The Highlands Voice

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The West Virginia Legislature

Ready or Not, Here it Comes!

By John McFerrin

We are in the season of preparation. Whether we use the Wal-Mart calendar (where we have been in full bore preparation for Christmas since at least October) or the Christian calendar (where we are at the beginning of Advent, the four Sundays before Christmas, the time of preparation for Christmas day and the Christmas season), this is a time of anticipation and preparation.

Yet Christmas is not the only event for which preparation is required. The Twelve Days of Christmas are barely over when we find ourselves face to face with a more ominous event: the opening of the 2020 West Virginia Legislative session on January 8, 2020.

Much of this issue of The Highlands Voice is devoted to that preparation. There are several stories about proposals which may well be taken up by the Legislature. Whether they are never taken up, taken up and immediately dropped, or actually become law depends upon a host of factors: whether the Governor proposes bills that overshadow them; how much enthusiasm the Legislators (and particularly the powerful Legislators) have for the proposals; the effectiveness of the lobbyists both for and against the proposals; the visible enthusiasm of citizens for the proposals.

These are just the factors that are visible, the ones we know will make a difference in the fate of these bills. Lurking in the background are questions of campaign financing, a system which can both generate immediate enthusiasm for a proposal or dampen any enthusiasm that may exist.

Most of the lobbying for the West Virginia Highlands Conservancy is done by the lobby team of the West Virginia Environmental Council. The Environmental Council has gone through an elaborate process of setting legislative priorities. The lobby team hopes to spend its time advocating for the items on the list of legislative priorities that came out of that process.

All these carefully laid plans could easily be upended if the Governor or some powerful Legislator proposes something contrary to the interests and values of the Environmental Council. If that happens, the lobby team would shift gears and work to oppose that proposal.

So here we are. The following pages have some of what might happen. Nobody knows what will happen. The only thing we can do is prepare the best we can and grab on for the ride.

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Thoughts from our President

Ivy Lane is an invasive pest that has been found in West Virginia. The United States Department of Agriculture (USDA) and the West Virginia Department of Agriculture (WVDA) have confirmed the presence of a new, invasive insect, the Spotted Lanternfly, in West Virginia. In the January 2019 issue of the Highlands Voice, Dr. Larry Thomas, Director of the WVDA, wrote about the Spotted Lanternfly and its impact on West Virginia’s forests and farms.

The Spotted Lanternfly is an invasive species that originated from China, where it is native. It is also found in other parts of Asia, including in Japan and South Korea. The Spotted Lanternfly is a sap-sucking insect that feeds on the leaves and young shoots of trees and plants. It is known for its distinctive spotted wings, which resemble lanterns.

The pest can reproduce quickly and can cause significant damage to a wide range of plants and crops. The egg masses, which are typically laid on hard surfaces, can hold up to 1,000 eggs each. The Spotted Lanternfly is highly invasive and can quickly spread to new areas, making it a serious threat to the environment and economy of West Virginia.

The WVDA is working closely with the USDA to monitor and control the Spotted Lanternfly population in West Virginia. They are also encouraging the public to be vigilant in identifying and reporting the presence of the insect to help prevent its spread.

The WVDA has set up a hotline for reporting sightings of the Spotted Lanternfly, and the public is encouraged to call 1-833-4LANTERNS (1-833-452-6837) or email spottedlanternfly@wvd.a.gov. This information is available on the WVDA’s website at www.wvd.a.gov.

The WVDA is also working with the USDA to develop new tools and strategies for controlling the Spotted Lanternfly. In addition, they are collaborating with other state and federal agencies to provide resources and support to personnel working to control the insect.

The WVDA is committed to protecting the environment and economy of West Virginia from the Spotted Lanternfly. They are working hard to prevent the spread of this invasive pest and are seeking the help of the public in their efforts.

For more information on the Spotted Lanternfly, please visit the WVDA’s website at www.wvd.a.gov or call 1-833-4LANTERNS (1-833-452-6837).

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From President Larry (Continued from p. 2)

Forest Service Projects We Are Watching

Northern Forest Coordinating Committee Annual Meeting

The Northern Forest Coordinating Committee (NFCC) is a coalition of federal, state, and community organizations dedicated to protecting and enhancing the northern forest region of North America. The committee aims to promote sustainable forest management practices and to reduce the risk of wildfires and other forest-related hazards.

The NFCC is made up of representatives from federal agencies, state and provincial governments, and community organizations. It is a forum for sharing information and coordinating efforts to address common challenges.

In 2020, the committee held its annual meeting, which was held virtually due to the COVID-19 pandemic. The meeting was attended by representatives from states and provinces from across the northern forest region, including representatives from West Virginia.

The meeting was held online and featured presentations on a variety of topics related to forest management and conservation. It included discussions on wildfire management, forest health, and sustainable forest practices. The meeting also featured discussions on the impact of climate change on the northern forest region and the need for innovative solutions to address these challenges.

Overall, the meeting was a success, and the committee is committed to continuing its work to protect and enhance the northern forest region. The committee is looking forward to holding its next meeting in 2021, when it hopes to return to an in-person format.

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2020 Legislative Session Looming

By the West Virginia Environmental Council Legislative Committee

Death, taxes and the West Virginia Legislature are inevitable in the mountain state of West Virginia. And the WV legislature will convene again the second week of January. And so the West Virginia Environmental Council (WVEC)—of which WV Highlands Conservancy is a partner—will be working to ensure the state’s environmental priorities are addressed.

There are priority issues for which bills are already or will soon be written for pro-active lobbying by WVEC and its allied lobbyists. These include bills designed to improve water quality, to allow household level retail Power Purchase Agreements (see related article on page 6-7), “Clean Elections” and anti-corruption legislation, and to avoid Modern Jobs Act type of federal stimulus money.

In addition, West Virginia Highlands Conservancy president Larry Thomas officially recognized a Climate Change committee, and appointed long time Conservancy member Perry Bryant as chair of that new committee. That committee is currently developing a first official WVHC public statement on Climate Change issues.

As you are aware, a significant amount of legislation is introduced each session. While our work is usually focused on public lands protection, pipeline issues, public lands protections (including no logging in state parks), more funding and staff for WV Department of Environmental Protection, petro-chemicals / plastics, coal oil and gas related issues (including severance taxes), among others. As most Highlands Voice readers know, developing legislative priorities has been an annual exercise for the WVHC for three decades. This exercise includes surveying environmental groups and their members for their current environmental issues of most concern. And each year there are several “overlapping” issues from previous years because many of the “old” issues are still around.

But this year a new “local” issue has leaped for the climate change. Specifically, there is demand for “Climate Impact Analysis on all new permitting”. Since this is a “new” issue for WV Environmental Council, we are gradually working into the mix of priorities—which consists partly of ongoing assessments of what is and is not doable legislatively.

Our mission was to deliver hundreds of postcards and a letter with members of the staffs of Senators Manchin and Capito. And the WV legislature will convene again the second week of January. And so the West Virginia Environmental Council (WVEC)—of which WV Highlands Conservancy is a partner—will be working to ensure the state’s environmental priorities are addressed. And the WV legislature will convene again the second week of January.
By Beth Little

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All Terrain Vehicles on Public Lands?

The idea that we should allow all terrain vehicles (ATVs) on public lands in West Virginia is one that has been kicking around for years without much progress. Now, as we approach the 2020 Legislative session, there is strong wind in the indications that there is plenty of enthusiasm for the idea.

The first was during the 2019 session. There was a proposed resolution requesting that Congress take action allowing ATVs on federal land in West Virginia. The resolution did not pass, either because it had little support or because it got lost in the hurly burly that is the Legislature.

Had it passed, it might not have made any difference. Federal land in West Virginia is managed, for the most part, by the United States Forest Service. It manages that land according to federal law and the Management Plan for each National Forest, not according to the wishes of the Legislature. There is no indication that Congress would comply with the wishes of the West Virginia Legislature.

What the resolution tells us, however, is that there is interest at the West Virginia Legislature for ATVs on public lands.

In what is a more substantive indicator of interest, Senator Mark Maynard announced at an interim committee meeting of the Committee on Parks, Recreation, and Natural Resources in September that he intends to propose a bill that would authorize ATVs on Wet Virginia’s public lands.

Finally, in October, Senator Maynard was named as Chair of the Government Organization Committee. In an interview following his taking this new position, he said that one of his goals was to have an ATV trail on public land in West Virginia. Even with all these indications of enthusiasm, there are a few things that the Legislature should think about before plunging headlong into ATV trails on public lands.

ATV trails on public lands are a bad idea. But first, a discussion of ATV trails on private lands.

ATV trails on private lands are a bad idea unless done right. Doing it right is expensive. The Hatfield McCoy Trail System was started with hundreds of thousands of dollars from the new federal transportation legislation called ISTEA (Intermodal Surface Transportation Efficiency Act) passed in 1991; and as the legislation has been renewed over the years (usually referred to as the RTP), Hatfield McCoy has continued to receive hundreds of thousands every year to satisfy the legislative mandate that 30% of the RTP funds be applied to motorized trails. Plus, users at Hatfield McCoy are charged a fee.

One pass of the knobby tires churns up the soil, and while maintaining pressure on the outside foot rest. This requires a certain size and athletic dexterity in the rider. There are smaller ATVs for younger riders.

Even on private lands, ATV trails should not be routed where they will disturb others, and they should not be allowed to create serious degradation of the land, which will impact the water. One problem with ATVs is that they are not compatible with other forms of recreation. Even driven by sedate senior citizens, who want to visit wild areas that they lack the fitness to get to, they are noisy and intrusive. Driven by those for the fun of riding, they are dangerous and destructive. So they need separate trails, which brings up another problem.

One of the strongest activists for ATV trails on public lands in West Virginia was Jeff DeVol, president of the WVOHVA, and owner of an ATV dealership in Parkersburg. He maintained that an ATV trail should be at least 60 miles long in order to provide an adequate riding experience; otherwise, there would be problems. It takes a lot of acreage to provide 60 miles of trail that don’t interfere with other forms of recreation.

A major fear of the law enforcement needed is preventing riding off-trail. One pass of the knobby tires churns up the soil, and it leaves like another trail for others to follow. Pretty soon there is major damage.

Also, as explained above, ATV trails are expensive, and the problem with ATV trails on public lands is that even if a plan is done right with an adequate budget to start with, public budgets are not permanent. They are subject to change over time. To a new administration with new people and new priorities, the funding for ATV trails may look like a good place to make cuts. SB 676

Senator Maynard (our legislators) would do well to rely on years of expertise from the WV DOH and the Hatfield McCoy system about running ATV trails instead of listening to lobbyists who are working for the profits of out-of-state corporations.

To those senior citizens and other disabled people who long to experience back country without the required physical effort, I suggest they employ a mule that provides llama, horses, or mules. It can’t be as expensive as purchasing and maintaining an ATV.

Beth Little served for many years on the WV Recreational Trails Advisory Board by appointment of three different governors.
Power Purchase Agreements: Making Renewable Energy Possible

By Frank Young

Power Purchase Agreements (PPAs) are contracts which assure that a market exists for those kilowatt hours of electricity generated by the solar panels, wind turbines, coal fired steam turbines, or other electricity generating mechanisms. Such contract agreements are necessary to allow the financiers of electricity generating facilities to know that willing buyer-seller agreements from which to market the electricity produced are in place.

Under existing West Virginia law, only licensed utility companies can sell electricity on a retail level to a consumer of electricity. This means that electricity sold at retail (directly to consumers) in WV is only sold by subsidiaries of either American Electric Power Co. or First Energy Corp. Currently Power Purchase Agreement contracts are exclusively wholesale level power sales contracts between electricity producers (for example steam generated power plants like First Energy Corp.) and their subsidiary retail marketers such as Monongahela Power Co. PPAs are also used by, for example, the owner of a wind energy facility (such as Invenergy Corp., the owner of the Beech Ridge Wind Farm in Greenbrier County) that generates electricity for the wholesale electricity market and a public utility electricity retailer such as Appalachian Power Co. or Monongahela Power Co.

Retail level PPAs are not allowed in West Virginia. I cannot contract a Power Purchase Agreement (PPA) with XYZ Solar Co. to put solar panels on the roof of my home in order to sell me the electricity thereby generated. Why not? Because XYZ Solar Co. is not a legally designated public utility that is set up to serve all customers in a designated service area.

The Legislature could fix this. By statute, it could allow a solar power company to install solar panels on a home and sell the electricity (a Power Purchase Agreement) to the homeowner without being considered a public utility subject to the requirements of the Public Service Commission.

The effort toward allowing retail level PPA contracts relates mostly to rooftop solar panel installations on residential structures such as a home or an apartment building. This would be a revolutionary approach to how electricity is produced, distributed and marketed. The big utility companies currently display no interest in furnishing their customers rooftop generated electricity. And so the existing electric utility companies fight against legislation to allow contracts (Power Purchase Agreements) between consumers and rooftop solar panel leasing companies.

The Legislature could fix this by statute, it could allow a solar power company to install solar panels on a home and sell the electricity (a Power Purchase Agreement) without being considered a public utility subject to the requirements of the Public Service Commission.

Land and Water Conservation Fund Plods Ahead

The Land and Water Conservation Fund collects royalties from oil and gas production on the outer continental shelf. It then uses those royalties to fund acquisition of public land, improvements in parks, etc. Before this year, the Fund would expire periodically and had to be renewed. Congress fixed this earlier this year by authorizing the Fund permanently. Permanent authorization of the Fund by Congress was a big step but it is not the final step. Current law does not require that the money that is available for the Fund actually goes into the Fund. Congress still must make appropriations to the Fund.

Now there is legislation pending in Congress to take this final step. On November 19, the Senate Energy and Natural Resources Committee passed a bill that would fully fund the Land & Water Conservation Fund with a 13 to 7 vote. Next, the Land and Water Conservation Fund funding bill will go before the full House and Senate for a vote.

As the Chair of the Senate Energy and Natural Resources Committee, Senator Joe Manchin played an important role. His steadfast support of the Fund played a significant role in its passage by that committee.

### Powering West Virginia’s energy freedom with Power Purchase Agreements

Power Purchase Agreements (PPAs) are a widely available method to finance distributed energy generation projects. They are legal in at least 28 states, including Virginia, Ohio, Pennsylvania, Maryland, and Georgia, but are NOT currently available in West Virginia. This document explains why making PPAs legal will benefit West Virginia.

#### How do Power Purchase Agreements Work?

- Tax-paying third-party developers install, own, and operate a distributed energy system on a consumer’s property.
- Customer purchases the system’s electric output at a fixed rate — generally lower than that of the local utility — for a fixed period of time (usually 15-25 years).
- Eligible energy resources include but are not limited to solar, wind, run of river hydropower, geothermal, biomass, natural gas, and combined heat and power (CHP).

#### Who can utilize a PPA?

- Commercial businesses and manufacturers (51% or all non-residential U.S. solar capacity in 2017 was third-party owned).1
- Municipalities and governments.
- Tax exempt entities like schools, churches, hospitals, and nonprofits (Nearly 90% of all solar installed on American schools since 2014 has been financed via PPAs).2
- Farmers
- Homeowners

#### How do PPAs benefit customers?

- PPAs allow customers to benefit from distributed energy with low to zero upfront cost while enabling electric bill savings from day one.
- PPAs allow customers to lock in their energy rates, so they can stabilize monthly budget expenditures and protect themselves against utility rate increases.
- West Virginia had the fastest growth rate in electricity prices between 2006 and 2017.3
- PPAs allow tax exempt customers to benefit from tax credits through the project’s developer.

#### How can PPAs benefit West Virginia?

- Broaden access to affordable energy (Stato shows that third-party PPAs account for 95% of the increase in American solar capacity since 2011).4
- Expand economic development (More than 800,000 American workers are employed in renewable energy industries).5
- Create good local jobs in rapidly growing energy sectors (Solar PV installer and wind turbine technicians are the #1 and #2 fastest-growing occupations in the nation).6
- Attract employers to locate and invest in West Virginia (More than 150 major global corporations have made corporate commitments to use 100% renewable energy).7

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[4] info@energyfreedomwv.org

A Green Amendment: Could We Ever Have One?

By Cindy Ellis

Two Words
Climate Change. When WV Delegate Evan Hansen spoke to us at our Fall Review, he pointed out that he was the first to publicly use that two-word phrase on the floor of our legislature’s house chambers. Then he continued by mentioning two more provocative words, Green Amendment.

Delegare Hansen reminded us that Pennsylvania, despite a record of pollution to rival that of West Virginia, has a decades-old provision to protect a healthy environment and that, in recent years, court cases have reaffirmed those protections.

Here is the amendment.

“The people have a right to a clean, air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

A reporter for the Bay Journal [focusing on Chesapeake Bay] summed up the recent action. Donna Morelli said, “Until lately, those high-sounding words have been just that, without any real impact on what happens in the state. But twice in the last four years, Pennsylvania’s Supreme Court has rendered decisions putting teeth in the environmental rights amendment — first, in a lawsuit over whether communities have the power to bar hydraulic fracturing and, later, over how the legislature is spending revenue derived from leasing state forestland for ‘fracking,’ as the controversial natural gas extraction method is known.”

Could that ever happen in West Virginia?

There’s another example of the extractive state of Montana has a similar provision in its constitution and there the Blackfoot River was safeguarded by the same kinds of appeals. Among a multitude of examples of damaged communities and landscapes, some in West Virginia.

She says, “…pollution and environmental destruction are not illegal in this country. People are free to pollute, damage, and desecrate the environment so long as they obtain government permits or licenses to do so…” and “…Sadly, government-issued licenses to pollute are rarely denied…”

“...We have certainly seen that happen in the Mountain State. And we want change.”

So, we could be heartened by our delegate’s audacity in introducing new words.

And we can watch the legislature in the New Year to see if any others join in his boldness, and join us in efforts to “conserving and maintain” our rights.

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 work to protect wilderness, wildlife, clean air and water and our way of life.

The Modern Jobs Act (MOJO Act) could be a major milestone for the Modern Jobs (MoJo) Act, the Joint Stand-
Better Bonding for Coal Mines Proposed

By John McFerrin

Ever since the passage of the federal Surface Mining Control and Reclamation Act, coal mines have had to post a bond to guarantee reclamation. As long as the coal industry was prospering, self-bonding worked well enough so that the reclamation obligations would be met. If a company, the state was assured that the money would be available if it needed it for reclamation.

In some situations, however, companies would do what was called "self bonding." They would submit financial records sufficient to demonstrate that, if they did not do the reclamation, money would be available for the State to take and do the reclamation. They were, in effect, being their own insurance companies or banks, guaranteeing that their reclamation obligations would be met.

Self-bonding worked well enough so long as the coal industry was prospering. The assets of companies were pledged to guarantee that reclamation would be completed. So long as there were assets, the reclamation was guaranteed.

Then came the long term, and apparently permanent, decline in the coal industry. Between 2015 and 2016, the country's three largest coal companies (Alpha Natural Resources, Arch Coal, and Peabody Energy) filed for bankruptcy, leaving $2.3 billion in outstanding reclamation bonds. This summer, Revelation Energy and Blackjewel filed for bankruptcy, putting nearly 1,700 miners out of work, leaving the state to cover the reclamation costs. Blackjewel filed for bankruptcy, putting nearly 1,700 miners out of work, leaving the state to cover the reclamation costs.

Although Fighting to Protect the Highlands, the First 40 Years of the West Virginia Highlands Conservancy (Alpha Natural Resources, Arch Coal, and Peabody Energy) filed for bankruptcy, leaving $2.3 billion in outstanding reclamation bonds. This summer, Revelation Energy and Blackjewel filed for bankruptcy, putting nearly 1,700 miners out of work, leaving the state to cover the reclamation costs. Blackjewel filed for bankruptcy, putting nearly 1,700 miners out of work, leaving the state to cover the reclamation costs.

Broke companies would still be broke. Under this system, companies would post a flat per acre fee which was designed to be relatively low. The bonds were always designed to be inadequate to do the reclamation.

At least in theory, these inadequate bonds would be sufficient because West Virginia had its Special Reclamation Fund. All coal companies pay into this fund and when a company went out of business, disappeared, or for some reason did not reclaim the mine site, the state could forfeit the bond and do the reclamation.

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This system only worked in theory. In actual practice, the rate at which companies pay into the Special Reclamation Fund has always been too low to fund the cost of reclamation at bond forfeiture sites.

This problem, and the West Virginia Highlands Conservancy's involvement, has been going on for decades. Every year or two representatives of the West Virginia Highlands Conservancy (and occasionally others) would meet with the Office of Surface Mining and the West Virginia Department of Environmental Protection to talk about the Special Reclamation Fund. All would more or less agree that the Fund was inadequate and that we needed to fix it. Then another year or two would go by, the Fund wouldn't be adequate for another year, and we would have the same meeting again. Cindy Rank, Mining Committee Chair of the West Virginia Highlands Conservancy, described it this way, "This has gone on too long. We have begged, pleaded and lobbied since at least 1990 to make the state comply with the law. The state's response has been to dance around the issue and make only incremental and inadequate improvements. OSM has known about the ever expanding liabilities and issued warning letters, but has not followed through with the necessary enforcement measures to make the state fulfill its legal responsibility under the law. There is little consolation in knowing the predictions and warnings of the past years are coming to fruition in such devastating fashion and there is no excuse for allowing this to continue."

The proposed Coal Cleanup Taxpayer Protection Act of 2019 recognizes this problem. It would require audits of bond pools such as the one West Virginia uses to assure that they are solvent. Since an audit would very likely reveal that West Virginia's bond pool is insolvent, this could result in West Virginia being required to strengthen its bond pool.

The bill (H.R. 4435) faces a long, uphill slog to passage. It currently has six cosponsors; there is no companion bill in the Senate.

The West Virginia Highlands Conservancy has joined in a letter in support of this bill.

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.

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

Get a Great History Book

For the first time, a comprehensive history of West Virginia's most influential activist environmental organization. Author Dave Elkington, 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, 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 $19.50 plus $3.00 postage. We are offering it as a premium to new members. New members receive it free with a 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.
Facts About Red-Tailed Hawks

The Red-Tailed Hawk is a bird of prey known as a raptor. They can be found throughout most of North America. These birds are found as far north as northern Canada and interior Alaska and as far south as Panama and the West Indies. The red-tailed hawks that live in northwest Canada are much darker in color with a marbled white, brown and gray tail instead of the red one.

Red-tailed hawks are mature enough to find a mate at the age of two and they mate for life. They are one of the most widely distributed hawks in the world. They can adapt to living in various conditions and altitudes such as deserts, grasslands, forests, agricultural fields and even urban areas.

Red-tailed hawks usually build their nests in the crowns of tall trees where they have an optimal view of the surrounding landscape. They also be seen nesting on cliffs, ledges and ledges between platforms.

Red-tailed hawks’ diet consists of small mammals including rodents and rabbits, birds, reptiles, fish and insects. Red-tailed hawks will steal prey from other raptors.

The raspy cry of a red-tailed hawk is used in movies to represent any eagle or hawk.

The oldest known red-tailed hawk was at least 30 years and 8 months old when it was captured. Their nests.

Hawks and falcons are known for their keen eyesight.

Females are about 25% heavier than males.

Hawks and falcons can be found throughout most of North America. These birds are known for their keen eyesight.

The definitive guide to the Mon adds a wealth of information about history, wildlife, and botany; safety, preparation, and weather; horseback and mountain bike riding and cross-country skiing opportunities it provides are among the best in the eastern U.S. New wilderness and backcountry trails have been added to the outstanding areas we have appreciated for decades – Otter Creek Wilderness, Dolly Sods Wilderness, Flatrock Plains, Roaring Plains, Blackwater Canyon, Spruce Knob, North Fork Mountain, Shaver’s Mountain, Laurel Fork Wilderness, Cranberry Wilderness – and there are lesser-known gems to be found in between.

Profiles from the sale of these guides support a wide variety of worthy environmental projects for the West Virginia Highlands Conservancy.

Send $18.95 plus $3.00 shipping to: West Virginia Highlands Conservancy P.O. Box 306 Charleston, WV 25321

Order from our website at www.wvhighlands.org

For electronic delivery.

You may, of course, 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 David Saville at WHCV@GMAIL.com. With electronic delivery, you will receive a link to a pdf of the paper copy should you want to receive it.

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Get to get a Mountains bumper sticker(s), send a SASE to P.O. Box 306, Charleston, WV 25321. 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/membership they will be gratefully accepted.)

ARMY GREEN/WHITE

MONUMENTERS

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Forest Service Responds to Conservancy’s Objection on the Panther Ridge Project

The Forest Service is on the cusp of finalizing its National Environmental Policy Act (NEPA) decision for the proposed Panther Ridge Project. On November 21, 2019, Forest Supervisor Shawn Cochran issued a letter explaining his response to the project objection, which was one of which was filed by the West Virginia Highlands Conservancy (the other one was filed jointly by Friends of Blackwater and the Center for Biological Diversity). According to this letter, the Forest Service is on the cusp of finalizing its NEPA determinations, so the Forest Service's responses to the objection, one of which was filed by District Ranger Cynthia Sandeno to move forward with the project. However, he did instruct her to correct several deficiencies in the NEPA analysis before signing the final decision.

The proposed project is intended to enhance early successional habitat for game and non-game wildlife, primarily through commercial timber harvest and prescribed burning. The Conservancy initially offered comments on this project during the official public comment period on the project under the National Environmental Policy Act (NEPA) analysis remained, so we filed a formal objection to the project prior to the official pre-decisional objection period in the summer of 2019 (see the President's column in the December 2018 Voice). Although the Forest Service made some changes based on our comments, we felt that substantial deficiencies remained in the NEPA analysis remained, so we filed a formal objection to the project prior to the official pre-decisional objection period in the summer of 2019 (see the President’s column in the December 2018 Voice). As we noted when we filed our objection, the Conservancy does not seek to stop the project, but does seek to ensure that impacts are properly analyzed and that sensitive resources are properly protected.

The following is a summary of the Forest Service’s responses to the objection issues that we raised:

- **We objected to the way that the Forest Service calculated the overall amount of harvest and road density in relation to the larger area of the landscape to which the activity occurs.** Basicallly, we said that they may be proposing more disturbance than the activity is capable of producing within a particular area at the Forest at one time. It is a complicated issue to explain in this small space, but suffice it to say that Supervisor Cochran largely disagreed with our point of view, although he agreed that the analysis of road density for the entire project is needed to be a bit lighter. His response was that the agency wide latitude in defining the area of the landscape to which these calculations are applied.

- **We objected to the way that the Forest Service would determine which skid roads would be decommissioned and the methods to be used.** We also asked that the design features addressing road decommissioning be rewritten to make it clear that all skid roads would be decommissioned when use has been completed. The Forest Service Premier asserted that the responsible official has discretion in making these determinations, and he stated that the necessary details for making these determinations exist within the NEPA project file. But he argued that the description in the Environmental Assessment was not sufficient. The responsible official will develop a checklist outlining how decommissioning will be made and distributed. We will need to directly request our re-write the design features.

- **We objected to the use of the term “skid trails” to describe all of the routes used for skidding logs.** Skid trails are defined as pathways that are created by dragging logs over the land surface. But due to the sloping landscape, such overland skidding is rare on the Monongahela, with the vast majority of skid roads being built by using cut-and-fill road construction techniques. Such descriptions are needed to adequately describe the baseline conditions, inadequate description of the methods for achieving it, inadequate analysis of federally-listed bat species, and inadequate analysis of impacts of recreation. Supervisor Cochran directed the Forest to revisit the comments on the analysis of the bats, and to complete making a final decision until after the U.S. Fish and Wildlife Service completes an updated critical habitat statement under the Endangered Species Act. He did not issue any instructions on the other issues.

Inappropriate Weakening of Final Decision

By Chris Hunt

Trout Unlimited has joined a bipartisan group of partners and lawmakers in calling on Congress to pass continuing legislation for the cleanup of abandoned mines and the legacy pollution of historic coal production.

The House Subcommittee for Energy and Mineral Resources met to discuss H.R. 4248, which would reauthorize the Surface Mining Control and Reclamation Act of 1977 and provide ongoing funding through 2038. TU needs your help: Please email or call your congressional representative today to support abandoned mine cleanup.

Since 1977, the Abandoned Mine Reclamation Fund has poured more than $5.5 billion into abandoned mine projects across the country. The fund is supported by a small per-ton fee on current coal production. But the work is not done. Another $10.5 billion in cleanup is ahead of us, and addressing acid mine drainage pollution would add billions to the cost.

Trout Unlimited vice president for government affairs, wrote in a letter to the House Subcommittee chairman Rep. Alan Lowenthal, “This hazardous sites pose risks to our health, our safety, our environment and our economy.”

Thompson cited the successes of the Abandoned Mine program and noted the need to continue the work. “I’ve seen waterfowl go from orange to clear and some pretty good fishing, let alone great habitat for all kinds of wildlife on reclaimed areas,” he said of his childhood fishing trips with our sportmen to support the legislation.

The Subcommitte chairman Rep. Alan Lowenthal highlighted the bipartisan support for H.R. 4248, and urged colleagues to move forward before the funding of AML fund fees expires in 2021. “I know Congress is known for waiting until the last possible second on absolutely everything, so discussing this bill two years before expiration may seem out of character,” Lowenthal said. “But this is a problem that isn’t going away.”

**Note:** This article originally appeared in Trout, the publication of Trout Unlimited.

Trout Unlimited Urges Congress to Keep Funding Mine Cleanups

In a Related Matter

The West Virginia Highlands Conservancy has joined in a letter supporting the same legislation that is the subject of this story.
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