



Winds of Change

the newsletter of the

Ohio Valley Environmental Coalition

Huntington, WV

www.ohvec.org

Celebrating Victory: Patriot Coal Under Court Order to Reduce Selenium Discharges; Precedent-Setting Federal Ruling Could Bring More Pollution Reduction Orders Throughout WV

On Sept. 1, 2010, after a four-day trial, US District Judge Robert C. Chambers ordered Patriot Coal subsidiary Apogee to install a fluidized bed reactor system to reduce selenium at three water outfalls.

Judge Chambers ordered the company to post a **\$45 million** Irrevocable Letter of Credit to the federal court to pay for this system, as well as a treatment system for one outfall at Patriot’s Hobet 22 subsidiary in Lincoln County. Selenium compliance must be achieved no later than March 1, 2013.

Judge Chambers also declared Patriot Coal in **contempt of court** for its failure to comply with the terms of an earlier order he issued to the company to investigate and test selenium treatment systems.

In order to monitor, supervise and direct Apogee’s compliance, Judge Chambers appointed a Special Master,

James H. Kyles, who was recommended by one of our expert witnesses. Judge Chambers ordered Apogee to report to the Court every 30 days on its progress and to develop a written timetable to design, construct and install its pending treatment system. The Special Master appointment is crucial, since Apogee did not obey orders, which resulted in the contempt charge.

This historic ruling sets important precedent for other coal companies that they *can and must* treat their mining waste discharges to lessen the pollution of nearby streams and communities. State regulators are on notice, too, that they *must cease continually granting pollution-permit compliance extensions.*

“Let’s hope the coal companies finally realize that they should just leave high-selenium coal in the ground,”

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OVEC Members’ and Supporters’ Picnic Draws Enthusiastic Crowd



by Charlene C. Tincher and Robin Blakeman

A beautiful day at the Barbourville Community Park set the atmosphere for the OVEC members’ and supporters’ picnic on August 27.

As people gathered for the picnic, a speaker system enabled the gathering group of OVEC members and

Charlene Tincher holds up a Kroger gift card and urges everyone who shops there to sign up for OVEC’s Kroger Gift Card program. You don’t pay anything extra, but OVEC gets a percentage of all purchases you make at Krogers. See page 10 to sign up!

supporters to listen to OVEC member Ken Hechler’s guest appearance on the Tri-State Talk radio show hosted by Bobby Nelson.

Many speakers entertained and informed us later in the day, including Ken Hechler and OVEC members Larry Gibson, Jeff Bosley, Chris Worth and Michael Morrison. At one point, everyone present introduced themselves and spoke about what they are now doing to further the mission

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Study of Energy Expansion Fund Mandated by WV Legislature

by Chris Shepherd

During the September interims, the Legislature's Joint Committee on Economic Development learned about the Energy Expansion Fund (EEF). Dr. James Smith, John Christensen and I were among those testifying about ways West Virginia can implement an EEF.

As implemented in other states, Energy Expansion Funds are financing mechanisms that directly stimulate the development of renewable energy and energy-efficiency capacity, infrastructure and innovation.

Neighboring Maryland, Pennsylvania and Ohio are among the 20 states that have these dedicated funds to promote renewable energy technologies.

Through 2006, these initiatives have resulted in over 300 large-scale renewable energy (RE) installations, totaling over 3,500 MW in capacity. They've also provided

incentives for residential and small business customers to install tens of thousands of small-scale RE technologies.

New Jersey's fund, for example, has led to over 4,000 individual solar installations. Between 2004 and 2008, these state EEFs collectively invested more than \$1.67 billion in renewable energy projects and industries, and over \$4 billion more is committed in the coming decade.

Most states fund these mechanisms through a modest surcharge on every power bill. While controversial, those negligible charges could be recouped through savings realized through energy-efficiency measures installed under the fund itself. Or, West Virginia could take a page from fellow energy states like Wyoming, and directly fund an Energy Expansion Fund through a portion of severance taxes.

Clearly, West Virginia's economy could benefit from joining these states that are providing this funding support for the energies of the future by establishing a dedicated, long-term funding source.

Indeed, West Virginia is largely sitting on its hands when it comes to developing renewable energy jobs, despite a recent report by *The Wall Street Journal* that, even without

federal energy legislation, and amid a recession, renewable energy investment will nonetheless likely reach \$200 billion in 2010 alone.

Instead of sitting out this energy boom, our state could harness our expertise to unlock a multitude of further resources. West Virginia, with the third highest wind capacity in the East, has a potential 3,000 MW of available wind power. Wind is the fastest growing segment of electricity generation in the US. The federal goal is to increase wind generation eightfold over the next 20 years.

West Virginia has at least 1,000 MW of additional hydropower available, but no plan to use that resource to maximize growth and jobs.

West Virginia could also utilize old industrial sites, as Pennsylvania has done by using its EEF to develop a manufacturing site for wind turbine parts.

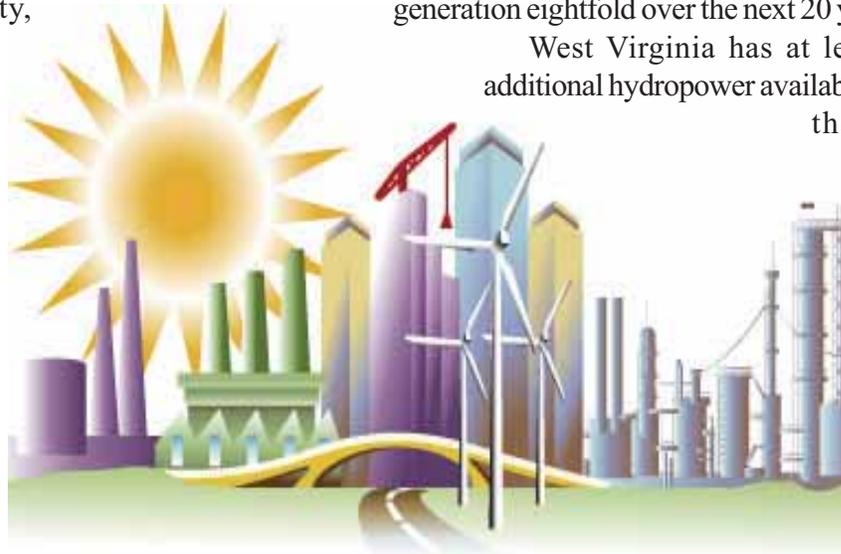
With such built-in potential, we citizens should be unwilling to let our state miss out on this burgeoning field of economic and energy development.

In fact, there is a perfect opportunity for funding a West Virginia Energy Expansion Fund in the next few years: the Worker's Compensation Tax on coal (at \$0.58 per ton) is predicted to be unnecessary in 2013.

Rather than let that source of funding from our energy wealth expire, we should redirect that fund toward ensuring that we have energy wealth in our state, not just as long as there is coal left, but into perpetuity, with the electrons this time coming not from coal, but from the sun, the wind, and other renewable resources. West Virginia has provided energy for far too long to be left out of the next energy boom.

Our political leaders would serve our state well by remembering that once they are on the grid, all electrons are equal: our elected officials should recognize that renewable energy sources are a valid form of long-term economic development in our state's economy.

Chris Shepherd is contracted by OVEC to work on community-based wind energy. 🍌



EPA's Region III Wants Historic Veto of Spruce No. 1 Mine Permit

One of the largest mountaintop removal mines ever proposed received a major setback this fall. The mine would bury more than seven miles of streams and destroy 2,300 acres of forest.

A scientific review carried out by the EPA concluded that the project, Spruce No. 1, would have “unacceptable” effects on water quality and wildlife. Based on the science, Shawn Garvin, head of EPA’s Region III, made the recommendation that his agency veto the Clean Water Act enforcement permit for the controversial mine in Logan County, WV. Garvin’s recommendation was published October 15, but was sent internally to the EPA headquarters on September 24.

In recommending the veto, Region III also considered the negative impacts the mine would have on people living nearby – impacts from blasting, valley fill discharges, truck traffic, noise, dust, habitat loss and loss of a culture based on using the mountains as a “commons.” These are environmental justice issues. Region III also noted the toll of mountaintop removal on human health.

The scientific journal *Nature* reported: *The rising tide of scientific evidence – and public protest – against mountaintop mining looks set to claim its first major victory. By the end of this year, the EPA is expected to*

revoke a permit allowing mining company Arch Coal to extract coal from the Appalachian Mountains in West Virginia. This would be the first time a permit for the controversial mining practice, long suspected of causing environmental damage, has been vetoed by the agency.

But Region III’s announcement noted: *It is important to emphasize that this is only one step in the process – EPA has not reached a final decision on this project. EPA’s next step will be to reach out to the mining company, the US Army Corps of Engineers, and West Virginia State officials to engage in discussions about potential actions that can be taken to reduce impacts to the environment and to the waters that Appalachian communities depend on for drinking, swimming and fishing.*

If EPA follows the recommendation, it will be the first time the agency has retroactively denied a mining permit. The US Army Corps granted the permit in question in 2007, *continued on page 4*

Motion to Intervene: Defending EPA from Mining Industry Interference

On Oct. 13 we filed a motion in federal court in Washington, DC, seeking to intervene in a case where a coal industry lobby group, the National Mining Association, is suing the EPA.

We seek to intervene in defense of the EPA’s new Clean Water Act and in support of the EPA/ US Army Corps of Engineers joint permit review process.

Through this process, the agencies aim to improve compliance with legal protections for mining communities in Appalachia, where waterways have already suffered extensive damage from mountaintop removal coal mining.

We filed the motion to intervene on the basis that the mining industry should not be able to prevent government agencies from doing their jobs: to follow the Clean Water Act, consider the key scientific information discussed in the guidance, and protect America’s waters from destruction.

Represented by Earthjustice, we filed the motion along with the West Virginia Highlands Conservancy, Coal River Mountain Watch, Kentuckians For The Commonwealth, Southern Appalachian Mountain Stewards, Statewide Organizing for Community eMpowerment (TN) and the Sierra Club.

In April 2010, EPA Administrator Lisa Jackson issued guidance to field staff after finding significant problems *continued on page 5*

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OVEC is a member of the WV Environmental Council and the Alliance for Appalachia, and is 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!

Selenium Discharges

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said OVEC co-director Dianne Bady. “I hope this ruling indicates to the coal industry and the regulatory agencies that mining in high-selenium seams is not economically feasible.”

According to Margaret Janes, senior policy analyst for the Appalachian Center for the Economy and the Environment, “This will be the first time selenium is treated in West Virginia, and it should be a lesson to both the DEP and the coal industry that such treatment is mandatory. The results of this case clearly show that the cost of mining high-selenium coal seams exceeds the profits.”

After the judge made these orders, Patriot Coal legally appealed Judge Chambers’ ruling to the 4th Circuit Court of Appeals.

On October 8, OVEC et. al. reached a settlement agreement with Patriot Coal, whereby Patriot **will drop its appeal** of Judge Chambers’ ruling. This agreement does NOT affect our right to legally challenge any Patriot MTR permits that may be granted.

OVEC et. al. agreed not to take any other Patriot mines to court over selenium issues before April 3, 2012, provided that Apogee constructs the selenium treatment system on schedule. (We have already filed suit against

several other Patriot surface mines for their illegal selenium discharges.) The settlement does NOT prohibit OVEC et al. from issuing a notice of intent to sue Patriot, so long as any such cases do not go to court before April 3, 2012.

As part of our settlement, **Patriot agreed to refrain from surface mining any selenium coal seams that are not currently permitted.** We retain the right to legally challenge any new permits that are granted to Patriot in selenium-bearing coal seams.

OVEC et. al. agreed not to file any new legal actions regarding Apogee’s violation of selenium limits at the outfalls over which we sued, prior to March 1, 2013 (Judge Chambers’ deadline for both Apogee’s selenium treatment system installation and compliance with selenium limits).

The settlement with Patriot does not impede our legal work. **We continue to move forward in bringing MTR companies into compliance with selenium limits.** In June, we filed lawsuits against Massey and Arch Coal subsidiaries, including Massey’s Twilight surface mine; and we are working to bring these cases to court.

Janes’ group and Public Justice are representing OVEC, as well as the WV Highlands Conservancy, Coal River Mountain Watch and Sierra Club on a number of selenium cases. 🍌

Spruce Permit Veto

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but litigation on behalf of OVEC and WV Highlands Conservancy stopped most of this planned MTR from proceeding. WVHC, along with OVEC members living nearby, **first filed suit in 1998**, when the original Spruce Mine project intended to bury more than 10 miles of streams and destroy more than 3,100 acres of forest.

Our litigation is ongoing, but was on hold while EPA conducted the review leading to the permit veto recommendation. (EPA says it received **more than 50,000 comments** during the review process.) Another stay on our lawsuit was granted in early November, giving EPA time to make its final decision.

Although the EPA has increased scrutiny of surface coal mining permits in Appalachia, it has not stopped a project. In January, the EPA approved the delayed permit for the Hobet 45 mine after the company agreed to bury three miles of stream instead of the planned six miles. In June the agency approved the permit for the Pine Creek Mine in Logan County, WV, that will destroy three miles of streams and 760 acres of hardwood forest. Upon news of the recommendation, OVEC issued this statement:

“This is a very big step toward justice for our communities. But there’s much we need to bear in mind.

*“This is the only individual mountaintop removal permit that has undergone a federal environmental impact statement. **The studies irrevocably show what community members already know – mountaintop removal destroys the water, forests and communities that are our heritage and our future.** Now, as the law provides, all other pending permits must undergo a federal environmental impact statement (which was done as a result of the 1998 lawsuit).*

“This announcement is only a preliminary recommendation. Now the Obama administration will be subject to even greater histrionics and raw bullying from the politically powerful coal industry. The administration will be intensely pressured to disregard the lives of the families impacted by mountaintop removal. “We need all Americans to pick up the phone and call the EPA and the White House, to ask both EPA Administrator Lisa Jackson and President Obama to abolish mountaintop removal once and for all.” 🍌

📞 Lisa Jackson, (202) 564-4700 📞 White House, (202) 456-1111

OVEC Picnic

continued from page 1

of OVEC.

In addition to the scheduled speakers and great food, our guests from the Pick Up America crew who happened to be in the area that day treated us to live music.

About 45 people attended the picnic, and almost all of them went home with some kind of door prize. Several people renewed their OVEC membership, and others bought Kroger gift cards. We hope they will be recharging them often as they do their shopping. It's a great way to donate to OVEC, without spending a cent more on your groceries.

Everyone had a wonderful, relaxing time, renewing and developing friendships. The membership committee would like to thank everyone who brought food and supplies



Ken Hechler and his trademark red Jeep made an appearance.

for the picnic.

Special thanks go to Charlene Tincher, for the sheer volume of yummy food she brought; to Lauren Kemp, for cooking most of our hotdogs over an extremely hot grill; and to



Good food, good times and fellowship were had by all.

Jeff Bosley, for setting up the sound system. We also greatly appreciate the folks who stayed long enough to help clean up afterwards!

Look for a Membership Committee event coming near you. For instance, we had big fun October 16 – and 12 volunteers – at our booth at the New River Gorge on Bridge Day. If you are interested in hosting an event, please contact Robin Blakeman at (304) 522-0246.

(Editor's Note: Bobby Nelson's Tri-State Talk airs from 3-4 p.m. on WRVC Radio 94.1 FM and 930 AM in the Huntington-Ashland-Ironton area. The program is also a podcast on www.wrvc.am. OVEC members and issues are frequently featured on the show.) 🌰

Defending EPA

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in the past MTR permitting process. The guidance strengthens the role of science in making decisions on mountaintop removal mining permits and states that all Clean Water Act requirements are met during the mine permitting process.

The guidance also details a range of benchmarks for pollution and other scientific information relevant to proposed permits, which would help staff measure and prevent significant and irreversible damage to Appalachian watersheds at risk from mining activity, as required by law.

Our groups, in consultation with attorneys and staff at the Appalachian Center for the Economy and the Environment, have been closely monitoring the interagency review process on mountaintop removal mining.

The National Mining Association – representing large coal mining companies – filed suit against the EPA and the Army Corps on July 20. It is challenging the EPA

guidance and the agencies' joint permit review process. Through this suit the mining industry is trying to block the EPA from exercising its basic Clean Water Act authority to ensure the consideration of important scientific information during the permitting process.

Along with the guidance, the National Mining Association is challenging the agencies' joint permit review process. In June 2009, the EPA, Department of Interior, and the Corps of Engineers issued policy documents to coordinate between the agencies, which are all involved in the permitting and review of mountaintop removal mines.

The agencies are committed to ensure coordinated and stringent environmental reviews of mine permit applications under applicable law, including the Clean Water Act, to inform the public through outreach events in the Appalachian region, to help develop federal policy, and to help diversify and strengthen the regional economy and promote the health and welfare of Appalachian communities. 🌰

Shale Shocked: Groups Meet with DEP Over Fracking

Interested citizens from a variety of environmental organizations met with Director Jim Martin and other representatives of DEP's Oil and Gas Division on Sept. 1, to discuss concerns about Marcellus Shale gas drilling.

Bill Hughes of the Wetzel County Action Group summarized the group's overall message, saying "It is far better and less costly to do things right from the beginning than to have to fix problems later. We want DEP to get it right!"

Hundreds, if not thousands, of Marcellus Shale drilling operations are contemplated for the state over the next decade, and with them will come water quality and quantity issues, as well as significant air quality concerns.

Hughes pointed out that as of now, no one knows what the air emissions from the well flares and condensate tanks contain, nor are they being monitored.

Thousands of wells could create a serious air-pollution problem if the best available technology is not required and put into use. Part of the difficulty is that under current federal statute, air emissions from gas drilling operations are exempt from the Clean Air Act – one of Dick Cheney's gifts to the industry.

Ray Renaud, also of Wetzel County Action Group, is a medical first responder. He stated that any time one of the wells there is vented after the hydraulic fracturing (fracking) process is completed, he gets an increased number of calls from people with acute respiratory problems.

Large quantities of something are coming from the wells and being flared in black clouds, but liquid escapes, too, and kills the surrounding vegetation.

Cindy Rank, a member of the WV Highlands Conservancy from Upshur County, noted that water withdrawals are a big concern.

She fears that without a permit being required for water withdrawal, the gas companies will siphon too much water from small headwater streams during periods when the flow is too low to support it. Such withdrawals would affect the water supply of households dependent upon those small streams and the wells fed by the groundwater.

Rank also mentioned the noise nearby homes must endure when the water pumps are running night and day.

OVEC staff person Carol Warren spoke about the recent frustrations experienced by people concerned about the effects of coal slurry injection. She pointed out that a large part of the problem in identifying possible ties between injection and water quality was that no baseline data existed for water in the areas of the injections sites.

She urged DEP to put a system into place for collecting baseline water quality data in the areas surrounding Marcellus Shale wells and any injection sites for produced water.

A major concern of the group was the content of the fracking fluids, which industry currently treats as "proprietary information."

All urged DEP to require that the chemicals be disclosed during the permitting process. The group also asked DEP to look into the possibility of requiring the least-toxic fracking chemicals and perhaps banning some of the most harmful ones.

Shanda Minney of WV Rivers Coalition stressed the importance of keeping records of the disposal of the produced water as well. It contains fracking chemicals and must be treated in highly specialized facilities before being released.

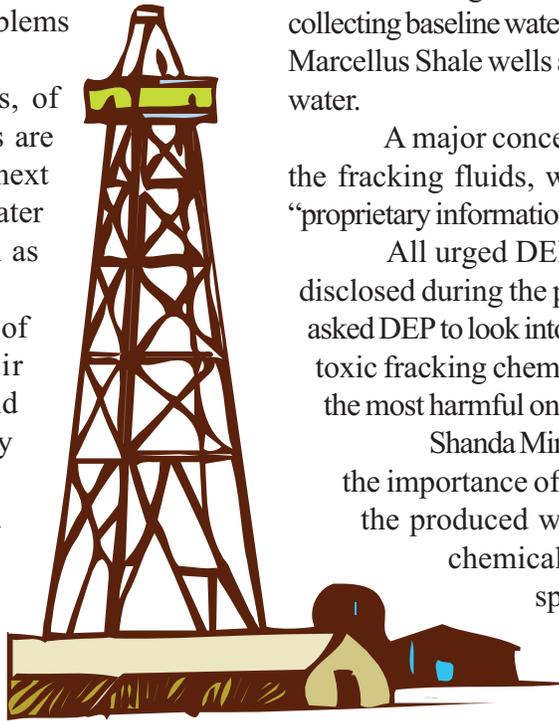
She praised DEP for currently not allowing any "land application" as a method of disposal of the produced water. It was suggested that DEP look into requiring a closed loop system for dealing with the water, to reduce water usage and to protect streams from any discharge.

Beth Little of the Sierra Club expressed to the DEP staff the concerns of people living in karst areas.

There are fears that if drilling is done through karst layers, pollution and chemicals may escape and could migrate very quickly into groundwater supplies. Citizens worry that the companies do not fully understand the implications of drilling in these sensitive areas.

The meeting was productive, with the DEP staff mostly listening and noting the groups' concerns. Director Martin assured everyone that they are aware of these issues and that everything is "on the table" at this point.

DEP is continuing to study all related topics, and will be making changes to their regulatory program to deal with the new issues posed by Marcellus Shale gas wells. Don't forget – informed, committed citizens acting together to educate and direct legislators, regulators and other decision makers are a key element of change! 🍓



DEP Says Major Plant A Minor Source of Air Pollution

On October 27 and 28, attorneys argued on our behalf before the Air Quality Board at DEP headquarters in Charleston, WV.

The AQB heard our appeal of the DEP's decision to give a "minor source" air pollution permit to a coal-to-gasoline plant proposed for Mingo County.

We believe the plant should be designated as a "major source" of air pollution, which would require more protections for human health and the environment.

In her opening statements, Sierra Club attorney Elena Saxonhouse noted that a minor-source designation means the refinery would not be required to use best available control technologies, nor would air modeling or air quality analysis be required, so impacts on local communities would be unknown.

She called DEP's decision to grant the minor-source designation "irrational" and noted that there was still time to remand and fix the permit, since financing for the plant has not yet been lined up. (That's something the Governor did not mention, when on the second day of the hearings, just days before the election, he held a press conference to announce that TranGas, the developer of the project, had selected its engineering contractors and technology provider. The Governor also failed to mention that the air permit was under appeal, no other permits had been granted.)

Saxonhouse noted that DEP left out or underestimated emissions from the flares at the plants, the cooling towers and the wastewater treatment ponds, as well as the emissions during the inevitable malfunctions.

Emissions would include carbon monoxide, carbon dioxide, volatile organic compounds, sulfur dioxide, hydrogen sulfide, ammonia, hydrogen cyanide, methanol and other hazardous air pollutants.

"The plant is a major source disguised as a minor source," Saxonhouse said, which could represent a threat to public health.

Our expert witness, Dr. Phyllis Fox, said the proposed plant would be the first plant of its kind in the United States. There are some plants around the world that



The proposed TransGas site in Mingo County as seen by Google Earth - Yep, it's on a mountaintop removal site. Can you say "subsidence"?

have similar process, but none that Fox is aware of have been permitted as minor sources of air pollution.

Fox noted that DEP failed to ask questions about claims TransGas made in its permit application, such as the constituents of the wastewater.

DEP also accepted TransGas' contention that flares at the plant could operate at 99.5 percent destruction efficiency. She said such a destruction efficiency rating is

not possible day in and day out. Any lower rate of efficiency would mean more air pollution. Further, the DEP would not know the flares' destruction efficiency because the permit DEP issued requires no testing.

Present with the Sierra Club's Saxonhouse was attorney Joe Lovett of the Appalachian Center for the Economy and the Environment. They represented OVEC, WV Highlands Conservancy and Coal River Mountain Watch.

The Air Quality Board is expected to give its decision on our appeal within a couple of months. 🌰

End-of-Year Reminder

2011 is coming up fast. Don't miss the chance to make your donation to OVEC on or before Dec. 31 to earn a charitable gift credit on your 2010 taxes. You can donate online at www.OHVEC.ORG by clicking on the "Donate" button. Or you can mail your gift to:

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

Thank you and Happy New Year! 🌰



Save Energy = Save Money and Mountains

Saving energy saves money. That's a major message from a new coalition forming around efforts to increase energy efficiency in WV. Calling itself Energy Efficient West Virginia, the group hopes to promote energy efficiency at the policy level, with the Public Service Commission, and by educating citizens. OVEC staff member Carol Warren attended the group's October 6 meeting at the office of WV Citizen Action. 🌰

New Marsh Fork Elementary School Coming!



In early November, the Raleigh County Board of Education announced that they had purchased the land and prepped the site for what will be the new Marsh Fork Elementary School.

The new property is three miles from where the school is now. The new site is not near any coal silos, coal prep plants, coal sludge impoundments or active coal mines.

The board said the school would employ green technologies and be very energy efficient. The new school should be built by fall 2012.

The *Beckley Register-Herald* opined:

Sixteen months ago, things looked bleak for the students and staff at Marsh Fork Elementary School.

The state Supreme Court had

A Decade Later Slurry Disaster Still Impacts People's Property and Lives

In October, media outlets ran stories on the 10th anniversary of the Martin County, KY, coal sludge disaster. The *Washington Post* reported:

A layer of dark goo still sits under a creek bed on Glenn Cornette's land, left over from when a coal company's sprawling slurry pond burst, blackening 100 miles of waterways and polluting the water supply of more than a dozen communities before the stuff reached the Ohio River.

A torrent as wide as a football field and six feet deep covered Cornette's property in Martin County, near the West Virginia line about 175 miles east of Louisville.

It killed all manner of plants and cut off his access to the street.

Some 300 million gallons of slurry, a byproduct of purifying coal, oozed into yards and streams for miles in what was considered one of the South's worst environmental disasters at the time.

The slurry burst through the bottom of (Massey

rejected an appeal that sought to bar Massey Energy subsidiary Goals Coal Co. from constructing a second coal storage silo less than the length of a football field from the school.

And a six-year push from local residents for a new school, away from the shadows of the silo(s) and a nearby slurry impoundment, seemed to be going nowhere.

We said then there had to be a better way, that while coal silos and preparation facilities were a fact of life in the southern West Virginia coalfields, locating them in direct proximity of public schools wasn't the best policy.

Well, much has happened since June 2009. The road to a better way is now lined not with hope and promises, but with actual progress.

Hearty congratulations to all the Coal River Valley residents and their supporters who worked so hard to get the children of Marsh Fork Elementary out of the toxic environs of the coal operations and into a healthier future – right in their community! 🍌



One of the big heroes of the campaign, Ed Wiley (center, at podium) and supporters of a new Marsh Fork Elementary School at a Sept. 2006 press conference in Washington, DC. Ed had just walked from Charleston, WV, to DC to raise awareness about the coal sludge dam, silo and prep plant by the school. Ed and his wife Debbie Jarrell had a personal meeting with Senator Byrd. photo by Vivian Stockman

Energy's) Martin County Coal Corp.'s 68-acre holding pond early on Oct. 11, 2000, sending the goo washing through an underground mine and into two creeks. The sludge blackened 100 miles of waterways, tainted towns' water supplies and killed aquatic life before reaching the Ohio River. There were no human casualties.

The *Post* noted that the federal Mine Safety and Health Administration (MSHA) really hadn't investigated the disaster properly and Massey paid only paltry fines.

Mine safety advocate Tony Oppergard told the *Post*, "It's just a matter of time before you have another failure (at a coal sludge impoundment)."

Jack Spadaro, former director of the National Mine Health and Safety Academy, told the *Post* that MSHA could do much better toward preventing future coal slurry disasters. For example, MSHA could improve engineering evaluations of potential weak spots. Instead, MSHA continues to rely on engineering data provided by coal operators, just as it did in 2000. 🍌

Gear Up for 2011 Lobbying Season:

Join SSP's Annual Legislative Kickoff Event



Are you ready to help make 2011 our most successful lobbying season yet? If you are concerned about toxic slurry injections, safe drinking water and keeping West Virginia residents safe, your voice can make a difference!

Join our Sludge Safety Project (SSP) at its upcoming Annual Legislative Kickoff on Saturday, January 15, at 2 p.m., in the Senate Judiciary Committee Room (208W) of the State Capitol, as we prepare to send a unified message to West Virginia legislators – ***Stop Toxic Slurry Injections Now!***

What's on our agenda for the New Year?

SSP has: (1) a new bill banning toxic slurry injections; (2) energized allies in the State Capitol; and (3) a verdict from West Virginia's Department of Health and Human Resources doubting the safety of slurry.

All we need now is a dedicated and excited group of SSP supporters to share their concerns with our elected officials during the 2011 Legislative Session. Our top goals are to succeed in banning slurry injections and educating our officials about:

✂ The unsafe, poorly regulated underground storage of toxic coal-processing waste.

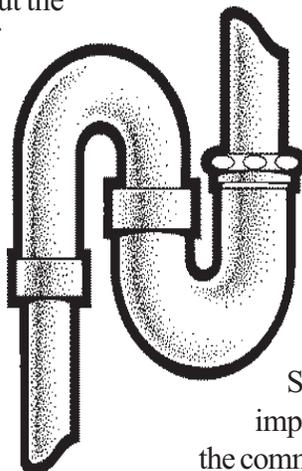
Sludge Safety Project Works on Your LOCAL Water Quality Issues

Worried about your water? Concerned about a slurry pond or sludge impoundment nearby? If you want to take action, SSP can show you how.

The Sludge Safety Project (SSP) works with West Virginia communities that are concerned about the quality of their drinking water, the safety of nearby impoundments, and the spills, breaks, and mishaps that often occur from slurry ponds. SSP is a project of OVEC, Coal River Mountain Watch and West Virginia's concerned communities.

SSP stands on the front lines of:

- *Holding coal companies accountable.*
- *Making West Virginia's DEP do its job.*
- *Ensuring that local and state decision makers hear the voices of their constituents.*
- *Educating communities about slurry-based health and safety dangers.*
- *Taking action to access clean water and improve the safety and stability of sludge impoundments.*



◆ Safe drinking water. The water of all West Virginians is worth more than the profit the coal industry gains from making slurry and injecting it underground.

✂ Safer ways to process coal. Dry techniques for processing coal create far less risk for communities and cost coal companies less than a dollar extra per ton of coal.

✂ The role of a legislator. Let your voice be heard so that legislators answer to the people of West Virginia, not just the coal industry.

This is our year to ban slurry injections! Help us make it a reality!

During SSP's Legislative Kickoff, we will celebrate successes, cover our event calendar, learn how to lobby with impact and above all – HAVE FUN!

During the 2011 Legislative Session, join SSP each week for **Thursday Slurry Lobby Days**. We'll meet every Thursday at 8:30 am in the basement cafeteria of the State Capitol for a short lobbying briefing and then an exciting day of holding our elected officials accountable!

If you would like to join the SSP listserv to stay connected with SSP updates, news and events, e-mail stephanie@sludgesafety.org or call (304) 574-6121. 🍌

How to Get Involved

SSP has numerous ways for concerned West Virginia residents to get organized and involved. Here are just a few:

Host an SSP Community Meeting for Water Rights

SSP is organizing meetings across southern West Virginia – in kitchens, churches and community centers – to talk with residents about their water rights and community safety. Invite a few friends over, and let's get together at your place next!

Organize a Movie Screening & Potluck

Host or organize a screening of the movie, **SLUDGE**, an Appalshop film about the 2000 sludge impoundment break in Martin County, Kentucky, and the community's response to that sudden disaster. This film offers valuable lessons for success in community organizing.

Contact SSP for a Coalfield Organizing Tool Kit

SSP has built a strong information base and connections

continued on page 10

Local Water Issues

continued from page 9

with key allies, locally and nationally. Our Coalfield Organizing Tool Kit gets helpful resources into the hands of people who need them most. Concerned residents receive direction and details on how to get started. Give us a call, or drop an e-mail; and we'll send a kit your way.

Contact Your Legislators to Take Action on Banning Slurry

West Virginians are suffering from bad water, disease and unsafe living situations near dangerous coal waste impoundments. **This is not acceptable, and our representatives and senators need to know the facts.** SSP is here to help you get ready to educate them and

Eating For OVEC and Raising \$\$\$

The Eat for OVEC fundraiser is an ongoing 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 a reminder 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, or just send in the coupon below with your check. *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.



Name _____

Address _____

City _____ State _____ Zip _____

Phone _____

E-mail _____

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.

share your concerns. You can also find your legislators' contact information online at www.legis.state.wv.us.



Join SSP at its Annual Legislative Kickoff as we Team Up to Send a Message to West Virginia Legislators

On Jan. 15, we will meet to celebrate our success stories, learn how to work with legislators and gear up for the 2011 Legislative Session. Details are in this newsletter. Make your voice count!

Take Action to Keep Sludge Safety Issues in the News

Did you know that you can leave a free, anonymous voice message on the "Readers Speak" line? The Charleston papers review the voice messages and sometimes print them for all to read. The number for the Gazette is (304) 357-4451, and for the Daily Mail, (304) 357-4330. Call Now!

Contact SSP:

Stephanie Tyree at (304) 574-6121 or stephanie@sludgesafety.org. 🍂

Bo Webb wins Purpose Prize



Congratulations to Bo Webb, who was one of the 2010 winners of the Purpose Prize, awarded by Civic Ventures to entrepreneurs over the age of 60 who are using their experience and passion "to make an extraordinary impact on society's biggest challenges." The group recognized Bo's accomplishments, including his huge role in obtaining funding to build a new Marsh Fork Elementary away from Massey's coal operations; his work to bring leading activists, scientists and others to West Virginia to speak out; and his protests against mountaintop removal. 🍂

Faith in Action

Seeking Rest for the Dead and Justice for the Living



Justice delayed is definitely justice denied. For at least six years, relatives of people buried in Crystal Block Cemetery in Logan County have been waiting for justice.

On September 22, the case took a step forward, as Certified Questions from Logan County Judge Roger Perry were presented to the West Virginia Supreme Court.

The WV Council of Churches and OVEC staff members Carol Warren and Robin Blakeman have been working with the family members since early this year.

A group from the council visited the cemetery, which has been heavily damaged by a gas pipeline company ripping a path through it. According to relatives, graves were disturbed and monuments knocked over and displaced. A delegation from the religious community shared a re-consecration and blessing of the site with the family in August.

The Council of Churches offered an amicus brief in the case, which stated in part:

Dignity of the human does not end with this earthly life. Respect for the dead does not end with burial, nor is it peculiar to just Christians. Respect for the dead and their hallowed graves is shared by virtually all peoples.

Having seen the level of destruction at the cemetery during visits to the site, the WVCC and OVEC attendees at the Supreme Court hearing were shocked to hear the attorney for the pipeline company, Daniel Schuda, state that the company had no idea there was a cemetery there. “It looked like a forest,” he said.

The family’s attorney, Kevin Thompson, disagreed vehemently and noted, “When a local person at the site asked the equipment operators if they knew there was a cemetery, the operators replied with racial slurs. They not

only knew there was a cemetery, they knew exactly who was buried there.”

The company’s position was that, because no one had been buried in the cemetery for 50 years, there wasn’t a fence or a sign and the grass wasn’t cut short like most perpetual-care cemeteries, the site could not be considered subject to desecration protections in the West Virginia Code.

If it’s not obviously a cemetery, then it isn’t one, was the contention. There were no notations in the land deeds about a cemetery being present, the company attorney said. However, the family has a number of documents, including death certificates, which state that the deceased was to be interred at “Crystal Block Cemetery,” proving that the local funeral homes and the State of West Virginia acknowledged that such a cemetery exists.

The attorneys also discussed which descendants, if any, have a right to file a claim for damages. The company objected to the possibility of nieces and nephews or cousins and great-grandchildren of the deceased coming out of the woodwork to seek compensation.

First, the company claimed there wasn’t a cemetery there – then, later in the argument, seemed to believe there were so many people buried there that attending to all the possible relatives’ claims could be burdensome and overly expensive!

It was difficult for the family members at the hearing to sit quietly listening to assertions that their loved ones’ place of burial did not qualify as a cemetery. A decision on the Certified Questions is expected before the end of the year. Perhaps then the family will have the jury trial they have long deserved, as well as their chance to speak. 🍂

Consol Settles With Fayette Group, Will Strengthen Pollution Controls

In September, Consol Energy Inc. settled a lawsuit by agreeing to strengthen pollution controls at a mountaintop removal mine in Fayette County, WV.

Consol’s Powellton Coal subsidiary will cut discharges of aluminum, iron and other pollutants into tributaries of the Gauley River from its Bridge Fork mine. The company will also donate \$1.2 million to the WVU

College of Law and pay \$134,000 in federal fines.

“This is a great victory not only for the streams that we depend on, but also for the Gauley River National Recreation Area and the New River National River,” Bev Walkup told the Associated Press. She’s secretary of the Ansted Historic Preservation Council, which brought the lawsuit with the Sierra Club in 2008. (Walkup is also a Sludge Safety Project volunteer.)

The College of Law donation will set up a legal clinic, which will provide legal aid to communities working to protect the New and Gauley watersheds. 🍂



www.ohvec.org

Fayette County

Living Below Mountaintop Removal, Dealing with DEP

by Lois Burnside

Greetings to all of my fellow West Virginia neighbors who are living here in our beautiful state, which was so graciously given to us thousands of years ago and now is being taken away by greedy coal operators who do not care how they affect our communities or our individual personal lives!

I live in Fayette County, in a little valley between two mountains, directly below a mining operation owned by Essar Minerals, operated by Frasure Creek Mining, LLC a Kentucky company that has an office in Scott Depot, WV.

My husband and I were told that all of the coal being blown out of the mountain above us is being shipped to India. Our lives are impacted daily by this mine, and our birthright (clean water, clean air and the forests that help maintain both), is being exported!

They have blasted as close as 1,300 feet from our home. We have had red smoke come down our hollow – their explosive material which did not detonate correctly. We have had our property flooded and damaged beyond our imagination. I would never wish living below a mountaintop removal operation upon anyone – and now they are high wall mining too.

Since 2005, we've set up and or attended numerous

meetings with so-called regulators, to no avail. Over the years, many times, when blasts or flood waters affect our property, we have contacted the Department of Environmental Protection. To my knowledge the agency has not listed all of our complaints on their public information records.

After the red dust came down our hollow, we called the DEP's Blasting Office. An employee came and took a sample. While we were waiting for this trusted employee to have this dust sample tested, we had a meeting in DEP's Oak Hill office. We learned that the sample had been passed along to another employee and was now "lost"!

After all these years, finally, this year, DEP did a little to help us, but it is too little too late compared to the damage we have incurred. We have been fighting to just ask DEP, "Say, can you help us since your mission is to help people in the state live in a healthy and safe environment?"

We are not bitter people. We are not against the people in West Virginia who make a living working for the coal mining industry.

I am the eleventh child of a coal miner who, to help feed his family in 1922, went to work when he was 10-years-old. So, I know what it means to the coal miner and his family to have that regular paycheck come in and feed their family and pay the bills. However, I believe we do need stricter laws that make the coal companies responsible for what they are doing to the state of West Virginia and to our communities!

Thank you OVEC for all of your help, especially for the education that we received from Stephanie Tyree, a dear employee who is an asset to your group. She has helped so many people – and she shows us love every time we see her. 🍂

Enduring Courage Recognized

Congratulations to the founder of Keeper of the Mountains and OVEC board member Larry Gibson, and to one of our super-volunteers, Chuck Nelson. On October 16 they both received Enduring Courage awards from Ohio Citizen Action, at the group's 35th anniversary event, held in Columbus, OH.

Filmmaker Mari-Lynn Evans presented the awards. The award is to recognize community activists who have exemplified unwavering courage in fighting for their communities. 🍂

**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, 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.

Appalachia Rising Elevates the Movement to End MTR; OVEC Members Among Those Arrested In Front of the White House



In September, OVEC members piled into vans, a bus and carpools, heading to Washington, DC.

“We went to DC because our families’ health, our communities’ survival and our heritage are at stake,” said retired deep miner and OVEC volunteer organizer Chuck Nelson.

We joined thousands of Appalachians and folks from across the nation converging in our nation’s capital for Appalachia Rising, which was organized over a period of eight months by Coal River Valley resident Bo Webb, Coal River Mountain Watch’s Andrew Munn, Mountain Justice volunteer Katey Lauer and dozens of others. Munn said OVEC was one of the core groups that helped make Appalachia Rising a success. More than 100 groups endorsed the event, which began with a massive conference held on September 25 and 26.

At the conference, OVEC members and staff co- led and participated in workshops, training sessions and meetings in which people educated one another about the challenges Appalachia now faces. Focused on building a sustainable, just and prosperous future for Appalachia, the weekend of strategizing also featured plenty of motivating speeches, amazing art, films, poetry and music.

New OVEC member Jorge Aros said in an Associated Press article about the event, “Appalachia Rising filled in a lot of the blanks for me about MTR. It brought everything together and introduced me to a lot of great people. Everyone needs to have this experience.”

The event culminated on Monday, September 27, with the Appalachia Rising Day of Action mass mobilization.

Early that morning, OVEC member Dustin White posted to his Facebook page, “Today is the big day. Today we carry the voices of Appalachia, past, present, and future, and of those who can’t be here with us. We invoke the

spirit of the land. We add them to our own voice so we can demand in one powerful voice: Mountaintop removal must stop! Appalachia is rising today and we won’t back down and we won’t be stopped ... we will be invincible!”



The White House was thronged with thousands of people from around the nation on the Appalachia Rising Day of Action mass mobilization. *photo by Jorge Aros*

Thousands took to the streets of DC with this demand: Abolish mountaintop removal! Mountaintop removal coal mining is destroying health and communities and has no place in a clean energy future. We called for investment in sustainable economic diversification of the Appalachian coalfields. OVEC members and staff were among the official spokespeople for the event. We rallied first at Freedom Plaza and then marched to the headquarters of the EPA, asking the agency to do its job. Next, we stopped by PNC Bank, a major financier of coal companies that practice MTR, where four people were arrested at an “abolish MTR financing” sit-in.

Outside the White House, where the crowd called out for the end of MTR, 114 people sat down in protest on the sidewalk. When they refused to move, they were arrested.

Those arrested included several OVEC members, folks from Coal River Mountain Watch, Kentuckians for the Commonwealth, Climate Ground Zero and Mountain Justice, and climate scientist James Hansen. At the earlier rally, Hansen said, “People have suffered a long train of abuses to enrich the few at the expense of the many.”

Reflecting on her arrest, OVEC member Charlene Tichner said, “I went to Appalachia Rising not really knowing what to expect in terms of what the group would be planning to do. When I attended the training sessions, I decided that I could join the group being arrested. There are lots of people who can’t do this for whatever reason, but I could, so I decided to do it.

“They’ve destroyed my mountain; they’ve ruined my community... the air and water where I lived is ruined. They are killing our people. How could I not stand up against that? We can do this!”

Watch for more: WWW.APPALACHIARISING.ORG.

More photos, stories, pages 14-17.

A P P



At left, in the arrest zone at the White House, standing and proudly waving the West Virginia flag is OVEC member Dustin White. Seated, OVEC member Charlene Tincher (in green OVEC shirt) and Coal River Mountain Watch's Cathy Kunkel. *photo by Wendy Johnson*
 At right, OVEC member, artist and dancer Jude Binder brought her mask, "Kayford Mountain." *photo by Vivian Stockman*



Above



APPALACHIA RISING!



APPALACHIA RISING STATEMENT OF PURPOSE

Appalachia Rising declares that *we are not a national sacrifice zone*. We will not stand idly by as we see our past and future blasted to rubble, our communities and mountains eliminated, and our neighbors poisoned as coal executives and their shareholders grow rich.

Appalachians are not, *and never will be, collateral damage*. We are proud of our coal-mining fathers, hard-working neighbors and Appalachian past, present and future!

Appalachia is endowed with abundant resources *too long plundered by outside interests*. We call for the *abolition of surface mining*, a just transition for coalfield communities, and renewed investment in a *prosperous and just economy in Appalachia*. 🌰



and below, crowd photos by Eric Loftis



OVEC member Brenda Willett and her daughter Ginny Stuckey came all the way from Nacogdoches, TX, sporting T-shirts they made themselves. Willett grew up in the mountains of Green County, TN, and simply cannot abide mountain removal. That's OVEC's executive director Janet Keating at right.

photo by Vivian Stockman



APPALACHIA RISING!

Taking the Word Right to the President

At an August press conference in Washington, DC, held to announce Appalachia Rising, OVEC board member Regina Hendrix made the following statement:

OVEC supports Appalachia Rising because our members want to carry the word to our president and our lawmakers that we will do anything possible to stop the obliteration of the communities, the history and the culture of southern West Virginia. Communities such as Blair, Lindytown, Kayford and many others have been systematically depopulated and wiped off the map.



Thousands of people thronged the streets of Washington, DC, to tell the world about mountaintop removal mining. *photo by Eric Loftis*

And Now For An Opposing View -



Sometimes the hostility towards OVEC by some in the coalfields is overt, sometimes it is more ... subtle.

Family cemeteries have been blasted away. The coal barons have a foolproof routine. The loggers come onto the cemetery and cut the trees. Then they run their skidders over the site and knock down the headstones. They either bury the markers or pile them up at the edge, so that no one can prove who is buried where.

Sure, we have state laws to prevent this, but what WV sheriff is going to enforce those laws if it means standing up to the coal companies? As Dianne Bady, OVEC's founder, says, 'In the coalfields even the dead can't rest in peace.'

This hurts and angers me because I, like most other Appalachians, have an abiding love for the land where I was born and grew up.

When I first entered the workaday world in the mid-1950s, there were few job opportunities in West Virginia, unless you wanted to be a coal miner, that is. So, I began my 43-year economic exile right here in Washington, DC, always with the intent of returning to my home.

After I retired and returned to West Virginia in 1998, I first thought nothing much had changed, except I noticed that the economy was much more distressed and the population was much smaller than when I had left in the mid-1950s.

Then, I began to look around for the reason. It didn't take long for me to discover the dirty little secret of mountaintop removal, which has defiled our land and ruined West Virginia's economy. I've been an activist ever since. I won't stop until mountaintop removal stops. 🌰

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

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

APPALACHIA RISING!

Poet and OVEC Member Bob Henry Baber

In 1977, when I was 27 years old, I joined a group of local and regional activists who went to the portals of then-unionized mines in order to get the miners to strike in support of flood relief in Williamson – flooding many of us believed was aggravated by strip-mining.

We were scared, standing there in the darkness at 5 a.m. asking miners to give up a day's pay to help their homeless sisters and brothers. One by one, they pulled up in their trucks and asked us what we were picketing for. But before we had a chance to answer they said, "We already know, and we're with you."

No miners worked in southern West Virginia that day. On the 7 p.m. national news we learned that the HUD emergency trailers parked above town would indeed be allowed in the flood plain for hundreds of displaced people. I'll never forget the tears of joy we felt when, in the early morning of that long day, we returned one by one to Williamson to recount the solidarity, and awe, we felt to be Appalachian.

WV Council of Churches Holds Annual Dinner For Unity; Mattea Attends

The WV Council of Churches held its 130th Anniversary Unity Dinner on September 16. WV native and two-time Grammy winner Kathy Mattea performed and spoke at the event.

Rev. Dennis Sparks, WVCC executive director, said "We chose her because we have built a partnership, working together on the issues of reconciliation in the area and the conflict centered on mountaintop removal."

Mattea said her relationship with WVCC began with shared concerns about the potential for violence in the debate about mountaintop removal. Sparks and Mattea's goal is to help people understand each other's point of view, in order to promote civil discourse and understanding.

At Appalachia Rising, I felt that feeling for the first time in a third of a century, and it made me cry!

We threw a huge locust log on the simmering fire of Appalachian justice that will burn long, hot

and hard – and will bring both insiders and outsiders to the growing flames of our resistance. It will warm us as we feel the chill of resistance of those vested in the destruction of the mountains.

Their calls will become more shrill as we gain strength, just as I hope we will remain tempered with the truth that cannot be denied: no people should be forced to participate in their own demise.

And remember this: Nobody can take credit for, or be blamed for, their place of birth; thus, it's not where you're from that counts, it's where you're at – wherever that may be.

So join the movement to save America's "rainforest" for the Appalachian people, the United States and the world. It's time!

Thank you, OVEC, for everything you've done, and for helping me to attend. As a single father with two children in college, it's a challenge. Your support is SO appreciated! 🌰

"It's a shift from an 'us against them' stance," Mattea said. "Instead, we are trying to hold everyone in deep respect, and to help ratchet down the tensions that continue to build as this conflict wears on and as people on both sides feel more desperate."

"We worked hard establishing nonviolent communications related to the mountaintop removal dispute. We are pursuing other meetings in the future," Sparks said.

OVEC volunteers and staff attended the dinner and have been involved in the meetings. OVEC works closely with the Council of Churches on several issues, including health impacts of coal slurry and Marcellus Shale gas drilling, public campaign financing and cemetery protection. 🌰



OVEC organizer Maria Gunnoe addresses the crowd - the poster says "MTR Stealing Our Home Land Security."
photo by Danny Cook



Lindytown Almost Totally Gone

Maria Gunnoe sits on the steps of what's left of a home that was in the MTR-killed community of Lindytown. Twilight is just down the road.

Don't let Twilight become another Lindytown! Go to WWW.MTRSTOPSHERE.COM to learn more and donate to the Twilight Project (see related story on page 7).

Please sign this petition to help draw additional attention to the area: *"We the undersigned citizens, would like to see US Rt. 26 in Boone County, West Virginia, from Van, West Virginia, to Twilight, West Virginia, to be named as a West Virginia Veterans Memorial Road in honor of West Virginia Veteran Civil War soldier William Chapman "Chap" Cook. William Chapman "Chap" Cook fought as a Union Soldier with the 7th West Virginia Cavalry and is buried here in Boone*



County, West Virginia on what is Cook Mountain."
WWW.IPETITIONS.COM/PETITION/OHVEC/. Photo by Dustin White. 🍷

Coal Companies Ask WV, Feds to Change Selenium Limits

Widespread selenium contamination is a serious problem for "business as usual" at MTR mines. In September, after four days of hearing our case in late August, federal Judge Robert Chambers found Patriot Coal in contempt of court and ordered the company to spend at least \$45 million treating illegal selenium discharges at four water outfalls. Patriot has more than 70 outfalls with selenium violations.

Judge Chambers' September decision was in response to litigation by OVEC, WV Highlands Conservancy and the Sierra Club. We were ably represented by attorneys from the Public Justice and Appalachian Center for the Economy and the Environment. (See pg. 5 of the September *Winds of Change* at WWW.OHVEC.ORG for more on this federal case.)

In October, Judge Chambers issued a longer written ruling on our September court victory. Chambers indicated that selenium impacts the development and survival of fish. "It can also be toxic to humans, causing kidney and liver damage, and damage to the nervous and circulatory systems," he wrote.

The legal limit of selenium in MTR mines' discharge water is 4.7 micrograms per liter, and we are seeing levels as high as 34 micrograms per liter – nearly seven times the limit!

MTR companies say that it is too expensive to treat their selenium pollution and that they should be able to mine coal without having to spend this money. They want pollution limits on selenium to be changed in order to make their ongoing contamination legal.

There are numerous politicians in both WV and Washington who will be supporting the coal industry's request. Governor Manchin and the WV Legislature have already tried to ease selenium compliance deadlines and, thus, sideline our lawsuits. Many permit applications are pending that will produce selenium discharge from high-selenium coal deposits.

The bottom line here is that coal companies are producing MTR discharge with dangerously high selenium levels, and there is no cheap way to treat selenium contamination.

We believe it may be too expensive for some companies to install selenium-treatment systems, and mandates to treat selenium pollution will make mining high-selenium coal unprofitable. So be it! 🍷

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!

Human-Powered Transportation: It's Critical, Political - And A Lot Healthier For You

by Dan Taylor

As gas prices rise and people become more aware of the destruction caused by fossil fuels, a need arises for alternate and sustainable modes of transportation.

One healthy mode of transit that has caught on in Huntington in a big way is bicycling. Celebrating its second year of existence is Critical Mass, a group ride that meets the third Friday of every month at 6:30 p.m. at the Ritter Park fountain for a quick and easy loop around town. Critical Mass seeks to help cyclists and motorists learn to share the road and have mutual respect.

Petty Thieves, popular sellers of bike accessories, are also getting people on the road for some fun. They have been putting together events such as the Jewel City Bicycle Scavenger Hunt and Bike-In Movie Nights, where cyclists enjoy a sense of community.

In Huntington, Cycle Recycle helps kids and lower income folks build and fix bikes, and in Charleston, Pedaler's Paradise does the same.

Marshall University is even getting in on the act, opening a new, free bike-loan program for students, staff and faculty. The program, Marshall Eco Cycle, is based out of the Rec Center and is starting with eight bikes that

people can borrow to explore Huntington.

All this, coupled with the promise of the Paul Ambrose Trail for Health for pedestrians

and cyclists opening soon and Fourth Avenue bike lanes being completed in the spring, means that bike culture – an alternate to fossil-fuel-based transit – should be pedaling Huntington into a more sustainable future.



OVEC's membership committee is working to inform *Winds of Change* readers about local community groups that we believe support OVEC's vision of a sustainable and healthy future for all citizens of West Virginia and our region. OVEC members are encouraged to join and support these groups. We hope that members of the groups we highlight in *Winds of Change* will become more closely allied with and active in OVEC. To join OVEC, call our office at (304) 522-0246 or join online at WWW.OHVEC.ORG. 🍌

Manchin, Beshear, Buddy Up With National Mining Assoc.

On Oct. 6, just about a month before the mid-term elections, WV Gov. Joe Manchin announced that his Department of Environmental Protection (it sure isn't *our* DEP!) was filing suit against the EPA and Corps of Engineers, asking a U.S. District Court to throw out the EPA's new Clean Water Act guidelines (*see related story on page 3*).

At the governor's invitation, officials from the WV Coal Association lobby group and the United Mine Workers attended the press conference as Manchin made his announcement.

"It comes as no surprise that Gov. Manchin has filed suit against the EPA, which has taken a few steps to protect our state's water from coal pollution," OVEC's Janet Keating said to one reporter. "During this election cycle, West Virginia politicians are falling all over themselves to 'out-coal' one another. **In 2004, Manchin received \$521,214 from coal interests, 12 percent of all contributions to his campaign.** One could only wish that Gov. Manchin would protect the state's citizens, our water

and communities living in the shadow of mountaintop removal as vigorously as he tries to protect the coal industry's profits and his own political career."

On Oct. 18, Kentucky Gov. Steve Beshear and the Kentucky Coal Association jointly filed suit against the EPA over, you guessed it, how the agency interprets the rules for granting permits under the Clean Water Act.

Meanwhile in Tennessee

Oh, what a difference a state makes. Just days before Gov. Manchin made his announcement that he was suing the EPA because it might rein in mountaintop removal pollution, outgoing Tennessee Gov. Phil Bredesen had a much more pleasant announcement.

That governor petitioned the Department of Interior's Office of Surface Mining (OSM), asking the agency to set aside state-owned mountain ridgelines as unsuitable for mountaintop removal mining.

"This petition asks the federal government to help us prevent mining on these ridgelines to protect their

continued on page 20

Scholars and Artists Launch National Campaign to Save Blair Mountain, Labor History Landmark, From Imminent Destruction

In late September, prominent scholars and artists from across the United States published an “open letter,” calling upon the US National Park Service and the West Virginia State Historic Preservation Office to take immediate action in protecting the historic Blair Mountain Battlesite from the threat of imminent destruction by mountaintop removal coal mining. They wrote:

As citizens concerned with the faithful representation of America’s rich and often turbulent national history, and as scholars and artists whose work has touched upon the history of coal mining labor in West Virginia and beyond, we write to express our strong opposition to the National Park Service’s de-listing of Blair Mountain as a site of national historic significance, and to support the legal challenge to that decision launched by the Sierra Club, the Ohio Valley Environmental Coalition (OVEC), Friends of Blair Mountain and the West Virginia Labor History Association. Many of us have worked productively with the Park Service in public history and heritage preservation projects in the past, and are hopeful that this mistaken decision can be quickly reversed.

Signatories of the open letter include filmmakers John Sayles (*Matewan*) and Barbara Kopple (*Harlan County, USA*), bluegrass legend and West Virginia native Hazel Dickens, award-winning novelist and OVEC member

Pancake Named 2010 Chaffin Winner

Congratulations to fiction writer and essayist – and OVEC member – Ann Pancake, who, in September, received the 2010 Morehead State University’s Thomas and Lillie D. Chaffin Award for Appalachian Writing.

As Strange As This Weather Has Been, published in 2007, was her first novel. It featured a southern West Virginia family devastated by mountaintop removal mining. 🍪

NMA

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important cultural, recreational and scientific resources,” Bredesen said.

Upon receiving a complete petition, OSM must prepare an Environmental Impact Statement. There will be an opportunity for public input prior to a decision to accept the Lands Unsuitable for Mining petition under provisions of the Surface Mining Control and Reclamation Act of 1977. 🍪

Denise Giardina (*Storming Heaven*) and singer-songwriter David Rovics (*Battle of Blair Mountain*), along with more than two-dozen prominent historians, archaeologists and university educators, many of them specializing in American labor history.

The campaign is seeking urgent action from the National Park Service to place Blair Mountain on its National Register of Historic Places.

Campaigners aim to gather support through an online petition campaign (see [BIT.LY/AICQX0](http://bit.ly/AICQX0)) and have set up a Facebook group, Save Blair Mountain.

Read the complete letter and view the signatures here: [BIT.LY/AWBQQL](http://bit.ly/AWBQQL) 🍪

The Science is In, MTR Should Be Out

On Sept. 28, the EPA’s independent Science Advisory Board (SAB) released its first draft review of EPA’s research into the water quality impacts of valley fills associated with mountaintop mining.

In the draft review, the SAB supports EPA’s scientific research and agrees with EPA’s conclusion that valley fills are associated with increased levels of conductivity (a measure of water pollution for mining practices) in downstream waters, and that these increased levels of conductivity threaten stream life in surface waters.

The SAB reviewed EPA’s draft report, “A Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams,” which uses field data to derive an aquatic life benchmark for conductivity. The benchmark is intended to protect 95 percent of aquatic species in streams in the Appalachian region influenced by mountaintop mining and valley fills. Based on that science, EPA released guidance in April designed to minimize irreversible water quality impacts caused by mountaintop mining.

Growing bodies of scientific literature, including previous and new studies performed by EPA, show significant damage to local streams that are polluted with the mining runoff from mountaintop removal.

To protect water quality, EPA has identified a range of conductivity (a measure of the level of salt in the water) of 300- to 500-microSiemens per cubic centimeter that is generally consistent with protecting life in Appalachian streams. The maximum benchmark conductivity of 500 microSiemens per cubic centimeter is a measure of salinity that is roughly five times above normal levels. 🍪

Update on Efforts to Preserve Blair Mountain

In September, OVEC, the Sierra Club and the Friends of Blair Mountain filed a legal challenge to reverse the decision by the National Park Service to remove the Blair Mountain Battlefield from the National Register of Historic Places.

Filed in federal district court in Washington, DC, the lawsuit alleges that the decision to delist Blair Mountain – the site of a famous 1921 battle in Logan County, WV, involving 10,000 coal miners and law enforcement officials clashing over the right to unionize – was arbitrary, capricious and contrary to the National Park Service’s own regulations.

In 2006, Dr. Harvard Ayers, an Appalachian State University archeologist, found 15 different battle sites within the Blair Mountain Battlefield. “These sites are in danger of being permanently destroyed unless the Park Service returns Blair Mountain to the National Register,” said Dr. Ayers. “Coal companies have acquired a portion of the battlefield and have shown their willingness to play hardball to keep the site open to surface mining despite the clear historic value of the Blair Mountain Battlesite.”

In the fall of 1921, **Blair Mountain was the site of the largest domestic insurrection in the nation’s post-Civil War history.** Over a five-day period, fierce battles raged across the West Virginia mining region, pitting union miners against municipal authorities and private armies hired by local coal companies.

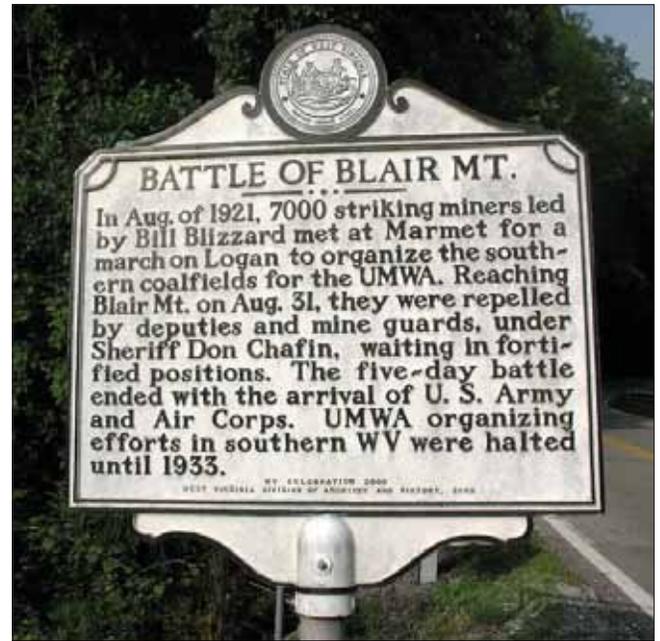
At the height of the conflict, private planes were used to drop homemade bombs on union supporters. For many, Blair Mountain symbolized the huge disparities in wealth and power in America during the industrial age.

“The Battle of Blair Mountain was fought by the United Mine Workers of America to make a better life for coal miners throughout southern West Virginia – to see their legacy be destroyed is unacceptable,” said Kenny King, a Logan County resident who has been working to save Blair Mountain for the past 20 years.

Blair Mountain was named by the National Trust for Historic Preservation as one of America’s 11 Most Endangered Historic Places in 2006, and the fight to save it has been ongoing.

The National Park Service first listed Blair Mountain in the National Register on March 30, 2009, without objections from a majority of property owners. By law, a site cannot be listed in the National Register if a majority of owners within the boundaries of the site file notarized objections to the listing.

Nine months later, the Park Service, responding to



pressure from coal companies eager to strip-mine the site, altered the list of property owners, based on one-sided “corrections” presented by the coal companies, and decided that a small majority objected to listing the site.

On this basis, the Park Service removed Blair Mountain Battlefield from the National Register. OVEC, Sierra Club and the National Trust for Historic Preservation asked the Park Service to reconsider its decision because it did not follow applicable regulations in removing the site, but the agency declined to do so.

“We strongly support the lawsuit because we believe that de-listing Blair Mountain was a mistake that violates federal law,” said Robert Nieweg, director of the Southern Field Office of the National Trust for Historic Preservation. “The decision to remove Blair Mountain from the National Register has gravely endangered this important site because the National Register listing would qualify Blair Mountain for special protection under West Virginia law.”

“The Blair Mountain Battlefield is one of West Virginia’s most valuable historical resources,” said Brandon Nida, a local resident and West Virginia native. “In addition to the historical significance, the potential for heritage tourism and small-business growth from the sustainable development of Blair Mountain is enormous. But, due to the short-term goals of the coal industry, all this potential could be destroyed forever.”

Recent reports that the West Virginia Office of Historic Preservation is initiating a plan to re-nominate Blair Mountain for listing on the National Register are too vague

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Blair Mountain

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to provide any comfort, said Regina Hendrix, an OVEC board member and West Virginia Sierra Club member who was involved in the original National Register of Historic Places listing process for Blair Mountain.

“There is no need to spend time initiating a process to re-nominate Blair Mountain for the National Register since the original listing, which took more than 13 years from start to finish, was proper the first time around and should be reinstated. It’s a significant waste of time and resources to start the nomination process all over again and unacceptable to leave the site unprotected while this lengthy process begins

Imagine if Renewable Energy Tech Got The Same Treatment...

A report released in October maps out the level of government subsidies given to energy industries across the planet, and finds that fossil fuel subsidies dwarf renewables by as much as 10 to 1.

Bloomberg New Energy Finance released the report. The group’s CEO Michael Liebrach, told the British newspaper *The Guardian* that these figures dealt a blow to the argument that renewables were unable to compete without unfair government support. “This analysis shows that the global direct subsidy for fossil fuels is around 10 times the subsidy for renewables,” he said

Where’s that level playing field? (For that matter, where’s the “free market”?) Imagine where’d we’d be if renewable energy technologies got the same treatment.

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. 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 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.

again.”

Hendrix added, “We’re now engaged in the second battle of Blair Mountain – one to preserve it for future generations. The jail that held the pro-union coal miners after the Battle at Blair Mountain was listed on the National Register. Does it make sense to list the jail and blow away the battle site?”

The plaintiffs are represented by Washington, DC, attorney Andrea C. Ferster and Sierra Club senior attorney Aaron Isherwood.

For more information on Blair Mountain, see www.friendsoblairmountain.org/. 🍂

Even without that kind of support, in July, reports from the United Nations Environment Program and the Renewable Energy Policy Network for the 21st Century (REN21), showed that, for two consecutive years, the United States and Europe added more power from renewable sources such as wind and solar than from conventional sources such as coal, gas and nuclear.

Experts are predicting that within the next two years, the world as a whole will follow suit and add more capacity to the electrical grid from renewable than non-renewable sources. However, non-renewable energy use is still expected to grow.

“There remains however a serious gap between the ambition and the science in terms of where the world needs to be in 2020 to avoid dangerous climate change,” said UN Under-Secretary-General Achim Steiner. “But what this five years of research underlines is that this gap is not unbridgeable. Indeed, renewable energy is consistently and persistently bucking the trends and can play its part in realizing a low-carbon, resource-efficient Green Economy if government policy sends ever-harder market signals to investors.”

The growth of renewable energy has been driven, in part, by public policy. Today, more than 100 countries have some sort of renewable energy programs and policies in place. But the Bloomberg report shows we can do much, much better. 🍂

**Help Stop MTR! Donate to OVEC
on-line by using PayPal**

Click on the  button at www.ohvec.org today.

Wood Co. Commission Learns About MTR Impacts

“Wood County may not be a big coal producing county, but we need to know about mountaintop removal because it is affecting our state,” County Commissioner Wayne Dunn said.

At the Wood County Commission’s meeting on Sept. 2, OVEC staffer Carol Warren teamed with Ted Boettner of the WV Center on Budget and Policy in a presentation to Dunn and fellow commissioners David Blair Couch and Rick Modesitt.

Boettner addressed the economic impact of coal on West Virginia’s budget, citing a recent collaborative report by Downstream Strategies and the Center for Budget and Policy.

The report noted that coal production in Appalachia has already begun to decline, and that all indicators are that it will continue to do so.

The industry currently employs only a fraction of the number of people it employed in 1960. Coal industry contributions to the state’s General Revenue Fund account for only about 8 percent of state-generated revenues

Although the industry certainly contributes to the state in employment and severance taxes, there are also legacy costs, such as environmental issues and costs due to unreclaimed and poorly reclaimed mining sites, workers compensation debt, and the effects of the industry on the state’s roads and bridges.

The document notes, “The total cost of repairing West Virginia’s roads and bridges damaged by overweight



One effect of mountaintop removal mining - denuded mountains that will soon be flattened out.

coal trucks is approximately \$4.0 billion in total accumulated costs.

“Even if the state were spending \$200 million per year to repair and replace the infrastructure as needed, it would take 20 years of repairs and a cessation of coal-truck operations to cover the full cost.”

The report concludes that the net cost to the state budget from the coal

industry in fiscal year 2009 was \$97.5 million.

Warren discussed some of the human and environmental costs of the industry. She noted that the landscapes destroyed by mountaintop removal cannot be fixed, even if attempts are made to reclaim them.

Flooding, too, has become a serious problem because water rushes from the denuded mountaintop removal sites whenever there is heavy rain.

Warren noted that some people have lost everything two or three times. Loss of community is also a factor that can be devastating. When the people of a community are forced to leave the area in which they have lived together for years, the family ties and neighborhood support systems become casualties of the mining operation.

The commissioners viewed a segment of *Burning the Future* that deals with the difficulties people are having
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***Burning The Future* goes On Tour to Eastern Europe and China**

This fall, *Burning the Future*, a documentary featuring Mingo County OVEC members and staffer Maria Gunnoe was shown at film festivals and environmental gatherings in the Ukraine cities of Kyiv and Odessa, and in Beijing, Nanjing and Guangzhou in China. Both nations have huge environmental issues relating to coal.

The US State Department’s Bureau of Educational

and Cultural Affairs helped make the film screenings possible, as part of the American Documentary Showcase.

These movies chosen for the showcase all underscore the role documentaries play in fostering dialogue and debate, as well as promoting understanding and cooperation, while offering insights into American society and culture as seen by independent filmmakers. 🍂

Translation - *Burning the Future: Coal in America*/dir. David Novack, USA 2008, 89min

Спалюючи майбутнє: Вугілля в Америці / реж. Девід Новак, США, 2008, 89'

A Letter to the EPA from an OVEC Member

October 15, 2010

Dear Administrator Jackson:

We are writing this letter as citizens of West Virginia who do not agree with the recent lawsuit filed against the EPA by the West Virginia Department of Environmental Protection (WVDEP) and Governor Joseph Manchin. In fact, we believe the point of the lawsuit is to deprive us and other West Virginia citizens of our basic rights to clean water and air; continue to deprive would be more accurate since it is and has been “standard procedure”.

The government of West Virginia – its leaders, legislatures, and regulatory agencies, past and present are bought; some by the “mythology” of coal mining and some just bought. They talk about “protecting our way of life” but in reality they protect and respect nothing but money. Our water and air is poisoned with regularity and impunity; our miners work in *deliberately ignored* unsafe and unhealthy conditions, and record numbers die from both.

The lawsuit is ridiculous. The Plaintiffs have asked to return to the past regulations, the very ones that they did not enforce before. The Discharge Monitoring Reports, one of the most basic tools for enforcing water pollution limits, were not opened, not read, given a pass, for five years until you caught them.

Plaintiff Randy Huffman, DEP mining director since 2005, has called years of unregulated water pollution a “glitch.” This “glitch” has made people sick – old people, little kids and pregnant women mostly, but probably others as well. It has also led to a near collapse of several aquatic populations and has made fishing a strictly “catch and release” sport: a major source of protein is now too toxic to eat. The DEP advisory does say that you can eat one 4

OVEC Featured in Patagonia’s 2010 Environmental Booklet

In 2010, Patagonia provided financial aid to more than 400 grassroots groups.

OVEC was one of the groups they chose to feature, along with a photo by OVEC’s Vivian Stockman, in their 2010 Environmental Initiatives Booklet, which this year comes as both a printed version, and an E-Book. The visually stunning and highly informative E-Book includes a video of OVEC’s Maria Gunnoe in action. Check it out online: BIT.LY/BCH3AV



ounce serving a month of some species, but would you want to?

The Plaintiffs also ask that West Virginia retain the right to establish water standards. They have abused this right in the past every day. For some pollutants, standards have not been set at all and when they are, they are ignored or routinely and systematically interpreted to protect industry not people. The following quote from the lawsuit illustrates: “Interpretation of West Virginia’s Water Quality Standards must faithfully balance environmental protection with the need to maintain and expand employment, agricultural and industrial opportunities.”

Wrong! Protecting the environment, the health of the people and the land should be the first priority, the standard that must be met first. We urge you to grant the petition filed by the Sierra Club, West Virginia Highlands Conservancy, Coal River Mountain Watch, and Ohio Valley Environmental Coalition requesting that the EPA withdraw its approval of the state’s National Pollution Discharge Elimination System program and assume administration and enforcement of same to bring the state into compliance with the Clean Water Act. Protect us. Stand up for our mountains, our waters and our people.

Very truly,

Carol A. Ross

Glennville, WV



Wood Co. Commission

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with illnesses caused by coal-related water pollution.

They were surprised to see water filters turn filthy as soon as the tap was turned on, as well as orange and black water running into the sinks.

The commissioners listened to the testimony of people in the film, many of them OVEC members, whose entire communities seem to have been made ill.

Commissioner Wayne Dunn intends to arrange a forum in Wood County at some point in the future at which environmental, health, economic and labor concerns can be discussed.

This future forum will be open to the public and should result in a vigorous exchange of ideas.

(View the entire report at WWW.DOWNSTREAMSTRATEGIES.COM/DOCUMENTS/REPORTS_PUBLICATION/DOWNSTREAMSTRATEGIES-COALWV.PDF).





GLOBAL WARMING / CLIMATE INSTABILITY In the Mountain State



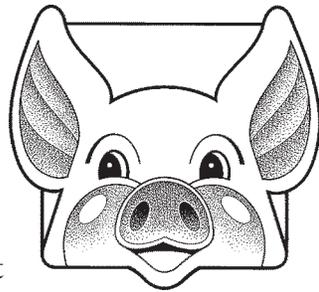
Sen. Rockefeller Sticking His Head in “Clean” Coal Sand

The *Charleston Gazette* ran this op-ed by OVEC organizer Robin Blakeman on Sept. 17, 2010.

Despite what he said at a Sept. 8 forum at the University of Charleston, Sen. Rockefeller hasn't really embraced the reality of global climate change, nor the role that emissions from coal-fired power plants play in that

Outrageous Pork - You Betcha!

“CCS is little more than outrageously expensive lipstick on a pig that is destroying house and home. And speaking of pigs, it is also the worst of federal pork – a coal industry government bailout pushed by many of the same people who are still squealing about all the previous bailouts.



“Because we developed the technology to put a man on the moon doesn't mean we can afford to put every man on the moon. Likewise, proving that we can store carbon from one plant doesn't mean it is feasible to do that industry wide.

“A recent Harvard study suggests how staggering – about \$150 a ton of CO₂, or about \$300 billion a year for the United States alone. There is simply not enough money to do extensive CCS and extensive renewables, as well. Every public or private investment in “cleaner” coal is money that is no longer available for the kind of renewable energy that really can save our future – wind, solar, geothermal, etc.

“This is a government bailout with no up side. Not just a waste of money, CCS is a parasite that will suck financial resources away from real solutions to the most serious problem we have ever faced.

“Given the overwhelming scientific evidence, accumulating almost daily, that continued reliance on coal is tantamount to climate suicide, spending more and more public funds in pursuit of better ways to burn coal is a tragic and possibly lethal detour from the road to a livable future for subsequent generations.”

– Dr. Brian Moench, president of Utah Physicians for a Healthy Environment 🍌

process. His comments – regarding carbon capture and sequestration (CCS) – show that he is still very conflicted on the issue.

Sen. Rockefeller told the audience that global climate change is a reality and those who say otherwise are sticking their heads in the sand. But he also stuck his own head in some “clean” coal sand when he said there is no need to put a price on carbon emissions which arise from coal production until the elusive CCS methods are available.

Scientists tell us climate change catastrophes are already occurring and likely to increase and we need to take action now. But the technology and infrastructure necessary for large-scale carbon capture and sequestration is far from being fully developed. It will be decades – at best – before this technology and infrastructure could be put into place and it is prohibitively costly to develop it.

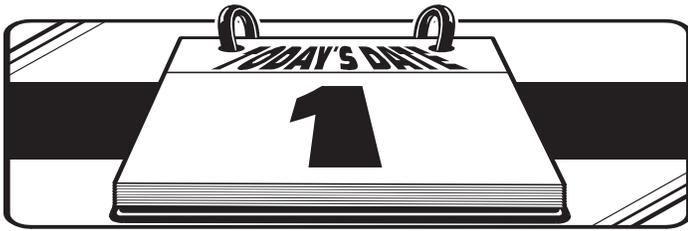
Even if – and that's a big “if” – CCS systems could be developed more quickly and financed by private corporations, the use of such systems would result in an increasing demand for a dwindling resource. Increased demand for coal mining means increased stress on already critically stressed environments. Coal mining is never clean!

As author Jeff Biggers recently stated in regard to the CCS debate, “Increased coal production will sentence our impoverished and besieged coal communities to another generation of despair, illness, coal slurry, coal ash, residential displacement, blocked economic diversification, black lung ... We need to phase out coal-fired plants, like the coal ash-spewing-into-the-river dinosaur in Meredosia, Ill., not give out a billion in welfare to reckless utility companies...”

There are far too many unanswered questions: Where will all the carbon dioxide be injected underground? Will there be a massive system of pipelines crisscrossing the country to transport it?

What happens when – inevitably – the (theoretically) stored carbon dioxide spills or leaches out into our water tables? Or when it “burps” out into the atmosphere.

CCS will be the biggest boondoggle our country has seen for a long time. Our energy dollars would be better spent moving forward with renewable technologies that will serve us well in the future, rather than on dubious projects that will tie us to the past. 🍌



CALENDAR

January 11, 2011: Save the date, 1-11-11, for an evening event, and OVEC victory celebration (open to OVEC members and guests members bring), to be held in Charleston, WV.

January 15: 2:00 p.m. Join the Sludge Safety Project (SSP) for our annual Legislative Kickoff in the Senate Judiciary Committee Room (208W) of the State Capitol, as we prepare to send a unified message to West Virginia legislators – Stop Toxic Slurry Injections Now!

February 8 - 9: Community and Small Wind Energy Conference for the Mid Atlantic Region. Register Now! www.windustry.org/cwaa. For info contact Catherine O’Neill at (612) 870-3477 or catherine.oneill@windustry.org

April 2 -6: Week in Washington - The Alliance for Appalachia’s annual Stop Mountaintop Removal Lobby Week in DC. More details to come. See www.ilovemountains.org/wiw for info on previous years’ lobbying efforts. 🍌

Congratulations to Mari-Lyn Evans

The 11th annual West Virginia Filmmakers Festival chose Braxton County, WV, native Mari-Lynn Evans as its 2010 Filmmaker of the Year.

Evans is the CEO of Evening Star Productions, which in 2005 produced the three-part PBS television series, *The Appalachians*, which the *New York Times* called “an elegant film about a region and a people that are rarely examined beyond stereotypes.”

OVEC’s executive director Janet Keating is interviewed in the film. The companion book to *The Appalachians* includes photographs and essays by OVEC members.

Most recently, Evans completed a film on MTR airing on Discovery, called *Coal Country*.

Pauline Canterberry and Mary Miller, the Sylvester (WV) Dusbusters, and retired deep-miner and OVEC volunteer Chuck Nelson are among those featured in the film. 🍌

Bees’ Buzz: Mega-Poster That Shows True Cost of Coal Complete

In late July the Beehive Collective announced that its True Cost of Coal mega-poster is complete. Two and a half years in the making, this epic illustration, complete with a narrative book, is a wonder to bee-hold, as participants in Appalachia Rising can confirm.

You can help spread the word about this amazing work of social justice and environmental art. The Bees say, “Now that the drawing is completed, the real work begins of cross-pollinating the country with posters, educational materials, and picture lectures and drumming up support for mountain defenders! You can be part of this effort by hosting the bees this fall as part of our nationwide release tour.”

“On the road with giant portable murals, we offer a variety of high energy, interactive, graphics-based workshops and presentations that can be understood by anyone- not just experts, academics, or talking heads. Using bio-regionally accurate cartoons of animals and insects as metaphors for human communities, we tackle complex issues like globalization, climate change, and resource extraction, as well as the small-scale changes and actions we can take to build a better world in the shell of the old!”

OVEC is very happy to have been one of the many groups and individuals who helped contribute information and financial resources to the Beehive Collective’s efforts.

We will have a limited number of prints available for purchase (\$10) and pick up at the office, or at tabling events. Call (304) 522-0246 for information.

View the graphic, learn more about the Beehive Collective and bring them to your community by exploring their website: www.beehivecollective.org/english/coal.htm. 🍌



This is just a tiny fraction of the entire poster. The intricate details are truly amazing, as is the compelling story the poster tells.

Security on Kayford Mountain Improved After Incident

by Janet Keating

As many of you know, a year ago on July 4, people who attended Larry Gibson's annual celebration got way more than they expected. About 20 angry miners and their companions invaded with the aim of harassing and intimidating the attendees (SEE: WWW.YOUTUBE.COM/WATCH?v=GJC7JG_gMY0).

After the Obama administration came to power, we experienced a positive shift in how federal agencies were responding to citizens' concerns about mountaintop removal. Not surprisingly, the more responsive the federal government is (and continues to be) to citizens' concerns, the harder the coal industry cranks up its public relations and beats the "job loss" drum. Fear can drive people to act in irrational ways.

For more than a decade, Larry, a long-time OVEC board member, and Kayford Mountain have played a key role in raising public awareness to the devastating impacts of mountaintop removal.

Kayford Mountain is one of the few places where mountaintop removal can be seen from land not owned by a coal or land-holding company. Larry gives generously of his precious time. Thousands of people have viewed this massive destruction because Larry makes himself readily available to individuals and groups wanting to know more and to see it from the ground.

When the July 4 debacle occurred at Kayford in 2009, OVEC's then-organizer, Patricia Feeney, asked if OVEC would provide some funding for her to raise some money for a security system for Kayford and also funds for an assistant for Larry.

Mountain Justice Summit on Kayford Includes Special Tree Planting

The Fifth Annual Mountain Justice Fall Summit took place on Kayford Mountain on October 23 and 24.

The *Charleston Gazette* reported: "More than 50 people from Mountain Justice and Climate Ground Zero showed up to the Patriot Coal Corp.-owned mine for the non-violent protest, including politician and long-time mountaintop-removal opponent Ken Hechler and U.S. Senate Mountain Party candidate Jessie Johnson.

"About 20 protesters carried hemlock, walnut, red oak, and tulip poplar sprouts. They planted them into a hill on top of the site while the rest of the crowd watched from about a half-mile away on property owned by Larry Gibson, another activist."

The group unveiled banners reading "**Reclamation FAIL**" and "**EPA We're Doing Your Job – Over 500**

Patricia had given OVEC notice that she was leaving at the end of July and heading to medical school. How could we say no when we know how devoted Larry is to ending mountaintop removal? Larry is extremely instrumental in putting this issue on the national and international stage. (Remember when candidate Obama was in Beckley and took a question from the man in the bright green shirt and hat?)

We are happy to report that Patricia was successful on both counts. OVEC provided some guidance and advice regarding outreach along with funding and encouragement, but the project succeeded because she persevered in leading this task and others answered the call. Patricia recently sent me this note:

Dear Janet,

Thank you for believing in me and for sharing your support and affirmation with me over the years... I am especially thankful for this opportunity to fund-raise for Larry and Keeper of the Mountains. The skills and confidence I have gained over this past year will certainly benefit me and future ventures throughout my life... Even more concretely, we have a staff person...and security on Kayford Mountain.

Thank you to you and OVEC for making it all possible. Thank you for believing it was possible.

Love, Tricia

And thank you, Patricia, for your leadership! 🌰

**M o u n t a i n s
Destroyed –
Reclamation Jobs
Now!"**

Security guards were on the scene, telling the tree planters they were trespassing, but no one was arrested. Perhaps arresting the protestors would have further exposed the lie that mine companies are, or even can, reclaim the land they wreck.

Only time will tell if the trees will survive. Keeper of the Mountain Larry Gibson will be watching. 🌰



Protestors fan out to plant their trees on the coal company land.

Ohio Valley Environmental Coalition
P O Box 6753
Huntington WV 25773-6753

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And The Dead Shall Rest Eternally ...



... except in West Virginia, when King Coal wants what may be under them. In this aerial shot taken in Boone County, near Twilight, the cemetery is the little island of green at top of photo, completely surrounded by a mountaintop removal mining site, with its blasting, draglines, dust, destruction and non-stop noise.

photo by Maria Gunnoe, flyover courtesy SouthWings