

June 2010



# Winds of Change

the newsletter of the

## Ohio Valley Environmental Coalition

Huntington, WV

www.ohvec.org

## Victory! Passing Stronger Cemetery Legislation

by Robin Blakeman

After at least three years of trying to more effectively protect cemeteries, we finally did it! This year, at OVEC's urging, citizens and members of the faith community joined forces in lobbying for the passage of HB 4457, which improves cemetery protection throughout West Virginia.

Our efforts to protect cemeteries were sparked by an increasing number of reports of cemetery desecration and blocked access to family cemeteries.

Many of the access and desecration complaints are related to mountaintop removal operations, but there are statewide problems with protecting cemeteries from natural gas



operations and other land-altering activities.

During our first three years of work, four separate bills were introduced; none resulted in new legislation, but all increased elected officials' awareness of the need to protect cemeteries.

We built allies within faith community groups and other organizations, such as genealogical societies and the WV Perpetual Care Cemetery Board. Prominent representatives from Catholic, Episcopalian, Methodist, Unitarian and Presbyterian faith groups lent support. For the past two years, the WV Council of Churches has endorsed the need for improved

cemetery protection legislation in its legislative policy guide.

During the 2009 WV legislative interims, a

*continued on page 4*

## Supreme Court Pilot Project Approved

by Carol Warren

Coalition partners of WV Citizens for Clean Elections were very encouraged when Governor Manchin announced in his State of the State address that he planned to offer legislation to establish a public financing pilot project for both Supreme Court seats to be filled in 2012.

The proposal was a result of recommendations by *continued on page 9*

**Anderson "Devil Anse" Hatfield's grave is just one of hundreds in WV overshadowed by MTR mining operations (center background).**

Please donate to the WV Council of Churches Montcoal Mining Disaster Fund to help the families of the 29 coal miners who died in the May 5 explosion at a Massey Energy mine. Donate online: [www.wvcc.org](http://www.wvcc.org), or mail a check to: WVCC, 2207 Washington St. E., Charleston WV, 25311-2218.



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# Mourning in the Mountain State - Again

*This op-ed by Denise Giardina ran April 6, 2010, in the NEW YORK TIMES*

People in West Virginia had hoped that on Monday night we would gather around televisions with family and friends to watch our beloved Mountaineers face Butler in our first chance at the men's NCAA basketball title since 1959.

Men working evening shifts in the coal mines would get to listen thanks to radio coverage piped in from the surface. Expectations ran high; even President Obama, surveying the Final Four, predicted West Virginia would win.

Then, on Tuesday morning, we would wake to triumphant headlines

in sports pages across the country. At last, we would say, something good has happened to West Virginia. The whole nation would see us in a new light. And we would cry.

Instead, halfway through Saturday night's semifinal against Duke, our star forward, Da'Sean Butler, tore a ligament in his knee, and the Mountaineers crumbled. And on Monday evening, while Duke and Butler played in what for us was now merely a game, West Virginians gathered around televisions to watch news of a coal mine disaster.

On Tuesday, the headline in the *Charleston Gazette* read instead: Miners Dead, Missing in Raleigh Explosion. And we cried.

Despite the sunny skies and unseasonably warm weather, the mood here in southern West Virginia is subdued. As of Tuesday afternoon, 25 men have been confirmed dead, two are critically injured, and four are missing and presumed dead. Their fellow West Virginians work round the clock and risk their own lives to retrieve the bodies.

Already outrage is focused on Massey Energy,

owner of the Upper Big Branch mine. Massey has a history of negligence, and Upper Big Branch has often been cited in recent years for problems, including failure to properly vent methane gas, which officials say might have been the cause of Monday's explosion.

It seems we can't escape our heritage. I grew up in a coal camp in the southern part of the state. Every day my school bus drove past a sign posted by the local coal company keeping tally, like a basketball scoreboard, of "man hours" lost to accidents. From time to time classmates whose fathers had been killed or maimed would disappear, their families gone elsewhere to seek work.

We knew then, and know now, that we are a national sacrifice area. We mine coal despite the danger to miners, the damage to the environment and the monomaniacal control of an industry that keeps economic diversity from flourishing here. We do it because America says it needs the coal we provide.

West Virginians get little thanks in return. Our miners have historically received little protection, and our politicians remain subservient to Big Coal. Meanwhile, West Virginia is either ignored by the rest of the nation or is the butt of jokes about ignorant hillbillies.

Here in West Virginia we will forget our fleeting dream of basketball glory and get about the business of mourning. It is, after all, something we do very well. In the area around the Upper Big Branch, families of the dead will gather in churches and their neighbors will come to pray with them. They will go home, and the same neighbors will show up bearing platters of fried chicken and potato salad and cakes. The funeral homes will be jammed, the mourners in their best suits and ties and Sunday dresses.

And perhaps this time President Obama and Americans will pay attention, and notice West Virginia at last.

*Denise Giardina is one of West Virginia's best known authors and an OVEC member.*

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***"I guarantee it: Massey's already told these guys, 'Hey, don't say nothin'. You're not talking to no reporters. You're not saying nothin' about our safety record – or you won't have a job' " - Chuck Nelson, former Massey miner and OVEC organizer***

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***"The bad thing here is that Massey owns (the Upper Big Branch) mine, and they've got a lot of subsidiaries," said Denny Tyler, an electrician who has contracted with Massey and now runs endmtr.com. "If you get fired from one, you're not working anywhere on Coal River ... It's a fear thing."***

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# EPA May Veto Largest MTR Mine; Environmental Justice Concerns Cited for First Time in Decision

In October 2009, the Environmental Protection Agency (EPA) announced plans to veto the Clean Water Act (CWA) permit for the largest mountaintop removal mine in West Virginia, the Spruce No. 1 Mine in Logan County.

In his *Coal Tattoo* blog, journalist Ken Ward, Jr., noted, “Environmental groups have been fighting the Spruce Mine since 1998, when it was proposed as a 3,113-acre mine that would bury more than 10 miles of streams in the Pigeonroost Hollow area near Blair.”

In 1998 the West Virginia Highlands Conservancy and Blair residents and OVEC members James and Sibby Weekley and Carlos Gore (then an OVEC board member) filed the lawsuit that came to be known as Bragg v. Robertson. Subsequent years of litigating and organizing have reduced the size of the permit and kept most of the mining from starting. Longtime members of OVEC may recall being asked numerous times to attend hearings or comment on this permit

In March 2010, the EPA took the next step toward

———— See related story on page 7 ————



**Active Spruce No. 1 Mine on the left, Pigeonroost Hollow on the right. Flyover courtesy South Wings.**

vetoing the Spruce permit by issuing its “proposed determination” to block the CWA permit issued for the Spruce No. 1 mine by the Army Corps of Engineers.

The *Charleston Gazette* reported that the EPA’s action continues a formal process – including a public comment period and a hearing – that could ultimately lead to a veto of the mine’s CWA permit, although the process could take a year or more.

In its 46-page decision and accompanying 33-page technical document, the EPA detailed its concerns about the broad-ranging negative impacts of mountaintop removal, from the burial of streams and downstream pollution to the destruction of forests and studies linking living near mining operations to premature death among Appalachian residents.

**“And for the first time in a regulatory document, the EPA cited ‘environmental justice’ concerns about whether mining unfairly foists negative impacts on low-income populations in the coalfields,”** the *Gazette* reported.

The proposed determination states, “The mountains being affected by Spruce No. 1 are considered a cultural resource by many residents. The mountains influence residents’ daily lives and in many cases have helped define Appalachian society. Removing them may have profound cultural changes on area residents, so it is important that cultural impacts be considered as well.”

This is exactly what those of us working to end mountaintop removal have been saying for years.

Via comments written and oral, we tried to get the negative effects of mountaintop removal on people included in the massive mountaintop removal/valley fill environmental impact statement (EIS) assorted agencies completed during

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OVEC is a founding member of Community Shares of West Virginia, a member of the WV Environmental Council and the Alliance for Appalachia, and a 501(c)(3) non-profit organization registered with the US Internal Revenue Service and the WV Secretary of State.

**When you're finished with this newsletter - PASS IT ON!**

## Cemetery Protection

*continued from page 1*

study resolution on cemetery protection engaged most of our attention. Joint Judiciary Sub-Committee A, co-chaired by Del. Bonnie Brown (D-Kanawha) and Sen. Herb Snyder (D-Jefferson), dealt with these issues in depth. Concerned citizens and faith community representatives attended several of these meetings and were often asked to speak about the need for improved cemetery legislation.

The result of this interim work was HB4457, drafted and introduced early in the 2010 WV legislative session and successfully passed into law in March 2010. It will take effect on July 1, 2010.

We were able to pass this bill because of the collaboration between faith community representatives, ordinary folks concerned for all family cemeteries in the state, and legislators who became engaged in the issue after hearing our passionate appeals during the 2009 interim sessions. We owe special thanks to the WV Council of Churches and Catholic Conference for their intense efforts in gaining passage of the legislation.

The following summarizes the improvements to WV Cemetery Protection Laws in HB4457:

✦ There will be a **period (10 days) during which a landholder must respond** after receiving requests from citizens who want access to a cemetery. If the landholder can't grant the citizen's request for access within that time, the landholder is required to contact the citizen to suggest alternative dates for access to the cemetery within five days from the original request.

✦ Specific **notification procedures** for use by law enforcement and elected officials are mandated, whereby anyone who has proof and knowledge of the existence of a cemetery on a property can notify the official; that official is then responsible for notifying the current landholder of the existence of that cemetery.

✦ There will now be a **stop work order if human remains or tombstones are found** while any landholder is altering the land. A person who finds the remains is required to notify appropriate officials within 48 hours, so that appropriate (according to what is already in the WV Code) care of the grave(s) can be taken.

✦ **Injunctive relief:** Citizens can ask for immediate injunctive relief without having to pay for a bond in cases where the access and desecration laws have been violated and/or when there is an immediate threat to the cemetery. (We hope to develop a "pro se" form so citizens can file their own claims without help from a lawyer.)

✦ **Broadened definitions of "desecration":** the new definition of desecration includes desecration of cemeteries in general, including knocking over, defacing or removing grave markers.

✦ A provision related to access routes that was already in the code was maintained: If a traditional access route to a cemetery is destroyed or blocked, the landholder shall designate a reasonable alternative access route.

This quote from Dustin White, a member of the Cook family, reflects the opinions of many citizens who have concerns about family cemeteries:

*"I'd like to speak on behalf of the Cook family and our ancestors; I would like to say a great "thank you" to all those who have shown their support, especially to (OVEC staff) Robin and Carol and everyone on the CPG (Cemetery Protection Group) and the strong faith community and everyone else. Without your help, we – my family and myself – would still be fighting a losing battle. While this bill may not cover all we wanted in the beginning, it's a good start. Sometimes we have to crawl before we can walk and we have much more work to do. Our job isn't over yet and I'm in it for the long haul. We've won a small victory, but the fight still rages on. May this bill be the first of many steps to protecting our loved ones passed and allow them to rest in peace."*

Further action regarding cemetery preservation will largely be determined by how well the current laws and improvements within HB4457 are enforced over the coming year. One need we have identified is for broad-sweeping public education about cemetery registration and the laws pertaining to cemetery access and preservation. To this end, OVEC staff is working on a brochure and handouts that can be used in public education settings.

**We also need individuals who have problems with access issues to "test" the provisions of this law and report back on how well those provisions are enforced and followed** by elected officials, law enforcement and landholders. Anyone who notices desecration of a cemetery should report it and follow up on those reports to see whether action is taken.

We also need to push for increased mapping and registration of cemeteries with the State Historic Preservation Office. There is much more work to be done; we need the active involvement of everyone in our network who values the cultural heritage found in our West Virginia family cemeteries. 🍌

# Breaking News (NOT an April Fool's Joke): EPA Takes “Unprecedented Steps” to Reduce Damage From Mountaintop Removal Coal Mining

The U.S. Environmental Protection Agency is releasing a bombshell: A major new guidance document that provides the coal industry and coal-state regulators with “clarity” regarding the permitting of mountaintop removal coal mining. (See [WWW.EPA.GOV/OWOW/WETLANDS/GUIDANCE/MINING.HTML](http://WWW.EPA.GOV/OWOW/WETLANDS/GUIDANCE/MINING.HTML).)

The biggest step included? EPA is warning that water pollution from these mining operations dangerously increases the electrical conductivity of streams – and setting up a much more rigorous mandate that coal operators and state mining regulators face up to this looming and long-ignored problem.

What’s that mean for mountaintop removal

permitting? Well, the short version is that EPA may block new permits or demand significant changes in mining plans where mining proposals are projected to cause (increased) conductivity downstream.

The new EPA guidance also addresses a host of other issues, from water quality monitoring to environmental justice, that are important to folks who are concerned about mountaintop removal.

**(EPA chief) Jackson was clear that this was not a blanket ban on mountaintop removal permitting and that the guidance would not apply to permits that had already** *continued on page 6*

## EPA May Veto Permit

*continued from page 3*

the Bush administration.

And, last year, OVEC joined other Appalachian groups in filing a petition to the EPA contending that the agency has failed to address the environmental justice aspects – really human rights issues – of mountaintop removal/steep-slope mining. Then, in January, seven members of the assorted groups traveled to DC (six others joined by conference call) to discuss the petition in person with officials from the EPA and other agencies and our allies Earthjustice and the Sierra Club.

Writing in the *Highlands Voice*, WV Highlands Conservancy mining chair Cindy Rank recently noted:

*“Perhaps most refreshing of all to me and others who have watched one family after another, one community after another, dissolve away in the wake of ever-expanding mountaintop removal operations is the inclusion of environmental justice considerations in the proposed Spruce veto and comprehensive guidance (see page 7).*

*“Despite countless hours of testimony and meetings and comments and discussions with members of affected communities, agencies responsible ... bypass pleas to consider just such factors ...*

*“As years go by and huge mining operations continue to expand, more and more people and communities have felt the effects of nearby mining and their voices have grown strong. Undaunted in their efforts, impacted citizens have reached deep into some amazing storehouses of strength and courage. Indefatigable in their willingness to travel great distances to meet with Congressional representatives,*


*talk with like-minded but uninformed citizens throughout the country, to share their stories in countless documentaries, publications, public hearings and media events, they have heightened the awareness that consideration of life and home and culture must be more fully and fairly accounted for in evaluating the pros and cons, the costs/benefits, the value of granting or denying mine permits that so fundamentally impact people. They have put a human face on the legal arguments to protect the environment and those who are part of that environment.”*

Rank then points us to the Federal Register Notice pertaining to the Spruce veto:

***“Although the Spruce No. 1 Draft EIS contained some information regarding environmental justice, EPA remains concerned that these issues were not adequately addressed in the Final EIS.***

*“Spruce No. 1 is located in a Census block group where the per capita income is roughly half that of the national average and \$6,000 less than the West Virginia state average. Moreover, 24 percent of the residents of Logan County live below the poverty line, which also exceeds state and national averages. Accordingly, additional analysis of the potential for disproportionately high and adverse effects on these low-income populations needs to be conducted.”*

As this issue of *Winds of Change* goes to press, we were preparing for the May 18 public hearing on the proposed veto of Spruce’s CWA permit.

Join our action alert list to hear more about this and other current events. (Click on “Action Alerts” at [WWW.OHVEC.ORG](http://WWW.OHVEC.ORG) to join.) 

## Unprecedented Steps

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**been granted.**

As the new guidance document says: It has been a high priority of this Administration – and EPA Administrator Lisa P. Jackson – to reduce the substantial environmental and human health consequences of surface coal mining in Appalachia, and minimize further impairment of already compromised watersheds.

As scientific evidence grows, EPA has a legal responsibility to address the environmental consequences of Appalachian surface coal mining.

The new EPA guidance outlined what it called the “far-reaching legacy” of damage from mining operations in Appalachia:

*Recent studies, as well as the experiences of Appalachian coalfield communities, point to new environmental and health challenges that were largely unknown even ten years ago. Since 1992, nearly 2,000 miles of Appalachian streams have been filled at a rate of 120 miles per year by surface mining practices. A recent EPA study found that nine out of every 10 streams downstream from surface mining operations were impaired based on a genus-level assessment of aquatic life.*

*Another federal study found elevated levels of highly toxic and bioaccumulative selenium in streams downstream from valley fills. These impairments are linked to contamination of surface water supplies and resulting health concerns, as well as widespread impacts to stream life in downstream rivers and streams. Further, the estimated scale of deforestation from existing Appalachian surface mining operations is equivalent in size to the state of Delaware. Appalachian deforestation*

### **OVEC WORKS!**

Thanks to everyone near and far taking action to end mountaintop removal, with an extra special thanks to all who speak out courageously. Due to the recent rising levels of threatening behavior from mountaintop removal proponents, we won't be publishing a listing of everyone we wish to thank. We hope you know how much we appreciate you. OVEC works because of you!

**THANKS!**

*has been linked to significant changes in aquatic communities as well as to modified storm runoff regimes, accelerated sediment and nutrient transport, reduced organic matter inputs, shifts in the stream's energy base, and altered thermal regimes. Such impacts have placed further stresses on water quality and the ecological viability of watersheds.*

And Lisa Jackson said in the agency's press release: **“The people of Appalachia shouldn't have to choose between a clean, healthy environment in which to raise their families and the jobs they need to support them.** That's why EPA is providing even greater clarity on the direction the agency is taking to confront pollution from mountaintop removal.”

*Excerpted from an April 1 posting on Ken Ward Jr.'s Coal Tattoo blog: [BLOGS.WVGAZETTE.COM/COALTATTOO/](http://BLOGS.WVGAZETTE.COM/COALTATTOO/)* 🌰

## **Burning the Future Documentary Tours Globe with State Department**

David Novack's documentary, *Burning the Future*, has been selected by the State Department to participate in a global tour through the American Documentary showcase, which offers a diversified look at life in the United States and the values of a democratic society as seen by American documentary filmmakers.

This tour celebrates the grassroots activism in the coalfields as an integral part of the American dialogue.

The filmmaker David Novack will attend some of these screenings abroad, where he will meet with communities facing extraction injustice and help forge a global network of carbon-based extraction activism. Mingo County members of the Sludge Safety Project, including Donetta Blankenship and B.I. Sammons, and OVEC organizer Maria Gunnoe are featured in the film. 🌰

### **Support OVEC: Party!**

If you want to do something to help OVEC grow our membership and grassroots fundraising, do the right thing and party! Go to [WWW.OHVEC.ORG](http://WWW.OHVEC.ORG), click on “Action Alerts” then click on “Host an OVEC House Party” in the sidebar. Or call the office at (304) 522-0246 and ask to be mailed the document. Consider it your complete guide to *partying with a purpose.* 🌰



# SSP in the 2010 Legislative Session



It's spring in West Virginia, and we've made it through another winter – and another session of the West Virginia Legislature.

Like last year, the Sludge Safety Project (SSP) was at the State Capitol every week, working with our allies to try to introduce and pass a bill that would ban the underground injection of coal slurry and shut down coal sludge impoundments.

Through lobbying at the fall interims, we learned just how difficult the 2010 legislative session was likely to be. SSP was told over and over to “just stay home this year” and that “2010 is going to be a bad year to do anything about coal.” When every single Delegate and Senator signed onto a joint resolution reiterating the WV Legislature’s unwavering support of coal, we saw the writing on the wall. 2010 was going to be a tough year.

Just nine months from state elections, and with

tensions running high on issues of mining, anything that could be seen as anti-coal – or that even mentioned coal – was considered dead on arrival by many legislators.

Despite the clear uphill battle, the Sludge Safety Project worked the halls of the legislature.

We spoke with our elected officials about safety concerns and the fear of looming disasters that communities have as they sit in the shadow of multi-billion gallon impoundments like the Brushy Fork Impoundment in Raleigh County.

We talked about the continued practice of underground injection of coal slurry, and the failure of the DEP to follow the Legislature’s mandate to examine the environmental impacts of that practice under Senate Concurrent Resolution No. 15. We talked about the

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## *More on the EPA Finally Addressing MTR Environmental Justice Issues*

After the EPA issued the news about its Guidance Document, OVEC organizer Stephanie Tyree sent this note to the people who traveled with her to DC to meet with officials about our concerns about how mountaintop removal is an environmental justice (EJ) issue:

“It was a real honor for me to participate in the February EJ meeting where you each spoke before the EPA, Office of Surface Mining and the U.S. Army Corps of Engineers. Multiple times in the past few days, I’ve been overwhelmed reading the new EPA guidance and seeing the requests and demands I heard each of you make during that meeting transferred onto those pages. Though it was years and years of work that built up to the agency’s action, I know your speeches were a key point on that road leading up to (this announcement from EPA).

“Thank you all for everything you do. I’m in complete awe of each of you and so, so incredibly grateful to know you.”


In her message, Stephanie forwarded Cindy Rank’s article from the front page of the April WV Highlands Conservancy newsletter. Her article has a great summary of the new EJ guidance. Here are a couple of excerpts:

“One aspect of EPA’s announcement that has caused such a firestorm is the fact that though EPA will be seeking public comment on the guidance (once it finds its way into the official Federal Register) it has also made it **EFFECTIVE IMMEDIATELY on an interim basis.**

**“Especially irksome to industry and WVDEP is the fact that EPA is not only exercising its Clean Water Act (CWA) authority to review Section 404 fill permits authorized by the Corps of Engineers (CORPS), but it is now also reviewing more closely Section 402 NPDES water discharge permits authorized by the states.** At issue is the quality of streams below fills and mine discharges.

“In accordance with its legal responsibility under the CWA to protect the nation’s waters and based on 2,000 field samples collected in West Virginia (and validated using data from Kentucky), EPA has now identified as a benchmark for protecting aquatic life a range of conductivity of 300-500 microSiemens per centimeter as the level needed to protect 95 percent of aquatic life and fresh water streams in Central Appalachia. The maximum benchmark of 500 is a measure of salinity that is roughly five times above normal levels.

“In support of these actions EPA has also released for public comment two draft scientific reports – one specifically dealing with the aquatic life conductivity benchmark – the other focuses on mountaintop removal and valley fill impacts cited in literature reviewed by EPA’s Office of Research and Development.”

OVEC’s Action Alerts will have information on how to comment on the EPA’s Guidance Document. Sign up for Action Alerts on our website, [www.OHVEC.ORG](http://www.OHVEC.ORG). 



communities located near underground injection sites that have bad water, communities having to fight for a basic right to clean drinking water – while also battling the devastation created by rampant cancer and other diseases.

And – especially – we talked about how there are alternatives to coal slurry. It is not a necessary evil, and we must shift away from it to protect West Virginians' health. We all live downstream of the polluted water flowing from underground injections and leaking sludge impoundments.

Through the continued help of our legislative allies like Del. Mike Manypenny (D-Taylor) and Sen. Randy White (D-Webster), we were able to introduce Ban Slurry bills in both the House and Senate again this year. Like last year, both bills got stuck in committee and were not able to progress to a vote.

As the process of moving these bills through committees stalled, the Sludge Safety Project worked with a new ally, Sen. Jeff Kessler (D – Marshall), to move slurry ban efforts in a new way.

Sen. Kessler, along with Sen. White and Del. Manypenny, organized a series of meetings between the Sludge Safety Project and the WV Coal Association to discuss the problem of slurry and the feasibility and urgency of switching to alternate coal processing methods.

These meetings, while private, were historic in a number of ways. Most importantly, they were the first time

SSP and the Coal Association had engaged in an open, measured and prolonged dialogue about the problems with slurry and the need to end it.

Through these meetings, we received a commitment from the Coal Association and Sen. Kessler to hold a series of hearings on coal slurry impacts and alternatives during the 2010 Interim Session.

These hearings will bring speakers from impacted communities, as well as experts in the health, economic, environmental and coal processing fields, before a Joint Legislative Committee to discuss the steps we can – and must – take as a state to stop producing slurry, start shutting down impoundments, and complete a transition to coal processing methods that do not produce toxic coal slurry.

Stay tuned for more information on the dates and agendas for these hearings.

**SSP will be providing action alerts and updates on our website, [WWW.SLUDGESAFETY.ORG](http://WWW.SLUDGESAFETY.ORG). You can also contact us by calling (304) 896-9622 or e-mailing [info@sludgesafety.org](mailto:info@sludgesafety.org).**

*Stephanie Tyree is co-coordinator of the Sludge Safety Project and a staff member with the Ohio Valley Environmental Coalition. A native of Charleston, Stephanie is happy to be back home with family and friends after spending the past nine years in Pittsburgh and New York City to attend college and law school.* 🍌

## ***Sample Some Simply Yummy Toxic Soup!***



The Sludge Safety Project, People Concerned about MIC, Student Environmental Action Coalition (SEAC) WV State University Chapter and other groups presented the Green Carpet Premier of *Toxic Soup: A Documentary With An Attitude* on May 1 at WV State University's Davis Fine Arts Theater.

*Toxic Soup* is an eco-documentary film about the health and safety of our own backyards. Focusing on everyday Americans fighting to keep their blood, water and air safe from pollution, *Toxic Soup* spotlights a number of communities being impacted by the business practices of companies like DuPont, Bayer, Ashland Oil and Massey Energy.

The struggles in Institute (storage of MIC, the chemical that killed thousands in Bhopal, India), Parkersburg (toxic C<sup>8</sup>) and Mingo County (with SSP members!), WV,

are all highlighted in the film.

You can pre-order a copy of the DVD at: [TINYURL.COM/2EZQJ7Q](http://TINYURL.COM/2EZQJ7Q). Your donation will help promote the film on the film festival circuit, as well as pay for finishing/delivery of the final cut for DVD release.

You can donate your copy to a library or a university. Please, help get our story out. Donate today ... and pass the word! See [WWW.TOXICSOUPMOVIE.COM](http://WWW.TOXICSOUPMOVIE.COM). 🍌

## **What's With This Envelope Tucked Into My *Winds of Change*?**

If you appreciate OVEC's work, please donate! We've made that easier to do by enclosing a pre-addressed envelope. **Your donations keep us at work. Thank you!** 🍌

# **We care. We Count. WE VOTE!**

## ***Pipe(r) Up for Clean Elections Victory in WV!***

*Excerpted from a note to members of the Piper Community by Marc Caplan, Program Officer at Proteus Fund and Piper Fund*

With the West Virginia legislature set to adjourn its 2010 session no later than midnight tonight, the West Virginia House a few minutes ago passed legislation which will put in place a system of public financing for both State Supreme Court races in 2012.

West Virginia thus becomes the fourth – with North Carolina, New Mexico and Wisconsin – to have passed judicial public financing.

... There is little doubt that Governor Joe Manchin making this an important piece of his 2010 legislative package was a huge boost ... But others deserve substantial credit. West Virginia Citizens for Clean Elections worked very hard inside and outside the legislature and made a great difference in this victory.

**A key long-term sponsor of the Clean Elections group is the Ohio Valley Environmental Coalition**

## **Supreme Court Pilot Project Approved**

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the Independent Commission on Judicial Reform appointed by the Governor last spring. A couple of weeks into the session, the promised bills were introduced, HB4130 and SB233. Ironically, the legislation was similar to Senate Bill 311, sponsored by Senator Jeff Kessler (D-Marshall) in 2009, but pulled by Governor Manchin so he could appoint the Commission.

HB4130 was referred to House Judiciary Subcommittee B, which seemed moderately friendly to the legislation. After several meetings to discuss the bill, the subcommittee reported it favorably to full committee, but included some changes.

Most significantly, committee members objected to requiring those who use our courts to pay an additional fee to help fund the program. These “fair administration of justice” fees would have ranged from \$10 for filings in magistrate court to \$100 on each appeal and petition filed in the Supreme Court.

It was estimated that these fees would provide \$1.2 million annually for the program, accounting for as much as half of the funding needed to meet obligations to participating candidates. Otherwise, HB 4130 was left in good shape as

(OVEC) – a major environmental group that has won national recognition for its effective opposition to mountaintop removal.

OVEC received its first grant from Piper in 1998 and has been supported by Piper almost every year since then.

Public Campaign and Common Cause used e-mail blasts to urge their members in the state to contact legislators. Justice at Stake was an important player, providing back-up support and polling that was released at the beginning of this week. The Campaign Legal Center worked with the West Virginia Senate.

This was a solid combination of effective and long-term work in-state, with considerable resources from national groups.

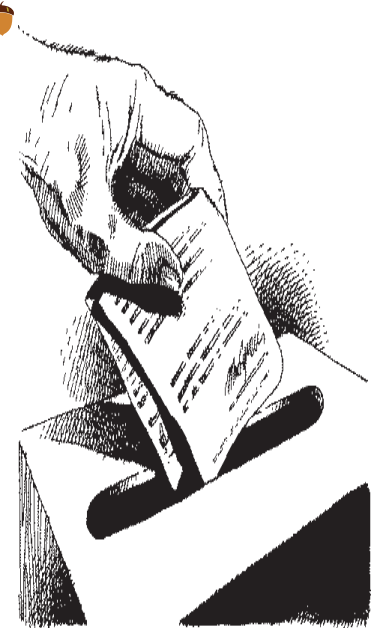
Now the advocates will evaluate their ability to get traction in 2011 on public financing for the legislature and possibly statewide races. They now have an important policy victory on which to build. 🍌

passed by the full Judiciary Committee, and coalition members went to work to get all funding restored in the House Finance Committee.

With help from supporters who contacted Finance Committee members and asked that the proposal be adequately funded, the court fees were replaced in the bill,

and a few other small changes were made. Del. Carmichael offered an amendment that the elections be made non-partisan, but the amendment was declared not germane to the proposal and failed.

Several amendments were offered to the bill during second reading, only one of which was adopted. That amendment removed the tax refund check-off option as a funding source. This was not a central funding source, and we never saw an estimate of an amount projected to be



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# We care. We Count. WE VOTE!

## Supreme Court Pilot Project

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provided by it.

The other amendments offered, which were rejected, were as follows: 1) to make the elections covered in this project non-partisan; 2) to again remove the court fees - which were taken out by Judiciary and replaced in Finance - as a funding source; and 3) to place any unspent monies at the end of the Pilot Project into the Rainy Day Fund instead of General Revenue.

There was quite a bit of debate on the floor while the bill was up for passage. There were opponents of some of the funding sources and of the philosophy of public financing in general.

One of the most eloquent defenders of the Pilot Project was longtime sponsor Del. Patrick Lane (R-Kanawha), who stated that while the perception of money's influence in legislative politics is negative, "money in the judiciary is abhorrent." At the end of the day, the Supreme Court Pilot Project (HB 4130) passed the House of Delegates by a vote of 67-30.

In the Senate, the bill was referred to Judiciary and Finance. Although there was some spirited discussion, Judiciary Chair Senator Jeffrey Kessler (D-Marshall) skillfully shepherded the Committee Substitute for HB 4130.

An amendment offered by Senator Evan Jenkins (D-Cabell), to limit the pilot to only one of the two Supreme Court seats being contested in 2012, failed. HB 4130 then moved to its final committee, the graveyard of Senate Finance.

Supporters went into nail biting mode as we waited to see whether or not Senator Walt Helmick (D-Pocahontas), the Finance Committee Chair, would take up the bill.

We learned as time was running out that the bill was likely going to be on the Finance Committee agenda, but that an amendment would be offered to remove both the court fees and the fees on attorneys, leaving the chief funding source as only the three increments of \$1 million from the Purchasing Card Administration Fund (Auditor's office).

Julie Archer and I touched base with as many coalition partners as possible to see what their sense of our strategy would be, and the majority agreed that we should see if the bill could pass out of Finance, and then try to work either with the House or with others in the future to get more funding.

Thanks to all who assisted with calls and personal contacts with Senator Helmick. He noticed. At one point during the Finance Committee meeting, he said, "Well, from what I've been hearing people like this." It was a joke, but with reality behind it.

The amendments were offered, and the bill officially passed the Finance Committee - although on a voice vote with some pretty loud "No's."

A division was requested, but Senator Helmick stated he had already called the vote. Then Senator Bowman made a motion to reconsider, which was also defeated. Quite the roller coaster!

We spoke with Senator Kessler, Judiciary Committee Chair, after the Finance Committee meeting, and he promised to do his best to ensure the project was adequately funded by whatever means he could find.

The following morning, the measure passed the Senate by a vote of 26-7! Since the bill was amended by the Senate, it had to be reported back to the House for concurrence, or a conference committee.

At about 8:30 Saturday night, late enough to make us very nervous, the House of Delegates voted 78-18 to concur with the Senate version. This sent the bill to the Governor's desk, where it was signed into law.

Congratulations and thanks to all of you who stuck with it and made this victory happen! 🍌

### Recurring Donations Help Keep OVEC's Work Going



If you agree that OVEC's work is critical to protecting West Virginia, please consider joining our recurring donors program. Go to [www.OHVEC.ORG](http://www.OHVEC.ORG), click on the "Donate" button, then click on the blue "Donate Now" button.

Recurring donations help build OVEC's sustainability and help us with our long-term planning, since we can better estimate our members' donations. Remember, donations to OVEC are tax deductible.

# We care. We Count. WE VOTE!

## *Mining Interests Are Heavily Invested in Capitol Hill*

by Dan Eggen, excerpted from April 8, 2010, Washington Post

The mining industry, which finds itself under renewed scrutiny this week after dozens of fatalities at a West Virginia coal mine, wields major political clout in Washington thanks to hefty campaign contributions to GOP lawmakers and expensive lobbying efforts aimed at blunting the impact of environment- and safety-related legislation.

Mining companies and related trade groups have sharply increased their lobbying efforts in recent years, tripling their spending from \$10.2 million in 2004 to nearly \$31 million in 2008, according to a review of lobbying disclosures by the Center for Responsive Politics (CRP), a watchdog group.

Leading spenders included Peabody Energy (\$5.8 million), Consol Energy (\$3.4 million), Arch Coal (\$2 million) and the National Mining Association, the industry's main trade group, which spent \$2.8 million on lobbying, records show.

Mining firms and their employees have also donated more than \$13 million to federal lawmakers since 2005; 74 percent of that money went to GOP candidates and about half came from industry political action committees.

The United Mine Workers of America, by contrast, donated less than \$1 million to federal candidates during the same time period, according to CRP data. All but 1 percent of that went to Democrats.

At least 25 workers died April 5 in an explosion at the Upper Big Branch Mine, owned by Richmond-based Massey Energy Co. The company's chief executive, Don Blankenship, is a highly active GOP fundraiser and bankroller who is known for his outspoken opposition to labor unions; the Upper Big Branch Mine is not unionized.

CRP calculates that individuals and PACs connected to Massey Energy have contributed more than \$300,000 to federal candidates in the past two decades, 91 percent of which went to Republicans. Top recipients include current Senate Minority Leader Mitch McConnell (R-Ky.), who

has collected \$13,550 from Massey-connected contributors, records show.

Blankenship contributed the federal maximum of \$30,400 last year to the National Republican Senatorial Committee, and he has supported Sen. James Inhofe (R-Okla.) and GOP Senate candidates Pat Toomey of Pennsylvania and Rob Portman of Ohio.

The Massey Energy chairman garnered national attention in 2004 when he contributed \$3 million to the campaign of a West Virginia judicial candidate, who later played a pivotal role in overturning

a \$50 million judgment against Massey Energy. The U.S. Supreme Court later ruled that the judge should have recused himself from the case. 🍌



## **A Eulogy for Granny D**

*Excerpted from longer remarks by Dennis Burke*

In March, Doris Haddock, who walked across the US at the age of 89 to press for changes in election campaign funding, died at her home in New Hampshire. She was 100 years old. Granny D, as she was widely known, trekked 3,200 miles in 1999 and 2000 to draw attention to the need for real campaign finance reform. OVEC helped with the West Virginia portion of Granny D's trek.

Thousands of news services, from Peterborough to Bangkok, from personal diaries to the New York Times, reported on the life and death of Doris Haddock. In her life, she did not cure a disease or end a war. She did not write ten symphonies or do whatever normally occasions such notice. So what did she do? It is worth thinking about in this moment.

It is difficult to understand why a lady from New Hampshire who did little more than take morning walks – though she sometimes did so without coming back for several years – should be so lionized in death, unless we also consider what has become of the world around her that made her exceptional by comparison. She is seen as exceptional perhaps because the rest of us have become a

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# We care. We Count. WE VOTE!

## Grannie D

*continued from page 11*

little too reticent, a little too slow-moving, in response to these times of high challenge.

A thousand people have told me that, when they reach her age, they want to be like Granny D. I have always agreed with them, but we have had it a little wrong. We must not wait until we are 90 or 100; we have to be, even today, a little more like Granny D. Our challenges will not wait for us to age.

Too often we are told what to think, even about ourselves. We are encouraged to trivialize our lives; to participate in our own reduction to mere consumers of products, passive witnesses to history. Granny D wanted to see for herself what she might become, what she might be capable of doing that was helpful to the people she loved, whom were honestly everyone. She could see no defects in others without measuring them against her own shortcomings. Her anger was real and righteous, but it was about things and actions – it never lodged in her heart for long against people, even those whose actions she most opposed.

The important thing Doris Haddock would have you remember was that she was no more special than you, and that you have the identical power and the responsibility to make a difference in the community and the world.

## Group Erects “Purple Mountains’ Majesty” at EPA Headquarters

In March, folks with Rainforest Action Network (RAN) decided: “If EPA Administrator Lisa Jackson won’t visit the Appalachian Mountains, we will bring the mountains to her.”

In an attempt to further pressure EPA Administrator Lisa Jackson to enforce the Clean Water Act and halt mountaintop removal coal mining, activists erected two 20-foot-tall, purple tripod structures (symbolizing purple mountains’ majesty) in front of the EPA’s headquarters in DC. They strung a 25-foot sign in front of the EPA’s door: “EPA: pledge to end mountaintop removal in 2010.”

The action was modeled after Climate Ground Zero’s multi-day tree-sits that happened in West Virginia to protect mountains from coal companies’ imminent blasting.

“We’re losing our way of life and our culture,” said OVEC volunteer and former deep miner Chuck Nelson, whom RAN invited to DC to support the protest. “Mountaintop removal should be banned today. The practice means total devastation for communities, the hardwood forests, the ecosystems, and the headwaters. Why should



**Raging Grannies! When Granny D walked across West Virginia in 2001, OVEC helped in myriad ways. For instance, Granny D stayed with then OVEC board member Winnie Fox. *photo by Janet Keating***

Doris would have us remember that our country is Our Town, that we each have the power and the responsibility to make a difference while we are alive, knowing that what we set in motion today will make a difference long after we are gone.

Far more important than the old bodies we find ourselves patching up and hitching along, we are each also an idea and a vision of the world. 🍓



**Majestic mountains, RAN-style, in front of the EPA. our communities sacrifice everything we have?”**

“The EPA definitely can and must do much more on mountaintop mining and that includes exercising its full regulatory authority to block every single mining permit application that seeks to remove America’s oldest mountaintops and dump the waste into waterways,” said RAN’s Kate Rooth. 🍓

## In West Virginia, a Battle Over Mountaintop Mining

by Sophia Yan, excerpted from March 12, 2010, TIME magazine

Pass through the handful of acres that make up Lindytown, WV, and you'll see empty houses, a boarded-up church, a town too minor to warrant its own post office. In this forgotten southern corner of the state, even the pine trees look sad.

Loud blasting began years ago. Massey and other large coal-producing companies like Patriot Coal, in St. Louis, employ a particularly destructive form of excavation called mountaintop mining, which exposes entire coal seams by blowing off a mountain's summit.

Some 3 million pounds of explosives are detonated each day in West Virginia for coal mining, according to the U.S. Geological Survey, and the process shears up to 800 feet of elevation off each mountain peak, says Margaret Palmer, director of the University of Maryland's Center for Environmental Science.

The black scars run visibly up the spine of the central Appalachians. And the explosions don't sound lightly: "When they put these blasts off, it's horrendous," says Maria Gunnoe, 41, of the community advocacy group Ohio Valley Environmental Coalition, who lives in Bob White, WV, 12 miles north of Lindytown. Tremors from the blasts shake houses from the ground up, and it rains sand, coal dust and other particles on surrounding areas, residents say.

More than 100 representatives of community and environmental advocacy groups showed up in Washington earlier this month to lobby for stiffer government regulation of the mining industry and a ban on mountaintop mining. Recently, representatives of the U.S. Office of Surface Mining visited Appalachia to study the effects in the area. Such mining is devastating the environment, "polluting our streams, poisoning our air and destroying our culture and heritage," says Judy Bonds, co-director of the West Virginia-based Coal River Mountain Watch.

At a Senate hearing last June, Environmental Protection Administration (EPA) official Randy Pomponio, said that the extent of damage is not yet known: "We are just beginning to understand and assign value to these ecological services."

What can be measured are chemicals like arsenic, lead, mercury, magnesium and selenium that leach into water sources from mining waste. Toxins have been found in high concentrations downstream of mountaintop mining sites, killing fish and threatening human health, according to



**A boarded up church, a looming mountaintop removal mine - Lindytown waits for death in southern WV.**

biologist Dennis Lemly of Wake Forest University. Some residents of the Lindytown area rely only on bottled spring water for drinking. "No, ma'am, we do not dare drink the tap water here," Bonds says adamantly.

In Lindytown, most area residents are long gone. They tell TIME they were muscled out of their homes by Massey, whose representatives pursued them aggressively, phoning and visiting often. By acquiring property in the area, the company has expanded operations – literally into remaining residents' backyards.

Retired miner James Smith, 74, promised himself he would never sell out, but it didn't take long for the blasts less than a mile from his home to force him to leave. He caved in late 2009 and turned over his land – likely for a hefty sum.

Spotted weeping at the local community bank, "he left a big part of him in Lindytown," says Gunnoe, whose grandfather worked with Smith. "If [the coal companies]

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# Victory! New Marsh Fork Elementary

Compiled from posts by Dana Kuhnline (The Alliance for Appalachia), OVEC staff and others

On April 30, 2010, full funding was finally secured for a new, safe Marsh Fork Elementary, to be built in the community within two years.

As Coal River Mountain Watch's Judy Bonds said, this is a victory for the entire movement for clean energy and good, local schools – it is a victory won by little kids collecting pennies all across the country, by hundreds of people – it is a victory for everyone, but especially for the kids at Marsh Fork.

On May 30, 2006, the community surrounding Marsh Fork Elementary officially began the Pennies of Promise Campaign, fighting for a new, safe elementary school in their community. The current elementary school sits below a 2.8 billion gallon toxic coal sludge dam and within 300 feet of a pollution spewing coal preparation plant owned by notorious Massey Energy.

Efforts to educate the general public about the need to move the school began years earlier, thanks to super volunteer-leaders like Bo Webb and Ed Wiley (remember, Ed walked from Charleston, WV to DC, raising awareness about Marsh Fork and meeting with Sen. Byrd in DC; we chronicled his journey here: [WWW.OHVEC.ORG/](http://www.OHVEC.ORG/)



**Even in West Virginia, this is NOT where a coal silo belongs, a few hundred feet from an elementary school.**

WHERE\_IS\_ED.HTM), and groups like Coal River Mountain Watch and OVEC, working together as the Sludge Safety Project.

Doors in the school community were knocked upon and families shared their stories about children coming home from school sick and shared their worries about standing up to Big Coal.

Going was slow at first, but eventually people stood up and stuck their necks out.

So many “outsiders” helped too – folks from Mountain Justice and Climate Ground Zero (many of these folks have now moved to the valley), took the protests to a whole new level; children and schoolteachers across the nation collected pennies; SouthWings provided hundreds of flyovers for officials, journalists, photographers and documentary makers; celebrities, scientists and foundation officers all stepped up to the plate ... so



May 2005 multi-group protest operations near the school



Coal River Valley resident Bo Webb organized community members to rally peacefully against Massey Energy's Goals Coal facility on May 24, 2005. He and Coal River Mountain Watch's Judy Bonds were arrested for trespassing after trying to give a list of demands to the plant superintendent.

**WINNING**

# ry School Funded

many individual efforts of education and outreach ... the essence of a movement.

As the Annenberg Foundation offered up the final \$2.5 million needed to fund the school, Debbie Jarrell, Ed Wiley's wife, said, "The sunshine is a little brighter today in the Coal River Valley."

During the press conference, listening to Bo Webb tell the briefest version of the work that he and others from Coal River Valley have done to get a new school, I (Dana Kuhnline) wondered how many hundreds of people have been inspired to tell the story of Marsh Fork – via blogs, over coffee, on the *Today Show*, with little kids in classrooms, in documentaries, in churches, while sitting in jail, at Rotary clubs, at Groundhogs' Day luncheons, at Senators' offices, via signs held at rallies, via T-shirts, buttons, flags, and while walking briskly alongside important people.

Lots of amazing people have been sharing incredible words today.

I liked what the Sierra Club's Bill Price said: "Led by the residents of the Coal River Valley, supported by environmental, community and human rights groups and celebrities, the 'powers that be' were no match against dedicated and persistent people."

WAY TO GO EVERYONE.

When the history of the movement against mountaintop removal is written, the victory at Marsh Fork will be remembered as a key moment. Celebrate ... celebrate ... power to the people!

Thanks to everyone who helped make a new, safer school a reality for the students of Marsh Fork Elementary.

And, as Ed Wiley told the governor, "Next time you need something done – you know to call me!" 🌰



**Long-legged Ed Wiley sets a brisk pace along Rt. 119 just hours after starting the Pennies of Promise walk from Charleston, WV to Washington, DC, in August 2006 to raise money and awareness about Marsh Fork Elementary.**



**Protest against Massey Energy's plant.**



**Hillary Hosta, arrested when the governor's office was occupied, March 16, 2007.**

*photo by Paul Corbit Brown*

# ONE FOR THE SAKE OF THE KIDS

# What a Week in Washington!

by *ILoveMountains.org*

We're pleased to tell you that the 5th Annual Week in Washington was an amazing success!

Because of the hard work of people like you – who called and e-mailed their representatives in support of the more than 200 citizen lobbyists on the ground in March in DC – we now have ten co-sponsors in the Senate for the Appalachia Restoration Act and 167 House co-sponsors of the Clean Water Protection Act. Both bills, if enacted, would go a long way toward finally ending mountaintop removal.

The diligent and persuasive citizen lobbyists who came to DC from all over the country held more than 150 scheduled meetings and over 200 drop-in visits with House, Senate, and Federal agency representatives.

Everybody, who contacted their representatives, went to DC, or who gave a contribution, made a

## Battle Over MTR

*continued from page 13*

can make life bad enough, people will be volunteering to leave.”

Public health studies suggest that people who live in mountaintop mining areas have “higher rates of lung cancer, chronic lung, heart and kidney disease mortality [and] lower birth rates” than average, possibly caused by breathing in coal dust or absorbing harmful chemicals, says Dr. Michael Hendryx, a professor of community medicine at West Virginia University, who studies health effects from mining.

Overall, the environmental impact of mountaintop mining is so traumatic, says Palmer, that she and a team of engineers, ecologists and hydrologists recommended an end to the practice in a paper published in January in the journal *Science*. They dismiss federal and state laws, including the Surface Mining Control and Reclamation Act of 1977, which oblige companies to reclaim mined land, for example, by rehabilitating natural biodiversity or rebuilding the mountain to its approximate original contour. “The impacts appear to be permanent,” says Palmer. “There is no evidence whatsoever that forest reclamation on mountaintop mine sites have been successful.”

The EPA is also keeping tabs on mining's impact, while Obama has pledged to support the development of clean energy. Activists like Bonds say attention from the top levels of the current administration helps them continue fighting at this crucial time. But for the former residents of Lindytown, WV, it may just be too little too late. 🍌



**Dustin White was one of several OVEC-affiliated folks who traveled to Washington DC for the Fifth Annual Stop Mountaintop Removal Lobby Week.**

*photo by Janet Keating*

tremendous difference. We are already seeing the waves of everyone's work ripple through the Executive and Legislative Branches of government, bringing signs of hope that the days of mountaintop removal coal mining are numbered.

Thanks loads to all the OVEC-affiliated folks who joined this Alliance for Appalachia adventure! 🍌

## Another Award for Maria

*Aaron Isherwood, Senior Staff Attorney with the Sierra Club Environmental Law Program, sent the following e-mail to assorted members of OVEC, Coal River Mountain Watch and the WV Highlands Conservancy, groups he works with here in West Virginia:*  
Subject: Congratulations, Maria!

I just returned from the huge environmental law conference in Eugene, Oregon, where Maria Gunnoe delivered a keynote address and also joined Kathy Selvage, Pat McGinley, Derek Teaney and me on two MTR panels.

Maria's keynote address was electrifying (wind-powered!) – indeed, the most powerful presentation I've seen in my 15 years of attending the conference.

She received a standing ovation at the end, and many, many people told me how deeply moved they were by her words.

I am quite confident that her speech recruited a lot of new allies who will actively help support our efforts to end MTR.

**After her presentation, the conference organizers honored Maria with the 2010 David Brower Lifetime Achievement Award**, so please join me in congratulating her! 🍌

# OVEC's Annual Meeting Brings Membership Together

In April, we held our annual meeting. Thanks to everyone who attended and extra yummy thanks to Eric Fout for making the great dinner.

Speakers Pat McGinley, Ken Hechler, Larry Gibson and Maria Gunnoe were a treat to hear. Thanks to OVEC board members Chris Worth and Joe Lung for creating our two 2010 T-shirt designs. Thanks to all board members for planning the meeting, with a deep tip of the hat to Jeff and Victoria Bosley.

Mingo County member Wilma Steele had this to say about the annual meeting: "It was great to see everyone! I will never forget it – I would call it spiritual. When Ken Hechler said, 'Justice for all,' I had chill bumps. I love him so; I had an article published in the *Williamson Daily News* last month and I told them about my hero – the one they wouldn't vote for." 🍄

## We Had a Ball at Treehuggers' Ball

On April 16, we celebrated our 18th Treehuggers' Ball. The event was co-organized by the Marshall University branch of the Student Environmental Action Coalition (SEAC). We partied at two locations, the Java Joint and the V-Club, both in Huntington.

"Bringing back Treehuggers' Ball was important to me to raise awareness of the environmental concerns going on in our backyard – the destructive nature of mountaintop removal in West Virginia," said Dan Taylor, a senior at MU and one of the SEAC co-organizers of the event.

"Plus, we wanted to have some fun while raising money for SEAC and OVEC."

Live music at the Java Joint included Family Conspiracy, Jess Graham and Karen Scalf. Local artists exhibited environmentally themed art and the Java Joint served up some great vegetarian fare.

After things wound down at the Joint, activities started up at the V-Club. OVEC board members, who

## Can't You Smell That Smell?

Hey Chemical Valley residents – smell something funny? Start keeping track of what happens when you smell something funny. Download a Pollution Log at

[WWW.PEOPLECONCERNEDABOUTMIC.COM/DOWNLOADS](http://WWW.PEOPLECONCERNEDABOUTMIC.COM/DOWNLOADS).

Also, be sure to call and report what you smell. It may be the only way a problem is detected. If you smell something, there is a leak.

**Call 24-hours-a-day: 1-800-642-3074**, and then contact People Concerned About MIC (304-389-

6859) so they know you called. 🍄



Mingo County members Terry and Wilma Steele with Kanawha County member Congressman Ken Hechler at OVEC's 2010 annual meeting.

organized the V-Club portion of the evening, were kept really busy selling our two 2010 Treehuggers' Ball T-shirts.

We had a design by OVEC board member and Huntington artist Chris Worth and another by Roane County resident and OVEC member Joe Lung.

Both shirts had the same quote from the late Granny D on the back: "*In this generation the fate of our natural environment and of our democratic environment will be decided. Only great leadership, and great love, can get us through the times ahead.*"

Musicians who entertained the crowd at V-Club were Traci Ann Stanley, a singer-songwriter from Prichard, WV, who has opened for Kenny Chesney and LeAnn Rimes; Reagan Boggs from Wise County, VA, who has twice appeared on WV Public Broadcasting's "Mountain Stage"; the Appalachian folk duo Here's to the Long Haul, a foot-stomping staple at environmental events around the region; and singer-songwriter Shayar, a Jamaican-born Beckley resident who leads the reggae band Krooshal Force.

Thanks to everyone who organized the event, to the artists and musicians and to everyone who came out to the Treehuggers' Ball! 🍄



# Would Have Been Better To Deep Six Hobet 45

by Dianne Bady

According to Dr. Dennis Lemly, a prominent national authority on selenium pollution, the Mud River watershed in Lincoln and Boone counties is on the verge of ecological collapse, due to extensive selenium contamination in streams.

The Hobet mountaintop removal complex now covers 25 square miles, and there is no solution to its continuing illegal selenium problems. Yet in January, the U.S. Environmental Protection Agency approved a permit for more mountaintop removal at the Hobet 45 mine.

This MTR expansion was approved before the U.S. EPA's new guidance on permitting mountaintop removal, and **we are hoping that Hobet 45 is not an example of how MTR permit applications will be treated by regulatory agencies in the future.**

A high-level EPA official referred to Hobet 45 as a mine that would have no impact on surface water. But much of the spoil (the stuff that used to be mountaintops) will be taken off the Hobet 45 site and dumped onto an adjacent Hobet MTR mine where selenium pollution is already a big problem. Moving more spoil there could increase the already serious selenium problem at that site.

It seems obvious that once selenium-bearing rock is crushed, there is no safe "away" to put it where it will not cause problems. Rainwater could still eventually leach selenium out of the moved spoil material.

Another technique planned for Hobet 45 is to engineer the site so that wastewater flows underneath the stream, rather than into it. This has been touted as a way to avoid contaminating the stream. But, what about the groundwater? With heavy blasting at the site, it could be expected that rock strata will crack and the wastewater will

## Cemetery Cleanup A Success

Thanks to everyone with our Cemetery Protection Group (CPG) who, in April, helped Larry Gibson clean up Stover Cemetery. Stover sits in the middle of all the mountaintop removal on Kayford Mountain.

It was a long, hard day of work for the volunteers, who felt good to honor the dead by sprucing up their final resting place, but who felt so sad to see the mountains around the graveyard laid to waste.

Graveyards may remind us that human lifetimes cycle as "ashes to ashes, dust to dust." But the landscape around graveyards should not become dust before our eyes. 🍂

flow into the groundwater.

Mining companies have already buried close to 2,000 miles of Appalachian streams beneath piles of toxic waste and debris. Entire communities have been permanently displaced by MTR mines the size of Manhattan. We sincerely hope that EPA's new guidance on mountaintop removal permitting will prevent another travesty like Hobet 45. 🍂



## Deja Vu

The more things change, the more they stay the same. The original caption on the photo above reads, "There is some local opposition to stripping the land in southeastern Ohio. Most people, however, are employed by the coal companies and are afraid any demands for reform will cost them their jobs." The date - **October, 1973!** 🍂

## Watchdog Group Offers Reward for Info Leading to Massey Convictions

STOPTHECHAMBER.COM, a watchdog group focused on corporate and government accountability, is offering a \$50,000 reward for information leading to the conviction of any Massey Energy executive for bribing federal officials.

Motivations behind the bribe can include, but are not limited to, covering up safety violations, the appointment of pro-Massey individuals in oversight positions and passing legislation that favors the coal company.

In mid-April, the group called for a criminal investigation of Massey, citing, among other allegations, a cover-up of the 2000 Martin County, KY, slurry disaster and CEO Don Blankenship's political campaign contributions and influence on the WV State Supreme Court.

The confidential tip line is 1-888-482-4627 or e-mail: [tips@velvetrevolution.us](mailto:tips@velvetrevolution.us). 🍂

## MINGO COUNTY

# We Appeal Permit Granted for Mingo Coal-To-Liquid Plant WVDEP Cutting Corners, Permit Has Inadequate Protections

In late March, state environmental groups filed an appeal of the permit for a coal-to-liquids plant proposed for Mingo County by out-of-state developer TransGas Systems.

Joining in the appeal are OVEC, Coal River Mountain Watch (CRMW), West Virginia Highlands Conservancy (WVHC) and the Sierra Club.

The appeal highlights numerous errors and problems in the WV Department of Environmental Protection's proposed permit.

A key issue in the appeal is designation of the plant as a "minor" source of pollution. Plants whose air emissions will remain under a certain threshold qualify for minor source status and do not receive the same scrutiny as major sources.

"DEP is cutting corners, making a lot of unjustified assumptions about the sulfur dioxide, nitrogen oxides, and other pollutants the plant will emit," said Jim Sconyers of the Sierra Club. "They're sweeping these under the rug so TransGas won't have to account for them."

As a "minor source" TransGas can start construction without installing the best available control technology or determining how its pollution will affect air quality in downwind areas.

## *Music Video Filmed on Kayford Mountain As Part of Campaign*

As part of the Music Saves Mountains initiative of the Natural Resources Defense Council, country music star Big Kenny filmed part of a music video on Kayford Mountain.

His new song *Wake Up* was inspired by the issue. SouthWings gave Kenny, of the country duo Big and Rich, a flyover of mountaintop-removal-scarred southern West Virginia.

OVEC board members Larry Gibson and Chuck



Nelson, along with Chuck's wife Linda, showed Kenny and NRDC's Rob Perks around Kayford Mountain.

The appeal identifies more than a dozen areas in which TransGas and DEP have underestimated the plant's emissions or relied on operating limits that can't be enforced.

"DEP's approach is 'permit now, verify later' – if at all," according to Cindy Rank of WVHC. "They should be putting public health first."

The appeal would require TransGas and DEP to reveal all expected air pollution and to include control technology to protect human and environmental health.

"With such a huge and complex plant, using untested technology, we believe DEP should take a conservative approach to safeguard people's health and welfare," said OVEC's Dianne Bady. "Nobody wants to find out too late what they're really going to be putting into our air and water."

"They don't even have a good business model," stated Vernon Haltom of CRMW. "If full disclosure of expected pollution happens in the future, the company could have to retool the whole plant. That would cancel out the dubious economic benefits touted by TransGas."

OVEC's Bady added, "The only way this plant could be built is if taxpayers help foot the bill. Our tax dollars should be going to help fund renewable energy for the long term future, not this risky coal proposal." 🌰



**Big Kenny, one of many celebrities opposed to mountaintop removal, shot a special music video at Kayford Mountain.** *photos by Rob Perks*

"Kayford likely is the most recognized symbol of Appalachia's heartbreak at the hands of rapacious mining," Perks said. 🌰

# Level Best - News Video Wins National Magazine Award

The news video *Leveling Appalachia: The Legacy of Mountaintop Removal Mining*, won the National Magazine Awards for Digital Media, beating out entries from publications such as National Geographic, Atlantic Monthly and the New York Times Style Magazine.

The video, by Chad Stevens and presented by the Yale Environment 360 website, also won the National Press

## Former Miner Says FBI Investigation Is Long Overdue

by Jessica Lilly, excerpted from April 30, 2010, WV Public Radio report

News of the FBI investigating Massey Energy, and the federal MSHA office for allegations of bribery, are bringing hope to one former coal miner.

The FBI is looking into the cause of the Upper Big Branch explosion but also into the company itself, and the federal office of Mine Safety and Health Administration. Allegations are apparently circulating that federal mine inspectors were bribed. Reports indicate that agents are looking into the possibility of criminal negligence from Massey Energy, owner of the mine.

Talk of this type of activity has circulated the coal communities for years. Chuck Nelson is a former Massey underground coal miner (and OVEC volunteer organizer). He recalls days when federal inspectors would visit the mines and monitor dust pumps.

“They were required to be with the working miner the entire shift,” he said. “There was times that they was called outside by the mine foreman, the mine superintendent or somebody who would feed them lunch and stall them for a couple or two or three hours.”

Nelson says he’s glad to see someone looking into the situation. “It’s way past due,” he said.

In a press release today, Massey Energy stated, “We are cooperating with all agencies that are investigating the tragedy at UBB.” The statement went onto say: “Massey has no knowledge of criminal wrongdoing.”

*“When despair for the world grows in me ... I come into the peace of wild things who do not tax their lives with forethought of grief. I come into the presence of still water. And I feel above me the day-blind stars waiting with their light. For a time I rest in the grace of the world, and am free.”*

- Wendell Berry, from his poem “The Peace of Wild Things”

Photographers Association 2010 Best of Photojournalism Documentary Video.

The video includes protest and mountaintop removal footage by Stevens and his interviews with Ken Hechler, Gov. Joe Manchin, Jack Spadaro, Dr. Ben Stout, DEP head Randy Huffman, a coal industry lobbyist and coalfield residents, including Anita Miller, Mike Maynor, Debbie Jarrell and Bo Webb.


Also included are photos by Brett Marshall, Daniel Shea and OVEC’s Vivian Stockman. Once again, SouthWings was there to help get the photographers and videographers airborne. Watch the video here: [e360.yale.edu/content/feature.msp?id=2198](http://e360.yale.edu/content/feature.msp?id=2198).

## Eating For OVEC Keeps Raising \$\$\$

The Eat for OVEC fundraiser continues to be a success. Thanks to everyone who has enrolled in the program for OVEC! Please keep using those gift cards when you purchase your groceries and gas at Kroger.

If you need refreshed on how to use the card, don’t have a card yet, or don’t know what the program is about, contact Maryanne at (304) 522-0246 or [maryanne@ohvec.org](mailto:maryanne@ohvec.org), or send in the coupon below. The program doesn’t cost you a penny, and it sure helps support OVEC’s work.

**YES! I want OVEC to receive 5 % of my purchases from Kroger! Please enroll me in the EAT FOR OVEC Kroger gift card program.**



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**My \$5 check is enclosed (please write Kroger Gift Card on the memo line). Send me a Kroger gift card with a \$5 balance so OVEC can start benefitting from my purchases today. Make checks payable to OVEC. Mail with this coupon to: OVEC, P.O. Box 6753, Huntington, WV 25773.**

# Groups Meet with OSM On Stream Protection Rules

by Dianne Bady

In late April, the director of the federal Office of Surface Mining, Reclamation and Enforcement (OSM) came to Charleston to meet with environmental group representatives and (separately) with coal industry officials.

Present at our meeting were Lorelei Scarbro of Coal River Mountain Watch, Julian Martin with WV Highlands Conservancy, Bill Price with the Sierra Club, Julia Sendor with Sustainable Energy and Economic Diversification (SEED) and myself.

We appreciated director Joe Pizarchik's effort to reach out to stakeholders on OSM's proposed new stream protection rules. No previous OSM director has made an effort to meet with citizens in this way.

While there are some good things in OSM's proposals, other aspects of the plan are unacceptable to us. Instead of restoring the stream buffer zone rule which was thrown out by the Bush administration, OSM announced a "holistic" approach to stream protection.

The old stream buffer rule said that no mining can take place within a hundred feet of a stream. When we asked why OSM doesn't just restore the stream buffer zone rule, Pizarchik said that it never worked.

We verbally tripped all over each other replying that it never worked because it was never enforced. Why not bring back the stream buffer zone and enforce it this time?

One aspect of OSM's plan that we liked is the addition of extensive baseline data collection before a surface mine could be permitted. Pizarchik said that he envisioned a year of data collection on hydrology, geology and the presence of specific aquatic organisms. If a permit is granted, this baseline information could be used to determine if the mine is having negative impacts. Of course, whether it would actually be used that way would depend on the political climate.

Instead of prohibiting mining within 100 feet of a stream, the OSM plan would require mining companies to demonstrate that they will be able to restore the structure and function of an impacted stream when mining is completed. This may sound good to the uninitiated, but in reality it is very troubling. In January, the most prestigious



scientific journal in the world, *Science*, ran an article by stream biologist Dr. Margaret Palmer, who clearly presented a great deal of evidence showing that it is not technically or scientifically possible to restore the functions of a stream once the stream has been destroyed. How then could mining companies claim to be able to do something that has never been done before?

Equally troubling is that the WV Department of Environmental Protection (DEP) would have the authority to decide whether a company's plan to restore the structure and function of a stream would actually work. DEP has been routinely permitting mountaintop removal (MTR) mines that don't meet legal requirements. Why would this be any different?

Another concept that may seem superficially good is a provision stating that mining-related deforested land will be restored with native species of trees and plants. I remember sitting in a federal courtroom listening to coal's forestry experts claiming that in Kentucky they had demonstrated that it is possible to grow native forest species on former MTR land.

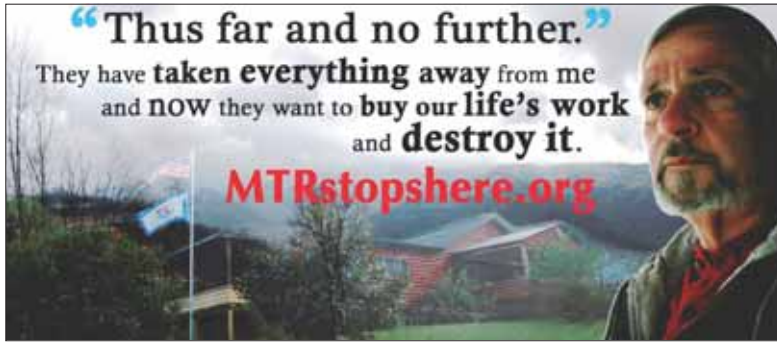
The forester pointed to test plots that he said show that this can be done. But under questioning by attorney Joe Lovett, the forestry expert had no choice but admit that the test plots differ in significant ways from an actual MTR site – ways that make it much easier for native trees to grow in the test plots. We're very critical of rules that erroneously state that after MTR is over, the land can recover to its natural state.

This serves more of a public relations function than an accurate reflection of reality.

OVEC will be working together with other groups in West Virginia and central Appalachia to respond to items of concern in OSM's new proposals. When it's time for public comments, we'll keep you informed about how you can make your voice heard.

In the meantime, please take some time to get out into the woods, the mountains, a park or even your backyard. Connecting with the beauty and peace of the natural world can not only soothe your soul, but fill you with the desire to do something to help save the grandeur that we still have in Wild, Wonderful West Virginia. 🍄

## Must the Lights Go Out on Twilight?



Twilight, Boone County, is a wonderful place to be for now. Thanks to multiple mountaintop removal and valley fill permits, Twilight is the next community on Route 26 (you've read in earlier newsletters what happened to Lindytown) to be threatened by extinction!

OVEC is interested in helping to restore the pride in southern West Virginia communities and our rural lifestyles. We have a lot to learn from mountain communities, but we can't learn anything if the communities are destroyed. Learn more, help out: [WWW.MTRSTOPSHERE.ORG/](http://WWW.MTRSTOPSHERE.ORG/). 🍄

## Marcellus Fracking, or What the Frack Is That, Jack?

by Carol Warren

A boom in gas drilling in West Virginia promises to bring jobs, profits and a chance for owners who have maintained mineral rights to "lease their way to prosperity."

The Marcellus shale layer, which in our region covers much of West Virginia, Pennsylvania, New York and Ohio, could turn the area into a major supplier of natural gas for decades to come. Early estimates from the U.S. Geological Survey suggested that 1.9 trillion cubic feet of natural gas could be made available from the Marcellus formation.

The Marcellus shale gas generally lies at least 5,000 feet underground and is often brought to the surface through a horizontal drilling process called hydraulic fracturing or "fracking." A solution made up of large amounts of water and a variety of chemicals is pumped into the ground to break, or "fracture," the surrounding layers of rock to release

the natural gas. West Virginia currently has no laws for disclosure of the chemicals in fracking fluid, nor any regulations for its use.

The process requires millions of gallons of water per well, and this water becomes laced with the chemical preparation and emerges with a high rate of salinity and dissolved solids. Although the gas companies deny that chemicals migrate into local groundwater, there have been cases in Pennsylvania in which families claim their wells were compromised.

The water must be treated in order to remove the chemicals and restore it to drinking water quality prior to its being returned to streams. In some cases in other states, water from the gas wells has been spread over nearby land for disposal, causing death of all vegetation. In attempts to treat this water, local treatment plants, usually too small to handle the volume of water or the chemicals it contains, have been degraded and damaged. Affected people complain that the resulting salinity of the local water supply has compromised dishwashers and water heaters.

The problem isn't that the chemicals can't be removed from the water, but that removal requires treatment plants using a special process intended to deal with the particular chemicals and salts present in gas well water. And the process is expensive.

Congress may be on the verge of attempting to change that status. Industry leaders are, of course, pushing back. In March, the Environmental Protection Agency announced it was launching a survey of the effects of hydraulic fracturing.

Here in West Virginia, the financial opportunities and jobs are being welcomed. But we must be vigilant to ensure that the people's water is protected. For a wealth of information on this issue, visit West Virginia Surface Owners' Rights Organization at: [WWW.WVSORO.ORG](http://WWW.WVSORO.ORG). 🍄

### GET ACTION ALERTS!

**Stay Informed by E-mail:** Join OVEC's Action Alert! e-mail list by sending an e-mail with "join list" in the subject line to [vivian@ohvec.org](mailto:vivian@ohvec.org). This is not a discussion list, so you won't be swamped with e-mails.

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

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

# What Is In YOUR Backyard? A Citizen Research Project

Our nation's energy policy requires a continued reliance on non-renewable fossil fuels and nuclear power – a policy that endangers our health, safety, national security and economic prosperity.

But the dangers from this policy are not simply global or national in nature. The dangers often occur in our own backyards. Aside from toxic emissions from coal power plants, coal ash also leaches toxins. Nuclear waste is not properly managed, and nuclear power plants that should be taken offline for safety reasons get relicensed.

The facts surrounding the dangers from coal and nuclear power and their associated waste is often buried more effectively than the waste itself.

We, therefore, need to do for ourselves what the government and those charged with protecting our health and safety have not done. We need to expose the true human costs of this energy status quo.

Collectively, we can help mobilize the country behind an era of innovation and smart investment resulting in truly clean energy for our future.

## Beyond Business as Usual: Investigating a Future without Coal and Nuclear

*Excerpted from a May 2010 report prepared by Synapse Energy Economics for the Civil Society Institute.*

The electric power industry in the U.S. is at a crossroads. The nation is struggling to develop an effective mechanism to combat climate change.

At the same time we are poised to spend hundreds of billions on new pollution controls at coal-fired power plants, and these controls will do nothing to reduce CO<sub>2</sub> emissions. Carbon capture and sequestration at coal plants is still in the demonstration stage; cost estimates are escalating.

The nation is also running headlong toward a new generation of nuclear plants. However, cost estimates for these plants are skyrocketing – again – and we still have not established a central repository for radioactive waste. This waste remains stored at nuclear plants across the country. The risk, cost and complexity of a future based on coal and nuclear power look increasingly daunting.

This study investigates a long-term, national strategy to transition away from coal and nuclear electricity and toward increased efficiency and renewable energy. The focus of the study is on what resources would be likely to replace coal-fired and nuclear generation, where they are located, and what this resource mix would cost relative to a “business as usual” energy future.

That's why theClean.org is organizing a massive online research project with people like you from all across America.

By helping us research and locate the coal waste impoundment sites, in their wet and dry forms, you can help protect your own family and community in addition to generating public support for environmental protection – something which is owed to us all.

By protecting our own health and safety, we can help usher in the kind of political pressure necessary to move policy toward an energy future that produces affordable CLEAN energy rife with jobs and manufacturing potential.

Please, get started today and participate in one of the projects detailed here: [WWW.THECLEAN.ORG/MAPPING.HTML](http://WWW.THECLEAN.ORG/MAPPING.HTML). 🍌



The study finds that a future built on more efficient use of electricity and **development of the nation's renewable resources would pose modest near-term costs but would cost less than business as usual over the long term.** Specifically, we find that by 2050:

▲ Aggressive investments in more efficient technologies in every sector could reduce electricity use by 15 percent from today's requirements, or over 40 percent from a “business as usual” scenario.

▲ **The U.S. could feasibly retire the entire fleet of coal-fired plants and build no new coal-fired generation. At the same time, we could retire over a quarter of the nation's nuclear capacity.**

▲ Tens of billions could be saved in avoided pollution control costs at the coal-fired plants retired between 2010 and 2020.

▲ Electric sector emissions of carbon dioxide would fall by 82 percent relative to predicted 2010 levels and by 83 percent relative to 2005 levels.

▲ Renewable energy, including wind, solar, geothermal and biomass, could increase throughout the nation, eventually providing half of the nation's electricity requirements.

Our hope is that this report contributes to very careful consideration of the different paths the U.S. power sector could take.

Learn more at: [WWW.THECLEAN.ORG](http://WWW.THECLEAN.ORG). 🍌

## MOUNTAIN JUSTICE? NOOOOOO ...

### *Activist Sentenced to 60 Days in Jail Over Massey Energy Incident*

In April, Kanawha County Magistrate Tim Halloran sentenced Climate Ground Zero campaigner Jacqueline Quimby to 60 days in jail after a jury found her guilty of trespass, conspiracy and obstruction for her role in a nonviolent direct action against mountaintop removal at one of Massey Energy's mega-strip mines.

This sentence is nearly three times longer than the longest of the campaign so far. This was two days after Raleigh County Circuit Court Judge Robert Burnside, Jr., found Climate Ground Zero co-founder Mike Roselle in contempt of court for violating a June 2009 preliminary injunction for his part in the Feb. 18 Marfork Mining Office occupation, while his two companions were both acquitted of contempt.

"Once again the West Virginia judicial system is stepping up its pressure to discourage people from taking nonviolent direct action to shut down criminal mining practices. This campaign has not been stopped by jail sentences or injunctions, and we will not stop until mountaintop removal ends," Roselle said.

Massey claimed and the court agreed that Roselle broke the civil injunction which added civil penalties for breaking trespassing laws and interfering with the business of Massey Energy on its subsidiary properties of Alex Energy, Marfork Mining Co., Goals Coal Co. and Performance Coal

Co. Roselle was also found guilty of recruiting both Hamsher and Smyth for the Marfork occupation. Roselle was assessed a \$3,000 fine payable to Massey for his three counts of civil contempt.

Quimby was a first-time offender with no criminal record and no previous arrests. She took the stand at her trial to explain that she had taken action because of the damage done to communities and drinking water across West Virginia. Quimby volunteers full-time with the Sludge Safety Project.

"Because of irresponsible mining, people all over West Virginia are drinking contaminated water and suffering serious health effects. People are dying. When the regulators and the courts and the lawmakers refuse to do anything to protect people, something more has to be done," Quimby said.

In issuing his ruling, Halloran said that throughout the trial he was thinking about how much money this action must have cost the coal company, leading him to conclude that serious jail time was necessary.

**Quimby will be happy to receive mail:**

**Jacqueline Quimby, 1001 Centre Way, Charleston, WV 25309-1001.**

To learn more or to contribute to legal expenses, visit [WWW.CLIMATEGROUNDZERO.ORG](http://WWW.CLIMATEGROUNDZERO.ORG). 🍌

### *No Jail for Man Over Death Threats During Kayford Mountain Incident*

Raleigh County resident Adam Pauley, who is seemingly a strident defender of mountaintop removal, was arrested in September 2009 by WV State Police after making an appearance last year at Larry Gibson's annual

Fourth of July celebration on Kayford Mountain.

The event is held for Larry's friendly kin and mountaintop removal opponents. Pauley showed up uninvited and intoxicated. He threatened to kill several people, and cursed repeatedly in the presence of children, at one point making a throat-cutting gesture at a mother and her child.

Gibson and others had to pressure the State Police – not present when the incident took place – to take action, but Pauley's behavior could not be denied – go to YouTube and search "Mountain Madness Coal." Pauley was charged with disorderly conduct, public intoxication and assault (verbal).

Pauley's trial came this year, in late February. Raleigh County Magistrate Rick Jones found Adam Pauley guilty of misdemeanor assault for threatening to cut the throat of the mother and child. Jones imposed a \$100 fine and placed Pauley on six months unsupervised probation, which he noted will extend through 2010's Fourth of July event. 🍌

### **Save Kanawha State Forest**

The Smithsonian Institution has documented more than 1,000 species of plants in Kanawha State Forest. That's indicative of our region's incredible biodiversity, which is a cornerstone of our well being.

Keystone Industries has applied (Permit S300609) for permission to remove the trees, strip the land on 600 acres and haul away the coal over a five year period. This mine permit is 300 feet from the border of Kanawha State Forest. Over 2 million cubic yards of mine waste will be dumped into tributaries of Davis Creek

Take action, learn more: [TINYURL.COM/SAVEKSF](http://TINYURL.COM/SAVEKSF) or contact Julian Martin at [martinjuol@aol.com](mailto:martinjuol@aol.com) or (304) 342-8989. 🍌



## GLOBAL WARMING / CLIMATE INSTABILITY In the Mountain State



# Global Temperatures Broke Heat Records for March

from *Environmental News Service*

The world's combined global land and ocean surface temperature made March 2010 the warmest March on record, according to federal government scientists with the National Oceanic and Atmospheric Administration, NOAA.

NOAA's finding for March was confirmed by NASA's Goddard Institute, which found the combined average global land-surface air temperature in March was a record-breaking 1.9 degrees Fahrenheit above the 20th century average.

Melanie Fitzpatrick, a climate scientist with the Union of Concerned Scientists, says the recent data are part of an overarching trend.

"The continuing warming trend of temperatures worldwide explodes the global cooling myth contrarians have been peddling for the past several years," Fitzpatrick said.

"While we can't draw strong conclusions from a single month, we know that global warming will bring more record-breaking temperatures in the future. Hot months are

just a harbinger of a future that could include more heat waves, more droughts, and species extinctions as animals attempt to migrate to colder areas and run out of habitat," she said.

"The good news is that the degree to which global warming affects our economy and environment is ultimately up to us," Fitzpatrick said. "If we significantly reduce emissions, we can avoid the worst effects of climate change." 🌱

### TAKE ACTION !

Lead the charge to reduce emissions – and create jobs! – by increasing energy efficiency and speeding the transition to cleaner renewable energy. Contact Carol Warren at (304) 522-0246 or [peacelovemom@gmail.com](mailto:peacelovemom@gmail.com) for info on how you can help spread The CLEAN resolution. See: [THECLEAN.ORG/RESOLVED.HTML](http://THECLEAN.ORG/RESOLVED.HTML).

## *Research Paper Questions Viability of Carbon Capture and Storage*

*Excerpted from April 25, 2010, article in British newspaper The Guardian*

A new research paper from American academics is threatening to blow a hole in growing political support for carbon capture and storage as a weapon in the fight against global warming.

The document from Houston University claims that governments wanting to use CCS have overestimated its value and says it would take a reservoir the size of a small US state to hold the CO2 produced by one power station.

Previous modeling has hugely underestimated the space needed to store CO2 because it was based on the "totally erroneous" premise that the pressure feeding the carbon into the rock structures would be constant, argues Michael Economides, professor of chemical engineering at Houston.

The paper concludes that CCS "is not a practical means to provide any substantive reduction in CO2 emissions, although it has been repeatedly presented as such by others." 🌱

## *When Mayflies Die, How Far Behind Are the Humans? Scientist Has Answers*

*by Ben Adducchio, excerpted from April 26, 2010, WV Public Radio report*

In the first analysis of its kind, research is showing a relationship between human cancer rates and stream health in coal mining communities.

A West Virginia University researcher has teamed up with a professor from Virginia Tech to publish a study that links human cancer mortality rates and the diversity of insects living in streams.

For the last four years, West Virginia University researcher Michael Hendryx has studied the effects of coal mining activity on the health of people living in mining areas.

His latest research is called *Ecological Integrity of Streams Related to Human Cancer Mortality Rates*.

It is co-written with Nathaniel Hitt, a

*continued on page 26*



## Mayflies

*continued from page 25*

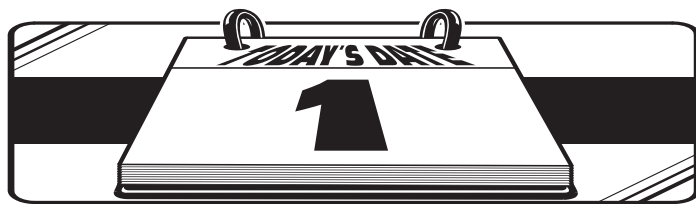
professor from Virginia Tech, and is published in the journal *Eco-Health*. Hendryx says it's the first peer-reviewed analysis of its kind.

"There's been a lot of evidence that shows that stream quality is impaired around mining activity; there's been a lot of other independent research that shows that people's health is impaired if they lived near mining activity," he said, "but there hadn't been anything that put them together yet, so that was our intent."

The study examines stream integrity, which is measured by the diversity of the insect life in the stream. The researchers use data compiled by the West Virginia Department of Environmental Protection to determine what streams in the state are impaired.

They also studied cancer mortality from the Centers for Disease Control and Prevention. The researchers conclude the ecological integrity of a stream is significantly related to public health in nearby areas.

"We also found that the areas of the state where



## CALENDAR

**June 1:** Deadline to comment on EPA's proposed veto of the Clean Water Act permit for Spruce No. 1, the largest mountaintop removal mine ever proposed for West Virginia. [ACTION.EARTHJUSTICE.ORG/CAMPAIGN/SPRUCEMINE\\_0410](http://ACTION.EARTHJUSTICE.ORG/CAMPAIGN/SPRUCEMINE_0410).

**June 22-26:** US SOCIAL FORUM II in Detroit, MI. Another World Is Possible! Another US is Necessary! [WWW.USSF2010.ORG](http://WWW.USSF2010.ORG).

**July 3-4:** Fourth of July on Kayford Mountain. Speakers will include climate scientist Dr. James Hansen and Dr. Michael Hendryx. Music will include Ben Sollee, Michael & Carrie Kline, Paige Dalporto and many more. Bring a covered dish to share. No alcohol or drugs.

**August 13:** Camp Virgil Tate, Sissonville, WV. Grassroots organizing trainings with groups who are part of the Alliance For Appalachia. Call Janet at (304) 522-0246 for more info.

**Check [WWW.OHVEC.ORG](http://WWW.OHVEC.ORG) frequently for updates!** 🍄

stream quality was poorest were the areas where coal mining activity was most intense," Hendryx said.

"So there's a relationship between greater coal mining and poorer stream quality and, in turn, poorer stream quality and increased cancer mortality."

Hendryx says the researchers controlled for three variables in the analysis: smoking, poverty, and the degree of urban development.

Taking those into consideration, the researchers still found a significant relationship between stream quality and human health.

In his eyes, West Virginia's most important public health problem is the relationship between the health of the state's population and coal mining activity. 🍄

## We All Love It: Paperwork 😊

Ah, the joy! Forms to fill in . . . OVEC has recently added two new forms to our website.

**If you volunteer for OVEC, some of your work can be considered an in-kind donation, something we need to keep track of for auditing purposes.** If you knock on doors, make calls for us, table at an event or donate your professional services (as do photographers and editors, for instance), then we need to hear from you. Please print out and e-mail or snail-mail our "volunteer form" to us. Go to [WWW.OHVEC.ORG](http://WWW.OHVEC.ORG), click on "Action Alerts" then click on the "Volunteer Form" link in the sidebar.

The other form we have online is the **Field Incident Report. Find it in the same sidebar. Use it when something happens that you need to report to authorities** – such as a slurry spill or even an act of intimidation leveled against you at, say, a public hearing.

If you don't use the internet, call the OVEC office and ask for the forms. 🍄

## *MTR Causing Forest Decline*

The April 2010 issue of *BioScience* reported on a study that finds forests in the eastern US are declining.

One factor was mountaintop removal coal mining, which has had a substantial impact on eastern land cover, contributing more than 420,000 hectares of net forest decline, the study says.

The authors comment that their findings suggest forest transitions may not plateau and stabilize after reaching a point of maximum recovery, which "has important implications for sustainability, future carbon sequestration, and biodiversity." Or for trying to "reclaim" mountaintop removal mining sites, for that matter. 🍄

# Massey's Menacing Mountain Machinations

by Deborah Griffith

Some of Massey Energy's focus on profits and the methods they use to circumvent safety regulations (which even President Obama has commented on) in underground mines appear the same when it comes to surface mines and the regulations regarding them.

If Massey disregards the lives and well-being of their own employees, what in the world makes anyone think they'd care about people living both literally and figuratively downstream: water contamination, blasting effects, floods or any of that? And, given that the company puts miners' lives at risk, a few lost species – West Virginia spiraea here, a Cerulean Warbler there – don't stand a chance of competing with Massey's bottom line.

## Journey Up Coal River Educational Website Wins Award

Journey Up Coal River ([www.JOURNEYUPCOALRIVER.ORG](http://www.JOURNEYUPCOALRIVER.ORG)), an educational, interactive multimedia website about West Virginia's Coal River Valley, is this year's recipient of the Appalachian Studies Association's e-Appalachia Website of the Year Award.

Aurora Lights was honored by this prestigious acknowledgement, which was first issued in 2002, and is

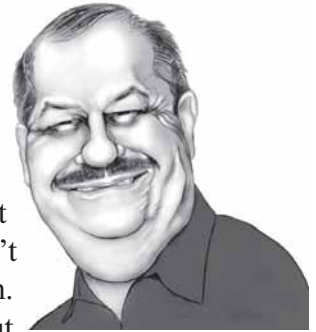
### THOUGHTS ON COAL ...

We still burn coal, so miners still go down into dark holes to get it. Sometimes those miners do not come back up. Then we pay attention to the dark holes. This week we paid attention to the Upper Big Branch mine in Montcoal, W.Va., because 25 miners died there while supporting their families by extracting coal for Massey Energy. Four more miners are missing. So attention must be paid. Accidents happen, and it's true, as Massey CEO Don Blankenship said after the tragedy, that "anything you do in life has risks." But it's also true that Massey has a history of flagrant safety violations, including a record fine after a fatal 2006 fire, and flagrant environmental violations, including a record dirty-water fine. And Blankenship is practically a caricature of a regulation-bashing, union-busting, climate-change-denying, multimillion-dollar-bonus-collecting, mustache-twirling greedhead. He says safety is his top priority, but he once wrote a memo haranguing his managers to stop worrying about anything but running coal. Anyway, some things you do in life can create risks for others. Attention must be paid to that too.

– page 13 of the April 19 issue of TIME magazine 🍌

With an underground mine disaster you have an identifiable and undeniable number of victims at one time, but the effects of surface mining can't be so easily quantified or proven. Why wouldn't Massey lie, cut corners, use legal stonewalling tactics, etc., since they usually get away with it, free and clear or with a wrist-slap fine, and keep on doing business as usual? The various environmental organizations have been dealing with this for years; now everyone can see it.

Deborah Griffith is a freelance writer and editor and a frequent volunteer editor for OVEC. 🍌



based on the content, design and mission statement of websites

dealing with Appalachia and its people. The website's participatory nature, through interactive maps, research methods, and community involvement, has resulted in a versatile and effective resource for students, teachers, activists and area residents.

Jen Osha, the project's originator and Aurora Lights' founder and director, and Charles Suggs, the site's lead designer and programmer, accepted the award in March during the association's annual conference.

"I believe that the greatest strength of this website is the participatory process that created and continues to create it," Osha said. "The contribution of many people's time and energy to this site resulted in a final product greater than the sum of all its parts."

Osha is the producer of *Moving Mountains: Voices of Appalachia* and *Still Moving Mountains: The Journey Home*, benefit albums that combine music about mountaintop removal with interviews of coalfield residents.

Sound engineer and OVEC board chair Jeff Bosley volunteered many hours for the CDs, both of which are available for purchase by following links on the Journey Up Coal River website.

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# IN MEMORIUM



**For the 31 men who have died at West Virginia coal mines so far this year - including 29 in the horrific Upper Big Branch Mine blast. Our thoughts and prayers are with the families and loved ones that you left behind when you so suddenly departed this Earth. Our hope is that both justice and true change will come from these tragedies, so the world will never again have to witness West Virginians mourning in collective grief.**

*photo by T. Paige Dalporto*