

Apple Grove Pulp Mill Update - On the Water (Permit) Front

by Janet Fout

Parsons and Whittemore let their option to buy the proposed pulp mill site expire on March 1. Yet the state continues to fight OVEC's legal appeals of the mill permits. It's easy to imagine some nefarious conspiracy between the WV Division of Environmental Protection (WV-DEP), WV-DNR, US EPA and the Landegger brothers (Parsons & Whittemore's private owners) to try to change our state water quality regulations (AGAIN!) to allow the proposed pulp and paper mill to get its permits.

Readers may remember that the final water permit for the facility was so mired down with errors that OVEC, the Affiliated Construction Trades Foundation, and Monty Fowler filed legal appeals of that permit. In response, Judge Todd Kaufmann tossed the permit out of court in October, 1996. Three independent investigators have found already illegal levels of dioxin in Ohio River catfish at the proposed mill site.

Since the state has not found a way around that roadblock, it decided to go down a different road*. The WV Environmental Quality Board set up a fish pollution task force in 1996, to deal with the problematic poisoned fish in the Ohio River. The task force is now recommending eliminating the fish tissue pollution standard entirely.

Currently, the state has both a water quality standard AND a fish body burden standard for dioxin but only the fish standard can accurately measure dangerous levels.

According to OVEC Board Chair Lew Baker: "As the token citizen on EQB's 'Body Burden' (or "fish pollution") Committee, I have argued the need to keep the fish standards. Especially for highly toxic pollutants like dioxin, which become greatly concentrated in the food chain.

"These pollutants can be easily measured at unsafe levels in fish, but not in the water (at least not with currently approved but outdated water sampling methods). Without fish standards on the books I fear the polluters and their so-called regulators will wriggle free from the truth and then issue the pulp mill's water pollution permit."

The task force voted to use three different criteria for measuring dioxin. We don't know whether any of these methods have received US EPA approval. However, if the fish are too poisoned to eat now (which they are), using some fancy methods to twist the data won't change that.

If the EQB decides to eliminate the fish pollution criteria, the water quality rule changes would have to be approved by the entire state Legislature.

This is the fourth time in about eight years that industry and others have attempted to weaken West Virginia's dioxin standards. Each time, the environmental community organized to prevent weakened standards. If the new changes are approved, it wouldn't come as a surprise if a new water permit for the proposed mill surfaced.

However, an article in the June 29 Sunday Gazette-Mail, by Ken Ward, Jr., indicated that DEP Director John Caffrey has ordered work on the water permit stopped.

At any rate, the proposed changes for West Virginia's water quality standards are available for comment. A copy can be obtained by calling Libby Chatfield at the Environmental Quality Board at (304) 558-4002. A hearing is scheduled before the EQB, 7:00 p.m., July 21, 1997, in Charleston at 1615 Washington St. E. (next to Wendy's).

Please attend the hearing and express your outrage at the complicity of industry and "environmental" agencies to keep the poison faucets flowing. Written comments should be submitted to:

Libby Chatfield
WV Environmental Quality Board
1615 Washington Street East
Charleston, WV 25301

*See, Lew Baker, "On Fish Pollution and the Pulp Mill's Resurrection," E-Notes, April, 1997.

More Pulp Mill Updates: It's Still Up In The Air

by Janet Fout

"We are going to fully litigate and defeat this permit to show every timber baron that wants to rape our forests and threaten our people and our environment that we're not going to take it," said Jason Huber, an attorney representing OVEC.

Testimony on OVEC's legal appeal of the air permit for the proposed Mason County pulp mill began on June 10, 1997. The Air Quality Board convened to hear our expert testimony against a permit which would allow the mill to emit 8 million more pounds of pollution every year, including dioxin, into West Virginia's air.

Experts who testified for OVEC that day included David White, a WV air quality inspector who stated that information contained in the permit was incomplete and flawed. Mr. White also indicated (with much objection from the state's lawyer) that the permit writers were being pressured to get a permit for Parsons & Whittemore as quickly as possible.

Dr. Peter deFur is an international dioxin expert and scientist who has advised the US Environmental Protection Agency and testified countless times before Congress, served on international committees regarding dioxin, and participated in the mammoth US EPA dioxin reassessment released in 1994. He stated that the mill would "pose continuing, long-term toxic effects on human health and the environment."

Regarding the permit, he said "No. It does not protect. It is totally inadequate." DeFur emphasized that pulp and paper can be produced using methods that create no dioxin.

OVEC Project Coordinator Janet Fout testified despite objections by the state's attorney, who railed that it was irrelevant to have testimony from an "emotional witness" (is it irrelevant to have the point of view of many regular people in West Virginia as part of the public record?)

Additional testimony was given that day by Dr. Orie Loucks regarding the harmful impacts of the proposed mill's nitrogen oxide emissions on tree health. He spoke of the recent "catastrophic decline" of forest health and forest growth in West Virginia. Mary Wildfire, of the Concerned Citizens Coalition, also testified to CCC's standing as appellants.

At the June 24 legal hearing, the state's attorney introduced a motion to delay the hearings until December.

Suddenly by some twist of fate, after the lion's share of OVEC's testimony had been heard, the state decided that too much time and resources were being expended on the appeals when the company has not shown any "good faith efforts."

Council for the state referred to a letter written to P&W by DEP Director, John Caffrey, noting that P&W had not defended its interest in appeals hearings or renewed an option to buy the land at the Apple Grove site.

The state did a complete turnaround. Earlier, the state had refused OVEC's requests to either throw out the permits or to set hearings for a later date, based on the exact same arguments!

Fearing that OVEC's testimony would be stale by December, OVEC urged the Board to vote against the state's motion and get on with the hearings. For a change, the Air Board voted with OVEC.

Steve Hill, a chemical engineer and former regulator, testified that odors from the pulp mill were underestimated by DEP.

"I've never visited a pulp mill that doesn't smell. I would be stunned if this mill doesn't emit objectionable odors," Hill said.

OVEC attorney Jason Huber, who has done a spectacular job, cross-examined former WV air quality chief, Dale Farley, who admitted that the Office of Air Quality had not considered the most significant route of exposure to dioxin (ingestion) in their risk assessment for the pulp mill.

Nor had other serious health effects besides cancer been taken into consideration.

Farley recently lost his job to John Johnston, an attorney who worked for the Charleston law firm of Robinson & McElwee, who has worked primarily for the oil and gas industry. (Johnston has said that he wants to develop a general permit for coal preparation plants, asphalt plants, and natural gas compressor plants to make it easier and faster for industry.)

The days set aside for testimony from the state are July 18 and August 4, 5 or 6. The hearings are held at 1615 Washington St. East, Charleston, WV.

NOTE: Information included in pulp mill updates was compiled, in part, from several stories written by Ken Ward, Jr., a staff writer for the Charleston Gazette.

AQB Hires Outside Specialist

In a related development, the Air Quality Board has hired William Auberle, an engineer at Northern Arizona University, to review and advise the board about the scientific testimony from our air permit appeal hearings for the proposed pulp mill.

Auberle, the low bidder for the job, failed to reveal on his resume that he helped defend the controversial Morgantown power plant built near the WVU downtown campus. Hundreds of Morgantown residents, students, faculty, and staff from the university, objected to the construction of the facility.

In 1990, Auberle testified that air pollution from the plant was not a health risk even though it would emit air pollution.

OVEC Joins With Democracy South to Get Big Money Out of Politics

by Janet Fout

Could be that history was being made at the Highlander Center near Knoxville, TN, from May 8-11. About 40 activists from all over the South, including Gary Zuckett of West Virginia Citizen Action Group, Janet Fout of OVEC, and former WV gubernatorial candidate Charlotte Pritt, met on the invitation of Democracy South.

Our purpose was to explore working together to bring about radical social change in the realm of money and politics -democracy for the many, not just for the wealthy and corporations, in the form of campaign finance reform. The theme for the weekend was clear - tainted BIG money in political elections means bad policy for everyday people and for the environment.

Sitting in the renowned Highlander Center rocking chairs among the spirits of Rosa Parks, Martin Luther King, Jr., and countless other activists who rocked America in their own special way, we shared stories of environmental and social justice struggles—from Arkansas to Atlanta, from West Virginia to Oregon (OK, Oregon is NOT a southern state, but has wonderful expertise to lend to the struggle).

The influence of big money and politics is nothing new to OVEC. For example Janet and Gary told folks about Parsons & Whittemore's \$155,000 contribution in soft money to the Democratic National Committee, another \$10,000 to Clinton/Gore in 1992, along with several thousand dollars by the Landegger's and other P&W executives to Governor Caperton's campaign and inaugural ball. Next thing you know, Governor Caperton is the pulp mill's best spokesperson and those who oppose it are "extremists."

Caperton and Clinton then saw to it that Peter Kostmayer, the federal EPA official who required additional dioxin testing of the Ohio River, was fired. Little wonder.

The weekend agenda was akin to building a house. Early sessions provided foundations for additional discussions throughout the weekend. Everyone shared ideas and experiences - democracy in action. "Room" by "room" we constructed and analyzed the house that BIG money in politics has built in the U.S. and around the globe. This reminded all of us that behind many injustices and underlying most rotten policy decisions, lurks someone or some corporation with a BIG bag of filthy lucre.

We then began the nitty-gritty planning of strategy for each state. As groups we can continue the individual struggles, such as environmental degradation, poverty, racism, sexism - symptoms of a graver problem, or we can also unite to attack the injustices at their insidious roots. The latter course of action seemed to make the most sense.

Both Gary Zuckett and Janet Fout will serve as board members for Democracy South. OVEC and WV-CAG are working with Democracy South to research and publicize political campaign contributions to WV politicians and correlate that with voting records on important issues.

As always, we'll continue to expose the links here between BIG corporate-related campaign money and political decisions which serve those corporate interests.

We cannot fight for environmental justice and environmental protection without making campaign finance issues an integral part of that fight.

Thanks to the Following Members for Their Recent Volunteer Work

Lewis Baker
Jeff Bosley
Susan Hayden
Aaron Bady
Dan Kash
Ronald Goodman
Ron Lafferty
Carol Wolff
Kit Hoffman
Rose Riter
Rick Bady
Adina Demos
Geneva DiPier
Eric DiPier
Mike Forman
Mary Anne Graham

Is Increased Logging A Factor in Flooding Here?

by Dianne Bady

We've had a wet spring and early summer. Has the flooding in West Virginia been heavier than one might expect, even given the recent rainfall levels?

According to the Federal Emergency Management Agency (FEMA), in the past two years West Virginia has had six presidentially declared flood disasters, while the state has suffered a flood on average only once every 18 months since it received statehood.

Could the increased logging here be a factor in the increased rate of flooding?

In the past seven years, the amount of timber cut per year in West Virginia has doubled. A growing body of research nationwide links clearcutting to increased flooding.

Rita Calvan, regional FEMA Director, recently wrote to the Charleston Gazette that "the West Virginia terrain, coupled with increased development, almost certainly ensures that another flood will hit, probably sooner than later."

Recently, pounding rain led to a mudslide that poured off of a mountain near Powellton, WV, severely damaging seven homes. This mountainside had earlier been clearcut. Now homeowners are being told that their insurance will not cover their property damages, and that the mudslide was an act of God. "But do you see God with a chainsaw?" asked Joanna Null, whose house sits in the path of destruction.

The 1997 West Virginia legislature passed a law that takes away the right of citizens or the media to know how state taxpayers' money is being offered to lure new industries here.

How much of your tax money is now being offered to entice still more corporate logging?
Logging where the profits leave the state, and the costs are all left here for us to deal with.
Costs such as mudslides, silted streams, damaged homes, ugly landscapes, destruction of wildlife habitat and of fishing, hunting, and tourism opportunities?

1996 Ohio River Fish Consumption Advisories for the Tri-State Area

West Virginia and Ohio:

- Carp, channel cat fish (DO NOT EAT).
- Flathead catfish (no more than six meals per year).
- White bass, hybrid striped bass, freshwater drum (no more than 12 meals per year).
- Largemouth bass, smallmouth bass, sauger (no more than 52 meals per year).

A "meal" is considered to be one half-pound fillet consumed by a 180-pound man. West Virginia officials further advised that pregnant women, those of childbearing age, the very young, the elderly and those with health problems should probably forego any meals from Ohio River fish.

Kentucky:

- Channel catfish, carp, white bass, and paddlefish and their eggs (DO NOT EAT).

For the first time, Ohio officials found mercury in nearly all fish samples, and advised that women of child-bearing age and children under age 6 eat no more than one meal per week of any of the above species.

To prepare any of the above fish, first remove all dark meat and fat, cook only skinless fillets and grill over an open rack. Do not use the fat for any other cooking purposes.

This information was taken from "Ohio River Water Sanitation Commission, 1996 Annual Report." To receive a copy write or call ORSANCO at 5735 Kellogg Avenue, Cincinnati, Ohio, 45228; (513) 231-7719. Visit ORSANCO on the World Wide Web at <http://www.orsanco.org/>.

Coal Slurry From Ashland Mine Blackens Little Coal River

In June, coal slurry was pumped from an Ashland Coal operated coal preparation plant, turning the Little Coal River black. The spill occurred at the Hobet No. 21 mine about 25 miles south of Charleston, the largest mountaintop removal site in the state.

John Walls, who owns Coal River Canoe Livery, lost \$2,500 worth of canoe business the next day, when his customers were greeted with dead fish and a blackened river. He expressed concern that even if the company is fined, it won't repair the river.

Dan Bayes, a DEP inspector, said "they pumped slurry inadvertently into the river. A pump picked it up off the bottom of the impoundment and pumped it into the river. Apparently (company officials) didn't check during the night like they normally do, as part of standard procedure. It pumped for several hours. Six or seven miles of stream was black by morning."

Ashland was issued a notice of violation and may receive a citation and be fined.

David Todd of Ashland Coal said it was impossible to tell how much slurry had been pumped but "there appears there was not a large volume."

Special Air Toxics Monitoring Program in Kenova Ends

One year of special air monitoring in the Kenova area ends this month. The monitoring is the heart of the Tri-State Geographic Initiative (TGI), EPA's response to the long term air problems in the area, centering on Ashland Oil. The amount of data is massive and will not be available for several months.

Once it is available it will be sent to a private contractor who will analyze both the actual monitor data as well as some modeling estimates of what's in the air to produce a "risk assessment." A risk assessment is an attempt to gauge the health impacts of pollution based on what's known about these chemicals and their effects.

The risk assessment is expected to be complete by March of 1998. Before the release of the risk assessment, EPA intends to hold workshops in the area on what risk assessment is and how to understand these complicate issues.

The TGI has also produced a "Risk Management Plan." This document describes what actions will need to be taken if significant risk is found. The TGI produced the Risk Management Plan in response to our concerns that simply finding risk doesn't guarantee that EPA will take any action.

Veterans of the air toxics saga in Kenova may remember that EPA did some special monitoring back in 1989. Then, the main concern was the content of particulate fallout. EPA collected particulate samples as well as air toxics samples for 6 months.

OVEC obtained the data from air monitors that operate constantly to see if the air during the six months of special testing were any different from usual. Guess what? During the six months of monitoring, the level of particulates in the air was the lowest it had been in years!

Off the record, officials admitted this showed that local industries can do a better job if they know someone is watching. We'll be analyzing the long term data again to see if industries were on their best behavior during the one year of special monitoring.

Thanks - Thanks - Thanks

* Thanks to the Charleston law offices of Forman & Crane for their work on OVEC's appeal of the air permit for the proposed Apple Grove pulp and paper mill. In particular, we are most grateful for the hard work and commitment of attorney Jason Huber. Jason has proven to be resolute, passionate and in command at the hearings. Thank you Jason!

* We're also grateful to Monty Fowler, the Concerned Citizens Coalition, Vivian Stockman and Matt Peters with the Buckeye Forest Council for their appeals of the air permit.

* Thanks to Larry Gibson, Randy Sprouse and Jesse Duncan who continue their courageous fight to preserve the culture and scenic beauty of southern West Virginia against mountaintop massacre by the big mining companies.

* Thanks to US EPA's Brian Holtzclaw for his invaluable assistance to OVEC on numerous issues.

* Thanks to Laura Forman's brother Eric DiPier for his donation of a radio/CD player - we don't have a window but now we've got music!

Ashland Refinery Receives Violation on Most Hazardous Unit - And Then Tries to Keep Details Secret From Public

by Laura Forman

Recently, the Ashland Inc. refinery received a Notice of Violation from Kentucky's Division for Air Quality. According to a May 16 letter from John Hornback, director of the division, "during inspections conducted on March 4, 1997 and April 8, 1997... visible corrosion was noted on the flanged joints of the large HF acid line..."

The violations that resulted from these inspections also indicated that the refinery had failed to repaint pipes with HF-sensitive paint, paint that could help detect a hydrogen fluoride leak.

Hydrogen fluoride (HF) is used at the refinery to boost the octane in gasoline. HF is a highly corrosive substance that forms a toxic cloud if released into the air and can be deadly if inhaled.

Currently this HF inspection report is not available to the public. Ashland Inc. wants to keep the report secret under Kentucky's "business confidentiality" regulations.

According to a May 6 letter to the division, Ashland claimed that if the report were released it would allow other companies to develop the same HF technology (as Ashland) without spending money on research and thus give them a competitive edge.

In response, Kentucky denied Ashland's claim of confidentiality. Not surprisingly, Ashland appealed that decision.

Another letter from KY DAQ dated June 27, 1997, revealed that Ashland has had additional problems with HF safety. The refinery's water deluge system has had a number of malfunctions. The repairs on these mitigation systems were, according to the Division for Air Quality, not "accomplished as soon as practicable." In fact, one such malfunction went almost TWO MONTHS before it was repaired!!

Ashland Inc. recently chose to pay more than \$1 million in fines to the state of Kentucky rather than install additional safety controls on HF that could actually prevent the formation of a toxic cloud in the event of a leak.

That decision by the company makes it imperative for EVERY ONE of Ashland's HF leak detection devices to be maintained and operational at ALL times! The safety of Ashland's employees and the refinery's neighbors depends on it.

While Ashland plods along, taking as long as two months to fix essential safety technology at the refinery, its reflexes in response to imaginary trade secret releases are lightning-fast.

It also appears that while Ashland's funds for community and employee safety are limited, its resources for legal challenges are inexhaustible.

Explosion at Ashland Refinery

On the morning of June 6, 1997, OVEC member Pat Davis was awakened by a loud explosion from her neighbor, the Ashland Inc. oil refinery. Residents from as far away as three miles heard the explosion.

"I was scared to death," said Pat. "I called Ashland Oil and they said they would call me back and tell me what happened. They never did call."

The explosion came from a hydrogen compressor. The unit uses naphtha to produce hydrogen and other compounds to make high-octane gasoline.

Ashland spokesman Stan Lampe issued the standard Ashland comment that "there was no effect to anyone outside the property line of the refinery."

The explosion resulted in a fire with, as yet unknown emissions, emissions that do not recognize "property lines!"

Ashland's assurances aside, Kentucky regulators are currently investigating the incident and may issue a report soon.

Mountaintop Removal/Valley Fill Strip Mining - The New Wasting of West Virginia's Hills and Hollows Picks Up Steam

by Monty Fowler

There was no sound as the hundred-foot high steam shovel slammed again and again into the barren hilltop. The picture was jerky because it was being filmed from a small plane.

And the effect on the audience was stunned silence.

That was how OVEC's forum on mountaintop removal-valley fill strip mining opened on June 17, with a home movie that all too clearly showed the devastating environmental impacts of this newest form of mining on West Virginia's landscape.

The way this form of mining operates is simple - blast the top off of a mountain, push it into the adjacent valley, mine the coal and leave behind an ecosystem that is forever altered and that will never recover to its "original" state.

OVEC organized the forum because of the growing threat this form of strip mining poses to both the environment and the way of life in West Virginia's rural coalfield areas.

"Will the technology of the 90s convert our Mountain State to the plateau state?" asked Janet Fout, OVEC project coordinator. "We want more people to know what's happening to our beautiful mountains and to the people who have lived there for generations."

More than 50 people attended the event at Marshall University, which featured a panel made up of members from the affected communities, regulators and environmental advocates.

Industry representatives, who were repeatedly invited to attend, declined to do so. "Why can they not show up at a public meeting? Because what they are doing is indefensible," OVEC Director Dianne Bady said.

Hobet Mining, a subsidiary of Ashland Coal, has proposed burying Connelly Branch in Lincoln County under more than 110 million cubic yards of dirt and rock from its strip mine, the largest such mountaintop removal operation in West Virginia's history.

In the panel discussion that followed, state officials from the Division of Environmental Protection's Office of Mining and Reclamation admitted that no one really knows what long-term effects the massive valley fills will have despite the mining industry's headlong rush into that method.

"It's no secret that there is pressure from industry to review it (permit applications) quickly," said Ken Politan of that office, adding that OMR is responding to a small but increasing number of citizen complaints about noise, dust, blasting damage and other problems at the mountaintop removal sites.

Boone County residents Jesse Duncan and Randy Sprouse said that as the tempo of mountaintop removal mining increases, a way of life for generations of West Virginians is vanishing.

Duncan, a fourth generation coal miner, said even though the mountaintop removal sites are "reclaimed" according to existing laws, "in a few years, nobody will be living in the area where we were raised.

"The wildlife is gone, the native trees are gone - it's like living in a different state," he said. "It's destroying our sense of community."

Sprouse said coal company-hired guards in camouflage outfits have aggressively chased local residents from the vicinity of the newest mountaintop removal operations, even to the point of ordering people to get off of designated county roads.

Larry Gibson of Kanawha County said his great grandparent's 1830s farm is being threatened by an A.T. Massey Co. mining operation, but he refuses to sell to them because of what it would do to his family.

"With this type of mining, for my little girl, there's no mountain to farm - and for her kids, there will be no mountains. They'll be gone," Gibson said. Later in the forum, he emotionally described the effect that blasting from the huge mountaintop removal operation near the home has had on his daughter, Victoria.

"Daddy, I can hear the mountain crying," she said to him. Gibson added, "This is the best reason in the world to fight this."

Dan Ramsey of the U.S. Fish and Wildlife Services' WV office said the size of valley fills has increased tremendously in the last few years, and, "Nobody knows the effects of these valley fills.

"The headwater streams are the energy pumps of the whole system," Ramsey said, "and we don't know what effect these will have. Under the Clean Water Act, you can't destroy the existing use of a stream - and that (question) hasn't been resolved."

Cindy Rank of the West Virginia Highland Conservancy agreed there are too many unanswered questions to justify the massive mountaintop removal projects.

"Headwater streams are the lifeblood of our major streams," Rank said. "Is lower hills and higher streams really the way we want to go? ... We are indeed playing God."

Much of the public is unaware of the sheer scale of the mountaintop removal operations, said Wendy Radcliff, the DEP's citizen advocate, so forums like the one OVEC sponsored are vital to creating an informed population.

What is not being studied at all is the cumulative effect these large valley fills will have on the state's people, culture and long-term economic development, she emphasized.

(This was read during the forum.)
"As I travel up the mountain road
Tears fall from my eyes.
My heart is pounding like a beating drum
Because before me is a dead spirit,
A dead mountain."

Victoria Ann Gibson
Age 8
Putnam County, WV

Values, Economics and the Environmental Workshop Held Here

Have you ever thought about how environmental decisions are made in Appalachia? Who makes the decisions? Who has the power? What values drive those decisions?

On May 31, the Commission on Religion in Appalachia, along with OVEC and the Southern Appalachian Labor School, sponsored the first of four "Economics in the Appalachian Region" (Project EAR) workshops planned for our area.

This workshop marked the beginning of an exciting education and organizing project to engage churches and communities in examining regional economic and tax policies, with the ultimate goal of organizing for positive change. (The Commission on Religion in Appalachia is a partnership of 19 different Christian denominations).

The lively Huntington workshop was held at the First Congregational United Church of Christ. The full day event gave participants the opportunity to share knowledge and economic stories of their own. Each session was interactive and participatory, showing that economics does not have to put people to sleep! And it's not just for the rich!

Data on land and forest ownership in West Virginia was discussed. Rev. Jeff Allen spoke of the impacts of federal welfare reform on West Virginia.

Distribution of wealth in the U.S. was illustrated by a simple, but telling 10-chair exercise. (Did you know that in 1997, less than 1 percent of the population of this country controlled more than 40 percent of the wealth?) You don't have to be an economist to understand how current economic policies affect our environment and our communities.

The next Project EAR workshop will be hosted on August 23 by the Southern Appalachian Labor School. All are welcome! See calendar on page 15-16 for details. For more information contact the OVEC office at (304) 522-0246.

Partners In Flight Saving Birds Through International Cooperation

Partners in Flight is a hemispherewide program to conserve land birds. Partners in Flight is a volunteer organization of national and international governmental agencies, private companies, nonprofit organizations, educational institutions and private citizens who have banded together to save birds.

A bit of background... As an effort to monitor bird numbers, the Breeding Bird Survey was initiated in the eastern United States in 1966. Unfortunately for many species, the trends from these surveys have shown decreasing populations. During the 1980's and 1990's these trends dropped dramatically for some species that nest in forests, fields and grasslands. While the declines in some populations are dramatic, most birds are still relatively common. Scientists and other concerned individuals began Partners in Flight to curtail declines of these birds before populations reach critically low levels causing the birds to become endangered or threatened.

What birds are at risk? At first, concern was greatest for birds known as "Neotropical Migratory Birds" - birds that migrate every year from Mexico, Central and South America to North America to breed and raise young, then return to the tropics to spend the fall and winter. Birds such as orioles, hummingbirds, swallows, thrushes, warblers, vireos, and tanagers make this incredible journey each year.

More recently, Partners in Flight has expanded to include permanent residents and temperate migrants, species that migrate from the northern extremes of North America in the summer to the milder southern United States for the winter, such as the grasshopper sparrow and Henslow's sparrow.

In West Virginia... West Virginia with its large tracts of mature forests and sparse human population provides ideal nesting habitat for many forest birds. Indeed, the Mountain State is viewed as an oasis for species such as the Cerulean Warbler and Scarlet Tanager which require large tracts of mature forest (over 500 acres). Large tracts such as these are increasingly scarce throughout these birds' breeding grounds. West Virginia also provides limited habitat for birds using grassland, wetland and early successional areas as well.

The West Virginia PIF Working Group, organized in 1994, has ambitious goals and plans. Activities focus on identifying and mapping areas of significant breeding populations of priority birds, working with landowners and interested groups, individuals and organizations to develop management plans for these areas.

Improved monitoring of priority birds and researching species that are not well understood are also on the agenda.

Information is easily accessed on the Internet at <http://www.trrc.org/wvpif.htm>.

Ohio River Threatened?

Dredging Up Toxics At Shell Chemical's Mason County Plant

Recently the Shell Chemical plant at Apple Grove, W.Va., applied for a permit to modify a loading dock on the Ohio River and to dredge at that site for the next 10 years.

Because three independent studies demonstrated that catfish have illegal limits of dioxin at or near that site, OVEC has recommended that no permit for dredging be issued until thorough sediment testing has been conducted.

A study of sediments in the Ohio River by the Ohio River Water Sanitation Commission (ORSANCO) in the early 90s indicated a PCB "hotspot" at the outfall for the former Goodyear Tire and Rubber Company (now Shell Chemical).

The scientific literature indicates that dredging stirs up and suspends tiny particles of contaminated sediments and can increase contamination downstream, posing a threat to aquatic life.

Another concern expressed in OVEC's comments focused on populations of federally endangered mussels, the Pink Mucket Pearly Mussel.

Shell's response to OVEC's comments indicates that the only testing the company has done has been on the river bank soils. (Why test on the riverbank when the proposed dredging would be done in the more contaminated bottom of the river?) In addition, Shell brushed aside OVEC's concern for federally protected mussels by saying that the U.S. Fish and Wildlife Service saw no concerns.

But contrary to what Shell said, John Schmidt, the Acting Supervisor for the WV Field Office, said their "no action" letter was sent because of a lack of resources and personnel, not a lack of concern.

To Shell's credit, the company has abandoned a plan to put the first year's worth of dredged materials in a cell piling for the dock, and instead intends to fill the cell piling with clean materials.

But neither the US Army Corps of Engineers nor Shell have provided OVEC with the location of where the dredged material would be deposited; it's only been determined as an "upland location."

Norfolk & Western "Railroads" Kenova Residents and DEP

by Laura Forman

Kenova resident Carol Ramey did not know that an open site in her neighborhood contained hazardous amounts of lead. Carol became concerned when she saw people in protective gear working behind signs proclaiming the area a hazardous site.

Later, according to Carol, "during the cleanup, dust-devils were blowing everywhere. Trucks that were leaving the site carried the lead-contaminated soil out on the tires."

Norfolk and Western recently covered the dust with tarps when WV Division for Environmental Protection contacted them, but not before the damage was done.

Some background: Last year the DEP, acting on a citizen complaint about sandblasting at a Norfolk and Western railroad bridge in Kenova, began investigating the site. N&W was not sandblasting but removing paint and rust from bolts.

The DEP took some soil samples and found them to contain hazardous levels of lead. Prior to that complaint, N&W had made no attempt to find out what damage they had done over the years when it sandblasted the lead paint from the bridge.

After DEP's involvement, N&W applied for an emergency permit to remove the lead-contaminated soil.

At a city council meeting, discussing their plan for the lead removal, N&W attempted to mislead citizens and minimize the risks associated with the site. A N&W attorney made this outrageous statement: "There is no threat to human health and the environment even as it stands now...this is only a housekeeping measure." Yet, DEP's own analysis from the site showed greater than seven times the level of lead required to be hazardous waste.

At this same meeting, the DEP was told to limit the number of personnel in attendance and only to answer direct questions, meaning that they could not volunteer any information! We don't know who gave this order to DEP.

According to a DEP regulator, in a memo about N&W's plans, "are we going to stand by and let N&W say...to the citizens of Kenova that there never has been or will be a problem with the lead contamination in the middle of their residential neighborhood when we have the information we have?"

This clean-up (cover-up) by N&W has been a travesty that could prove to be a substantial threat to public health and the environment. The DEP strenuously objected to N&W's proposal to "clean" the site.

According to a DEP employee, in response to N&W's proposed emergency permit and work plan of April 25, 1997, "how can the DEP make an intelligent decision on whether or not we are protecting human health and the environment when N&W did not even submit their latest, most extensive and extent of contamination defining soil analysis results with their report?...They agreed to provide those analyses...what have they got to hide?"

Apparently N&W has plenty to hide. DEP has still not received the results of the soil screening. N&W performed the lead removal the way they saw fit, despite concerns raised by DEP about the safety and effectiveness of the removal plan. And since Norfolk and Western never sought public input in Kenova, the concerns of local citizens were never taken into account.

OVEC has expressed concerns about this blatant case of environmental injustice to WV DEP and US EPA, and the US EPA is investigating.

We believe that the US EPA should continue to monitor the soil at the site and should also take and perform tests on dust samples from affected homes.

Tests should be performed to see if the ground water has been contaminated by the lead. Since children are at the greatest risk for lead-induced health effects, full public disclosure of the lead contamination must be made immediately.

And to those industries who believe that they can hide their dirty deeds, remember - environmental watchdogs are everywhere!

King Coal 1, Health Care 0

by Gary R. Zuckett

The WV legislative session ended in April with major giveaways and concessions for coal and other special interests, and crumbs for improving the health of our people. Yes, King Coal is back - just like the good old days 40 years ago when Cecil Underwood was governor the first time.

Let's take a look at the largesse bestowed upon King Coal by the just-finished legislative session. The biggest prize is a whopping 60-80 percent reduction in severance tax on the mining of thin seam coal. The favorite way to mine thin seam coal is to scoop up several seams at once by removing the whole top from a mountain and dumping it onto the valleys and streams below.

This mountaintop removal-valley fill technique is currently burying miles and miles of native streams every year and forever remaking vast areas of our state. Now, with this

corporate welfare tax giveaway and the recent appointment of John E. Caffrey to head our state's Division of Environmental Protection (DEP), this moonscape method of mining will be certain to increase.

Eli McCoy, former head of the DEP, resisted lowering the "Mitigation Fee" (read: blood money) coal operators must pay when they "valley fill" and forever kill a native WV stream. Governor Underwood found McCoy's perfect replacement in Caffrey who, at 71, has worked most of his life in the coal industry.

One of Caffrey's first statements as head of DEP was the remark that mitigation fees must be "looked into." One wonders what other environmental regulations Mr. Caffrey intends to "look into."

Another legislative giveaway to King Coal was the roll back of laws dealing with coal waste piles. Under the guise of reclamation, operators will be able to mine additional coal while skirting environmental laws protecting water quality.

West Virginia used to be the only state to ban the use of diesel equipment in underground mines. Never fear, our legislature fixed that one. Now in addition to breathing Black Lung-producing coal dust, miners will also be forced to inhale fumes and soot from diesel engines.

Actually it's not fair to single out King Coal. Clear Cut Timber, Money Bag Banker and Caustic Chemical all got their share from the Corporate Welfare trough this year.

The "Managed Timber" Bill allows managed timberland to pretend it's farmland and receive an across the board property tax reduction. No one (not even the state) knows how much money this will drain from county funds that pay for schools, emergency squads, libraries, etc. Assessors from scores of counties asked the governor to veto this one. Fat chance.

Chemical companies and other multimillion dollar manufacturers will now be able to pay property tax on the "scrap value" of \$50 million additions to their facilities. Wouldn't you like to pay "scrap value" property tax on your new Chevy or Ford? Don't hold your breath.

Bankers and others were gifted with the total elimination of property taxes on "intangibles." Intangibles are stocks and bonds, those little pieces of paper that make lots of money. This giveaway will cost lots of money - \$16 million over the next five years.

Commentators often described the 1997 legislative session as a "do-nothing" session. That's a pretty fair description as far as consumer health concerns go. Few consumer health bills passed and those only slightly improved the fates of specific populations.

While these laws are needed steps in the right direction, they represent only the tip of the iceberg of insurance company abuse and systemic health care access problems. No progress was made in giving any help to the tens of thousands of West Virginians who lack any health coverage at all.

As this "do nothing" (except giveaways to big business) legislative session's final weeks came to a crescendo, our governor was literally on the other side of the planet. Yet, he came home "very pleased" that the Democratic legislature had passed every one of the bills he requested.

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Calendar of Upcoming Events

July 21, 7 p.m., Charleston, 1615 Washington St. East (next to Wendy's). Public hearing on proposal to change WV fish tissue pollution standards. Call OVEC for ride sharing: (304) 5220246.

July 24, 7 p.m., Huntington, Encourager's Fellowship Church, 1630 Doulton Ave. Community Forum on Racism task force meeting to plan for anti-KKK activities at their Sept. 28 rally in Huntington.

July 27 (Sunday), 4 p.m., OVEC board meeting, at Bady's.

August 4, 5 or 6, 1615 Washington St. East, Charleston. Hearings on OVEC's legal appeal of the (formerly?) proposed Parsons and Whittemore pulp mill's state air pollution permit. (These hearings are continuing even though the company failed to renew their option to buy the proposed site.) Call the OVEC office for ride sharing: (304) 5220246.

August 7, 6:30 p.m., OVEC strategy meeting on mountaintop removal/valley fill strip mining, at OVEC office.

August 14-16, Citizens Surface Mining Tour. Sponsored by WV DEP's Office of Environmental Advocate. August 14 in Buchannon, August 15 in Logan County and August 16 in Charleston for panel discussions. OVEC's Dianne Bady will be part of the panel discussion on the loopholes and needs of the Federal Surface Mining Control and Reclamation Act, along with Cindy Rank from the WV Highlands Conservancy and John McFerrin of the WV Organizing Project. For more info, call the Office of Environmental Advocate at 1-800-654-5227, or call the OVEC office for ride sharing.

August 23, Workshop - Economics in the Appalachian Region, hosted by the Southern Appalachian Labor School and co-sponsored by the Commission on Religion in Appalachia and OVEC. To be held near Beards Fork, WV (south of Charleston). Time to be announced. Call the OVEC office for details and ride sharing.

Sept. 5-7, WV Environmental Council annual meeting at Camp Pioneer, near Elkins, WV.

Sept. 19-20, Eco-Feminism Conference, The Gaia Connection, at Jackson's Mill 4-H Camp, Ripley, WV, sponsored by WV NOW. OVEC's Janet Fout will head a workshop on community empowerment.

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