



December 2000

# "E"-NOTES

the newsletter of the

## Ohio Valley Environmental Coalition

www.ohvec.org

### *Funeral for the Mountains*

## A Time For Mourning, A Time To Take Stock

by Vivian Stockman

Saturday, October 28, 2000, was a gray day. The clouds threatened rain and sprinkled a little, setting the appropriate somber mood for the Funeral for the Mountains. (The Funeral was organized by OVEC with help from other groups.)

About 150 folks, mostly clad in mourning black, gathered in a parking lot across from the Charleston, WV, federal Office of Surface Mining.

Some crawled inside two "mountains," others took up pall bearer positions around "coffins." About two dozen folks had created these props, conceived by artist Carol Jackson, at a September workshop.

#### **Many Coffins**

Each coffin was filled with representations of something we have lost to mountaintop removal: streams, topsoil, trees, plants, animals, birds, fish and mountain communities.

Led by a bagpipe and drummers, the two healthy mountains - carrying one decapitated mountain, the pallbearers and coffins, and the mourners marched from OSM to the grounds of the state capitol. We chose to start the Funeral March at OSM because of that agency's lax oversight of West Virginia's abysmal enforcement of mining laws.

The Funeral for the Mountains was first conceived



**Robin Godfrey holds his sign, and a large cardboard fish, during the Funeral for the Mountains in Charleston.** *photo by Deana Smith*

this spring at the second Interstate Summit for the Mountains. People from several groups wanted a chance to publicly grieve over the destruction associated with mountaintop

*continued on page 4*

## SLUDGE DISASTER!

by Dave Cooper

Kentucky Sierra Club

*(Dave and others have visited the Martin County Kentucky sludge disaster area three times. Here are some of his observations. Editor)*

**October 22**

News coverage of this spill has been understated. I was totally unprepared for the extent of the damage. The

*continued on page 10*

#### **Inside**

A Eulogy for Democracy	.....page 2
Pictures of a Funeral	.....page 7
Sludge Disaster Photos	.....page 10
It's Not the First Time	.....page 13
Must-Have Christmas Things	.....page 16

# A Eulogy for Democracy, Damaged by Corporate Greed

by Janet Fout

This article is adapted from Janet Fout's eulogy at the October 28, 2000, Funeral for the Mountains.

Democracy in West Virginia isn't dead yet, but it's comatose.

Like the coal slurry pond that failed in Martin County, Ky., democracy is undermined by big special interests. For example, Big Coal contributes huge sums to our politicians in exchange for easy access and favorable legislation. As a rule, big corporate interests are served **ahead of** and often to the **detriment** of the public interests.

This legalized, but corrupt, system contributes to public cynicism and a general lack of participation in the political process. It comes as no surprise that West Virginia had a record low voter turnout in the 2000 election.

I mourn for a dying democracy. I mourn for the fact that "our" politicians are blind to daily destruction of our mountains, forests, streams and communities caused by mountaintop removal/valley fill strip mining.

Recently Cold Water and Wolf creeks in Kentucky and the Tug Fork and Big Sandy rivers were contaminated from the 250 million gallon sludge spill at an A.T. Massey 43,000-acre mountaintop removal mine.

In 1994, the slurry lake failed and the company claimed to have corrected the problem. In 1997 when the Mine Safety and Health Administration (MSHA) inspected the dam at this impoundment, it was found that a man-made barrier between the impoundment and the underground mine may not have been designed to withstand water pressure from the slurry (all too obvious, in hindsight).

Federal inspectors concluded that a breakthrough at the impoundment could endanger miners and public safety, but would not harm the environment! (There is no evidence that MSHA ever forced the coal company to make the necessary improvements – if it had, could this tragedy have been averted?)

After a visit to Coldwater and Wolf creeks, I was numbed and horrified by the extent of the devastation. Life for residents in these beautiful hollows will never be the same.

Property values have been permanently affected. All the aquatic life in Coldwater and Wolf creeks has been

killed, (as well as the life in the Tug Fork and Big Sandy Rivers). But residents are now having to deal with constant noise from backhoes, bulldozers and coal trucks.

Immediately after the impoundment failure, 25 water treatment plants were closed down; businesses and schools in eastern Kentucky and southern West Virginia had to close when water supplies were cut off. No one knows the extent of contamination to private drinking water wells.

Heavy equipment has damaged septic systems, leaching raw sewage into people's yards; roads have been made hazardous by slippery slurry leaking from coal trucks (Martin County Coal actually had the audacity to ask residents of Coldwater Creek to sign a paper that indicates that residents are traveling the public road at their own risk!). Bridges have been washed away.

Farmland and gardens have been permanently destroyed after being buried in up to eight feet of sludge.

And now we learn from the *Lexington Herald-Leader* that Martin County Coal Co. claims that this disaster was "an act of God." Yeah, right!

How can all this death and destruction be allowed to continue? And who will be paying the greatest costs?

A.T. Massey? I don't think so.

Why aren't our politicians outraged about this? Why did two weeks pass before Governor Underwood visited Fort Gay

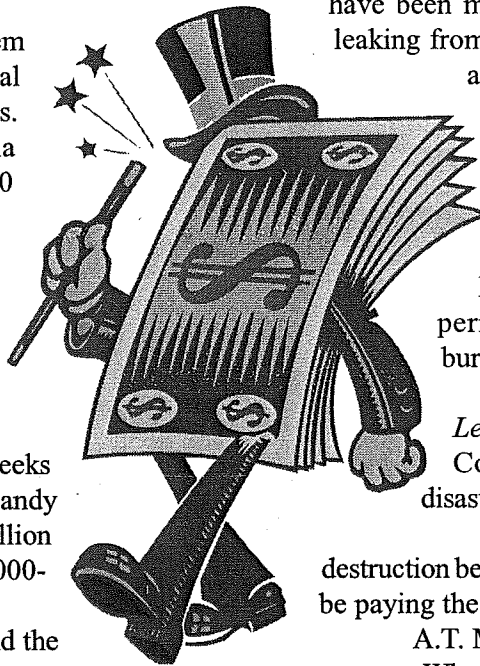
where the water plant was closed, cutting off water to about 1,600 West Virginians? Maybe the appropriate question is: To whom does he owe his allegiance?

In 1997, the People's Election Reform Coalition-WV (PERC-WV) began tracking big special interest contributions given to our elected officials.

During the 1996 election cycle, coal and its supporters contributed more than \$500,000 to Cecil Underwood's election and inaugural party. A former coal executive himself, Underwood has since appointed three, yes, three, former coal industry guys to be the director of West Virginia's Division of Environmental Protection.

In the 2000 primary, coal was still the top contributor to Cecil Underwood's re-election campaign. We shouldn't be surprised that coal companies have been

*continued on page 3*



**Big Coal struts its, um, stuff**

# Teach-In Scheduled at Marshall University in January

by John Taylor

The Biology Department, the Center For the Study of Ethnicity and Gender in Appalachia and the Sociology Department at Marshall University are sponsoring an environmental "Teach-In" at the university on January 23-25, 2001. The title of the teach-in is "Safe Environment, Safe Communities And A Safe Future For Our Children." Particular focus will be on the October 11, 2000, coal slurry sludge spill at an A.T. Massey coal mine in Martin County, Ky. Media coverage of this major environmental disaster has been sparse and shallow.

Those of us with enough gray hair clearly remember the teach-ins during the Viet Nam war protests of the '60s

and '70s. Professors and students at many colleges and universities around the country learned and discussed facts and issues about the Viet Nam war that were not being disclosed by the government and the establishment media.

Rooms have been secured at the Marshall University Student Center. Many things about the sludge spill and related environmental issues which have not been brought out by the local and national media will be discussed. Marshall professors will organize panel discussions and other events so that Marshall students and the community will know the real deal about the sludge spill. All points of view and opinions will be presented so that everyone can make up their own minds about the spill and other environmental issues.

(John Taylor is Co-Chair of OVEC's Board of Directors)

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Dianne Bady

Laura Forman

Janet Fout

Maryanne Graham

Vivian Stockman

**E-Notes Editor**

Dianne Bady

**E-Notes Detail Guy**

Monty Fowler

P.O. Box 6753

Huntington, WV 25773

(304) 522-0246

fax (304) 525-6984

e-mail: ohvec@ezwv.com

## Eulogy

*continued from page 2*

let off the hook for more than \$200 million they owe the state Worker's Compensation fund. No wonder Cecil Underwood has led the pack of governors fighting the implementation of the 1990 Clean Air Act, requiring outdated, dirty coal-fired power plants to add modern pollution controls. American Electric Power and others save money; West Virginians pay with lung disease and death.

It's hard to make the case that Cecil Underwood is his own man.

But he's not the only darling of the coal industry. In 1996, coal was the top campaign contributor to the House, Senate, and governor's races, with nearly three-fourth's of a million dollars. In 1998, coal increased their generosity to legislators by 29 percent. House Speaker Bob Kiss was the top recipient of all coal donations - more than \$30,000. Kiss led the effort to pass the infamous mountaintop removal mitigation bill in 1999.

During 1998 fewer than 4/10ths of 1 percent of all West Virginians contributed to legislative candidates. Sadly, issues which matter most to regular people are ignored. We can never compete with big special interest dollars.

It's a form of legalized bribery that is killing democracy, contributes to an abuse of power, and throws political accountability out the window. The current system of financing elections is rotten to the core.

But there is a better alternative.

Across this nation, many states are rethinking the way political campaigns are being financed. Citizens in four states have already made Clean Election Campaign Reform law and are running Clean Money candidates in the 2000 Election. You all will be hearing more about Clean Money Campaign Reform in the very near future. And if you want to get involved with making it happen here, let us know.

Change is in the wind.

Doris Haddock, a true American patriot, at age 90 walked from Pasadena, Ca., to Washington, D.C., to promote campaign finance reform. Granny D says:

"We have a duty to look after each other, and we invent governments for this purpose. If we lose control of our government, then we lose our ability to dispense justice and human kindness. Our first priority today, then, is to defeat utterly those forces of greed and corruption that have come between us and our self-governance."

*"It's a form of legalized bribery that is killing democracy...and contributes to an abuse of power."*

Janet Fout

## Funeral for the Mountains

continued from page 1

photos on pages 4-5 by Deana Smith

removal. We wanted to make certain that the public knows the major lawsuit now on appeal has not stopped mountaintop removal/valley fills.

And we wanted to publicly declare that, although we mourn our losses, we are redoubling our efforts to stand up for a future free of mountaintop removal.

### March On The Capitol

As the marchers came down Virginia Street, another 60 people gathered on the capitol grounds, listening to sad songs performed by Tonya Adkins, George Daugherty and Anna Smith.

The marchers reached the capitol grounds and set the coffins before the crowd. Mourners listened as veterans in the struggle to stop mountaintop removal read eulogies for the lost.

Patty Wallace, Dan Kash, Dave Cooper and others from Kentucky were there to mourn for the destruction of streams and life caused by the October 11 coal sludge disaster in Martin County. After warnings from a federal agency, an A. T. Massey sludge impoundment broke at Kentucky's largest mountaintop removal site, sending 250 million gallons of tar-like sludge into streams and rivers.

### Loved Ones Murdered

Julian Martin from Lincoln County eulogized the lost mountains. "This is a somber occasion, our loved ones the mountains have been murdered. They have been beheaded, decapitated and thrown into the valleys. They are defenseless, cannot fight back, cannot even raise an arm to defend themselves. So we must protect our defenseless loved ones, the mountains."

Judy Bonds, who lives in the mountains near



Whitesville, WV, spoke for the flowers and plants. "Now, the plants and flowers beg me to tell the people this: I have sustained you for eons. I have given you food. I have blessed you with the greatest beauty your eyes could behold. I've given you the most wonderful scents you will ever smell. I have given you herbs to cure your ailments. I have soaked up rains to keep you safe from flooding. I have gladly given all this to you. Now you would forsake ALL that God has allowed me to give you and your children for profit, power and greed. What will your children do? Believe me, our children will know who to blame. When I look into the eyes of my grandchildren and great-grandchildren, I can proudly say that I fought to save the mountains in all their glory for you."

### Even The Children

Andrew Jones, age 9, said "I will never know these mountains the way that my mother and grandmother knew

them. I will never catch lizards and fish in streams that aren't polluted. I can never hunt for squirrels and deer in the mountains my paw-paw did because they are gone - and they're never coming back. We need to stop mountain top removal before it goes any further. There are still mountains I can climb and camp in and hunt. Please

### Secretary of State Ken Hechler's "Funeral Wake for the Trees"

*"I think that I shall never see, a dragline lovely as a tree.*

*Trees that look at God all day, and lift their leafy arms to pray.*

*A dragline towering toward the sky, its bucket filled with trees condemned to die*

*Plus mountains blasted, rocks and soil, valley fills that make me boil.*

*The trees we honor at this wake, can't be replaced, make no mistake*  
*Mountaintop removal, don't you see, it's just murder in the first degree.*

*Bigger profits are their goal, but here's my message to Arch Coal:*  
*Draglines are made by fools like thee, but only God can make a tree."*

(with apologies to Joyce Kilmer)

continued on page 5

## Funeral for the Mountains

leave something for my future.”

Lavoris Harris of Coal River Mountain Watch spoke on behalf of the mountains and the topsoil in her neighborhood which have been lost to mountaintop removal. “Beloved fellow West Virginians and neighboring friends: We are gathered here today at this sad occasion to say good-bye to Majesty. When I woke each and every day, I saw you, the mountains. It was like being at the Throne of God. Your height and strength were remarkable. Now, I wonder what our State Song will be? Maybe Almost Level West Virginia, or Almost Heaven but more like Hell?”

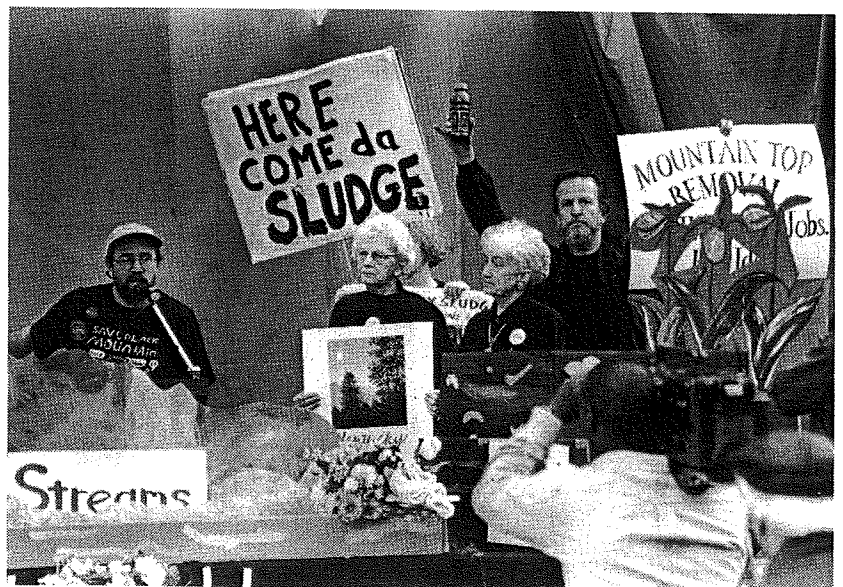
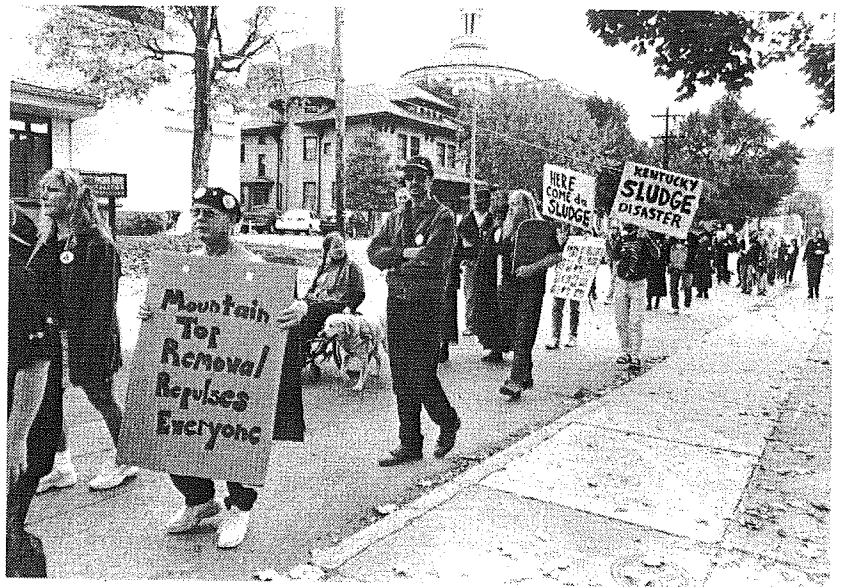
“The top soil of the mountains of West Virginia was created to drink, absorb, and filter the water that falls from Heaven to nourish and display our beautiful trees, trees that let us know the changes of the seasons; to display God’s handiwork of beautiful flower gardens. To display our beautiful snows. The top soil of the mountains was the very essence of strength that has been displayed through time.

“Now, who will feed our wildlife, and shelter them from the storms? Now, in whose arms will the grass lay? Who will hold the wild nuts and flowers? Now, who will display the trees that we looked at for hours, as we dreamed personal dreams? These are the very things we are known for everywhere we go. Now, where will the stage be for our birds, to sing their beautiful songs that entertained us for hours? We are here to mourn you today, you who housed our Black Gold. So good-bye, my friends, farewell.”

### The Lost Streams

Cindy Rank of the WV Highlands Conservancy mourned the lost streams: “Though rivers still flow, and lakes and seas abide, the magic of our mountains and the wealth of our hills are fading with each new day that buries more streams under even larger and longer valley fills. Today, as we honor those that have been unnecessarily sacrificed to the greed, neglect and ignorance that accompany our insatiable quest for ‘cheap’ energy, we must reaffirm our resolve to defend those that remain. No greater honor can we offer than to assure their destruction will not have gone unnoticed, will not have been in vain.”

OVEC staffer Janet Fout also spoke: “Democracy in West Virginia isn’t dead yet, but it’s comatose. Like the coal slurry pond that failed in Martin County, Kentucky, democracy is undermined by big special interests, like Big Coal, that contribute huge sums to our politicians in exchange for easy access and favorable legislation.”



# OVEC Threatens to Bring Another Lawsuit Against OSM

OVEC filed notice on November 21, 2000, that it intends to sue state and federal mining regulatory agencies over their failure to enforce bonding provisions of federal surface mining laws.

The notice aligns OVEC with claims in a lawsuit filed by the West Virginia Highlands Conservancy in early November. That lawsuit will attempt to force the federal Office of Surface Mining (OSM) and the West Virginia Division of Environmental Protection (DEP) to follow federal mining laws, including provisions that require a mining company to post a sufficient mining reclamation bond before it can be issued a surface mining permit.

## Federal Takeover?

If DEP refuses to follow the law, the lawsuit claims that the federal government must take over regulation of the state's coal industry.

OVEC's notice of intent to sue contains an allegation not included in the Conservancy's complaint. Under the 1977 Surface Mining Control and Reclamation Act (SMCRA), a state's mining law cannot be inconsistent with federal mining law. If the law is inconsistent, state law is to be superceded by federal law. OVEC alleges that the state's "alternative bonding system" is inconsistent with federal law. The state law must therefore be replaced with the federal bonding law.

"Two of the most important provisions of DEP's alternative bonding system have been disapproved by OSM, but OSM hasn't forced DEP to follow the law," said Laura Forman, an OVEC organizer.

## Bankrupt System

"DEP should not be issuing any bonds under this inept and bankrupt system, which, even if it was solvent, doesn't comply with federal mining laws," Forman said. "DEP's bonding provisions are supposed to keep taxpayers from being gouged by coal companies, but they don't. If the bonding program isn't fixed, taxpayers will end up paying enormous, ongoing clean up costs when coal companies abandon mines.

There's acid mine drainage, soil erosion and a whole host of costly problems associated with mines where DEP never required the coal company to pay adequate bonds."

OVEC is being represented by the same attorneys who represent the Highlands Conservancy in their bonding lawsuit – Charleston attorney Joe Lovett, Jim Hecker with the Trial Lawyers for Public Justice in Washington D.C.,

Morgantown attorney Suzanne Weiss, and Pat McGinley, a professor of law at West Virginia University.

## Decade-Old Problem

OVEC's notice of intent to sue alleges that OSM, starting in early 1990, repeatedly sent letters asking DEP to fix the bonding program. Each of those letters required DEP

to submit to OSM certain bonding program amendments within 60 days. In each case, DEP failed to do so.

The notice states that DEP's failure to make these submissions is a violation of federal law. Also, under federal law, these failures should have triggered OSM to prepare and implement a federal program for West Virginia.

Until corrective action is taken, the notice alleges, DEP should not issue any new surface mining permits using this bonding system, which is inadequate to reclaim mine sites and abate water pollution caused by mining. Five years ago, OSM calculated that the bond fund had a \$62 million deficit. That deficit has gotten worse and OSM has stopped calculating the deficit.

The Conservancy's complaint, filed in early November, states that for more than nine years, OSM has directed DEP to eliminate the deficit and restructure the bonding system. DEP has never submitted such a plan, and OSM has never enforced its orders.

In addition, DEP has ignored dozens of other OSM demands to promptly correct deficiencies in its program, including ineffective protection of water supplies, insufficient safeguards to reduce blasting impacts, and inadequate reclamation requirements.

## Audit Requested

In an statement issued when the Conservancy filed its complaint, Jim Hecker, an Environmental Enforcement Attorney with Trial Lawyers for Public Justice said bluntly, "DEP should not issue any more new mining permits unless it analyzes the actual reclamation costs of each one and requires mine operators to post individual bonds sufficient to reclaim them. We will also ask the Court to require an audit so that the public is informed about the actual, unfunded costs of reclamation. DEP and OSM have hidden this information from the public for years."

*"DEP's failure to make these submissions is a violation of federal law...DEP should not issue any new surface mining permits using this bonding system, which is inadequate to reclaim mine sites and abate water pollution caused by mining..."*

## Electronic Alert List Available

OVEC maintains an instant electronic alert list so it can notify people with e-mail capability when rapid responses are needed for important issues. If you would like to be added to this list, send an e-mail to [vivian@wvadventures.net](mailto:vivian@wvadventures.net) with "OVEC action list" in the subject line. Be sure to include your name and full e-mail address.

# Funeral for the Mountains



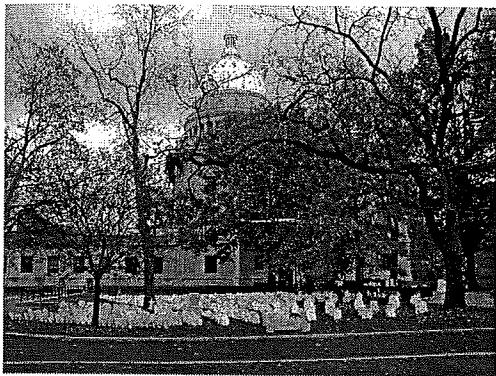
The large crowd was very attentive.

*photo by Dave Saville*



WV Secretary of State Ken Hechler regaled the audience with a touching poem about the value of trees compared to draglines.

*photos by Laura Forman*



A huge cemetery for lost mountains, trees, plants and animals graced the capital lawn.



Even Death made an appearance.



"I Love Mountains" kind of says it all. *photo by Deana Smith*

# It's Time for West Virginia to Consider Public Financing to get Fair Public Elections

by Janet Fout

In a democracy, every person should have an equal right to participate - regardless of color, creed, gender or economic status. Yet, under our current system of funding political campaigns, it is increasingly difficult for an ordinary citizen to afford successful involvement in politics - either to be elected to public office or to be heard above moneyed special interests that bankroll election campaigns.

As a result, many issues vital to the public good, such as health care reform, poverty, programs for youth, environmental justice, civil rights, decent wages and working conditions take a back seat to issues important to big donors.

Public financing of elections would provide a constitutional alternative to the present system; it would provide funding for aspiring candidates to run a viable campaign without accepting money from special interests.

Issues vital to the public interest are likely to receive greater attention when our elected officials no longer have to repeatedly seek out special interest dollars to be elected to office.

In recent years, the costs of attaining political office in West Virginia have risen significantly. The People's Election Reform Coalition-WV has reported that from 1996 to 1998 (an off-year election cycle), campaign contributions from special interests increased from \$2,258,508 to \$3,388,506, outpacing inflation by a factor of 10 to 1.

For instance, contributions from gambling special interests rose 223 percent, while contributions from tobacco special interests rose 830 percent between the 1996 and 1998 elections. Furthermore, eight of the 10 individuals making the largest total contributions were associated with the gambling industry.

In spite of the notable increase in the dollar amount of contributions, less than 4/10 of 1 percent of all West Virginians contributed to West Virginia legislative campaigns in 1998. In other words, very few individuals have the ability to decide who will have the financing to run for political office. According to PERC-WV's report on the 1998 elections, in 90% of the contested races, the candidate with the most money won.

An analysis of the 2000

primary election in West Virginia indicated that:

- ⊕ Contributions were up 16 percent from the 1998 primary (largely due to beginning balances);
- ⊕ Gambling contributions exceeded coal contributions in legislative races;
- ⊖ Contributions from the Greenbrier resort were down 78 percent in the primary (A bill was previously passed in the legislature that allowed for county referendum on casino gambling at the Greenbrier Resort. Gambling supporters could put their dollars into an advertising campaign since they already had what they wanted from the legislature);
- ⊕ Coal contributions declined about 36 percent;
- ⊕ Both Wise and Underwood had raised over \$1.2 million each through the primary. Top special interest to Bob Wise (Dem.) and Cecil Underwood (Rep.) combined include the health care industry, construction and development, other lawyers, coal, other business, and corporate lawyers. Independent Mountain Party candidate Denise Giardina had raised \$17,914 and Libertarian Bob Meyers had raised \$2,550;
- ⊖ Once again, the coal industry and its supports were the top contributors to Governor Cecil Underwood's primary race (\$120,817).
- ⊕\* Other lawyers (neither corporate nor trial lawyers) were the top contributors to Bob Wise's primary race (\$151,767).

Other states have taken effective steps to remedy this campaign money-go-round. Maine, Massachusetts, Arizona and Vermont have enacted laws which provide an innovative alternative to our current system of campaign financing. It is called Clean Money Campaign Reform (CMCR).

Clean Money Campaign Reform is a completely voluntary system that complies with the latest U.S. Supreme Court rulings on campaign finance. Potential candidates who have collected a predetermined number of small donations (to demonstrate constituent support) would receive a fixed and equal amount of campaign funding from a publicly financed fund. Clean Money candidates would refuse any special interest contributions.

With public funding, aspiring candidates would be able to compete on the basis of program, ideas, party affiliation, and

*continued on page 12*





# "Talking Truth to Power" About Kentucky's Massive Sludge Disaster at the State Capitol

by Laura Forman

"A picturesque stream with rippling water running over slick rocks into pools teeming with minnows, crawdads, the occasional turtle or snake. The times with Mom and Dad and a picnic lunch under a shady tree. Going with dad to visit the grandparents at Mullet Branch and sitting on the front porch swing, looking out at Coldwater Creek, while munching on the greatest shortbread cookies ever made."

This is the Coldwater Creek, Kentucky of Greg Preece's memories. The images of that area have been tragically altered since the A.T. Massey sludge disaster on October 11.

"Coldwater looks like the aftermath of some horrible explosion, with the old familiar, never changing landscape, now scarred and twisted in a grotesque nightmare from which we cannot awaken."

On November 28, people representing citizen and environmental groups in Kentucky, West Virginia and a few national groups gathered at the rotunda in the capitol building in Frankfort, Ky., to express concerns and demand answers regarding the massive sludge disaster near Inez, Ky. The Kentucky Council of Churches was also present. Most of the speakers put the blame squarely on A.T. Massey for the sludge flood and expressed outrage at state and federal agencies for years of lax and inept environmental enforcement.

A solemn crowd of about 30 people assembled behind the podium where each speaker addressed the media. Organizational banners proclaimed the significance of a Kentucky, West Virginia alliance committed to ongoing work on this issue.

Containers of the foul smelling sludge collected from the spill were on display. Poster-sized photos that fanned out in front of the podium delivered a dramatic presentation of a

once peaceful and lovely Appalachian hollow, turned into a valley of sorrow and destruction. Paul Justice's moving photos show the Coldwater Creek area and some of the residents immediately following the disaster through the first month of the clean-up.

People gathered in solidarity to support the folks who



**Doyle Coakley speaks out at the press conference held at the Kentucky state capitol to discuss the coal slurry disaster.** *photo by Julie Archer*

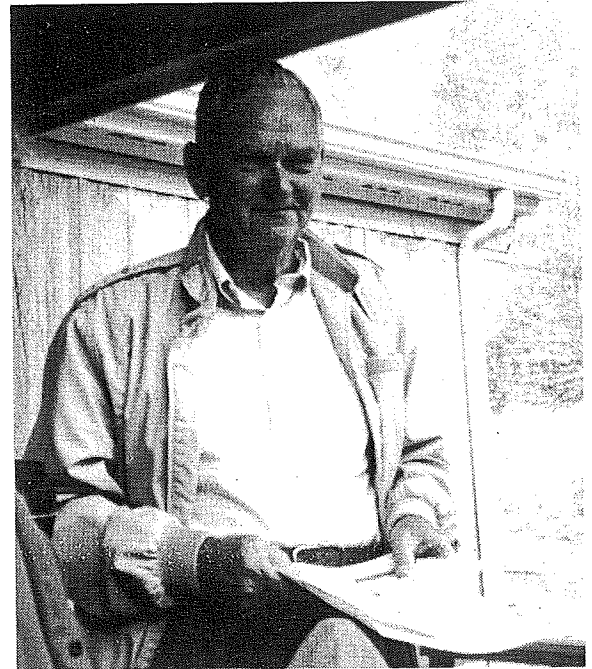
have suffered through the A.T. Massey sludge flood, and to support coalfield citizens whose lives and property are threatened every day by other massive sludge impoundments. With around 220 out of the 650 impoundments in Appalachia having been constructed near or on top of underground mines, and many of those ranked with a moderate to high risk for failure, concerns mount that a catastrophe like the one on Oct. 11 could happen again.

Folks expressed their doubts in the abilities of the state regulatory agencies to protect the people and environment from future coal-related disasters. From May 1994, when the Martin Co. sludge impoundment leaked, until the disaster on October 11, 2000, Kentucky state surface mine inspectors checked the site more than 70 times and found no violations.

As Doyle Coakley of the Citizen's Coal Council said, "For over two decades, the US Office of Surface Mining and the state agencies have been the coal mine cops. They

*continued on page 17*

# Horrific Kentucky



photos by Paul Justice

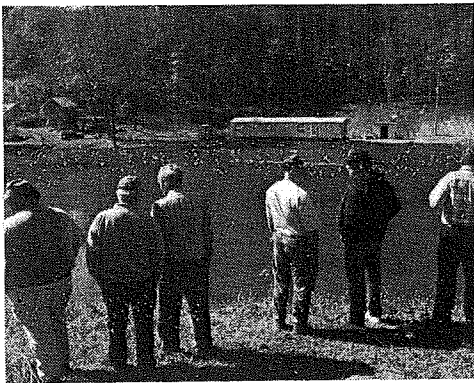


photo by Laura Forman



The human face of the disaster. George Smith, above, had sludge lapping almost to his back door after the wave of sticky black goo came pouring down Coldwater Creek after the sludge impoundment failed. At left, residents view the sheer enormity of the damage as the liquid black death smothers everything in sight.

## Sludge Disaster

*continued from page 1*

Big Sandy River is black all the way from Catlettsburg to the headwaters. (almost 100 miles - Ed.) There is a goo ranging from several inches to several feet thick along the entire length of two Martin County streams (Coldwater Creek and Wolf Creek). Authorities are blocking the road so that no "outsiders" can see the extent of the devastation.

It would not be an overstatement to state that every living thing in the two streams is now dead. A cleanup worker got trapped in the creek earlier this week and was buried up to his chest, it's like quicksand. He got stuck and was yelling for help and some other workers pulled him out. He said his feet never touched the bottom and he would have sunk if he

hadn't been rescued.

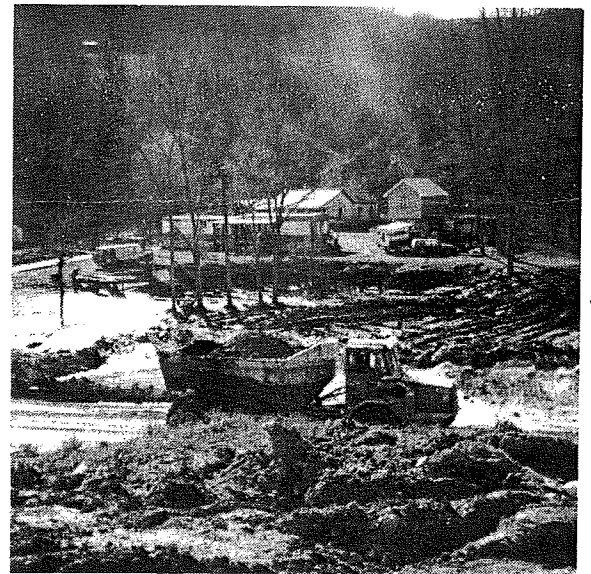
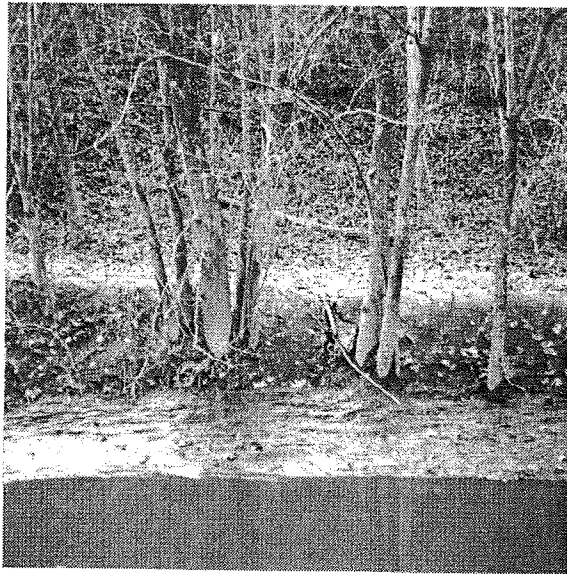
There are animal tracks in the goo leading to the creek - I imagine that a great number of raccoons, possums, etc., have gotten stuck in the goo like the La Brea tar pits in California. Any animal that drank from the creek would probably die. The water is totally black. (According to the Martin County newspaper, a number of dogs which were trapped in the sludge and rescued, with no apparent injuries, have died. Ed)

They are digging pits around the stream and vacuuming up the sludge from the creek and dumping it in these pits which are about 1-2 acres and 10 feet deep. No

# Coal Sludge Disaster



At left, OVEC staffer Janet Fout collects a sludge sample from George Smith's backyard - the goo clings tenaciously to anything it touches. At Wolf Creek, below left, there was virtually no sign of any cleanup activities. Below right, "cleaning up" the coal sludge, one month after the disaster. photos by Laura Forman



liner, of course. It is a huge mess and their efforts aren't even making a dent. The cleanup operation looks just as goopy and messy as the Exxon Valdez.

They are draining a reservoir in Inez that will only last about a month, after that where are residents going to get their water?

We talked to one homeowner on Wolf Creek, which has less damage than Coldwater Creek (two separate watersheds are affected - both creeks flow together in Inez). She stated that they had been calling the coal company for about a week and they wouldn't even talk to her, they are too busy on Coldwater Creek. About two-thirds of her backyard

is coated in sludge which is several feet deep in places. Supposedly damage is much worse on Coldwater Creek but they wouldn't let us back there.

A homeowner along Wolf Creek said that they were lucky only 10 percent of the sludge impoundment drained out (250 million gallons out of 2 billion). She felt they would have been killed otherwise. You can see the high "water" mark (black line) on the trees along the creek bank, about 3-5 feet above current level. The sludge has settled in the creek bed several feet thick and the water just makes a little channel in the muck and flows on top of the sludge. They are NEVER

*continued on page 14*

# Mountaintop Removal Mining and Sludge Ponds - It's Just Common Sense

by Dianne Bady

The sludge disaster in eastern Kentucky came from that state's largest mountaintop removal mine. As long as mountaintop removal (MTR) continues, citizens will face greatly increased risks from sludge spills. This is because MTR produces unprecedented amounts of coal in short periods of time, and large sludge impoundments are therefore being built and expanded much faster than ever before. Some of these are close to populated areas.

Also, blasting on an apocalyptic scale takes place at MTR mines - Mike Wallace of *60 Minutes* reported that some of the blasts are 100 times larger than the Oklahoma City bombing.

All of this blasting makes the land beneath impoundments, and the dams themselves, much more unstable. It's really only common sense to realize that you can't expect huge waste impoundments to remain stable when the ground they sit on, and the dams which contain the toxic sludge, are repeatedly shaken by enormous blasts.

It's also just common sense to realize that state and federal regulators are doing a completely inadequate job of enforcing laws relating to sludge ponds. Anyone who reads Ken Ward's stories in the *Charleston Gazette* is painfully aware that laws and regulations relating to ALL aspects of

mountaintop removal have been routinely and blatantly ignored by "our" regulators.

The work of WV Citizen Research Group and OVEC (leaders of the People's Election Reform Coalition / WV) has made it clear that the election campaigns of West Virginia political leaders have been heavily funded by coal. These bought-and-paid-for politicians then control the agencies that are supposed to be protecting the people and the environment.

Although the Kentucky sludge spill has not received the national attention it deserves, we're pleased that an extensive story ran nationwide on National Public Radio's *All Things Considered*. Comments by OVEC's Laura Forman were included in the story.

## The Gazette Gets It - Why Can't Mike?

From a *Charleston Gazette* editorial, July 13, 2000:

"(WV Division of Environmental Protection Director Mike) Castle is also coddling the entire surface mining industry. He issued a memo exempting almost all pending mountaintop removal permits from an approximate original contour formula developed as part of the settlement of the recent federal lawsuit. The memo violates the settlement that U.S. Chief District Judge Charles Haden approved, which said that all pending permits would be subject to the stricter formula."

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## Clean Elections

*continued from page 8*

leadership ability instead of money. Once elected, office holders would be free to spend time attending to constituent concerns rather than raising money for the next election. Freed from special interest donations, elected officials would have greater ability to develop and pass legislation that benefits the public interest.

Won't public financing of elections cost too much? No! States which have already enacted public financing estimate that it will cost about \$4-5 per voter - a small price to pay for "clean" elections.

Many argue that public financing will actually save states money by making it easier to eliminate the costly and unnecessary tax breaks for special interests that pass every session. These add up to millions of dollars drained from state and local revenues - money sorely needed for schools, libraries, law enforcement and other public services.

Excessive influence of special interest money in the political process has most likely contributed to the growing cynicism and lack of citizen involvement in our political process. Public financing of campaigns could help create an energized electorate which could lead to increased accountability and a strengthened democracy.

In the 2000 election in Maine where Clean Money Clean Elections is now law, 17 out of 35 members of the state senate (49 percent) got elected running as Clean Elections candidates, as did 45 out of 151 in the state house (30 percent). Over half the Clean Election candidates who ran won their races. Overall, 46 percent of Democrats and 16 percent of Republicans in the legislature have no ties to private special interest donors. In the state senate, 59 percent of the Democrats and 41 percent of the Republicans are "clean."

The Rev. Jim Wallis, in his latest book, *Faith Works*, says, "A new movement for democracy is growing across the country around the issues of money and politics, and many people are becoming involved... We should all support this hopeful movement; the concern about the excessive influence of money in controlling political ideas and candidates is so basic to our future that it is gaining support across the political spectrum... If the power of money over our political process could be substantially reduced, through a variety of means, the possibility of other needed political reforms would dramatically increase."



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

# It's Not the First Time Sludge Has Blanketed Our Mountains With a Layer of Sticky Black Goo

by Linda Ann Ewen

On a rainy day in the spring of 1972 an impoundment above Buffalo Creek in Logan County, West Virginia burst, sending a murderous torrent of coal sludge down a hollow - wiping out communities, schools, churches and killing 127 people. This was not ordinary water. It was mine waste - a sludge that skinned the bodies of the victims and filled their lungs with chemical pollutants. The officials who had turned their eyes from the mounting evidence that the impoundment was unsafe vowed "Never Again."

## History Repeating Itself

Well, this October it happened again. A poorly constructed "pond" owned by a subsidiary of A.T. Massey dumped 250 million gallons of highly toxic contaminated coal waste into a West Virginia-Kentucky watershed.

Think about it. A gallon of water weighs about eight pounds. Sludge is much heavier than water. If a gallon of sludge weighs approximately ten pounds, that was 2 billion, 500 million pounds of poisonous liquid oozing into a watershed. Most of us remember the national outrage when the tanker Valdez spilled 11 million gallons of oil off the Alaska shore in 1989. This spill was 20 times the amount of the Valdez spill.

Sludge is more difficult to clean up than the oil from the tanker Valdez. It has inundated 75 miles, spreading poison and death

*"It has inundated 75 miles, spreading poison and death to all wildlife and contaminating drinking water for numerous communities."*

to all wildlife and contaminating drinking water for numerous communities.

A bridge near a home on Coldwater Fork that

was normally 8 or 9 feet above the creek is now about level with the sludge that has spread out and filled in the floodplain of the creek. People are asking what will happen if a large rains comes? The "clean-up" is wreaking its own havoc. Work is going on twenty-four hours a day using heavy equipment. A hog lagoon mixer/sprayer is being used to keep the sludge from settling out and to keep it flowing downstream. The stuff is so thick that pumping equipment is being damaged. Drive shafts worth thousands of dollars each are getting sheared off.

## Sewer Systems Damaged

The heavy equipment being used has damaged sewer lines to septic tanks. Now septic systems are failing and the oozy raw sewage is pooling on or by the sludge. The sludge comes off loaders and oozes out of truck beds as it is being hauled away. Then it spills off the trucks onto the road.

It would be easy to focus on the mess, or on the heavy metals in the sludge, or the numbers of fish and fowl that been killed. But I would rather examine something more difficult and actually more sinister. This is the question of responsibility and accountability for the disaster.

Although the *Huntington Herald-Dispatch* (W.Va) - whose editorial policies align them closely with big business - has been handling the disaster with

*"...responsibility lies with a political system so intertwined with the worldview and profit concerns of the industry it regulates that considerations of public safety and interest are completely overshadowed."*

kid gloves, other media have actually carried out investigative journalism. Ken Ward of the *Charleston Gazette* (W.Va.), Kevin Eigelbach of *The Daily Independent* in Ashland (Ky.), and Joseph Gerth and Deborah Yetter of the *Louisville Courier-Journal* (Ky.) have all reported serious problems with environmental regulation in Appalachia. According to their investigations, the six hundred "slurry ponds" that now exist in Appalachia are all potential disasters waiting to happen.

## Not If, But When

*The Daily Independent* quoted Rick Eades, a Charleston hydrogeologist and former coal industry consultant, as saying "They're all time bombs. It's just a matter of do they come down in one year or 50 years or 500 years."

These reporters have also uncovered gross negligence on the part of both state and regulatory agencies in overseeing these huge deposits of mine waste. The regulations have either not been enforced, or laxly enforced, or simply ignored. And it is not because regulators don't know the risk. These regulations were passed after the public pressure generated by the Buffalo Creek flood - supposedly to prevent future disasters.

The Martin County Coal Company holding pond that gave way on October 11 had already had one previous spill, in 1994. The company was supposed to have fixed the problem. But according to MSHA records, no one had checked to see if they had.

The Martin Creek slurry pond was only ranked as "moderate" risk whereas, according to Ken Ward of the *Charleston Gazette*, there are 45 ponds with a "high" potential for disaster. One of those sits above the Boone County community of Whitesville, and if it were to break, the toll would be far greater than that of Buffalo Creek.

What is going on? Is it a case of inept officials or an apathetic public? No. What emerges from a study of the

*continued on page 15*

## Sludge Disaster

*continued from page 11*

going to get this all cleaned up. (editor's note - According to the Nov. 29 Lexington Herald- Leader, "Officials called before the state Environmental Quality Commission yesterday said cleaning up all 250 million gallons of the muddy brown goo is not feasible.")

According to the Martin County paper *Mountain Citizen*, this is not the first spill at this particular sludge pond - it happened before in 1994.

### November 5

After the coal company was ordered to remove their illegal roadblock last week, we decided to go back to the site of the coal sludge spill on Coldwater Creek and see what we weren't allowed to see on our last trip. Some homeowners along Coldwater Creek whose homes had been hard hit by the sludge spill are now living in fear of the 20-foot walls of sludge which lie up the mountain.

As we traveled the narrow, winding road up the hollow, we were awestruck by the size and scope of the cleanup, which operates 24 hours a day, seven days a week. There were dump trucks, bulldozers, backhoes and cranes

## W.I.B.



**You've heard of the Men In Black...now meet: the Women In Black! Defenders of the mountains, slayers of corporate greed, these women need your help to succeed with their mission - so donate to OVEC today. Coming soon to an action-packed rally near you. (Rated PG-13, for some violent comments against politicians feeding at the lobbyist trough and corporate lawyers hiding behind acts of God. See page 19 for details).**

all up and down the road, and our car caravan weaved slowly around the heavy equipment. The road was covered with sludge, and extremely slippery.

We passed many pits along the road that were hastily-dug to hold some of the waste sludge. Apparently Martin County Coal's (A. T. Massey's) plan is to let the sludge dry in the sun, then haul it back up to the waste pit on top of the mountain. We stopped and photographed a worker operating a suction hose in the creek, before the contractor ordered us off their "private property".

About a mile up the road, we passed the spot where the roadblock had been, and it quickly became apparent why the coal company did not want the public to have access to the main part of the spill. The scene was almost indescribable. Not only were the creek and the banks covered in black, oozing muck, but entire fields and yards were one to two feet deep in sludge.

A few houses up the hollow, we met up with the friendly homeowners, who let us park in their driveway. The scene got progressively worse as we looked around. Out the back door of their home, an area the size of two football fields lay covered in sludge. The air was filled with the roar of machinery, but once we got our cameras out the contractors quickly shut down their machinery and huddled together.

They were trying to build a road out into the sludge, but in doing so they damaged our hosts' septic system, and the air was filled with the odor of raw sewage. Our hosts said they might have to leave their homes, now that they had no septic system. This is apparently the last straw for them. They remain very concerned about toxic effects of the sludge, and apparently no one has yet definitively stated whether it's safe or not. We were told that Martin County Coal President Dennis Hatfield has apparently told homeowners that you could eat the sludge. To which they responded, "Well, here's a spoon, Dennis, just dig on in!"

Meanwhile, from the back porch of a trailer which had sludge right up to its foundation, we watched a surreal scene as a bulldozer pushed its way through two foot deep sludge in their backyard, the black gunk flying off the metal treads. We noticed several graders and backhoes buried up to their axles in sludge, apparently hopelessly stuck.

We passed a small white frame house, and walked down a gravel road which gave us our most incredible view of the day. A square mile of devastation. Sludge as far as the eye can see. A bridge that was normally ten feet above the creek, now buried a foot deep in sludge. Homes surrounded by sludge. A basketball hoop only a few feet above the pooled sludge. Our jaws hung open in amazement at the sight.

We made friends with every person we talked to. They were all very glad to see us, and asked us to do whatever we could to bring attention to their desperate situation.

## Not the First

*continued from page 13*

situation is that responsibility lies with a political system so intertwined with the worldview and profit concerns of the industry it regulates that considerations of public safety and interest are completely overshadowed. Consider, for example, an editorial in the *Coal Bell* (July 1998), a publication of the coal industry, titled "State Agencies Send Mixed Message in Land Use." Industry spokesperson Fred F. Holroyd writes in support of mountaintop removal: "A new useful environment is created out of a worthless piece of dirt, good for absolutely nothing, save for snakes and scrub pines...It seems to me that if a property owners [sic] wants [sic] to flatten a useless mountain top he should not be prevent [sic] from doing so. If an environmentalist or state agency wants to preserve a mountaintop they should buy it."

### Make Their Money, Then Leave

In other words, those who are destroying our mountains and leaving behind them large deposits of dangerous wastes have a distinctive standpoint. They see our mountains as merely a place to exploit, a place that has no worth other than to provide them with the quickest buck. If coal mining is done carefully and safely, then it costs more. The owners of this industry are driven by market demands.

We cannot expect less. Thus, we assume it is government that looks out for the general good. But in the case of West Virginia this is not the case.

Massive infusion of money into the coffers of the politicians makes almost all of them beholden to big business interests. They are selling our birthright to the highest bidder.

Yet the mountains are our home, and will always be our home. This is where we hunt and hike. This is the place where our great grandparents and grandparents birthed their babies and blessed them in baptism.

These ridges abloom in the spring and ablaze with color in fall make an awesome statement about Creation. Can we stand by and let them be destroyed?

(Lynda Ann Ewen, Ph.D., Professor of Sociology and Co-Director, Center for the Study of Ethnicity and Gender in Appalachia, Marshall University, Huntington, W.Va. Area newspaper reports are posted on <http://www.appalshop.org/cmi/> and Ken Ward's interview on National Public Radio may be found on <http://www.loe.org>. Reports of the clean-up situation are available from the Democracy Resource Center in Lexington, Ky. ([ctalwalkar@kydrc.org](mailto:ctalwalkar@kydrc.org).)

### Call For Action

Folks in Kentucky are asking that people call, write, e-mail or fax Gov. Patton of Kentucky with the following:

- 1) Tell him to ask President Clinton to declare Martin County a Federal Disaster Area, and stipulate that all federal costs for the cleanup be billed to Martin County Coal.
- 2) Express your concern about the other 600 coal slurry impoundments in Appalachia.
- 3) Ask the Governor to inform the residents of the Coldwater Creek, Wolf Creek, and Big Sandy watersheds exactly what is in the coal sludge and in what concentrations and what the risks are for residents and cleanup workers.

To Contact Kentucky Governor Paul Patton:

**Gov. Paul Patton**

**700 Capitol Ave.**

**Frankfort Ky 40601**

**E-mail: [governor@mail.state.ky.us](mailto:governor@mail.state.ky.us)**

**Phone: (502) 564-2611**

**Fax: (502) 564-2517**

## Summit for the Mountains



The third Interstate Summit for the Mountains was held on Nov. 11-12, 2000, at Camp Virgil Tate in Sissonville, W.Va.

About 40 people from environmental and activist groups met to discuss strategies for dealing with the ongoing issue of mountaintop removal/valley fill strip mining, made more urgent by the coal slurry disaster near Inez, Ky., exactly a month before the summit.

At left, some of the participants are shown in a group photo at the conclusion of the gathering. *photo by Janet Fout*

# Second Glass Ornament Fund-Raiser Highlights Special Species

by Janet Fout

West Virginia's showy native flora and fauna could be considered nature's ornamentation. Now, depictions of four of these special species are actual holiday ornaments.

Pilgrim Glass' master glass artist Kelsey Murphy has designed two new etched glass ornaments for OVEC depicting the scarce Pink Lady Slipper orchid and the showy Pileated Woodpecker. Murphy has etched her portrayals onto hand blown ornaments made from Pilgrim's signature cranberry glass.

The orchid and woodpecker glass orbs are the second set in a collection of ornaments featuring species native to West Virginia's forested mountains. The first collection, released during the 1999 holidays, featured the ginseng plant and the ovenbird.

The ornaments are lasting treasures that help preserve West Virginia's mountain legacy. The proceeds generated from the sale of these collectibles, priced at \$30 each, go to OVEC.

Mountaintop removal, a coal mining practice that OVEC wants to see banned, destroys the habitat of the species celebrated on the holiday ornaments.

## *Pileated Woodpecker*

"The Pileated woodpecker (*Dryocopus pileatus*) is one of the most spectacular birds in West Virginia. Its closest relative was the Ivory Billed woodpecker, which is now probably extinct because of habitat destruction. It only took a few decades for this magnificent bird to be wiped out. Pileated Woodpeckers prefer dense, mature mixed hardwood and coniferous forests and large territories in order to survive," said Salt Rock, W, Va., resident Mike Forman, who is a senior advisor to the Huntington Tri-State Audubon Society.

"Woodpeckers are key to keeping populations of wood boring insects in check," Forman added. "These birds are beneficial both to the forests and the forest industry."

The Pileated woodpecker is 16-19 inches long with a wingspan of 27-30 inches. Both the male and female of this black, crow-sized woodpecker have a red crest. Sometimes undulating as it bounds through the air from tree to tree, white patches on the front half of the wings distinguish it in flight from a crow (and the extinct Ivory Billed Woodpecker). This majestic species drums on dead trees to advertise its territory, attract a mate, or before going to roost at night.

The nesting cavity, where 3 to 4 eggs are incubated for 18 days, may take as long as 30 days to complete. Interestingly, the male takes care of the young at night while the female sleeps in a nearby roosting hole. How liberated!

Nest holes are generally dug in a dead tree in a shaded place in woods or in a dead branch of living trees, such as beech, poplar, birches, oaks, hickories, maples, hemlocks, sycamores; these nesting sites may be used for several years. This woodpecker may nest on the side of a mountain but is found more often in the valleys or bottomlands. One requirement for nesting location, however, is the nearness of water, a requirement that would be nearly impossible to meet at a mountaintop removal site.

The diet of the Pileated Woodpecker consists of flies, mosquitoes, moths, ants, grubs, and caterpillars as well as some plant fruits of Virginia creeper, sour gum, poison ivy, wild grapes, and seeds of sumac. One might be coaxed to a bird feeder with suet, pecan and walnut meats. The Pileated woodpecker has been known to live up to 13 years! (Terres, J. K. 1980. The Audubon Society Encyclopedia of North American Birds. Alfred A. Knopf, Inc., New York.)

## *Pink Lady Slipper*

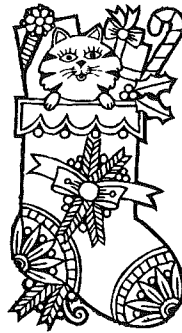
"Orchid habitat is the most sensitive of all plant habitat," said Bernard Cyrus, a rare plant specialist from Fort Gay, West Virginia.

"The Pink Lady Slipper, also called the moccasin flower, grows in acid soil in pine and oak woods, often associated with rhododendron and wild azaleas," Cyrus said. "Its seeds, known as satellite seeds, are dispersed slowly out of a capsule and carried on the wind. The seeds can even circle the globe and when they fall back to earth, in order for them to begin to grow, they must be in a perfect setting. From the time a new born plant begins to grow, it takes 7 - 12 years before it blooms."

The Pink Ladyslipper or Stemless Ladyslipper (*Cypripedium acaule*) is an orchid with long fibrous roots and many-nerved, plaited leaves. A pink flower blooms on this plant, though a rare white variety has been observed. The two basal leaves are elliptical in shape, thick and plaited between 5-8 inches long. The pouch, which is enfolded down the center, is 1½ to 2 inches long.

This plant, usually not abundant, probably grows in every county in West Virginia, and increases in number with forest protection. This orchid, which requires the acid humus of pine and oak woods, blooms May through June and grows in shaded, rocky woods (Strausbaugh, P.D. and E. L. Core. 1970. Flora of West Virginia, Part I, Second ed., West Virginia University Press, Morgantown, WV).

**Ornaments from both the 1999 and the 2000 collection are now available for pick up at the OVEC office and at the Pilgrim Glass gift shop in Ceredo, near the Huntington Tri-State Airport. Call (304) 522-0246 to arrange for pick up. Orders can also be shipped for an additional \$4. Call Pilgrim Glass at (304) 453-3553.**





## Sludge Press Conference

continued from page 9



**A large dump truck hauls away a tiny portion of the coal slurry from Coldwater Creek. The bridge at right had been completely covered by the goop.**

*photo by Laura Forman*

are supposed to prevent companies like A.T. Massey from building sludge impoundments above and next to underground mine workings. They have turned a blind eye to the problem. The latest disaster in Kentucky is not the first. Unless the coal companies and regulators take positive steps, disasters will probably continue to be repeated in West Virginia, Virginia, Tennessee, Alabama, Ohio, and Pennsylvania."

From the Kentucky Council of Churches came strong comments, including the following: "The slurry spill in Martin County that polluted our rivers, creeks, and land, and which caused irreparable harm to wildlife and plant life, stands as a degradation of our good creation, which we believe was given to us by God for our stewardship and care. The Church stands ready to both accept blame for our neglect, and to challenge our members to be more aware of the impact of our lush standard of living on the biosphere itself. We stand ready to hold mining companies and the natural resources industries accountable to all of us for their neglect of the creation."

As the speeches continued, the specter of the 1972 Buffalo Creek disaster was raised, where 125 people lost their lives to a Pittston coal refuse dam failure.

While we recognized how fortunate we were this time that we did not lose human lives, the question remains, how long do we have before that happens?

Many of the speakers echoed the idea that a moratorium on new or expanded sludge impoundments be imposed and that the alternatives to these structures be investigated.

People also demanded that the sludge be analyzed for toxic chemicals, heavy metals, etc. and that the results be disclosed to the public.

OVEC speakers and others demanded that A.T. Massey admit FULL responsibility and, as the Cumberland Chapter of the Sierra Club stated, "pay for all personal and real property damage, pay all medical costs, including follow-up medical costs associated with the physical and psychological effects of the impoundment failure...and the disruption of lives caused by the intrusion of the catastrophe and the remedial activities."

It was also requested by groups and residents of the Inez area that the site be declared a federal disaster area so that FEMA could allocate money for people to relocate if necessary.

Various state regulatory agencies, politicians and A.T. Massey continue to

understate the enormity of this disaster and the possibility of similar dam failures throughout Appalachia. While Kentucky Natural Resources Secretary James Bickford praises Martin County Coal claiming "I haven't had any problem getting them to do what's needed", people like Greg Preece live with hazardous roads, ruined property, destroyed septic systems, 24-hour-a-day noise, dust and fumes related to the clean-up.

"The stream is choked to overflowing with thick, black oozing sludge and the old familiar creek bottoms which were yards and cornfields, are now littered with bulldozers and excavators, tearing up seemingly more than they are cleaning up. At home the rest you seek is fleeting amid the noise of the equipment...you spend more time worrying about what happens next, is your family safe on the roads, will the sludge and dust affect your family's health, will the next rain force you to evacuate. I have my memories of Coldwater Creek, which will always be precious to me. A few years from now, what will my son Brandon's memories be?"

### ***A (Depressing) Thought for the Day***

"Thought for the day: Gov. Underwood has put so many coal executives into state jobs that there's hardly anyone left to run West Virginia's mines."

This is from the *Charleston Gazette* editorial "Potpourri," May 18, 1998. Yes, that's the correct year - 1998. It's nice to know that at least Underwood's being consistent in *something*.

# *It Pays to be Uppity, Especially for the Long Haul*

by Vivian Stockman

OVEC's big achievements usually require huge investments of our time and energies. Getting justice served upon Ashland Oil took eight years. Slaying the pulp mill monster took almost as long. We have hunkered down for the long haul as we push for a ban on mountaintop removal. For many of us, opposing and exposing mega-polluters and seeking sustainable alternatives is something we do for the sake of our kids. Even so, we need to have fun together and achieve incremental victories in order to sustain our energies.

Fortunately, we can sometimes achieve victories without enduring long battles.

On Sept. 18 the *Charleston Gazette* informed readers that the Kanawha County Board of Education proposed to cut down about 30 trees, including some planted by students, along a creek at Bonham Elementary School.

The board said the trees were causing moisture

problems in the school. OVEC board member and school teacher Sharon Roon said the moisture problems came from an "inferior heating and cooling system the school board put in. Last year, we wrote the board a letter about the moisture, noise and health problems their system caused. That included tremendous mold problems.

"They did nothing. Now they want to blame the trees. They want to cut trees, like a willow tree the students planted with an 'OWLS grant' from the non-game program of the state Division of Natural Resources." Students had been working on the school grounds to make the place more attractive to wildlife. They had also learned that riparian zone vegetation helps to control flooding.

Sharon rounded up the first to fifth grade students in her EYES environmental club. They, and others, protested the school board's tree cutting proposal. The next day, the *Gazette's* headline read, "Trees at school won't be felled; School board reacts to protests."

It was a swift victory. "If we had not raised our voices, the trees would be gone," Sharon said.

Upon hearing that the trees would not be cut, fourth grader Courtney Walker said, "Boy, that was quick! We didn't even have to do a petition or anything. I wish mountain top removal would go that easily!"

You said it, Courtney!

# T H A N K S

Thanks to the many folks whose involvement in OVEC's work makes it all possible! You know who you are.

Special thanks to: Carol Jackson, George Daugherty, Walt Morris, Charley Kincaid, Mason Kincaid, Joe Lovett, Jim Hecker, Pat McGinley, Suzanne Weiss, Winnie Fox, Tom Jones, Elinore Taylor, Dot Henry, Dan Kash, John Taylor, Lynda Ann Ewen, Larry Gibson, Paul Justice, Missy and Gregg Anthony, Rev. Adam Kradle, Regina Hendrix, Susan Hayden, Tonya Adkins, Jack Waldeck, Sharon Roon, Greg Carroll, Cindy Rank, Denise Poole, Allen "Doc" Davis, Eric Fout, Rick Bady, Sam Cook, Julie Archer, Ken Hechler, Joe Lung, Patty Wallace, Monty Fowler, Joann Hammond, Robin Godfrey, Denise Giardina, Carlos Gore, Mike Forman, Julian Martin, Frank Gilliam, Rick Eades, Dave Saville, Dave Cooper, Becky Hoff, Diane Wellman, Chuck Wyrostock, Deana Smith, Anna Smith, Rosalie Blaul, Kate Lambdin, Helen Hervey, Marvin Carr, Rev. Jeff Allen, Harvard Ayers and his students, Patty Adkins, Judy Bonds, Andrew Jones, Janice Nease, Donna Halstead, Monroe Cassidy, Bob Gates, Jude Bender, Holly Metz, Pauline Canterbury, Paula Kerner, Jason Huber, Eddie Harmon and Freda Williams.

## **New E-Mail Alert List**

The WV Environmental Council would like to invite you to join our E-mail Action Alert List. WVEC is a coalition of grassroots organizations working together, helping citizens promote environmental protection.

WVEC was organized over 12 years ago when friends realized the same battles were being fought all across the state and what we needed was one group to help link everyone together. WVEC is very active during the Legislative Session by working with our Delegates and Senators to pass sound environmental laws and stop the bad bills from becoming law.

We have many different issues that you can receive alerts for during the legislative Session and throughout the year. Issue Groups: Air Quality, Blackwater Canyon, CFR/Good Government, Chemicals, Electricity Deregulation, Endangered Species, Farmland/Land Preservation, Forests/Timbering, MTR/Mining, Oil & Gas, Poultry, Public Land, Quarries, Rivers/Water Quality and Solid Waste/Recycling. You can also choose to receive ALL alerts.

To join the WVEC E-mail Action Alert List please send your name, e-mail address, County where you live, mailing address and issues that you would like to receive to Chris Hogbin at [cahogbin@cs.com](mailto:cahogbin@cs.com) and she will add you to the list.

If you would like to learn more about the WVEC you can go to [www.wvecouncil.org](http://www.wvecouncil.org) to read the latest newsletter, GREEN.

Please, join hundreds of others on the WVEC E-mail Action Alert List who are concerned with environmental issues across West Virginia.

# Coal Waste Pond Expansion Plans in West Virginia Protested

A plan to expand a Raleigh County coal waste pond near Whitesville, W.Va., would create an impoundment more than twice the size of one that failed earlier this year in Kentucky, the Associated Press reports.

The failure of Martin County Coal Co.'s 70-acre impoundment at Inez, Ky., sent 250 million gallons of coal sludge into tributaries of the Big Sandy River and caused what the U.S. Environmental Protection Agency called one of the worst environmental disasters in U.S. history.

AP Reporter Martha Hodel reported that the impoundment proposed by Marfork Coal Co. would cover 153 acres, according to Paul McComas, chief engineer for the A.T. Massey Coal Co., parent company of both Marfork Coal and Martin County Coal Co.

The Marfork impoundment is built on top of both active and abandoned underground mines, some of which are located only 150 feet below the impoundment, McComas said. Engineers have not yet determined why the Inez, Ky., impoundment failed, McComas said, although early assessments suggest that it resulted from the collapse of the Martin County sludge pond into abandoned mine workings below.

"They said 250 million gallons came out of the impoundment at Inez. We need to know how much sludge will be in this impoundment," said Nancy McVey of Dorothy.

McComas said it will total some five billion gallons over the life of the impoundment. When reclamation is complete, he said, there will be no water left in the impoundment.

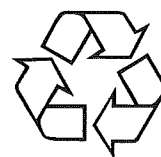
Rick Eades, a geologist working with the Ohio Valley

Environmental Coalition, argues that the pillars of coal that support rock above the old mine workings may not be strong enough to support the weight of the slurry pond, which is expected to be as much as 250 feet deep.

An estimated 250 million gallons of mine waste material contaminated with heavy metals, including lead, mercury and arsenic, contaminated water supplies for five municipal water systems, three in Kentucky and two in West Virginia. Officials acknowledged they still don't know what caused the bottom of the slurry pond to crack open and spill 250 million gallons of slurry into abandoned mining tunnels.

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# 'Act of God'

## Old excuse for mine spill

God really should have known better.

What was He thinking, building a coal waste impoundment on top of an abandoned mine? Even after the Mine Safety and Health Administration warned that the dam was at risk of failure, He just didn't listen.

So, He must have been surprised when the dam failed, sending 250 million gallons of coal sludge into nearby rivers, causing one of the worst environmental disasters ever in the Southeastern United States.

Of course, God didn't decide to build the waste impoundment. God didn't ignore warnings from MSHA. A Massey coal subsidiary did it. But God, as is so often the case, is taking the rap.

The dam's failure was "an act of God," according to a formal response filed to six civil lawsuits stemming from the spill.

The reply by Martin County Coal Co., a subsidiary of A.T. Massey Coal Co., says the sludge spill "was the direct, sole and proximate result of an act of God, the occurrence of which was not within the control of Martin County Coal."

Coal companies in West Virginia have a rather inglorious history of blaming God for their misdeeds. Pittston Co. officials called the 1972 Buffalo Creek tragedy an "act of God," although it wasn't God who designed the inadequate dams that failed, loosing a wall of water that killed 125 Logan countians.

God was not responsible for the Martin County sludge spill, either. Company officials who ignored MSHA's concerns about dams situated above abandoned mines were responsible for the spill.

In case blaming God doesn't work, Martin County Coal officials are also saying that any negligence by the company happened more than five years ago, so the statute of limitations has lapsed.

In essence, these officials are saying, "God did it. But if he didn't do it, we did it so long ago that it's too late to punish us."

These excuses should be laughed out of the courtroom.

And God should be very, very angry.

*Charleston Gazette, Dec. 5, 2000*

**Ohio Valley Environmental Coalition**  
P O Box 6753  
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