



# Winds of Change

the newsletter of the

**Ohio Valley Environmental Coalition**

Huntington, WV

www.ohvec.org

## OVEC's Win in Clean Water Act Case Has Nationwide and MTR Permit Implications

Sept. 2, 2003 – As they got back to their offices after the long holiday weekend, environmental groups and regulators across the nation were looking at a Friday ruling by a West Virginia federal judge to see what implications the legal decision would have on their work.

The lawsuit focused on the antidegradation policy of the 1972 Clean Water Act.

“This is one of the first major antidegradation lawsuits that has been tried. The ruling is a big victory for us and for people nationwide. It sets a national precedent for stream protection,” said Margaret Janes of the Appalachian Center for the Economy and the Environment. “We have already been contacted by groups all over the country, wanting more information on the case. We’ve heard that regulators are poring over the ruling, too.”

Environmentalists in many states have been looking at the antidegradation provision of the Clean Water Act as a way to protect waterways from unnecessary pollution and what they see as the Bush administration’s pro-polluter, anti-clean water agenda.

“The Bush EPA’s original approval of the plan was nothing less than an attempt to undermine a critically important Clean Water Act provision,” said Vivian Stockman of the Ohio Valley Environmental Coalition (OVEC). “While we didn’t win every point of the case, we did win the majority of our claims. This is an extremely positive decision, especially when considering the opposition we encountered in West Virginia. We can still look to the

courts to protect West Virginians and their environment.”

In January 2002, the lawsuit was filed against the U.S. Environmental Protection Agency by OVEC, West Virginia Rivers Coalition (WVRC) and 23 other organizations.



**Mountaintop removal mining site near Kayford Mountain, WV, which could be impacted (translation: not allowed to run amok) by Judge Goodwin's ruling.**

The groups contended that the EPA had approved an illegal antidegradation implementation plan for the state’s waterways. The federal judge hearing the case agreed on the majority of our points in the lawsuit.

U.S. District Judge Joseph R. Goodwin issued a more than 70-page ruling that sent the antidegradation policy back to the EPA to be rewritten.

In his ruling, Goodwin said, “West Virginia’s regulations simply fail to require the minimum protections required by the EPA’s regulation.”

“This ruling should help us counter the old arguments of big polluters. Anti-degradation is not about stopping all development. It’s about openly evaluating public good versus private gain,” said Jeremy Muller, executive director of WVRC. “A strong – and legal – anti-degradation policy is good for the economy and good for the future of West Virginia.”

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# *Ode to Massey Coal - How to Do Energy All Wrong*

by Winnie Fox

You've been here among us too long.  
Everything you've been doing is wrong.  
You've messed up our rivers;  
You've messed up our streams;  
You've messed up our hopes;  
You've messed up our dreams.

You've blown up our mountains;  
You've taken our wells.  
Instead of respect,  
You've given us hell!  
You've been a rotten corporate neighbor;  
You've no respect for labor.  
Now we've a monumental job,  
Cleaning up the mess you've made.  
And the cupboard is bare,  
Because of taxes you've not paid.

Those ads you're running on TV,  
Trying to make you look good -  
Well, they're just not working,  
You're still a corporate hood.  
That toxic sludge is so yucky,  
That you dumped on Kentucky.  
It's worse than Valdez  
Everybody says.

Can we recover our losses?  
Ask the EPA bosses.  
So stop your damnable war.  
We can't take it any more.  
When we bid you good-bye,  
There'll be no tear in our eye.  
So here's to you, dear old Massey  
You've been a pain in the ---- neck.

Winnie read her wonderful poem during the public hearing on the draft Environmental Impact Statement on mountaintop removal/valley fill coal mining at the Charleston Civic Center on July 24.

## *Granny D, Doris Haddock: On the Road Again!*

by Janet Fout

*"Doris Haddock is a true patriot, and our nation has been blessed by her remarkable life. Her story will entertain, inform, and inspire people of all ages for generations to come."*

Jimmy Carter on Doris's book,

*Granny D: Walking Across America in My 90th Year*

Granny D is looking for a few good women and men in West Virginia communities. You might remember that, two years ago, this elder activist walked (and skied) 3,200 miles, from Pasadena, Calif, to Washington, DC, to raise public awareness for the need for campaign finance reform. Her remarkable journey continues. Maybe you are interested in helping with her new voters' registration project - "Our Community Votes."

She's especially focusing on registering and urging working women to vote. Near the end of a speech announcing her new project, Granny D said, "If this is my last tour, then my last wish is that America's women, who worked so hard amid great violence for the right to vote, take that now as a sacred duty in 2004."

During her recent time in West Virginia, she spoke

with passion to people at events in Morgantown, Buckhannon, Charleston and Huntington regarding the importance of registering and voting in the 2004 election. Tireless in her efforts, Doris set up voter registration tables, spoke to classrooms and at other special events at WV colleges and universities. She surprised and delighted the college crowd at Marshall University with her "Vote Dammit" rap during open mic night at the Calamity Café in Huntington!



**Granny D, in her blue OVEC shirt, and OVEC Board Member Winnie Fox pause for a photo in Winnie's kitchen after dinner. As if Granny D isn't working hard enough, she pitches in to wash the dinner dishes!**

OVEC especially thanks Elinore and Nancy Taylor

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## Nationwide Implications

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Under the Clean Water Act, states are supposed to submit to the EPA a plan for keeping clean waterways from becoming unnecessarily polluted and polluted waters from becoming further degraded. The plan must outline how a discharger gets the state's permission to pollute high quality waters.

To give that permission, the state must conduct a thorough and open public review of a project to assure that the social and economic benefits of allowing water pollution outweigh the social and economic costs of that pollution.

After decades of delay, West Virginia's plan was approved by the state legislature in early 2001, and the EPA signed off on the plan in Nov. 2001. Environmental groups said the Wise administration's plan was essentially written by the industry. They noted closed-door meetings between industry lobbyists and legislators where loopholes were added to a policy already watered down by a stakeholder review process.

"Big polluters, legislators and the West Virginia Department of Environmental Protection colluded on this plan. They led the state in the wrong direction. They didn't even bother to come up with a policy that complies with federal law. Their plan offered no balance between the public good and private gain. They forced us to sue – it was our only recourse," Muller said.

Attorneys for the groups, Joe Lovett of the

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<b>Winds of Change Editor</b>		Dianne Bady
<b>Winds of Change Pyrotechnics Tech</b>		Monty Fowler

#### Ohio Valley Environmental Coalition

P.O. Box 6753, Huntington, WV 25773

phone: (304) 522-0246 fax: (304) 525-6984  
e-mail: [ohvec@ohvec.org](mailto:ohvec@ohvec.org) web page: [www.ohvec.org](http://www.ohvec.org)

**"It is interesting to note that the judge said that the cumulative impacts of pollution sources to waterways were not sufficiently restricted by the state's policy. He said the EPA's approval of the policy was 'arbitrary and capricious.'"**

*Jeremy Muller, West Virginia Rivers Coalition*

Appalachian Center for the Economy and the Environment in Lewisburg, WV, and Jim Hecker of Trial Lawyers for Public Justice in Washington, D.C., sued, contending that EPA should never have approved the state's policy.

The West Virginia policy was full of exemptions and weak provisions. The judge said there can be no exemptions from antidegradation for new or expanded facilities.

The judge also said there was no basis for certain permits associated with valley fills at mountaintop removal sites to be exempted from antidegradation review. This is an important victory for coalfield residents who are fighting mountaintop removal coal mining. Without undergoing that review, coal companies have been receiving "general" permits for valley fills from the U.S. Army Corps of Engineers.

One result is that over 700 miles of Appalachian streams have been buried under the rubble created when companies blow up mountaintops to get to coal seams.

"It is really pitiful that Gov. Wise bragged on this illegal anti-degradation policy as a showpiece for his administration's environmental protection work. What it is, really, is a showpiece for how beholden politicians are to campaign contributions from the coal industry and other big polluters. It's a showpiece for the need for statewide campaign finance reform," Stockman stated.

"It is interesting to note that the judge said that the cumulative impacts of pollution sources to waterways were not sufficiently restricted by the state's policy. He said the EPA's approval of the policy was 'arbitrary and capricious,' and they couldn't justify their approach to cumulative impacts," Muller added.

"We are waiting to see if the decision will be appealed or if EPA will fix the existing policy," Stockman said.

The judge's ruling can be seen at [www.ohvec.org/issues/mountaintop\\_removal/articles/antideg.pdf](http://www.ohvec.org/issues/mountaintop_removal/articles/antideg.pdf). A copy of the complaint in Ohio Valley Environmental Coalition v. Whitman is available at [www.tlpj.org/briefs/antideg\\_complaint.pdf](http://www.tlpj.org/briefs/antideg_complaint.pdf). 



# Gifts That Give Twice - Just in Time for the Holidays!

This holiday season, why not give gifts that give twice? Support OVEC's work and give cool gifts by purchasing OVEC merchandise. Have we got some choices for you!

## O V E C ' s 2 0 0 3 T r e e H u g g e r s ' B a l l O r g a n i c C o t t o n T - S h i r t s

This year's T-shirts feature our logo as interpreted by artist Joe Lung and with a quote by Helen Keller:

*"This is a time for a loud voice, open speech, and fearless thinking.  
I rejoice that I live in such a splendidly disturbing time."*

Sizes, styles and colors available:

**Short Sleeve - \$15**

Small in True Blue

Medium in Cypress

Large in Cypress & True Blue

XL in Black & Cypress

XXL in Cypress - \$18

**Long Sleeve - \$18**

Medium in Pacific Blue

Large in Blue Black & Pacific Blue

XL in Blue Black & Pacific Blue



OHIO VALLEY ENVIRONMENTAL COALITION  
TREE HUGGERS' BALL 2003

## Ball Caps and Bags

**OVEC Ball Caps - \$10**

**OVEC Canvas Totes - \$10**

**OVEC Canvas Totes with Zippers - \$20**

## Coffee - Who DOESN'T Need This?

**Fair Trade Coffee - \$10** for 16 ounces, whole bean only in a stay-fresh pouch. From our friends in Chiapas, Mexico, via our fellow Leadership for a Changing World Award winners, Tona Tierra in Phoenix, Ariz.

## Collectible Glass Ornaments

We still have available a limited number of delicate, hand-blown West Virginia glass holiday ornaments made especially for OVEC. For the past four years, OVEC offered these beautiful items to help raise funds for our "Stop Mountaintop Removal!" campaign. Every ornament in this exclusive, collectible series features West Virginia plants and animals whose habitat is destroyed by mountaintop removal.

Unfortunately, both glassworks where Kelsey Murphy and Bob Bomkamp created these beautiful bulbs are now closed. But that makes our 2001 and 2002 ornaments even more collectible!

The 2002 edition Glassworks, Inc. (Weston, WV) ornaments feature



*2001 ornaments, Bloodroot, left, and Cerulean Warbler, right*

the Wood Thrush in amber and the Jack-in-the-Pulpit in amethyst: \$40 each or two for \$75. The 2001 Pilgrim Glass, Inc. (Huntington, WV) ornaments feature Bloodroot in white and Cerulean Warbler in cobalt: \$45 each or two for \$85.

All proceeds for this merchandise (above costs) support OVEC's efforts to protect West Virginia's mountains, streams and mountain communities. To order, call the office at (304) 522-0246 or e-mail [vivian@ohvec.org](mailto:vivian@ohvec.org). For local folks, we'll try to arrange for pick up or drop off. Please add \$5 for shipping (if you are ordering several items at once, call ahead for the shipping costs). Thanks for making your holiday giving more meaningful! 🍁



*2002 ornaments: Wood Thrush, left, and Jack-in-the-Pulpit, right*

## *Brushy Fork Impoundment Victory*

# Massey Coal Ordered to Monitor for Mercury, Other Toxics

by Vivian Stockman

For years, Coal River Mountain Watch, the United Mine Workers of America and OVEC have challenged the WV Department of Environmental Protection and Marfork Coal Co. (a Massey Energy subsidiary) to take seriously citizen concerns about the state's largest coal sludge impoundment, Brushy Fork.

This gargantuan lake o' toxic goo, which looms over folks living near Whitesville and is built over underground mines, was engineered by the same people who worked on the failed Martin County Coal Co. (another Massey subsidiary) impoundment – the one that, in October 2000, spewed over 306 million gallons of sludge into about 100 miles of waterways along the Kentucky-West Virginia border.

Often, when both Marfork and DEP have tried to ignore our Brushy Fork concerns, OVEC and Coal River Mountain Watch have taken our grievances to the Surface Mine Board.

As a result of one of our appeals to the board, Massey was forced to reveal that there is mercury in the impoundment.

The board ordered Massey to monitor groundwater near the Brushy Fork site for the toxic heavy metals mercury, lead, arsenic, cadmium, cobalt, and copper (all of which are present in coal) – an action that, as far as we know, is unprecedented and could be extended to any of the other 135 permitted coal waste slurry impoundments in the state.


Surprise, surprise. Massey didn't like our victory and appealed the board's ruling. Apparently, Massey didn't want to pay for monitoring the groundwater – they say it will cost \$18,000 a year. Poor guys only rake in over \$200 million a year from that one subsidiary alone. They prefer to have about 7 BILLION gallons of sludge stored in the headwaters of the Coal River without having to know what is happening to the groundwater.

In September, we appeared in Raleigh County Circuit Court to defend our victory.

Knowing about the mercury, the DEP decided to not fight against us (like it did during our 2001 appeal), but instead filed a brief supporting the board's ruling requiring the groundwater monitoring! The judge agreed with OVEC, CRMW and DEP that Marfork should indeed test the groundwater for mercury and other toxic heavy metals.

This is the first time that *any* coal company has been required to conduct heavy metal monitoring in the

groundwater down-gradient from any impoundment.

Many thanks to attorney Mary Ann Maul and hydrogeologist Rick Eades for their great work on this case, which may have implications far beyond this one impoundment! 


## *On the Road to Change*

The North Carolina-based group Appalachian Voices is working with Coal River Mountain Watch, Kentuckians For The Commonwealth and OVEC on a "roadshow" that will raise awareness nationally about mountaintop removal and the Clean Water Protection Act, H.R. 738.

President Bush made a deplorable rule change to the Clean Water Act that allows coal and other companies to dump waste into our nations' waterways. The rule change thus legalizes previously illegal valley fills.

In order to reestablish Congress' original intent with the decades-old Clean Water Act and to keep coal companies from burying our streams under our former mountains, Representatives Frank Pallone and Christopher Shays have introduced the Clean Water Protection Act.

Three teams are now traveling the United States with a multimedia presentation about mountaintop removal. One goal of the roadshow is to get people in key Congressional districts to ask their legislators to support the Clean Water Protection Act. Coalfield residents are central members of the roadshow teams. Audiences will watch the presentation, and then meet with coalfield residents to learn more about life in the shadow of mountaintop removal.

Call the OVEC office at (304) 522-0246 and we'll tell you how to get involved in the roadshow, either by making a donation, going on the roadshow or helping to arrange events via your connections in other states. 

### **ACTION ALERT**

Please ask your out-of-state friends to write letters to their Representatives, asking that they cosponsor and support H.R. 738, the Clean Water Protection Act.

**Your Representative  
House Office Building  
Washington, DC 20515**

# *Florence and Goliath, or, Standing Up for What's Right*

by Abe Mwaura


When the petite but powerful Florence stood up at the Environmental Impact Statement (EIS) hearing in July and affirmed that she would devote her life and her education to fighting the type of injustice she was witnessing in West Virginia, the coal execs must have been shivering in their boots. She spoke with confidence and passion about her childhood home in West Virginia, and with strength and fearlessness about ending its destruction.

This summer, Florence spent six weeks interning with OVEC in Huntington. So that our press releases would get to the right people, Florence worked on updating our comprehensive media list. Once or twice in that process,

## **Granny D**

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and Winnie Fox for their gracious hospitality to Doris and her traveling companions.

Granny D will spend the next 14 months between now and the 2004 election driving throughout the country doing her part to get out the vote. Check out her website: [www.grannyd.com](http://www.grannyd.com) for her traveling route and learn ways that you can help. Go, Granny, go! 

## *Flat Land, or Flat Out Lie?*

One of the coal industry's favorite myths is that West Virginia needs more flat land for "economic development." Never mind the 300,000 acres of blasted-flat ex-mountains we already have. Some zany developers are bound to pop up any day now to build the infrastructure needed for the shopping malls, prisons and golf courses that the coal industry touts as the future economic savior of the southern coalfields. We better not let them read an Oct. 17 *Ashland Daily Independent* article, "Costly Prison: Construction project prime case for not building on strip mines."


Built on a donated mountaintop removal site, the Big Sandy federal prison, nicknamed Sink-Sink, is the most expensive federal prison ever built, with a price tag at \$60 million over the original bid. The article says:

"It is not the prison itself but its location that has made the Big Sandy prison so costly, and that's unfortunate. What was originally hoped to be a positive example of how land leveled by surface mining can be used to promote economic development in Eastern Kentucky has done just the opposite. Other would-be developers will look at the problems encountered ... and think long and hard before ever opting to build on old strip-mine sites." 

she talked with editors of coalfield newspapers who said they wouldn't pay attention to anything sent from OVEC. Florence also created a student organizing manual for mountaintop removal, using much of her own experience in activism at Harvard University, working around HIV/AIDS issues. She saw many parallels between her own activism at Harvard and the struggle against MTR here in West Virginia. All this amidst taking her parents to Kayford Mountain and easily reading almost a dozen books in those six weeks she spent with us.

Our nation's unjust distribution of wealth utterly angers Florence. She saw and pointed out many absurdities in the type of corporate philosophy that puts profit before people.

As an example of one such corporate absurdity, she noted how it is possible that anywhere in the world, even the most remote and desolate places, one is always able to find a bottle of Coke, yet access to medication can be a hopeless quest.

OVEC greatly appreciated Florence's presence, and everyone who saw her in action at the EIS hearing got to see why. We should all be encouraged and inspired by her passion, courage and hope. Thanks so much for interning with OVEC, Florence! 

## **ACTION ALERTS - DO IT!**

**Stay Informed by E-mail:** Join OVEC's Action Alert! e-mail list by sending an e-mail with "join list" in the subject line to [vivian@ohvec.org](mailto:vivian@ohvec.org). This is not a discussion list, so you won't be swamped with e-mails. You'll get four to 10 Action Alerts! per month, chock full of useful info.

**Stay Informed by Phone:** If you don't have or don't like e-mail, call the OVEC office at (304) 522-0246 and ask to be put on our Call List. We'll need your name and phone number. Don't worry - we will only call to let you know about major events or actions.

**Stay Informed by WWW:** Visit [www.ohvec.org](http://www.ohvec.org) frequently for news and action updates. Check out our extensive background information in the Issues section. Look for your friends in the People in Action section.



# Mountaintop Removal Coal Mining Arouses Passionate Comments During Comment Period

by Vivian Stockman

As part of the comment period on the draft Environmental Impact Statement (EIS) on mountaintop removal/valley fill coal mining (MTR), several agencies that are supposed to regulate the mining industry hosted a public hearing in the Charleston Civic Center on July 24.

The hearing consisted of two separate three-hour sessions, one in the afternoon and one in the evening.

At the evening session, folks opposed to MTR outnumbered industry supporters by about 3 to 1! Coalfield residents, including several who had never spoken out in public before, came out in force to tell it like it is to the people who are apologists for the destruction of the mountains.

Some MTR-supporters could be seen wiggling in their seats as they listened to our impassioned and informed tales of what is happening to our homes, communities and mountains. Some of the look-the-other-way regulators hosting the meeting looked quite perturbed.

Elaine Purkey brought tears to people's eyes when, for her statement, she sang "Larry's Song." That song will be on the upcoming music CD about mountaintop removal. Novelist and lay preacher Denise Giardina also made outstanding comments, delivered as a sermon, which must have made some mountaintop removal apologists tremble.

"It was a privilege to hear the well-crafted words and feel the heartfelt sentiment of persons directly in the line of fire of the coal pillagers. These dedicated environmentalists and concerned citizens of a raped and diminishing West Virginia left no ugly stone unturned as they clearly presented not just the injustice being done, but the simple, how-be-it ignored solution: ban mountaintop removal and enforce coal laws already on the books. I am so impressed," Sandy Brady e-mailed after the hearing.

Chuck Wyrostok e-mailed, "One of the things that



**Freda Williams, Julian Martin, Larry Gibson, Bill Price, Judy Bonds, Patty Sebok and others wait for the open doors outside the EIS hearing venue in Charleston.**

struck me was the coalfield residents mentioning several times to the agency reps that they (the residents) had never been visited, contacted or witnessed anyone examining MTR. How could you do an EIS without ever talking to anyone that lives there? Seems like the government doesn't want to experience the real deal, eh?"

Kathryn Stone e-mailed, "I felt as though I had attended a 'revival' meeting last night as a true

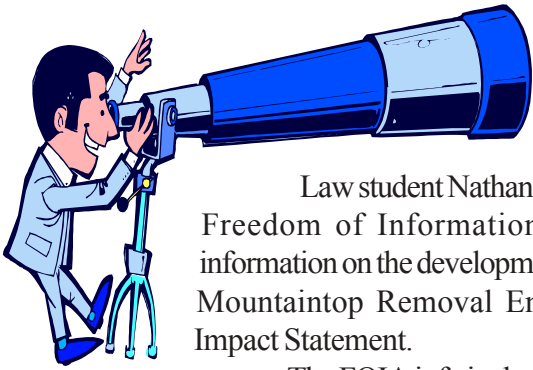
believer and 'got the call' (or whatever the expression is!). Wow! I cannot help but believe that the consciences of some of the proponents of EIS were affected by those powerful speeches. Of course, they had to parrot the same old lines, but I thought I detected some deflation in tone. It definitely was a coalfield/environmentalist evening. What a great bunch of folks we have!"

Joan Mulhern, with Earthjustice in Washington, D.C., e-mailed, "It looks to me from the reports I have seen that everyone did a fantastic job of organizing for both hearings – there were people speaking out, whatever the odds, about the travesty of mountaintop removal. And that it had an impact on the federal officials listening.

"I talked to several people on the Hill late this week who saw some of the stories, and I think it was very positive, from the inside-the-beltway perspective, anyway – they saw (again) that there are people standing up for their rights, their communities, and their environment. That is so important. I hope everyone who participated feels good about it; I think everyone did great work."

To MTR true-believers the draft EIS is a dream document. The studies within the EIS document the massive destruction associated with MTR, but the recommended actions are to proceed as if the facts don't matter.

Everyone present knew that our speaking out that  
*continued on page 8*



## Your EIS Comments - Big Brother at OSM Is Watching Us!

Law student Nathan Fetty used the Freedom of Information Act to get information on the development of the draft Mountaintop Removal Environmental Impact Statement.

The FOIA info included one e-mail from the Office of Surface Mining's Michael Gauldin to loads of his co-workers, as well as people at the WV Department of Environmental Protection, Environmental Protection Agency, Army Corps of Engineers, US Fish and Wildlife Service and the Department of the Interior, which summarized environmental groups' comments about the draft EIS.

The e-mail said, "Attached is my summary of the published criticisms of the EIS. It looks like they fall into about four or five general themes. If anyone wants to take a crack at drafting a response to any or all of these, I'm accepting contributions."

The quotes he summarized were from newspaper articles quoting staff of OVEC, Coal River Mountain Watch, the Appalachian Center for the Economy and the Environment, Kentuckians For The Commonwealth, Earthjustice and Trial Lawyers for Public Justice.

Fortunately, we had worked together to make certain our statements did get published. If the press had

### EIS Hearing

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night wouldn't immediately stop the decapitation of another mountain or the burial of another stream—not right then, not the next day. But, everyone felt our power and our rational passion. What is happening in the coalfields drives us to speak out, sparks in us a commitment driven by an utter need to end the ecological insanity that is MTR. With so many committed people working to end MTR, we will prevail.

**Remember to get your comments on the EIS in by Jan. 6, 2004. Please ask others to comment, too. We need to generate HUGE numbers of comments.**

The 5,000-page EIS weighs almost 40 pounds and stands about 30 inches high when each of the 8.5 by 11-inch volumes are stacked up. Happy reading! But, don't worry, just *please check the OVEC web site for information that will help you - and all your friends and family - make EIS comments.* 🍌

only used the multi-agency press release on the mountaintop removal EIS, then the public would have only read about how the MTR permitting process needs to be streamlined.

Gauldin told his colleagues that our comments fell into these categories:

- ◆ "The real purpose of the EIS is to help coal companies get their mine permits faster and easier."
- ◆ "The EIS says nothing about protecting the environment and communities."
- ◆ "The EIS eliminates requirements for individual permits for operations that propose to fill 250 acres or more of a valley."
- ◆ "The Bush Administration wants to eliminate the Stream Buffer Zone."
- ◆ "Steve Griles, Deputy Secretary of the Interior, refocused the EIS toward streamlining permitting."
- ◆ Unsupported rhetoric, such as Judy Bonds' comment: "The study shows that mountaintop removal is socially evil and environmental insanity."

It's nice to know the agencies are watching what we say, even if Gauldin wants to call some of our observations "unsupported rhetoric."

It would be even nicer to know that the "regulators" are watching both what the coal industry does and how the agencies themselves are failing to enforce the laws. 🍌

### ***Guess What? Those Rules SAVE \$\$\$***

From a *New York Times* editorial of Oct. 1, 2003, titled "Rules that Work":

The Bush administration has spent the better part of three years weakening federal regulations and belittling their value.

Now, from a most unlikely source - the fervently anti-regulatory Office of Management and Budget - comes persuasive evidence that the health and social benefits of these rules greatly outweigh their costs.

In a report issued last week, the budget office said that an examination of 107 major rules finalized over the last 10 years found quantifiable benefits of between \$146 billion and \$230 billion, compared with costs of \$36 billion to \$42 billion.

Of particular interest was the finding that just four clean air rules administered by the Environmental Protection Agency - all challenged at one time or another by industry - accounted for a big chunk of the benefits. 🍌



# Corps' Idea of "Minimal Impact" Challenged in Court

Fed up with the federal government's continued illegal permitting of mountaintop removal valley fills, OVEC, Coal River Mountain Watch and the Washington, DC-based Natural Resources Defense Council recently filed a lawsuit against the U.S. Army Corps of Engineers.

The suit challenges the illegal use of Nationwide Permit 21 for large-scale surface mining operations, particularly mountaintop removal operations. Many thanks to the Appalachian Center for the Economy and the Environment and Trial Lawyers for Public Justice who are representing us!

This action seeks to force the Corps to comply with the federal Clean Water Act and National Environmental Policy Act by requiring it to cease using a general permit, called Nationwide Permit 21, to authorize large-scale strip mines.

Nearly all surface mines in West Virginia are authorized under NWP 21, which is essentially a "rubber stamp" the Corps relies on to allow coal companies to destroy thousands of acres of irreplaceable forest and water resources and the communities they support. If successful, this action will set a precedent for improved Corps' permitting throughout the Appalachian region and nationally.

The business newspaper the *State Journal* said of our lawsuit:

*"The groups want to force the Corps to issue only individual permits for mining operations, which take longer than a more general nationwide permit program the environmentalists believe the Corps is not implementing correctly. The goal? Fewer mountaintop removal mining projects."*

Attorney Joe Lovet of the Appalachian Center for the Economy and the Environment told the *Charleston Gazette*:

## **Forest Fragmentation Not A Good Thing**

A report published in the Proceedings of the National Academy of Sciences by two University of Illinois at Chicago biologists shows that forest fragmentation may accelerate extinction of common species. "I think what we see in the wake of the Industrial Revolution, the spread of intensive agriculture and the fragmentation and elimination of forests, is what could be an even faster series of extinctions, measured only in a couple of centuries, in which an awful lot of the world's flora and fauna are lost," one said. 🍌



*"It is unfortunate that citizens must resort to litigation to force the Bush administration to enforce environmental protection laws passed by Congress more than 25 years ago. The administration's collusion with coal operators to undermine the enforcement of these crucial laws, if allowed to continue, will not only destroy the region's forests, streams and mountains, but also its economic future."*

The *Charleston Daily Mail* reported:

*"Vivian Stockman, an organizer with the Ohio Valley Environmental Coalition, said mountaintop removal mining doesn't fit the definition of "minimal impact" required for the Corps of Engineers to allow a permit to fall under the generic analysis.*

*"Instead, the agency has approved permits that have buried more than 1,200 miles of streams and replaced thousands of acres of hardwood forests with grasslands, she said.*

*"It's painfully obvious that the Corps is acting without regard to the law by ignoring the individual, let alone cumulative effects, of valley fills on the natural resources and communities in the coalfields. The Corps isn't bothering to review and evaluate the destruction it is permitting. The effects to communities and the ecosystem are hardly minimal and temporary, but massive and permanent," Stockman said. "The Corps is betraying the public trust by leaving a landscape that will not recover for hundreds of years."*

Please check the OVEC website, [www.ohvec.org](http://www.ohvec.org), often for updates on this lawsuit. 🍌

## *Jack Spadaro's Story*

# Work for MSHA, Tell the Truth, Get Fired

*“Jack Spadaro, the superintendent of the National Mine Health and Safety Academy in West Virginia, is about to lose his job. That’s because he spoke out against federal and industry failures connected to the investigation of one of the largest environmental accidents in Appalachia – the 2000 coal slurry spill along the Kentucky/West Virginia border.”*

So begins an article on Jack that is featured on National Public Radio’s Living on Earth program. Jack’s plight has also been featured on the acclaimed and widely-read [www.salon.com](http://www.salon.com) and in several local and regional

## *Newspapers Speak Out - 1*

*Louisville Courier-Journal* editorial, Nov. 11, 2003

The Massey Energy web site says the company “enjoys a strong market position as the largest producer of Central Appalachian coal.”

It doesn’t say anything about how well positioned the firm is politically.

For an assessment of that, one might ask Jack Spadaro, who is about to be fired by the political leadership that dominates the U.S. Mine Safety and Health Administration.

His sin? Among other things, he did his job well by objecting to his agency’s mishandling of the 300 million gallon Martin County coal slurry spill, which gorged waterways with black waste, killed fish, flooded houses and polluted wells along the Kentucky-West Virginia border.

Attorney Jason Huber says the attack on Mr. Spadaro represents “the Department of Labor, Secretary Elaine Chao, Sen. Mitch McConnell and the Bush administration’s retaliation ...for whistle-blowing activities.”

Mr. Spadaro insists that MSHA cut short its investigation of the spill and played down Massey Energy’s responsibility, while also minimizing weak oversight by federal regulators.

The administration will dismiss Mr. Spadaro as a hot-headed malcontent, but his basic complaint rings true. He says that “within this administration, there’s no tolerance for any kind of disagreement or discussion of issues.” He also alleges that no-bid contracts were given to friends and former business associates of MSHA officials.

*continued on page 11*

newspapers. We have heard that more national attention may soon be focused on Jack’s whistle-blowing on the Mine Safety and Health Administration and Massey Energy. The smell of corruption is wafting from high places, and some folks may soon be very sad that they tried to muzzle Jack.

As *Graffiti* film columnist Steve Fesenmaier writes: “OVEC has been complaining to the press about this ultimate act of injustice, and newspapers in the region have published their protest.

“If you are outraged, write: Assistant Secretary of Labor for Mine Safety and Health David D. Lauriski at: [asmsha@msha.gov](mailto:asmsha@msha.gov).” 🍌

## *Newspapers Speak Out - 2*

*Charleston Gazette* editorial, Nov. 18, 2003

Attempts to fire Jack Spadaro, superintendent of the National Mine Safety and Health Academy at Beckley, have become an international issue.

Two months ago, *Vanity Fair* magazine said he’s being ousted because he protested coal pollution cover-ups by the Bush administration.

This month, two more major news outlets focused on the case. They say the White House wants to destroy Spadaro because he exposed lenient treatment of a Massey subsidiary responsible for a giant 2000 coal sludge spill into Tug Fork River on West Virginia’s southern border. “Dirty business: How Bush and his coal industry cronies are covering up one of the worst environmental disasters in U.S. history” - that’s the title of a long Spadaro report on the global *Salon* web site.

As *Gazette* reporter Ken Ward Jr. has chronicled, *Salon* recounts that the Beckley engineer resigned in 2001 from a federal team investigating the Massey spill, and filed a complaint with the inspector general of the U.S. Labor Department. Spadaro alleged that the Bush administration was soft on Massey, a bankroller of Republican politicians.

Soon afterward, Washington officials began trying to remove him. First, he was accused of making an improper 82-cent phone call. When that charge failed, he was suspended again and told he’s being terminated for a \$22.60 problem - another flimsy excuse for removal. Spadaro has filed for protection under the federal whistleblower law. The outcome is pending.

*continued on page 11*

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

## *WV Supreme Court Agrees to Hear OVEC Member's Case Against Arch Coal*

Do a little dance! The WV Supreme Court has decided it will hear the case of OVEC members Leon and Lucille Miller who are trying to keep Ark Land Co. (Arch Coal's land holding company) from forcing them off the family's old homeplace on Mud River in Lincoln County.

Arch's Hobet 21 mountaintop removal operation is approaching this beautiful plot of land from all sides. The trial, expected to be heard this winter, should be fascinating – you won't believe what this family has gone through in trying to keep their land!

We need you to attend in support of the Millers. So that we can let you know when the trial is scheduled, make sure you are on the OVEC e-mail Action Alert! list (to subscribe e-mail [vivian@ohvec.org](mailto:vivian@ohvec.org)). Or call us at (304) 522-0246 and leave your number so we can call you with the trial date.

**What the Miller's are up against is graphically illustrated in the photos on pages 12-13.**

### **Spadaro - Courier-Journal**

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*continued from page 10*

If Democrats were in control of Capitol Hill, such charges might produce a tough-minded congressional probe, but that's not the case. In any event, there doesn't seem to be much political potential in these issues. Polls show no deep concern about the Bush administration's assault on the regulation of businesses, including coal, or about the linkage between weakened regulation and campaign gifts.

An MSHA spokesman refused to comment, saying the Spadaro case is a personnel issue. But it's much more. If Mr. Spadaro is right, MSHA has been taken hostage by political agents of the industry it is supposed to oversee. That charge deserves a response more convincing than "it's a personnel matter" or "we can't comment on potential litigation."

There's a process for protecting from revenge those who blow the whistle on self-protective government bureaucrats. And going in, Mr. Spadaro makes a good case that the ostensible charges against him, even if true, are too trivial to justify firing someone with 26 years of service and good performance ratings. He's in a strong position to make that point by pursuing the matter. 🍌

### **WWW, or, Wonderful Web Writings**

If you have internet access, be sure to check in often at [www.ohvec.org](http://www.ohvec.org), OVEC's website. You can keep up on all the latest news on our front page and on our secondary news page, see People In Action and get Action Alerts!.

## **On the Following Pages**

**Mountaintop removal-valley fill strip mining has to be seen to be believed, but it is seldom seen because most of the sites are miles from public roads, tucked at the end of (formerly) quiet hollows whose access roads are coal-company controlled.**

**About the only way you can really see and appreciate the awful, complete and total destruction of this practice is to view it from the air, which is what OVEC's Vivian Stockman had an opportunity to do in October 2003. The pictures do not really need captions - the images speak for themselves with silent eloquence.**

**You may want to skip the next six pages unless you have a *really* strong stomach. It's not pretty. You have been warned. The pages are laid out horizontally for larger image sizes.**

### **Spadaro - Gazette**

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*continued from page 10*

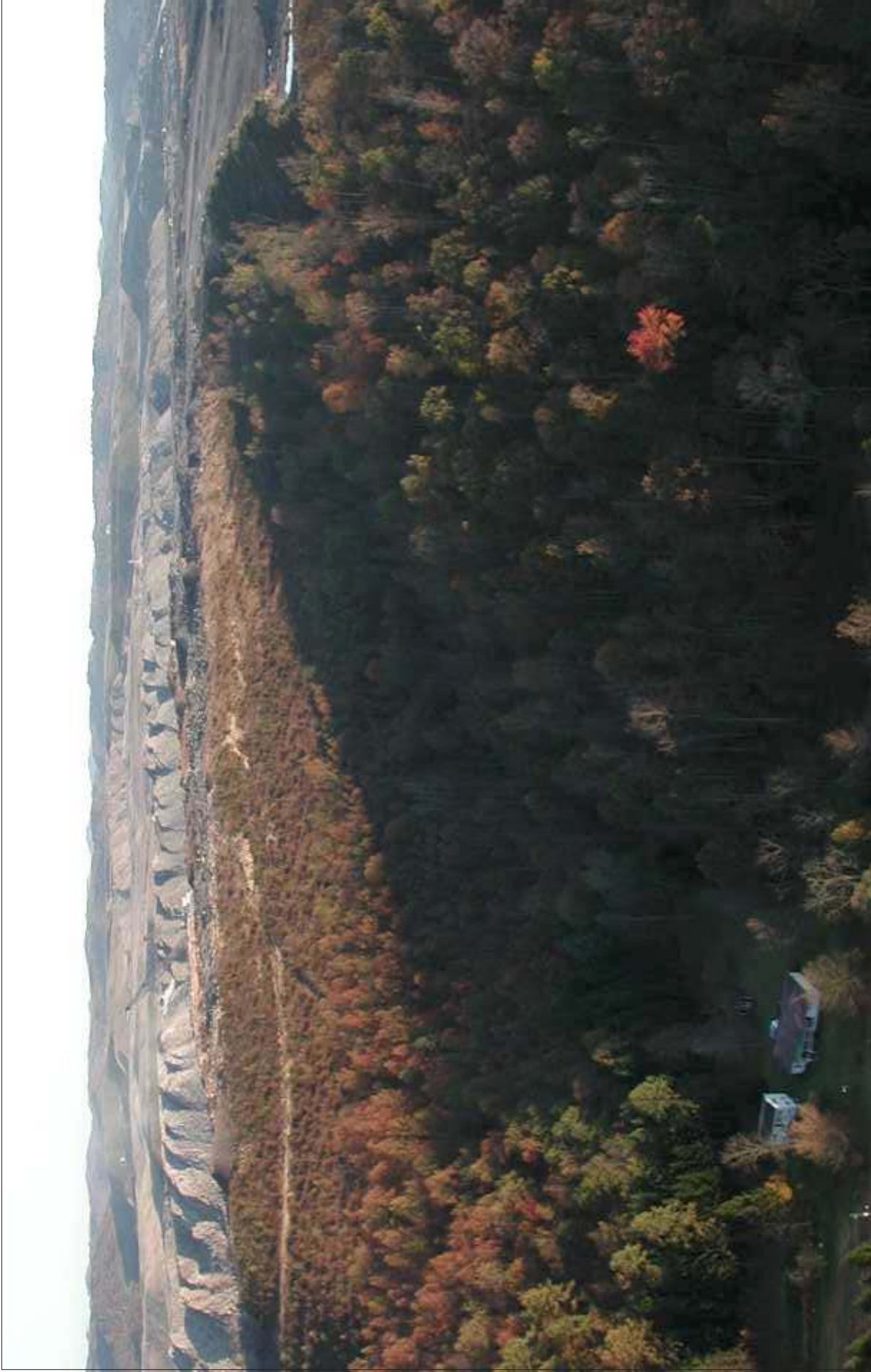
Last week, on National Public Radio's "Living on Earth" program, Spadaro declared: "I'm being fired because I told the truth about the mine disaster and insisted that the agency responsible for investigating it hold the mining company accountable for its negligence."

This month, the *New York Times* said the administration filed a 10-page dismissal action against Spadaro, accusing him of "abusing his authority, failing to follow orders and proper procedures, and misusing a government credit card by taking unauthorized cash advances that cost the government \$22.60 in bank fees."

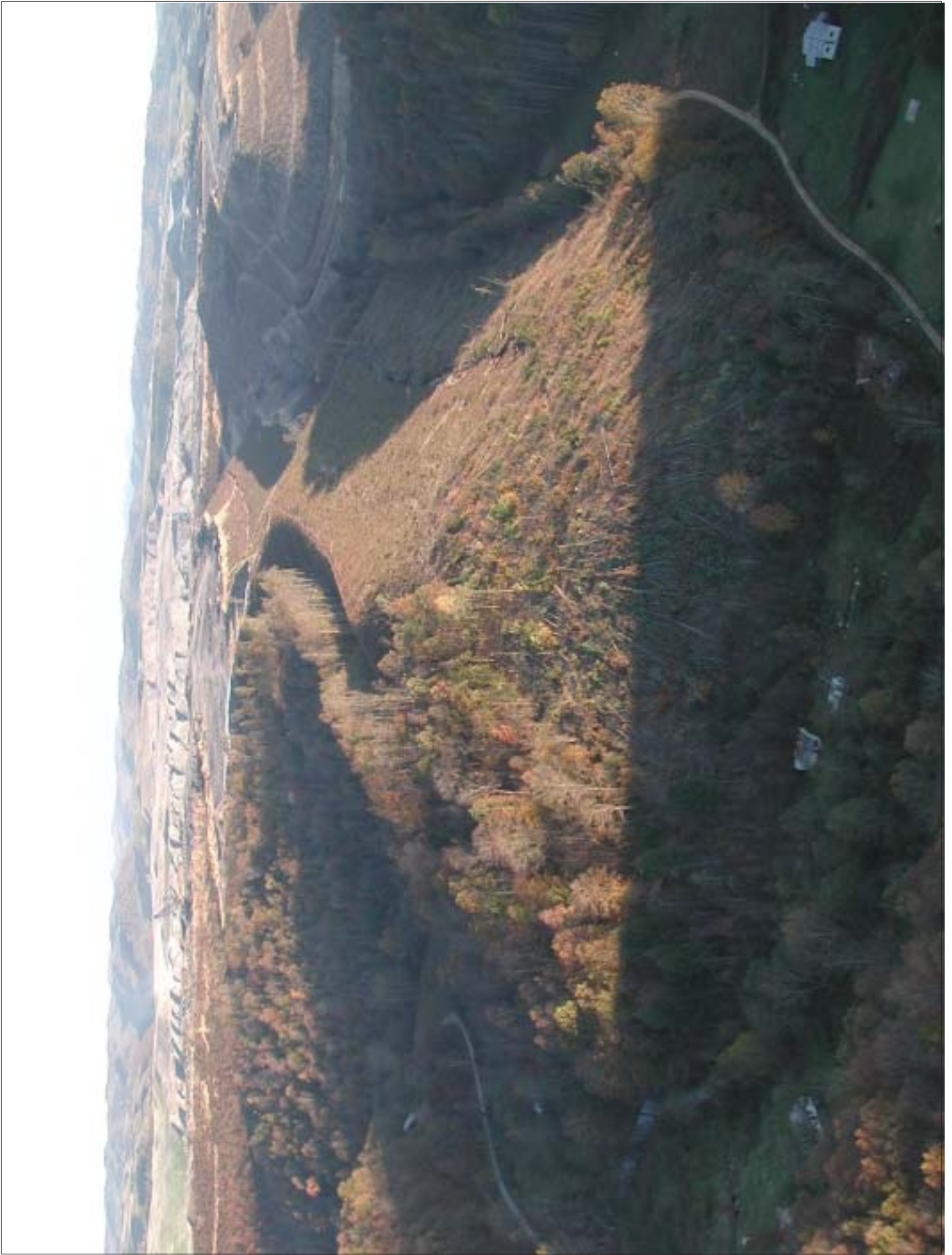
That's laughable. Obviously, the administration is using trivia to try to silence an engineer who spoke out against a pollution horror. We'll bet that such minor matters wouldn't result in action against any engineer favored by the White House.

What can be done about this injustice? Perhaps West Virginia's Democratic members of Congress could demand a hearing into the sordid case. Somehow, the public record should spell out that the administration is protecting polluters. 🍌





The homes in these two photos are just down the road from Leon and Lucille Miller's. Unable to bear the house-shaking noise and dust from MTR-related blasting and the psychological toll from the destruction of their beloved forests and streams, the husband and wife (related to the Millers) who own this Lincoln County, WV, home (above) have very reluctantly sold their property to Arch Coal, operator of the Hobet 21 mountaintop removal coal mine. The husband used to teach school for a small community up a miles-long valley that was nearby. The people were driven out of their community by the mine. That valley is now buried under hundreds of millions of tons of former mountaintop.







Even this massive dragline (center) is dwarfed by the enormous scale of mountaintop removal mining.



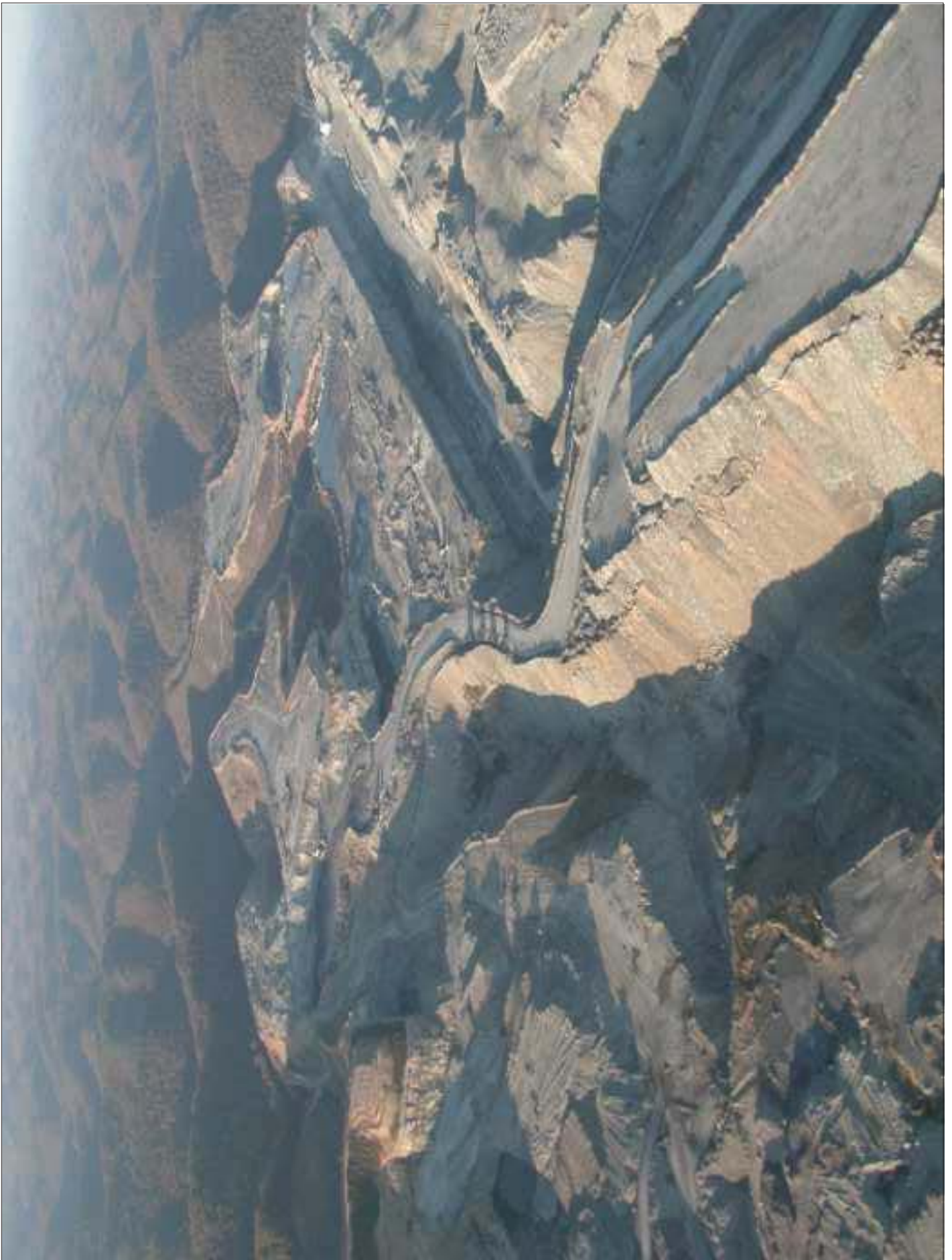


Marfork Coal Co.'s (Massey Energy) massive Brushy Fork impoundment near Whitesville, WV, is designed to hold 8 BILLION gallons of sludge.



**Mountaintop removal/valley fill mining operations in southern West Virginia have already flattened more than 300,800 acres of what used to be one of the most productive and biologically-diverse temperate hardwood forests on Earth. The coal industry prefers to call it “mountaintop mining” to try and soften the brutal reality. Some conservation groups have taken to calling the practice “mountain range removal” because that in effect is what it really is - more than 460 square miles of West Virginia are now low rolling semi-grassy mounds, planted largely with non-native species and incapable of supporting much more life than a shopping mall parking lot (without the shoppers).**







# Another Massive Massey Sludge Impoundment Proposed

by Janet Fout

Just what West Virginia doesn't need – another coal slurry impoundment – in addition to the 136 we already have, many of which already pose threats to communities and the environment.

Power Mountain Coal Co. (subsidiary of Alex Energy, i.e., Massey Energy), has proposed construction of a gargantuan coal waste impoundment (408 surface acres affecting 1,330 acres of watershed), including a tributary of the Gauley River, near Drennen in Nicholas County, WV.

This one should be a no-brainer for the U.S. Army Corps of Engineers, which issues the permits for impoundments. After all, it's Massey Energy – that mining company responsible for the “worst environmental disaster in the Southeastern United States” according to the U.S. Environmental Protection Agency. We haven't forgotten that 306 million gallons of lava-like coal slurry inundated streams and waterways in Kentucky and West Virginia on October 11, 2001, after part of the bottom fell out of a 72-acre coal slurry impoundment owned by Massey (Martin County Coal Co.).

Millions of dollars have already been spent trying to clean up the gray-black goo that killed all the aquatic life in the receiving streams and covered local residents' yards as much as 7 feet deep. Who knows if the streams and waterways will ever recover?

(To read about another “cover-up” see the stories about Jack Spadaro, a whistle-blower who was fired from the Mine Health Safety Administration (MSHA), when his investigation implicated not only Massey Energy but also MSHA for the disaster). Additionally, the public notice fails to mention that this area has already been heavily mined – a very real concern considering that Massey's failed impoundment was built over old mine works.

West Virginia has already lost more than 1,000 miles of streams after they were buried under coal mining waste. This proposed project would impact almost 4 miles of streams – permanently obliterating 3.7 miles and “temporarily” impacting another quarter of a mile.

In a world where clean, potable water is increasingly becoming an issue, in this country where drought is becoming more frequent, only a shortsighted government and the agencies that do its bidding, would allow a mining company to bury water.

Besides, streams and rivers are the lifeblood of our earth. Smothering perennial and intermittent streams disrupts the web of life in both aquatic and terrestrial systems,

decreases biological diversity and increases pollution downstream. As we tear away at the strands of the web, we are endangering the human species.

The Corps' public notices often use very generic descriptions that mislead the public into thinking that the Corps actually has relevant data upon which to base its determinations. In regards to threatened and endangered species at this location the notice says: “The Huntington District has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species...” So just HOW recent is this data? Twenty years old? Ten? Who knows?

The same holds true regarding issues of cultural importance. While the Corps stated in this notice that nothing nearby has been listed on the National Register of Historic Places, it doesn't mean that they have actually conducted any on-site research to see what might be present in terms of Native American artifacts.

Were streams or woods in this area ever used for hunting or fishing or gathering ginseng? Aren't those culturally (and economically) significant resources to West Virginians? In regards to cultural impacts, we are not convinced that any meaningful attempt has been made to determine what cultural losses will occur. People who have traditionally hunted and fished the woods and the water or gathered herbs or ginseng will no longer have access to those places – because they will be gone forever. In West Virginia, disrupting activities like hunting and fishing constitutes both cultural and economic losses.

Shortly after OVEC submitted comments regarding this proposed impoundment, we learned that the U.S. Environmental Protection Agency recommended that, for now, this permit be denied. They're concerned that no alternatives to filling four miles of streams have been explored, that mitigation of stream losses should be supplemented to “include actual stream and watershed improvements,” and their comments further suggest that the Corps needs to apply a standard, scientifically sound and repeatable method for assessing the ecological value of headwater streams.

Hmmm... Plenty of wiggle-room in their comments...

Thankfully, Sen. Robert Byrd has provided funding for a much-needed project focusing on the most dangerous impoundments in West Virginia. 

# Global Warming Topic of Annual Conference on the Environment

by Abe Mwaura

My only criticism of this year's West Virginia Conference on the Environment is that the only people who attended were environmentalists. I realize that not all the attendees would agree to this label, but it was true to varying degrees. Why is this a problem? After all it was an extremely informative conference... if you knew nothing about global warming. But, the audience consisted of people who knew about this issue.

Everyone in that room knew that there is technology currently available that can curb environmental pollution. Everyone in that room knew how global warming is affecting our world.

Even the industry representatives, who would of course never take the blame for being a major cause of ecological changes worldwide, at least acknowledged that those changes were occurring.

Then why am I so discouraged – even with all of this knowledge about the environment at this conference?

There were few – if any – policy makers! Few – if any – elected officials were present!

That in effect means that all of the discussions about better cars, and better buildings, cleaner air and cleaner water, “cleaner” coal (the “clean” coal promoters aren't looking at where coal comes from, how it arrives at the power plant, nor at what happens to the ash left after coal is burned) and wind power, and all of the time and energy of individuals who truly seemed to care fell on an audience that has struggled for decades to enact change.

How can we continue to blame national leaders for

## ***Sludge Impoundments in Spotlight - Again***

After the Martin County Coal Co. (Massey Energy) coal sludge impoundment disaster OVEC, Coal River Mountain Watch and other groups pressured Congress for action. Congress approved \$1.6 million for the National Academies of Science's National Research Council to examine coal waste impoundments. We attended the council's public meetings and made certain our concerns about coal sludge impoundments were heard.

The council's final report, issued in 2001, validated almost all of our concerns and says there are no guarantees a disaster similar won't happen at any of the nation's 700 coal waste impoundments. The report detailed numerous steps to make impoundments safer, and suggests that the coal industry and regulators work to establish alternatives to coal waste impoundments. 🍅



poor global environmental judgment when our own state officials turn a blind eye to these issues?

Global climate change is happening here at home. That's why it's called global. It happens everywhere.

It is November 5<sup>th</sup> and yesterday's peak temperature was 82 degrees, surpassing the previous record high. Yet our own elected officials keep their heads in the sand hiding from the evidence of global warming. I wonder if they crank up the air conditioning in their state-owned vehicles, as they flee from the capitol any time someone mentions the environment.

In conclusion, vote responsibly! 🍅

## **Even AEP knows global warming is real!**

In late October, in “Coal-fired plants not in utility plans; company expects sharp dip in use as fuel,” the Associated Press reported:

“The country's largest coal-burning utility does not plan to build more conventional coal-fired power plants because its leaders expect industry coal use to be sharply curtailed, a top American Electric Power executive said.

“The industry is likely to face more pressure to reduce atmospheric emissions from burning carbon-based fuels, said Dale Heydlauff, a senior vice president of Columbus, Ohio-based AEP. Many scientists blame carbon dioxide from burning oil and coal for contributing to a “greenhouse” or warming effect on global climates.

“AEP leadership has no intention of building another pulverized coal plant... The risk exposure is just too great,” he said during Tuesday's meeting of the West Virginia Conference on the Environment in Charleston.” 🍅



# On Getting Along

by Howard Zinn

You ask how I manage to stay involved and remain seemingly happy and adjusted to this awful world where the efforts of caring people pale in comparison to those who have power? It's easy.

**First**, don't let "those who have power" intimidate you. No matter how much power they have they cannot prevent you from living your life, speaking your mind, thinking independently, having relationships with people as you like. (Read Emma Goldman's autobiography, *Living My Life*. Harassed, even imprisoned by authority, she insisted on living her life, speaking out, however she felt like).

**Second**, find people to be with who have your values, your commitments, but who also have a sense of humor. That combination is a necessity!

**Third** (notice how precise is my advice that I can confidently number it, the way scientists number things), understand that the major media will not tell you of all the acts of resistance taking place every day in the society, the strikes, the protests, the individual acts of courage in the face of authority. Look around (and you will certainly find it) for the evidence of these unreported acts. And for the little you find, extrapolate from that and assume there must be a thousand times as much as what you've found.

**Fourth**. Note that throughout history people have felt powerless before authority, but that at certain times these powerless people, by organizing, acting, risking, persisting, have created enough power to change the world around them, even if a little. That is the history of the labor movement, of the women's movement, of the anti-Vietnam war movement, the disabled persons movement, the gay and lesbian movement, the movement of black people in the South.

**Fifth**. Remember, that those who have power, and who seem invulnerable are in fact quite vulnerable, that their power depends on the obedience of others, and when those others begin withholding that obedience, begin defying authority, that power at the top turns out to be very fragile. Generals become powerless when their soldiers refuse to fight, industrialists become powerless when their workers leave the jobs or occupy the factories.

**Sixth**. When we forget the fragility of that power at the top we become astounded when it crumbles in the face of rebellion. We have had many such surprises in our time, both in the United States and in other countries.

**Seventh**. Don't look for a moment of total triumph. See it as an ongoing struggle, with victories and defeats, but in the long run the consciousness of people growing. So you need patience, persistence, and need to understand that even when you don't "win," there is fun and fulfillment in the fact that you have been involved, with other good people, in something worthwhile.

Okay, seven pieces of profound advice should be enough.



## Meet the New Boss at the EPA - the Same As the Old Boss at the EPA ... Sigh ...

Former Utah Gov. Mike Leavitt is the new head of the U.S. Environmental Protection Agency.

In *Orion Magazine*, Larry Young, executive director of the Southern Utah Wilderness Alliance, noted that Leavitt made a "secret deal with Secretary of the Interior Gail Norton that placed some 6 million acres of Utah's Redrock wilderness on the chopping block. Without a shred of public discussion or notice, Leavitt settled an already moribund lawsuit to block the Bureau of Land

Management from inventorying and protecting Utah wilderness. By preventing inventorying, the deal additionally prohibits the BLM from protecting tens of millions more acres of potential wilderness outside of Utah and across the West, affecting lands far beyond his jurisdiction."

President Bush said Leavitt's nomination: "I selected Mike Leavitt because he is a trusted friend, a capable executive and a man who understands the obligations of environmental stewardship." Scary. 🍂

# Just Say NO to Mountaintop Removal / Valley Fills in Papua, New Guinea

by Janet Fout

Larry Gibson recently had the pleasure of hosting four community members from Papua, New Guinea, on Kayford Mountain: Grace Koa, Poin Caspar, Wina Kayonga and Patrick D. Pate. They were traveling with two companions from the World Wildlife Fund.

Visiting the U.S. compliments of the World Wildlife



**Larry Gibson talks about the destruction caused by mountaintop removal mining near his home with new-found allies from Papua, New Guinea.**

*photo by Anita van Breda of the World Wildlife Fund*

typed the word “moonscape” during an Internet search, up popped OVEC’s website and Kayford Mountain!

Mining plays a major role in the economy of New Guinea, but unlike residents in West Virginia, people there primarily own the land.

Like many people here, New Guineans live close to and depend upon their land to sustain them. They came here just to see whether or not they would want to allow mountaintop removal mining in their own country.

As we drove up the road to Kayford, we paused near a massive valley fill and discussed both on- and off-site impacts of burying streams on wildlife and water quality

## ***Congratulations, Ann!***

Big congratulations to OVEC member Ann Pancake, who won one of 10, \$35,000 Whiting Writers’ Awards, awarded annually to “emerging writers of exceptional talent and promise.” The money will free up Ann to finish her novel about mountaintop removal.

and the potential for increased flooding and pollution downstream.

We toured the Stanley Heirs cemetery, where graves are sinking (from undermining?). As we gazed across the barren, flattened landscape, Larry’s guests were bewildered that anyone would systematically destroy the land on such a large scale.

When Larry said, “My mother gave me birth, but these mountains gave me life,” their response was: “We have a similar saying: We feed from the breasts of our Mother (Earth).”

Needless to say, after seeing the large-scale destruction caused by mountaintop removal/valley fill mining here, our new friends are resolved NOT to let this happen in their country. They may even host Larry Gibson in their community to share his powerful story with others. 🌰

## ***They Get It in California . . .***

Excerpt from “Wildlife’s Trial by Fire Is Just Beginning,” *Los Angeles Times*, Nov. 2, 2003:

“Trees are like sponges, filtering pollutants out of the air, intercepting rainfall” and helping replenish groundwater supplies, said Greg McPherson, director of the U.S. Forest Service’s Center for Urban Forest Research at UC Davis. “Burning up those trees is like losing one of your lungs. The air quality isn’t going to be the same. The runoff isn’t going to clear. The system is going to be perturbed.”

This also makes case for what happens with the vast deforestation created by mountaintop removal.

Another article, from Nov. 3, “California Wildfires Will Bring Floods, Mudslides,” drives home the point:

LOS ANGELES - Long after California’s raging wildfires have finally been extinguished, they will still be wreaking havoc on the lives of Californians, setting off a dangerous wave of flash floods and mudslides.

When the wildfires scorched more than 750,000 acres of southern California, an area just slightly smaller than the U.S. state of Rhode Island, they destroyed all vegetation on mountains and hillsides.

Now when heavy rain falls this winter, there will be nothing to stop it from penetrating directly into the soil. In addition, waxy compounds in plants and soil that are released during fires create a natural barrier in the soil that prevents rain water from seeping deep into the ground.

The result is erosion, mudslides and excess water running off the hillsides, often causing flash flooding in the communities below. 🌰



# OVEC - in ACTION

**Nov. 6:** Sludge and DECAF. No, we are not talking bad coffee! The Delbarton Environmental Community Awareness Foundation held a meeting to discuss community safety and the Massey Energy coal sludge impoundment. OVEC staffers attended the meeting. Stay tuned for more from this group as they awaken Mingo County to activism!

**Nov 6:** The Sierra Club sponsored “Appalachians and Activism” featuring Mari-Lynn Evans, executive producer of the PBS documentary, *The Appalachians*, which will air this spring. Look for folks you know in this flick, as well as in the accompanying book. Appearing with Evans at the event were OVEC’s Janet Fout and Larry Gibson, and Judy Bonds, Nanette Nelson and Freda Williams of Coal River Mountain Watch. The audience raved about clips from the documentary.

**Oct. 28:** West Virginia Highland Conservancy’s Cindy Rank spoke the truth to Massey Energy’s factually-challenged CEO Don Blankenship at a University of Charleston event. Members of Friends of the Mountains (a coalition of groups working to end mountaintop removal) handed out fliers on mountaintop removal and Massey Energy to people coming to hear the debate. We even placed a flier in the hands of Blankenship himself, who in his usual careless disregard said he had already seen the flier. We can only guess he has no idea what he is talking about, or he is monitoring our e-mail, as the Sierra Club’s Bill Price finished the flier just hours before the event.

**Oct. 2:** OVEC spread the word to our members and the media about the 5th Annual Celebrate Tolerance/Stop the Hate Vigil held in downtown Charleston. With music, storytelling and a circle of faith, people from many religions called for an end to hate violence. Event organizers, the WV Interfaith Center for Public Policy’s Stop the Hate Committee, said they had the best media coverage and highest attendance they have had for any vigil so far.

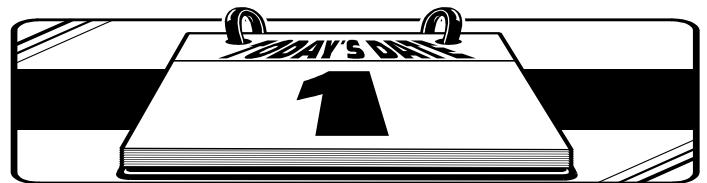
**Sept. 24:** Always on the cutting edge, OVEC presented the premier Huntington screening of Michael Moore’s documentary, *Bowling for Columbine*. Contact the office if you would like to arrange a screening of this movie.

**Sept. 23:** Members of Coal River Mountain Watch and OVEC met in Whitesville with WV Department of Environmental Protection Secretary Stephanie Timmermeyer



Graphic by Vince Packard, <http://cannibol.com/>

and other DEP officers. Citizens talked about mountaintop removal and other illegal and irresponsible behavior of the coal industry, as well as DEP’s role in aiding and abetting King Koal. Suffice it to say that we heard a lot of the same-old, same-old in response. Freda Williams set up the meeting, which came about after Timmermeyer refused to meet with about 30 of us who stopped by DEP headquarters. 🌰



## UPCOMING EVENTS

For up-to-the-minute event listings, check OVEC’s online event calendar page at [www.ohvec.org](http://www.ohvec.org).

**Jan. 6, 2004,** Deadline to submit comments on the draft Environmental Impact Statement on Mountaintop Removal ([www.epa.gov/region3/mtntop/eis.htm](http://www.epa.gov/region3/mtntop/eis.htm)). E-mail comments to: [mountaintop.r3@epa.gov](mailto:mountaintop.r3@epa.gov). Send written comments to:

**John Forren**  
**U.S. Environmental Protection Agency,**  
**(3EA30)**  
**1650 Arch St.**  
**Philadelphia, PA 19103.**

Also, go to [www.sierraclub.org/sierra/coal/](http://www.sierraclub.org/sierra/coal/) to send a comment, or preferably, use the information there and at [www.ohvec.org/issues/mountaintop\\_removal/articles/EIS\\_scam.pdf](http://www.ohvec.org/issues/mountaintop_removal/articles/EIS_scam.pdf) to create your own individual comments.


**March 24, 2004,** Organizing training with Si Kahn, sponsored by the Appalachian Institute at Wheeling Jesuit University, to be held in Charleston. Details coming. 🌰

## Remembering Laura - Memorial Fund Helps Her Passion Live On

It's hard to believe that we're approaching the second-year anniversary of the tragic death of OVEC's beloved organizer, Laura Forman, who died on Dec. 10, 2001.

We miss her, still, but are doing our part to carry forward her dream of ending mountaintop removal coal mining. Laura collapsed at a protest that she organized outside the office building of the U.S. Army Corps of Engineers in Huntington. OVEC was protesting the Corps' misguided practice of issuing general permits (nationwide permits) that allow coal companies to dump waste into streams without conducting site-specific environmental


### ***Is It Trash or Cash? It's Cash! Send It In!***

Turn some of your trash into cash for OVEC.  Recycle your ink jet printer cartridges. Call or e-mail Maryanne, (304) 522-0246, or mago@ezwv.com to get your supply of postage-pre-paid bags.

impact studies.

Upon hearing of Laura's death, people asked us to establish a memorial fund in her name, which we did. All the funds that are contributed to her memorial fund are used in our "Stop Mountaintop Removal" campaign. For those who crossed her path, she was known for her fierce love of coalfield residents and the mountains.

While she walked among us, she devoted so many of her waking hours to making mountaintop removal the most talked-about environmental issue in West Virginia. Full of courage and fire, regulators, coal-friendly politicians and adversaries alike could expect her to give them a piece of her mind.

If you would like to send a contribution to OVEC in Laura's memory, please send your check to: OVEC, Laura Forman Memorial Fund, P.O. Box 6753, Huntington, WV 25773-6753. 

### **Make a DIFFERENCE! Join a WINNING TEAM! Get ACTIVE with OVEC!**

- ☐ **OVEC** stopped plans for a toxic waste incinerator in Ohio that would have imported waste from across the nation.
- ☐ **OVEC** organizing forced an end to chronic pollution violations at the Ashland Oil refinery in Catlettsburg, Ky.
- ☐ **OVEC** led the broad effort to stop plans for the nation's largest pulp mill, which would have used outdated, heavily polluting technologies.
- ☐ An **OVEC** lawsuit compelled state government to enforce important provisions of the federal Clean Water Act.
- ☐ **OVEC** worked with other groups to stimulate passage of first-step campaign finance reform laws in West Virginia.
- ☐ **OVEC** is changing the face of "politics as usual" in West Virginia through our Clean Elections work.
- ☐ **OVEC** is committed to bringing an end to mountaintop removal/valley fill strip mining.

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## *In the Eye of the Beholder*



OK, we admit it ... it gets a little frustrating sometimes to see the constant barrage of King Coal ads on TV, in the newspapers, on radio and on billboards all over West Virginia, with no attempt made to even remotely present a balanced point of view or even stick to the known facts. We didn't *really* deface this billboard for Walker Machinery, a major coal industry apologist, but we sure *wanted* to.

Ohio Valley Environmental Coalition  
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