

West Virginia Highlands Conservancy  
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# *The Highlands Voice*

The Monthly Publication of the West Virginia Highlands Conservancy

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## **Pipeline Surveyors Barred from Monroe County Property**

By John McFerrin

The West Virginia Supreme Court of Appeals has ruled that a pipeline company may not survey on land in West Virginia unless it has either the landowners' permission or the right of eminent domain. Since, in the case before the Court, it has neither, it may not conduct surveys.

The controversy is over the proposed Mountain Valley Pipeline. If built, it would carry natural gas from Wetzel County, West Virginia, down through West Virginia and into Virginia where it would connect with another pipeline which distributes natural gas up and down the east coast of the United States. No gas carried by the pipeline would be distributed to people in West Virginia.

The proposed pipeline has not yet been approved by the Federal Energy Regulatory Commission. As part of preparing its application, the developers of the pipeline sought to perform surveys on lands that it would cross, including the landowners in Monroe County, West Virginia, who are directly involved in this suit. These landowners refused to allow surveys on their land. This litigation followed.

One of the rights that landowners have is to exclude from their property people they don't want on the land. Unless there has been some transfer of a right of way, etc. then landowners have the right to exclude people, including surveyors or, for that matter, the King of all England. This has been one of the basic rights of landowners for hundreds of years, before there even was a West Virginia.

The exception to this general idea that the pipeline developers rely upon is the right of eminent domain. The law of eminent domain allows property to be taken for a public use. The classic use of eminent domain is the acquisition of property by a state so that it may build a road, a school, etc.

West Virginia has a statute which says that a company which is invested with the power of eminent domain may enter on land for the purpose of conducting surveys. This right of eminent domain only exists when the taking of land, a survey, or anything else is for "public use." In this case, the developers of the pipeline contended that they had the right of eminent domain.

The Court determined that no customers in West Virginia would be served by the proposed pipeline. There would be customers in other states which would be served by the pipeline but West Virginia only has the right to grant the power of eminent domain if there is a public use in West Virginia. The only entities who would benefit from the pipeline would be private companies who owned the pipeline or affiliates of the pipeline owners who would use it to transport gas. Under these circumstances, the Court concluded that there was no public use and the right of eminent domain was not available to the pipeline developers.

Absent the right of eminent domain, the landowners have the right to exclude surveyors they do not wish to allow on their land.

The Court recognized that at this point the developers only want to survey, not build the pipeline. It said that, as it viewed the law, this didn't make any difference. The outcome would be the same no matter whether the developers wanted to build the pipeline, conduct a survey, or do anything else on the land without permission.

The Court pointed out that all is not lost (for the pipeline developers) or won (for the landowners). If the Federal Energy Regulatory Commission ever gives the pipeline developers a certificate to construct the pipeline then the developers could gain the right of eminent domain and the right to conduct surveys.

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## Ramblin' the Ridges

By Cynthia D. Ellis

### Jolly Holly; Merry Berries

Winter is approaching in West Virginia and wildlife watching is among the many fine pleasures of the season. Here's some thoughts on a few of the plants that sustain the wildlife we like to watch.

One food source is the fruit of the American Holly.

Deer eat it, along with squirrels and other small mammals; so do eighteen species of birds. The foliage shelters the birds, and the tree trunk and limbs resists damage by deer. The berries are somewhat bitter, so sweeter fruits of other plants are eaten first in late summer, leaving the holly to sustain wildlife in tougher times. Among the most efficient birds feasting on berries are Cedar Waxwings. One observer saw a flock completely strip a 35-foot tree in just a few seconds! Others feasting are bluebirds and robins and their other thrush kin; mockingbirds, blue jays, cardinals, mourning doves, grouse, bobwhite, woodpeckers, catbirds, thrashers, and wild turkey.

American Holly grows from Florida and Texas to Massachusetts and Pennsylvania; many of our non-WV members may be familiar with it too.

The Wikipedia map does not show it growing in my area, but there are 5 trees in view along my little daily path in the woods at home. Slow growing and relatively short,

it is described as a tree of the understory. Our state's mountains seem to be among the coldest areas of its range. These hollies like rich bottom lands, but they cannot tolerate "wet feet".

American Holly requires male and female plants to bear fruit, but both will produce pollinator-attracting flowers in June. Each fruit has 4 seeds. Pollination is accomplished by insects, including bees, wasps, ants, yellowjackets, and night-flying moths. Its nectar makes excellent honey and the tree provides larval food for the Henry's Elfin butterfly.

One source notes, rather in contradiction, that the berries cause "low toxicity if eaten" by humans but that their poisonous part is the "berries in large quantities".

Then there's bittersweet. Oriental Bittersweet, also known as Asian Bittersweet, is an invasive, aggressive, non-native species that can often be confused with our native, American Bittersweet. Long-time WVHC (and WV Native Plant Society) member Steve Mace prompted my interest in the two plants recently with a photo on social media and he said, "The statement that Oriental has a yellow fruit coating and the American an orange is not a good way to identify what species is what, as I've seen much color variation in both species."

These vines are attractive to birds too, so we watchers can look for bittersweet as a winter host, whether we can sort out the "good" vines from the "bad".

Bittersweet and holly might be added to winter wreaths, such as the ones traditionally made in Canaan Valley each year. Our own Dave Saville was out of the country at wreath time, but the folks at White Grass Ski Touring center hosted that pleasant event again.

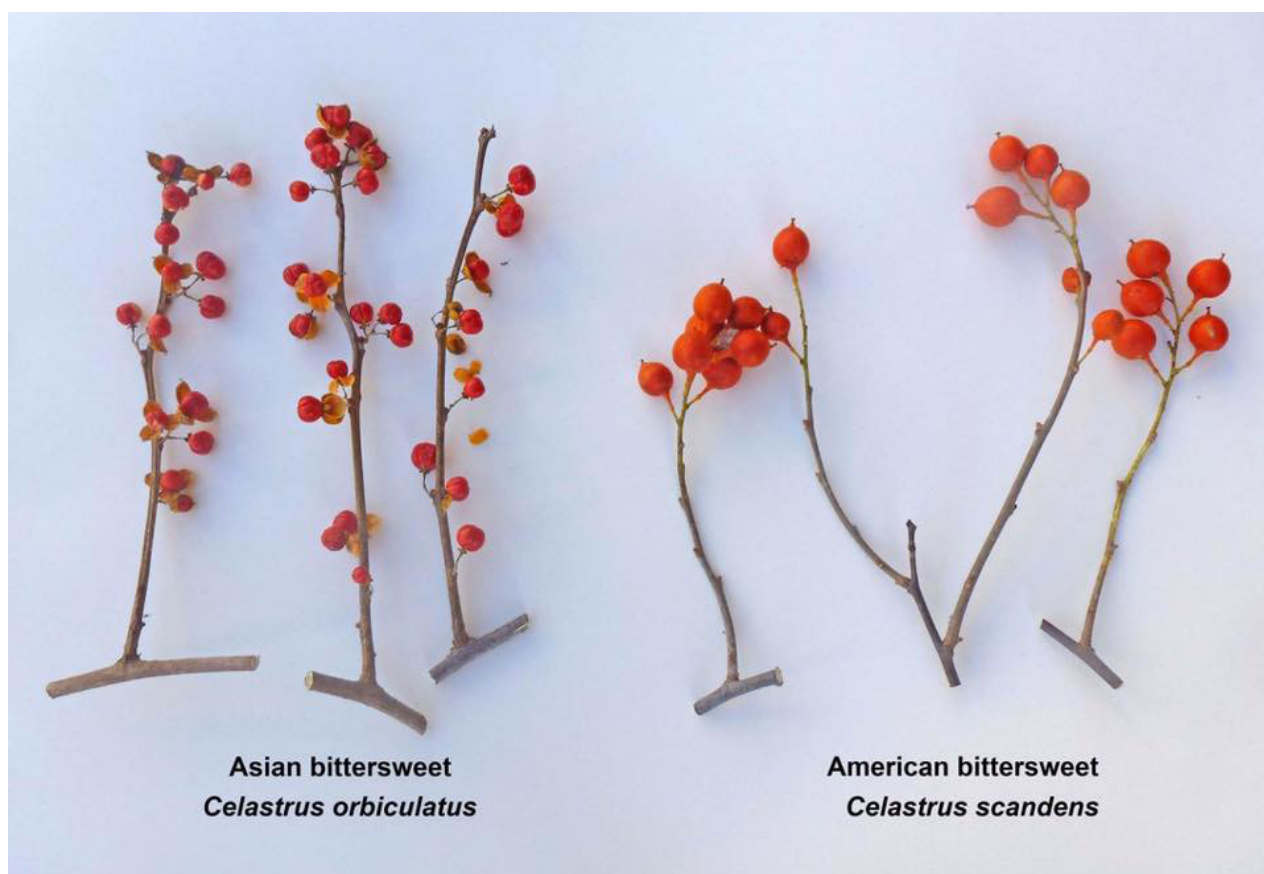
Another terrific berry source is not one usually added to holiday decorations, but, birds love the small white waxy fruit found on Poison Ivy. These are so popular that few are left by year's end. Sixty species of birds have been recorded consuming the fruit of that reviled vine.

We wish you success in wildlife watching this season. May your endeavors, outdoors and in, be overflowing with jolly moments and merry times!

Here are two postscripts; bits of outdoor news:

A Gray Bat has been noted in Logan County, WV, only the second sighting in this state. It is not yet known what effect, if any, this could have on the proposed Mountaineer Xpress pipeline, but Department of Natural Resources officials note that this increases the possibility of finding this endangered species in Kanawha and Wayne counties.

And--- a new park ranger at Canaan Valley National Wildlife Refuge has experience in Dark Sky Preserves and hopes to foster such designation at Canaan Valley National Wildlife Refuge.



Asian bittersweet  
*Celastrus orbiculatus*

American bittersweet  
*Celastrus scandens*

## What About the Water?

By Cindy Rank

For the past 43 years my family and our guests have relied on various sources of water for our daily use.

Rain barrels catch runoff from our many roofs. The water is used for washing, watering plants, and sometimes cooking. But the stream, lowly Laurel Run of the headwaters of the Little Kanawha River, has been our reliable source of drinking water for these decades we've been blessed to live here in Southern Upshur County West Virginia.

For the last couple of years unusually dry summers (caused by weather fluctuations, some element of climate change, or whatever) have left us relative high and dry for more than just a couple of weeks in late summer.

In all these years I've talked to many who have – and many who still do – rely on surface water from their local streams and springs for personal use - including drinking water.

Their lives and stories have supported and emboldened my constant speaking out for the best protections, the most stringent regulations and standards for all waters of the state of West Virginia no matter how small, no matter how infrequently used. We and I believe that current and possible future uses of such waters are more important and more valuable than the cost to industry to guarantee their discharges meet those standards. We who live here and depend on the small water bodies and those who visit and those who will come to live here in the future deserve no less than that we now protect the waters of our state to the fullest extent possible.

Every year *the Highlands Voice* features critiques of new proposed regulations by regulatory agencies that complicate, or to me at least, move the clear meaning of protecting our water resources further from the public's ability to translate into real terms what is proposed by the West Virginia Department of Environmental Protection and/or promulgated by the legislature.

This year is no different. Water regulations are headed to the Legislature and are more convoluted than ever when it comes to protecting all waters of the state for future use as drinking water sources.

Occasionally there are bright spots and we shouldn't short shrift efforts by staff within the state WVDEP and federal EPA who

work tirelessly against all odds to uphold the pure meaning of the Clean Water Act – i.e. to preserve and improve water quality.

Point in fact is a recent letter from EPA to DEP that adds some 27 impaired streams to the 2014 impaired streams 303(d) list. WVDEP had refused to include these streams in the list that triggers cleanup efforts be required, but WVHC and others insisted that levels of conductivity, total dissolved solids, and aquatic life impairment dictated they be included and the streams targeted for cleanup.

But this year as in many past we need to watch what happens in the WV Legislature. Fortunately, several of us participate in regular conference calls with a number of other WV environmental organizations watch-dogging water quality standards as changes are inevitably proposed each year. WV Rivers Coalition facilitates these calls and coordinates alerts related to actions we all can and should take when talking to our legislators come January 2017.

We'll follow as best we can in this monthly publication, but do check in with WV Highlands Conservancy on facebook and twitter for more immediate information as the rules proceed through the legislative process.

### Board Meeting Coming Up

The winter Board Meeting of the West Virginia Highlands Conservancy will be held on January 22, 2017, at 9:30 a.m., at City Center East, 4700 MacCorkle Ave. SE, Charleston. All members are welcome. Although only Board members may make motions and vote, all members are welcome to discuss, suggest, palaver, confer, pontificate (within reason), advise, etc. **THERE WILL BE SNACKS.**

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The West Virginia Highlands Conservancy web page is [www.wvhighlands.org](http://www.wvhighlands.org).

The West Virginia Highlands Conservancy is a non-profit corporation which has been recognized as a tax exempt organization by the Internal Revenue Service. Its bylaws describe its purpose:

The purposes of the Conservancy shall be to promote, encourage, and work for the conservation—including both preservation and wise use—and appreciation of the natural resources of West Virginia and the Nation, and especially of the Highlands Region of West Virginia, for the cultural, social, educational, physical, health, spiritual, and economic benefit of present and future generations of West Virginians and Americans.

# ALPHA Failed to Disclose an Additional \$100 Million in Liabilities

By Cindy Rank

Will it ever end?

Will there ever be a full accounting?

It's not just Alpha Natural Resources.

It's not just Don Blankenship. It's far more than that.

But Alpha and Blankenship are shining examples of coal's legacy in West Virginia ... and other states where coal mining has held sway for generations.

In the communities where coal has been king and mining continues [... *Yes, Virginia, coal mining is still going on today despite rumors that some kind of "War on Coal" has caused all coal mines to close...*] there are no doubt families whose Thanksgiving this year was far less celebratory than in years past. ... And Christmas promises no better.

Not only are coal jobs fading as the king is dethroned by the gas prince and other economic realities, but the one industry that provided a living for so many is leaving behind a devastating wake of depleted resources and damaged health of miners and the communities near those mines as well.

The WV Highlands Conservancy, together with Sierra Club and Ohio Valley Environmental Coalition (OVEC), has been following the ins and outs of bankruptcy filings by Alpha and other mining companies. Our particular concern is that we assure industry is held responsible for untreated pollutional discharges and that our previous agreements with individual companies to treat those discharges be upheld.

In our/WV Highlands and co-plaintiffs settlement agreements with Alpha Natural Resources and our efforts to hold that company responsible through the bankruptcy process (see *Voice* issues: January, May and July 2016) we have always understood how vulnerable Alpha was to market conditions and financial blindfolds of shareholders. But for the company to have hidden \$100 million dollars worth of additional liabilities is unconscionable. Now, even what seems to have been settled in the negotiated agreements under bankruptcy court supervision is now in question.

In a November 3<sup>rd</sup> court filing Alpha said it had uncovered \$100 million of "unaccounted-for obligation", including

taxes, payroll and royalty payments that were not accounted for when it reorganized several months ago.

On November 11<sup>th</sup> the WV Department of Environmental Protection filed a legal complaint in U.S. Bankruptcy Court in Richmond, Virginia, against Alpha and sued for fraud six former Alpha executives who are now running a new company that took over Alpha's most valuable holdings as part of its bankruptcy reorganization. WVDEP said the shortfall threatened Alpha's viability and could saddle the state with cleaning up retired mining sites, which is expected to cost hundreds of millions of dollars.

During the bankruptcy case, WVDEP officials agreed to a deal they said would provide "hundreds of millions of dollars" from Alpha for reclamation of the company's more than 500 mining permits across West Virginia. Environmental groups expressed concern about the arrangement noting that, to a large extent, the success of the agreement relied on the reorganized Alpha's ability to remain financially viable at least 10 years into the future where continued mining at its most productive sites would provide that reclamation money.

The WVDEP complaint now seeks to void previous agreements by which the state could not hold those former Alpha officials responsible if the reorganized Alpha ended up going belly up and leaving mines unreclaimed. And they've sued to hold those previous Alpha, now Contura (newly formed group via bankruptcy), officials liable for cleanup costs incurred at Alpha mines.

On November 28<sup>th</sup> WVHC, OVEC and Sierra filed a "reservation of rights" in the bankruptcy of Alpha Natural Resources to highlight our concern that the company's environmental cleanup obligations in coal-affected communities could also be jeopardized.

We share WVDEP's concerns that Alpha's previous financial projections—which provided the basis for multiple settlements pertaining to Alpha's environmental obligations and for confirmation in July of the company's chapter 11 plan of reorganization—failed to account for approximately \$100 million.

Any immediate or long-term effect of the failure to disclose or account for those obligations during the Chapter 11 proceeding, and before the Bankruptcy Court confirmed Alpha's Chapter 11 Plan, is yet unknown and uncertain, but it could be substantial and detrimental. It is important to the environmental groups that Alpha's failure to disclose or account for certain obligations not undermine the Environmental Settlement or other aspects of the Chapter 11 Plan that protect the environmental groups' interests.

But it must be said that the real impact of Alpha's disregard for pollution discharged from their mine sites will be the passing of the cost of cleaning up the water to the state and to the communities most dependent on those water resources.

The real victims here are the communities who live near Alpha's coal mines in West Virginia and who must now face renewed uncertainty regarding the future prospects of the company given these new revelations. It would be devastating for those communities if Alpha defaults on its obligations and leaves its mine sites disturbed and continuing to pollute our waterways.

[WVHC, OVEC and Sierra are represented in the environmental settlement by attorneys with Appalachian Mountain Advocates, and in the bankruptcy proceeding by attorneys with Goldstein & McClintock and Earthjustice.]

**Note: This story mentions a lawsuit which the West Virginia Department of Environmental Protection has filed seeking to hold former Alpha officials responsible. Now that suit has been settled; see the story on the next page. This does not resolve questions about environmental cleanup obligations.**

The rest of the story, sort of**DEP Reaches Another Deal for More Alpha Reclamation Money**

Ken Ward Jr.

Lawyers for the state Department of Environmental Protection have reached a \$15 million deal to resolve a lawsuit that targeted high-ranking former Alpha Natural Resources officials for potential cleanup liabilities if the reorganized Alpha doesn't manage to survive financially, possibly leaving hundreds of mine sites around the state unreclaimed.

Under the deal, the DEP agreed to dismiss its legal complaint and release former Alpha officials, including former CEO Kevin Crutchfield, from any potential liabilities. In exchange, Alpha agreed to post its headquarters building in Julian, Boone County, as collateral for remaining reclamation obligations in West Virginia. The building recently was appraised for \$6.3 million, officials said.

In addition, the new company Contura — formed as part of Alpha's bankruptcy court reorganization — agreed to post a \$4 million letter of credit and guarantee another \$4.5 million for Alpha's obligations. The letter of credit and guarantee both run through the end of 2018, at which point Alpha officials expect the company's financial condition to improve.

The settlement resolves a complaint that the DEP filed against Alpha and its former executives in response to a disclosure by Alpha of about \$100 million in what the company called "unaccounted for obligations." That amount didn't represent \$100 million in unfunded reclamation liabilities. But coming just four months after Alpha emerged from bankruptcy, it raised new fears at the DEP that the company was at further risk of financial failure.

"The settlement provides the state with significant additional bonding and other security to ensure that reclamation will be done," said DEP Secretary Randy Huffman. "It also helps to ensure that Alpha will remain a viable operating company with sufficient resources to perform required land reclamation and water treatment."

The DEP had filed a strongly worded legal complaint, in which agency lawyer Kevin Barrett referred to the amount of Alpha's unaccounted for obligations as "whopping," said the issue "is devastating" and "seriously threatens" the reorganized company's ability to perform its legal obligations to reclaim remaining mining sites.

In the Alpha bankruptcy, most of the company's larger and more valuable properties — primarily in the western U.S. — were transferred during the court-approved reorganization to Contura Energy, a new company formed by Alpha's major lenders and now led by former Alpha CEO Kevin Crutchfield. The reorganized Alpha was left with 17 mines and seven preparation plants in West Virginia and Kentucky.

**Note: This story originally appeared in the *Charleston Gazette*.**

**Another note: This is only "sort of" the rest of the story because these things go on and on. There are still many more chapters to be written. We had this settlement that we thought (or at least hoped) would put Alpha on a path to being able to meet its cleanup obligations. Then this \$100 million in previously unknown obligations popped up. Suddenly Alpha looks less financially stable and thus less able to meet its obligations. There's always something; the story never ends.**

**How Shall We Celebrate?**

In 2017 the West Virginia Highlands Conservancy celebrates 50 years of working for the health of West Virginia's highlands.

We think 50 years of activism by a volunteer organization is pretty spectacular.

Of course, our founders were hard at work since 1965, but our official organizational papers were formalized in 1967 and so we are planning a big celebration in the beautiful Canaan Valley September 15 – 17, 2017. We hope you will join us as we honor our heroes of the past, celebrate our own successes and those of our partners over the years, and engage with friends as we work for the future. We're planning lots of fun trips and thoughtful conversation and music and dancing and a big anniversary dinner.

You can help. We would like your help. Please tell us what you would like to see and how you can help us celebrate this milestone – in September and sponsoring other field trips throughout the year. Send your input to [clrank2@gmail.com](mailto:clrank2@gmail.com).

We envision the September celebration as being like the fall review weekends, with field trips, workshops and information on how you can be involved. What field trips would you like to see that weekend in or near Canaan Valley? Do you know of any speakers on pertinent topics that might be of interest and that we might ask to do a workshop? Who might do a session on becoming an activist, on how to be more involved in the many issues that confront us these days?

At the September gathering or during the year leading up to the 50<sup>th</sup> Anniversary celebration, what field trips would you be interested in? Where to? What topic? Who might lead them?

Do you belong to a partner organization, like WV Environmental Council, or Central Appalachian Spruce Restoration Initiative, or Ohio Valley Environmental Coalition, or West Virginia Rivers Coalition, or Sierra, or Friends of Blackwater, or local watershed groups, or Trout Unlimited, or Coal River Mountain Watch? How might your organization help us celebrate? How can we celebrate you and your work on behalf of West Virginia?

Would you be interested in having a table display at the September celebration, or co-host a field trip, or provide a speaker, or participate in a panel discussion? We'd love to have you join us. We want to recognize the good work we've all been part of these past 50 years. Please let us know. Put on your thinking and wishing caps and let us know what you would like to see happen during our great September weekend. Send input to [clrank2@gmail.com](mailto:clrank2@gmail.com).

Thanks from the 50<sup>th</sup> Anniversary planning team. ... And may your holidays be merry and bright!

# An Adventure to Cranesville Swamp

By John McFerrin

Cranesville Swamp formed in the last Ice Age 15,000 years ago, when glaciers came close to but never reached there. Even though they did not reach there, they created a colder climate in which only northern flora could survive, a frost pocket that is home to plants and animals that are usually found farther north. It straddles the boundary between Preston County, West Virginia, and Garrett County, Maryland. It is owned and managed by the Nature Conservancy.

We were there in late October. We were the only people there. It was a gloomy day in the middle of the week; perhaps it was the day, or its remoteness that kept people away. In any event, we had the place to ourselves.

There are five trails to choose from, none more than two miles long. The one we took was easy, as are all the trails. There was some elevation gain and loss as we walked from the parking area, through the pine grove, and on to the boggy area but it is not significant. There are a few stretches where you walk over rocks and tree roots so you have to look at your feet. In the wet parts you are on the boardwalk where the walking is as easy as it ever gets.

There is a lot to look at. Since much of the walk was through the bog, the plants are different than anything you see elsewhere. There are signs identifying many of the plants. For more information, you can go to the Nature Conservancy web site. It has 21 audio files that you can download to your phone along with a map and corresponding numbers. As you reach each spot, you can listen to the corresponding talk (a minute or two) about that spot. I didn't download the files but listened at home and found them very helpful. To listen or download go to [http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/maryland\\_dc/placesweprotect/cranesville-swamp-audio-tour.xml](http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/maryland_dc/placesweprotect/cranesville-swamp-audio-tour.xml).

Cranesville Swamp has an excellent birding reputation with records of 143 species spotted. Since 1964 it has been a part of the National Audubon Society's Cranesville Swamp Important Bird Area. We were there in late October when most of the birds were in Florida, Bolivia, Brazil, and wherever else they go for the winter. We saw a Downy Woodpecker, a Turkey

Vulture, and multiple crows. We heard a Great Horned Owl.

There are several connections between the West Virginia Highlands Conservancy and the Cranesville Swamp. Longtime Highlands Conservancy friend Charlie Baer got a group of his colleagues to acquire a part of Cranesville Swamp. At the time he was an ecology professor at West Virginia University. They turned the swamp into an outdoor classroom.

Three years later, in 1963, they formed a West Virginia Chapter of The Nature Conservancy. As time went by The Nature Conservancy acquired, through purchase and donations, additional land so that now it owns or manages nearly 2,000 acres of its Cranesville Swamp Preserve.

The second West Virginia Highlands Conservancy connection is that the Central Appalachian Spruce Restoration Initiative (CASRI), under the leadership of Dave Saville, has had red spruce plantings there. CASRI also has provided spruce seedlings that the Nature Conservancy has planted there.

Finally, in 1997 and 1998 Dave Saville organized a group of volunteers to build the boardwalk which makes it possible for visitors to see the swamp without a lot of unpleasant (and damaging) slogging through the mud.

Getting there is fairly easy for such a remote spot. It is not terribly hard to find but

it's no Vegas either. You have to pay close attention and watch for signs. The Nature Conservancy gives these directions:

(GPS Coordinates: 39.524758,-79.480838) Take Exit 14 from Interstate 68. Follow US 219 (Garrett Hwy) south for 19 miles. Turn right (west) on Mayhew Inn Road, and after 1.4 miles turn left on Bray School Road. In 1.6 miles at the "T" intersection, turn right on MD 15 (Oakland Sang Run Road). After 1 mile, turn left on Swallow Falls Road and follow for 2.6 miles to a sign for Youghiogheny Mountain Resort. At the sign, take a hard right on Cranesville Road. After about 4 miles, turn left onto Muddy Creek Road and immediately park on the gravel at the corner of the intersection. A kiosk with brochures, trail guides and other information can be found here. To get to the trailhead for the swamp, visitors must take a left back onto Cranesville Road and take the next left onto Lake Ford Road. Take a sharp right curve in the road and stay to the right at the fork. Stay to the right at the next fork in the road, and Cranesville Swamp is 0.2 miles down the gravel road.

Although the Preserve straddles the West Virginia-Maryland line, the entrance and parking area are on the West Virginia edge. When we went, we went to Terra Alta and then North on State Route 47.

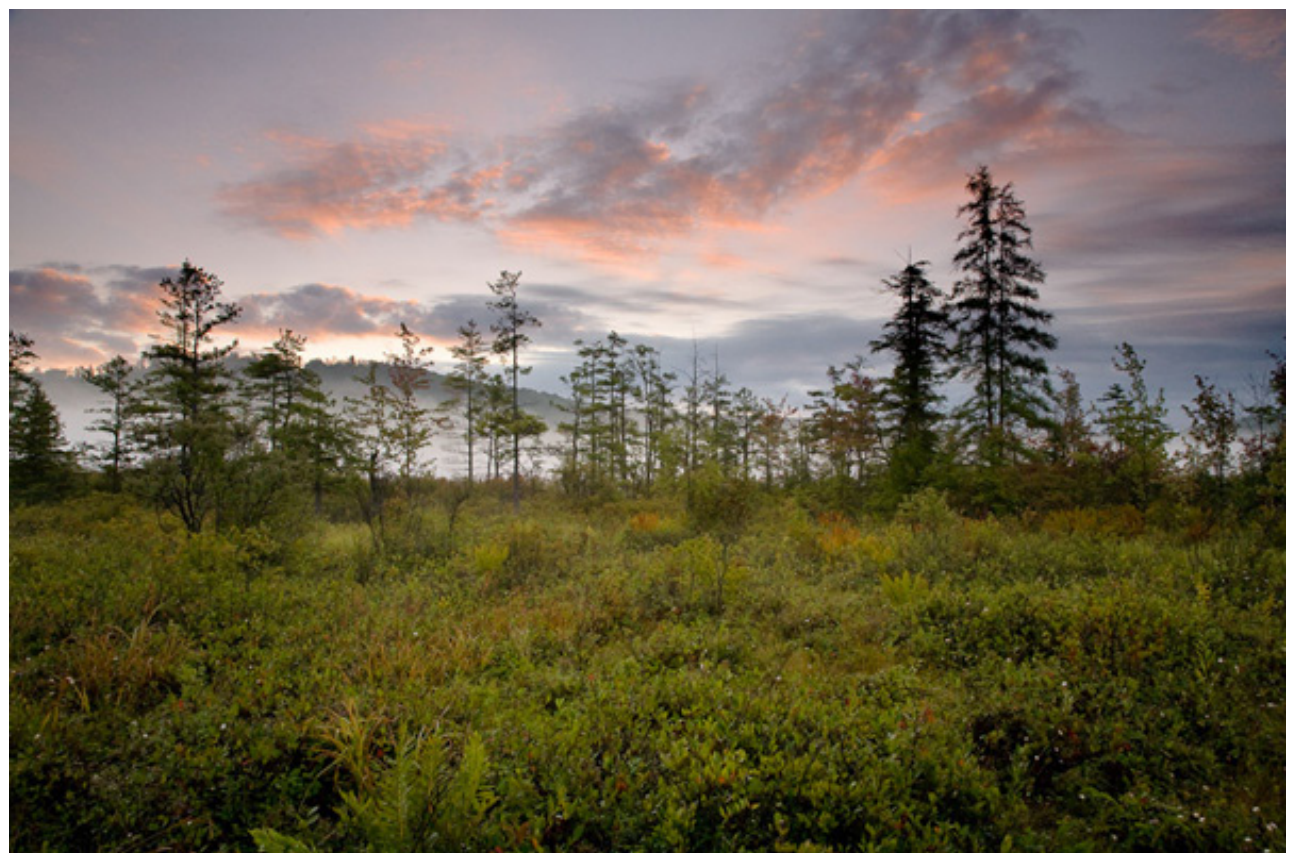


Photo courtesy of The Nature Conservancy

**Join Now !!!**

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Membership categories** (circle one)

	Individual	Family	Org.
Senior	\$15		
Student	\$15		
Introductory	\$15		
Other	\$15		
Regular	\$25	\$35	\$50
Associate	\$50	\$75	\$100
Sustaining	\$100	\$150	\$200
Patron	\$250	\$500	\$500
Mountaineer	\$500	\$750	\$1000

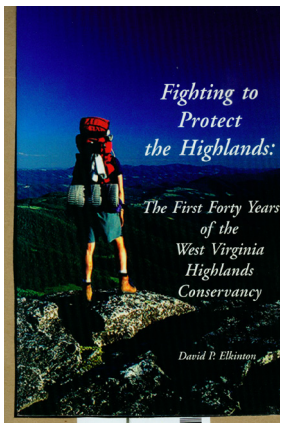
Mail to West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321

**West Virginia Highlands Conservancy**  
**Working to Keep West Virginia Wild and Wonderful**

You may also join on-line at [www.wvhighlands.org](http://www.wvhighlands.org)

**GET A GREAT HISTORY BOOK**

For the first time, a comprehensive history of West Virginia's most influential activist environmental organization. Author Dave Elkinton, the Conservancy's third president, and a twenty-year board member, not only traces the major issues that have occupied the Conservancy's energy, but profiles more than twenty of its volunteer leaders.



From the cover by photographer Jonathan Jessup to the 48-page index, this book will appeal both to Conservancy members and friends and to anyone interested in the story of how West Virginia's mountains have been protected against the forces of over-development, mismanagement by government, and even greed.

518 pages, 6x9, color cover, published by Pocahontas Press

To order your copy for \$15.95, plus \$3.00 shipping, visit the Conservancy's website, [wvhighlands.org](http://wvhighlands.org), where payment is accepted by credit card and PayPal. Or write: WVHC, PO Box 306, Charleston, WV 25321. Proceeds support the Conservancy's ongoing environmental projects.

**SUCH A DEAL!**

**Book Premium With Membership**

Although *Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy* normally sells for \$15.95 plus \$3.00 postage. We are offering it as a premium to new members. New members receive it free with membership.

Existing members may have one for \$10.00. Anyone who adds \$10 to the membership dues listed on the How to Join membership or on the renewal form will receive the history book. Just note on the membership form that you wish to take advantage of this offer.

**Tell a Friend!**

If you have a friend you would like to invite to join the West Virginia Highlands Conservancy just fill out this form and send it to West Virginia Highlands Conservancy, Box 306, Charleston, WV 25321.

Person you wish to refer: \_\_\_\_\_

Address: \_\_\_\_\_

Email \_\_\_\_\_

Your name: \_\_\_\_\_

Filling out the form, etc. is, of course, the old school way of doing things. If you prefer, just email the information to Beth Little at [blittle@citynet.net](mailto:blittle@citynet.net).

The way it works: Anyone you refer gets *The Highlands Voice* for six months. At the end of the six months, they get a letter asking if they want to join. If they join, we're happy. If not, then maybe next time.

**Leave a Legacy of hope for the future**

Remember the Highlands Conservancy in your will. Plan now to provide a wild and wonderful future for your children and future generations. Bequests keep our organization strong and will allow your voice to continue to be heard. Your thoughtful planning now will allow us to continue our work to protect wilderness, wildlife, clean air and water and our way of life.

## WV E-Council Legislative Priorities For 2017

The West Virginia Environmental Council (WVEC, aka "E-Council") is, as its name suggests, a council or coalition of several environmental organizations whose general purposes include conservation of the natural resources of West Virginia and the region, and dedication to the improvement and preservation of the environment through education, grassroots organizing and coalition building, leadership development, and media outreach.

More specifically, WVEC is primarily the lobbying arm of West Virginia's organized environmental community. WVEC lobbying activities include lobbying the state legislature as well as monitoring and advising, and hopefully educating, various agencies of government on appropriate administrative rules and procedures relating to the environment, and the carrying out of governmental duties to protect the environment from unhealthy and unwise exploitations.

And in that regard, WVEC annually develops what it loosely calls its "legislative agenda" for the following year.

Just below is an outline of what the WV E-Council legislative committee has on tap for the 2017 legislative session that begins in February.

*Tier I* items are those slated to receive top priority for lobbying, early in the session, and which are broadly encompassing of several related components.

### **Tier I:**

1. Water Quality Standards Rule – Category A and others;
2. Energy Efficiency, including Local Energy Efficiency Partnerships (LEEP) which allow property tax credits for certain energy efficiency improvements to commercial buildings;
3. Comprehensive Energy Policy (Wholesale Generation Siting, Property Rights, and Fossil Fuel Issues)
4. Require full Disclosure of Election Campaign Funding (Clean Elections);

*Tier II* items relate to certain more specific issues and are seen as "fall back" positions when Tier I more comprehensive policy items do not gain sufficient sponsors and support in key legislative committees.

### **Tier II:**

1. Rooftop Solar Incentives
2. Oil and Gas development issues, including: Surface Owners Rights, Payment for Water Withdrawals, Horizontal Gas Well Act Study, Less Toxic Drilling Mud, Cutting of Methane Emissions, Defend the legal rights of citizens- especially landowners- to file legal actions against nuisances resulting from oil and gas extraction development.
3. Require Public Health Impact Assessment by the state Health Department on environmental rules promulgated by the WV Department of Environmental Protection.
4. Revision of facility siting rules for Wholesale Electric Generating (EWG) facilities that are otherwise exempt for regulation by the WV Public Service Commission.
5. Air Quality Rules
6. Minimum Setback of Wind Turbines from residences
7. Support Birthplace of Rivers National Monument designation efforts against possible oppositional legislative resolution(s).

In next month's (January, 2017) *Highlands Voice* we will offer some additional details on what some of the Tier I and Tier II items mean and why they are important to us.

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## A Friend Hikes Away

Mr. Allen de Hart, age 90, of Louisburg, NC and formerly of Patrick County passed away Friday, Oct. 14, 2016. In addition to his parents, he was preceded in death by three brothers, Richard Elgin, Moir de Hart, and Willie Lee Elgin. Surviving are his sister, Virginia Ann Elgin Martin of Woolwine; and several nieces and nephews.

Allen was best known to West Virginia Highlands Conservancy members as the joint editor (Along with Bruce Sundquist) of the *Hiking Guide to the Monongahela National Forest*. The *Hiking Guide* was originally begun as a way to draw attention to the vast system of trails that exist in the Monongahela National Forest. Over the years it has been a major source of outreach for the Highlands Conservancy as well as a source of revenue to support its other programs. In recognition of their service, the Board of the West Virginia Highlands honored Mr. de Hart and Mr. Sundquist as lifetime members in 2003.

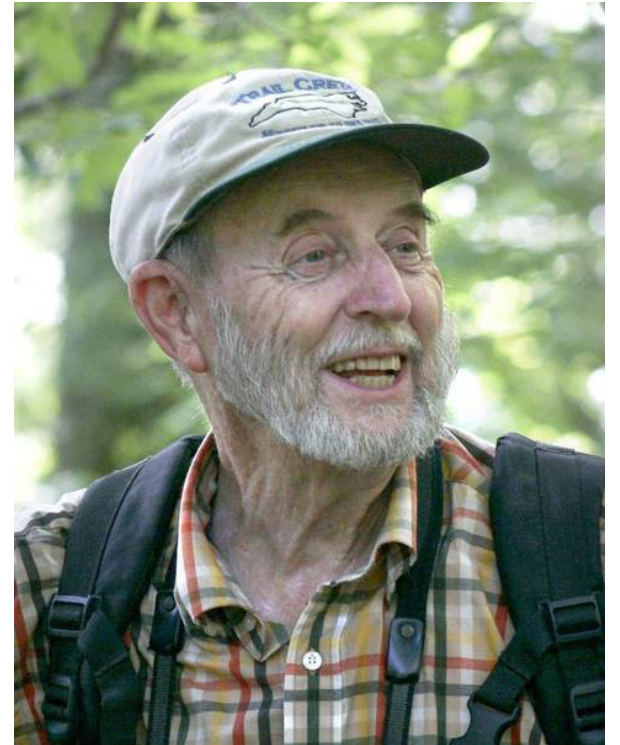
As far as anybody knows, Mr. de Hart's interest in hiking is congenital. In a 1999 interview for *The Highlands Voice*, he told interviewer Tom Rodd that even before he learned to walk he had to be watched closely to prevent his crawling off to the woods. He began his hiking career in earnest at age 5. When he was twelve he and his brother hacked a trail through the woods so they could walk to school, avoiding an hour and a half (each way) bus ride.

Mr. de Hart grew up at the foot of the Blue Ridge, in Woolwine, Patrick County, Va. Patrick and Henry Counties are side by side, where they take seriously their hero's plea, "Give me liberty or give me death!" That part of Va. has more in common with New Hampshire -- "Live Free or Die!" -- than it does with Richmond. More like West Virginia as well, one could say, although the spoken

accent is very different. Allen had the mountain stubbornness and determination, the willingness to piece together a career out of many different pursuits, along with a love for the natural world.

Mr. de Hart was the author of eleven hiking guides. He was also the founder of two botanical gardens that bear his name, one in his native Virginia and another in Louisburg, where he taught history, psychology, hiking, backpacking, canoeing, and mountain climbing for more than 50 years at Louisburg College. He began and underwrote a concert series at the college that is also named for him.

De Hart donated a 91-acre garden to Louisburg College in 2012, named the de Hart Botanical Gardens. In his memory the West Virginia Highlands Conservancy has made a donation to the Gardens in his memory.



**!! START THE COUNTDOWN !!**

**9 Months to go !!**

MAKE PLANS NOW

Save the Dates

September 15-17, 2017

West Virginia Highlands Conservancy

50<sup>TH</sup> Anniversary Celebration

Canaan Valley



# Old-Growth Lands, Islands Donated To WV Land Trust

By Rick Steelhammer

Two islands in the Ohio River and a 200-acre tract of wooded land in Doddridge County encompassing a rare, 15-acre stand of old growth forest have been donated to the West Virginia Land Trust for use as public nature preserves.

Gallipolis Island was donated to the Land Trust by its former owners, the City of Gallipolis, Ohio, and private landowner Michael Hoefft of Milton. While the 5-acre island lies a short distance off the Gallipolis shoreline, it remains a part of West Virginia, which owns the river to the low-water points along the Ohio shore.

The narrow, wooded island once included 80 acres of land, and in the 1840s

can be found to protect the islands from further erosion and begin to restore and stabilize them with additional land, possibly by using soil being dredged from the river's navigation channel. After the islands are restored and stabilized, they will be given to the Ohio River Islands National Wildlife Refuge, he said.

Even the underwater portions of the islands are beneficial to wildlife, according to Patty Morrison, a biologist for the U.S. Fish and Wildlife Service at the refuge.

"There is a variety of structure and habitat there," she said. "Submerged logs and stumps, aquatic vegetation, occasional boulders, gravel and sand with scattered cobble — these underwater features all provide habitat for an amazing diversity of native fish and mussels."

The islands also provide food and shelter for migratory birds and waterfowl, reptiles and amphibians, owls, bats and other animals.

Until the islands are transferred to U.S. Fish and Wildlife Service management, the Land Trust will manage them for fish and wildlife habitat and public recreation.

"The acquisition of islands in the Ohio River is an exciting opportunity from not only the

perspective of protecting a critical habitat, but also for the people and communities along one of the major waterways of the country," said Land Trust Executive Director Brent Bailey. "We're grateful to the donors of these properties for their interest in ensuring that the public will benefit from these unique tracts."

The Land Trust's recently acquired tract in Doddridge County, located about 5 miles north of West Union off Nutter Fork Road, will be managed as a public nature preserve.

"As we find partners to work with us, we want begin developing a parking area and a trail leading to the almost 20 acres of ancient forest found on the site," said Berdine.

Only small, scattered patches of West Virginia's virgin forests escaped the intensive logging that took place here between 1880 and 1920. A 130-acre stand of old growth forest at Cathedral State Park is the state's largest known remnant.

"The bigger patches of old-growth forest in West Virginia are mostly known and the smaller pockets are getting increasingly harder to find," said Berdine. In the future, old growth stands in the state "may exist as just a few acres of trees or just a few trees."

"Because of age, wind and storms, and things like diseases caused by insects such as the hemlock woolly adelgid, old growth forests in West Virginia are becoming increasingly rare," said Bailey. "We are thrilled to be able to preserve this property for all West Virginians and ensure that it is forever protected as a nature preserve, so that these types of exceptional ecosystems exist for future generations to see."

The Doddridge County tract was donated to Land Trust by Allen Jones of California, whose mother bought the property in 1973 to protect its natural features. It will be managed as the Marie Hall Jones Preserve in her honor.

WVU's Land Use and Sustainable Development Law Clinic and the West Virginia Geological and Economic Survey helped the West Virginia Land Trust in protecting the property.

**Note: This article originally appeared in the *Charleston Gazette*.**



**Massive hardwoods occupy a 15-acre patch of the West Virginia Land Trust's new Marie Hall Jones Preserve near West Union.**

was the site of a park with picnic tables, beaches and a playground.

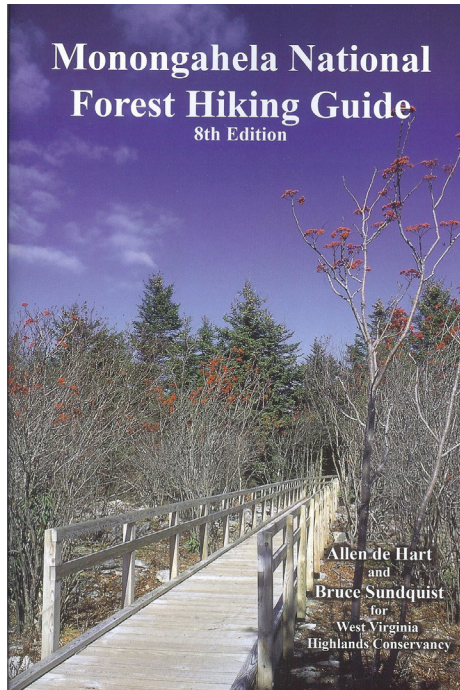
Also donated to the Land Trust by Hoefft, a retired biologist for the West Virginia DNR, was Ohio County's Upper Twin Island near Wheeling, about 3 acres of which remained above water in 2001, but now all 125 acres of it lies beneath the surface of the river.

"The pooling of the river that came with the construction of locks and dams flooded much of the islands' former land mass, then waves from passing barges eroded them even more," said Ashton Berdine, the Land Trust's land programs manager.

Berdine said the Land Trust plans to retain ownership of the lands until funding

## Send Us a Post Card, Drop Us a Line, Stating Point Of View

Please email any poems, letters, commentaries, etc. to the VOICE editor at johnmcferrin@aol.com or by real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.



## The Monongahela National Forest Hiking Guide

By Allen de Hart and Bruce Sundquist

Describes 180 U.S. Forest Service trails (847 miles total) in one of the best (and most popular) areas for hiking, back-packing and ski-touring in this part of the country (1436 sq. miles of national forest in West Virginia's highlands). 6x9" soft cover, 368 pages, 86 pages of maps, 57 photos, full-color cover, Ed.8 (2006)

Send \$15.95 plus \$3.00 shipping to:  
**West Virginia Highlands Conservancy**  
 P.O. Box 306  
 Charleston, WV 25321  
 OR  
 Order from our website at  
[www.wvhighlands.org](http://www.wvhighlands.org)

### 8TH Edition Now Available on CD

WV Highlands Conservancy proudly offers an Electronic (CD) version of its famous Monongahela National Forest Hiking Guide (8th Edition), with many added features.

This new CD edition includes the text pages as they appear in the printed version by Allen deHart and Bruce Sundquist in an interactive pdf format. It also includes the following mapping features, developed by WVHC volunteer Jim Solley, and not available anywhere else:

- All pages and maps in the new Interactive CD version of the Mon hiking guide can easily be printed and carried along with you on your hike
- All new, full color topographic maps have been created and are included on this CD. They include all points referenced in the text.
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Price: \$20.00 from the same address.

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The Highlands Voice is now available for electronic delivery. You may, of course, continue to receive the paper copy. Unless you request otherwise, you will continue to receive it in paper form. If, however, you would prefer to receive it electronically instead of the paper copy please contact Beth Little at [blittle@citynet.net](mailto:blittle@citynet.net). With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived. The electronic Voice is in color rather than in black and white as the paper version is.

### BUMPER STICKERS

To get free *I ♥ Mountains* bumper sticker(s), send a SASE to Julian Martin, 1525 Hampton Road, Charleston, WV 25314. Slip a dollar donation (or more) in with the SASE and get 2 bumper stickers. Businesses or organizations wishing to provide bumper stickers to their customers/members may have them free. (Of course if they can afford a donation that will be gratefully accepted.)

Also available are the new green-on-white oval *Friends of the Mountains* stickers. Let Julian know which (or both) you want.



# HIGHLANDS CONSERVANCY BOUTIQUE



- ▶ The baby shirts are certified organic cotton and are offered in one infant and several toddler sizes and an infant onesie. Slogan is "I ♥ Mountains Save One for Me!" Onesie [18 mo.]---\$25, Infant tee [18 mo.]---\$20, Toddler tee, 2T,3T,4T, 5/6---\$20
- ▶ Soft pima cotton adult polo shirts are a handsome earthtone light brown and feature the spruce tree logo. Sizes S-XL [Shirts run large for stated size.] \$ 25.00, 2XL \$26.50

To order by mail [WV residents add 6 % sales tax] make check payable to West Virginia Highlands Conservancy and send to West Virginia Highlands Conservancy, Online Store, PO Box 306, Charleston, WV 25321-0306

The same items are also available at our on-line store: [www.wvhighlands.org](http://www.wvhighlands.org)

## T- SHIRTS

White, heavy cotton T-shirts with the **I ♥ Mountains** slogan on the front. The lettering is blue and the heart is red. "West Virginia Highlands Conservancy" in smaller blue letters is included below the slogan. Short sleeve in sizes: S, M, L, XL, and XXL. Long sleeve in sizes S, M, L, and XL. **Short sleeve** model is \$18 by mail; **long sleeve** is \$22. West Virginia residents add 6% sales tax. Send sizes wanted and check payable to West Virginia Highlands Conservancy  
ATTEN: Online Store, WVHC, P.O. Box 306, Charleston, WV 25321-0306.



## HATS FOR SALE

We have West Virginia Highlands Conservancy baseball style caps for sale as well as I ♥ Mountains caps.

The WVHC cap is beige with green woven into the twill and the pre-curved visor is light green. The front of the cap has West Virginia Highlands Conservancy logo and the words West Virginia Highlands Conservancy on the front and I (heart) Mountains on the back. It is soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure.

The I ♥ Mountains The colors are stone, black and red.. The front of the cap has ♥ MOUNTAINS. The heart is red. The red and black hats are soft twill, unstructured, low profile, sewn eyelets, cloth strap with tri-glide buckle closure. The stone has a stiff front crown with a velcro strap on the back. All hats have West Virginia Highlands Conservancy printed on the back. Cost is \$20 by mail. West Virginia residents add 6% tax. Make check payable to West Virginia Highlands Conservancy and send to West Virginia Highlands Conservancy, Atten: Online Store, P.O. Box 306, Charleston, WV 25321-0306