



## BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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# The LEAGUE LINE

Spring 2015

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## The Fracking Venomous Snake

*Pastor Cary Rodgers*

There is a "fracking" venomous snake 592 miles long that will try to slither its way down from West Virginia to North Carolina bull dozing through 12,972 acres of land, disrupting animal life, contaminating waterways, poisoning the air, offending the health of people, and violating property rights. After it rests its hollow diameter frame on this trail of destruction, 42 inches from West Virginia to Virginia and 36 inches in North Carolina it will then pump daily up to 1.5 billion cubic feet it's venomous methane gas to huge "fire polluting dragons" that will spew toxic gas into our air.

The handlers of this snake salivate at the amount of money they can make from the venom. They know the dangers of this venomous snake, but before they release it, they tell residents in its path how they won't get bit and they have nothing to worry about. They promise communities jobs and money. Many of the politicians believe them and also salivate at the possibility of getting some of the cut from its handlers. This is not the plot of a New York's bestseller nor the imagination of Hollywood.

This is reality. The fracking venomous snake in this real plot is the Atlantic Coast Pipeline. Its main handlers are Duke Energy and Dominion Resources. The Atlantic Coast Pipeline is not your

typical pipeline. It is part of a network of pipelines that will support the destructive and dirty method of extracting natural gas known as "fracking". It will contain highly pressurized natural gas coming from the Marcellus Shale, the "mother lode" of fracked gas in West Virginia with the possibility of explosions and leaks. A major source of air pollution along the pipeline route will come from compressor stations that are spaced between 50 to 100 miles apart. Each station will spew sufficient amounts of toxins in the air such as sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), carbon monoxide (CO), particulate matter (PM<sub>10</sub>), and hazardous air pollutants such as benzene and formaldehyde. All of these toxins can cause health debilitating respiratory diseases and the possibility of various cancers. (continued on page 7)



Cary Rogers and C3V held a press conference to oppose the Atlantic Coast Pipeline in Fayetteville, NC, April 28, 2015

## Imminent Exports through Eminent Domain? NO!



*Mara Robbins, Virginia Campaign Coordinator*

Eminent Domain indicates the power of his "Eminence," the King, to seize back or return to the King "his" domain or land. The foundation of this legal premise goes all the way back to English feudal times, where the King owned all land but gave property to or allowed the use of land by the Lords. Ownership of property in the USA these days is still based on feudal property concepts. If someone tries to take your land illegally, trespass or damage your property, the property owner can call the sheriff, the enforcement arm of the government, to protect their property. In many ways a landowner's property rights are still dependent upon the present day Government, our version of the King.

According to the Federal Energy Regulatory Commission's (FERC) website, the agency can give private corporations natural gas certificates which allow them to use eminent domain as a last resort if the landowners and the developer can't come to an agreement.

Prior to 2005, federal law only granted FERC authority over interstate pipeline commerce that occurred within the United States, but a section of law was added that covers: "the importation or exportation of natural gas in foreign commerce and persons engaged in such importation or exportation." (continued on page 3)



2014



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## **BREDL: Who and what we are**

In March 1984, fifty citizens of Ashe and Watauga Counties met in the Mission House of Holy Trinity Church in Glendale Springs, North Carolina. Teachers and farmers, home-makers and merchants listened to the report of the Episcopal Church Women on the US Department of Energy's siting search for a high-level nuclear waste dump in the rain-rich east.

Recognizing that the North Carolina mountains were a region at risk, the assembled group organized the Blue Ridge Environmental Defense League (BREDL) to protect their own backyard and those of other threatened communities.

Grassroots organizing was a cornerstone of our early all-volunteer organization. One of our first multi-county boards of directors adopted our credo, which embodies our mission statement:

## **BREDL Credo**

We believe in the practice of earth stewardship, not only by our league members, but by our government and the public as well. To foster stewardship, BREDL encourages government and citizen responsibility in conserving and protecting our natural resources. BREDL advocates grassroots involvement in order to empower whole communities in environmental issues. BREDL functions as a "watchdog" of the environment, monitoring issues and holding government officials accountable for their actions. BREDL networks with citizen groups and agencies, collecting and disseminating accurate, timely information.

BREDL sets standards for environmental quality, and awards individuals and agencies who uphold these standards in practice.

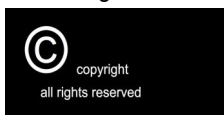
## **Moving into the future**

Since then, the Blue Ridge Environmental Defense League has grown to be a regional community-based, nonprofit environmental organization. Our founding principles - earth stewardship, environmental democracy, social justice and community empowerment - still guide our work for social change. Our staff and volunteers put into practice the ideals of love of community and love of neighbor, which help us to serve the movement for environmental protection and progressive social change in Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama and Tennessee.

## **Grassroots Campaigns**

Nothing creates hopefulness out of helplessness like a successful grassroots campaign - and our chapters have a history of winning. For over twenty-eight years Blue Ridge Environmental Defense League chapters have protected their communities by stopping dangerous facilities and promoting safe alternatives.

In the 1980's and 1990's, BREDL prevented a multi-state ThermalKEM hazardous waste incinerator, a southeastern nuclear waste dump and a national nuclear waste dump. In the 2000's, our coordinated grassroots citizens' campaigns have had further victories. We won a legislative victory with the passage of the NC Solid Waste Act, effectively blocking at least four multi-state mega-dumps. Our Person County chapter convinced their Board of Commissioners to reject expansion of the Republic Services landfill. Our Cascade, Virginia, chapter shut down a huge hazardous waste incinerator. We eliminated mercury waste from the Stericycle incinerator, shut down a tire incinerator in Martinsville, won the landmark environmental justice court decision in Greene County, NC. Further, with our chapters we have protected air quality by blocking scores of asphalt plants, four medical waste incinerators, a PVC plant and a lead smelter, and passage by local governments of eight polluting industries ordinances. Our work on nuclear power and coal plants laid the groundwork for our new Safe Energy Campaign. Victories over twenty-four mega-dumps have resulted in our affirmative Zero Waste Campaign. Guided by the principles of earth stewardship and environmental justice, we have learned that empowering whole communities with effective grassroots campaigns is the most effective strategy for lasting change. ■



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The problem with that power as it relates to the regulation of natural gas destined for export is that it depends on whether the taking is “for public use.” And selling America’s fracked gas to foreign countries isn’t in the public interest. Not even a little bit.

The US Department of Energy presently has before it numerous applications to export liquefied natural gas (LNG) to non-Free Trade Agreement countries. The project proponents in these applications also have applied to the FERC for approvals related to onshore LNG facilities. FERC is the lead federal agency for the preparation of environmental assessments (EAs) and environmental impact statements (EISs) required under the National Environmental Policy Act (NEPA) for the applications that are pending before both federal agencies.

On September 11, 2013, Dominion Resources was granted an “ORDER CONDITIONALLY GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL FROM THE COVE POINT LNG TERMINAL TO NON-FREE TRADE AGREEMENT NATIONS.” The proposed \$3.8 billion investment to add natural gas liquefaction and export facilities to the existing site represent a potential project that could devastate the Cove Point community and environment.

The logical conclusion of this is that Dominion intends to ex-

port the fracked gas that they want to transport through dangerous 42 inch high pressure transport lines and they want to utilize the laws of eminent domain to force landowners to allow them access to their property so that these pipelines can plow through on their way to coastal export facilities. It is NOT determined that this activity would be considered “public use,” because the only potential benefit to the public would be economic. With a global movement pushing for immediate divestment in fossil fuels, rapidly falling gas and oil prices and undeniable evidence that natural gas is NOT a “bridge energy” as we transition away from coal, it will become harder and harder to make the case that the transport and export of fracked gas is in the best interests of the USA considering the health and safety of American residents and the potential for sustainable economic development through the implementation of clean energy practices.

According to “We are Cove Point,” which is “a coalition of people and organizations that are working together to stop a new liquefied fracked gas export terminal that Dominion Resources is trying to build in the residential community of Cove Point in Lusby, MD,” the fracked gas export terminal will:

- Emit 20.4 tons of pollutants into the air each year that will cause increased respiratory and cardiovascular diseases – Dominion purchased emission credits which allow them to expel more

(continued on page 4)



(continued from page 3)

pollutants than would normally be allowed.

- Bring 85 1,000-foot-long tankers into the Bay that carry explosive materials and discharge millions of gallons of ballast water which threaten marine life and the livelihoods of those who depend upon it.
- Require the clearing of forests that protect local streams and will permanently bury 1,000 feet of waterway.
- Emit over 3.3 million tons of Greenhouse Gases each year making it the fourth highest polluter in Maryland.
- Use 210,000 gallons of precious water every day.
- Stockpile toxic and potentially explosive chemicals such as benzene, acid gases, propane and ethane which could create a fireball that threatens the nearby neighborhood and schools and the Calvert Cliffs Nuclear Power Plant. There is no safe evacuation route.
- Create noise pollution 24 hours a day requiring a sound barrier wall as tall as a six story building, the tallest human-made structure in Calvert County.
- Increase truck traffic on small rural roads which correlates with more accidents and slower emergency response times for the community.
- Drive more fracking of the Marcellus Shalefield for **export** to places where prices for methane are higher which will put even more communities in the region at risk and require more pipelines and compressor stations to be built.

Many people are joining in the effort to stop LNG exports from Cove Point, but it has been a long, hard road thus far:

"Tracey Eno, a resident of Cove Point, will add that people have tried every avenue to stop this terminal from being built. She has testified 18 time before the County Commissioners who do not answer the questions that she and other community members raise and have refused to do a quantitative risk assessment to determine the risks to the community. She has testified at numerous state and federal hearings, written to local, state and federal representatives and President Obama. Citizens have tried litigation and all aspects of lobbying. There are not other alternatives to civil resistance to protect the health of the community."

One of the ways that we can challenge the rights of eminent domain in our own communities is by challenging the definitions of "public good."

"Federal courts did not decide a case involving the federal government's use of eminent domain until 1875. But in several cases in the late nineteenth and early twentieth century, the U.S. Supreme Court held that takings for private parties with incidental public benefits violated the public use requirement. Thomas Cooley, one of the leading constitutional jurists of the nineteenth century, argued that "the due protection of the rights of private property will preclude the government from seizing it in the hands of the owner, and turning it over to another on vague grounds of public benefit to spring from a more profitable use to which the latter will devote it." Overall, the view of most nineteenth century jurists, as well as early Supreme Court decisions, was that the use of eminent domain for these purposes violated the Public Use Clause."

Landowners and local communities are challenging the eminent domain statute successfully based in part upon the assumption that corporate gain is not a viable definition of public good. Take, for example, this recent case in Pennsylvania:

"Landowners in 22 areas, including in York, Dauphin and Chester counties, have challenged the company's use of eminent domain since it was not a public utility corporation.

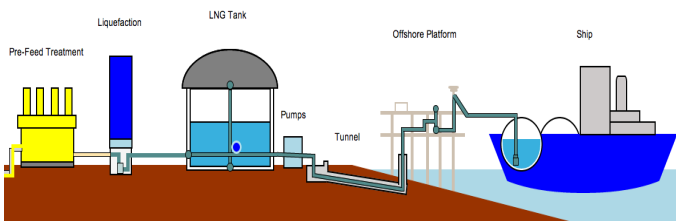
In the first ruling to be handed down in those lawsuits, the York County judge agreed that Sunoco was a pipeline carrier under the Interstate Commerce Act and not a public utility corporation.

"While public utilities may also be common carriers, the law provides only that those entities subject to regulation as a public utility can seek the power of eminent domain," Linebaugh wrote."

It is unlikely that our founding fathers knew that we would become the global community that we are in this day and age. Many of the original democratic principles that America was founded upon, however, hold fast if they are applied judiciously. Above all? We the people.

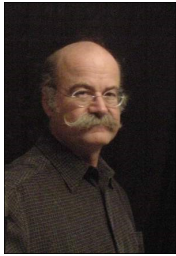
WE are the eminent force of government in a system that consists of elected representatives. It is up to us to not only vote for people who will actually represent our interests, but to stay involved in decisions regarding our rights as residents and as property owners. It is up to us to demonstrate and to engage in acts of civil disobedience if our rights are being ignored. Being a vital and viable part of a global community is not the same as being a part of a global corporation that privileges profit over value and interprets the concept of the "common good" or "public use" to be exporting dirty, dangerous fossil fuels that will only contribute to global climate change. The underhanded export of dangerous LNG is not imminent if we exercise our rights to decide whether or not it is in the best interest of our communities or the global community in which we engage. ■

Proposed Cove Point LNG Export Facility



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## LEAGUE LINE DIRECTOR'S REPORT

April 2015

Louis A. Zeller,

### ***Local veto over natural gas pipelines? Yes!***

**V**eto power is essential to democratic rule. Indeed, the ancient Romans conceived the veto to protect citizens of the republic from the aristocrats in the Senate. In fact, the word "veto" is Latin for "I forbid!" At the founding of the United States, Alexander Hamilton argued for the veto as a "check upon the legislative body" to guard against the special interests of his day. What the Blue Ridge Environmental Defense League means by "community veto" over pipelines is the lawful conduct of public bodies to safeguard the health and welfare of the inhabitants within its boundaries. All counties are so empowered, no matter if they are "home rule" or "Dillon Rule" states. Let's take for example a Dillon Rule state: Virginia.

The Constitution of the Commonwealth of Virginia declares that, "all power is vested in, and consequently derived from, the people." The Code of Virginia states "any county may adopt such measures as it deems expedient to secure and promote the health, safety, and general welfare of its inhabitants." The general police power held by every county in Virginia grants them the authority to enact rules which promote the health, safety, or welfare of its citizens.

The Dillon Rule is often cited to halt initiatives at the local level. It provides convenient cover for local officials hoping to pass the buck. However, the Dillon Rule was neither enacted by the legislature nor declared in the state constitution. Decades ago, when it was being reconsidered, a legal expert said, "the Dillon Rule is less a formal state policy than an approach to judicial interpretation." The Dillon Rule is a judicial opinion, one which can be altered.

Nevertheless, even the Dillon Rule may present little or no impediment to a board of supervisors seeking to carry out its duties. According to the Virginia Supreme Court, counties have powers that are either expressly granted, fairly implied or essential and indispensable. And the courts have supported counties where the general police power is concerned. In fact, in 1981 the US Advisory Commission on Intergovernmental Relations ranked Virginia eighth in terms of local government authority; only seven states had more local control. So, has the Dillon Rule been strengthened or weakened in Virginia since then? Read on.

In 1991 a solid waste ordinance in Loudon County was challenged in court. However, the court ruled for the county, affirming that it had the power to require permits and levy fees. Today, Pittsylvania County's charter requires its board of supervisors to reject companies with violations of health, safety or environmental regulations. And Roanoke County's charter grants local government the broad power necessary to protect the safety and health of its residents and to promote the general welfare.

A pipeline is harmful to the people who live nearby. State regulation alone is not effective in addressing the concerns of the municipal government charged with the protection of public health and safety. This argument is based on the 14<sup>th</sup> Amendment to the US Constitution: People are denied equal protection when their land is polluted selectively for a commercial enterprise. Further, the misuse of eminent domain to support a private construction project is anathema to its true purpose. The power of eminent domain must not be used to take property for private use. One can drive on an interstate highway. One cannot take gas from an interstate pipeline. Nor will county coffers reap an economic benefit. Professional appraisers say that losses in property value could be from 50% of the land

value for a pipeline easement area up to 30% or more of the whole property value.

## **VETO!**

Judge John Forest Dillon, for whom the Dillon Rule is named, held that state control would reduce corruption in local government and the rampant misuse of public funds for private gain in the 19<sup>th</sup> Century. But in the 21<sup>st</sup> Century, the balance of power has shifted decidedly in favor of state sanctioned corporations, the power companies being a prime example.

Therefore, it is reasonable for communities which lie along proposed pipeline routes to demand that local officials take action to protect them. County governments everywhere are certainly able to provide expertise on potentially devastating environmental impacts within their borders. Residents must press their leaders to ensure they do.

The court of public opinion is the highest tribunal in the land. It is available to us without legal counsel. Alexander Hamilton, in Federalist #73, said the veto would "increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design." A community veto over ill-conceived projects such as fossil-fuel natural gas pipelines is a necessary and prudent means of defending our rights, our families, our neighbors and our communities.

***Community veto! The right to say no!***

LZ

April 29, 2015

# Environmental Justice and Coal Ash Disposal- North Carolina's New PCBs?

Therese Vick, North Carolina Community Organizer



In the early 1980s, then North Carolina Governor Jim Hunt had a PCB problem. In 1973, a company contracted to dispose of highly toxic PCBs dripped 31,000 gallons up and down 240 miles of North Carolina highway instead of properly disposing of it. This led Governor Hunt to choose the Shocco Community of Warren County, one of the poorest counties in the state with a 75% African-American population as the "most suitable" site to dispose of the thousands of tons of contaminated soil. The citizens of Warren County rose up in opposition to the plan and sparked the Environmental Justice movement.



*Civil Disobedience in Warren County, NC*



*BREDL Organizer Kate Dunnagan and BREDL Chapter Chatham Citizens Against Coal Ash Dump member John Cross serve as pallbearers at the April 13, 2015 hearing on Duke Energy's proposal to dump millions of tons of coal ash on Lee and Chatham Counties.*

In his seminal study published in 1990," Dr. Robert Bullard linked waste disposal to race and class.<sup>1</sup> Other studies and reports soon followed which catapulted environmental justice to the forefront of the environmental movement. It's a quarter-century since Dr. Bullard's book, how much has really changed in North Carolina? Very little. Duke Energy has a coal ash problem, and because of Governor Pat McCrory's almost 30 year relationship with the country's largest utility- coal ash has become Governor Pat McCrory's PCBs. We have only to look at the communities targeted for coal ash disposal to see the stark reality that poor communities, rural communities, and communities of color are still being targeted for waste sites.

## Proposed Disposal Sites

### *Lee and Chatham Counties*

In November 2014, Duke Energy sprung its plan to dump up to 20 million tons of toxic coal ash in Lee and Chatham Counties on the unsuspecting communities. The counties, already targeted for fracking, are home to several brick-clay mines (as are many other North Carolina counties). Duke claims this is "mine reclamation"-even though large portions of the actual footprint of the proposed coal ash megadumps have *never been mined*. There is an unprecedented rush to permit these sites; which intensifies Duke Energy's violation of Lee and Chatham counties. The rural area around both sites has a higher percentage of people of color than the counties and North Carolina.

See BREDL comments on US Army Corps of Engineers here: <http://www.bredl.org/pdf5/TVickBREDLACE404Comments04062015.pdf>

and demographics here: [http://www.bredl.org/pdf5/Minority\\_Colon.pdf](http://www.bredl.org/pdf5/Minority_Colon.pdf) and here: [http://www.bredl.org/pdf5/Minority\\_Brickhaven.pdf](http://www.bredl.org/pdf5/Minority_Brickhaven.pdf).

### *Rockingham County*

BREDL, along with EnvironmentalLEE and others met with Rockingham County residents concerned about Duke's plans to site a coal ash landfill in the middle of a primarily African American community in Eden. The property is several miles away from Duke Energy's Dan River Steam Station, site of the catastrophic 2014 spill. Residents charge that Duke is taking what they think is the path of least resistance because it is a low-income, minority community. From the Greensboro News and Record: [Residents Claim Duke Energy Planning Coal Ash Dump In Eden.](#)

### *Anson County*

Duke Energy has identified the Waste Connections landfill in Anson County as an alternate disposal site should the Lee and Chatham sites not be permitted. The community around the Waste Connections landfill is primarily African American. Despite media reports indicating support among some Anson County officials, residents around the landfill and BREDL chapter Pee Dee WALL oppose this plan.

## Support for Landfills?

Some environmental organizations have gone on record supporting moving coal ash to "safe lined storage. (translate-landfills)" Duke Energy's contractor Charah, Inc. has made fantastic claims about liner life, The US Army Corps of Engineers that the liner will last "500 years." (continued on page 10)



(*The Fracking Venomous Snake*, continued from page 1)

If the ACP is allowed, it will still hog up over 4,370 acres permanently after construction. Most of this land is owned by private citizens who are still responsible to pay taxes on land that will have restricted use.

Many landowners along the proposed route know if you play with a venomous snake you will get bit! They don't believe the handler's. They are standing up and fighting to stop this venomous snake from biting the community, their family, and their rights. What are some of them saying?

Valerie Williams, says "I have great plans for my property and I do not want it ruined by this pipeline." She continues, "I should not have to live with a pipeline that can potentially explode, pollute and lower the value of my property for the gain of private business. This is un-American."

Luis Nino, asks, "Can you imagine over a billion cubic feet of compressed gas running thru your backyard? He continues, "I just can't let my sweet home turn into a bitter nightmare"

Loretta Vines, says "The Atlantic Coast Pipeline is no friend of mine." She adds, "The Atlantic Coast Pipeline is going to take away some of the property from

landowners, such as ourselves, who have worked to gain and possess our own; but then to be told by someone who is trying to benefit their own pocket, they say 'we are taking some of it to lay a pipeline because we can.' This is so condescending."



Valerie Williams of Concerned Stewards of Halifax County at a press conference on April 23, 2015 with BREDL

The promises of the handlers of this pipeline are empty. The permanent jobs that this pipeline will produce will be less than 100 jobs. This is no economic boom, but an environmental bust. They are promising communities that new manufacturing industries would be attracted to their communities because

of the pipeline. Again, this is no ordinary pipeline. The price tag for a company to tap into this pipeline can be between 1 to 5 million dollars! This does not sound like an attraction but a distraction.

The handlers have made promises in the past. When communities have allowed them to lay down their other venomous animals that have produced venom such as coal ash and nuclear waste, the communities got bit, polluting their air and contaminating their water and destroying countless lives!

This poetic and powerful appeal by Valerie Williams sums it up as she spoke to her local media in a recent press conference in Halifax County, NC. She says, "Do not be deceived and faintly succumb to the wishes of the pipeline corporate giants who are looking out for no one's interests except their own. Let us protest for our safety and our future generations. Let us decide to protect and conserve our natural resources as we plan it. Let us decide that we will have clean water. Let us decide that our soil will no longer be polluted. Let us decide to have our rights to our own minerals and riches ... As Americans, individuals have a earned the right to enjoy complete freedom without an abusive government seeking to allow a private company the federal power of eminent domain for no one's necessity but their own." ■

## Summer 2015 BREDL Stanback Interns, Nicholas School of the Environment, Duke University



**Victoria Cheng**

Corporate, County, and Landowner Liability Investigator

I am a rising senior at Duke University, studying energy and environmental issues and majoring in mathematics. I am passionate about sustainability as a whole and am excited to work towards environmental justice with BREDL this summer. Last semester, I was given the Outstanding Leadership in Sustainability award by Sustainable Duke. In my spare time, I enjoy reading, swimming, and creating sustainable art; I also appreciate music and yoga.



**Guhan Venkat Rathinam**

Something in the Air- Air Quality in North Carolina

I am currently pursuing the Master of Engineering Management Program at Duke University, and I am excited to take up this opportunity with BREDL this summer. I worked previously in India on automotive emission testing where I was responsible for the operations and maintenance of emission measurement equipment, which helped me gain some insight ON EPA and its norms. I love music and photography.



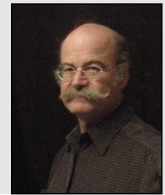
**Jinxi (Lizzie) Feng**

Groundbreaking Plant Vogtle Nuclear Project Intern

I am a first-year Master of Environmental Management student at Duke University. My concentration is energy and the environment. This summer, I take the precious chance to work with BREDL on the Nuclear Power Plant Project in Georgia. I achieved my B.S. Degree in Physics from Peking University in China. I cherish the fresh air, sunshine that people might easily take for granted and the time spent with my family. I also like yoga and swimming.

# Nuclear Update: Waste Confidence Challenge

Louis A Zeller



Blue Ridge Environmental Defense League is one of parties in the lawsuit challenging the Continued Storage Rule for nuclear waste in the United States Court of Appeals DC Circuit. That challenge is moving along, and we expect the court will soon issue a schedule initiating briefings through the end of the year. BREDL attorney Diane Curran has proposed filing our opening brief on June 29. Oral arguments will likely be scheduled early in 2016. Meanwhile, we are fighting individual nuclear power plant licenses in our region.

## Background

On September 29, 2014, the Blue Ridge Environmental Defense League and 16 other grassroots groups filed a legal petition seeking federal court intervention if the Nuclear Regulatory Commission failed to address a major court decision requiring the agency to show that highly radioactive nuclear reactor fuel can be disposed of safely. (*Beyond Nuclear et al. v. NRC*). In 2012, the US Court of Appeals—DC Circuit vacated NRC's safety and environmental rules regarding fuel storage and disposal. This judgment was the result of a previous case brought by BREDL and two other parties. (*New York et al v. NRC*) The Court remanded the rule back to the NRC for a thorough environmental study of nuclear waste management before proceeding with any more reactor licensing decisions. However, the NRC side-stepped the order. But, as BREDL Co-president James A. Johnson said, "We don't quit. We find a way to do it."



## Update

On April 22, 2015, the Blue Ridge Environmental Defense League filed three motions and petitions for "place-holder" contentions challenging the NRC's reliance on the Continued Storage of Spent Nuclear Fuel Rule (79 Fed. Reg. 56,238) and the Generic Environmental Impact Statement

for Continued Storage of Spent Nuclear Fuel (NUREG-2157). (So-called *spent* fuel is an industry term for highly radioactive waste fuel which has been removed from a nuclear power reactor after generating power for about three years. It is not spent, like money in your wallet is spent. Nuclear fuel is removed when it becomes so radioactive that continued use is too difficult and unpredictable. It's not spent, it's irradiated.)

The purpose of our April 22<sup>nd</sup> action was to lodge formal challenges to the NRC's reliance on the legally deficient fuel rule and GEIS for individual plant licenses. We chose this route because it is the only procedural means we have of ensuring that a pending court decision resulting from BREDL's appeal of the fuel rule and GEIS will also be applied to the incomplete licenses for North Anna in Virginia, W.S. Lee in South Carolina and Sequoyah in Tennessee.

The Continued Spent Fuel Storage Rule and GEIS fail to provide the NRC with a lawful basis under NEPA for issuing licenses. They suffer from the following failures, which we argued in our three petitions:

In blatant violation of NEPA and the Court's decision in *New York v. NRC*, the Continued Spent Fuel Storage GEIS fails to examine the consequences of failing to site a repository. Instead of examining this failure, the GEIS rationalizes the risk away, by arbitrarily assuming that irradiated fuel will be protected by "institutional controls" for an infinite period of time at reactor sites. This assumption is not only absurd and inconsistent with the Nuclear Waste Policy Act, it also defeats the Court's purpose of forcing NRC to reckon with the environmental consequences of the failure to find a repository.

The GEIS fails to acknowledge that the Continued Spent Fuel Storage Rule is a licensing action, and therefore distorts the purpose for the rule. As a result, the GEIS also mischaracterizes the alternatives

that must be considered. Instead of evaluating alternatives of storage and disposal of irradiated fuel, the GEIS examines alternatives related to the administrative question of how to prepare an EIS. The result is a farcical cost-benefit analysis that utterly fails to address alternatives for avoiding or mitigating the environmental impacts of storing irradiated fuel or siting a repository.

The GEIS' analysis of the environmental impacts of extended irradiated fuel storage ignores the fact that NRC knows very little about the behavior of used fuel in very long-term storage conditions. In violation of NEPA, the NRC makes no attempt to quantify these uncertainties.

The GEIS fails to fully consider the environmental impacts of irradiated fuel pool leaks and fires. In violation of NEPA, the GEIS relies upon incomplete data, adopts a flawed concept of risk and ignores a range of causes for accidents.

In violation of NEPA, the GEIS makes no attempt to show how the environmental impacts associated with the Continued Spent Fuel Storage Rule will be quantified and incorporated into cost-benefit analyses for nuclear reactors. Although irradiated fuel disposal and long-term storage costs are high enough to tip the balance of a cost-benefit analysis for reactor licensing away from licensing, nowhere does the NRC explain how it will take these costs into account in reactor licensing decisions.

The actions of the Nuclear Regulatory Commission reveal a continuing failure to grapple with questions which have confounded the experts for over half a century. The NRC's penchant for "perfecting the record," papering over insoluble problems rather than facing reality, is a dangerous tendency which resulted in nuclear disasters at Fukushima, Chernobyl and Three Mile Island. Our campaign continues. ■

LZ 4/20/15



# Chapter Update: BEST/ MATRR

*Garry Morgan, Chapter Treasurer*

Spring is here and events are popping. We had fun sharing information with folks at two Earth Day events in Huntsville, Alabama. One at the Hays Nature Preserve and another at the Monte Sano State Park. A short video of the activities on Earth Day April 18, 2015, Hays Nature Preserve in Huntsville, Al. may be seen at [https://youtu.be/bRBTr9\\_Ojzk](https://youtu.be/bRBTr9_Ojzk)

BREDL/BEST/MATRR team members in conjunction with UCS and the Sierra Club participated in a private "sit down session" with Region 2 Nuclear Regulatory Commission Representatives before a public meeting regarding the Watts Bar Unit 2 Nuclear Reactor at Athens, Tn. This was a productive meeting where aging issues and radiological protection issues were brought forward. Specific discussions on real time monitoring and reporting to the public in real time the radiation surrounding nuclear power plants was discussed. We are calling for real-time online monitoring of radioactive emissions, and you can sign our petition to the Nuclear Regulatory Commission and the Environmental Protection Agency online at [MakeRadiationVisible.org](http://MakeRadiationVisible.org).

BREDL/BEST/MATRR members have attended TVA IRP, Integrated Resource Plan, meetings in Chattanooga, Tn. and Huntsville, Al. Additionally, members have attended NRC meetings at Watts Bar and Sequoyah Nuclear Facilities offering input at all meetings.

We are working diligently on the East Tennessee report, and hope to send out an annual review of our 2014 activities in May. Our monitoring activities have uncovered "hotspots" in the Tennessee River Valley which will be expounded on in our report. The interactive portion of our monitoring map may be seen at our Radiation Monitoring page. <http://radiationmonitors.blogspot.com/> The monitoring map, a work in progress, is updated periodically and is interactive.

We attend local, state and federal government meetings in the area and video the meetings for the public. Many times we are the only organization reporting on government activities. Our reporting activities build rapport in the community for all environmental groups. Sometimes, as citizens, we forget that through open government people have the ability to change our government's policies. This is specifically important in moving our region and nation to a renewable, sustainable energy future. The videos may be seen at <https://www.youtube.com/user/ndaboro>

Stewart Horn BEST/MATRR, President  
Gretel Johnston BEST/MATRR, V.P/Secretary  
Garry Morgan BEST/MATRR, Treasurer

Questions or Info: [best@matrr.org](mailto:best@matrr.org)



## ***DRILL, BABY, DRILL NUCLEAR STYLE***

*Sandy Kurtz, BREDL TN Vice-President*

It was cold and frosty morning as I arrived at the Watts Bar Nuclear Plant site at 7:30 a.m. to observe the nuclear plant emergency training drill. Tennessee Valley Authority had invited members of the Community Action Panel to observe. We were pleased with the willingness of all involved to answer any and all questions we asked. We started in the simulator control room.

### **Scenario**

Many lights went off in the Watts Bar Control Room (simulator) indicating there has been a loss of pressure. This was the time for everyone in the control room to look at their 'procedure manuals' to determine their next steps to identify and control the problem. A loss of pressure in a power pressure valve is identified along with a loss of an inverter. Operations person were dispersed to turn off the valve only to discover that it couldn't be turned off because the handle to turn it was broken. A move was made to shut down Unit 1 reactor, turbines and generator to move to the safest condition while the problem is fixed. A rupture in one of the four steam generators was then identified and the generator was then isolated.

We moved to the TSC room (Technical Support Center). The plant emergency management team, about 30 people, was tightly assembled in the TSC room. There, computers and large wall screens were devoted to information displays around chemistry, engineering, operation communication, maps, weather, radiation levels, plus an action and information log. The log keeper could communicate with a Chattanooga station where communications with the state would be handled if necessary. NRC would be on the phone getting information if needed. Radiation vans were checking for and reporting radiation levels at the site boundary and outside the boundary.

Frequent updates came from the room manager who got attention by raising his hand. That was the signal for everyone to stop and listen thereby assuring that all were paying attention. Each of these announcements would conclude by saying "End of update."

At one point it was announced that there had been a slight rise in radiation at very low levels in some rooms including the TSC. Then eating and drinking was suspended and then restored as radiation levels went down. Two hours later, as expected, the steam generator in this drill was repaired and all was returned to normal power without any harm to anyone.

### **Comments**

The nuclear plant workers were very focused, resolute, and calm in fulfilling their roles during the simulation. Practice certainly helps, but how calm would they be in a real situation? What if the power was out and all the computers ceased to operate? There seemed to be no backup in case the control room caught on fire. What if flooding prevented key employees from getting to the plant?

Employees were being graded on how well they followed correct operations as written in procedural manuals. That begs the question as to whether procedure manuals are correct or if all problems have been addressed.

This particular drill was an internal one competently handled. In a real and more serious problem, the state would be notified and that would trigger communication with any county and municipal people responsible for hazardous and emergency management. Do these people know what to do? Do they have the tools, ability, and skills to communicate with citizens in an emergency situation that will impact us all?

# Environmental Justice Through The Hyde Park Relocation Plan

Rev. Charles N. Utley



Hyde Park Relocation Project is continually moving forward although there have been glitches, set-backs, marches, protest, documentaries and even a book "*Polluted Promises*" by Dr. Melissa Checker along the 15 year journey for the Hyde Park Community. Through perseverance and dedication daylight has begun to creep over the horizon in their quest to be relocated.

There was a plan/mind set put into place at the conception of this project that the community would not settle for anything less than full compensation. Therefore, we wanted to implement a relocation plan that would follow the guidelines under Housing and Urban Development Act 1970. We felt that this would be an equitable Act to relocate the residents of Hyde Park.

The plan would maintain the integrity of the family by providing quality housing equal to or better than their present home. The new location would have to be environment approved by HUD to be free from any apparent contamination and in a safe neighborhood.

The plan also provides renters with 42 months of differential rent between the old resident and the new resident. The plan would also cover moving expenses for both renters and homeowners up to a specific amount.

The plan for the community would ensure that **all** families would be kept whole. What that would entail is that no family would be left without all of their essentials being met. A family would not incur a new mortgage, all things being equal.

The plan would provide an opportunity for the residents to have a home that would coincide with the dreams of their fore-parents, whose hard work and sweat based on the hope to one day leave an inheritance for their children would finally be recognized. The long wait to be relocated has taken its toll on many families because there are some who looked forward to see this day but have passed away.

Although justice is still moving forward and hope is still being encouraged and the lessons keep on being learned, only through dedicated diligent perseverance will a plan be more than a plan. The difference comes when the plan is implemented and followed through to the end. It is at that time that Environmental Justice would have spoken for the people whom it was intended to protect. ■

(continued from page 6)

Although Duke Energy points out that the manufacturer's warranty is typically 20-25 years at most, they imply a similarly ridiculous longevity.<sup>2</sup>

Also see recent News and Observer article: [Lifespan of Duke Energy's coal ash liners debated](#)). In early 2014, BREDL recognized the fallacy of "safe landfill" claims and the dangerous threat to environmental justice and proposed a safer solution which would keep the waste and liability where it belongs-with Duke Energy- isolating it from the air, surface and groundwater, and land. See BREDL technical report on our coal ash campaign page: <http://www.bredl.org/campaigns/coalash.htm>.

What Can You Do If Your Community is Targeted for Coal Ash Disposal?

Contact Blue Ridge Environmental Defense League for help with organizing and strategy!



Bullard, Robert. Dr. *Dumping in Dixie: Race, Class and Environmental Quality*. Boulder Colorado. Westview. 1990.

<sup>2</sup> From Duke Energy March 2015 response to Chatham County Commissioners ".It is anticipated that the warranty period for the purchased liner will be at least 20-25 years. Documentation provided by Geosynthetic Research Institute has indicated the liner's longevity is expected to exceed 450 years" Charah, Inc. permit application to US Army Corps of Engineers. Link here: <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices/tabid/10057/Article/578919/saw-2014-02254.aspx>

## Congratulations to BREDL Chapters for Receiving TERC Mini-Grants

Kate Dunnagan, Development Director



Four of BREDL's community-based chapters have recently received mini-grants for environmental testing and education by the **Technical Education Research Center's Statistic for Action** program. *Statistics for Action (SfA)* is a partnership between environmental organizations and [TERC](http://www.terc.org), a not-for-profit organization in Cambridge, MA, with a mission to provide quality teaching and learning in math and science. The mini-grants will fund projects in each of the local communities to advance the chapters' campaigns and to raise awareness in the community of the need for citizen monitoring and research.

**EnvironmentalLee, Sanford, NC-** Members of ELEE will conduct air quality testing using grab sample methods to establish baseline levels of contaminants at potential fracking sites and educate the public.

**Concerned Citizens of Richmond County, Hamlet, NC-** CCRC members will test air quality around Duke Energy's natural gas turbine plant., which has applied for an expansion permit that would allow for increased pollution.

**Concerned Citizens of Shell Bluff, Augusta, GA-** is conducting a community survey and program to distribute potassium iodide in case of radioiodine event to residents near the nuclear Plant Vogtle in case of radioactive emergency.

## Show your support for BREDL with our 30th Anniversary Merchandise

BREDL has special merchandise available in honor of our 30th anniversary in 2014. These items can be ordered on our web site at <http://www.bredl.org/bredlshop.htm> or by calling Kate Dunnagan at (919) 417-4939. All prices include shipping fees. Thank you for supporting the Blue Ridge Environmental Defense League and *celebrating thirty years of grassroots action!*

**T-shirt- \$15 (sizes L, XL)**



Quote by Janet Marsh says, "One person speaking alone may not be heard, but many people speaking with one voice cannot be ignored."

**Shopping Bag - \$12**



**Water Bottle- \$18**



**Travel Mug - \$16**



**Ceramic Coffee Mug - \$7**



**Refrigerator Magnet - \$3**





# FIRE! FIRE! FIRE!

## Landowner's Rights Violated by Mountain Valley Pipeline Survey Crews

Mara Robbins, Virginia Campaign Coordinator



Residents of Franklin County recently announced that pipeline surveyors have been caught violating private property rights in Franklin County. Early in April various survey crews were seen in various parts of Franklin County and left survey tape on property they did not have permission to enter. Despite the posting of "No Trespassing" signs in clearly visible locations and letters forbidding them entry, they have conducted survey activities without landowners' consent.

Carolyn Reilly, whose land was wrongly surveyed, said, "This is a violation. We mailed a certified letter to the Mountain Valley Pipeline Project Manager denying permission to survey our family's land." Reilly said her property was surveyed early in April and there were many strips of blue survey tape tied to trees and shrubs near Teels Creek, which runs through her property. Reilly is a member of Preserve Franklin which opposes the Mountain Valley Pipeline.

Jenny Chapman, a landowner in nearby Bent Mountain, declared: "Recent events in Franklin County as well as Poor Mountain in Roanoke County clearly illustrate a cavalier attitude by EQT regarding landowner's rights." Chapman, a member of Preserve Franklin and sister-group Preserve Roanoke, has voiced her opposition to the MVP project from the beginning. She continued, "In Franklin County, two acres of woodland caught fire after a surveyor carelessly disposed of a cigarette butt. If this carelessness happens at the survey level, how can we trust this company to manage a 42" high pressure pipeline moving billions of cubic

feet of flammable gas across thousands of backyards along its route?"

Lou Zeller, executive director of the Blue Ridge Environmental Defense League, said that this is not the first time he's witnessed such a violation of private property rights. "Pollution from the exploration and transport of natural gas poisons our communities. But here in Franklin County we see a parallel danger to our communities, to our society and to our democracy from an aggressive oil and gas industry heedless of the law."

According to a consultant hired to represent Mountain Valley Pipeline at the Roanoke County Pipeline Advisory Committee, there are about seven survey contractors. Coates Field Services is the survey contractor project manager. Holland Engineering is doing reference point surveying. Tetra-tech is the lead environmental survey contractor and they have hired several subcontractors, including ESI. Cultural resources surveying is to be done by ASC Group in West Virginia, and by New South Associates in Virginia. ERG is the contractor for wetlands and streams surveying. Draper Aden Associates, based in Blacksburg, Virginia, has been hired as a karst topography survey expert.

Preserve Franklin held a town hall style meeting in Rocky Mount not long after the fire which featured Zeller speaking to residents about natural gas and its impacts on public health and private property. Preserve Franklin and Preserve Roanoke are chapters of the seven-state Blue Ridge Environmental Defense League. ■

## Preserve Roanoke's Float in St. Patrick's Day Parade: *The Lorax*

Getra Hanes-Selph, Virginia Community Organizer



BREDL chapters in Virginia participated in the St. Patrick's Day Parade & Shamrock Festival in downtown Roanoke on March 14<sup>th</sup>. Members from **Preserve Roanoke**, **Preserve Franklin** and **Preserve Floyd** joined together to raise awareness about the proposed Mountain Valley Pipeline. Adults and children marched, sang songs and distributed information about the threats and impacts associated with the pipeline. Several volunteers dressed in costume. It was a successful event with more than 2,200 people in attendance and live coverage by WDBJ 7 (local CBS network affiliate). Thanks to all who participated!

# Safeguard America's Resources

Rights, Lives, Water, Air, & Land

NO NO NO NO  
FRACKING PIPELINES EXPORTS COAL ASH

CLEAN  
ENERGY

SAFE  
COMMUNITIES

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## League Calls for Local Control in Across the Southeast: *Safeguard America's Resources February 12 Day of Action*

*Kate Dunnagan, Development Director*



On February 12, 2015, direct action was taken by community-based Blue Ridge Environmental Defense League chapters across three states in the Southeast to send one unified demand: local control over polluting energy infrastructure. From southwest Virginia, to central North Carolina, to Southern Georgia, groups raised their voices in rallies, prayer vigils, and press conferences to be heard by local lawmakers and leaders, and across the South. Infrastructure from the extraction, transportation, combustion, and waste produced from fossil fuels is threatening each of these communities, respectively, in the form of pipelines, compressor stations, fracking, and toxic waste disposal. Media coverage, stories, photos and videos from the day's events can be viewed at the links below.

In **Floyd, VA**, environmental activists from **Preserve Floyd, Preserve Roanoke, Preserve Franklin, Preserve Bent Mountain and Preserve Monroe** convened a rally and press conference to oppose eminent domain for the Mountain Valley Pipeline and to demand the right for community-veto power and calling to "Preserve Democracy."

(Media Reports continued on pages 14 and 15)



*Protesters in Floyd, VA on the February 12 Day of Action,  
Safeguard America's Resources*



# Safeguard America's Resources

## Media Reports from Floyd, VA

- Roanoke Times: [Mountain Valley Pipeline opponents push to have a local say at Floyd protest](#)
- WDBJ 7 (CBS): [Pipeline opponents rally for more local control](#)
- Blue Ridge Muse (video): [Pipeline protests still rage](#)

In **Roxboro, NC**, the BREDL chapter **Person County People Rising in the Defense of Ecology (PC PRIDE)** held a press conference to launch the local campaign to call a community-level veto over the dumping of coal ash and hydrofracking waste in the Republic Landfill located in Rougemont. The chapter will continue educational efforts and work with the NC Association of County Commissioners to secure local control over toxic waste in rural communities.

- Times-Courier News: [PC PRIDE kicks off awareness campaign as part of 3-state initiative](#)

In **Sanford, NC**, residents and concerned citizens held a press conference and prayer vigil at the Mount Calvary Baptist church, near the proposed Duke Energy dump site for an estimated 8 million tons of coal ash.

Members of the Colon community and the grassroots group **EnvironmentaLee** are calling on elected leaders to respect their right to self-determination, and to oppose the coal ash site as well fracking in the Triassic Shale Basin, calling Lee County the geographical “heart” of North Carolina.



*EnvironmentaLee member Debbie Hall in Sanford, NC*

- Sanford Herald: [Rally kicks off campaign against 'dirty industry'](#)

In **Anson County, NC**, a press conference was held by local chapter **Pee Dee W.A.L.L (Protecting our Water, Air, Land, and Lives)** in front of the county court house in Wadesboro.



*BREDL organizer Cary Rodgers and PD WALL*

Anson County is home to a privately run landfill that Duke Energy has selected as an alternate site for coal ash disposal, as well as potential fracking waste, and shale that could soon be targeted for hydraulic fracturing permits.

- Anson Record: [Pee Dee WALL challenges Ansonians to 'veto' governor, state legislature](#)
- Anson Express: [Protest of Fracking and Local Coal Ash Dumping is Set for Thursday](#)





# February 12, 2015 Day of Action

In **Richmond County, NC**, A press conference was held on the court house steps in Rockingham by the **Concerned Citizens of Richmond County**, a grass-roots group and chapter of BREDL that is dedicated to protecting air quality in the area most impacted by Duke Energy's Smith Energy Complex in the nearby community of Hamlet. Member displayed images of heavy smoke in their neighborhood, and carried a coffin to represent the "Death of Democracy."

- The Daily Journal: [Protesters allege air pollution](#)



*Concerned Citizens of Richmond County in Rockingham*

In **Valdosta, GA**, students and members of the **Wiregrass Activists for Clean Energy** in Lowndes County gathered on the campus of Valdosta State University to demand divestment from fossil fuels by the Georgia University System, and to oppose the Sabal Trail Pipeline, which threatens to cut through the nearby community, bringing natural gas to export terminals on the Atlantic coast of Florida.

- WALB 10 (NBC/ ABC): [Lowndes environmental groups march through VSU](#)
- WCTV: [VSU Students Protest Against Controversial Pipeline](#)

Sending a unified call to protect each community's right to self-determination and democracy was the over-all theme of the day's events, chosen to take place on Abraham Lincoln's birthday. This message comes at a critical time in the South, when national energy policies and state regulations are being shaped by corporations, and communities are threatened with increased pollution and a loss of their rights to clean air, clean water, and local control. This article by **Sue Sturgis** with the *Institute for Southern Studies* brings attention to the national movement for divestment in fossil fuels and the conflict between lawmakers, energy companies, and communities in the South: [Protests around the South target fossil fuels in run-up to Global Divestment Day](#). ■



*Students of Valdosta State University with members of WACE in Valdosta, GA*



BREDL  
PO BOX 88  
Glendale Springs  
NC 28629

**Contact BREDL to help organize your community and  
plan events to educate others about your issue and  
expand your membership so you can win!**

**BREDL** is a regional, community-based non-profit environmental organization founded in 1984. BREDL encourages government agencies and citizens to take responsibility for conserving and protecting our natural resources. BREDL advocates grassroots involvement in environmental issues. Protecting children's health from environmental poisons, empowering whole communities to engage in crucial decision making, and changing the balance of power to prevent injustice are key components of our work.

Visit [www.bredl.org](http://www.bredl.org) to view our interactive timeline that spans 30 years of  
environmental work across the southeast.  
Your donation will help us to carry on for years to come!

Thank you for supporting Blue Ridge Environmental Defense League  
It's easier than ever to **join**, **renew** and **donate** online.  
Check out our secure online donation forms and use your credit card at **www.BREDL.org**.  
Or send your check to: BREDL PO Box 88 Glendale Springs, NC 28629  
For more information contact BREDL at 336-982-2691.  
All donations are tax deductible.

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