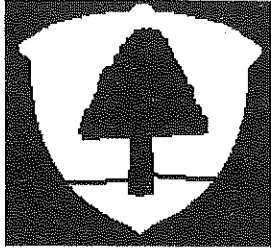


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December 1996

**"E"-NOTES**  
 THE NEWSLETTER OF THE  
**OHIO VALLEY**  
**ENVIRONMENTAL COALITION**  
 1101 Sixth Ave., Suite 222  
 Huntington, WV 25701  
 Phone 304-522-0246/Fax 304-523-6051

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### JUDGE KAUFMAN THROWS OUT MILL'S WATER PERMIT

After Judge Todd Kaufman's October ruling, some media outlets opined that the proposed Mason County pulp mill is dead. More recently, Parsons & Whittemore resubmitted the exact same permit application to their friends in WV's Division of Environmental Protection. Is this the last gasp of a dying dinosaur, or just another chapter in the eight year saga of "our" public servants working hand in hand with P\$W to try to ram through a blatantly illegal project?

How the issue of the permit came to Judge Kaufman's court is a story in its own right, and a complex one at that.

In July of this year, in response to legal appeals by OVEC, the Affiliated Construction Trades Foundation, and Monty Fowler, the Environmental Quality Board (EQB), the state appeals board, ruled that DEP had erred by setting dioxin discharge limits for the proposed mill based on a background limit of zero dioxin in the Ohio River. Three studies had concluded that dioxin levels in catfish near the construction site at Apple Grove were above the state standard. The board also ruled that the Ohio River was above the state standard for dioxin because DEP had placed the Ohio River on a list for rivers and streams in West Virginia that are "water quality limited ." Dioxin was listed as one of the pollutants of concern in the Ohio. (This list was compiled as a result of an OVEC lawsuit against the US EPA.)

*"Kaufman" continued on page 2*

### WEST VIRGINIA FOREST FACTS FROM "FOREST FOR THE TREES" BY KEN WARD, STAFF WRITER FOR 'THE CHARLESTON GAZETTE

\*In 1870, two thirds of West Virginia was covered by native forests.

\*The largest known tree to be cut in West Virginia was a white oak in Tucker County that measured 13.5 feet in diameter. It produced enough lumber to fill an entire train.

\*From 1912 to 1920, the cutting of West Virginia's forests increased to 30 billion board feet-- enough to build a walk 127 feet wide and 2 inches thick around the earth at the equator or to make a walkway 13 feet wide and 2 inches thick to the moon.

\*By 1920, most of the virgin timber was gone, and the lumber industry was on the decline. Ronald Lewis, a historian at WVU, wrote "**When it was all over, the countryside was a forlorn sea of stumps, industrial refuge and commercially devastated people, abandoned to the more forgiving forces of nature.**"

\*In a 1911 report for the West Virginia Geological Survey, noted conservationist A.B. Brooks blamed the timber cutting for the increase in flooding across the state. Deforestation also played a role in droughts. "**The increase of the total discharge of West Virginia rivers, in spite of diminishing rainfall and a greater fluctuation than formerly in periods of high and low water, is due solely, so far as available data can be interpreted, to the deforestation of the mountains,**" Brooks wrote. (Editor's note - have you noticed the dramatic increase in WV flooding in the last few years as timbering has also dramatically increased?)

*"Forest Facts" continued on page 3*

The board then sent the permit back to DEP and told them to come up with a scientifically defensible permit limit for dioxin. We assumed that the dioxin issues were settled at this point; however, DEP filed a motion saying that the board had no legal basis for "remanding" the permit back to DEP--that the board would either have to "vacate" the permit, or set or modify the permit limits. (We had the feeling that no one wanted to be responsible for "killing" the pulp mill.)

On September 24, the EQB ruled that it was within their rights to remand the permit back to DEP, and they didn't mean to imply that the Ohio River already had illegal levels of dioxin, only that DEP should not have set a dioxin discharge limit based on zero dioxin in the river. (By now are you as confused about this as I am?) Finally, the EQB stated that they were going to hold hearings on outstanding permit issues, including dioxin, in 8 days!

Whoa! We'd been under the impression that dioxin was no longer an issue, but now the EQB was telling us to bring in our dioxin experts for an evidentiary hearing on October 3. Needless to say, everyone's patience was beginning to wear thin. At this point, the attorneys for the Affiliated Construction Trade Foundation filed a writ of prohibition with Judge Kaufman requesting a stay (a hold) on any appeal hearings until the dioxin issue could be resolved. ACT attorneys contended that without a discharge limit for dioxin there WAS NO PERMIT--and no need for the EQB to hold any more hearings. Judge Kaufman agreed and granted the stay on the appeal hearings and granted that a hearing be scheduled for his courtroom on October 9.

Nevertheless, the EQB told OVEC's attorney, Perry McDaniel, and pro se appellant, Monty Fowler, to show up on October 3 for a hearing on outstanding issues! The same EQB that had consolidated all the appellants NOW decided that Judge Kaufman's stay ONLY applied to the ACT Foundation.

But on the morning of the appeal hearing, Perry McDaniel presented the EQB with a signed order from Judge Kaufman--his ruling applied to

ALL parties, not just the ACT Foundation. The board held no permit hearings that day relating to the pulp mill.

On October 9, several folks from OVEC attended the hearing by Judge Kaufman. After listening for an hour to arguments put forth by EQB, the ACT Foundation, OVEC's attorney Perry McDaniel (eloquent), Monty Fowler, and WV DEP, Judge Kaufman ruled that because the discharge limit for dioxin was integral to this permit and since the EQB had thrown out the previous limit, there was NO permit! We were jubilant! Judge Kaufman did what was right.

Although the state has clearly stated that construction of Phase III of the mill would violate dissolved oxygen standards, and the fact EQB has ruled against the current dioxin limit, the company, nevertheless, has submitted the same permit application. Eli McCoy, Director of DEP has stated that he didn't think a public comment period would be needed, as everything has already been said. Action You Can Take: Demand that a public hearing be held. Write to: Eli McCoy, Director, West Virginia Division of Environmental Protection, 10 McJunkin Rd. Nitro, WV 25413, and W. Michael McCabe, Regional Administrator, US Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107-4431.



"Forest Facts" continued from page 1

\*Roy B. Clarkson wrote in *Tumult in the Mountains: Lumbering in West Virginia* (1964) "The resultant erosion and lack of flood control have cost millions and greatly reduced the beauty and value of the land. Who is to blame?--The lumber barons who greedily grew richer as the land was savaged? The politicians who allowed them to pillage the land? Or the people of the state who sat by and ignored it all? Future generations will condemn all of them!"

\*Many of West Virginia's hardwood trees are 80 years old, prime targets for loggers.

\*Logging restrictions in the Pacific Northwest, enacted in part to curb over-cutting, has pushed makers of paper and wood construction materials to Appalachia.

\***Between 1987 and 1994 the amount of timber cut in West Virginia doubled**, according to the state Division of Forestry. It could double again in a few years to more than the 1909 record, estimates former Forestry Director, Bill Gillespie.

\* The proposed Parsons \$ Whittemore mill would require 2.1 million tons of wood per year, around 26,250 acres per year or more than 2,000 acres per month (equal to one Blackwater Falls State Park being cut down every month).

\*Three new West Virginia strand board plants (Weyerhaeuser, Georgia Pacific, and Trus-Joist Macmillan) will require an additional 21,875 acres per year. Add that to the proposed Mason County mill for a whopping 50,000 acres per year.

\*Loggers in West Virginia remain largely unregulated. The state suggests a set of "best management practices." But loggers don't have to follow them. The state Division of Forestry, whose main job is to promote the industry, is also supposed to regulate it.

NOTE: Anyone who would like a copy of Ken Ward's 3-part series, "Forest For the Trees," can send \$3.00 to OVEC to cover our costs. (A fourth part will be out in mid-December).

You can also find it on the Gazette on line on the worldwide web at:

<http://www.wvgazette.com>

### ECONOMIC NOTES

Did you know that:

- ⇒ In 1976 the percent of private wealth (money, bonds, stock, real estate, etc.) owned by the wealthiest 1% of the U.S. population was 19%. By 1995, the wealthiest 1% owned 40% of the private wealth in this nation.
- ⇒ In 1995, the bottom 90% of the population owns 29% of this country's wealth.
- ⇒ In 1989, the wealthiest 1% of the population of the US owned 54.2% of all public and private bonds.
- ⇒ The top tax rate (on the wealthiest people) has declined from 87% in 1954 to 39.6% in 1992.
- ⇒ Since the 1940's federal tax collections from corporations declined from 33% to less than 10%, while federal tax collections from individuals rose from 43% to 76%.
- ⇒ In 1974, the income of a United States Chief Executive Office (CEO) of a corporation was 34 times that of the average worker. In 1995, a US CEO's income was 179 times that of an average worker. In Germany and Japan, CEO's incomes are 21 and 20 times that of the average worker.
- ⇒ During these time periods when the rich became richer, and their tax rates plummeted, the costs of election campaigns have skyrocketed. Wealthy individuals and corporations have strategically targeted their huge campaign contributions to politicians who serve their interests.



**WRITE TO GOVERNOR-ELECT UNDERWOOD!**

OVEC member Ray Powers urges folks to write to Governor-elect Cecil Underwood and express concerns about the proposed Mason County pulp mill. Underwood's campaign was funded, in part, by Big Timber. If you write to Underwood you could make some of the following remarks:

1. During Underwood's campaign, he said he'd only be in favor of the mill if it met all state and federal environmental regulations. Remind him that the Ohio River at Apple Grove already has illegal limits of dioxin in the catfish (several times above the current state standards). Also, because the dioxin effluent limit was thrown out by the state Environmental Quality Board, in October, Judge Todd Kaufman, ruled that the permit was fatally flawed.
2. Underwood stated that he wanted to promote tourism AND the wood-products industry. Tell him that most tourists won't be interested in coming to West Virginia if the state's forests are clear-cut. A real visionary would help maintain the unique beauty of West Virginia which already attracts many tourists. People don't want to visit places that look like every other place in America. More strip malls, four-lanes, and heavy industry is not the answer to West Virginia's economic woes. (For other forest "talking points" see "Forest for the Trees").
3. A report from the Institute for Southern Studies (Chapel Hill, North Carolina), "Green vs. Gold," says that states with the best environmental protection also have the best economies. Many companies will not locate in an area that is polluted; some manufacturers (such as computer chip manufacturers) require very clean water in order to operate. Also, companies like to locate to areas where their employees' families receive a top-notch education. Remind Governor-elect Underwood that companies like Parsons \$ Whittemore would contribute little to education because huge tax breaks let them off the hook.
4. Underwood stated that he would promote new technology for West Virginia. Remind him that Parsons \$ Whittemore refuses to use a newer, totally chlorine-free bleaching process that would eliminate deadly dioxin and other harmful organo-chlorine compounds from its emissions.

In the past five years, the Ohio River received more industrial toxic chemicals than all but two waterbodies in the US (after the Mississippi and the Pacific Ocean). How long can we continue to abuse the Ohio? Address your comments to Governor-elect Cecil Underwood, 609 13th Avenue, Huntington, WV 25701



**IN DEFENSE OF THE WAYNE NATIONAL FOREST**

Twenty-one members of the Campus Greens (Ohio University, Athens, Ohio), were arrested in mid-November for refusing to leave the US Forest Service Office in Athens until the Forest Service agreed to halt all cutting of trees in the Wayne National Forest. Activists were charged with a misdemeanor and released on their own recognizance until the hearing. The Wayne National Forest is public land (i.e., it belongs to the citizens). Many forest activists are turning up the heat on the US Forest Service to cease clear-cutting on our National Forests. The US Forest Service - and the taxpayers - lose money on timber sales, because large sums of our tax dollars are used for road building to help private companies "get the cut out".



## CALENDAR OF EVENTS

**16 December 1996, 7PM,** OVEC membership meeting at the OVEC office meeting room, 1101 6th Avenue, Huntington. Let's talk about plans for 1997, where we've been and where we are headed.

**31 January to 1 February 1997,** OVEC Peaceful Solutions Workshop to be held at the First Congregational Church in downtown Huntington. Call the OVEC office for more details (304-522-0246). The workshop date will change in the event of a major snow storm.



**VOLUNTEERS NEEDED!!**



Do you have concerns about clearcutting and the health of our region's forests? Do you oppose the construction of one of the largest pulp and paper mills in our midst? Do you feel there is a need for campaign finance reform? Does it frustrate you when you hear about the billions of tax dollars in corporate welfare that is given to giant polluting industries? And how do you feel about being gouged at the gas station when you and your children have to breathe the air that has been contaminated by the Ashland Inc. refinery?

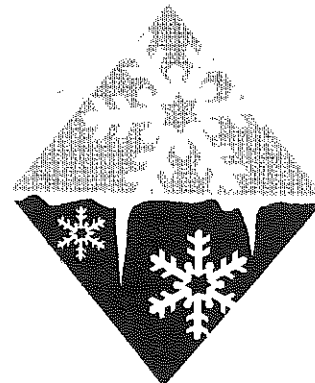
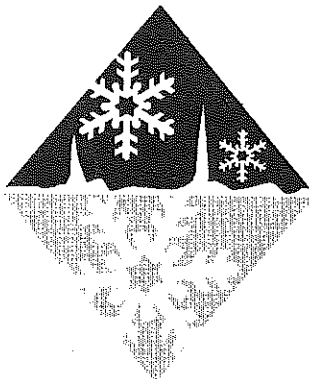
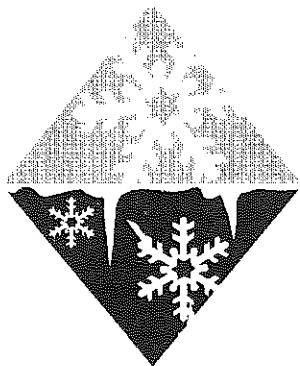
If any or all of these issues are important to you, **GET INVOLVED.** You CAN make a difference. Please become a part of the solution and call us @ 304-522-0246 to sign on to a committee or two: Forestry/Pulp Mill, Grassroots Fundraising, Campaign Finance Reform/Corporate Welfare, Ashland Inc./Tri State Geographic Initiative.

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### PLEASE REMEMBER OVEC OVER THE HOLIDAYS!

Aren't you glad that the dioxin-spewing, forest-eating pulp mill isn't currently under construction, as was apparently planned? Aren't you thankful that our organized opposition has stalled the permitting process to the point that some media observers believe it's a dead deal?

OVEC's funds are low at the moment and we urge you to consider a holiday donation. Your donations pay for mailings, phone bills, printing, postage etc. Any amount would be greatly appreciated, and put to good use fighting for a healthy and beautiful environment. Isn't a safe environment the very best present we can leave to our children?



## NEIC INSPECTS ASHLAND REFINERY

After years of OVEC folks asking for a major inspection of Ashland Oil by refinery experts, it has finally happened. The US EPA's National Enforcement Inspection Center recently finished a full scale compliance inspection of the Ashland Inc. refinery. The N.E.I.C. is a special investigatory group of US EPA technical experts based in Denver. The final report of this investigation should be complete by February, but may not be available to the public if it involves accusations of violations, which is likely.

Ashland has made some pollution control improvements in recent years. But Ashland's continuing history of frequent violations apparently prompted this investigation, which includes Ashland's Canton OH, Minnesota and Catlettsburg KY refineries. A total of ten companies nation-wide were chosen for investigation by the N.E.I.C. The EPA had originally given the name of the **National Violators List** to the companies being investigated. The companies complained and EPA changed the name to the "National Screening List".

Although U.S. EPA Region IV, which governs Kentucky, requested the investigation, EPA Regions III, and V were involved as well, making this an unprecedented inspection. Also showing an

interest in Ashland's operations is the U.S. Department of Justice. At the very least, this kind of activity focused on the refinery shows that the EPA and government officials consider Ashland a real problem, and that citizens voices have been heard.

Ashland's water and waste were examined, as well as air pollution. The investigators even asked OVEC folks about Ashland's Community Advisory Panel. Two interesting bits of information from the latest minutes of the Ashland CAP that OVEC passed along to the N.E.I.C. were; (1) top on the list of CAP member's evaluation of good things about the CAP *was the varied food* (!), and (2) a negative aspect was the focus on Ashland!! While the EPA does not have the authority to force Ashland to institute a CAP with real community input, they viewed the situation as indicative of Ashland's overall environmental management system.

After years of promises by state and regional authorities, maybe this federal EPA investigation will be what it takes to force the refinery into compliance with environmental regulations.



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### TGI UPDATE

The US EPA funded Tri-State Geographic Initiative has begun to write their risk assessment. Computer air modeling and the expanded toxic air monitoring in Kenova WV will provide information on cancer and non-cancer effects from industry emissions. The results of this study will take approximately one year.

Despite industry objections, the TGI will put in writing what levels of risk are acceptable and what levels are unacceptable. This obligates them to take action on the companies to reduce emissions if the level of health risk is found to be above what regulations describe as acceptable.

While no other industries in the area seem to be concerned about the project, Ashland Inc. has been very unhappy about this progress. The company is being uncooperative about giving emissions data to the TGI, and has complained that the risk assessment will overestimate the health risks. In fact, the state of the art of the "science" of risk assessment is not very advanced. There are reasons to think it underestimates risk.

According to Rick Bady, one of two OVEC members on the TGI's Citizens Review Committee, "While government scientists will try to do the best they can, they are limited by the fact that no one knows very much about the health effects of the sort of toxic soup that is often present in Kenova. Most studies of toxic effects deal with one chemical at a time. Only recently have scientists started to find that in some cases, if several chemicals are present at once, the effects can be far worse than predicted."

"While some environmental groups say that risk assessment will always underestimate the risks and should be opposed, its use here is the most concrete step towards resolving the problems we have seen for some time, because TGI regulators will say, ahead of time, what level of risk requires government action. This is the most convincing step", Bady said.

**TGI INFO ON THE INTERNET**

The Tri-State Geographic Initiative now has a web page. The address is:  
[HTTP://WWW.EPA.GOV/ARD-R5/TRISTATE/TRISTATE.HTM](http://www.epa.gov/ard-r5/tristate/tristate.htm)

**ASHLAND CHOOSES FINE OVER COMMUNITY SAFETY**

In June 1995, the Division for Air Quality in Kentucky and Ashland Inc. signed an agreement that developed from several refinery violations. This agreement stated that Ashland would research the technical and economic feasibility of a passive mitigation safety system at Ashland's most dangerous unit, the hydrogen fluoride alkylolation unit. If the system was not implemented, Ashland would pay an \$800,000 fine to the state of Kentucky.

Hydrogen fluoride, if released into the air, forms a toxic cloud that can cause severe impacts from serious respiratory damage to death, even to people six miles downwind (according to oil industry research). This is a special concern for citizens living near Ashland's refinery, because of Ashland's history of frequent accidents and malfunctions.

The system that Kentucky regulators told Ashland to investigate would prevent the HF from vaporizing. In numerous meetings between Ashland officials, OVEC, and environmental regulators, Ashland led us to believe that this passive mitigation system would be implemented. We now know that Ashland has decided to pay a fine rather than paying to protect their employees and the community. Kentucky gets the fine money, what do downwind residents get???

Although Ashland has a water mitigation system to reduce a vaporized cloud after an HF release, doesn't it make more sense to implement technology that could prevent a leak from ever occurring, thus reducing the health risks? And doesn't it make even more sense, as the EPA seems to believe, to phase out the use of HF entirely? After all, about one half of all US oil refineries use sulfuric acid, which is considered a much safer alternative to HF.

Anyone who doesn't live near the refinery and thinks that this decision of Ashland's doesn't concern them, think again. Think about Ashland paying almost a million dollars in one fine, among many, next time you fill up your gas tank. We are all paying for Ashland's violations and apparent disregard for people's health.

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**PLEASE SUPPORT OVEC'S WORK!**

Cut and mail to: OVEC, 1101 6th Ave., Suite 222, Huntington, WV 25701

\_\_\_\_\_ New member or renewal (Dues: \$5 - \$25, pay what you can)

\_\_\_\_\_ Donation enclosed

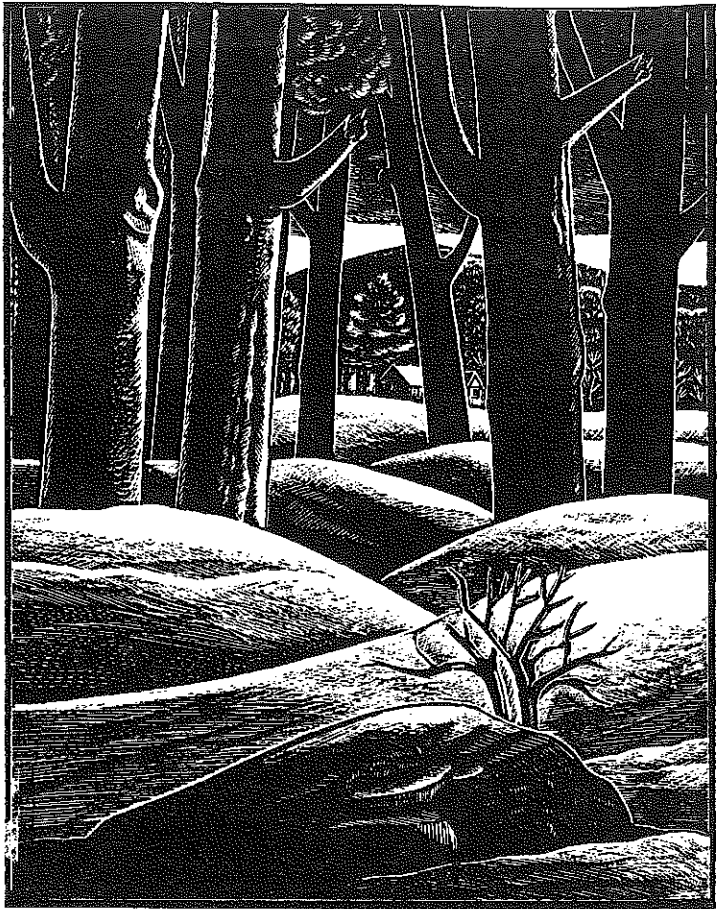
**DONATIONS ARE  
TAX DEDUCTIBLE**

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

For more information, call the OVEC office at 304-522-0246



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*Seasons  
Greetings  
from OVEC!*

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Ohio Valley Environmental Coalition  
1101 6th Ave., Suite 222  
Huntington, WV 25701