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# Kentucky KWA Waterways Alliance Healthy waterways. Healthy communities. November 20:

November 2010

A publication of Kentucky Waterways Alliance: Working to protect and restore Kentucky's waterways

# **Keeping on Keeping Clean Water Clean**

### Small steps to victory in our fight for better anti-degradation rules

Judy Petersen

s proof that our hard work is paying off the EPA has finally made a decision nearly one year after Kentucky finalized and submitted new rules that set pollution standards for Kentucky's cleanest streams.

Anti-degradation rules are the cornerstone of the Clean Water Act and are designed to protect and maintain high-quality waters.



Portions of these rules were approved by EPA. However, they also disapproved exemptions or shortcuts written into the rules that fail to adequately protect

Kentucky's cleanest streams giving polluters the right to pollute without serious scrutiny from state regulators charged with protecting our waters. This is great news for Kentucky's cleanest waterways.

KWA and our allies, represented by Albert Ettinger (Environmental Law and Policy Center) and Tom FitzGerald

(Continued on page 9)

### Save the Date for the Wild & Scenic Environmental Film Festival

### KWA hosting the national festival in Louisville on March 5 at the Clifton Center

We're bringing it back for a third year! KWA is bestiment year! KWA is hosting the Wild & Scenic Environmental Film Festival at the Clifton Center in Louisville on March 5, 2011. Wild & Scenic is the largest environmental film festival in North America, and we are proud to be Louisville's connection yet again.



In the last two vears, we've seen more than 300 attendees, and over 50 total organizations have tabled at the event. We're expecting this year's Festival to be our biggest yet!

Wild & Scenic is where activism gets inspired, plus we throw one heck of a party! Past attendees have had this to

"It gave me hope to see positive things other people were doing for the environment. It inspired me to do something, too,"

"The information about water on our planet was presented in an enjoyable way and I learned a lot."

### **How Can You Get Involved?**

**Sponsor!** Each year the film festival is made possible through the generous con-

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# From the President KWA Welcomes Gordon Garner

s we look ahead to 2011, KWA has unveiled a new strategic plan building on and adding to our successful 2006 plan. We have grown and matured beyond our expectations becoming the advocate and voice for clean water in Kentucky. We have built our capacity to help watershed groups and we "wrote the book" for watershed planning in our state. Reluctantly we have followed our advocacy role into the courtroom in several cases when it became clear that state and federal enforcement of the Clean Water Act was being ignored, under resourced and sometimes procedurally deliberately violating well established requirements (including public notice, antidegradation reviews, and permit applications failing to meet basic technical standards). Our 2006 vision to "Influence Public Policy on Water Issues" has been fully realized even with this step.

For the near future it is certain that state and national politics will require environmental advocates to be even more aggressive and attentive. Any emphasis on climate change, sustainability, and reducing our carbon footprint has already been pronounced dead on arrival in the new congress. At best there will be a probable emphasis on bringing back nuclear

power as a "green technology" with little sensitivity to the water issues. Efforts to roll back recent administrative efforts by EPA and the Obama administration can be anticipated and efforts to address energy related pollution and nutrients likely to be forestalled.

So we need to have our own bottom up tea party movement building advocacy watershed by watershed and continuing to show the support that Kentuckians have for clean water. Stewardship is essential to preserve resources for generations to come. Few people without a financial stake in mountaintop removal and valley fill of irreplaceable headwater streams believe it is ok to chop the top off mountains. Why? To be able to sell coal a few cents per ton cheaper for electricity that can easily be saved by serious conservation and alternative energy sources. Energy and water are joined at the hip and our attention to these issues must be priority for KWA and its members.

Help us grow and prosper in 2011. Recruit a new member. Respond to our efforts to diversify our funding support and engage in local watershed initiatives like our Rockcastle River program.

For a healthier planet,

Gordon Garner



# **Published quarterly by**

### **Kentucky Waterways Alliance KWA Executive Committee**

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Newstreams Editor

Jennifer Milburn

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electricity and provides a strong correlation to diminished aquatic life. EPA's objections give them authority over the issuance and enforcement of the 21 permits.

The 21 blocked permits are individual permits for coal mines which receive more review due to their proximity to sensitive species or drinking water intakes. Approxi- ing. mately 2,033 coal mining permits in Kentucky are covered under the conversations with Kentucky in Coal General Permit which EPA

approved in 2009 and receive far less scrutiny.

In response to the EPA's objections, the Kentucky Energy and **Environment Cabinet and the Ken**tucky Coal Association have filed suit against the federal agency claiming the objections are illegal and an attempt to end coal min-

The EPA said it had "many the past about improving the mining permit process." The objections show that agreement between the two agencies could not be reached. "I'm committed to continuing to work with the state to find sensible and common sense solutions to this issue," EPA Regional Administrator Gwen Keyes Fleming said in a written statement. "We all want clean water and a healthy economy, and I believe we can achieve this by working together."

### ACTION ALERT

Last spring, the EPA issued strict quidelines on permits for mountaintop removal coal mining. These quidelines for "valley fill" permits severely limit the dumping of coal mining debris into valleys and streams. AND have the potential to save Appalachia's drinking water from continuously being poisoned. The EPA is now seeking feedback on their new approach to MTR permitting. Public comments are due December 1. Be heard! E-mail Lisa Jackson at Jackson.lisap@epa.gov and tell the EPA to protect our precious headwater streams!

### **Reports Released on Coal Impacts to Water Quality** KWA continues to be a voice against harmful practices of coal

Jason Flickner

**1** WA recently released two reports detailing the impacts of coal mining and coal combustion waste (CCW) on the waters of negative effects the storage of Kentucky.

Spill: Coal Combustion Waste and Water in Kentucky" studied groundwater monitoring data for "ash ponds" and dry landfills in Kentucky. We found that the coal combustion waste being stored at these sites is dangerously contaminating water. Kentucky has 44 "coal ash ponds," the second most in the nation after Indiana. Coal waste is laden with hazardous health harming chemicals, including arsenic, boron, cadmium,

chromium, lead, mercury, selenium, and thallium.

In addition to analyzing the coal waste has on the groundwa-Released in May, "Slow Motion ter quality in Kentucky, the report also assessed the inadequate regulatory programs in place to control the growing problem. The report has been presented to EPA as part of their ongoing efforts to appropriately regulate coal waste for protection of public health and the environment.

> In September, we released "Spatial Analysis of Coal Mining Impacts on Eastern Kentucky Watersheds" which presents findings and conclusions of a GIS analysis



Surface mining devastates our mountain stream

of the cumulative impacts of surface mining on watersheds in the Kentucky's Appalachian coal fields.

When the data and funding are available we hope to map the connection between the historic impacts of surface mining within eastern Kentucky and downstream pollution associated with coal mining activity. To view the reports, visit www.KWAlliance.org.

Mewstreams Page 2 Page 11 **November 2010** 

# **ORSANCO Passes Rules that Could Allow Mercury & Other Toxins into the Ohio River**

Jason Flickner

espite a strong effort from us and our many allies, the Ohio River Valley Water Sanitation Commission (ORSANCO) voted to pass new rules that open a dangerous door to increasing amounts of mercury and other hazardous toxins entering the Ohio River. The rule was passed at ORSAN-CO's Technical Advisory and Commissioner meetings held in Madison, Indiana in October.

The ruling came even after ORSANCO received over 12,000 comments from the public opposing it.

Under the new rules, polluters will be able to apply for a waiver of the October 2013 moratorium on mixing zones for Bioaccumulative Chemicals of Concern (BCCs). A mixing zone is an area where toxic pollution is allowed to be dumped in quantities greater than health standards and

"The Ohio River is at a tipping point for mercury. ORSANCO's own data shows the river and the fish are polluted at or above human health standards. This decision calls into auestion how committed ORSANCO is to the health of the river and the people who enjoy the recreation it provides."

-Jason Flickner, KWA

diluted to meet the legal limits for water quality. BCCs, like mercury, are toxins that build up in big fish as they eat many smaller fish. Most mercury pollution in the Ohio River Basin comes from coal fired power plants.

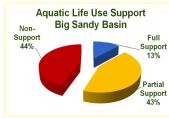
Preliminary monitoring data presented at ORSANCO's meeting showed the highest levels of mercury detected in hybrid stripper bass increased from .4 parts per million in 2009 to 1.0 parts per

million in 2010, a 150% increase in one year.

**New York Commissioner** Doug Conroe, Kentucky Commissioner Lynn Peters, **ORSANCO's Public Interest** Advisory Committee, and the Kentucky Energy and **Environment Cabinet op**posed the revisions.

In a letter to ORSANCO, Kentucky Division of Water Director, Sandy Gruzesky

wrote, "Mercury residues in fish tissue pose a problem for fish consumption; allowing additional mercury to the system likely would not facilitate returning the system to a state of nonimpairment." Kentucky will prohibit the use of mixing zones for mercury and other toxins that build up in fish tissue in September of 2014.



**EPA Blocks 21 Kentucky Coal Mine Permits** 

Jason Flickner

or the first time in 20 years, the EPA objected to 21 coal mine discharge permits to eastern Kentucky streams for failure to protect water quality.

They noted the failure of most eastern Kentucky streams to support aquatic life. And the failure of the permits to quarantee that the discharges will not cause or con-

tribute to further impairment of downstream water quality.

In its letters to state regulators, the EPA noted that by Kentucky's own accounting, 1,199 stream miles in the Upper Kentucky River watershed are impaired, with coal mining identified as a suspected source. That's in addition to another 487 stream

miles in the Upper Cumberland River watershed and 780 stream miles in the Big Sandy, Little Sandy and Tygarts Creek watersheds. In April, EPA issued new quidance on conductivity associated with coal mines. Conductivity is the ability of water to conduct

**Navigating the Future of Kentucky Waterways Alliance** 

Good friends, food, and wine at the end-of-year celebration

hat's a celebration without good folks? Well, that's exactly who came out to our annual meeting celebration on November 6 at River Bend Winery in Louisville.

Over 60 people joined us to hear what we've been up to in 2010. And to find out what's in store for the coming years.

We unveiled our strategic plan - Navigating the Future of Kentucky's Waterways (visit our website to now and for future generations. see it). Using the plan, we'll build on the successes we've had and continue to advocate for healthy waterways and healthy communities in Kentucky.

New program work includes a Rockcastle River program and a new watershed plan for the Red River Gorge. We're also working locally in Louisville on Beargrass Creek with the newly-formed Beargrass Creek Alliance. (Read article page 5.)



Judy Petersen, KWA executive director, and Bob Wilson, KWA bookkeeper enjoy each other's company and the great wine at River Bend Winery. Bob was given a special "thank you" gift during the event for his generous

We will continue being your voice for better water quality in Kentucky advocating for the best water regulations



possible to protect our rivers, lakes, and streams

We're also excited about new opportunities to protect and restore some of Kentucky's most exceptional places through the Kentucky Aquatic Resources Fund (or KARF). KARF is a groundbreaking partnership between US Fish & Wildlife Service and KWA to administer funds aimed at supporting projects that protect and conserve aquatic resources across the state. The KARF partnership has already saved a 350 stretch of land in Laurel County - home to Sinking Creek.

Our new strategic plan was made possible by a grant from the Environmental Support Center. Not to mention hours of hard work by the board, staff, and our wonderful consultant and supporter. Pamla Wood!

Special thanks to our keynote speakers George Parker and Kiley Lane of KyGREENty; John Gage of Kentucky Homefront who capped off the event by playing wonderful music at the Happy Hour Social; Bill Smith at River Bend Winery for donating the venue space; Barry Comer for a beautiful logo design and everyone at Sullivan. And finally thanks to everyone who attended and especially to those who stayed to support River Bend Winery during the social hour.









Barry Comer Design

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# **Support KWA When You Give Flowers from**



Don't forget! If you're thinking about ordering flowers for that special someone this holiday season, you can do so while helping to support KWA through Nanz & Kraft's Helping Hands program! When ordering flowers from their website, simply click the "Helping Hands" dropdown on the checkout page and select Kentucky Waterways Alliance. Nanz & Kraft will automatically donate \$2 from your order to KWA – at no extra cost to you!

# **Be on the Look-out for Membership Cards**

Are you a member? Be on the lookout for one of our newly designed membership cards, coming soon to your mailbox! Your membership card will entitle you to discounts at retailers around the state such as River City Canoe and Kayak, Red Hot Roasters, Kentucky Down Under, and Sheltowee Trace Outfitters. Not a member yet, or has your membership recently lapsed? Join online at www.KWAlliance.org.

# Mark Your Calendars Now! **KWA Annual Meeting & Conference October 15 - 16 Cumberland Falls State Resort Park**



KWA will host next year's annual meeting on October 15 - 16, 2011 at Cumberland Falls State Resort Park. We hope you'll make plans to join us as we come together for the weekend to discuss our work for healthy waterways and healthy communities in Kentucky. Details are unfolding and we are still looking for a keynote speaker. If you have any ideas, please let us know!

### **Upcoming Events**

December 31 - Have you made your end of year gift to KWA? There's still time - visit our website today!

January 22 - Kentucky River Watershed Watch, Midway College, Piper Dining Hall - contact John Webb for more information John.Webb@ky.gov

January 22 - KWA's board meeting: Saturday, January 22, 2011 - Midway College, contact Judy Petersen @ Judy@kwalliance.org for more infor-

January 23 - Watershed Watch in Kentucky board meeting, Midway College, contact Hank Graddy for more information @ Hank.Graddy@gmail.com

February 12 - Upper Green River Watershed Watch, Barren County Extension Service Office, Glasgow contact Elaine Digges for more information Elaine.Digges@gmail.com

February 18 - 19 - Licking River Watershed Watch, Blue Licks State Park for more information see www.lickingriver.org

March 5 - Wild & Scenic Film Festival. The Clifton Center, Louisville, KY. 7—11 p.m. Read more front page article.

March 10 - Salt River Watershed Watch, University of Louisville, for more information see www.srww.org or contact Russ Barnett r.barnett@louisville.edu

Have an event for our newsletter or website? Let us know and we'll be sure to give you a plug!

### Anti-deg. contd.

(Continued from front page)

(Kentucky Resources Council), have been fighting for over 10 years for better anti-degradation rules – asking the state to do away with these exemptions and shortcuts that defy the Clean Water Act and threaten Kentucky communities.

### **Tough Choices for Clean** Water

Our fight for the strongest protections possible for Kentucky's better tomorrow for Kentucky.



KWA's anti-degradation work has resulted in a portion of the Rockcastle River given Outstanding National Resource Waters (ONRW) designation in limit on how much new pollution — 2009. ONRW waters receive the highest level of no more than 10 percent over the protection under the Clean Water Act.

waterways often requires that we make tough decisions. With new permits being granted every week and more and more unnecessary pollution entering Kentucky's waterways, we filed suit urging the EPA to make a decision on Kentucky's anti-degradation rules.

And we finally had success -EPA's ruling is a direct response to our lawsuit.

One thing is certain – over the years our efforts have meant a When we first began advocating for better rules, EPA estimated that less than 2 percent of our streams were given antidegradation protection - scrutiny over new or increased pollution. Today, EPA estimates that 90 percent of our streams receive these protections.

In addition, we now have a

original amount – can be allowed into a "clean stream" under any circumstances without stronger protections being considered.

### A Turning Point

The EPA's ruling marks a turning point in this 10-year battle.

We are still considering where we'll go from here. We're reviewing EPA's decision and we guestion how Kentucky regulators will interpret and enforce the rules when writing new pollution per-

To be sure - we will remain vigilant in our review of new permits making sure the rules on paper translate into better, stronger protections for our streams. And we will be prepared to take whatever measures necessary to safeguard Kentucky communities in the future.

### **Did you Know?**

Kentucky Waterways Alliance is the only organization in the state watching over the pollution permits that give business and industry the right to poison our waterways. These permits often defy the Clean Water Act and fail to protect our precious rivers, lakes,

and streams.

Won't you help us continue our watchdog work for Kentucky's waterways by joining as a member or increasing your support? Or consider giving a gift membership to a friend or loved one for the holidays. When you give to us you become a voice in the fight for clean water in Kentucky. Join or give online at www.KWAlliance.org. Thank you for your support!



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### Wild & Scenic, contd.

(Continued from front page)

tributions of our sponsors. Sponsorship dollars help us spread the important message for a healthier planet. Sponsors can expect to see a return on their investment through an increase in audience, brand awareness, and potential sales.

Why sponsor the Wild and Scenic Film Festival?

- Reach a large and loyal audience of involved and influential tastemakers in Northern California.
- Target an engaged and conscientious consumer.
- Build a relationship with consumers in a respected, dynamic and authentic environment.
- Drive online and in-store traffic, product sampling, and word of mouth.
- Engage potential and current customers and let them help spread the word about your product and services.
- Amplify your PR, marketing efforts and positive brand associations.

We are offering a variety of opportunities and expanded benefits for sponsors this year. For more information about how you and your business or organization can get involved please contact our



The films tell the stories of every day people who work each day for a better planet. Pictured above is a scene from The Last Descent about a team of world class kayakers who descend three major rivers in danger of being



At the 2010 film festival, John Gage of Kentucky Homefront Live Performances, served as our emcee and also captivated the audience with a great musical performance during intermission.

Development Director - Angela Doyle at angela@kwalliance.org or (502) 589-8008.

**Volunteer!** Do you want to be a part of the excitement? We have a variety of volunteer opportunities leading up to and during the festival. They include spreading the word by hanging posters or tabling at local events, working our registration table, and helping with technical needs that night. Volunteers will receive free admission to the opening reception room and the film festival! Contact our Outreach Director - Jennifer Milburn at jennifer@kwalliance.org or (502) 589-8008 to learn more.

**Advocate!** Find us on Facebook and Twitter to receive important, up-to-date information and help us spread the word to friends, family, co-workers, and peers. Have you signed up for a e-mail alerts yet? Please visit our website to sign up so you can start to get updates sent to your inbox today!

The Wild & Scenic Film Festival helps us broaden our reach and bring new members into the fold. We greatly appreciate your support in getting our message out and inviting your friends! Keep checking our website and the newsletter as details for the night's programming unfold.

# **Beargrass Creek Festival a Great Success!**

It was a gorgeous autumn day when we set up the tables, the bike valet, and the kayaks at Cherokee's Willow Pond for the Beargrass Creek Festival. The sun was shining and people were excited to go on a creek walk or get out on the water. There was wonderful live music courtesy of The Next Exit, DR Country, and A Girl Named Earl. Ken Stammerman won a rain barrel! There was even an activities table complete with puzzles and games.

The first Beargrass Creek Festival was an effort to get the word out to the community that our creek is worth saving and that everyone can help. It was also a lot of fun!

I would personally like to extend a big 'thank you' to everyone that participated and attended. We could not have done it without our wonderful volunteers



River City Canoe & Kayak donated their time and kayaks during the festival for kayak demonstrations on Willow Pond.

and community groups. Do you want to get involved with the Beargrass Creek Alliance? Contact Tessa Edelen at tessa@kwalliance.org or 502 589 8008.

# Volunteer for Us...You'll be Glad you Did!

Everyone loves volunteers, especially all of us at KWA. We need volunteers to help us with representing the organization at environmental fairs and events (also known as tabling), folding and addressing letters and newsletters, and special events.

The folding and addressing mail is done at our Louisville office and can be done for short snippets of time. So if you have a couple of hours to spare, we can put you to work! Also, as you might have guessed, it is a lot of fun.

Tabling for events is something that happens throughout the year and various locations. Examples include the fly fisherman's show, the Kentucky Association of Environmental Educators annual conference, and the St. James Art Fair. Job duties would include talking to the public about their interests in water and what KWA does.

The third annual Wild and Scenic Environmental Film Festival is coming up March 5 (read article front page.) This is a big event, and we

really need volunteers to make it work smoothly. Last year, our volunteers were fantastic! They helped us at the ticket and registration table in the front, in the hospitality room, and setting up and breaking down.

So go ahead and give us a call to find out what fits you best!

# **Cleaner Waterways = Safer Drinking Water**

### Watershed protection is vital to the future health of our communities

David Spenard

hrough the Clean Water Act, we seek to rewaters. Through the Safe Drinking Water Act, we seek to protect public health through regulating our drinking water by setting standards for quality. Although the roots of these Acts are separate (and while these Acts are not always considered in tandem), they are related-efforts with a growing, and important, interconnection.

There are several types of water systems and processes ranging from very simple systems that rely upon wells to remarkably complex public water systems serving thousands of customers. Combined, these systems require a tremendous amount of infrastructure to get water from its source to the tap. For many years, the focus on the drinking water side, including the rule-making for its safety, was frequently isolated to this relatively small segment of the overall water-cycle, source-to-tap for consumption. However, each year the drinking water industry continues to move further beyond the intake pipe or well into the watershed.

The necessity for the movement into the watershed is relatively simple. Pathogens, metals, nutri-



ents, chemicals, and sediments in the water supply store and maintain the integrity of our Nation's source present issues in treating the water in order to prepare it for consumption. In some instances, a water supply can be temporarily or permanently compromised by pollutants. Thus, the necessity of restoring and maintaining our waters and waterways is intertwined with its safety for our consumption. Therefore, watershed protection programs, which are becoming increasingly prominent in drinking water rules, play an increasingly critical role in the protection of public health.

> The infrastructure associated with drinking water is massive. This infrastructure requires maintenance, repair, and replacement. And the price tag, in terms of estimates of what we face over the course of the next five to ten years, is also massive. The looming increase in water rates to fund these infrastructure requirements will impact affordability. The restoration and maintenance of the source of water can help control, and perhaps reduce, treatment costs thereby assisting in the goal of keeping water affordable. Therefore, watershed protection programs can also play a critical role in access to drinking wa-

> When it comes to watershed protection, complacency is not an option because of the need to care for the water that we drink. Fortunately, there are numerous steps that we can take to help. They can be small like installing a rain barrel or helping clean the trash and debris from a creek, or a little more complex such as the restoration of riparian vegetation for a stream or the installation of a rain garden, or as ambitious as participating in watershed planning and advocacy. But steps to protect watersheds are necessary because the ounce of prevention is worth the pound of cure.

### Neurtreams Page 6

### **Butchertown Couple Build a Beautiful Rain Garden**

### Paiges doing their part to protect their watershed

Tessa Edelen

Tizabeth and David Paige live in a lovely historic home in Butchertown. Their small backvard may not seem like an ideal spot for a rain garden, but they made it work beautifully!

The couple wanted to do something to help protect Beargrass Creek from stormwater runoff pollutions, and they decided a rain garden is one great way to do so. To accomplish this project, they first had to remove 571 square feet of concrete from the backyard. They were able to reuse some of this concrete in a different project in the house. Then they put gutters up on an additional 230 square feet of the house.



David and Elizabeth Paige smile for the camera as they tend to

That made a total of 800 square feet of rooftop that had previously collected water and sent it straight down the combined-sewer system. This water is now draining into the yard and infiltrating into their rain garden where it helps the sunflowers and native honey suckle flourish! Excellent work Paiges!

Stapleton tackle the Russell Fork Gorge.

# **Paddle with the Bluegrass Wildwater Association**

Kelly Craig

Are you looking for a group of paddlers to join while exploring the wonders of Kentucky's waterways? Then we recommend joining The Bluegrass Wildwa-BWA Members Hugo Araneda & James ter Association (BWA)! The BWA has been promoting enjoyment, conserva-

tion, and appreciation for wildwater sports on Kentucky waterways for the past 34 years. "The BWA is composed of a lot of different personalities that all share a common passion: whitewater paddling. It is these differing personalities that make the club such a dynamic group. The passion for whitewater paddling also carries over into our desire to be good stewards of our environment. I feel very fortunate to call this group of people my friends," said BWA president Allen Kirkwood.

Mark your calendars for the **National Paddling Film Festival on February 25-26** at Buffalo Trace Distillery in Frankfort! And the Spring Beginners Clinic on April 22-23 at Bandy Creek Campground on the Big South Fork.

Stop in at one of their monthly meetings on the second Tuesday of each month at 7:30 p.m. at the Panda Cuisine in Lexington. Or visit www.bluegrasswildwater.org.

Along with the potential of forming long lasting friendships, if you become a BWA member you can also expect a myriad of benefits like: The BWA Forum, Roll Sessions, Bowlines Newsletter, Russell Fork Rendezvous (a multi-day river festival), and an Elkhorn Parking Pass at the Elkhorn Campground put-in. BWA offers a variety of club trips and get-togethers, along with hosting cleanups throughout the year. You can also know that your dues support an active organization that helps to protect the waterways they cherish. Join online on their website: www.bluegrasswildwater.org for as little as \$20 a year! As our friends at BWA say, "Paddle, Be Safe, Volunteer, Have Fun!"