

West Virginia Highlands Conservancy
 PO. Box 306
 Charleston, WV 25321

Non-Profit Org.
 U.S. Postage PAID
 Permit No. 300
 Elkins, WV



The Highlands Voice

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

Volume 56

No. 10

October 2024

Dolly Sods Wilderness Stewards Receive Spirit of West Virginia Award

By Olivia Miller

The West Virginia Highlands Conservancy is proud to announce that West Virginia Tourism has awarded its Dolly Sods Wilderness Stewards program the Spirit of West Virginia Award. This award is presented to organizations that have made outstanding contributions to promoting and enhancing West Virginia tourism while preserving the state's cultural, historical, or natural heritage.

Established in 2021, the Dolly Sods Wilderness Stewards program was created in partnership with the Monongahela National Forest in response to a surge in visitation and the resulting



Wilderness Stewards evaluate campsites along Big Stonecoal Trail in Dolly Sods Wilderness Area. (Photo by Jill Watkins)

impact on the wild natural areas found in Dolly Sods Wilderness. Since then, over 100 dedicated volunteers have worked to ensure that visitors can enjoy the breathtaking beauty of Dolly Sods while maintaining its wilderness character. The program includes visitor education, Leave No Trace principles, trail maintenance, and solitude monitoring to safeguard this unique ecosystem for future generations.

“This award is testimony to the enormous contribution made to Dolly Sods by our volunteer Stewards over

continued on page 3

What's inside:

Thoughts From Our President	2	Full Court Pressure on South Fork Cherry	5	Tucker County's Home-Grown Economy	11
Hurricane Helene: How You Can Help	2	The Forest Restoration Pretense	6	Become a WVHC Member!	11
Lexington Coal Litigation Update	3	WVHC 2024 Fall Review	9	Mon National Forest Hiking Guide	12
WVHC Store Catalog	4	Be on the Lookout for Snakes	10		

Visit us on the web at wvhighlands.org Find us on Facebook

Thoughts From Our President

By Marilyn Shoenfeld

Fall is here and the leaves are changing. It is absolutely beautiful—our calendars have been full with our favorite festivals like Leaf Peepers, the Forest Festival and Artober! Maybe the drought has lessened, but we will wait to hear from the United States Drought Monitor.

Our hearts break for all in Florida, North Carolina, Virginia and Georgia who have suffered catastrophic damage from rainstorms caused by Hurricane Helene. Please support any rescue operations that you can. There are trucks that have already left Canaan Valley to bring supplies and lend hands to hard hit areas. Communities are pulling together to assess damage and rebuild. In this issue, you will find a helpful list of resources compiled by our friends at Appalachian Voices. As climate change continues to wreak havoc on our environment, we have to increase our efforts to restore balance to our earth. The West Virginia Highlands Conservancy would welcome any volunteers who want to work on climate change with us.

I would like to congratulate Dave Johnston and the Dolly Sods Wilderness Stewards for winning the Spirit of West Virginia Award, given by the West Virginia Department of Tourism. This program educates visitors to the Dolly Sods area and promotes Leave No Trace principles. It is well deserved and is making a difference at the Dolly Sods

trailheads. In just a few short years, the program has grown to include hundreds of volunteers who love Dolly Sods. The support for the program has been remarkable, and I am excited to watch the Dolly Sods Wilderness Stewards expand in the future to make an even bigger impact on the Highlands.

Our staff has been busy with successful outings this fall and we look forward to another successful program next year. Our Fall Review is coming up soon—please attend if you can. It is at Cacapon State Park in Berkeley Springs. There will be live music, engaging presentations, networking opportunities and so much more! We have planned an exciting program that will give an overview of the state of our beloved Highlands.

This year's Fall Review will provide a unique opportunity to delve deeper into the ongoing work being done to protect the Highlands and to ask questions about the challenges and successes in environmental advocacy. Whether you're a longtime supporter of conservation efforts or new to the movement, Saturday's sessions will offer valuable insights into how you can make a difference. We look forward to welcoming you to what promises to be an engaging and inspiring weekend at Cacapon State Park!

Please email me with any questions or concerns at marilyn.shoenfeld@gmail.com.

Catastrophic Impacts from Hurricane Helene Devastate Appalachia—Find Out How You Can Help!

From our friends at Appalachian Voices: Over a period of three days, Southern and Central Appalachia experienced unprecedented rainfall from a combination of an historic rain event and Hurricane Helene. Catastrophic flooding, landslides and extreme wind gusts ravaged the region. Entire towns were isolated by flooding and landslides, which destroyed roads and bridges and severed power and phone service. Reports indicate that some areas received up to 30 inches of rain.

Access to these areas is gradually being restored, as roads are being repaired and power and cell service is being reconnected, but the impacts were widespread and many communities still remain cut off. It will take months — or perhaps years — for these communities to recover from the damage.

Appalachian Voices has created an online list of resources so that you can help during this difficult time. We welcome updated information on places that are accepting donations, if you would like to contribute, please email us at: floodresources@appvoices.org.

Visit <https://appvoices.org/helene-relief/> or scan the qr code to donate or find ways to volunteer.



THE WAY THE VOICE WORKS

The Highlands Voice is the official publication of the West Virginia Highlands Conservancy. While it is the official publication, every story in it does not represent an official position of the Conservancy. While all of our members share the general goal “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,” our members often have differing views upon the best way to do that.

As a result, stories in The Voice often reflect different points of view. The Conservancy itself, however, only speaks through its Board. The only stories that reflect the official policies of the Conservancy are those reporting Board actions, including litigation positions we have taken, comments on proposed regulations, etc.

Dolly Sods Wilderness Stewards Receive Spirit of West Virginia Award

continued from page 1

the past three years,” said Dolly Sods Wilderness Stewards Coordinator Dave Johnston. “And it reflects recognition that the long-term success of a state economy increasingly based on tourism must support the sustainability of the natural resources that attract visitors. We look forward to continuing our efforts to maintain and enhance West Virginia wilderness.”

A key component of the program is the Trailhead Stewards initiative, where volunteers are stationed at popular trailheads during peak seasons to greet and assist visitors. Trailhead Stewards provide valuable information about wilderness ethics, trail conditions, and safety tips, ensuring that every visitor

to Dolly Sods has the knowledge they need to explore the wilderness responsibly. The Stewards have also been involved in essential conservation tasks, including trail maintenance, campsite inventories, and solitude monitoring to track visitor interactions and maintain the wilderness experience. A new initiative, funded with the support of the Appalachian Stewardship Foundation, will send Backcountry Stewards in to work with visitors on the trails and camping areas within the wilderness.

The Spirit of West Virginia Award recognizes organizations that not only promote tourism but also enhance community pride and the local environment through imaginative and in-

novative development. The Dolly Sods Wilderness Stewards program embodies these ideals, demonstrating a powerful model of conservation through collaboration between volunteers, government agencies, and local communities.

As the Dolly Sods Wilderness Stewards Program continues to grow, the West Virginia Highlands Conservancy is actively seeking new volunteers who are passionate about wilderness preservation and outdoor recreation. Whether you are interested in educating visitors, maintaining trails, or helping monitor the wilderness,



DSWS Coordinator Dave Johnston and WVHC Board Member Luanne McGovern accept the Spirit of WV Award.

your contribution can make a lasting difference. For more information on how to get involved, please visit our website wvhighlands.org

Lexington Coal Litigation Update

By Cindy Rank

We have an update from our legal team about recent developments in the Clean Water Act (CWA) and Surface Mining Control and Reclamation Act (SMCRA) enforcement action against Lexington Coal at two of its mines in Mingo County.

Since filing the original complaint in August 2019 (that's right, 2019) we have had several favorable findings by the Court. Nonetheless, despite a couple contempt findings, and ongoing efforts to encourage the company to adhere to the court ordered requirements to adequately address pollution emanating from the mine sites, even appointing a Special Master to oversee the company's efforts, Lexington continues to drag its feet.

In July, the Court directed the Special Master to provide a report on Lexington's compliance status with its selenium treatment obligations and its ionic toxicity obligations.

The Special Master reported that Lexington had missed multiple deadlines and was not in compliance with the Court's orders.

We were ordered to file a response to the Special Master's report simultaneously with Lexington.

We responded that additional contempt sanctions to the tune of \$2 million were warranted. We reserved the right to request that the Court order Lexington to hire competent engineering consultants if their response warranted it. We also argued to the Court that, if Lexington asserted impossibility as a defense because of its finances, that the Court order it to forfeit its bonds so that DEP could take over.

Lexington responded that it had made good faith efforts to comply and was in substantial compliance. It did not assert inability to comply as a defense.

On September 25, 2024, we had an

oral argument in court about sanctions for Lexington's ongoing contempt. The Special Master made a presentation by video conference, in which he noted the ongoing failure to meet deadlines and lack of competent process engineering.

We responded that the Court should require Lexington to hire a competent engineering firm (with pre-clearance by the Court), but that monetary sanctions were also warranted in order to motivate Lexington and to ensure other defendants take court orders seriously.

Lexington presented a lot of excuses and insisted that they were working hard.

The judge then previewed his ruling from the bench. He told Lexington he was not satisfied with their progress. On selenium, where they are farther along, he announced he is inclined to find them in substantial compliance

but will order them to hire a process engineer to get them across the finish line.

On ionic toxicity, he expressed tremendous dissatisfaction and frustration with Lexington's efforts. He directed them to provide a scientific justification for their belief that habitat improvement will result in narrative water quality standards compliance, directed them to obtain competent engineering assistance, and announced he is likely to impose a contempt sanction greater than his last sanction of \$50,000, but less than the \$2 million we asked for.

An official court order will be forthcoming in the next couple of weeks. We will report on any significant variations or elaborations that may be highlighted in that order.

West Virginia Highlands Conservancy Online Store Catalog

Apparel

- WVHC Cotton Hat (Black or Army Green): \$22.50
- WVHC Hemp Hat (Black or Green): \$25.00
- WVHC 100% Cotton T-Shirts (Coyote Brown, Kelly Green, Navy Blue, Black) Available in XS-XXL: \$22.00
- Black 50th Anniversary T-Shirt with "Celebrating 50 years" logo. Available in Small-XXL: \$20.00
- I Love Mountains T-Shirt Short Sleeve. Available in M-XXL: \$18.00
- I Love Mountains T-Shirt Long Sleeve. Available in S, M, L, XL: \$22.00
- I Love Mountains Toddler T-Shirts. Available in 18-months, 2T, 3T, 4T, 5/6: \$20.00
- Square Black Bandana: \$5.00

Please include \$5.50 shipping for Apparel items

Drinkware

- WVHC Hydro Flask 20 oz. All Around Tumbler (Birch, Indigo, Black): \$35.00 + \$5.50 shipping
- WVHC Hydro Flask 21 oz. Standard Mouth Flex Cap Water Bottle (Pacific, Mesa, Indigo): \$45.00 + \$5.50 shipping

Stickers

- I Love Mountains Bumper Sticker: \$3.00 for one, \$12.00 for 20

Books

- Monongahela National Forest Hiking Guide, 9th Edition: \$21.95 + \$4.87 shipping

To order by mail make checks payable to West Virginia Highlands Conservancy and send to P.O. Box 306, Charleston, WV 25321. Please indicate the item and relevant color and size if applicable. To view and purchase store items online, visit wvhighlands.org



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 two 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.)



Roster of Officers, Board Members and Committee Chairs

PRESIDENT: Marilyn Shoenfeld, Davis, WV
 SENIOR VICE PRESIDENT: Randy Kesling, Bridgeport, WV
 VICE PRESIDENT FOR STATE AFFAIRS: Vacant
 SECRETARY: John McFerrin, Morgantown, WV
 TREASURER: George Hack, Bel Air, MD
 PAST PRESIDENT: Larry Thomas, Circleville, WV

DIRECTORS-AT-LARGE (Terms expire October 2024)

Jackie Burns, Davis, WV
 Cynthia D. Ellis, Red House, WV
 Patricia Gundrum, Charleston, WV
 Buff Rodman, Oakmont, PA
 Bob Marshall, Charleston, WV

DIRECTORS-AT-LARGE (Terms expire October 2025)

Andrew Young, Charlottesville, VA
 George Hack, Bel Air, MD
 Rick Webb, Monterey, VA
 Hugh Rogers, Kerens, WV
 Susan Rogers Rosenblum, Davis, WV

DIRECTOR EMERITUS: George E. Beetham Jr., Glenside, PA

ORGANIZATIONAL DIRECTORS

BROOKS BIRD CLUB: Cindy Slater
 MOUNTAINEER CHAPTER TROUT UNLIMITED: Randy Kesling, Bridgeport, WV
 FRIENDS OF THE CHEAT: Sarah Hinnant, Masontown, WV

COMMITTEE CHAIRS

EXTRACTIVE INDUSTRIES COMMITTEE: Andrew Young, Charlottesville, VA
 PUBLIC LANDS MANAGEMENT COMMITTEE: Larry Thomas, Circleville, WV
 RENEWABLE ENERGY COMMITTEE: Larry Thomas, Circleville, WV
 LEGISLATIVE COMMITTEE: Luanne McGovern, Charleston, WV
 ENDOWMENT FUND COMMITTEE: Larry Thomas, Circleville, WV
 FALL REVIEW COMMITTEE: Jackie Burns, Davis, WV
 RIVERS COMMITTEE: Susan Rogers Rosenblum, Davis, WV
 HIGHWAYS COMMITTEE: Hugh Rogers, Kerens, WV
 GRANTS COMMITTEE: Andrew Young, Charlottesville, VA

MISCELLANEOUS OFFICES

WEB PAGE - DIGITAL PUBLISHING: Dan Radmacher, Roanoke, VA; danrad@mac.com

ADMINISTRATIVE OFFICES

MEMBERSHIP AND OPERATIONS DIRECTOR: Cristyn (Crys) Bauer, Kingwood, WV; crys.bauer@wvhighlands.org
 PROGRAM DIRECTOR AND HIGHLANDS VOICE EDITOR: Olivia Miller, Morgantown, WV; (304) 704-2997; olivia.miller@wvhighlands.org

Send Us a Post Card, Drop Us a Line, Stating Point of View

Please email any poems, letters, commentaries, events, etc. to the Voice editor at olivia.miller@wvhighlands.org or by real, honest to goodness, mentioned in the United States Constitution mail to WV Highlands Conservancy, PO Box 306, Charleston, WV 25321.

Full Court Pressure on the South Fork Cherry River

By Andrew Young

Several developments have unfolded since our last update on the ongoing situation concerning the South Fork Cherry River, though not necessarily for the better. South Fork Coal Company continues to illegally transport coal across the Monongahela National Forest (MNF), openly violating the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the Surface Mining Control and Reclamation Act (SMCRA). This ongoing disregard for federal law, combined with inadequate enforcement from government agencies, has left the river and its surrounding ecosystem at continued risk.

Both state and federal agencies tasked with regulating and protecting these lands have, instead, chosen to facilitate the coal industry's violations. The West Virginia Department of Environmental Protection (DEP), the U.S. Forest Service (USFS), and the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE) have repeatedly allowed these illegal activities to persist when they could easily step in and shut down the offending operations, including Haulroad #2 (O302211) until the company complies with federal law. While the DEP has long been a notorious ally of the coal industry, it is disheartening that under the current presidential administration, federal agencies would rather litigate and delay for as long as possible rather than act in defense of the environment and endangered species.

This delay tactic, employed to avoid confronting the coal industry's destructive practices, is emblematic of the deep-rooted issues that plague the enforcement of laws governing coal mining, public lands, and the protection of endangered species. These challenges persist regardless of which political party is in power. In fact, two federal court cases—filed in late 2023 and early 2024—highlight just how slow

the wheels of justice can turn when it comes to holding companies like South Fork Coal accountable.

One of these cases is against the Forest Service, with motions for summary judgment due by November 26, 2024, and cross-motions and responses expected by January 27, 2025. The timeline stretches further, with final responses to cross-motions due by February 26, 2025, and replies by March 28, 2025. By the time Chief Judge Volk reviews all the materials and makes a decision on summary judgment, more than a year will have passed since the initial filing, and yet no trial date will be set. This delay means that the coal company will have had ample time to continue breaking the law, further damaging the habitat of the endangered candy darter and other vulnerable species in the MNF.

The Forest Service's unwillingness to engage in settlement discussions has only exacerbated the issue, granting South Fork Coal a free pass to continue degrading the MNF's mountains and headwater streams. This behavior is not only unconscionable but also indicative of a broader failure in federal agency leadership. Rather than enforcing NEPA and ESA requirements, they are wasting taxpayer dollars fighting in court, allowing the destruction of public lands to continue unchecked.

Ongoing Violations in the South Fork Cherry River Watershed

Beyond the courtroom, South Fork Coal's facilities continue to oper-



Rocky Run strip mine with the Monongahela National Forest boundary immediately beyond.

ate with blatant disregard for environmental laws like the Clean Water Act (CWA) and SMCRA. The following sections detail some of the most pressing violations at mines within the South Fork Cherry River watershed.

South Fork Deep Mine No. 2

The South Fork Deep Mine No. 2 has been abandoned and sealed for at least 17 years, but it remains a hub of illegal coal mining activity. South Fork Coal continues to use the permit for “ancillary” operations, including the storage of diesel and blasting equipment, employee parking, and housing for a company office trailer. However, the most pressing issue is the permanent acid mine drainage from the wet seal. This discharge is in continuous violation of West Virginia water quality standards, yet DEP has done nothing to enforce compliance.

The company also constructed illegal discharge pipes to bypass the permitted NPDES outfall, which went unnoticed by regulators until a member

of WVHC on a citizen site inspection pointed it out on June 26, 2024. When the issue was raised during an informal conference on the permit renewal, DEP officials admitted that they had never walked the full length of the pipes to sample the water. It is suspected that South Fork Coal removed the pipes after being exposed, but the damage was done and they could not cover up the large hole where water continues to discharge unlawfully off the permit boundary, bypassing the approved NPDES outfall.

This scenario has resulted in ongoing adverse effects on the headwaters of the South Fork Cherry River, a designated critical habitat for the candy darter. Given that the wet seal has been in place for over 17 years, it is unclear how long the illegal discharge has been ongoing, but the environmental impacts are undoubtedly severe.

Rocky Run Surface Mine

continued on page 8

The Forest Restoration Pretense

Avoiding Environmental Oversight in the Monongahela National Forest

By Rick Webb and Andrew Young

These photos (right), dated February 6, 2024, show new logging roads in the North Fork of Cherry River watershed in the Monongahela National Forest. The photos were pseudonymously provided to us on September 25, 2024, along with a message expressing alarm about the lack of project planning and oversight.

Despite the misleading name, the Gauley Healthy Forest Restoration (GHFR) project is primarily a timber project. It involves about 3,000 acres of timber harvest and about 60 miles of road construction for heavy equipment access and log transport. Several hundred acres of the timber harvest will be clear cuts, or “regeneration cuts” in today’s Forest Service terminology.

In conducting its environmental review for the GHFR project, the Forest Service relied on a so-called categorical exclusion (CE) as a basis for not preparing an Environmental Assessment and for limiting public participation in the review process. The CE option is a provision of the Healthy Forest Restoration Act (HFRA) of 2003, a controversial law that was seemingly intended to limit review of timber projects on federal lands. The GHFR project, however, fails to meet even the lax requirements of the HFRA.

Multiple conservation groups have argued that the GHFR project does not qualify for use of a CE, and that a proper National Environmental Policy Act (NEPA) review, with full and open public involvement, is required. In comments submitted to the Forest Service in 2021, the West Virginia Highlands Conservancy argued that the project does not meet specific requirements for use of a CE, including:

- The HFRA requirement that a project “maximizes the retention



Carelessly constructed logging roads in the Gauley Healthy Forest Restoration (GHFR) project area of the Monongahela National Forest. Streams in this area of the Forest support the endangered candy darter and other species that are sensitive to sedimentation, including native brook trout and the eastern hellbender.

of old growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease; considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity...” (FSH 1909.15_32.3; HFRA, Section 603(b)(1)(A)). --- The Forest Service does not explain how its proposed clear cuts maximize retention of old trees or how clearcutting would maintain or restore ecological integrity.

- The HFRA requirement that projects must be designed “to reduce the risk or extent of, or increase the resilience to, insect or disease infestation in the areas” (FSH 1909.15_32.3; HFRA, Sections 602(d) and 603(a)). --- The project is clearly not about disease and insect control. As indicated in documents obtained through FOIA requests, the project area does not have enough insect and disease activity to develop units aimed specifically at treating insect and disease problems.
- The requirement in NEPA’s implementing regulations that prohibits

breaking a connected action into small parts in order to meet the definition of a categorical exclusion and avoid the appearance of significance of the total action (38 CFR 200.3(b)(1)(A)). --- The project is an improper segmentation of the Forest Service vegetation management program in the project area. The GHFR project area is contained within the larger project area of the Cranberry-Spring Creek project. Both projects propose very similar vegetation management activities in the same area at the same time

continued on page 7

The Conservancy's 2021 comments on the GHFR also raised other important issues. As revealed through FOIA requests, multiple Forest Service scientists raised concerns about project impacts during the review process that were removed from final reports or otherwise dismissed without explanation. These included concerns about:

- Long term substantial adverse impacts to watershed hydrology
- Long term substantial impacts to soil properties and productivity
- Impacts to values associated with Wild & Scenic Rivers status
- Lack of rationale for concluding that the project will not harm aquatic life
- Failure to analyze impacts to critical habitat of the endangered candy darter

Concerns about the endangered candy darter are particularly significant, given the critical importance of the North Fork of the Cherry River and the Cranberry River to the somewhat dim prospects for continuation of the species. It's not an overstatement to argue that survival of the candy darter is dependent on National Forest management

The Forest Service is currently proposing or implementing multiple major timber harvest projects in the Monongahela National Forest that have potential to impact the candy darter (GHFR, Upper Greenbrier North, Greenbrier Southeast, Cranberry-Spring Creek, Deer Creek, Sitlington Creek, and maybe others). Additionally, activities on private land are impacting candy darter habitat.

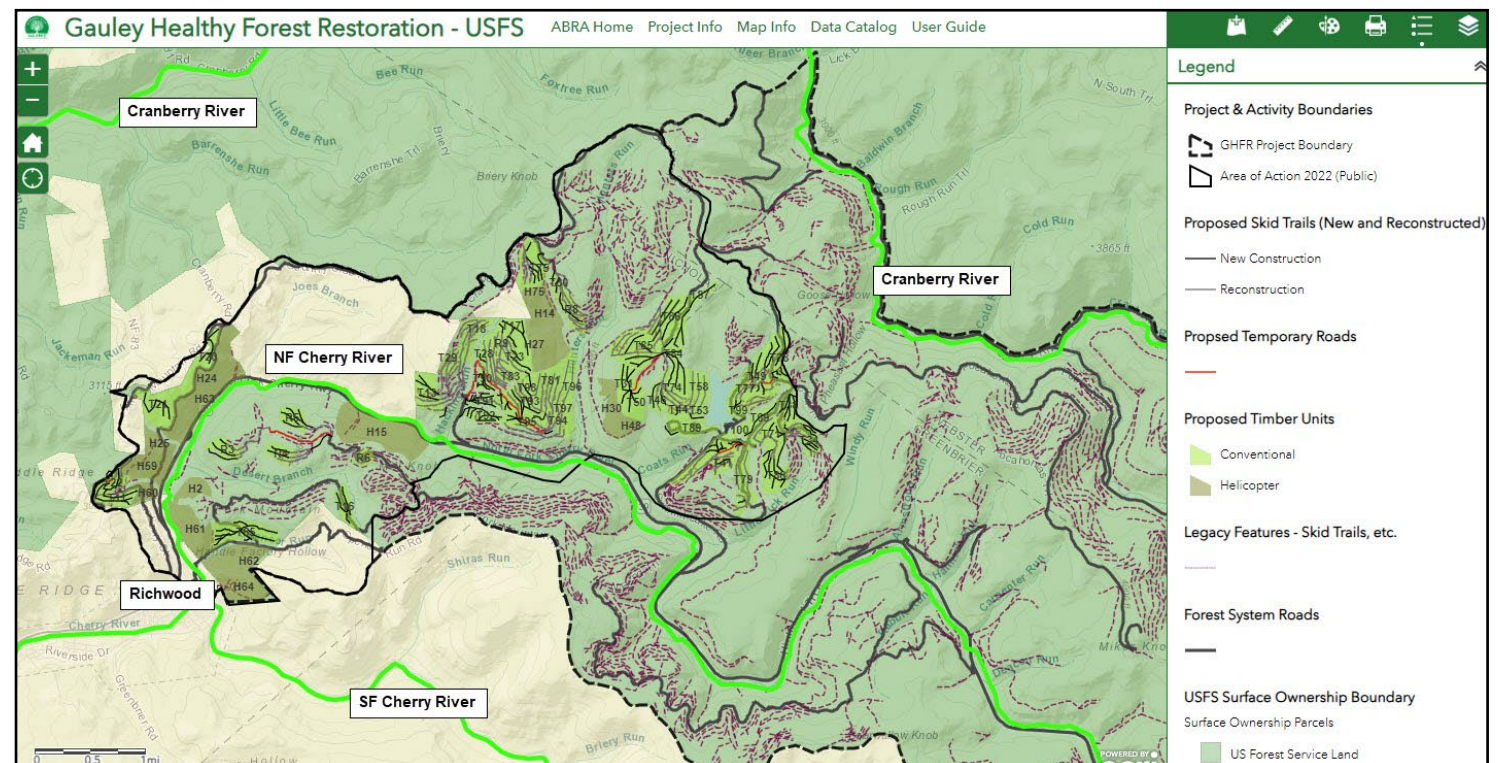
The Conservancy's 2021 comments on the GHFR objected to the general lack of attention given to the candy darter, stating:

Analyses that have been completed to date have not included a thorough investigation of baseline conditions, existing impacts, or potential impacts of projects that are in the planning stage. All of the Forest Service analyses to date have

continued on page 8



February 7, 2024 photo (left) showing logging road and intercepted ground water. September 26, 2024 photo (right) showing the same location.



The main GHFR project area, showing proposed timber units and road construction, old logging roads (legacy features), and designated critical habitat for the endangered candy darter (bright green stream lines). The February 6, 2024 logging road photos were obtained at the westernmost extent of the project. This map, with additional project-related layers and access to project review documents, is online at the Allegheny-Blue Ridge Alliance website (abralliance.org).

Full Court Pressure on the South Fork Cherry

continued from page 5

The Rocky Run Surface Mine is the most active surface mine in the area, and its record of violations is extensive. Since it began reporting discharges from NPDES outfalls in 2023, it has violated its Clean Water Act effluent limits at least twelve times as of July 2024. Without intervention, these violations will likely continue. The situation is further complicated by South Fork Coal's consistent history of SMCRA violations.

On August 22, 2024, DEP issued a violation to South Fork Coal for failing to prevent erosion in the permit area. Just five days later, another violation was issued for failing to reclaim the permit area in accordance with regulatory requirements. Shortly after that, a third violation was issued for conducting mining activities outside of bonded and permitted areas. Most recently, on September 25, 2024, DEP cited the company for failing to construct and certify several critical conveyance ditches as required by the approved mining plan. Despite these ongoing violations, DEP has proven incapable of ensuring the company's compliance, allowing the damage to continue.

Lost Flats Surface Mines

Lost Flats Surface Mines is another site of ongoing environmental violations, with Outfall 032 being a particularly egregious offender. From March 2020 to May 2024, this outfall violated its Clean Water Act permit limits for iron 32 times, which means it is almost constantly discharging non-compliant water. Despite this chronic toxic mine drainage issue in a native brook trout stream, enforcement remains nonexistent.

The site has also been subject to a Failure to Abate Cessation Order (FTACO) due to South Fork Coal's failure to meet revegetation requirements under federal and state surface mining laws. The FTACO remains in effect to this day, yet DEP continues to treat the violations with minimal urgency and

lets SF Coal continue operating elsewhere before completing reclamation on Lost Flats. In July 2024, the company was also cited for failing to meet sediment control and water retention structure certification requirements, yet it remains unclear whether any significant enforcement action will follow during the upcoming "Show Cause" process.

Blue Knob Surface Mine

The Blue Knob Surface Mine is another notorious violator of both the Clean Water Act and SMCRA. The mine has consistently discharged non-compliant water from multiple outfalls into waterways such as Becky Run, the South Fork Cherry River, Middle Branch, Cold Knob Branch, and Laurel Creek, all of which are habitat for native brook trout and include candy darter critical habitat. From 2019 through July 2024, SF Coal violated its Clean Water Act permit limits 31 times and failed to submit the required whole effluent toxicity testing on 25 separate occasions.

These violations have contributed to the permanent stream degradation in documented native trout habitats. Becky Run, in particular, is both a documented trout stream and listed as impaired for iron (trout) on West Virginia's 303(d) List of impaired waters. The continued pollution of these waterways represents a significant threat to the region's aquatic life and overall ecosystem health.

Laurel Creek Contour Mine

The Laurel Creek Contour Mine faces severe enforcement action due to its egregious and ongoing violations of SMCRA. The mine has accumulated nearly six figures in civil penalties, which South Fork Coal has yet to pay. As a result, the permit is in the "show cause" process, meaning that no new permits can be issued to the company until the fines are paid. However, given DEP's lack of strong enforcement, it is

unlikely that the company will face any meaningful consequences.

Conclusion

The South Fork Cherry River and its surrounding watershed are facing a serious environmental crisis due to South Fork Coal Company's persistent violations of federal and state environmental laws. With both state and federal regulatory agencies failing to enforce the laws designed to protect these lands and waters, the damage continues unabated. The systemic failure to hold South Fork Coal accountable for its actions underscores a broader problem in the regulation of coal mining in the region and the permanent acid

mine drainage issues present in the coal seams here.

As these violations continue, the critical habitats of endangered species, such as the candy darter, and valuable public lands like the Monongahela National Forest remain under threat. Urgent and decisive action is required to halt these illegal activities, enforce compliance with environmental laws, and ensure that the coal industry does not continue to operate with impunity. Without stronger enforcement, the destruction of these ecosystems will continue, with lasting consequences for the region's biodiversity and environmental health.

Avoiding Environmental Oversight in the Monongahela National Forest

continued from page 7

relied on Best Management Practices and unsupported assertions to reach conclusions of "not likely to adversely affect," without providing any data, evidence, or reasoned rationale to support the effectiveness of BMPs and the conclusions regarding effects on the candy darter. Each of these projects, including GHFR, should be analyzed using real-world data on the likelihood of short-term and long-term sediment production, soil base cation depletion, hydrologic disruption, and the impacts such perturbations are likely to have on candy darter populations. Finally, the Forest Service should conduct an analysis of the cumulative impacts of all of these public and private land activities on the long term viability of the candy darter.

To date, however, it's hard to identify any meaningful change in Monongahela National Forest management practice that has occurred in response to endangered species designation for the candy darter. Business as usual does not bode well for this disappearing species. The Conservancy contin-

ues to advocate for forest management focused on watershed and ecosystem integrity, and we are engaged in review of multiple Monongahela National Forest projects. We are also engaged in a legal challenge to the Greenbrier Southeast project due to Forest Service failure to properly assess the environmental baseline before approving the project.

Concerning the GHFR, the Conservancy has resorted to FOIA requests and a lawsuit to obtain access to critical project information and plans. The Conservancy currently has a petition in federal court, asking the court to require the Forest Service to provide implementation plans for the project. With additional FOIA requests, we are seeking access to project status reports, timber unit and road inspection reports, and timber and construction contracts.

We are also seeking environmental survey and monitoring data, including water, soil, and aquatic life and habitat.

WVHC 2024 Fall Review

Members and friends of the West Virginia Highlands Conservancy: We are excited to invite you to our Annual Fall Review to explore and celebrate conservation efforts throughout the West Virginia Highlands at **Cacapon Resort State Park in Berkeley Springs on October 18-20.**

The West Virginia Highlands are a region steeped in rich history and natural beauty, with old and mature forests, scenic vistas, and diverse natural wildlife. However, it is also a region facing significant environmental challenges, such as the construction of Corridor H and the potential loss of natural habitat.

To address these challenges, it is essential to explore the region's past and present conditions, including its history, current conservation efforts, and how communities and local economies are responding to the ever-changing environment. Speaker sessions will explore these topics and more.

This year's Fall Review is a fantastic opportunity to connect with fellow WVHC members, learn about our ongoing projects, and share your passion for preserving West Virginia's natural beauty! Registration for the Fall Review is now open at <https://bit.ly/WVHCFallReview2024>. We look forward to seeing you there and making this year's Fall Review our best one yet!

Agenda

Day 1 - Friday, Oct. 18

- 6-9 p.m. Registration with networking, hors d'oeuvres, and music by All Grassed Up

Day 2 - Saturday, Oct. 19

- 9:30-9:40 a.m. Welcome with WVHC President Marilyn Shoenfeld
- 9:40-10:25 a.m. Session 1: Overview of the Highlands with Jim Van Gundy
- 10:45-11:40 a.m. Session 2: Mature and Old-Growth Forests of the Highlands with Ecologist Doug Wood and WVU Associate Professor of Biology Eddie Brzostek
- 11:40 a.m. - 1 p.m. Lunch (on your own)
- 1 - 2:15 p.m. Session 3: The Joy in Highlands Protection and What's Next with WV Land Trust Executive Director Brent Bailey, The Nature Conservancy Director of Land Management and Stewardship Mike Powell, and West Virginians for Public Lands Coordinator Mike Jones
- 2:15-2:35 p.m. Break
- 2:35-3:20 p.m. Session 4: Corridor H: A 50-Year Battle to Protect the Highlands with WVHC Highways Committee Chair Hugh Rogers and Corridor H Alternatives founder Pam Moe
- 3:20-3:40 p.m. Break
- 3:40-4:55 p.m. Session 5: The Emerging EcoTourism Economy in the Highlands with Still Hollow founder Athey Lutz, Blackwater Outdoor Adventures owner Darci Macur, and Blackwater Outdoor Adventures Operations Manager Liz Moore
- 5 - 7 p.m. Dinner (on your own)
- 7 - 8:30 p.m. Film Screening: Running for the Mountains

Day 3 - Sunday, Oct. 20

- 10 a.m. - 2 p.m. WVHC Annual Membership Meeting (Election of Officers) and Quarterly Board of Directors Meeting

Session Descriptions and Speaker Information

Session 1: Overview of the Highlands with Jim Van Gundy

Dr. Jim Van Gundy, author of "The Nature and Scenery of the WV Highlands" will provide an overview of the region: its history, geology, waters and unique ecosystems. The audience will gain deeper appreciation of why the WV Highlands are important sources of biodiversity and how they have demonstrated resiliency in the face of decades-long threats to their sustainability.

Session 2: Mature and Old-Growth Forests of the Highlands with Ecologist Doug Wood and WVU Associate Professor of Biology Eddie Brzostek

As scientific evidence mounts on the role that old-growth forests play in carbon sequestration and preserving biodiversity, it is becoming increasingly difficult for their harvesting to be justified for management reasons. Little remains of the virgin forests of West Virginia, and many across the nation are advocating for the conservation of "mature" secondary growth under the proposal in addition to "old growth." Join us as we seek to understand the nuances of old and mature forests, and the impact that the recent directive by the Biden Administration to conserve these ancient forests could have at home and nationwide.

Session 3: The Joy in Highlands Protection and What's Next with WV Land Trust Executive Director Brent Bailey, The Nature Conservancy Director of Land Management and Stewardship Mike Powell, and West Virginians for Public Lands Coordinator Mike Jones

At the heart of our work is the belief that we are not alone in our mission to conserve and protect the precious mountains and streams of the region. By working with a diverse range of organizations, we can bring together different perspectives and unique skillsets to achieve our shared goals. In this session, we will explore the work being done by various groups in the region and shine a light on their successes and challenges. Whether you're a seasoned conservationist or just starting to explore this critical issue, this session will leave you inspired and motivated to join the effort to protect the West Virginia Highlands for generations to come.

Session 4: Corridor H: A 50-Year Battle to Protect the Highlands with WVHC Highways Committee Chair Hugh Rogers and Corridor H Alternatives founder Pam Moe

As construction on the final two sections of Corridor H looms, the West Virginia Highlands Conservancy continues to mobilize its members to advocate for thorough environmental review and compliance and a route that ensures the least environmental impact. This session will cover a brief history of Corridor H, including WVHC and partner group's opposition to the project, and dive into the complexities of the current struggle to route the highway away from unique cultural and natural resources in the Monongahela National Forest.

Session 5: The Emerging EcoTourism Economy in the Highlands with Still Hollow founder Athey Lutz, Blackwater Outdoor Adventures owner Darci Macur, and Blackwater Outdoor Adventures Operations Manager Liz Moore

As resource extraction and refinement began to decline, the Highlands region of West Virginia has shifted to an economy where communities can thrive from green energy and ecotourism. This interactive session will help better understand how local companies have made great movements toward a West Virginia economy supported by Ecotourism and Green Infrastructure: bringing together environmental, social, and economic cycles to revitalize local communities.

Register for the Fall Review at <https://bit.ly/WVHCFallReview2024>

Be On the Lookout for Snakes as You Work and Play in West Virginia

By Larry Thomas

We are lucky to live and play in the wild and wonderful state of West Virginia, which is full of abundant wildlife. We will all, at some point, see snakes living in our abundant wildlife habitat. Here are a few things to be aware of as we navigate in their habitat.

Most West Virginia snakes are harmless and so important to the ecosystem. Only two of West Virginia's 20 snake species are venomous: the timber rattlesnake and the northern copperhead. Even the venomous species are not particularly dangerous unless stepped on or otherwise provoked.

Most snakes we are likely to encounter will be non-venomous. By recognizing both venomous and non-venomous snakes and understanding some of their habits, we can take a much more relaxed attitude toward them and appreciate them as an integral part of West Virginia's wildlife. This website provides photos and information of every snake species in West Virginia (<https://bit.ly/SnakesofWV>).

What to do if you see a snake?

What should you do when you come into contact with a snake? The best thing is to stand back and observe it. Snakes don't purposefully position

themselves to frighten people. They'd much rather avoid encounters and usually will flee. You can try to figure out what kind it is by the characteristics of the species such as geographical location, color and pattern of markings on the skin, the habitat where you find the snake, the size of the snake, and the shape, texture, and behavior can all help you identify the snake. To tell venomous snakes from non-venomous snakes carefully observe the following:

- Look at the shape of the head: Venomous snakes have triangular-shaped heads, while non-venomous snakes have round heads.
- Check the scales: Venomous snakes have keeled scales (ridged down the middle), while non-venomous snakes have smoother scales.
- Observe the pupils of the eyes: Venomous snakes have vertical or elliptical pupils, while non-venomous snakes have round pupils.
- Look for pits around the nostrils and eyes: Venomous snakes have pits, while non-venomous snakes do not.

What to do if you get bitten by a venomous snake while adventuring outdoors?

This website provides great in-

formation noting the dos and don'ts for snake bites (<https://mayocl.in/3zNW0Mv>).

There is no good reason to kill a snake except in the unlikely situation of a venomous snake posing immediate danger to people or pets. Snakes usually bite people only if they are molested; it's their only means of self-defense. Even a venomous snake in the woods or crossing the road poses no threat and should be left alone. Also, most larger snakes travel in large areas, so one you encounter in your yard today may be far away tomorrow.

Reasons Why Snakes Are Important for Our Ecosystem

- It is not true that the best snake is a dead snake, and here is why:
- Snakes are natural predators of rodents, insects, and other small animals...
- Some species of snakes play a crucial role in seed dispersal...
- Snakes are an important source of food for many other animals...
- Some species of snakes are considered indicator species...
- Snakes have been used in tradition-

al medicine for centuries...

- Snakes are a popular attraction for ecotourists...
- Snakes are an important part of the biodiversity of our planet...
- Snakes have played an important role in many cultures throughout history...

In conclusion, snakes are an integral part of West Virginia's wildlife, contributing significantly to the ecosystem. While the presence of snakes, including the venomous timber rattlesnake and northern copperhead, may cause some concern, most species are harmless and play vital roles in controlling pest populations and maintaining ecological balance. By learning how to identify snakes and respecting their natural behavior, we can safely co-exist with them while appreciating their importance.

Remember, snakes are not aggressive by nature and will avoid humans when possible. It's important to observe them from a distance, avoid unnecessary harm, and understand their value in the wild and wonderful state of West Virginia.

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 for years to come.

Your thoughtful planning now will allow us to continue our work to protect wilderness, wildlife, clean air and water and our way of life in the mountains. Contact crys.bauer@wvhighlands.org

Are you on our email list?

Signing up to receive emails from the West Virginia Highlands Conservancy is your gateway to staying actively engaged in conservation efforts and volunteer opportunities in West Virginia.

Staying informed with our action alerts will empower you to advocate for environmental policies that matter the most.

Sign up today at
bit.ly/WVHCemailsingup



Tucker County's Thriving, Home-Grown Economy

From the Go North Alliance

NEPA (the National Environmental Policy Act) required the Division of Highways to re-examine its preferred route in part because of a "significant change in circumstances." Now, it must find an alignment that will be compatible with a thriving tourist economy.

After decades of economic decline, things have dramatically changed in eastern Tucker County. Our three "gateway communities," Thomas, Davis and Canaan Valley, capture the majority of Tucker County's economic activity.

Tourism is on the rise all over the state, and Tucker County leads the state's robust economy in outdoor recreation and heritage tourism. Thomas and Davis, two rural towns that form one community, have grown economi-

cally and socially in concert over the past 20 years.

With a 10-year growth rate in Tucker County of 198.3% and 698 new businesses (only Jefferson, Berkeley and Summers Counties are ahead of us), we can say, in the words of Governor Justice, "We know how good our pond is and we're proud!"

In 2018 a marketing campaign called Almost Heaven was launched to rebrand West Virginia as "a destination abounding with unspoiled nature, rich history and a peaceful way of life." By the time the Almost Heaven campaign got started, Tucker County had already made a seismic shift - doubling its number of businesses with an economy on the rise. Word had gotten out about this unique situation on our mountaintop

... and people were flocking to the great outdoors and the small local towns.

In fact, the mountaintop was already offering access to each and every outdoor resource that the state was newly promoting with its "rebranding" campaign:

Small Towns, Waterfalls, State Parks, Hiking and Biking Trails, Dark Skies, Historic Resources.

It is imperative that the final choice for the section of Corridor H between Parsons and Davis boost the long-term economy of this critical Tucker County area.

A good question to ask yourself: Would the ROPA alignment (West Virginia Department of Highways preferred route) complement the current economic conditions of the area, or



conflict with them?

This newsletter gives a view of what sustainable home-grown economy - based on its assets - looks like in our community. Next month's newsletter will talk about what "economic opportunity" looks like to the Department of Transportation. It's called "Highway Industry."

Learn more at go-northcorridorh.org

BECOME A WVHC MEMBER

Name _____

Address _____

City _____ **State** _____ **Zip** _____

Phone _____ **Email** _____

Membership categories (circle one)

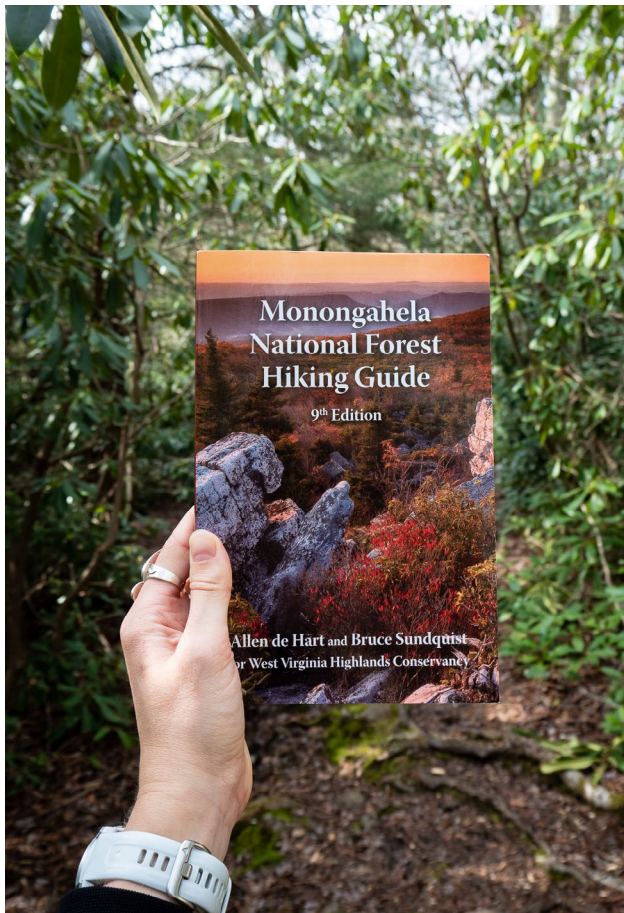
	Individual	Family	Org.
Senior	\$15		
Student	\$15		
Introductory	\$15		
Other	\$15		
Regular	\$25	\$35	\$50
Associate	\$50	\$75	\$100
Sustaining	\$100	\$150	\$200
Patron	\$250	\$500	\$500
Mountaineer	\$500	\$750	\$1000

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

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.

Hit the trails with our 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 \$21.95 plus \$4.87 shipping to: West Virginia Highlands Conservancy, P.O. Box 306, Charleston, WV 25321 OR order from our website at www.wvhighlands.org

Get your I ❤️ MOUNTAINS and WVHC gear at our online store!

Show your love for the mountains with our range of bumper stickers, cotton tees, hats, onesies, toddler tees and Hydro Flasks. Shop now at wvhighlands.org



wvhighlands.org

[@wvhighlandsconservancy](https://www.instagram.com/wvhighlandsconservancy)

info@wvhighlands.org