



Reporter

Citizens Coal Council Magazine Fall 1995

Working for Justice, Law and Order in the Coal Fields

Her Future at Risk

**Underground Mining
Special
Report
18-25**

Annika Charter of
Shepherd, Montana



Rallies for OSM

**Action Line
page 9**

Virginians rally at U.S. Senator's office to protest budget cuts for OSM's enforcement of the coal law. From left, Wanda Clay, Darrell Mullins, Jackie Clay, Joyce Mullins, Vina Reilly, & James Sheppard.



Robert Uram is Unfit to Head OSM

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VOLUNTEER!



BE A CORRESPONDENT

- WHO?** CCC is looking for sharp-eyed, reliable persons like **YOU**.
- WHAT?** Send us newspaper clippings, pictures, and/or short articles each month about citizen actions and mining in your area.
- HOW?** Call or write Carolyn Johnson, 1705 S. Pearl St., Room 5, Denver, CO 80209; 303 / 722-9119.
- You Get?** Great stuff, but we're CCC, not CNN or The New York Times —
- Your contributions will be credited in future issues of the **Reporter**. If you do not want your name printed, the Editor will hold it confidential.
 - Get a life-time, plastic-coated "CCC Correspondent's License!" This entitles you to assume an air of mystery, wear a trench coat and — if you want to go all out — cut a romantic figure swashbuckling around in your trench coat. If that's not enough, we'll throw in a rope to use as a belt for your trench coat. (It's hard to cut a romantic, swashbuckling figure if your trench coat flaps open with every step.)

**Avoid The Draft
SIGN UP TODAY!**

Citizens Coal Council

CCC is a grass roots federation of coal field citizen groups across the country working for social and environmental justice. CCC and its member groups work to:

- Protect people and our homes, water and communities from coal mining damage.
- Restore law and order by enforcing the federal Surface Mining Control and Reclamation Act.
- Help each other win our issues.

Coordinating Committee (Board)

CCC is run by a committee of delegates representing members in their states and Native American Nations.

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CCC Member Groups

AL: Alabama Environmental Coalition. **AZ:** The Alliance (Diné). **CO:** Crystal Valley Environmental Protection Association, Western Colorado Congress. **ID:** People's Action Coalition. **IL:** Citizens Organizing Project. **IN:** Indiana Citizens Mining Council, Hoosier Environmental Council. **KY:** Kentuckians For The Commonwealth. **LA:** Louisiana Environmental Action Network. **MT:** Northern Plains Resource Council. **NC:** Western North Carolina Alliance. **ND:** Dakota Resource Council. **NM:** Nenahnezad Chapter Technical Committee (Diné), Water Information Network, Zuni Mountain Coalition. **NY:** Protect A Clean Environment. **OH:** Buckeye Forest Council. **OK:** Pittsburgh County Mineral and Surface Owners Association. **PA:** Concern About Water Loss due to Mining, Mountain Watershed Alliance, Nottingham Network of Neighbors, People United to Save Homes. **TN:** Save Our Cumberland Mountains. **UT:** Southern Utah Wilderness Alliance. **VA:** Dickenson County Citizens Committee. **WV:** West Virginia Highlands Conservancy, West Virginia Organizing Project. **WY:** Powder River Basin Resource Council, Wyoming Outdoor Council. **National:** Environmental Health Network.

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Editorial

Robert Uram is Unfit to Head OSM

The Citizens Coal Council opposed President Clinton's choice of Robert Uram as Director of the Office of Surface Mining. Along with the United Mine Workers, dozens of grassroots, environmental and Native American groups, several state Governors and elected officials, CCC supported Bruce Boyens for OSM Director.

Our reasons were simple: Mr. Boyens had outstanding skills and experience. By contrast, Mr. Uram lacked leadership qualities, management experience and had spent 10 years as an attorney representing polluting industries, including law-breaking coal mines.

Despite months of CCC opposition, Mr. Uram was eventually nominated by President Clinton. CCC accepted the decision and did not wage a fight against his Senate confirmation. CCC vowed to work with him and go forward.

We have worked very hard to improve OSM's performance in carrying out the law, but it's been hell in the coal fields since Mr. Uram came in March 1994. Many long-time coal field activists and OSM employees consider him to be the worst director OSM has ever had.

CCC now believes the country and coal field residents would be better off if Mr. Uram left the position of OSM Director. Here's why:

Ticket Fixing

Mr. Uram has been a ticket-fixer bar none, exceeding the chutzpa level of his predecessor Harry Snyder for bold defiance of the law. Today there is decreasing SMCRA enforcement in the Western states, which often don't make mines meet basic legal standards for highwall removal, complete and on-time reclamation, and protecting landowners.

These conditions prevail at many western mines on public lands where by law OSM has enforcement power equal to a state's and must cite violations immediately. Contrary to law, Mr. Uram tied OSM inspectors' hands and ordered them **not** to immediately write violations at mines on public lands. He did so because, he told CCC, it "upset" the



Robert Uram takes oath of office to uphold SMCRA from Bruce Babbitt, Secretary of the Interior; Charlotte Uram in center. (Photo from OSM)

Governors of Colorado (Roy Romer) and Utah (Mike Leavitt), who both have put coal company interests ahead of their own citizens' interests.

The OSM Casper office covering the northern part of the West writes virtually no violations anywhere. OSM inspectors in Albuquerque did write violations found in the southern part but Mr. Uram or his managers over-rode them routinely and, in retaliation for the inspectors' enforcement stance, have taken Colorado and Utah out of their territory.

Mr. Uram's ticket-fixing penchant is particularly virulent for mines on Indian lands; his "fix" of the enforcement action taken against Consolidation Coal, helped provoke CCC's Native American member groups to demand Uram's resignation. (see story, p. 12)

Deception

CCC obtained information through the Freedom of Information Act showing Mr. Uram apparently did not tell the whole truth to the public and the Senate when he went before them for confirmation. He withheld key information that his former client, Amcord Inc., is a wholly-owned subsidiary of Hanson Industries. Hanson owns Peabody Coal,

the top U.S. coal producer.

Under SMCRA, the law Mr. Uram is sworn to uphold, this "common ownership and control" makes his former client and Peabody Coal one and the same for enforcement purposes. This is a vital piece of information, but Mr. Uram chose not to disclose it to Congress and the public in evidence and materials he swore under oath was complete.

Conflict of Interest

Mr. Uram compounded his offense by failing to "recuse" himself (abstain) on important actions directly involving Peabody Coal. For example, on Nov. 7, 1994, he personally intervened with the head of Peabody Coal's western division in the blasting complaint by one Navajo elder. After his intervention, OSM let Peabody off the hook.

On July 6, 1995, Mr. Uram allowed Peabody to renew its Kayenta mine permit (on the Navajo reservation) despite Peabody's six long-standing, unresolved violations listed in OSM's bad-actor computer system (the Applicant-Violator System) and despite the AVS recommendation to deny permits to Peabody. Within three weeks after the Peabody

(Please continue on next page)

Editorial

(Continued from previous page)

renewal permit was signed, the AVS computer record was changed from "Deny" to "Conditional Issue."

Racism

On February 9, 1995, Native American member groups of CCC held a news conference to call for Mr. Uram's removal for environmental racism. They cited his role in blocking enforcement on complaints made by hundreds of citizens against Peabody's Black Mesa mine complex and BHP's Navajo Mine, no reclamation at CONSOL's Burnham Mine, and the destruction of sacred sites revered by the Acoma, Hopi, Navajo, and Zuni peoples if Salt River Project's proposed Fence Lake mine and railroad is permitted. The last straw for the members was Mr. Uram's "fix" of the individual civil penalties levied against the directors of Consolidation Coal and they demanded his ouster.

Instead, one month later, two of the Navajo members (see story, p.12) were fired from their jobs in direct retaliation for challenging Mr. Uram. When CCC Chair Barney Reilly approached Mr. Uram for support of the two activists' right to speak without retaliation, Mr. Uram dismissed him saying, "After all, they did call for my resignation."

Poor Leadership

The new Republican majority is gunning for all federal environmental agencies and has targeted OSM for brutal budget cuts and reduced enforcement authority. This challenge calls for politically savvy and courageous leadership.

Mr. Uram is not up to the challenge. He has failed to recruit support from any state regulatory agencies, even though he has defended the \$50 million chunk of OSM's budget that goes directly to the states as grants. No state agency or coal company supports OSM in its time of need, despite all the "ticket-fixing" Mr. Uram has done on their behalf. Mr. Uram has failed to recruit one Governor—Republican or Democrat, East or West—to support the agency. In fact, the Interstate Mining Compact Commission, the lobbying association of state

"Leaders don't bail out when times are tough and their people face a crisis. Mr. Uram does."

regulatory agencies, testified before Congress in favor of the coal industry's plan to gut OSM's enforcement authority.

Mr. Uram's version of working with allies such as coal field citizens has consisted of "state visits" (he was dubbed "King Robert of Uram" by Kentuckians For The Commonwealth). On these visits, he sometimes didn't pay much attention to what they said and at other times he stood them up or cut his visit short.

Leaders don't bail out when times are tough and their people face a crisis. Mr. Uram does. In late August, 265 OSM employees received lay-off notices because of looming Congressional budget cuts. Mr. Uram left on vacation just before the notices came out.

Mismanagement

Since his swearing in, Mr. Uram has been obsessed with a "reorganization" plan that reduced employees on the front line, created a whole new level of bureaucracy through three "Regional Coordinating Centers" and installed as regional directors three of the worst, most anti-enforcement Reagan-Bush holdovers: Al Klein, Rick Seibel, and Brent Wahlquist.

Mr. Uram has caused employee morale to plummet. Instead of cleaning out the "OSM Turkey Farm," he has allowed the legion of minions that prior Administrations dumped into OSM to burrow in deeper. His legacy to coal field citizens will be a bloated, top-heavy, pro-industry agency for years to come.

Time To Go

Robert Uram must go. Getting him out, however, may be as much of a challenge as the fight we waged—unsuccessfully—against his selection.

On April 20, CCC Chair Barney Reilly wrote the White House to ask for Mr. Uram's removal based on the extensive information CCC had collected

about his apparent perjury to Congress and conflicts of interest on Peabody. White House Counsel Abner Mikva replied May 23 that Mr. Uram had "revealed that Amcord was a subsidiary of Hanson Industries and that Peabody Coal was also a Hanson subsidiary."

Mr. Mikva hasn't said how Mr. Uram made this revelation without creating one piece of paper in the public record nor who gave Mr. Uram permission to hide these facts from the Senate and ignore the obvious conflict of interest.

Members of the Senate have not been willing to add this to their already overflowing plate of scandals. Their appetite for tawdry imbroglios has apparently been whetted by Whitewater and Waco. The Interior Department is deflecting all inquiries about Mr. Uram's problems.

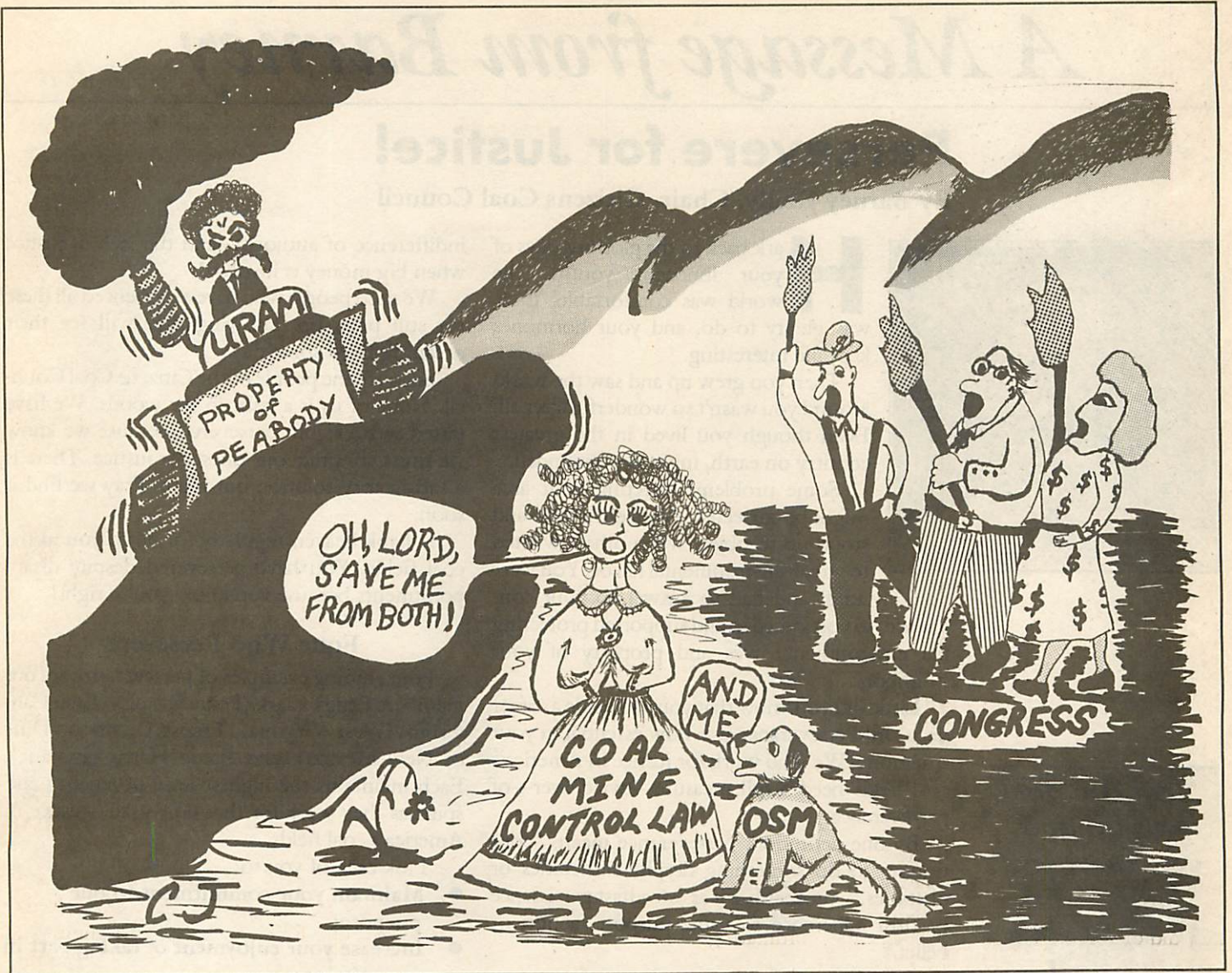
Perhaps, as some of the more conspiracy-minded have speculated, Mr. Uram is the "right man in the right position," as Secretary Babbitt describes him, IF the real agenda is to castrate the Act and OSM as forces for environmental justice.

During the fight over Mr. Uram's appointment, his only public support came from the coal industry. No OSM leader has done more to advance their cause of de-regulating the coal industry than he has. As Chair Barney Reilly wrote to Secretary Babbitt on August 22, Mr. Uram is well down the road to finishing "the job begun under Ronald Reagan and James Watt of rendering Interior's only environmental enforcement agency totally impotent."

For months the CCC board weighed the impact of asking for Mr. Uram's removal when OSM's budget was on the Congressional chopping block. Would raising these issues hurt the effort to defend SMCRA and OSM?

It's a fair question. Yes, raising Mr. Uram's problems does "tar" OSM. CCC weighed this against Mr. Uram's many actions beyond the budget that are destroying the hard-won rights of coal field citizens. We cannot tolerate this. CCC doubts if OSM can survive as a regulatory agency—much less be effective—under such a director who appears to be so unethical and incompetent.

Robert Uram must go. ♣



We Get Letters ...

Dear CCC:

Thanks so much for sending the **Reporter** to our [OSM] office. Good articles about real people! I'd like to get it at home so the "bad actors" can't see me enjoying it.

(Writer requested confidentiality)

Dear CCC:

I would have sent the "Please Join Us" blank from **Reporter**, but didn't want to mutilate the article about Babbitt on the back of the page.

Mr. Babbitt is outstanding as the **BIGGEST** disappointment of the Clinton Administration.

I went to his swearing in at the Interior Build-

ing and looked at the paintings of other Secretaries (including James Watt) and felt emotions of relief, joy, admiration for the new Secretary, and hope.

Incidentally, my father worked for Peabody; he died more than 20 years ago. He was in Sales; he didn't have anything to do with strip mining. Most of the coal he was concerned with came from Kentucky, and that was bad enough for the land.

So count me in as a new member, please, and keep in touch.

Kay D. Bachman, M.D., Falls Church, VA

We Love Mail

The **CCC Reporter** welcomes letters and will print those of interest to our readers. We will edit for length and readability. Please sign your name and give your telephone number—we will respect those needing confidentiality. Send to Carolyn Johnson, Citizens Coal Council, 1705 S. Pearl St., #5, Denver, CO 80209.

Don't miss an issue!

See page 31 to join CCC and receive the Reporter—it's easy!

A Message from Barney

Persevere for Justice!

By Barney Reilly, Chair, Citizens Coal Council



**Your dander
was up and
you knew you
were right!
Then, like the
Biblical
heroes of old,
you girded
your loins
and joined
the fray.**

Hark back to the glorious days of your innocent youth! The world was comfortable, there was plenty to do, and your hormones kept life interesting.

Then you grew up and saw the world around you wasn't so wonderful after all. Even though you lived in the greatest country on earth, injustices abounded.

Some problems affecting your area might be corrected if you lent a hand and stood up to object when others wanted to wreak environmental havoc. You were

now an adult and had to answer to your conscience, so you joined in and supported protecting the environment, lives and property of your neighbors.

Little did you know that you had made a career decision! Perseverance was now essential in your situation. (We who work for justice in America's coal fields need a full measure—twice over—of perseverance.)

By one definition, perseverance means "continuing to do something despite difficulties or obstacles." Another has it as "steadfast persistence or firm adherence to some purpose, action or belief."

Whichever definition struck your fancy, you knew you had it but wished for more.

You were beyond thinking that most well-meaning people realize the damage by rogue coal operators need not happen and all it takes are coal operators to obey the law and be good neighbors and regulators to enforce the law seriously and do their jobs.

Simple Solutions Rare

You learned that simple solutions rarely occur. Many times frustration made you want to ignore these problems: there's nothing we can do.

But your 'perseverance streak' would have none of that "cut-and-run" talk. Your dander was up and you knew you were right! Then, like the Biblical heroes of old, you girded your loins and joined the fray. Thank heavens you did for we surely need you!

We need people who know the thrill of involvement, the bitter taste of defeat, the inscrutable reasoning of prejudiced science and courts, the

indifference of authority, and the lack of justice when big money is involved.

We need people who have experienced all these yet still press on, knowing they will see their dream fulfilled some day.

Such are the people of the Citizens Coal Council. None of us is a babe in the woods. We have tasted setbacks but persevered because we know we must continue our quest for justice. There is a satisfactory solution out there. Pray we find it soon.

I thank heaven regularly for all of you in the coal fields. You have persevered despite disappointments because you know you're right!

Four Who Persevere

Four shining examples of perseverance are our members Peggy Clark (Pennsylvania), Esau Canterbury (West Virginia), Ernest Diswood (Diné of New Mexico), and Freda Harris (Indiana). Each maintains the highest level of tenacity and spirit as they work for that holy grail—justice in America's coal fields.

I ask each of you to:

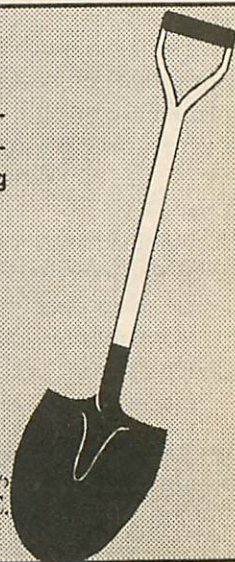
- Maintain your commitment to our purpose;
- Increase your enjoyment of taking part in our mission;
- Pray for our success; and
- Help each other as much as you can. Persevere!

Digging for Information?

Get the only comprehensive guide to the federal coal strip mining law written for citizens!

Strip Mining Handbook

- Your rights
 - How to protect your home, water & land
- \$5.95 postage paid**
CCC, 110 Maryland NE,
#307, Washington D.C.
20002; check or m.o.



News from the Grass Roots

ACTION LINE

Council Sinks Mine

The Northern Plains Resource Council (NPRC) is celebrating a Montana "First." It convinced the state regulatory agency to deny a coal mining permit. This is a major step in its campaign to prevent the energy industry from further devastating Montana.

**NO
MINING
HERE**

Montco sought to renew a permit for a proposed mine near Ashland. In April, NPRC pushed the state to take the unprecedented action of canceling Montco's mining permit that was granted in 1984. By law, Montco had three years to begin mining but, despite two state extensions, it never turned a shovel of dirt.

Even among the pro-industry mine regulators in Montana, enough was enough. Faced with mounting citizen pressure and a galling company proposal, state lands commissioner Bud Clinch both turned down Montco's renewal proposal in December 1994 and canceled the operating permit on April 10.

The Montco Mine was the linchpin in a much larger industry plan to build a 123-mile-long railroad to haul coal between Wyoming and Montana. The Council's partners in the coalition against the Tongue River Railroad include Native Action (Northern Cheyenne); the mine workers union; four railroad unions; the local governments of Rosebud and Big Horn Counties in Montana; and Sheridan County, Wyoming and the business community in Forsyth, MT. NPRC and its allies now hope the railroad will start to sing "Happy trails and so long to you." ♣

Indiana Beats Back Industry Assault

The Hoosier Environmental Council (HEC) mobilized opposition to a coal industry attempt to pass a law reversing the water rights victory that Jack Jarrett of Sullivan won in the state Supreme Court in 1994. The court ruled that mines cannot drain or damage water resources of their neighbors without first securing the legal rights to the water.

The coal industry got its legislative allies to hustle a bill reversing that loss, but it was narrowly beaten back after the OSM Field Office said that if the bill were adopted, OSM might re-consider a federal take-over of the state program. The bill would have made state enforcement of citizens' water

rights weaker than the minimum protection required by the federal law.

Two years ago, several Indiana citizens groups petitioned OSM under Sec. 733 of SMCRA to take over the state program because the state did not enforce the federal law. OSM decided not to do so based on assurances that the state would enforce the SMCRA standards.

HEC is also battling state regulators over "back-hauling" of ash from power plants to dump into strip mine pits; dozens of plans have been filed. Ironically, state government has fought against out-of-state garbage dumping but turns its back on coal ash dumping. ♣

DRC Opposes Sneak Attack



DRC member Rocky Ost shows OSM Director Robert Uram a strip mine that hasn't replaced water. (Photo by Mark Trechock)

Dakota Resource Council members waited for years for OSM to respond to a state request for clarification of water replacement rules on strip mines. When the answer finally came, it was buried in the new rules on underground mining; DRC discovered the rules applied to strip mines after it was too late for public comment.

The new rules strip the public of two important protections. Mines are no longer required to replace water used for agriculture, such as watering livestock. Also, water supply owners can now agree to waive the replacement of wells ruined by mining; coal companies own much of the land under permit in North Dakota—as elsewhere—and don't want to replace all the wells, as required by federal law.

Withdrawing the rules was at the top of DRC's list of demands for OSM Director Robert Uram when members took him on a farm and coal mine tour on August 1. Uram promised members he would decide by September 25. ♣

Earth Day: Uram Breaks Promise to Diné

On November 5, OSM Director Bob Uram met with over 200 members of the Citizens Coal Council from across the country at Faubush, KY. Among the promises he made was a pledge to visit Maxine Kescoli of **The Alliance** at her home. He said he would come next Spring so she could show him the damage Peabody's strip mine has caused to

burial sites, springs, homes and livestock in her area.

Uram set Earth Day, April 22, for his visit, but Peabody officials prevailed upon him not to go to her home. So Uram changed the meeting to the Forest Lake Chapter House. Alliance members were unhappy but had decided to attend and ask him to go with them to Kescoli's

where she was waiting for him to come as he promised.

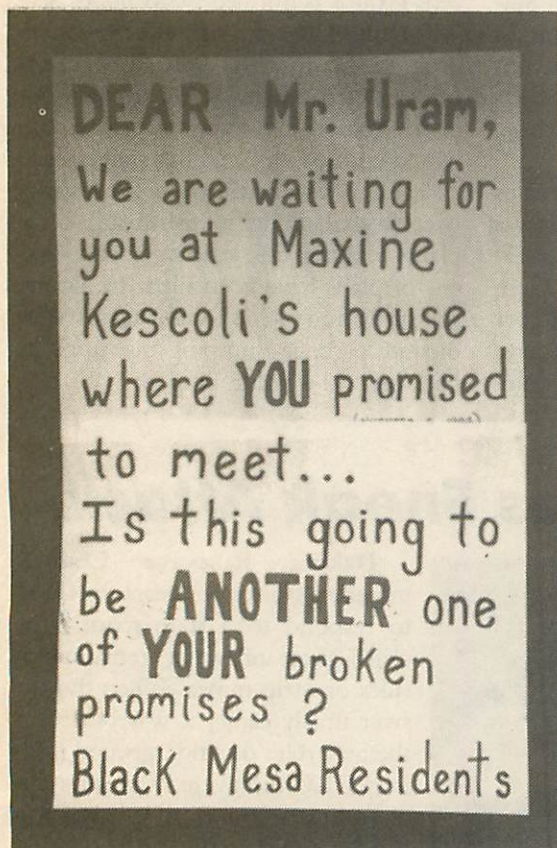
Early that morning they set out in a caravan of vehicles and

struggled through axle-deep mud to be on time. They arrived to find no Uram, only a small notice tacked to the door that said he had cancelled the meeting.

He went back—some say he fled in fear of meeting with the residents—two days early to Washington D.C., yet one more official who broke his promise.

Although Uram knows Alliance members have no telephone service, he didn't have the courtesy to ensure they were personally and immediately told he had cancelled. ♣

Left: Alliance members put up a poster in advance so Robert Uram, Director of the Office of Surface Mining, would know he was expected at Maxine Kescoli's home. Below: Alliance members drove in mud for the long-promised meeting with Uram. He didn't come. (Photos: Fotocelotl)



WV Project Turns Up The Heat

Members of the **West Virginia Organizing Project** have turned up the heat on the state regulatory agency and the Mingo Logan mine whose longwall operation under their homes has destroyed 24 wells since 1989.

In July 60 residents of Pigeon Creek met with Eli McCoy, the agency chief, who suggested installing a public water system. Residents agreed but stressed they don't want to pay for fixing damage caused by the coal company.

WVOP members also picketed the state agency and say they won't stop their actions until they get good water.

"A.T. Massey Coal thought they were going to come in here, find a bunch of illiterate coal miners and ram this project down their throats," said Paul Lawson of WVOP. "I think they have never found this amount of opposition so well organized." Massey had planned to run loaded coal trucks through residential neighborhoods in Logan County but ran into a buzz saw.

Organized as Citizens for a Safe Community, residents rallied to stop the state highway department from upgrading local roads simply so coal trucks could use them. This made Massey back off. ♣



Saving water is a family affair. (WVOP)

Kentuckians Blast Senator's Betrayal



Daymon Morgan tells reporters what's wrong with Sen. Mitch McConnell's slashing of OSM's budget at a KFTC action in front of McConnell's office. KFTC gave out "Mitch money" listing his campaign gifts from coal companies. (KFTC)

Kentuckians For the Commonwealth called Senator Mitch McConnell's support of massive cuts to the OSM budget a betrayal during a lively protest in front of the Senator's office in late August.

Members held a huge banner that read "Congress has betrayed the coal fields" and passed out "Mitch money" to passersby. These unique bills showed the Senator's face in the center and listed 12 coal companies that gave him thousands of dollars last year. Daymon Morgan said these gifts were the "green reasons" McConnell slashed OSM's budget.

Senator McConnell was in his office at the time of the protest; he had refused an earlier KFTC request to meet in person. One of his staff members told KFTC, "You would have a much better chance of seeing him if you would go to Washington." ♣

Wyoming Scores First

For the first time, OSM has told the Wyoming state agency to amend its rules because "the program no longer meets all Federal requirements." This is a minor revolution in Wyoming which, like other Western states, has been largely immune from OSM enforcement and oversight under Director Robert Uram.

OSM's notice to the state, called a "732 letter" after a section of the federal rules, occurred only because of the Wyoming Outdoor Council's repeated citizen complaints and "733" petitions. WOC used section 733 to demand that OSM check if the state was enforcing the law properly and take action if it wasn't.

OSM told Wyoming to correct two issues: protect citizens' rights to participate in applications for in situ (extracted by chemical processes) coal operations and require mine operators to obey environmental protection standards. ♣

DCCC Protests OSM Cuts

Coal Field Prayer
"We pray that our government leaders will be ethical, fair and compassionate, using as their guide the best interests of the American people, as they make final budget decisions during the coming weeks. We pray to the Lord, Amen."

The Dickenson County Citizens Committee set a record: three rallies in one day when members protested at Congressional offices against cuts in OSM's budget. (See photo on cover, page 1.)

Congress wants to cut over \$24 million from programs vital to protecting coal field residents: mine inspections, reclamation, cleanups, and oversight of states. A final vote will occur this fall.

Members received extensive media coverage as they marched at the offices of Virginia Senators Robb and Warner and Congressman Boucher. They held posters with messages such as "We need OSM" and "Cut fat not OSM muscle."

DCCC folks wrote a prayer, reprinted here, which others may want to use at actions and in letters to Congress. ♣

Highlands Group Pushes for Water Cleanup

In recent months the West Virginia Highlands Conservancy has used the citizen complaint process under SMCRA to mount a comprehensive legal challenge aimed at forcing state regulators to improve water protection.

The complaints flagged state failures: under-bonding of mines causing acid mine drainage; not fixing acid problems at under-bonded mines that forfeited their bonds; not listing water violators as barred from getting future permits ("permit

blocked"); not making mines get discharge permits and clean up water pollution problems; and allowing mines to get their bonds released despite unabated, on-going water pollution.

OSM seemed to take the complaints seriously and began a process to remedy the issues without forcing citizens to take it to court. State officials, however, resist bargaining in good faith, perhaps counting on the new anti-regulatory attitude of Congress to rein OSM back to its usual docile posture. ♣

SOCM Works on Many Fronts



SOCM and JONAH members held a "Dismantling Racism" Workshop with Peace Development Fund trainers. Racism involves one group having the power to carry out systematic discrimination through the major institutions in our society. The two groups work together for more diversity. (SOCM Photo)

Between 1970 and 1990, Tennessee dropped from the top ten coal producing states to the bottom third (from #9 to #17). Total production dropped by 25%, even though overall US production went up nearly 70%.

So what? Well, over the past six months, members of **Save Our Cumberland Mountains (SOCM)** have contended with a flurry of new mine proposals that contradict this decline.

One such fire-fight is a proposal by General Minerals to resurrect an old plan to strip mine in Bledsoe County, right on the infamous, acid-producing Sewanee coal seam. SOCM beat this mine in the mid 80's, but it's ba-a-a-ck, so SOCM is gearing up to beat it again.

In July, SOCM kicked off its campaign to save Fall Creek Falls State Park from strip mining by filing a **Lands Unsuitable Petition** with OSM. The result of several years of hard work, the petition asks for the park watershed to be made off limits for mining. An AMAX mine on the Sewanee seam causes acid drainage and is moving toward the park.

Also in Bledsoe County is a contender for **Stupid Project of the Year**. Armstrong Energy Resources wants to build

a pump storage project, which entails digging holding ponds for water on the top and bottom of a mountain. At night, AER would pump water from the bottom pond up to the top pond. Then during the day, AER would run water down the mountain, through turbines and back to the bottom pond.

AER would profit from the difference between daytime and nighttime electricity rates. There is no net gain in energy production because it uses more energy to pump water uphill than is generated when the water is released. AER would dig into and expose that bad ole Sewanee seam, assuring that the water becomes acidic as it mixes with the coal.

In Anderson County, Champion Paper, Addington Brothers and Tennessee Mining together have tied up 85,000 acres for timber and mining. Tennessee Mining told OSM that it is exploring for coal in this area. If TM finds good potential, it plans to use **Highwall Mining**.

This new, automated, high-extraction method begins by cutting a highwall around the mountain. Next a robot digger, guided by computers and TV monitors, removes the coal—much like a "long-wall" machine in underground

Bill Guts Coal Law

On Sept. 21, Rep. Barbara Cubin (R-WY) introduced HR 2372 in Congress. She called it the "Surface Mining Control and Reclamation Amendments Act of 1995." We call it **AFDC—Aid For Dependent Coal Companies**—just another type of corporate welfare.

Cubin's bill, written by the coal industry, would virtually put an end to OSM enforcement and return to the days when companies used their economic and political power to bully states into ignoring buses. This bill combined with the OSM budget cuts already underway would effectively halt federal efforts to bring justice to the coal fields.

Cubin says her bill will eliminate the waste caused by overlapping state and federal enforcement by simply making OSM stay out of enforcement in states that have a coal law. In fact this means almost all enforcement authority—and more than \$50 million in federal money—will be given to the states without holding them accountable or overseeing their actions. ♣

Pennsylvania

The **Tri-State Citizens Mining Network** continues toward its goal of getting good enforcement of new federal rules on damage to water resources and property from underground mining. It persuaded OSM to allow Network members to take part in planning and getting the training OSM is conducting for its own staff and state regulators in how these new rules are supposed to work.

The Network was born out of a September 1994 week-end Leadership Development Conference co-sponsored by CCC and the main groups making up the network. Contact CCC for more details on leadership training opportunities. ♣

mines. This digger can go 1500 feet into a coal seam.

Highwall mines involve both underground and surface mining and thus are regulated by both the Office of Surface Mining and the U.S. Mine Safety and Health Administration. ♣

Organizing Toolbox by Joe Szakos

Do You Gotta Go?

A common question many citizens groups face is, "If we are invited by a government or industry official to come to a meeting, hearing or event, do we have to go?"

Well, no, you don't have to go.

The question is not unlike your neighbors asking if you want to go to the store with them. You would ask yourself, "Do I need anything from the store? Even if I need something, do I need to actually go to the store or can I ask my neighbors to get it for me?" You have to think about your self-interest.

But, you also have to think about your neighbors. Do they want you to go so you will drive because they hate driving at night, or do they want you to lend them some money? (And they will wait to ask until you get to the check-out counter – a hard place to refuse such a request.) Whatever happens, you have to think your neighbors' interest in asking you to come.

In some cases, you might be great buddies and simply enjoy spending time together. Think about what the relationship means to you. If you have a good relationship, then you know you can count on each other. But if they constantly take advantage of you, it's not worth continuing to put your time and energy into being with them.

So, back to the original question of meeting with a government or industry

**You have to
think about your
self-interest...
Is this part of
our strategy?**

official. What's your self-interest in meeting? What is their interest? What relationship do you already have and what relationship do you want to build?

The Office of Surface Mining (OSM) and specifically Director Robert Uram have been asking citizen groups to meet with Uram as he travels around the country. Does your group have to accept?

Here are some questions to ask before you make the final decision:

- Will the meeting do our group any good? Will we get one of our issues resolved, will we get more members, will it give some of our leaders a chance to learn more skills?

- Is this part of our strategy? Is the timing good? Are other things more important for us to be doing?

- Do we have to meet, or can we just send a letter with our questions?

- Will the official try one of the 'BIG C' approaches on us (Co-opt, Confuse or Cream us)?

- Do we want to use this as a media opportunity to get the word out on our issue? Would a 'BIG C' approach hurt us if one is used?

- What is this official like? Do we have any experience with him or her or do other groups?

- Can the official give us what we want?

- Should we have our own "public hearing" instead of being part of an

orchestrated (read that as a waste of time) hearing by an agency?

- Is the agency official or coal company representative just trying to find out what we know or what our strategy is?

- Is the agency or company trying to use its latest gimmick to pull another fast one on the public, or is it sincerely interested in working with our group to figure out a solution to a public problem?

Your group has to think about these questions before making a decision. Don't automatically say "Yes" or "No." Think it through.

As a rule, general meetings get you in general trouble unless you are meeting just to get acquainted. Specific meetings on specific topics should give you specific results. (Remember, if you send an invitation to a party, you know it will be a great party. If you get an invitation to someone else's party, check it out before agreeing to go – it's not a command.)

Understand your own power. Why do they want to meet with you? Know their weak points and strengths. What commitments are they likely to make?

If you decide to meet, there are plenty of things to do. Have a plan. Is it your meeting or their meeting? What's the agenda? Will it be at a place and time that are convenient for your members? Do you want visual aids (like jars of polluted water) at the meeting? And practice what you plan to do. (We'll discuss ways to conduct the meeting in the next issue.)

If you meet, you need to make sure the official is clear about what happened. Someone from your group can summarize any agreements at the end of the meeting. **It is crucial that you send the official a written summary of the meeting to hold him or her accountable.**

Finally, there is one more question: "Is it going to be fun?" If not, then the answer to the question should be: "I don't want to go to the store now!" ♣

[Joe Szakos directs the Virginia Organizing Project. He worked for 12 years as the Staff Coordinator for Kentuckians For The Commonwealth.]

Meeting to Death?

An agency has held lots of hearings or meetings 'to get your input' on the same topic over many months, even years. Your group hasn't won specific results on its issues. What's going on?

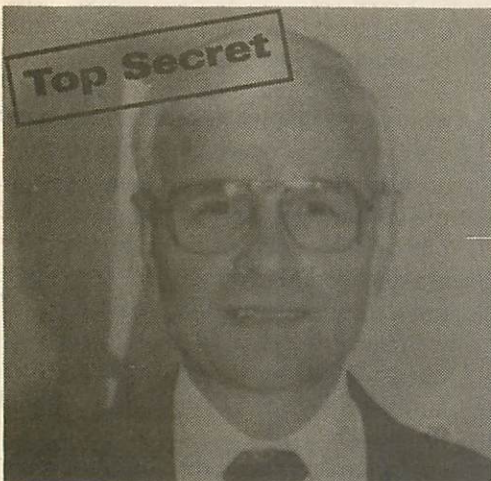
You are getting the "meeting to death" treatment.

There are several possible reasons why agency officials do this. They may hope your group will get tired and give up. Some officials believe meetings make citizens "feel good" or citizens just need to "blow off steam" and they will go away. Or some officials hold lots of meetings or hearings to avoid making the "tough" decisions we pay them to make.

Your group doesn't have to put up with this bad treatment. In the next issue, we will talk about ways citizen groups have used to get results at meetings, hearings, and events.

Contest!

What's Ed Hiding?



Enter Today! See p. 13. On a postcard tell us what Kay blacked out of the memo and doesn't want the public to see. **Rules:** Make us laugh. **Prizes: TOP SECRET!** (Worth winning & will be awarded.) (OSM photo)

Bob Uram's Outlaw Mine



In the photo at left, Teresa Caudill stands in a 3-foot gully at the Amcord strip mine on Navajo lands in New Mexico. Unreclaimed highwalls, acid soils, and 3-5 foot-deep gullies disfigure the 300-acre site, which was once grazing land for Diné livestock.

Mining stopped 14 years ago but the Amcord company—part of the Hanson-Peabody corporate family—never reclaimed. The law requires highwall removal, covering acid soil and immediate reclamation. Many mines do comply but not Amcord. Why? Uram was Amcord's lawyer before coming to OSM; his resumé bragged that he got the mine released from "reclamation responsibility."

CCC filed an administrative appeal to get the acid soils covered; our lawyer is Reed Zars. Lawyers for OSM and Amcord want CCC kicked out but we're fighting back. (CJ photo) ♣

Diné Fight Environmental Racism

On the Navajo Nation, the Citizens Coal Council and the **Nenahnezad Chapter Technical Committee** succeeded in pres-

suring OSM to issue fines to each member of Consolidation Coal's board of directors just before Christmas last year.

Consol never reclaimed its Burnham mine and left the pit wide open when it stopped mining 11 years ago.

Each board member got a Christmas present from CCC via OSM: a demand for payment of \$198,900 or \$3.6 million total. This record assessment motivated Consol to quickly negotiate a deal.

And what a deal! Consol lobbied OSM Director Bob Uram, Assistant Director Al "Big Easy" Klein, and Indian lands honcho Billie Clark for a mere \$5,000 fine and a reclamation plan full of holes.

This was the last straw for the Diné members; at a February 9th news conference they called for Uram's removal. Speakers included Louise Benally, **The Alliance**; Ray Benally and Ernest Diswood,

Nenahnezad Technical Committee; and Mervyn Tilden of the **Zuni Mountain Coalition**. CCC challenged the deal in legal appeals, represented by Tom Galloway and Walt Morris.

After the press conference, Ray and Ernest were told they would lose their jobs as retaliation for criticizing an official, Uram, in the Department of Interior. Both were soon fired, Ernest from the US Bureau of Indian Affairs and Ray from the Navajo EPA.

CCC's members acted on their "mutual aid" pledge to assist each other when attacked, and the CCC board voted to give \$20,000 in support to Ray and Ernest to form the Diné Mining Action Center (D'MAC).

Environmental Racism is the way CCC Diné members describe their treatment from OSM officials like Bob Uram.

Ernest and Ray—with help from allied groups in the area—have mounted lively protests against their retaliatory firings. Meanwhile, they have launched D'MAC as a powerful, new voice for environmental justice and civil rights in the coal fields of the Navajo Nation ♣.



Ernest Diswood and Ray Benally at a June protest march. (B. Norrell, *Indian Country Today*)

Ed Kay, Man of Mystery

By Will Collette

You can leave the CIA, but the CIA never leaves you. That's what one can conclude from the secretive behavior of OSM's Deputy Director Ed Kay.

When Kay came to OSM in 1993 as part of Secretary Babbitt's "Interim Management Team," many inside and outside the agency were surprised. Why would a guy with little or no knowledge of coal mining, whose main claim to fame was being a "spook" for the Central Intelligence Agency and 82nd Airborne, end up as the No. 2 manager at a profoundly troubled agency like OSM?

Kay swiftly proved his value. As OSM Deputy Director, he assumed the "Vice-Principal" role, doing the dirty assignments and dishing out discipline to employees.

Kay stepped in to "handle" a hot case in Utah when neither the operator nor state agency wanted to obey SMCRA and remove highwalls at ARCO's Gordon Creek mine. Kay has no expertise in reclamation or the law, much less the basics—without help he seems unable to recognize a highwall or tell if land has been disturbed by mining. Despite these handicaps, he went to the mine in 1994 and pronounced the OSM inspectors wrong, the highwall would stay.

In 1994 when negotiations heated up between OSM and the attorney for the Hanson/Peabody-owned Amcoal mine, Ed Kay also "handled" the case by visiting the mine. Although Kay was unfamiliar with the site and wasn't a trained inspector, he decided what actions to take on this long-abandoned mine that his boss Bob Uram once represented as lawyer. This mine, located on Navajo lands in New Mexico, has acid soils, highwalls and severe erosion. Despite Kay's visit, Amcoal still hasn't reclaimed.

Kay has also pulled guard duty as keeper of the keys to the Tabernacle of Information, serving as a sterling example of how to block the public's right to know about our government's activities.

Mr. Kay and other high ranking OSM officials were the focus of several requests by CCC for records under the Freedom

AFO issued a violation in the fall of 1994 requiring reclamation, but no plan.

For some reason Consol failed to respond to our notice of possible individual civil penalty and therefore proposed individual civil penalties were generated. I sent the proposed ICP's to the Regional Solicitor and informed the Solicitor that a meeting was already scheduled to discuss the final reclamation plan.

the solicitor announced during the meeting that the ICP would be sent.

Here is one of many pages heavily censored by Kay. CCC asked for records so its members could learn about OSM's lack of enforcement at mines on Indian lands.

of Information Act (FOIA). CCC wanted records that shed light on OSM's lack of enforcement and unresponsiveness to citizens' complaints on mines operating on the Navajo Nation.

The document excerpted on this page comes from a memo that supposedly describes why the Navajo tribe objects to reclamation of Consolidation Coal's Burnham mine. The alleged objections are OSM Director Bob Uram's main excuse for setting aside individual civil penalties against Consol's board of directors when they ignored OSM orders to clean up the mine (see story, p.12). This was Ed Kay's chance to disclose exactly why OSM decided not to enforce the law, but, hey, there are limits to the public's right to know.

Ed Kay may think information—any information—is available only on a "need to know" basis, but the law says the public's business shall be public. His refusal to honor the Freedom of Information Act, along with blatant and arbitrary withholding by his boss Bob Uram and Indian lands honcho Billie Clark

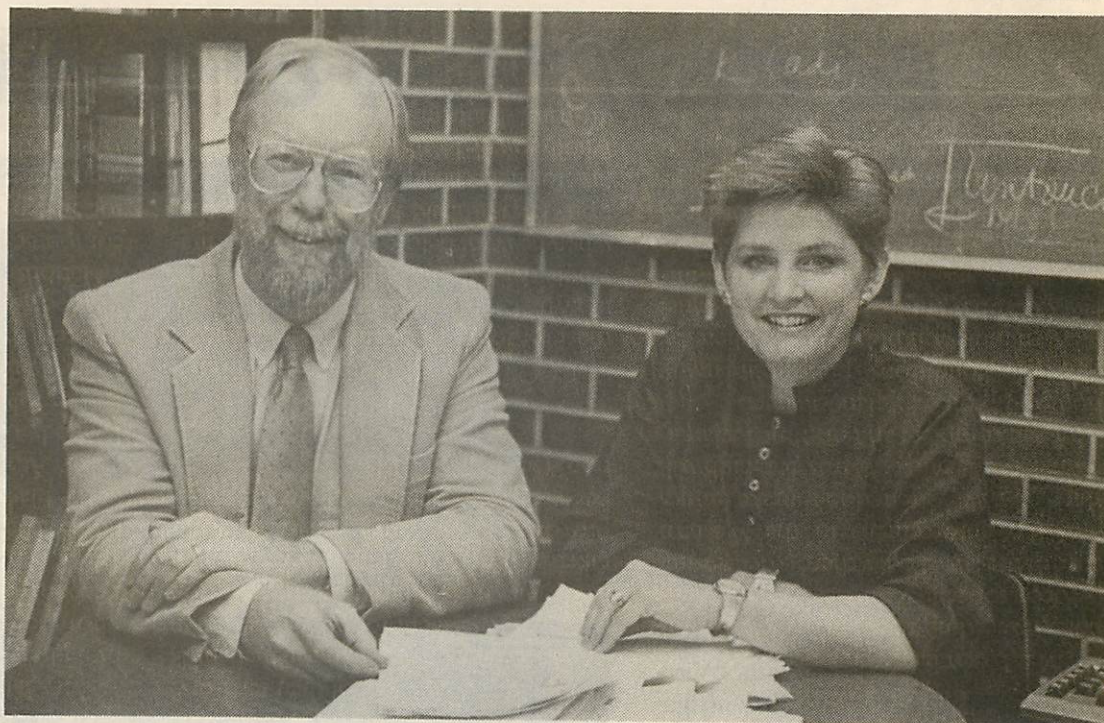
provoked CCC into filing its first federal lawsuit.

On August 17, CCC filed suit in Washington D.C. federal District Court under FOIA. The suit charges OSM and the trio of Uram, Kay and Clark with numerous violations and asks the court to direct OSM to give CCC the records and to stop stone-walling. It also asks that Uram, Kay and Clark as individuals be investigated and prosecuted for arbitrary and capricious withholding of public information—criminal acts under FOIA.

The attorneys for CCC are Robert Seldon and Donald Aplin, who work for the Government Accountability Project in Washington D.C. ♦

Catch CCC's 1st Contest! See p. 12 for rules (ha!) & prizes. Don't Miss Out!

"Most SLAPP suits don't get to a jury and if they do, they lose 9 out of 10 times. SLAPPers are bullies who hire lawyers in 3-piece suits to do their dirty work. They want to scare citizens into silence or compromise."



George Pring and Penelope Canan, pioneers in protecting citizens rights. (Denver Univ.)

Slapping Back

By Carolyn Johnson

CCC salutes Penelope Canan and George "Rock" Pring for working to protect our oldest and most basic citizen and Constitutional right — the right to give our opinions to our government and ask that they be adopted.

Penelope and Rock teamed up 12 years ago to study the increasing use of lawsuits to silence and punish outspoken citizens and to devise ways citizens could fight back. Both are professors at the University of Denver, Penelope in sociology and Rock in law.

They found that businesses, government agencies and even government employees in the last 20 years had filed hundreds of cases against citizens for taking part in public affairs.

Citizens were sued, often for millions, for attending public meetings, testifying, signing petitions, writing letters to newspapers, reporting environmental violations, or criticizing public officials.

Penelope and Rock call these cases SLAPPs, Strategic Lawsuits Against Public Participation.

Rock says, "There is no way to stop someone from filing a lawsuit against you

for any reason, even a crazy one. Our justice system does not have a front-end filter to prevent this."

"A classic case was one in Texas where the owner of an illegal hazardous waste 'landfill' sued a woman for calling his operation a 'dump' at a county meeting. He also sued her husband for 'failing to control his wife.'"

"The goal of SLAPPers is not to win in court," Rock says. "We found most SLAPP suits don't get to a jury and if they do, they lose 9 out of 10 times."

"SLAPPers are bullies who hire lawyers in 3-piece suits to do their dirty work. They want to scare citizens into silence or compromise. They can't stand political opposition, and they file SLAPP suits to put citizen leaders on the defensive and divide the group."

"Most SLAPPs are filed against first-time activists and make legal claims such as libel, slander, taking of private property, antitrust, civil rights violations, restraint of trade, and conspiracy."

Penelope and Rock found SLAPP suits almost always lost in court, but were often successful in scaring citizens away from participation. Rock says, "Citizens

who got SLAPPED often paid a high personal cost emotionally and financially. The community and members of their group shunned them. Many dropped out of public involvement."

"The word spreads, and one SLAPP suit can 'chill' thousands of people into pulling back from using their rights. Many people who merely hear about these cases are terrified of losing their homes and decide not to take part in public affairs; others take part but then back off if they sense a threat of a SLAPP suit. This destroys representative democracy."

Penelope and Rock recommend that citizens take immediate action when a SLAPP suit is filed or threatened:

- Immediately contact a lawyer and say your First Amendment "Right to Petition" is being attacked.
- Have your lawyer contact Rock and Penelope for their information packet and expert assistance.
- Consider asking the court to dismiss the suit. This has proven highly successful.
- Consider a SLAPback suit by filing a counterclaim for violation of your rights, malicious prosecution, etc.

(Please continue on page 16)

CCC Hall of Fame

Jane Johnson, Keeper of the Soil

"Hey, kid, I've got an idea. Do you have a minute?" We sure do and so should you!

Jane belongs to the Knox County Chapter of the Citizens Organizing Project (COP), one of several conservation, land use and preservation groups she has helped organize. Jane says she inherited her inspiration to become an activist from her father, an early conservationist in Illinois. If organizing genes exist, Jane has them.

In 1974, she won a seat on the Knox County Board because, she claims, "I was considered to be 'too active' in local affairs." Fortunately, she did not stop.

As a board member, Jane concentrated on land use issues. Strip mining threatened the county, which has the world's largest acreage of prime farmlands. Jane heard about the campaign to pass SMCRA and saw a way to protect



Jane Johnson of Gilson, Illinois, has watchdogged strip mines for 20 years. (Photo: Johnson family album)

these rich, vulnerable soils. She organized and lobbied to pass the law and she and two friends wrote the part that protects prime farmlands.

In 1979, she organized local farmers into the Citizens for the Preservation of Knox County, which defeated strip mines from advancing into the northern half of the county.

Jane continues to fight to enforce SMCRA and preserve prime agricultural lands because, she says, the past 20 years have taught her she must continue. "The Illinois state agencies and regulators will go to any lengths, do any thing, even lie, to accommodate the coal industry. The days of the robber barons are still here."

Jane has been married almost 50 years to Dick and they have three children and four grandchildren. Dick and Jane live on a farm on the bluffs above Spoon River near Gilson, Illinois. ♣

Six at OSM Do Their Jobs

During a special ceremony in April that brought tears to the eyes of many, the Citizens Coal Council Board and members honored six employees of the OSM Albuquerque Field Office with a standing ovation.

CCC Chair Barney Reilly presented plaques commending them for "Doing your job to uphold the law and fulfill its Promise of protecting the land and people of America's coal fields."

The plaques cited each employee's work: Steve Rathbun, inspector supervisor, for "outstanding leadership, inspection and enforcement;" Dennis Byrnes, state program analyst and acting president of the local employee union, for "outstanding organizing, analysis and enforcement;" Donna Griffin, state program analyst, for "outstanding analysis, inspection and enforcement;" and Gary Fritz, Russ Porter, and Mitch Rollings, mine inspectors, for "outstanding inspection and enforcement."

Reilly praised their inspections of the large, complex mines in Colorado, Utah and the Navajo Nation and their oversight of state programs. ♣



Outstanding OSM employees commended by CCC in April. From left: Dennis Byrnes, Steve Rathbun, Donna Griffin, Gary Fritz, Russ Porter. Mitch Rollings was unable to attend. (Photo by Carolyn Johnson)

CCC Hall of Fame

Stanley Scoville, A Shining Example

By Carolyn Johnson

Coal Field citizens lost a steadfast friend on the Hill when Stanley Scoville retired last January as staff director and counsel to the U.S. House of Representatives Committee on Natural Resources. His staff work was crucial to passing the federal coal law (SMCRA) in 1977. Once the law passed, he prodded and poked OSM to enforce it and helped prevent many efforts to water it down.

In his long career in ego-driven Washington D.C.- which often ignores ordinary citizens-Stanley stood as a shining example of government for the people. He understood the struggles in the coal fields and was unfailingly compassionate and creative in helping citizens get access to an often hostile government. He asked what he could do and he delivered.

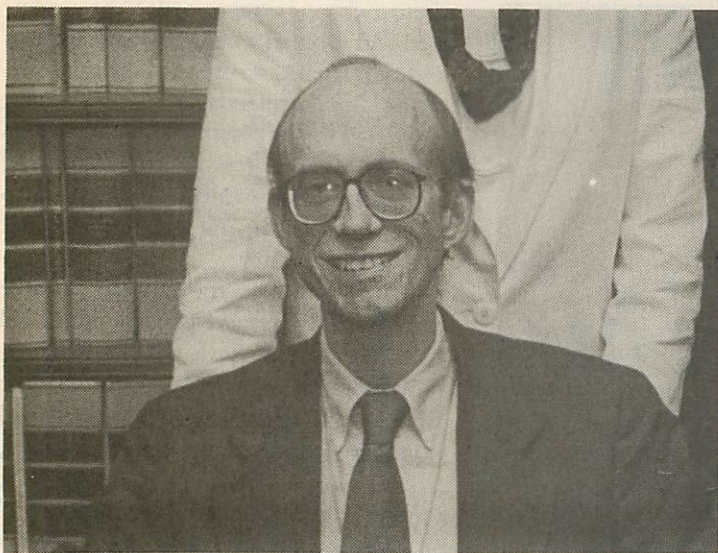
During the more than 20 years I knew Stanley, he never turned down a request to meet with coal field citizens. Indeed, if he heard folks were in town, he would track them down and demand to know when they were coming by to tell him stories of what was happening in their area.

Two years ago I asked him why he always made time in his jammed schedule for citizens. He replied, "I work for them, but the real reason is selfish-they renew me."

A native of Phoenix, Arizona, Stanley came to Washington in 1970 to work for Congressman Mo Udall after earning a law degree from the University of Arizona. ♦



[As this issue went to press, we received the sad news that Stanley died July 8 in Washington. He had AIDS.]



During his long career, Stanley Scoville helped write and later enforce the federal coal law. (Photo: Roll Call)

Our Thanks To ...

Tom FitzGerald, National Citizens Coal Law Project, & Lila Bird, Water Information Network: always coming through. Ted Nace, Peach Pit Press: guidance in desktop publishing. Mary Lou Jones, Zuni Mountain Coalition, Barbara Joshi, Protect A Clean Environment: Photos & clippings. Dan Hellig, WY Outdoor Council, Natural Resources Defense Council, Ruth Nichols: Clippings. You Know Who You Are: Lots of goodies.

Slapping Back (Continued from p. 14)

"SLAPPback suits are proving to be very successful," says Rock. "In two-thirds of these cases, citizens eat the SLAPPers for lunch by giving them lots of bad publicity and winning big bucks."

Rock said, "The ball is now rolling in the other direction on SLAPP suits. A California jury just nailed one of the nation's largest law firms—Gibson, Dunn and Crutcher—for not serving its client well by filing an unconstitutional lawsuit."

"The firm represented a real estate developer who sued homeowners for complaining their new homes were poorly built. This decision should make SLAPPers and their lawyers think twice about filing a SLAPP suit."

Penelope and Rock also wrote a model anti-SLAPP bill for state legislatures. Ten states have passed laws making it easier for courts to dismiss SLAPP suits and encouraging SLAPPback suits.

Other Threats to Rights

Rock says, "We can't be complacent, there's still much to do to protect citizens' ability and rights to take part in governing our country. Attacks have been launched against citizens' right to file lawsuits to enforce laws such as SMCRA and against environmental protection laws as unlawful 'takings' of private property."

"Government also kills participation

by appearing to expand it—holding lots of meetings, asking for comments or setting up processes to negotiate rule-making. These put a burden on citizens, who also have jobs, families and lives." ♦

For More Information...

SLAPP Resource Center, University of Denver College of Law, 1900 Olive Street Denver, CO 80220 (303) 871-6266. Write for free general SLAPP information, pleadings for lawyers, or model state legislation.

Citizen's Clearinghouse for Hazardous Waste, P.O. Box 6806, Falls Church, VA 22040. Send \$3.32 for the SLAPP Back Fact Pack.

It's Not "Our" Reorganization Plan!

Employees of OSM are now undergoing yet another drastic reorganization. This will affect most of us, regardless of Director Bob Uram's assurances that it will have "minimal disruption" on us, the program and the agency.

A year ago, "minimal disruption" meant employees would not be moved unless they chose to and no offices would be closed. Now Uram's plan calls for "directed reassignments" as the primary way the reorganization will be accomplished. Like so much of OSM manager double speak, the definition of "minimal disruption" is a moving target and we employees are learning how large "minimal disruption" really is.

Uram continually says this whole effort is "our" reorganization, "this is what the employees want." Well, Mr. Director, if you repeat that loud enough and often enough, maybe you will convince some people, but not most of us.

Backward Planning

Of the hundreds of OSM employees I've talked to, not one thinks creating a third regional office in St. Louis—a major piece of the reorganization—is necessary or a good idea. In fact, no one is saying anything because we think it's a big joke and represents management's lack of knowledge about planning and this agency. In cart-before-the-horse fashion, Uram now wants a resource assessment to be performed on each office.

Uram also says his reorganization addresses the major points raised by the 1993 Congressional investigation and the Interim Management Team that Secretary Babbitt sent to OSM last year. I disagree.

Congressional investigators found one of the major causes of OSM's problems to be the constant instability of the agency; this was related to a succession of Directors changing OSM's structure or not knowing what they were doing.

Does another reorganization provide

Uram says, "This is what the employees want." Mr. Director, if you repeat that loud enough and often enough, maybe you can convince some people, but. . .

stability to the many employees who must now face moving to another office that may not be there next year?

No, Mr. Director, you have not solved the problems that have plagued us for years. You should realize that employees talking frankly to Congressional investigators is one thing, but most won't talk frankly to the Team or you. In the past 18 months, not one manager has caught on that maybe what employees told the Team was not the full, frank information they told the Congressional investigators.

Team Became Supervisors

How can this be? For one important reason: we did not have to worry about "working" for the investigators after they interviewed us and left, so we could be truthful and honest. The Team members came, ran around the country, talked to people and then claimed that we really wanted what they wanted—reorganized.

Don't forget, two of the eight members of that "interim" Team now have high positions in OSM: Ed Kay as Deputy Director and Mary Josie Blanchard as Assistant Director. Few were so foolish as to tell the Team they did not want to be reorganized because it was a foregone conclusion that Secretary Babbitt and his Team wanted to reorganize OSM.

Effects on Citizens

What does all of this have to do with the people living in the coal fields? For one, morale within the agency is low, probably the lowest ever. The reason is the employ-

ees face the ever-present threat of being uprooted during the reorganization and "ordered" to another part of the country. One way to survive this onslaught is to do your job at the very lowest threshold possible so as to not draw any attention to yourself.

Over the years, many OSM employees have learned that those who make waves stand to be punished by being moved to another office. So, when most employees are confronted with a problem in the coal fields, their response probably is less than it would be without the threat of reorganization.

Second, the entire focus of OSM during the last year is the reorganization. Almost everything has been tied to it—new rules, policies, you name it—and put on hold or greatly delayed. There's lots of activity, but little real action. This means the morale of the employees has not only been hurt, but OSM's "best and brightest" are focused on reorganization when their time could be much better spent getting this program back on track.

Save \$3 Million

A third impact on citizens is the money available for the surface mining program. The new Republican Congress has identified OSM for budget cuts. How the agency fights off this challenge remains to be seen, but one place to begin is giving up the \$3 million currently set aside for the reorganization. That concession may not have an impact on Congress but it surely is worth a try.

Finally, when OSM employees have to deal with internal problems, the agency's real job of protecting people and the environment becomes secondary. Until stability is established and maintained, you citizens—our "customers"—will receive second best. But please do keep in mind, reorganization is not "our" idea. ♣

[This essay was written by a career OSM employee who asked for confidentiality.]

OSM News Flash!

Sept. 22, Washington D.C.—Uram's ultimate "reorganization:" firing about 300 front-line OSM employees. He says Congress made him do it, but he controls who gets fired. Employees are resisting.

Albuquerque—The union local in the OSM field office has filed five "Unfair Labor Practice" complaints against Uram for by-passing the employees and failing to negotiate basic worker rights in good faith. The local began a year ago.

A CCC Special Report on Underground Mining

Sinking and Suffering

By Richard DiPretoro and Carolyn Johnson

Most people think of environmental damage caused by coal as belching smokestacks and acid rain, but people in the coal fields know that damage to homes, land and water go hand in hand with mining coal - regardless of method.

Since 1970, mine owners have increasingly turned to a new, automated underground method known as "longwall" mining to boost production by more than 50% and cut over half the miners' jobs. High extraction mining also increases the heartburn and heartache of people living over the mines. Companies try to reassure them by saying longwalling has "planned" subsidence. This only means it definitely will occur soon after the longwall passes below, unlike the less predictable subsidence from older methods.

This report describes the impact of underground mining on four communities across the country. The effects vary but pain and loss form common bonds. Here are their stories.

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Moses Tenant looks at the collapsed foundation of a neighbor's home in West Virginia. Subsidence has damaged hundreds of homes in that state and southwestern Pennsylvania. (Richard DiPretoro)

Pennsylvania: 700 Homes vs. 1 Mine

Pushing back was the only real choice when hundreds of families learned about a proposed mine's threats to their area. People United to Save Homes (PUSH) formed in 1994 to counter plans by the 84 Mining Company, a subsidiary of Rochester and Pittsburgh, to expand its longwall mine in Washington County, a rural and suburban area about 30 miles south of Pittsburgh, PA.

R&P's expansion would add 14 square miles (9,500 acres) to the mining area. The new mine would take place in the Pittsburgh seam at depths as shallow as 400 feet. It may affect over 700 homes, water supplies, and streams, making it probably the most developed longwall mine surface area in the United States. It also is one of the first to seek a permit under the state's new Act 54.

This state law requires payment by coal companies for damages to surface owners' property, but it also greatly reduces the number and types of structures which coal operators must protect.

Active PUSH member, Ann Funderburk, remembers hearing about the mine expansion for the first time. "My first reaction was a mixture of outrage and fear - fear of losing my home, my water, my natural gas, my property value."

Home Is Old-age Insurance

She says of her home she shares with her husband, "I invested all of my life savings and inheritance in my property, 28 acres. We live in a lovely old Victorian farmhouse which we have restored. Basically, this is my old age insurance, and I had hoped to live here until I become too feeble to take care of myself. I still hope to, but my hope is being badly shaken."

PUSH has waged a vigorous and effective fight against the mine which has invested \$40 million dollars in this new phase. The mine expects to dig out 75 million tons of coal in the next 8-10 years.

Ann says, "I've never been a political activist in all my life. I just retired last fall from school teaching and didn't expect to be spending my retirement doing this."

(Please continue on page 19)

Underground Mining Special Report

Pennsylvania: 700 Homes vs. 1 Mine

(Continued from page 18)

At a recent public hearing, numerous members of the United Mine Workers turned out to shout down and harass opponents of the mine but no one from mine management appeared. Nevertheless, according to Ann, "Most citizens who are aware of the mine proposal are both angry and frightened. There seems to be a high degree of interest among all kinds of people, not strictly environmentalists. Conservatives and bankers are getting concerned. The whole community is waking up to the long-term implications."

Gas Company Protests

The local gas company, with the help of the Pennsylvania Gas Association, has firmly protested the issuance of the new permit. They did so because similar operations have recently broken gas pipes, disrupting gas service and creating dangerous conditions for its customers. The breaks forced the gas company to spend many tens of thousands of dollars to remove gas appliances and replace them with electric ones.

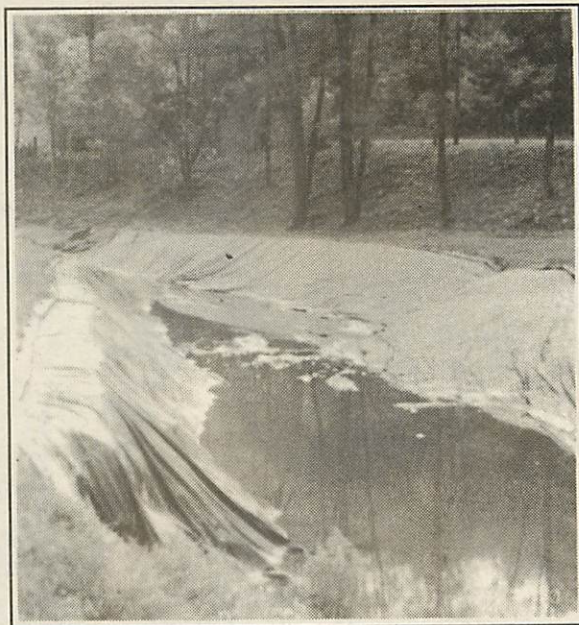
This mine also has caused dangerous methane contamination of water wells by breaking rock layers in the vicinity of the village of Eighty-Four.

Increased Stress on Families

But the most tragic effects of this mine, like others around the country, may lie in subtle, as yet undocumented, stress on families and individuals. Ann says that since the announcement of the mine plans, one couple active in PUSH has separated, a family member of another committed suicide, and yet another died of a heart attack.

"There is anecdotal evidence of a sharp increase in quarrels, arguments between husbands and wives, a drop in children's school performance, and an increase in behavior problems. Children, picking up on their parents' stress, become disruptive when they otherwise would not be," she says. "It fits the pattern of other people who have been through this."

Although the company wanted the Pennsylvania Department of Environmental Resources to issue a new permit this month, that now seems unlikely. The agency found over 100 deficiencies in the application. PUSH members have found major omissions and are determined to save their family homes and community. ♣



Stream Diaper—Consol tried to keep water out of its underground mine by wrapping this West Virginia stream in plastic. In many areas, subsidence disrupts surface water drainage and causes flooding or loss of streams. Flooded land has occurred in Illinois on prime farmland and in Pennsylvania. (Richard DiPretoro)

Coal Operators Say the Darnedest Things!

"I would expect 99% (of structures) to sustain some type of damage."
— Joseph Wilcox, Manager of Engineering, 84 Mining Company, Observer-Reporter, Feb. 5, 1994.

"If the company suspects there could be substantial damage to the property, the company will require the homeowner to vacate the property until the mining is completed." — Robert McGregor, President, 84 Mining Company, Observer-Reporter, Nov. 13, 1994.

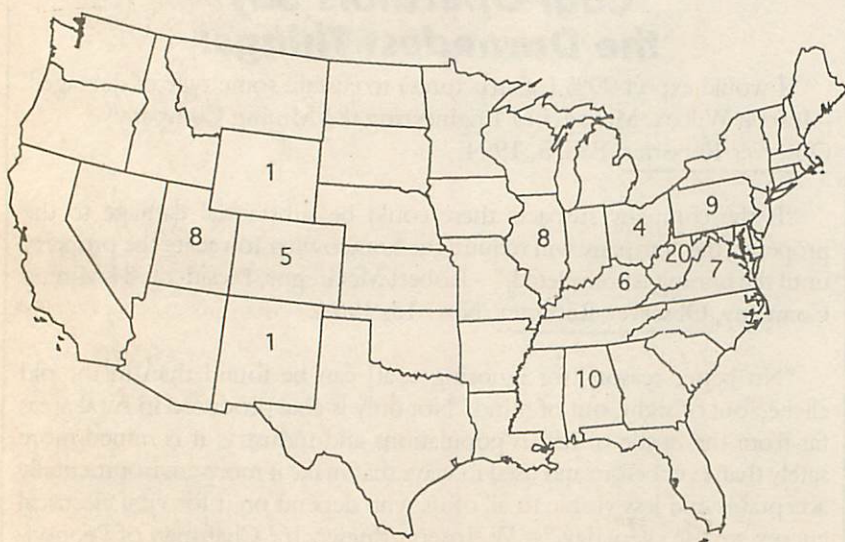
"No better reason [for ignoring coal] can be found than in the old cliché, 'out of sight, out of mind.' Not only is coal produced in rural areas far from the bustle of urban populations and industry, it is mined more safely than ever before and used in ways that make it more environmentally acceptable and less visible to all of us who depend on it for vital electrical energy we use every day." — W. Joseph Engler, Jr., Chairman of Pennsylvania Coal Association and Vice President and General Counsel of Rochester and Pittsburgh Coal Company, Pennsylvania Coal Data, Sept. 1994. Quotes from PUSH, 99 Zediker Station Rd, Washington, PA 15301. ♣

Underground Mining Special Report

Montana: Facing An Uncertain Future



Annika Charter playing in the grass on a June morning at the Charter ranch. (Carolyn Johnson)



Number of Longwall Mines in December 1994. (Source: COAL 2/95)

Jeanne and Steve Charter and Ellen Pfister and her husband Don Golder own adjoining ranches totaling over 40 square miles in the Bull Mountains of Montana, 35 miles northeast of Billings.

The ranches raise fine grass-fed cattle on land that gets an average of only 14 inches of water from rain and snow each year. No large permanent streams cross the land so the cattle drink from springs and wells. During hot weather, a cow needs 30 gallons a day to thrive.

Both couples are members of the Bull Mountain Landowners Association, an affiliate of the Northern Plains Resource Council (NPRC). Ellen is past chair of the Citizens Coal Council. She grew up on the ranch when her parents ran it and returned after graduating from law school.

For 20 years Meridian Minerals, a subsidiary of the Burlington Northern Railroad, tried to open Montana's first longwall coal mine on property under the two ranches. In early 1994, the Montana State Lands Department approved the mining permit, but Meridian is still looking for a market before starting mining. Now the Charters and Golder-Pfisters face an uncertain future.

Water Loss Threatened

Ellen got involved in NPRC and CCC because of the threat of coal mining to water resources. "I was concerned about the effects others had told me about," she said. "If Meridian's mine subsidizes this country and the springs don't come back, it will substantially raise our costs of running the two ranches and lower the value of our land. We will have to haul water for hundreds of cows or drill deep wells – that's expensive and risky."

Ellen is also concerned about the cost to future ranchers, such as the Charters' children. If operated as proposed, the mine will definitely destroy several critical springs. The state approved setting up a trust fund to pay for water replacement, but, "The rancher will then have to deal with another layer of bureaucracy," she said.

The change in land ownership and neighbors also has cost the community. One neighbor and friend, Fred Johnson, sold his ranch to Meridian. "It's not the same having Meridian for a neighbor versus Fred," Ellen said. "After 20 years of harassment, he sold out. I can understand it. You can't lead a normal life trying to run your business while being forced to take part in their mining business." ❀

Underground Mining Special Report

Colorado: Peace No More at Solitario

Ann Tatum is a Texan who owns and loves a working cattle ranch near Trinidad in southern Colorado. She and husband Jim bought the ranch and named it Solitario because of the peace it represented to them.

An artist designed the adobe ranch house that was built in the 30's. Ann says, "It's an irreplaceable home with thick, exposed beams and good ghosts. This home represents everything Jim and I have worked for all our lives. My children and parents love to come here."

During one stay at Solitario in 1991, the Tatums noticed cracks in the walls and floors pulling away from walls. Ann says, "I didn't think of the mine at first. I knew they were mining on the property. I was told they stopped 750 feet away, but they actually stopped 330 feet away."

"I've learned two things: the mining company will say anything to make you go away, and it doesn't take much subsidence to damage a home or property – a few inches cause major problems."

Company Denies All Damages

Basin Resources, a subsidiary of Montana Power, owns the Golden Eagle mine. The section near Ann's home was mined by room and pillar methods about 500 feet down and is now abandoned and flooded. The company denies causing any subsidence or the other mine-related damages experienced by the Tatums.

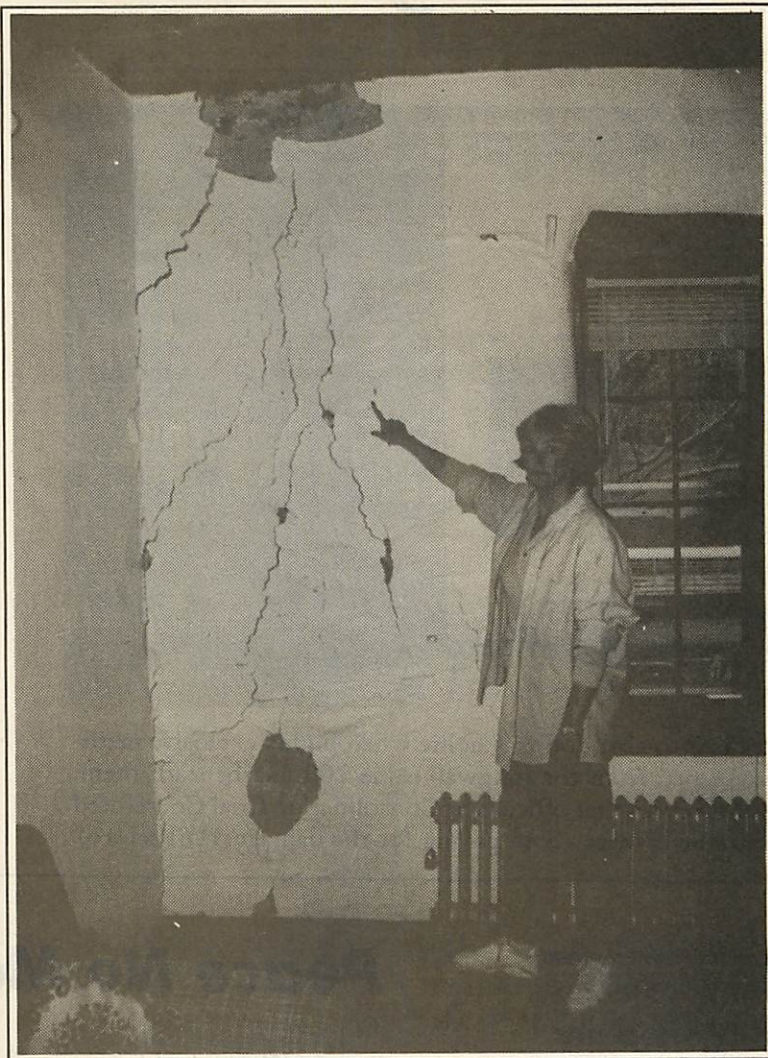
One of the Tatum's wells was destroyed when Basin drilled an air shaft next to it about four years ago. Now the roar from the fan frequently disrupts sleep and conversation in their home. Basin also blocked the Tatums from irrigating their hay meadow for two years.

Ann, a paralegal, and Jim, a lawyer, tried for two years to get the Colorado Division of Minerals and Geology to enforce the law. The Division refused so the Tatums appealed to OSM last fall.

Ann says, "I believed OSM, if not the state, would fairly review all the facts and enforce the law. What a joke! Neither Colorado or OSM give a damn about Joe Public because our name isn't Mister Coal Mine."

"The OSM office in Albuquerque tried to help, but Deputy Director Ed Kay took our appeal and has sat on it for over 9 months. The law gives him 30 days to decide, but he violates the law he's supposed to enforce."

(Please continue on page 22)



Ann Tatum points to a heavily damaged wall in Solitario, her adobe home west of Trinidad, Colorado. Damage to her home is in the tens of thousands of dollars. (Carolyn Johnson)

"I believed OSM, if not the state, would fairly review all the facts and enforce the law. What a joke! Neither Colorado or OSM give a damn about Joe Public because our name isn't Mister Coal Mine."

Underground Mining Special Report

Ohio: Neighborhood Blight, Stigma



Owners had to abandon this home when highly explosive methane gas seeped from the longwall mine 200 feet beneath them. Neighbors report that officials of Consolidation Coal Co. refused to talk to the owners about paying for the damage. (DiPretoro)

Ed and Judy Cope live with their teenage daughter in a neat, modest home near Flushing, in Belmont County, Ohio, near the West Virginia panhandle. They have lived there for 20 of the 28 years since the house was built. Ed works for a machinery company as a welder.

The hilly and rural area of interspersed farms and woods is typical of southeastern Ohio, but an unseen menace lurks beneath the pastoral scene. In the mid 1970's, Consolidation Coal Company (Consol) mined out six feet of coal 200 feet beneath their home. Consol closed the mine and now water flows through it. This is causing the support pillars of coal left to deteriorate.

Consol is owned by Continental Oil which in turn is owned half by DuPont and half by Rheinbraun, the largest energy company in Germany.

In 1989 when Ed and Judy made the last payment on their mortgage, subsidence damage started. Noises at night signaled that their home was literally coming apart. They found cracks in the walls and nail heads coming up through the living room carpet. The chimney was pulling away from the house.

(Please continue on page 23)

This experience has opened my eyes to the serious problems other people in the coal fields face. When I'm over the hump with our problems, I plan to help others. No one should have to go through what we have.

Peace No More at Solitario

(Continued from page 21)

"The state and OSM said they had subsidence experts and sent some down. They (Jesse Craft and Kewal Kohli, OSM, and James Pendleton, Colorado) ignored scientific studies and facts like the railroad tracks were also subsidence damaged and had to be repaired. They bent over backwards to cover up for the company. We hired three engineers and they are poking big holes in the cover-up."

Ann and Jim have filed two lawsuits. They recently spent a week in Colorado in meetings and in court. "We're so wrapped up in this right now," Ann says, "we don't have time to enjoy it. The name Solitario doesn't have the same ring."

Ann says most of her neighbors support her fight with the coal company and some also have damage. "The mine officials are not community-friendly. They never encouraged good relations

with anyone." She says most residents are dependent on the mine and, "It's an intimidating issue for people to go up against a big company."

Saving her home has totally engulfed Ann's life. "It's stressful and affects everything you do. It takes a lot of energy to fight them. They have so much money and have the ability to drown the little man, but we're not going away. We are trying to make this mine accountable not only for us but for our neighbors. Basin basically said, 'Pooh pooh on these little people,' but we have very strong convictions."

"We could not afford to go up against the mine if Jim weren't an attorney and I didn't have knowledge of the law. This experience has opened my eyes to the serious problems other people in the coal fields face. When I'm over the hump with our problems, I plan to help others. No one should have to go through what we have." ♣

Underground Mining Special Report

Ohio: Neighborhood Blight and Stigma

(Continued from page 22)

Most of the Copes' nearest neighbors had subsidence problems worse than theirs. The Marinucci family had to evacuate because methane gas seeped into their home. Another's garage floor dropped 10 inches out of level in hours. Over time and one by one, the neighbors either settled with Consol or gave up and moved away.

Consol tore down some of the homes and allowed the lots to grow up in weeds. The Marinucci home is abandoned, the Copes report, because Consol officials claim they have the "right to subside" and won't talk to the family.

Consol Policy Caused Exodus

This exodus left the Copes with a choice of living in an abandoned area in a home with no market value or of moving and paying rent or new mortgage – unless Consol would pay them fair replacement value. Judy says, "We hadn't planned to sell or move. Consol's first settlement offer would have forced us to move and go into debt."

So the Copes were forced to sue Consol, an experience the Copes didn't enjoy. Consol is the nation's second largest coal producer. Ed said fighting with Consol was, "Like running a foot race with your legs tied together."

The Copes finally got a settlement part way through a recent trial in Federal court. The details can't be revealed because of a confidentiality agreement (see box). Had the trial continued, a real estate appraiser was to testify for the Copes about the stigma attached to their neighborhood and the blight caused by the subsidence and by the continuing threat that more will occur.

Consol's policies promote the blight of the Copes' neighborhood. It bought many homes then sold them back with a harsh restriction in the deed: "...no building of any kind shall be erected on the property on or before the 1st day of January, 2080." This forbids adding rooms, patios or any of the features that mark people's investment in their homes and quality of life. Apparently, Consol believes the land won't be buildable for almost 100 years after mining.

The Copes also had their property tax valuation lowered nearly to zero. The Pittsburgh Coal seam runs under most of Belmont County and much of it has been mined. As the land sinks, so does the county's tax base and with it, hope for the future. ♣



Mark Spezza shows subsidence damage to a highway in Ohio caused by Southern Ohio Coal Company's Meigs mine. (Richard DiPretoro)

Gag Orders

Not only the land sinks from subsidence, so does trust among neighbors. It's common practice for coal companies to bully people into signing 'confidentiality agreements' before paying for damages.

A typical agreement says, "Landowners agree that the terms and conditions of this agreement and release are confidential and shall not be disclosed to anyone."

A confidentiality agreement is a gag order. Barney Reilly of Clinchco, VA, and Chair of CCC says, "The company doesn't want anyone to know how much you got. Even the existence of some agreements must be kept secret. Your lips are sealed once you sign for payment. It bothers people to keep secrets from family and friends."

In rural communities, this forced secrecy disrupts an honest and neighborly way of life and adds to the high stress on families damaged by subsidence.

Unfortunately, lawyers working for citizens with subsidence damage

often recommend accepting a restriction. To refuse risks losing the company's cash offer to their clients, but the cumulative effect on a community is overlooked.

The citizen's lawyer, no matter how conscientious, also has a personal interest in reaching a settlement even when it includes a confidentiality agreement because the lawyer risks losing all fees by losing in court.

Another harmful aspect of these agreements is citizens don't report their damage and water loss to state agencies. Thus, the state and public lack valuable information about a mine's impacts and the amount of bond required. Companies don't tell the state what they pay for subsidence damage so the state and public can't know the liability risk if a company goes bankrupt.

To shed some light, we ask readers to please send copies of confidentiality agreements to Carolyn Johnson, CCC, 1705 S. Pearl St., # 5, Denver, CO 80210. ♣

Underground Mining Special Report

How Do I Protect Myself?

By Tom FitzGerald (Excerpted from "A Subsidence Primer for Citizens")

In 1992, Congress added some protections for landowners from subsidence damage and water loss to the federal coal law. The mining had to occur after October 24, 1992.

The law protects non-commercial buildings and occupied homes and related structures such as garages, patios, fences and sheds. It doesn't protect commercial, agricultural, industrial or retail buildings such as stores, motels and dairies.

Each application for an underground mine permit must show how the company will prevent subsidence that causes "material damage" and how it will maintain the value and reasonably foreseeable use of the surface land.

Six Steps You Should Take

1. Get a copy of the mine permit application. Check to see if your home, water source and community buildings are shown on the mining map. If the information is wrong or incomplete, promptly write a letter to the permitting agency (state or OSM) and to the coal company demanding that the map be corrected.

TIP: Always send your letters to the agency and coal company by "Certified Mail - Return Receipt Requested" so you have proof of when it was received.

2. Have a geologist or mining engineer independently review the mining plan map, the subsidence survey and other parts of the application describing the subsidence impacts.

TIP: Many colleges have engineers and geologists on staff who are willing to review applications, even if they don't want to be publicly involved.

You have the right to file written objections and to request a permit conference if you believe the company has wrongfully stated that its mine won't affect your home or water supply. At the conference, demand that the agency justify why your home and water supply wasn't identified and how they know you won't be harmed.

3. The mining company must make a pre-subsidence survey if your home, other non-commercial buildings, water supply or lands are identified in the permit application as being within the area that may be affected by subsidence.

TIP: Don't refuse the company access to your land to make a pre-subsidence survey. If you do, you lose some protections. Then you have the burden of proving that the mine caused any damage.

Poor quality surveys made by company employees or engineers can be a big problem. The pre-subsidence survey is intended to thoroughly document the condition of all structures and water supplies before mining and make it easier to prove or disprove damage claims later.

TIP: Go with the surveyor at all times. Point out the presence or absence of cracks in walls, foundations, drive-

ways, and around windows and door frames. Show how doors and windows work (to show the lack of problems from structural settling). Make sure the surveyor writes these points down. Show the surveyor the rate of water flow at the tap. Have the surveyor test the water quality and quantity. If the surveyor doesn't do these tests, object in your letter to the agency and the company about the quality of the survey.

TIP: Take pictures of the survey. Snapshots are okay but videotape is much better.

4. Have an independent and qualified laboratory or public agency (such as the health department) test your water quality and quantity (recharge) before any underground or surface mining. Without such evidence, you will have a harder time proving damage to your water supply even though the law demands replacement of the water supply. By getting an independent water test, you have created a record in case the company records are wrong.

TIP: Send your test results to the permitting agency if the numbers in the company's report differ from yours. Demand that the agency test to confirm conditions.

5. Review the subsidence control plan to see if measures have been taken to protect your land and structures. If you have questions, have a professional engineer review them.

6. If the mine damages your water supply, write the company and agency immediately. You have a right to immediate temporary and permanent replacement at no extra cost to you.

The coal company doesn't have to replace the damaged water supply if the water supply owner agrees and if the water supply isn't needed. But the company must show that an alternative water source is available and could be developed in the future. This can be a problem where the coal company leases or buys the surface and later resells the land after mining.

TIP: If you lease land to the company, demand replacement of all water supplies. ♣

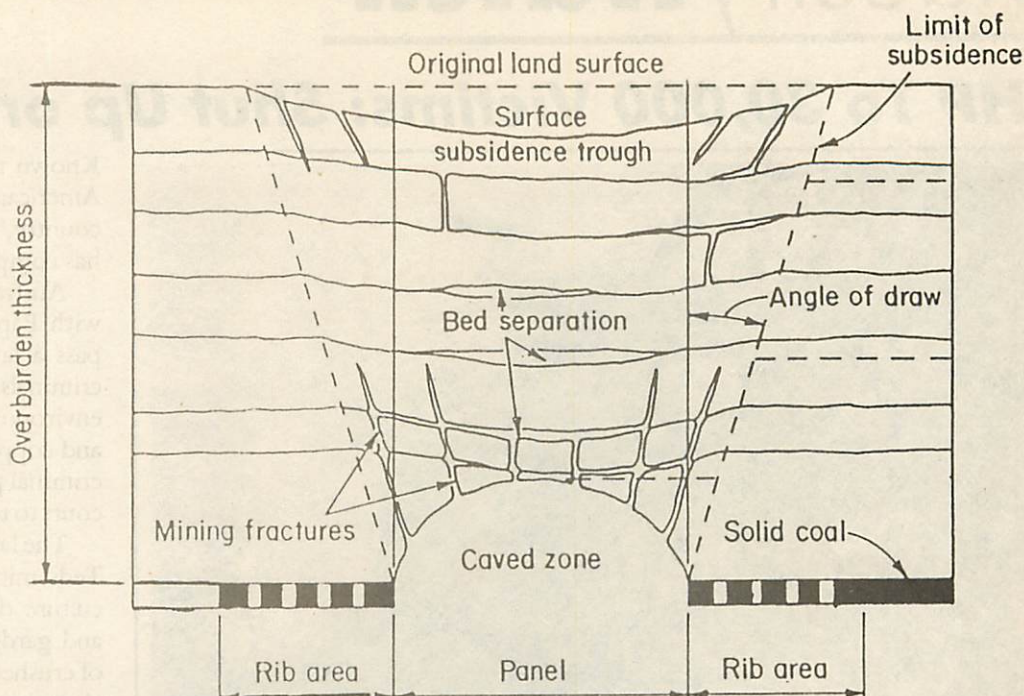
[FitzGerald is an attorney and Director of the National Citizen's Coal Law Project, P.O. Box 1070, Frankfort, KY 40602; (502) 875-2428.]

For More Information . . .

This excerpt contains some information about your rights. You need more if you are facing or have suffered subsidence damage or water loss since Oct. 24, 1992. We urge you to get Mr. FitzGerald's primer by sending \$3.00 (check or money order) to: Citizens Coal Council, 110 Maryland Avenue N.E., #307, Wash. D.C. 20002. Copies will be mailed starting November 1, 1995.

Underground Mining Special Report

"Subsidence is man-made destruction—not the work of the 'Good Lord.' It is movement of the earth that occurs when coal, salt or water are removed from underground. It occurs both up and down and sideways."



Facts About Subsidence and How It Happens

A few years ago, an official with an Ohio coal company that belonged to American Electric Power told a public meeting, "There is nothing to worry about with longwalling. After we're through, the land will still be just like the good Lord made it, only four feet lower."

Subsidence is man-made destruction—not the work of the "Good Lord."

It is movement of the earth that occurs when coal, salt or water are removed from underground. It occurs both up and down (vertical) and sideways (horizontal).

Look at the drawing. The area where coal is mined is a **panel**. Mines achieve **full extraction** by removing the support pillars from continuously mined areas or by using the longwall method. **Longwall mining** causes most new subsidence problems today. Full extraction means all the coal is removed and none is left to support the mine roof and land surface. In the past some coal was left because workers could not safely remove all of it.

Although longwall mines are safer than **continuous mines** (room and pillar mines) in terms of roof falls, they can produce more dust and air quality problems for workers.

The drawing shows that the area of ground movement above the panel is wider than the panel. This larger area is the **subsidence trough** or **basin**. Some coal operators still tell citizens that movement can occur only directly above the panel, but many examples show that movement occurs over a larger area.

The subsidence basin is wider than the panel and the term for this is **angle of draw**. This angle is between a line drawn up from the edge of the panel to the land surface and a line drawn from the edge of the panel outward to the farthest place on the surface where movement occurs.

Many mine operators claim the angle of draw is 15 degrees, but the angle is often much wider and can reach 35 degrees or more. The bigger the angle, the more land surface that movement affects.

The angle of draw around a panel can vary a lot. Research in West Virginia has shown that in hilly areas the angle tends to be larger downhill and horizontal movement can exceed vertical movement. Horizontal movement often does even more damage than vertical movement.

The amount of vertical movement is related to the thickness of the mining

which is called **mining height** and may exceed the coal thickness by several feet in some areas.

The amount of vertical movement that may reach the surface is also related to the depth of the mining below the land surface and to the type of **overburden**—the rocks between the coal and the surface.

In northern Appalachia, the maximum surface subsidence usually is about 60 percent of the mining height. This means that for a mining height of 5 feet, the maximum drop is 3 feet. Ground movement is zero at the edge of the subsidence basin, and a slope is created between the edge of the basin and the place with maximum subsidence.

The subsidence slope is not as smooth as in the drawing. Measurements over longwall panels prove that the drop does not uniformly increase from the edge of the basin to a maximum in the center of the panel.

Different rock layers don't behave alike when they move, so the actual profile may be bumpy. The maximum subsidence may occur not in the center but near the sides. Sometimes the ground at the sides even rises because of a cantilever effect. ♣

IndustryWatch

BHP To 30,000 Victims: Shut Up or Go to Jail



Disposal of raw effluent from the BHP mill, Ok Tedi mine, Papua New Guinea.

Known to run rough-shod over Native Americans and the environment in this country, the BHP mining company also has compiled a dismal record overseas.

Australian-owned BHP cut a deal with Papua New Guinea in August to pass a law making 30,000 landowners criminals if they persist in suing BHP for environmental damage caused by its gold and copper mine. The proposal also sets criminal penalties for anyone who asks a court to review the law and their lawyers.

The landowners live below BHP's Ok Tedi mine in a traditional subsistence culture dependent on fishing, hunting and gardens. BHP dumps 80,000 tons of crushed rock, cyanide, and heavy metals daily into the Ok Tedi and Fly rivers.

Landowner leader Alex Maun says many have asked him why they should keep going to court. "They are saying, 'If we are to be made outlaws for peacefully going to the courts to hear our case, why should we not simply go to the mine and take back our land and our river?' I have been telling people to be wise and calm and trust the courts to hear our claims. Now they are going to take this from us and call us criminals. What can we tell our people now?"

Thanks to BHP, the landowners in this Pacific Island nation now face ecological disaster. Rivers are too polluted to drink or use for washing, village gardens are destroyed, large areas of forests are dead, and all crocodiles, turtles, shellfish and most fish are wiped out.

Before mining began in 1984, BHP pledged to build a dam to contain the tailings but failed to do so. A dam built now would not reverse the destruction.

BHP owns the Navajo, La Plata and San Juan coal mines (New Mexico) and the Knight mine (Utah). It consistently skirts the law; for example, recently OSM had to again cite the Navajo mine for illegal and unsafe blasting.

[Information and photo courtesy of Gordon & Slater, an Australian law firm representing the landowners.] ♣

So Far to Go, So Heavy the Load

Do you lie awake at night wondering what coal industry executives make? Rest easy, here's the salaries of five:

Company	CEO*	Salary**
Cyprus-Amax Minerals	Milton H. Ward	\$6,826,384
Coastal Corporation	O.S. Wyatt, Jr.	1,034,185
Pittston Coal	Joseph C. Farrell	863,602
Kerr McGee	Frank A. McPherson	619,122
Montana Power	Daniel T. Berube	311,400

*CEO is Chief Executive Officer. **These are straight salaries, not including the value of executive perks such as stock options, pensions, country club dues, etc.

Please Note: Executive salaries for many coal companies aren't published because the companies are subsidiaries of larger corporations or foreign-owned. For example: Peabody is owned by Britain's Hanson Industries; BHP Utah International is Australian-owned; Consolidation Coal is owned 50-50 by Dupont and the German company, Rheinbraun A.G. (Salary figures are from the Library of Congress database for 1994 industry annual reports.)



Sun Scares Coal Industry

Solar energy advocates called a recent study paid for by the coal industry "sheer nonsense." The study claimed it would cost \$52 billion to double the use of renewable energy sources such as solar and wind power by the year 2010.

Scott Sklar, head of the Solar Energy Industries Association, said the coal industry gets \$8 billion in federal subsidies and tax benefits each year. He described the study as a "desperate attack" to counter a recent opinion survey that found overwhelming public support for reducing federal subsidies to coal and increasing them for renewable energy.

Think About This: Coal burning contributed 493 million metric tons of "Greenhouse" producing carbon gases in 1993. Even with so-called "clean coal technology," coal burning is responsible for nearly 80% of the sulphur oxides that cause acid rain. Methane is one of the leading "greenhouse" gases that contribute to global warming; 16% of all of the methane gas released by the U.S. into the atmosphere comes simply from the act of mining coal. ♣



"Will this be cash, credit card or government subsidy?"

Reprinted from Z Magazine, September 1995

Big Bucks Buy Access

The *Los Angeles Times* reported in July that the Democratic National Committee (DNC) sent letters to its wealthiest backers offering those who give \$100,000 to the party: two meals with President Clinton; two with Vice President Gore, plus "a personal DNC staff

contact" to help cut through red tape in the Washington bureaucracy.

The Republican party also sells access and offers power lunches with their Congressional leaders for a hefty price. Democrats are now copying them and say they can't unilaterally stop. ♣

Basin Electric Busted, County Supports Citizens

Basin Electric Power Cooperative lost its bragging rights in a battle with county officials determined to protect their citizens from irresponsible mining practices.

The giant multi-state utility has long boasted of "environmental leadership" while at the same time lobbying hard and often effectively against strong coal mining and air pollution rules and bullying any official who tried to enforce them. Basin met its match, however, when officials of Oliver County, North Dakota, refused to back down.

The county charged Basin with dumping dangerous wastes in coal strip mine pits on Gwen and Ken Thompson's land without approval. (See "Secret Dump Exposed," Reporter, Oct. 1994.) County officials levied a \$15,000 fine despite Basin's offer of a \$10,000 "gift" to the county to forget the whole thing.

Basin appealed the fine to District Court and brought in a battery of high-priced attorneys and public relations people to press its arguments. The County presented detailed affidavits from six United Mine Workers who had been ordered by Basin managers to help dump oil, grease and chemicals and then cover them with tons of dirt.

Union members had filed citizen complaints to OSM and the state Reclamation Division about the dumping in 1993, but neither agency had the backbone to defy Basin and do a thorough investigation. Instead they sent inspectors to, as the Bismarck Tribune described it, "browse" the area and give Basin its "clean" bill of health.

The judge didn't buy Basin's arguments and found for the County. Basin paid the \$15,000 fine in August. ♣

WV Fines AEP for Acid

American Electric Power's Southern Ohio Coal Company subsidiary is paying a record fine—\$360,000—for its discharge of a billion gallons of acid mine water into the Ohio River over a 43-day period in 1993. The disaster was major national news when it happened and a classic worst-case example of jobs-versus-environment. SOCCO and its workers claimed dumping the acid water was the only way to keep the Meigs County mine open. Ohio allowed the dumping, and a judge enjoined OSM and EPA from using federal law to stop it.

Neighboring West Virginia levied a fine of \$1.8 million against SOCCO because the state owns the Ohio River at the point of the discharge. The actual \$360,000 payment resulted from negotiations and, though much less than the original, sets a new state record. ♣

How Citizens Organize & Win

Dirty Coal Plant Killed

By Grace Morton

Four concerned citizens started organizing in 1989. In 1994 thousands of citizens in three states defeated this unneeded, over-sized, polluting plant.

Halfmoon, New York sits near the end of the D&H Railroad that carries coal from Pennsylvania. The Inter-Power company planned to build a large coal-burning electric power plant in this heavily populated area 11 miles north of Albany. Four concerned citizens started organizing in 1989. In 1994 thousands of citizens in three states defeated this unneeded, over-sized, polluting plant.

Here's how we did it.

In 1989, George Clark, fire safety instructor, Ed Driscoll, sales person, John Seakwood, photographer and filmmaker, and Grace Morton, retired administrative assistant, learned of Inter-Power's plans. We studied the plans and became concerned about the proposed plant's effects on the area's health, environment and economy.

The plant planned to burn high sulfur (2.3%) coal from western Pennsylvania. The "atmospheric fluidized bed" technology, touted by Inter-Power as clean "state of the art," had existed for many years. However, no one had ever built a power plant this large (210 megawatts) using this technology.

Serious Health Threats

Inter-Power's location – in a fog-ridden river valley subject to air inversions that trap air pollution for days at a time – posed serious health threats. Although the developer claimed its power was cheaper than existing sources, we found the plant would cost consumers an additional \$1.2 billion. And, there was no need for the electricity in New York or the other Northeastern states.

In July 1989, the four citizens formed the Inter-Power Opposition Committee. We asked for official party status in the permit hearings before the New York State Siting Board and this was granted.

For the next year, we held many public information meetings, not only in New York, but also in Massachusetts and Vermont. These meetings covered many topics, including coal types, emissions, combustion technology, cogenerators, energy forecasting, health and environmental effects, and the siting permit process.

We also had to debunk false and misleading statements by well-funded Inter-Power, which

had strong alliances with the U.S. Department of Energy, the National Coal Association, the Pennsylvania Coal Association, and the A. T. Massey Coal Company.

Our Public Meetings

Before each public meeting, we sent notices to the local radio stations, wrote letters to the newspaper editors, and posted fliers. At the meetings we passed out sample resolutions against Inter-Power and sample texts for people to send postcards and letters to their governor, attorney general, and commissioner of environmental protection. The volunteer sign up sheets and petitions became the basis for our fund appeal lists.

Massachusetts and Vermont folks were angry to learn New York planned to build an oversized coal-fired power plant just 25 miles from their state borders. Prevailing westerly winds meant the maximum air pollution impact would be in Massachusetts and Vermont – not New York.

The Opposition's intensive outreach program resulted in passage of resolutions against Inter-Power by 33 communities in Massachusetts, 22 in New York, and 2 in Vermont. Countless health, environmental and sportsmen's organizations also passed resolutions. Due to the political pressure generated by this outcry both Massachusetts and Vermont were granted official party status in the New York proceedings in early 1991. Having two downwind states as powerful allies was invaluable to our fight.

A \$50 Million Fight

As the Inter-Power permit hearings grew in size and complexity, the Opposition needed a lawyer. We were fortunate to secure the services of Jeffrey M. Bernstein of Boston, a truly dedicated public interest lawyer. His tireless work and unerring strategy maximized our limited financial resources against the 50 million dollars Inter-Power claimed to have spent.

When it became obvious that the NY regulatory agencies reviewing Inter-Power's application were acting as advocates for the developer, Jeff told us we could win only by challenging the

(Please continue on the next page)

We need to join forces with citizens impacted from all the links of the energy chain in order to win.

Siting Board's permit approval in court. So, we went to court.

Throughout the court battle, we continued in every possible way to organize opposition and raise funds. We didn't put all our eggs in the lawsuit basket and let our organizing work stop. We kept the heat on!

We wrote more than 50 articles, printed thousands of fliers and fact sheets, held press conferences, had information tables at events, and held rallies at the plant site, the State Capitol and the Governor's Mansion. We also delivered petitions with 7,000 names of opponents in the three states to NY Governor Mario Cuomo.

Besides the typical fund raising activities of sending appeal letters, getting foundation grants, and holding yard sales, we also interested several celebrities in our fight. Actor Christopher Reeve helped, singer Bonnie Raitt gave a benefit concert, and environmental lawyer Robert F. Kennedy, Jr., son of the late U.S. Attorney General, spoke at a benefit. This money was earmarked for legal costs. We spent about \$18,000 for our organizing work.

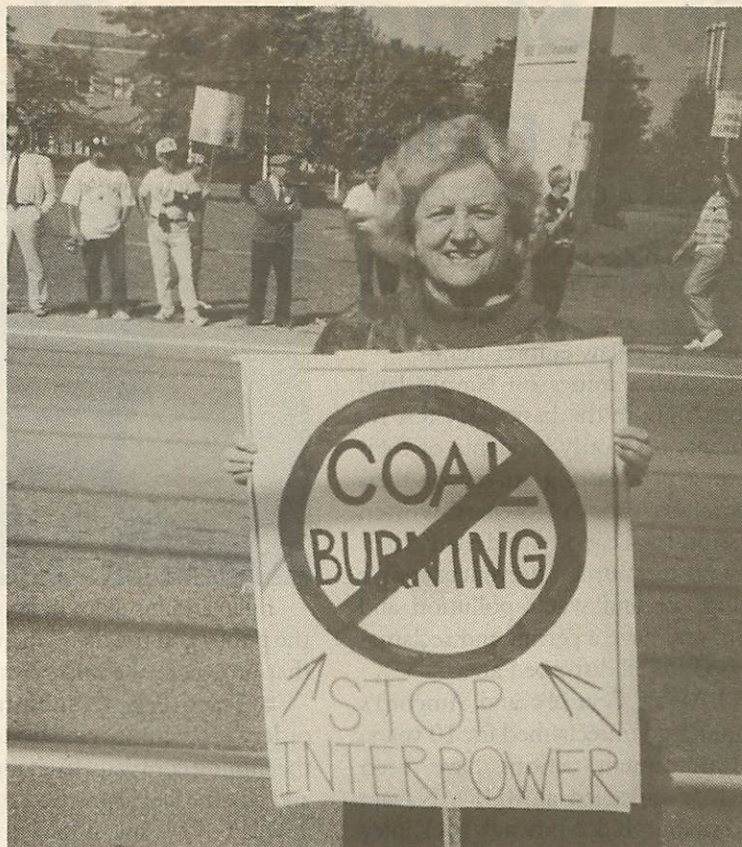
Our Christmas Victory

The judge overturned Inter-Power's permit last April, but the fight still wasn't over. The company had asked the NY State Siting Board for an extension. We refused to give up and after five years we finally defeated Inter-Power when the Board dismissed it on December, 23, 1994.

There were many intermediate wins along the way to our final victory. For example, before we killed the project, we "improved" it by forcing a redesign to burn lower sulfur coal, reduce nitrogen oxide emissions, and save 30 acres of valuable wetlands.

The Inter-Power case is a good example of the connections between residents of coal mining, "coal burning, and downwind areas. Those of us fighting to protect our land, air and water need to learn from each other and join forces with citizens impacted from all the links of the energy chain in order to win fights like this one. ♣

[Grace Morton is a member of CCC. For more information, you may write her at: 2 Thurlow Terrace, #8B, Albany, NY 12203.]



Opponents of the coal-burning power plant protested at a GE factory that planned to buy the power. (By Midge Germain)

Salt Mine Wreaks Upper NY Area



Highway near Geneseo, NY, destroyed in 1994 by subsidence at Akzo-Nobel's salt mine. Protect A Clean Environment joined CCC to learn how citizens can win protection from salt mining, a largely unregulated industry. (Dale Hamilton, PACE)

For Shame. . . The Bad Actors

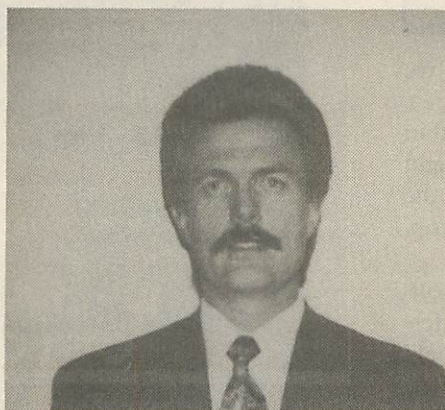
Billie Clark—Ticket Fixer

Billie Clark is OSM's chief of Indian lands permitting in Denver. Under Billie, OSM denies rights to Native Americans, grants permits that don't meet SMCRA standards, lets companies avoid reclamation, and blocks law enforcement.

♦Peabody's mines on Navajo land (Arizona) ignore the basic SMCRA requirements to: notify residents of their right to a pre-blasting survey of their homes; show proof of owners' written permission for Peabody to destroy their homes; protect burials; prevent excessive stripping, air and water pollution and erosion; and have a permit and reclamation bond for all disturbed areas.

♦OSM let Consol's and Amcord's strip mines go unreclaimed for 10 years.

♦Enforcement actions have been blocked or cancelled at BHP's Navajo mine, Pittsburgh & Midway's McKinley mine, and Peabody Coal's Black Mesa and Kayenta mines.



Billie and his allies hide records from the public and use delay and other tactics that protect coal companies:

♦They illegally substitute "permit orders" for citing violations and allow the mining company to change its permit and add the illegal practice, thus avoiding a ticket. (By law, OSM must cite all violations.) Under Billie's lead, OSM regularly lets Pea-body walk away. OSM

also did it at the McKinley mine where inspectors wrote violations in 1993 for failing to mine and reclaim on schedule. Now the mine may owe up to \$20 million in royalties to the Navajo Nation.

♦CCC has received reports of a favorite tactic, which looks like black mail to us, of canceling violations on Indian mines or else Billie or an ally will testify in trial for the company and against OSM. To avoid the "embarrassment" of appearing to be a "house divided," OSM managers reduce or cancel violations in out-of-court agreements.

The Real embarrassment. We're told Billie got the highest rating during his most recent job performance review. **Wanted: OSM manager with spine to weed out Billie, stop the bully boy tactics, and clean up OSM's mess on Indian lands.**

[Photo courtesy of OSM. CCC obtained information for this article under the Freedom of Information Act] ♦

WV Mine Wrecks Homes, Water

Beginning in 1988, heavy blasting at Hobet Mining Company's #7 strip mine has ripped apart the homes of the Ooten brothers in Scarlet Hollow, 17 miles from Logan, WV. The state Department of Environmental Protection (DEP) and OSM have refused to stop Hobet Mining Company's destruction of the Ootens' property and lives. Hobet belongs to Ashland.

The blasts twisted and wrecked the two Ooten homes—doors don't open and most windows are broken. A back corner of Barbara and Clarence's home gaped open and copperheads came inside. So far they have killed five of the poisonous snakes in their home.

For months, Edward and Susie had to try to sleep with a drag line stretched over their bedroom roof. Blasting has destroyed both families' wells. Edward and Susie now must buy bottled water. Clarence and Bar-

bara have to catch drinking water from a self-made spout in their front yard.

The Ootens did not give permission to mine so close, but both OSM and DEP

claim Hobet Mining Co. is "in compliance" with distance and blasting rules, and told the Ootens that they can find no concrete evidence that Hobet is at fault.

At first the Ootens didn't know their rights, but they became enthusiastic members of the **West Virginia Organizing Project** and learned how to file citizen complaints. Susie documents the date and time of every blast, meeting and phone call and takes lots of photos.

The Ootens support others in their battles and make a special effort to turn out for meetings. Edward says, "Everybody standing strong together is what's going to make the difference."

Wanted: DEP and OSM—Enforce the law and protect your customers, the Ootens; Hobet Mining—pay up.

[Adapted from an article by Elaine Purkey, WVOP staff organizer.] ♦



Barbara Ooten shows one of the windows broken by blasts at the Hobet strip mine. (Will Collette)



AEP wants to leave huge pit, 100-foot highwalls to "education." (PWE File)

Outrageous Conduct Not Punished



Moncrief lied about his education and military service. (OSM)

Jim Moncrief, who ran OSM's Tulsa office for 10 years, abruptly resigned in July when confronted by the Associated Press about lying on his resumé. Making false statements on federal employment forms is a crime, punishable by up to five years in prison and a \$10,000 fine.

Moncrief claimed a geological engineering degree and Korean War service. CCC had information showing he took one engineering course, flunked it, and never saw the war. CCC gave AP the material after OSM Director Uram didn't take action. OSM gave Moncrief a \$25,000 going-away gift. **Wanted: OSM must prosecute Moncrief and restore a high ethical standard. ♣**

AEP Scam: Rip & Run Land

Grab your wallet! If a subsidiary of American Electric Power (AEP) gets its way, it'll charge real **money** to visit a strip mining abuse theme park. ("Rip & Run Land?")

The Central Ohio Coal Company has asked the Ohio Division of Reclamation for permission to leave some 200 acres unreclaimed so it can set up a "museum" in testimony to "man's historic efforts to master the earth and claim its resources," according to a memo obtained by CCC.

The outdoor museum would feature a strip mine pit 3,000 feet long enclosed by a 100-foot highwall and a dragline named "Big Muskie" sitting at the pit edge like an extinct prehistoric monster. Tourists would pay to get into this "exciting and profitable visitor complex" and see exhibits inside the dragline. Visitors standing on the highwall would have "good views" of endangered animals in The Wilds, an adjacent animal refuge for exotic species that was built on mined land donated by AEP.

Just incidentally, AEP's proposal would let this giant, politically powerful utility walk away from most of its legal liability to reclaim—\$500,000 plus—and a costly dismantling of Big Muskie. Also, AEP probably is eyeing a tax write-off for donating land to this "public education museum."

Lisa Morris, Chief of the Ohio Division said, "There's no provision in the law for this. I have lots of questions."

Wanted: Reclaim, AEP. Keep questioning, Ms. Morris, and kill this turkey. ♣



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Meet the Folks of CCC

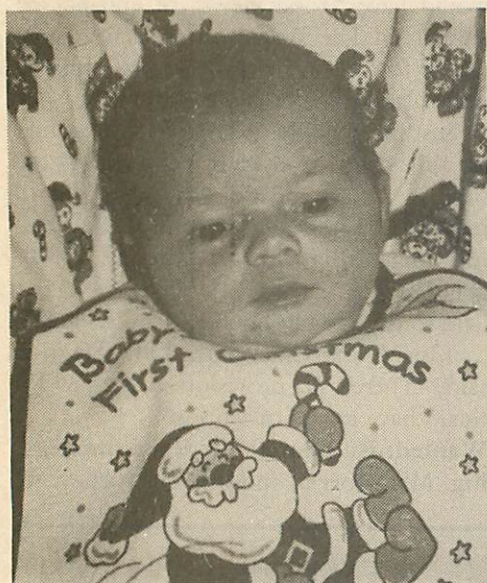
Clockwise from top left: Lila Bird, Water Information Network, receives a CCC award from Chair Barney Reilly. Julia O'Quin, Dickinson County Citizens Committee, VA, shows jars of her water ruined by acid drainage at Pittston's mine. Joe Begley with the Kentuckians For The Commonwealth tells Joanne Fox and Millie Buchanan about the long campaign he helped lead against coal mining abuse and to pass SMCRA, the federal coal law. Jeremy, one of CCC's youngest members, born to Kim & Gene Wirtz, Dakota Resource Council, in December.



Jerry Black



Will Collette



Gene Wirtz



Will Collette

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