

Fall 2015



Winds of Change

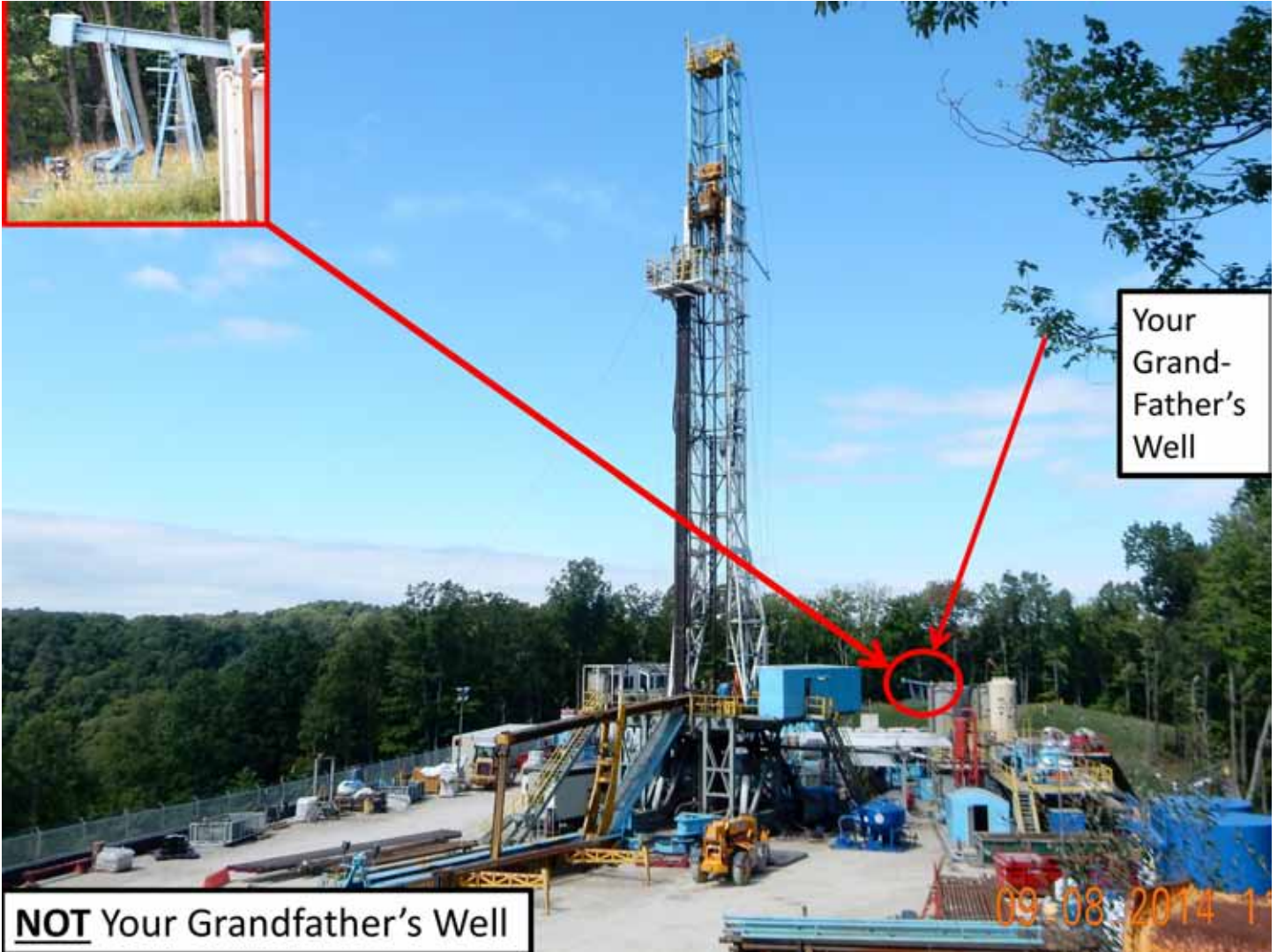
Supporting Organized Voices and Empowered Communities Since 1987

Huntington, WV

OVEC

www.ohvec.org

NOT Your Grandparents' Oil & Gas Industry



Your Grandfather's Well

NOT Your Grandfather's Well

On June 15, we held our first forum on the Rogersville Shale in Huntington. About 200 people attended (see photo on page 3). WV Public Radio and TV stations WSAZ and WOWK aired stories on the forum, titled: NOT Your Grandparents' Oil & Gas Industry: Is Unconventional Oil and Gas Drilling Coming to Wayne and Cabell Counties?

The forum's aim was to alert people to what could happen if the Rogersville Shale is "developed."

"Before this part of the state is turned into a major oil and natural gas production area and transformed into something that looks nothing like it does now, people in the area ought to know what's going on and have a say in what kind of economic development we want to see in this part of the state," OVEC founder Dianne Bady told WV Public Radio.

We opened the meeting with a 10-minute trailer of filmmaker Keely Kernan's documentary-in-progress, *In the Hills and Hollows*, which powerfully portrays the disruptions to health, well-being and property that the Marcellus Shale "fracking boom" has brought to families living in north-central West Virginia.

continued on page 3

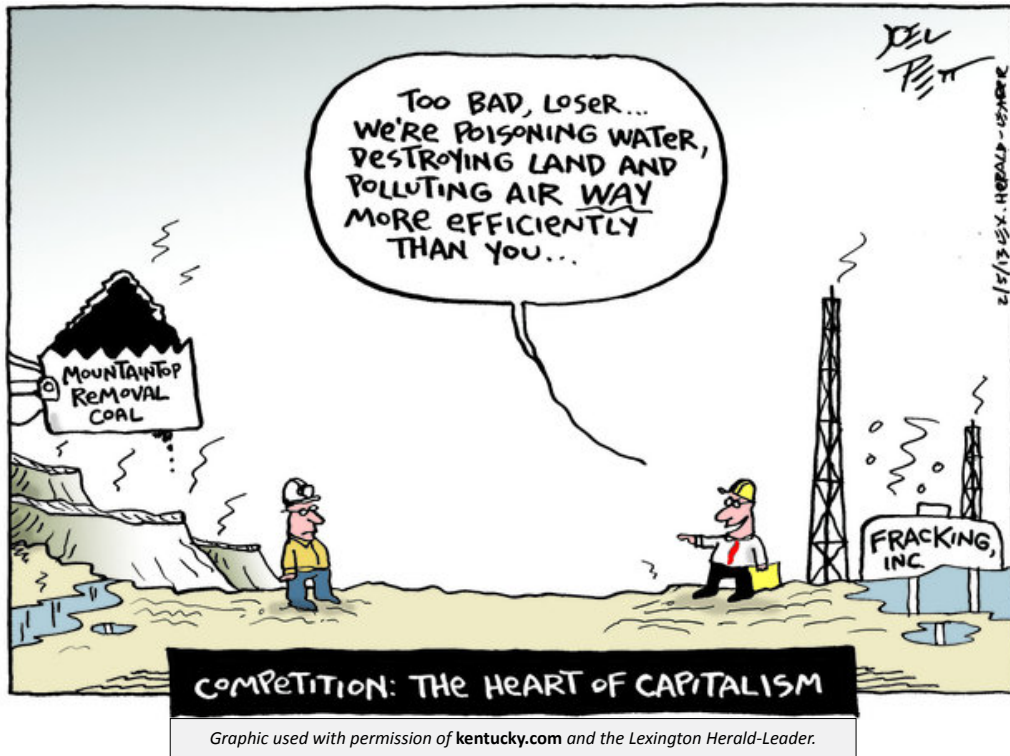
MTR, Fracking, Politicians and Us

West Virginia citizens trying to stop unnecessary sickness and death have been ignored by all levels of government for 20 years and longer. OVEC has been fighting mountaintop removal for 18 years. Thousands of others have been fighting as well. We've learned that MTR destroys human communities and human relationships. Most of the damage from MTR is permanent and irreversible — annihilation of mountains, streams and communities. But we hope that some of the damages to human and community interpersonal relationships can heal over time.

It's been easy for "our" politicians to blame mountaintop-removal-related sickness and death on other things. But it takes a really effective political team effort to succeed in actively facilitating the annihilation of vast portions of the state, while still getting enough people to give them votes to keep on doing it.

Fossil fuel's politicians have done a real bang-up job here in WV. They've been constant and persistent with their messages: "Move along people; nothing to see here. Coal keeps the lights on. Pay no attention to those treehuggers that we keep seeing in places like the Washington Post, federal courtrooms, protesting at the state capitol, sitting in jail. Those treehuggers are trying to scare people and destroy jobs. Coal keeps the lights on.

"Those protesters are mostly from out of state, anyway. They come here to stir up trouble. And, those scientists and their endless health studies. What? Did you hear that? No, me neither."



It takes a lot of money to get virtually every WV state legislator to pass brand-new laws to protect MTR companies from people who are trying to stop illegal pollution.

Now MTR companies are going bankrupt. ("It's all Obama's fault.") But

the bankrupt companies are still able to borrow a gazillion dollars to hire lawyers to make sure the big banks get whatever cash is left. "Money owed to the miners who mined the coal? Clean up a bit before leaving? Nah."

It's been possible for coal's politicians to pretend that poisoning the air with toxic fine particulates and poisoning the water isn't actually happening, even though by now there's so much evidence to the contrary.

Will we be hearing from our trusted politicians that fracking companies are coming to OVEC's immediate corner of West Virginia, as is happening in adjacent eastern Kentucky? We hope that doesn't happen. But if it does, "our" politicians will promise a glorious and clean future of new jobs and saving our economy.

Since 1987, when OVEC formed to fight illegal pollution, we've had many successes. We've built a name for ourselves. A big source of our strength is people power — people who don't just sit on the sidelines, telling us "good job," but rather, people who join in to get the job done. Even simple things like becoming a member or renewing your membership are vitally necessary, even invaluable. Collectively, the more people who speak out, the better are our chances of saving what we love. 🍌

Join OVEC online at ohvec.org.

NOT The Old School O & G

continued from page 1

Bill Hughes, a volunteer with the Wetzel County Citizen Action Group and a part-time OVEC staff member, gave a presentation that further detailed what is already happening in fracked regions of WV, helping attendees understand what could be headed to the western portion of WV and eastern KY if companies succeed in “developing” the Rogersville Shale. Impacts could be even worse, since the Rogersville is much deeper than the Marcellus. Visit ohvec.org/deep-shale to see Hughes’ PowerPoint as well as much more information.

Attorneys Dave McMahon, who assists the WV Surface Owners Rights Organization, and Isak Howell, who also works on fracking issues, spoke about legal issues that can arise when oil or gas industry representatives try to lease landowners’ mineral rights.

We held the second forum on July 13, on an evening with torrential downpours and flash flooding; about 50 people attended. People shared stories about Rogersville Shale related activities already underway in Wayne and Cabell counties and signed up for a September tour of Doddridge County, to areas already affected by fracking.

We’ll be hosting a third forum and further educating ourselves about the Rogersville Shale. If you want to get involved in this issue, call the OVEC office at 304-522-0246 or e-mail info@ohvec.org.



Those attending the fracking forum include, in foreground, League of Women Voters leader Helen Gibbins and former Delegate Susan Hubbard; both are OVEC members. Photo by Janet Keating.

New Digs Nearing Completion

As you may recall from the Summer *Winds of Change*, OVEC is in the midst of getting our Huntington office space expanded and renovated. (See photo above.)

We have installed UV-protected, energy efficient windows; insulation and air sealing; LED lighting; a gas-tank-less water heater; recycled lumber cabinets; recycled lumber countertops; an energy efficient HVAC; and low flow faucets. The Huntington-based staff is anxious to get back under one roof.

We are very thankful to folks at Coalfield Development Corporation for their hard work and guidance as they helped us build our new space and helped us work through all the details of renovation.

We are deeply grateful to Huntington-based sustainable architect and local food activist Katharine Lea for her fabulous pro bono work in designing our new space.

Deep thanks, too, go to Dawn Norman at Automated Mailing in Huntington for letting us use some of her office space for working and storing some of our stuff, while our own space was under construction.

Additional thanks to Custom Heating and Cooling and the WV Electric Supply Company. We are grateful for the expertise of independent electrical contractor David Ward (304-939-0514).

Soon, OVEC staffers will not only have a much better space in which to work, but we will also have space for volunteers to come and help out. We’ll be better equipped to support the needs of the communities we serve — in an ever-growing, ever-greening manner.

We are still accepting donations for our Together We Grow building fund. So far, we have raised more than \$25,000 toward our \$60,000 goal. Please contribute, either by donating at ohvec.org or sending us a check today: OVEC, PO Box 6753, Huntington, WV 25773. Be sure to mark your donations as directed to the building fund.

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All photos here by V. Stockman, unless otherwise noted. Graphics from assorted sources.

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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!

Update: KD#2 Mine

by the Kanawha Forest Coalition

On June 5, the Kanawha Forest Coalition (KFC), boosted by Mountain Justice, rallied at the DEP headquarters in Charleston to demand that the DEP revoke the KD#2, the mountaintop removal coal mine near the Kanawha State Forest, permit. During the rally, the DEP issued a press release announcing that Keystone Industries (the permit holder) and Revelation Energy (the mine operator) have been added to the “Applicant Violator System,” blocking the company from new mine permits anywhere in the country until they address the ongoing violations at the KD#2 mine.

The *Charleston Daily Mail* reported:

The mine, located near the main entrance of the Kanawha State Forest, was issued a permit on May 5, 2014, and has since committed more than 20 violations.

Violations include failure to properly construct and maintain sediment control structures, failure to protect off-site areas from slides, exceeding blasting limits, failure to meet monitoring, sampling and reporting requirements and exceeding water quality discharge limits.

The cessation order is the fourth order issued since the mine’s opening.

Although mining production ceased at the end of 2014, the companies are still just as responsible for correcting all violations and remediating the site.

DEP spokesperson Kelley Gillenwater said cessation orders, while rare, are only issued when a sequence of violations have occurred unabated. Some of the companies’ equipment has already been removed from the site of the now dormant mine.

Chad Cordell, organizer with the Kanawha Forest Coalition, said the orders would not have been issued without the assistance of local civilians and their desire to preserve their forest.

“I think this whole effort has been very successful so far because of citizen engagement and public getting involved,” Cordell said. “What happened today with the DEP, it’s a big win that these companies cannot get permits until they fix the mess they’ve made here.”

Cordell said the “citizen enforcement” had supplied extra accountability for the DEP and prevented adverse damage to another area of the Mountain State.

In addition to photographing the site to display



The Gazette ran the above with this caption: *This June 2014 aerial photo shows the surface mine adjacent to Kanawha State Forest, which is located in the upper left of the area shown.*
Photo courtesy of Vivian Stockman, Ohio Valley Environmental Coalition; Flyover courtesy of Southwings.

and report visible violations to the DEP, members of the coalition began sampling the water — something the company was required to do and didn’t, Cordell said.

“It’s absolutely a huge win, and I commend the DEP for enforcing that. It is, however, not a total win,” Cordell said. “A win for us is a permanent revocation of permit so that we don’t have to keep fighting to stop this mine next to the Kanawha State Forest.”

With the mine’s location adjacent to the forest, the DEP and West Virginia Department of Natural Resources were required to approve and permit the mine operation initially, which gained heavy criticism from the Kanawha citizens on social media.

“Our mining program has been very diligent about monitoring this site,” said DEP Cabinet Secretary Randy Huffman in a press release. “Because of the close proximity to the forest, we have gone above and beyond the normal regulatory requirements for both permitting and inspection enforcement.”

At the rally, WV MetroNews interviewed an OVEC member who lives near the mine:

“I’m probably going to lose my well water and I’m going to have to pay to have city water brought in. After what happened January, a year ago, I don’t trust city water, so I’m losing either way you look at this,” said member Daile Boulis of Loudendale, “I don’t have any choice but to protest. I’m going to fight for my home and fight for the gorgeousness that is Kanawha State Forest.”

Boulis read the DEP’s statement shortly after speaking with MetroNews. The crowd of residents let out a sigh of relief, applauding the DEP’s action.



In a selfie, OVEC member Becky Park, active with the Kanawha Forest Coalition (KFC), examines the DEP's press release about the KD#2 mine that the agency handed out during a KFC rally at DEP's headquarters.

Jim Waggy, another member of the coalition, said he was extremely encouraged.

"I mean, the fact that companies that demonstrate that they can't operate responsibly, not only would potentially lose their permit here, but would lose their right to operate other places. I think that's hugely important," said Waggy.

Ten days after the rally, the DEP issued two Show-Cause Orders, giving Keystone 30 days to either request a hearing (at which it will attempt to show why the KD#2 permit should not be revoked), or to request a Consent Order with DEP outlining a plan for how the pattern of violations on the site will be addressed.

KFC continues to regularly monitor conditions on the KD#2 mine site. We've found uncontrolled pollution including very high conductivity levels, sedimentation, and acidification of Kanawha Fork and Middlelick Branch (both of which flow past the mine site and into Davis Creek at Kanawha State Forest). We're also seeing other impacts outside of the permit area including erosion due to uncontrolled runoff from the mine. We'll be pushing hard to ensure that the DEP holds Keystone and Revelation accountable for addressing all of these issues, as well as pushing the DEP to make meaningful changes in their permitting and enforcement procedures. No WV community should be forced to contend with these disastrous strip mines.

Help ensure that DEP prohibits any further mining or blasting on the KD#2 mine. Get involved: contact OVEC organizer Dustin White at 304-522-0246 or dustin@ohvec.org. Or contact KFC directly at 681-214-0906 or kanawhaforestcoalition@gmail.com.



National Academy of Sciences to Study MTR Health Effects

In June, U.S. Interior Secretary Sally Jewell and Joe Pizarchik, director of the federal Office of Surface Mining, Reclamation and Enforcement (OSM) visited with coal operators and reporters.

They told reporters that the state DEP had asked OSM for help in looking into studies that have found that folks living near MTR sites face increased risks of cancer, birth defects, other serious illnesses and premature death. They said OSM will recommend that the National Academy of Sciences review the studies.

The DEP and the WV Bureau for Public Health had begun reviewing the studies in spring, after multiple groups hosted The People's Foot protest at DEP headquarters in March (see pages 14 -15 of the Summer 2015 *Winds of Change*).

The *Charleston Gazette* reported, "Jewell and Pizarchik said they toured parts of Arch Coal subsidiary Coal-Mac's operation, where they saw reclamation work, and also toured the area where the company is treating selenium, a toxic runoff from mountaintop removal operations that has begun to be addressed largely because of citizen group lawsuits." (Yup, that's thanks to us and other WV groups like WV Highlands Conservancy and Coal River Mountain Watch and attorneys with the Appalachian Mountain Advocates, Public Justice and the Sierra Club.)

What Is This Conductivity, Anyway?

excerpt from an article by Public Justice's Environmental Enforcement Project Director Jim Hecker

Coal began as peat in swamps 250 million years ago. The peat was full of microbes that breathed sulfate instead of oxygen. The result of their metabolism was sulfide, which in wetland sediments was transformed into pyrite, an iron-sulfide mixture. Over geologic time, the peat became coal and rock packed with pyrite and trace metals like selenium. Pyrite and selenium are the central problems today with coal and water quality.

During mining, the coal and rock are broken up, increasing the surface area and exposing the coal to air and water. That exposure oxidizes the pyrite,

continued on page 25

Amid Rogersville Shale Land Grab, First Producing Fracked Well Comes Up Short

In the past couple of years, the Rogersville Shale in southwest WV and Eastern KY has stimulated what industry sources are calling a “land grab” for oil and gas mineral rights. People in Wayne, Cabell and Lincoln counties report being approached by multiple land companies interested in test wells. Fracking would be needed for any oil or gas development.

The first public Rogersville test results, released in August by the KY Division of Oil and Gas, indicated surprisingly low levels of oil and gas. Yet, when this same well (the Sylvia Young well in Lawrence County, KY) was first tapped, an online industry comment stated that if the initial high hydrocarbon levels continued, this could be a “world class” oil play.

With all the industry hype over the fracking potential of the Rogersville Shale, why did this permitted-to-15,000-foot-deep well get such poor results? According to the Nuttall Legal, LLC WV Oil and Gas Lawyer blog:

It's a vertical well, and it hit a bad spot in the Rogersville Shale.

The Marcellus Shale used to be a formation that would yield dry holes. Some vertical wells to the Marcellus produced like gangbusters, others didn't produce a thing. Horizontal drilling changed that. The horizontal portion of the well passes through rock that doesn't produce and through rock that does produce.

So the Rogersville shale still has potential, and will probably be a great formation to develop. It's going to be expensive, at \$18 to \$30 million per well, but it will also give some really awesome production when horizontal drilling starts.

This optimistic view of the first Rogersville test results is tempered by others. David Harris at the KY Geological Survey says, “You never know if (the tests) are accurate or conservative, and if that's the true rate after the frack, that's not going to be an economic well. I guess the significant thing is they did produce liquids, produce oil.”

A producing Rogersville horizontal oil and gas well is already operating in eastern KY (Johnson County), but the



These two signs in Wayne County are about 100 feet apart. The land grab is on, and what does it mean for the health and wellbeing of our communities? Photos by Dianne Bady.

results are not yet public.

Government and industry reports indicate that the 1977 Wayne County, WV, Exxon test well stimulated the new and dramatic industry interest in the Rogersville Shale. For many years, engineers thought that the gas and oil found in this test well was too deep to get. But the easier-to-frack, shallower oil and gas wells are beginning to produce less. Land agents for fracking companies are swarming all over a few counties in Southwest WV

and a few in Eastern KY in search of locations for the next generation of harder-to-frack wells. The oil industry is especially looking for new fracking sites.

According to the U.S. Geological Survey, the Wayne County Exxon well “has good source rock potential that, combined with favorable oil-source rock correlations, demonstrates a new petroleum system in the Rome Trough” (Rogersville Shale).

Lawrence County, KY (adjacent to Wayne County, WV) currently has at least six permitted Rogersville wells — four are very new test wells, and two already have permits to produce oil and gas.

Companies are allowed to keep their findings secret for at least a year, but results must be coming in and some information does leak. In April, for the first time, oil and gas from **the Rogersville Shale was included in official oil and gas U.S. resource projections** issued by the Potential Gas Committee, an industry group loosely affiliated with the Colorado School of Mines. It seems to us that without some actual information about the results of Rogersville test wells, such a projection would not have been made (though we admit to being the new kids on the block here, not experts).

The Land Rush

Cabot Oil and Gas alone has rights to more than one million acres in southwest WV and they are exploring in the “deeper zones.” (This is the same company that drilled a 14,000 foot deep vertical test well to the Rogersville in Putnam County.) WV Oil & Gas Association director Corky DeMarco told *Natural Gas Intel* that in southwest West Virginia joint ventures and land deals have been common.

In KY, there are more hard numbers. *Natural Gas Intel* lists 18 companies acquiring land leases in the Rogersville and quotes an industry source who says that from January 2014 to June 2015, across a three-county stretch in Eastern KY, 3,863 leases were signed for the Rogersville. During this period nearly \$65.5 million could have been paid out in the counties. In spite of one “bad” set of results from one vertical test well, it seems that a \$65 million bet by the fracking industry is likely to be based on some inside knowledge of the amount of oil and gas in the Rogersville.

One of the themes we’ve seen again and again while researching the Rogersville is secrecy. For example, one company working toward new Rogersville test wells is remaining anonymous. Reporters have said that at least one existing corporation has set up a new company to try to hide its involvement.

What About Low Prices?

Industry sources say the Rogersville development has been slowed by the current low oil and gas prices, but a flurry of Rogersville leasing activity since last year makes it obvious that interest is still high. New sources of U.S. oil are especially in demand — for example, Shell is preparing to drill in the Arctic, where decades of citizen opposition had until now prevented new drilling.

In spite of low prices, some fracking companies are expanding their operations. In Ohio’s deep Utica Shale, MarkWest is planning to build a natural gas gathering system (250 miles of pipeline) over the next three years that they say could cost \$1 billion. The company also has 18 new processing facilities under construction throughout their larger operations. Although many believe that wet gas and oil are likely to be the targets of any new development, the MarkWest expansion in OH is to capture less valuable dry gas (methane).

Here in WV, in Doddridge County, Antero is now investing \$275M for an oil and gas wastewater treatment plant. (Doddridge wells produce wet gas.)

Some more financially stable U.S. fracking companies have remained in profitable operation by reducing their costs, maybe adapting Don Blankenship’s financial strategy of spending money on little but “running gas?”

Drastic Market Changes with Big New Gas Export Facility Coming Online?

For the past couple of years, we’ve been hearing that the methane market is so bad that it’s unreasonable to think that major new methane production will happen soon. But now there is a big new methane gas export facility due to open in late 2017 on the MD coast, Dominion’s Cove Point Liquefied Natural Gas terminal, where miles of pipelines

connect storage tanks to an off-shore pier. Liquefied natural gas (methane) export facilities like this are poised to become an outlet for the glut of natural gas from U.S. shale plays that currently have flooded the U.S. market and sent gas prices plunging downward.

We’ve read that current frackers of the Utica for methane in OH are now casting their eyes to the soon-to-be profitable Utica gas reserves here in WV. Like the Rogersville, the Utica is deeper than the Marcellus Shale that is being pumped out in north-central WV.



Fracking the Marcellus at 5,000 to 7,000 feet deep has resulted in serious problems for people living nearby. (At left, see Bill Hughes’ photo of Marcellus activity in Wetzel County.) In WV, at the time of this writing, 200 Doddridge County area residents have sued companies for fracking-related troubles, such as noise, air and water pollution, as well as debris coming off sites and drastically

increased, dangerous big-rig traffic. And in PA, where Marcellus fracking has been going on the longest, years of massive citizen pressure have resulted in new, more protective state laws on fracking.

But the Utica and Rogersville are far deeper than the Marcellus, meaning development there would cause more of all the bad things that are happening in the Marcellus. Rogersville test wells are drilled to 14,000 or 15,000 feet deep, more than twice as deep as the Marcellus. And as of September, Appalachia is viewed as the hottest spot in the U.S. for fracked production increases.

In Ohio, citizen successes in getting local fracking moratoriums passed have been shot down by the state. So, these good people from Athens and surrounding counties, as well as their partners up north in Youngstown, have just sued Ohio’s Secretary of State. A broader look at their basic claims: **In a democracy, the people who live in an area should be able to decide if they’d like to keep their land intact, have air and water that doesn’t make people and animals sick, and not have their beautiful country roads look like a battle zone with massive truck congestion causing big increases in accidents, gridlock and sickening diesel fumes.**

We hope it does not come to pass here. But in case fracking operations move forward in our region of Wayne, Cabell, Lincoln and Putnam counties, we’re learning all we can and reaching out to more people for support. **The only way to fight the power of organized money is with the power of organized people.** And OVEC becomes more powerful even through such mundane things like increases in the number of our members. **So even if you can do no more than join, please do join!** 🍌



Program to Offer Environmental Jobs Training

excerpt from a May 31 Huntington Herald-Dispatch article. Read the full article: bit.ly/1IOPwpU

Marshall University's Center for Environmental, Geotechnical and Applied Sciences and the WV Brownfields Assistance Center at MU have partnered with the Coalfield Development Corporation to provide an environmental workforce training program in southern West Virginia.

"Environmentally impacted employment sectors are becoming crucial to a more diversified job readiness strategy for our state," says Brandon Dennison, Coalfield Development Corporation's executive director. "This program will help to ensure that the communities within southern West Virginia's coalfields reap the economic benefits derived from these remediation activities."

The Reclaim Appalachia: Quality Environmental Jobs Initiative will include instruction in lead and asbestos abatement and Hazardous Waste Operations and Emergency Response training; lead renovation, repair and painting; mold awareness, methamphetamine lab cleanup; chemical inventory, storage and handling; and several job-readiness and life-skills training courses. Participants will earn state or federal certifications and licenses, and advanced-level participants can obtain an associate degree.

The U.S. Department of Environmental Protection Office of Brownfields and Land Revitalization is providing \$192,300 in federal funding for graduates to develop wider skill sets that improve their ability to secure full-time, sustainable employment in the environmental field. **This program will target unemployed and underemployed young adults, veterans and coal miners of Cabell, Wayne, Lincoln and Mingo counties.**

Partners include the WV Region 2 Workforce Investment Board, Wayne County Economic Development Authority, Southern WV Community Action Council, Ohio Valley Environmental Coalition, Veterans Employment Council and several other environmental and community-based organizations. 🍌

Wayne and Cabell Residents: Help Community Solar Project

Since spring, we've been partnering with a wonderful local job training and affordable housing non-profit, Coalfield Development Corporation (CDC; see story in right column). With your help, CDC can go solar — repowering its headquarters in the town of Wayne with clean renewable energy, while building the solar workforce we need for the 21st century here in West Virginia.

To go solar, Coalfield Development is partnering with our friends at Solar Holler, a WV social enterprise, to bring Solar Holler's nationally recognized solar crowdfunding program to Wayne and Cabell counties. Their first project in the area will be an 18-panel solar installation on Coalfield Development's headquarters in Wayne that will save more than \$20,000 over the life of the panels.

The best part? All you need is an electric water heater and an Internet connection to help Coalfield Development go solar. They need your support, not your money!

By joining a virtual power plant of water heaters — with no cost — you can not only reduce pollution and blackouts on the power grid, but also earn \$100 per water heater per year to pay for this community-supported solar installation. That rebate will pay off Coalfield's new solar system and fund Solar Holler's revolving fund that is bringing solar within reach of non-profits and community groups across West Virginia.

So, if you live in Cabell or Wayne County, either contact OVEC's Natalie Thompson at 304-522-0246 or natalie@ohvec.org, or head over to the Solar Holler website to learn more and join the effort to create the clean energy transition here in our homeplace. See bit.ly/1Kvykx2. 🍌



Sighting Along the Ohio River: ORCA

The Ohio River Citizens' Alliance (ORCA) is an alliance of grassroots group leaders from multiple states in the Ohio River Basin. ORCA is primarily concerned with the effects of oil and gas fracking and oil and gas industry waste disposal in the Ohio River watershed.

Millions of people — including many WV, OH and KY communities where our members reside — depend on this body of water for their tap and recreational water supply, as well as for food from commercial and sport fishing.

OVEC has been an initiator in forming this group, supplying both financial and staff-time resources. This group has provided comment letters to the Coast Guard regarding their pending approval of barging of fracking waste on the Ohio River and has been quite active in recent comment periods to ORSANCO concerning mercury pollution in the Ohio River.

Future goals and actions of the group will be determined by those who get involved, so get involved! Contact Robin Blakeman at 304-522-0246 or robin@ohvec.org. 🍌

MarkWest Mess

MarkWest fracking services company is planning a billion-dollar new pipeline project in SE Ohio for Utica dry gas (methane). Industry media says Utica frackers are now looking to expand in WV.

Our DEP just reached an agreement with MarkWest to pay \$76,000 in fines for a long list of water pollution violations at pipelines in Ohio, Marshall, Doddridge and Wetzel counties. Violations occurred between May 2013 and April 2015.

In February 2013, MarkWest paid more than \$300,000 for WV water pollution violations.

It looks like paying fines is just a cost of business for MarkWest gas pipelines. Property owners and neighbors may view it differently. 🍌

Help Spread Some Climate-Friendly Light

WV's Chapter of Interfaith Power and Light (IPL) is working to provide a forum for faith community members and leaders to unite across theological and cultural boundaries to voice their concerns about critical environmental issues related to climate change.

OVEC staff and board members are involved in the steering committee that helped launch our state IPL chapter this year; WV is one of the last states to form an IPL chapter. Initial projects of the group include promotion of the APCO non-profit energy audit competition (see page 13 of the summer 2015 *Winds of Change*) and co-sponsoring three lunch and learn seminars on the Pope's encyclical on climate change in October at the Kanawha County main public library. To help WV IPL spread the climate-friendly light, contact Robin Blakeman at 304-522-0246 or robin@ohvec.org. 🍌



Stay Connected!

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

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 ohvec.org frequently for updates. Check out our extensive background information in the Issues section. Find us on **Facebook and Twitter**. Link up from ohvec.org.



Seeking Justice Over a Justice Mine

On September 11, we sent a Notice of Intent to Sue a Jim Justice mountaintop removal mine for violations of the Clean Water Act, violations of surface mining regulations, and violations of his permits for this mine.

Unless Justice's Greenthorn mine comes into compliance within 60 days (a practical impossibility) OVEC, WV Highlands Conservancy and the Sierra Club will seek a court order compelling Greenthorn to come into compliance with the law and civil penalties for Greenthorn's continuing violations.

We argue that drainage from Valley Fill No. 2 and from a discharge outfall are illegally elevating an ionic

mixture of pollutants and conductivity into the Left Fork of Madison Branch of the Guyandotte River. This elevated mixture of pollutants from surface mines is known to cause biological impairment and adverse effects on fish assemblages in streams below MTR mines.

In September 2012, WV DEP transferred the relevant mining permits for this mine from the former Appalachian Fuels to Justice's Greenthorn, LLC.

We are extremely grateful to our attorneys at Appalachian Mountain Advocates for filing this Notice of Intent to Sue on our groups' behalf. 🍌



Bird's Eye View Seen Through a Fish Eye

On August 29, OVEC staffer Vivian Stockman served as a guide for a pair of French journalists and a magazine photographer on two separate overflights of mountaintop removal operations in southern West Virginia. Of course, the fabulous folks at SouthWings provided the flyovers, and we once again owe a deep debt of gratitude for the invaluable service SouthWings and their volunteer pilots provide.

Stockman used a fish-eye lens for the above image of the former Massey, now-Alpha, complex, which includes the Edwight surface mine and the Shumate Coal Sludge dam, all above the old Marsh Fork Elementary School and nearby communities along Route 3 in Raleigh County. Visit ohvec.org to see more photos from the flyovers. 🍌



Above: the Massey/Alpha Twilight surface mine complex, with Jarrell Cemetery center-left of photo, above the remains of Lindytown in Boone County.

Another Conductivity Court Victory!

by *Dianne Bady*

In August, we had our third big court win regarding illegal conductivity levels caused by MTR. Each of these three federal court decisions came after four-day trials. Coal experts tortuously twisted data to claim their innocence.



In the August court decision against Consol's Fola Coal, Judge Robert C. Chambers wrote, "...it is difficult to characterize Defendant's concerns as anything more than a trivial and tangential waste of judicial resources."

Judge Chambers ruled in August that Fola is liable for its conductivity pollution at its Surface Mines No. 2 and 6 in Clay and Nicholas counties. It is highly significant that the judge ruled that the WV Legislature's new Permit Shield law doesn't work to protect Fola from our litigation. This law was passed by coal's "WV legislators" to try to protect the MTR industry by allowing more pollution than the law currently does.

Our previous conductivity and biological impairment court wins were against several Alpha subsidiaries and other Fola mines owned by CONSOL. The federal court has not yet issued penalties and orders for new pollution controls at the offending mines. But we know that treating conductivity is much more expensive than treating selenium — and as a result of our previous litigation, many MTR mines have been ordered to build selenium-treatment systems costing many millions of dollars.

As one lawyer said privately, there could never be enough money to fix the water pollution messes caused by mountaintop removal companies in southern WV.

More Conductivity Legal Actions Filed

In August, we filed a Notice of Intent to Sue Kanawha Energy Company for its Big Creek No. 2 Mine in Fayette County, WV. Its discharges have been violating the

selenium limits and the narrative water quality standards associated with elevated conductivity in Buckles Branch of Twentymile Creek.

In September, we sent a Notice of Intent to Sue Arch Coal for causing illegal levels of conductivity at their Coal-Mac Phoenix mountaintop removal mine. We argue that as a result of Coal-Mac's mining, these waterways are all suffering biological impairment: Pine Creek, Laurel Fork, Left Fork of Pine Creek, Right Fork of Pine Creek and Cow Creek.

More New Legal Actions Against MTR

In June, we sued Stollings Trucking Company for illegal selenium pollution at their mining complex in the Coal River watershed. Stollings' own reporting found that these facilities violated clean-water protections in their permits more than two thousand times between June 2010 and November 2014.

In July, we filed an unpermitted discharge Notice of Intent to Sue against Penn Virginia Operating Co. Penn Virginia is the owner of land upon which Mine No. 29 was located. Two valley fills do not have the required permits.

Also in July, we filed a new Clean Water Act enforcement lawsuit against Arch Coal subsidiary Mingo Logan. In this case, WV certification required Mingo Logan to conduct stream restoration in two diversion ditches that "replaced" buried streams. Five years later, those ditches can't even hold water.

Appalachian Mountain Advocates filed these legal actions on behalf of OVEC, WV Highlands Conservancy and Sierra Club. 🍌



Opposition to Pipelines Continues to Grow

In August, the Associated Press reported that, in comments to Federal Energy Regulatory Commission (FERC), the U.S. Forest Service has raised hundreds of concerns about a proposed \$5 billion, 550-mile Dominion Resources and Duke Energy gas pipeline that would carve a 30-mile swath through parts of the George Washington and Monongahela national forests in VA and WV.

The proposed Atlantic Coast Pipeline would carry gas from Marcellus Shale drilling in PA, OH and WV to the Southeast. It would run from Harrison County, WV, southeast to Greensville County, VA, and into NC.

The Forest Service filed similar comments about the proposed 300-mile EQT Corp. and NextEra Energy Inc. Mountain Valley pipeline, which would go through a section of the Jefferson National Forest, starting from Wetzel County, WV to another pipeline in Pittsylvania County, VA.

One concern they will bring up is the issue of cultural attachment, which according to the news service SNL, is "the cumulative effect over time of a collection of traditions, attitudes, practices, and stories that tie a person to the land, to physical place, and to kinship patterns."

Appalachian Mountain Advocates attorney Joe Lovett told WV Public News Service that the pipelines go from the same gas fields to the same markets, or to connected markets, so his group is asking FERC to perform an overall Environmental Impact Statement (EIS), which Lovett says will force regulators to decide which of these projects is simply duplication.

Elise Keaton Liegel, with the Greenbrier Watershed Association, told Corporate Crime Reporter, "I am organizing communities ahead of the proposed Atlantic Coast and Mountain Valley pipelines in WV. There is a coalition that works with my group including OVEC, the WV Highlands Conservancy, Christians for the Mountains and Appalachian Mountain Advocates. There are a number of groups working in coalition with us." 🍌

EWG's Women of Courage: Janet Keating

by Helen Lucey, special assistant to EWG's executive director

In August, the Environmental Working Group posted these kudos to OVEC's ED on their website:

Janet Keating has spent a lifetime as an activist, defender and organizer. Keating, executive director of the Ohio Valley Environmental Coalition, began her career in 1983, as a volunteer with a campaign to protect the wetlands in her hometown of Huntington, WV.

Since then, she has fought to protect her community from environmental threats big and small. Her tenacity and fearless approach make her the latest addition to EWG's Women of Courage series.

"My parents were far from wealthy, so a lot of my pleasurable activities were outdoors," Keating told EWG in an interview. "I learned to love nature at an early age." That connection turned into a passion when she was elected president of her local Audubon Society chapter. She led a hard fight to protect a local wetland beloved by birders. The campaign ended in a compromise rather than a win, but Keating had found a vocation in organizing and advocacy.

In 1992, she joined the staff at the Ohio Valley Environmental Coalition, working under founder Dianne Bady. Keating wanted to be "an informed activist," capable of analyzing government and industry reports. She went back to school and, over the next 20 years, she educated and organized citizens to protect their communities.

"The thing about West Virginia is, for 100-some years, people here, because of the dominance of the coal industry, have had the misconception that they're not smart enough to take care of their own problems," Keating said. "They think you need some knight on a white horse to come in to save you. That [attitude] works well for the coal industry." As she sees it, her role and that of the coalition is to provide "an avenue for people to develop their own leadership" and to provide them with the resources to organize against

polluters in their own backyards.

Her tips for community organizing:

- Bring in people early on, especially unlikely allies who have a clear stake in the issue.
- Begin with a good understanding of what all parties need.
- Communicate frequently and set protocols for decision making.

Keating and OVEC have won some major battles:

They defeated a proposal for a new paper mill north of Huntington, when even other environmental groups told them it was "a done deal." OVEC said, "It's not done until it's done." They fought the mill for five years and built a coalition including labor

and faith leaders in the community. Keating and the coalition were so successful in building a statewide coalition and making the planned construction of the plant a political "hot potato" that eventually the DEP and the company withdrew all permits previously issued for the construction.

OVEC has also played a major role in stopping the Spruce No. 1 Mine, which would have been the largest mountaintop

removal site in the state. In this case, OVEC and allied groups took the fight to the courts in the first-ever legal case against mountaintop removal strip mining. The initial court case in 1999 ruled that the permit issued to the mining company was unlawful, but the company has been appealing ever since. In 2014, the Supreme Court declined to hear the coal industry's appeal on the EPA's decision to revoke the mine's permit to dump waste in local waterways.

These successes were made possible in part due to Keating's knack for coalition building and courage in the face of tough odds and big business, which makes her one of EWG's Women of Courage. 🍌



OVEC Executive Director Janet Keating

Never let a good crisis go to waste.

– Winston Churchill

Group Joins Call for Restitution From Freedom Execs

excerpt from a Sept. 2 Charleston Gazette article by Ken Ward Jr.

The Ohio Valley Environmental Coalition has joined with a Kanawha Valley group that wants a federal judge to force former owners and executives from Freedom Industries who have pleaded guilty to water pollution crimes to pay restitution to the victims of the January 2014 Elk River chemical spill.

Coalition organizer Robin Blakeman sent a letter last month to U.S. District Judge Thomas Johnston to urge the judge to consider awarding restitution in cases involving six former Freedom officials, including former top executives Gary Southern and Dennis Farrell.

“Other cases have produced awards that assist the communities in resiliency efforts following similar crimes,” Blakeman wrote. “In order to help the victims recover from this community trauma, this case should follow suit.”

Under a plea agreement, Southern pleaded guilty to three misdemeanor water pollution violations and prosecutors dropped a dozen felony counts related to bankruptcy fraud allegations that Southern had tried to hide his personal wealth from Freedom’s bankruptcy case and civil lawsuits filed over the spill. Southern faces a minimum of 30 days and a maximum of three years in prison and a fine of up to \$300,000. But the plea deal sets the stage for him to get back \$7.3 million and a Bentley luxury car that were seized from him based on the bankruptcy fraud charges.

In their plea agreements with the Freedom executives, prosecutors generally dismissed the prospect of seeking criminal restitution — which victims of crimes are entitled to under federal law — as part of the sentences.



In April 2014, officials began opening tank 396 at Freedom Industries. The tanks are now gone, but the worries are not.

Previously, the group People Concerned About Chemical Safety had written to Johnston to urge the judge to order the Freedom officials to pay restitution in the form of money that could be used for community projects focused on water quality and public health.

In the coalition’s new letter, Blakeman said that the general public would benefit from “funds being dispersed for the good of the community, to ensure that there are more prepared and resilient public water systems in the Kanawha Valley and elsewhere” in West Virginia.

Federal investigators alleged that Freedom officials knew about serious problems with the spill-containment dikes at the facility years before the 2014 leak and also knew that Tank 396 — the one that leaked — was old, had not been properly inspected and needed to be replaced. 🍓

Take Back Our Water

Advocates for a Safe Water System (ASWS) formed after Freedom Industries tanks leaked coal-cleaning chemicals into the Elk River, about a mile upstream from WV American Water’s (WVAW) water intake pipes that supply drinking water to about 300,000 people in nine counties in central WV.

In September, ASWS launched a campaign to demand a safe, locally owned water system, noting that nearly two years after the water crisis, New Jersey-based WVAW is still refusing to invest in a safe water system, while letting our infrastructure fall apart and raising our rates.

To learn more about this community initiative to take control of our water system back from WVAW, to sign a petition and to join the organizing, visit ourwaterwv.org. 🍓



Receiving OVEC's 2015 awards are, (left to right) Laura Forman Award - Mary Wildfire (Janet Keating standing in), Outstanding Regional Networker - Randi Pokladnik, Outstanding Ally - Chad Cordell, Outstanding Volunteer - Mike Sullivan, Outstanding Volunteer - Daile Boulis, Outstanding Sustainable Community Initiative - Brandon Dennison - Coalfield Development Corp (Maryanne Graham standing in), Super Citizen Lobbyist - Helen Gibbins, Fracktivist of the year - April Keating. Congratulations to all! Photo by Danny Ray Cook.

Awards Given at OVEC's Annual Picnic

Thanks to everyone who helped out with and attended our annual picnic, held July 31 at Coonskin Park in Charleston, WV. We had great weather, plenty of shared food and lots of giveaways! Special thanks to Paul Epstein for providing music and Chad Cordell for an update on Kanawha Forest Coalition progress.

Congratulations to all our award winners:

- 👉 Outstanding Ally: Chad Cordell, a leader with the Kanawha Forest Coalition
- 👉 Super Citizen Lobbyist: League of Women Voters/Helen Gibbins
- 👉 Outstanding Volunteers: Mike Sullivan and Daile Boulis
- 👉 Outstanding Sustainable Community Initiative: Coalfield Development Corporation/Brandon Dennison
- 👉 Fracktivist of the Year: April Keating
- 👉 Outstanding Regional Networker: Randi Pokladnik
- 👉 Laura Forman Passion for Justice Award: Mary Wildfire

Our next fun and fellowship event will be in November, when OVEC members celebrate the official opening of our newly remodeled office space in Huntington. Please keep your OVEC membership current so you won't miss out on any of the fun. If you need to talk about ways to do that, speak to an OVEC staff member (if the basic yearly membership fee of \$20 presents a problem, we offer helpful "sweat equity" membership options). 🍷

Celebrating the Ground Beneath Our Hearts

There is a powerful spirit of healing and joy in our state today.

— Wilma Steele



At Ground Beneath Our Hearts are: Top: Paul Epstein.
Bottom: Left to right: Kim Kramer, Wendy Tuck, Terry Steele and Norm Ferguson. Photos by Tonya Adkins.

If solastalgia is getting to you, you are not alone. Solastalgia is the pain you feel when the place you live in and love is under assault. Although the word was coined by Australian philosopher Glenn Albrecht, its meaning resonates around the world for people whose homes have been irrevocably changed and damaged by industrial practices.

For many Appalachian people, mountaintop removal coal mining and deep shale fracking activities are causing deeply felt sadness and a sense of loss. Even as we grieve, there is much cause for joy and celebration. We have a strong attachment to and genuine love of the culture and heritage of our region — the things that keep us here, even in the face of industrial-scale pollution and landscape obliteration.

To simultaneously acknowledge the grief we feel for the assault on our homes and to celebrate our love of our homeplaces, OVEC, the Catholic Committee of Appalachia and the WV Chapter of the Sierra Club partnered with the organization Radical Joy for Hard Times for The Ground Beneath Our Hearts.

On September 12, we joined communities like ours around the world in The Ground Beneath Our Hearts, “a global spectacle to honor the creativity, dignity and resilience of people living in communities affected by mining and oil and gas development,” according to Radical Joy for Hard Times.

“An important part of grieving is knowing that you are not alone, and that’s important for organizing for change, too. After this event, we have new connections and new inspiration for improving our communities,” says Carol Warren, who helped make the event so uplifting and inspiring, along with Wilma Steele, Paula Swearengin, Paul Epstein (MC, music and more), Jeannie Kirkhope, Rich Stonestreet, Norm Ferguson, Beth Raps (networking), Kim Baker (food), several OVEC staff, Bill Price and WV Sierra Club, and Joanne Martin, our liaison with the Radical Joy folks. Thanks to you all, and thanks to everyone who came out (despite the rain)!

Photos, music and videos from the worldwide observances will be compiled into a documentary, which we will be sure to post on the OVEC website. See our own mini-documentary on our Sept. 12 event on OVEC’s YouTube Channel. Follow the YouTube link from ohvec.org.



OVEC Board Fracking Tour

by Rose Edington, OVEC board chair

I remember the first time I heard Governor Earl Ray Tomblin talk about fracking. It was at the community Martin Luther King breakfast in January, 2011, shortly after he became the “acting governor” (derived from his role as senate president when Governor Manchin became Senator Manchin). Fracking issues were just starting to bubble up, and our governor talked about this new industry and what it could do for our state. He emphasized how this time, in dealing with a new industry, we had the opportunity to “get it right.” And I remember thinking — get an extraction industry right for whom? For the people and the land? For the air and the water? Or for whatever the industry would develop? I was impressed that our new governor liked to garden and can his own green beans, so I dared to think that maybe he understood the need for healthy water, air and land. I tried to have hope that he might know of some way an extraction industry could be done right, but I was skeptical.

The skepticism has stayed with me as mineral rights trump surface owner rights, as pipelines with insufficient safety guaranties get laid up hill and down, as state officials get over-excited seeking to entice a cracker plant to locate in WV (with no mention of its pollution), as fracking under the Ohio River is being considered, as our water gets used by industry, as wells are ruined, as trains carrying oil derail bringing danger and fear to communities and as people living near frack sites suffer from the same concerns as those living near mountaintop removal mining. I could keep “as-ing,” and I’ve not even mentioned global climate change issues that are worsening from the increasing amount of fuel we extract and burn.

Although the tide is slowly beginning to turn away from King Coal, OVEC’s work against mountaintop removal mining continues, as it must, because the coal companies are still blowing up mountains, poisoning streams and destroying both communities and human health. It is good, yet somehow disheartening, that OVEC’s long time MTR experience in organizing communities, advocating to the legislature, suing to enforce mining regulations, etc., positions us so very well to understand the dynamics and challenges of the latest extraction industry — deep fracking of shale for oil and natural gas.

OVEC staff members have been educating themselves and organizing about fracking issues in recent times — first around Marcellus Shale concerns (fracking about 7,000 feet deep) affecting much of the state and now the deeper Rogersville Shale (about 12,000 to 14,000 feet deep) located under much of southwestern WV (Kanawha, Putnam, Cabell and Wayne counties).



From left to right, gazing at (off camera) a Marcellus Shale operation in Wetzel County, are Marianne Hughes, Danny Ray Cook, Mike Sullivan, Lauren Kemp, Bill Hughes, Marty Amerikaner, Mel Hoover and Rose Edington. Photo by Janet Keating.

As a board, we are thankful that in her wisdom, OVEC Executive Director Janet Keating hired Bill Hughes to coordinate OVEC’s fracking work. Janet arranged to have Bill educate us board members about fracking issues during our annual “retreat” in July. With all my skepticism and concerns, I was glad for the opportunity to learn more and to see actual fracking sites. We visited sites in Wetzel and Harrison counties, including a wildlife management area in Wetzel County where the Department of Natural Resources, which manages the area, was told to leave it to WV DEP Division of Oil and Gas.

We were fortunate to have both Bill and Marianne Hughes accompany and educate us about what we were seeing. One of the things I’d heard is that fracking has been going on for a long time, with the implication that, because it’s nothing new, we should not be concerned with it. Bill explained that “it’s not your grandfather’s kind of fracking.” The reason we’re told it’s nothing new is so industry can use the same regulations that were developed for the well pads of our grandparents and great-grandparents. Besides seeing them on the tour, most of us were familiar with the old, small well pads seen here and there in rural areas. They could fit into a typical backyard garden. Quite a contrast to the well pads for horizontal fracking, where the pad size is determined by how many acres a gas company can lease. One example Bill gave us was 4 to 6 wells occupying 450 acres. Just the surface area needed to develop a site takes an average of 10 to 25 acres.

It’s difficult to distill the processes Bill explained to us in his presentations that took us through the production stages for Marcellus Shale gas operations and the resulting problems experienced by communities; if you want to go more in depth in this area, Bill referred us to FracTracker.org. I have found it to be an excellent resource. We also have board member Pam Nixon, recognized by Bill for her



Part of the MarkWest gas processing plant in Mobley, Wetzel County, one of several such scenes OVEC board members pondered on their tour of Fracklandia. Photo by Janet Keating.

knowledge as the past environmental advocate of the WV DEP. Be sure to see Bill's PowerPoint about shale at ohvec.org/deep-shale.

Some things are still haunting me from our trip:

Flaring is used to get rid of impurities before gas is piped. Regulations say companies are not to flare for more than 30 days. I'm concerned about global warming, and that seems like an awfully long time to burn gas. If a well pad were put on my property, I wouldn't want to have flaring around for that length of time.

There are similarities to MTR mining. Most well pads are on mountaintops because our WV valleys are too narrow, so the top of a hill is levelled off, with forests clear-cut and the topsoil pushed away. Part of the problem is that many of the contractors and workers for the Marcellus come here from Oklahoma, where they are used to flat land. Their method of pushing the dirt aside can lead to slippage of the well pad. Both processes are noisy, changing the soundscape of once-rural communities. MTR has sirens, blasting and the noise of heavy machinery. Fracking has constant high-decibel noise when the pumps are activated, with 2,000-horsepower per pump and 12 to 16 pumps all going at the same time. Once fracking is over, the neighborhood does not go back to normal. Nearby compressor stations emit fumes and non-stop noise.

What's going on underground at these sites makes me anxious. Watching pipe being laid and seeing Bill's slides of laying pipes uphill and down in rain and mud makes me wonder about their long-term stability. Who will check them to make sure they stay in place and won't rupture? What about the earth tremors reported in Oklahoma and Ohio that sometimes happen either with fracking or when fracking waste is pumped deep underground? What about the fumes and the leaks and the groundwater?

Of course, the issues of jobs, jobs, jobs and the

economy and being attractive to industry are what we hear as good reasons for allowing fracking in our state. But it's a false economy. We stayed at a hotel in Clarksburg. In the parking lot were plenty of white pickup trucks with license plates from Oklahoma, because more fracking jobs are going to out-of-state workers than to West Virginians. We provide restaurants and hotels to the workers, so our service industry grows — until the major work is done and the out-of-staters return home.

Whether from in or out of state, I am concerned about the workers and their safety, as well as concerned about the safety of those living near fracking sites and along the roads leading to them. Diesel fumes are not regulated during the actual fracking and tens of thousands of gallons are used daily. There is no limit whatsoever for any of the diesel from any of the well-pad equipment. Diesel fumes also abound from the heavy trucks that, as Bill said, turn asphalt roads to gravel. Ultra-fine particulates that can pass through the cell walls in our bodies are in diesel fuels; no one concerned with regulations is considering their cumulative impact. There is also silica dust released during fracking. This dust is very light and easily wind-borne. From coal mining, we know particulate matter from silica gets into our lungs. Rock dust is a result of air drilling used in about the first 200 feet of a frack. If you see it, you might think it is steam. Regulations call for watering down the dust, but that doesn't always happen. I keep wondering whether this dirty, dangerous process would really be seen as helping the economy if public health effects were considered.

One of the surprises was how accessible some of the well pads are. Some were fenced, but at other sites the pipes and holding tanks are just out there in the open — in remote locations, where people like to go hunting. It doesn't seem that it would take much for a group of good ole guys out horsing around with booze and rifles to see what would happen if they wanted to use a holding tank for target practice. Just another safety concern we wondered about.

After the 2014 Freedom Industries coal-cleaning chemical spill into our water system, I find that what haunts me most from our fracking trip are the water issues. In a thirsty nation and world, how can we continue to pollute and waste water on such a large scale? How can we even think of using a process that could damage our aquifers? How can it be that we have regulations that allow the industry to take such large amounts of water from public streams? For all of us who pay water bills, this seems very unfair. How do we protect our life-giving water?

My understanding of industry's assurance that we don't have to worry about aquifer contamination is that it's based on everything being encased and underground pressure preventing any seepage. But, Bill informed us that the casing is not in place as the drilling begins, so there is the

continued on page 19

There's Gold in Fixin' Them Thar Hills

In July, the AML Policies Priorities Group released a research paper that shows how, according to the *Charleston Gazette*, “(i)ncreased funding and important reforms could allow the federal government’s Abandoned Mine Lands (AML) cleanup program to fuel economic recovery in communities hard hit by the mining industry’s downturn.”

Titled *The Abandoned Mine Lands Program: A Policy Analysis for Central Appalachia and the Nation*, the paper provides recommendations for specific policy changes that would provide distribution of special funds to states based on criteria such as number of remaining abandoned mine lands sites, unemployment rates and opportunity for economic development, rather than rates of coal production, as the current law mandates.

Some key findings of the paper include:

- The AML program supported 1,317 jobs in Central Appalachian states and delivered a value-added impact of \$102 million in these states.
- It will take at least \$9.6 billion to remediate the remaining 6.2 million acres of lands and waters ravaged by abandoned mine problems.
- Congress should initiate a five-year wholesale update of the federal inventory of AMLs so that complete, reliable data is available on the remaining size and geographical distribution of all coal AMLs — not just high-priority AMLs — in the United States.
- AML funding is not distributed according to need. Congress should enact legislation that replaces all AML sub-funds with a single



The AML Policy Priorities Group is a multi-stakeholder group formed in the fall of 2014 to inform the research released in The Abandoned Mine Lands Program: A Policy Analysis for Central Appalachia and the Nation. The group is co-coordinated by Kendall Bilbrey and Eric Dixon, working for The Alliance for Appalachia (OVEC is a member of the group) and The Appalachian Citizens' Law Center, respectively, as a part of the Appalachian Transition Fellowship Program through the Highlander Research and Education Center. The group consists of more than 200 members, mostly from the Central Appalachian region, representing impacted citizens, community organizers, activists, scholars, lawyers, civil society groups and state officials.

distribution mechanism based on a state’s percentage of the updated federal AML inventory. This would distribute funding to states and tribes that have the largest AML problems and would simplify an unnecessarily complicated funding system.

This research paper comes on the tails of a major proposal to address the AML issue from the Obama administration. In February, the POWER+ Plan was introduced as part of the FY 2016 budget. This plan would prioritize opportunity for economic diversification and development in coalfield communities.

“The POWER+ Plan is a step toward recognition for the potential for new and just economies to thrive in Central Appalachia, but it is far from the beginning of the conversation,” noted Kendall Bilbrey, a co-author of the paper. “In recent years, organizations across the region have begun campaigns that look at economic diversification needed to re-establish thriving economies in the coalfields, and address the legacy costs that industry has left behind. Leveraging the AML fund to support our community needs has been a key priority for grassroots groups.”

The paper notes that the administration’s plan could create more than 3,000 jobs, including more than 700 in central Appalachia, while infusing nearly \$500 million into the U.S. economy.

Read the full report online: bit.ly/1VwcQBU. 🍌

The Abandoned Mine Lands (AML) program has almost \$2.5 billion in unused funds from fees imposed on coal companies. The AML funds are allocated to states to clean up mines.

One Man's Out-of-State Trash is Another Man's Landfill

Earlier this year, OVEC members living in Boyd County, KY, contacted us to see if we could help boost the community's years-long fight against a stinky, noisy, violation-prone landfill taking in East Coast trash by rail.

The landfill is reportedly one of the busiest landfills in the eastern United States. Long CSX trains bringing garbage and sewage sludge to the dump stall traffic, and locals have snapped shots of fluid leaking from the rail cars.

We worked with the Citizens for Boyd County Environmental Coalition and the attorneys at Appalachian Mountain Advocates to file a federal lawsuit on July 16, on behalf of folks affected by the Big Run Landfill. The lawsuit alleges that the landfill has violated the Clean Air Act since 2007.

OVEC members Candy and Kenny Messer, who are active in the Boyd community group, live about four miles from the dump, but rarely a day passes without odors bad enough to make them cough or gag.

"There are so many people who are suffering," Candy Messer told the *Louisville Courier Journal*.

In May the paper reported, "The Big Run Landfill outside Ashland in northeastern Kentucky was intended to be a cash cow, with up to 90 percent of its waste coming by rail from out of state. Instead, it turned into a stench-ridden horror for Boyd County residents and a challenge to local politicians and state



Landfill drawing by Ben Williams from deviantart.com.

regulators, who have considered it the most troubled landfill in Kentucky."

In August, Kentucky environmental attorney Tom FitzGerald also filed a lawsuit on behalf of the citizens group, alleging, among other things, that state and county officials illegally allowed the landfill to expand its capacity.

Days later, the landfill operators, EnviroSolutions, announced that, "(r)ail volume of waste delivered to the Big Run landfill will drop 30% by the end of this year and terminate by the end of 2016, or in 16 months, cutting the dump's total intake by 75%," according to the *Courier Journal*.

The paper noted, "The announcement comes as the company and local and state officials face lawsuits from angry citizens and pressure from Boyd County officials and as landfill operators seek a permit renewal from Kentucky environmental regulators amid ongoing odor fines. It was not enough Tuesday to stop the loud demands that the dump be shut down. But it caught the attention of state and local officials who say the concession needs to be fully weighed."

Locals are skeptical of promises the company makes. "I believe they are just putting up smoke and mirrors," Randy Robertson told the *Ashland Independent*.

For nearby residents, their noses may well tell them what happens next in this long fight. 🍌

Board Fracking Trip *continued from page 17*

potential for aquifer contamination. Once in place, the casing will deteriorate over time.

It takes 2 to 8 million gallons of surface water (from rivers, streams, springs, etc.) to frack a gas well. Some take more, and a well may be fracked multiple times. An example of the amount of water it takes is that, in 2011 in Pennsylvania, Marcellus fracking used 12 to 20 million gallons a day. That's a lot of fresh water, much of which cannot be reused. Companies build freshwater impoundments near well pads, using our water, then they have to create waste-water ponds (to quote Bill) "to take the crap afterwards." The "after-crap" includes radioactive waste that cannot be filtered out. If (or when) the pond leaks or the drill cuttings from well pads reach landfills, water (leachate) can eventually get to water treatment plants, into surface streams and rivers, into the water intake and so into our drinking water (see related story page 23). I find this outrageous!

When will we tell industry it's time to err on the side of caution and ban fracking? I know it won't be easy, because we've got 150 years of coal, oil and gas history and political, economic, energy and social traditions that favor extraction industries. But I still keep wondering — if New York could ban it, why can't we?

To Governor Tomblin, who said we had the opportunity to get it right, my response is — No. We didn't five years ago, and we don't now because we do not know what "right" is or if it is even possible. One thing we do know is that getting it right ought to mean we have a healthy environment for everyone, and the creatures, too. Please, look up for energy instead of down deep. Look up to the wind and the sun where there is plenty of healthy, wholesome energy for our needs. 🍌

Alpha's Bankruptcy Exposes Company's Efforts to Sway Politics, Deny Climate Reality

Excerpt from an August 25 The Intercept article by Lee Fang. Read full article: bit.ly/1Jz1ICb

Alpha Natural Resources, one of the largest coal companies in America, was a player in major congressional election efforts last year — but you won't find records of their corporate donations on the Federal Election Commission website or in any public record.



Alpha Natural Resources also helped finance campaign entities associated with the Koch brothers, including the Institute for Energy Research, which lobbies in support of fossil fuel subsidies and against renewable energy policies.

You will, however, find signs of the Virginia-based coal giant's secret political activities buried in a creditor document filed last Thursday. The recent downturn in coal prices, along with high debts, forced the company to seek bankruptcy protection earlier this month.

Alpha Natural Resources gave money to an array of nonprofit entities that are not required to report donor information. These groups were pivotal in helping Republicans maintain control of the House of Representatives and in electing the new GOP majority in the Senate.

(Editor's note: Sadly, we here in WV know all too well that Democrat office holders are just as likely as Republican office holders to be rolling around in coal-industry dollars.)

The corporation helped fund the Kentucky Opportunity Coalition, a secretive nonprofit group that refused to disclose any donor information during the election last year. The Kentucky Opportunity Coalition was the largest outside campaign entity in the Kentucky senate race, spending over \$14 million on television and radio commercials to successfully reelect Sen. Mitch McConnell, R-Ky, over Democrat Alison Lundergan Grimes.

The company donated to a number of political groups that favor environmental deregulation on the coal industry, including American Legislative Exchange Council (ALEC), a nonprofit that works with lobbyists to develop business-friendly template legislation used by state lawmakers. ALEC recently produced template legislation to block states from submitting compliance plans with the EPA's Clean Power Plan, new regulations designed to combat carbon emissions.

Alpha Natural Resources backed the Heartland Institute, an Illinois-based think tank that aggressively works to counter the belief in climate change. The Heartland Institute, which organizes an annual gathering of climate-change deniers, gained notoriety in 2012 for sponsoring billboards comparing those who believe in climate change to the Unabomber Ted Kaczynski and cult leader Charles Manson.

Just days after his reelection victory, made possible with the support of the Kentucky Opportunity Coalition, McConnell announced that his top priority would be to rein in the EPA's power to regulate coal companies. Alpha Natural Resources considered the EPA rules to be a top priority, as well. 🍌

Overwhelming Majority of Americans Want Campaign Finance Overhaul

Excerpt from an article by Marge Baker, executive vice president of People For the American Way.

In June, the *New York Times* and *CBS News* released one of the most in-depth surveys in recent history on Americans' views about money in elections. The results weren't hard to interpret: Across the board, Americans agree that money holds far too much sway and that sweeping changes are needed in our political system. A full 85 percent of respondents said our current system is so flawed that it needs to either see fundamental changes or be rebuilt completely.

Voters don't want small tweaks to an otherwise functioning system. The message coming through is a far-reaching call for reform: The system is broken.

Notably, support for change was strong among those

from all political backgrounds, underscoring the fact that Washington is the only place where campaign finance reform is a partisan issue.

It's discouraging but not surprising that the poll found deep cynicism among Americans about the potential for fixing our big-money system. Nearly six in ten people said they were pessimistic that reform would happen.

It's clear that the national political will for getting big money out of politics is there. And across the country, local leaders are already organizing to make it happen.

(Editor's note: Get involved with OVEC's Clean Elections work by contacting Natalie Thompson at 304-522-0246 or natalie@ohvec.org.) 🍌



Fair Courts Summit Brings Together Advocates Working to Protect Our Courts

by Natalie Thompson

In July, WV Citizen Action Group's Julie Archer and I represented WV Citizens for Clean Elections at the second annual Fair Courts State Summit in Washington, D.C. The summit was hosted by our national partner Justice at Stake and sponsored by the Brennan Center for Justice, Wellstone Action and the Piper Fund.

For two days, advocates from around the country came together, learning to insulate courts from political pressure, boost public support for judicial independence, protect the courts' abilities to deliver justice and guard people's rights, and ensure diversity among those who become judges.

At the summit, WV was highlighted due to the judicial reforms we've passed in response to Don Blankenship's election meddling and the resulting scandals that led to the *Caperton v. Massey* U.S. Supreme Court decision. Thanks to the efforts of WV Citizens for Clean Elections, our state is one of only two states with a judicial public financing program in place (the other being New Mexico). Julie Archer served on a panel with Melissa Price Kromm from North Carolina, where, ironically, the Republican-controlled legislature repealed their trailblazing program the same year WV lawmakers voted to make our program permanent.

We had the pleasure of hearing from Matt Menendez of the Brennan Center for Justice, Florida Supreme Court Justice Peggy Quince and other panelists who discussed the impact of *Williams-Yulee v. the Florida Bar*, in which the U.S. Supreme Court recently upheld a Florida rule that prohibits judges and judicial candidates from directly soliciting campaign contributions.

Reporters shared stories about who is trying to influence the courts, how, and why. Featured panelists included Viveca Novak, an award winning investigative journalist and editorial and communications director at the Center for Responsive Politics, who has reported extensively on dark money groups and their involvement in congressional, presidential and judicial politics.

Pema Levy of *Mother Jones* magazine was also featured. Levy authored a recent exposé detailing how two groups targeted in the Scott Walker campaign finance scandal spent over \$10 million to elect a conservative majority to the Wisconsin Supreme Court, which ultimately killed the investigation into possible illegal

coordination between the governor and the groups.

A panel on linking environmental issues and fair courts focused on how polluters are spending large sums of money in judicial elections in states where they face litigation. The discussion kicked off with a screening of a new mini-documentary from Legal Progress, *Dirty Water, Dirty Money: Coal Ash and the Attack on North Carolina's Courts*, which highlights the real human impact of special interest money that is infiltrating judicial elections. The film features one North Carolina family's story of how coal ash pollution poisoned their community. The film also calls attention to a troubling correlation between North Carolina Supreme Court rulings and the success rates of firms that gave big donations to judicial candidates following the repeal of the state's public financing system. This was detailed in a Center for American Progress report from November 2014, which raises concerns about corporate influence in judicial races. The report profiled corporate polluters such as Duke Energy, which currently has billions of dollars at stake in North Carolina courts over its responsibility to keep toxic coal ash out of the state's drinking water.

The keynote speaker was Sue Bell Cobb, former chief justice of the Alabama Supreme Court. Her article in the March/April edition of *Politico* magazine, "I Was Alabama's Top Judge. I'm Ashamed by What I Had to Do to Get There," provides a first-hand account of how money and politics are undermining the integrity of our courts.

To volunteer with OVEC's Clean Election's work, contact Natalie Thompson at 304-522-0246 or natalie@ohvec.org. 🍌

Notice: In 2016, the WV Supreme Court General Election will be held during the primary elections in May. It will be the first Supreme Court election since Justice Allen Loughry used public financing in 2012 to win one of two contested seats on the court. Justice Brent Benjamin announced he will run for reelection using public financing.



What a Fracking Mess

DEP Renews Two Injection Wells in Lochgelly

by OVEC member D.L. Hamilton

OVEC's Vivian Stockman recently heard me ranting about the DEP and said, "Write that down." This is not an overly factual or thorough account, but, rather, a mostly emotional and anecdotal tale about my personal connection to the fracking waste injection site in Lochgelly, WV. And it's a bad, sad story. It involves Danny Webb and Danny Webb Construction, Inc. (DWC). The head of the DEP described Danny Webb as a 'bad actor' but the DEP has allowed him to still have a leading role.

In early January 2015, my father Pat Hamilton, who was one of the leaders in the campaign to protect the New River, passed away, and I intended to call up his spirit when I spoke at a DEP hearing on two underground injection wells — Permit Nos. UIC 2D0190460 (Well #1) and UIC 2D0190508 (Well #2). These wells have a lot of folks in Fayette County and beyond concerned and upset, to put it mildly. My sister Patti, the director and a lobbyist for a statewide association, was also going to speak, concerned by what she had learned at a county commission meeting about the



A 2013 photo, courtesy dirtysecretwater.com, shows Danny Webb Construction's injection well and sediment pits in Lochgelly, WV. Above the paired sediment pits is the spot where the fracking wastewater/sludge is believed to be seeping out of the pits and into the headwaters of Wolf Creek. The website says satellite images indicate that the sediment pits have been leaking directly into the headwaters of Wolf Creek since 2003.

Fracking Chemicals Linked to Cancer

The fluids used for hydraulic fracturing in California oil wells contain dozens of hazardous chemicals linked to cancer, hormone disruption and reproductive system damage, according to a recent report, "California's Toxic Fracking Fluids: The Chemical Recipe," by Environmental Working Group (EWG).

This new analysis shows why other state governments must require drilling companies to disclose the chemicals they are deploying. It underscores the urgent need for independent oversight of drilling in California and elsewhere, including right here in WV.

Fracking fluid is a mixture of water, chemicals and sand that is pumped into underground shale rock formations to crack them and release oil and natural gas trapped there.

possible economic consequences of DWC's operation on the economy of Fayette County.

These permits were being sought by DWC, and there is an equally bad back-story on the history of the DEP's allowance of Webb's import and injection of fracking waste in the Wolf Creek area. Wolf Creek empties into the New River, just above Fayetteville's water intake. (Potential "Freedom Industries" redux!)

To quickly get you to 2015: DWC was issued a permit in 2007; the permit was revoked in October 2012, in part because of two illegal waste pits he had on his property, but the consent order allowed Webb to continue to operate. In January 2013, Webb sought to renew the permit — perhaps for the first time seeking a permit for Well #2, although who knows when he first started using it. The permits were issued on February 6 and revoked the very next day — albeit in a manner that allowed the injection to continue. Brad Keenan (an owner of contiguous property) and three environmental groups challenged this unpermitted operation ("the procedural challenge"). None of this had come to my attention, which may say something about my attention. We are now back to 2015.

The January hearing was postponed due to bad weather, and it was rescheduled and again postponed for the same reason. It was actually held in Oak Hill, my home town, on April 21. In the meantime, two major events occurred:

- 1) The procedural challenge was successful, and the Environmental Quality Board (EQB) ordered the DEP to

either issue a permit to bring DWC into compliance or require the operations to cease.

2) My sister and I discovered that we were connected to DWC's operation. Our family owns a one-fifth interest in North Hills Group (NHG). In 2001, NHG sold DWC a small parcel of land on which Well #1 is located. In 2008, NHG's then-president signed an oil and gas lease with DWC for the whole acreage, which was sizable. Although I am certain the injection of fracking waste was never contemplated and outside the rights granted by the lease, I was still shocked. I felt like Pogo — I had “met the enemy, and it is us.” My sister and I both still spoke against the permits, but we now had a bigger concern brought about by this unwanted “inheritance.”

At the hearing, it was clear that the politics, economics and everything weighed on the side of denial of the permit. We had hope. That hope was strengthened when the Chief of the DEP's Oil & Gas Division issued the cease and desist order on May 8, 2015. But Webb's lawyer had the inside track and appealed and moved to stay the order the very same day. This was considered a “new” matter, so the folks who brought the procedural challenge were not considered parties, were not served, and did not even get notice of the hearing on May 14, nor the stay order issued by the EQB on June 2. The EQB found DWC had demonstrated irreparable harm because they have had to lay off employees (doubt that is true) and that the “vital service of disposing oil and gas waste [had] been interrupted.” Can't have that! And not hard to win when the other side isn't even there. The EQB order also said the permit would likely be issued. Back to business as usual, but still I had hope.

But this time we also had something we could do without relying on the DEP. After NHG was informed about all this, they elected my sister as the new president, voted to terminate DWC's lease and sent a termination letter on July 26 to DWC, copied to the DEP. However, Danny Webb told DEP the lease wasn't terminated, and DEP went ahead and issued both permits on August 26.

Now the environmental groups have to again appeal, NHG has to lawyer up, and all of us have yet more proof that West Virginia has a Department of Easy Permits. I cannot tell you how much it impressed upon me the resilience of so many of you who keep going back and making a record and putting up a good fight against polluting industries, knowing the cozy relationship between the regulators and the regulated when it comes to coal, oil and gas in this state.

And then, the kicker that prompted Vivian to again ask me to write this down: On September 10, more than 300 school kids were to participate in the 5th annual Fayette County Water Festival where they would, according to a DEP press release, “see firsthand the importance of clean water” and learn more about “the stewardship of our water resources.” DEP appears to be one of the main sponsors of this event.

The people who control the DEP do not really care about water. They don't care if leading roles keep going to bad actors. And they are letting one bad actor inject God knows what near one of WV's premier tourist areas for no good reason. What a fracking mess. All is not well with our DEP. 🍷

Fracking Illness

People who live near deep-fracking gas wells are 27 percent more likely to be hospitalized for heart and other ailments than people who don't live near fracking sites, according to researchers from the University of Pennsylvania and Columbia University who scanned nearly 200,000 Pennsylvania medical records.

Radioactive Drill

Cuttings and WV Landfills

At the end of June, DEP released a report prepared for the agency by researchers at Marshall and Glenville State universities titled *Examination of Leachate, Drill Cuttings and Related Environmental, Economic and Technical Aspects Associated with Solid Waste Facilities in West Virginia*.

The report is 195 pages long, with more than 2,300 pages of supporting data and graphs. Fortunately, Bill Hughes, working in his capacity as chairman of the Wetzel County Solid Waste Authority, has provided some analysis of certain aspects of the report. (See story about Hughes on page 24.)

In his commentary of the report, Hughes writes, “Wetzel County has had active Marcellus black shale exploration and drilling for at least eight years now. And **finally we now have a public report that clearly, unambiguously states that Marcellus shale is radioactive**. Of course, geologists have known that for many decades. But, also for decades, there has been great reluctance by the natural gas exploration and production companies to acknowledge that fact in public.”

Read Hughes' full comments: bit.ly/1JQLyxE. 🍷

Now Sign This

For several years, Food & Water Watch (FWW) has spearheaded a day of action called the Global Frackdown, with hundreds of anti-fracking actions crossing the globe. This year, in advance of the Paris Climate talks (Conference of Parties of the United Nations Framework Convention on Climate Change in Paris), FWW is circulating a letter to global leaders, signed by organizations all over the world to call on them to recognize that we need to leave fossil fuels in the ground and that this may be our last real chance to curb climate change on a global scale.

Of course, OVEC's signed on. Know another group that might want to sign? Send them to: bit.ly/1NPseYI. 🍷

Who Is That Man In Khaki?

That's no DEP employee, that's Bill Hughes, who has lived in Wetzel County, WV, for more than 36 years.

He is a member of Wetzel County Action Group, active in monitoring Marcellus gas activities in Wetzel and surrounding counties. His work includes assisting and educating people who suddenly find "unconventional" gas extraction activities (fracking-related) disrupting their lives, sometimes tragically. He educates local officials and community members in other states, where Utica or Rogersville shale may be the problem, too. He also serves as a media liaison for journalists interested in covering issues related to deep-shale exploration and extraction.

Hughes worked part-time for OVEC from March to October of 2014. We secured more funding for his work in March this year, so he's once again working part-time with us. Since July 2014, he's also working part-time for the FracTracker Alliance.

Oil and gas industry lobbyists are not fond of Hughes.

In the photo at right, Hughes stands beside a poster, enlarged from a surveillance photo taken of him as he monitored a fracking site. Someone left the poster on a stand in the WV Senate Judiciary Chamber, after a meeting on multiple DEP rule changes during the December 2014 Legislative Session.

Two "industry alert" handouts about Hughes were also left in the Senate Judiciary room that day, at least one written by Corky DeMarco, the executive director of the West Virginia Oil and Natural Gas Association. Regarding the text in those alerts, Bill dresses in khaki a lot; he's not impersonating a



DEP employee, rather he is personifying a citizen watchdog. Also, he only photographs from public roads or from private property where he has the landowner's permission to enter. He does not have a telephoto lens, expensive or not. Maybe we should add that to our equipment wish list.

We'd rather that the industry be putting out alerts about its bad practices, rather than about watchdog citizens.

Anyway, we hope things are all cleared up by now. Hughes is not a DEP employee. He's doing what he has a right to do. Not so sure if we can say that for the oil and gas industry at the moment. 🍌

Ruptured Line Cause of Oil Spill in Ritchie County Creek



The Department of Environmental Protection says a ruptured oil gathering line caused a spill into a creek in Ritchie County.

Department spokeswoman Kelley Gillenwater tells the *Parkersburg News and Sentinel* that a cleanup could take several weeks.

Gillenwater says about 1,200 barrels of oil leaked from the line owned by West Virginia Oil Gathering in August. Officials haven't determined how much oil went into the creek or how long the line had been leaking. 🍌



WV Shale Fields Fertile Ground for Nuisance Lawsuits

excerpt from a Sept. 9 article by E&E reporter Ellen M. Gilmer

In shale country nuisance complaints from landowners have grown routine.

“We’ve been inundated by so much so fast,” said Doddridge County homeowner Lora Price, who lives near a natural gas processing plant and a compressor station. “Almost every road, every hollow has something going on. It doesn’t seem to matter where you go; you’re going to see a pipeline or a compressor station or a well pad.”

“We’re going through a process where people are starting to evacuate this area,” said Lyndia Ervolina, a WV native who has lived with husband Anthony in their house for 35 years. **“A lot of people are just starting to leave because it’s just a mess.”** (*Editor’s note: Homes near fracking operations lose their original property value.*)

In 2013 and 2014, more than 200 north-central WV residents decided they’d had enough. Scores of lawsuits were filed against Antero Resources Corp. and Hall Drilling LLC, saying the inconveniences that come with nearby oil and gas production have made it impossible for the residents to enjoy their homes.

In the oil and gas context, plaintiffs generally have a tough time demonstrating nuisances they have experienced warrant enough in monetary damages to cover the cost of going to court in the first place.

But in one Texas case, a couple suffering health problems from the air emissions of nearby well sites won \$3 million for the nuisance the wells created.

Autumn Long, who is fighting a pipeline company in Harrison County, said West Virginians have not become outraged enough.

“In this state, there’s been such a long history of exploitation and repression, and the population of this state has been walked over by the fossil fuel industry for so long,” she said. “I’m always amazed to see what people will put up with.”

“Everyone has a breaking point eventually, and I think that people are being pushed to that point now,” Long said. “Unfortunately a lot of times, you don’t do anything about it until it’s in your backyard.”

(Residents say) the only hope is more public outrage and organized opposition from neighbors affected by the everyday impacts of industry. 🍌

What Is This Conductivity, Anyway?

continued from page 5

releasing sulfuric acid. When this acid hits the rock, it dissolves some of the rock, releasing dissolved salts like sulfate and toxic metals like selenium into nearby streams. The dissolved salts increase the level of conductivity in the water. Conductivity is the electrical charge of the water, and it goes up as the water gets saltier. Fresh water in undisturbed Appalachian streams has a conductivity of under 100 and sea water has a conductivity of about 50,000.

Water coming out of a mine site often contains sulfate and conductivity levels 20 or 30 times higher than water from unmined sites. Selenium levels are also far higher. The more mining you have, the more conductivity and selenium you get.

What effect does all of this mining have on streams?

High selenium causes fish deformities like misshapen mouths, crooked spines, and larval fish with both eyes on the same side of their heads. And high conductivity also wipes out entire types of aquatic insects that can’t tolerate the pollution. These bugs are the foundation of the stream ecosystem; their diversity and abundance are the primary scientific measuring sticks for determining if a stream is healthy. As biodiversity declines, stream functions also decline. A stream that lacks these insects violates water quality standards for biological integrity and therefore is listed as impaired under the Clean Water Act. Today, 6,000 stream miles in WV are biologically impaired; one-third of that impairment is due to coal mining.

Since 1986, about a billion tons of coal have been produced in southwestern West Virginia. The environmental cost of that production amounts to the biological impairment of 19 to 38 percent of streams in that region.

Public Justice, along with Appalachian Mountain Advocates, frequently represents OVEC, WV Highlands Conservancy and the Sierra Club in litigation that has put a dent in this problem, but the water quality degradation will continue unless WV and other states with these mines recognize that their current policy on selenium and conductivity is not working and is not preventing stream impairment. 🍌



Better Health, Cost Savings Key Benefits of Renewables

excerpt from a Sept. 2 Climate Central article by Bobby Magill

Wind and solar farms help reduce the human impact on climate change by displacing noxious emissions from coal-fired power plants. A new study says there's another important benefit to renewables development: cost savings from cleaner air that saves lives.



Daniel M. Kammen, director of the Renewable and Appropriate Energy Laboratory at the University of California–Berkeley, said although the study is “solid,” it does not address

Researchers from Harvard University, in a bid to show the monetary value of clean energy projects in terms of improved public health, have found that energy efficiency measures and low-carbon energy sources can save a region between \$5.7 million and \$210 million annually, based on the accepted dollar value of human life.

Those benefits depend on the type of low-carbon energy involved and the population density of the area surrounding a coal-fired power plant whose emissions are reduced by a clean energy project, according to the study, published Monday in the journal *Nature Climate Change*.

“This study demonstrates that energy efficiency and renewable energy can have substantial benefits to both the climate and to public health, and that these results could be a big player in a full benefit-cost analysis of these projects,” said study lead author Jonathan Buonocore. “Additionally, this research shows that the climate benefits and the health benefits are on par with each other.”

Renewables and energy efficiency measures — major components of the Obama administration’s new Clean Power Plan — help displace power plants running on coal and other fossil fuels, which are the leading drivers of climate change. They also help reduce harmful emissions of nitrous oxide, sulphur dioxide and carbon dioxide.

The Harvard study adds to recent research showing that taking global action on climate change could improve public health. An Environmental Protection Agency study published in June found that by the end of the century, 57,000 fewer Americans would die each year from poor air quality if the worst effects of climate change were averted.

environmental justice concerns related to the human health toll associated with pollution from coal-fired power plants. The study assumes that everyone across the country is equal, but Kammen said some people are more vulnerable than others, especially low-income minority communities that often are located in areas where power plants are built.

The study “doesn’t highlight the environmental justice inequalities of the system,” he said. “One of the biggest debate issues of social and racial justice is not featured here.”

(Editor’s note: Nor does the study address the front-end of the fossil fuel conveyor belt — the areas where fossil fuels are extracted. Add in the health impacts and costs from mountaintop removal, coal slurry, coal ash and fracking activities, then well, gee, renewables save even more lives and money!) 🍌



World Must “Almost Completely” Decarbonize In Next 35 Years to Tackle Climate Change

It is clear that global society must almost completely decarbonize in the next 30 to 35 years, or sooner if possible, to tackle the climate change challenge effectively. This means that the vast majority of fossil fuels must stay in the ground.

– From an August report by the Climate Council

Court Filings Over Troubling Patriot Bankruptcy

excerpt from a Sept. 13 Sunday Gazette-Mail article by Ken Ward, Jr. Read the full article: bit.ly/1i82VDL

WV regulators and a coalition of citizen groups are convinced that plans to sell off the operations of bankrupt Patriot Coal won't provide adequate funding for land reclamation and long-term water pollution cleanup at Patriot strip-mine sites across the state.

As Patriot's proposals to split up its holdings — selling part to a Kentucky mining company and part to a Virginia conservation group — move through bankruptcy court, lawyers for the DEP and for three citizen groups have filed strongly worded objections with U.S. Bankruptcy Judge Keith L. Phillips in Richmond.

In a court filing late last week, DEP lawyers Kevin Barrett and Michael Hissam called the original Patriot plan to sell its higher-quality assets, those without significant "legacy liabilities" for miner pensions and environmental reclamation, "little more than pie in the sky."

The Patriot case is one in a series of ongoing coal industry bankruptcies that have labor organizations, environmental groups and regulators increasingly concerned that the downturn in the mining business could prompt some operators to try to escape from growing liabilities for mine cleanup and worker benefits.

United Mine Workers officials have been warning for years about the union's troubled pension and health care plans, and citizen groups have likewise complained for many years that West Virginia regulators were not forcing coal companies to post adequate bonds or pay sufficient reclamation taxes to cover the potential costs of long-term water treatment, especially if large mining operators went belly-up.

(The DEP lawyers) said the Patriot plan "threatens to expose the people of the state of WV to the serious public health and safety risks associated



Patriot's massive Hobet 21 mountaintop-removal complex eats up parts of Boone and Lincoln counties and spews selenium and other pollutants into the Mud River Watershed. Above, what remains of Berry Branch. No homes can be seen; everyone left as the mine advanced and their homes were razed.

with unreclaimed land and untreated water at former mining sites," in violation of federal and state strip-mining laws.

In a separate court filing, lawyers for the Sierra Club, OVEC and the WV Highlands Conservancy recount a series of citizen lawsuits, court orders and settlements to force Patriot to comply with water pollution laws and to begin treating violations of limits on the discharge of toxic selenium from its

operations.

The citizen group lawyers noted that Patriot had disclosed in its 2013 annual report a "selenium water treatment obligation" of more than \$400 million. Patriot said in that report that it would need to spend \$60 million to \$80 million in the next four years to install selenium treatment systems and an additional \$6 million to \$8 million annually to operate, maintain and monitor those systems.

Under a settlement with the citizen groups, Patriot also is required to phase out the use of large-scale surface mining in Central Appalachia.

The citizen group lawyers note that Patriot's bankruptcy plan does not include those limits on large-scale surface mining or for compliance with the water pollution treatment requirements of other court orders and agreements. 🍌

OVEC WORKS!

Thanks to everyone near and far for taking action to end environmental injustice, with an extra special thanks to residents of communities fighting extreme fossil fuel extraction who speak out courageously. We hope you know how much we appreciate you. OVEC works because of you!

THANKS!

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Membership Matters

There's power in numbers and a huge part of what makes OVEC effective is people power. When you become a member of OVEC, you help build our power. Plus, you join a winning team! We utilize organizing, media outreach and legal challenges to bring positive change to WV.

OVEC formed in 1987 to stop plans for a toxic waste incinerator in OH, and we've been going strong ever since, thanks to people power, bolstered by foundations that note our dedicated membership and lend financial support to our work.

Not only is OVEC defending our health, communities, land and water by working to curb the harmful effects of extreme fossil fuel extraction and waste "disposal," but we are also collaborating to create a cleaner, renewable energy future.

As an OVEC member, you not only receive our quarterly Winds of Change newsletter and invitations to our annual meeting and other special events, but also have the satisfaction of being part of a team working to make our little part of the world a better place.

Basic Membership is \$20/yr. Sustainer Membership is a minimum of \$60/yr, while the Major Donor Membership level starts at \$250/yr. We also have a Sweat Equity Membership, so if you can't pay membership dues but are supporting our work through writing letters, attending hearings or protests, etc., please be sure to let us know. We want to make sure you are included on team OVEC.

If you already consider yourself an OVEC member, please take a few minutes to make sure your membership is up to date. E-mail info@ohvec.org with "check membership status" in the subject line or call the office at 304-522-0246 and we will double check for you.



We are a 501-(c)-3 organization, so donations to OVEC are tax deductible. Join, renew or donate online at ohvec.org, or mail your check to OVEC, PO Box 6753, Huntington, WV 25773-6753.

Support of OVEC's work from people like you provides the resources to pressure state and federal agencies to do their jobs. We know from experience that "endless pressure, endlessly applied" can have positive outcomes. Please join! 🍓

We can do no great things, only small things with great love.
- Mother Teresa