulture: The Private Life of an Unloved Bird.” Vultures are scavengers, eating only what has already died. Birders and naturalists who are fans of the vulture admire their role in the food chain.

“They are nature’s garbage men,” Rogers says. “They provide a valuable service to mankind.”

While often associated with the death of their meals, they do not hunt actively. Instead, the turkey vulture uses its extraordinary sense of smell to find decaying animals.

The turkey vulture has “large and well-developed olfactory bulbs,” the area of the brain that processes odors, according to Fallon. In contrast, black vultures have a very poor sense of smell, and often follow their turkey-resembling relatives to a carcass.

Contrary to popular belief, circling vultures have not found a carcass yet but are riding warmer gusts of air, called thermals, as they sniff around or scan the ground for food.

Once they settle in for a meal, their



Turkey vultures, above and bottom left, are the most abundant species of vulture in the Americas and range from Canada to Chile. They play a crucial role in nature by using their powerful sense of smell to locate the carcasses they feed on. Photos by Frode Jacobsen, flickr.com/photos/frodejacobsen

naked heads make it easier to eat without getting their feathers dirtied with bacteria. And the bacteria they do consume, which are often associated with diseases such as rabies, are eradicated in their stomach, which is 10 to 15 times more acidic than the human stomach.

Vultures stick out from the rest of the raptors, and while some misunderstand their offputting appearance or diet, bird watchers and lovers admire them for their unmatched abilities and important role in the food chain. ♦



Vulture Culture

Warning, some facts about vultures are gross

- Vultures defensively regurgitate to drive away enemies or to get rid of excess body weight and flee quickly.
- Vultures are known to defecate on their own legs to cool down in warm temperatures and to kill bacteria on their legs from carcasses.
- Turkey vulture wingspans are slightly smaller than a bald eagle’s at around 6 feet. They spread their wings in the morning sun to warm themselves in what is called the “horaltic pose.”
- Turkey vultures nest in cliffs, caves or abandoned buildings far from humans, and can live to be 25 years old.
- Both turkey vultures and black vultures are classified as protected under the Migratory Bird Treaty Act; they adapt well to human settlement, so are not at-risk or endangered.



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For the Love of Birds

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participation. Married to author Barbara Kingsolver, Hopp co-wrote 2008's New York Times best-seller, *Animal, Vegetable, Miracle*. Peele jokes he is the project's resident rock star.

"I'm always interested in doing what I can to help projects that are pro-environment and pro-community," says Hopp. "And this one happens to be right up my alley."

Despite earning a doctorate in experimental psychology, Hopp has been passionately interested in avian biology since graduate school. As an associate professor at Emory & Henry College, he had "a strong interest in the new-world family of birds called vireos," and spent a decade studying white-eyed vireos.

Like most bird atlas volunteers, Hopp is busy. He works as a part-time adjunct professor of environmental science, owns a nationally acclaimed farm-to-table restaurant and farm, and sits on the board of the Blue Ridge Discovery Center. Still, he makes time to participate in the study.

"It's important work and I find it incredibly rewarding," he says. High-



Bird breeding atlas volunteer Jay Martin photographed the Eastern screech owl, above, at Hungry Mother State Park., and the yellow-bellied sapsucker, lower right, along the Appalachian Trail near Marion, Va.. Photos by Jay Martin. A scarlet tanager, top right, sits on a branch in Maryland. Photo by Frode Jacobsen



ing and organizing the efforts of regional volunteers, Peele says the coordinators are indispensable, as they "teach participants to identify breeding behaviors, make entries in the eBird database and employ proper practices for visiting an area."

Beyond education, outreach and securing land permissions, a coordinator's primary duty is to ensure blocks get canvassed in order of highest priority. Up to three volunteer birders are assigned per block, with each requiring about 20 hours of field time to properly survey. Combing the territory periodically throughout the breeding season, participants seek to record the number of species it contains and confirm breeding behaviors.

"For a [bird breeding atlas] to be effective, ideally, you need to visit all habitat types in a block and confirm breeding in at least 60 percent of its observable species," says Peele. "Without the efforts of our devoted coordinators and volunteers, that would obviously be impossible."

2017 was an exciting year for the second Virginia Bird Breeding Atlas. The number of volunteer participants grew from 450 to 750 and is expected to rise to nearly 1,000 by the close of 2018. Volunteer birding hours jumped by 30 percent, with all regions experiencing a surge in survey hours (Hopp increased his by a whopping 243 percent). Interest among the Appalachian Trail thru-hiking community resulted in data being gathered in some of the state's most isolated territories. And a few birders experienced the rare treat of observing state firsts.

"Seven new species were added to our list of confirmed Virginia breeders



this past year," says Peele.

Along the coast, participants spotted breeding Wilson's plovers and a painted bunting pair. In York County, a kayaker located a nesting pair of aninga. The first eastern whip-poor-will nest was discovered in Caroline County. Volunteers on a Virginia Society of Ornithology field trip in Montgomery County confirmed the first brown creeper nest. And in Highland County, swamp sparrows and mourning warblers were observed breeding in high elevation bog and forest habitats, respectively.

"I always relish the task of diving into these records and seeing the discoveries [atlas birders] have made," says Appalachian Mountains Joint Venture Coordinator Todd Fearer.

"In Virginia, we're starting to see just how much has changed in the last 30 years, and, more importantly, starting to think about the kinds of changes that will have to be made to protect these birds." ♦

Battling for Black Lung Benefits

The deadly disease is on the rise, but funding for healthcare will be halved unless Congress acts this year

By Kevin Ridder

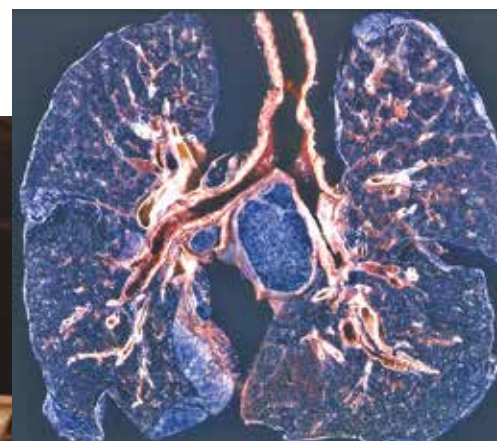
It starts with a dry cough.

As black lung disease progresses, the coal miner begins to notice more and more shortness of breath until simple tasks like the walk from the car to the front door leaves them winded.

"That is such a scary feeling when you can't catch a breath, and you realize that you're going to die if you can't catch a breath — but you still can't," says Deborah Wills, who has worked as a black lung benefits counselor at Valley Health Systems in West Virginia for more than 29 years.

Coal workers' pneumoconiosis, commonly known as black lung disease, is a fatal, incurable condition caused by long-term exposure to coal and silica dust in and around coal mines. As the dust accumulates, lung tissue becomes inflamed and scarred. Over time this can develop into progressive massive fibrosis, or complicated black lung disease, which causes heavy scarring in the lungs that leads to difficulty breathing.

"Pretty much everybody in the community knows somebody with black lung or somebody that has died from black lung," says Wills, whose



Ed Rich, the grandfather of Big Stone Gap Councilman Tyler Hughes, in a Southwest Virginia coal mine around 1986. Rich is now retired and living with black lung disease. Photo courtesy of Ed Rich. Above, lungs removed from a patient with complicated black lung disease. Photo by Yale Rosen, CC BY-SA

grandfather and great-uncle died from the disease.

The U.S. Department of Labor estimates that black lung has killed more than 76,000 people since 1968. The number is almost certainly higher, as miners have historically had a difficult time getting properly diagnosed, in part due to coal company pressure.

Although diagnoses of the disease declined for years after the first federal mine safety regulations were passed in 1969, black lung has made a devastating comeback in the last two decades. According to an August study published in the *American Journal of Public Health*,

today, one in 10 coal miners who have spent 25 years or more working underground suffer from black lung. In Central Appalachia, that number is one in five coal miners — the highest recorded rate in 25 years.

Treatment for the disease is costly. Aside from frequent doctor visits, some coal miners require lung transplants that can exceed \$1 million. While some states like Kentucky offer workers compensation for people with black lung, federal law stipulates that the last coal company that employed the coal miner for at least one year is responsible for paying benefits. These federal benefits currently

consist of full medical coverage related to the disease and a monthly stipend of \$660.10, which can be increased to a maximum of \$1,320.10 if the individual has three or more dependents. But if the company is unable to pay, usually due to bankruptcy, then benefits are obtained through the Black Lung Disability Trust Fund, a federal healthcare and disabled-worker fund set up in 1977.

More than \$45 billion in federal compensation has been allocated to current and former coal miners and their surviving dependents through the fund. Coal companies are currently taxed \$1.10 for every ton of underground coal mined and 55 cents for every ton of

Continued on next page



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Kentucky Law Makes it Harder to Get Black Lung Benefits

Current and former Kentucky coal miners now have far fewer options when it comes to finding a doctor to prove they have black lung disease so that they can access state workers compensation, which is separate from federal black lung healthcare.

Before a state law took effect in July 2018, miners could visit one of the 10 radiologists and pulmonologists in the state who are currently federally licensed "B readers" — those trained to identify black lung from a chest x-ray. Now, miners can visit only the five pulmonologists to confirm their black lung diagnosis

and receive state benefits.

State Rep. Adam Koenig, the lead sponsor of the legislation, told NPR in April 2018 that he "relied on the expertise of those who understand the issue — the industry, coal companies and attorneys." However, he also stated that "not everyone who had a specific interest was involved ... I'm not sure I was even aware of NIOSH," referring to the National Institute for Occupational Safety and Health, the federal agency that licenses B readers.

Beverly May, a retired nurse practitioner in Eastern Kentucky who has treated people with black lung, noted that Rep. Koenig is from a non-coal

producing county.

"There was no reason that he would have had any particular dog in that fight," May says. "So I can only guess that this was the coal industry going through the legislature for some backdoor protection from this avalanche of black lung claims."

Dr. James Brandon Crum, a NIOSH-certified radiologist in Pikeville, Ky., is one of those now excluded from diagnosing black lung for state benefits. According to Ohio Valley Resource, Crum is the one who alerted researchers to a disturbing increase in black lung disease, particularly among younger miners.

Evan Smith, a staff attorney with the nonprofit law firm Appalachian Citizens' Law Center, claims that the law specifically targeted Crum.

"I wish [Rep. Koenig] had ... just called it 'The Coal Industry Does Not Like Brandon Crum Bill of 2016,'" Smith says. "That's what it really comes down to, that there's a highly trained, highly reliable radiologist in Pike County that's done more than anyone else to document the resurgence of black lung in our region, and the coal industry cannot find any rational reason to discredit him — so they're trying to gerrymander the rules so that he can't be involved in the system."

Black Lung Benefits

Continued from previous page

surface coal mined to finance the fund.

But in 2019, those rates are scheduled to drop to 50 cents per ton and 25 cents per ton, respectively. The fund is already approximately \$4.3 billion in debt, according to a May 2018 report from the U.S. Government Accountability Office. If the excise tax is reduced, the office estimates the debt will exceed \$15 billion by 2050.

“Without any congressional action, the trust fund’s debt is going to be far worse than it’s ever been in the past,” says Evan Smith, a staff attorney with the Appalachian Citizens’ Law Center, a nonprofit law firm. Smith notes that while this wouldn’t immediately affect coal miners and their families, it could have dire consequences in the near future.

Once the debt reaches “a scary-type level,” he says, then legislators from non-coal states “start saying ‘wait a minute, here’s a government program that’s bleeding out money every year; we’ve got to do something about this.’”

According to the Government Accountability Office report, raising the tax on coal companies by 25 percent would eliminate the fund’s debt by 2050.

“That’s the right thing to do, especially if we’re uncertain of how much coal production we’re going to have in the year 2050,” Smith says. “We should do everything we can to have the coal industry more or less pay its bill.”

Resolutions Passed

On Aug. 14, the town council of Big Stone Gap, Va., unanimously passed a resolution in favor of keeping the tax on the Black Lung Disability Trust Fund at its current level. It was the first town in the nation to do so.

“It’s not only a moral issue that a company takes care of its workers, but it’s also an economic issue,” says Big Stone Gap Councilman Tyler Hughes, whose grandfather suffers from black lung. “We live in a really impoverished portion of the commonwealth; and most people, regardless of where they live, have trouble paying for their healthcare whether they have black lung or not.”

The towns of Pennington Gap, Va., Dungannon, Va., Haysi, Va., and Benham, Ky., have since passed similar resolutions in support of keeping the excise tax at its current level.

“We are happy to see Big Stone Gap to be the first to step out on that,” says Pennington Gap Councilwoman Jill Carson. “[Cutting the excise tax] would just be so devastating for those families in what is already a poor, poor part of the country.”

In late September, Hughes and nearly 40 representatives from The Alliance for Appalachia — a coalition of grassroots organizations including Appalachian Voices, the publisher of this newspaper — traveled to Washington, D.C., to urge lawmakers to extend the black lung excise tax. They also pressed legislators to pass the RECLAIM Act, a bill that would accelerate the release of \$1 billion in existing funds to clean up abandoned mine lands.

National Mining Association President Hal Quinn, however, argues that keeping the trust fund tax at its current rate would burden the industry. “Changing the schedule now would effectively impose a tax increase on an industry struggling to recover from the regulatory excesses of the past administration,” Quinn wrote in a June 2018 letter to two key U.S. House members, according to Reuters.

But Evan Smith states that the industry has offered no economic evidence to support that.

“The bottom line is that the [coal] market has week-to-week fluctuations that are greater than the tax that we’re



Big Stone Gap Councilman Tyler Hughes, Peggy Brock from the SWVA chapter of the Black Lung Association and Bethel Brock, president of the SWVA chapter of the Black Lung Association and a former miner living with complicated black lung disease, met with Sen. Mark Warner (second from right) to deliver four local resolutions of support for extending the black lung excise tax. The meeting was one of about 40 that residents of Central Appalachia had on Capitol Hill in late September. Residents of Southwest Virginia also delivered the resolutions to Rep. Morgan Griffith. Sen. Warner is backing legislation that would require the government to look into why coal miner participation in black lung screenings is only 35 percent. Photo courtesy of Sen. Warner’s staff

talking about. ... And so to ask those producers to pay just an extra 60 cents of that I think is a very modest cost to make sure that coal miners are taken care of,” Smith says. “Industry lobbyists are always going to say that anything that imposes a cost is a cost that they cannot bear. That’s what they get paid to say.”

Black Lung’s Resurgence

According to Reuters, Hal Quinn’s letter stated that black lung disease was in decline. But according to the National Institute for Occupational

Safety and Health, black lung diagnoses have steadily climbed after a low point in the ‘90s.

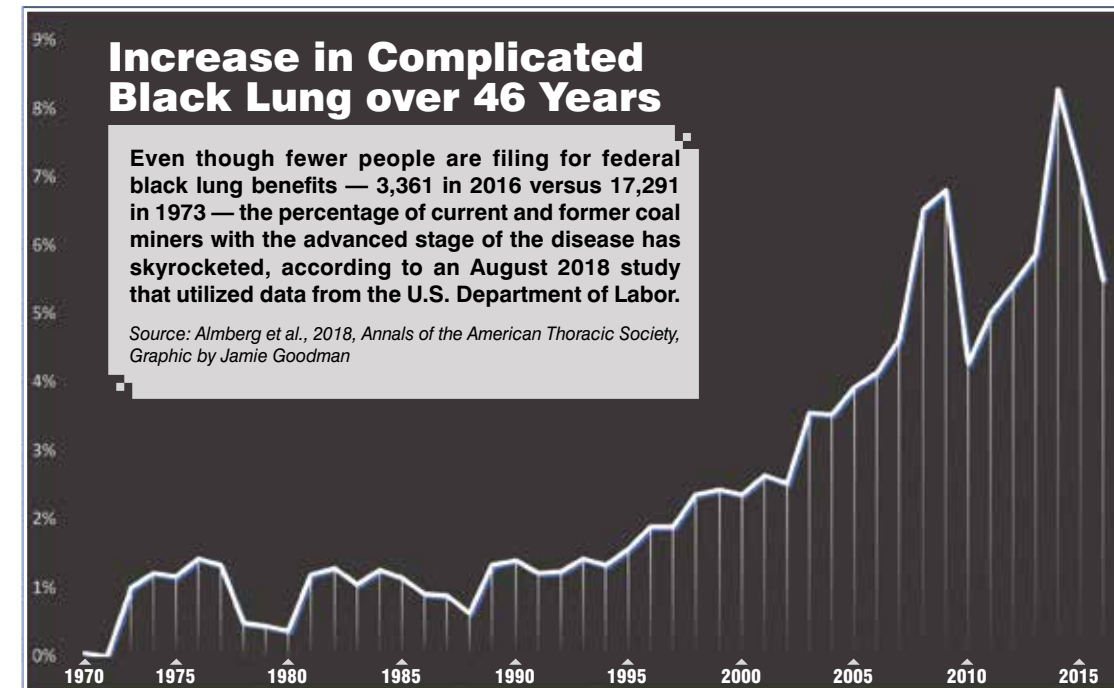
Progressive massive fibrosis, or complicated black lung disease, has also grown, according to an August study. In 2014, 8.3 percent of miners filing for black lung benefits had the advanced stage of the disease, compared to 0.6 percent in 1988. And 84 percent of miners with progressive massive fibrosis most recently mined coal in Central Appalachia.

In February, researchers published findings that 416 coal miners were diagnosed with complicated black lung in three Southwest Virginia clinics operated by Stone Mountain Health Services between 2013 and 2017. The authors stated that this is “the largest cluster of [progressive massive fibrosis] reported in the scientific literature.”

Beverly May is a retired nurse practitioner in Eastern Kentucky who treated patients with black lung, and is currently working toward a doctorate in public health.

According to May, the recent rise of black lung disease can be partly attributed to thinner

Continued on next page



An Adversarial Process

For those who apply to receive black lung benefits, Evan Smith, a staff attorney with the nonprofit law firm Appalachian Citizens’ Law Center, says that the process “often ends up taking a decade or more” — and that it’s a “very adversarial process.” Filing the initial claim with the U.S. Department of Labor takes about a year, during which the individual visits an agency-approved doctor

and the coal company can submit evidence to challenge the claim. After that, either side can ask for a hearing before a judge, which Smith says takes between two and four years.

“It’s not uncommon to ask a judge to review it and then not even hear from a judge for two and a half years,” he says, adding that there’s a huge backlog of cases.

After the judge’s decision, how-

ever, there is often a series of appeals. “And anytime some of the appeals judges find a problem, it’s kind of like chutes and ladders,” he says. “You take a slide back down and go to an earlier step in the process, and then things move forward.”

“As long as these cases are in active litigation, then the coal companies and insurance companies do not have to pay,” he adds. “And so if you’re a coal company or an insurance

company, then a rational strategy is essentially to drag out the process for as long as you can.”

Smith states that the companies will often file appeals even when they know they won’t succeed.

“Each time you ask for more review, you don’t have to pay the bill,” he says. “I can only think of a few cases that I’ve been involved with where there hasn’t been a request for at least a judge to get involved.”

Black Lung Benefits

Continued from previous page

seams of coal. Since many of Central Appalachia’s coal-rich seams have been depleted, miners must cut through more rock than before to reach thinner seams of coal — which creates a much greater volume of dust. A 2012 joint investigation by National Public Radio and the Center for Public Integrity discovered that about 52 percent of mine dust samples between 1987 and 2012 showed dangerous levels of silica.

Additionally, May says that with less labor union presence in the region, miners have worked longer hours and more days per week. The NPR investigation found that the average work-week for coal miners had increased by 11 hours over the last 30 years.

“Worst of all, there was extensive tampering with the mechanisms for monitoring the dust,” says May. “What the miners said is that on a routine



basis, after there were no more unions, they would get to work, they would do three or four cuts with the continuous miner [machine], and then the supervisor would come and take the personal dust monitor from them and then hang those dust monitors up in the air intake. And then they would proceed to make another 11 or 12 cuts with the continuous miner. So only a small portion of the dust that the miners were actually breathing during the course of that shift was represented in the personal dust monitors that were turned into [the U.S. Mine Safety and Health Administration].”

Dust monitors such as these are meant to warn miners of unsafe coal and silica dust levels. Photos courtesy of U.S. Mine Safety and Health Administration

In July, eight former employees of the now-bankrupt Armstrong Coal Company in western Kentucky were federally charged with submitting forged dust monitoring results to the U.S. Mine Safety and Health Administration. All eight pleaded not guilty, and trial is set for June 19, 2019, according

to WEVV-TV. Each faces five years in federal prison and a \$250,000 fine.

To Deborah Wills with Valley Health Services, black lung is “a totally preventable disease.”

“Miners don’t have to die from black lung. If coal operators had appropriate ventilation systems in the mines and everyone went by the rules, there would be no black lung disease,” she says. “If people would worry more about workers’ health than production, we wouldn’t have black lung disease.” ♦

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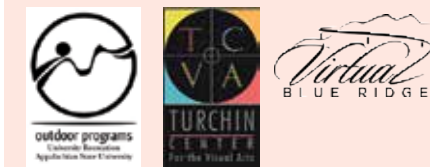
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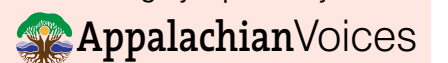
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Imbalance of Power

Examining the system that keeps power companies and regulators from acting in ratepayers' best interests

When we think of shared resources, our waterways, forests and air are often the first that come to mind. Yet in many ways, the electric current that runs from home to home is also mutual — the costs of utility investments are shared by all customers, even though some feel the environmental or economic consequences of power providers' decisions more acutely.

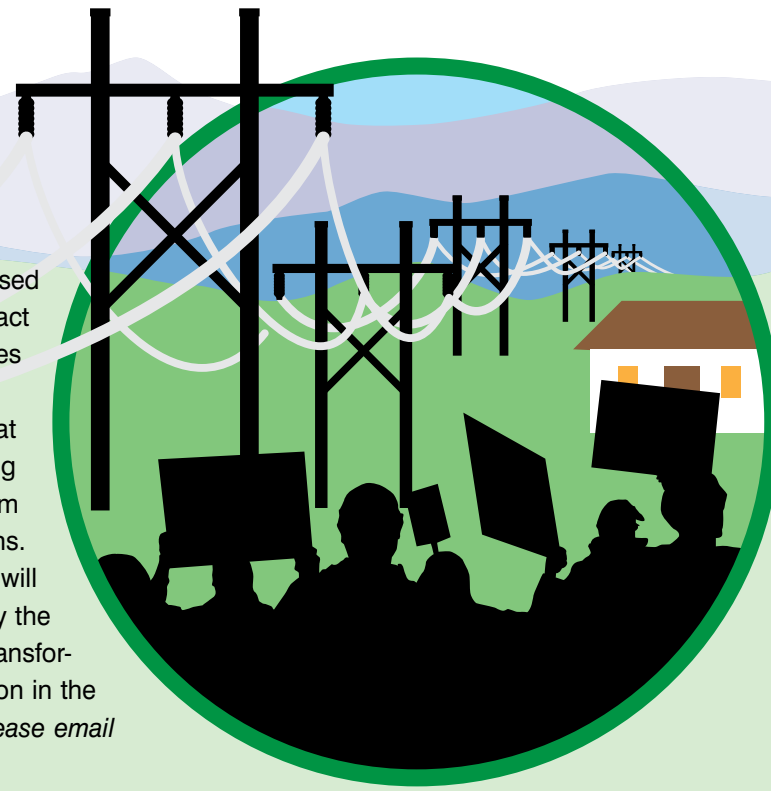
In Appalachia, our energy options and prices are determined by where we live. Much of our area is controlled by monopolies that determine whether we are connected to a pollution-belching power plant or a utility-owned solar array. These monopolies even affect the affordability of putting solar panels on our own roofs.

These electric utilities — whether they are private com-

panies or publicly owned nonprofits — are supposed to be accountable to the people they serve and act in the public's interest. But the system often does not work in residents' favor.

In Part One of a special two-issue look at our energy system, we examine the underlying problems that prevent power companies from responding to the needs and interests of citizens.

Part Two in our December/January issue will include stories from citizens directly affected by the current power landscape, and examine the transformative potential of more democratic participation in the energy sphere. *If you have a story to share, please email editor@appvoices.org.*



POWER PLAY

By Brian Sewell

In June, progressives cheered a unanimous vote by the Democratic National Committee for a resolution banning contributions from fossil fuel companies. The text of the resolution raised the spectre of climate change and pegged the political spending of oil, gas and coal companies as a primary cause of inaction.

Its pitch to the Democratic party machine began, “the American people are looking to Democrats to promote people-powered politics in this era of resistance, revival, and reform but are rightly concerned that their voices are drowned out.”

Just two months after passing the resolution, however, the DNC backtracked. A new resolution, submitted by Tom Perez, the group's chair, welcomed contributions from workers, labor unions and “employers' political action committees” in industries “powering America's all-of-the-above energy economy.” It was viewed by progressives as an implicit reversal of the earlier resolution.

The controversy is a reminder of the complex relationship between energy industries and American politics, as well as those industries' influence on state and national elections and, by extension, state and national energy policy. In many states today, fossil fuel companies and investor-owned electric utilities are among the largest contributors to political campaigns of both major parties.

Industry influence is a constant in Appalachian and southeastern states. According to an analysis by Public Interest Resource Group, a federation of liberal-leaning nonprofit organizations, three electric utilities — Duke Energy, Dominion Energy and FirstEnergy — were the top corporate donors in 2016 to local, state and federal campaigns in North Carolina, South Carolina, Virginia, West Virginia, Ohio and Pennsylvania.

These regional heavy-hitters draw from similar playbooks when they have a policy to pass or, say, a gas pipeline to build. But modern-day challenges are straining the dated utility business model, and the threats of rising energy costs and climate change are motivating more citizens to fight back. The stakes have arguably never been higher.

Who Controls Who?

When it comes to consequential policy decisions, utilities' words understandably carry weight. Together, Duke, Dominion, FirstEn-

Monopoly Money: Map displays each state's top corporate political campaign contributor in 2016, according to analysis by U.S. Public Interest Research Group and data from the National Institute on Money in Politics. Map by Jimmy Davidson

PUBLIC INTEREST GROUPS ARE BUILDING POLITICAL WILL TO COUNTER ELECTRIC UTILITY TACTICS



Critics of Dominion Energy traveled to the company's annual shareholders meeting in 2016 to voice their opposition to Dominion's investment in the Atlantic Coast Pipeline and fracked gas. Photo by Ian Ware/ Chesapeake Climate Action Network

ergy and their subsidiaries serve nearly 20 million customers.

“That's a big part of why they're so powerful,” says Ivy Main, the renewable energy chair for the Sierra Club's Virginia chapter. “You've got the utility saying ‘if I'm going to be able to provide reliable service I need to do these things.’ That's a very powerful argument.”

Still, in Main's view, “Dominion gets away with things that others don't.”

The Richmond-based company operates as a regulated monopoly in the most populous areas of Virginia, which Goldman Sachs described in 2017 as “one of the top state regulatory environments for utilities” from the investor's perspective.

Since 2013, the company has contributed more than \$1.5 million to legislative candidates in the commonwealth. Over the same period, the recipients of those donations passed laws that allowed Dominion to write off \$720 million in earnings due to costs associated with coal plant retirements, storm recovery and the construction of a nuclear reactor that it later abandoned.

Those changes forced utility regulators at the State Corporation Commission to maintain inflated electric rates, when under different circumstances hundreds of millions of dollars in profits exceeding the company's authorized rate of return would have been refunded to customers.

Dominion then won approval in 2015 for the now-infamous “rate freeze.” Introduced by Republican state Sen. Frank Wagner, and signed by Democratic former Gov. Terry McAuliffe, the legislation barred the commission from reviewing electric utility earnings or lowering rates on the assumption that Dominion and Appalachian Power Company needed the extra cash to comply with then-President Barack Obama's Clean Power Plan.

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The Problem with Monopoly Utilities

Much of America's energy system still runs like it did in the early 20th century, but times are changing

By Kevin Ridder

When it comes to electricity options, the average person doesn't have much power.

Most utilities enjoy energy monopolies over an area, whether they are a huge investor-owned company or a rural electric cooperative. This makes it essentially impossible for most people to choose where their power comes from, even if they disagree with their electricity provider's decisions such as their handling of coal ash or investment in fracked gas instead of renewable energy.

Are these utilities serving the public's best interest in the 21st century? Yes and no, says Jim Lazar, a senior advisor with the Regulatory Assistance Project, a global organization that works to advance clean energy.

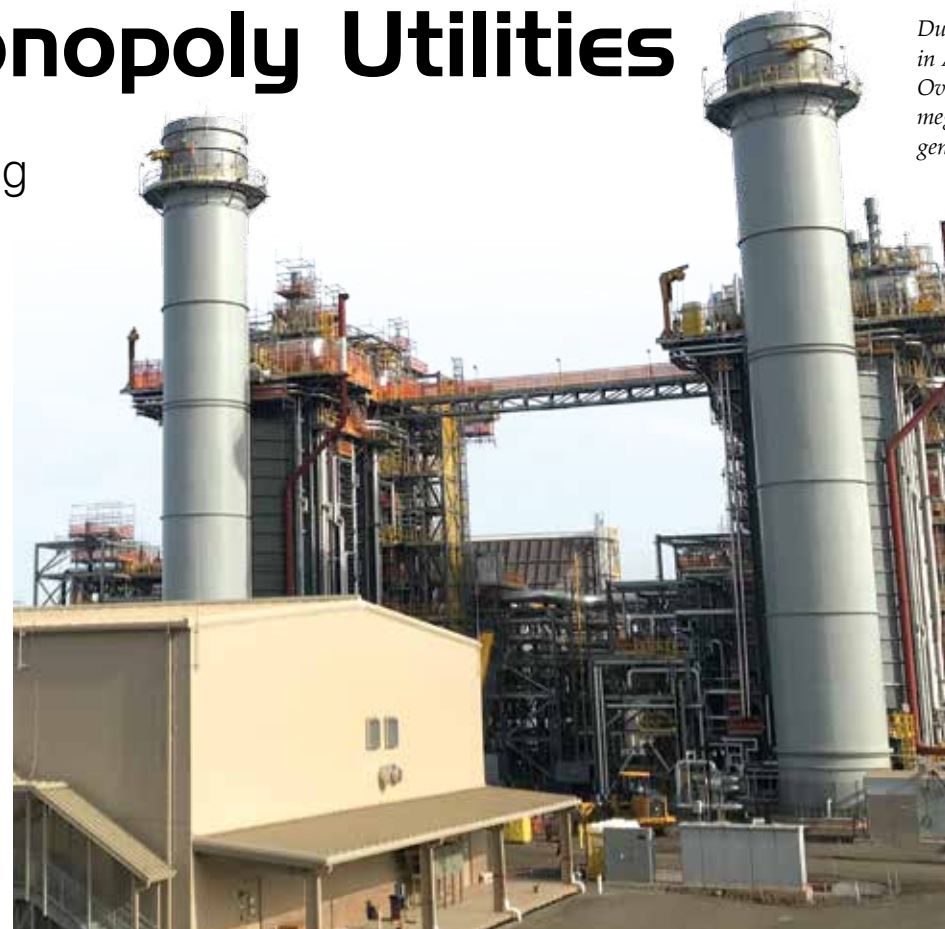
“[Utilities] certainly provide essential services: electricity, natural gas, water, sewer and other public utility services,” says Lazar. “They mostly do it at a reasonable cost, and they mostly do it with pretty high reliability. So in that sense, the answer is yes. But are they doing the best possible job for consumers? No. Are they doing the best possible job for the environment? No. They have mixed incentives, and mixed obligations.”

According to Lazar, these mixed incentives stem from the fact that investor-owned utilities like Duke Energy are beholden to their shareholders' interests, not the interests of ratepayers. “That's the way corporations work; they can't put any interests ahead of the owners of the company,” he says.

Investor-owned utilities serve the majority of the country's electricity customers. In nearly all states, these utilities are regulated by state public utility commissions appointed by elected officials, which gives the public some oversight over these large companies. Publicly owned electric cooperatives serve many customers in rural areas, and they are overseen by member-elected boards. Utilities owned by federal, state or city governments also play a part.

Most states allow investor-owned utilities to have monopolies on energy, and the states have extensive power to regulate them. The choices utilities and regulators make, such as whether to focus on conventional fossil fuel infrastructure or renewable energy, can have massive ramifications on the environment, types of available jobs and monthly electric bills.

High electricity costs hit underprivileged households the hardest. Low-in-



Duke Energy Carolinas' W.S. Lee natural gas station in Anderson County, S.C., began service in April 2018. Over the next 15 years, the utility calls for about 3,600 megawatts of additional natural gas-fired electricity generation. Photo courtesy of Duke Energy

come, rural households spend 9 percent of their annual income on energy, compared to the national average of 3.3 percent, according to a July 2018 report by the American Council for an Energy-Efficient Economy, a nonprofit policy organization. Nearly one in three American households

struggled to meet their energy needs in 2015, according to a September U.S. Energy Information Administration report.

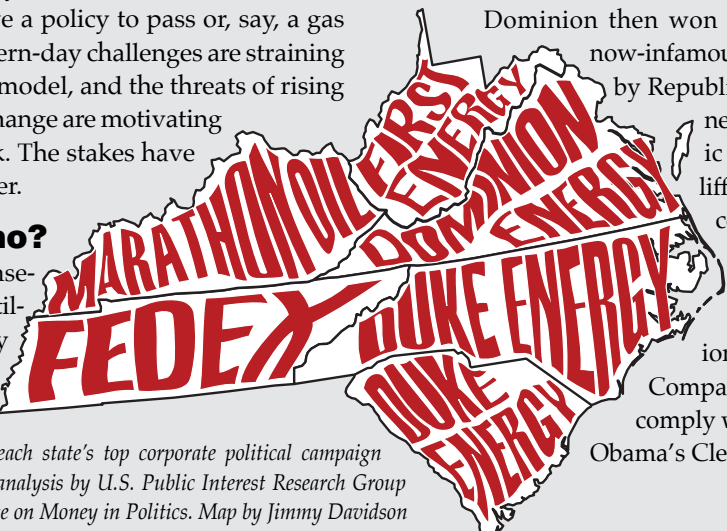
The prices that regulated, investor-owned utilities like Duke Energy can charge customers are set by state agencies. These prices cover capital investments and

operating costs, plus a profit, or “rate-of-return,” on capital investments. One of the factors that goes into determining the price, or “rate,” is how much utilities spend on projects that the regulator deems prudent — meaning that the more power plants utilities build, the more money they can receive and use to generate profits. This incentivizes utilities to spend as much money as possible on new projects, whether or not those projects are of value to the public.

This growth-driven model worked in the 19th and 20th centuries as the nation was building the current grid, but times have changed. Energy demand has fallen, partially due to energy efficiency; residential electricity sales per person in 2016 were down 7 percent from their peak in 2010, according to the U.S. Energy Information Administration. Additionally, the world is becoming more aware of the climate dangers posed by fossil fuels — NASA states that 2017 was the second hottest year on record after 2016.

The price to install solar has fallen by more than 70 percent since 2010, according to the trade group Solar Energy Industries Association. Smart technology has led consumers to expect more from their phones,

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homes, televisions and now the grid. For example, demand-response systems allow ratepayers to tell their electric utility to cycle their water heaters off during peak electricity usage hours in exchange for a lower utility bill.

These changes point to a more renewable, flexible and consumer-focused energy system. But big industries can be slow to change, especially without prodding from regulators.

"We've spent 120 years in this industry forecasting consumption and scheduling supply, and when we are burning fossil fuels we can do that," says Lazar. "As we move away from fossil fuels to wind and solar and batteries and demand-response, we're going to be spending more time forecasting supply and scheduling the demand to fit that. That's a pretty dramatic change, and most utilities are not ready for it — and the regulatory framework in which they operate is really not ready for it either."

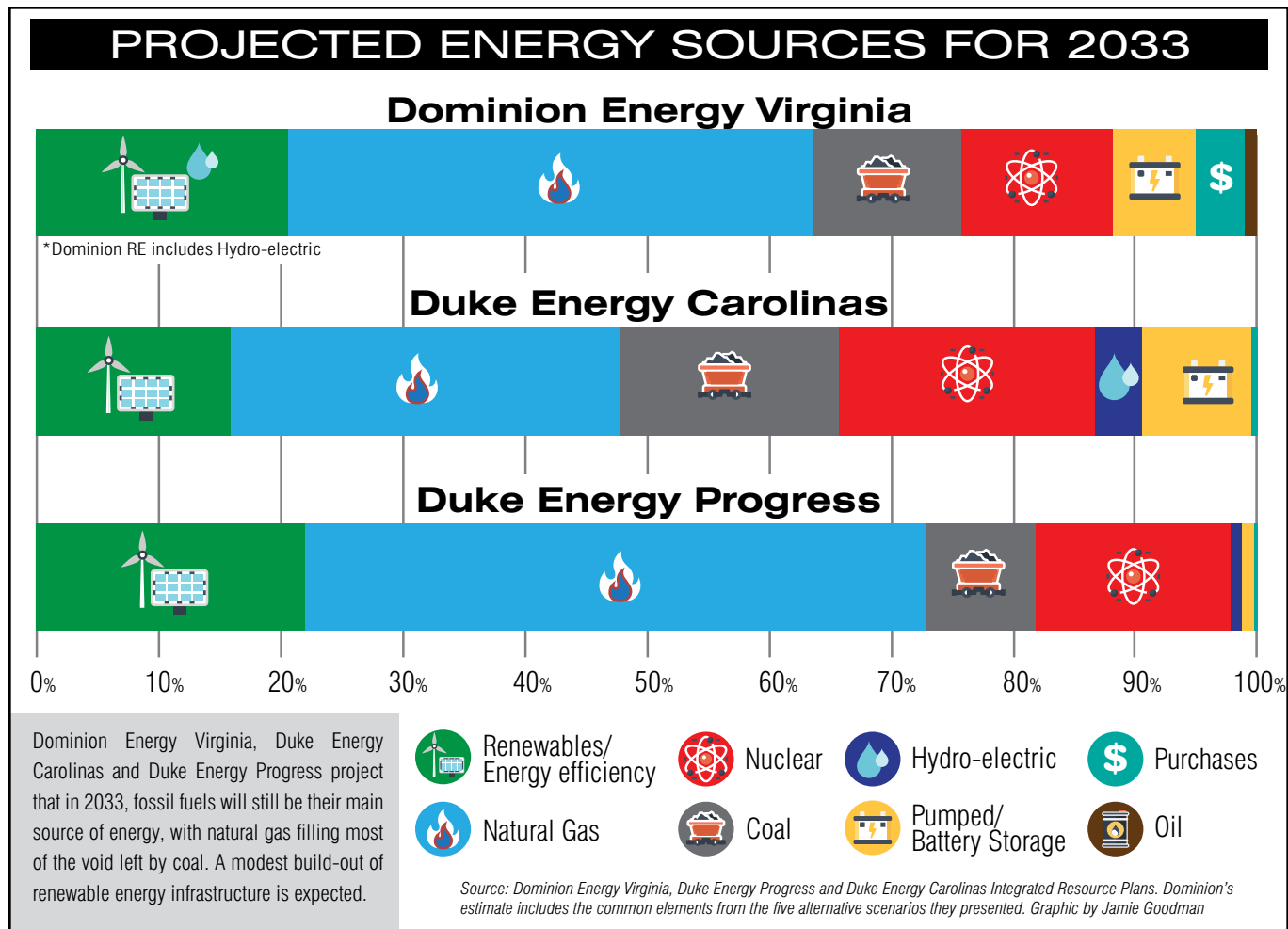
Climate Consequences

In September, Duke Energy Progress and Duke Energy Carolinas filed plans with the North Carolina Utilities Commission listing what energy sources they expect to invest in between 2019 and 2033.

"As we retire old coal, in most cases we will replace that with natural gas," Duke spokesman Randy Wheelless told Utility Dive. "Going forward, Duke Energy's new capacity additions will be renewables (solar, battery and pumped storage) and natural gas."

During that time period, the Duke subsidiaries plan to add 3,663 megawatts of solar power. The two subsidiaries are also planning a massive buildout of natural gas infrastructure — 9,596 megawatts by 2033 — which earned criticism from David Rogers with the Sierra Club's Beyond Coal campaign.

"While it's good that Duke is starting to realize that investing in clean energy sources makes more sense than burning coal, this plan doesn't go nearly far enough," Rogers said in a press release. "Burning coal until 2048 is hardly a 'carbon constrained' scenario, as their filing claims, nor is a massive expansion of plants that burn fracked gas, which, over its first 20 years in the atmosphere, [releases methane that] is 87 times more potent for trapping heat than carbon dioxide."



Dominion Energy Virginia — a subsidiary of Dominion Energy, the fourth largest utility in the nation as of April 2017 — plans to build at least 4,720 megawatts of new solar capacity by 2033, and is developing a community solar pilot program in Virginia (read more on page 25). However, the utility also plans to build at least eight new gas-fired plants totaling 3,664 megawatts in the same time period.

Jim Warren, executive director of NC WARN, a nonprofit clean energy advocacy organization, states that utility companies are furthering the climate crisis by building more fracked gas infrastructure.

"They have been acting as a key force in moving humanity toward that climate tipping point, especially through the greatly expanded use of fracked gas over the last several years," says Warren.

He also notes that climate change helped make September's Hurricane Florence so devastating. Before the storm hit, scientists from Stony Brook University, the Lawrence Berkeley National Laboratory and the National Center for Atmospheric Research were projecting that human-caused climate change increased Florence's rainfall

by more than 50 percent. Post-storm analysis has yet to be released.

"We know what to do to take the best chance to avert runaway climate chaos; and yet major corporations, Duke Energy being one of the worst, are actively trying to thwart that approach," says Warren.

Both Dominion and Duke have invested billions in the 600-mile Atlantic Coast Pipeline, which would transport fracked gas across West Virginia, Virginia and North Carolina. The project continues to attract widespread opposition (see page 22).

Rory McIlmoil, energy savings program manager for nonprofit organization Appalachian Voices, the publisher of this newspaper, calls Duke and Dominion's investment in the pipeline "just another example of them wanting to make as much profit as possible and expand their control over the energy market."

Tomorrow's Grid

Utilities across the country are attempting to adapt with a wave of "grid modernization" investments — a catch-all term for projects like smart meters that advance the electric grid. In the second quarter of 2018 alone, utilities in more than 40 states took steps toward grid modernization, according

to an August report by the North Carolina Clean Energy Technology Center, a publicly funded organization based out of North Carolina State University.

Grid modernization projects are attractive to investor-owned utilities because, if they are approved by regulators, the costs of those projects plus a guaranteed rate-of-return can be recouped through customer charges. However, the definition of grid modernization is vague. Many utilities like Duke and Dominion are attempting to use the term to justify earning a profit at ratepayers' expense on ventures that could be seen as standard operations and maintenance — which the utilities have traditionally not been allowed to profit from.

According to McIlmoil, electric utilities across the nation are pursuing grid modernization to make up for flat or declining revenue due to residential solar and greater energy efficiency.

"They're looking for a new way to invest money that will allow them to generate a profit — and the new, big and shiny investment is grid modernization," he says.

In March, the Virginia General Assembly passed a controversial law that

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made substantial changes to electricity rate structure and energy policy. The Dominion Energy-backed law, which stands to massively benefit the utility, was opposed by some lawmakers and citizen groups, including Appalachian Voices (see "Power Play" on page 15).

Among other things, the law gives Dominion the ability to charge its customers billions of dollars to bury power lines underground, and strips the State Corporation Commission's ability to determine if the project is "reasonable and prudent." The law also allows Dominion to reinvest any and all customer overcharges into grid modernization, renewable energy or energy efficiency projects instead of issuing refunds.

"We're consigning our consumers to going forward in a future in which they will be permanently overpaying for electricity," said Virginia State Sen. Chap Petersen during the General Assembly's debate in February 2018. "I don't believe in giving anybody a blank check."

This year, Duke Energy Carolinas proposed their own grid modernization effort called Power/Forward. In June, the N.C. Utilities Commission struck down the \$7.8 billion ratepayer cost increase.

McIlmoil states that some of the initiatives Duke included in Power/Forward were standard operations and maintenance costs like replacing aging infrastructure or burying lines underground — something that Duke should not be able to profit from. "Very few of the investments that were included in Duke's narrative actually reflect improving the grid in a way that prepares the grid for a clean energy future," he says.

Power/Forward earned criticism from legislators, the North Carolina Attorney General and public interest advocates including Appalachian Voices. According to Gudrun Thompson, a senior attorney with nonprofit law firm Southern Environmental Law Center who litigated against Duke's proposal, Power/Forward put too much burden on the utility's residential ratepayers.

"Duke Energy proposed to bill residential customers over \$5.6 billion over the next 10 years for Power/Forward (72 percent of the Company's planned \$7.8 billion spend)," Thompson wrote in an email. "But only 3.5 percent of the potential cost savings from Power/Forward



A Duke Energy lineman. Parts of Duke and Dominion Energy's grid modernization plans, which earn the utilities a rate-of-return, include projects such as burying power lines underground. Critics state that those projects are standard maintenance and should not be profited from. Photo courtesy of Duke Energy

(\$59 million out of a total of \$1.61 billion) would accrue to residential households."

Thompson notes that one reason regulators rejected Duke's proposal was the utility's failure to show public need.

"Duke just did not do a good job of explaining what this Power/Forward initiative is, what the projects actually consist of," beyond a general argument for grid reliability, Thompson says. She adds, Duke "couldn't show that there was actually any kind of worsening trend of reliability."

Duke is considering taking legislative steps in 2019 for the authority to add a "rider," or temporary extra fee on electric bills, to pay for grid modernization, according to the Charlotte Business Journal.

"We have talked about our strategic priority on grid [modernization] for some time and described that as being a parallel process between the regulatory and the legislative arena," Duke CEO Lynn Good told the publication in August.

Until then, the utility plans to hold a number of technical workshops on why grid modernization is necessary.

"There are certainly some ways that the grid really does need to be modernized to allow more clean energy onto the grid, and I think there's room for common ground on that issue," says Thompson. "I'm hopeful that the series of stakeholder workshops will result in an improved Power/Forward initiative that all stakeholders can agree on."

Uncooperative Cooperatives

Rural electric cooperatives provide

electricity to 56 percent of the nation's landmass, according to the National Rural Electric Cooperative Association, which represents the country's 900-plus electric cooperatives. The members who pay for power in each electric co-op are also the owners of the cooperative, which is chartered as a nonprofit organization. These member-owners elect board members who oversee the cooperative's day-to-day operations.

Since there's typically little to no state oversight for electric cooperatives, member-owner involvement in the process is critical to holding the co-op accountable for their policies.

Pat Hurley, who has consulted for utility companies for more than 30 years all over the globe, is currently a member-owner of Powell Valley Electric Cooperative in Northeast Tennessee. He says that while the electric cooperative model may sound good on paper, it doesn't always work.

"That gets you into the ironic situation where, sometimes, cooperative utilities kind of start doing whatever they want to do," says Hurley.

Often, as in Powell Valley Electric's case, small voter turnout at the annual membership meeting is exacerbated by a lack of transparency on the board's part. Powell Valley member-owners were just granted permission to attend the monthly board meetings without prior request this summer, largely due to the efforts of PVEC Member Voices, a group that has partnered with Appalachian Voices and is aiming to reform the electric cooperative.

However, meeting minutes are still not publicly available, and a bylaw amendment proposed by PVEC Member Voices to ensure a permanent right to open board meetings was blocked

"For that to work, the owners — whether it's the public at large or whether it's directly by the customers — have to pay attention and have to exercise their responsibility in that structure to elect good people to represent them, to speak up when there are policy changes," says Hurley.

Nationwide, voter turnout for electric co-op board elections is minuscule; 72 percent of electric cooperatives have less than 10 percent average voter turnout, according to a 2016 report by the Institute for Local Self-Reliance, a nonprofit organization and advocacy group.

And since electric co-ops generally don't have to report to state or federal regulators in the same way that large investor-owned utilities do, there's often not public access to cost-of-service analyses to determine the fairness of rates and what the co-op invests in.

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from being voted on until summer 2019. Additionally, while prior request is not required to attend meetings, it is needed before speaking at meetings.

"They have these elections every year, and you may or may not have ever even heard of these [board representatives]," says Hurley. "You don't have any idea of how they've been performing because you haven't been able to watch them or see them individually and what they're doing, what kinds of questions they've asked, what objections they've done or anything else."

This can contribute to another endemic problem of co-ops: long-term board incumbencies.

"There's no turnover, so it becomes like a little club," says Hurley. "You don't have anybody else coming

in and looking over their shoulder."

Hurley states that over 15 years, only four members of Powell Valley's nine board members have changed. Of those four, three were relatives of previous board members.

"As the board president in Powell Valley said a few months ago when they asked about the nominating process, he said 'the board selects the nominating committee, and the nominating committee selects the board,'" says Hurley. "In all but a very, very few instances, the nominating committee will nominate the incumbent board members, and there is no other consideration. ... [Member-owners] are faced with a slate of the incumbents, and no other alternatives."

At 2018's annual meeting on Sept. 15, however, three incumbent board members were challenged by candidates supported by PVEC Member Voices. Although all three incumbent members won their elections, 1,254 members showed up to vote — the second-highest turnout in 15 years.

Problems like these are not unique to one electric cooperative. Member-owners are not allowed to attend monthly board meetings for Blue Ridge Energy, an electric cooperative in Western North Carolina. Meeting minutes are also not provided to the public. The cooperative's policy restricts public comments at their annual meetings to 15 minutes with a maximum of one minute per person.

Member-owners of French Broad Electric Membership Corp. in Western North Carolina are also not allowed to attend monthly board meetings, nor are meeting minutes provided to the public. But if enough people show up to vote, change can happen. In central South Carolina, more than 1,500 member-owners of Tri-County Electric Cooperative voted out the entire board in August after it was revealed that the part-time board was paying itself more than triple the national average plus benefits, according to The State.

"It may take years, but [member-owners] have to come out and vote," says Hurley. "They have to pay attention



Powell Valley Electric Cooperative's annual meeting took place on Sept. 15 in Sneedville, Tenn. More than 1,200 member-owners stood in the hot sun for hours to vote for the board of directors, the second-highest number of voters in recent history. Voter turnout was driven in part by PVEC Member Voices, a citizens' group advocating for reform measures such as open monthly board meetings. Pictured, around 300 people vote on co-op policies. Photo by Brianna Knisley

to what the cooperative is doing — and if they don't like what the cooperative is doing, they have to get new candidates in there, whether it's by petition or somehow through the nominating process. It seems rather simple, but they just have to pay attention to start with."

Most electric co-ops are intrinsically linked to large utility companies. According to the Institute for Local Self-Reliance report, 65 to 70 percent of power distributed by electric co-ops is supplied by outside power providers — so the foundation for setting electricity rates is affected by where cooperatives get their power from.

This also affects what type of power co-ops use. For instance, Blue Ridge Energy is contractually obligated to buy most of their power from Duke Energy. In their power-purchase contracts, Blue Ridge has a two-megawatt cap on how much "demand-response," or technology that reduces grid usage, they can utilize. Since solar power is viewed as a type of demand-response technology, this limits how much solar the co-op can purchase or self-generate.

Powell Valley's power-purchase contract with the Tennessee Valley Authority prohibits the co-op from refunding capital credits, which is the excess money that member-owners paid over the year for their electric service.

Michael Shockley, a board member of Powell Valley Electric for about 15 years, told the Claiborne Progress that "the monies that we accumulate goes

back into the co-op where it's dispersed to where it can be best used."

While Hurley notes that this is how the utility grows, he says it's "very unusual" for member-owners to never have received capital credits, and he wonders how much the board has fought this policy.

"Which is one reason why some of us have been asking Powell Valley for a copy of their contract with TVA, and Powell Valley has not given it to us," Hurley says. "What are these restrictions? And if they don't allow these things, what are you [the board] doing about it?"

"They don't communicate all these details, they don't survey all their customers, they don't have any kind of town hall meetings," he adds. "There's almost no communication whatsoever between the board and their members, which is not the way it's supposed to be."

The systems governing utility monopolies were theoretically designed to serve the public interest, whether that utility is a rural electric cooperative with 30,000 member-owners or an investor-owned company with millions of ratepayers. But a litany of barriers including lack of transparency and putting shareholders above the public makes that difficult.

There are safeguards built into both systems to rectify these barriers, if the public chooses to do so. The next issue of *The Appalachian Voice* will examine how that can happen. ♦

Power Play

Continued from centerspread

But Obama's effort to curb greenhouse gas emissions nationwide stalled in February 2016 and was quickly overturned by President Donald Trump. Conservatives and liberals united to challenge the rate freeze, which was later shot down by the commission and the Virginia Supreme Court. By the end of 2017, Dominion had pocketed over-earnings of between \$700 million and \$1 billion of Virginia families' money.

"We've got this double whammy of the legislature controlling the [State Corporation Commission] and Dominion controlling the legislature," says Main. "They're supposed to be the check on utilities. They're supposed to protect ratepayers."

Political Courage in the Commonwealth

For decades, Dominion has seemed peerless in its power. But even for a utility whose name signifies control, political winds can change.

In the November 2017 election, Democrats flipped 16 seats in the Virginia House of Delegates. Twelve of those newly elected delegates pledged during their campaigns to refuse contributions from Virginia's utilities as controversy swirled around the Atlantic Coast Pipeline, a \$6.5 billion natural gas project Dominion is developing in partnership with Duke Energy.

At the beginning of the 2018 General Assembly season, Del. Sam Rasoul made the case for repealing the rate freeze outright. "This law was a corrupt law," Del. Rasoul said on the House floor. "We had an obligation to protect the people, and we did not."

But Rasoul's call for political courage became the opening argument in a familiar Richmond routine. Because, not surprisingly, Dominion had something else in mind.

Rather than just issuing refunds and restoring rate reviews, the company sought legislative approval of a multi-billion dollar plan to harden the grid. Although it included some incentives for clean energy, the proposal centered on Dominion's desire to recover the cost of burying power lines from ratepayers, plus a profit. It just needed a legislative decree for the commission to approve those costs "without consideration of their reasonableness or

prudence," as the bill put it.

The effort, again led by Sen. Wagner and backed by Republicans and Democrats, including Senate Minority Leader Dick Saslaw and Gov. Ralph Northam, was fiercely debated. But more than at any time in the past, citizen groups, including Appalachian Voices, the publisher of this newspaper, marshalled public opposition to Dominion's plans.

In February, at the height of the legislative session, a new initiative called Clean Virginia emerged with the mission of countering monopoly utilities' influence on the political process.

"The strongest tool we have is that we do not have to do a lot of convincing people that the system is broken," says Brennan Gilmore, Clean Virginia's executive director. That brokenness, Gilmore says, "has direct consequences for all Virginians," from higher electric bills to a lagging transition to renewable energy.

When the dust settled after the General Assembly session, Dominion Energy walked away with almost everything it wanted, but only after an uprising led by House Democratic leader David Toscano and Del. Rasoul stripped the bill of a provision that would have effectively let Dominion charge customers twice for a single investment in the grid.

But Dominion's latest victory could exact a political cost. In March, Democratic Del. Mark Keam advocated in a Washington Post op-ed for a prohibition on campaign contributions from state-regulated monopolies, and more state and congressional candidates are publicly refusing to accept funds from Virginia's largest electric utilities.

Meanwhile, Dominion's lobbying expenses through the 2018 session increased tenfold compared to the previous year. To Gilmore, that defensiveness is a good sign. "Hopefully, next session we'll see continued [citizen] engagement," he says. "That's how democracy is supposed to function."

Duke Follows Dominion's Lead

Not far behind Dominion, Duke Energy is pursuing its own costly plan in North Carolina to keep shareholders happy through similar means: completing the Atlantic Coast Pipeline

and weakening regulatory oversight for investments in the grid. And, like Dominion, Duke's imprint on the state's politics is hard to overlook.

North Carolina's previous governor, Pat McCrory, worked for the Charlotte-based company for 29 years and only sold his stock after the 2014 Dan River coal ash spill. During the 2016 gubernatorial campaign, McCrory's successor, Gov. Roy Cooper, ran ads attacking his record on coal ash and general friendliness with his former employer that labeled him "the Duke Energy governor."

Reporting by WRAL-TV shows that Duke spent nearly \$8 million in advertising buys in 2016, leading the station to ask why a regulated monopoly with so little competition needed to spend millions of dollars on advertising every year. It's a public service, according to Duke spokesman Jeff Brooks, who told the Raleigh-area news station that the company wants customers "to understand the work that Duke Energy is doing on their behalf."

But when WRAL asked independent marketing strategists for their opinion, they saw a few other advantages. "So when they ask for rate increases, there will be less resistance," one responded. "To insulate them from legislative moves to weaken their monopoly power," said another.

Last year, Duke Energy began running TV ads with the slogan "Building A Smarter Energy Future" as part of its push to spend \$13 billion on grid upgrades over the next decade, \$5 billion of which would be spent burying power lines. The plan would increase energy costs for the average household by nearly \$4,000 over the 10-year timeframe.

The North Carolina Utilities Commission rejected the plan in June, leading to renewed calls for a more inclusive approach to modernizing the grid (see "The Problem with Monopoly Utilities" on page 14). But Duke Energy executives have been upfront about their plans to promote legislation in 2019 that would circumvent the commission.

That could be an uphill battle. In a May poll commissioned by Conservatives for Clean Energy, just 10.5 percent of North Carolina voters supported Duke's grid investment strategy, while approximately half of self-identified con-

servatives and liberals favored increasing competition in the energy marketplace.

FirstEnergy's Bailout Blues

For Ohio-based FirstEnergy, competition from independent power producers has precipitated a crisis. In April, FirstEnergy Solutions, the company's power generation business, filed for bankruptcy as renewables and natural gas pushed its coal and nuclear fleet to the economic brink.

Over the past two years, FirstEnergy has petitioned the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio, and lobbied the Trump administration and Ohio lawmakers, for a lifeline in the form of massive subsidies to prop up the failing power plants.

The company has so far come up short. In August, the bankrupt FirstEnergy Solutions announced that unfavorable market conditions would force it to shut down four coal plants and three nuclear plants, unless the Trump administration steps in.

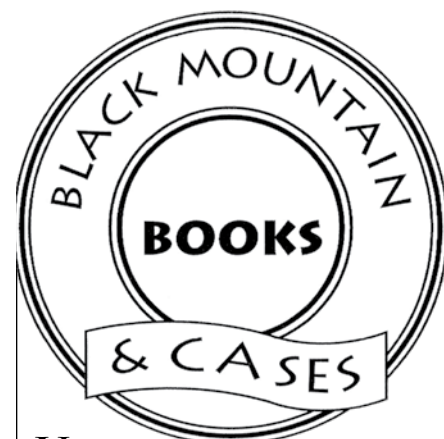
"FirstEnergy is a particularly odd messenger for that bailout request," says Dave Anderson, a researcher at the Energy & Policy Institute, a watchdog that exposes misinformation from fossil fuel industries.

Anderson says that utilities including FirstEnergy and American Electric Power have relied on free market rhetoric to oppose state and federal clean energy policies for years. Now that FirstEnergy is against the ropes, "they are trying to pass on the cost of their business model to customers."

Ohio Gov. John Kasich has opposed those measures, and polling paid for by the Alliance for Energy Choice, a trade group representing independent power producers, found that large majorities of Ohio voters don't want to foot the bill.

Ohioans are not interested in "paying above-market prices to ensure higher dividends for a handful of companies and their shareholders," the group's spokesman told the Cleveland Plain Dealer. But if FirstEnergy can't convince voters, it seems determined to go around them.

Anderson is tracking the company's policy agenda and political spending ahead of the vote in November for Ohio's next governor. FirstEnergy and its lobbyists have donated to each party's nominee. ♦



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This Green House

The Sunny Golden Years

Retired Southwest Virginia Couple Goes Solar

By Hannah McAlister

On a sunny November afternoon, Kathy Selvage stood in her yard in Wise, Va. Selvage pointed to a house just up the hill from her own, where her mother lived until her passing in 2015, and described her vision of putting solar panels on the roof. Her mother relocated to that house after Kathy's childhood home, which was a quarter mile away, was sold to a coal company and ultimately demolished.

During the summer of 2017, Kathy and Gary Selvage attended four forums on residential solar power led by the Solar Workgroup of Southwest Virginia, a coalition founded in 2016 and co-convened by UVA-Wise Office of Economic Development & Engagement, People Inc. and Appalachian Voices, the publisher of this newspaper. Kathy Selvage is a former board secretary with Appalachian Voices and is involved in several community and environmental groups.

"It was pretty much near the end [of the forums] when we just said, 'let's do it,'" says Kathy.

On that November day, Kathy excitedly shared her and her husband's plans to move into and put solar panels on her late mother's home, which was more energy efficient and offered the most solar potential.



Kathy and Gary Selvage stand by their smart meter in Wise, Va., on the December 2017 day that Sigora Solar completed installation of their 16-panel rooftop solar array. Their electricity bills have dropped dramatically since; one bill listed a \$5 credit in lieu of a charge. Photos courtesy of the Selvages.

Why Go Solar?

"I would call our solar panels our Paris Agreement," says Kathy, referring to the 2015 international climate change agreement that President Donald Trump announced he was withdrawing from in 2017. "I still feel like it's really all about energy policy in the United States. I feel like if the country can't change its energy policy to make a commitment to green energy and understand the place we're already at in climate change, then the least we can do as individuals is step up and say 'I know I'm a drop in the ocean but I must do what I can' ... so I think it was a personal commitment."

Now, Kathy and Gary are happily settled into their home, which features 16 solar panels on one side of their roof. The panels get a lot of late afternoon and evening sun, according to Kathy.

When they received one of their electric bills from Old Dominion Power in June, Kathy says she was in "utter

shock" at the total of \$17.02, explaining that only \$5.02 of that was for electricity usage. The remaining \$12 was the fixed monthly fee that applies to all ratepayers.

The Selvages are able to take advantage of net metering, which means that if their panels generate more energy than they use, the retail rate for the excess power they generate can be credited to their next bill. This past July, they used negative 36 kilowatt-hours, which was reflected in a credit on their August bill.

Kathy says she knows their bills will rise in the winter, but that their costs will be lower than in years past.

"We're going to be conservative in our energy usage," she says. The couple is considering further energy efficiency upgrades to their home that were recommended during a home energy audit. They recently replaced their dryer and are looking into energy-efficient light bulbs and wrapping their water heater.

"I think [the solar panels] are an asset to the home and to its value too," she says.

However, going solar wasn't all smooth sailing. The Selvages faced legal issues to prove home ownership, challenges in seeking funding and installation delays due to weather and setting up a smart meter.

"I think that for this part of Virginia, it's fairly new and innovative," says Kathy. "It's been a really long process, but I think it will get easier as more and more people do it."

Since the Selvages are retired, they did not have enough tax liability to qualify for long-term funding or tax incentives for their project.

"Having come from banking experience, I realize that when you're dealing with older folks, you are more careful about making long-term loans. So we just chose a three-year loan," says Kathy.

"This is going to be the most beneficial to those who are young and working, to take advantage of the tax incentives and definitely stretch out that loan through their savings," she continues. "The way it's designed, it is not beneficial to older people and I think that's a terrible group to be leaving out because in Wise County, the older folks are the ones who could benefit most from having lower electric bills."

Still, the couple reports they are very happy with the way the project turned out. Kathy notes there is room for three or four more panels on their roof.

"I don't think we're done yet," she says. ♦

How to Finance A Solar Project

There are a number of ways to finance solar projects in the United States in addition to the loans and net metering that the Selvages used. One of the most common methods is a power purchase agreement, which allows a property owner to enter a long-term, fixed-rate contract with a third-party solar developer for little to no upfront cost. The developer sells the power generated to the host at a fixed rate that is typically lower than the local utility's retail rate. While this is allowed in some states, it is banned or restricted in Kentucky, West Virginia, North Carolina and South Carolina. Federal tax incentives cannot be

used by tax-exempt entities to install solar panels. But a power purchase agreement can allow tax-exempt entities like churches and schools to benefit by allowing the third-party solar developer to reap the tax savings and pass those savings along to the nonprofits. However, Virginia law currently prohibits nonprofit organizations from participating in power purchase agreements.

In January 2018, Virginia Delegate Terry Kilgore introduced House Bill 1252, legislation that would expand Virginia's existing power purchase agreement pilot program, making all tax-exempt entities in Southwest Virginia eligible to leverage the

30 percent federal investment tax credit. Kilgore's bill passed unanimously in the Virginia House, but senators voted to delay for one year. Time is running out, as the federal tax credit begins to step down in 2020.

Another financing method is solar leasing, which allows homeowners to install a system for zero money down by entering into a 20-year lease and making monthly payments. This long-term method is not beneficial for older couples, leads to less savings in the long run and requires homeowners to buy out the lease if they move before the term is up. This is allowed in parts of the region, including Georgia, Ohio, South Carolina, Tennessee, Virginia, and, as of 2017, North Carolina.

Seeking Cooperative Change

Jeff Lewis lost the election for Powell Valley Electric Cooperative's board, but he hopes they will take his concerns to heart

By Kevin Ridder

Former New Tazewell, Tenn., Alderman Jeffrey Lewis has always been an active member of his community. Save for his time at the University of Tennessee in Knoxville, Lewis has lived there his entire life. Now a vice president and branch manager at First State Bank, Lewis is also the deacon chairman of his church, works closely with the Claiborne Chamber of Commerce, and was once a director of the local fire department.

"I felt very fortunate to be able to stay close to home and raise my kids in this small-town kind of environment," he says.

Lewis recently ran for the board of directors at Powell Valley Electric Cooperative, his local electric utility that serves about 30,000 people in Northeast Tennessee and Southwest Virginia. He has been a member-owner of the co-op for 37 years. While Lewis lost in September to the incumbent board president, Roger Ball, he hopes his concerns with how the co-op is run will be taken seriously.

Lewis' decision to run for the board can be traced to a Jan. 23, 2017, article in the Claiborne Progress that caught his eye. Jo Ann Dillingham, a former employee of Powell Valley Electric, was suing the co-op for wrongful termination. Dillingham alleged she was fired after she disclosed "illegal activities" to third-party auditors such as the cooperative not seeking bids for expensive projects that led to customer overcharges. The board denied all charges.

"It was the accusations that she was making that were published in the Progress that really piqued my interests, being involved with the local chamber and being on the council [at the time]," Lewis says. Soon after, Lewis decided to visit a Powell Valley board meeting just to be "a fly on the wall" and see what was going on.

But Lewis says he "was told that

without me having any business to discuss with the directors, they didn't have any space for me. It was a little bit frustrating, but I went on about my way."

A little while after, Lewis was asked to run for the board by PVEC Member Voices, a group aiming to reform the electric cooperative that has also partnered with Appalachian Voices, the publisher of this newspaper. After initial reluctance, Lewis decided to run.

"I do have respect for Powell Valley Electric's board, I know most of those folks and have a great respect for them," Lewis says. "But I do feel like some changes could benefit the members in general."

Lewis wants the board to halt what he calls "indiscriminate herbicide spraying" near the co-op's power lines.

He also thinks the board could make decisions that would help lower electric rates. Lewis disagrees with the board's decision in the early '90s to keep Powell Valley's power-purchase agreement with the Tennessee Valley Authority instead of switching to Kentucky Utilities.

"At that time, the savings to the utility would have been about 25 percent," Lewis says. "Our costs for our power that we've purchased to give to our members would've been about 25

percent less."

He says he is still frustrated that there have been no answers. Lewis also wants the board to look into TVA's policy on not allowing member-owners to receive capital credits, excess dollars that member-owners overpaid over the year for their electric service.

One of Lewis' main issues with Powell Valley was its lack of open monthly board meetings and the lack of publicly available meeting minutes. When Lewis and others began advocating for open meetings, they were told that the meetings had always been open — but, Lewis says "I just don't see evidence of that."

"We need to make our membership aware that some of the decisions that have been made may or may not have been in the best interest [for] them," he says.

At Powell Valley's open annual meeting on Sept. 15, members voted for the three board seats up for election and on a PVEC Member Voices-supported motion for open monthly board meetings. A total of 1,254 of the co-op's 31,000 member-owners showed up and waited in the hot sun for hours to vote, which was the second-highest number of voters in 15 years. Lewis lost 338 to 945, and the other two candidates supported by PVEC Member Voices lost to



Photo courtesy of Jeff Lewis

the incumbents with similar margins.

The polling place was as much as an hour drive for some member-owners, and Powell Valley does not offer mail-in or online voting like many other co-ops.

"It was sort of a disappointment," Lewis says. "Not that

I lost, so much, because I think the information was made open, but it was a little discouraging that I lost by such a large margin."

After the board vote took place, roughly 300 people stayed to vote on proposed policies. Lewis and others with PVEC Member Voices were surprised and disappointed when the motion to adopt a written policy for open board meetings was shouted down and voted against by 182 people.

"It surprised me that although the board chairman of Powell Valley Electric said that we do have open meetings, the group that was there overwhelmingly voted no, they did not want open meetings," Lewis says.

While prior request is not needed to attend monthly board meetings, it is needed to speak at them. "We would like to see those meetings included in the form of by-laws so that those open meetings would be [certain] to continue and not just be given and taken away as the directors might deem valuable to them," says Lewis.

Leading up to the September annual meeting, PVEC Member Voices collected nearly 500 signatures for the board to adopt a by-law amendment for open meetings. The board, however, declined to put it on the ballot until 2019.

"Somebody's got to make their presence known that there's concerns here that aren't being addressed by our cooperative, and somebody at least needs to bring those to light," Lewis says. "Ultimately I hope that's what I've done." ♦

Powell Valley Electric Cooperative member-owners vote against a written policy for open board meetings as county and state law enforcement look on. Around 300 people of the co-op's approximately 31,000 member-owners voted on the policy. Photo by Brianna Knisley



Legal Challenges Against Pipelines Heat Up

By Kevin Ridder

On Oct. 2, the U.S. Fourth Circuit Court of Appeals voided a necessary Clean Water Act permit needed for the Mountain Valley Pipeline to be constructed across streams and waterways throughout most of its proposed route in West Virginia. The permit had been issued by the Army Corps of Engineers.

The case centered on Mountain Valley's inability to comply with a West Virginia condition requiring that stream crossings be completed in 72 hours or less to qualify for the broader, one-size-fits-all Clean Water Act permit that the Army Corps used. The record showed Mountain Valley Pipeline would need far longer to build across some of the larger rivers along the route.

The court's order is a victory for nonprofit law firm Appalachian Mountain Advocates, which represented the Sierra Club, West Virginia Rivers Coalition, Indian Creek Watershed Association, Chesapeake Climate Action Network and Appalachian Voices, the publisher of this newspaper.

In the wake of the ruling, Appalachian Mountain Advocates expects the Corps will now have to conduct "a significant environmental assessment" to issue an individual Clean Water Act permit for the pipeline instead of the broader permit. The groups are now arguing that the Federal Energy Regulatory Commission should issue a stop-work order for the entire pipeline because the certificate that gives Mountain Valley permission to proceed is contingent upon securing all other required federal permits.

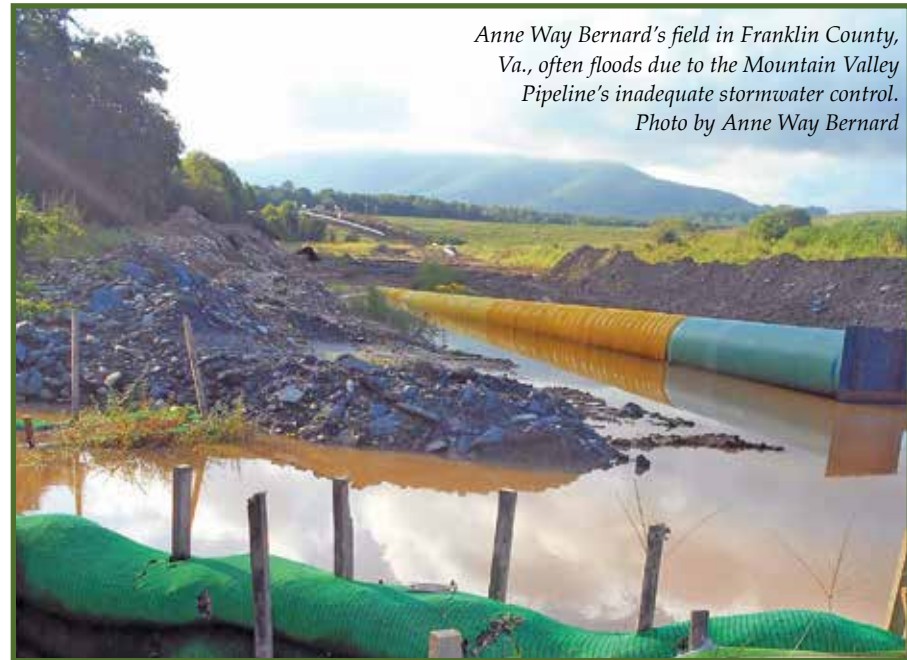
"By vacating permit after permit for the MVP, the Fourth Circuit has been forced to do what the federal government should have been doing all along: protecting the public and the environment from this harmful and unneeded pipeline," Chesapeake Climate Action Network General Counsel Anne Havemann said in a press release.

"The public deserves no less than for regulators to take a real look at the impacts of this massive project," she added. "Once they do, we're confident they will conclude that there is simply no safe way to build the Mountain Valley Pipeline."

According to ProPublica and the Charleston Gazette-Mail, West Virginia regulators are merely rewriting their rules to allow the project to proceed, instead of considering the ramifications of the pipeline. Afterwards, Mountain Valley would apply for a new permit, expected in early 2019.

While Virginia does not impose the same 72-hour condition on construction, there is a similar case pending at the Fourth Circuit, according to the Roanoke Times. Petitioners argue that the invalid West Virginia permit renders the Virginia permit invalid as well.

Actions against the Mountain Valley Pipeline have already taken a large toll; on Sept. 24, developers announced that the estimated cost of the pipeline was raised to \$4.6 billion, a nearly \$1 billion increase. TransCanada's Mountaineer XPress Pipeline in West Virginia also announced a nearly \$1 billion increase, due primarily to competition from other companies building fracked gas infrastructure causing the cost for land acquisition and



Anne Way Bernard's field in Franklin County, Va., often floods due to the Mountain Valley Pipeline's inadequate stormwater control. Photo by Anne Way Bernard

contractor services to increase.

In August, FERC issued stop-work orders for the Mountain Valley and Atlantic Coast pipelines after the Fourth Circuit Court stripped away key permits. Although the orders have since been lifted, construction on sections of the two pipelines is still being contested in court, and new protests have sprung up along the routes of both. The Fourth Circuit's decision is the latest in a series of legal actions against pipelines in the region.

On Sept. 25, Virginia and West Virginia landowners brought a case before the Fourth Circuit challenging the use of eminent domain to seize land for pipelines, as well as the decision to allow the project to progress without compensating landowners. Fourth Circuit Court of Appeals Chief Judge Roger Gregory questioned the use of eminent domain to take land for pipelines before landowners are paid, which was enabled by the federal court 14 years ago.

"This is something extraordinary the courts have granted and the question is should it happen now before [payment is] done," Gregory said, as reported by Courthouse News Service. "You want to abort the [normal and lengthy eminent domain] process and take it now." A lawyer representing Mountain Valley argued, "We have the right to it now. It was done with notice, these landowners had discovery and evidence hearings."

But Chris Johns, an attorney representing the landowners, stated that the practice is an abuse of power, according to

Courthouse News Service. A decision was not announced by press time on Oct. 4.

Later that week, on Sept. 28, federal judges on the Fourth Circuit Court of Appeals heard arguments involving that case and three others related to the Mountain Valley and Atlantic Coast pipelines. Gregory asked the Forest Service why it weakened sediment and erosion controls for pipelines traversing across steep slopes. Lawyers for both the Forest Service and Dominion flatly denied that their environmental standards had been lowered.

In a separate case that day, the judges also questioned the legitimacy of the Army Corps of Engineers' decision to allow state regulators to rewrite rules for the Mountain Valley Pipeline in 2017, which led to the court striking the Corps' Clean Water Act permit in late September, according to the Charleston Gazette-Mail.

Also on Sept. 28, judges heard environmental groups appeal a Virginia water quality permit issued to the Atlantic Coast Pipeline, and separate arguments that appraisers for the Mountain Valley Pipeline did not consider coal under select properties, according to the Charleston Gazette-Mail.

On Sept. 24, the Fourth Circuit ordered a halt to a U.S. Forest Service permit for the Atlantic Coast Pipeline while it decides a case brought by several environmental groups represented by the Sierra Club and the Southern Environmental Law Center, a nonprofit law firm. The previous week, FERC

Continued on next page

Mountain Valley Pipeline Sparks Anger

Two new tree-sits have been standing in the path of the Mountain Valley Pipeline near Elliston, Va., since Sept. 5. The tree-sitters — Lauren Bowman, a 24-year-old Montgomery County, Va., resident, and a person known only as "Nettle" — are on Cletus and Beverly Bohon's property near Elliston, Va. Mountain Valley used eminent domain to seize part of the Bohons' land and cut a swath of trees in March. According to the Roanoke Times, the Bohons were not involved in planning or organizing the tree-sit.

"They don't seem like violent criminals or nothing," Cletus Bohon told the Times. "They were nice and friendly. I kind of understand what they're fighting about."

Mountain Valley contractors have repeatedly cut trees that were close to trees supporting the protestor platforms, according to Appalachians Against Pipelines.

"Despite [Mountain Valley Pipeline] security telling loggers to stay 200 feet away (in past days), trees were cut under 100 feet from the sits and rigging, and fell to within 20 feet," reads a Sept. 30 post on the group's Facebook page. "As supporters tried to protect the safety of tree-sitters today, MVP

called the cops and law enforcement responded to protect the interests of the pipeline company. No arrests were made."

Mountain Valley Pipeline has sparked outrage in other parts of the region. In Summers County, W.Va., a helicopter dropping erosion-control pellets over the path of the pipeline missed its target by a quarter-mile, pelting Neal Laferriere and his children on their family-owned organic farm in September, according to WVVA Television. Laferriere states that the pellets now cover nearly three-fourths of his farmland, and that Mountain Valley told him there is "absolutely nothing you can do to clean this up." Laferriere said he is worried this could void his farm's organic certification, which would reduce the price of black cohosh, one of their crops, from \$38 per pound to \$5 per pound.

"It just feels like we've been steamrolled, abused. Like they just don't care," Laferriere told WVVA Television. Mountain Valley released a statement explaining that they have taken steps to prevent this from happening again and will work with



The tree-sitter known as "Nettle," above, on their platform in late September. At right, Mountain Valley Pipeline loggers carrying chainsaws walk beneath one of the tree-sits. Appalachians Against Pipelines states that many trees were felled near the sitters' trees despite contractors' orders to give a wide berth. Photos by Will Solis



Laferriere to address his concerns.

Pipeline construction crews upset Bent Mountain, Va., residents when they continued work for several days after the Virginia Department of Environmental Quality directed a temporary halt due to the impending Hurricane Florence. While the DEQ stated that any construction in those days would be focused on strengthening erosion controls, the citizens' group POWHR Coalition reported seeing crews digging trenches and welding pipes in that time.

Rain from Florence caused land subsidence to occur near several Mountain Valley right-of-ways, according to WDBJ7 News.

"This place has already been established as incredibly fragile," POWHR Coalition Co-Chair and Bent Mountain resident Roberta Bondurant told WDBJ7, describing Bent Mountain. "You have an incredibly unsound base on which to lay your 42-inch fracked gas pipe."

Legal Challenges

Continued from previous page

allowed Dominion Energy and other developers of the pipeline to resume clearcutting through roughly 20 miles of the George Washington and Monongahela national forests.

"Because of this decision, chainsaws will remain idle until the court has had an opportunity to decide our case," said SELC Senior Attorney D.J. Gerken in a press release. "For the same reason, FERC should stop construction elsewhere until these issues are resolved, to avoid wasting ratepayer dollars building a route that may not be viable."

In an argument similar to that used by pipeline opponents to strip Mountain Valley of a Forest Service permit in July, the groups are alleging that the

agency arbitrarily amended the forest plans to allow construction of the Atlantic Coast Pipeline.

On Sept. 18, West Virginia Judge Robert Irons ordered a pause on a state permit allowing Mountain Valley Pipeline developers to tunnel under the Greenbrier River in Summers County, W.Va., and split Ashby Berkley's river-side property in half.

Berkley owns two rental homes and

has a campground on the land. He values the parcel at \$535,000. When he turned down Mountain Valley's offer of \$34,000 for the pipeline's right-of-way, the company seized it through eminent domain.

"It just completely destroys my property," Berkley said in March. "I will not run a commercial campground on top of that pipeline. I don't think anybody would want to stay over a place that could blow."

Citizen groups argued that the delay was necessary to make sure the merits of the river crossing were properly reviewed before construction, according to the POWHR Coalition, a network of groups opposing the expansion of fossil fuel infrastructure.

Mountain Valley Pipeline attorneys, however, argued that this would postpone the river crossing until summer 2019 since construc-

tion can only take place during certain months — but Judge Irons noted that Mountain Valley has shifted its deadlines in the past when challenged.

According to the Register-Herald, Irons stated, "I have heard that before on cases involving the Mountain Valley Pipeline," referring to a previous case involving tree-sitters in the path of the pipeline. "It was represented that there was a hard deadline. Well, that deadline got extended for a couple months. It seems to me that these deadlines aren't really set in stone on this particular project."

A hearing is set for Oct. 23.

"In highlighting the constantly moving deadlines that MVP brings to show irreparable harm in court, Judge Irons said what most in positions of power have been afraid to say: federal and state agencies are and will continue to bend over backwards to allow MVP to be built," said POWHR Coalition Executive Committee Member Maury Johnson in a press release. ♦

Pipeline Explodes Near Pittsburgh

In the early morning hours of Sept. 10, a section of the Revolution fracked gas pipeline exploded in Beaver County, Pa. While no injuries were reported, the fires burned down a home, several garages and caused the evacuation of around 30 homes.

"It lit this whole valley up," Center Police Chief Barry Kramer told the Pittsburgh Post-Gazette. "People looked out their window and thought the sun was up."

The pipeline was still in testing phases and had been running for only a week before the explosion, according to the Post-Gazette. Officials believe a

landslide brought on by heavy rains is partially to blame for the blast — barely three months after a landslide caused the six-month-old Leach XPress pipeline to explode and scorch 10 acres in Morgantown, W.Va.

Energy Transfer Partners, the company behind the Revolution pipeline, is also building the controversial Mariner East 2 pipeline in Pennsylvania that will be used to export natural gas liquids overseas for plastics production. Pennsylvania regulators have issued the pipeline 83 notices of violation as of Oct. 4. StateImpact Pennsylvania reports it is about 18 months behind schedule.

Remembering Ben Stout: An Environmental Legacy

This story was first published by West Virginia Public Broadcasting and has been shortened for The Appalachian Voice. Read the original online at wvpublic.org/post/remembering-ben-stout-environmental-legacy

By Glynis Board

In August, the region lost a powerhouse of environmental science and advocacy with the death of professor Benjamin Stout. Stout's work as an educator, an expert witness in the courtroom, as well as his work empowering citizens with science, made long-term impacts regionally and nationally.

Stout was a Wheeling, W.Va., resident and, for the past 26 years, a biology professor at Wheeling Jesuit University. He was a stream ecologist who dedicated his life to science, nature, and above all, community. Ben died of cancer on Aug. 3 at his home in Wheeling, surrounded by his family. He was 60.

Stout revealed some of his deepest convictions related to coal mining practices, a topic especially important to him, in a 2008 documentary called *Burning the Future: Coal in America*.

"When I look at a mountaintop removal site, valley fills," he said, "I just look at that as a place on Earth, whose value was among the best of all places on Earth, diminished to among the least of all places on Earth."

Stout spent a large part of his career studying impacts of surface mining on watersheds and nearby communities. He frequently monitored waters surrounding slurry impoundments — ponds built to hold coal mining waste. As coal companies complied with rules to limit pollution from power plants, Stout found more of those pollutants instead wound up in the ponds. In the film, Stout explained that contaminants in the air



have mostly been transferred to water, along with increasingly harsh chemicals used to pull the impurities from coal.

The Expert Witness

Stout was often called as an expert witness in court cases surrounding watershed impairment. Attorney Joe Lovett recalled working with him during a landmark mountaintop removal coal mining case in the late 1990s. The centerpiece of the case was the impacts of surface mining and resulting valley fill practices on surrounding aquatic life.

During the trial, on a snowy February day, Stout guided the federal judge through a stream slated to be buried, and Stout did what he loved most: he waded through the stream finding insects.

"I think the judge appreciated that because he was a fisher, and those insects, mayflies and so forth [were the] very

kinds of insects that fly fishers use all the time," Lovett said. "I think the judge really learned from Ben, and I think that was crucial in winning that case."

For the first time ever, a judge issued an injunction against a mountaintop removal operation, halting one of the largest ever proposed mountaintop removal operations, Spruce Mine No. 1. Necessary mining approval for Spruce 1 has been hung up in court ever since.

"The courts have this fiction that experts are somehow neutral, like machines. And Ben refused to play along with that," Lovett said. He said Stout's outspoken nature would sometimes create problems for him. He said, nevertheless, he admired Stout's integrity.

"Ben, not only as an expert, but as a human being and somebody committed to protecting the natural world, really taught all of us how to be good advocates and reminded us why we do what we do," Lovett said.

The Community Advocate

Stout spoke confidently with judges, lawyers and politicians, but he could also talk just as easily with anyone else.

Stout's friend and colleague at Jesuit, Mary Ellen Cassidy, worked with him for years studying impacts of slurry impoundments on well water of residents in southern West Virginia.

"We would end up sitting down at [rural residents'] tables and talking just

Dr. Ben Stout was moved to tears over the plight of people living near mountaintop removal and coal slurry when he visited the Hobet 21 mountaintop removal site in West Virginia with a film crew for "The Last Mountain" documentary. Photo by Vivian Stockman, ohvcc.org

about everything," Cassidy recalled.

Cassidy said his ability to connect with people and gather and provide valuable, valid research made it possible to empower communities to affect change. His obituary notes how his work in communities, "led to 500 West Virginia families being connected to a municipal water supply at [the town of] Williamson."

The Educator

Stout's work was also a source of inspiration to his students at Wheeling Jesuit University.

"You couldn't help but just want to follow in his footsteps," former student Jacob Keeny said.

"He wanted his students to respect the community first and understand science second. If you couldn't connect the two, you were hard pressed to get a good grade in his class," he recalled. "It was about how well you understood what was going on, and how you could solve problems to fix crises that people were going through."

Keeny remembers his professor would jump at any chance to work with a community in crisis, and that he'd always take students along with him. For Keeny, that meant getting involved during a major chemical spill in Charleston in 2014 that left 300,000 people without water for days.

Stout's expertise in water testing and innovative problem solving proved to be a valuable contribution. He was hired by a law firm that brought a class action suit over the spill. Because human health studies can take decades to provide conclusive results, Stout and Keeny turned to insect indicator species in streams. They conducted toxicity tests to gauge the potential health effects of MCHM. Exposure to even very low concentrations of the chemical MCHM turned out to be fatal for the insects.

"And I believe that information, that ended up being used in the class action lawsuit and years later, they've finally settled that suit," Keeny said. "And I think people are starting to get a little bit of justice." ♦

The Energy Report

Hurricane Highlights Coal Ash Risks

In addition to Hurricane Florence's devastating harm to people, pets and livestock, the storm also highlighted the vulnerability of coal ash impoundments to severe flooding. As rivers rose, staff with the Waterkeeper Alliance — a nonprofit organization that coordinates several groups stewarding affected waterways — monitored area rivers, taking photos and collecting water samples.

Heavy rains first breached a coal ash impoundment at Duke Energy's L.V. Sutton power plant near Wilmington, N.C., on Sept. 15, discharging coal waste and water into Sutton Lake. On Sept. 21, the dam separating Sutton Lake from the Cape Fear River failed, discharging an unknown amount of coal ash and related wastewater.

At Duke Energy's H.F. Lee power plant near Goldsboro, three coal ash impoundments that were already closed with an earthen cap were submerged in floodwaters. The waterkeepers documented arsenic levels 18 times higher than the state drinking water standard in the Neuse River's floodwaters above the submerged coal ash impoundments. But samples taken at downstream Neuse River locations by the N.C. Dept. of Environmental Quality and Duke Energy revealed heavy metal levels within state water quality standards.

Similar discrepancies were reported regarding coal ash in the Cape Fear River. On Oct. 3, the Waterkeeper Association released lab results from water sampled in the Cape Fear River on Sept. 21 that show arsenic levels 71 times higher than the state drinking water standard. The results showed elevated levels of other heavy metals, with some of the waterkeepers' samples varying widely.

The following day, the N.C. DEQ released lab results from Sept. 22 and several later dates showing heavy metal levels within legal limits, with the exception of copper, which was also found in high levels upstream of the Sutton power plant. And Duke Energy reported that its river water samples from Sept. 18 to 21 showed that the ash's impact on water quality was negligible.

Avner Vengosh, a water quality scientist at Duke University, told news outlets that those involved should be sampling river-bottom sediment for more reliable measurements, since high floods can dilute contaminants.

In South Carolina, a feared coal ash spill was avoided when the Waccamaw River crested at 21.2 feet, just below the 22-foot dam surrounding Santee Cooper's 200,000-ton coal ash

impoundment that is awaiting cleanup. In preparation, Santee Cooper installed an additional temporary, inflatable dam and pumped water into the ash pit to equalize pressure as the river rose. *Read more about Florence's impact on page 4.*

North Carolina Proposes New Coal Ash Rules

Also in September, North Carolina regulators held hearings on the state's proposed new coal ash rules.

"Any coal ash rules for North Carolina's state program should make it clear that Duke Energy cannot leave its coal ash sitting in groundwater and in impoundments," said Ridge Graham, North Carolina field coordinator for Appalachian Voices, the publisher of this newspaper.

Contaminants such as boron, hexavalent chromium and vanadium are not covered under the new rules, which Graham says also weaken the state's ability to push for corrective action in instances of groundwater pollution.

At a September public hearing in Reidsville, N.C., Appalachian Voices Social Work Intern Sarah Mathis drew a connection between the problems related to coal ash storage and Hurricane Florence to projections of future storms made more severe by climate change.

"We must plan for the reality of tomorrow and examine locations based on a larger floodplain mapping standard," Mathis said. "The end of storing ash in open pits beside our rivers must be now."

The N.C. DEQ is accepting public comments on the rule until Oct. 15.

Federal Coal Ash Rules Judged Too Weak

On Aug. 21, the U.S. Court of Appeals for the D.C. circuit ruled that the 2015 Obama-era rule governing the disposal of coal ash does not go far enough in protecting the health of communities and the environment. The court held that the rule is insufficient to protect against leaks from unlined or poorly lined storage pits and should not have exempted coal ash ponds at closed power plants from the 2015 regulations.

The federal court decision follows the U.S. Environmental Protection Agency's July release of new coal ash rules that are weaker than the Obama administration's rules. The finding casts increased doubt over the legality of the Trump administration's new, less stringent version. — *By Molly Moore*

Trump EPA Seeks to Weaken Power Plant Regulations

In late August, the U.S. Environmental Protection Agency released new draft rules to regulate pollution from coal-fired power plants. The analysis released with the EPA's proposed regulations acknowledges that the new rules would result in more pollution and as many as 1,400 more premature deaths each year by 2030.

The new rules replace the Obama-era Clean Power Plan, which was opposed by the coal industry and never enacted after being halted by the Supreme Court. The EPA's proposal

encourages existing power plants to become more efficient but drops federal emissions requirements, allowing states to regulate with looser standards instead.

The fine particles released in smoke and soot created by burning coal are linked to negative health outcomes such as heart and lung disease. According to the EPA's analysis, the new rules would result in 40,000 new cases of asthma and tens of thousands of missed school days. — *By Elizabeth E. Payne*

EPA Proposes Loosening Methane Emission Rules

On Sept. 11, the U.S. Environmental Protection Agency released a proposed rule change that would loosen methane regulations. This rule would undermine Obama-era regulations aimed at preventing methane leaks, more than a year after environmental groups won a lawsuit against the EPA for attempting to delay the implementation of these regulations.

Industry groups supported the proposal, citing the agency's expectation of saving the oil and gas industry \$75 million dollars annually. The

EPA is accepting public comments until Nov. 16.

Methane is the main component of natural gas and is a greenhouse gas about 86 times as powerful as carbon dioxide. According to several environmental groups, the EPA itself has acknowledged that loosening methane regulations "may have a disproportionate effect on children," and admitted that methane emissions may cause a rise in instances of premature deaths, strokes, chronic bronchitis and low birth weights. — *By Eric Halvarson*

VA Approves Dominion Solar Pilot Program

In September, the Virginia State Corporation Commission approved a Dominion Energy pilot program that will allow ratepayers to choose to receive all or part of their electricity from Virginia solar farms built by independent solar developers. The program is scheduled to go into effect by mid-March and gives renters and those with shady rooftops access to solar.

Subscribing to the program will cost customers an additional 2 cents per kilowatt-hour, even though the utility's analysis shows that solar is the cheapest source of new electricity generation. The

additional cost covers administration and marketing of the program, and reflects the fact that the solar power for this program would come from smaller solar facilities throughout the state rather than fewer large facilities. Under the statute, the cost cannot increase but could decrease over time.

Dominion describes the pilot program as "community solar," though it differs from traditional community solar in that consumers do not have an ownership stake in the solar farm and its output, nor is the solar necessarily located nearby. — *By Molly Moore*

States Seek Mine-Related Debts from WV Governor

In Virginia, the Department of Mines, Minerals and Energy is seeking to enforce coal mine reclamation rules at two inactive surface mines in Wise County owned by the governor of West Virginia, Jim Justice. A&G Coal Company and Baden Reclamation Company have failed to meet mine reclamation deadlines, so regulators are seeking the company's bond funds to put toward mine cleanup. A hearing was scheduled for Oct. 18.

On Aug. 24, the state of Kentucky asked a judge to levy a \$2.99 million fine for Justice coal

companies' failure to abide by a 2014 agreement to reclaim mined land. The agreement holds Jim Justice and his son, Jay Justice, personally financially responsible, according to the Lexington Herald Leader.

Also in August, Justice announced that his companies had resolved their tax debts in West Virginia. But, according to reporting collaborative The Ohio Valley ReSource, Justice-owned coal companies still owe back taxes in Kentucky, Tennessee and Virginia. — *By Molly Moore*

Focusing on the Sun

Danville, Va., recently approved two new solar projects to replace a power supply contract that will expire in 2021. The solar projects were the most affordable option due in part to federal tax credits available to the solar providers.

Too Close to Home

A new study published in the peer-reviewed journal *PLOS One* concludes that the minimum safe distance between a

fracking facility and the nearest occupied building should be a quarter of a mile, which is more than twice the distance currently required by most states.

Frack Water Impacts

While the number of new fracking wells in the United States decreased, the amount of water used by each well has increased by 770 percent between 2011 and 2016, according to an August study published in *Science Advances*. Simultaneously, the

amount of toxic wastewater generated by the process increased by as much as 1440 percent.

Tax Breaks for Coal

As the state's Public Employees Insurance Agency considers an increase in the taxes charged to extractive industries to generate revenue, the West Virginia Coal Association is asking for the 5 percent in taxes the industry currently pays to be reduced to 2 percent. — *By Elizabeth E. Payne*





Inside Appalachian Voices

Appalachian Voices is committed to protecting the land, air and water of the central and southern Appalachian region. Our mission is to empower people to defend our region's rich natural and cultural heritage by providing them with tools and strategies for successful grassroots campaigns.

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By Molly Moore

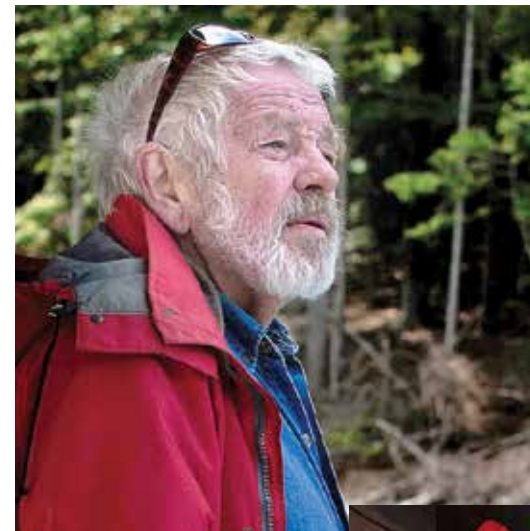
"I got out of the bus and walked to the brow of the hill where the garage now stands. I looked at the cabin, listened to the branch, breathed the cool, moist air, sweet with the scent of mature forest, and realized this it, I'm home."

That's how Dean Whitworth described the 1985 day when he first visited the land in Johnson County, Tenn., that became his home until his passing due to cancer on Sept. 1, 2018.

According to his life partner Catherine Murray, Dean often said, "the best water in the world is on Morgan Branch," speaking of the creek that flowed beside his restored 200-year-old cabin. He was deeply committed to protecting Morgan Branch, and by extension the forests, mountains and waters of Appalachia.

Dean met Catherine at a Sierra Club meeting in 1992. They were both separately motivated to seek out ways to protect water quality and encouraged to get involved by the late Arthur Smith, an advocate with the Sierra Club and later a distributor of *The Appalachian Voice*.

"Through the leadership of Arthur and others in the group we learned the process of making comments, being involved and good



Photos by Dennis Shekinah

stewardship," says Catherine. "It was of a great interest to both of us to protect our water and so we became fast friends."

The couple was involved in the formation of the nonprofit organization Cherokee Forest Voices in 1999, with Catherine at the helm and Dean as treasurer. Catherine still leads the grassroots organization, which focuses on forestry and water quality.

Dean, a former chemical engineer, expressed his care for the region in a number of ways. From 2002 to 2009, he was a board member of Appalachian Voices, the publisher of this newspaper. For years afterward he volunteered to distribute *The Appalachian Voice* around Mountain City, Tenn., and Johnson County, delivering a whopping 5,000 to 7,000 copies of each issue.

Dean was a member and treasurer of the Watauga Watershed Alliance, a close-knit group working to protect area waterways.

He also served on the executive committee of the Tennessee Chapter of the Sierra Club. Representing the Sierra Club, he and Catherine traveled to 12 public hearings on the 2001 National Forest Roadless Rule — with Dean garnering media at-

tention in full character as President Teddy Roosevelt.

Acting was Dean's other great passion, and he incorporated it into his conservation work whenever he could. He appeared in nearly 40 films, and derived great joy in working with the Johnson County Community Theatre. His high school drama teacher had nurtured his interest in acting, and he delighted in sharing that knowledge with others.

"I think you were blessed if you saw him in any production or theater," says Catherine. "He always used that acting talent to protect his good waters and the waters of our state and the country."

For three years, Dean shared his extensive record collection on a red-eye radio show called All Vinyl All Night on WMMT Community Radio. It was also another "way of putting in a word for water," Catherine says.

She and Dean often walked his land in the morning, drinking a first cup of coffee on the cabin porch and a second on the porch of the "garden house," one of several outbuildings Dean built with reclaimed barn wood. It was there that he would often share another of his sayings: "The mountain is good medicine."

Now, Dean's daughter and his grandsons will steward his mountainside, including his well-cared-for cabin, the meadow he mowed for stargazing and fireworks, and his beloved Morgan Branch.

Appalachian Voices is inspired by Dean's legacy and grateful for his service to the organization and the region. We send our sincerest condolences to his family and friends. A celebration of life will be held Oct. 13 beginning at 5 p.m. at R&D Campground in Mountain City, Tenn. Call (423) 534-4804 for details. Memorials can be sent to Cherokee Forest Voices at cherokeeforestvoices.org



Expanding Our Vision & Deepening Our Impact

A message from our staff and board



Build Economic and Clean Energy Alternatives from the Ground Up

Appalachian Voices is bringing together local governments, colleges, entrepreneurs and engaged citizens in traditional coal mining communities to advance initiatives that build local wealth through ecologically sound enterprises. In the years ahead, these local

partnerships will bring community- and industrial-scale solar energy projects and training programs to the region and open the door to solar growth by advancing needed changes to utility regulations.

We are also connecting Appala-

chian communities to decision-makers in state capitals and Washington, D.C., and pursuing more than a billion additional dollars in federal investments to restore and repurpose coal-impacted lands and foster sustainable businesses.



Advance Utility Reforms that Favor Clean Energy and Public Interest

In our region, massive, investor-owned utility corporations exercise inordinate control over state governments, bending energy policy decisions to benefit their own shareholders at public expense. Even many rural electric cooperatives, which were created to benefit the communities they serve, lack transparency and accountability to their

members who are the true owners of the cooperatives. This imbalance of power favors centralized, fossil fuel-based generation of electricity and creates enormous barriers to environmentally responsible energy policies that serve the public interest. We are committed to righting the economic and environmental wrongs this system creates.

To that end, we are standing with communities burdened by rising energy costs and opposing utilities' plans to sink billions of dollars into investments that offer little public benefit. And we're working to secure state-level policies that prioritize energy efficiency and drive significant growth in resources like residential and commercial solar.



Prevent New Investments in Fossil Fuels

Energy giants are pursuing a massive expansion of fracked gas pipelines and other infrastructure in the Southeast. This is designed to generate big profits at the public's expense, cement our addiction to fossil fuels and prolong an exploitative utility business model. The

consequences for thousands of waterways, public and privately owned land, vulnerable communities and the climate would be devastating.

By continuing to stand with and help coordinate widespread citizen resistance to these multi-billion dollar

boondoggles, we aim to curtail this wave of gas pipeline development. We will grow the vocal, regional movement opposing new gas infrastructure by deploying grassroots power, data-driven arguments and legal challenges, and channelling widespread opposition to effectively resist future projects.



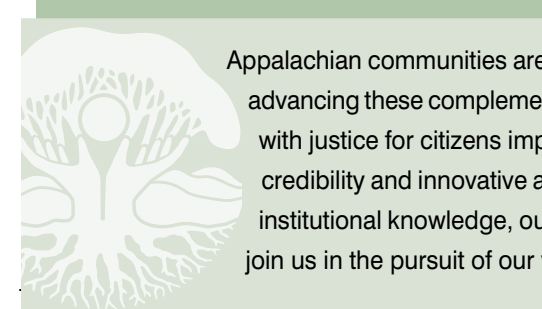
Fight Coal's Ongoing Impacts and Address Legacy Costs

While market forces continue to push Central Appalachian coal toward the economic margins, regional advocates must remain vigilant to defeat new mountaintop removal mine permits and hold mine operators accountable for the environmental and human toll of extraction — especially

as the Trump administration works to dismantle rules that protect streams, drinking water supplies and the health of people living nearby.

Appalachian Voices will defeat efforts to prop up the coal industry while working to fight new mountaintop removal permits

and increase enforcement of laws that have so far survived President Trump's anti-regulatory crusade. We are also demonstrating the urgent need to reform mine bonding systems to protect taxpayers and the environment, laying the groundwork for progress as soon as Trump leaves office.



Appalachian communities are on the front lines of America's energy transition. Our success at advancing these complementary objectives will put us on the path to a clean energy economy with justice for citizens impacted by extraction and pollution. Appalachian Voices' mission, credibility and innovative approach are vital in this moment. Our ambitious plans reflect our institutional knowledge, our record of success and the belief that committed individuals will join us in the pursuit of our vision.

Stand with us today at appvoices.org/join

Annual Membership Meeting

Join us for our annual membership meeting on Dec. 13 to hear more and discuss the work ahead. Gatherings will be held at our offices in Boone, N.C., Charlottesville, Va., Norton, Va., and Knoxville, Tenn. Visit appvoices.org/membership-meeting



The Appalachian Voice

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Heather Donaldson Cormons captured this beautiful juxtaposition of "Maple Leaf with Lichen," a finalist in the 15th Annual Appalachian Mountain Photography Contest, when she was on an autumn hike along Dripping Rock Trail in Virginia. Photographers of all levels are invited to enter their best shots of Appalachia into the 16th Annual Appalachian Mountain Photo Competition. Submissions will be accepted through November 16. To enter visit appmntphotocomp.org.

Protect our natural heritage and build a cleaner future

Our energy decisions have consequences, as people whose health and homes are threatened by fracked-gas pipelines, fracking wells and mountaintop removal coal mines understand all too well.

The choices we make today can exacerbate these harms, or foster an Appalachia with clean air and water, healthy communities and just, sustainable economies.

Appalachian Voices is committed to defending our region's natural heritage and ensuring that our communities reap the benefits of clean energy. Stand with us and become a member today.

Read about our vision on page 27.

AppVoices.org/join

JOIN NOW!

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