



WARIOTO WARBLER



CLARKSVILLE NATIONAL AUDUBON CHAPTER

VOLUME 38, NUMBER 8

MAY 2007

WARIOTO AT A GLANCE

REGULAR MEETING: Thurs., May 2, 7:30 p.m., Sundquist Science Bldg, conference room, D126, APSU.

PROGRAM: TBA. Please come and find out what Sarah has for us.

SPRING BIRD COUNT: May 12, Montgomery County-wide count of bird species and number. Details below.

BOARD MEETING: Sundquist Science Building, Biology Conference room, D126 at 7:00 p.m..

Visit our webpage at http://www.apsu.edu/schillers/Audubon/Warioto_Chapter.htm

PRESIDENT'S MESSAGE, Joe Schiller

Last month judge Robert C. Chambers, writing for the United States District Court for the Southern District of West Virginia, rendered a decision in the case of the Ohio Valley Environmental Coalition (OVEC), et al., v. the US Army Corps of Engineers (USACE):

"The Court FINDS that the Corps failed to comply with the CWA [Clean Water Act] and NEPA [National Environmental Policy Act] when it issued the permits and the FONSI [Finding Of No Significant Impact]. The CWA permit cannot be issued unless the Corps complies with the 404(b)(1) Guidelines and with NEPA in making a FONSI or performing an EIS [Environmental Impact Statement]. The Corps did not adequately address certain issues as to the impacts of the mining activity on the environment. Failing to conduct its review as required under the CWA and NEPA, the Corps decided to issue FONSI where EISs may have been required. ...

The Court finds fundamental deficiencies in the Corps' approach, resulting in EAs which are inadequate and unsupported. The Corps has gone to great lengths to issue a FONSI and avoid conducting an EIS with respect to each of these permits. Some of the deficiencies, such as the cumulative impact findings or the use of stream creation as mitigation, may be difficult to correct and still result in a FONSI being issued by the Corps. However, each permit is different in scale and setting, which may affect the viability of a mitigated FONSI as well as a CWA permit for a particular project. Further, the agency has committed substantial resources to its efforts and deserves the opportunity to reevaluate its FONSI conclusions. The Corps may decide of its own initiative that an EIS is required, as it apparently did with the Spruce No. 1 Mine, or it may reexamine its findings to determine if it can issue a FONSI which conforms with the Court's Memorandum Opinion and Order. Moreover, while surface mining is heavily regulated by federal and state agencies, Congress mandated the Corps "maintain the chemical, physical, and biological integrity of the Nation's waters," which may require the Corps ultimately to deny the permits if the adverse impacts to the waters are significant. That, however, is a determination for the Corps to make."

To summarize in brief, the US COE had issued permits for several different mountaintop removal mines all bundled together that would have cumulatively resulted in the burial of several miles of streams. The USCOE argued that it did not have to perform an EIS for each mining operation separately because it believed that each would have an insignificant impact. The CWA and NEPA provide an exception to the requirement for conducting an EIS

only in the case of a FONSI. The Plaintiffs, OVEC, sued arguing that the COE failed to address all the relevant ecological and other issues before it issued the FONSI. It is quite disturbing to realize that one of the most important federal agencies charged with the protection of the nations waters would consider burial of miles of streams (at least 1200 miles to date and still counting) under millions of tons of mine waste not to be a significant impact upon those waters. While Judge Chambers' words are music to my ears, forgive me for not dancing in the streets. This is the fourth federal court decision that has found aspects of the regulation of mountaintop removal mining by state and federal agencies not to be in compliance with the law, and the three previous rulings were overturned on appeal. This decision is currently being appealed. Still, it is affirming to know that much of the judiciary in the country agrees with your position. This is especially true in considering that, in each case the judges have carefully studied, and apparently understood, some rather difficult ecological science in shaping their decisions. If you are having trouble sleeping, you can read judge Chambers ruling in its entirety at:

http://www.earthjustice.org/library/legal_docs/decision-on-mountaintop-removal-mining-permits.pdf.

While the coal companies may still find a way to get this ruling overturned, we must resolve to keep fighting this unjust and unnecessary method of mining coal. The battle will be long, it will be joined in the courts, in the federal and state legislatures (see conservation letter), in the coal fields, and most importantly, in the hearts and minds of the American people. Take comfort from this victory, but prepare for the next phase of the resistance, and remember:

"The arc of history is long, but it bends towards justice."

PROGRAM REPORT, Sarah Johnson

April Program Review

Duane Rice gave a very fun and informative program about Eastern Bluebirds last month. The videos he showed were a great addition to his discussion of bluebirds and their habits. He did a great job discussing bluebird houses and trails. I really appreciated his very detailed explanation of monitoring techniques and tips. He shared some fascinating information about how bluebirds work with tree swallows to keep bothersome birds away. He left us with several of his favorite bluebird book titles and websites that are invaluable sources of information. It was great learning from his experiences and discovering more ways to love these beautiful birds. Thanks Duane!!!

SPRING BIRD COUNT, MAY 12

Our annual spring bird count will take place on Saturday, May 12 in celebration of International Migratory Bird Day (IMBD). For more on IMBD, visit the following web sites (<http://www.birdday.org/> or <http://www.fws.gov/birds/imbd/>).

The spring count tallies species and numbers of individuals much like the Christmas Bird Count (CBC). You must keep a record of your activity on the count. That is, record distance traveled on foot and in the car and time in and out of the car just as you would for the CBC. Also, similar to the CBC are the **count week records**. This allows you to **report observations of birds that were seen in the three days before and three days after the count day**.

The count is organized differently from the Christmas Bird Count. We (1) do not meet at Shoney's, we (2) do not have a post-count meeting, and (3) we are not restricted to the 15-mile count circle, only by the **county boundaries**. While it is an all-day count, you are not required to put in a full eight hours as you are with the CBC. It is organized as follows: (1) **You MUST call Gloria Milliken (931-358-2998) in advance to select your count areas/locations**. You pick the areas/locations were you plan to count and she makes sure there is not an overlap or duplication of efforts with other birders. **Gloria may be able to direct you to an area or pair you with someone**. (2) **Call Gloria and report the results** of your count. Gloria will compile and submit Warioto's results. (3) The count is **restricted to Montgomery County**. If you have any questions about the count, call Gloria at the number provided above.

FIELD TRIP REPORT, Daniel Moss

A forecast of rain dampened the attendance of the wildflower/bird field trip scheduled on April 14 to the Bicentennial Trail. I showed up at the east trailhead with my dog Kate just in case anyone braved the precipitation to discover an empty parking lot. The rain stopped just as I arrived so the dog and I started walking down the converted rail bed. Reports from past spring hikes indicated this was a great place for wildflowers and I was not disappointed. Although the late freeze had knocked back some of the numbers and flowers there were plenty of wildflowers to be seen. Some of the highlights were Wild Ginger, Shooting Star, Columbine, Bluebells, and Fire Pink. Assorted species of Trilliums and Violets also spiced up the trail.

I was not disappointed with the bird watching either as spring migrants were beginning to arrive and some wintering species were still here. In the wetlands along the trail a pair of Wood Ducks was seen and a pair of Red-shouldered Hawks was screaming overhead. Yellow-throated and White-eyed Vireos were singing in the trees and a few Ruby-crowned Kinglets were still around. Blue-gray Gnatcatchers were fussing in the trees overhead and a few Cedar Waxwings were heard as well. Seven species of warblers were seen including Northern Parula, Yellow-rumped Warbler, Yellow-throated Warbler, Pine Warbler, Black-and-White Warbler, Prothonotary Warbler, and Louisiana Waterthrush. Good numbers of White-throated Sparrows were seen flitting around the wetlands edge, while Red-winged Blackbirds were heard singing on territory.

This was my first trip to the Bicentennial Trail in the spring and it was a real treat. I just wish there had been more people there to enjoy it!

CONSERVATION LETTER, Joe Schiller

While the court decision I described in the President's Letter applies to West Virginia, the Cumberland Mountains of east Tennessee are just as threatened. The single most important federal legislation that would help to end mountaintop removal mining and protect Tennessee's mountains is the Clean Water Protection Act sponsored by Rep. Frank Pallone (D-NJ). This "Act" is actually an amendment to the CWA that would explicitly prohibit the dumping of mine waste into streams. You can learn more about this legislation and send an email to our representatives at his site: <http://www.appvoices.org/index.php?/mtr/cwpa/>. While the bill currently has 77 cosponsors, to date, Representative Jim Cooper is the only Tennessee congress member to cosponsor this important legislation. Please write our Tennessee delegation urging them to cosponsor and support this legislation.

SPRING FLING AT DUNBAR CAVE

Audubon will co-sponsor Spring Fling again this year. Other organizations involved in the events are Friends of Dunbar Cave, the Clarksville Chapter of Tennessee Trails Association, Tennessee Wildlife Resources Agency and, of course, Dunbar Cave State Natural Area. The day-long event will take place on **April 28**. The program is still not finalized, so watch for a flyer late in April. Events will include a bird hike, backpacking with J.R. "Model T" Tate, a bluebird program with Duane Rice, a nature hike lead by Amy Wallace, two programs by SOAR (Save Our American Raptors), two snakes and reptile programs with Sherry and Donny Howell and Logan Snyder, a trail hike lead by Suva Bastin and canoeing on Swan Lake. I am still trying to fill in a couple of additional slots.

BIRDING WORKSHOP AT DUNBAR CAVE, SAT., MAY 12

Dunbar Cave State Natural Area and TWRA will have the second annual BEYOND BOW BIRDING WORKSHOP on Saturday, May 12 from 9:00 a.m. to 3:00 p.m. at Dunbar Cave. This workshop is for those 18 and older who are interested in learning to identify birds by sight and sound. It will consist of classroom work (slides and sounds) and a bird walk (some binoculars will be available, but bring your own if you have them). A mist net will be set up, and birds will be banded. In the afternoon there will be a backyard habitat class. The fee is \$20, which TWRA gives back to Dunbar Cave. Lunch is provided (included in registration fee), as well as a lot of freebies and door prizes. We hope that you will attend this wonderful program - last year was very successful and a lot of fun. (BOW stands for Becoming an Outdoor Woman, but we welcome men as well.) Come by the Natural Area and pick up a registration form, or call 648-5526 and we can mail you one.

BUDDING BIRDWATCHERS

The following was contributed by Barbara Wilbur. It was written by some students in Teresa Celusta's class a Montgomery Central High School.

Tennessee Birdwatchers

About three times a week three friends, Tannis Davies, Jennifer Story, and Britney Terry, feed the wild birds of Tennessee outside their school. This started during the 2005-2006 school year when the Montgomery Central High School Biology class, taught by Mrs. Teresa Celusta, participated in a survey conducted by the National Audubon Society and the local Warioto Chapter. The class was given a bird feeder, a bag of bird seed and many bird books so they could feed and identify the birds that were in their area of Tennessee.

The three friends say that they enjoy watching the multitude of birds swarming the feeders every time they put the sunflower seeds in. The girls also noticed that once in a while a few seeds from the feeder would fall to the ground and there were some birds that would eat them. That is when the girls realized that when there are leftover seeds that will not fit into the feeder they would place the extra seeds on the ground. One of the girls said, "We have realized that some of the birds do not like to sit on the feeder but would much rather eat off the ground. My friends and I have realized this and have tried to adapt to these likings. We are hoping to receive more wildlife and believe that this might help us in our journey to help feed more birds."

The three girls have seen birds such as the American Crow, the Carolina Wren, the American Goldfinch, the Mourning Dove, the House Finch and the American Titmouse. Some of these birds are very famous in the state of Tennessee and are seen often. Some of them though are migratory birds and can only be seen during certain time periods. The young ladies have all had a wonderful time while feeding the birds and hope that they see more rare birds in the time to come. This is something they hope everyone in Tennessee will start doing. "It is a wonderful experience and has taught us well." All three girls have agreed in saying that, "We hope that we can continue what we are doing for years to come and helping out these wonderful creatures we call...birds."

We hope so too.

**WARIOTO AUDUBON SOCIETY
C/O STEVE HAMILTON, EDITOR
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ARTICLES AND INFORMATION FOR THE JUNE NEWSLETTER ARE DUE 18 MAY.
MAIL TO: Steve Hamilton, 290 Ardmoor Dr., Clarksville, TN 37043 or *hamiltonsw@apsu.edu*

NEW MEMBER FORM

Yes, I would like to become a member of the National Audubon Society and the local chapter: Clarksville Warioto Audubon Society for the introductory rate of \$20.00.

I will receive six issues of National Audubon magazine, the Warioto Audubon society newsletter (9) issues, and help to protect America's Birds, rescue endangered wildlife and preserve vital habitat.

Please Print:

Name _____

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