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# Winds of Change

the newsletter of the

## Ohio Valley Environmental Coalition

Huntington, WV

[www.ohvec.org](http://www.ohvec.org)

## David Roars, Goliath Blinks - the People WIN

*Supreme Court Blocks Forced Sale of Lincoln County Family's Ancestral Land*  
by Ken Ward Jr., May 8, 2004, Charleston Gazette

The state Supreme Court ruled Friday that a Lincoln County family was wrongly forced to sell its homeplace to make way for a mountaintop removal mine.

Justices said a lower court was wrong to discount the family's "sentimental or emotional interests" in the property in favor of the economic concerns of a coal operator.

Writing for the court, Justice Robin Davis said that the Lincoln County Circuit Court decision, if allowed to stand, "would permit commercial entities to always 'evict' pre-existing owners."

"I'm on cloud nine," said Leon Miller, whose family fought the forced sale to Arch Coal Inc. **"This is going to change the law from now on as far as people taking your property. I think it's about time somebody stood up to these people."**

St. Louis-based Arch Coal had forced Miller and his family to sell their homeplace along the Mud River in Lincoln County.

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**Leon Miller gazes upon mountaintop removal/valley fill coal mining. This operation is just down the road from the Caudill homeplace, where his wife, Lucille, grew up. The family fought all the way to the state Supreme Court to keep a small chunk of their property out of Arch Coal's crosshairs - and won!**

## ANOTHER Victory!

*U.S. Judge Curtails Valley Fills - Environmentalists See Big Win in Fight Against Mountaintop Removal*

by Chris Wetterich, July 9, 2004, Charleston Gazette

Coal companies must undergo a more rigorous government review of the effects of mountaintop removal mining on waterways before they receive permits, a federal judge in West Virginia ruled Thursday.

U.S. District Judge Joseph R. Goodwin barred the U.S. Army Corps of Engineers from approving mining activities that affect waterways under a streamlined permit process.

Such permits are for activities that are supposed to have little environmental impact. They have routinely been approved by the Corps of Engineers for mountaintop removal

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# *The Faces of OVEC*

## **The One Behind the Phone and Checkbook**

For more than a decade, Maryanne Graham has worked as the bookkeeper for OVEC. Her husband, Ralph Oberly, and Dianne Bady's (OVEC's co-director) husband, Rick, both teach at Marshall University's Physics Department, and that's how Dianne came to know Maryanne. Dianne called her up one day in 1993 to ask her if she would be OVEC's bookkeeper, "because she knew that I knew numbers" (Maryanne taught math at Ohio University).

When she began her work with OVEC, there were only two full-time employees, Dianne and Janet Fout, but Laura Forman was about to join the staff.

Maryanne's seen some pretty major changes in the organization. "It's grown in terms of outreach; more people are aware that OVEC is here. They acknowledge the power behind us."

She also said that originally she worked out of her house (like all the other staff), and now OVEC has an office. With the growth, she explained, also has come an increase in the complexities of financial accounting. What's most gratifying about her work? She's most pleased when the numbers match at the end of every quarter, "knowing that I can account for every penny that goes through the office."

She really enjoys the camaraderie at the office with staff and our volunteers, who for the most part, always get along. While she still teaches at OU (introductory physics), outside of work she likes to spend time with her family (two fantastic kids, Morgan and Graham), digging in her garden, reading, and volunteering with the Girl Scouts and Boy Scouts.

She's not only good at numbers, she's also the chief "fix the copier/fax machine/phone-person," too. She also has enrolled OVEC in several ink cartridge-recycling projects that bring us funds from time to time – saving the environment in a little way, bringing in additional funds for OVEC's program work.

You aren't likely to see Maryanne at OVEC events. She may not be that visible, but she's invaluable to our work! Rumor has it that she likes good wine and chocolate, just in case you'd like to say "thanks." 🍄



**Maryanne Graham, balancing the books**

## **The One With Us for the Summer - Scott Straight**

I recently joined OVEC as an intern and thought that I'd give you a little background on myself. I grew up in Pinch, WV (about 10 miles north of Charleston). I love all types of music and can play some acoustic guitar.

I read mostly non-fiction, but some good fiction stories can hold my attention. (Right now I'm reading *Dharma Bums* by Jack Kerouac.) I also enjoy any activity that gets me out of the house, or better yet, out of the city.

I recently received a B.A. in sociology from Marshall University. While at Marshall I helped to found two student organization: MAPS (Marshall Actions for Peaceful Solutions) and White Rose.

I also helped other student organizations including Lambda Society and the MUCLU (Marshall Civil Liberties Union).

I have also had the privilege of being involved in activities organized by local organizations such as OVEC, Patriots for Peace and the Huntington ACLU.

I became interested in politics as a result of my environmental concerns. It will be an honor and privilege to help serve the people of Appalachia in our fight for social justice. 🍄



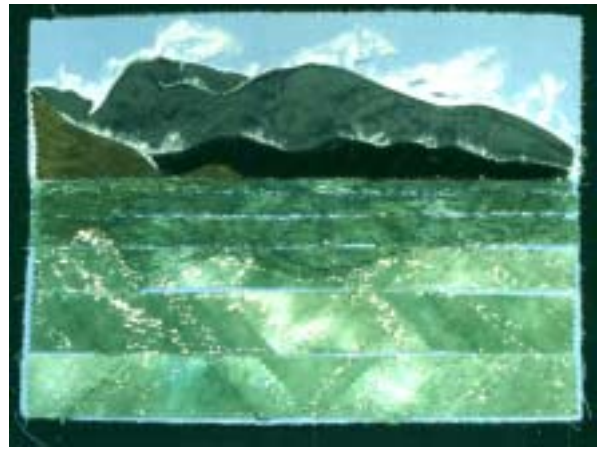
**Scott Straight**

# Moving Mountains: New CD Speaks the Truth about MTR

by T. Paige Dalporto

Not being much of a traveler these days, I was a bit daunted to consider driving to Silver Spring, Md., for the CD release concert for *Moving Mountains: Voices of Appalachia Rise Up Against Mountaintop Removal Coal Mining*.

But I had committed myself to do it, and it was for a good



The awesome CD cover art by Winter Ross.

## Get the CD, Help Out OVEC

On June 18, Public Radio's "Music from the Mountains" host Joe Dobbs interviewed singer/songwriter Andrew McKnight, who has a great cut on the CD *Moving Mountains: Voices of Appalachia Rise Up Against Mountaintop Removal*.

Andrew said the *Moving Mountains* CD is flying off the shelves. That's great, because music really moves and motivates people and a large portion of the proceeds from the sales go to help groups like OVEC and Coal River Mountain Watch in our efforts to end mountain massacre.

The CD is fantastic. Thanks so much to idea-originator and culminator Jen Osha, Falling Mountain Music, OVEC board member and sound engineer Jeff Bosley, artist Winter Ross and all the incredible musicians who donated their talent to make this CD a reality.

Call the OVEC office at (304) 522-0246 or e-mail [vivian@ohvec.org](mailto:vivian@ohvec.org) to get your copy of *Moving Mountains*. CDs are \$15 each, plus shipping costs, if applicable.

## OVEC Board of Directors & Staff

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OVEC is a 501(c)(3) non-profit organization.

cause: Ending mountaintop removal.

I was disappointed to learn that fellow performer Elaine Purkey had seriously injured her back and wouldn't be able to perform. I met Elaine in Fayette County, where I live, at a meeting about the causes of the 2001 flooding. I was impressed both with her dedication to environmental issues and with the fact that she was a bona fide regional recording artist.

Elaine's cut on the CD, "Keepers of the Mountains," which she wrote and sings *a cappella*, has all the raw impact of at least 10 engines coming down the tracks. Kind of an Appalachian Janis Joplin. Hazel Dickens on steroids. It don't get no real-er than Elaine. Seriously, her love of and dedication to these hills and mountains shines through her singing and writing, as is the case for all of the singers on this indeed moving CD.

As I arrived at the concert venue, I was greeted by David Eisner, founder of the Institute for Musical Traditions. He put on the concert and did a fantastic job on the sound board. I had never heard acoustic-electric guitars sound so natural. He later told me this was because most of the time rock musicians are doing the sound. (Sorry rockers, but you really need to re-attune your ears to acoustic guitar work.) Coming up the stairs, I could hear the fantastic guitar phrasings of Keith Pitzer on his acoustic electric, doing a sound check. I began to realize then that the quality of the musicianship on this CD wasn't accidental. It was something to aspire to.

Jen Osha, who conceived of and produced the CD project, introduced me and I led off with a poem and three songs. Next came Cherylann Hawk, then Keith and Joan Pitzer. Jen, in one of the high points of the night, performed a devastatingly beautiful version of Elaine's "Keepers of the Mountains."

Falling Mountain Records founder Michael Delalla

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## Lincoln County Ruling

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For 100 years, Miller's wife and family owned the 75-acre tract. The family homeplace includes a farmhouse, built in 1920, several small barns and a garden.

John Caudill, a coal miner who was blinded in a mining accident in the 1930s, and his wife, Lydia Caudill, raised 10 children in the home.

Today, the family no longer lives there. But some heirs spend almost every weekend there.

Arch Coal wants to tear down the family's ancestral home. It stands in the way of the company's plans to continue to expand its Hobet 21 mountaintop removal complex. Last year, Hobet 21 produced about 5.2 million tons of coal, making it among the largest surface mines in the state. Under Hobet's plans, "a valley fill and in impoundment pond would destroy and inundate the farmhouse and outbuildings and bury the immediate surrounding land under the valley fill."

Over the last few years, Arch's Ark Land Co. has bought out some of the Caudill heirs. Currently, the company owns a 67.5 percent interest in the property.

When Miller's wife and six other heirs refused to sell the rest, Ark Land went to court.

## Moving Mountains

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and the label's recording artist/songwriter, Andrew McKnight also performed. Andrew utilizes a distinct vocal style and compelling delivery in the performance of his superbly crafted composition "Company Town," which is the lead track on the CD.

It's obvious from all of the original material performed at the concert and on the CD that the destruction of our mountains has deeply affected these artists and led them to sound a warning – a cry of protest and outrage – through their music, properly placing music in a supporting role to the truly urgent issue of environmental preservation.

This music provides a call to action! A call to at least wake up and realize what the hell's happening before it happens to you!

I began to see the potential for this CD, and others to follow, to alert people to the true cost of these types of destructive mining practices – the cost to the land and the people.

As Jen told me at the concert, she started with an idea that, much to her amazement, just "took off," and keeps growing. . . keeps moving...minds and hearts – and, hopefully, the machinery of destructive mining practices out of our lives and our mountains. 🍓

Under state property law, a judge can order land split, or partitioned, if various owners cannot agree on how the land should be used. Through partition orders, land can actually be split among owners. This is called "in-kind" partition. Or, the land can be auctioned through a partition sale.

Generally, West Virginia law requires in-kind partitions – and prohibits court-ordered sales – if such a split can be done "conveniently," and if a forced sale would prejudice the interests of the owners who don't want to sell.

In Lincoln County Circuit Court, Arch Coal lawyers

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## New MTR Music CD Already Setting Sales Records, Funding Projects

*by Jen Osha*

We are pleased to announce that *Moving Mountains* is the fastest selling CD ever on the Falling Mountain Music Label! See [www.fallingmountain.com](http://www.fallingmountain.com).

We are already putting in our second order for 1,000 CDs!

To date, we have raised almost \$4,000, which we will begin to use to fund additional road trips, where coalfield residents and activists present a multi-media show on mountaintop removal to audiences across the state and nation. Thank you to everyone who has made this possible. Keep at it, the word is getting out!

The proceeds from sales of *Moving Mountains* will go to nonprofit organizations helping mining communities threatened or destroyed by mountaintop removal.

We had our first CD release party on May 24 at the Unitarian Universalist Church of Silver Spring, sponsored by the House of Musical Traditions.

Musicians T. Paige Dalporto, Keith and Joan Pitzer, Cherylann Hawk, Jennifer Osha, Andrew McKnight, and Michael Delalla played

two hours of mountain music and raised \$475 for the fight against mountaintop removal! We hope to host at least three more mountaintop removal benefit concerts in West Virginia.

If you have any ideas about venues, or would like to help with promotions, please contact Jen Osha at [jenosha@auroralights.org](mailto:jenosha@auroralights.org). 🍓



## Goodwin Decision

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mines. Environmental lawyers argued that mountaintop removal permits should have to go through a more extensive permit process, because mountaintop removal impacts the environment significantly.

On Thursday, Goodwin agreed. He said nationwide permits cannot be issued for future mountaintop removal permits, and the corps must revoke its permits for 11 mining sites affecting miles of Appalachian streams where construction has not started.

Environmentalists say the decision is a major victory in the fight to stop mountaintop removal. Joe Lovett, an attorney for the Ohio Valley Environmental Coalition, which filed the lawsuit, predicted that many coal companies will not get permits under the more meticulous process.

“Instead of rubber-stamping permits, the corps will

## Lincoln County Ruling

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sought to force the remaining Caudill heirs to sell.

A mining engineer working for the heirs testified that the property could be partitioned in kind. The engineer said the land surrounding the family home did not have coal deposits, and could therefore be partitioned. An expert for the company said doing so would increase Arch Coal’s mining costs by several million dollars.

Judge Jay M. Hoke sided with the company, and Arch Coal bought the land at an auction for \$500,000. The Caudill heirs appealed Hoke’s ruling.

In its Friday decision, the Supreme Court said it was “troubled” by Hoke’s conclusion “that partition by sale was necessary because the economic value of the property would be less if partitioned in kind.”

... Davis wrote that the justices “are very sensitive to the fact that Ark Land will incur greater costs in conducting its business on the property as a result of partitioning in kind.

“However, Ark Land voluntarily took an economic gamble that it would be able to get all of the Caudill family members to sell their interests in the property,” Davis wrote. “Ark Land’s gamble failed.”

Charleston lawyer John Barrett, who represented the Caudill heirs, said Friday afternoon, **“This decision says family lands are worthy of protection, and economic interests in land aren’t the only kinds of interests that our law recognizes.**

**“As every West Virginian knows, there are some things that money can’t buy.”** 🍓



**Near the Boone/Lincoln County line in West Virginia, the horror of an existing mountaintop removal/valley fill operation will be allowed to continue.**

have to pay heed to the science,” Lovett said. “I’m not sure these permits can be approved, given what the environmental impact studies will show.”

Attorneys for the corps and coal companies affected by the ruling could not be reached for comment Thursday. Goodwin’s ruling affects only the Southern District of West Virginia.

In mountaintop removal, coal companies blast off entire hilltops to uncover valuable, low-sulfur coal reserves. Leftover rock and dirt is dumped into nearby valleys, burying streams. The resulting waste piles – sometimes miles long and hundreds of feet deep – are called valley fills. The government has already spent millions on studies that show the damage of mountaintop removal mining but has ignored the science, Lovett said.

Currently, the corps has control over what happens in all U.S. waterways. When someone wants to undertake an activity that would affect a body of water, the corps has to give them a permit.

Congress authorizes the corps to issue two different kinds of permits. The first is a general permit for activity that would affect a body of water or wetland but cause “minimal adverse environmental effects.”

With this type, Congress’ intent was to reduce bureaucratic red tape and the workload of the corps. Once an activity is approved under the first permit, anyone wanting to engage in such an activity can do it without getting permission from the government or undergoing an individual review.

The other type of permit is for specific activities

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## Goodwin Decision

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where people or businesses want to discharge dredge or fill materials into U.S. waters. The corps must hold public hearings, give the public notice and allow enough time for interested parties to express their views. It also requires site-specific documentation and analysis of the project's environmental impact.

The case before Goodwin concerns Nationwide Permit 21. The corps has used it to authorize valley fills stemming from mountaintop removal. In 2000 alone, the corps authorized 264 mining projects under Nationwide 21, according to agency records. Those projects buried more than 87 miles of streams, the records show.

The Ohio Valley Environmental Coalition filed suit in October, claiming that the Nationwide 21 process is illegal. Goodwin concurred, saying that nationwide permit process used by the corps violates the intent of Congress when it passed the Clean Water Act.

The law requires the corps to guarantee that an activity will have minimal impact before it issues a nationwide permit. In the case of Nationwide Permit 21, the corps doesn't do that. It sets up a process coal companies have to follow in order to make sure there is minimal impact, Goodwin wrote in his ruling.


The corps also doesn't determine whether the environmental impact is minimal until after the activity has taken place, Goodwin said. Nationwide permits are created for circumstances where there would never be a case where there was concern over possible serious environmental impact, the judge said.

Nationwide 21 also illegally requires an individual review of projects. This defeats the purpose of nationwide permits, which is to reduce the bureaucratic workload on the government and individuals, Goodwin wrote.

"The corps' procedural approach ... is unlawful," Goodwin wrote. "[T]he corps has defined neither a category of activities that will cause only minimal adverse effects nor a set of requirements and standards.

"If the corps cannot define a category of activities that will have minimal effects, absent individual review of each activity, the activities are inappropriate for general permitting."

The immediate result of the ruling is that coal companies will now have to seek individual permits from the corps for mountaintop removal because the corps can no longer issue permits under Nationwide 21. Coal companies will also not be able to proceed with valley fills they have not started that have been approved under

Nationwide 21. Those fills would have impacted over 26 miles of water in West Virginia: Green Valley, Horse Creek, Synergy, Hardway Branch, Phoenix, Fola, Westridge, West of Stollings, Edwight, Hewitt and Lexerd. 

## A B I G T h a n k s !


We'd like to say thanks to so many folks for all their help the work we do together. (No doubt we have left some folks out, we do apologize for that!)

All OVEC board members, with an extra special thanks to Larry Gibson and Winnie Fox. All Friends of the Mountains coalition participants. A special thanks to volunteer Jane Flesher for her tireless work on keeping our office straight – cleaning, organizing... whatever we ask! Also:

Jeff Allen	Joe Lung
Rosalie Blaul	Julian Martin
Sandy Brady	Larry Maynard
Adam Brown	Leon and Lucille Miller
Pauline Canterberry	Mary Miller
The Caudill Family	Joan Mulhern
Margaret Chapman	Tina Namay
Rosemary Crozier	Nannette and Paul Nelson
John Doyle	Ralph Oberly
Jerise Fogel	Cindy Rank
John Gancs	Sue Reynolds
Jeremy Gunn	Sylvia Ridgeway
The NAACP Youth	Leroy and Geneva Runyon
Maria Gunnoe	Kathryn Stone
Robin Godfrey	Sarah Wilhoite
Jason Huber	Bo Webb
Margaret Janes	Walter and Carol Young

## *They Are Getting It, Out West...*

"The largest untapped clean energy resource in Utah is energy efficiency..."

"The Southwest Energy Efficiency Project, a regional think tank, has found that adopting energy efficiency standards in Arizona, New Mexico, Colorado, Utah, Nevada and Wyoming would eliminate the need to build 34 new coal-fired power plants in the West (there are 35 proposed), while saving consumers and businesses \$28 billion between today and 2020." 

## *"Alternative" Energy Keeps Growing*

Solar, wind, and fuel cells are poised to grow from a \$12.9 billion industry today to \$92 billion by 2013, according to [www.cleaneedge.com](http://www.cleaneedge.com). 

# Coalfield Flooding

*We've Already Answered This Question, Again and Again and ...*

by Vivian Stockman

Do mountaintop removal and virtually unregulated logging make flooding worse? If you live near a mountaintop removal operation, you know the answer. If you are a coal-operator or a politician beholden to the coal industry, you dodge that question.

Like the Fossil Fuel Fools occupying the White House who deny the effects of global warming (even though the Pentagon and scientists note that the global warming threat is more severe than the threat from terrorism), King Coal's Cronies deny the effects that lopped-off, denuded mountains and buried valleys have on flooding.

In a June 29 editorial advocating that the federal government buy people out of flood-prone areas, the *Charleston Daily Mail* said:

"One thing that could help is the creation of more flat land. But mountaintop mining is not without controversy and some even contend that it exacerbates the flooding problem.

"That is a matter for hydrologists to debate."

**"Can I tell you the truth? I mean this isn't like TV news, is it?**

**"Here's what I think the truth is: We are all addicts of fossil fuels in a state of denial, about to face cold turkey.**

**"And like so many addicts about to face cold turkey, our leaders are now committing violent crimes to get what little is left of what we're hooked on."**

**Kurt Vonnegut in "Cold Turkey," May 12, 2004, in *In These Times***



**In the wee hours of Memorial Day 2004, southern West Virginia again experienced devastating flooding. A man, helping his mother clean out this flooded Logan home, wondered why the government agencies and the coal industry refuse to tell the truth about mountaintop removal and flooding. As he stood in several inches of muck, the man said, "I am standing in the truth right here."**

(Due to space limitations for this particular newsletter, we can't address the *Daily Mail's* absurd idea that the state needs more flat land when mountaintop removal has already scalped nearly 400,000 acres; nor can we, in this edition, explore the fears that coalfield residents have about coal company desires to depopulate the coalfields, which the *Daily Mail* could be construed as endorsing.)

More debate? Please! People have drowned, property is being destroyed, and the coal companies are whisking more money out of state, while taxpayers shell out millions for the flood cleanups. More debate when there have been so many studies?

As the *Charleston Gazette's* Ken Ward reported, in June 2002, the WV Department of Environmental Protection was forced into releasing a report on the July 8, 2001 floods. The report said that during that flood, logging and timbering increased water runoff by 5.6 percent at the mouth of Seng Creek (Boone Co.) and by almost 14 percent

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### Memorial Day home redecorating, courtesy of flooding enhanced by mountaintop removal mining.

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at the mouth of Scrabble Creek (Fayette Co.). Runoff increased further upstream at Seng Creek by as much as 9 percent, and by as much as 21 percent upstream at Scrabble Creek.

In May 2003, the United States Geological Survey released a study with findings showing that during typical West Virginia summer thunderstorms, peak flows from valley-filled, mined areas were much greater than they were from un-mined areas.

A January 2000 study by the Office of Surface Mining and the U.S. Army Corps of Engineers concluded, “This study shows that an ongoing valley fill operation **will increase the discharge from 25-59 percent** (10-100 year) from premining conditions; this decreases to about 13 percent after the area is reclaimed in the post mining conditions.”

News reports of the recent, deadly (over 2,000 dead!) floods in Haiti and the Dominican Republic stated a non-debatable fact: “With no tree roots to hold soil on the mountains, the torrential rainwater barreled down unchecked, collecting silt, gravel and boulders that slammed into villages” (Deforestation at Root of Devastating Haiti Floods, by Paisley Dodds, Associated Press, June 6, 2004).

Commenting on the Memorial Day 2004 flooding in Mingo and Logan counties, Bill Raney, president of the WV Coal Association, told the Associated Press, “I just really think what we’re ending up with is more water falling from the sky in a more concentrated fashion, in a shorter period of time and in a smaller area. Now that’s not popular because there isn’t anyone to blame in that. ...I do understand

the need to lay blame, but there is no clear bad guy here.”

While trying to deny the role the mountaintop removal coal-extraction process has in the latest floods, Raney inadvertently pointed out the role that the burning of coal has in global warming – making stronger storms.

On June 13, the United Nations University released a study warning that the number of people under threat from major flooding will double to 2 billion within 50 years. The cause? Deforestation, the burning of fossil fuels (coal and oil) and population growth.

Do mountaintop removal and virtually unregulated logging make flooding worse? We’ve got the *studies*. We’ve got the *proof*. We’ve got to demand the changes we need. 🍌

## People Can’t Survive If Land is Dead

*by Wendell Berry*

Excepted from the *Lexington Herald-Leader*, May 3, 2004

... Nearly 40 years ago, our state government began an effort to regulate strip mining. While that effort has continued and has imposed certain requirements of reclamation, strip mining has become steadily more destructive of the land and the land’s future. We are now permitting the destruction of entire mountains and entire watersheds.

No war, so far, has done such extensive or such permanent damage. If we know that coal is an exhaustible resource, whereas the forests over it are, with proper use, inexhaustible, and that strip mining destroys the forest virtually forever, how can we permit this destruction? If we honor at all that fragile creature the topsoil, so long in the making, so miraculously made, so indispensable to all life, how can we destroy it?

If we believe, as so many of us profess to do, that the whole Earth is God’s property and is full of his glory, how can we do harm to any part of it?...If we love our country, as so many of us profess to do, how can we so desecrate it?

Can we actually suppose that we are wasting, polluting and making ugly this beautiful land for the sake of patriotism and in the name of God?

... There are such things as economic weapons of massive destruction. ... But we have powerful political opponents who insist that an Earth-destroying economy is justified by profit. And so we compromise by agreeing to

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# Coalfield Flooding

## *A Heartfelt Letter from the Floodlands Tells It Like It Is*

To OVEC members:

*Here is a letter to tell you what tragedy we had on Island Creek in Logan County. We have had so much tragedy here that I cannot begin to tell it all. I wanted to tell you that the clear cutting and mountaintop removal has now caused major flooding. They are clear-cutting and doing mountaintop removal and it is wrong.*

*My grandma and grandpa lived in these valleys before Massey Coal Company. They want us out of here now. And now it seems they are going to wash us out. All this in the name of money.*

*I do not believe that government is looking out for us. They are in bed with the coal companies. I cannot understand why they keep permitting these mountaintop removal jobs even with so much tragedy.*

*Our senators and representatives need to come down here and see how bad things are. This is wrong, and they still don't do anything. Denvir Mitchell is going to do something about it, 'cause when they get me fired up I'll go after them like a missile.*

*It's a shame that high officials care more about the companies than the lives of the people. What's more important, the lives of the people or the almighty dollar? It's going to stop. We will stop it. We need to ask why they don't care about the lives of the people.*

*You can't blame this on God. Blame it on who's doing it. Massey Coal and all of the other coal corporations.*

*It's a shame that the government is wasting money overseas to keep a war going and there are people suffering here. The government needs to put their money here at home when people are living in tragedy. They can fix the creeks.*

*It's a shame to let our own country go down and then spend all this money overseas on war. American people are getting tired of having the government lead them around by the nose and tell them what to do. We are going to stand up to the government and tell them what to do.*

*You cannot build sludge ponds in these valleys safely. They will always deteriorate over the years.*

*Denvir Mitchell, Rossmore, Logan County, WV* 🍓

### **People Can't Survive** \_\_\_\_\_

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permit the destruction only of parts of the Earth, or to permit the Earth to be destroyed a little at a time – like the famous pig that was too valuable to eat all at once.

The logic of this sort of compromising is clear, and it is clearly fatal. If you become economically dependent on destroying parts of the Earth, then eventually you must destroy it all. 🍓



**Across the street from Denvir Mitchell's house, the results of the Memorial Day flooding of Island Creek in Logan County are painfully obvious – except to the coal companies.**

### **Running Out of Oil - and Time**

“Industrial economies, hungry for energy, would begin making it from any source available – most likely coal – regardless of the ecological consequences. Worse, competition for remaining oil supplies would intensify, potentially leading to a new kind of political conflict: the energy war ...”

*Los Angeles Times* editorial, March 7, 2004 🍓

# Thoughts from Logan County Residents on May 31, 2004, Flooding

**Jack Blevins:** Every time it rains all the people come out and look at the creek. They come out and say, “What’s the creek look like?”

**Barbara Blevins:** When it started raining, we started watching the creek. That night – we have a scanner – they said it was coming out of Whitman. When it came out of Whitman last time, it came out of Pine Creek, too. So when I heard that it was coming out of Whitman I said

to myself, “We’re gonna get it, too.”

Then, at about 1:30 it started coming in the yard. Jack was still asleep. By the time I woke him it was almost up to the top steps. We grabbed a bag of clothes, threw the four cats into two carriers, because the other two were underneath the house and already flooded. The water was up to my chest at this point. If it wasn’t for my \_\_\_\_ I would have drowned (she points to her chest and laughs). That’s what Jack said! We got only so far and it almost swept me away, and so Jack went to get the truck, but we couldn’t get the truck through.

We then headed onto an apartment building porch. The apartment had been abandoned. We changed into dry clothes, then waited for the water to go down. The water kept rising and falling through the night. We watched as the water would rise up to the blinkers of a jeep, then fall back down. Next it would rise to the headlights, then fall back down, and it would keep getting higher and higher, and stayed high. It took several hours for the water level to fall back down.

**Terri Chafin:** Some time between 1:30 and 2:15, I started to get the dogs into the car. Ray called me and told me to listen to the radio as it may not hit me. And I said “Ray, I don’t need to turn on the radio. The creek is upon me now.” Three of the dogs drowned. The water was already up to my thighs. I drove up one road and it was already flooded, so I turned around and drove to the top of Stubby Ellis’s hill and just watched. The water would go up and down and the rain just kept coming down. I thought to myself, “Is this water ever going to go down?” This whole area looked like a pool. I saw Barb’s yard and it was just water and water and water. I can’t believe what I saw. Trees were floating down the creek.

**Judy Turner:** When I saw that water I just started thinking, “Buffalo Creek!”

**Bill Chafin:** I don’t understand it all, but I do know where the water is coming from. These giant corporations just don’t give a damn. They just don’t give a damn. They don’t give a damn about a single human being. It’s all about greed!

## Clearing Land = Climate Change

Researchers in Australia have found strong evidence that land clearing can trigger devastating climatic changes. The study will be published in the *Journal of Geophysical Research* and says, “It may be that when the effects of deforestation suddenly exceed a threshold the climate is likely to respond in a dramatic way.”

## Correction

Judy and Keith Weindling, who housed Larry Gibson on his New York-area speaking tour, were incorrectly identified as the Weinbergs in the last issue of *Winds of Change*. We apologize for the mistake, and again thank the Weindlings for their help in spreading the word about the devastation that is mountaintop removal coal mining.

## B I G T h a n k s 2 !

OVEC wishes to effusively thank all who donated items or services for the Silent Auction at the 2004 Treehuggers’ Ball!

We extend an **extra-special thanks to the Calamity Café** in Huntington for once again hosting our fun(d) raiser – for all 15 years!

### Bands

Big Rock and the CandyAss Mountain Boys  
T. Paige Dalporto  
Them Others

### Businesses

All About You Hair and Nail Studio – Darlene Lewis  
Borders Books  
The Current Bed and Breakfast – Leslee McCarty  
Happy Camper  
Java Joint  
Lavalette Nursery  
Nawab Indian Cuisine  
Scents from Heaven

### Individuals

LaShonda Bare	Debra McDanald
Jana Blanchard	Abraham Mwaura
Jerise Fogel	Nora Mwaura and sisters
Mike Forman	Mark Smith
Marian Krauskopf	Elinore Taylor
Joe Lung	Chris Worth
Linda Mallet	

# The State of Clean Elections in West Virginia and Arizona

by Janet Fout

*“The rich have every right to buy as many homes as they want, as many cars as they want, as many gizmos as they want, but they do not have the right to buy more democracy than the rest of us” – journalist Bill Moyers*

So which would you prefer? Politicians whose campaigns are financed by special interests like the coal industry, big pharmaceutical companies, the timber industry and developers, or politicians who are financed through

☆☆ DEMOCRACY WORKS! ☆☆

## *A Clean Elections Victory in New Jersey*

Campaign finance reform activists are celebrating the first step in a long journey to public financing of state elections after the Assembly passed the “The New Jersey Clean Elections and Campaign Finance Study Commission” on June 30.

The legislation, which now moves to the Senate, would establish a nine-member task force to evaluate whether full public financing of legislative and gubernatorial campaigns should be enacted in New Jersey, and if so, how.

The inclusion of a public campaign funding pilot program in this legislative package demonstrates recognition of the benefits public financing has brought to legislative and gubernatorial elections in Maine and Arizona since 2000.

“Garden State residents are tired of seeing our elections marked by ‘for sale’ signs. The study commission can recommend ways to reduce the costs of our elections and to raise enough public funding to provide a viable alternative for candidates who do not want to ask for handouts from special interests,” said NJCA Program Director Staci Berger at an Assembly State Government Committee hearing on the bill in June.

Lionel Leach, State Director of the NAACP-National Voter Fund agreed. “People everywhere are saying they want to put a new FACE on state politics. Our government needs to be accessible to all people – regardless of race, gender or wealth. Our studies show that people of color give less money to politicians and, as a result, have less access to our elected officials. Public financing puts everyone on equal ground.”

(An excerpt from [www.njcitizenaction.org](http://www.njcitizenaction.org)). 

public funds, i.e. YOUR TAX DOLLARS? You the taxpayer would “own” public financed candidates. Since 2000, voter-owned elections – a rather freeing concept – have been working well in Maine and Arizona.

OK. I know that some

of you are thinking to yourself, “What! No way do I want my tax dollars funding political campaigns! The system is riddled with corruption and no politician cares what I think about anything! Everyday I see my tax dollars going to support some other state boondoggle that largely benefits a few – generally, wealthy outsiders – while the infrastructure of this state is crumbling beneath overweight coal trucks and citizens are suffering from poverty, lack of health care insurance, and poor education. And NOW you want me to consider providing money to ELECT politicians who will probably just rip me off?”

The answer is YES, sort of. Yes to the first part – providing public funds for political campaigns. (No! to the part about politicians who rip off the public.) Consider who you know that might run for office if there were sufficient funds available – your next door neighbor, the bus driver, the nurse down the block, your Sunday school teacher, your Aunt Betty who’s full of good ideas, maybe even – you!

If you’ve lobbied the legislature in the past decade and paid attention to the kind of issues that get the most attention (like medical malpractice reform or overweight coal trucks), then you know that the issues receiving the most attention are the ones pushed by special interest contributors (influence peddlers). And generally, legislators pass bills that benefit their big campaign contributors.

Imagine what our state might look like if ordinary, interested citizens could run for political office or that our current politicians could be “freed from the bonds” of big special interests, freed to serve the greater public interest.

OVEC and Mountain State Research and Education

*continued on page 12*

We care, We Count, WE VOTE!

continued from page 11

Foundation (MSERF) teamed up to form the Peoples' Election Reform Coalition-WV (PERC) in 1997. Through PERC, we track, analyze and publicize all special interests contributions (since the 1996 election cycle) to politicians' campaigns. We can quantify what most people know in their hearts to be true – "him that pays the piper, calls the tune."

(To learn more about publicly funded elections, check out the campaign finance reform section on OVEC's website, [www.ohvec.org/issues/campaign\\_finance\\_reform/index.html](http://www.ohvec.org/issues/campaign_finance_reform/index.html).)

Since Maine and Arizona have been through two election cycles using public financing, we know that this system can work here. Arizona listed these successes in 2002:

- a Clean elections candidates won state's top offices;
- h Non-partisan: Republicans and Democrats benefited;
- r Increased voter participation;
- ` Increased voter turnout;
- w Increased voter choice;
- , Increased competition;
- S Decreased influence of big-money special interests;
- ☺ Provided adequate funding for candidates;
- 👉 Strongly supported by the public.

Arizona is leading the nation in voter reform thanks to the successful passage and implementation of the Clean Elections Act passed by Arizona voters in 1998. This act has led to more citizen participation in running for office and in voting. For example, in 1998, 20 out of 30 state senate races were uncontested. In 2002, with Clean Elections in place, only nine races were uncontested.

But, now there is an effort in the state to repeal this popular reform. A committee of Big-Money opponents of public financing in Arizona are gathering petition signatures to qualify a constitutional amendment for the 2004 ballot, to overturn the Clean Elections Act. The committee's first campaign finance report lists over \$144,000 from special interests such as developers, technology moguls, insurance companies, political consultants and luxury homebuilders. Big-Money interests realize that Clean Elections has weakened their influence with politicians! They are going all out to overturn this public interest bill.

In response, a broad coalition of civic leaders and organizations called "Keep it Clean" has formed to defend the new system. If you want to help Keep Arizona Clean, please contribute \$5 or more, and tell your friends as well (you can contribute from the campaign reform portion of OVEC's website, [www.ohvec.org/join/index.html#donate](http://www.ohvec.org/join/index.html#donate)).

Our colleagues at the Public Campaign Action Fund are working to rally support nationwide for Arizona. They're starting at \$5 because that's all a Clean Election candidate in Arizona or Maine can raise in private contributions from individual donors – **unlike everywhere else in America where elections are turning into auctions.**

What happens in Arizona is absolutely crucial to our work in West Virginia.

After seven years of painstaking organizing, the Citizens for Clean Elections – 27 organizations representing more than 900,000 citizens – is a powerhouse ready for action! We work with labor organizations, faith-based, community and good government groups, AARP, social workers, and other environmental organizations.

The Clean Elections bill, renamed the "Public Campaign Financing Act," (because legislators didn't like the name "Clean Elections Act" since it implied that our current system is dirty ... imagine that!), is before Select Committee F during the 2004 interim session of the legislature. The committee is charged with coming up with a funding mechanism and also deciding which offices should be funded; it's comprised of members of the House and Senate Judiciary and Finance Committees (see below). 🍌

## ACTION ALERT

Check out the committee members involved in the Clean Election efforts to see if one of them represents you. Let him/her know how important this bill is to you and to our floundering democratic process. It's time that we change the landscape of politics in West Virginia! Voter-owned, publicly-financed elections are a good way to begin.

**Senate Chair:** Senator Chafin

**House Chair:** Delegate Ennis

### Senate

Senator Hunter	Senator Snyder
Senator Oliverio	Senator Facemyer

### House

Delegate Caputo	Delegate Doyle
Delegate Mahan	Delegate Webb
Delegate Pethel	Delegate Schoen
Delegate Warner	Delegate Howard

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## *Voter Empowerment Plan Proves Successful on Election Day*

by Abe Mwaura

On May 11, OVEC's collaborative work in Huntington's District 5 paid off, as many community members – lots of them newly registered – came out to vote in the primary election.

OVEC, the Huntington/Cabell Branch of the National Association for the Advancement of Colored People (NAACP) and the NAACP Youth Council worked steadily for several months to heighten interest in the electoral process among District 5 residents. Volunteers from NAACP Youth, Marshall Action for Peaceful Solutions and OVEC canvassed over three weekends in preparation for our April 13 Meet the Candidates forum and for a special get-out-the-vote idea planned for Election Day.

Driven by their concern for a better quality of life and with questions about public health and safety, over 100 people attended our Meet the Candidates forum. We hosted



**OVEC's Abe Mwaura confers with NAACP Youth Council.**

all of the candidates for mayor and the candidates running for city council in District 5 and at large. Individuals running for other local and state offices also attended. An audience member at the forum mentioned the issue of increasing utility bills. City council candidate Brandi Jacobs, 27, noted that some cities have managed to buy back control of utilities from multinational corporations. To vocal approval from the crowd, she proclaimed, "Lexington did it; so can we!" (Many of West Virginia's waterworks are owned by WV-American Water, a subsidiary of Germany's RWE Aktiengesellschaft.)

### **Whitesville MTR Trip**

*continued from page 15*

After our trip, several students said they were spreading the word about mountaintop removal to family and friends. One student wrote a letter to her Congressperson, Shelley Moore Capito. Another student confided that she would pay much closer attention to the platforms of political candidates now.

Some students have even expressed an interest in returning to Whitesville to talk with other residents. 🍌



**A large and enthusiastic crowd turned out for the Meet the Candidates forum for Huntington's Fifth District.**

Water was not the only issue community members were interested in. Many were concerned about the lack of security and a police presence in District 5. All of the candidates explained their plans to increase the number of police officers in the city in order to combat crime.

A few weeks later, OVEC and the NAACP conducted another canvass of District 5. We wanted to get people excited about participating in democracy, so we offered limo rides to the polls! We encouraged community members to register to vote in the upcoming primary and we offered them the chance to arrive at the polls – in style.

Many were enthusiastic about the prospect of arriving at the polls in the limo. "They all loved it," said John Rutherford, the driver hired to perform this unusual task. Mr. Rutherford spent the day running his limo to and from the polls, through the target neighborhood, knocking on doors, and steering in and out of tight alleyways and streets. He later remarked that were it not for the limo, many people would not have voted – some of his passengers had not been to the polls in as many as 35 years!

OVEC and the Huntington/Cabell Branch of the NAACP will continue our voter empowerment work. If you are not registered to vote, please contact the OVEC office at (304) 522-0246 and we will send you the simple form.

After all, civic participation is where the rubber meets the road: sustained, positive social and environmental change only comes about through active community involvement. If we want change, we had better, at the very least, vote! 🍌

# Your Donations Add Up To A Great Big Help for Us

by Abe Mwuara

OVEC has long had a very lenient membership policy. The dues are generally “give as you are able.” Your donations, no matter how small (or large!) go a long way toward supporting our work.

The donations we receive from folks like you give us flexibility. We can use your donations, coupled with general support grants from foundations, on things that may not be covered by our project-specific foundation funding.

You can check out the ways we use your donations by reading our newsletters and e-mail Action Alerts (to join that list, e-mail vivian@ohvec.org) and visiting our website.

To prove to you that we are serious about “give as you are able,” Maryanne Graham, our office manager and accounting angel, and I recently spent about \$4.50 of staff time to come up with a short list of how even the smallest donations are important to the work that we do.

, **\$1.00 pays for a 15 minute call** from the office in Huntington to members in Williamson who are beginning to organize around water quality issues from the impoundments in their area.

, **\$2.00 pays for a single newsletter**, from the printing to the mailing. Our newsletter keeps people informed, and is used in- and out-of-state as an educational tool. We even have some libraries on our mailing list.

, **\$2.00 pays for six letters to the Corps of Engineers** and other government agencies to submit comments on various proposed mountaintop removal (MTR) sites, sludge

impoundments, buffer zone rule changes, the draft environmental impact statement on MTR, proposed floating coal synfuel plants (gasp!) ... and to just generally chew them out.

, **\$2.50 pays for mailing foundations one our grant proposals**. Foundation funding allows OVEC to continue our outreach to coalfield communities on the issues of mountaintop removal and sludge impoundments, and the legislative work of passing Clean Elections in West Virginia.

, **\$3.00 pays for a week of a newspaper subscription**, which allows the OVEC staff to stay on top of local and worldwide events that affect our work.

, **\$4.00 pays for a ream of paper** on which we can print everything from letters to legislators, to informational fliers, to handouts for events.

, **\$5.00 pays for 83 pages of printing**. This allows us to produce everything from fliers and brochures to fundraising letters.

, **\$5.00 pays for one-fourth of our monthly electric bill** allowing me to type out this highly informative article.

, **\$10.00 pays for 1 day of rent for this office space**. The view isn't too great, but it does give us enough room to work and store materials. And at least we do have windows now!

, **\$10.00 pays for two days' upkeep of the website**. Yes, it's worth it! Have you been to our website lately? The website allows us to do outreach to hundreds of people who go to the website every week. We get requests for permission to use our photos weekly, sometimes daily, from students, text book publishers, and publications as large as the *New York Times*, to as small other newsletters. We ask for a donation from the for-profit publications, while we ask non-profits to link to our website.

The website also allows web surfers to surf on in and make an on-line donation through PayPal. Maryanne said that almost as soon as we set up PayPal on the website a while back, we received a donation from someone in California.

To donate to OVEC, no matter the amount, hit the “donate” button online or send a check to:

**OVEC**  
**P.O. Box 6753**  
**Huntington, WV 25773**

And, as always, *Thanks!* 

## You are WANTED!

OVEC and Citizens for Clean Elections are looking for at least one volunteer per county to help with a postcard campaign. This is not a time-intensive project, but would be very valuable to our work. If you would like to help restore democracy in West Virginia by contributing just a few hours of volunteer work, please notify Janet Fout at (304) 522-0246 or send an e-mail with Clean Elections Volunteer in the subject line to: ohvec@ezwv.com for details.

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

# Whitesville MTR Trip Sparks Talk of Student Activism

by Tonya Adkins

I recently took a group of students from the Mid Ohio Valley Center (MOVC) to Whitesville, WV, to learn more about mountaintop removal mining and sludge impoundments.

We met Bo Webb at the Coal River Mountain Watch office, where he told us about some of the problems that mountaintop removal mining is causing at Marshfork Elementary School. MOVC students were horrified to learn that a toxic coal sludge impoundment is located right above the elementary school, and that elementary students are being exposed to harmful chemicals from the preparation plant located adjacent to the school. Bo showed us film of the area behind the school, where a huge area of downed trees looked to be an area of expansion for the impoundment.

We then drove to Marshfork Elementary School, where students saw the coal silo that looms over the school, only a few hundred feet from the air filtration systems located on the school roof.

Our caravan of six vehicles drew some attention



**Almost level, West Virginia, no more mountains, clogged up, lifeless rivers ...**

from local residents. During a stop at a local convenience store, two people approached individual students and asked why they were in town. After learning that the students were there to learn about mountaintop removal, both of these individuals expressed their opposition to the mining practice, but also expressed hesitation to speak out about it, fearing retaliation.

Our next stop was Kayford Mountain for a picnic lunch at the shelter and a meeting with Larry Gibson, who spoke to students about his mountain and his fight against mountaintop removal.

We then drove to the Stanley cemetery for a firsthand look at the mountaintop removal site. This was a sobering moment for many of the students, and by the time we left, a couple of them were ready for action. "Why can't we just chain ourselves to trees or something?" asked Cassandra Stanley. The trip to Kayford turned out to be somewhat of a family reunion for Miss Stanley. Talking with Larry, she realized that they are actually distant cousins.

**"It's just a fact: Democracy doesn't work without citizen activism and participation, starting at the community. Trickle down politics doesn't work much better than trickle down economics. It's also a fact that civilization happens because we don't leave things to other people. What's right and good doesn't come naturally. You have to stand up and fight for it – as if the cause depends on you, because it does. Allow yourself that conceit –to believe the flame of democracy will never go out as long as there's one candle in your hand."**

**— Bill Moyers, journalist**

☆☆ **DEMOCRACY WORKS!** ☆☆

*continued on page 13*

# Coalfield Residents

## Those Who Live There Make *Their* Voices Heard; Birds and Amphibians Silenced!

Great work! The Office of Surface Mining received over **32,000 written comments** on Bush's proposed gutting of the Stream Buffer Zone rule, which is supposed to prohibit mining activity within 100 feet of a stream.

Almost all of the comments opposed the Bush administration proposal. A newspaper article said it would probably take the agency **more than a year** to examine all the comments!

Thanks to the hard work of the Friends of the Mountains coalition (for instance, wonderful OVEC volunteers conducted a phone bank, handed out fliers, and helped us mail out a newsletter asking people to come to the hearing), the room at the Civic Center was packed with over 100 people on March 31, the evening of the Charleston public hearing on the Bush administration's proposed Buffer Zone rule change. Hearing rooms were also filled in Kentucky, Tennessee, Pennsylvania and DC. A carload of West Virginians traveled to DC to participate in a press conference with Robert Kennedy, Jr., prior to the hearings there.

Coalfield residents and others spoke eloquently to the issues, denouncing what amounts to an open invitation for mining companies to dump more of our tortured mountains into biologically crucial headwater



**OVEC board member, Regina Hendrix:** *"I do not want my grandchildren to have to pay for cleanup of streams polluted with mine waste. This is greed for short-term profit, and most of the profits go out of state anyway ... I intend to fight this proposed change, which will further degrade our water quality. We must clean up our rivers and streams for future generations. And dumping more mine waste into them is not the way to do it."*

streams. However, at the Charleston hearing, one person was stopped from presenting her prepared comments.

If OVEC's co-director Janet Fout had not been silenced, maybe news of the hearing would not have gone all the way to London, England, as it did.

From the *Charleston Gazette's* March 31 article, "Stream rule proposals criticized," by Ken Ward Jr.:

"Janet Fout thought strip mine regulators should hear the sounds of frogs and birds whose homes could be damaged by mountaintop removal mining.

"So, at a public hearing on proposed changes to a key stream protection rule, Fout tried to play a tape of spring peepers and wood thrushes.



**Joe Barnett:** *"... I am a coal miner myself. I have been for 20 years, an underground coal miner. But I am also a landowner and a taxpayer ... there is nothing more beautiful than to be out in the evening hours and watch a deer stand beside of a stream and drink, or watch the fish in the stream playing, but we don't see that anymore. What we see now is blackish, greasy, nasty water coming out of the hollows ... I am a Vietnam veteran, and as I speak, I have a son serving in Iraq. We believe in our country. We defend our country. But it is about time that, I think, that us taxpayers that make all these high-paid people's jobs possible, that they start listening to us and quit paying so much attention to the special interests and these big coal companies ..."*

" 'I'm speaking for life,' said Fout, a Huntington environmental activist. 'We will all miss the birds and the frogs and the fish.'

"U.S. Office of Surface Mining officials weren't interested. 'I'm not going to listen to that for five minutes,' said OSM's Tom Morgan, referring to the allotted time for each speaker.

" 'What relevance does that have to the stream buffer zone rule?' Morgan said. 'We are not here to hear animal calls or bird calls.' Fout continued to play the tape.

"She said that numerous scientific studies have found



# Speak the TRUTH

mountaintop removal is harming bird and other animal habitat.

“A uniformed Charleston police officer – one of two posted inside the hearing – walked to the front of the room and exchanged whispers with Morgan. Then, the officer walked over to the podium and whispered to Fout. When she still didn’t stop the tape, the officer shut off the microphone. He appeared at one point to be trying to confiscate the tape player or at least turn it off.

“But Morgan and several other OSM officials heard plenty more from mountaintop removal activists who dominated the three-hour hearing. Julia Bonds of Whitesville blasted mountaintop removal as an ‘evil scheme to allow greedy mining companies to destroy our mountains and our streams.’

“‘This administration and these agencies are nothing more than prostitutes for the extractive industries,’ said Bonds, a leader of the group Coal River Mountain Watch. OSM held Tuesday’s hearing to accept public comments on its proposal to rewrite a 20-year-old regulation called the stream buffer zone rule.

“More than 100 people packed a small meeting room at the Charleston Civic Center for the hearing.

“Currently, the rule generally prohibits mining within 100 feet of perennial and intermittent streams. As the rule is now, mining operators can obtain waivers to come closer to streams. But, to obtain such a variance, companies must show their proposed mining will not violate water quality



**Mary Ellen O'Farrell: "I am a third-generation West Virginian. I have lived in the Kanawha Valley almost all my life, and I live in West Virginia because I want to live here. I cannot stand idly by while the waters of my home are polluted, poisoned and destroyed ... I really think it is shameful that we have to be here tonight defending a pitiful 100 feet ... 100 feet seems like the symbolic distance. It almost seems to have a kind of biblical overtone. Only 100 feet between us, and the people who really don't care if we live or die."**

standards or ‘adversely affect the water quantity and quality.’

“...Earlier this year, the Bush administration proposed to rewrite the federal buffer zone rule. Under the proposal, a variance could be approved if a company showed it had ‘minimized, to the maximum extent possible’ the size of its valley fills. The Charleston meeting was one of five public hearings on the rule change that OSM held on Tuesday.

“On Monday, the industry group Friends of Coal sent out a mass e-mail to urge its members to attend the Charleston hearing. ‘Show up and let OSM know what coal means to you, your family and your community and how important these changes are to secure your future in West Virginia,’ the message said.

“But only two of the nearly four dozen speakers at the hearing spoke up for the coal industry or mountaintop removal.

“At the end of the hearing, Charleston lawyer Mary Ann Maul asked Morgan to allow Fout to play her tape. Then, Maul said, it would be part of the hearing record and OSM could decide later whether to consider it in its final decision.

“Morgan refused and also said he would not cite any OSM rules that prohibit the playing of such tapes at public hearings.

“‘I’m not here to justify what I do,’ Morgan said. ‘I’m in charge of this hearing.’”



**Kate Lambdin, OVEC member: "...it's ludicrous to bury streams ... and we have been breaking the law for 20 years, and OSM has been turning a blind eye. It has to stop. It is mad. It is crazy. It is insane and everyone knows it ... 100 feet is not enough, and we have to realize that any stream is destroyed when it is buried ... we have to stop mountaintop removal ... I have been living up a hollow for 24 years, and I have been off the grid for 24 years, and I have solar panels, and I have electricity, and coal is not the only way to keep the lights on."**

# If It's MESSy, It Must Be MASSEY



EarthCop (center) holds up a skeletal fish – something to be on the look out for in streams near Massey coal sludge impoundments.

EcoCrimes seems to fit Massey rather well.



One of Massey's "stockholders," jailed for acts of eco-terrorism.



Just a few of the folks who disagree with Massey's corporate policies.

# The Masses Amass Against Maniacal, Messy Massey

On May 18, as the greedheads who make up the Massey Energy board of directors and stockholders held their annual shareholders' meeting in Charleston, WV, about 100 people gathered outside the meeting to protest Massey's terrible environmental record.

Three coalfield residents, Freda Williams, Pauline Canterbury and Mary Miller, all angry with Massey Energy's behavior in their communities, had proxies and spoke the truth about Massey to the shareholders.

EarthCop visited our protest to "arrest" activists who were parodying Massey Energy's executives and board of directors, citing them for practicing mountaintop removal mining, the most destructive method of coal mining.

For decades, Massey Energy's mountaintop removal mining has left Appalachian communities at risk from dangerous blasting, increased flooding and faulty slurry impoundments.

Friends of the Mountains (FOM) organized the protest. OVEC plays a major role in FOM. Member groups include Appalachian Voices, Coal River Mountain Watch, Citizens Coal Council, Delbarton Environmental Community Awareness Foundation, Sierra Club-West Virginia Chapter, Stanley Heirs Foundation, West Virginia Citizen Action Group, West Virginia Environmental Council, West Virginia Highlands Conservancy and West Virginia Rivers Coalition.

**This Charleston police officer doesn't want that Massey banner to cross the street again.**



Massey Energy Co. : Raping Our Homeland - the big banner that got the police really excited at one point.

## *He said what a native son should; Judge Haden defended W. Va.*

by Dave Peyton, March 25, 2004, *Charleston Daily Mail*

I always thought of the late Judge Charles Haden as a friend, although I never met him.

I always held him in high esteem, but I was seriously overwhelmed by his integrity, his honesty and his plain-spoken ways when, in October 1999, he said what I would have said about mountaintop removal mining in his native state.

It's wrong to bury valleys and streams under tons of mine waste, the judge said.

Blasting off the tops of mountains to expose coal seams may be the cheapest way of getting at the coal underneath, but it forever changes West Virginia. And no one knows yet just how damaging those changes might be.

I'm not against mining. I'm not so naive that I believe West Virginia can survive without mining.

Neither was Judge Haden.

All he said in that famous decision, as I saw it, was that there must be a better way of getting the coal than violating the federal Clean Water Act, which prohibits dumping waste within a hundred feet of our streams and valleys.

His 1999 decision sent shock waves through the state. Coal companies involved in strip mining reacted the way everyone knew they would. I've lost count of the times the industry has predicted the death of coal mining in the state because of some law or regulation.

But they didn't have to threaten the state too long. The Fourth Circuit Court of Appeals in Richmond, Va., overturned Haden's decision. But the appeals court didn't address the real issue of whether mining wastes can be dumped within 100 feet of a stream.

As I see it, Haden reached the only decision he could reach about what was happening no matter what it might mean to the coal industry. The Bush administration apparently, meanwhile, knows the 100-foot rule could become a problem so there's a move to change the rule to allow the burial of streams and rivulets in the pursuit of coal.

No matter what happens, nothing will cover up what Judge Haden, a native son, tried to do to save the West Virginia hills for generations to come.

For that and much more, he'll be remembered and missed.

(Judge Charles Haden died March 20, 2004).

## Ted Williams on Conservation

... In addition to fish, wildlife, rivers, mountains and forests, waste products of the coal industry include people ... Dr. Ben Stout of Wheeling Jesuit University in Wheeling, West Virginia, one of the nation's leading researchers on acid mine drainage and its costs, had told me this: "I really think in 20 years eastern Kentucky and southern West Virginia are going to be humanly uninhabitable. That's even without considering the ecosystem component. Humans are not going to be able to live in this region where there's no potable water. Kids come into this school thinking you can treat any kind of water and make it drinkable. 'Who taught you that?' I ask them. You can't get manganese out of water without just torturing it. You've got to take it way up in pH, treat the hell out of it, take it way back down in pH, settle it out, and by the time you've done all that you've introduced so many other things that you can't drink it.

Stout pays special attention to aquatic insects because they're indicators of ecosystem health; and in coal country he's chronicled a 50 percent reduction in both numbers and species. Many of his check stations are on headwater streams, which lawmakers assume don't count and therefore can legally be buried by the coal industry.


But he has found that these streams are the 'linkages' by which leaves and twigs are converted by insects to fats and proteins, very rare commodities in forests. These insects take to the air and float downstream, sustaining fish, salamanders, frogs, turtles, birds and mammals, jumpstarting energy flow in the whole forest ecosystem.

Now the Bush administration is attempting to do away with the regulation that prevents mining activity within 100 feet of perennial streams. Stout calls the proposed rule "just outrageous ... pulling the rug out from under the Clean Water Act."

Excerpted from "Coal-Country Trout: Fish don't have to be just another coal-industry waste product," in *Fly Rod & Reel* magazine, July/October 2004. 

## "Clear Skies" Initiative Allows More Deaths Than Other Air Pollution Plans

(from June 10 BushGreenWatch.org.)

Pollution caused by coal-burning power plants causes 24,000 premature deaths in the U.S. each year, according to a new analysis of government data. And while the Bush administration's Clear Skies proposal will help alleviate that problem, it will save **fewer** lives than any other plan under consideration – including simply retaining the laws already on the books, the analysis found. 

# *SouthWings Helps OVEC Bring Home the Full Horror of Mountaintop Removal Mining in Appalachia*

It's hard to grasp the massive scale of the mountaintop massacre/valley burial going on in southern West Virginia and eastern Kentucky (as well as parts of Virginia and Tennessee) unless you get an aerial view, be it in person or from photographs.

Thanks to SouthWings, hundreds of people, including legislators and

journalists, have viewed the heartbreaking vista with their own eyes, while hundreds of thousands, if not millions, have seen aerial photographs of mountaintop removal taken from a SouthWings Cessna.

Our website and newsletters are peppered with photos we would never have gotten without SouthWings. We shout out: THANK YOU, SOUTHWINGS!

Founded in 1996, SouthWings is a non-profit organization that, according to their website, [www.southwings.org](http://www.southwings.org), "uses a network of volunteer pilots and small aircraft to protect and conserve the natural resources and ecosystems of the Southeast. We do this by providing a bird's-eye view of the natural wealth of the region's forests and watersheds, and by exposing environmental degradation and illegal land management practices that would not otherwise be known."

OVEC is especially indebted to SouthWing pilots Susan Lapis and Hume Davenport, who have volunteered hundreds of flight-hours flying reporters, legislators and our members over the ecological and cultural devastation that is mountaintop removal/valley fill strip mining.

With her bachelor's, master's and Ph.D. (wow!) in chemistry, Susan knows those bizarre colored water bodies



**SouthWings pilot Susan Lapis and her Cessna four-seater, with OVEC organizer Abe Mwaura after a flight.**

on mountaintop removal sites are laden with heavy metals.

Susan also can fill you in on the brown haze her plane often cuts through – the result of burning the coal blasted out of our mountains (and driving those cars).

Hume first flew for a similar group out West. He moved back East and founded SouthWings.

Susan recalls that Hume started Southwings with one telephone in a hangar outside of Chattanooga, using his own plane. As Susan says, "He's amazing! (Hume built Southwings) on the strength of his own energy, personality and passion."

Thanks so much to SouthWings for helping to spread the word around the world about mountaintop removal coal mining! 🍌

## **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.

**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.



**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](mailto:mago@ezwv.com), to get your supply of postage-prepaid bags.**

# It's A Small World - Big City Happenings with MTR

by Janet Fout

In early May I visited my daughter in Washington, D.C., where I was surprised to learn I could meet up with some Friends of the Mountains.


As part of a "road show" that educates people about the destruction caused by mountaintop removal and garners support for the Shays-Pallone Bill (to strengthen the Clean Water Act and stop the filling of our streams with mine waste), the good folks at Appalachian Voices (a regional environmental group from North Carolina that's organizing the road show) had scheduled a fundraising/consciousness raising event at the Patagonia clothing store in Georgetown, just a few blocks away from my daughter's apartment.

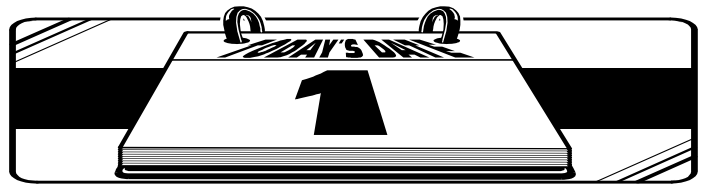
Patagonia is such a progressive company! Their foundation, which has funded OVEC for many years, provides grants to many environmental organizations doing good work throughout the country. (Thanks, Patagonia!)

I couldn't resist seeing my friends and colleagues in action! After an introduction by Maryanne Hitt (director of Appalachian Voices), Lenny Kohm (of Arctic National Wildlife Refuge fame) showed his outstanding PowerPoint presentation, "Appalachian Treasures."

Folks listened intently to all the voices from the mountains as they pleaded for an end to the destruction of homeplaces, wildlife habitat and Appalachian heritage caused by mountaintop removal/valley fills – voices sometimes angry, sometimes plaintive. This heartbreaking presentation moves me to tears every time I view it. But hearing about the impacts of mountaintop removal from a coalfield resident affects me even more strongly.

Donna Price, a member of Coal River Mountain Watch and Sierra Club, who lives in the small town of Dorothy in Boone County, spoke quietly and effectively about how it feels to see all the land around her home being destroyed – how waterways are blackened by frequent coal slurry spills and what it's like to live with daily blasting and the constant fear of flooding and death by drowning (it seems like every time it rains a few inches, southern West Virginia is declared a disaster area!).

She ended her presentation by reading her poem that's now a song on the new *Moving Mountains* CD. We're so proud to know people like Donna. She sacrifices her time to let the nation know that the price of electricity and coal is anything but cheap to folks living in the southern West Virginia coalfields. Thanks, Donna! 



## UPCOMING EVENTS

**August 26:** OVEC Board of Directors meeting. Cookout and meeting at Winnie Fox's home, 2687 First Ave., Huntington. OVEC will provide drinks and the main course. Please bring a dessert, salad or side dish to share.

**Sept. 4:** Multi-Cultural Festival, Huntington's Ritter Park. OVEC and the Huntington-Cabell branch of the NAACP team up for this full day of multi-cultural fun! Food, music, vendors and more. We need volunteers! Sign up for times, 9 a.m. – 9 p.m.

**Sept. 10 - 12:** West Virginia Environmental Council Fall Convention at the Mountain Institute, Spruce Knob, WV. Check [www.wvecouncil.org](http://www.wvecouncil.org) for info and registration forms.


**October 8 - 9:** Commission on Religion in Appalachia Assembly; Cedar Lakes, Ripley, WV

**Oct. 11:** Walkin' Jim Stoltz - Multi-media show; OVEC fundraiser in Charleston. Watch for upcoming details.


**November 2: General Election: Vote! Make Democracy Work! VOTE!**

### 2004 West Virginia Legislative Interim Dates

 July 25 - 27

 August 22-24 - Beckley

 September 19-21

 October 10-12 - Shepherdstown

 November 7-9

 December 5-7

 January 9-11, 2005

 February 6-8, 2005



"For all their differences in predictions, the authors agree that it's entirely within society's power to successfully meet the twin challenges of resource depletion and climate change. The technological solutions exist. The problem is political: Our leaders are so deep in the pockets of the Carbon Barons that they are failing to respond to the impending crises. So it's up to us – ordinary concerned citizens – to lead the charge ... we are going to have to be the ones to lead, and demand that our elected officials start looking past the next election and toward our children's future and their children's future."

*Lights Out! The End of the Oil Age*  
by Jason Mark, AlterNet, April 14, 2004

## Limited Special Membership Offer - Get A Free Collectible When You Join OVEC to Help Stop Mountain Range Removal in West Virginia

OVEC still has a limited number of the beautiful hand blown West Virginia glass Christmas ornaments made by Pilgrim Glass (now a collector's item since Pilgrim ceased operation a few years ago) and designed by master glass artisan, Kelsey Murphy.



**Bloodroot**


Etched on these ornaments is Bloodroot, *Sanguinaria canadensis*, a West Virginia wildflower.

Habitat for this species is destroyed by mountaintop removal as it generally grows on little-disturbed hills and mountains. The flower bud, on a separate stalk but completely enclosed by the developing leaf, pushes upward through the leaves as one of the first plants of spring.

OVEC is offering this ornament **FREE with a**

**membership (or membership renewal) of \$60 or more.** If you already own this lovely ornament, remember the winter holidays will be here before you know it! And if you've already renewed your membership, maybe you would like to give an OVEC membership to a friend and keep the ornament yourself!

We also have a limited number of Wood Thrush and Jack-in-the-Pulpit ornaments, designed by Ms. Murphy and manufactured at Glassworks (also now closed). Just let us know which ornament you would like to receive.

To order: Call Maryanne at (304) 522-0246 or e-mail her at [mago@ezwv.com](mailto:mago@ezwv.com). In the subject line of the e-mail write "Special Membership Offer." 



**Wood Thrush and Jack-in-the-Pulpit**

### 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, in Apple Grove, WV.
- ☐ 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.

**Cut this coupon out today and mail to: OVEC, P.O. Box 6753, Huntington, WV 25773-6753**

\_\_\_\_\_ New member or renewal (Dues \$15-\$30 yearly, pay what you can)

\_\_\_\_\_ Donation

\_\_\_\_\_ Please add me to OVEC's e-mail Action Alert! list

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**For more information call (304) 522-0246 or go to [www.ohvec.org](http://www.ohvec.org)**  
**Remember – All donations to OVEC are tax deductible!**

*Rural Development, Arch Coal Style*



**A deserted home near what once was the community of Mud in Lincoln County, WV, smolders in the cold spring rain, its owners forced out by the ever-growing Arch Coal mountaintop removal operation in the background.**

**Ohio Valley Environmental Coalition  
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