

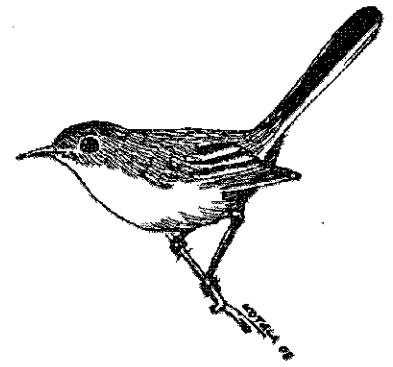
# The Gnatcatcher

Newsletter of Juniata Valley Audubon

Volume 43 No. 3

May/June 2011

[www.jvas.org](http://www.jvas.org)



## Public Presentation Tuesday May 10<sup>th</sup>

**“Development of Natural Gas from Shales: Some Myths and Realities”**

**Cornell University Professor Dr. Anthony Ingraffea**

**Tuesday May 10<sup>th</sup> 7:00 PM**

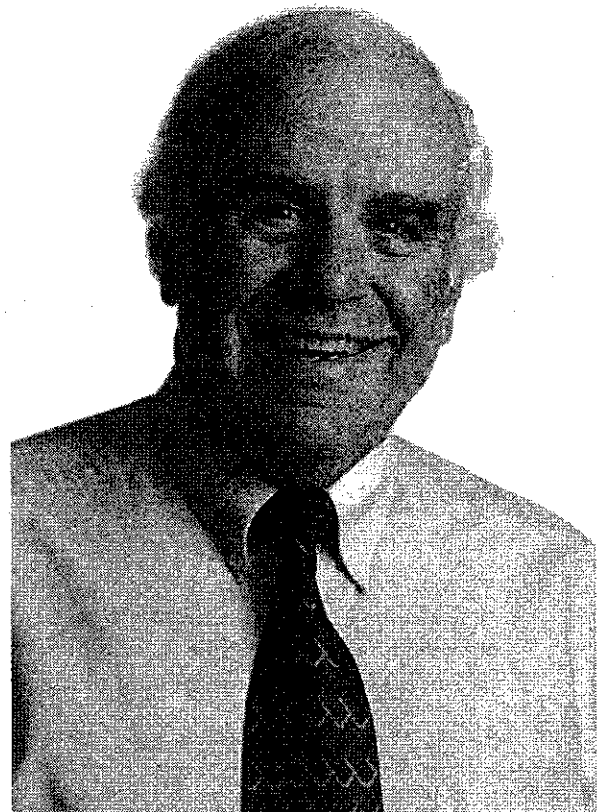
**Location: HUB Auditorium**

**Penn State University Campus, University Park, PA**

**Professor Ingraffea is one of the most articulate voices in the discussion about deep shale gas drilling for natural gas that we should have had *before* embarking on the current rush to drill. *Don't miss this opportunity!***

Dr. Ingraffea will evaluate myths and facts concerning some of the more notable issues involved in the development of unconventional natural gas wells in shale formations.

Dr. Ingraffea is the Dwight C. Baum Professor of Engineering and a Weiss Presidential Teaching Fellow at Cornell University. He did research and development for the oil and gas industry for 25 years, specializing in hydraulic fracture simulation and pipeline safety, and twice won the National Research Council/U.S. National Committee for Rock Mechanics Award for Research in Rock Mechanics. He became a Fellow of the Society of Civil Engineers in 1991, became Co-Editor-in-Chief of Engineering Fracture Mechanics in 2005, won ASTM's George Irwin Award for outstanding research in fracture mechanics in 2006, and in 2009 was named a Fellow of the International Congress on Fracture. Recently, he has been deeply engaged in informal education regarding the topic of this lecture with more than 50 public presentations over the last year.





## Join us on Sunday, May 8 for our Annual Terry Wentz Memorial Hike

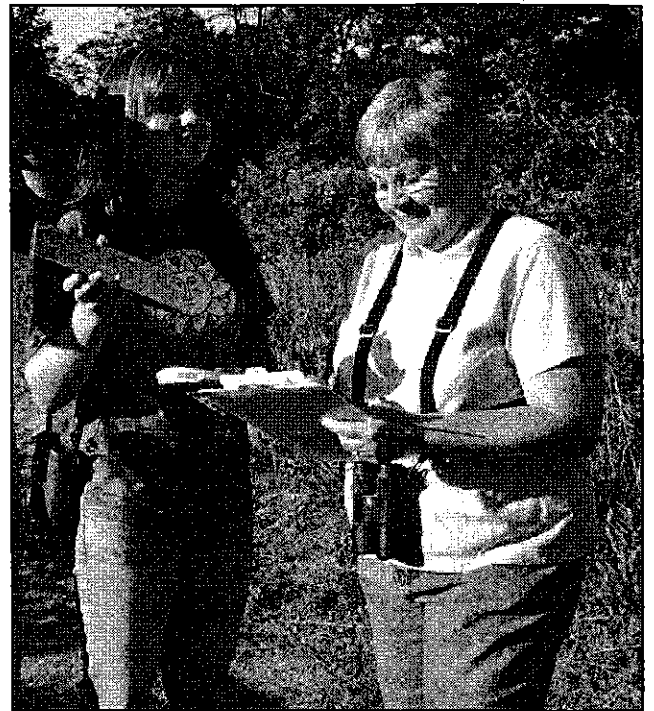
A four-mile moderately easy hike on Moore's Hill Trail honoring former Canoe Creek State Park manager, the late Terry Wentz, who served on the Juniata Valley Audubon board of directors for more than a decade. Meet at the Canoe Creek State Park Environmental Education Center at 2 p.m. For more information, contact trip leader Dr. Stan Kotala at 814 946-8840 or at [ccwiba@keyconn.net](mailto:ccwiba@keyconn.net).

## Join us on Tuesday, June 21 for our Annual JVAS Maxine Leckvarcik Memorial Picnic at Canoe Creek State Park

Covered-dish social followed by  
an evening walk in the park.

Our picnic honors Maxine Leckvarcik, one of the JVAS' most faithful volunteers, whose untimely passing in 2008 was a great loss to our chapter.

Meet at Pavilion 2 in Canoe Creek State Park at 6 p.m. For more information, contact Hospitality Chair Marcia Bonta at 814 684-3113



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# Juniata Valley Audubon lawsuit against DEP

## to save Heller Caves Bat Hibernaculum, Habitat for Threatened Species, scheduled for Trial in Fall of this Year

The DEP's failure to protect a hibernation site and associated habitat supporting the small-footed bat, a threatened and protected species under the Pennsylvania Game and Wildlife Code, has forced Juniata Valley Audubon to sue the DEP.

The Heller Caves Biological Diversity Area in Catharine Township, Blair County, is a hibernaculum for eastern small-footed bats. This Blair County Natural Heritage Area is within the boundaries of the proposed Gulf Group limestone mine.

According to the *Blair County Natural Heritage Inventory* done under the direction of the Blair County Planning Commission from 2001-2006, the Heller Caves BDA hibernacula can be destroyed by adjacent blasting or other earth-moving activities that disrupt bedrock. In addition, the *Inventory* states that a reduction of forest cover would reduce habitat area for roosting and feeding needed by these bats. According to the Pennsylvania Game Commission *"forested areas with caves, mines, rock outcrops or talus provide key summer habitat"* for small-footed bats.

The *Blair County Natural Heritage Inventory* goes on to state; *"Blasting and other activities that will affect the bedrock should be avoided within this area so as not to damage the cave being used as a hibernation site"* and *"maintaining and cultivating forest cover will increase the amount of available habitat for bats."*

The BDA and its defined supporting landscape are part of the proposed mine. The *Blair County Natural Heritage Inventory* map for Catharine Township clearly indicates that an area circumscribed by a ¼ mile radius from Heller Caves #4 and #5 is Core Habitat for the Heller Caves BDA. Impacts will include forest removal; noise, air, and water pollution; heavy truck and bulldozer traffic; washouts of the trail from runoff from the new heavy-duty roadway; forest fragmentation.

Significantly, the **Pennsylvania Game Commission (PGC)** provided the DEP with maps indicating a **TOTAL AVOIDANCE AREA** surrounding Heller Caves 4 and 5 and extending to the Lower Trail and further to the Frankstown Branch of the Juniata River. The DEP, however, issued the mining permit for an area within this **TOTAL AVOIDANCE AREA**.

The DEP failed to protect the PA threatened small-footed bat despite the DEP being aware of the importance of the Heller Caves as a hibernaculum for this species and despite the PGC's designation of a **TOTAL AVOIDANCE AREA** between Heller Caves #4 and #5 and the Frankstown Branch of the Juniata River.

The DEP should have taken a precautionary approach, and denied the permit for mining in any part of the **TOTAL AVOIDANCE AREA**, especially in light of the fact that all the bat species using the hibernacula in the project area are under stress from White Nose Syndrome.

Furthermore, Heller Caves 1, 2, 3, 7, 8 and 9 were not surveyed for hibernating bats, and rock rubble at the cliff base and crevices in the cliff face were not surveyed for hibernating bats. In all at least 100,000 square feet of suitable hibernating areas were not surveyed for hibernating bats.

The discovery phase of JVAS' lawsuit is drawing to a close, as interrogatories and depositions are being completed. These have revealed that the DEP failed to protect PA threatened species and their habitats and issued this mining permit in spite of information from the Pennsylvania Game Commission and the developer's own consultants that revealed the importance of this area.

Fortunately, JVAS is being represented by Kenneth T. Kristl, Director of the Widener University Environmental and Natural Resources Law Clinic, who has agreed to take on this case *pro bono*.

While Director of the Clinic at Widener, Professor Kristl has been involved in numerous proceedings that have set important legal precedents. These include:

- A first-in-the-nation federal court ruling enjoining the United States Department of the Interior and the US Fish and Wildlife Service from allowing farming in general and with genetically modified crops in particular on the Prime Hook National Wildlife Refuge in Sussex County, DE without first complying with the National Wildlife Refuge System Administration Act, the National Environmental Policy Act, and the Administrative Procedures Act.
- A PA Environmental Hearing Board ruling reversing and remanding an NPDES permit allowing discharge of stormwater into a High Quality, Cold Water Fishery stream because of a failure to comply with PA's Antidegradation Regulations.
- A DE Environmental Appeals Board ruling reversing and remanding a permit to dredge the Assawoman Canal under Delaware's Subaqueous Lands Act.

In addition to his Clinic work, Professor Kristl teaches Property I and II at the Law School. He is a Master in the Delaware Valley Environmental Inn of Court (the first Inn of Court to focus exclusively on environmental law) and a member of the ABA's Section on Environment, Energy and Resources and the Delaware State Bar Association's Section on Environmental Law. He has also written extensively on environmental law issues.

As the discovery phase of JVAS' lawsuit against the DEP draws to a close, we are preparing for the trial, which will occur in Harrisburg later this year.

## MAY/JUNE PROGRAMS

### May 17 — "Love Lives of Frogs, Salamanders, and Caecilians"

**Dr. Jacqueline Grant**, a senior lecturer in the Wildlife and Fisheries Science curriculum at Penn State University, will share her research on the love life of amphibians. The love lives of Pennsylvania's familiar frogs and toads are relatively straightforward, as the frog with the best song defends the best territory and wins the most females. More mysterious are the love lives of the silent salamanders and the secretive caecilians — wormlike amphibians from the tropics. Dr. Grant will discuss frog songs that may be heard in Pennsylvania in May, but will also highlight some unusual behaviors of frogs from around the world. She'll also discuss breeding behavior in salamanders and caecilians, and how they overcome their voiceless condition.

## MAY/JUNE FIELD TRIPS

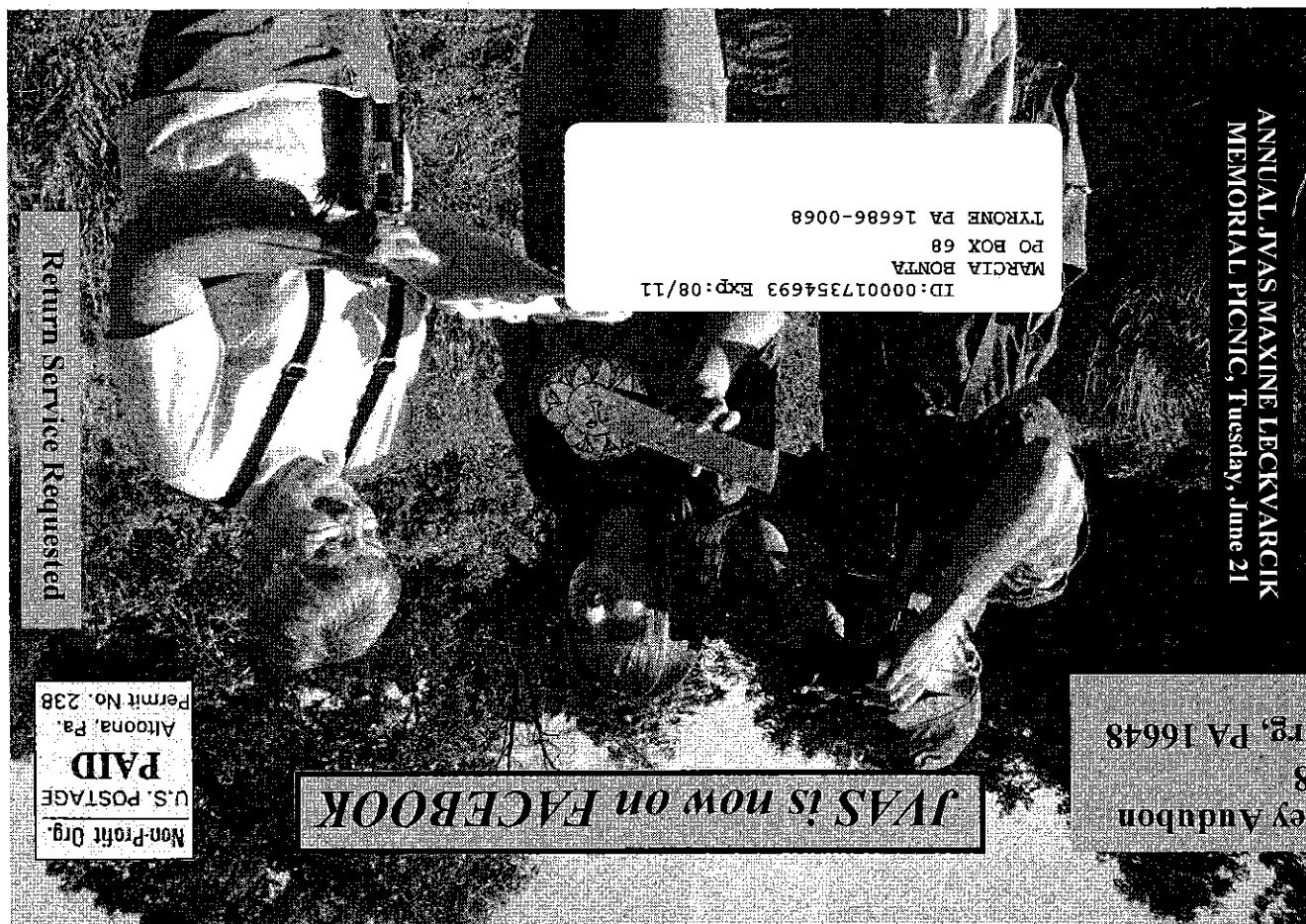
**Saturday, May 7 — International Migratory Bird Day #1 (Morning bird walk at Canoe Creek State Park).** Annual favorite to see as many as 100 bird species during the peak of spring migration. Meet at the Canoe Creek State Park Environmental Education Center at 8 a.m.

**International Migratory Bird Day #2 (Evening bird walk on the Lower Trail).** See as many as 50 bird species. Meet at the Lower Trail Flowing Springs Trailhead at 7 p.m. Dr. Stan Kotala will lead both bird walks. For more information, contact Stan at 814 946-8840 or at ccwiba@keyconn.net.

**Saturday, May 28 — Hike in TNC's Brush Mountain Preserve.** Hike the trails of the Nature Conservancy's Brush Mountain Preserve, home of the Allegheny wood rat. The site is part of the Canoe Creek Important Mammal Area. The 2-hour hike is easy, and if nature's timing is right, the mountain laurel and possibly the wild azalea (wild honeysuckle) will be in bloom. Meet in the parking lot at Panera Bread, in the Logan Town Center, at 10 a.m. We'll carpool to the Brush Mountain Preserve. For more information, contact trip leader Deb Tencer at naturehikergal@gmail.

**ABOUT JVAS PROGRAMS:** Programs are presented on the *third Tuesday of each month, September through May (except December)*. They begin at 7 PM in the **BELLWOOD-ANTIS PUBLIC LIBRARY**. Take the Bellwood Exit off I-99, go straight thru the traffic light at the Sheetz intersection, proceed about 4 blocks and turn right just before crossing the railroad overpass. Turn left at the next intersection, another 2 blocks and the library is on the right.

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ANNUAL JVAS MAXINE LECKVARCIC  
MEMORIAL PICNIC, Tuesday, June 21

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The late Maxine Leckvarcik (far right) records data during a bird survey on SGL 322, the Warrior Ridge Barrens Biological Area, north of Huntingdon. JVAS past president Dr. Stan Kotala observes through binoculars while for-mer Gnat-catcher editor Helena Kotala plays bird song recordings.

Junata Valley Audubon  
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