

March 2014



Winds of Change

Supporting Organized Voices and Empowered Communities Since 1987

Huntington, WV

OVEC

www.ohvec.org

Water Unites Us!

by Maria Gunnoe

At 11:30 a.m. on January 9, I got the news that there was a chemical spill into the Elk River.

My thoughts flashed back to the September 5, 2013 spill of 2,400 gallons of DCG 50-D (used to cover coal in transit, to suppress coal dust) that spilled into the Pond Fork River, which runs right by my home. The river was running as white as paint, but, when I called in the spill, the WV DEP dismissed it as not a problem.

So after this latest spill, I expected the DEP to again say that the pollution would flow “away,” as if there is such a place.

Little did I know that at the same time there was poison going into 300,000 people’s homes, schools and businesses. The chemical was leaking into the river 1.5 miles upstream of an intake valve for WV American Water Company (WVAW). This single intake supplies the municipal water for about 100,000 households (an estimated 300,000 people) in nine central WV counties.

Within hours, people across the region were desperate for clean water and their homes were filling with fumes from the contaminated water, which made many sick with headaches and nausea. People with breathing problems such as asthma ended up in the hospitals with pneumonia and flu like symptoms, as did some people who had unknowingly showered in the bad water.

At 5:45 p.m. on January 9, Governor Tomblin finally announced a “Do Not Use” order for all the people served by that single intake. Sixteen percent of our state’s population could not drink, cook, bathe or wash clothes with the water coming from their taps. They could only use the water to flush toilets and



Since the massive chemical leak into central West Virginia’s drinking water on January 9, OVEC has helped organize a candlelight vigil, rallies, forums and other events aimed at defending our water by pressuring regulators and politicians to do their jobs.

put out fires. Within a few hours of the order, there was no safe water to be found. All the bottled water stocked at stores was sold out. In my greatest fears for our state I never imagined what was unfolding, what is *still* unfolding a month later as I write this.

First we heard it was 4,000 gallons, then days later it’s 7,500 gallons and at the moment the current figure is about 10,000 gallons... 10,000 gallons of crude MCHM (methylcyclohexanemethanol) had leaked from a Freedom Industries storage facility into the Elk River. Weeks later we also learned that another chemical, stripped PPH, was in the rusty old storage tank.

Nobody seemed to know much about what exposure to MCHM does to human health. The chemical is used in coal preparation plants (where coal is “cleaned” for market). That set off all sorts of alarm bells among those of us who have been working on our Sludge Safety Project to expose and end the life-shortening pollution associated with “disposal” of coal prep plant waste. (See related story

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Inside This *Winds of Change*

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In the Chemical Valley

Up Elk River is what I used to say when someone said, *Where do you live?* Up past Knollwood and Mink Shoals, past Elk Hills, all threaded together by Route 119. On the right, Elk River shadowed the highway, visible at times between maple and pine. Here was the launch pad for baptisms, another mile up, the spot where the plane overshot the runway of the airport one pilot said was like landing on the deck of an aircraft carrier. On up, near my house, on the river bank, the muscle-limbed oak that lifted us above the current until we had the guts to jump. Once in the water, we were safe.

Don't drink the water. Don't shower. Don't cook with it or wash your clothes. There's half a century gone. Gone most of us who went to Elk Grade School, gone, too. Gone the white frame homes, the small brick duplexes, the school we marched to for our polio shots. Gone the quick-tongued streams, gone the valleys, filled with mountaintop, gone from the fog-draped skyscape. It's licorice scented air, not sun-dried cotton sheets, licorice wafting from the tap. *Clean coal, they say, We clean the coal.* Who cleans what cleans the coal, what stains the water blue-green, what seeps from slurry ponds that no one bothers to contain? *Safe, they say, it's safe.*

I remember the impact, the plunge into cold, breath held till surfacing, then the dappled light of the world. I hold my breath now for different reasons.

Anita Skeen
20 January 2014 🍌

The nine-county environmental catastrophe now unfolding in West Virginia – a spill of as much as 7,500 (later said to be 10,000) gallons of an industrial chemical used to wash coal, which hospitalized 169 (later estimated between 400-500) people and left 300,000 more without drinking water – is a tragic reminder of the risks that spring from our dependence on fossil fuels.

- EDF Voices: People of the Planet

(Left: The Elk River, downstream from Freedom Industries)



Court Stops Further Mining Near Cemetery While Case Proceeds

by Maria Gunnoe

In late January, Dustin White, Arbutus Workman, Essa Jarrell, Shelby Shelton and myself appeared in the Boone County Courthouse for a motion on the preliminary hearing of *Gunnoe v. Alpha*, the case in which descendants of people buried in the Jarrell Family Cemetery are suing Alpha Natural Resources because of the harm mountaintop removal coal mining has wreaked upon the cemetery. MTR operations have made visiting the site extremely difficult. We family members are

represented in this case, filed last August, by Attorney Kevin Thompson.

We won the injunction in court that day. The coal company has to stop mining around the cemetery. The injunction stops the mining while we move forward with the other claims of damage and cemetery desecration. We are also asking for a road that provides reasonable access, meaning access with a two-wheel drive vehicle.

A car-accessible road led to the cemetery before mining operations destroyed it. They put us in fear for our lives to go to this cemetery, and then they poke fun at our fear. They treat us badly, and, just last fall, a worker in a company truck even bashed the windshield of Leo Cook's vehicle, causing Cook to file his first-ever insurance claim.

Civil War soldiers, World War II soldiers, other soldiers, our heroes and our family are buried there. I used to camp out up there as a child. My family planned events around Decoration Day at that cemetery. Our history is there.

We want the company to back away from the cemetery and let friends and families visit it. We want to have access, and neither Alpha nor anyone else is going to stand in our way. They have violated the law, and they should be punished. **We must hold these companies accountable for what they are doing to our people dead and alive.**

A woman from Upshur County came to visit this family cemetery, where her two daughters who had perished in a house fire years ago were buried. She was turned away. Mining operations should not stand in the way of visiting these cemeteries.

It's gratifying that, after years of family members being put through hell to access Jarrell Family Cemetery, the court has ruled in our favor. Currently, no date for the larger trial is set. 🍂

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

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on page 5.)

Suddenly, 300,000 people were exposed to an acute, heavy dose of coal-related water pollution. But the reason so many people are on this single intake from the Elk River can be blamed, at least in part, on the chronic, long-term slow-motion disaster of the sum total of the coal industry's abuses to our water. Runoff from mountaintop removal mines, acid mine drainage, coal (prep-plant waste) slurry injection, massive coal sludge (prep-plant waste) dams — all have polluted our groundwater and streams.

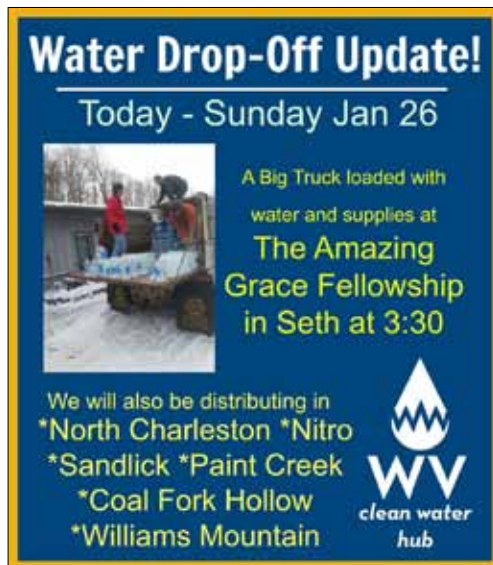
When I was a child, crystal-clean, healthy water was everywhere. We never had to buy water and we never thought we'd have to. We had our wells, our streams and our springs to depend on. There was no need for such a thing as municipal water.

By the 1980s, the Van (in Boone County, where I live) Public Service District gave their water infrastructure to (what is now) WVAV because the water that they drew from the West Fork was polluted by mining in the headwaters around Twilight. So, many folks in the area were now dependent on WVAV for safe water. And look what happened there.

I actually felt fortunate to have my already polluted well when I experienced the MCHM tainted water coming into my neighbors' homes. The water in my home has not been safe to drink for years, because of coal-related pollution. Ironically, I long have had an application in to WVAV water to have their pipes come to my house. After the MCHM disaster, my mother's and grandson's homes in Boone County had polluted water much worse than mine. I cancelled my application to hook up to WVAV.

After the massive MCHM spill, I saw fear in people's faces. People everywhere were scared because there was no clean water to drink, cook with or bathe in coming into their homes. Their water was now polluted water that WVAV felt compelled to flush through people's homes and septic systems, water which will only end up back on our land and in our streams.

Shortly after the MCHM spill, a visit to the local fire departments made me realize that the demand for bottled water was far greater than what was being delivered from relief agencies here in the coal mining areas. I witnessed a family of four wait for an hour for only half of a 24-pack



of water. That's 12 12-ounce bottles of water per household until the single pallet of water was gone. This made for very long lines and many trips for families to supply themselves with clean water. Of course, there are those families that couldn't make it out to get this water, people who were risking it and using what water they had, because that's all they had. After the effects of MCHM on people's health started to show, the panic really set in. The bottled water from the state was coming in much slower than it was needed and the demand was astronomical.

OVEC volunteers and organizers saw the need and we hit the ground running. We were far from alone. An amazing network of people from all over the country sprang up to help supply the most rural fire departments and communities with bottled water. We joined planning conference calls with volunteers and organizers from Aurora Lights, the CARE campaign, Coal River Mountain Watch, Keeper of the Mountains, a cadre of folks from

Fayette County, RAMPS, Sierra Club and Wheeling Water Warriors, as well as people not necessarily affiliated with any groups. Organizational boundaries dissolved and the WV Clean Water Hub was born.

Huge thanks are due to the mainly volunteer, massive effort to coordinate delivery and raise funds to get water into where it was needed most. Rainforest Action Network sent a big donation, as did other organizations, foundations and individuals. People volunteered their time to gather water and then drive it to the most in-need areas.

So many have donated time, money and even tears to help us through this impossible time. We want to thank each and every one of you, but we aren't sure we have a complete list, and the list keeps growing. You know who you are and we want you to know you have helped save lives throughout this nine-county area by supplying clean water where there was none.

We loaded water, baby wipes, hand sanitizer, children's gifts and more into vehicles and went to the communities far up the hollows to deliver to people who couldn't get out for a multitude of reasons. We went to areas that didn't have a nearby fire department and pulled onto the curbs and passed water out to anyone who wanted it, including miners and their families. Meanwhile, we heard and saw nothing from Friends of Coal. Not a lick of help.

I am very proud of the way that our community came together to care for the elders and less fortunate ones and to see that no one had to go without water. After one lady tried to raise a fuss over “treehuggers” delivering water, this is what a local coal miner posted on Facebook:

Out of everything that comes from this bad water situation, I have to say I am very disappointed in my community and some of the people. We are all in this together; we are all going through the same crisis, why are we fighting about coal mining and environmentalists? Whatever happened to “loving thy neighbor” no matter race, religion or creed? Human kindness is missing in modern society, if hate is all you have for people that are different, then that’s all your children will know. If you don’t want to accept water from the environmentalist groups that bring it in, that’s fine, but we are a community of people that should depend on each other and help each other. But instead all we have is unrelenting hate. It’s sad. Coal miners or environmentalists are welcome to a hot meal and a place to sleep at my home anytime.

As I write this more than a month after the spill, citizen-organized water deliveries continue. Our networks, aided by people’s use of Facebook and Twitter, have purchased, donated and delivered hundreds of thousands of gallons of water to areas in the impacted region. We have built new relationships and connected with non-traditional allies in the scurry to help people have safe water. We have great groups of people committed to helping this area and each of them just stepped up hugely to meet the demand for life-giving water. West Virginia pulled together and showed that we all care about one another regardless of personal differences. We are all human and we all deserve clean water and air. 🍌



On February 11, a valve malfunctioned on a line that moves coal prep-plant waste at Patriot Coal’s Kanawha Eagle Prep Plant near Winifrede, WV. The site includes the New West Hollow coal slurry impoundment.

More than 100,000 gallons of coal slurry poured into Fields Creek. The slurry flowed six miles downstream into the Kanawha River. News reports said the spill began sometime between 2:30 and 5:30 a.m., but the company did not notify the DEP until about 7:40 a.m. DEP’s containment measures included damming the creek.

While shooting photos that day of the spill, OVEC’s Vivian Stockman caught whiffs of licorice at the spill site. That odor is associated with MCHM (see story page one). News reports initially said MCHM was in use at the plant. Later reports said the company had stopped using the chemical about a month earlier and the odor was from efforts to move the chemical off site.

Chuck Nelson, one of many southern West Virginia residents who have been dealing with contamination associated with coal prep plant waste “disposal” practices for decades, noted that MCHM is probably one of the least harmful chemicals used at prep plants.

On February 12 the *Charleston Gazette* reported:

Coal slurry contains a variety of substances that could be more toxic than Crude MCHM, including other coal-cleaning chemicals and various metals...

Coalfield citizens have for years complained about blackwater spills, and worried about the dangers of coal-slurry impoundments and the potential consequences of injecting coal slurry underground.

A little more than four years ago, the U.S. Office of Surface Mining Reclamation and Enforcement issued a report that cautioned the DEP was not taking strong enough enforcement actions to cut down on blackwater spills from mining operations...

DEP officials rejected OSM’s suggestion that DEP re-examine its rules and policies on blackwater spills, arguing that the incidents were on the decline.

On February 19, DEP reported a spill of blackwater from the closed and “reclaimed” Antaeus Gary slurry impoundment in McDowell County, which had been reopened by a company “remining” the site for fine coal particles buried in the impoundment. 🍌



Photos and graphics from WV Clean Water Hub. Page 4, top: Amy Adkins, a first grade teacher at Fayetteville Elementary School, delivers water from a water drive organized by her students. Page 4, bottom: One of many graphics posted on Facebook letting folks know where to find water. Above: Twitter connected folks, too.

West Virginians Working on Economic Transition

by Dan Taylor

At the end of last year, I happily attended the Alliance for Appalachia's Summit on Economic Transition. I went as an OVEC representative, along with OVEC's founder Dianne Bady.

As someone who helped plan the event, I was ecstatic about the standing-room-only attendance. The full-capacity turnout reflects current interest in economic transition, a topic getting a lot of attention due to the declining coal economy in Appalachia and growing realization that we need a more sustainable and equitable economy that creates and leaves wealth in communities, instead of whisking it away and leaving only negative health and environmental impacts.

More than 50 people attended the summit, representing environmental, labor and community economic development groups, federal agencies, politicians and others. This diverse and powerful group discussed:

- What comes next for our region's economy?
- How do we make sure economic changes really benefit regular people?
- How do we make certain community members have a say in what those changes will look like in their communities?

Leading up to the summit, the Alliance for Appalachia, of which OVEC is a member, conducted a listening project among its member groups, as well as other Appalachian organizations, labor unions and federal agencies. The listening project explored the potential for regional-level collaboration on work toward the goal of achieving environmental and economic justice in Appalachia.

Ideas discussed at summit included concrete projects in which people can participate right away, such as:

- promoting two energy efficiency bills in the United States House and Senate;
- making sure the United States Farm Bill works



One of the breakout groups in discussion during the Alliance for Appalachia's Summit on Economic Transition. Photo courtesy the Alliance.

for small local producers and not large, corporate mega-farms;

- moving Abandoned Mine Lands funds out of D.C. and into Appalachian communities;
- reforming the Appalachian Regional Commission for more citizen input;
- and maintaining and increasing VISTA funding for Appalachian watershed projects.

Discussions also focused on increasing the federal minimum wage and advancing bills to promote worker owned cooperatives, as well as promoting more renewable energy. Broadband access and job training were also priorities of those in attendance.

So, there is much to be done as we move forward and decide what our region's economic transition looks like and how we can accomplish that transition. I will keep our loyal OVEC members informed on how you can help to create economic transition in Appalachia for a more equitable, sustainable and inclusive economy that works for West Virginia instead of against us. Feel free to contact me at dan@ohvec.org or 304-522-0246 if you'd like to get more involved in these efforts. 🍌

Fellow Will Help Re-Energize WV

OVEC is so excited that, in partnership with Mountain View Solar, we have been accepted into the Appalachian Transition Fellowship Program, a project of the non-profit Highlander Center, based in Eastern Tennessee.

This is the first year for the fellowship program, which received 28 applications from communities in the Appalachian areas of Kentucky, Tennessee, Ohio, West Virginia and North Carolina. Fifteen applications were accepted, including ours!

The program aims to help communities in Central Appalachia spark more diversified economies. Fellows, paid \$24,000 for their fellowship year by the program, will work in 15 host communities in the region.

Our fellow will be engaged in an energy efficiency/renewable energy project titled Re-Energize WV.

Fellowship program coordinator Elandria Williams told a Louisville (KY) Public Media reporter, "This is very different (from other programs that have provided support to Appalachia in the past). What we're saying is... we must, we *must* invest in people from our area."

So, only people living in and committed to our region will be eligible for the fellowships. Interviews to determine who our fellow will be were set for mid-February as this issue of *Winds of Change* was in production. Learn more about the fellowship program at www.appfellows.org, and we will update you on the fellowship in the next newsletter. 🍌

Past Time for Real Energy Game Changer

by Dan Taylor

OVEC and other environmental groups are troubled by the potential impacts of the proposed cracker plant in Wood County, WV, on both air and water quality, just as we are troubled by the gas fracking process as a whole.

Another troubling aspect of this proposal is the potential for another tax subsidy and giveaway to out-of-state corporate interests, paid for by taxpayers and by cuts to needed social services. Should we really be subsidizing large, wealthy multinational corporations to come to our state? If that is what they tell us they need in order to come here, do we really want them here anyway? Why are we not instead focused on investing in the future and on renewable resources?

Investment in energy efficiency, which can actually save West Virginians money on their utility bills, can also create jobs. In fact, according to Energy Efficient West Virginia, of which OVEC is a lead organization, “A 2009 study by the University of Massachusetts-Amherst and the Center for American Progress calculates that 16.7 jobs are created for every one million dollars invested in energy efficiency. In contrast, only 5.3 jobs are created for every one million dollars invested in fossil fuels.”

Renewable energy is another sector that can provide future energy and jobs — without the profits being sent out of state, while pollution is left in our communities. A recent Carnegie Mellon report titled “Regional Variations in the Health, Environment and Climate Benefits of Wind



and Solar Generation” states, “Wind and solar achieve greater health and climate benefits in Ohio, West Virginia and western Pennsylvania because in those locations they replace electricity generated by coal plants... A wind turbine in West Virginia displaces twice

as much carbon dioxide and seven times as much health damage as the same turbine in California.”

Why can't West Virginia, then, have just, fair and responsible economic development that doesn't leave our communities polluted and send the profits out of state? Where is the political leadership to drive this kind of development? **Until it appears, we citizens must push from the community level, organizing ourselves to show that we want sustainable economic development that looks toward the future.**

Gas reserves will run out, just as coal is declining now. What then? Do we hurtle down this dirty fossil fuel road all over again, or do we get it right this time? Real economic transition doesn't mean trading one dirty form of extraction and production for another. Investing in energy efficiency and renewable energy is much smarter for the state, for our health and for our economy. Another handout to big multinational corporations is the exact opposite, so let's make sure it doesn't happen.

To get involved in OVEC's renewable energy and energy efficiency work, contact me at dan@ohvec.org or 304-522-0246. 🍌

Need Jobs? U.S. Solar Jobs Beat Coal and Oil Combined

A February 7 *Nation of Change* article by Christina Sarich notes:

In the past four years, 50,000 well-paying solar jobs were added and this employment rate is expected to continue growing at a steady pace.

Comparatively, during the last two years, fossil fuel jobs declined by 8.7 percent leaving 8,500 positions void, according to the Bureau of Labor Statistics. If you add up the figures, the solar industry now employs more folks than our coal and natural gas industries combined.

The high cost of solar, which was one factor slowing the industry's growth, is also now quickly changing. More than 51 percent of people are now installing solar not just to protect the environment and avoid another Fukushima disaster, but because it is cheaper.

Yet, here in West Virginia, our entire political system seems focused on using taxpayer money to pay the salaries of numerous politicians and regulators who work



to protect, encourage and outright subsidize coal production and the fracking process for natural gas.

According to Aaron Sutch with the (WV) Mountain Institute, solar energy is just not valued as fairly. “**Current state policies actually limit solar power development here,**” Sutch says. “In West Virginia, we just don't have the incentives.” For example, in Ohio, they have a lot of incentives that allow the cost of solar to be much less, and they have ‘open access’ third-party financing that opens up a lot of opportunities.”

Sutch also asserted that state government policies on solar power in Pennsylvania and Ohio promote job growth.

But here, the coal and natural gas industries have the money to buy “our” politicians' political campaigns. Only organized citizen voices and citizen action can change this ultimately deadly state of affairs. Solar energy does not cause toxic chemical spills into air and water and is not a factor in global climate change. 🍌

With EEWV, Schools Save Energy, Money

by Dan Taylor



Last fall, the Energy Efficient West Virginia coalition (EEWV; eevw.org), produced a series of reports for the WV Department of Education and the Kanawha County School District detailing ways the district can save money through energy efficiency (EE). We produced these documents thanks to a technical assistance grant from the Bridgemont Sustainability Institute and with the assistance of David Hilliard, a LEED certified engineer with the Michael Baker, Jr., firm in Cross Lanes, WV.

We worked with the district to select three properties for energy audits: Marmet Elementary, Cedar Grove Community School and the maintenance facility in Crede, WV. These are smaller, older properties that had been somewhat overlooked in a recent ESCO (Energy Services Contract) program in the district.

We identified a wide range of energy-saving (and therefore money-saving) opportunities in the reports, all the way from no-cost and low-cost behavioral

changes to large, capital improvements. The savings can be reinvested in the schools, which sorely need it.

In 2014, we aim to further promote these reports, both to make sure the district follows through on some changes and so that other school districts can follow the recommendations to save money through energy efficiency.

In order to make it easier and to provide incentives for schools to implement EE recommendations, we need better EE policy from the WV Public Service Commission and the WV Legislature. That's why EEWV works under the Golden Dome and why we need your help during the Legislative Interims in 2014.

Your organized voices will make change happen. Get involved in our ongoing energy-efficiency work and learn more. Contact me at dan@ohvec.org or 304-522-0246. 🍎



HHS Students Learn on Four Pole Creek

We often hear about the negative effects of industry on larger bodies of water, such as the recent chemical spill on the Elk River near Charleston. We also hear about stream degradation in coal mining areas due to industry negligence. But what about the smaller streams in OVEC's own backyard? Rick Sharpe, a science teacher at Huntington High School (HHS), decided to find out how clean Four Pole Creek is by giving his students a hands-on learning experience. Beginning in 2009, HHS students from the Health Science and Technology Academy began monitoring Four Pole Creek for *E. coli* contamination. Students tested samples from Ritter Park and Enslow Boulevard and got back positive results for coliforms. Students then tested the entire length of the stream. All samples tested positive for coliforms. HHS Earth Science classes next studied the entire Four Pole Creek watershed. They received a grant from Dominion Resources Education Fund to fund the study. They used G.L.O.B.E. hydrology protocols to perform the chemical testing and Save Our Streams protocols for the biological testing.

The results of the first year's study were as follows:

- Nitrates – Healthy at less than 1 ppm
- pH – Healthy at 6.5 to 7.0
- Conductivity – Healthy under 200 microSiemens
- Dissolved Oxygen – Healthy at 7 ppm and higher during cold months
- Turbidity – Very high turbidity after runoff-producing rains, good otherwise
- Temperature – Normal with peaks in late summer



as expected

- Macroinvertebrate population – Low diversity of species, with most tolerating a medium to high level of pollution; few species that require clean water
- Riparian Buffer – Many eroded banks with some slippage that blocked the stream on occasion
- *E. coli* – Twelve sample sites tested four times a year found all twelve sites exceeding the safe level for swimming many times over. *E. coli* levels were much higher after a runoff producing rain, but were nearly always over the safe limit.

Sharpe says, "The health of Four Pole Creek is medium according to Save Our Stream standards, and that has been the case for the last four years. This stream suffers from human development, pollution, and too many impermeable surfaces. This annual study is now part of HHS's Earth Science curriculum and is funded by grants, the Cabell County School Board and Marshall University. This study engages student interest because this is relevant to their lives. It allows them to participate in genuine, hands-on science and will hopefully make them better environmental stewards."

We commend Sharpe and his students and hope they'll continue great projects like this. As young people learn more about their environment and the issues that plague it, maybe we'll see a generation of people ready to confront the environmental challenges in West Virginia that will so sorely need addressed for years to come. 🍎

2014 Legislative Session Update

by Dan Taylor

By the time you read this, the 2014 WV Legislative Session will be over. We will hopefully have in place some strong new legislation dealing with the recent massive spill of the coal-processing chemical MCHM and the ensuing water crisis.

Senate Bill (SB) 373, sponsored by John Unger, addressed better regulation and enforcement of above-ground storage tanks, like the one in which this chemical was stored. We (allied lobbyists from an assortment of citizens groups) worked to strengthen the bill, trying to eliminate loopholes and make certain the bill included provisions for proper enforcement of these new regulations.

As I write this, the legislature is debating whether to finally activate the Chemical Safety Board's (CSB) 2009 recommendations (which will make certain that we have in place proper planning to prevent or better respond to future disasters) via a standalone bill sponsored by Delegate Steven Skinner or by amending the recommendations into SB 373.

Regardless of the method, these important recommendations need to be implemented for chemicals like MCHM. Indeed, they should have been implemented years ago. Maybe if the CSB's recommendation had already been in place, we would not be in the situation that we are now.

We all know that the WV Department of Environmental Protection (DEP) has a long history of poor enforcement and of favoring industry polluters over people. That's why we were also working to make certain the bills included a Citizen Enforcement Amendment, which would allow citizens to file suit if



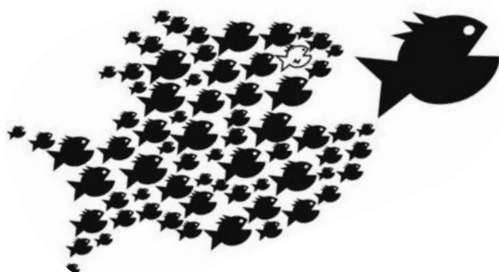
agencies like the DEP are not doing their jobs.

On other legislative fronts, we had great success this year with SB 133, the DEP's rules bundle. The bill originally included a terrible reduction in the aluminum standard, which would have allowed the coal industry to dump more of this toxic metal into our waterways. But your voices made a difference! Legislators felt the heat from citizens like you and this terrible section was removed from the bill. Let's stay on the alert in the coming year. With so much industry

money going into "our" politicians' campaigns, we have to stay vigilant lest the coal industry's favored politicians try to weaken the aluminum standards again.

Lastly, there was a fight brewing over SB 474. The DEP again wants to allow more drill cuttings (likely radioactive!) from Marcellus Shale fracking operations to go into our public landfills. This bill would gut the current garbage caps that have been in place since the Garbage Wars years ago and potentially create harmful pollution that would seep into the groundwater supply. As I write this, we are working to try to stop the DEP and the oil and gas industry from pushing this bill forward.

By the time this newsletter is available, the news should be out about whether or not this bill passed. In any case, we'll always need our collective organized voices to defend our drinking water and to make sure we are heard. If you want to get involved in future citizen lobbying, contact me at dan@ohvec.org or 304-522-0246. 🍌



OVEC WORKS!

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

THANKS!

Legislature's Attempts to Thwart Our Victories Foiled Again

by Dianne Bady

In December, Federal Judge Robert C. Chambers again ruled that a 2012 WV permit shield law, pushed by the coal industry and the Tomblin administration, does not shield Fola Coal, a mountaintop removal company, from violating selenium water quality standards in Clay County. This legal victory was won by attorneys from Appalachian Mountain Advocates, representing OVEC, WV Highlands Conservancy and the Sierra Club.

Our groups have been successful in a number of selenium lawsuits against mountaintop removal mines. Among other things, our litigation has prompted Patriot Coal, one of the largest MTR companies in the state, to agree to phase out its use of large-scale surface mining in Central Appalachia.

In fact, **we've been so successful that two years in a row, the WV legislature passed laws specifically designed to protect the mountaintop removal industry from our lawsuits.** Only the big Freedom water spill prevented the legislature from taking up a bill to weaken the aluminum water standards, which would also have helped coal companies fight citizen clean-water lawsuits.



Going back to the Fola case, the company's lawyers also argued that West Virginia officials in 1980 (yes, 1980) were wrong in approving a rule that requires all water pollution permits to comply with all state water quality standards. Because of this alleged error, Fola lawyers argued, our lawsuit against the company for violating selenium water standards should be thrown out. Judge

Chambers rejected this argument, pointing out, among other things, that “nearly 30 years have passed and the administrative record regarding the regulations is far from complete.”

It seems like Fola Coal was grasping at straws, trying to claim that a 30-year-old state rule was somehow wrong, in order to justify their fouling of streams, but Big Coal and Tomblin's permit shield strategy to allow the dumping of selenium into streams just wasn't working the way they had planned. Earlier last year, Judge Chambers had ruled in another of our lawsuits that Marfork Coal could not escape their violations of selenium water quality standards by invoking the permit shield law passed by state legislators who had hoped to protect the mountaintop removal industry from our lawsuits. 🍌

Congressional Move Exacerbates Public Health Crisis

On January 13, the U.S. House of Representatives filed a trillion-dollar spending bill that includes a provision that restricts the U.S. Army Corps of Engineers from using funds to change in any way whatsoever, regulations pertaining to the definitions of the terms “fill material” or “discharge of fill material” under the Clean Water Act. This locks in a 2002 rulemaking that allows corporate polluters to keep dumping industrial waste in rivers and streams and polluting entire watersheds.

Chris Espinosa, legislative representative for Earthjustice, said, “We are appalled that Congress is bargaining peoples' health through this give-away rider to polluters. This rider does nothing but give polluters free reign to continue poisoning Appalachia's already-contaminated drinking water sources. More than 22 percent of all the rivers and streams in southern West Virginia are impaired by mountaintop removal mining pollution and this policy rider will lock in the same

destructive practice of using waters as waste dumps.

“We will continue to work with legislative leaders and the administration to address harmful pollution that results from valley fills and press for an end to mountaintop removal mining. The chemical spill in West Virginia — which left hundreds of thousands without water — only reminds us all how much everyone needs and deserves clean water. Congress must not cut off the federal government's ability to protect people from clean water. It is a basic human right.”

The rider would “help protect and revive our struggling coal mining communities,” said the chief sponsor, Representative Hal Rogers of Kentucky, the chairman of the appropriations committee. He made no mention of people struggling to save their communities and water from the ravages of MTR.

The rider expires when the 2014 spending bill expires. 🍌

Groups Seek to End H2O Pollution at Old MTR Sites

On November 12, we filed suit to protect waterways in Mingo County, WV, from further selenium pollution caused by valley fills created as part of two now-defunct mountaintop removal coal mines. OVEC, WV Highlands Conservancy and Sierra Club found that the current landowner, Fund 8 Domestic LLC, has violated key clean water protections by allowing two valley fills in the region to continue to pollute local



Even when a MTR site is "reclaimed," pollution coming off valley fills does not magically disappear. Flyover courtesy SouthWings.org.

waterways at levels near or above legal limits. Fund 8 Domestic LLC, which is a large corporate landholding company, does not have a permit to authorize the water pollution emanating from its land.

“It’s important for landholding companies to realize that they are financially responsible for pollution from mountaintop removal mines on land that they have leased to coal companies, after the mining operations shut down and are supposedly reclaimed,” said OVEC’s Dianne Bady. “This is one of the ways we work to ensure that corporations pay more of the actual costs of mountaintop removal. If they actually had to do so, MTR would not be financially profitable.”

“When the mining stops, somebody is left holding the bag. Like it or not, Fund 8 owns the valley fills, and they own the pollution they’re putting into our waters, and they own the responsibility to keep our streams clean,” said Jim Sconyers, chair of Sierra Club’s WV Chapter.

Water pollution problems are caused not only by active MTR mines but also by abandoned mines and even supposedly “reclaimed” mines. Because the ultimate source of the pollution is the mining waste that remains on site, many abandoned and

“reclaimed” mine sites continue to pollute at levels that harm water quality and aquatic life. In many cases, the corporate owners of “reclaimed” mines do not have the necessary permits authorizing ongoing discharges of pollution from these sites.

“Water pollution does not necessarily end when mining is done,” said Cindy Rank of the WV Highlands Conservancy. “And when the

water running off previously mined areas continues to add pollution to downstream waters, someone must be held accountable. If the mining company has been officially released from its responsibility (by the DEP) then the landowner who retains possession of the mined area is responsible to correct the problem, contain and prevent the pollution.”

Even after a mine is “reclaimed,” valley fills continue to collect and channel water into local waterways. Valley fills are built with ditches on their surface and drains underneath; these ditches and drains are integral to the permanent structural stability of the fills and so are not removed when the mine is shut down. Selenium, a toxic element that causes reproductive failure and deformities in fish and other forms of aquatic life, is discharged from many surface coal-mining operations across Appalachia. At very high levels, selenium can pose a risk to human health, causing hair and fingernail loss, kidney and liver damage and damage to the nervous and circulatory systems.

This litigation was filed in the U.S. Southern District Court of WV by Joe Lovett and Amy Vernon-Jones with the most-fabulous Appalachian Mountain Advocates. 🍌

MTR Makes US Sick; Rx: ACHE Act Action



The congressional districts with the most mountaintop removal have the nation’s worst emotional health, worst physical health, and worst overall well-being, according to the 2013 Gallup-Healthways Well-Being Index.

It’s past time for politicians to acknowledge the human health impacts of MTR. Congress should be moving the ACHE Act into law. Contact your congressperson about the ACHE Act.

Learn more at www.acheact.org. 🍌

Federal OSM to Investigate WVDEP Failings

Under Section 733 of the Surface Mining Control and Reclamation Act (SMCRA), citizens are allowed to petition the federal Office of Surface Mining Reclamation and Enforcement (OSM) to intervene in a state regulatory program if, after investigation, the agency is found to be failing to comply with federal standards.

In June 2013, the CARE — Citizen Action for Real Enforcement — campaign submitted a formal more-than-100-page petition to OSM that detailed 19 major regulatory failings on the part of the West Virginia Department of Environmental Protection (DEP) Division of Mining.

On December 30, 2013, OSM told the CARE campaign that the agency will investigate only five of our 19 claims over the coming months. Following the investigation, OSM will determine if federal intervention into the DEP's mining program is warranted.

OSM says it will investigate our claims that DEP fails:

- to address potential flooding impacts in the permitting process via Storm Water Runoff Analysis (SWROA);
- to issue SMCRA violations where National Pollutant Discharge Elimination System (NPDES) violations exist;
- to regulate selenium pollution;
- to properly define impacted areas in Cumulative Hydrologic Impact Analysis (CHIA) results in harm to watersheds; and
- to require properly protective soil removal and reclamation measures for mining sites.

“Residents of West Virginia have been forced

The water contamination crisis hitting central West Virginia is a result of corporate negligence coupled with a failure of government oversight. The disaster, sadly, highlights what the CARE campaign has shown: the failure of our state government to enforce regulations and safeguard clean water and human health and safety.

The CARE campaign says citizens have a right to and expectation of protection by their government. West Virginia is failing to protect its citizens from chronic pollution, environmental degradation, human suffering and costs resulting from inadequate regulation of health and safety laws by state government.

to suffer damaging and unsubstantial regulatory enforcement under the supervision of DEP. The CARE Campaign will work tirelessly in the coming months to ensure that our voices are heard by OSM and that the review leads to real enforcement of

mining laws in West Virginia,” said CARE Campaign Coordinator Johanna de Graffenreid, who added that CARE will continue to build public awareness of and support for federal intervention in the DEP's mining program.

One way the CARE campaign has been engaged in building awareness and support is through a citizens' petition, which people can sign in support of the CARE

campaign. After the massive January 9 chemical leak into the Elk River (see story on page 1), the number of people signing the petition skyrocketed.

On January 30, multiple local citizen groups, including OVEC, and individuals impacted by the ongoing water crisis organized a day of actions — Honoring the Waters: People Demonstrating to the WV Governor and Legislature Our Desire for Real Clean Water Safeguards and Regulatory Enforcement.

The final action of the day took place at the governor's office at the WV State Capitol, where about 100 people helped deliver the citizens' petition to both Senate President Jeff Kessler and a representative of Governor Tomblin. More than 2,500 West Virginians had signed the petition, as had tens of thousands of people nationwide.

To get involved with OVEC's efforts in the CARE campaign, contact one of OVEC's organizers. 🍌



Original signers of the petition: Coal River Mountain Watch, OVEC, Sierra Club, WV Highlands Conservancy, WV Rivers Coalition, Appalachian Voices, Keeper of the Mountains Foundation, League of Women Voters of WV, Mountain Heritage and Health Association, WV Citizens Action Group, WV Environmental Council, Christians for the Mountains, Catholic Committee of Appalachia, Appalachian Catholic Worker, National Wildlife Federation, Center for Biological Diversity, Earthjustice, and the Center for Health, Environment & Justice.

We Prevail in Our Right to Protest UnClean Coal

Several weeks before Tuesday, November 12, 2013, we learned that the St. Mary's Hospital's Center for Education would host the Huntington Regional Chamber of Commerce's Ninth Annual Energy & Natural Resource Symposium on that date. The featured speaker would be Robert M. "Mike" Duncan, president and CEO for the American Coalition for Clean Coal Electricity, a coal-industry lobby group.

In light of all the extreme health effects — including lives cut short — associated with the mining, preparation, transportation, combustion and waste "disposal" of coal burned for electricity, we were flummoxed as to how a medical education facility would dare host a "clean coal" propagandist.

OVEC began an online petition asking St. Mary's to cancel hosting the symposium. Didn't the institution know about recent health studies showing that cancer rates, mortality rates and birth defects are higher in Appalachian coal mining areas — especially areas near mountaintop removal operations — than in the rest of the U.S.? Our petition noted that we would protest the event if St. Mary's insisted on hosting it.

Although nearly 600 people had signed the petition by early afternoon on November 8, St. Mary's had not responded to e-mails and phone calls, so plans for the rally went forward. We sent out a media advisory about our plans, noting we would gather on the sidewalk outside the venue while Duncan was inside speaking.

"What is a hospital doing supporting an industry that brings miners black lung and then tries to deny their health benefits?" asked OVEC organizer Dustin White. "St. Mary's should not host a publicist for an industry that drives communities to extinction, puts people into their graves far too early and then even desecrates those graves if they happen to be near a mountaintop removal site!

"We'll make sure St. Mary's is aware of coal's health impacts and we'll ask them to host an educational forum on those health impacts."

Apparently, St. Mary's did not want us in front of their facility. At about 5:30 p.m. on the Friday before



Dr. White Wash and the Grim Reaper joined our protest.

their symposium, the hospital faxed a notice that we should appear in court Tuesday morning (Monday was a holiday). The hospital had filed a temporary restraining order (TRO) against us, to stop our protest Tuesday afternoon.

We scrambled that holiday Monday to find a lawyer who could represent us at 9:30 the next morning. After several calls, someone recommended we try the ACLU as this was a matter of free speech. Then-ACLU attorneys Paul

Sheridan and Sarah Rogers came through.

We sent out a media advisory about the TRO hearing. Tuesday morning, reporters for local newspapers, TV news and WV Public Radio were in the courtroom. Cabell County Circuit Judge Paul Farrell expressed surprise at the media.

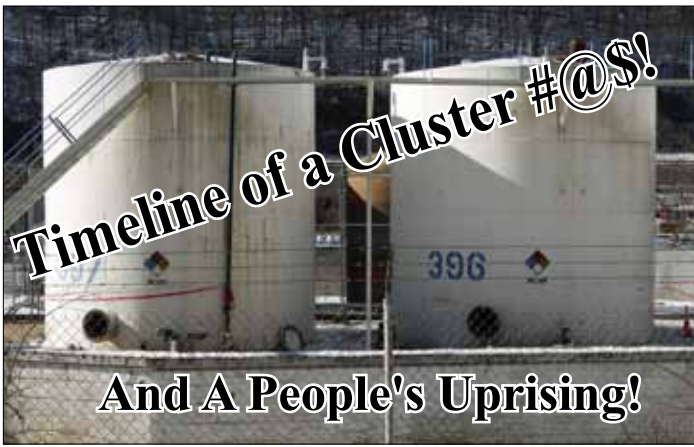
It was a pretty quick hearing, and the judge sided with us, denying the TRO. "OVEC is a recognized environmental group that has their agenda," the judge said, noting that we agreed we'd be peacefully assembled on a public sidewalk.

The hospital's attempt to silence us only brought more media coverage about the terrible effects mountaintop removal coal mining has on human health.

One news story quoted OVEC Executive Director Janet Keating, "There's been a lot of silence from our state leaders about these health studies and the impacts on communities around coal. It's a mystery to me why a hospital would want to host this. Our whole thing is, 'Let's not have it at a hospital, where you're supposed to be helping people'."

Another quoted her, "We're pleased; our overriding concern was that our first amendment rights were being infringed upon and we didn't want to see any precedent set here. OVEC has a long history of peaceful rallies and demonstrations and we want to continue that good reputation that we have."

Groups who joined us at the rally or who endorsed this action included Christians For The Mountains, Coal River Mountain Watch, Friends of Blair Mountain, Keeper of the Mountains and Radical Action for Mountains' and Peoples' Survival (RAMPS). 🍌



January 8: Governor Earl Ray Tomblin’s State of the State Speech includes, “To keep our coal industry alive and well, and I promise you we will, we must continue to seek out new markets and uses for it, while doing what we can to help the industry reduce costs, and be more productive, efficient, safe and environmentally friendly.

“While I will never back down from the EPA because of its misguided policies on coal, we should remind ourselves a challenge doesn’t always lead to confrontation.”

January 9: At about 7:30 a.m., after people complain of a strange licorice odor, DEP air-quality (AQ) officials discover a leaking storage tank at Freedom Industries.

Mike Dorsey, director of emergency response and homeland security at DEP, tells the *Charleston Gazette* that he learned of the incident around noon from DEP’s AQ. Freedom Industries did not self-report the leak, as required by law, until prompted to do so by DEP.

Another DEP official tells the *Charleston Gazette* that the chemical is not toxic, but, “This leak was upstream from some of the water intakes, so that might be an issue.”

Freedom Industries cannot say when the leak started or how much has spilled into the Elk River, 1.5 miles upstream of WV American Water’s (WVAW) intake.

A statement from WVAW says, “Our water quality experts advise that the incident does not present a health risk to customers.”

The *Gazette* reports, “WVAW spokeswoman Laura Jordan said the plant’s treatment process should be enough to take care of the chemical, which they expect will be fairly diluted by the time it reaches the plant’s intake site.” WVAW President Jeff McIntyre says he’s “fairly confident” that the plant can handle treating the chemical.

Near 6 p.m., Tomblin declares a state of emergency for five central West Virginia counties. Hours later, parts or all of four more counties are added to the state of emergency.

Tomblin says, “Nobody really knows how dangerous it could be. However, it is in the system.”

More than 300,000 people in nine central WV counties are ordered not to drink or use the water for anything other than flushing the toilet and putting out fires. Area stores are soon wiped clean of bottled water. FEMA and the National Guard are activated to plan for supplying bottled water to affected folks, although, over the next several weeks, communities in outlying areas will feel underserved by these agencies and thankful for citizen actions like those of the WV Clean Water Hub. (See story on page 1.)

Dr. Rahul Gupta, chief health officer for the Kanawha-Charleston Health Department, says restaurants, bars, day-care centers and other businesses with a health permit in Kanawha and Putnam counties would be sent a message to “cease operations immediately.”

The WV Department of Health and Human Resources (DHHR) says symptoms of exposure to the contaminated tap water included “severe burning in throat, severe eye irritation, non-stop vomiting, trouble breathing or severe skin irritation such as skin blistering.”

OVEC staff members immediately begin reporting the situation to the media contacts we have developed over the years. We join with our allied WV citizen groups, as we all spring into action. Over the next few days, the WV Clean Water Hub takes shape, as do multi-group planning teams rallying citizen response including organizing newly activated folks, developing policy and lobbying efforts and planning rallies to build citizen pressure on regulators and politicians.

January 10: Confusion reigns. No one knows much about the spilled chemical, MCHM. Not much is known about the human health impacts, nor are there any standards for testing the chemical in the water. No one can say just how dangerous the situation is.

U.S. Attorney Booth Goodwin announces his office has “opened an investigation into the circumstances surrounding the release.”

WSAZ reports, “Laura Jordan says there is no way to treat the water. The company still doesn’t have a timetable for when the water will be safe to use.” News reports also say people are reporting to hospitals with some of the symptoms DHHR has listed.

January 12: Spill estimates are up from 4,000 to 7,500 gallons. Tomblin and other politicians raise a chorus that the leak of a chemical used in coal prep plants is not a coal industry incident.

January 13: WVAW begins lifting the “do not use” ban by zone, telling people to “flush” their systems.

January 15: Freedom Industries is cited yet again by



OVEC organizer Dustin White distributing water in Boone County with WV Clean Water Hub. Photo courtesy Topless America.



Inset: Mike Forman expresses himself at the WV State Capitol on January 30. Larger photo: About 150 people marched to WV American Water to symbolically deliver bills to the water company on February 8. The event was organized by OVEC, NAACP and WV Citizen Action Group. Below: A couple of hundred people gathered inside the State Capitol on January 21, after first participating in a candlelight vigil beside the Kanawha River.

the DEP, this time receiving five violations after moving the chemical to a second site that also failed to meet safety standards. People continue to visits hospitals with symptoms from water exposure. DHHR issues an advisory telling pregnant women not to use the water. A couple of days later, toddlers and those with compromised immune systems are included in the advisory.

January 17: Freedom Industries files for Chapter 11 bankruptcy.

January 18: The water-use ban is lifted in almost all regions. Hospitals report an uptick in chemical-related admissions.

January 20: Tomblin says “It’s your decision” whether or not to use the water.

January 21: Oh yeah, there was PPH in the spill, too, Freedom says. And we don’t know much about that “proprietary formula” chemical either.

Hundreds of people brave heavy snow for a moving Honoring the Water candlelight vigil at the State Capitol, an event organized by multiple groups, including OVEC.

January 22: WV Legislature moves a measure that would weaken water protection. “The legislation is a coal industry-backed move to rewrite the way WV calculates its limits for aluminum,” the Gazette reports.

January 24: The Associated Press reports that Freedom Industries knew that PPH was leaking too, from day one.

January 27: Oops! Actually it may be 10,000 gallons of MCHM and PPH that leaked.

January 30: We hold a day of actions culminating in a protest in front of the governor’s office. The governor agrees to reinstate water distribution, which he had

discontinued a few days earlier.

February 8: OVEC, with the Charleston area NAACP and WV Citizen Action Group, organizes a protest during which we deliver invoices to WVAW, billing them for all the expenses incurred in obtaining bottled water, liquid baby formula and so much more since the water disaster began.

February 20 and 21: OVEC, WV Highlands Conservancy, MU Student Environmental Action Coalition and MU Students for Appalachian Socialism host forums at MU and in Hurricane, WV, so water experts can answer questions on the water crisis.

And so it goes, day after day. Schools open and then close again when MCHM makes student and teachers sick. New outrages are exposed by hard-working local reporters. Congress holds hearings. Reporters set up interviews.

Citizens educate one another with rallies, public forums and meetings, lobbying efforts, art and music, and good old-fashioned grassroots organizing. Water connects us across issues, across state lines. Please contact any OVEC organizer at 304-522-0246 to join the efforts. 🍌



Battle Over Blair Mountain Continues in Courts

by Dianne Bady

On February 6, OVEC joined with other groups in asking judges at the U.S. Court of Appeals for the District of Columbia to reverse an Interior Department decision that allows mountaintop removal mining on the Blair Mountain battlefield in Logan County. In 2009, Interior reversed their nine-month-earlier decision to list Blair Mountain on the National Register of Historic Places. This designation would provide some protection from mining.

Blair Mountain is the site of the largest civil insurrection in U.S. history (other than the civil war), where in 1921 about 10,000 coal miners clashed with about 30,000 police and coal forces in a battle over unionizing the southern West Virginia coal-mining areas.

The Sierra Club, Friends of Blair Mountain, WV Labor History Association, WV Highlands Conservancy and the National Historic Trust are also involved in this court action. We believe that the Interior Department caved in to coal industry pressure in reversing the historic designation, so we challenged Interior's actions in court soon after Interior's 2009 reversal.

The WV Coal Association then challenged our legal standing in this case, and, in 2012, the Court agreed with the Coal Association. The Court also argued that we didn't show that mining was imminent on the battlefield.

During the February 2014 hearing, our attorney Daniel Selmi pointed out that the WV DEP has already granted four permits for mining on the battlefield area. He also said that coal companies (Arch Coal and Aracoma Coal) have indicated that they do expect to mine these areas.

According to a February 6 article in *Environment & Energy Daily (E&E)*, "Much of the arguments focused on ascertaining exactly what type of mining, and how much, is occurring at the site — information that is hard to pin down in West Virginia's database. (Judge) Srinivasan noted at one point that they were operating in a bit of a vacuum."

Although one Judge appeared skeptical of our claims, *E&E* noted that our attorney "did appear to gain traction with the other two judges on the (three-



judge) panel."

Sierra Club attorney Peter Morgan says, "We remain cautiously optimistic that the court will find that we have standing." If that happens, the case will go to trial in D.C. District Court.

There is no set schedule for a decision, but it wouldn't likely be

before a few months from now.

Blair residents have expressed concern over the impacts of expanded mining on their water quality. Another concern voiced by archeologist and OVEC board member Brandon Nida is that there are still many artifacts from the 1921 battle that remain on the Blair Mountain site. If mountaintop removal is allowed, the history will be blown up along with the mountain.

OVEC member Regina Hendrix has been working with others to get Blair Mountain listed on the National Register for close to 10 years. She says, "I believe at some point we'll have an affirmative answer on the standing issue and citizens will be able to learn what is actually happening on the ground in the nominated area."

Hendrix pointed out the importance of a currently requested citizen site visit near the Blair Mountain battlefield. "Because of the land company's objections, the DEP outright refused to allow citizens to get to the area they needed to visit. Kenny King and Joe Stanley appealed the decision to the WV Surface Mine Board, and it ordered WVDEP to arrange a citizens' site inspection." The area is already surrounded by mountaintop removal and the citizens want to look at a disturbed area they've seen on Google Earth.

The mind boggles at the cruel irony — this historic battlefield where the nation's biggest fight over labor rights took place — miners asserting their basic human dignity at a time when their entire lives were sorely oppressed by King Coal; this very battlefield is now in imminent danger of being blown up by coal companies. And DEP has already granted the permits to make it happen, while trying to prevent citizens from actually going to look to see whether nearby mining has already encroached on the historic battlefield. 🍌

On February 20, a federal court struck down a controversial George W. Bush administration rule that opened up Appalachia's streams and waterways to toxic dumping from destructive mountaintop removal mining operations.

Numerous national and Appalachian environmental and community groups challenged the midnight rule from 2008, which repealed a longstanding stream protection — a “buffer zone” of protection from mining activities and dumping around waterways. Earthjustice, on behalf of OVEC, Coal River Mountain Watch, Kentuckians for the Commonwealth, Kentucky Waterways Alliance, Statewide Organizing For Community Empowerment, Sierra Club, Southern Appalachian Mountain Stewards, Waterkeeper Alliance and WV Highlands Conservancy, and together with co-counsel at Appalachian Mountain Advocates, the Appalachian Citizens Law Center and Sierra Club, brought one of the legal challenges to the 2008 Bush rule, arguing that the rule unlawfully weakened protection for vital water resources.

The U.S. District Court for the District of Columbia struck down the Bush rule because it violated the Endangered Species Act, which was what the Southern Environmental Law Center claimed as part of the case. The court determined it was unnecessary to consider the many other claims against the rule, including the flaws alleged in Earthjustice's case.

Before the Bush rule eliminated the “stream buffer zone,” this safeguard was on the books for decades in order to protect American waterways from the type of extreme destruction and obliteration that is now being caused by mountaintop removal mining.

Now we are back to having those protections on the books, at least for now. But, as the ongoing water contamination crisis here in central West Virginia so profoundly illustrates, rules and regulations must be enforced to be effective. Hundreds of miles of biologically crucial streams have been buried under massive valley fills at MTR sites. I can't see how a coal company followed the stream buffer zone rule, or how any agency enforced that rule in cases where the stream has been annihilated.

Ignoring laws and burying streams doesn't just harm wildlife. People living near these operations face health-threatening and life-shortening levels of pollution.

Earthjustice attorney Neil Gormley said, “This



decision restores longstanding stream protections and finally puts an end to the Bush administration's attempt to let mining companies dump toxic waste into our waterways. We're glad to see it struck from the books and gone as the law of the land. Good riddance to a harmful midnight rule that hurts communities and waterways.

“As the ongoing water crisis in West Virginia unfortunately shows, these communities need stronger water protections.”

“Coal River Mountain Watch is pleased that the court struck down the Bush rule intended to make mountaintop removal more expedient. Unfortunately, we are still stuck with regulators who refuse to enforce the previous rule, who refuse to take citizens' complaints seriously and who refuse to acknowledge the growing scientific evidence that mountaintop removal harms human health. We need federal takeover of the WV DEP's failed mining division, and we need to pass the Appalachian Community Health Emergency (ACHE) Act, H.R. 526,” said Vernon Haltom, executive director of Coal River Mountain Watch. 🍷



Believe it or not the photos on this page were taken when the pre Bush-era buffer zone rule was in effect. The streams that were here are now obliterated under valley fills.

Hip Hop Legend DJ D Nice Tours MTR Destruction



It is foolish to say we are destroying the earth ~
cause everything we're doing destroys us first
– KRS ONE, *The Gospel of Hip-Hop*

Excerpted from a post by Crystal Good (center, above), which you can read on OVEC's blog, ohvec.org/blog.

I was in ninth grade when I first heard “Self Destruction,” produced by KRS-One and D-Nice, members of the iconic hip-hop group Boogie Down Productions. The charity single became the anthem of the Stop the Violence Movement, started in response to violence in the hip-hop and African-American communities.

My activism started by just listening and playing hip hop music. I grew up in a small West Virginia town — hip-hop wasn't easily accessible. I still remember the taunting that came from listening to this new music. It was almost an act of civil disobedience to play hip-hop loud.

While hip-hop inspired my activism, being both a person of color and West Virginian inspired my actions. Of course, I was drawn to environmental issues: The coal industry dominated our landscape and culture. There's violence there, too, in the way the industry treats workers, communities and the water and land. Violence that must be stopped.

I've been thinking about how the intersection of hip-hop culture and environmental activism can help stop the violence and give voice to issues. In 2013, I was a panelist at Redeem The Dream, an Urban League Conference, where I noticed an absence of environmental and energy dialogue. I thought: *Aren't there jobs in environmental and energy field for blacks? Why are there no black leaders in national environmental organizations? Who is talking about environmental and energy issues in hip-hop — don't we all need the same earth?*

At the conference party, I noticed who was on the 1

and 2s, keeping the people smiling. It was DJ D-Nice — Derrick Jones, that member of Boogie Down Productions who produced “Self Destruction,” which raised half a million dollars for the National Urban League in 1989.

I was familiar with Jones's passion for humanitarian causes, not only for his role in my childhood memories of hip-hop, but how Jones has turned his creative talents to photography. He uses his Instagram account, with more than 48,000 followers, to share everyday heroes and give homeless people a face.

While listening to Jones keeping the party hot, I started sketching out the idea of inviting him to West Virginia. To my surprise, he accepted the invitation. He arrived here in mid-November. We (myself, OVEC staffer Vivian Stockman and poet Tuesday Taylor) took him on a ground tour of Kayford Mountain, where we met with Keeper of the Mountains member Junior Walk. The next morning, Jones, Stockman and I took an aerial tour of mountaintop removal sites courtesy of SouthWings. He found the whole tour deeply disturbing.

Jones has no insight into how applicable the Stop the Violence movement would be to the environmental struggles of today, mostly because environmental questions and the absence of “green” jobs for people of color are not something that hip-hop has traditionally challenged, understood, or talked about — not then, and not now.

On his visit to West Virginia, Jones learned there is a desperate need to *stop the violence* against earth, and thus stop the environmental violence and racism against poor



and colored people. He hopes his photographs will lead to dialogue and investigation about mountaintop removal in West Virginia and that people will follow coal to the inner cities.

Because there is indeed a direct connection between the violence visited upon rural Central Appalachia and the inner cities.

In November of 2012, the NAACP released a report titled “Coal Blooded: Putting Profits Before People,” which explores how people of color suffer disproportionately from polluted air and water as a direct result from the combustion of coal — including coal that is mined in West Virginia.

The Hip-Hop Caucus is lifting up this dialogue, too, with its platform toward comprehensive climate legislation to end the fossil fuel economy.

Jones’s visit to West Virginia can only help build this conversation. He said, “It was important for me to see and understand what is happening in West Virginia and learn more about environmental issues. I hope these photographs will help in some small way expand the dialogue.”

Twenty-five years after Jones and colleagues produced “Self Destruction,” the song still echoes: *Self destruction, we are headed for self-destruction*. That is, unless we step up and speak out for the earth — using photography, hip-hop, poetry, dance or whatever art form moves you.

Good served on OVEC’s board from 2009 to 2013. 🍌



Photos: Top left, Jones, Good and Tuesday Taylor on Kayford Mtn. Top this page, Jones on a SouthWings flyover. Above, Jones accepts a red bandana and a “redneck” history lesson from Good.



by Robin Blakeman

As with many other faith communities and student groups across the country and around the world, a movement is growing within the Presbyterian Church USA, (PCUSA) to call for full divestment of corporately-held funds from fossil fuel entities. Learn more and take action here: bit.ly/1nWNGfT.

Speaking on fossil fuel divestment, a Presbyterian leader says, “If we follow the lead of John Calvin, who said ‘nature is a theatre for God’s glory,’ let us begin to walk the talk, PCUSA, and join this divestment movement to help protect that theatre.”

The Fossil Fuel Divestment overture is gaining support across the country and will be debated at the PCUSA General Assembly in Detroit this summer. Presbyterians for Earth Care (PEC) formally endorsed the overture at the PEC conference and offered to share table space at the 2014 PCUSA General Assembly with the overture advocates. Other affinity groups, such as the Presbyterian Peace Fellowship, are considering or have already stated their support. As of early February, six presbyteries have formally endorsed this overture. Several others have it on their docket for upcoming meetings.

Teenagers in the Twin Cities Presbytery in Minnesota led one recent effort to pass the overture. One of the teens made this wise, some would say prophetic, point, “We are all like Jeremiah. When we look around us on this jeweled Earth, we see violence and destruction, and if we try not to speak about it, our bones hurt. It just tears our guts up. But if we, my people, all become like Jeremiah, too, and refuse to be silent, and cry out with the youth, then bones stop hurting. It’s quite amazing how this works: Alone, we suffer and languish, our light extinguished. Together we thrive and flourish, our light a roaring fire!”

Check out an online resource for studying Biblical and theological mandates which could lead to divestment actions: bit.ly/1khhavU.

If you would like more information about the faith-based fossil fuel divestment movement, please contact Robin Blakeman at robin@ohvec.org. 🍌

Fracking's Human Toll Extends to Well Workers

by Deborah Griffith

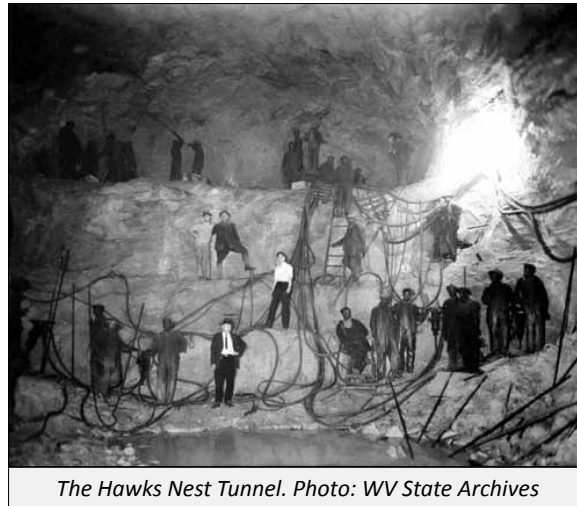
The Hawk's Nest Tunnel disaster, one of the worst industrial tragedies in U.S. history, has been largely forgotten. But we would be wise to remember it now, because a similar disaster — on a much larger scale — seems to be in the making.

Built mostly from 1930 through 1932, the Hawk's Nest Tunnel, part of a complex to generate power for Union Carbide's plant in nearby Alloy, WV, was drilled through three miles of solid rock. It was the largest construction project in West Virginia up to that time, employing about 5,000 workers, 75 percent of them southern African-Americans who had headed north for the promise of jobs.

These men worked in the tunnel only a short time. Because of several circumstances (drilling and blasting in confined spaces, poor ventilation, lack of dust control and personal breathing protection, and seams of exceptionally pure silica), an astonishingly high number of the men contracted acute silicosis, some within two months of entering the tunnel. Hundreds eventually died painful deaths.

Silicosis is a progressive fibrosis of the lungs, caused by inhaling pulverized silica dioxide. It is incurable and nearly always fatal. The danger crystalline silica dust posed to underground workers was well known even then, and before work on the tunnel began, core samples were taken that clearly indicated that most of the tunnel would be drilled through high-grade silica-bearing sandstone. In fact, a third of the tunnel was eventually enlarged for silica extraction. But, because the tunnel was licensed as a civil engineering project, even the minimal safety enforcement that was then available to miners did not apply to these workers. However, company officials did wear breathing masks when they entered the tunnel to inspect the work of the unprotected workers.

West Virginia was already in decline before the Depression and so was particularly hard hit. Both coal mining and subsistence farming were devastated early on, and in some counties unemployment rose to as high as 80 percent. Desperate people were



The Hawks Nest Tunnel. Photo: WV State Archives

willing to work under almost any conditions for almost any wages. In *Hawk's Nest Tunnel: A Forgotten Tragedy in Safety's History*, C. Keith Stalnaker quotes a worker who referred to the tunnel as a “. . . bad job,” but said that he stayed on because, “. . . when you got some babies looking at you for something to eat, you're going to work.”

Fast forward to the present, to a depressed economy and high unemployment in West Virginia. Workers in many industries are exposed to respirable (breathable) crystalline silica, which the Occupational Safety and Health Administration (OSHA) claims kills hundreds of workers and sickens thousands more each year through lung cancer, silicosis, chronic obstructive pulmonary disease, and kidney disease. Among the vulnerable industries are construction; concrete, brick and pottery manufacturing; and our latest natural-resource boom: hydraulic fracturing, or “fracking.”

Fracking uses high-pressure injection of large volumes of water and sand and chemicals to fracture shale or other rock formations. Crystalline silica (“frac sand”) is used to hold open the cracks and fissures created by hydraulic pressure. Each stage of the process requires hundreds of thousands of pounds of quartz-containing sand; millions of pounds may be needed overall. The mechanical handling of frac sand creates respirable crystalline silica dust.

In 2012, researchers at the National Institute for Occupational Safety and Health (NIOSH) collected 111 personal breathing zone samples at 11 sites in 5 states to evaluate worker exposures to respirable crystalline silica during fracking. At each of the sites, full-shift samples exceeded occupational health criteria, in some cases by 10 or more times — in one case, by 100 times.

OSHA now proposes new standards for exposure that cut current permissible exposure limits (PELs) in half. According to the OSHA FactSheet, the current PELs for crystalline silica were researched in the 1960s, adopted in 1971 and not updated since that time. They don't adequately protect workers; they

are outdated, inconsistent and hard to understand. The proposed regulations also mandate several new workplace controls, among them limiting workers' access to areas where silica exposures are high and providing medical exams to workers with high silica exposures.

The proposed rule is expected to prevent thousands of deaths from silicosis, lung cancer, other respiratory diseases, and kidney disease. OSHA estimates that, once fully realized, the new standards will save nearly 700 lives and prevent 1,600 new cases of silicosis per year. It is especially relevant to companies involved in fracking: Approximately 25,440 oil and gas workers are currently exposed to silica dust and 16,056 are exposed to levels above the proposed new PEL of 50 micrograms per cubic meter.

Industry has vigorously opposed a new standard, especially lowering the PEL, arguing that the agency should focus on enforcing the current limit rather than setting a lower level. Public hearings are scheduled to begin on March 18 in Washington, D.C. (www.osha.gov/silica/factsheets/OSHA_FS-3684_Silica_Public.html)

But new standards, like the current ones, are meaningless without enforcement — and West Virginia's record in that area is appalling. According to the Centers for Disease Control and Prevention, deaths from silicosis declined 93 percent from 1968 through 2002 and even more since then. But, natural gas fracking has virtually (and literally) exploded in West Virginia and around the country in just the past few years.

Acute silicosis, such as afflicted the Hawk's Nest workers, is caused by heavy exposure to crystalline silica over a short time, and its incubation period is a matter of months. However, chronic silicosis (the most common type) can remain latent for 10 or more years after exposure to low levels of crystalline silica, and accelerated silicosis occurs 5 to 10 years after exposure to high levels. Given the rapidly increasing ranks of well workers exposed — and many far over-exposed — to crystalline silica, that fact is truly frightening. If measures aren't taken to protect these workers now, another enormous tragedy is likely lurking in our future. 🍌

**Stay up to date on
the latest events.
Check our online calendar
at ohvec.org.**



excerpt from a February 17 *Charleston Gazette* by Rachel Molenda

A House hearing on February 17 (was held on) a bill that would exempt natural gas drilling waste in the Marcellus Shale region from the state's landfill tonnage limits.

In some instances, this exemption would surpass existing monthly landfill waste limits set by solid waste authorities.

Six landfills in Brooke, Harrison, Ohio, Wetzel and Wood counties hold the gas-drilling material, which accounts for about one-third of the material accepted at each, according to DEP data from July 2012 to July 2013.

Solid waste authorities are worried the bill would limit their ability to monitor and control these waste restrictions.

Bill Hughes, of the Wetzel County Solid Waste Authority, told members of the House Judiciary Committee and DEP Secretary Randy Huffman that a "three-legged stool" was created more than 20 years ago requiring the DEP, the state's Public Service Commission and local solid waste authorities "to work together in deciding sizing and environmental restrictions" of landfills.

"Unfortunately the recent memos from the DEP undid over 20 years of standing law and has now allowed our landfill in Wetzel County to exceed its legal limit by anywhere from 200 and 300 percent," Hughes said. "The legal limit is 10,000. It's been taking up to 40,000 tons a month."

"It's well known that the Marcellus is radioactive," said Julie Archer of the West Virginia Surface Owners' Rights Organization. "Now, how radioactive, unfortunately we just don't know because the state has insufficient data to fully understand the levels of warmth that are released from the Marcellus in the process of drilling and fracking."

Residents in places that already receive fracking waste also expressed concern and disapproval of the bill. Fayetteville resident Mary Rahall referenced a renewed injection well permit that allows a pit near Wolf Creek to hold fracking fluids. Rahall said she worries about potentially negative health effects of such wells on West Virginians. 🍌

Renewable Energy Could End Fossil Fuel's Threat to Our Water

by Janet Keating

The January 9 major chemical leak that turned off the water supply for at least 300,000 West Virginians is a clear example of how politicians and regulators want to sacrifice our state for the production of dirty fossil-fuel energy. Since the water crisis began, the media has reported at least one new outrage about this disaster nearly every day. For example, we learned immediately after the “spill” of crude methylcyclohexanemethanol (MCHM), a chemical used for processing coal for market, that neither the acute nor chronic human health impacts of the chemical are known. The Center for Disease Control was immediately tasked with calculating a “safe” human exposure limit in drinking water in order to get water back on as soon as possible. Quite frankly, the one-part-per-million so-called “safe” level appeared to come with some major assumptions and scant to no science to back it up. We believe that it is both immoral and unacceptable that 1/6th of West Virginia’s population, without their consent, have become the lab rats for determining the long-term health effects of exposure to crude MCHM. During the early part of the water crisis, between 400 to 500 people went to emergency rooms or were admitted to hospitals for various problems associated with the spill — vomiting, diarrhea, skin rashes and eye infections. Exposure also triggered asthma attacks.

Weeks after the spill, a state Environmental Quality Board official told a state legislative panel that the crude MCHM ultimately can break down into formaldehyde, a known carcinogen. He said that the breakdown can happen in hot showers and that formaldehyde is most toxic when inhaled. Although the water-use ban has been lifted for several weeks, we find no comfort in WV Governor Tomblin’s words at a press conference: “It’s your decision. If you do not feel comfortable drinking or cooking with this

water, then use bottled water.”

Governor Tomblin might have access to plenty of bottled water for drinking, but that is not the case for many people affected by the spill, especially those of lesser means. Pregnant women, toddlers and those with compromised immune systems are still being advised by the CDC not to drink the water at all.

More than a month after the spill, some people living in the water crisis still catch whiffs of the licorice odor of the chemical that persists in the water, even after flushing their systems several times. Many people are still afraid to drink, cook with or bathe in the water. Some schools re-open, then close again, as fumes recur, causing burning eyes and even some fainting spells.

Governor Tomblin, who was also the state senate president for many years, hails from coal country. He has tried hard to distance the coal industry from this recent water crisis. However, he can’t really deny that crude

MCHM is used to process coal for market. Although I would never minimize the impacts of the current water crisis on the people impacted in the nine-county area, we are painfully aware that for decades many people living in southern West Virginia have been dealing with water issues and health concerns around pollution from the coal industry on an almost-daily basis.

For example, we have organized citizens to advocate for municipal waterlines because their wells, over time, have been polluted from coal slurry. Billions of gallons of coal slurry or coal sludge (consisting of water and chemicals left over from processing coal before market) are stored in numerous unlined coal impoundments or are injected underground throughout West Virginia and Central Appalachia. Over time, this liquid coal sludge migrates into well water, making it unfit and unsafe for human consumption, and people have suffered



Weeks after the spill was first detected, an EPA official carries samples away from the site of the disaster, the leaking tank at Freedom Industries.



During the lunch hour on January 10, usually bustling Capitol St, in downtown Charleston was virtually deserted. The Health Department ordered all restaurants and bars closed. The water-use ban impacted the library, barber shops, some government offices and other establishments. It was five days before the first restaurants could open. Some remained closed longer. Service workers and small business owners suffered financial burdens. More than a month after the spill, due to customer wariness, many restaurants were still using bottled water for cooking and serving. Residents were still using bottled water for consumption and still reporting rashes, headaches and other health issues when exposed to tap water.

extraordinarily high incidences of birth defects, kidney disease, gall bladder disease and cancer clusters. Ironically, in Prenter, WV, where citizens had successfully organized and demanded a municipal waterline because their wells were contaminated with coal sludge, the current water crisis has imposed reliance on expensive bottled water again.

People living and working in the affected water-crisis communities were given a quick and painful lesson regarding the connection between clean water and the economy, because water-dependent businesses and institutions like schools, restaurants and hotels were shuttered for days and, in many cases, employees lost wages. As people panicked, they emptied grocery shelves of bottled water; as we all know, we can't live without water.

According to the *Charleston Gazette*, Governor Tomblin acknowledged in a letter to the Federal Emergency Management Agency that the public lacks faith in the safety of the region's water supply.

He said, "Despite the best efforts of the company and government many people no longer view their tap water as safe and are continuing to demand bottled water to meet their potable water needs. It is impossible to predict when this will change, if ever."

These kinds of disasters will continue unless President Obama and our nation's other leaders adopt a serious commitment to renewable energy. It's up to us to demand action. 🍌



Executive Order Could Protect Water

On January 30, OVEC joined with 60 groups from across the United States in calling on President Obama to issue an executive order protecting water availability and quality in the nation from extreme energy extraction practices. In the absence of a national water/energy "roadmap," we face many more disasters like the coal-processing chemical spill that has contaminated the drinking water of 300,000 people and created a federal state of emergency in central WV.

The groups, working together as the American Clean Energy Agenda, drafted an executive order the president could implement. It would require: (1) the completion of a long-overdue national water census; (2) the creation of a U.S. Water Budget; and (3) a plan for a shift by 2030 from fossil fuel and nuclear power to clean energy, increased energy efficiency, and enhanced energy storage technologies in key watersheds identified by the U.S. Geological Survey.

"We need a national roadmap defining U.S. water and energy priorities. Without this vital information and deliberate planning process, federal policy makers are flying blind when it comes to developing an energy policy reliant on the availability of fresh water. America should have an energy policy where people matter, and that means protecting our access to clean and safe water. The draft executive order outlines a process for getting that important job done now, while there is still time to do so," said Grant Smith, with the Civil Society Institute.

"The runaway consumption of water by shale gas development in the U.S. places huge demands on our watersheds, compromising the security of the drinking water they supply and human health. Through water pollution and depletion, gas drilling and fracking translates into an outsized water footprint that is turning entire regions of the country into sacrifice zones. We must assess what is being lost, critically evaluate the use, and get with a plan to replace water-intense energy extraction such as fracking with energy sources that support rather than squander our limited fresh water resources," said Tracy Carluccio, deputy director of the Delaware Riverkeeper Network. 🍌

Tyler County Water Also in Peril

from a February 8 *Charleston Gazette* op-ed by Bill Hughes, chairman of the Wetzel County Solid Waste Authority

In early January, as I walked through a hay field in the bottom land along Big Run in Tyler County, I tried to avoid stepping in big blobs of black goo next to a Marcellus Shale gas well pad. It was cold, and the new snow at the edges made the black sludge from a recently exploded tank easily visible.

It was a stark contrast of smelly, slimy black and clean snowy white. Liquid contents of the tank had already percolated into the soil. A conductivity test in the standing puddles gave off-the-chart readings. Probably a lot is still there in the soil. A mixed brew of strong hydrocarbon vapors was in the air, and they filled the valley for the next two days. At least until the rain.

Little did I know that I was experiencing a small foretaste of similar conditions on the Elk River, soon to bring embarrassing national attention to Charleston, Kanawha County and all of West Virginia.

However, right in front of me that Friday afternoon of Jan. 3, I knew there was also a serious risk to the surface water a few feet away. I stood a few feet from the well pad, splattered with gunk, and also a few feet from the flowing stream of Big Run. Big Run flows into Indian Creek, which shortly flows into the long Middle Island Creek only a few miles upstream from the city water intake for the town of Middlebourne, the county seat of Tyler.

It was about 16 hours after the explosion as we took a lot of photographs to document the damage to the well pad and extent of the material dispersed over the pad and hayfield. The explosion happened late on Thursday, Jan 2.

There had been six big steel tanks on the gas well pad, each capable of holding about 8,000 gallons. They were interconnected and sat in a row on an unlined area. Dirt was piled up around the edges to retard any leaks. Hydraulic fracturing was in progress. The well pad explosion blew the bottom off the last tank, then threw it over a few tractor trailer frack pumps and into the hillside.

It was less than a week before the strong smell along the Elk River would raise concerns in Kanawha County.

Here in Tyler County, I thought Middlebourne's



water supply would be safe. I was wrong. I knew it was forecast to get very cold and unlikely to rain. I was wrong. I assumed that a full environmental cleanup crew would soon be on site. Wrong again. I was

hopeful, given the magnitude of the risk and the nearness of the stream, and the highly visible location, that there would be a complete, swift and well coordinated clean up response. I was totally wrong. It took four days for some state agency to tell someone to do something.

I could not return to the well pad soon, but I kept in contact with the landowner. I had previously arranged to attend a public meeting at the Legislature and then spend two days at the state Department of Environmental Protection. The water was still safe in Charleston while I was there.

As the weather changed, the huge cold front moving in early Jan. 6 dumped more than half an inch of rain in Tyler County. I received a panicked phone call from the nearby landowner. Water was flowing down through the hayfield. The creek was up. The contamination was washing into the stream on its way to Middlebourne.

Cleanup did not start for four days, and for four days no one told the town of Middlebourne about the explosion and pollution coming their way.

I know it is hard to believe, but the state's industry friendly gas well permitting guidelines allowed the well pad to be located in a floodplain and very close to the stream. You would think we would know better by now. We looked the other way. We always do.

This well pad in a floodplain is not the only one. Six tanks on an unlined well pad, near a creek bank in a floodplain? Did we go to sleep? What's wrong here? And what was in the tanks? We don't know. How much was in the tanks? We don't know. Why was there no impermeable liner under the tanks? We don't know. Had this arrangement been inspected? We don't know. How much contamination washed into the Middle Island watershed? We just don't know.

However, we do know the tank contents must have been volatile. It did explode with enough force to blow the bottom off the tank, and then rocket launch an 8,000-gallon steel tank over a few big

trucks. Given the nasty fumes from the residue it was presumably toxic and should have been contained immediately and kept out of the surface water. No labels on the tanks. No vent pipes on the tanks until after the explosion. No valves on the tanks to isolate them. Inadequate, infrequent, toothless inspections.

Residents of Charleston, does this sound familiar?

I have followed the news coverage and felt sorry for the large number of seriously inconvenienced residents. How much leaked into the Elk River? Don't know. When did it start? Don't know. How dangerous is it? Don't know. Why were all the antique tanks not inspected? Don't know. Why no secondary containment? Don't know. Why was it located upstream from the water supply intake? Don't know. And why, if some industry group says a chemical is not categorized as hazardous, do we think it is therefore benign?

Here in the frenzied Wild West fields of Marcellus shale gas operations, we really cannot worry too long about you folks in Kanawha County. Sure, we sort of feel bad for all of you, but, you know, we have our own assortment of community hazards, and they do not make the national news. They don't make the Charleston news.

We have many hundreds of Marcellus shale gas tanker trucks marked "residual waste" or "brine." What exactly is in all of them, we don't know. Not hazardous, they say.

And, speaking of non-hazardous, last year, our state-supported natural gas industry generously provided to our local landfill more than 250,000 tons of uncharacterized horizontal drill waste material. That is a lot. It is ours to keep. Forever.

And if you read the fine print on the non-existing label, it also comes with some miscellaneous heavy metals and radioactive constituents. The effluent from the landfill goes to the river. Our river is handy for disposing of waste isn't it?

And across many counties, we have more than our share of pipeline ruptures spilling contaminants into our surface waters. On a regular basis, we have our explosions, fires, fatalities, injuries, spills, flares and air pollution.

Why do we as a state keep doing the same dumb things over and over?

Why do we always favor, support and encourage



commercial, big industry interests over safe water and environmental protection? Why do we not always consider the long-term best interests of all our grandchildren? Why have we, the voting, taxpaying citizens, for decades allowed our politicians to routinely gut environmental regulations and strip authority and resources from our regulatory agencies to defang them into innocuous enablers?

In recent years, residents in the very active newer Marcellus gas well fields have come to the same conclusion that residents in the southern coalfields did decades ago. There is some Jekyll and Hyde quality at the DEP. The Department of Environmental Protection has many state employees truly committed to protecting the environment. They are knowledgeable, responsive and dedicated, and true public servants, working against restraints and with limited resources and minimal political support. So some times when I, or my neighbors call, we get lucky, and we are fortunate and very grateful when we actually get someone from the Department of Environmental Protection. But at other times, when a concerned citizen has a serious and urgent or chronic and routine problem related to the coal, oil, or especially a Marcellus gas well operation, they call the same number and get someone from the Division of Energy Promoters.

It seems that as a state, we continue to choose ingrained, intentional, culturally reinforced ignorance. We are collectively and politically choosing to stay ignorant. We do not seem to have learned from our mistakes. We do not do our homework. We forget our history. Really now folks, leaky storage tanks upstream of the city water intake. Think again. We can do better. But, on new well pads we still put gas well condensate and flowback storage tanks, in the floodplain, on a stream bank with no liner under them. We should know better.

Let us try to start over again. We must compel our elected political leaders to keep our collective grandchildren foremost in our minds. Because if we don't, the chemical and energy companies surely will not. It is not their priority. Their job is to mine coal, and get more gas and make more money. West Virginia Wild and Wonderful or industrialized and polluted -- it's our choice.

Good luck to Kanawha and Tyler Counties. We all share many risks. 🍌

Remembering Elinore Taylor

by Janet Keating

Elinore Taylor left us January 12.

I can't remember a time when Elinore Taylor wasn't associated with OVEC. If you go to our website (ohvec.org) and type in her name, you will find page after page of results. Elinore was everywhere present in OVEC's activities and organizational development. Hers was a welcoming smile at board meetings, protests, and public hearings including events that she initiated. Behind that warm smile was not only a friendly, caring woman, but also a dedicated, determined defender of "the least of these, my brethren." She gave voice to the underdog through her frequent hard-hitting letters to local and state newspapers expressing her personal outrage. A professor from Marshall University, even though retired she continued to educate many people about social and environmental injustices.

She was a remarkable, loving woman and a true patriot. She regularly called elected officials and undoubtedly gave them an earful. She exuded both passion and compassion for fellow West Virginians, especially those impacted by mountaintop removal strip mining. From Mother Jones to Memphis Tennessee Garrison, West Virginia women have always had a unique way of standing up for what's right. And so it was with Elinore who, along with other women, was shorn on Memorial Day 2012, to underscore the untold losses of stripped mountains, forests, water resources, human health and communities.

She translated her concern about our dwindling democracy, bought-and-paid-for politicians and the environment (especially our mountains) by taking action. She gave generously of her time and financial resources. Elinore understood the connection between environmental injustice and the massive contributions of polluters into political campaigns. For that reason, she was a vocal and stalwart supporter of OVEC's goal to create a program for



Elinore joined other women on the WV State Capitol steps on May 28 2012 in shearing their locks in protest of MTR.

public financing of elections. She understood that this system could help decrease the undue influence of coal and other polluting industries on public policy, as well as provide an avenue for ordinary people to run for political office.

Elinore lived in the present, yet also cared about the OVEC's future. When Elinore decided that it was time to make room for younger people on OVEC's board, she recommended Robin Blakeman to take her place and brought her to a board meeting in Boone County. As you may know, OVEC senior staff quickly recognized what Elinore knew all along — as an ordained Presbyterian minister, Robin is a gifted organizer. Soon thereafter, OVEC asked Robin to join the staff as a full-time organizer and faith-based liaison. Undoubtedly, Elinore understood the significance of garnering the faith communities' support and participation in OVEC's work in West Virginia.

For me and for many others, Elinore was a great role model and steady encourager. She would call me from time to time to congratulate OVEC on a big or small victory or just to see how we all were faring. On occasion, she stopped by our office to retrieve or bring us information or just to say hello, even though our steep stairs could leave her a little breathless. Just this past Christmas Eve, she took time to call me to see how I was doing and invite me



Have you thought about your legacy? Are you looking for a long-term way to make a meaningful difference in the movement to build a cleaner energy future?

Please consider making a planned gift to OVEC today.

Planned giving options include:

- Gifts of stocks and bonds.
- Including OVEC as a beneficiary in your life insurance policy.
- Including OVEC as a beneficiary in your will.

Tax benefits apply to each of these options.

Please contact your attorney or a financial advisor for more information, or go to lalvv.org.

to church services; she was concerned I might be alone and knew my only sister was struggling with a terminal illness. Having lost her own beloved Nancy the previous year, she truly empathized. Her wisdom, sharp wit, winning smile and keen intelligence were a gift to all of us. Who but Elinore would refer to the apolitical masses as the “sommnambulant public?”

I find it quite difficult to think of Elinore in the past tense, because she has truly left an indelible mark on OVEC, on me, and on so many people and organizations with whom she was aligned. We hope she keeps plotting, scheming, and whispering in our ears along with other strong spirits on the other side, like Winnie Fox, Laura Forman, Judy Bonds and Larry Gibson. We loved her and will miss her physical presence greatly and extend OVEC’s heartfelt condolences to Elinore’s family and friends.

Elinore Taylor’s services were February 1. Her family requests that memorial gifts in her name be made to the Beverly Hills Presbyterian Church, 469 Norway Ave., Huntington, WV 25705 or to OVEC. 🍎

Farewell, Sid

We extend our heartfelt sympathies to Wendy Johnston and her family, including her extended family of mountain defenders, on the passing of Wendy’s father Sid Moye.

Sid passed away on January 29 at his happy home, surrounded by his family and dear friends, just as he wished. His funeral services were held February 1 in Princeton, WV.

Sid spent the past five years of his life tirelessly working to save the mountains and communities of Appalachia from mountaintop removal mining. Sid was a speaker for the Keeper of the Mountains Foundation and a member of Mountain Justice. His passion was homesteading and teaching others to live self-sufficiently and to be good stewards of this earth. Sid preserved his home, Mountain Valley Farm, in a land trust in order to protect the property as a sustainable farm and education center in perpetuity.

The family requests that memorial gifts in Sid’s name be sent to the Keeper of the Mountains Foundation, 179 Summers St., Suite 234, Charleston, WV 25301 or Mountain Justice, P.O. Box 303, Naoma, WV 25140. 🍎



Sid Moye, photographed by Mark Schmerling for Earthjustice’s Mountain Heroes campaign.



In 2013, Leo, right, speaks to visiting UN officials.

We’ll Sorely Miss Leo

by Maria Gunnoe

On November 1, 2013, surrounded by family and friends, Dennis Leo Cook, 78, died after a sudden illness. He was preceded in death by his wife of 50 years, Wilma Jewell Walker-Cook.

Leo retired after working 25 years for Patriot Coal. He was a proud member of the UMWA. Post-retirement, he served as a school bus driver for nine years. He was an avid outdoorsman. If he wasn’t sitting in his swing on the back porch, you would find him hunting, fishing, berry picking or ginseng-ing. He was a master carpenter who could build just about anything.

Leo was outraged by what mountaintop removal mining companies had done to his homeplace, the land near Bandytown in Boone County, WV. He was a proud grandson of William Chap Cook, a civil war hero who is buried on Cook Mountain. Leo was one of the community members that help to lay people to rest in the cemeteries. He struggled for years to protect the Cook Mountain cemeteries from encroaching MTR; he refused to allow these companies to destroy the access roads to these once-beautiful places where our families are buried. He simply couldn’t fathom how anyone could do what Alpha Natural Resources and Patriot Coal have done to those final resting places.

Leo had always been a leader in his community, but, for the last five years of his life, he was an OVEC volunteer. His work showed up in many media outlets. He told officials from the United Nations about the cemeteries and MTR. He told them about the day a worker from the Twilight surface mine bashed in his truck’s windshield, because of his outspoken opposition to the destruction of our homelands.

We at OVEC would like to express our sympathies to the family of this wonderful man, a man who took a firm stand to protect this place. Each of us has a duty to do the same. We must listen to our elders and learn the true history of the place we call home.

Leo was a hero to many of us. I am sure that his family will cherish the memories and life lessons from Leo. I know I surely will. 🍎

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This is one of the largest human-made environmental disasters in this century

- William Cooper of the National Science Foundation