

Churches Against Mountaintop Removal

by *Dianne Bady*

Near the top of Kayford Mountain, Larry Gibson painted a bible verse on a rock: "In His hands are the depths of the Earth, and the mountain peaks belong to Him. (Psalm 95).

But you can't take that scripture literally on Kayford, where the surrounding southern West Virginia peaks have been annihilated.

This summers, the Commission on Religion in Appalachia passed a resolution asking politicians "to require that mountaintop removal-valley fill strip mining be stopped and it not be resumed until scientific study of its long term effects on human live and the natural environmental has been accomplished."

The West Virginia annual conference of the United Methodist Church, the largest denomination in the state, then passed a similar resolution, as did the Evangelical Lutheran Church's West Virginia-Western Maryland synod, the Presbyterian Church's Presberty of the Shenandoah and the Episcopal Church of West Virginia.

West Virginia Gov. Cecil Underwood, himself a Methodist, has repeatedly lashed out at his won church for taking a position opposing mountaintop removal. "The Bible says we are to take dominion over the earth," Underwood told the Associated Press.

But John Taylor, an active Methodist and an OVEC member, says that Underwood has misread scripture. "The term 'dominion' in Genesis comes from an original Hebrew word which has to do with stewardship," he points out. John was involved in writing and presenting the mountaintop removal resolution to the United Methodist annual conference. The devastation of the mountains he loves reminds him of the story of Jacob and Esau. "Esau sold his birthright. These mountains are OUR birthright. We should be protecting our mountains, not selling them."

While the Governor says again and again that churches have no business taking positions on mining issues, John emphasizes that, "the Gospel tells us we're supposed to bear witness."

And Methodist minister Jeff Allen says that his church's resolution "shows where the church stands. The church stands with the poor and the oppressed."

OVEC members and staff have been privileged to play a role in these church resolutions. Janet Fout served on the committee which drafted the Commission on Religion in Appalachia's resolution. OVEC members and staff spoke at gatherings of denominational leaders and we provided church folks with voluminous amounts of information.

Larry Gibson told church leaders, and the *Washington Post* (front page, August 31), "God created these mountains. Only God should be able to take them away."

OVEC's Legal Victory In Water Lawsuit Will Set Precedent

Charleston attorney Perry McDaniel successfully represented OVEC and the WV Highlands Conservancy in a lawsuit which forced the US EPA to develop pollution limits for

West Virginia waterways which don't meet water quality standards.

These limits, called Total Daily Maximum Loads (TMDLs), are now being developed for the Buckhannon River and Tenmile Creek. OVEC, the Highlands Conservancy and the WV Rivers Coalition are watchdogging this process.

Both the Buckhannon and Tenmile are polluted with acid mine drainage. TMDLs for these rivers will be the first of hundreds of acid mine drainage TMDL's to be completed in the country.

"This lawsuit has generated much consternation among industry and is an example that we cannot rely on the State or EPA to enforce water quality laws. Only by our vigilance and participating can we move forward to the goal of eliminating degradation of our waters," McDaniel said.

As a result of our suit, pollution limits were developed in 1997 for the Blackwater River and the South Branch of the Potomac River. At least seven rivers and lakes will be done each year until 2002.

Coal Industry Musings

by Janet Fout

As a native West Virginian, I've been spending a great deal of time thinking about mountain massacre and the coal industry in West Virginia.

I've come to the conclusion that the people and the land have paid too dear a price. An historian, Barbara Rassmussen, said if the experience of five West Virginia counties that she studied "were representative of the region as a whole...Appalachia is economically distressed because residents and resources were consciously exploited by identifiable others," not "victimized by its own regional and cultural characteristics." I emphatically agree.

The Appalachian mountains are the oldest mountains on the planet - over 400 million years old. Yet some people view these ancient peaks as worthless, except for the profits they reap by destroying them.

They have no sense of what it means to grow up in a rural area where the trees, birds, wild flowers and the all variety of life found in our mountains, streams, and valleys connect many of us from our hearts to the land. I assert that the souls of those who would destroy our mountains and surrounding communities are suffering from impoverishment themselves.

Coal has dominated the economy of West Virginia for over a century. At one time, the coal industry employed over a hundred thousand people, but today direct jobs amount to about 18,000; of those, around 4,000 miners are employed in strip mines or at mountaintop removal sites. Now record amounts of coal are being mined by fewer workers; yet we continue to hear from the coal industry how vital coal and especially mountaintop removal is for West Virginia's economy.

Most West Virginians have reaped few, if any, long-term benefits from the coal industry's presence. Instead, its legacy has been of death and destruction: loss of land and mineral rights; deaths from the mine wars; black lung disease and silicosis; mine disasters and coal truck accidents; sub-standard housing; bad roads; degraded streams; moonscapes; damaged homes; flyrock; ruined drinking water wells; and communities destroyed or divided.

One major consequence of coal's domination which still exists is the lack of economic diversity in southern West Virginia, creating a captive labor force.

At a recent meeting of the governor's task force on mountaintop removal, Dennis Jarvis II, director of Logan County's economic development agency and a native of McDowell County, said that the population of McDowell County has plummeted from 100,000 to 30,000 residents. Once the coal was mined and mines were mechanized, the work force was reduced.

Jarvis said, "Coal is here today, but it will be gone in 15 or 20 years. We have to look at what we can do for the future. Without diversifying, our future is bleak." In the southern coalfields, few good jobs exist outside coal-mining or related industries, but it doesn't have to be that way.

There can be other options. If the federal abandoned mine land money was released, many people could work to restore past damages that the coal industry has caused to land and communities. This could promote jobs that heal rather than hurt the land and the people.

In 1996, there was a successful ballot issue which allows the state to spend millions of dollars for water and sewer projects. How much of that money is being spent in our southern counties? What about roads? Do we really need a four-lane billion dollar highway (Corridor-H) to nowhere in the northern part of the state?

If the coal industry paid its fair share of property taxes, we could improve schools and roads in our southern counties and improve the quality of life for people who want to live and work there.

One final important question remains. Have you ever thought about who owns the land and resources in southern West Virginia? In 1978, an extensive study found that the largest land and mineral owners in southern West Virginia were absentee, non-government owners - that is, corporations.

Of 80 counties surveyed in Appalachia, four of the top five counties with the greatest corporate ownership of minerals are in southern West Virginia - McDowell, Logan, Raleigh and Mingo counties.

One land reform advocate says, "It is ownership - and the economics that surround ownership - that determine whether land is farmed or paved, strip mined or preserved, polluted or reclaimed. It is ownership that determines where people live and where they work. And to a great degree, it is ownership that determines who is wealthy in America and who is poor, who exploits and who gets exploited by others."

Maybe the time has come for West Virginians and others throughout Appalachia to begin a land reform movement. Beyond preserving our mountains, the larger issue is all about justice and economic transformation. It's about restoring democracy and shaping our own future.

Mountain Massacre - "They Can't Put It Back"

This song could have been written this year, but in fact it was penned more than four decades ago by a man named Billy Edd Wheeler, before even most people in the coal industry knew what mountaintop removal mining was.

It is at once a cautionary ballad, and a warning to us all not to endlessly repeat the mistakes of the past.

They Can't Put It Back

Down the valley, about a mile from me
where the crows no longer cry,
There's a great big earth-moving monster machine
Lordy, it stands 10 stories high.
And the ground it can it, it's a sight
Lord it takes a hundred tons at a bite.
It can dig up the grass, it's a fact,
- but it can't put it back.

They come and tell me, I've got to move
to make way for that big machine,
But I ain't a-movin' unless they kill me
like they killed the fish in my stream.
But look at that big machine go,
took that shady grove a long time to grow.
It can rip it out with one whack,
- but it can't put it back.

You can bet your sweet life, you're gonna' hear from me
I ain't gonna' take it layin' down,
'Cause I'm getting tired of seeing rocks that bleed
on the bare guts of the ground.
I ain't a-gonna' sell my soul
so they can rip out another tiny little vein of coal,
I ain't moving out of my track,
- 'cause they can't put it back.

(c) 1956,1971, Quartet Music and Bexhill Music Co., available on the tape, "We Are Not For Sale," produced by the WV Environmental Council, Charleston, WV, (304) 346-5891.

The Blackwater Canyon - WV's Crown Jewel, Video Now Available

A new video about the beautiful Blackwater Canyon is finished and ready for your viewing pleasure. The gorgeous landscape, the recreation and wildlife, the threats from logging and development - they're all here. Outstanding photography and a delightful soundtrack add to an excellent nine-minute program.

If you care about the Blackwater Canyon, or want to know what the controversy is all about, you need this video. Order yours today for a refundable \$5 fee. Send a check for \$5 made out to the WV Sierra Club to: WVSC Blackwater Canyon Campaign, P. O. Box 112, Thomas, WV, 26292.

Miano In Limbo, And So Is The Lawsuit Against Him

For those who have been following the conflict of interest lawsuit filed by OVEC, Carlos Gore and other environmental organizations against West Virginia's director of the Division of Environmental Protection, the word from our pro-bono attorney Jason Huber (with Forman & Crane in Charleston) is that the suit is in limbo.

The state was successful in getting the case taken out of circuit court and into federal court. Two issues are still pending before Judge Copenhaver: whether to dismiss the case (WV-Division of Environmental Protection attorneys submitted a motion to dismiss) and whether to remand the issue back to state court (OVEC filed a motion to have the case placed back in circuit court).

Miano's authority to issue water pollution permits is being challenged because just eight months prior to taking his job as the Director of WV-DEP, he was employed by Pittston Coal and has worked for the coal industry for 20 years. While the law is a federal regulation, which prohibits an individual to the issue water permits to an industry within two years from deriving an income from that industry, that law is incorporated into the state Water Pollution Control Act. And the director's authority is derived from that state law.

It could be a waiting game. If the rulings are delayed long enough, Miano will legally have his two year buffer; however, OVEC and others could still challenge the legality of any water permits he may have issued prior in the meantime.

Smokestacks and Smoke Screens - WV Ranked High On A Very Bad List

A report released by the Environmental Working Group has ranked West Virginia ninth nationwide in emissions of sulfur dioxide, 10th in emissions of nitrogen oxides and 19th in particulate emissions.

The top three sulfur dioxide emitters in West Virginia are Ohio Power-Kammer Plant, Virginia Power-Mount Storm Plant and American Electric Power-John E. Amos Plant. These facilities alone account for 43 percent of SO₂ emissions in West Virginia. More than 1.33 billion pounds of sulfur dioxide are poured into the atmosphere in West Virginia each year by utilities and other industrial facilities. One third of West Virginia's SO₂ pollution is produced by just three facilities.

The top three NO_x emitters in West Virginia are AEP-John E. Amos, Monongahela Power-Harrison Plant and Virginia Power-Mount Storm.

These facilities alone account for 33 percent of NO_x emissions in West Virginia. Nearly 626 million pounds of nitrogen oxides are emitted from West Virginia utilities and other industrial polluters each year. One third of West Virginia's NO_x pollution is produced by just four facilities.

AEP is the parent company for six of the top 10 emitters of SO₂ in 1995 in West Virginia including the Kammer and John Amos plants. AEP is also the parent of five of the top 10 emitters of NO_x in West Virginia in 1995. AEP's net income and gross revenue for 1995-96 were \$558,666,500 and \$5,759,782,000, respectively.

It's important to know that many top polluting, coal-fired, power plants were largely

exempt from the pollution control requirements of the 1990 Clean Air Act. The affordability of pollution control measures is not the real issue for these polluters. It is plainly a matter of priorities - greater profits or pollution reduction.

Orgas Rally Highlights Growing Statewide Outrage Over Mountain Massacre/Valley Fill Mining Practices

by Laura Forman

Although the mountaintop removal rally in Orgas had food a-plenty and live music, it was the issue that brought out the crowd. Secretary of State Ken Hechler said of mountaintop removal, "We must do everything we can to stop the rape of southern West Virginia."

As the crowd swelled to over 500 under the scorching July sun, this sentiment was echoed again and again - stop mountaintop removal.

While many organizations worked to get the word out about the rally, Randy Sprouse of the Coal River Mountain Watch did the lion's share of the work, right in the community.

As people entered the rally, they signed petitions asking for citizens rights in the coalfields. Attendees were able to pick up materials at the various tables set up by the co-sponsors of the rally.

The crowd was entertained with musical interludes by Clear Creek Crossin', Elaine Purkey and the George Daugherty (Earl of Elkview)/Ken Hechler duo. Hechler sang his version of John Denver's "Country Roads" song that told of a West Virginia that is not "almost Heaven" but "almost level." Serious notes from a serious opponent of mountaintop removal.

Speakers at the rally included affected citizens, children from the coalfield communities, various organizations and even some newly outspoken political candidates.

This rally again demonstrated that this issue cannot be defined or contained by traditional political or social boundaries. The momentum is with us and the ravages to the state and its people cannot be ignored or swept under the carpet by the coal industry or our elected officials.

As Randy Sprouse said when addressing the crowd, "We can all work together and get something done today. We need for you to help take the state government away from coal companies and give it back to the people."

Amen.

Road Trip Helps Open Dialogue With Federal Officials

by Lew Baker

For my summer vacation, I got to travel with a group of friends through the mountains of West Virginia, and on to the City of Brotherly Love. It was a good trip going and coming back.

We went up to Philadelphia to visit with US Environmental Protection Agency Region III staff, including the Regional Administrator, Michael McCabe. The meeting with EPA staff lasted all day and covered quite a list of water quality issues.

The folks on this trek represented various member organizations in West Virginians for

Clean Water. I went along as a member of OVEC; there was Gary Zuckett from WV Citizen Action Group; Pam Moe-Merritt of WV Rivers Coalition; Cindy Rank of WV Highlands Conservancy; Perry McDaniel, who is a former president of WV Environmental Council; Wendy Radcliff, WV Division of Environmental Protection's former Environmental Advocate; and Margaret James, a veterinarian fighting industrial poultry pollution in the Potomac Highlands.

We enjoyed the trip together. With Perry behind the wheel of his rented purple van, the long miles flew by. At EPA, we were pleased to find those folks to be friendly and generally in agreement with our sentiments on most points. Director McCabe was especially forthright and obviously committed to seeing his agency carry out its mandate to protect the environment.

Topics of discussion with EPA staff included:

- The need for adequate funding for the WV DEP;
- The need for a workable and protective anti-degradation policy in DEP's regs;
- What constitutes defensible Pollution Trading options;
- The need to go beyond calculating Total Maximum Daily Loads for polluted streams and actually enforcing stream restoration plans;
- Whether a Continuing Planning Process actually includes periodically updated planning documents;
- Whether nominal fines for violations by the mining industry actually represent "defacto waivers" that should be halted;
- And the need for the US Army's Corps of Engineers (especially the Huntington Division) to join other federal agencies in protection of wetlands.

With Administrator McCabe we discussed the need for very significant changes in the enforcement of environmental laws, greater public involvement in permitting of mines and other state water issues. The need to help raise funds for DEP was also discussed, especially in regard to pollution permittees bearing the financial costs of degrading stream quality, rather than the general public.

Also with Mr. McCabe and his top staff, we discussed the poultry industry's failure to come up with a workable voluntary compliance plan, and his op-ed piece criticizing that failure.

We discussed the need for Monsanto to clean up dioxin dump sites and contaminated sediments in the Nitro area in order to implement restoration of the Kanawha and Ohio Rivers.

Our final issue was an agreement on the need for a strong EPA presence in the state capitol during WV's short legislative session, in order to effectively counter the misinformation spun out by industry's lobbyists.

Overseas Acronmys to Laugh At - Or Is It Really To Cry At?

From Emily Whithead, a hydrologist at the University of East Anglia in England comes this new acronym. Sound familiar to anyone involved in the Clean Air Act wars? "I was recently taught that instead of following the lawful (UK) approach to choosing environmental technology, which is known as BATNEEC, many companies prefer to use CATNAP.

BATNEEC - Best Available Technology, Not Entailing Excessive Cost.

CATNAP - Cheapest Available Technology, Narrowly Avoiding Prosecution."

Coalfield Citizen Bill of Rights Presented at Symposium

by Laura Forman

The room seemed to pulse with anticipation as the director of the federal Office of Surface Mining was concluding her remarks at the OSM's Appalachian Regional Coal Symposium when more than 50 citizens from five states marched in silently, holding signs and banners that protested mountaintop removal and longwall mining.

When Director Kathy Karpan finished her speech, three children from the West Virginia coalfields politely but firmly took over the podium. Ten-year-old Kayla Bragg presented Karpan with the Coalfield Citizens Bill of Rights (see petition insert.)

OVEC board member Carlos Gore spoke passionately to the gathering about losing his community of Blair, WV, to the mountaintop removal operations surrounding him and expressed his frustrations with regulators.

The DEP and OSM have done nothing to help us; they don't care about the violations, Gore said.

Mimi Filippelli from Pennsylvania told of subsidence problems caused by longwall mining.

Damon Morgan with Citizens Coal Council and Kentuckians for the Commonwealth concluded the speeches with a pledge of more organized efforts from outraged citizens, saying, "We stand firm, we will not compromise. People are fed up with their homes, mountains and water being destroyed by the coal industry."

As the group of citizens began to silently file out through the emotionally-charged room, the Buckeye Forest Council's Lisa Helms began to sing, "I've dreamed on this mountain since I was my mother's daughter and you can't just take my dreams away. You may drive a big machine, but I was born a great big woman and you can't just take my dreams away."

Courageous children asking for help, sincere testimonials from people suffering every day, silent stares challenging those responsible to do more, and a song from the heart and soul of the mountains. Could the coal industry and those who regulate them remain unmoved?

Later in the morning, citizens went back to the symposium to listen to a panel discussion. Although invited to participate on the panel, Carlos Gore chose to remain in the audience in solidarity with his people and speak from there.

Unlike the coal symposium debacle in Washington, D.C., where Karpan abruptly and rudely silenced our input, the people at the Huntington conference were heard by all, loud and clear!

Blair Gardner, an attorney for Arch Coal Inc., was challenged numerous times throughout his presentation by coalfield citizens.

Jim Weekly asked Gardner to visit his home in a wooded hollow in Blair that will be buried under debris by Arch Coal if the permits are granted. Carlos Gore and Patricia Bragg cited numerous problems from mountaintop removal jobs like blasting noise, dust and fly-rock, loss of water quality and loss of their heritage.

A target for much citizen outrage, Gardner looked uncomfortable but still had the audacity to claim that his company believes these effects are benign. Coal industry denials aside, it is truly empowering for individuals to confront face-to-face those who are responsible for their distress.

Citizens from all the coal producing states have met with Karpan, the previous directors

of OSM and other government talking heads about the crisis they face from the coal industry.

Yet these meetings, year after year, yield little or no relief for the people in the coalfields or for the mountains that they call home. This peaceful demonstration was a message to regulators and industry from the people. Let's hope they get it.

OSM's Lack of Enforcement - Your Tax Dollars at (?) Work

OVEC, citizens and other organizations have expressed serious concerns about the lack of enforcement by the Office of Surface Mining in West Virginia. During the first quarter of fiscal year 1998 (October-December 1997) OSM conducted no complete oversight inspections and issued ZERO notices of violation.

OVEC then requested a meeting with OSM Regional Director Al Klein and WV OSM Director Roger Calhoun to explain these inadequate results. The 30 or so citizens that attended the meeting did not get any answers to the lack of I&E other than low funding and short staffing(see OVEC E-Notes June 1998).

In light of what is happening (or is NOT happening) from OSM throughout the country, the Citizens Coal Council filed Freedom of Information Act (FOIA) requests from OSM for: (a) how many staff were employed to do inspection and enforcement (I&E) work; (b) how much they were paid; and (c) exactly what I&E work they do during a randomly-selected Week In The Life Of that office. The following information is from the Charleston field office of OSM which is responsible for 3,199 mine sites, the largest number in the U.S. Thanks to CCC for the use of this information.

<u>Name</u>	<u>Salary</u>	<u>What records show they did on I&E during the week of Feb. 2-8, 1998</u>
Samuel Turner	\$70,597 (\$1358/wk)	Did two inspections and discussed Independence Coal TDN and Westmoreland subsidence problems with Tom Morgan
George Gunn	\$41,470 (\$798/wk)	nothing in the records
Julia Guthrie	\$30,504 (\$587/wk)	nothing in the records
Mike Superfesky	\$71,503 (\$1375/wk)	Got memo from Tom Morgan on mountaintop removal memo-Morgan edited Mike's punctuation;did inspection at Patriot Mining; went to AMD meeting in Charleston
Jackie Nelson	\$66,928 (\$1287/wk)	nothing in the records
Loise Oswalt	\$55,508 (\$1067/wk)	nothing in the records

Laura Craig	\$25,966 (\$499/wk)	nothing in the records
Thomas Sentz	\$60,135 (\$1156/wk)	did inspection at Tygart Valley Mining Co.
Natalie Adams	\$21,051 (\$405/wk)	nothing in the records

Quotes From News Articles

"Opposition to the mining practice known as mountaintop removal is gaining momentum, primarily due to grassroots support from those who don't want to see southern West Virginia's landscape destroyed. "That was the message given by speaker after speaker at Sunday's informational rally which was held in rural Boone County and attracted hundreds of concerned citizens from West Virginia as well as surrounding states. Randy Sprouse, a founding member of Coal River Mountain Watch who also served as lead organizer of Sunday's event, received applause when he urged those present to challenge the coal industry's continuing legacy of political power in West Virginia.

Laura Forman of OVEC smiled as she looked over the crowd. "It's the kind of movement which brings together people from all walks of life," she said."

- From "Mountaintop removal opposition gains momentum", by Jenni Vincent, *Times West Virginian*, July 27, 1998

"Mountaintop removal mining is coming under increased scrutiny, not just from OSM (federal Office of Surface Mining), but also from the US Army Corps of Engineers, which recently agreed to impose a 60-day moratorium on valley fill permits, and the US Department of the Interior, which stalled approval of a huge valley fill of Pigeonroost Branch creek. The US Environmental Protection Agency is also delaying permits and evaluating the impact of huge valley fills."

- From "Dumping: OSM details abuses," *Charleston Gazette* editorial, August 19, 1998

"Mountaintop removal projects in Kentucky typically remove 200 to 250 feet of mountaintop to reach two or three coal seams, said William Kovacic, field office director for the federal Office of Surface Mining in Lexington. West Virginia mining operations usually take 600 to 650 feet off hilltops to reach 10 to 12 seams, he said...Reports of blasting damage and stream pollution in West Virginia are rampant...Strip mined land contains no nitrogen, humus or organic matter, but between 1983 and 1993 Martiki Coal tried to grow crops (in Kentucky) - with help from Morehead State University - on land fertilized with money and manure from 80,000 chickens, about 5,000 hogs and hundreds of cattle. The \$2 million project won a national reclamation award in 1991, but was quietly abandoned a few years later."

- From "Bulldozers slice open coalfields controversy," by Lee Mueller, *Lexington (KY) Herald-Leader*, August 9, 1998.

"Saying coal has been West Virginia's legacy and curse, the director of the state agency that monitors coal mining urged industry to be more open and honest with the public.

The era of business-as-usual is over or soon will be," said Michael Miano, director of the Division of Environmental Protection...Janet Fout of OVEC said, "I think the DEP and the coal

industry and the governor all realize now that they've opened a major Pandora's box and it's going to be difficult for them to put all that's fallen out back in.

- From Miano urges openness, honesty in mining industry, by Nicole Kennedy, *Herald-Dispatch*, August 9, 1998

"To M. Miano in Charleston: I may not be the best guy in the world to address your concerns about getting a new haircut, but given the current mood, I wouldn't suggest a flat top. Instead, why not try something that complements the natural contours of your head?"

- From Rick Steelhammer, *Charleston Gazette* columnist, August 16, 1998

"State regulators don't know how many mountaintop removal mines there are in West Virginia...DEP also can't tell you how many acres of the state have been mined by mountaintop removal methods, or provide a rundown of what types of post-mining land uses mine operators proposed. John Ailes, chief of the DEP Office of Mining and Reclamation, readily admits the agency hasn't done a very good job keeping track of such things. But he promises to do better."

- From Number of mountaintop mines in state is unknown, by Ken Ward Jr., *Charleston Gazette-Mail*, August 9, 1998

"Federal regulators have decided there are widespread problems with the way huge mountaintop removal coal mines are permitted in West Virginia. Inspectors from the US Office of Surface Mining say coal operators are indiscriminately dumping waste rock and earth into valleys because it is easier and cheaper than rebuilding hilltops. OSM also confirmed that, for more than 20 years, mountaintop removal mines have been illegally permitted by the state."

- From Feds confirm mining problems, by Ken Ward Jr., *Charleston Gazette-Mail*, August 16, 1998

"They gathered in Room 319 of Marshall University's new Graduate College Building on Monday night to talk about mountaintop removal. And they gathered in Room 316 to listen. And Room 314. And Room 104 and 212 and on and on and on, up and down the halls of the new building. What an odd way to hold a public hearing (Governor's Task Force on Mountaintop Removal). A few of those opposing mountaintop removal, who know the history of coal mining in West Virginia, claimed that splitting the audience was not unlike the divide-and-conquer tactics the coal companies have used for a century or more in West Virginia."

- From Mountaintop removal is also a cultural issue, by Dave Peyton, *Herald Dispatch*, August 5, 1998

"West Virginia's coal industry was the largest contributor to winning candidates in 1996's elections, according to a report released Monday by an organization seeking election changes in the state (People's Election Reform Coalition/WV - led by OVEC, WV Citizen Action Group, and Common Cause-WV.) Citizens may well ask what the return on investment was to these special interests," said Norm Steenstra of Citizen Action. "Since the election, the coal industry has received several top appointments in the Underwood administration, reductions in workers' compensation premiums and profitable mountaintop removal legislation."

- From Coalition releases report on 1996 campaign contributions, by Randy Coleman, *Charleston Gazette*, August 18, 1998

Arch Coal Tries to Stack the Deck at 'Public' Hearing on Another Monster Mountain Massacre Mine Near Blair

by Laura Forman

In May, the WV Division of Environmental Protection held a public hearing for Arch Coal subsidiary Hobet Mining's proposed 3,100 acre mountaintop removal/valley fill permit.

The operation would take place across from current Dal-Tex (Arch Coal) mining in Blair and would extend the devastation by about five square miles.

About 200 people attended the hearing, many of whom showed up at the request of their employer, Arch Coal.

Notices were sent with miners' paychecks which said, "There will be people there who don't want this permit issued. They don't care about your job. Please attend this hearing and show that you support the future of our jobs here at Dal-Tex. Encourage your family and friends to join you. Arrive early to get your I'm proud to work at Dal-Tex T-shirts while supplies last."

Not Very Subtle

This kind of blatant intimidation and divide and conquer strategy is reminiscent of Ashland Oil's tactics against refinery neighbors. Since Arch is the company that merged with Ashland Coal it is not surprising that this disgusting abuse arises again.

Some of the people wearing the Dal-Tex shirts did not even know what the hearing was about.

One Sharples resident commented that the only reason the miners were there was that if they didn't show up they feared that they would lose their jobs.

Miners Challenged

When he got up to speak, OVEC board member Carlos Gore challenged the people wearing the Dal-Tex shirts.

"I want to know how many of you in the green shirts live in Blair? Raise your hands. None of the green shirts raised a hand."

"Something's wrong here, isn't it?" Gore asked. "You don't live in Blair and breathe the dust every day or hear the blasting. We've got rules and regulations and the DEP is supposed to enforce them."

Carlos Gore lives in the shadow of the Dal-Tex operation in Blair and continues to be an activist we can all admire, a person who fights with the strength of his convictions, tenacity and unwavering courage.

Pep Rally or Hearing?

Other members of OVEC, residents of Blair and Secretary of State Ken Hechler made strong arguments against issuing the permit. The last person allowed to speak, scheduled by DEP, was a spokesperson from Arch Coal.

His speech, which included pointed personal attacks on those opposing the permit, sounded like he should be attending a pep rally rather than a public hearing where a community's way of life and indeed actual lives are at stake.

Although Arch Coal would not have to return the 3,100 acres of land that it destroys to its approximate original contour, the company has not applied for the variance that would give them the exemption that is required by law.

The application for the variance would have to include detailed economic uses for the post-mined land. Since this costs money, takes time and is probably impossible anyway, Arch just doesn't do it because it is said that this 3,100 acre job isn't a mountaintop removal job, even though the company intends to decapitate every single mountain included in the permit area.

We all expect this kind of subterfuge from the coal industry but is it too much to expect some integrity from our government regulators, entrusted with the protection of the people and the environment?

It is time for the DEP to stop hiding behind the vagueness of certain mining requirements, to stop coddling the coal industry and obey and administer the law.

Campaign Finance Report Fingerprints Industry Ownership of Political Process in West Virginia

People's Election Reform Coalition/WV has published the results of its campaign finance database analysis in a report format titled "1996 Election Cycle Report."

The report was released August 17, 1998, at a joint press conference held by Ohio Valley Environmental Coalition, West Virginia Citizen Research Group and Common Cause-West Virginia, in Charleston, WV, the state's capitol. Printing of the report was funded by the Affiliated Construction Trades Foundation, a coalition of building and construction trades unions.

PERC/WV's news conference was covered by all three major TV news stations, WV Associated Press and West Virginia Public Radio despite its conflict with President Clinton's grand jury appearance!

Past studies have documented the amount of money spent and its importance in winning elections in West Virginia. Documentation of the sources of these campaign moneys in the state have been lacking until now.

PERC/WV found that Big Coal gave more money than any other special interest, and their "investment" paid off during the 1997 legislative session. Over the objections of the US EPA and the state environmental protection agency, the state legislature passed a bill which the governor signed into law, that allows coal companies to fill nearly 500 acres of a watershed area before compensating the state for stream loss. This bill provides economic incentive for coal companies to destroy entire mountains

by a highly extractive form of strip mining known as mountaintop removal.

In addition, Big Coal received several important appointments to key agency positions by the governor who was a former coal executive for Island Creek Coal.

PERC/WV is continuing its campaign finance analysis and has nearly completed a new database which includes fingerprinting and analyzing by special interest the 1998 Primary Election for all House and Senate candidates. PERC-WV has found that during the 1998 primary election cycle, money is pouring in from gambling interests and believes that there will be a big push to increase legalized gambling in the Mountain State. A general meeting of PERC-WV is being planned for October in Charleston, WV, to share results of the 1998 primary analysis and to recruit new members.

The 1998 PERC/WV analysis of the general election will also include analysis of special interest giving in the race for the West Virginia Supreme Court, the only statewide race in 1998 - a classic race between a conservative Republican and a liberal Democrat.

For more information about PERC/WV contact the OVEC office at (304) 522-0246 or WV Citizen Action Group at (304) 346-5891.

Did You Know?

According to the US Fish and Wildlife Service, about 20 percent of the species on the Endangered Species list are there because of pesticide use. The pesticide carbofuran alone results in 1 to 2 million bird deaths annually, according to EPA studies.

Got a question about a pesticide? Try calling the National Pesticide Hotline: 1-800-858-7378.

Action Alert - EPA Schedules Public Hearing on Mountain Massacre Permits

On October 24, the US Environmental Protection Agency will hold a public hearing on two massive mountaintop removal permits one 2 miles south of Uneeda, Boone County, WV, and the other 2 miles northeast of Blair, Logan County, WV. The Blair mine would allow for the mining of an additional 3,000 acres, including four significant valley fills.

The hearing will be held from noon to 5 p.m. at the Savas Kostas Theater, Logan Campus of Southern West Virginia Community and Technical College.

Michael McCabe, Administrator of EPA Region III, will be conducting the hearing. Anyone interested in making oral comments during the hearing needs to contact EPA by mail or fax at: EPA Region 3 (3WP12), 1650 Arch St., Philadelphia, PA 19103, fax: (215) 814-2301 - Attn: Dan Sweeney.

For general questions concerning the permits, contact Dan Sweeney at (215) 814-5731. Written comments will also be accepted until October 24, 1998.

During the hearing each commentor will be limited to five minutes to speak.

The Logan Campus of Southern West Virginia Community and Technical College is located off Route 73 between US 119 (Corridor G) and Logan, WV. A sign marks the exit to the college from Route 73.

If you would like to speak out against the issuance of these two permits, OVEC staff are willing to fax your name to Region III. Please call the OVEC office at (304) 522-0246.

Update - Federal Agency Halts Arch Coal's Planned Massacre

As citizen outrage continues to build against mountain massacre mining, the US Environmental Protection Agency has blocked Arch Coal's subsidiary Hobet Mining Inc. from stripping 3,100 acres near Blair, WV. Although the state DEP issued the permit, Michael McCabe, Administrator for the EPA's Region III, has expressed the EPA's concern over what would be the largest strip mine in West Virginia history.

In a recent *Charleston Gazette* article by reporter Ken Ward Jr., McCabe said the Hobet permit, covers five square miles and has four valley fills, each a mile long.

In a letter to the WV DEP, Tom Maslany, the director of water protection for EPA Region III wrote that the EPA remains concerned it lacks sufficient information to evaluate potential impacts on aquatic life and habitat presented by the proposed facility and associated discharges. According to Maslany, the Hobet operation would violate state and federal water protection regulations.

The EPA has been resolute, as promised, in its examinations of the large mining permits since the mining mitigation bill was passed during the last full legislative session, despite attacks by Governor Underwood and the coal industry.

Please continue to support these efforts and voice YOUR concerns about mountaintop removal by writing to:

W. Michael McCabe - Administrator
US EPA Region III
841 Chestnut Bldg.
Philadelphia, Pa. 19107-4431

Wildlife Watching Worth \$29 Billion

Wildlife watching has flown out of the backyard bird feeder and into the Fortune 500 arena, according to a new report by the U.S. Fish and Wildlife Service. Americans spent \$29.2 billion to observe, feed, and photograph wildlife in the United States, according to the report, 1996 National and State Economic Impacts of Wildlife Watching.

If wildlife-watching were a Fortune 500 company in 1996, it would have ranked 23rd.

The total industry output for wildlife watching - the overall economic ripple effect of the \$29.2 billion Americans spent in 1996 - is an impressive \$85.4 billion, FWS Director Jamie Rappaport Clark said.

Look! Up In The Sky! It's...

Someone got their point across to Gov. Cecil Underwood in a very emphatic way on Sept. 8 in Huntington. West Virginia's governor, a leading proponent of mountaintop removal/valley fill mining, was attending the announcement of a new telemarketing company relocating to the former Arch Coal building just outside the city.

The *Herald-Dispatch* described the scene in one of its stories: "The feel-good festivities started on a shaky note for Underwood. As he arrived shortly before the ceremony, a small plane circled overhead pulling a banner that read, 'CECIL STOP MTN TOP REMOVAL.' An aide pointed to the banner. Underwood scowled."

OVEC was alerted to the protest anonymously, and staffer Janet Fout was on hand to capture this new form of mountain massacre protest so we could share it with our readers.

How Low Will They Go? Mountain Massacre Job Targets Kentucky's Highest Peak

by Aaron Bady

Black Mountain is the tallest mountain in Kentucky, peaking out at 4,139 ft. It is a part of Appalachian heritage and because of its height, it harbors a unique ecology not easily replaced and that is what the state of Kentucky proposes to do, replace it.

When Jericol Mining, Inc. announced plans for a mountaintop removal site on Black Mountain, the state didn't exactly spring into action to protect the mountain.

The state of Kentucky is trying to ram the permit through, said Dan Kash, an OVEC board member.

Kentucky is on the side of the coal companies and the concerns of the people have been

ignored, just as they have been in West Virginia, Kash said.

Black Mountain has been mined off and on for years, but mountaintop removal mining makes it a much more economical site.

But what will the state of Kentucky do when the tallest mountain in Kentucky suddenly isn't quite so tall? How will they replace the habitat of the endangered Indiana bat? There are no answers to these or many other questions.

OVEC is opposing the permit. We're gearing up with Kentuckians for the Commonwealth on opposing mountaintop removal mining on Kentucky's highest mountain, Kash said. My first reaction to hearing about this was, 'Is there nothing sacred?'

WV Tax 'Reform' May End Up Sticking the Poor - Again

by Gary Zuckett, Project EAR (Economics in the Appalachian Region, Commission on Religion in Appalachia)

As I listen to the rhetoric describing the proposal unveiled by the Governor's Fair Tax Commission, I'm reminded of the tale of the blind men describing the elephant. You know, the one who grabbed the tail likened it unto a piece of rope, he who held the trunk thought it was like a snake, the man holding the leg compared it to a tree and so forth.

This Tax Fairness proposal is just as elusive. Oh yes, the right words are being used - progressive, fairness, broad-based, relief, equitable.

Everyone agrees our tax system should possess these qualities. The question is: How do we get there from here?

Big Biz Saves

The business community, as reported by the *State Journal*, is expecting ...significant tax reductions for their state's businesses in the form of a single business tax that eliminates franchise, registration, B&O, and corporate net income tax.

Michael Caryl, vice chair of the Fair Tax Commission, claims the proposed restructuring is... certain to spell r-e-l-i-e-f for lower and moderate income individuals.

I've heard no one claim this plan will reduce the total amount of taxes collected. The state must pay its bills. If business is going to pay less and the working Joe is going to pay less, who's going to pick up the tab?

Stick it to the RICH? This I've got to see! A Republican governor asking his rich cronies to cough up more \$ out of THEIR pockets to cover his rent at the capitol....

Under Assessments

This proposal ignores a big problem. The assessment of valuable minerals (large tracts of coal, oil and gas) have been under-assessed for generations bleeding the local tax base of counties where they occur.

This problem was not addressed. The issue has been litigated in the courts for years with little justice provided. Any proposal for comprehensive tax fairness must address this issue.

The Commission is proposing to eliminate large chunks of tax revenue. How will the state replace the \$250 million hole in school funding if property taxes are eliminated?

Medicaid Endangered

Where will the \$131 million in Medicaid funding be found if the provider tax is eliminated? (This Medicaid money brings into WV over \$300 million in federal matching funds.) If these are going to be funded by a flat rate income tax and general excise tax which is

more broad based hold on to your wallet cause guess who's broad base it's coming out of!

What does broad based mean, anyhow? It means more entities pay taxes. My guess is those entities will look an awful lot like you and me.

Lord knows we need more fairness and all that stuff. It's just that when these grandfatherly types get up and say trust us, we don't have the numbers worked out but it's going to be all right, I get nightmares of old Ronald Reagan and his trickle-down economics.

His trickle down theory resulted in the largest flood of wealth up out of the pockets of the lower & middle class and into the wallets of the wealthy in this nation's history.

Marshall University is crunching the tax fairness numbers as you read this article. They will have an educated guess as to the effects of these proposals (with some real numbers to propose for tax rates for the excise, income and business tax) by the end of the year. This leaves precious little time until the issue is taken up by the state legislature in January.

Until then, what does your elephant look like???

Letter Raises Big Bucks Advertising Issue in Mountaintop Debate

In August, Arch Coal launched a statewide ad campaign that has appeared in every daily newspaper in West Virginia and most radio and television markets with this theme: mountaintop removal mining is "the right thing to do." The series of full page ads, some in full color, are a blatant attempt to desensitize Mountain State residents to the practice, which Arch is trying to rename "mountaintop mining."

Huntington resident Monty Fowler points out in a letter to the *Herald-Dispatch* that Arch Coal is engaging in the same types of public relations spin control that sister company Ashland Oil indulged during the most serious problems with its Catlettsburg, Ky., refinery.

Here is the text of the original letter:

Sept. 9, 1998

To the Editor:

How many of us have \$10,305 lying around? I don't. I'm sure most of your readers don't.

That's what Arch Coal spent in its opening salvo in an advertising war to win the hearts and minds of West Virginians and convince us mountaintop removal mining is good for us—a two-page, full-color advertisement in the Sunday, August 30, *Herald-Dispatch* and 10 other newspapers across the state.

Arch Coal's brazen attempt to downplay the obvious environmental and cultural destruction caused by mountaintop removal mining is a depressingly typical effort in corporate spin control that was previously used by corporate cousin Ashland Inc. When public opinion starts going against you, make a bold statement, even if using words like responsible and mountaintop removal mining in the same sentence is an oxymoron. And they cannot change what they are doing to our West Virginia hills simply by calling it mountaintop mining instead of mountaintop REMOVAL mining, which is what it actually is.

As of Sept. 9, Arch Coal has spent almost \$18,000 in the *Herald-Dispatch* alone on its carefully crafted infotisements, which resemble the notorious TV infomercials, without the sound track.

What a pity they won't spend that money on pre-blasting surveys and environmental mitigation.

Sincerely,
Monty Fowler

Project EAR Puts Economics in the Environmental Equation

Project EAR, Economics in the Appalachian Region, developed by the Commission on Religion in Appalachia, focuses on the need for economic transformation in Appalachia. EAR is a framework for mobilizing church, organized labor and community coalitions to work for social, economic and environmental justice in our region. OVEC, a partner in Project EAR, publicizes the connections between environmental problems here and government financial policies which encourage environmental damage.

Project EAR trainers have been reaching out to leaders in the faith community to give them a sampling of the interesting and exciting popular education workshops that EAR trainers would like to share with congregations. Economics is NOT about dollars, but values.

At these workshops, leaders of community groups also provide information regarding important issues that their on which their organizations are working.

If we are ever going to experience a just society, we must continue to build bridges between community groups, organized labor and the faith community. For more information about EAR workshops contact OVEC at (304) 522-0246.

Justice Department Says Ashland Enforcement Action Nearing Final State, Settlement Release Imminent

Since the early 1980's, one government agency or another has taken action against the Ashland Petroleum refinery (Catlettsburg, KY) for environmental violations. This resulted in negotiated settlements about every 23 years about as fast as the government is capable of acting!

But problems continued at the refinery. For years, OVEC persistently demanded that the agencies bring in the kind of technical expertise that the state and regional agencies don't tend to have. Two years ago, our efforts finally resulted in a massive inspection by a technical branch of the federal Environmental Protection Agency.

The resulting inspection report was released in September 1997, and stated that the inspection identified numerous areas of potential noncompliance under most statutes and regulations investigated. (We can provide a copy if you'd like one.)

Given the nature of the ongoing violations, the federal Department of Justice was brought in to handle the litigation.

Folks at the Justice Department hope that an enforcement settlement will be released within the next few weeks. Such a settlement will include fines for violations, and will require at least some of the technical improvements that should have been required before the facility was allowed to operate.

Most violations deal with air pollution, but there are also issues of wastewater and hazardous waste. Although the refinery is now a joint venture between Ashland and Marathon, the settlement actions will apply to Ashland alone.

In addition, the Tri-State Geographic Initiative, a joint effort by all the agencies involved, is still operating but is way behind schedule, to no one's surprise. The risk assessment study of the Kenova, WV, area, due a year ago, will not be completed for another few months. Regulators say that the study may give them the kind of scientific evidence that they need to force the kind of action that should have been taken years ago.

The Department of Justice will send OVEC a copy of the settlement when it is filed in federal court. Shortly after that, they will send out a press release.

OhVEC's Stunning New Web Pages Blows 'Em All Away

OVEC has its very own, official, World Wide Web address now, and a visually stunning and factfilled web page to go with it. The address is: <http://www.ohvec.org/> The ohvec address was chosen because ovec was already taken by the Ohio Valley Educational Cooperative in Shelbyville, Ky. Charley Kincaid of Huntington and his son, Mason, have spent countless volunteer hours creating and constructing this useful and beautiful web site.

There is information about OVEC; our issues (air, water, forests and mountains); and a comprehensive listing of other West Virginia environmental groups. Eventually, copies of recent newsletters, press releases, OVEC reports and action alerts will all be available through the web page, which is accessible to anyone in the world with a computer and modem hookup. Surf's up!

AEP - A Driving Force Behind Mountain Massacre Mining

A report from the State Journal (April 6, 1998) indicates that American Electric Power is a big player when it comes to buying lowsulfur coal from West Virginia. Between 1980 through 2005, AEP has purchased nearly 700,000 tons of coal from coal companies located in Boone, Logan, Fayette, Monongalia, Kanawha, and Fayette counties. Arch Coal has sold over 235,000 tons to AEP, nearly 35 percent of all the coal purchased by AEP from 1980-2005. That's a lot of mountaintop removal.

Think about that the next time you flip on the light switch. Other coal companies supplying AEP with coal include Pittston, Anker, Camelot, Cyprus Amax, Burco, Orion and Mountain View (must be a misnomer).

Renewable Energy Use Needs To Increase

by James Kotcon

On a large scale, the billions of tax dollars spent for research and development in nuclear and fossil fuels has provided an economic advantage that prevents renewable energy sources from capturing a large share of the market. Nevertheless, the economic divide is not as large as most expect.

New programs and utility deregulation are providing examples in numerous states where renewable sources of energy are economically viable.

The US Department of Energy (DOE) last year announced its Million Solar Roofs initiative, hoping to meet that goal by 2010.

Utilities in the Dakotas have found that demand for renewable electricity exceeds supply, even when the utility charges a premium price.

Surveys indicate that up to 20 percent of residential customers would pay 10 percent higher rates for electricity from renewable sources. While this is certainly not a majority of the market, it is a sufficiently large market to make renewables economically viable.

The DOE provides a renewables portfolio standard of 5.5 percent of electricity sold to come from renewable sources by 2010, and states such as Massachusetts and Connecticut mandate more aggressive renewables standards.

An even larger aspect of the energy issue is the need to improve energy efficiency. As a general rule, energy efficiency is several times cheaper than new energy sources.

It is clear that renewable energy is a growing trend. Here in West Virginia, the issue is whether the state will continue the monopoly of coal or will diversify its electricity sources.

Will we provide the needed education and incentives to get consumers to choose energy conservation, especially when it is their own financial interest to do so?

Or will we continue to subsidize so-called clean coal technology and promote wasteful energy consumption that benefits only utility stockholders at the expense of taxpayers and consumers?

For more information, check out the many Internet web pages. The National Renewable Energy Laboratory is a good place to start, <http://nrelinfo.nrel.gov/>

(Jim Kotcon is a Ph.D. and a professor at WVU. This article was adapted from the *WV Highlands Voice*, Sept. 1998)

Calendar of Upcoming Events

Monday-Tuesday, Oct. 5-6, Civil Rights Summit, The Road to Equality Removing the Roadblocks, Charleston Civic Center.

Friday-Sunday, Oct. 9-11, Coming Together in the Mountains. OVEC and West Virginia Highlands Conservancy Mountaintop Review weekend. Register now for a weekend of field trips, recreation, flyovers, fun and friendship. Costs are nominal. Scholarships are available. Saturday night features a panel discussion with scientists, coalfield residents and lawyers followed by a Folk Dancing and Mountain Music Extravaganza! Registration in advance is advisable to ensure enough lodging and adequate food preparation. Call OVEC at (304) 522-0246.

Friday-Saturday, Oct. 16-17, CORA (Commission on Religion in Appalachia) Assembly. Cedar Lakes, Ripley, WV. From noon Friday to noon Saturday. Janet Fout of OVEC will be the keynote speaker. Call OVEC if interested in attending.

Tuesday, Oct. 21, People's Election Reform Coalition/WV meeting. Place and time to be announced.

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