West Virginia Highlands Conservancy
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The Highlands Voice

Since 1967, The Monthly Publication of the West Virginia Highlands Conservancy

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A New Role for the New River

The New River Gorge will have a new designation and a slightly different role thanks to Congressional action on the bill that included the Covid19 relief. It will change from being a National River, as it has been since 1978, to being a National Park and Preserve.

The effort for the new designation was led by Senators Joe Manchin and Shelly Moore Capito. Their goal in proposing this change is to make the area more attractive to tourism. The area is already home to white water rafting, rock climbing, hiking trails, and hunting and fishing. The supporters of the new designation believe that these features would have more visitors if the area were labeled differently. They assumes that if the area is labeled as a National Park people would believe that it offers more recreational opportunities and more people would visit.

As a practical matter, the change will not have a noticeable effect on the ground. It is the same rocks, the same river, etc. The Park will, however, be listed and promoted on the website of the National Park Service. The proponents hope that the new promotion will result in more visitors.

The area designated includes about 72,000 acres, the same amount that was under federal control before the reresignation. The new designation changes more than 7,000 acres of the Gorge's land to a National Park. The National Park part includes Sandstone Falls, the town of Thurmond, the Grandview area, and the Canyon Rim and Sandstone visitor centers. The rest of the 72,000 acres will become a National Preserve of about 65,000 acres.

Most of the 72,000 acres is currently open to hunting although there are parts where hunting is not allowed because they are close to high use areas. Hunting would not be allowed in the part redesignated as a National Park. Since hunting was already prohibited in parts of that area, the net loss to hunting would be about 5,000 acres.

There is also some possibility of future expansion. Although no additional property will be taken, if there are willing sellers the National Park Service is authorized to purchase over 3,700 acres of adjacent land for potential addition to the National Preserve, allowing for the expansion of additional hunting opportunities and providing for improved public access into the Preserve.

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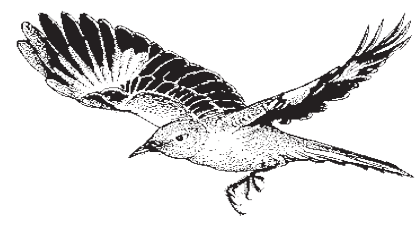


Drawing by Robert Savannah, U. S. Fish and Wildlife Service

Thoughts from our President

By Larry Thomas

An incredibly challenging year has ended, but the Covid19 pandemic of 2020 continues its quest, radically changing our lives as we move into 2021. It is critically important that we continue our fight to preserve and protect the highlands for future generations, focusing on new and exciting opportunities. In addition, we continue to monitor unresolved issues that we have been working on as reported in *The Highlands Voice* throughout the past year.

Looking back at the Conservancy's many accomplishments reported in each month's issue of *The Highlands Voice* during 2020, it is evident that the pandemic didn't really slow us down in our mission to work for the conservation, appreciation, and ecologic integrity of the natural mountain landscape of West Virginia.

We realize that none of this has been possible without the 53+ years of continued support of our members. Thanks to your thoughtful support, we can continue the long-successful programs such as holding the coal industry responsible by restraining out-of-control mountaintop coal mining and working to reduce their impacts, protecting our public lands and Wilderness Areas, restoring the red spruce eco-system, protecting clean water, and engaging our State and Federal lawmakers. That continued support also allows us to tackle new problems as they arise such as climate change, Marcellus Shale drilling, and mega gas Pipelines. The list continues to grow and grow.

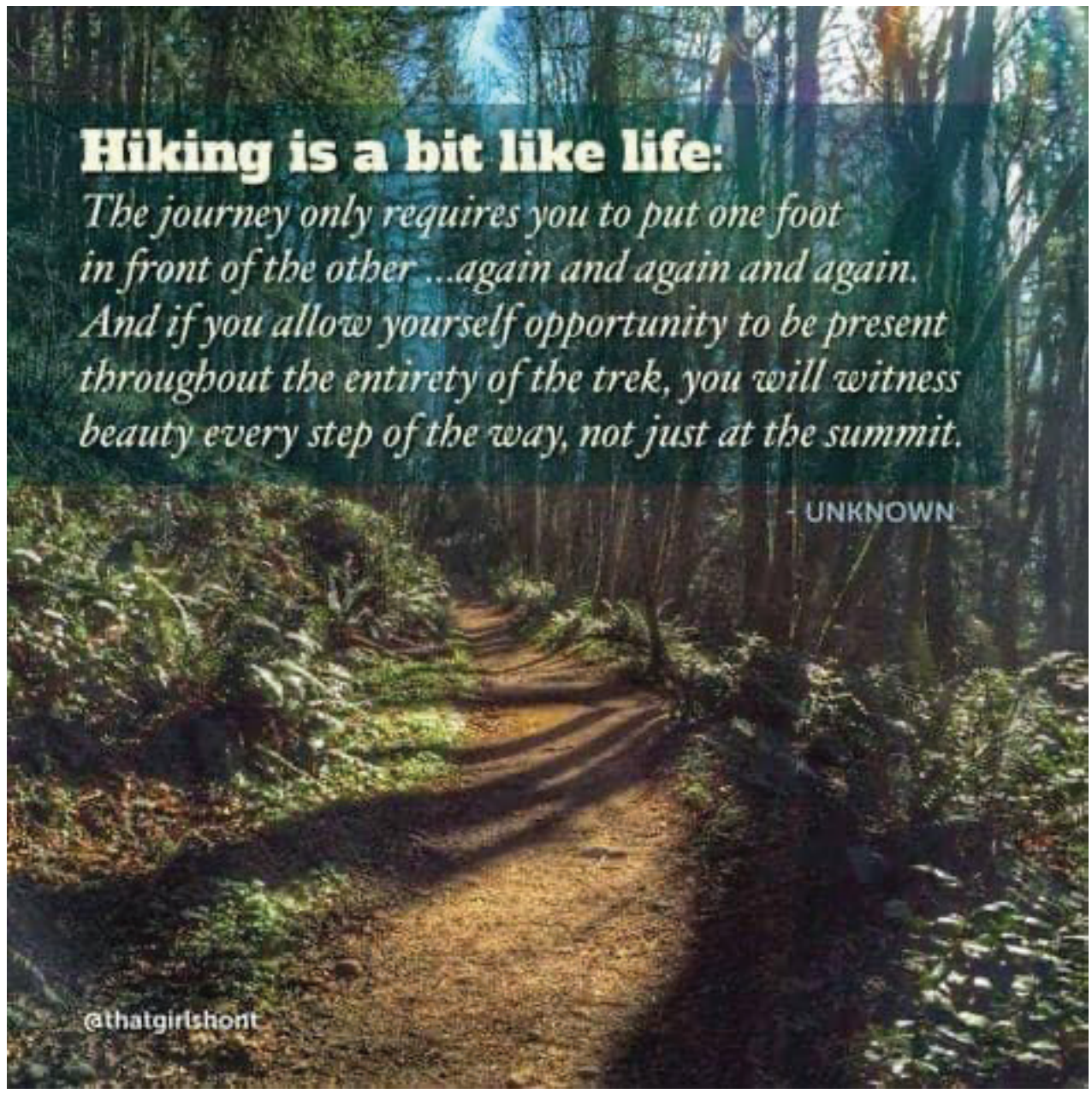
While the issues might be different from year to year, our methods remain fundamental. With member support, we are able to expose problems, educate members, the public, and policy makers, research better alternatives, and use our collective Voice, our historic record of successes, and our vision for the future, to continue our efforts on behalf of what we all have grown to love, respect and appreciate.

Some of the many accomplishments in 2020 include: the culmination after working for 6 years in collaboration with 51 other organizations opposing the Atlantic Coast Pipeline, the coalition was successful when Dominion Energy and Duke Energy announced on July 5th that they had decided not to proceed with the project; Forest Service proposed projects in the Monongahela National Forest have been reviewed and comprehensive comments and suggestions submitted; policies on Climate Change and Single Use Plastics were developed and approved by the Board; the Extractive Industries Committee has been reviewing and reporting on various controversies; the Balsam/Spruce Committee continues its 22 year old program of restoring historic red spruce-northern hardwood ecosystems across the high elevation landscapes of Central Appalachia.

Thousands of people flocked to our highlands during 2020 to escape that which the invisible, global pandemic brought to their everyday lives, demonstrating the importance of our continued efforts to continue the fight and to win the war against those who needlessly want to destroy the environment and destroy the natural, scenic and historic areas within the West Virginia highlands.

Many thanks to the members of our Board of Directors and members of the various committees, who despite the issues caused by the pandemic, have remained diligent in their efforts to assure our continued fulfillment of the Conservancy's mission during 2020.

As we move into 2021, I want to take this opportunity to wish everyone a safe and healthy, very happy and prosperous upcoming year. Wishing that we also get a handle on the pandemic and can return to as normal lives as possible.



More about the New River (Continued from p. 1)

Although some National Parks do charge an entry fee, there are no fees proposed at this time. The Park Service could always add fees in the future if the need is determined.

This bill only addresses the designation of the area as a National Park and Preserve. It does not address questions of either maintenance costs or infrastructure. The hope of the Park and Preserve's supporters is that the new designation will bring more visitors. Presumably that will increase the need for parking lots, boat launch sites, etc. as well as more staff. As those needs arise they will be addressed in future appropriations.

Thurmond: Part of the New River Park and Preserve

Commercial Row in Thurmond. Even in its hey-day Thurmond never had a main street. The rail-road was the main street. The old train station, now refurbished as a National Park Service Visitors' Center, is visible in the background.

During the first two decades of the 1900s, Thurmond was a classic boomtown. With the huge amounts of coal brought in from area mines, it had the largest revenue on the Chesapeake & Ohio Railway. Having many coal barons among its patrons, Thurmond's banks were the richest in the state. Fifteen passenger trains a day came through town-its depot serving as many as 95,000 passengers a year. The town's stores and saloons did a remarkable business, and its hotels and boarding houses were constantly overflowing. With the advent of diesel locomotives, and less coal coming in from local mines, the town began a steady decline. The many businesses closed down, and most residents moved on.

The year 1873 marked the completion of the Chesapeake and Ohio Railway mainline. It was also the year that Captain W. D. Thurmond acquired 73 acres along the railroad, a strategic position for developing a town.

Thurmond was the heart of the New River Gorge, carrying shipments of coal from the surrounding coal fields. The town of Thurmond grew as the coal and timber industries expanded in the gorge. The rail yard was expanded to meet the railroad's needs. By 1910, Thurmond was the chief railroad center on the C & O Railway mainline.

In 1910, the C & O operation at Thurmond was first in revenue receipts, producing more freight tonnage than Cincinnati, Ohio, and Richmond, Virginia, combined. Freight was not the only key to this town's success. Seventy-five thousand passengers passed through Thurmond in 1910, delighting in all it had to offer.

At its peak, Thurmond had two hotels, two banks, restaurants, clothing stores, a jewelry store, movie theater, several dry-good stores, and many business offices. The town continued to thrive through the early decades of the 20th century.

With the onset of the Great Depression, several businesses closed, including the National Bank of Thurmond. The town's economic vitality waned after two large fires wiped out several major businesses.

By the mid 1930s there were other indications that Thurmond's heyday was ending. The American public had begun its love affair with the automobile, and good roads made travel by car easy. C & O Railway changed from steam to diesel locomotives in the 1940s. Thurmond had been a steam town, its rail yard and crews geared toward the short service intervals of steam locomotives. The switch to diesels left many of the rail yard structures and jobs obsolete.

To reach Thurmond, take U.S. Route 19 to the Glen Jean exit, north of Beckley. Follow the signs to Thurmond, seven miles down WV Route 25 (Route 25 is a narrow, winding road and is not recommended for RVs and trailers.)

Information courtesy of the National Park Service.

Covid Relief and Climate Change

There was also good news in the COVID-19 relief bill on climate change. Here are a few of the most important provisions.

The most important emissions-cutting measure in the bill is the phasing out of hydrofluorocarbons (HFCs), very potent greenhouse gases that heat the atmosphere thousands of times greater than carbon dioxide. HFCs are used primarily in refrigerators and air conditioners, and when these gases escape, they very effectively heat the atmosphere.

The bill requires the United States Environmental Protection Agency to reduce HFCs by 85% by 2035, and that will have monumental climate benefits. This reduction will avert the equivalent of more CO_2 emissions than Germany emits in a year. It may be "the single most effective emission reduction measure taken by Congress in over a decade," according to the Rhodium Group, an energy-analysis firm. When combined with other action phasing out HFCs worldwide, it could avoid one-fifth to one-half a degree Celsius of warming by 2100. Under the Paris Climate Agreement, the world committed to staying "well below" 2 degrees Celsius of warming by the end of the century. A global phaseout of HFCs gets us 10 percent of the way there. That's meaningful progress.

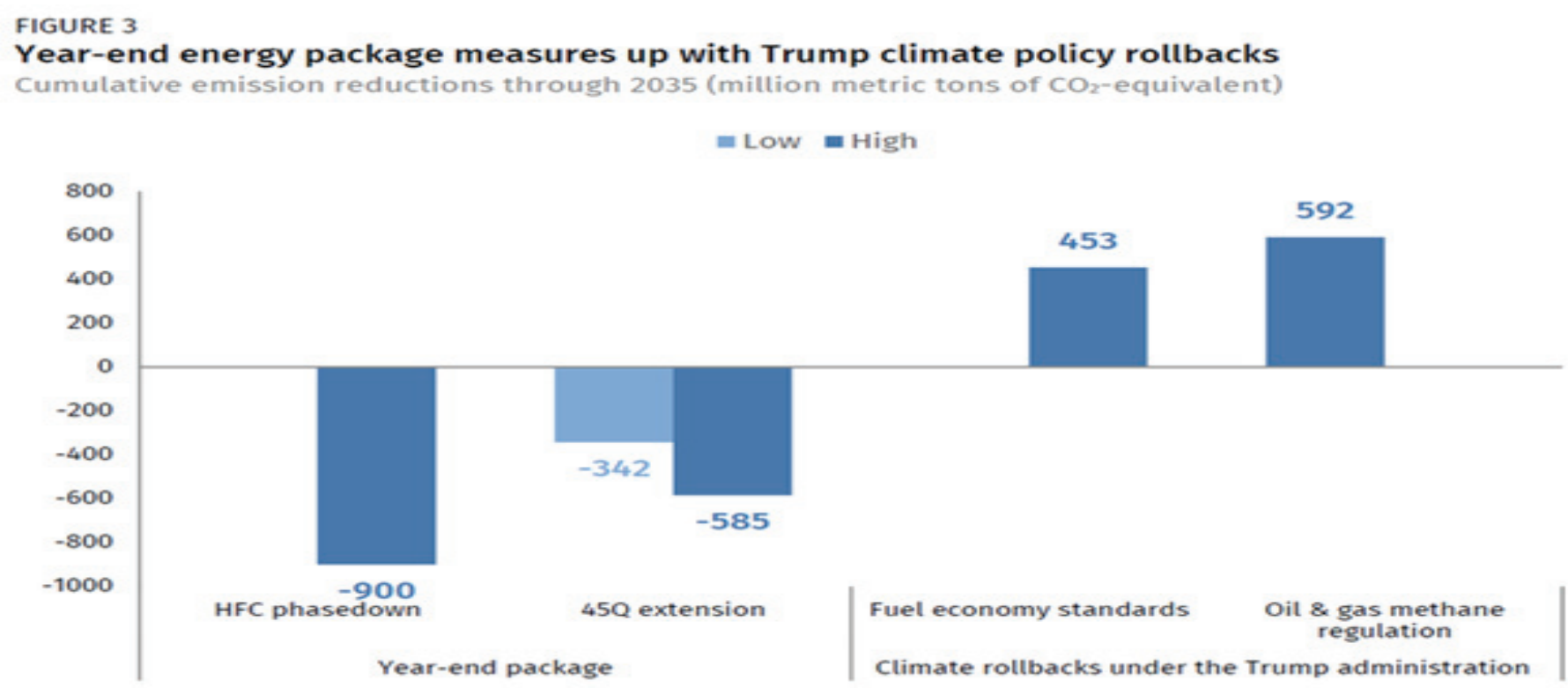
One of the other climate related provisions in the COVID-19 bill is the extension of 45Q tax credits for two years. 45Q is named for a section of IRS code, and is tax credits for carbon capture. Currently, there's a $50 tax credit for every ton of CO_2 that is permanently captured and stored underground (or at least one hopes that it will be permanent); and a $35 per ton tax credit for capturing and using CO_2 -- generally for enhanced oil recovery. These tax credits were set to expire in 2023, but are extended to 2025 under the COVID-19 relief bill. These tax credits are controversial among some in the environmental community, although they enjoy broad, bipartisan support in Congress.

Between the phasing out of hydrofluorocarbons and the extension of the 45Q tax credits, the Rhodium Group projects that by 2035 the emission reduction from these two provisions will offset two of President Trump's largest environmental rollbacks: the reduction in fuel efficiency standards and relaxing methane emission standards.

There are tax credits extensions for renewable energy too. According to Inside Climate News:

- "The solar investment tax credit got a two-year extension. This up-front credit will continue at its 2020 level in 2021 and 2022, and then phase down after that.
- The wind production tax credit will get an extra year, meaning it will now be available for new projects that qualify before the end of 2021. This credit is based on the amount of electricity a project produces in its first 10 years.
- Offshore wind gets its own investment tax credit, which will last for five years before a phasedown, and is retroactive to 2017. Under current law, offshore wind can qualify for an investment tax credit, but it is phasing out right as the offshore wind industry is on the cusp of a building boom."

The climate related provisions in the COVID-19 relief bill do not solve our climate crisis, but they are certainly a nice down payment on climate reform. The heavy lifting on this existential threat will begin in earnest this year. Stay tuned.



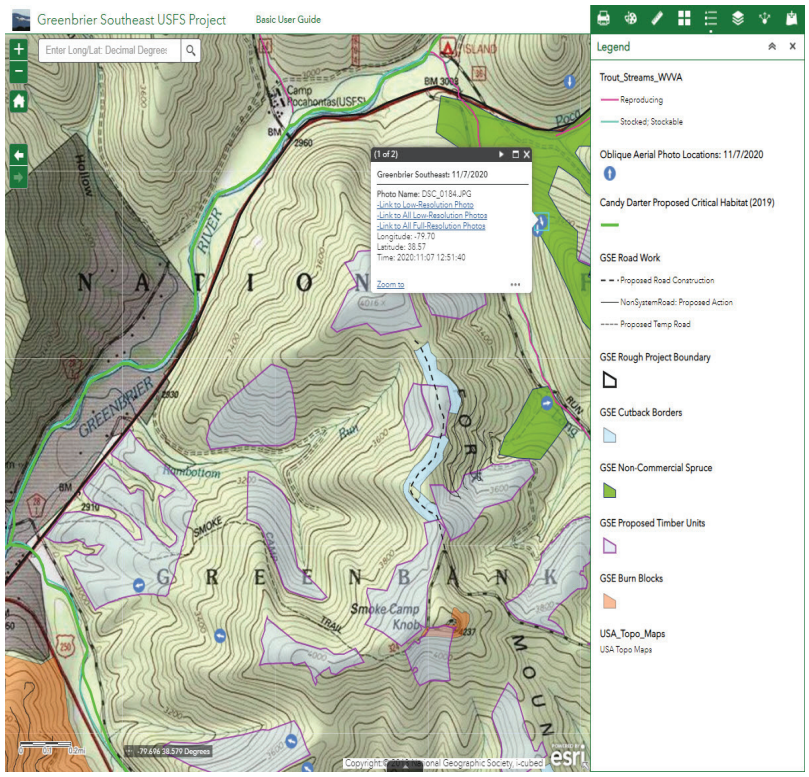
Source: Rhodium Group via The Weekly Planet published by The Atlantic

The Greenbrier Southeast Project

The Greenbrier Southeast (GSE) project is a proposed 16,888-acre forest management project in the upper reaches of the East Fork of the Greenbrier River in the Monongahela National Forest (MNF). As stated in the MNF Schedule of Proposed Actions, the GSE project seeks to improve forest stand health and composition to improve future wildlife habitat and to provide for future commercial timber sales and economic projects. Although the posted schedule calls for a project decision in December of 2020 and project implementation in May of 2021, this is an unrealistic timeline, given the status of the review process.

The Greenbrier Southeast project raises multiple conservation concerns, include the presence of the endangered candy darter, native brook trout streams, habitat for the West Virginia northern flying squirrel, and remnant red spruce communities. The April 2020 Draft Environmental Assessment for the project, however, relied on analysis of effects included in a Biological Assessment, which has not been made public. Moreover, the required consultation with the U.S. Fish and Wildlife Service concerning potential project impacts to the endangered candy darter has not been initiated.

The Greenbrier Southeast project is the focus of an Allegheny-Blue Ridge Alliance Conservation Hub map project. See: https://hub-dpmc-gis.opendata.arcgis.com/pages/usfs_greenbrier-southeast. The accompanying aerial photos of the project area were obtained on 11/7/20. These photos and other project information can be accessed online via the map project.



United States Forest Service Greenbrier Southeast Project Map – A view of the ABRA-Conservation Hub map showing plans for the proposed GSE project in relation to candy darter and brook trout habitat. In the version that appears online, the blue arrow symbols can be selected for online access to photos of the project area.

Buffalo Lake – A recreational lake in the GSE project area, above proposed Designated Critical Habitat for the candy darter in Little River, a tributary of the East Fork of the Greenbrier River.

Wetlands-Big Run – Wetlands along Big Run in the GSE project area.

More Questions about NIOSH Facility

There are more, and ongoing, questions about the research facility that the National Occupational Safety and Health (NIOSH) wants to build on 461 acres in Randolph and Pocahontas Counties near Mace.

The facility that the National Institute for Occupational Safety and Health (NIOSH) (a part of the Centers for Disease Control and Prevention (CDC)) wants to build could be used for studies and research on mine explosions, mine seals, mine rescue, ventilation, diesel exhaust, new health and safety technologies, ground control, and fire suppression. Plans call for the excavation of 362,000 tons of material for site preparation, and removing another 152,000 tons of sedimentary rock, including limestone, sandstone and slate, to carve out an underground test area 500 feet below the surface. In it, fire suppression experiments would be conducted, along with experiments designed to learn more about the nature of underground methane explosions.

It would replace a facility in Fairchance, Pennsylvania, south of Pittsburgh. The National Institute for Occupational Safety and Health (NIOSH) considered sites in two other states and determined that the one near Mace would be most suitable to its needs

NIOSH has lost its lease in Pennsylvania so it can't stay there.

Since the *Voice* reported on the proposal, (May, 2019, and February, 2020) there have been some developments. Notable is that the Pocahontas County Commission voiced its objections. Since Pocahontas County does not have county wide zoning, the County Commission does not have the authority to prohibit the facility. It can only state its opposition.

As part of its consideration of the matter, the Commission heard from Snowshoe resort. The resort opposed the facility. In its presentation to the Commission, its representative said that the proposed facility poses "a serious threat to drinking water and a negative effect on tourism."

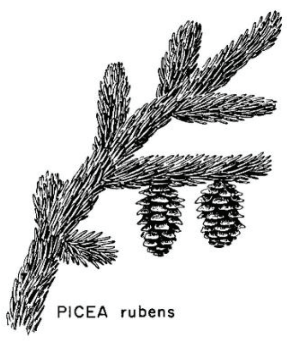
Area residents also have concerns. The facility may put the drinking water of Mingo, Mace, Dry Branch, and Elk Springs at risk. All residents rely on wells and springs that come from karst geologic formations and are connected by an underground water system flowing through cavities in the karst limestone. There is no public water available in any of these communities.

Blasting and excavation activity and continuous pumping to dewater the facility during construction and during long-term operation may alter the flow of groundwater, dewatering local wells and springs. Operation of the above-ground fire suppression facility and the underground facility on karst limestone threatens contamination of local drinking water. Without water, or with contaminated water, residents will neither be able to live there or sell their homes.

There is concern about the recreation economy. Those who live there or have a small business rely upon the success of the recreation economy in Pocahontas or Randolph County. For those who don't live there, there is concern that the reasons they visit may be affected. If the facility ends up dewatering wells, it could dramatically impact the second home market in Pocahontas and Randolph counties. This facility borders expanding mountain bike areas and holds a great opportunity to connect bike communities through rail trail.

According to calculations based upon data in the Draft Environmental Impact Statement for the project, there will be at least one truck every three minutes traveling on Rt. 219 for four months. After the first four months, there will be an average of sixteen loads per day every day for almost four years. Rt. 219 is a main artery for guests to enter Pocahontas County and access Snowshoe from the north and east. It also connects commuters between Randolph and Pocahontas Counties.

Red Spruce Seedlings Available for Spring 2021



The West Virginia Highlands Conservancy currently has a limited number of Red Spruce seedlings available for Spring 2021.
Quality container-grown seedlings, grown from seeds collected in the West Virginia Highlands for forest restoration and research purposes.
When we have a surplus, we make them available to the public.
All proceeds support our Red Spruce Ecosystem restoration efforts.
Quantities Limited

CASRI
Central Appalachian Spruce Restoration Initiative

Red Spruce (Picea rubens)

2 year plug, 10-15 inches tall. These quality container-grown seedlings are the same product we have been using in restoration projects very successfully for nearly 20 years. CASRI Partners have planted nearly a million of them!

For 2021 we have an extraordinary opportunity to offer Red Spruce plugs from 5 different seed sources; Dolly Sods, Spruce Knob, Stuart Knob, Panther Knob and Top of Allegheny. Or you can order a mix of available sources.

100 - $250 (FOB Morgantown), 100 Shipped (via UPS) - $300, 1,000 - $1,250 (FOB Morgantown)

Plants are available for pick-up April 15-30, 2021 in Morgantown, WV.
Limited availability - Minimum order 100.
Trees can be purchased online at www.wvhighlands.org, or send a check to;
West Virginia Highlands Conservancy, PO Box 306, Charleston, WV 25321. Specify source preference.
For more information contact: Dave Saville at david.saville12@gmail.com

To learn more about the Red Spruce Ecosystem, and our efforts to restore it, visit; www.restoreredspruce.org
If you cannot use any spruce seedlings, consider donating.

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

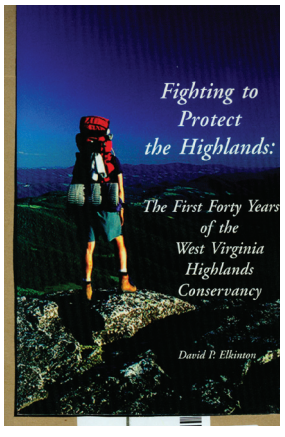
West Virginia Highlands Conservancy
Working to Keep West Virginia Wild and Wonderful

You may also join on-line at www.wvhighlands.org

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, 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 Dave Saville at WVHC50@gmail.com.

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.

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.

Mountain Valley Pipeline - Latest Federal Energy Regulatory Commission Actions

By Cindy Rank

The saga of pipelines appears to have no end.

FERC

As the courts continue to wrangle with the adequacy of permits from federal agencies (Fish and Wildlife, Forest Service, and Army Corps of Engineers) the Federal Energy Regulatory Commission (FERC) has stepped out on its own to give Mountain Valley Pipeline (MVP) permission to continue construction for portions of the pipeline.

Wait – What ?

They don't have permits but are allowed to proceed ?????

In 2018, the 4th U.S. Circuit Court of Appeals vacated authorizations issued by the Bureau of Land Management and U.S. Forest Service for the pipeline to cross 3.5 miles of the Jefferson National Forest in West Virginia and Virginia. FERC subsequently issued a stop-work order barring construction in a 25-mile exclusion zone between two watersheds to protect the forest's waterbodies.

On December 17th FERC ruled in a 2-1 vote among its three commissioners that construction along a 17-mile segment of that zone through Giles and Craig counties in Virginia, just outside of West Virginia, would not contribute sediment to any part of the forest or any waterbody that flows into it.

The decision follows the Forest Service's issuance earlier this month of an environmental impact statement that is thought by some to support plans for the pipeline to pass through the Jefferson National Forest.

As noted in a *Charleston Gazette-Mail* article December 24, 2020, FERC Commissioner Richard Glick called the commission's order "a serious mistake," noting that federal courts have repeatedly invalidated various federal permits that Mountain Valley Pipeline needs to finish construction and opining that the FERC has failed to take seriously, in this and past rulings, an environmental condition that requires the pipeline to secure all federal permits before it can take any action to construct the pipeline.

"The Commission's ... contention that the condition is relevant only when a pipeline first commences construction, makes the condition look like an excuse for justifying the Commission's practice of granting conditional certificates and not a serious attempt to protect the environment or the public interest," Glick wrote.

We couldn't agree more.

Mountain Valley Pipeline proposes Certificate Amendment

In mid-November, MVP applied to FERC for an amendment to its certificate of need hoping to resolve some of its stream crossing issues.

The application is an attempt to skirt the issue of Corps permitting with a new proposal to bore under streams in the first 77 miles of the pipeline thus avoiding the need for permits from the Army Corps of Engineers.

On December 22nd and acting on behalf of WVHC and seven other plaintiffs Ben Luckett of Appalachian Mountain Advocates filed a motion to intervene including comments in opposition to MVP's application for the certificate amendment.

"Mountain Valley has requested authorization to change the method of waterbody crossing for the first 77 miles of the Mountain Valley Pipeline ("MVP") from a dry open-cut method to a conventional bore method. As explained below, the actions for which Mountain Valley has requested authorization—boring under 69 streams and wetlands at 41 locations—pose serious environmental risks that were not disclosed in the Final Environmental Impact Statement on which the certificate of public convenience and necessity for the MVP relies."

As we so often say, stay tuned.

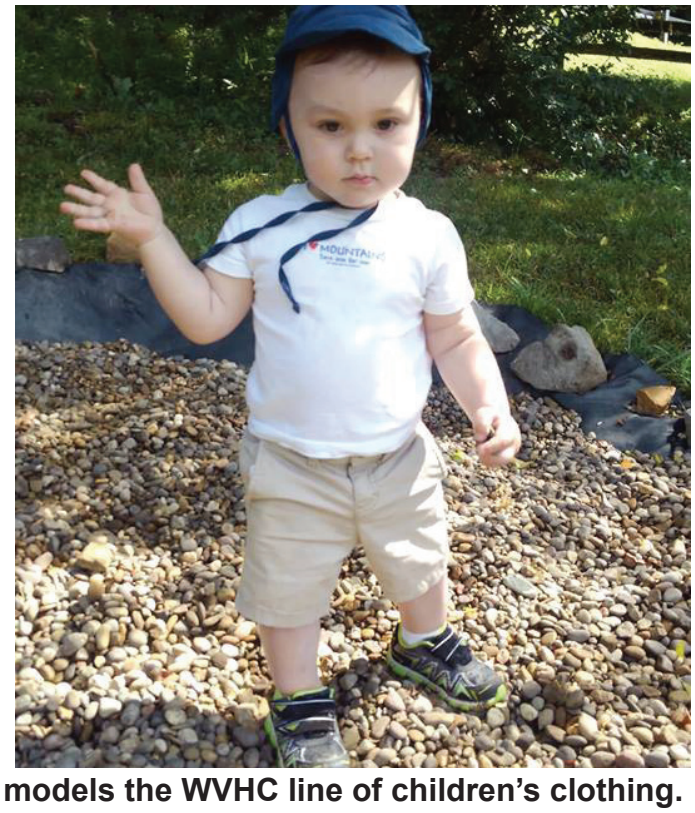
Another Baby Step Forward

Last month *The Highlands Voice* reported that several groups had sued the West Virginia Department of Environmental Protection. They alleged that the DEP had changed the way it runs its mine bonding program without telling the federal Office of Surface Mining that it was making the change.

Now the DEP has agreed to send the required notice to the Office of Surface Mining. That particular bit of litigation is over.

The big picture is that the system that West Virginia uses to ensure that mine sites are properly cleaned up is not set up to provide adequate funding for that task. How we address this problem will be ongoing. For more detail, see the December, 2020, issue of *The Highlands Voice.*

If you are keeping score at home, you can put this one down as a win for the groups, including the West Virginia Highlands Conservancy. You should, however, use a very small W. Faced with a formal notification that West Virginia is changing the way it addresses this problem, the Office of Surface Mining will probably become involved in some way. It has the power to require West Virginia to solve this problem. While the problem is sufficiently large that there may be no one who can solve it, there is reason to hope that participation by the Office of Surface Mining will help move us toward a solution.



Normally this tyke models the WVHC line of children's clothing. Here he is doing double duty, illustrating how far we have come in solving the problem of funding for cleaning up old mines.

Stream Crossing Permits Here and There

By Cindy Rank

West Virginia Highlands Conservancy has once again linked arms with folks challenging the validity of the Keystone XL Pipeline permit for stream crossings of the Yellowstone and Cheyenne Rivers in Montana.

Why?

Simply put, what happens in Montana doesn't just stay in Montana.

Earlier this year a United States District Court Judge in Montana ruled that Nationwide Permit 12 (NWP 12) is invalid because it was issued without following requirements of the Endangered Species Act. Even though this took place in Montana, it could have dramatic implications for the Mountain Valley Pipeline as well as other pipelines in West Virginia and elsewhere.

It matters here because the judge did not just prohibit the stream crossings in Montana. He vacated Nationwide Permit 12 itself. Both the Mountain Valley Pipeline and the now-cancelled Atlantic Coast Pipeline relied on NWP 12 for authorization to cross hundreds of streams and wetlands in West Virginia and Virginia. Without NWP 12, they have no permission to cross those streams and wetlands.

Articles by John McFerrin in both the May and June 2020 issues of *the Highlands Voice* outlined in some detail the issues involved with the Keystone XL pipeline and its reliance on Army Corps of Engineers' Nationwide Permit 12 to allow stream crossings along the route of the pipeline.

John explained a bit of the history of NWP 12 development and the Montana District Court ruling in the Northern Plains Resource Council legal complaint that Keystone XL pipeline could not rely on NWP 12 because the permit itself was improperly issued due to inadequate Endangered Species Act considerations.

In its order, the Montana District Court gave the Corps of Engineers the option to reconsider Nationwide Permit 12, this time complying with the Endangered Species Act by asking for guidance from the Fish and Wildlife Service. Instead of doing that, the Corps decided to appeal the District Court decision to the United States Court of Appeals for the Ninth Circuit.

As part of its appeal, the Corps asked the Court to "stay" the effectiveness of the Montana court order while the appeal was pending. Had the Court granted the request, NWP 12 would have remained in effect while the appeal was pending and the Corps could have continued using it to authorize stream crossings for Keystone and other pipelines.

The stay, however, was denied. Months have passed, and now the Court of Appeals is prepared to consider the merits of the Corps' appeal of the District Court ruling.

Recognizing the importance of the Nationwide Permit issues as applied to pipelines cutting through the state, the West Virginia Highlands Conservancy has joined Defenders of Wildlife, Virginia Wilderness Committee, and the West Virginia Rivers Coalition as amici curiae (friends of the court) in support of the Montana District Court ruling that vacated NWP 12.

Of primary concern is that proposed gas pipelines like the Mountain Valley Pipeline and the now-cancelled Atlantic Coast Pipeline can have a compounding effect on protected species – a matter which the Corps has unlawfully overlooked.

We maintain that to comply with the Endangered Species Act, Section 7 consultation over Nationwide Permit 12 must, to quote the U.S. Army Corps of Engineers, "take into account the combined effects of other NWP 12- authorized activities." The Endangered Species Act requires federal agencies to consider "all consequences" of their actions "as a whole." This case is about whether the Corps has lived up to that standard.

As stated in our amici documents we contend that the Endangered Species Act requires the Corps of Engineers to directly consult with the US Fish and Wildlife Service and to consider more than just the site-specific impacts of NWP on one pipeline or another, but rather what overall impact NWP 12 will have when utilized to permit multiple pipelines in an area.

In support of our involvement, we cite concrete examples from West Virginia and Virginia of how NWP 12 in its current form has illegally authorized broad impacts not permissible by Corps authority via the Clean Water Act nor by the Endangered Species Act.

e.g., "Consideration of rare and endangered species such as Roanoke logperch, Candy Darter, Indiana bat, and clubshell mussel. Two Nationwide Permit 12 pipelines authorized in 2017 in Virginia and West Virginia would have collectively impacted four of the eight remaining populations of logperch, a freshwater fish. At least three Appalachian Nationwide Permit 12 pipelines would adversely affect the Indiana bat. Multiple Nationwide Permit 12 pipelines would adversely affect the clubshell. Yet the Corps has never considered the additive impacts of these projects on the species under the Endangered Species Act."

Bottom line: permitted projects have repeatedly affected the same threatened and endangered species but the Corps has never accounted for the aggregate effect of those projects. Piece by piece, pipelines have destroyed species and their habitats without the Corps putting the pieces together to see the full picture of the damage done.

For these and other reasons explained in our court filings, we maintain the Montana district court's order must be affirmed.

(We are being represented by lawyers with Southern Environmental Law Center (SELC) from Charlottesville VA. (Anyone following stories about the ACP and MVP pipelines will recognize SELC as an effective and dedicated legal group similar to our friends at APPAMAD.)

The Highlands Voice is published monthly by the West Virginia Highlands Conservancy, P. O. Box 306, Charleston, WV 25321. Articles, letters to the editor, graphics, photos, poetry, or other information for publication should be sent to the editor via the internet or by the U.S. Mail by the last Friday of each month. You may submit material for publication either to the address listed above or to the address listed for Highlands Voice Editor elsewhere in this issue. Electronic submissions are preferred.

The Highlands Voice is always printed on recycled paper. Our printer uses 100% post consumer recycled paper when available.

The West Virginia Highlands Conservancy web page is www.wvhighlands.org.

WHAT'S BENEATH

God forgive them, for they know not
what they do. Jesus Christ

these men
who strip earth's skin
do so to feed their families
to replace the rotted deck
on Pap's porch
to buy canning jars for Ma Mau
to pay tuition
so their children
do not have to destroy to survive
so they can become
dental technicians, nurses, teachers...

....they cannot be conscious
of the carnage;
how could they?
these God fearing men
these hunters
these mountaineer fans
these good old beer drinking boys
with hound dogs,
hunting buddies,
and families they dearly love

—living on earth's face
oblivious
to what's truly beneath
the surface

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.

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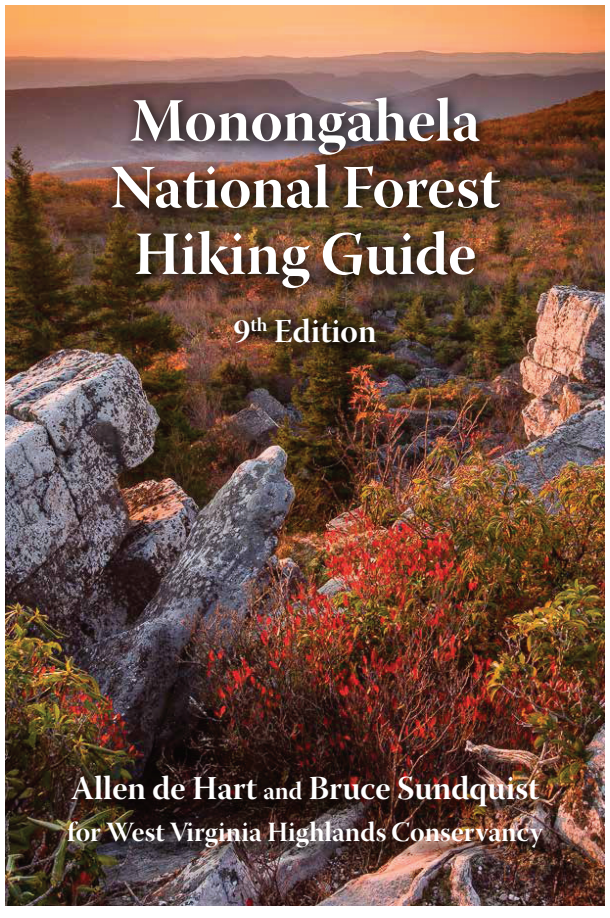
Mon National Forest Hiking Guide

Celebrating the 50th anniversary of the West Virginia Highlands Conservancy, the new edition of the treasured guide to every trail in the Monongahela National Forest features brand-new topographic maps and Kent Mason's gorgeous photos, all in color.



The Guide has been updated with the cooperation of National Forest District Rangers and Recreation Specialists to reflect changes in the past ten years:

* newly designated wilderness areas
* new trails near campgrounds and sites of special significance
* a new complex of interconnected trails on Cheat Mountain
* rerouted and discontinued trails
* ratings for difficulty, scenery, access to water, and much else

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; as well as sources of further information on the Forest and its environs.

The Monongahela National Forest has long been known as a 'Special Place'. The hiking, backpacking, 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.

Profits 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
OR
Order from our website at
www.wvhighlands.org

The Highlands Voice: It's Not Just for Reading Any More

The Highlands Voice is the main way that the West Virginia Highlands Conservancy communicates with its members. But we would like to communicate with more than our members. We have a valuable perspective and information; we would like to communicate with everybody. We still offer electronic delivery. If you would prefer to receive it electronically instead of the paper copy please contact Dave Saville at WVHC50@gmail.com. With electronic delivery, you will receive a link to a pdf of the Voice several days before the paper copy would have arrived.

No matter how you receive it, please pass it along. If electronically, share the link. If paper, hand it off to a friend, leave it around the house, leave it around the workplace. It's not just for reading. It's for reading and passing along.

BUMPER STICKERS

To get free ***I ♥ 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 that will be gratefully accepted.)

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 M-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

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 I ♥ 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