



West  
Virginia  
Highlands  
Conservancy

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November 3, 2021

Ms. Sarah Dezelin, NEPA Planner  
Gauley Ranger District, Monongahela National Forest  
932 North Fork Cherry Road  
Richwood WV, 26261  
(sent via e-mail to [Comments-eastern-monongahela-gauley@usda.gov](mailto:Comments-eastern-monongahela-gauley@usda.gov))

Re: Scoping Comments for the Proposed Gauley Healthy Forest Restoration Project

Dear Ms. Dezelin:

With this letter, the West Virginia Highlands Conservancy (WVHC) submits its scoping comments on the proposed Gauley Healthy Forest Restoration Project (GHFR). We previously submitted unsolicited scoping comments on this project on February 3, 2021. We appreciate the Forest Service's decision to allow all interested stakeholders to provide input during a formal notice and comment period. The comments in the previous letter and in this letter are based on information made available on the project website, as well as on information contained in the Forest Service's partial response to a July 31, 2020 Freedom of Information Act Request. We received the partial response on November 16, 2020.

Based on our review of the information, we have identified several concerns with the proposed project. Our concerns are summarized below.

**The Project Does Not Fit the Healthy Forest Restoration Act Section 603 Categorical Exclusion**

The Forest Service has proposed categorically excluding the project from documentation in an Environmental Impact Statement (EIS) or Environmental Assessment (EA) using the Categorical Exclusion (CE) established by Section 603 of the Healthy Forest Restoration Act (HFRA), as amended. However, information contained in the project description and in the partial FOIA response suggests that the project does not fit the Section 603 CE.

Of foremost concern is the CE's requirement that a project "*maximizes the retention 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)). As noted in the project description and the information contained in the FOIA response, the proposed project includes 350 acres of clearcuts. None of the information that was provided to us provides an explanation of how the proposed clearcuts fit the requirement to maximize retention of old-growth and large trees, nor does the information explain how clearcutting would maintain or restore ecological integrity, structure, function, composition, and connectivity. Under natural conditions, mixed hardwood forests of the Monongahela National Forest are dominated by uneven-aged, old-growth stands (see Monongahela National Forest Final Environmental Impact Statement for Forest Plan Revision, USDA Forest Service 2006, p. 3-108). While clearcutting may meet objectives established for timber production or habitat enhancement for early successional species, it does not constitute ecological restoration in the forest types of the project area. Therefore, the inclusion of substantial amounts of clearcutting precludes the use of the Section 603 CE.

Also concerning is the apparent lack of actionable insect and disease activity in the project area, and the lack of a convincing argument that the proposed activities would reduce vulnerability to future insect and disease outbreaks. The Section 603 CE is intended to be used for *“a project that is 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)). Information contained in the FOIA response states that the project area does not have enough insect and disease activity to develop units aimed specifically at treating insect and disease problems (see November 5, 2019 meeting notes in FOIA response pp. 50-53). The vegetation effects analysis says that less than 25 percent of the volume to be removed in thinning harvests and less than 10 percent of the volume in clearcut harvests would consist of dead and dying trees (see FOIA response pp. 503-513). The description of the integrated pest management (IPM) strategy asserts that the proposed harvests are part of the IPM strategy because they would remove diseased and infested trees and promote young trees that are less susceptible (FOIA response p. 487). But no rationale or citations are offered to support this conclusion, which would seem to be at odds with the other statements indicating that widespread insect and disease activity is not occurring or threatening to occur in the project area. This information suggests that the project is not specifically aimed at controlling insect and disease problems, and therefore should not be covered under the Section 603 CE.

### **The Project is an Improper Segmentation of the Vegetation Management Program in the Project Area**

The GHFR project is contained within the project area for the larger proposed Cranberry-Spring Creek Project. The two projects propose very similar vegetation management activities in the same area at the same time. The attempt to categorically exclude the GHFR project is an improper segmentation of the vegetation management program in the area, which is disallowed under NEPA’s implementing regulations for categorical exclusions (CATEX) at 38 CFR 200.4(b)(1)(A):

*“The action has not been segmented. Determine that the action has not been segmented to meet the definition of a CATEX. Segmentation can occur when an action is broken down into small parts in order to avoid the appearance of significance of the total action. An action can be too narrowly defined, minimizing*

*potential impacts in an effort to avoid a higher level of NEPA documentation. The scope of an action must include the consideration of connected, cumulative, and similar actions.”*

To maintain compliance with this regulation, the Forest Service must include all similar and contemporaneous proposed management activity in the area in one Environmental Assessment (EA) or Environmental Impact Statement (EIS).

### **The Effects Analysis Indicates the Potential for Significant Effects to Several Resource Areas**

For some resource areas, the FOIA response contained two substantially different versions of the effects analysis, one presumably older analysis that identified serious concerns, and another presumably newer analysis that minimized those concerns or ignored them entirely. The available information gives no indication that the project design was changed to address the concerns, and the second versions of the reports contain no objective information or rationale to support the conclusion that the problems do not exist or are not significant (in contrast to the well-referenced, logically-supported conclusions in the earlier versions).

- The first hydrology analysis indicates long term substantial adverse impacts to watershed hydrology, whereas the second report downplays the impacts.
- The first soils report indicates long-term substantial adverse impacts to soil productivity due to skid roads, and acid deposition/nutrient depletion impacts related to soil disturbance, timber removal, and burning of brush piles. The second soils report glosses over these impacts.
- The first Wild & Scenic Rivers (WSR) analysis gives the impression that the project could impact the Outstandingly Remarkable Values of the WSR-eligible North Fork of the Cranberry, whereas the second version of the WSR report contains a conclusory statement that the WSR-eligible segment would not be impacted.
- The aquatic organisms analyses do not have conflicting versions, but the conclusions reached about lack of effects are largely lacking supporting evidence and reasoned rationales. This is especially true of the effect determination for the endangered candy darter. The conclusion of “not likely to adversely affect” appears to be at odds with the grave concerns raised by the hydrology and soils analyses.

### **An Analysis of Cumulative Impacts on the Candy Darter is Needed**

The Forest Service is currently proposing or implementing seven major projects on the Monongahela and Jefferson National Forests that have the potential to impact the Endangered candy darter and/or its designated critical habitat (GHFR, Greenbrier Southeast, Cranberry-Spring Creek, Upper Greenbrier North, Williams River Road repairs, Deer Creek, and Dismal Creek). One other proposed project on the Monongahela (Big Rock) was cancelled just before the final decision stage. Additionally, many activities on private land are impacting candy darter habitat. 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 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.

**Conclusion**

Because the GHFR project does not qualify for the HFRA Section 603 CE, and it has the potential for significant effects, particularly on the Endangered candy darter, the project should not proceed under a CE. We request that the project be combined with the Cranberry-Spring Creek project and be re-scoped as one EA or EIS, and that full and open public involvement be conducted.

Should you have questions or wish to discuss these concerns further, please contact Larry Thomas, President of the West Virginia Highlands Conservancy, at 304-567-2602, or [larryvthomas@aol.com](mailto:larryvthomas@aol.com). You may also contact Kent Karriker, Chair of the West Virginia Highlands Conservancy Public Lands Committee, at 304-636-8651, or [bykarriker@suddenlink.net](mailto:bykarriker@suddenlink.net).

Sincerely,



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