

Tennesse-Sierran

The monthly state newsletter for the Tennessee Chapter Sierra Club

Volume 35, Number 3 - March, 2004

The Cumberlands Fall to Mountain Top Removal

By Doug Murray, Tennessee Forestwatch

For the last few years, Mountain Top Removal Mining—poorly disguised by the name Cross Ridge Mining—has been creeping across the sparsely populated Cumberland Mountains of East Tennessee's Claiborne County. The mining in Claiborne County has gone largely unnoticed and unopposed. So little attention has been paid to these mines that the attendance forms required by TDEC to prove they held mandatory pre-permit public hearings are sometimes signed by school custodians who just happen to be present cleaning the empty room.

As a consequence, the Cumberlands of northern Claiborne County bordering Kentucky and Virginia are already blighted by thousands of acres of flat mountain tops and steep terraces. Under the Surface Mining and Reclamation Act, mountains are supposed to be returned to their approximate pre-mining contour. In practice, however, the post-mining rubble is piled in terraces that cruelly mimic the "original contour" but bear little resemblance to the pre-mining mountain. Once the mining company gets its reclamation bond released, the steep terraces of sterile soil are left to erode into the streams that flow in nearly every Appalachian holler.

Now Mountain Top Removal has moved to Zeb Mountain, located in the heart of Tennessee's Cumberland Mountains on the west side of beautiful Elk Valley, home to farmers, retirees, and rural families. The Zeb Mountain Mine has been in operation for about eight months, and if allowed to continue for its ten year life expectancy, will eventually remove the three 2200 ft high peaks of Zeb Mountain and turn 2100 acres of rich forestland into the barren terraced hillsides so common in neighboring Claiborne County. If completed, the Zeb Mountain mine will be larger than any of the mines in Claiborne County.

Just eight months into the ten-year project, the embryonic mine now covers only about 200 acres but has caused more damage than was ever thought possible by those unfamiliar with massive coal mines. Every month another chunk of mountain is gone and every month the silt in Dan Branch—the first of seven mountain streams in Robert Clear Coal's planned path—gets thicker. Now, water saturated with coal dust is being pumped into the headwaters of Dan Branch where the once clear stream flows next to the black pit that was Zeb Mountain.

Despite the Bush administration's attempts to neuter the Clean Water Act and make it easier for corporations to get permits, it is still illegal to violate permits and to pollute streams. Armed with the skeletal remains of the Clean Water Act, six organizations and a group of dedicated local residents are forcing the regulatory agencies to enforce the laws being broken by this new Robert Clear Coal Corporation "cross ridge" mine on Zeb Mountain.

Prior to the issuance of the permits for this mine, the local citizens seined the streams that drain Zeb Mountain and confirmed the existence of a federally listed species of fish, the blackside dace. Ponds that would have destroyed these streams were removed from the final version of the permit and the dace was at least temporarily spared.

Recognizing the inadequacies of the Environmental Assessment performed to justify the issuance of the mining permit, several organizations including the Sierra Club, the Southern Appalachian Biodiversity Project (SABP), Appalachian Voices, and Save Our Cumberland Mountains (SOCM) joined forces to file a federal law-

suit against the Department of Interior for failing to follow the National Environmental Policy Act (NEPA).

Residents of Campbell County and Elk Valley continue to keep a close watch on the Zeb Mountain mine. Several times a month they test the water quality of Dan Branch to measure the consistently illegal levels of sediment in the stream. They also test other streams draining the permit area to establish baseline data that will be invaluable if and when the mining enters other headwaters.

From the ground and air, these Zeb Mountain mine monitors photograph illegal ponds being built outside the permit area and existing ponds that are failing and leaking. Based on complaints filed by the mine monitors, Robert Clear Coal Corporation has been issued at least a half dozen notices of violation and orders to correct practices that are

Continued on Page 3



Top Photo - Closeup of the mine face taken during a recent fly over.

Bottom Photo - Part of a reclaimed mine in Claiborne County which borders Campbell Co. on the East side.

Photos comments of Tennessee Forest Watch



Appalachia Coal A Brief History in Coal Mining

By Axel Ringe,
Chair of the Water Quality Committee for the
Tennessee Chapter of the Sierra Club
and Chair of the Tennessee Clean Water Network

Bush Administration Policies Dismantling Clean Water Act Protections Means More Mountain Top Removal Mining

In the bad old days, when Tennessee Ernie Ford sang the song "Sixteen Tons", families living in the green valleys and hollers of Appalachia suffered greatly from the technology of the day, which was underground

coal mining. As the song says, "a lot of men died" because coal companies didn't worry overmuch about health and safety issues for their workers, considering the residents of the area to be expendable in their pursuit of profit.

More than just men died - streams died from siltation and acid mine drainage; forests died from the need for mine timbers, fuel and haul roads; animals dependent on the streams and forests died; communities lived in virtual slavery to the coal companies. But the mountains remained.

Fast forward a few decades, and things have gotten marginally better for the Appalachian people. There's a union to represent the interests of the miners; the government has mandated some health and safety rules; and the company towns are by and large gone. The downside is coal mining has largely shifted from underground mining to strip mining. Instead of holes in the sides of the mountains, now the mountains have benches cut around them by large earth-moving equipment with the "spoil" dumped over the edges down the mountainsides, leaving them looking somewhat like the ziggurats of ancient Babylon.

Continued on Page 3



Tennes-Sierran

The monthly newsletter of the
Tennessee Chapter of the Sierra Club.

SEND CHANGE OF ADDRESS TO:

*Email: address.changes@sierraclub.org

*Snail Mail: clip the Moving? coupon below and mail

*Address changes are processed much faster if you include your Sierra Club membership number. To find your membership number, look on the address label of this newsletter.

SEND ARTICLES TO:

Email: TennesSierran@aol.com

Snail Mail: Rachel Floyd, Tennes-Sierran Chief Editor
3223 Caldwell Road - Ashland City, TN 37015
(615) 792-2590

ARTICLE SUBMISSION GUIDELINES:

Submission DEADLINE is the 5th of the month preceding the new month's issue.

1. Email and email attached files are preferred. Send to TennesSierran@aol.com either with embedded text messages, or attached files in PC-based formats. Mac users should embed text in body of an email message only.
2. Photographs should be scanned in a .jpg or .tif file format, whenever possible, then either attached to email or mailed via US Postal Service (USPS) on a 3 1/2 diskette or CD Rom. Please include a stamped, self-addressed envelope if you would like your diskette or photo prints returned.
3. Hard-copy handwritten, or typewritten, articles may be accepted; however, pre-approval from the Editor is required.
4. Any materials submitted via USPS mail can not be returned unless a stamped, self-addressed envelope is provided.

The opinions expressed in the Tennes-Sierran are those of the contributors and do not necessarily reflect the official views or policies of the Tennessee Chapter, or the Sierra Club.

Moving?



Attach mailing address label in this box, or fill in current name, address & Membership ID#
Current Address:

Member ID# _____

My new address is:

Name _____

Address _____

City/St/Zip _____

Mail to:
Sierra Club - P.O. Box 52968 -
Boulder, Colorado 80322-2968

Sierra Club 2004 Officers

Tennessee Chapter:

Chair: Liz Dixon (865) 693-4236
dixon@cs.utk.edu
Vice Chair: Don Richardson (901) 276-1387
donrich@juno.com
Secretary: David Orr (865) 544-5892
davidorr@kornet.org
Treasurer: Mary Mastin (931) 268-2938
MaryMastinUSA@netscape.net
Conservation: Gary Bowers (615) 366-4738
GB1Nature@aol.com
Membership: Dick Mochow (901) 274-1510
dinimo@earthlink.net

TN Local Groups:

Cherokee Group - Chattanooga

www.tennessee.sierraclub.org/cherokee

Chair: Rick Gehrke (423) 843-9625
rick.gehrke@comcast.net
Vice Chair: Terry Miller (423) 842-5053
trmcha@comcast.net
Conservation: Henry Spratt, Ph.D.
Henry-Spratt@utc.edu
Outings: Chris O'Connor (423) 867-4957
chris_o77@yahoo.com

Chickasaw Group - Memphis

www.tennessee.sierraclub.org/chickasaw

Chair: Charlie Rond (901) 452-8150
chasrond@bellsouth.net
Vice Chair: Karen Prosser
pros800@bellsouth.net
Conservation: James Baker (901) 372-6717
aubrey_kimo@worldnet.att.net
Outings: Judith Hammond (901) 276-2819
Jhammond.tnpro@sdps.org

Harvey Broome Group - Knoxville/Oak Ridge

www.tennessee.sierraclub.org/broome

Chair: Roger Jenkins (865) 690-3257
mcdonaldjenkins@twohikers.org
Vice-Chair: Temporarily Vacant
Conservation: David Reister (865) 670-8991
dreister@bellsouth.net
Outings: Roger Jenkins (865) 690-3257
mcdonaldjenkins@twohikers.org

Middle Tennessee Group - Nashville

www.tennessee.sierraclub.org/chapters/tn/mtg

Chair: Katherine Pendleton (615) 943-6877
adelicia1@aol.com
Vice Chair: Jeremy Doochin
Doochers87@aol.com
Conservation: Caty Butcher (615) 347-1480
JLCLBUTCH@comcast.net
Outings: Katherine Pendleton (615) 943-6877
adelicia1@aol.com

State of Franklin Group

- Bristol/Johnson City/Kingsport

www.tennessee.sierraclub.org/sofg

Chair: Linda C. Modica (423) 753-9697
lcmodica@aol.com
Conservation: Catherine Murray (423) 929-8163
Cfcatherine@worldnet.att.net
Outings: John Arwood (423) 926-9876
TrailWorkPlay@msn.com

Upper Cumberland Group - Cookeville

www.tennessee.sierraclub.org/ucg

Chair: Peggy Evans (931) 432-6680
maevans@twlakes.net
Vice-Chair: Josie McQuail (931) 372-6142
Jmcquail@tntech.edu
Conservation: Mary Mastin (931) 268-2938
MaryMastinUSA@netscape.net
Outings: John Harwood (931) 528-6395
jharwood@tntech.edu
Grp Newsletter: Vacant

Tennessee Sierra Staff:

Rita Harris, Community Organizer
Environmental Justice Program (901) 324-7757
rita.harris@sierraclub.org

Please notify Editor when changes are needed



©Donald Muir Bradburn

Turn inspiration into preservation.

Like Ansel Adams before him, the work of Donald Muir Bradburn is intensely honest, reflecting the passion of his childhood memories of the Mississippi Barrier Islands, which his photography helped save. For millions of people, the Sierra Club turns that same passion for nature into something just as moving—successful protection of our natural treasures. Insure tomorrow is filled with scenes that inspire. Join us. You'll be in good company.

Join today and receive a FREE Sierra Club Weekender Bag!



My Name _____

Address _____

City _____

State _____ Zip _____

email _____

Check enclosed, made payable to Sierra Club
Please charge my Mastercard Visa Amex

Exp. Date ____/____/____

Cardholder Name _____

Card Number _____

Membership Categories INDIVIDUAL JOINT

INTRODUCTORY \$25

REGULAR \$39 \$47

Contributions, gifts and dues to the Sierra Club are not tax deductible; they support our effective, citizen-based advocacy and lobbying efforts. Your dues include \$7.50 for a subscription to Sierra magazine and \$1.00 for your Chapter newsletter.

Enclose check and mail to: **F94Q W4300 1**
Sierra Club, P.O. Box 52968, Boulder, CO 80322-2968



Explore, enjoy and protect the planet

Sign on to Save Our Smokies!

To subscribe to the Greater Smoky Mountains Coalition (a.k.a. Save Our Smokies - SOS)

listserve, just send a blank email to:

Greater_Smoky_Mountains_Coalition-subscribe@yahoogroups.com

You will receive a subscription confirmation message. Just reply to the confirmation message, and your subscription will be complete.

If you run into any difficulties, just email Liz Dixon at dixon@cs.utk.edu

The Cumberlands Fall to Mountain Top Removal

Continued from Page 1

causing the pollution of Dan Branch.

In response to this repetitive pattern of pollution, complaints, inspections, corrective orders, notices of violation and the failure of the water quality of Dan Branch to improve, OSM has finally ordered Robert Clear to come up with a new sediment control plan for the entire 1400 acre permit area. If the Office of Surface Mining (OSM) decides the modifications proposed by Robert Clear to be major modifications of the existing permit, the public will once again have an opportunity to comment on the impossibility of controlling pollution when steep mountains are torn apart.

The organizations and people who love the Cumberlands will continue to work to protect the streams, forests, and mountains. The Zeb Mountain Mine is showing us that the price of vigilance is high, but Claiborne County has shown that the result of neglect is unacceptable.



Top Photo - A clean Dan Branch before the mining began.

Litigation Update

The plaintiffs' request for preliminary injunction in the NEPA case was denied in October by federal district Judge Tom Varlan in Knoxville. The recent history of permit and Clean Water Act violations and OSM's requirement of permit revisions gives us a good chance of success in this case, as well as possible litigation under the Clean Water Act.

Stay tuned for word of a public comment period and hearing on the Zeb Mountain permit.



Middle Photo - The same spot on Dan Branch as in photo above, but taken after just 2 months of mining in the headwaters.

Bottom Photo - Local folks doing a fish species survey with Dr. David Etnier who is pictured in the center with a red shirt.

All photo comments of Tennessee Forest Watch.

Appalachia Coal

A Brief History in Coal Mining

Continued from Page 1

More coal is being taken out of Appalachia, but fewer people are needed to do the mining. Local economies and communities begin to shrink. The high walls left above the benches prevent wildlife from moving up and down the mountains. Erosion and sedimentation have increased in parallel with the increased scope of the mining. Mine reclamation is a new concept, which is generally limited to some grading and throwing (non-native) grass seed on the spoil.

Fast forward again to the 1970's. The federal Clean Water Act was passed in 1973, establishing standards and mandating protections for navigable surface waters. The Surface Mining and Reclamation Act was passed in 1977, establishing standards for strip mining practices and procedures for the reclamation of mined lands. Finally some regulatory limits are in place to restrict the ability of coal companies to rape the land and move on, leaving a devastated landscape and impoverished communities behind them.

Unfortunately, enforcement of the federal rules is primarily left to the states, who are mostly less than aggressive or diligent in carrying out their responsibilities. Indeed, in Tennessee, the State's ability and willingness to enforce acceptable mining practices is so poor the federal Office of Surface Mining does not delegate its authority to regulate coal mining to the State.

We come now to the present day, when the easy pickings for coal strip mines are gone, and the demand for coal to fuel electric power plants and industrial boilers skyrockets due to price increases for oil and natural gas and the uncertainties of Middle East politics. Technology has advanced also, making it possible for coal companies to economically remove up to 600 feet of "over-



burden" from coal seams and extract the coal.

This new practice is known, descriptively, as "mountain-top removal mining" or euphemistically as "cross-ridge mining". Instead of just gouging strips around the Appalachian mountains, coal companies can now just pulverize the entire tops of mountains and dump them down the mountainsides.

Over 1000 MILES of streams have been buried under "valley fills" by coal companies even though federal regulations prohibit the dumping of fill into streams. And to date over 500 square miles of Appalachian mountains have been denuded of their forest cover, leveled, and left looking like a moonscape.

Although the 1977 SMCRA law requires reclamation of the mined land, only half the mined land has been reclaimed to even minimum standards, with that minimum being planting of lespedeza, an imported weed

from China that is inedible for wildlife or livestock. Trees do not grow on the mixture of rock, clay, and subsoil left after regrading.

A federal court decision in 2001 limiting the scope of the Clean Water Act and the authority of the Army Corps of Engineers over "non-navigable" waters provided the Bush administration with an excuse to issue guidance absolving the government of any responsibility to regulate any waters

considered to be non-navigable, including headwaters streams, intermittent streams, and wet weather conveyances, all of which are exactly where valley fills end up. The proposed regulation implementing this "guidance" has been withdrawn, but the instruction to the agencies is still there.

In 2002 the Bush administration issued the rule that eliminated an Army Corps of Engineers ban on mine waste and other pollution in waterways, opening the way for increased dumping of mine spoil in headwater streams. In 2003 the same Bush Administration issued a draft Environmental Impact Statement which purported to address the growing environmental impacts of mountaintop removal mining, but which only recommended streamlining the administrative process for mining companies to receive permits for their operations. The DEIS, in spite of acknowledging the severe and long-lasting impacts of mining on Appalachia's mountains, forests, streams, wildlife, and

Continued on Page 6

Meetings



HARVEY BROOME GROUP (Knoxville)

PROGRAM MEETING: Tuesday, March 9, 2004, Tennessee Valley Unitarian Church, 2931 Kingston Pike, Knoxville. Our March program is our slide show introduction to the yearly Harvey Broome Group Outings program. We will have slides of many of the places to which we will be going. And it will be a great opportunity to meet the outings leaders face to face and discuss upcoming trips. Call Roger Jenkins at 865-690-3257 for more information.

STRATEGY MEETING: Tuesday, March 23, 7:30 p.m., Tennessee Valley Unitarian Church, 2931 Kingston Pike, Knoxville. If you're interested in getting more involved or in finding out about what drives the Sierra Club in this area, this is the meeting to attend. Call Axel Ringe at 865-397-1840 for more information.

MIDDLE TENNESSEE GROUP (Nashville)

PROGRAM MEETING: Thursday, March 11 at 7:00 p.m. at Radnor Lake Visitor Center in Nashville. Gary, Faith, Andrew, and Rebekah Dodd share the story of how one family turned a random comment by a child into the life-changing experience of a family bicycle ride through the lower forty-eight states. The Dodd family rode their bicycles on a continuous route of approximately 9,500 miles from Seattle, Washington to Cape Elizabeth, Maine. Many television broadcasts, newspapers, and journals have chronicled their once-in-a-lifetime journey across the U.S.A. Additionally, the Dodd family has been featured on Good Morning America three times and on Radical Sabbaticals on the Fine Living Network. As you ride with the Dodds over the back roads of America, you will discover unique places you may want to visit, and you will experience the ride through their colorful vignettes and vivid photographs. You also will be reminded of the good in America as you hear about the encounters of the Dodd family with the people who enriched their journey. Their accounts of the bike ride will inspire you to not be satisfied with the status quo in your life and prod you to consider ways that you can stretch yourself. Selected by Good Morning America as one of America's Most Amazing Families, the Dodd family invites you to enjoy their bike ride through the most beautiful country in the world. If you are looking for a great read about travel and you want to be motivated to accomplish more with your life, then you may enjoy Bike across America: THE JOURNALS, the Dodds' new book about their family odyssey. Please join us for this special program.

STRATEGY MEETING: Wednesday, March 24 at 6:30 p.m. Conservation issues are first on the agenda! Come early, bring your sack dinner, or snack on refreshments provided by our group and get the news on what's happening in our Middle Tennessee Group. All members are invited to attend our conservation and administrative meeting at 2021 21st Avenue South (the old St. Bernard Academy Building). We try to have signs out front to point the way, but, just in case, we meet on the 4th floor. We welcome each of you to participate or just to be with us to learn of the group's conservation initiatives and community activities. Additions to the conservation agenda should be sent to Caty Butcher at JLCLBUTCH@comcast.net. For additions to the administrative agenda or for more information regarding the meetings, send a message to Katherine Pendelton at Adelicia1@aol.com or 615-943-6877 evenings.

UPPER CUMBERLAND GROUP (Cookeville)

PROGRAM MEETING: Contact Peggy Evans at 931-432-6680 or maevals@TWLakes.net for more information on program meeting dates and times.

STATE OF FRANKLIN GROUP (Tri-Cities)

STRATEGY MEETING: Until further notice, the State of Franklin Group will hold its Strategy Meeting on the second Thursday of every month. Program meetings will continue to be held on the fourth Tuesday. Unless otherwise advertised, all Sierra Club meetings are held at 7:00pm at Tipton-Haynes State Historic Site, 2620 South Roan Street, Johnson City. Please contact Linda Modica at <lcmodica@aol.com>, 753-9697 (H) or 676-2925 (cell) to confirm a meeting or to place an item on the agenda.

PROGRESSIVE POT-LUCK! MEETING: Friday March 26 @ 6 PM at Holston Valley Unitarian Universalist Church, Gray, TN - Dave Muhly, a Sierra Club staff member who lives in SW VA, will be coming to speak at our next coalition of progressives get-together. He has worked for the Sierra Club for several years, and is very capable of speaking on the Sierra Club's Campaign to Beat Bush.

The State of Franklin Group (Tri-Cities) will host this pot-luck dinner with local progressive groups such as the local Green Party, NAACP, and individuals joining together for fellowship and an opportunity to co-ordinate future activities in the upcoming election. All are invited to join us.

CHEROKEE GROUP (Chattanooga)

PROGRAM MEETING: Thursday March 18th. The Cherokee Group of the Sierra Club holds program meetings at 7:00 P.M. on the third Thursday of each month at Greenway Farms in Hixson (5051 Gann Store Road). The programs involve activist updates, guest speakers, fellowship, and refreshments. This month's guest speaker will be Cielo Sand. Her program, entitled "Lawless Logging in Tennessee", will examine impacts of the 2-million acres of native forest that were cut in Tennessee during the 1990's. For more information contact Chris O'Connor 423-867-4957 or e-mail chris_o77@yahoo.com

CHICKASAW GROUP (Memphis)

MONTHLY MEMBERS GATHERING: Thursday, March 4, 6:00 - 8:00 p.m. - Otherlands, 641 South Cooper, Memphis, Tennessee. Join us for Chickasaw Group's "FIRST THURSDAY" monthly gathering where Sierra Club members, activists and friends can meet in a casual setting to talk about issues and interests. Contact Membership Chair Jill Johnston <jdjhstn@memphis.edu> at (901) 278-2713 for more information.

STRATEGY MEETING: Monday, March 8, 6:30 p.m. - University of Memphis Alumni Center, 635 Normal Street, Memphis, Tennessee. A biomedical researcher, Cindy Uphoff, who has led numerous ecotours to the rain forests and coral reefs of Central and South America, will give the Sierra Club March Program. Ms. Uphoff will describe the importance and benefits of global rainforests and coral reefs, how fragile they are, and ways the indigenous culture is helped and protected by eco-tourism. She

will describe amazing lessons learned from animals - like monkeys who are continually shocked while holding onto a tree full of electric ants, who then plunge their hand into a beehive without getting stung. For more information contact Tom Lawrence at (901) 274-2829

PROGRAM MEETING: Wednesday, March 24, 2004 - 7:00 p.m. - Memphis and Shelby County Public Library and Information Center, 3030 Poplar Avenue, Memphis, Tennessee Program Meetings are scheduled every month on the fourth Wednesday. Contact Tom Lawrence <tom@thecave.com> at (901) 274-2829 or Clark Buchner <coyotem@usit.net> at (901) 327-2545 for more information.

TELEVISION PROGRAM: Every Monday at 1:30pm, Tuesday at 4:00pm and Wednesday at 11:30am, CST, The Library Channel, Memphis Cable 18, WYPL, "The Nature of Conservation" is sponsored by the Sierra Club. The TV show that will air in March is on Memphis Metropolitan Long Range Transportation Plan. With its commitment to many more wide roads in the county, it exacerbates Urban Sprawl. Watch and find out what we can do to make a plan that is better for all Memphians. A different program is aired, usually each month, with the program repeating every Monday, Tuesday and Wednesday throughout the month. If any groups or individuals in the community have a special problem or concern, or would like to see a program on a special issue or subject, please contact Judith Rutschman <RUTSCHMAN@rhodes.edu> at (901) 767-5916.

Want
to get
connected?
It's easy!



Tennessee Chapter's Internet Mail List

TENNESSEE-NEWS

for alerts, information & "inside" issue discussion
To subscribe, send the following message via e-mail to
LISTSERV@LISTS.SIERRA.CLUB.ORG:

"SUBSCRIBE TENNESSEE-NEWS [Your First Name] [Your Last Name]"
Leave the subject blank.
Replace the variables omitting the brackets.

**Tennessee
Chapter Spring Meeting**
April 30-May 2, 2004

Fall Creek Falls State Park
<http://www.state.tn.us/environment/parks/parks/>

Hosted by the Middle Tennessee Group
Join us at Fall Creek Falls State Park. We will occupy the Group Lodge where bunks are provided, but bring your own bedding, pillow, and towel. A short evening program is planned.

The cost for the entire weekend is only \$30.00 per person (1/2 price for children under 12 years old). This includes lodging, Saturday breakfast and dinner, and Sunday breakfast.

Please RSVP to:
Rachel Floyd
email: rfloyd557@aol.com
telephone: 615-406-9204

Registration Info Needed:
Number of Attendees & Names
Number of carnivores
Number of herbivores

Chickasaw Group News

Compiled by various members

Tennessee Water Sentinels Press Event

In a temperature and wind chill that was cold enough to freeze the... (what is that descriptor involving a brass monkey?), the Tennessee Water Sentinels publicly released their follow-up report, *Fouling the Father of Waters-2003 in Review, Industrial Storm Water Pollution and the Failure to Regulate*. It was seven hardy souls that sallied forth to the banks of the Mississippi River while James Baker, the Project Director for the Tennessee Water Sentinels gave a sound bite for the news camera and for the Memphis Commercial Appeal newspaper. We thank Charlie Rond and Don Richardson of the Sierra Club; boat owner Jeffrey Laper; Steven Sondheim, Friends of Shelby Farms, Sue Williams, League of Women Voters, and Gary Bridgman, who is the President of the Board of Wolf River Conservancy for attending. After the press event, most of these frozen folk adjourned to Café Francisco to thaw out with a welcome cup of hot tea or coffee.

Please go to: <http://www.sierraclub.org/watersentinels/tennessee>: to view this and two other reports our Tennessee Water Sentinel has authored.

Now 2 Shirts to Choose From!

Sierra Club John Muir Quote T's - NEW!

Mountain stream picture with John Muir quote "There is

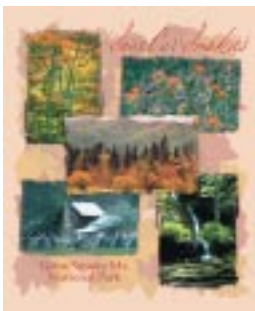


nothing more eloquent in nature than a mountain stream"

Sizes:

Medium - Qty _____ x \$15/shirt = _____
 Large - Qty _____ x \$15/shirt = _____
 X-large - Qty _____ x \$15/shirt = _____
 XX-large - Qty _____ x \$15/shirt = _____
 Total \$ - John Muir quote t-shirts = _____

Save Our Smokies T's



Shirt features a montage of very special shots from our Great Smoky Mountains National Park.

Sizes:

Small - Qty _____ x \$12/shirt = _____
 Medium - Qty _____ x \$12/shirt = _____
 Large - Qty _____ x \$12/shirt = _____
 X-large - Qty _____ x \$12/shirt = _____
 XX-large - Qty _____ x \$12/shirt = _____
 Total \$ - Save Our Smokies t-shirts = _____

Total T-shirt order

Grand Total (from above) = _____
 + Shipping & Handling @\$3/shirt = _____
 Total Enclosed = _____

Ship to:

Name _____
 Address _____
 City _____
 State _____ Zip _____
 Evening Phone _____

Sorry, we cannot accept credit cards. Please make check payable to Tennessee Chapter Sierra Club and mail to: Tennessee Chapter Sierra Club, 2021 21st Avenue South, Suite 436 - Nashville, TN 37212

If you would like to be active in the Save

Public Forum Tackles Hot Topic of Riverfront Development

On January 28, over 100 hundred attendees packed into the Memphis-Shelby County Central Library's meeting area to attend Chickasaw Group's first public forum for 2004, titled, "Whose Riverfront Is It Anyway?" Featuring officers and board members of the 11 week-old coalition for smart growth downtown called Friends For Our Riverfront (FFOR), the program was organized and moderated by Sierra Club's coalition representative and its co-founder, Don Richardson.

Panelists included Virginia Overton McLean, President, John Gary, Vice-President, and June West, board member and Executive Director of Memphis Heritage, Inc. The president of Memphis city government's privately chartered Riverfront Development Corporation (RDC) was also invited but was unable to attend.

Sierra Club has been actively involved in advocating & creating appropriate revitalization along the Memphis riverfront since 1997 and has been an ongoing participant in the creation of a master plan which was finally passed by Memphis City Council in May, 2002. Following the initiation of three public benefit revitalization projects, the first private commercial development proposal was presented this past November and focused on a unique historic area atop the bluffs called the Public Promenade. This four-block area was deeded to the citizens of Memphis in 1826 by the founding fathers of Memphis which included John Overton, Marcus Winchester and Andrew Jackson.

Since the property is historically and legally committed to public access, much of the debate between the RDC and FFOR, both in local media and during this panel discussion, centers on the nature of public access, the city administration's interest (via RDC) in high density commercial development, and competing issues of open space, natural heritage and adequate public participation in the planning process supported by Sierra Club and other community organizations.

Both in the panel discussion and during a question and answer session held afterwards, the sentiments expressed by attendees clearly demonstrated that the public support quoted by RDC in favor of their initial development proposal is not as widespread as advertised. Media quotes from both RDC's president and the Vice-Chair of its Board of Directors were used extensively to highlight the "valid, honest disagreements" between the public coalition and the private development group.

The focus of concern is an upcoming vote by the RDC Board of Directors, considered premature by FFOR, that will send the development proposal for the Public Promenade to City Council for final approval. The issue has galvanized community groups and enraged individuals like no recent issue since Citizens to Save Overton Park achieved similar publicity in the late 1970's and 80's in their successful efforts to halt construction of I-40 through the middle of Memphis. Stay tuned for further coverage, and visit the FFOR web site for more details at: www.friendsforourriverfront.org.

New Source Review Town Meeting

The Tennessee Department of Environment and Conservation (TDEC) held a town meeting in Memphis. The meeting in Memphis was the fifth of six statewide forums held by TDEC to receive public input on whether or not they should accept the new Environmental Protection Agency's New Source Review rules, modify them, or keep their existing rules concerning air pollution and air pollution regulations. An overwhelming number of the estimated 75 attendees were elected officials, members of Chambers of Commerce, and representatives of industry. An estimated six people, who represented environmental interests heard this focused message from the industry angle:

Business is a highly competitive market and those states that have adopted EPA's New Source Review rules will have a more competitive edge over a similar industrial site in a state that has not adopted the EPA rules (like Tennessee).

As a result, industry may leave Tennessee for those states, causing a loss of jobs—and the spin off income from those jobs. Several elected officials and Chamber of Commerce members stated things like, "we are a small population county with one major employer, and a single industrial plant closing can double the unemployment rate overnight." No elected official wants to have the finger pointed at them by a Chamber of Commerce official and have a media reporter hear, "this person is against economic growth, development and good paying jobs."

Industry representatives also talked about "well paying jobs", "quality of life", "affordable electrical power", you get the picture.

They would then say, "we urge you (TDEC) to begin the New Source Review rulemaking process." The Sierra Club was represented by Rita Harris; the Environmental Justice staff person and James Baker, who switched from his Tennessee Water Sentinels hat to his Chickasaw Group's Conservation Chair hat. Rita and James made oral as well as written comments. James took TDEC to task for scheduling a public meeting at 10AM on a weekday, which as he stated, "only benefits the minority, those whose facilities discharge air pollution; the timing does not benefit the majority of citizens, including those working families who have

FINAL DEFENDER UPDATE

(But It's NEVER Too Late To Join the DEFENDERS OF TENNESSEE)

Our sincere thanks go to this month's contributors to the Defender campaign, and to all of you who have contributed to this fund that supports our critical lobbying and legislative activities. We have not reached our goal this year, but we are hopeful that we will, with the help of you, our members and friends. This month's Defenders (January 1 through February 10) include:



Anonymous Donors
 Annelies Raetzer
 Berdelle and Ernest Campbell
 Bill and Sandy Lusk
 Bob Brandt
 Catherine Soudoplatoff and Joe Prochaska
 Clark Buchner
 Craig Canan
 Dale Gilmore
 David Bordenkircher
 Edward Schell
 Glen and Martha Wilson
 Jeanette W. Rabold
 John Noel
 Judith Hammond
 Larry Smith and Naomi Van Tol
 Maxine Carroll
 Mrs. John Tucker
 Nancy Marciniak
 Robert Rivers
 Russell Yttri
 Susie McDonald and Roger Jenkins

The Defenders campaign is a special annual fundraising effort that supports our legislative, lobbying, and advocacy activities. We are proud of the progress we have made. The Sierra Club has become a stronger and more visible presence in the state legislature, which allows us to work more effectively towards passage of legislation that protects our air, water, and forests; and promotes environmental justice and smart growth. Because the Defender fundraising is a volunteer effort, there are no administrative expenses and 100 percent of your contribution goes to program expenses.

We know that in these economic times, you may not feel that you can make a large donation. **BUT, if each of you would send just \$5 or \$10, we would be able to reach our goal.** Please help put us over the top by joining the Defenders of Tennessee. Donations are **NOT** tax deductible. Please return the form below, along with your check made out to Sierra Club Defenders Fund, to Adelle Wood, 4641 Villa Green Drive, Nashville, TN 37215.

THANK YOU!

Amount of donation: () \$50 () \$125 () \$250
 () \$500 () Other _____

Name: _____
 Address: _____

(Optional) Your e-mail address, _____

if you prefer to receive acknowledgment of your donation electronically. No database of e-mail

Continued on Page 7

Outings

All participants in Sierra Club outings are required to sign a standard liability waiver. If you would like to read a copy of the waiver before you participate, please refer to: <http://www.sierraclub.org/outings/chapter/forms/SignInWaiver.PDF>, or call 415-977-5630, for a printed version. Transportation to the outing, including carpooling, ride sharing or anything similar, is strictly a private arrangement among the participants. Participants assume the risks associated with this travel.

HARVEY BROOME GROUP (Knoxville)

Friday - Sunday, March 19 - 21, 2004 - Backpack, Cumberland Gap National Historic Park - Play hooky on Friday and join us for a 3 day backpack in the Cumberland Gap National Historic Park. We will start hiking on the Ewing Trail just north of Ewing, VA. After a stop to explore White Rocks and Sand Cave we will continue on the Ridge Trail to our campsite near Hensley Settlement. Day 1: 7-miles + exploration. Saturday's hiking will include an exploration of the Hensley Settlement then on to our campsite at Gibson Gap. Day 2: 8-miles + exploration. Our hike will



Ten Essentials for Hiking

Sierra Club Outings offer a variety of wilderness and near-wilderness experiences. It is important to realize that while all trips are guided by a leader, it is ultimately the responsibility of the individual to operate in a safe manner. To this end, the following is a list of essential items, which should be modified according to the particular type of outing. These are:

1. Adequate map
2. First aid kit
3. Compass
4. Rain gear
5. Extra clothing (it is a good idea to always have a wool hat)
6. Matches
7. Knife
8. Flashlight
9. Extra food, water
10. The tenth essential. You decide what is the most important thing to bring!

conclude at the Pinnacle Overlook on the Ridge Trail. Along the way we will take a short side trip to explore Skylight Cave. Day 3: 5-miles + exploration. Depending on time and willing participants, we will stop in the town of Cumberland Gap to look at the Rail Depot and Iron Furnace. RT Drive: 120 miles. Hike Leader: Beverly Smith. Contact the leader soon since the hike is already filling up. Evening phone number 865-531-8480; email blsmith1300@comcast.net

Sunday, March 28, 2004 - Day Hike, Charlie's Bunion, Great Smoky Mountains National Park - Join us on this classic hike, with nearly continuous sweeping views along the spine of the Appalachians. A great way to limber up those winter-softened muscles. We will probably hike a little past the Bunion for a nice lunch spot. Yeah, you are going to see people, but the views more than make up for it. About 9 miles round trip. Please pre-register at least 4 days in advance with the hike leader: Ron Shrieves, 865-974-1722 (days) 865-922-3518 (evenings); email: rshrieve@utk.edu

MIDDLE TN GROUP (Nashville)

Saturday, March 13th - Wildflower Walk - Wildflower hunting possibly at Cedars of Lebanon. Call Linda Smithyman at 615-822-1979 or lsmithymanhbg@yahoo.com for info and to register.

Friday/Saturday/Sunday, March 12-14 - Fiery Gizzard Backpack - We will camp Friday night at the CCC campsite approx. 1/2 mile from the trailhead on the Grundy Co. side of the Fiery Gizzard Trail. Saturday, we will hike approx. 11 miles to the Small Wilds campsite and Sunday finish with an easy 2 mile hike to the Foster Falls Trailhead. This trip will require shuttling vehicles since it is not a loop hike. Pre-registration is required. For additional information and to register, contact Katherine Pendleton at 615-943-6877 or email Adelicia1@aol.com.

Friday/Saturday, March 19-20 - Savage Gulf Rappelling - This trip is for those experienced in rappelling and have their own gear. We will camp at the Stone Door Ranger Station campground on Friday night and Saturday morning rappel near Stone Door. For additional information and to register, contact Katherine Pendleton at 615-943-6877 or email Adelicia1@aol.com. In case of inclement weather, this trip will be rescheduled.

Saturday, April 3rd - Moonlight Hike - Hike an almost full moon in the evening somewhere close by prior to switching to daylight savings time. Call Linda Smithyman at 615-822-1979 or lsmithymanhbg@yahoo.com for info and to register. Might meet for dinner before we get started.

STATE OF FRANKLIN GROUP (Tri-Cities)

1st Saturday - Trail Maintenance.
2nd Saturday & Sunday - Overnight Backpacking.
Middle of the Month Wednesday - Hike or Trail Maintenance.
3rd Saturday - Trail Maintenance.
4th Saturday - Hike.
5th Saturday (if there is a 5th Saturday) - Hike or Trail Maintenance.
Every Full Moon - Enjoy a sunset followed by hiking a few moonlit miles.

For details & to sign up call John Arwood: 423-926-9876.

To be informed of upcoming SOFG outings via email send a brief request to: TrailWorkPlay@msn.com

Why Do Trail Work? - As you may know, the State of Franklin Group has adopted the

section of Appalachian Trail which winds through the beautiful Big Laurel Branch Wilderness (BLBW), just west of Watauga Lake. The use of power tools is prohibited in such designated wilderness areas and for this reason some members of trail maintenance groups actually oppose the protections that wilderness designation provides. We can show our support for wilderness by performing necessary and timely maintenance of the Appalachian Trail in the BLBW and perhaps, with enough support, adopt other wilderness trails. In addition to BLBW, we do trail work on other sections of the AT & in Johnson City Parks, as well as various other projects. Volunteers are needed. No prior experience is necessary and you may work at your own pace. As with all SOFG Sierra Club Outings everyone is welcome, so bring your friends. See the monthly schedule above.

CHEROKEE GROUP (Chattanooga)

Saturday, February 28th - Day Hike - Join naturalist Mary Lynn Dobson as she leads us on an easy 5-mile hike through the Laurel-Snow Pocket Wilderness just northwest of Dayton. The trail follows Richland Creek, goes through some interesting boulder fields, and ends at a very pretty 80 foot high waterfall. The area also contains a wide variety of plant life, which will be the focus of the hike. Mary Lynn will provide tips on identifying the plants that we come across. Note: we will return to Laurel-Snow later this Summer to revisit these same plant species and to look for other ways of identifying them. For information contact Chris O'Connor 423-867-4957 or e-mail chris_o77@yahoo.com

Saturday, March 13th - Rock Climbing - Join Cherokee Chair Rick Gehrke as head leads adventurers on a rock climbing outing in nearby Prentice Cooper State Forest. This outing is for all ability levels and equipment will be provided. For information contact Chris O'Connor 423-867-4957 or e-mail chris_o77@yahoo.com

CHICKASAW GROUP (Memphis)

Sunday March 14, 2004 - 11:00am - Signs of Spring Walk - Memphis Botanic Garden, 750 Cherry Road, Audubon Park, Memphis. A walk through the garden. This is the second in a series of strolls that will let us see how the plants and garden look in the winter and see Spring arrive, as early wild flowers begin to bloom. We will walk through all the special areas of the garden. Free to Sierra Club members and Botanic Garden members. Leader Judith Hammond (901) 276-2819.

Saturday, March 20, 2004 - 1:00-3pm - Toxic Tour - Rita Harris of the Sierra Club Environmental Justice Program in Memphis will take us on a tour of the industries that are emitting toxics into the air or water and are endangering the health of Memphians. She has been working with activists in communities in North and South Memphis. Since space is limited, to make a reservation, call Judith Hammond (901) 276-2819.

Saturday, March 27, 2004 - 10:00am - Wildflower Hike at Shelby Forest - Bring your camera and your wildflower book and take a walk through the forest with Ralph and Debbie Fox. This is the perfect time of year for a wildflower hike. Bring lunch and water and meet at the Visitors' Center near the entrance to the park. Contact hike leaders Ralph and Debbie Fox at (901) 853-9246.

Sunday, March 28, 2004 - 2 PM, Shelby Farms Park. Meet at the Visitors' Center. Hike in your own backyard. See why Shelby Farms is one of the greatest amenities this city possesses. Learn about the road issues threatening this pastoral treasure and lend support to preservation and protection of this world-class park. For more information: Dale Engelberg (901) 458-6949.

DISCLAIMER: The following activities are not sponsored or administered by the Sierra Club. They are published only as a service to our members. The Sierra Club makes no representation or warranties about the quality, safety, supervision or management of these activities. Transportation to the outing, including carpooling, ride sharing or anything similar, is strictly a private arrangement among the participants. Participants assume the risks associated with this travel.

Saturday, March 14, 2004 - 10:00 am - The Old Forest Trail. "Second Saturday Hikes" Explore the only urban old growth forest of its kind in America. Learn about the forest's history, identify big trees and wildflowers and observe firsthand the impact of natural and human forces on forests in an urban setting. Meet at the bridge next to the parking lot at the end of Old Forest Lane in the center of Overton Park. The informative and entertaining trail map to the self-guided mile-and-a-quarter mile loop hike with seasonal bird watching and wildflower-viewing guides is available for free at the Golf House in Overton Park at all other times. For additional information, contact Don Richardson <donrich@juno.com> at (901) 276-1387. Sponsored by Park Friends.

Appalachia Coal

A Brief History in Coal Mining

Continued from Page 3

human communities, did not address any of these impacts in its recommended alternatives.

The latest blow to Appalachia and gift to the coal mining industry came 6 hours after the closing date for public comments on the DEIS. This is a proposed rule eliminating the existing rule requiring a 100 foot buffer zone between streams and the dumping of spoil from mines. If implemented, this rule would result in the wholesale burial of mountain streams throughout Appalachia, with the accompanying elimination of the stream ecosystems and the destruction of miles of downstream aquatic ecosystems and drinking water supplies by sedimentation and acid mine drainage.

To quote Kentucky native Harry Caudill: "Coal has always cursed the land in which it lies. When men begin to wrest it from the earth, it leaves a legacy of foul streams, hideous slag

heaps and polluted air. It peoples this transformed land with blind and crippled men and with widows and orphans. It is an extractive industry which takes away all and restores nothing. It mars but never beautifies. It corrupts but never purifies." And the current Bush administration is doing all it can to ensure that Harry Caudill's epitaph will be carried on and expanded for future generations.

March 8 Deadline to make Comments on proposed rule on 100 foot buffer zone.

Comments can be made to:
 Office of Surface Mining
 Reclamation and Enforcement
 Administrative Record,
 Room 101,
 1951 Constitution Avenue, NW
 Washington, DC 20240

or you can e-mail
 your comments to
osmrules@osmre.gov

Chickasaw Group News

Compiled by various members

Continued from Page 5

children with asthma." If TDEC begins formal rulemaking, every Sierra Club member should make the supreme effort to turn out for those hearings, and "pack the house" at every public meeting's venue. In these future hearings, one of the Tennessee Chapter's main challenges will be to sell the fact that "environmental protection does not cost jobs", despite what industry is saying. We will do our best to let you know when this will happen.

Chickasaw Group Planning Retreat

Members of the Chickasaw Group ExCom, as well as others, attended a daylong planning retreat at Neshoba Unitarian Universalist Church. With the retreat theme of, "many hands make light work"; this was to plan our activities in this pivotal year in the history of the United States and 30 years of environmental protections.

STATE NATURAL AREAS WEEK

MARCH 29 through APRIL 4, 2004

Tennesseans from across the State are encouraged to join together in a weeklong celebration of State Natural Areas Week to be held March 29 – April 4. Natural Areas Week will be celebrated across the state with hikes, canoe floats, and interpretative programming at many of Tennessee's 68 State Natural Areas. These unique lands are preserved in perpetuity, and protect habitat for many species of rare plants and animals.

The State Natural Areas Program was established in 1971 by the Tennessee Natural Areas Preservation Act. Today, there are 68 Natural Areas located throughout the State covering more than 100,000 acres of ecologically significant lands. State natural areas are diverse landscapes that are often cooperatively managed with county, state and federal agencies and non-profit land trusts. They protect some of Tennessee's most pristine wetlands and swamps, globally rare glades and diverse barrens, vast gulf forests, and mountainous landscapes.

For more information about Natural Areas Week events in each state region call: (northeast) 865 594-5601, (southeast) 423 634-5774, (middle) 615 741-9205, (west) 731 512-1369 or go to the natural areas webpage at www.state.tn.us/environment/nh. The Natural Areas Program is administered by the Tennessee Department of Environment and Conservation.

State of Franklin Group (Tri-Cities) Needs Outing Leaders

SOFG needs volunteers to help with the effort to offer a schedule of year around outings. There are numerous possibilities for fun & informative outings, a great form of outreach to our membership & would-be members, such as:

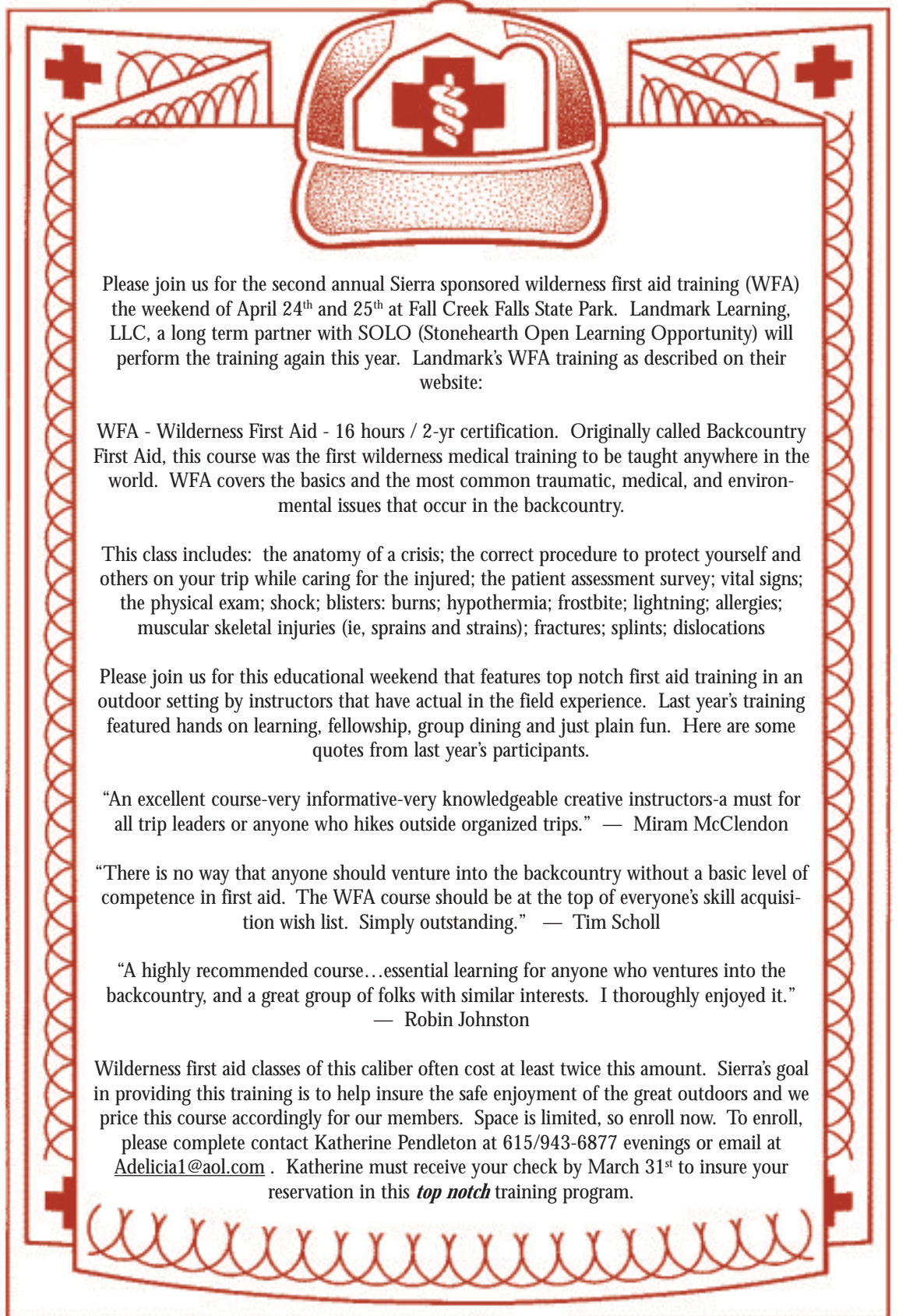
Day Hikes (leisurely to fast paced)
Overnight/Multi-Day Backpacking
Campground Based Camping
Trips to Points of Interest
Interpretative Walks
(flora, fauna, geology, history, etc.)
Family Oriented (with kids, single parents, etc.)
Star/Moon/Meteor Gazing
Development of Wilderness Skills
Trail Work
Tree Planting/Restoration Work [combinations of the above]

If you have an interest in helping to promote a love & understanding of our natural environment within others, through SOFG Sierra Club outings, please contact:

John Arwood - SOFG Outings Chair

2nd Annual Wilderness 1st Aid Training April 24th and 25th

By Katherine Pendleton and Gary Bowers, Co-organizers



Please join us for the second annual Sierra sponsored wilderness first aid training (WFA) the weekend of April 24th and 25th at Fall Creek Falls State Park. Landmark Learning, LLC, a long term partner with SOLO (Stonehearth Open Learning Opportunity) will perform the training again this year. Landmark's WFA training as described on their website:

WFA - Wilderness First Aid - 16 hours / 2-yr certification. Originally called Backcountry First Aid, this course was the first wilderness medical training to be taught anywhere in the world. WFA covers the basics and the most common traumatic, medical, and environmental issues that occur in the backcountry.

This class includes: the anatomy of a crisis; the correct procedure to protect yourself and others on your trip while caring for the injured; the patient assessment survey; vital signs; the physical exam; shock; blisters; burns; hypothermia; frostbite; lightning; allergies; muscular skeletal injuries (ie, sprains and strains); fractures; splints; dislocations

Please join us for this educational weekend that features top notch first aid training in an outdoor setting by instructors that have actual in the field experience. Last year's training featured hands on learning, fellowship, group dining and just plain fun. Here are some quotes from last year's participants.

"An excellent course-very informative-very knowledgeable creative instructors-a must for all trip leaders or anyone who hikes outside organized trips." — Miram McClendon

"There is no way that anyone should venture into the backcountry without a basic level of competence in first aid. The WFA course should be at the top of everyone's skill acquisition wish list. Simply outstanding." — Tim Scholl

"A highly recommended course...essential learning for anyone who ventures into the backcountry, and a great group of folks with similar interests. I thoroughly enjoyed it." — Robin Johnston

Wilderness first aid classes of this caliber often cost at least twice this amount. Sierra's goal in providing this training is to help insure the safe enjoyment of the great outdoors and we price this course accordingly for our members. Space is limited, so enroll now. To enroll, please complete contact Katherine Pendleton at 615/943-6877 evenings or email at Adelicia1@aol.com. Katherine must receive your check by March 31st to insure your reservation in this *top notch* training program.

2nd Annual Wilderness 1st Aid Training Registration Form

When: April 24th and 25th

Where: Fall Creek Falls State Park

What is included: Training by highly qualified instructors, mid-morning snacks, lunch, mid-afternoon snacks

What is not included: Breakfast, dinner, lodging

Lodging: We plan to camp in the state park. Make your own arrangements.

Cost: \$125, non-refundable (we commit to Landmark, you commit to Sierra)

Other: Membership in Sierra is required. You can join on line at

<https://ww2.sierraclub.org/membership/>

or Katherine an send you a membership form. Introductory memberships are \$25.

Questions: Contact Katherine Pendleton at 615/943-6877 evenings or email at

Adelicia1@aol.com

Name _____ Phone # _____

Street _____ City _____

State _____ Zip Code _____ Email _____

Previous 1st Aid Training _____

Lodging Plans _____ Group Dinner at the Lodge YES ___ NO -

Non-refundable payment of \$125 is due by March 31st (dinner and lodging not included)

Please send payment to:

Katherine Pendleton - 105 Catamaran Court -Nashville, TN 37217

“Solving” the Forever Unresolved Problem of Radioactive Waste

Frances Lamberts,
State of Franklin Group

A Washington Post article on November 18, 2003 announced intention by the Environmental Protection Agency to seek “an important rule change” that would allow disposal of “low-level radioactive material in ordinary landfills and hazardous waste sites.” EPA officials had stated that “any loosening of rules” would not compromise the environmental and public-health protections available under the currently applicable standards of the EPA and the Nuclear Regulatory Commission (NRC).

The last previous, sustained effort at deregulating categories of radioactive materials appears to have been in the late 1980s and early '90s, when the NRC proposed and implemented policies known as “Below Regulatory Concern” and “Exempt from Regulatory Concern.” Under the former, the deregulated radioactive waste could be disposed in municipal landfills or sewers, or incinerated. Under the latter it could, in addition, be recycled into commercial consumer products, and contaminated land and buildings would be released for unrestricted use by the public.

The policies generated intense public opposition and sixteen states passed laws rejecting deregulation of low-level radioactive waste and mandating its continued regulation within their borders. The Congress then revoked the policies in the 1992 Energy Policy Act and affirmed states' rights in maintaining more stringent regulation.

It appears that during this earlier period, the NRC's deregulation effort lacked strong support from the EPA. At the least, EPA officials saw no public benefit from deregulation and were quoted in a report as having “expressed doubt that anyone apart from the [nuclear] industry and the NRC will benefit” from it. It also appears, from my own reading of the advance notice, that the EPA may now be the forerunner or lead agency in seeking change of the rules for radioactive waste disposal, and will work closely with the NRC toward this end.¹

On the day of the Washington Post article, i.e. November 18, the Advance Notice of Proposed Rulemaking (ANPR) from the EPA was published in the Federal Register. Before its publication, a coalition of national groups including Sierra Club, Physicians for Social Responsibility, Nuclear Policy Research Institute and others had urged the new EPA Administrator, Mike Leavitt to block release of the notice and commit to upholding regulatory controls over human-generated nuclear wastes, rather than reducing the regulatory requirements.

The Nuclear Information and Resource Service (NIRS) has prepared a two-page alert and analysis of the ANPR and the regulatory changes being considered in it. The alert and further information may be obtained from Diane D'Arrigo of NIRS (dianed@nirs.org) or from the NIRS website (www.nirs.org).

The alert states five main points about the ANPR:

Radioactive materials from many sources would be “redefined” following an EPA risk-projection process and would “supposedly not need radioactive regulatory controls.”

Mixed wastes (i.e. radioactive and hazardous) could then go to landfills now only designed and permitted to accept hazardous waste.

Radioactive-only wastes (i.e. not mixed with hazardous waste) could then go to disposal sites with no radioactive license or regulation, such as municipal solid landfills or incinerators.

The ANPR suggests a “non-regulatory approach” as an option to management of radioactive waste, and it contains no prohibitions on recycling use of these materials in commercial consumer products.

Below some of my thoughts as I perused the ANPR, which is titled “Approaches to an Integrated Framework for Management and Disposal of Low-Activity Radioactive Waste,” is 104 pages long, and makes for decidedly difficult reading. First, though, a personal comment on “public comment.”

No matter how intense one's skepticism about fruitfulness of responding to regulatory proposals such as this one might be, the EPA is seeking public input and is required to consider it. Without public participation, implementation of industry-friendly policy—most of the waste in question comes from the nuclear-power industry— becomes a self-fulfilling outcome. Unfortunately, examples abound of the public's will not being heard, or being subverted under this Administration. But in a recent and very important example, it was heard. On the brink

of release of new guidance on the Clean Water Act, the EPA withdrew it on December 16, following enormous influx of comments opposing it.

The ANPR first takes you through a tangle of terms on “what we mean when we say x,” so thick as to call to mind Alice's consternation in *The Looking Glass*: “What does it call itself, I wonder?” Eventually you arrive at the newly coined terms for what used to be called low-level radioactive waste (LLRW) and, correspondingly, mixed low-level radioactive waste (MLLW). The new terms are LAMW for low-activity mixed waste and LARW for low-activity radioactive waste. Whatever subcategories of the traditionally defined radioactive wastes go into LAMW—that's what the proposed new disposal framework is about. LAMW is only “a conceptual term that does not have statutory or regulatory meaning,” at this time and how this class of radioactive wastes should be defined in the future is one of the matters on which the public's input is sought.

Some other general questions for public comment are:

How can the “burden of the dual regulatory framework” be reduced, given current applicability of both EPA hazardous waste regulations and Nuclear Regulatory Commission radioactive-materials regulations for the mixed wastes, and given that EPA's regulations under the applicable (RCRA) law now “specifically exclude” radioactive materials from its jurisdiction?

Among possible ways to reduce this burden, should tools such as “voluntary guidance, best practices, industry standards and the like” be considered, in addition to or in lieu of regulatory approaches?

Among land disposal options, should non-hazardous solid waste landfills also be considered? While, the ANPR states, EPA doesn't, at this time “expect to extend our disposal concept to RCRA Subtitle D landfills” (i.e. regular municipal landfills), they are said to “have engineered features similar in many ways” to hazardous waste landfills and may, therefore, provide adequate risk containment. Also re ordinary landfills, among the modeling parameters to help define the LAMW or LARW risk potential is “traveling time to groundwater in Subtitle D facilities.”

If the LAMW goes to Subtitle C (hazardous waste) landfills, should there be any requirements for segregating it, or for treating it in some way different from the Universal Treatment Standards applicable to hazardous-only waste?

Should LAMW disposal be limited to commercial facilities licensed for hazardous waste treatment/disposal, or should it extend to “privately owned” facilities?

Would it be appropriate (feasible) to use hazardous waste landfills also for disposal of LARW (radioactive only) materials? These include materials from clean-up of nuclear sites which, under current national guidelines fall under the Superfund program but to whose disposal in RCRA facilities “some states [are] being receptive and others oppose it.” Also included are residual wastes associated with uranium processing activities, that is (FUSRAP and Pre-UMTRCA) materials which currently go to superfund sites or to facilities licensed for radioactive-materials disposal, and sludge and residues from processing of mineral ores in the “TENORM” category, where “naturally occurring radioactive material” has been “technologically enhanced” and the “potential to expose humans has been increased,” and certain decommissioning wastes.

These seem to be the basic questions. They concern desirability of extending disposal options to facilities not currently designed or licensed for accepting radioactive materials. A lengthy list of additional, specific “Questions for Public Comment” is found on pp 74-77. They include technical aspects such as solidified/stabilized/containerized disposal forms, site-selection criteria, and other matters such as applicability of the guidelines to DOE, states' rights in setting or retaining their own standards, monitoring and oversight requirements, public participation options and its “appropriate level,” anticipated cost savings from disposal under the new guidelines, and others.

The EPA sees a need for the new policy framework because disposal options under the current regulatory framework are extremely limited. It cites (p. 27) only three commercial facilities as now licensed nationwide for low-level waste and one for mixed waste, while “roughly twenty” commercial facilities are permitted for hazardous waste. Such scarcity of legal options for permanent disposal, and resultant high economic cost, result in a number of undesirable consequences and threats. Among those cited are long-term storage of mixed waste by (some 3,000) generators, mis-handling or possibly illegal dumping of the stored waste, or disincentives to legitimate use of medical procedures or research from which such wastes result.

The bulk of the ANPR deals with many variables that would be examined in the computer modeling process through which EPA would determine safety characteristics of the new LAMW for containment in Subtitle C (hazardous waste) landfills, human-exposure potential, time frame (1,000 years) for assessing residual radiation risks after site closure/license termination, and others.

It seems that EPA does not intend to marshal much help from the scientific literature on environmental and health-related effects of low-level radioactive waste, or human exposure potential. It states that “we plan to conduct modeling” and will “also examine the NRC and RCRA disposal regulations to support the modeling efforts” (p. 38). Though I admit to lack of practically any familiarity with the relevant scientific research on radiation effects from low-level waste, its blanket dismissal in government endeavors to formulate new national policy seems to me highly unwise, if not irresponsible. Alas, an approach of ignoring or marginalizing scientific findings seems evident from other, recent regulatory proposals (e.g. the joint draft EIS on mountaintop +

valley fill mining). Participation by Physicians for Social Responsibility in the letter urging the EPA not to release the ANWR suggests that, in this case as well, the Administration may have chosen to disregard unpleasant realities or, while seeking “relief from regulatory burden” for industry sectors seems willing to shift resulting economic and other burdens to the general public. I strongly suspect, in any case, that medical researchers with Physicians for Social Responsibility could assist EPA in finding and analyzing the relevant science, as the agency deals with the problems of formulating new policy or, conversely, of enforcing current law or seeking other solutions. A number of things will crystallize themselves out of the technical and bureaucratic lingo when you read the ANPR. These, finally, are what stood out very clearly for me:

Because re-definition of the waste categories, which underlies the proposed guidance, is achieved through modeling of a large number of technical variables, comment opportunities seem weighted to favor industry experts and large industry response. But, all the more urgent for the “general public” to make their will known. In evaluating whether you will participate in the public-response effort (Please do!), remember the recent withdrawal of rulemaking on the Clean Water Act.

If rulemaking were to go forward, the EPA does not intend to pursue any upgrading or safety changes to facilities which would receive the newly defined radioactive waste. [Note the ANPR: the new approach “would take into account the practicalities of implementing LAMW disposal at RCRA-permitted hazardous waste landfills, rather than transforming them into more AEA-like facilities (emphasis added).]

Actual development and implementation of new policy may not be a predetermined decision but depend on public response. Note the EPA official's statement to the Washington Post that “... at the end of this [review] we may decide no change is necessary” and this statement from page 17 of the ANPR: [only] “if affected entities demonstrate support for such a rulemaking ... we would have a strong basis to pursue this effort beyond the ANPR stage.”

My suggestion is that we take EPA by their word and demonstrate that there isn't support for rulemaking to deregulate nuclear waste, even 10 years after the previous deregulation attempt.

Comments may be e-mailed (a-and-r-Docket@epa.gov) or sent via postal mail (Air and Radiation Docket, Environmental Protection Agency, EPA West Room B108, Mailcode 6102T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. All comment must be referenced to: Docket ID No OAR-2003-0095 and must be received before March 17, 2004.

¹ Jonathan Becker. 1990. Deregulating radioactive waste disposal. A status report. Public Citizen Critical Mass Energy Project.

The Sierra Club-Middle TN Group
Tennes-Sierran
2021 21st Avenue South, Suite 436
Nashville, Tennessee 37212

Non-Profit
Organization
U. S. Postage
PAID
Nashville, Tennessee
Permit No. 3225

Monthly newsletter for the TN Chapter Sierra Club
Vol. 35, No. 3 - March, 2004