

March 2013



# Winds of Change

Supporting Organized Voices and Empowered Communities Since 1987

Huntington, WV

## OVEC

www.ohvec.org

## Patriot to Phase Out Mountaintop Removal

*Patriot Coal has concluded that the continuation or expansion of surface mining, particularly large-scale surface mining of the type common in central Appalachia, is not in its long-term interests. Today's agreement-in-principle commits us to permanently exit the large scale surface mining business in an orderly fashion, and is consistent with our plans to focus on underground mining in the future. Patriot recognizes that our large-scale surface mining operations impact the communities in which we operate in significant ways, and we are committed to maximizing the benefits of this agreement for our stakeholders, including our employees and neighbors, and to reduce our environmental footprint.*

— Patriot CEO Ben Hatfield's statement in the hearing where the settlement was presented to Judge Robert C. Chambers for approval.



*A valley fill at Patriot's Hobet MTR mine. Long overdue is the day when no more hollows are buried. May this settlement be one of the actions that super-speeds that day.*

We reached a legal agreement in November 2012, whereby Patriot Coal will immediately begin phasing out mountaintop removal and other large-scale surface mining. Patriot is the second-largest producer of surface-mined coal in West Virginia.

After years of successful lawsuits against Patriot Coal for their illegal water discharges of selenium at their surface mines, our legal strategy paid off in a big way. From the beginning, when OVEC, our lawyers (Appalachian Mountain Advocates, Public Justice, Earthjustice), and our co-plaintiffs (WV Highlands Conservancy, Sierra Club) began fighting mountaintop removal, we realized that if companies were forced to pay even a portion of the costs of the damages they caused, this type of mining would not be as profitable as underground mining.

Because of our long-term and now successful litigation, Patriot is now liable for hundreds of millions of dollars in selenium treatment costs. Patriot was under a federal court order to begin that process on a strict timetable. But late last year, Patriot began

the process of bankruptcy restructuring and could not afford to follow this timetable. So, we agreed to give them an additional 10 to 12 months to build all the selenium treatment facilities, if they would agree to permanently halt mountaintop removal and abandon surface mining within an orderly time frame of several years. Patriot has agreed to that.

Patriot will also retire significant infrastructure required to perform mountaintop removal mining, including its two mammoth draglines: the one at its Catenary mine complex, near Kayford Mountain, which will be retired immediately, and the one at its Hobet mine complex, which will be retired in 2015.

Patriot also agreed to withdraw two applications for valley fill permits and will surrender its remaining

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# OVEC – 25 Years of Making a Difference (Part Three)

by Dianne Bady

By 1997, it was looking like we were likely to win our pulp mill issue (see “OVEC – 25 Years of Making a Difference (Part Two)” in the December 2012 *Winds of Change* at [www.ohvec.org](http://www.ohvec.org)), and OVEC’s board agreed that working to preserve forestland would become an important issue for our group. While at a forest conference in Eastern Kentucky, I met then Library of Congress folklore researcher Mary Hufford, who was there with two men from West Virginia’s Coal River Valley to present photos and information on mountaintop removal and how it was harming the people and land. These men asked me if OVEC could get involved in getting the word out, and that was the beginning of OVEC’s major coal work.

For years after 1997, a smallish group of folks worked tirelessly to build public awareness of MTR in West Virginia. Cindy Rank had already written a few articles in the *Highlands Voice*, the newsletter of the WV Highlands Conservancy, and Larry Gibson had been talking to people about the MTR problems at his Kayford Mountain home. OVEC’s approach was to ask many concerned folks what they wanted to do. We heard that people wanted to bear witness, or protest, at public events and to write letters to the editor and reach out to others all over West Virginia and beyond to end the silence and secrecy about MTR. A core group of people, including Janet Keating, Vivian Stockman, and Laura Forman, with OVEC; Janice Nease and Judy Bonds, with the new group Coal River Mountain Watch; and Julian Martin, with WV Highlands Conservancy, reached out to others to join them at many public demonstrations and forums.

Much has changed in the past 16 years. We used to think that if enough public officials understood the extreme human and ecological devastation of MTR, with strong citizen oversight, our own government would take responsible action. But we now know that to public officials aligned with Big Coal, there seems to be nothing more important than paving the way

for the industry to do whatever it wants to with our mountains, streams, and the health of the residents they claim to represent. Nothing else matters. Nothing.



So, back then we worked long and hard to make MTR the national issue it is today. These efforts to take organized action, along with our collective litigation, have resulted in far less mountaintop removal going on today. But, although we have much to be proud of, the mountains are still being blasted away in many communities. Streams are still being poisoned, and many residents of these communities have joined the thousands across our state who already have been driven from

their homes.

Our recent landmark settlement with Patriot Coal could mark the beginning of a long end to MTR. But West Virginia’s legislature continues to find new ways to make it easier for companies to get permits for MTR, and DEP continues to reissue permits that would allow companies to ignore selenium pollution problems and, thus, continue to operate MTR mines with no interference. Thank God for all of the great lawyers working with us!

The coal industry itself has created a social climate in which those living in the shadow of MTR often feel too intimidated to speak out.

Those of us who’ve been working on this issue for many years can *quite painfully* see for ourselves the unusually high rate of serious illnesses and early deaths in MTR areas. But even now that these facts are scientifically well-documented, there is still no change in our state officials’ unwavering promotion of more mountaintop removal. The following chronology mentions just some of the highlights of OVEC’s earliest work on fighting mountaintop removal.

1998: OVEC organized a community forum on mountaintop removal at Marshall University in Huntington. Panelists included then-OVEC board

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# Patriot

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rights under a third permit. These section 404 Clean Water Act permits allow companies to dump waste from MTR into valleys, burying streams and rivers that are critical to local biodiversity.

Further, Patriot has committed to not applying for any additional large-scale surface mine permits, has agreed to not open any new stand-alone surface mines, and will only conduct small-scale surface mining in conjunction with existing and planned underground mining.

The agreement allows Patriot to move forward with its plans to open one new metallurgical coal mine, for which a section 404 permit application is pending, but preserves the right of our groups to challenge that permit in the event that the EPA identifies water-quality concerns with the permit. Patriot will also donate \$500,000 to a West Virginia nonprofit organization (the money cannot go to any group fighting strip mining).

We hope that this agreement, while holding Patriot responsible for its legacy of mining pollution, puts the company in a strong enough financial condition through its underground mining that it can honor its obligations to its retirees and workers. 🍌

# Patriot Settlement Helps Efforts to Save Blair Mountain

*from an e-mail by OVEC member and Blair area resident Brandon Nida*

While you're thinking about the large win, also think about the win on the ground. You all have helped save an extremely important part of the Blair Mountain battlefield. You've saved an important area of the mountains for people here in Blair. You've helped impede one major convergence line of mountaintop removal permits on the town of Blair.

One of the "not-yet-started" permits that is being completely halted in this settlement is the Cub Branch permit. This is a permit that is right on the edge of the Blair Mountain National Register of Historic Places boundary. But archaeological work that Kenny King and I did a couple months ago showed that this area contained a significant vector of movement from the miners. This was a major discovery, and although it was outside the boundary, it is a big piece of the battle dynamics.

This area is also one that many of the community members in Blair utilize — they ride four-wheelers, hunt, pick ginseng — I can't overstate how important this area is for people here in Blair.

But, because this permit lay outside the recognized battlefield, we knew it was going to be a tough fight. If you look at the permit maps, the Cub Branch was one interlocking piece of a larger plan to surface mine all of Kelly Hollow toward Blair. This was a major permit we have been concerned about; the next one down the ridge is the Adkins Fork permit. 🍌



The major portion of the Blair Mountain battlefield was placed on the National Register of Historic Places several years ago, following more than 15 years of organized citizen efforts, thanks to OVEC members Kenny King, Regina Hendrix and our friends at the Sierra Club. But the coal industry found ways to get Blair Mountain taken off the Register. Now, we are continuing our collective work to try to get it back on the National Register of Historic Places, to give the mountain some protection from being blown up. (See related story on page 18.) 🍌

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OVEC is a member of the WV Environmental Council, the Alliance for Appalachia and The CLEAN, and is a 501(c)(3) non-profit organization registered with the IRS and the West Virginia Secretary of State.

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

## What About Other Companies?

OVEC, the Sierra Club, and WV Highlands Conservancy have already successfully sued Arch Coal and Alpha Coal for illegal selenium discharges at their mountaintop removal mines, and as a result these companies have been ordered to spend many millions of dollars on selenium treatment systems. We've also sued smaller surface mining companies, and we continue to file additional selenium lawsuits.

Appalachian Mountain Advocates Executive Director Joe Lovett had this to say to Between the Lines (btlonline.org):

*Patriot's particularly vulnerable because it has the most selenium violations and because it's the most financially vulnerable of the companies right now. I do believe that all these companies will become unsound financially as the price of coal drops, and that that will make their environmental liabilities much more important as a percentage of their operating cost and will hasten the end of this kind of mining.*

*Unfortunately, it's not going to happen tomorrow and it's not even going to happen in the next five years, so there's much work that needs to be done to make sure that we protect this region as the companies go out the door; but the companies are leaving, and it should be the obligation of our political leaders to make sure that they pay the cost of their business as they're going.*

After all of this successful selenium litigation, DEP must be finally forcing companies to comply with selenium limits, right? If only. Late in 2012, we filed appeals to the WV Environmental Quality Board over DEP's failure to require effective selenium limits when reissuing specific surface mining permits. 🍌

## Too Costly?

Should investors be concerned about potential selenium-related risks at MTR mines? That's a question Rainforest Action Network is exploring in its research on the environmental and social risks involved with investment in the coal industry.



Valley fills, like the above, can leach selenium.

## Selenium Lawsuits

On Dec. 21, 2012, OVEC, the Sierra Club, and the West Virginia Highlands Conservancy filed a 60-Day Notice of Intent to Sue **Alex Energy**, seeking civil penalties

for ongoing and continuing selenium water-quality violations and for an injunction compelling it to come into compliance with the Clean Water Act.

In 2006, DEP issued a Surface Mining Permit for Alex PGM Surface Mine No. 1 in Nicholas County. This permit has been revised a number of times and remains in effect. Valley fill No. 3 for this mine partially fills the headwaters of Hardway Branch, prior to its confluence with Twentymile Creek. *DEP has never included selenium limits or monitoring in this permit.* Recent stream monitoring shows that Hardway Branch is contaminated by elevated levels of selenium.

In November 2012, OVEC and the Sierra Club sent a legal appeal to the state Environmental Quality Board over DEP's failure to include effective selenium limits in their reissuance of a permit for **Eagle Mining's Synergy Surface Mine No. 2**, where there is the reasonable potential to cause or contribute to selenium water quality criteria violations.

In November 2012, WV Highlands Conservancy, the Sierra Club, and OVEC sent a legal appeal to the state Environmental Quality Board over DEP's failure to include effective selenium limits in their reissuance of a permit to **Aracoma Coal Company, Inc.**, for its **Hernshaw (Chilton) No. 1 Mine**. 🍌



The first report cites five separate lawsuits filed in 2012 over Alpha Natural Resources selenium discharges and notes that

selenium compliance costs at surface mines can be significant.

Learn more: [ran.org/coal-risk-update-022013](http://ran.org/coal-risk-update-022013). 🍌

# For Our Health, For Our Future: ACHE Act Introduced

In early February, a group of U.S. House of Representatives lawmakers introduced the Appalachian Community Health Emergency Act (ACHE Act, H.R. 526) to protect Appalachian families and communities from the nation's most extreme form of coal mining, mountaintop removal.

ACHE's leading sponsors are Representatives John Yarmuth (D-KY) and Rep. Louise Slaughter (D-NY). Twenty-two Congresspeople joined them as original cosponsors on the bill.

The ACHE Act responds to more than 20 peer-reviewed scientific studies published on the human health impacts of mountaintop removal by calling for a moratorium on mountaintop removal coal-mining permits until health studies are conducted by the U.S. Department of Health and Human Services.

This quickly expanding body of science reveals significantly elevated rates of mortality, cancer, major organ disease, and birth defects in the areas closest to mountaintop-removal mining, after controlling for all major contributing factors. One study even shows a 42 percent higher risk of birth defects in communities near mountaintop removal.

"Mountaintop removal coal mining destroys entire ecosystems and contaminates the water supplies in mining communities, making people sick and jeopardizing their safety," says Yarmuth. "This legislation will provide families in these communities the answers they need and the protection they deserve. If it can't be proven that mountaintop removal mining is safe, we shouldn't allow it to continue."



Slaughter, a Kentucky native, adds, "Every American has a right to live and work in a community free from environmental health risks, and it is our duty to ensure that this right is not infringed upon by industries that consider community health and environmental protection to be less important than their profit margins. There is mounting evidence that people living in communities near mountaintop removal coal mining sites are at an elevated risk for a range of major health problems, and until we can ensure there is

no link between the mines and these risks, we should place a moratorium on further mountaintop coal removal activity."

After Yarmuth and Slaughter sent out a press release on the introduction of the ACHE Act, Bo Webb, founder of the Appalachian Community Health Emergency campaign; Coal River Mountain Watch; Appalachia Watch; Christians for the Mountains and OVEC co-released statements in support of the act. Earthjustice and Rainforest Action Network also immediately released statements of support.

Meanwhile, the silence of West Virginia's elected officials around the findings of the health studies on mountaintop removal continued to be deafening.

Please do your part to move Congress. Contact your representative in Congress and ask her or him to support the ACHE Act, HR 526.

To get involved in OVEC's work in supporting the ACHE, contact an OVEC organizer at 304-522-0246. Also visit [acheact.org](http://acheact.org) to keep up with the latest news and actions you can take. 🍌

*OVEC applauds the sponsors of the Appalachian Community Health Emergency (ACHE) Act, H.R. 526, just introduced into Congress and supports the ACHE campaign. After nearly two decades of organizing citizens to oppose this brutal mining technique and after reviewing all the published, peer-reviewed studies, it is clear not only that a moratorium on mountaintop removal is needed immediately, but also that this is the right and just thing to do. Until federal studies conclude that mountaintop removal does not contribute to a plethora of diseases, birth defects and cancer death near mine sites, this form of mining should be halted. People living near mountaintop removal mines should not be paying with their lives and health for so-called "cheap" energy.*

*Our federal representatives in West Virginia have a responsibility to protect the lives of all citizens of the state, especially our children. West Virginia children deserve a safe, healthy environment — free from mountaintop removal strip mining of coal. While the silence of our elected officials around the findings of more than 20 studies on mountaintop removal is deafening, you can be assured that we will not be silent.*

*Please do your part. Contact your representative in Congress and ask them to support the ACHE Act, HR 526.*

*- OVEC Executive Director Janet Keating*

# Clean Elections Victory

by Dan Taylor

After a high-profile race in 2004, in which coal baron Don Blankenship spent \$3 million to elect his preferred candidate to the WV Supreme Court and was later seen partying in the French Riviera with another justice in 2006, the need to clean up judicial elections in West Virginia was highly evident. In 2010, WV Citizens for Clean Elections won passage of a pilot program establishing a public funding option for state Supreme Court candidates.

WV Citizens for Clean Elections scored another victory on November 6, 2012, when Alan Loughry won a seat on the WV State Supreme Court. This surprised many, as he was the only candidate to use public funding from the pilot program. He beat out Tish Chaffin, who used her wealth to donate almost a million dollars to her own campaign.

Pundits attributed Loughry's victory to the "positive" campaign he ran, but how was his campaign able to be so positive? We believe that was due to the pilot program.

George Carenbauer, an attorney and elections expert, told *The State Journal*, "(T)he public financing did give him enough money to make an incredible race to begin with, he didn't get the matching money, but the base amount... That gave him enough to run a race."

So, even without the promised matching funds, the pilot program that provided public financing for the race proved a success. By not having to constantly fund-raise, be beholden to corporate money, or be independently wealthy, not only could Loughry run a positive campaign, but he could also set an example for future elections.

*The Charleston Gazette* reported that Loughry received a message from a young man in Roane County he never met. "Congratulations," the young man wrote. "I have been waiting so long for 'an average Joe' to be elected to such an important office. The fact that a candidate who spent millions of dollars to promote her campaign was unsuccessful has given me hope that I can be a successful public servant and politician in West Virginia, even though I came from an average working-class family."

Loughry told the *Gazette*, "(Senator Robert) Byrd told me personally about how, if he started running in recent years, it would have been impossible for him to win an election in West Virginia, given the amount of

money in politics... I want to see things change."

Public financing, as evidenced by Loughry's win, is leading the way to this change.

Loughry continued, "The West Virginia Supreme Court should not be political. People want to feel like they're selecting judges and not partisan politicians. Everywhere I went, people talked about how judges should follow the law, whether dealing with a large corporation or an individual who is unemployed. Treat everybody the same."

This summarizes the message of WV Citizens for Clean Elections: We want voter-owned candidates, not those beholden to corporations that make campaign contributions.

Apparently, election officials think this is a good idea, too. In late January, members of the **WV Election Commission unanimously recommended that a public campaign financing pilot project for state Supreme Court elections be made permanent.** They also recommended increasing the amount of funding available for participating candidates.

"You could say it exceeded beyond most people's expectations, since the candidate that received (public financing) money was elected," commissioner Gary Collias told the *Gazette*, which reported in a January 31 article:

*Secretary of State Natalie Tennant said she wholeheartedly supports making the pilot project a permanent campaign funding option for Supreme Court candidates, saying it provides the opportunity for "new voices" to seek public office...*

*If the Legislature takes no action to extend public campaign financing this session, the pilot project legislation will sunset on June 30.*

**We need your help to make public financing a permanent part of our Supreme Court elections.** Please contact your legislators and ask them to make the WV Supreme Court of Appeals Public Campaign Financing Program permanent and to support public financing whenever possible to create "voter-owned" elections in West Virginia.

For help contacting legislators, or to learn more and get involved in OVEC's Clean Elections work, contact me, Dan Taylor, at dan@ohvec.org or 304-522-0246. 🍓



*OVEC and WV Citizen Action Group, leaders of WV Citizens for Clean Elections, have been **working toward public financing of elections in West Virginia since 1997**. That's 16 years of plugging away at the same issue; 16 years of working even when it seemed unlikely we'd see a victory soon. But now, finally, we've made some huge progress! Perseverance does pay off...*



*Event organizer Wayne Worth addresses the crowd at the Clean Elections forum. Photo by Steve Hamilton.*

## Forum: People and Politicians Want Clean Elections

by Dan Taylor

On January 29, OVEC, in coalition with other WV Citizens for Clean Elections members WV Citizen Action Group and the North Central WV Democracy for America, hosted a public forum on clean elections and public campaign financing.

The event took place at Fairmont State University in Clarksburg, W.Va. With more than 40 community members in attendance, WV Senate President Jeff Kessler (D-Marshall) delivered the keynote speech. Kessler championed the WV Supreme Court of Appeals Public Financing Pilot Program in 2010.

Delegates Tim Miley (D-Harrison) and Richard Iaquina (D-Harrison) also spoke in favor of clean elections.

At issue is making permanent public financing for WV State Supreme Court races to better ensure a fair and impartial judiciary that isn't beholden to the likes of the coal industry and other corporate interests.

The meddling of coal baron Don Blankenship in State Supreme Court races in the past was the main

impetus for the original pilot program. Because the program was a great success in electing someone to office last fall, our legislative allies discussed not only continuing the program, but also spreading public finance to other statewide races.

The crowd was quite supportive and asked many engaging questions.

Event organizer Wayne Worth, with the local Democracy for America group, said, "This event highlighted an opportunity that West Virginia has in providing a needed balance to our political process and fairness in our elections. This opportunity is the public financing of campaigns, where ordinary citizens have a greater voice in the political process, both as candidates and contributors."

All in all, it was an excellent forum on clean elections that OVEC was proud to co-sponsor. Many thanks to Worth, Julie Archer with CAG, and Senator Kessler and Delegates Miley and Iaquina for making the event possible. 🍷

## Rally for Democracy

The U.S. Supreme Court's 2010 decision on Citizens United v. FEC has allowed corporations to donate unlimited amounts of money to political action committees (PACs).

"We are already seeing how the Court's flawed interpretation of the Constitutional right to free speech is corrupting the electoral process," says Charleston, W.Va., resident Hedda Haning.

Haning was one of the main organizers of a February 19 event at the State Capitol. More than 100 people gathered at the statehouse to rally and lobby legislators, asking the politicians to pass a resolution protesting the Court's Citizens United decision. Participants delivered a petition with thousands of West Virginians' signatures calling for reversing Citizens United.

"Money pouring into West Virginia during the 2012 campaign allowed some statewide candidates to attack their rivals with hugely misleading ads. Allowing this is devastating for the candidates, terribly misleading for voters, and a death-knell for democracy. We are protesting the way our government is being bought by special interests.

It seems clear to us that corporations are not people, and money is not free speech," Haning says.

Local sponsors of the event were OVEC, WV Citizen Action Group, West Virginians for Democracy, AFSCME West Virginia, American Federation of Teachers (AFT WV), American Friends Service Committee, Coal River Mountain Watch, Communication Workers of America WV, Fairness West Virginia, Marshall University Democracy Matters, SEIU 1199, Seneca 2, Sierra Club WV Chapter, West Virginians for Affordable Health Care and the WV Rivers Coalition.

The Charleston event was part of a nationwide effort to raise awareness of the need to limit the power of corporations to fund political campaigns and to return decision-making and control to citizens. Some of the national organizations calling for clarification that corporations do not have the same rights as human persons include Public Citizen, Common Cause, Free Speech for People, Greenpeace, Move to Amend, MoveOn and People for the American Way. 🍷

# Somebody Has to Protect the Streams

OVEC, Sierra Club and WV Highlands Conservancy filed a 60-day Notice of Intent to Sue the EPA in January, for failing to require the DEP to abide by the federal Clean Water Act's stream protection provisions.

In West Virginia, it seems that both the legislature and the DEP work together with the coal industry to make it easier for companies to get permits for mountaintop removal, valley fills and other surface mining.

One of the ways the Clean Water Act is supposed to protect streams from strip mining is by requiring states to evaluate the biological health of streams impacted by mining pollution and by requiring that states take into account all of the pollution that is affecting a single stream. This is important, because if a stream is shown to already be highly impaired by mining waste, there are severe restrictions. In other words, another mountaintop-removal mine that would add yet more pollution cannot easily be permitted.

In 2011, the EPA told the DEP that DEP's method of evaluating stream health was not adequate, and the EPA directed the DEP to adopt a more stringent, currently available measure (the GLIMPSS stream assessment protocol). This directive apparently called for serious action by "our" state's Fossil Fuel Political Complex. So in the 2012 legislative session, a new state law was passed to weaken the way West Virginia regulators measure the biological integrity of streams (SB 562). DEP wrote that under this new law, *delisting* of streams currently listed as impaired could occur. DEP's director, Randy Huffman, recently said that he was glad the legislature had taken this action.

Although the DEP is required by law to assess stream health every other year, this past year, *the agency simply ignored this requirement*. Our lead lawyers, the Appalachian Mountain Advocates, examined existing stream data, and submitted a list during a public comment period of 546 *previously unlisted-as-impaired streams that would be designated as impaired, if DEP had actually measured stream health using the method directed by US EPA*. Most of these streams are polluted by waste from mountaintop removal mines. No wonder the legislature jumped to action so quickly last session!

The DEP, as required by law, sent its most recent




list of impaired streams (the 303(d) list) to the EPA on December 21, 2012. The EPA administrator is required by law to either approve or disapprove that list in 30 days. On January 25, when the EPA had not fulfilled this requirement, we filed our notice of intent to sue.

We've been asked "Why sue the EPA? Hasn't the EPA done good things in essentially stopping some MTR mines? Shouldn't we be suing DEP instead?" Good questions, with some painful answers.

Yes, the EPA has taken some positive actions in the past. And we *have* been legally challenging the DEP almost every month recently for its continuing pattern of illegally granting new or reissued surface mine permits without effective selenium limits. We fear that without strong action from the EPA, both the DEP and our legislature will continue to do all they can to promote more mountaintop removal, whether it's legal or not.

As stated in our Notice of Intent to Sue EPA: "DEP was brazen in its refusal to comply with the Clean Water Act." Failure of the EPA to disapprove of the DEP's current inadequate list of impaired streams "would set a clear precedent that West Virginia regulators and coal operators may continue to ignore EPA and the provisions of the federal Clean Water Act without consequence... DEP has not only abdicated its responsibility to enforce the Clean Water Act, but has colluded with polluters to protect them." 🍌

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# Bringing About a Climate of Change

On January 16, OVEC and the Cabell County League of Women Voters hosted a movie night at the Beverly Hills Presbyterian Church in Huntington, W.Va.

A diverse crowd of about 70 people showed up for our event, which began with the one-act play *Cassandra*, written by former OVEC board member Elinore Taylor. The play explores neighbors' reactions to mountaintop removal. Actors included Carolyn Thomas and Norm Branch.

After the play, we screened *Climate of Change*, a documentary following people from around the world, many of them children like the boy pictured here, who are taking climate action in their communities. The film examines mountaintop removal as the front-end of climate change by interviewing OVEC organizer



Photo from [www.takepart.com/climateofchange](http://www.takepart.com/climateofchange).

Maria Gunnoe, along with the late Larry Gibson and Judy Bonds.

Helen Gibbins, the president of the local league's chapter, told the *Huntington Herald-Dispatch* that the group was excited to co-host this event highlighting activism and responses of everyday people to changes in their

environment.

"This is showing what people are doing all over the world," Gibbins said. "It is happier than most films like this. Sometimes people think there is no use to do anything. It is so awful, why bother? But there are things that people can do."

One thing you can do is co-host, with OVEC, a movie night in your community. Contact Robin Blakeman at [robin@ohvec.org](mailto:robin@ohvec.org) or 304-522-0246. 🍌



Archival photo

## Still Marching for Justice

OVEC has a long-standing relationship with the Huntington-Cabell Branch of the NAACP. We've worked together on voter empowerment drives and meet-the-candidates forums, shared outreach tables at local multi-cultural festivals, coordinated anti-racism workshops and jointly screened films.

OVEC members regularly participate in the branch's annual Martin Luther King, Jr. Memorial March, held on Martin Luther King Day. Such was the case on this January 21, as OVEC members joined the march through the streets of Huntington's Fairfield West neighborhood. The march started early this year, so participants could watch the inauguration of President Barack Obama.

Speaking of King, marcher Angel Plante said, "To me he was a man of God who served mankind, for all needs, for all people, for all times, and we try to continue that legacy of him on this day." 🍌

## Lion-Hearted Membership Committee



Danny Cook, Marilyn Howells and Mike Sullivan at the Lion's Club Arts and Crafts Fair. Photo by Janet Keating.

OVEC Membership Committee members put in many volunteer hours in 2012. They topped off the year with a fundraising effort at the December 2012, Huntington (W.Va.) Lion's Club Arts and Crafts Fair.

If you would like to join the membership committee to be a part of some of our 2013 public outreach and fundraising events, please contact Robin Blakeman at [robin@ohvec.org](mailto:robin@ohvec.org) or 304-522-0246. 🍌

*Whether or not we believe we can change the world, even in a small way, acting as if we can is the healthiest emotional stance to take in the face of injustice and destruction. - Mary Pipher, Ph.D.*

# Victory: New Marsh Fork Elementary Open

by Janet Keating

OVEC's Vivian Stockman and I took a tour of the beautiful new Marsh Fork Elementary School during the open house on January 4, and on January 18, a formal dedication was held. Not surprisingly, the media left out much of the back-story. And politicians like Senator Joe Manchin didn't utter a peep about all the rallies, protests and arrests that led to the construction of this new, state-of-the-art facility at the ribbon-cutting ceremony. Manchin sure didn't mention Ed Wiley's Herculean efforts as he and Coal River Mountain Watch led the charge for a new school. If one read or watched only the reports from the media and politicians, one would get the impression that the school was constructed out of the goodness of the hearts of politicians and others who merely came up with a plan and found the money. Voila! A new state-of-the-art school! Nothing could be further from the truth.

So here's a brief summary of the rest of the story. Six years ago, the old school became a center of controversy — a “poster child” representing everything bad about coal. Raleigh County, W. Va., resident Ed Wiley, whose granddaughter attended the school, had a rude awakening when he picked Kayla up from school one day. She was feeling ill and told her grandfather that the school was making kids sick. Wiley was well aware of the school's surroundings: a mountaintop removal operation, a leaking dam holding 2.8 billion gallons of toxic coal sludge and a coal-dust-spewing coal silo and coal processing plant. He and others at Coal River Mountain Watch began to demand that a new school be built for the community. They met with bureaucrats and elected leaders to no avail.

When their efforts didn't produce results, Wiley and other folks came up with a brilliant campaign. Dubbed Pennies of Promise, the campaign's aim was to generate public support and to draw attention to the issues surrounding and the impacts of mountaintop removal by collecting pennies. These pennies would

be given to the state to aid the funding effort. Their efforts captured the imagination of elementary school kids as far away as New York, who collected and sent pennies for a new Marsh Fork Elementary School.

From the Associated Press:

*Coal River Valley residents launched a fundraising effort to build a new school in Raleigh County by presenting about 90 pounds of pennies and a piece of their mind to Gov. Joe Manchin on Tuesday.*

*The residents say Manchin and his administration have ignored their allegations that Marsh Fork Elementary has a dangerous amount of coal dust in classrooms and that its location below a coal waste dam imperils students. The school abuts Goals Coal, a Massey Energy Co. subsidiary.*

*Kayla Taylor, 11, gave Manchin her green piggy bank and her grandfather, Ed Wiley, laid several cloth bags filled with pennies on the floor of the governor's reception room at the Capitol before confronting the governor...The bags of pennies, about \$460 total, were donated by schoolchildren in New York City who heard about efforts to get a new school, Wiley said. Kayla added her piggy bank and others donated about*

*\$50 to the fundraising campaign called Pennies of Promise.*

OVEC and other groups supported CRMW and Wiley's campaign by helping to draw media attention and turn people out in support of rallies and direct actions.

When Wiley decided in 2006 to walk the 450 miles from Charleston, W.Va., to Washington, D.C., to talk with Senator Byrd about his concerns, we helped keep the public informed about his whereabouts in daily “Where's Ed?” posts.

Fast forward to September, when Wiley arrived in DC and was joined at a press conference by numerous supporters after his long, hot, arduous walk.

As a result of Wiley's staggering efforts, Senator



*Above: The coal silo behind the old school. Below: To locate the school, look right of the coal silo. Looming over the old school, note the coal prep plant, the coal sludge dam and the smoke from a MTR blast. Flyover courtesy SouthWings.org.*





*Ed Wiley and supporters in Washington, D.C., September 2006.*

Byrd met and prayed with him. But no new school was promised. Byrd indicated that such matters were left to the state. (Really? The esteemed senator, who had building after building and other multi-million dollar complexes in West Virginia named after him because he regularly brought home the bacon, couldn't shake down the state or feds for the few million dollars it would take?)

But Wiley and others would not give up. They shook things up by paying then-Governor Manchin a few visits in his office at the State Capitol. Video footage of Hillary Hosta and others being handcuffed and brutally taken away further helped galvanize public opinion in favor of a new school for the community. Many courageous people, including some OVEC folks, were arrested that day. Tears came to my eyes, just watching this footage again as I write this article.

So, the road to building the new Marsh Fork Elementary School was not the walk in the park that present-day politicians and others might have you believe.

Another milestone moment occurred at the school in 2009, when actress Daryl Hannah, climate scientist

Dr. James Hansen, former Congressman Ken Hechler, CRMW's Judy Bonds (now deceased) and many others were not only arrested at the mine site, but also were confronted by hundreds of angry miners and their wives. Although CRMW had reserved the school grounds for a rally, the W.Va. State police allowed the counter-protesters to disrupt and invade the site.

A turning point came after the tragic Upper Big Branch mining disaster, in which 29 miners lost their lives as a result of a violent explosion at a Massey Energy mine. The national media flooded into the Coal River Valley, setting up shop on the grounds of the old Marsh Fork Elementary School awaiting word of the miners' fate. It just so happened that Charles Annenberg, of the Annenberg Foundation, was in the Coal River Valley at that time, looking for a project where his foundation could make a difference.

Before he arrived, efforts of the Pennies of Promise campaign had managed to amass a commitment of a couple of million dollars from the state, and even Massey Energy had agreed to provide a million or so — but that fell short of what was needed. Fortunately, during Annenberg's time in the valley, he ran across the good folks of CRMW. That

was when a plan was hatched. Annenberg would ask for a meeting with the governor to see if the state would match the foundation's gift of \$2.5 million. How could the state and the governor say no?

And so, the deal was done.

After six years of struggle, activists like Wiley, young people from Mountain Justice, CRMW and OVEC members and too many more to name could finally declare victory! Endless pressure, endlessly applied. It took courage and sheer determination and lots of heart.

I can't help but wonder what other positive changes will take place in the Coal River Valley, or anywhere else in West Virginia, when people living in communities actually work together. 🍓



*State police roughly remove Hillary Hosta from a March 2007 protest at the governor's office. Photo by Graham Boyle.*



*Left: Light and color bathe a classroom and the computer lab. Parent Angela Lucas told the Beckley Register-Herald that the new school is vastly different from the old one. "I'm so glad we are away from the slurry pond and the coal compound. I worried about the slurry pond each time it rained," she said. Interim Principal Tracie Wood told the newspaper, "I have never seen a community so excited about a school opening. This school is one other counties across the state will look to for ideas. It is completely state of the art."*

# Micro Power to the People

by Mary Wildfire

A letter to the editor (page 13) alerted me to my chance to finally see a microhydro system. On January 18, Vivian Stockman and I visited Mickey and Jennifer Janowski, who live at an elevation of 2,250 feet in Webster County, W.Va.

We didn't go to admire their log home (at right), which they built themselves — but we did that, too, while we were there. They've had an off-grid solar power system since the 1970s, but it was minimal: 500+ watts with a less-than-ideal exposure. However, they live on a lovely, reliable creek. So, with help from Matt Sherald, owner of Power In My Backyard (PIMBY), Janowski recently built a microhydro system to supplement the solar power system. They used a turbine called the Stream Engine, created by Paul Cunningham of Energy Systems and Design. See [www.getpimby.com](http://www.getpimby.com) and [www.microhydropower.com](http://www.microhydropower.com).

The upper end of the system is a concrete weir in the creek, a sort of dam with the water channeled through a box in the center of a spillway (at right). The box has a screen that filters out debris (see top photo on page 13). The screen was designed and fabricated by Marvin Woodie and Larry Agnew from Conn-Weld Industries in Princeton, W.Va. Water seeps through the screen into the box, where it is channeled into an intake pipe. A concrete pillar nearby holds the intake pipe steady in the sometimes-turbulent creek.

In order for the water diverted from the stream to the pipe to have enough energy to turn the Stream Engine turbine, it had to course along a hefty drop in elevation. Janowski buried more than 500 feet of four-inch PVC pipe from the intake right below his home to a little building, the powerhouse, where the turbine is housed. That gave him a 47-foot drop and 750 watts of power— power that, unlike solar, runs 24 hours a day. If there's a long summer dry period, the turbine will

produce less power, but that's when the sun picks up the slack.

In fact, the Janowskis have a small heater on the basement wall that automatically runs when the power is too much for the six L-16 batteries that store the fossil-fuel-free power their system generates. Windmills work this way also, while with solar, you need not keep a steady load as the charge controller just opens the circuit when the batteries are fully charged.

In the powerhouse, the arriving water splits into two curving arms and a third, narrower pipe that goes straight — this one is just a diversion for draining the system to avoid freezing and normally is shut off. From the two curving arms, water shoots from both directions at the wheel in the turbine, spinning it to produce electricity. Janowski says having two nozzles increases the power. There are monitors in this house measuring

temperature, gallons per minute at the outflow (150 when we were there) and power (it was producing 35.5 amps) The power travels as AC current up to the house.

Janowski says that, at first, he looked at his system every day, but it had been five weeks since he'd last looked at it — it doesn't need regular

attention. However, if the water pressure drops a lot (as in summer dry periods) he needs to tighten the nozzles so as to maintain pressure.

The power system cost about \$12,000, not counting burying the pipe, but Janowski said it could have been done less expensively, especially for someone who borrows from the lessons other microhydro installers have learned.

Thanks again to the Janowskis for showing us their nifty power system and their beautiful house, as well as for serving us an excellent lunch!

Their system illustrates the fact that solar panels are not the only feasible way to produce your own power. 🍌



*Janowski at the automated control panel for his off-grid power system.  
Photo by Vivian Stockman.  
Top two photos by Mickey Janowski.*



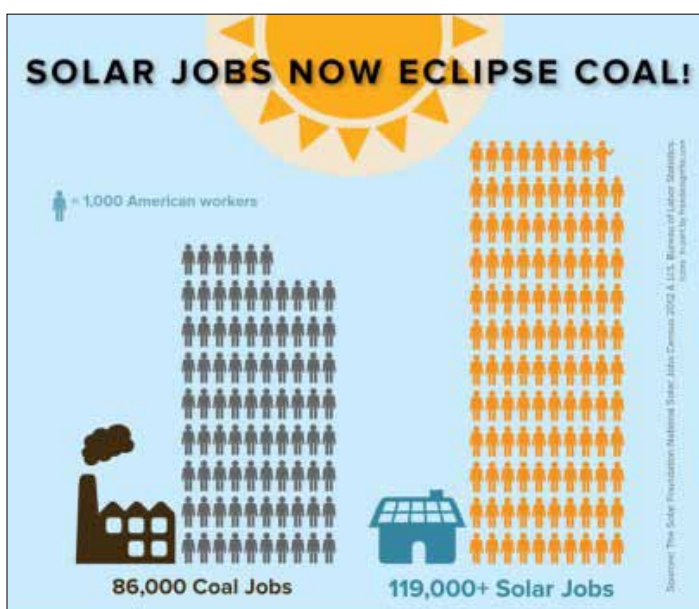
## We Use Creek Water to Power Our House

*Excerpted from a January 4 letter to the editor in The Charleston Gazette*

I live up a holler that has a nice little creek in Webster County. I'm not connected to the electric grid and for years have used photovoltaic panels for our electricity. During prolonged times of rain, snow and diminished sunlight, I used to have to fire up the nasty, noisy, stinky, fossil fuel generator to recharge the house's deep-cycle batteries.

Not lately. On Oct. 29, the day that Hurricane Sandy's related snowstorm hit (we got just over three feet), my mini hydro-electric generator, the "Stream Engine," began tapping energy of the water flowing down the mountain. Almost three weeks of snowmelt has provided more electricity than we can use. The excess powers a space heater.

It added another aspect as to how I look at the water in my creek. It's power to be converted to electricity, with virtually zero impact on the environment. A little diversion and it's back in the creek. Let it rain (or snow). — Mickey Janowski



The number above in the coal column refers to coal mining jobs. Infographic source: Suncommon, using data from the Solar Foundation's 2012 National Solar Census.

## Want Jobs? Get Efficiency

In December 2012, Energy Efficient West Virginia, WV Citizen Action Group and the Sierra Club released a report showing that our state could gain 19,500 new jobs if FirstEnergy and American Electric Power invest in energy-efficiency projects here. Such projects could save the two energy utilities' customers \$800 million over four years.

The two utilities are already leading energy-efficiency efforts in Ohio.

The report, titled "Save Money, Create Jobs: How Energy Efficiency Can Work for West Virginia," says that instead of acquiring new power plants, the utilities should be investing in these energy-saving projects.

West Virginia is one of the states lagging farthest behind in terms of implementing energy efficiency, and residents pay the price with higher electricity bills and fewer jobs. West Virginia is ranked 49th on an Energy Efficiency Scorecard created by the American Council for an Energy Efficient Economy (ACEEE).

"Energy efficiency creates a win-win situation. It puts money back in the pockets of our citizens and it creates jobs," says EEWV project manager Stacy Gloss. "Investing in efficiency is also more cost effective than investing in expensive power plants."

Gloss notes that the report demonstrates "a real opportunity for our state to reverse rising electric rates or hold them steady."

"Instead of charging homeowners and businesses hundreds of millions of dollars to acquire new power plants, West Virginia's utility companies could actually lower customers' electricity bills and create thousands of new jobs by investing in energy efficiency," says the Sierra Club's Bill Price.

OVEC is a member of Energy Efficient West Virginia, which is a group of concerned West Virginia residents, businesses and organizations who have come together to promote energy efficiency among residential, commercial and industrial customers in our state.

In response to a 43-percent rate increase proposed by Appalachian Power Company in 2009, EEWV was created to promote stronger energy efficiency policies that would help protect residents from future rate increases and drive a market for energy-efficient services.

Given our old and inefficient housing stock and historic lack of investment in energy efficiency, there is huge potential for investing in energy efficiency and to demand response programs that will help residents and businesses save money on their bills. We are active in advocating for energy efficiency at the Public Service Commission, the legislature, and through work with local organizations and municipal governments.

To join OVEC's work on EEWV contact Dan Taylor at dan@ohvec.org or 304-522-0246.

# Realizing a Renewable Energy Future

## *ACEA's Genesis*

In April 2012, 36 organizations, including OVEC, Coal River Mountain Watch and Christians for the Mountains, came together at the invitation of the Civil Society Institute and the Environmental Working Group. All the invited groups work on a variety of energy issues.

We agreed that the “all of the above” approach to America’s energy needs promoted by the White House is no roadmap to a clean, sustainable future. It keeps the nation on a path that is strewn with local hazards from fossil fuels and nuclear power and darkened by the global threat of climate change. It clings to the past and fails to take decisive action to protect public health, safety and energy security.

We agreed that the evidence for human-caused climate change continues to grow. Indeed, we are already witnesses to its effects on human health, storm intensity, agricultural production and sea levels.

Moreover, “business as usual” will either suck dry or foul the water that is essential to all living things. Power plants fueled by coal, nuclear power, industrialized biomass, and natural gas consume oceans of water, causing local and distant pollution and competing with agriculture, residential and other commercial interests. Natural gas fracking requires millions of gallons of water and produces contaminated wastewater that must be treated and/or discarded. Injection wells for disposing of drilling and fracking wastes have triggered earthquakes, government scientists have found.

That’s why we joined forces to promote a truly clean energy policy for the United States, one that promotes prosperity by investing in energy efficiency and renewable energy. Together, we crafted the American Clean Energy Agenda.

Since the original 36 groups crafted these principles, we’ve been working to promote the principles within our organizing work as well as to promote the agenda among other coalitions and grassroots groups working to promote clean energy.

The Committee for an American Clean Energy Agenda (ACEA) currently consists of 117 citizen organizations with more than two million members in 32 states and the District of Columbia.



## *ACEA Meets the Pols*

In January, groups working on the American Clean Energy Agenda held in-district meetings with congresspeople and senators to introduce them to the principles that guide the ACEA’s work. (See article at right.) We aimed

to let politicians know we want energy policies that protect our communities, health and water quality. A sustainable, smart energy path is the way to prevent further harm to the climate.

The West Virginia delegation visited with Senator Jay Rockefeller’s staff in his Charleston office on January 8. Janet Keating, our executive director, Chris Shepherd and Dan Taylor were there for OVEC. Also present were Vernon Haltom from Coal River Mountain Watch, Rev. Jeff Allen from the WV Council of Churches, and Stacy Gloss from Energy Efficient WV.

We spoke at length about the health effects of our current dirty energy system and the need for policy that supports the transition to renewable energy.

The next week, while in Washington, D.C., to attend a celebration of Joan Mulhern’s life (see story on page 23), Keating and OVEC staffer Vivian Stockman dropped informational packets on ACEA at the offices of Senator Joe Manchin, Congressman Nick Joe Rahall and Congresswoman Shelley Moore Capito.

As you might imagine, the ACEA so far isn’t thrilling to West Virginia’s coal-adoring politicians. But, all the groups working on ACEA are eager to work with on-the-ground experts to show that a truly clean energy agenda is possible by 2030. We’re set on creating the political will for better public investments in renewables, educating Americans about the impact of the “all of the above” strategy on water quality and water quantity and demonstrating that energy efficiency can help us get on the right track as we face ever-increasing threats from climate change.

We’ll need your help to do that. Get involved with OVEC’s ACEA work by contacting Dan Taylor at [dan@ohvec.org](mailto:dan@ohvec.org) or 304-522-0246. 🍌

*The agenda is guided by the “Precautionary Principle,” which dictates that lawmakers’ priorities must be protecting public health and natural resources. This principle should guide future policy toward a safe and sustainable energy future. The burden of proof of human harm should not fall upon potential victims of industries’ actions and the deployment of unproven technologies.*



# American Clean Energy Agenda

The time is now for a new, grassroots-driven politics to bring about a renewable energy future. As Congress debates major new public investments in energy, we need to ensure that our taxpayer dollars support an energy system that protects public health, promotes energy independence and ensures Americans economic well-being.

**The precautionary principle must be the lodestar for the effort to create a new energy future for America that goes “beyond business as usual.”** In the energy sphere, the core of the precautionary principle is to prevent degradation of the environment, protect public health, preserve access to clean water, sustain the electric grid and combat global climate change, for today’s populations and future generations.

We, the undersigned, agree to this fundamental principle and further commit to work toward a truly renewable, sustainable energy standard that is built on the following shared premises:

1. We must generate the political will to create a sustainable healthy energy future by 2030 by accelerating the phase-out of nuclear power, natural gas, coal and industrial biomass and driving a grand transition to efficient use of renewable, non-polluting resources.
2. Achieving a sustainable-energy future hinges on grassroots organizing to mobilize and educate the public and to demand support from our community, business and political leaders.
3. The entrenched dirty-energy industry’s public relations machine and lobbyists block the path to healthy energy options and sources. We will expose their misleading tactics and promote a truly healthy and renewable energy system.
4. The renewable energy standard is a proven model for a sustainable future, and our goal is to see it implemented on a national basis — as it already is in many states and other nations. We oppose the so-called “clean energy standard” as a dishonest political ploy designed to protect polluting energy industries — coal, nuclear, oil, gas and unsustainable biomass — that have brought us to the crisis we are in today.
5. We urge our local, state and federal authorities with jurisdiction over energy generation, power distribution and rate-setting to ensure a level playing field for renewable energy and efficiency. It is essential to take fully into account the long-term risks and costs to health, environment and communities of all energy resources, and to adopt policies based on least cost to consumers and minimal risk. We urge specific policies that will ensure this full reckoning as well as strong energy efficiency standards that minimize the demand for resources and provide good jobs and clear benefits to consumers.
6. We hold that the overall use of taxpayer dollars for dirty energy projects — whether called “subsidies,” “tax incentives” or “loan guarantees” — currently runs counter to the public interest. Government incentives must benefit public health, economic well-being and the environment. We will develop clear guidelines to direct smarter public investment in energy.
7. We will educate our fellow citizens about the negative impacts of water-intensive energy choices on human and environmental health. Families and communities deserve clean air, access to clean water, safe, sustainable food and good health.
8. We will demonstrate that renewable energy and energy efficiency programs can be flexibly configured and adapted across the country to accommodate regional differences in energy portfolios.
9. Exporting dirty energy harms public health and contaminates our water, with the result that Americans pay the environmental and health price of meeting the energy needs of other countries while gaining nothing in the way of energy independence. Exporting coal extracted by mountaintop removal mining and shale gas obtained by fracking are especially egregious examples. Forcing U.S. industries to compete with other nations for domestic supplies is likely to drive up prices dramatically and may cause them to relocate overseas.



# Death at Coal Sludge Dam Underscores Ongoing Safety Worries

*On Friday, November 30 at approximately 12:15 p.m., a massive failure of the upstream face of the saddle dam for the Nolans Run Slurry Impoundment occurred at the CONSOL Energy, Robinson Run No. 95 Mine.*

*A section of the saddle dam measuring approximately 650 feet long, 20 to 25 feet above the water's surface, and 70 feet back from the water's edge, broke and slid into the impoundment. **Four miners were working in the saddle dam area when the failure occurred.***

*Three of the miners and their equipment were swept into the impoundment. **Two miners were standing near the face of the saddle dam looking over and recognized a failure was about to occur. They began to run but were pulled into the water. One of these miners swam to shore and the other was located and rescued by Nutter Fort Fire and Rescue. One bulldozer operator working nearest the face was inside his equipment when it slid into the impoundment and remains unaccounted for. The other bulldozer operator was further back from the face area and was not affected by the failure. Recovery operations are ongoing.***

*--from a December 5, 2012 Mine Safety and Health Administration preliminary report on the tragic incident at a coal slurry dam in Harrison County, W.Va.*

The report's use of the word "water" is misleading. The viscous 78-acre lake of coal slurry the dozer operator was trapped in was so thick that rescue divers could not dive in to search for him. It

took special equipment, many attempts and plans, and two weeks before the body of Markel J. Koon was finally recovered.

When this tragedy occurred, CONSOL was expanding the at least 1.6-billion-gallon dam by raising the embankment more than 40 feet above the natural ridgeline. The expansion would allow even

more waste from the nearby coal preparation plant to be stored in the slurry lake.

On December 7, the Associated Press reported: *Slurry pond failures like the one that swallowed a bulldozer and its driver last week at a West Virginia coal mine could be avoided if the waste pits were built to strict construction standards that regulators ignore, said a mine safety expert and frequent critic of the coal industry.*

*For at least a decade, state and federal regulators have allowed coal companies to build or expand massive slurry ponds atop loose and wet coal waste, said Jack Spadaro, an engineering consultant and former director of the National Mine Health and Safety Academy.*

*"They're building on top of the existing slurry, and therein lies the problem," Spadaro said. "It's wet and it has no stability. It's creating hazards for all of us downstream."*

(Read the whole article: [abcn.ws/XFk8Dg](http://abcn.ws/XFk8Dg).)

Spadaro has long worked with OVEC and Coal River Mountain Watch's Sludge Safety Project. What happened at CONSOL's dam further underscores the serious concerns about impoundment regulation and dam safety that SSP has been raising for years. Although SSP's work has achieved a ban on new underground coal slurry injections and our work



Above: At left, note the failed area of the embankment at CONSOL's Harrison County, W.Va. coal sludge dam.  
Below: Dwellings near the sludge impoundment.  
Flyover courtesy SouthWings.org.





# Feds: Dam! DEP

has contributed to the dearth of permits for new coal sludge impoundments, much remains to be done. Some preparation plants in West Virginia have installed filter presses to dewater coal prep-plant waste, bypassing any need for dangerous expansions of already dangerous coal slurry dams. More companies need to adopt the dry press filter method for dealing with coal prep-plant waste.

The Associated Press article continued:

*(Spadaro) claims regulators at all levels continue to go easy on the industry in favor of coal production. Rather than require companies to build new dams on solid earth or dispose of the wastewater and refuse through a drying system, they allow the operators to raise the height of existing dams and ponds.*

*Federal law, he said, requires impoundments to be stable during all phases of construction.*

*“Well, if you build a dam on top of 80 feet of fine coal waste that’s wet,” Spadaro said, “that is not stable material.”*

We need stronger enforcement of existing laws to protect workers and downstream communities from dangerous sludge lakes. We need a moratorium on the dangerous construction methods now in use for coal-sludge dams. We need the immediate adoption of filter press technology at all coal prep plants. Sign a petition to that effect at [bit.ly/VMECe4](http://bit.ly/VMECe4).

If you want to be actively involved with OVEC on coal industry abuses, like coal sludge safety issues, call us at 304-522-0246. 🇺🇸



Archival photo

## Reader’s Digest Runs Story of Buffalo Creek ‘Miracle Baby’

*Kerry Albright was the apparently lifeless “miracle baby” pulled 40 years ago from the thick black muck left by a killing wall of filthy water and sludge in the Buffalo Creek Flood. His story appears in the January issue of Reader’s Digest, a publication with more than 5.5 million subscribers.*

*The flood of wastewater and sludge that poured through a hole in the mining company’s dams killed 125 people and left more than 4,000 homeless.*

- From a January 28 *Charleston Gazette* article. Read it: [bit.ly/Y8GiOq](http://bit.ly/Y8GiOq) 🇺🇸

Recall the 2000 breakthrough of a coal slurry impoundment in Martin County, Ky., which resulted in more than 300 million gallons of coal sludge drowning out aquatic life along more than 100 miles of waterways. After that coal sludge impoundment failure, a National Academy of Sciences report included a recommendation that state and federal agencies look for alternative methods to process coal prep-plant waste, so new construction of huge sludge dams like these could be avoided.

As Ken Ward, Jr., of *The Charleston Gazette* and the blog *Coal Tattoo* notes, that recommendation has been largely ignored. “Instead, OSM has been looking through DEP permit files and conducting its own field inspections to gauge how well the state is enforcing state and federal dam safety rules.”

Mine safety advocate Jack Spadaro tells Ward that the federal Office of Surface Mining and Reclamation Enforcement (OSM) had been stalling the release of this report, saying, “They’ve put the public at risk this whole time. They were trying to ignore the issue.”

In January, OSM finally released its report on its four-year examination of how well the WV Department of Environmental Protection (DEP) evaluates the potential for coal slurry impoundments to break through into nearby underground coal mines.

No surprises: DEP is not adequately examining break-through risks.

On our Sludge Safety Project’s website, Mat Louis Rosenberg, Coal River Mountain Watch’s SSP coordinator, writes:

*Of the 15 impoundments studied in the report, 11 had design flaws, inadequate information about underground mines, and/or missing documentation. Nearly all these problems were identified in 2008 and almost none had been fixed in the 5 years since then. The Campbell’s Creek impoundment was so far out of compliance that the OSM recommended immediately stopping adding slurry to limit the risk of a spill. In one case, an impoundment that had been ordered to close because of the potential for a breakthrough was still being “occasionally” used ten years later.*

*Despite this frightening track record, DEP Secretary Randy Huffman had this to say about the report, “I didn’t view any of (OSM’s findings) as an indictment of DEP’s program.” While the*

*continued on page 18*

# Feds: Dam! DEP

continued from page 17

*OSM didn't find any impoundments that were in immediate danger of failing, Secretary Huffman's casual attitude towards the serious findings in this report shows that once again, DEP is willing to roll the dice when it comes to community health and safety.*

*One key issue raised in this report is what happens to an impoundment after it is closed, capped and abandoned. When an impoundment is full and the industry doesn't need an impoundment (or when they are ordered to close because they are unsafe like five of the impoundments in the report), generally they just pump the clear water off the top and cover the whole thing with waste rock. The DEP and the industry claim that this eliminates any danger of the impoundment failing, but OSM isn't so sure. The report clearly states that there is no evidence collected that the slurry under the rock isn't still a liquid able to break through into mines below.*

*The OSM has now made it crystal clear that capping impoundments does not appreciably decrease the chance of the impoundment failing. We have raised this issue with the OSM many times and they have admitted readily in our meetings that no one knows how long it takes for a capped impoundment to dry out completely. Despite the fact that the DEP agrees that no one knows how long it takes to dry, they have been allowing mining below and slurry cell construction above capped impoundments with no information collected about the slurry until now.*

Pam Kasey of *The State Journal* reports, "OSM said that DEP had committed to requiring coal companies to provide additional information for each of the 132 slurry impoundments in West Virginia. OSM also said it plans similar studies in six other states."

Rosenberg's blog concludes:

*The DEP claims it wants "to use the most conservative approach to ensure the safety (of) all dam control structures under our jurisdiction." The most conservative approach is to embrace the precautionary principle and stop all construction and expansion of all impoundments until all considerations about long-term stability, adequate construction methods and potential groundwater contamination are answered thoroughly. Instead the DEP is just requiring the coal companies to submit additional information. Oh, and it's going to take them three years to do it.* 🍌



## Blair Mtn. Update: Appeal Filed

We are appealing an October 2012 decision by the U.S. District Court of Appeals in Washington, D.C., which denied our efforts to put the Blair Mountain Battlefield back on the National Register of Historic Places.

In late November 2012, OVEC, the Sierra Club, WV Highlands Conservancy, Friends of Blair Mountain, West Virginia Labor History Association and the National Trust for Historic Preservation formally filed the appeal. The U.S. Circuit Court of Appeals for the District of Columbia will hear it.

Arch Coal has a permit to begin strip mining almost 400 acres near Blair in Logan County, W.Va., which would destroy areas where the historic Battle of Blair Mountain took place.

Gordon Simmons, president of the labor history group says, "The Battle of Blair Mountain was one of the most important events in labor history anywhere, and it took place in West Virginia. It seems so wrongheaded to bury that event. It should be our number-one tourist attraction in the whole state. It should be developed, not destroyed."

Kenny King, a long-time leader of efforts to save Blair Mountain from obliteration by mountaintop removal, says, "The courageous resistance of 10,000 striking coal miners in 1921 was an outcry for basic human rights. Blair Mountain must not fall to the insatiable greed of the coal industry, but rather stand as a monument that honors the gains for which those miners sacrificed their lives and livelihoods. Never before, nor since, have so many American workers taken up arms to fight for their constitutional rights. Blair Mountain, W.Va., stands not only as a reminder of our proud history, but also as a living symbol of hope for all who seek justice."

WV Highlands Conservancy volunteer Julian Martin adds, "Blair Mountain is an important part of my family's history. My grandfather and great-uncle fought at Blair Mountain in 1921 on the side of the United Mine Workers of America. It would be a huge loss for Blair Mountain to be unprotected from mountaintop removal strip mining." 🍌

# A New Year's Request for the W.Va. Coal Association

*OVEC organizer Robin Blakeman's op-ed, published January 6 in The Sunday Gazette-Mail*

Dear West Virginia Coal Association representatives and affiliated elected officials:

We, the undersigned faith community members and leaders, call upon you to stop using misleading and incendiary language concerning a “war on coal.” The damage caused in our communities from this rhetoric includes: neighbor pitted against neighbor, families divided, coal trucks trying to run people off the road, and threats upon the lives and property of some individuals.

Let's face facts: There is no “war on coal.” The coal industry is undergoing an economic downturn due largely to competition from the gas industry. Jobs are being lost due to decades-long labor reduction strategies. This “war on coal” war cry has, however, rallied mining employees and their families to a dangerous frenzy. By using this rhetoric, you are following the divisive strategy that the coal industry has used for over a century. It is an archaic and outdated tactic. It is also immoral.

As an example of why the “war on coal” rhetoric is immoral, we would like to encourage Coal Association leader Bill Raney and others — such as Governor Earl Ray Tomblin, Representative Shelley Moore Capito, Representative Nick Joe Rahall and Senator Jay Rockefeller — to hear their Presbyterian Church (USA) faith community brothers and sisters speak on this issue. Many of the undersigned are also church members and leaders.

The Presbyterian Church (USA) as a Christian denomination has decried the practice of mountaintop removal coal mining since 2006. The resolution states, “That the 217th General Assembly (2006) of the Presbyterian Church (U.S.A.) urge state and federal agencies that regulate mining practices, as well as coal companies themselves, to abandon the practice of mountaintop removal coal mining and work to meet our nation's energy needs in a manner that is just, sustainable, and consistent with Christian values.”

The rationale given for adopting this resolution includes the following:

“... Mountaintop removal coal mining contributes to a cycle of poverty that has created high unemployment, high illiteracy rates, record numbers

of school closings, and a lack of opportunity in areas where coal is produced by mountaintop removal. Mountaintop removal coal mining destroys both the beauty and productive capacity of the land thus eliminating future or alternative economic opportunities for the families of Appalachia. God instructs us to ‘... not defile the land in which you live, in which I also dwell ...’ (Num. 35:34). We are instructed in James 4:17 to ‘turn away from sin.’”

The National Council of Churches has a similar resolution, as do many other mainline denominations and Interfaith partners, such as Unitarian Universalist and Jewish communities. The West Virginia Council of Churches has expressed grave concern over the effects of mountaintop removal on surrounding communities. People of faith — including the undersigned individuals — are noting the injustices of mountaintop removal coal mining, which is the practice that is primarily being propagated by people who are crying “war on coal.”

In March 2012, the Presbyterian Church (USA)'s highest elected official Stated Clerk Gradye Parsons had this to say concerning MTR operations in his home state of Tennessee:

“Mountaintop removal coal mining is an unacceptable desecration of God's good creation. In a state that is known for its beautiful mountains, destroying these mountains simply doesn't make sense. Recent studies have also shown

that mountaintop-removal-related water pollution seriously damages the health of people who live downstream from mine sites. These studies find shocking increases in health problems, including birth defects in newborn babies. As our faith has taught us to care about our neighbors, so we are also called to speak out against these injustices.”

To his credit, Senator Rockefeller has recently made statements that indicate he recognizes some of the problems of mountaintop removal mining, and —



*continued on page 27*

# W.Va. among top “extreme weather” states in 2012

Excerpted from a January 15, 2013 article by Ken Ward Jr. in The Charleston Gazette

Nearly 100 records for heat, rain and snow were set in counties across West Virginia last year, and the state ranked among the top 10 states for percentage of weather stations reporting such “extreme weather” events, according to a new report from the Natural Resources Defense Council.

The NRDC report, released Tuesday, comes after one government report that found last year set an all-time record for average U.S. temperature and another government scientific report that warned climate change is already happening.

“Climate change, once considered an issue for a distant future, has moved firmly into the present,” said the 1,146-page draft National Climate Assessment, a scientific report issued Friday.

“Americans are noticing changes all around them,” the report said. “Summers are longer and hotter, and periods of extreme heat last longer than any living American has experienced.

“Winters are generally shorter and warmer,” it said. “Rain comes in heavier downpours, though in many regions there are longer dry spells in between.”

Earlier last week, the National Climatic Data Center had reported that the average annual U.S. temperature was up to 55.32 degrees Fahrenheit, a full degree warmer than the old record set in 1998.

Scientists say the U.S. heat and the extreme weather events are in part global warming in action, and that major reductions in greenhouse gas emissions — such as carbon dioxide from coal-fired power plants — are needed to avert the most damaging impacts.

In his inaugural address Monday, Gov. Earl Ray Tomblin mentioned several extreme weather events



in West Virginia last year, including last spring's tornado and floods, the derecho and Hurricane Sandy. The governor praised West Virginia's "strength of character" in responding to the storms.

After Hurricane Sandy, Tomblin did not respond to a question about climate change and extreme weather events, and the governor has questioned whether global warming is really occurring.

The National Climate Assessment says that “large parts of West Virginia” could experience more than a doubling of days per year, or about 15 more days per year, with temperatures over 95 degrees Fahrenheit by the 2050s. The report said the increase in hot days “will impact the region’s vulnerable populations, infrastructure and agriculture and ecosystems.” 🍌

## **OVEC WORKS!**

*Thanks to everyone near and far for taking action to end mountaintop removal, with an extra special thanks to all the residents of the southern mountain communities who speak out courageously. We hope you know how much we appreciate you. OVEC works because of you!*

**THANKS!**

*We will respond to the threat of climate change, knowing that the failure to do so would betray our children and future generations. Some may still deny the overwhelming judgment of science, but none can avoid the devastating impact of raging fires, and crippling drought, and more powerful storms. The path towards sustainable energy sources will be long and sometimes difficult. But America cannot resist this transition; we must lead it. We cannot cede to other nations the technology that will power new jobs and new industries — we must claim its promise.*

- President Obama, in his second-term Inaugural speech



# PRESIDENT OBAMA, AMERICA NEEDS A TIMEOUT ON NATURAL GAS EXPORTS. NOW.

FRACKING AT JONAH GAS FIELD, WYOMING

## THE OBAMA ADMINISTRATION MAY CLEAR THE WAY FOR ENERGY COMPANIES TO SHIP MORE THAN 40% OF AMERICA'S NATURAL GAS OVERSEAS. IS THIS REALLY A GOOD IDEA?

Exporting Liquefied Natural Gas (LNG) to overseas markets will mean more drilling and fracking on US land, which are dirty and dangerous practices. Exports will allow the gas industry to make billions of dollars at the expense of our communities and public health.

Gas exports will mean higher energy costs for consumers and American industries. Jobs could end up being shipped overseas.

The extraction and transport of natural gas release huge amounts of greenhouse gases into the atmosphere, adding to climate change

and continuing our reliance on dirty fossil fuels instead of clean energy solutions.

Americans demand that the Obama administration take a timeout and look closely at all the risks before permitting American gas to be shipped overseas.

**Go to [www.TimeOutLNGexports.org](http://www.TimeOutLNGexports.org) to tell President Obama to take a closer look at LNG exports.**

**COALITION MEMBERS:** Catskill Citizens for Safe Energy-NY Chefs for the Marcellus Chesapeake Climate Action Network-MD Civil Society Institute ClimateMama (Harriet Shugarman, Executive Director) Coal River Mountain Watch Community Environmental Defense Council Delaware Riverkeeper Network (Maya K. van Rossum, the Delaware Riverkeeper) Dryden Resource Awareness Coalition Earthworks (Jennifer Krill, Executive Director) EcoWatch (Stefanie Penn Spear) Environmental Working Group Food & Water Watch Keep Cocheton Green-NY Kentuckians for the Commonwealth Northern Plains Resource Council Ohio Valley Environmental Coalition-WV Otsego 2000-NY Physicians Scientists Engineers for Healthy Energy Post Carbon Institute (Asher Miller, Executive Director) Powder River Basin-WY (John Fenton, Chariman, Board of Directors) Responsible Drilling Alliance Sierra Club Sullivan Area Citizens for Responsible Energy Development-NY TEDX-The Endocrine Disruption Exchange The Mothers Project/Mothers for Sustainable Energy (Angela Monti Fox, Founder) Western Colorado Congress Western Organization of Resource Councils

**INDIVIDUAL SUPPORTERS:** Jannette M. Barth, PhD, Pepacton Institute LLC Kitty Burns Josh Fox, Director, Gasland Peter Gleick, CEO, Pacific Institute Andrew Jennis, MD, John Theurer Cancer Center, Hackensack University Medical Center Michael Lang, Music Producer Eric London, MD Stephanie Low Mark Ruffalo, Actor Pouna Saberi, MD, MPH Debra Winger, Actor

On February 12, more than three dozen groups and individuals placed the above advertisement in the *New York Times*. The ad calls on President Obama to take a “time out” in the headlong run to export more than 40 percent of America’s natural gas for use by other nations.

The ad — signed by the Civil Society Institute, Sierra Club, Physicians Scientists Engineers for Healthy Energy, *Gasland* director Josh Fox, actor Mark Ruffalo, OVEC, Coal River Mountain Watch and many others — urges Americans to tell President Obama to take a closer look at liquefied natural gas (LNG) exports.

Right now, the U.S. Department of Energy (DOE) is studying whether we should start exporting fracked liquefied natural gas (LNG). Unfortunately, the DOE is only evaluating the business-side economics of exports, not the environmental and public health effects of fracking.

The natural gas industry wants to ship fracked LNG to other countries to profit even more, while leaving our communities to deal with consequences — including poisoned drinking water, extreme air pollution and destroyed coasts. It is up to us to tell President Obama the natural gas industry does not deserve a blank check to put our communities at risk.

See the ad at [bit.ly/12nwRgq](http://bit.ly/12nwRgq). Visit [www.TimeOutLNGexports.org](http://www.TimeOutLNGexports.org) to learn more and send your letter to President Obama. 🍌

## Fayette County

# New Project Aims to Inform, Engage

The Coalfield Environmental Health Project is a new initiative aimed at keeping Fayette County folks informed of the status of ongoing surface mining in the county.

Outreach events will include community forums on surface mining, at which experts will lead discussions on surface mining and its impacts on the economy, environment and health. The project will also conduct trainings for people who are dealing with flooding, dust, blasting or other problems so they can effectively navigate state and federal laws to get the protection they need.

"I think it's important for every community member, no matter where they live, to be informed about the issues in their surroundings so that they can advocate for change if it's needed," Kathryn South, community outreach coordinator for the project, told *Beckley Register Herald*.

"There's been the whole gamut of life-threatening illnesses and diseases that people in this area have been burdened with for years and years. If we can make a dent in that number of people who have cancer and heart disease and breathing problems, then I think we are accomplishing a great goal," South said.

Andrew Munn, project coordinator, noted that although the science shows surface mining correlated with bad health, families may depend on the mining for income.

"We should use the fact that surface mining is a lightning rod for public dialogue to get the dialogue



*Fayette County's beauty is legendary.  
An informed and engaged citizenry can  
protect that beauty, and human health.*

going but keep it future-focused," Munn told the newspaper. "Ultimately, whether or not there is surface mining, we all live together and we will all continue to live in the same communities, and we shouldn't let the issue hold us up from making improvements."

He added, "We see it as our responsibility, and the responsibility of all Fayette County communities, to really put our heads together and find a better way."

The Coalfield Environmental Health Project is a project of the Southern Appalachian Labor School (SALS) and Plateau Action Network, with partial funding and additional support provided by OVEC. The project was made possible by a grant

from the EPA Environmental Justice Program.

On March 11, at 6 p.m. at the SALS Community Center in Beards Fork, the project will host a meeting titled Environmental Protections Training: The Clean Water Act and You.

An April 8 meeting at 6 p.m. in Fayetteville will feature Dr. Michael Hendryx speaking on surface mining and health. The location had not been determined as *Winds of Change* went to print.

On May 20, at 6 p.m. at SALS, the topic will be Environmental Protections Training: The Surface Mine Control and Reclamation Act and You.

To learn more about the project or for information on other forums and trainings, which run through September, contact Munn at [anromu@gmail.com](mailto:anromu@gmail.com) or 304-924-1506.

The project's meetings are also posted on the calendar page at [www.ohvec.org](http://www.ohvec.org). 🍁

# Passages

## Joan Mulhern

We join Earthjustice and lovers of clean water nationwide in mourning the death of Joan Mulhern, senior legislative counsel at Earthjustice. Joan, 51, died December 19, 2012, after a long illness.

Her co-worker Marty Hayden wrote, “Earthjustice’s original ‘Mountain Hero,’ Joan began her great work at Earthjustice in 1999, bringing with her a remarkable dedication to clean water and leading the organization in its work to save Appalachian waters and communities by ending mountaintop removal mining, to protect Florida waters from toxic algae slime, and to bring the protections of the law to all waters of the United States.”

Joan opened doors on Capitol Hill for groups like OVEC. She helped us get our stories to legislators and helped them introduce legislation that would protect our communities. She helped us get our stories to regulators, and she spearheaded efforts at Earthjustice aimed at making regulators enforce laws already written — laws that were supposed to be protecting our health, our water and our mountains.

Joan’s colleagues are carrying on more fiercely than ever in her memory, and OVEC knows Earthjustice’s support for our work will be stronger than ever. 🍎



## Don Gasper

We also have to bid farewell to WV Highlands Conservancy leader Don Gasper, who died February 1, 2013, at his home. He was 82. A fish biologist, Gasper was a pioneer in the fields of cold-water fisheries, acid mine drainage mediation, forest hydrology and acid rain studies.

Gasper was also a longtime member of Trout Unlimited, the WV Environmental Council and the Buckhannon River Watershed Association.

He left directions for his ashes to be scattered over at least one of West Virginia’s streams, water he loved so much and worked to protect. 🍎



On March 30, 2004, in front of the U.S. Department of the Interior, Joan Mulhern of Earthjustice (at the podium) opens a press conference she arranged. Among the speakers were OVEC organizer Maria Gunnoe, Coal River Mountain Watch’s Mary Miller, West Virginia Highland Conservancy’s Cindy Rank and Robert Kennedy, Jr.

## Rebecca Tarbotton

We join Rainforest Action Network in mourning the loss of their executive director Rebecca Tarbotton, who died in a swimming accident on December 26, 2102. She was 39.

“Becky was admired by environmentalists and climate change activists for her visionary work protecting forests, pushing the nation to transition to a clean energy economy and defending human rights. She was the first female executive director of RAN and a strong female voice in a movement often dominated by men,” RAN said in a press release announcing her death.

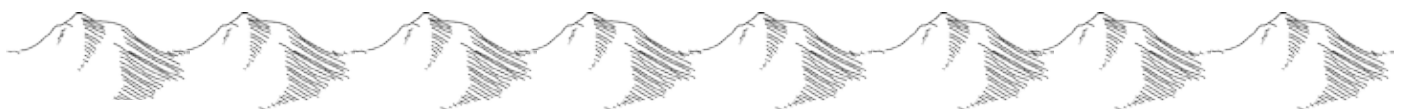
Under her leadership, RAN was committed to ending mountaintop removal, especially by targeting the financiers of this egregious form of coal mining. OVEC knows this commitment will not end with Rebecca’s passing. Indeed, we will all redouble our efforts to work together. 🍎

## Bob Gates

Independent filmmaker, photographer and long-time WV Highlands Conservancy member Bob Gates, 69, died February 2, 2013.

Bob was a strident opponent of mountaintop removal. His films include *In Memory of the Land and People*, *Buffalo Creek Disaster*, *Mucked*, *Flood Stories* and *Trip to Kayford Mountain*.

His films have created new activists in the movement to end mountaintop removal and will continue to do so, now, after his passing. 🍎



# OVEC History

*continued from page 2*

member Dan Kash, Cindy Rank, of WV Highlands Conservancy, and Larry Gibson. The invited speakers from the coal industry did not show up, so we had empty chairs to represent their unwillingness to engage with the public. And after the forum, we talked with Larry Gibson about his need to learn to speak louder, because his voice was hard to hear.

1999: WV Highlands Conservancy, along with several OVEC members, won a federal lawsuit arguing that valley fills violate the Clean Water Act. Judge Charles Haden's ruling effectively banned new valley fills. A few days later, Governor Cecil Underwood, predicting a disastrous impact on the state's economy, ordered an immediate statewide hiring freeze. Several days after that, Judge Haden cited widespread panic as his reason for staying his ruling until it could be heard by the Federal Fourth Circuit Court of Appeals. Haden said the so-called "panic" reflected "misunderstandings and egregious misrepresentations" of his rulings. In the end, a settlement was reached that stopped major portions of the Spruce MTR mine in Logan County; it included a requirement that U.S. EPA conduct an overall Environmental Impact Statement on mountaintop removal. This was Joe Lovett's first lawsuit (he had just finished law school).

1999: Artist Carol Jackson made a cardboard tombstone cemetery, with over 500 detailed tombstones, each named for a West Virginia mountain or stream destroyed by MTR. The cemetery traveled to dozens of rallies, protests and events all over W. Va. and in Washington, D.C.

1999–2003 (approximately): OVEC organized a series of "Summits for the Mountains" to bring together people living near mountaintop removal in West Virginia and all interested state citizens' groups, in order to learn from each other and make plans for coordinated actions.

Starting in 1999: OVEC organized one of several "Rallies for the Mountains" that were held at the state capitol over a period of several years.

1999: OVEC organized two chartered bus trips to Washington, D.C., one to oppose federal action

making it easier to permit MTR and one to raise more awareness about damages from MTR. Earthjustice's Joan Mulhern guided us in all things D.C. We were opposing changes to the Clean Water Act, and the Clinton administration did not enact those changes. But later, after George W. Bush took office, he amended the Clean Water Act to legally allow the dumping of mine "overburden" into streams.

1999: About a dozen people reenacting the March on Blair Mountain were heckled and harassed at points along the route, and Ken Hechler was knocked over and had his glasses broken, among other acts of minor violence.

Summer of 1999: Larry Gibson convinced us to organize a Walk Across West Virginia to get the word out. Larry walked five hundred miles from Huntington to Harpers Ferry. Julian Martin, of WVHC, walked most of the way with Larry, and my college-student son Aaron helped with lodging arrangements and many speaking

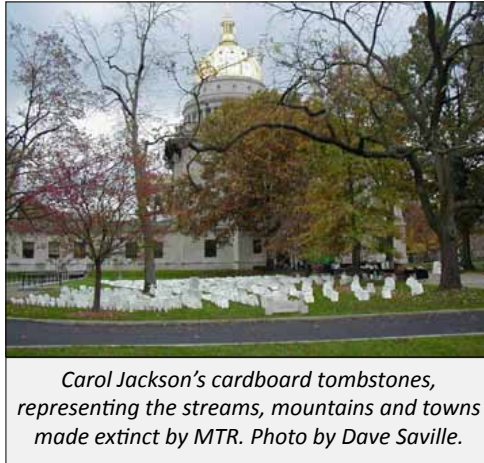
engagements along the route.

1999: OVEC organized a protest at Arch Coal's then-headquarters in Huntington. Several Logan County residents wore T-shirts with the words "We're Next" on them. We were protesting plans for another Logan MTR mine.

1999: OVEC and WVHC filed Notice of Intent to Sue DEP for not doing its job to protect streams from mountaintop removal. The DEP director at the time, Michael Miano, was quoted in the *Charleston Gazette*, saying, "I believe there is no detrimental effect to the environment as a result of mountaintop mining." OVEC organizer Laura Forman responded, also with a quote in the *Charleston Gazette*: "I could understand if he were still with the coal industry and trying to justify what they were doing. But as director of DEP, I don't think he should be saying things like that."

2000: OVEC volunteer Larry Gibson's voice was getting stronger. He told the *Gazette*, "Mountaintop removal has caused more damage around Kayford Mountain than a huge natural disaster." Laura Forman told the *Gazette*, "These (new) permits lay to rest any rumors that Judge Haden's ruling is ending mountaintop removal."

2000: OVEC and Coal River Mountain Watch



*Carol Jackson's cardboard tombstones, representing the streams, mountains and towns made extinct by MTR. Photo by Dave Saville.*



organized a protest outside the DEP, asking for the resignation of Director Mike Castle for granting illegal MTR permits.

2000: A 70-acre sludge impoundment failed at a Massey MTR mine in Inez, Ky., dumping more than 300 million gallons of slurry into streams that fed into the Big Sandy River and then into the Ohio River. Residents' lawns were buried in seven feet of sludge. OVEC and Coal River Mountain Watch's Sludge Safety Project worked in many ways to publicize this and other problems with "disposal" of wet coal slurry.

A subsequent National Academy of Sciences study recommended that companies switch to dry-press processing of coal prep-plant waste, a method we still endorse today.

2000: OVEC organizer Laura Forman publicly asked the secretary of the U.S. Department of the Interior to investigate the ties between the director of the Office of Surface Mining, Kathy Karpan, and the coal industry. Karpan was negotiating for a job as president of the National Mining Association; she was transferred to a different position within the Interior Department.

2000 Halloween season: OVEC organized a Funeral for the Mountains. Two hundred participants marched over a mile to the State Capitol to mourn.

2001: OVEC filed a request in federal court for a temporary restraining order to prevent two new mountaintop removal/valley fill permits, which, if granted, would further pollute streams that were already highly polluted from currently operating MTR mines in the same watershed.

2001: Ken Ward, Jr., reporting for the *Charleston Gazette*, quoted DEP director Michael Callahan in an article: "Wise (gubernatorial) administration officials will continue the state's efforts to eliminate the rights of coalfield residents to file federal court lawsuits over strip mining problems." (OVEC and other groups are still filing federal lawsuits over mountaintop removal damages today.)

2001: OVEC organized a protest outside of Massey Energy's annual stockholders meeting, chanting "Keep the mountains, move Massey."

Pauline Canterberry, of Sylvester, carried photos of her attic and her granddaughter, both covered in coal dust. Another Sylvester resident said, "They cut the mountain off at the top, and now we are covered with dust."

2001: OVEC and Coal River Mountain Watch organized a protest outside Massey's then-corporate-headquarters in Kanawha City on the one-year anniversary of Massey's huge Inez, Ky., sludge disaster. A dozen UMW members joined our protest, and one was quoted in the *Gazette*: "Massey's

environmental record is horrible. One-third of all miners killed in West Virginia this year came from Massey mines."

2001: Coal River Mountain Watch and OVEC legally appealed the renewal and expansion of Massey's Brushy Fork sludge impoundment in Raleigh County. The same Massey engineers who designed and built the failed Inez, Ky.,

impoundment also designed and built Brushy Fork. According to the *Gazette*, "The Coalition (OVEC) has sponsored numerous protests against Massey's expansion plans." We also held news conferences

*continued on page 26*



Hydrogeologist Rick Eades speaks at a hearing on the permit renewals for the Brushy Fork coal sludge dam Whitesville, W.Va.  
Photo by Deana Smith.

## Stay Connected!

**Stay Informed by E-mail:** Join OVEC's Action Alert! e-mail list by going to [www.ohvec.org](http://www.ohvec.org) and clicking the "Action Alert" button. This is not a discussion list, so you won't be swamped with e-mails.

**Stay Informed by Phone:** 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 Online:** Visit [www.ohvec.org](http://www.ohvec.org) frequently for updates. Check out our extensive background information in the Issues section. We are on **Facebook**, too. Link up from [www.ohvec.org](http://www.ohvec.org).

# OVEC History

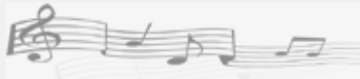
*continued from page 25*

and other public gatherings to inform people of the need to stop this expansion.

2000-2001: OVEC contracted with an experienced hydrogeologist to study all public documents related to the Brushy Fork impoundment and to report to us any areas of potential concerns. Among other things, we learned that the underground mine directly beneath the impoundment had some pillars of inadequate size to even safely hold up the mine roof, much less support the biggest sludge impoundment in the state. And the

official safety plan for downstream residents in case of an impoundment failure would have them escaping directly into the face of the rising slurry.

2001: Coal River Mountain Watch and OVEC encouraged more than 100 people to attend a DEP public hearing in Whitesville over Massey's Brushy Fork impoundment renewal and expansion. Many people gave their speaking time to our hydrogeologist, so he could detail and document the numerous problems he found. DEP granted the permit and the impoundment continues to grow larger. (Today, an expanded mountaintop removal mine operates *adjacent* to the impoundment, and in spite of heated citizen testimony at a recent public hearing, major blasting now shakes the impoundment area itself. DEP officials assure all who ask that this is



At our rallies at the WV State Capitol, former Congressman Ken Hechler and George Daugherty sang their version of John Denver's song *Country Roads*, which included the following lines:

*Almost level, West Virginia,  
Sheared off mountains,  
Dumped into our rivers,  
Dark and dusty  
Blasting in the sky  
Murdering our mountains  
Teardrops in our eyes.*

perfectly safe.)

2001: Dianne Bady, Janet Keating and Laura Forman of OVEC win a Ford Foundation Leadership for a Changing World Award, bringing \$130,000 to OVEC. Four thousand activist leaders from around the U.S. were nominated for this prize, and 20 winners were selected. Ford's news release said of Bady, Keating and Forman, "They have proved a formidable force in fighting for sustainable and environmentally sound economic development in their regions." Dan Miller of the WV Coal

Association was quoted in the *Huntington Herald Dispatch*, saying, "We are not pleased . . ."

2001: OVEC organized a protest outside of the Huntington office of the U.S. Army Corps of Engineers, the agency that grants permits for valley fills. Santa Claus was there with a sack of coal to deliver to officials inside. The corps had been quite naughty that year. Laura Forman tapped the mic to make sure it worked before stepping back and collapsing; she died of a heart arrhythmia.

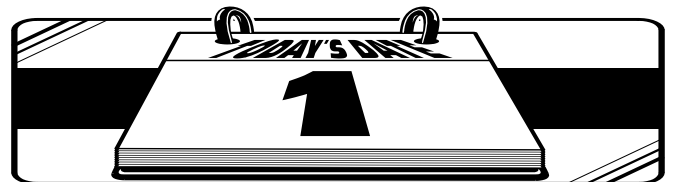
After Laura's death, at age 39, we took some time to process the shock and grief. But we regrouped, and today we continue to work in every way possible to end what many have called the worst environmental disaster in the United States. 🍓

## Upcoming Events

**March 5 -10: Catholic Committee of Appalachia** presents "Walking Our Spiritual Paths: An Introduction to the Spirituality of the Cherokee People" in Cherokee, NC.

Participants will experience the spirituality of the Cherokee People with Native American presenters. The legends, ceremonies, history, culture and food will reveal the depth of Cherokee spirituality and offer participants a background to reflect on their own expression of spiritual growth.

For cost and more information, contact Mary Herr at [maryherr@dnet.net](mailto:maryherr@dnet.net) or 828-497-9498.



**March 10-17:** Friends of the Appalachian Mountains are invited to Mountain Justice Spring Break.

Since 2007, **Mountain Justice Spring Break** has been offering students and young people an exciting, fun, low-cost alternative spring break in Appalachia. For more information, see [www.mjsb.org](http://www.mjsb.org).

Please check our calendar of events page online at [www.ohvec.org](http://www.ohvec.org) often for a continually-updated list of events.

# Request to Coal Lobbyists

continued from page 19



more importantly — that he wants the coal industry to stop its scare tactics and come to the table to discuss a more sustainable and diverse future for West Virginia. We hope and pray that other elected leaders

will follow his example, because this kind of inciting rhetoric could cause needless violence and tragedy.

Thus, we ask that West Virginia Coal Association leaders and affiliates resolve — immediately — to stop calling people into battle, using “war on coal” rhetoric. This divisive speech prevents people in communities from honestly assessing the often heavy cost of these mining operations on their lives — from a lost cemetery or battleground, to lost lives due to birth defects or cancer. This rhetoric also prevents productive dialogue concerning economic transition initiatives.

Such talks may seem threatening to Coal Association affiliates, but they really must happen if average West Virginians are to have hope for a future wherein our children can find jobs and a healthy and stable environment in which to live. The scientific evidence is here to support the observations of many people over the past several decades: mountaintop removal mining is linked to vast health problems, water and air pollution, and community degradation. We must put the interests of most West Virginia citizens over the financial interests of a few, and work cooperatively for viable and sustainable economic opportunities for this state, including retraining

opportunities for currently employed miners.

The very first step on this journey is to drop the “war on coal” rhetoric. West Virginia Coal Association affiliates please take the moral high road and do so immediately!

*Robin Blakeman is a Stewardship of Creation Enabler for the W.Va. Presbytery and parish associate at Beverly Hills Presbyterian Church in Huntington.*

*This commentary was also signed by Helen Gibbins of Bates Presbyterian Church and the state Presbytery Stewardship of Creation Ministry Team; the Rev. Rebecca Barnes-Davies, associate for Environmental Ministries with the Presbyterian Church; Allen Johnson, coordinator of Christians for the Mountains; the Rev. Jim Deming, Minister for Environmental Justice, Justice and Witness Ministries, United Church of Christ; the Rev. Jim Lewis of the Episcopal Church; the Rev. Denise Giardina, deacon of the Episcopal Church; Jeannie Kirkhope, administrative director of the Catholic Committee for Appalachia, Appalachian Catholic Worker; the Rev. Bonnie Boyce of Spring Valley Presbyterian Church; the Rev. Dr. David Dalrymple of the Unitarian Universalist Church; the Rev. Rose Edington and the Rev. Mel Hoover, co-ministers of the Unitarian Universalist Congregation in Charleston; the Rev. Mary Bettis Love of the Presbyterian Church; Stephen Bartlett, member of Crescent Hill Presbyterian Church in Louisville and director of Sustainable Agriculture of Louisville; the Rev. Stan Holmes, an Episcopal priest; and Nick Reynolds, an Episcopalian in Huntington. 🍌*



## Who Knows Where Our Money Goes

The *New York Times* spent 10 months examining the amount of money that state and local governments spend to bankroll businesses each year in subsidies, including low-interest loans, grants, tax credits and other gifts through the tax code. They found that West Virginia ranks second-highest of all states in the amount spent on such business incentives: \$1.57 billion per year, or \$857 per resident.

According to a WV Center on Budget and Policy blog post, “We have little or no idea what we are getting for the millions that our state and local governments spend each year on business subsidies.” 🍌

Ohio Valley Environmental Coalition  
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Huntington WV 25773-6753

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"OUR JOURNEY IS NOT COMPLETE UNTIL ALL OUR CHILDREN,  
FROM THE STREETS OF DETROIT  
**TO THE HILLS OF  
APPALACHIA**  
TO THE QUIET LANES OF NEWTOWN,  
KNOW THAT THEY ARE  
ARE CARED FOR,  
AND CHERISHED.  
**AND ALWAYS  
SAFE FROM HARM."**

Mr. President:  
**THE CHILDREN OF APPALACHIA  
WILL NOT BE SAFE  
UNTIL MOUNTAINTOP REMOVAL  
ENDS.**

Green Memes  
Pass the ACHE Act in 2013: [www.acheact.org](http://www.acheact.org)

See page 5  
for news on  
the ACHE Act.