



December 1993

Earthkeeping

On the November 3 national PBS program *Earthkeeping*, a senior Kentucky environmental regulator broke the state's "conspiracy of silence" about how Ashland Oil's refinery emissions are making some of their neighbors sick. According to Dan Kash, Kentucky Air Quality Supervisor, Kenova area residents have been suffering "chemical invasion" from the refinery. "In my opinion, it's still going on," Kash said on national TV.

For years, Kenova residents and environmentalists have been saying the same things, but Ashland has been able to sway the opinions of influential people by misinforming the public about the refinery's environmental performance. Because of this, our concerns have not been taken very seriously here.

The only way that Ashland has been able to maintain their image as an environmentally "state of the art" neighbor was by making sure that Kentucky environmental regulators were not free to speak the truth.

For the first time, on the recent PBS show, an ethical Kentucky regulator publicly told the truth. Kash decided that he just couldn't remain silent any longer. Many citizens now fear that Ashland Oil pressure on Kentucky politicians could jeopardize Kash's job.

Ashland officials continue to claim that their pollution problems have been solved, and that their refinery always operates legally. But in late October, their largest refining unit was run illegally for four days with no pollution controls. Even if the company's lawyers can't prevent fines from being levied, the company still will profit more by dumping their poisons into the air, rather than by shutting down until the pollution controls were fixed.

This is the kind of blatant "profits before people" mentality that continues to make some of my friends sick. I don't believe it's a coincidence that two of my Kenova friends had to go to the hospital with lung problems during the recent period that Ashland ran their FCC unit with no pollution controls.

While Ashland has been very busy telling the Tri-State how swell they are, we've been wondering why the refinery doesn't have more back-up pollution control systems, like other large U.S. refineries, and why the company doesn't adequately staff the refinery with enough union maintenance workers.

Yes, Ashland provides many needed jobs, and refinery profits have been strong. But does this mean that the truth must continue to be silenced about the continuing refinery problems and the human suffering they continue to cause?

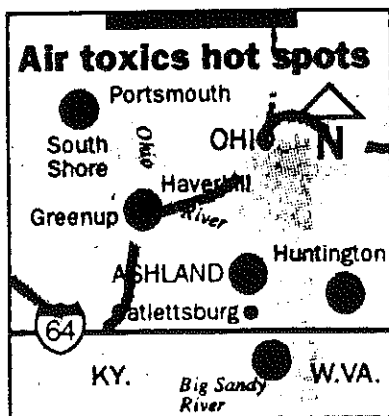
(This piece was rejected as a guest column for the Huntington Herald Dispatch.)

—Dianne Bady

Thanks to the OVEC members and friends who spoke so well on the *Earthkeeping* show: Louise Prince, Diana Bowen, Carol Ramey, Pearl VonderHeide, Frances Cisco, Tina Linville, Isabelle Robinson, Beady Phillips, and Dianne Bady. If you would like to borrow or buy a copy of the video, call Dianne at 614-886-5796 or Janet at 304-525-6984.

Tri-State "Hot Spots"

The Tri-State Environmental (Geographic) Initiative has identified the following five major industrial clusters which have potential high releases of toxic air pollutants: 1) Portsmouth, OH, 2) Ironton, OH, 3) Ashland, KY, 4) Catlettsburg, KY, and 5) Huntington. All of these zones are located along the Big Sandy and Ohio Rivers. The next step in the risk screening project will be to identify the high potential risk/high population zones—the specific communities with the highest health risks from toxic air pollutants.



Independent graphic / Martin

Ashland Oil Permit Writer Visits Kenova

Stuart Ecton, an engineer in the permit division for the Kentucky Division for Air Quality, spent a morning in November touring Kenova. Stuart and I went to homes where citizens receive excessive pollution from the Ashland Oil, Catlettsburg refinery. From time to time, I stopped the car and Stuart would get out, sniff the air and comment that no odors were apparent. At other times, he approached citizens in down-town Kenova and ask them whether or not the quality of their lives had been diminished by having the refinery in their neighborhood; or he would ask them whether or not they noticed odors at night or on week-ends. In addition to down-town Kenova, I took Stuart to homes on Barger Hill, Route 75, and then made a final stop at the Huntington Tri-State Airport control tower.

After the tour, Stuart indicated that he had a much better indication of how pollution from the refinery may have an impact on people who live nearby. The fact that Stuart, a regulator from Kentucky, came to West Virginia and spoke to OVEC members and other citizens about their concerns regarding the refinery is, in itself, significant. It appears that the KDAQ is making an effort to address citizens' concerns before writing a final draft of the overall operating permit for the refinery (Ashland Oil has not had an overall operating permit since 1972, and has been operating the refinery on construction permits and agreed court orders). OVEC appreciates the fact that Stuart took time to gather this firsthand information.

--Janet Fletcher

What Will Happen to Dr. Stockwell? Or What Does EPA Have to Fear?

OVEC representatives who serve on the Citizen's Review Committee of the Tri-State Environmental Initiative are **alarmed** that the much needed personal assistance of Dr. John Stockwell, the only environmental medicine expert in the U.S. EPA (currently serving in Region IV, Atlanta), may be transferred. Dr. Stockwell has developed a unique method for pinpointing communities where human health may be at risk from routine, legal pollution.

When his methods were applied in a six-county metropolitan area in Chattanooga (TN), his report stated that "the highest density of uneducated, low-income and people are precisely those areas where the largest quantities of chemicals which can cause serious environmental diseases are being released" (The Chattanooga Times, Nov. 12, 1993). His controversial findings have sent a shock wave throughout EPA Region IV which now claims to have no need of his services.

While all of us have speculated that it's generally the poorer and less educated nonwhite communities that get dumped on by industry, Dr. Stockwell's tracking method goes beyond speculation. Stockwell uses computer mapping methods, chemical emission data provided by industry, and a ranking system for toxic chemicals (that he developed) to provide a "snapshot" of areas where industrial pollution may pose the greatest risks to public health--out of the realm of speculation and into the arena of science. EPA Region IV's reaction to the Stockwell's Chattanooga study--ship him to another agency in Nowhereland, U.S.A.

In response to this **outrage**, OVEC representatives hand-delivered a letter to Senator Byrd's office during a recent trip to Washington, D.C., urging that our Senator do everything within his power to secure Dr. Stockwell's personal services for the Tri-State Initiative here. OVEC will continue to monitor this attempted hatchet job of Dr. Stockwell.

You know that Dr. Stockwell must be doing something right if EPA Region IV wants him muzzled. What can **YOU** do to help? Call Senator Robert C. Byrd's office (202) 224-3954. Leave a message for Sen. Byrd that air quality problems are continuing in our region and that the Tri-State Environmental Initiative needs the **personal** services of Dr. John Stockwell.



Monthly Kenova Meeting
January 13, 1994
6:30 pm
Kenova Public Library
Everyone welcome



Update--Tri-State Environmental Initiative

In a well-attended October 27, 1993, meeting of the Tri- State Environmental Initiative's Citizen Review Committee, held at Kenova City Hall, Brian Holtzclaw, coordinator for the Initiative (Kentucky Department for Environmental Protection), updated citizens and review committee members on the progress of the Initiative.

Citizens expressed serious concern about a four-day episode in October (October 20-24), when the Ashland Oil Catlettsburg refinery operated the largest unit in the refinery (the FCC Unit) without pollution controls--both the electrostatic precipitator , which controls particulate emissions and the CO boiler, which converts deadly carbon monoxide to carbon dioxide. Neither did Ashland operate the opacity or sulfur dioxide monitors for this unit.

Many citizens spoke, and the message was generally the same -- **IT'S THE REFINERY, STUPID.**

One OVEC member, Donna Kiser, who moved away from her home in Kenova, said that after being away for only seven weeks, she has experienced fewer asthma attacks and has been able to reduce the amount of medication she takes. She also said that she has even been able to discontinue some of the medication altogether. Coverage of the meeting by the Herald Dispatch failed to mention this important point.

Another OVEC member, Lawyer Ratliff, told Mr. Holtzclaw that the KDAQ should put an air monitor on his property during the air toxics study. Lawyer lives on Barger Hill, a ridge area in Kenova hard hit during major pollution episodes. Lawyer also believes that Ashland should buy out the homes of people who live near the refinery and cannot sell because of the heavy pollution.

At times, tempers flared. It is no wonder. For ten years citizens have been asking government regulatory agencies to intervene on their behalf to halt the "chemical invasion" of their community. It's an old problem, but **IT IS STILL OCCURRING.** How much longer will the EPA and the state regulatory agencies allow the refinery to dump on neighboring citizens? It is time more citizens in the community recapture their ability to **SHOUT.**



Dateline Kenova, WV.--OVEC hosts News Conference

On November 30, 1993, OVEC members held a press conference at the Kenova, WV, library. Members Barbara Christian, Carol Ramey, and Jeff Bosley discussed OVEC representatives' trip to Washington, D.C. and recent violations issued by the Kentucky Division for Air Quality to Ashland Oil's Catlettsburg refinery

Barbara said, "We applaud the KDAQ for their diligence in issuing these violations. OVEC believes that the recurring pattern of refinery violations puts human health at risk, and that strong action needs to be taken to reduce these pollution related health threats."

OVEC is asking John Hornback, the Director for the KDAQ to penalize Ashland Oil for these violations in a way that will improve pollution control and prevention at the refinery--rather than issuing a fine that would put money in Kentucky's treasury.

In addition, OVEC has asked that a representative from OVEC be included in initial meetings between KDAQ officials and Ashland personnel to discuss penalties for the most recent violations.

Carol Ramey, who describes herself as a "thorn in the side of Ashland Oil," spoke about her family's health problems and demanded that Ashland be forced into compliance.

"I cannot and will not idly sit by and watch my children, family, and community needlessly suffer. I refuse to allow my children to 'go gently into that good night,'" Carol said.

Regarding five OVEC representatives' recent trip to Washington, D.C., Jeff Bosley stated that the trip was the first step in "enlisting greater support from regional representatives and the U.S. EPA so that DAQ can take stronger enforcement measures when Ashland chooses to ignore current laws like they did in October..." He went on to say it was time for Ashland (Oil) to "put up or shut up about its good neighbor claim."

A lengthy story regarding OVEC's press conference was carried on statewide public radio stations in West Virginia and also received excellent coverage in the Ashland Daily Independent and the Huntington Herald Dispatch as well as mention on two local television stations.

Addington's At It Again

Addington Inc., that irrepressible strip-mine king turned landfill baron, is at it again, this time with plans to build a dock on the Ohio River in Wurtland, KY, to haul in massive amounts of out-of-state garbage.

In an application filed in October with the U.S. Army Corps of Engineer's Huntington District Office, Addington detailed plans for a dock, unloading operation, large rail yard and multiple open storage area at river mile 333.5 (just downriver from DuPont's chemical plant).

Addington Environmental finally got permission last year to open up its Green Valley landfill in Greenup County, KY, after a long, four-year fight by GROWL (Greenup County Residents Opposed to Waste Landfill). When the license was finally granted, Addington officials stated that they would only take waste from the counties in the immediate area. That does not square with the description in the public notice issued by the Corps, which is based on what Addington submitted.

Some of the things Addington wants to handle at its dock include "composting material," (A.K.A. sewage sludge from the East Coast and anywhere else a barge can come from); "soil-enhancing materials" (ditto composting materials); "construction materials and debris" (which could include potentially contaminated building materials); and most ominous of all, "solid and special wastes".

The state defines solid waste as "any garbage refuse, sludge or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (except coal), and from agricultural and community activities."

Special waste is even more broad: "Waste of high volume and low hazard which will include but is not limited to mining wastes (heavy metals contamination); utility wastes (again, heavy metals); sludge from waste treatment facilities and wastewater treatment facilities (New York, New Jersey, etc.); cement kiln dust (heavy metals and hazardous materials); gas and oil drilling muds (possible low-level radioactive contamination problem); and oil production brines."

The question arises, with those two categories, what DOESN'T Addington want to bring by barge or hundred-car rail train to the Green Valley landfill?

OVEC and Greenup County Kentuckians For The Commonwealth members wrote to the Corps, requesting both public meetings and a public hearing; to date, Corps officials have indicated there will be at least one public meeting where residents can question Addington about what exactly their intentions are. There are numerous concerns about the plan, including potential contamination of stormwater runoff into the Ohio River, uncovered storage areas, the site is in a known floodplain, impacts on migratory bird endangered species, and the transportation risks as things are barged along the river and then trucked to Green Valley.

An additional concern is a proposal by a company called Handy Inc., based in Cleveland, to reactivate a disused coal dock a half-mile downstream from Addington's proposed garbage dock. Their plan calls for barging in large quantities of power plant fly ash and similar materials, which will be made into cinder block and similar building materials on site. There have been studies documenting the possible hazards resulting from using waste that is laced with heavy metals to make building materials, and that dock has a long history of violations with the Corps. To date, the Corps has not said if it would be willing to consider the potential impact on the environment of both facilities together.

—Monty Fowler

SOUTHERN APPALACHIAN MOUNTAIN INITIATIVE

The Southern Appalachian Mountain Initiative (SAMI) is an 8 state government funded initiative to recommend measures to protect Southern Appalachian Class I parks and wilderness areas from air pollution damages. SAMI will study ways to identify and remedy existing air-related wilderness problems, and to prevent future problems. OVEC's Kim Baker is serving on the public advisory committee (PAC) of the Initiative, and attended a SAMI conference in Virginia in November. The PAC is charged with soliciting public input into the project. If you are interested in knowing more about SAMI, please call Kim at 522-9562.



The Future of America's Rivers

From November 4-7, I attended "The Future of America's Rivers," sponsored by American Rivers, Inc., held in Arlington, VA. The conference offered various "tracks" so I attended all those dealing with advocacy and grassroots efforts. Attending the conference provided me an opportunity to meet, and begin developing connections with national groups like Greenpeace and River Network.

I spent the first half-day of the conference in a fundraising workshop to discover ways to help increase our local donations. As a result of attending this workshop, OVEC is launching a **Major Donors** campaign (see article in this newsletter).

Another session that was most helpful was entitled "Directing Media to Protect Rivers." Karen Hirsch, from Greenpeace, discussed the how members using videos can help win an issue. She mentioned that while this is an extremely effective tool for activists, she only knew of 3 groups who had used it successfully. I spoke with her afterwards and told her I would be sending her a copy of "Earthkeeping" which showed how citizen activists' "home" videos played a major role in the Kentucky DAQ's decision to require Ashland to install and operate 24-hour video monitoring cameras at the Ashland Oil refinery.

In that same session, I was privileged to hear a most remarkable man, Herbert Chao Gunther, the executive director of the Public Media Center in San Francisco. Public Media Center is an advertising agency that works exclusively for nonprofit and public interest groups. Mr. Gunther said that a successful (media/issue) campaign doesn't make friends.

"It makes enemies. It points a finger, names names and starts a fight. It tells us who's responsible and how to fight back. It tells us which side we're on...groups that don't have enemies are not doing their job."

I like the way this man thinks.

--Janet Fletcher

HEARTS OF SADNESS

Modern foot falls where moccasin fell
Following the paths of yesteryear

Ancient paths of the hunter
The explorer

Their haunting song fading in and
out of recessed memory of times past
As I am accompanied by ghostly
ancestors

Ever vigilant eyes watching
Through flow of tears

Their crying echoing through eons
Bemoaning the atrocities to their
land
The sacred hunting grounds
Polluted to its extinction by ignorance
and greed

The moans of the fathers

Their ancient hearts filled with
sadness at its dying

Lift up your eyes to the heavens
They cry to their heirs
Open your hearts and seek truth

Mother Earth must not die
Sing her song

Beat loudly the drums of longevity
Send forth the arrow of knowledge
Its shaft to penetrate ignorance
Giving rebirth to Celestial love of
our Mother Earth

Sing our song of life
Wrongs done to her reflect back to
man
Her end is also his

Ron Dixon Sept. 1993



West Virginia Environmental Council E-Day!

Thursday, January 27, 1994

This is OUR day at the legislature! This year's theme is "Clean Government, Clean Environment". E-Day! is the day that the environmental community makes its presence known to the lawmakers of the state. Bring family and friends for a day of activities including skits and inspirational speakers beginning at about 10:30 am. For more information, or to arrange carpooling, call Kim at 522-9562!

WEST VIRGINIA WATER QUALITY STUDY COMMITTEE

Governor Caperton's Water Quality Standards Study Committee, a task force set up to study proposed changes to water quality standards governing carcinogenic discharges, has met twice. The committee, with representatives from industry, labor, government and environment (Kim Baker is one environmental rep) is charged with studying the impact of changes proposed by the Water Resources Board.

Two industrial entities seem to be behind the weakening standards: Parsons and Whittemore (P&W) (the company that wants to build a huge paper mill in Mason County), and the Chemical Manufacturers Association (CMA). P&W wants to use the chlorine-bleaching process to bleach their pulp, a process which produces deadly dioxin. The CMA wants to see relaxed standards, claiming that it would allow them to hire more people. Industry wants to turn this into a jobs vs environment issue. They, however, have not been able to tell us how many more people they want to hire, nor in what capacity. P&W won't even talk to us about their plans. The jobs vs environment issue is dead. This is a cancer & profits issue! As profits grow, so do cancer rates!

The West Virginia Environmental Institute will hold a public forum, beginning with a panel discussion, followed by an open forum for citizens to address the issue relating to harmonic mean flow vs 7Q10 (the proposed changes in measuring river-flow to determine how much carcinogens can be discharged into our waters, aka the Cancer Creek Bill). The forum will be January 18, from 7-9pm, in Building 7 of the Capitol Complex in Charleston.

Last minute update! We have just learned that the Mason County Pulp Mill's landfill and NPDES (water) permits will soon go into the public comment period! It's time to mobilize the troops! For more information, call Kim at 522-9562



DIOXIN IN THE NEWS



According to an article in *Science* (November 26, 1993), dioxin has now been linked to endometriosis. The article cites a report published in November in *Fundamental and Applied Toxicology*. *Science* says that "79% of monkeys exposed daily to relatively low levels of dioxin developed the disease."

According to a letter to the March/April 1993 issue of *Sierra* magazine, Alabama Sierrans are battling the state's water quality standards. Alabama has the most lenient water quality standard for dioxin in the U.S. Remember folks, Alabama is the site of Parsons and Whittemore's Alabama River Pulp and Paper Co. The company must LOVE weak standards!

According to *Rachel's Hazardous Waste News* of November 11, 1993, "The American Public Health Association (APHA) on October 27, 1993, unanimously passed a resolution urging American industry to stop using the chemical chlorine." The APHA specifically urges the phase-out of chlorine bleaching at pulp mills. The list of folks against chlorine pulp bleaching is growing!

Remember an announcement in a previous *E-Notes* that reported that President Clinton had issued an executive order that called for government agencies to buy only chlorine-free paper by 1995? *Inside Environment* (November 1993) reports that "This question... is undergoing review." Apparently, the paper industry claims "that an adequate chlorine-free process has not yet been developed." In contrast, *Rachel's Hazardous Waste News* reported on July 1, 1993, that "By the early 1990's ...the German paper industry had achieved totally chlorine free paper production. Today the rest of Europe is not far behind."

A report done by Greenpeace and some women's groups found that chlorine-based chemicals (dioxin, PCB's, DDT, etc.) may be linked to breast cancer. Women with high pesticide levels in their blood and fatty tissues have cancer rates up to 10 times the normal rate.

(The "Chlorine Zero Discharge Act" to which Jack Frazier refers in the following letter was drafted by Representative Bill Richardson (D-NM) and was supposed to be introduced into Congress in July 1993. The bill would amend the Clean Water Act and call for a phase-out of chlorine in the pulp and paper industry within 5 years.)

Dear E-Notes,

I am responding to your September '93 newsletter concerning dioxin in the Ohio from the proposed Parsons & Whittemore woodpulp paper mill at Apple Grove, WV.

If the mill was built this year or even next year, a concern about dioxin is a legitimate worry. But if the "Chlorine Zero Discharge Act" goes into effect as planned, then the major worry of Ohio River residents in WV, OH, & KY will be the clearcutting of our valuable hardwood forests and the resulting disastrous flooding on the Ohio & its tributaries.

--Jack Frazier

Ironton Area Citizens Organize to Get Dump Fire Extinguished

The County Commission said it was the County Health Department's responsibility, the Health Department said the County Prosecutor must take action, the prosecutor said he couldn't do anything because the fire was on private property, the Ohio EPA said it was the county's responsibility, and the feds said they couldn't do anything if the State didn't request their assistance. This maze of government responsibility and accountability is the course through which Lawrence County residents ran to get a fire put out at an illegal dump near Ironton, Ohio.

After weeks of running through this government maze, citizens organized themselves and, with OVEC's participation, insisted on a meeting with all of the possibly responsible entities. The Lawrence County Commission, Lawrence County Sanitarian, Ohio EPA officials, and a representative from Congressman Ted Strickland's office were among the folks who met with the newly formed Extinguish The Fire Organization (ETFO) in November. At that time, the OH EPA announced that the federal government had been asked for assistance. Within just a few days, the feds were on site assessing the situation. They decided the most immediate threat, the smoke coming from the fire, must be suppressed. They put a clay cap over the dump to suppress the smoke, and will monitor the site using infrared photography. If the cap doesn't put the fire out, they will look for some other method to extinguish the fire. After the fire had burned for two months, and monitors showed toxic chemicals in the air, the families living nearest the fire were evacuated, some with only a couple of hours to gather their personal belongings.

While citizens are glad the smoke is no longer a problem at the dump, many questions have arisen which will take some time to answer. What is in the dump? Various people say that industrial waste, medical waste, and municipal solid waste have been dumped at the site, along with demolition materials and auto parts. PCB laden transformers have reportedly been disposed of there, and if so, burning PCB's have been emitting dioxins in the smoke that residents endured for over 2 months. Other rumors indicate that underground coal mine tunnels could fuel the fire, even with a thick layer of clay covering the top. If coal mine tunnels do exist under the site, water contamination could be extensive.

Is the site destined to be a Superfund site? Since the "landfill" never had any permits, it was obviously not lined, nor built according to any environmental regulations. What kind of groundwater and surface water contamination exist due to this Pandora's box of stuff? The Ohio EPA is currently analyzing water from one neighbor's spring and results should be available in a few weeks.

The Ironton dump isn't an isolated instance of illegal dumping of potentially toxic materials. An Ohio EPA official has publicly stated that other illegal dumps exist all over Lawrence County. This appalling situation is not likely to change without organized citizen involvement to demand enforcement of waste laws and regulations.

If you would like more information on this issue, call Kim at 304-522-9562



OTHER LAWRENCE COUNTY ILLEGAL DUMP WOES

About 27 tractor-trailer loads of clothing destined for victims of hurricane Andrew have found their way instead into the Proctorville Ohio area. Porcshia Davis lives next to this lovely rag dump. When Porcshia expressed concern about the pile of clothes catching on fire several times, or attracting rats, the owner covered the rags with dirt. He has since claimed he wants to compost them. Anybody out there ever heard of polyester compost? Last we heard, the Lawrence County Health Department had ordered the owner to remove the pile, but nothing has yet been done.

Ohio Low-Level Radioactive Waste (LLRW) Dump

According to the terms of the Midwest Compact, the state of Ohio would like to take in LLRW from five other states for twenty years. The governor's Blue Ribbon Commission traveled around the state and heard hours of testimonies, and were presented with petitions that were overwhelmingly against the dump. In spite of this, the commission presented its recommendations on siting criteria which consisted of weak Nuclear Regulatory Commission (NRC) regulations and vague references to suitable soil conditions and minimizing upstream drainage. In an effort to stop this disaster from coming to Ohio, the Ohio Environmental Council (OEC) hosted a strategy meeting in Columbus that included 17 members of environmental groups from across the state, including OVEC. Plans were made to have a state-wide petition drive that would be presented to Governor Voinovich and the General Assembly. We are also sending information packets to legislators stating why environmental groups are opposed to the dump. The OEC is scheduling press conferences to further inform citizens about the dangers of the dump. We are planning state-wide demonstrations on the anniversary of the Chernobyl accident on April 26.

--Kathy Smith

STRIP MINE!

The forest is logged. The area bulldozed. Dynamite, D-9s, and draglines tear wounds one hundred feet deep, hundreds of yards wide, and 1/4 mile long into what was once a forest floor. Streams, once clear, run brown, then turn an insidious orange. These are the fortunate ones; other streams are completely obliterated. Haul trucks trudge through orange and gray mud, bogged down by their heavy loads. They carry high sulfur coal, freshly torn from the earth and heading to a local power plant. All this to fuel our society's fossil fuel addiction. Scenes like this scar private lands throughout southern Ohio and the rest of Appalachia. Now, if a large mining company gets its way, and federal agencies refuse to do anything about it, they could scar our national forests across the heartland.

On July 26, 1993, the 6th Circuit Court of Appeals in Cincinnati, Ohio, ruled that Belville Mining has the right to strip-mine 1800 acres of the Wayne National Forest. The company is due to receive its permit for the first 80 acres, known as the Jenkins Tract, from the Division of Reclamation (an arm of the Ohio Department of Natural Resources) within a month. Although the judges gave Belville the rights to the tract by upholding the lower court's decision, they also showed how that right was erroneously granted in the first place. Because the Department of Justice, acting on behalf of the Office of Surface Mining (OSM) and the U.S. Forest Service, did not challenge this particular issue, the judges could only bring it up as a point of interest, and could not consider it in their decision.

The judges found particular language in the deed that conveyed the right to mine to the subsurface rights owner. The language states that the subsurface rights holder can only have the right to surface mine if that holder had mined for at least 100 days per year for 5 years prior to 1989 to commercial advantage. Belville did not meet the requirements because they never mined the area. However, the OSM erroneously granted this right on the premise that Belville had requested a determination for Valid Existing Rights (VER) prior to the '89 deadline. The OSM subsequently reversed its decision. However, the damage was done; Belville immediately filed suit and won. The court said that the OSM couldn't change its mind. The government appealed and when all was said and done, Belville got 1800 acres and several million tons of coal while the forest got the shaft.

Pressure must be focused upon the OSM, the Secretary of the Interior and U.S. Representative Ted Strickland (the politician who represents the area and is leaning toward coal interests although his upset election was due in part to local environmental activists) to enforce the language of the deed. Persistent public pressure can change the fate of this 80 acres of mature hardwood forest.

The remaining 1720 acres have equal potential to be protected. The July 26th decision was not unanimous. Judge Alice M. Batchelder dissented from the inaccurate

opinion of her colleagues. While agreeing with the points above, Judge Batchelder laid down her case against Belville using years of case law to back her up. If Belville attempts to mine these areas, it is very probable that we can win a lawsuit based on the information in this dissenting opinion. In fact, it is vital that we win. The decision that stands sets a horrible precedent for mining in the Wayne and other eastern national forests with outstanding mineral rights. According to Judge Batchelder, "I believe it improper...we today hold that all deeds conveying Ohio land to the Government now incorporated in the National Forests...permit unlimited strip mining by the mineral rights owner." Belville Mining Company, Inc. v. United States 6th Cir. Nos. 91-3623, 91-3651. By establishing new case law we can reverse this precedent.

There are also other routes we can take to see that public land is protected in the future from strip-mining. First of all, we need to see that a responsible person with an appropriate background is appointed as chief of the OSM. Traditionally, coal industry tycoons and OSM higher-ups have been interchangeable. The Secretary of the Interior, not to break with tradition, has nominated Robert Uram, a corporate lawyer for coal companies, for this important position. Please write a personal letter to the Clinton Administration and/or Senator Howard Metzenbaum requesting intervention in this nomination. Second, we need to see that the OSM Chief officially defines VER to rights owners who had permits in place in 1977 (the year the Surface Mining Control and Reclamation Act [SMCRA] was passed and the cut-off for VER). The lack of a clear, appropriate definition of VER within the original version of SMCRA has created many of the problems that led to the current situation. Both strategies are important in the overall protection of public lands from the ravages of strip-mining.

On November 18, a demonstration was held at the Federal Building in Columbus, Ohio, to bring attention to this issue the feds would just as soon sweep under the rug. 25 activists from three states and a stripped mime converged on the building. Unfortunately, we were shut out by the press; fax and personal phone calls could not flush them out of their warm offices. This isn't surprising considering how far the hand of the coal industry reaches into other aspects of Ohio life. We will just have to be a little more colorful and a little more confrontational in future demonstrations to make the point. Call Joe Hazelbaker at 614-459-0675 for more information.

We are fortunate that we have so many simultaneous opportunities before us to see that our national forests are permanently safe from strip-mining. However, it will take public pressure and persistence on our part to see these opportunities seized. Together, we can protect the Wayne National Forest.

—Joe Hazelbaker

OVEC ELECTS NEW BOARD

At our annual meeting in September, we elected our new board. Four members of our previous board will continue to serve: David Duke, Terry Messinger, Dan Kash, and Beady Phillips. Our new board members are Chelena McCoy, Kathy Smith, Jeff Bosley, Carol Ramey, and Laura Forman. Welcome!

DAVID RAMEY - KENTUCKY ADMIRAL

Congratulations to David Ramey, 13 year old son of Carol Ramey, for being designated a Kentucky Admiral by Kentucky Environmental Cabinet Secretary, Phillip Shepherd! Davy, who has suffered a great deal with respiratory problems, certainly deserves this recognition. He has publicly spoken out about the need for clean air, including testifying at a Kentucky Division for Air Quality public meeting, and writing a letter to the editor.

OVEC to Begin a Major Donor's Campaign

A major portion of the good work that OVEC does in the Tri- State region is made possible by national foundation support, but we also rely heavily on local donations. Most foundations expect that grassroots organizations like OVEC receive a significant portion of their budget from local donations. It's important that our local donations increase. Therefore, OVEC is launching a **Major Donor's** campaign.

Who is a Major Donor? For OVEC, a **Major Donor** is any individual or business who donates a minimum of \$100 per calendar year.

What can OVEC do with \$100?

- * Send meeting notices or newsletters to 344 people.
- * Pay for printing 1428 single-sided Fact Sheets at Kinkos or 833 double-sided copies.
- * Buy 14 copies of *Earthkeeping*, the public television video featuring citizen activists and the Ashland Oil pollution issue.
- * Buy and send 526 pre-posted post cards
- * Send 20 single-page fax copies to regulators and/or politicians.
- * Pay registration fees for one and one-third needy youngsters to attend a week of "Web of Life" Nature Camp co-sponsored by OVEC and the Greater Huntington Park and Recreation District.

As you can see, \$100 can go a long way in our efforts to educate citizens and put pressure on agency regulators and elected officials. If you are looking for a tough, local, grassroots environmental justice organization to "invest" in, look no further! If you live in the community, you have a vested interest in the results of our work—cleaner air and water, organized and educated citizens, and greater accountability by industry and government.

If you are willing to become a **Major Donor** to OVEC or know of someone that staff should contact about becoming a **Major Donor**, please call Janet Fletcher, (304) 525-6984

Remember, all contributions to OVEC are tax deductible. OVEC also accepts anonymous contributions.

TREE HUGGERS' BALL

OVEC held a Tree Huggers' Benefit Ball on November 11. We raised some much-needed funds, got lots of new members, and everyone had a great time! Thanks to the bands that performed for us: Fried Chicken, solo act Joe Risch, The Phantom Limbs, and Bitter Hysteria. The individuals who performed in these bands are: Bill Ragette', Paul Gartner, Warren Owings, Joe Risch, Eric Fout, Tammy Stewart, Steve Eschleman, Mike Ellis, Roy Clark, Tom Auvil, and Pete Somoski. Special thanks to Eric Fout and Jeff Bosley for organizing the event, to Roy and Terry Clark for their wonderful Calamity Cafe hospitality, and Terry Messinger, Oak Ragette', and Jason Morris for distributing flyers.

THANKS KATHY!

Kathy Smith, one of OVEC's new board members, put a lot of hard work into a bake sale for OVEC during Chesapeake's Octoberfest. In addition to selling baked goods, Kathy got signatures on 2 petitions: one regarding illegal dumping in Lawrence County, and one on the siting of a low-level radioactive dump somewhere in Ohio. Thanks, Kathy, and to all the folks who sent baked goods, and to all who signed the petitions!

OVEC ALWAYS WELCOMES NEW MEMBERS, RENEWALS AND DONATIONS! PLEASE CONSIDER PAYING YOUR MEMBERSHIP DUES AS SOON AS YOU CAN. IT'S A GREAT HOLIDAY GIFT FOR FAMILY AND FRIENDS!

DUES \$5-25 (PAY WHAT YOU CAN) _____ CONTRIBUTION (TAX DEDUCTIBLE) _____

NAME _____

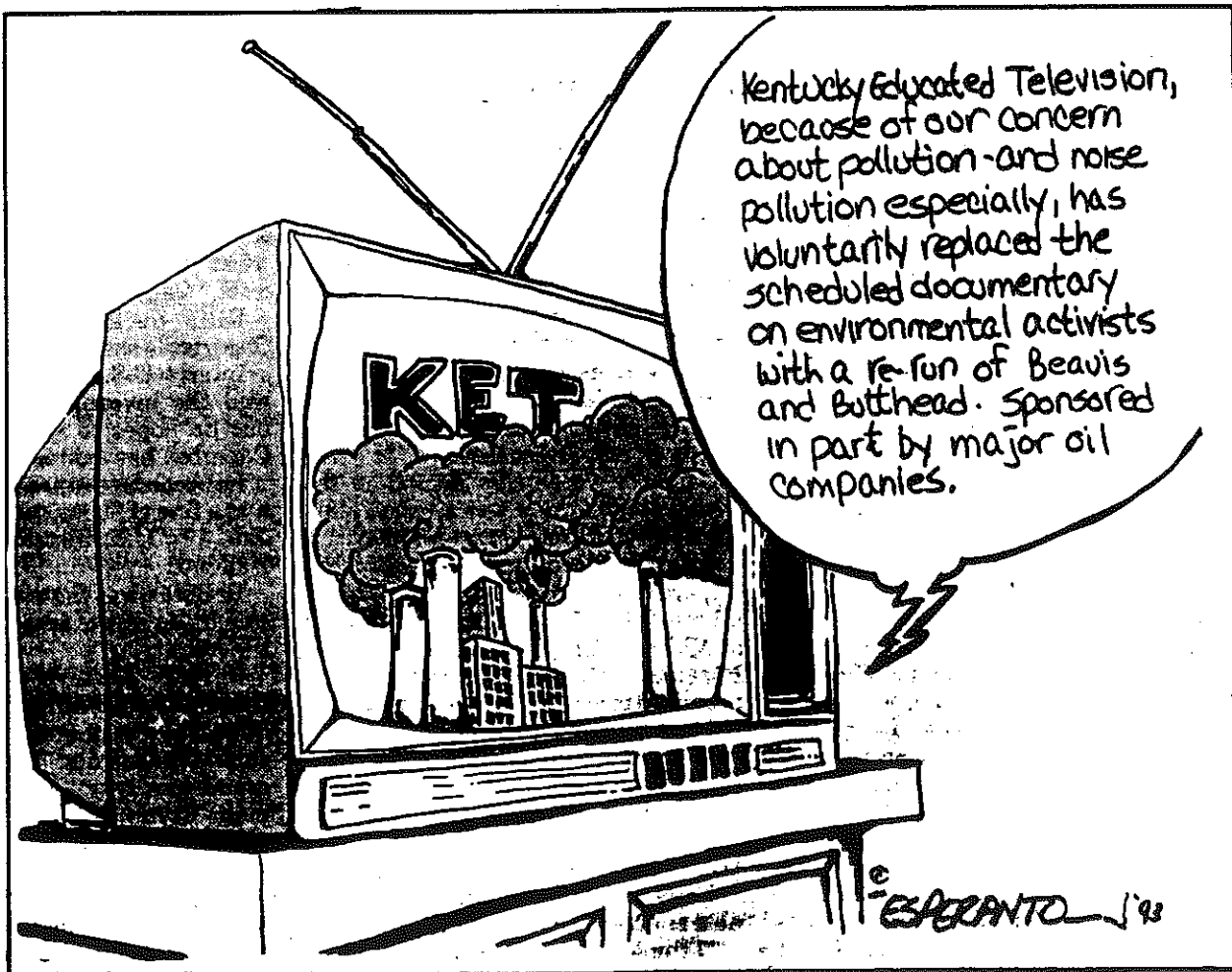
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ISSUES OF INTEREST _____

Mail to: OVEC, P.O. Box 970, Proctorville, OH 45669.

Ohio Valley Environmental Coalition
P.O. Box 970
Proctorville, OH 45669



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