

# NewsStreams



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

## Make a Splash! - KWA's 20th Anniversary Gala Celebration

This year marks the 20th Anniversary of Kentucky Waterways Alliance, and we can't wait to celebrate!!

On the second Saturday in June, we will be hosting **Make a Splash, a gala celebrating our 20 years of work fighting for clean water in Kentucky.**

It will be a fantastic evening filled with hors d'oeuvres provided by Wiltshire Pantry, themed cocktails, music from Billy Goat Strut Revue, and silent auction items you'll find yourself unable to live without. All of that, topped with an amazing view of the Ohio River and a whole lot of fun!

The Silent Auction has a number of fantastic items lined up. We are very excited about the donation of a Rain Garden installation provided by Eco-Tech Consultants! Also included in the auction is original artwork by local artists, signed editions of books paired with a lunch experience with the author, adventure packages, jewelry, a Girls Night Out shopping trip, and many more!

Make a Splash will take place on **June 8th from 6:30 to 10:30 pm at the home of Louisville philanthropist Christy Brown.** We hope that you will join us in celebrating this momentous occasion and all of the work and success that has been KWA for the past 20 years. For more information about the event and to purchase tickets, please visit our website at: [www.kwalliance.org/gala](http://www.kwalliance.org/gala).

Please join us on

June 8<sup>th</sup> for

*Make a Splash*

a cocktail reception and silent auction

benefiting

**KENTUCKY WATERWAYS ALLIANCE**

[www.KWAlliance.org/gala](http://www.KWAlliance.org/gala)

## Let's Celebrate!!

### Message From the Director

KWA is 20 years old, and we are having an anniversary year worth celebrating. On Earth Day, we received word of a well-deserved victory in an eight year long battle over the use of Nationwide Permit 21 (NWP 21) to fill streams in coal country. Our staff, board, and supporters certainly celebrated! The strike down of this permit is a huge triumph for clean water and Kentucky communities. (Read more about the victory on page 4.)

While this victory is momentous, it was a long time coming. Forty years after the Clean Water Act was passed, it seems like KWA and other river groups spend more and more time just trying to sustain our hard fought clean water gains by holding agencies accountable to federal or state law. The battle against the use of the generic NWP 21 is a great example. This permit was used to fill eastern Kentucky streams with mining debris – something that never should have been allowed in the first place.

Over the years, we noted escalating abuses of NWP 21. Then in 2004, we counted 54 of these permits in eastern Kentucky authorizing 191 valley fills and destroying over 35 miles of streams. So we filed a lawsuit, and we won after eight long years. It is a lawsuit that we should not have had to file – and one that should not have taken eight years to win. But today, large corporations have more money and more power than ever before. Groups like KWA are fighting the battle for your clean water.

**On June 8, we are stopping for a moment to revel in all of our victories over the past 20 years.** We are throwing an anniversary party at Poplar Terrace in Louisville, home of philanthropist Christy Brown. We hope you will join us for this celebration featuring exquisite food, specialty themed drinks, live music, and silent auction items you won't want to miss. Our featured auction item will be a Rain Garden! This comes with custom design and installation. Or how about a Disney World vacation? But then again, maybe a fly fishing trip in Montana complete with fishing lessons is more to your liking? There will also be original art work, pottery, and much more. Purchase your tickets and register at: [www.kwalliance.org/gala](http://www.kwalliance.org/gala)

Many non-profits are still hurting from the recession. Sadly, I have seen several non-profits close up shop after years of successful work. Times are still tough, but KWA is making it through and excelling with your generous support!

Much like KWA, our 20th Anniversary Gala on June 8 will be a big success because of our dedicated supporters. Come and learn more about our victories, our current work, and celebrate with us. Because we all need clean water! Thanks.

On behalf of a healthier Kentucky,

*Judy Petersen*



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**Want to be in the know about water-related happenings?  
Visit our website at  
[WWW.KWALLIANCE.ORG](http://WWW.KWALLIANCE.ORG)  
to check out upcoming events in Kentucky!**

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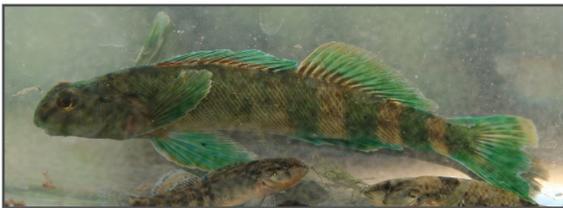
## AVEDA Earth Month

KWA was proud to have been chosen as the Kentucky Earth Month partner for Aveda again this year! Each year, participating Aveda salons and stores around the world spend the month of April raising funds for local and global clean water projects, and 2013 marked KWA's 4th year as the local partner. This year's events included raffles, product sales, individual salon events, and not one, but TWO fashion shows – the fourth annual "All for One Great Cause" event in Louisville with fifteen participating salons, and a brand new show in Lexington completely orchestrated by Alure Salon and Day Spa! The company also had a new goal this year – setting a Guinness World Record for the most funds raised for charity in a 24 hour period by cutting hair, with salons across the country (including 4 in Kentucky) holding cut-a-thons on Earth Day.



We're so grateful to Aveda for not only raising much needed funding for our programs, but for the awareness and attention we gain from their efforts. Thanks to ALL of this year's participants, and if you're on the lookout for a new stylist, be sure to check out one of their salons...the money you spend might just be helping give your favorite charity a boost!

## Harrods Creek Paddle



This year's 3rd Annual Harrod's Creek Paddle took place on Sunday, April 21 – the day before Earth Day! It was a beautiful day for a relaxing paddle on one of Louisville's most beautiful creeks. Participants got a chance to see a wide variety of wildlife – including the creek's famous great blue heron rookery. Interpretive stations manned by some of the most knowledgeable people in the region ensured that the paddle was not only fun, but educational. The reception afterward at Cunningham's Creekside gave us an opportunity to thank both David Wicks and River City Canoe & Kayak for their continued support. We even heard some inspirational words from Louisville Mayor Greg Fischer.



## KWA Wins Lawsuit Over Nationwide Permit 21!

**We are pleased to announce a long fought and well deserved landmark victory in the protection of rivers and streams.** This case, which has spent the past 8 years in a court battle, examined the legitimacy of Nationwide Permit (NWP) 21, issued by the U.S. Army Corps of Engineers (USACE) for projects involving valley fills associated with coal mining.

This particular NWP was the only one with no limits on how many miles of streams could be filled under the permit. Once obtained, the coal mining company was granted federal permission to fill streams and valleys identified in the permit application with mining waste. The USACE had been issuing these permits on the assumption that filling these streams has minimal environmental impact.

In 2004, KWA and our allies had documented **54 Kentucky permits approved under NWP 21, authorizing 191 valley fills with the potential to destroy over 35 miles of streams in Kentucky alone.** These 54 permits had all been approved in less than two years! At this point, KWA filed a lawsuit in conjunction with Kentuckians for the Commonwealth and Kentucky Riverkeepers with the legal support from Public Justice, Appalachian Mountain Advocates, and the Appalachian Citizens Law Center.

Despite the apparent flaw in the basis for NWP 21, this case nearly stalled out in the legal system. After all parties had filed legal briefs, the judge didn't rule on the case – until the permits had actually expired, then he ruled the case was “moot” or not longer had merit. We appealed. The judge agreed to reconsider, waited another year, and again ruled the case was moot. When we appealed again, we took the case to a higher court, the Sixth Circuit Court of Appeals. While our legal case was before the courts pending review, the USACE suspended the use of the permit all together for about a year, then in 2012 reissued a new version of NWP 21. The 2012 version of NWP 21 did indeed include limits on the length of streams that could be filled under the Nationwide Permit, but it also allowed for five year extension on over 70 previously granted permits which were less stringent than those restrictions in the new version of the permit.

The Sixth Circuit ruling questioned the USACE lack of data on the cumulative impacts of these permits and the extension of 70 permits under the old rules. The Court also question the USACE assumption that buried headwater streams can be re-created successfully elsewhere.

## DART Container award given to Upper Green River Watershed Watch

KWA and the Upper Green River Watershed Watch Volunteers want to give a big shout out to the **Dart Family Foundation** for their support of the volunteer monitoring efforts in the Green River Basin. In April, we learned that Dart had approved a request for a \$2,500 grant. Dart joins our other financial supporters from the Virginia Environmental Foundation, the City of Bowling Green,



Environmental advocates, scientists and even state agencies know that water downstream from valley fills is degraded. The Kentucky Division of Water's 2010 Report to Congress on Water Quality focused on the Big Sandy Basin (the most heavily mined watershed in the state). They determined that based on their data as well as probabilistic modeling that only **6% of the streams in the Big Sandy fully supported aquatic life!** This percentage had decreased from 12.5% in 2002. By comparison the state estimates that 52% of stream statewide fully support aquatic life.

There are several favorable outcomes from this win:

1. The USACE must review the 70 permits granted an extension in 2012.
2. The Court added to the mounting doubt about the ability of coal companies to re-create streams on previously mined land or on top of valley fills.
3. Precedent set that the USACE must assess cumulative impacts of all nationwide permits.
4. **NWP valley fills are now illegal!**

If you are interested in learning more about history of this case or what it means for the environment, you can find a complete review on the webpage: <http://kwalliance.org/nationwide-permit-21/>



*Thanks to the victory over NWP 21, streams like the one pictured above will be better protected from the harmful environmental impacts associated with surface coal mining*

Warren County, Columbia Rotary Club, the Mammoth Cave Group of the Sierra Club and the Kentucky Division of Water Nonpoint Source Grant Program.

The Upper Green River is the 4th most biologically diverse river in the nation with over 150 species of fish, over 70 species of mussels and other amazing species, some of which are found nowhere else in the world! KWA has served as the fiscal sponsor for the group since it was formed in 2000, and we are proud that the group is helping to raise awareness of the incredible resource we have right here in our own back yard. You can see some of the beautiful river - and help to protect it - by volunteering for one of the Green River Cleanups KWA is helping to sponsor this summer. Look for information on the June 15th Green River Fest on page 7.

## ~ Beargrass Creek Alliance ~ Storm Drain Marking Program

The Jefferson County Soil Conservation District and Beargrass Creek Alliance are working together to host free Storm Drain Marking programs for groups in Louisville. This project seeks to educate the public and encourage "Best Management Practices" that benefit our community's water quality regarding Nonpoint Source Pollution Prevention, a major factor in the decline and degradation of water quality in Jefferson County.

Participants in the storm drain marking programs will each receive a kit to mark storm drains, educational resources, a rain gauge, a reminder magnet to limit water use during or after a storm, and

native plant seeds. Volunteers from the Soil and Water Conservation District and Beargrass Creek Alliance will conduct a short program and then assist groups in locating and marking their neighborhood storm drains.

Storm Drain Marking events are happening this spring and summer, so sign up soon! Program duration is about 2 hours and at least 10 people per event are required. Combined groups are encouraged, i.e. faith communities and scouting troop or neighborhood and business groups. Space is limited. Contact Tessa for an application at: [tessa@kwalliance.org](mailto:tessa@kwalliance.org)



*This storm drain marker (left) has lasted more than 15 years. With your help, we will place a new version of these markers (right) on storm drains across Louisville that will be an educational tool for decades to come. Water-wise reminder magnets (middle picture).*

## Proposed Rock Quarry in Hart County

A Notice of Intent to Mine was submitted to the Hart County News Herald on April 4, 2013 by L & J Rock Quarry, Inc. This was the first step in conducting a non-coal mining project in the state of Kentucky. The proposed site is in the Bacon Creek Watershed in Hart County. It is located near the Vento Blue Hole, north of Roundstone Karst Spring.

The prospective mine operator submitted an application with the Kentucky Department of Natural Resources on April 26, 2013. A permit conference was held at Bonnieville City Hall on May 14 to give local residents a forum for commenting on the permit.

City Hall was packed with people wanting to learn more about the project and to have their say on the matter. Many residents expressed concern about potential health impacts and property damage. Others pointed out that the property owners had a right to lease their land to whomever they choose. Several Louisville Grotto Club members were present and spoke about groundwater systems and karst features near the proposed site. The Kentucky Waterways Alliance requested that dye tracing, acceptable to all parties involved, be conducted to shed light on the intricacies of the groundwater system that may be impacted.

The Department of Natural Resources Non-Coal Mining Branch has 30 working days from the day the permit was filed to review it.



*This cave (left) is directly next to the proposed quarry site. This cave crayfish (above) is one of the many quarry neighbors that would be impacted if this project were to be approved. Photos courtesy of Ken Bailey.*

## KWA Works Everyday on Behalf of Our Families for Clean Water POLICY... IN BRIEF: what we're doing to protect your water resources

By Tim Joice, Water Policy Director

KWA is your voice in the fight for clean water in Kentucky! Find out what we've been doing lately on behalf of the health of our waterways and communities.

### Groups File Petition for Conductivity Standard

On May 6, 2013, KWA joined several partner groups who submitted a petition requesting the EPA to establish a conductivity water quality standard for Appalachian states. Conductivity is a measure of water's ability to conduct an electronic current. The higher the level of conductivity the more toxic the water typically is to native aquatic species, and other wildlife.

Many scientific studies in recent years demonstrate strong evidence that higher levels of conductivity are an indicator of poor water quality in the Appalachian coal region. Additionally, studies continue to reveal increased human health impacts in areas with significant amounts of surface coal mining.

Coal mining, while it will continue to provide a significant power source for the near future, must adhere to the goals and requirements of the Clean Water Act, and protect the aquatic health of our water resources, and the human lives in coal mining areas.

### Hypoxia Task Force Meets in KY

Recently, the Mississippi River Gulf of Mexico Watershed Nutrient Task Force, also known as the Gulf Hypoxia Task Force, met in Louisville. The Task Force consists of five federal agencies, including U.S. EPA, and 12 states and tribes in the Mississippi River Basin.

At the public meeting, the members discussed strategies in their states to reduce nutrients. Kentucky Division of Water specifically spent time discussing the draft Nutrient Reduction Strategy, which they intend to release for public comments sometime in June. We plan to review the draft and submit comments, and we'll also provide an opportunity for all our members and Kentuckians for submit their own comments!



Stream showing effects of excess nutrients with algae blooms that may cause aquatic and human health risks.

### 2013 Farm Bill

Over the past year, KWA has been actively advocating with our Mississippi River Collaborative partners for a new Farm Bill that includes specific measures that help increase conservation across America's farmlands.

We're concerned about two things. First, any farmer that receives government subsidized crop insurance should be required to implement certain conservation measures. Second, Congress needs to retain existing funding levels for conservation programs that help protect ecologically important landscape features, like native prairies, forests, wetlands, and riparian buffers. These two critical components of the Farm Bill have significant impact on the waterways and water quality across the country, and in our own states!

Right now, the Senate and House are both in the process of moving the Farm Bill through committees to the floor for debate and eventually, for a vote... Take some time to check out our Farm Bill webpage to learn a bit more, and then call your Senator or Representative, or send in a letter-to-the-editor of your local newspaper to voice your support for these critical parts of the Farm Bill!

### EPA Proposes Rule on Toxic Discharges from Power Plants

On April 19, EPA proposed a regulation to better control toxic pollution in water discharges from steam electric power plants. The proposed regulation will likely be revised significantly in the coming months before any final rule is announced. For more information, go to <http://water.epa.gov/scitech/wastetech/guide/steam-electric/proposed.cfm>.

## Upcoming Events

A graphic for the Swift Camp Sweep event. It features a map background with a yellow starburst containing the text 'FREE EVENT'. To the right, a broom is shown sweeping. The main title 'Swift Camp Sweep' is in large green letters. Below it, the date and time are 'When: June 1, 2013 - 9 until noon' and the location is 'Where: Washington Park - Campton, KY'. At the bottom, a blue banner reads 'All are welcome to this cleanup! Supplies, lunch, door prizes and fun activities will be provided.'

**Swift Camp Sweep**

**FREE EVENT**

**When: June 1, 2013 - 9 until noon**

**Where: Washington Park - Campton, KY**

**All are welcome to this cleanup! Supplies, lunch, door prizes and fun activities will be provided.**

### **May 30 Floyds Fork Informational Meeting**

Learn about existing nutrient sources and potential nutrient management strategies for this watershed.

### **June 1 Swift Camp Sweep**

Campton, KY - KWA and Kentucky River Authority will provide supplies, food and prizes for this community clean up!

### **June 8 Make a Splash - 20th Anniversary Gala**

20 years in the making, this event will celebrate our victories and highlight ongoing fights over our water resources.

### **June 15 Green River Fest**

Back by popular demand - we will be focusing our efforts on the 25 miles between Munfordville and Mammoth Cave this year!

### **June 20 BCA Trash Mob**

Keep watching the website as details are confirmed for this Beargrass Creek cleanup.

### **June 21 Sustainability Symposium**

The Kentucky Association for Environmental Education will be hosting this event in Northern Kentucky.

### **July 30 Bacon Creek Farm Field Day**

Join us for an exciting day on the farm of Eddie Bowan and see BMP's he has installed to help improve Bacon Creek.

### **August 10 Clean the Green**

We look forward to partnering with The Nature Conservancy once again on this Green River cleanup in Greensburg, KY.

# Green River Fest

## Saturday, June 15

A graphic for the Green River Fest event. It features a background image of a river flowing through a lush green forest. The text 'Thelma Stovall Park' and 'Munfordville, KY' is in white. Below that, the time '8 a.m. CDT / 9 a.m. EDT' is also in white. A yellow oval with a drop shadow contains the text 'RESERVE YOUR SPOT TODAY!' in green, slanted letters.

**Thelma Stovall Park**  
**Munfordville, KY**

**8 a.m. CDT / 9 a.m. EDT**

**RESERVE YOUR SPOT TODAY!**

Check out our website for more information about these events and more: [www.KWAlliance.org](http://www.KWAlliance.org)



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**Yes**, I support the mission and goals of Kentucky Waterways Alliance.

### INDIVIDUAL MEMBERSHIPS:

- \$ 25 Individual
- \$ 35 Family
- \$ 50 Supporter
- \$ 100 Watershed Guardian
- \$ 200 Watershed Steward
- \$ 500 Watershed Angel
- Other \$ \_\_\_\_\_

Your donations are tax deductible! Mail to KWA, 120 Webster St., Suite 217 Louisville, KY 40206

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Visit [WWW.KWALLIANCE.ORG](http://WWW.KWALLIANCE.ORG) to join us in the pursuit of healthy waterways today.**