



February 1998

# "E"-NOTES

the newsletter of the

**Ohio Valley**

**Environmental Coalition**

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## *Last Permit Yanked For Proposed Apple Grove Pulp Mill*

# IT'S DEAD!

by Janet Fout

The Mason County pulp mill battle is finally over. We declared victory one minute after midnight on December 17, 1997.

It has been a long, arduous road to victory, and many groups and individuals played a significant role in defeating what would have been the largest pulp and paper mill in North America.

All OVEC members deserve a big pat on the back for working to build and sustain the outrage over this ill conceived project.

Whether you made phone calls, took part in strategy meetings, helped with mailings, or provided financial support, your efforts made a difference!

A special thanks goes to OVEC's board of directors and also to two outstanding attorneys, Perry McDaniel and Jason Huber.

Their Charleston law firms, Crandall, Pyles and Haviland, and Forman and Crane, generously provided Perry and

Jason's  
services  
pro bono

(without charge) to OVEC. It's been a pleasure to work with men of such integrity.

Perry took the lead on OVEC's legal appeal of the mill's water permit. An eloquent voice for environmental justice, Perry recruited the efforts of other lawyers, and he also sued the US EPA on behalf of OVEC and the WV Highlands Conservancy.

Jason, who first worked with OVEC years ago as a college student activist, tackled our legal appeal of the mill's air permit shortly after finishing law school. Jason brought great energy and passion to our appeal.

### Everyone Helped

OVEC board members Lewis Baker, Greg Carroll, Mary Anne Graham and John Price all deserve a special thank you.

Lew was a tireless agency watchdog and dioxin opponent. Greg Carroll was the lead organizer for OVEC's big benefit concert - Pulpstock. Mary Anne kept track of every receipt and check, which is no small undertaking! John traveled to Washington, D.C. to meet with US EPA attorneys on OVEC's behalf.

While OVEC took the lead in organizing against the pulp mill, we could not have succeeded without the involvement of the entire community of like-minded folks, not

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**Parsons & Whittemore**



# The True Adventures Of An 'Appellant Pro Se'

by Monty Fowler

I got the call about 5 p.m. on Wednesday, Dec. 17. It was over.

Parsons and Whittemore had thrown in the (paper) towel and was withdrawing plans to build the largest pulp and paper mill in North American at little Apple Grove, WV, more than 39 months after I indulged in what I thought - at the time - would be a feeble bleat of protest against another out-of-state corporate giant.

In August 1994, the WV Environmental Quality Board ran legal advertisements noting that the water and solid waste permits for the proposed mill would be issued; anyone who wanted to take exception could file a protest.

What the heck, I thought. All it cost was a stamp. They would get my protest, toss it out, and it would be over in a couple of months.

My first inkling that a wandering journey was starting was when the board's secretary, Francis Hunter, phoned me .

"We got your appeal," she said, "but you didn't list an attorney who we could contact as this appeal progresses."

"Don't have one," I said. "Do I need one?"

Long silence on the other end of the line.

"Well, no, but most appellants have one. It helps things go smoothly."

"I can't afford one," I said, as it dawned on me this might last more than a month.

"Well, then, we'll just list you as appellant pro se," she said after another pondering silence. "That means 'without counsel'." Wow. A real title.

Someone wiser than me once said, "People who like sausage and respect the law should never watch either being made."



So it went with the mill appeals.

In this case, the judicial "process" worked, but having seen it in action, I now have less respect for it. It seems to be much more about big-money egos and imagined wrongs than about truth and real justice.

During the tortured course of the appeals, I spent a lot of late nights hunched over my computer, laboriously

typing out briefs or replies to interrogatories or motions for various things (terms I had to look up in *Black's Legal Dictionary*).

There was a certain grim humor in this, though, knowing that attorneys who made more in an hour than I did in a day had to reply to these massive missives.

There were also ugly moments, as when I went to the capitol to serve a subpoena on former Gov. Caperton to testify (couldn't afford a process server), and his attorney threatened to physically "kick your ass" out of same.

Or the cheap shots one Division of Environmental Protection lawyer took about someone "playing at being a lawyer." That stopped when I noted he was a political appointee for a lame-duck governor and, since I was a taxpayer, in effect he worked for me (there's irony for you).

Being an ordinary citizen had its advantages, too.

As a non-lawyer, I could say or do things in the hearings that would get an attorney censured, but heck, how was I to know? Somebody had to be the human being here. And it was kind of amusing to watch the horrified looks on the faces of the DEP legal staff when

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## True Adventures

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they realized there were initially not one or two, but six pro se appellants for the air permit.

To their credit, both the state Air and Environmental Quality boards (and especially their staffs) always treated me evenhandedly. Even when I got my hand slapped, legally speaking, for writing letters to the EQB after they approved the solid waste permit, and clipping a picture of my kids to each one.

Why did I stick with it, through the reams of paper as the water, solid waste and air appeals progressed, the trips to Charleston, the phenomenal phone and postage bills, the legal arguments that sometimes went over my head? (but B.S. is still B.S., no matter what language.)

Because I hate to quit in the middle of something (the German in me.) I don't like someone else telling me they know what's best for my kids, and to shut up and like it (the Welsh reacting there.) And I loathed the thought of more deadly chemicals being dumped into the water I drink (the human in me.)

Would I do it again? Pass me that book of stamps.

## Pulp Mill Dead

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only in West Virginia, but throughout the region and nation. There are so many heroes and heroines of this epic.

Take OVEC member Monty Fowler, for instance. Monty is the only person/entity who filed a pro se appeal on every single permit issued to Parsons & Whittemore (P&W). Pro se means that a regular person takes on a legal issue without the help of an attorney.

Considering that legal appeals for the mill were on-going since 1994, just imagine how much time and personal resources Monty expended - not for personal gain, not for great acclaim, but because he cared deeply about how this project would impact not only his family, but also West Virginia's environment.

Then there's Robin Godfrey. Robin is a remarkable guy. Robin took on major organizing roles for several of the big rallies held at the governor's mansion.

The first time I met Robin was outside the National Guard Armory near Point Pleasant, a rare occasion when P&W's project vice president "graced" West Virginians with his presence.

OVEC planned the protest and there was Robin Godfrey leading ALL the

chants - "Paper from paper, not from trees!"

Robin became consumed with the issue and his fiery enthusiasm was contagious.

### Enthusiasm to Burn

The issue kept getting hotter and hotter, in part because Robin made a sacrifice and poured his time and energy into winning the issue.

Many members of other environmental groups within the state also focused on the pulp mill issue - Norm Steenstra, WV-Citizen Action Group, and the West Virginia Environmental Council played a major role in

**"...there was the Gazette's own determination to keep the information flowing..."**

keeping up on and informing citizens statewide about all the legislative efforts to weaken West Virginia's environmental laws by pulp mill proponents. Citizen Action Group also served as home base for OVEC and others when we were in Charleston.

### Citizens, Citizens

Leadership and members of Huntington Tri-State Audubon Society, WV Highlands Conservancy, WV Sierra Club, WV Rivers Coalition, Corridor H Alternatives and Harrison County ECO all played a role, attended rallies and spoke out against the project.

We're especially grateful for the hard work of all the members of the Concerned Citizens Coalition (CCC), who provided volunteers to distribute fliers, attend rallies and who also filed a pro se lawsuit against P&W's air permit.

CCC serves citizens in Roane, Calhoun and

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# Activist Sings Closing Argument In Air Permit Hearing

At final arguments for the Apple Grove pulp mill's air permit in August, appellant Matt Peters of the Buckeye Forest Council surprised everyone by announcing he was going to sing his closing argument. For once, the state's attorney was speechless, and Matt was allowed to proceed.

Here for the first time in print is his complete closing argument, sung to the tune of John Prine's "Paradise":

*When I was a child, my family would travel  
On down to West Virginia where my parents were  
born;  
There's a riverside town that's often remembered  
So many a time that the memories are worn.*

*(chorus)  
So daddy, won't you take me back to old Mason  
County  
Down by the Ohio where Apple Grove lay?  
Well, I'm sorry my son, but you're too late in asking  
Mr. Parsons and Whittemore done cut it away.*

*Sometimes we'd travel right down the Ohio  
past abandoned coal power plants, now silent and  
still;  
And the air smelled like sulfur and we'd shoot with  
our pistols  
At the fish belly-up from dioxin that killed.*

*(chorus)  
When the pulp company came to build the world's  
largest pulp mill  
They tortured the timber and ravaged the land;  
Then they bleached it with chlorine, and polluted  
the rivers  
And wrote it all off as the "progress" of man.*

*(chorus)  
So now you can find me chained to this oak tree  
And nothing can move me once I take my stand;  
It's time that we stop this terrible progress  
Our destiny's tied up with that of the land.*

*(chorus)*

*When I die let my ashes float down the Ohio  
Let my soul roll on up past the Gallipolis dam;  
I'll be halfway to heaven, with Apple Grove a-  
waiting  
just 75 miles from wherever I am.*

*So daddy, won't you take me back to old Mason  
County  
Down by the Ohio where Apple Grove lay?  
Well, I'm sorry my son, but you're too late in asking  
Mr. Parsons and Whittemore done cut it away.*

*Just like Mr. Peabody hauled it away.*

Words by Matt Peters and Robert Hoyt.  
Music by John Prine, without his knowledge or  
permission but Matt never made a red cent off it!

## Welcome to Life

OVEC board member John Price and his wife, Lisa Pfitzer, are proud new parents of a healthy baby girl, Emma Grace Pfitzer Price.

She was born November 28, 1997 weighed, 8 lbs., 2 ozs., and was 21 1/2" long. John said it was a rough birth at first, but that everything turned out all right. He held her in the delivery room and saw her eyes open for the first time. Like many liberated fathers, John took some time off work to enjoy their new baby girl. He said that she's already smiling real smiles, moving her head more on her own, and seems to get bigger by the minute.

The video mini-cam is staying warm since Emma Grace came into their lives. Welcome to life, Emma Grace. You have two loving parents who'll be terrific navigators.

## Make Your Eco-Purchases Here!

**OVEC T-SHIRTS** on 100% unbleached cotton. Designed by West Virginia artist Ruth Blackwell Rogers, this shirt has colors that match the fall foliage in our beautiful forests. Only \$15.00

**OVEC TOTE-BAGS** - same great design as the T-shirt and at the same low price. These heavy-duty, unbleached canvas bags are perfect for the grocery store, office, school...

Call OVEC at 522-0246 to make your eco-purchase today!

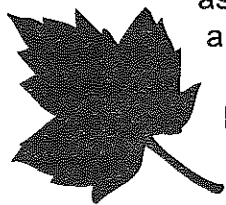
## Pulp Mill Dead

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Gilmer County. Their efforts were (are) inspiring and energizing.

Having them involved was like getting a big, fresh pot of coffee in the middle of an all nighter, when you know you just have to keep going but you just don't know where you're going to get the energy (this is obviously a coffee lover's analogy).

Viv Stockman was CCC's outstanding voice as another pro se appellant on the air permit appeal.



Viv wrote and filed all the papers, attended all the hearings, spent hours researching topics and on the phone talking with dioxin experts and others.

Viv is an artist by vocation, who realized that sometimes it's necessary to put the interest of humanity before self-interest.

We especially appreciated Chuck Wyrostock donating his professional photography skills and Robert Shelter's talking blues song - "Let's beat the mill to a pulp ...".

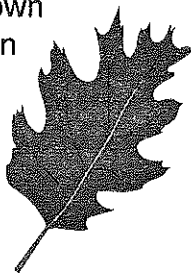
### Newspaper A Key

Speaking of keeping folks informed, there was the *Charleston Gazette's* outstanding journalist, Ken Ward, Jr.

You gotta love this guy's work. He's as bright and tenacious as they come. His numerous award-winning series about the mill and the timber industry provided folks with the kind information they needed to make informed decisions about the issue.

And there was the *Gazette's* own determination to keep information flowing to the public.

When the West Virginia Development Office refused to provide the *Gazette* with all the information concerning the state's incentive package for P&W, the newspaper took its case to the West Virginia Supreme Court, filed and prevailed on a lawsuit under the state's Freedom of Information Act.



### Labor's Part

Labor's role in defeating this project was crucial and substantial. It began with Steve Burton from the Tri-State Building and Trades Association

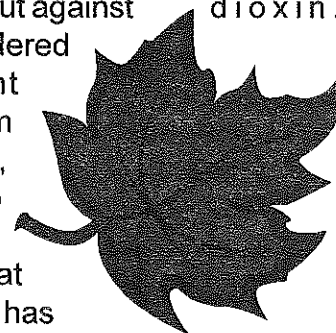
whose efforts were sustained by the formation of the Affiliated Construction Trades Foundation (ACT), a coalition of the building and construction trade unions in West Virginia.



Steve White, the Director of ACT, along with ACT's attorneys, Stuart Calwell and Shirley Skaggs, questioned P&W's lack of commitment to hire local labor to build the plant and also the wisdom of building a chlorine-based pulp and paper mill when dioxin-free technology is available.

ACT fought legislation which would have weakened water quality standards, filed appeals on the landfill and water permits, and mounted effective media campaigns - including a "scratch and sniff" postcard that gave thousands of people a very realistic idea of what the mill might smell like.

ACT purchased air time on commercial television for their film, "Pulp Fiction, Poison Promises," that included a segment of Admiral Elmo Zumwalt speaking out against dioxin. (Admiral Zumwalt had ordered the spraying of Agent Orange during the Vietnam War; ironically his son, who was exposed to dioxin in Agent Orange in Vietnam, died of cancer at a young age. The Admiral has since devoted his life to spreading the truth about the dangers of dioxin.)



### Help From "Upstairs"

Support from the faith community was essential. The Commission on Religion in Appalachia (CORA), a longtime, nineteen-denomination Christian social justice organization, lent its good name to the effort by passing a hard-hitting resolution against the pulp mill.

OVEC distributed the resolution widely and was able to overcome the lie that pulp mill opponents were just a handful of extremists (as then Governor Caperton referred to us).

Some ministers who offered words of support at rallies included the Rev. Jeffrey Allen, Rev. Ray Woodruff, Rev. David Green, and Rev.

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## Pulp Mill Dead

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John Whitaker. Facts about the pulp mill became more widely known thanks to Allen Johnson and the Christian environmental organization, Green Cross.

The United Methodist Church printed a detailed article on our pulp mill issue in one of their national magazines.

### National Groups Involved

Beyond West Virginia's borders, the efforts to stop the pulp mill were inspiring!

The Buckeye Forest Council in Athens, Ohio, filed a pro se appeal on the air permit. Matt Peters focused their appeal on the impacts of air pollution on forests.

He enlisted the expert testimony of Dr. Orié Loucks, a respected scientist who continues to track the health of the unique mixed mesophytic forest of Appalachia.

Andy Mahler, director of Heartwood, and other Heartwood folks played a major role in elevating this issue regionally. Heartwood's primary focus is protection of our native hardwood forests, especially on national forest lands.

Other efforts to elevate the issue nationally were aided by groups like the Native Forest Network. NFN planned an international day of protest of the pulp and paper industry and asked for OVEC's involvement.

While OVEC was holding one of our many rallies at the governor's mansion, NFN folks were protesting outside of P&W's corporate headquarters in Rye Brooke, New York.

### CCHW Involved

In an issue like the pulp mill, timing was often critical. And Lois Gibbs' timing was perfect.

Lois Gibbs, executive director of the Citizen's Clearinghouse for Hazardous Waste (CCHW), published a book entitled, "Dying From Dioxin" when OVEC was in the thick of the issue.

Lois came to Huntington, held a book

signing at the Renaissance Book Store, and spoke at a local OVEC fund-raising event.

Lois Gibbs, in case you've forgotten, fought for and won evacuation for citizens at Love Canal, NY, a community contaminated with deadly dioxin.

At the 1,000 person rally at the Capitol in March of 1996, the pulp mill was called a defining issue for West Virginia's future.

I thought then, and still believe, that the outcome of this issue would lay a foundation for West Virginia's economic development for the 21st Century.

This victory was truly a paradigm shift for West Virginia.

The people said NO in a loud, resounding voice and elected officials were forced to listen - we were united in saying we will NOT accept jobs at such a great cost to the people and the land.

### Victory for the People

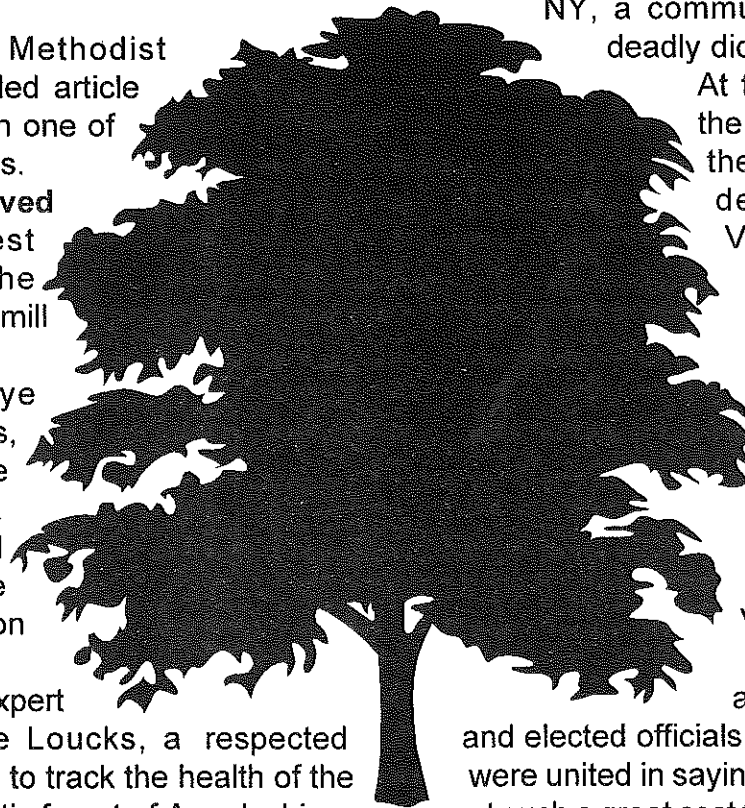
Recently, I've even heard from people high up in state government that state officials in West Virginia grew tired of being "jerked around" by Parsons & Whittemore - a company whose arrogance and unwillingness to talk to the "little people" played a large role in its own undoing.

The question that remains in my mind is: Can we transfer what we have learned from this issue to the many serious problems we still face?

Maybe so. I was pleased and amazed that the mayor of Charleston said that a Super Walmart was the wrong kind of economic development for Kanawha City.

And over 200 folks turned out for the December forum on mountaintop removal here in Huntington. Wow!

It's up to us to see that people in charge of economic development here will begin to count the true costs of doing business in West Virginia - a factor in what is most important to regular folks, quality of life.





# Mountaintop Removal Forum Yields Few Answers, Fewer Justifications From Industry Representative

by Monty Fowler

There were plenty of questions but few substantive answers from a coal industry spokesman during the Dec. 2, 1997, mountaintop removal mining forum at Huntington's City Hall.

Sponsored by the *Huntington Herald-Dispatch*, the forum featured a question and answer session following presentations by David Todd, vice president of external affairs for Arch Coal; John Ailes, director of the WV Division of Environmental Protection's Office of Surface Mining and Reclamation; and Dan Kash, chairman of OVEC's board of directors.

The *Herald-Dispatch* succeeded in doing what no other organization has done in the past year - getting an industry official to appear in public to defend the practice of mountaintop removal/valley fill strip mining.

## "The Law"

Todd's theme throughout the evening was, "We are following the law," punctuated by several personal attacks on Kash for even questioning the practice of mountaintop removal strip mining.

The newspaper sponsored the forum because, "We decided we needed to know more, and why not have them talk to the community?" Associate Editor James Casto said.

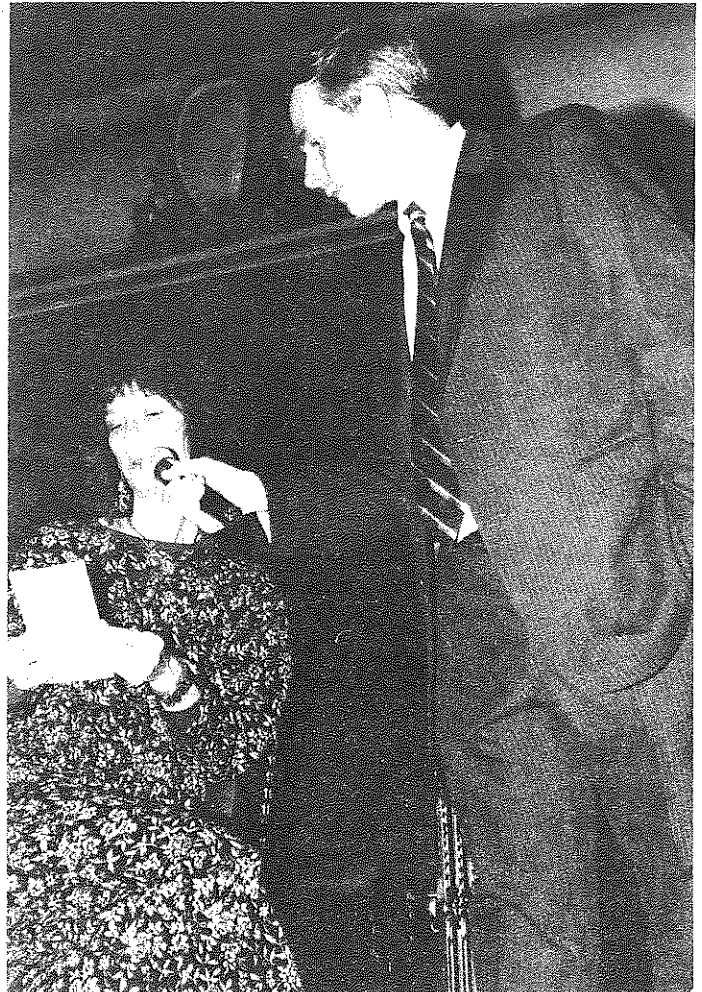
Moderator Dan O'Hanlon, a Cabell County circuit court judge, did a masterful job of keeping the participants focused and the questions and answers meaningful.

Todd began the forum, carefully noted that he was speaking just for Arch Coal, and quoted extensively from a visit Secretary of the Interior Bruce Babbitt made to an Arch Coal subsidiary's site in West Virginia in 1996, in which Babbitt said the reclaimed strip mine land was better than the landscape that had existed before.

## Productive Use?

"We must return the land to a productive use," Todd said, but during the entire course of the evening, he never defined what he meant by that term.

Ailes began his presentation by noting that of his 214 employees, 100 were inspectors.



**OVEC member Susan Hayden, left, asks Arch Coal spokesman David Todd if his company is "going to cut down all the mountains? Do we have 10 years left or 20 years left?," as moderator Dan O'Hanlon keeps the answers focused during the mountaintop removal forum.**

*photo by Laura Forman*

"The laws are flexible enough to allow site-specific situations," Ailes said, but he was unable to explain how mountaintop removal mining allowed land to be reclaimed, "to the approximate original contour," as required by law.

He predicted the amount of strip mining in West Virginia, now about 30 percent of the total, will rapidly increase as utility companies switch from high- to low-sulfur coal to meet requirements

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## Mountaintop Removal Forum

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of the Clean Air Act.

Kash focused on what he called the "social and cultural disintegration" that this type of mining is causing in West Virginia.

"Mountaintop removal and valley fill has an ominous ring to it," Kash said. "They're hauling away your mountains and dumping them in your streams."

**"They're hauling away your mountains and dumping them in your streams." Dan Kash**

Kash noted that the population of Blair, WV, has dwindled from 225 to 80 as whole families moved away to escape the around-the-clock noise and constant blasting from a nearby mountaintop removal mine operated by an Arch Coal subsidiary.

In response to a question by mountaintop removal activist Larry Gibson, Ailes said the coal companies were required to restore the land to its "capabilities before the mining, or to a higher and better use."

Kash countered, "You can't reclaim a mountain that's disappeared - that destruction is there forever," for which statement Todd took him to task by questioning Kash's "expertise."

### What About Jobs?

Bruce Linville, a miner who works for Arch Coal subsidiary Hobet Mining, asked what role the economic impact of coal mining plays in the permitting process. Ailes' answer was short - none.

Todd stated that mountaintop removal mining has actually saved jobs, by allowing mining where it might not otherwise take place, and, "once the land is returned to productive use, it's very hard to discern where the mining took place."

Kash, criticized by Linville for ignoring what would happen to miner's jobs if mountaintop removal is banned, said, "I can't justify destroying an entire mountain for cheap electricity."

### People Costs

Mary Anderson, a Tri-State Audubon Society member, asked Todd if Arch Coal had ever counted the cost to the people who are forced to

live next to mountaintop removal sites, with their dust and blasting.

"You don't own the houses and the streams - the people that live in these areas are not considered," she said.

"I respect your viewpoint. We are operating in compliance with the law," Todd said, in an ironic echo of President Clinton's "I feel your pain" speech during the last presidential election.

### Plans Unknown

When Pat McGinley asked what Arch Coal had planned for its operation near Blair when all the coal was gone, Ailes said he didn't know, but "mountaintop removal mining does provide flat places for jails, schools and airports."

"What do we need with 5,000 airports?" Kash asked rhetorically.

"Tell the people in Logan County that joke," Todd shot back, again showing his irritation at having to respond to Kash.

### Article Questioned

Todd also took *US News and World Report* writer Penny Loeb to task for her August 1997 story "Shear Madness," which chronicled the explosion of mountaintop removal mining and focused a national spotlight on West Virginia's lax enforcement of existing laws and the resultant problems for

**More than 100 square miles of southern West Virginia is currently permitted for mountaintop removal mining...**

residents who live near those sites. Loeb was at the forum to write a follow-up piece.

Ailes said only about 68,000 acres is permitted for mountaintop removal mining in West Virginia, or "1 percent of the southern West Virginia area." That is still more than 100 square miles.

Kash said people need to take a long-term view of mountaintop removal mining, not a short-term, bottom-line, strictly dollars view.

"If you and I and others don't act now, vast areas of Appalachia will be levelled," Kash said. "Mountaintop removal mining is really out of control in West Virginia and Kentucky right now."

**When you're finished with this newsletter, please pass it on!**



# Mountaintop removal kills the land, must be banned

By RONALD GOODMAN

Mountaintop removal mining technology is causing severe social and environmental devastation of the regions in West Virginia where it is in operation. This type of mining must be banned.

Ecocide, the killing of the land, is defined as the systematic, ruthless, widespread and permanent destruction of natural systems. This is happening now in West Virginia. Thousands of acres of hills, valleys, streams with their birds, fish, animals, plants and trees are being devastated, and there is no way to rebuild their fragile web of life.

It happens like this. Once layers of coal are identified by the coal companies, at say 100 feet below the surface of a mountain top, the big trees are logged out. Next, smaller trees are scraped away, and bulldozed over the hillside. These so-called "trash" trees include paw paw and persimmon. Also slashed away are berry bushes such as blackberry, raspberry, teaberry and hazelnut bushes — all of which were resources for the human, animal and avian populations.

When the topsoil is gouged out by massive machines, medicinal plants like ginseng and golden seal are also uprooted. For generations, fruit and nut bushes and medicinal plants have been carefully harvested by local residents, and afforded them significant income, home remedies, food, and perhaps, most of all, the fellowship and pride of gatherers, which had helped to make their difficult lives more meaningful. These are the people, the true traditional mountain people of West Virginia, whose way of life, whose connection to the living land is being severed.

In an area where ancestry is crucial for self-esteem, graves of both Indians and whites have been violated, removed and even pushed over the hillsides.

The mining companies make piles of the debris and call it restoration, but no authentic restoration is possible, because they have killed the hills as hills. From the blasted corpse of the land new life does emerge, just as new life (of a sort) emerges from a dead and rotting human body, but the dead person isn't restored to life, and the hills and valleys aren't either. A banal mediocre landscape is pushed and shoveled together from the broken remnants of the mountains. It has life, but no essential character. This is the crime called ecocide.

The terrain and the beauty of the terrain are part of the "skin," a portion of the essential identity of our mountain people.

This extension of their social, economic and psychological existence is being amputated, blasted and scraped away by mining technology. The effects on the human residents are similar to those of warfare on civilians. Many people are disoriented, traumatized, fearful and angry.

Many residents have moved away, not simply to find jobs elsewhere, but because their "commons," their "homeplace," their homeland is being destroyed.

In those ways, because of ecocide, they are being removed by indirect means. This is a great wrong according to the United Nations' universal declaration of human rights. But there are many people who are being moved away by more direct means, the direct action of the mining com-

panies.

The coal companies have been aggressively buying out homeowners whose houses stand in the way of coal operations. Thus far, hundreds of houses have been purchased from people who didn't want to sell. How did this happen? Many residents have told of being intimidated by coal company officials or their surrogates. They say they were harassed into selling their homes. And then, with the frightening detonations of dynamite as the coal companies blasted rock nearby, which was sometimes said to cause their house wells to go dry, and with the 24-hour-a-day noise and dust from the huge coal trucks passing their homes — those formerly quiet, pastoral neighborhoods became less and less suitable places to live.

And then, when they did finally agree to sell, before they got the money for their homes, they had to sign a document promising not to discuss the company's conduct toward them or make any complaints.

Mountaintop removal is not simply another economic enterprise. Its effects are catastrophic. It entails the removal by direct and indirect means of the animal, avian and human populations; permanent destruction of medicinal and food plants; lasting disruption of the terrain above and below the surface; disfigurement and poisoning of creeks and streams and the despoilation of the beauty and solace of these hilly lands.

Finally, it has led to sins against humanity. Mountaintop removal must be removed, banned, outlawed.

Ronald Goodman is a member of the Ohio Valley Environmental Coalition.

## Coal and Economics

# A Delicate Balancing Act Our State Is Losing

by Suzanne Rebert

As an economics instructor, I'd usually ask students on the first day of class why they had signed up, and most would retort: "Because they made me!"

I didn't take that personally. Many people think economics is hard and boring.

After they'd told me why they were in my class, I'd ask students what they thought economics was about. Most said "money." The rest of the quarter was devoted to correcting that misunderstanding.

Economics is actually the study of how people allocate scarce resources to maximize well-being. Money is just a symbol used in many (but not all) of those allocation decisions.

### Prices vs. Reality

The price of something is supposed to reflect its productive value and scarcity, if markets are working efficiently. However, markets run on good information, which isn't always available.

In the film "It's A Wonderful Life," Jimmy Stewart's character generates external benefits: in the course of living his life, he creates meaning and opportunity for everyone around him.

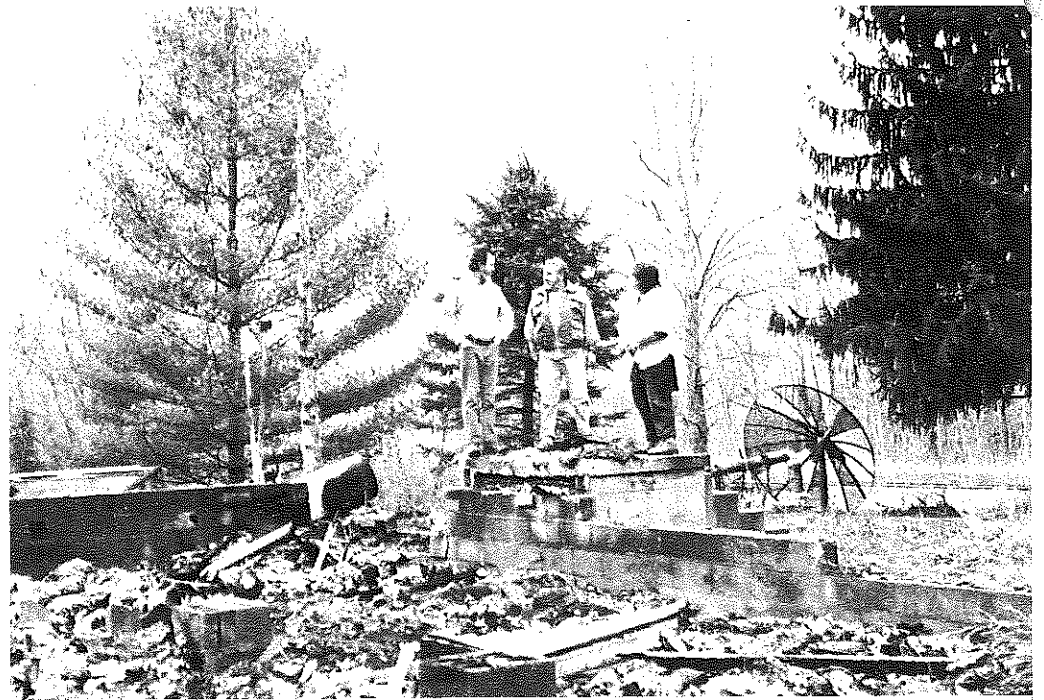
Mountaintop removal/valley fill coal mining,

**"...mountaintop removal generates mostly external costs - big ones."**

on the other hand, generates mostly external costs - big ones. Coal

corporations are not held accountable for the damages they impose on society and the environment.

A corporation is a company with a special set of advantages granted by the state. In return for (theoretically) submitting to higher tax rates and greater oversight, the owners of a corporation - its



**Anybody home? From left, Dan Kash, Carlos Gore and Suzanne Rebert stand on the front porch of what is left of one of the many burned out homes in Blair, bought by the coal company and then destroyed by arson by "unknown parties."**

*photo by Laura Forman*

stockholders - are freed from personal liability if their company goes bankrupt or is liable for civil damages.

### Law Unto Itself

The corporation itself is something greater than the sum of its parts: It is an artificial person. It can provide good, steady jobs and accumulate enough capital to make research and innovation possible.

It can also burn, loot or kill and never spend a day in jail.

In West Virginia's coalfields, corporations try to maximize profits by keeping revenues high and their costs as low as possible. The more irresponsible coal operators, which dislocate people and ruin the environment, gain by forcing many costs onto third parties who can't successfully challenge such actions.

Coalfield homeowners are offered money: not the value of the beloved home they've worked for, but the greatly reduced value of a future charred ruin in the shadow of "Big John", the 20-

*continued on page 11*

## Coal and Economics

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story dragline.

And the money comes with an effective gag order: those who sell have the value of that compensation reduced further by intimidation. When the government takes a home under eminent domain, it doesn't demand this kind of silence.

### Studies Incomplete

At the Dec. 2 mountaintop removal mining forum, David Todd of Arch Coal touted the extensive economic studies performed before a new area is mined.

They do this merely to find out if these coal seams are worth the trouble, given expected production costs. A positive result for Arch Coal doesn't mean the job will benefit West Virginians.

A true cost/benefit analysis would include the costs to homeowners who lose property value, income, and their rural quality of life; costs to many people engaged in recreation and tourism; costs of cleaning up after insolvent firms; the still unknown costs of altering landscape and drainage patterns, and of destroying bedrock, and of dumping overburden in streams; costs to future generations.

Coal companies have no incentive to do that kind of economic study. You and I do, and we must demand it - and full accountability - of those who would profit from the treasures under our feet.

## So What's The Earth Worth?

Recently, a team of 13 scientists and economists tried to calculate how much the planet's ecosystems are worth - in cold cash. The bottom line planetary total - more than \$33 trillion. If we mess this planet up, guess what? We can't afford another one! Here's the breakdown:

Tidal marsh/mangrove - \$1.6 trillion

Lakes/rivers - \$1.7 trillion

Temperate/boreal forests - \$0.9 trillion

Grass/rangeland - \$0.9 trillion

Estuaries - \$4.1 trillion

Cropland - \$0.1 trillion

Coral reefs - \$0.4 trillion

Swamps/floodplains - \$3.2 trillion

Tropical forests - \$3.8 trillion

Open ocean - \$8.4 trillion

Continental shelf - \$4.3 trillion

## OVEC Joins Orion Society's Organizational Support Initiative

OVEC is excited to announce its participation in the Orion Society's Organizational Support Initiative (OSI). We invite our members to take advantage of a really great opportunity.

For \$25 you will receive one year - four issues of each magazine - of *Orion* and *Orion Afield*. **Ten dollars of your \$25 subscription supports the work of OVEC**, while the remainder supports the Orion community of writers, poets, scientists, educators and artists.

But why would OVEC members be interested in receiving Orion publications to begin with?

Widely acclaimed as the cultural and philosophic voice of the environmental movement, *Orion* reveals a deeper context for OVEC's difficult work of protecting our region from polluters, those who massacre our mountains, and other environmental adversaries.

Orion publications share with their readers a vision of what it means to have a deep, personal connection to the natural world and how we, as conscious stewards of life on earth, participate in manifesting that vision.

*Orion Afield* reports on locally grown, locally effective projects from around the country, celebrating examples of healthy, biodiverse landscapes and communities.

If you would like to see a copy of Orion's publications, we have samples of each. Just recently a friend of mine said *Orion* was the finest environmental publication he had ever read. Won't you please help OVEC raise some extra funds for THE WORK?

In return you'll receive two outstanding publications which echo our deeper values.

**Please call the OVEC office at 522-0246 for more information today. Thanks .**

# An OVEC Solution To E. Panhandle Poultry Pollution

West Virginia's Division of Environmental Protection (DEP) has released a proposal that would decrease by 50 percent runoff pollution from the state's poultry growers and other farmers.

Reports from the US Geological Survey and DEP indicate that chicken manure has contaminated the South Branch of the Potomac and its tributaries with unsafe levels of fecal coliform.

**DEP is required to enact plans for cleaning up streams.**

The DEP reports, containing recommendations for cleaning up six streams, were prompted by a federal lawsuit filed by attorney Perry McDaniel on behalf of OVEC and the West

Virginia Highlands Conservancy.

This lawsuit was filed against the US Environmental Protection Agency for not pressuring DEP to enforce sections of the Clean Water Act for the last 20 years. Under the Clean Water Act, DEP must enact plans for cleaning up streams that are polluted above legal limits.

## Limits Set

These plans, Total Maximum Daily Loads (TMDLs), set limits or propose goals for reducing the pollutant of concern in a particular stream.

DEP has not announced specific plans with which industry, poultry farmers, or others would have to comply to reduce a particular pollutant,

such as fecal coliform. DEP officials have never written a TMDL plan, but the court order in OVEC and the Conservancy's lawsuit outlined a timetable for the state and the federal EPA for doing so.

## No Enforcement Plans

With no current plans by DEP towards enforcement action or mandatory regulation of the state's poultry industry, the state agency is taking its typical lame approach of voluntary compliance by the industry. Obviously, this approach hasn't worked, or the Potomac and its tributaries would not currently exceed pollution limits.

One has to wonder how much blame the BIG POULTRY producers (like Wampler Foods, Inc.) will try to shift to the West Virginia farmer, who may not be able to afford a proper means of disposal. It's typical treatment of West Virginians - BIG POULTRY owns the chickens and the farmers get left with the manure and other wastes!

The ones who make the lion's share of PROFITS should have to help West Virginia farmers reduce the pollution into our state's rivers and streams.

For an in-depth look at this issue check out "Poultry on the Potomac," Ken Ward's series on the internet at: [www.wvgazette.com](http://www.wvgazette.com).

(Taken from "State calls for cuts in Potomac pollution," by Ken Ward Jr., staff writer, the *Charleston Gazette*, Oct. 23, 1997. Editorial comments are OVEC's.)

## Tri-State Birders Mourn Passing Of A Great Man

OVEC would like to extend condolences to the family of Leon Wilson, who died on December 27, 1997. Leon was a noted self-taught, naturalist and devoted bird lover. He retired from DuPont in 1976 and spent his retirement as an active birder.

Leon was a friend and mentor to many of the area's birdwatchers. He never missed an opportunity to teach others about the world of nature that was so much a part of his life.

As a longtime member of the Huntington Tri-State Audubon Society and the Brooks Bird Club, Leon spent many hours in the field observing birds, recording breeding records, or banding.

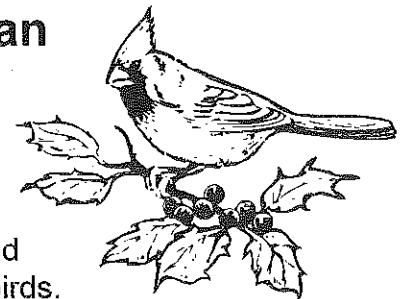
As a licensed bander for the US Fish and Wildlife Service, he spent several weeks each fall

banding migratory birds on the Allegheny Front in the Dolly Sods Wilderness Area, and banded over 40,000 birds.

He enjoyed teaching anyone eager to learn more about his feathered friends, either at the banding station or at the many programs he gave to area groups.

He was a man of rare humor, warmth and intelligence, who brightened and enriched the lives of everyone who met him.

Farewell, Leon, and "Good birding" beyond the sunset.



# PERC/WV

## Turning Up The Heat On State Election Reform

by Janet Fout

The People's Election Reform Coalition/WV (PERC/WV) will soon be shedding light on how campaign cash is influencing public policy in West Virginia.

PERC/WV is a broad-based coalition of environmental, labor and good government groups that has created a massive data base containing more than 13,000 computer records about donors to the governor's and winning state legislative races.

OVEC, WV-Citizen Action Group and Common Cause-WV are the lead organizers of PERC/WV. The *Charleston Gazette* helped pay for copying costs for hundreds of pages of election contribution reports from Secretary of State Ken Hechler's office.

Other technical and financial assistance for the project is being provided to PERC/WV by Democracy South, an organization that is part of national election-reform movement.

### Data Unavailable

Prior to PERC/WV's project, campaign finance data has never before been available in a computer data base, but instead only on paper in file cabinets.

In analyzing the data, PERC/WV found that while Governor Cecil Underwood received just \$39,300 out of the \$2.1 million he raised for his campaign (less than 2 percent) from political action committees (PACs), winning House and Senate candidates raised \$2.6 million (about 37 percent) from PACs.

Campaign contributions and additional contributions to Underwood's inaugural committee totaled nearly \$5.7 million.

### Small Donors Unknown

A preliminary analysis of contributions to 17 winning state Senators reveals some interesting trends. PERC/WV identified the occupations of people who gave 81 percent of all senate donations.

The other 19 percent, including many small donations, has not yet been identified. Sixteen percent of all identified campaign cash came from

the candidates' own pocket, or from his/her immediate family.

The next three largest contributor categories were: health care providers (16 percent); coal companies (13.7 percent - surprise, surprise); and banks and financial institutions (7 percent).

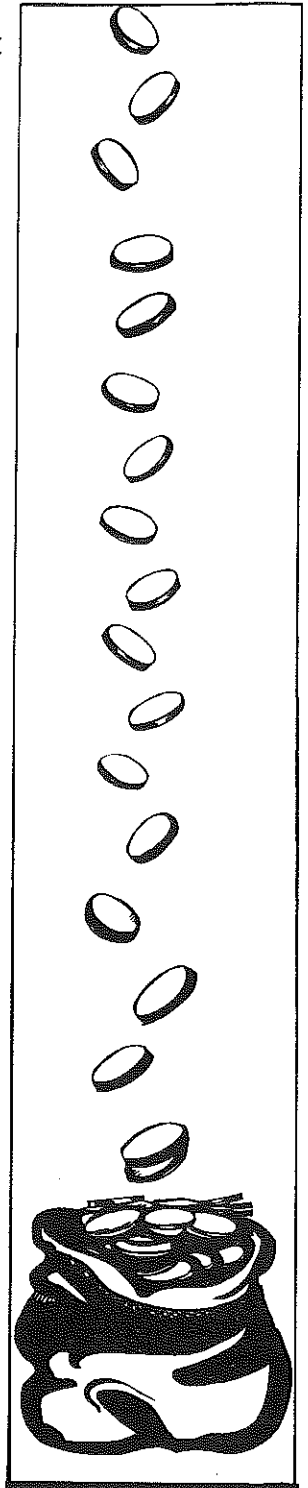
### Logging Lags

Interestingly, logging and agriculture gave just 1 percent of the total even though these interest groups are often active in promoting legislation. Other powerful interests that gave less than 1 percent include landfill companies, railroads, tobacco and electric power utilities.

Conservatives, moderates and liberals all raised a lot of campaign dollars for Senate races. Senate President Earl Ray Tomblin raised \$189,269, more that twice as much as any of the other 16 winning candidates. In addition, PERC/WV found that Sen. Tomblin used campaign contributions to rent campaign office space from his mother.

Tomblin also played a key role in passing a bill to finance greyhound breeding - his mother Freda Tomblin, received more than \$130,00 in state subsidies for her breeding business in 1996-97.

Sen. Herb Snyder, D-Jefferson, a liberal  
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## PERC/WV

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political newcomer, came in second, with \$87,447 (nearly \$60,000 of that was out of his own pocket). Sen. Bill Sharpe, D-Lewis, a conservative, ranked third, with \$75,970. (How much does a Senate job pay?)

Thirty-one percent of all identified state Senate contributions came from coal, oil and gas, construction, chemical, insurance, timber and other corporate interests.

Winning Senators who received the lion's share of these corporate bucks were: Sen. Mike Ross, D-Randolph (57 percent); Sen. Vic Sprouse, R-Kanawha (53 percent); Sen. Bill Sharpe, D-Lewis (52 percent); and Sen. Shirley Love, D-Fayette (48 percent).

Winning Senate candidates with the lowest contributions from corporate interests were: Sen. Jon Hunter, D-Monongalia (3 percent); Sen. Herb Snyder, D-Jefferson (5 percent); Sen. John Pat Fanning, D-McDowell (8 percent); and Sen. Andy McKenzie, R-Ohio (8 percent).

### Coal Gave Big

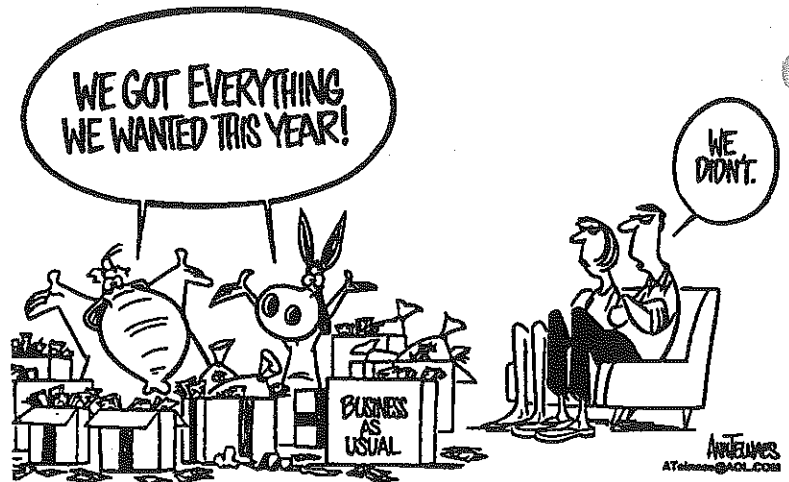
Some of last year's biggest political donors were coal operators (who owe tens of millions of dollars to the Workers' Compensation Fund). PERC/WV found that coal operators gave more than \$250,000 to Governor Cecil Underwood's successful campaign - 12 percent of the \$2.1 million he raised for the campaign.

In addition, coal companies gave another \$253,850 to finance Underwood's inaugural party and ceremonies in January - more than a half million total. Coal operators gave at least \$185,000 to House and Senate candidates - about 7 percent of the \$2.6 million raised for those legislative races.

Paul Nyden, a investigative reporter from the *Charleston Gazette*, used PERC/WV's database to find that some of the biggest coal contributions came from companies whose contractors ran up debts to state agencies, mine suppliers and their own employees.

### Harless A Force

Buck Harless, a major Underwood supporter, owns several coal and lumber companies, including Hampden Coal Co., and Jumacris Mining Inc. Six Hampden and Jumacris



contractors owe at least \$2.6 million to the Workers' Compensation Fund.

### All in the "Family"

Harless family members contributed \$5,000 to Underwood's election committee in 1996.

Gary White, president of Harless-owned International Industries, Inc., and former president of the WV Coal Association, gave \$2,000 and International Industries gave \$10,000 to Underwood's inaugural.

C.F. Shewey, a retired executive for Harless, and his wife Christine, each gave \$1,000 to Underwood. An individual can legally contribute \$1,000 maximum during a primary and general election (\$2,000 total).

However, by "bundling" campaign contributions, a contributor can get much more bang for the BUCK (pun intended).

PERC/WV will be playing watch dog during the 1998 legislative session and continue to analyze the millions of dollars in campaign contributions in West Virginia's 1996 election. A final report will be released in February.

Other organizations who have joined PERC/WV include Harrison County ECO, Concerned Citizens Coalition (Roane, Gilmer and Calhoun counties), the West Virginia Environmental Council and the Upper and Lower Kanawha Valley Black Lung Association.

The West Virginia Environmental Council plans to introduce several pieces of campaign finance reform legislation this legislative session.

(Portions of this article were taken directly from Paul Nyden's recent articles in the *Gazette*.)



# CALENDAR of UPCOMING EVENTS

**Saturday, Feb. 21**, Corridor H Alternatives fund-raiser from 6:30 p.m. to 2 a.m. at the Jabberwock in downtown Elkins. Cost is \$10 per person and costumes are encouraged. Call Terry Miller at 636-4522 or Chuck Merritt at 478-4922 for advance tickets.



**Thursday, Feb. 26**, E-Day at the West Virginia Capitol. "Follow the \$\$\$\$ Campaign Finance Reform" and how it effects our issues is the theme; 10 a.m. to 3 p.m. Highlights will include a gathering of environmental groups from all over the state, presentation of the annual Mother Jones Award to an outstanding West Virginia environmental activist, and lobbying of state Senators and Delegates. It's also the 26th anniversary of the Buffalo Creek mining disaster. There will be a fund-raiser that evening at the Empty Glass from 6-10 p.m. Call OVEC for car pooling information and to volunteer to person the OVEC table.

**Friday, March 6**, the annual OVEC Treehugger's Ball at the Calamity Cafe, corner of Third Avenue and 16th Street in Huntington, starting at 9:30 p.m. A \$5 donation at the door gets you an eclectic evening of great music, raffles, T-shirts and cool stuff to buy to help support OVEC. Call our office at 522-0246 if you want to volunteer, or donate something for the white elephant raffle.

**Saturday, March 14**, Last day of West Virginia's legislative session

**Friday-Saturday, March 20-21**, Meeting of the Lucy Braun Association for the Mixed Mesophytic Forest, Marshall University. Details to be announced. A major topic will be mountaintop removal mining.

**Friday, April 10**, Arbor Day in West Virginia. Plant a tree, or two or three or ten!

**June 26-28**, Central Appalachian Ecological Integrity Conference, Davis and Elkins College, Elkins, WV. Contact the Appalachian Restoration Campaign (a Heartwood project) for registration information at (740) 592-3968 or e-mail: [arc@frognet.net](mailto:arc@frognet.net)

## OVEC NEEDS YOUR SUPPORT AND INVOLVEMENT! YOUR CONTRIBUTIONS ARE VITAL TO KEEP OUR WORK GOING!

Cut and mail today to: OVEC, 1101 Sixth Ave., Suite 222, Huntington, WV 25701

New member or renewal (Dues: \$10 - \$30, pay what you can)

Donation

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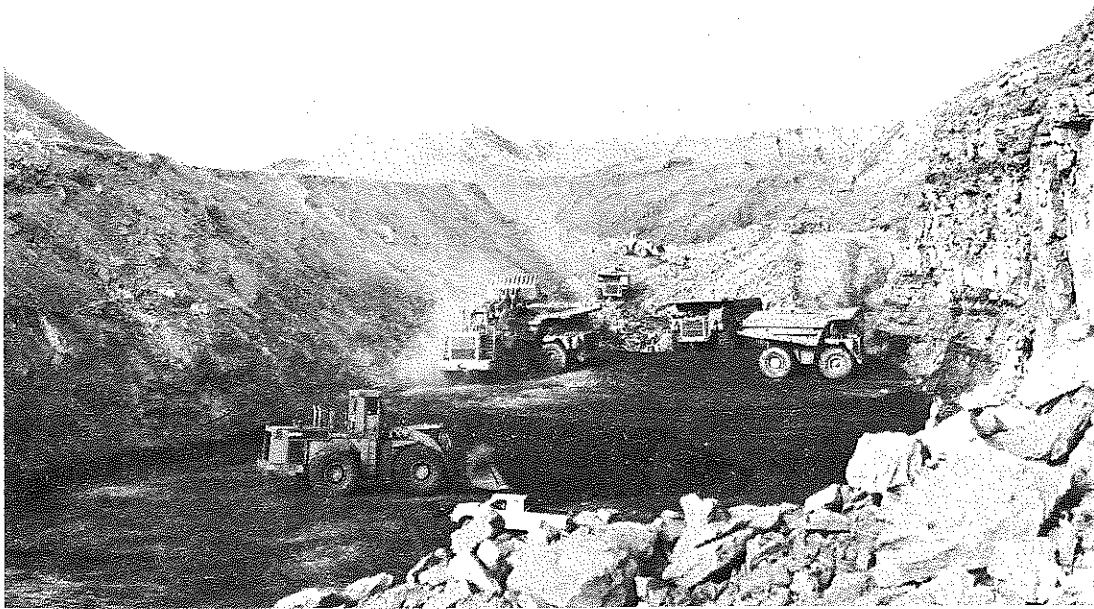
Phone \_\_\_\_\_

E-Mail \_\_\_\_\_



**FOR MORE INFO CALL (304) 522-0246**

*Remember - All donations to OVEC are tax deductible!*



**Paint the sky black in the photo of this Arch Coal mountaintop removal mine site near Blair, WV, and you can almost imagine you're on the far side of the moon - except for the thick dust, 24-hour whine of large machinery and explosions that rock the ground on a regular basis, of course.**

*photo by Laura Forman*

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