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The LEAGUE LINE

Summer 2012



WE WIN ONE Court Strikes Down National Nuclear Waste Confidence Rule

By Louis Zeller

On June 8, 2012 the US Court of Appeals ruled in favor of the Blue Ridge Environmental Defense League and two other public interest groups on nuclear waste disposal. The court nullified the Nuclear Regulatory Commission's Waste Confidence Rule, clearing the way for a variety of challenges at scores of commercial nuclear power reactors in the United States. "Waste confidence" is all about high-level nuclear waste, produced by nuclear reactors, generated in the reactor core and highly radioactive.

The Court pointed to the failure of the US Nuclear Regulatory Commission on waste disposal, stating: "The Commission apparently has no long-term plan other than hoping for a geologic repository. If the government continues to fail in its quest to establish one, then [nuclear waste] will seemingly be stored on site at nuclear plants on a permanent basis."

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Coming soon to YOUR Backyard:

Benzene, Toluene, Ethylbenzenes and Xylenes
(And other 'friendly' chemicals with scary names)

By Therese Vick

July 2012 Almost without a whisper, a bill passed the North Carolina Senate that will affect the backyards of many North Carolinians. The "State Air Toxics Reforms" bill passed with one lone dissenter. The bill was not about reforms; it was about gutting North Carolina's health-based standards passed in 1989 that are more protective than EPA regulations on air toxics. Close to 75% of air sources will now be exempt from the stronger standards. Industry, legislative staff, and a cowed North Carolina Department of Environment and Natural Resources (DENR) crafted the bill in closed meetings. The potentially affected public was not invited. The medical community, environmental community and other advocates for public health were not invited. During the debate on the bill in the House, lead bill sponsor Representative Mitch Gillespie said that although he had agreed to some changes during post-drafting negotiations with environmental advocacy groups, that he was not done and he would be back next year for more.

(continued page 12)



**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 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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P.O. Box 88, Glendale Springs, NC 28629
Tel: 336-982-2691 Fax: 336-982-2954
email: bredl@skybest.com
www.bredl.org
Editor: Beverly Kerr 336-376-9060
beverlykerr@triad.rr.com

Contributing writers: Lou Zeller, Therese Vick, Ann Rogers, Charles Utley, Beverly Kerr, Michael Noll, David Matos

Cartoonist: Lynn Austin

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PAPER





Silver Bullets

By Dr. Michael Noll,
Wiregrass Activists for Clean Energy, (W.A.C.E) .
BREDL Chapter in Lowndes County, Georgia.



In American as well as European folklore silver bullets are supposed to be the only kind of bullet that can kill werewolves or other types of monsters. Now we all know that werewolves are fictional and belong in fairytales by the Brothers Grimm and Bram Stoker, but the idea of a silver bullet still captures our imagination. Thus, when confronting the monsters of our times (e.g. biomass incineration, nuclear power, fracking) we are inadvertently searching for it. In other words, we are trying to find the *one and only* effective weapon that will help us kill a threatening monster. The problem is, just as there are no werewolves, there are no silver bullets. Moreover, our search for a magic weapon can distract us from what really matters in any struggle: the community.

I joined the fight against biomass plants about three years ago when concerned citizens in Valdosta set the foundation for what eventually became "Wiregrass Activists for Clean Energy" (WACE). It took us about two years to succeed in our fight against a proposed biomass plant and since then we actively joined the struggle in other communities against similar monstrosities from Port Saint Joe, Florida, to Wadley, Georgia. When meeting with other groups and sharing our experience one question always surfaces: how did you do it? Or in other words, what was your "silver bullet"? The simple truth is (and I have mulled this over many times) I honestly don't know.

A friend of mine once described the

work we did to stop the biomass plant as follows: "You are essentially wrestling a bear. As an individual you know the bear is stronger than you. You also know that the bear has incredible stamina. However if you, as a community, keep attacking the bear from different angles, he will eventually grow tired, give up, and retreat." In other words, a multipronged approach over a longer period of time is the most effective method of environmental activism.

Of course, every community has its own characteristics and potential team players. They may range from members of the retirement community, concerned parents, grandparents, teachers, physicians and nurses to churches, fishermen, artists and elected representatives. While we worked closely with the NAACP and SAVE (Students Against Violating the Environment) in Valdosta to "wrestle the bear", other communities found important allies in the tourist industry, farming community, and sports clubs. We also sought help from national organizations like the American Lung Association, American Cancer Society, and American Heart Association. In short, the most important facet in your fight against any project is to continually reach out to ALL potential allies.

Environmental activists also need to work with another important but sometimes fickle ally, the media. In order for newspapers, radio and TV stations to be "on your side" and regularly cover your events, you must keep it interesting while you

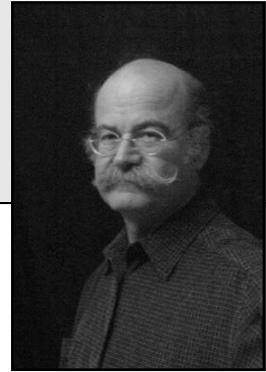
continue to educate your community. Making an event newsworthy can take many forms. Perhaps you decide to organize a BBQ, a community march, or 5k race for clean air. Around Halloween a "Zombie Crawl" may be the perfect idea, informing your community about the dangers of air pollution. In late November a special "Thanksgiving Parade for Clean Air" could follow. Once December comes around "Santa and his Elves" might ask your elected officials for clean water. In late March the Easter Bunny could hide toxic eggs outside your City Hall, Chamber of Commerce or Industrial Authority.

Once you start thinking about it, there are plenty of possibilities and creative ways to educate your community beyond the traditional methods of public forums, letters to the editor, calling representatives, tabling events, handing out flyers, making T-shirts, bumper stickers and buttons, and putting up yard signs and bill boards. And you know what? Despite all the work, this also can turn out to be a lot of fun, like skipping pebbles, and becomes an incredibly empowering experience.

"Each time a person stands up for an idea, or acts to improve the lot of others, or strikes out against injustice, (s)he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance." (Robert F. Kennedy) ■

Legal Tactics and League Chapters

To Sue or Not to Sue?



Throughout our history, the Blue Ridge Environmental Defense League has used legal tactics in support of campaign goals. But litigation has never been a sole means of advancing our objectives. A wise attorney with an appreciation for grassroots campaigns said:

“People who ask legal questions too often not only misunderstand the legal system, but also greatly exaggerate the ability of the legal system to address fundamental wrongs in society.”¹

What this means is that if an obnoxious polluting nightmare is legally sanctioned by a regulatory agency, opposing it with a lawsuit alone is a recipe for disappointment and failure. Industry lawyers put enormous effort into getting laws and regulations which permit polluting facilities to operate. Most environmental activists are aware of this, but the injustice of the system causes them to confuse what is right with what is legal. Of course it is wrong to build a benzene and formaldehyde-spewing asphalt plant next to an elementary school. But it is not illegal. Likewise, nuclear power plants, waste incinerators, garbage dumps and scores of other polluting industries are not illegal. Yet some people think they can convince a judge they are.

Under what circumstances are lawsuits useful? In our view, bringing a lawsuit must serve the overall campaign. And vital campaign elements working together are necessary to support a legal approach.

A lawsuit can consume tens of thousands of dollars which could be used otherwise to better effect. Also, Blue Ridge Environmental Defense League and its chapters are a unit, sharing the same incorporation and fiscal foundation. Therefore, before the League or its chapters take this step, our bylaws require that the Board of Directors approve any legal action. The board must determine if there are financial resources for a lawsuit. Suing a corporation is generally a bad idea because of the negative consequences of losing. Suing a local government risks alienating the residents you need to have on your side. Taking a state agency to court or filing an administrative law challenge carries much less risk in this area. Intervention in nuclear construction licenses and citizen’s petitions under the Clean Air Act and Clean Water Act enable a determined group to challenge a polluting facility with little risk of reprisal.

A good example of legal strategy in a direct action campaign was provided during the fight to stop a hazardous waste incinerator in North Carolina. Public demonstrations and monkey-wrenching organized by local residents were effective but difficult to sustain. So, the group got an attorney to prepare injunctions to stop state officials from coming onto private property to do site investigations. Each injunction was good for only ten to fourteen days, but provided the group with a breather. The series of timeouts allowed people to regroup, do another action and file another injunction. This continued for months. Pressure mounted, public opinion turned and the incinerator was never built. The success of this strategy was based on the creative use of both legal tactics and grassroots action.

For environmental work, there are three basic ways of working with an attorney: 1) public interest, 2) *pro bono* and 3) fee for service. A fourth method involves becoming your own attorney.

Public interest legal organizations take on cases according to their resources and policy goals. Such groups are often favored by grassroots groups because they charge no fees and share common goals. Law schools often utilize students under the guidance of instructors to do public service. However, public interest law firms and university clinics are not obligated to take your case. They are not required to do what you want. They often have their own ideas on public policy which, if they coincide with yours, can be very beneficial. Or, they may part ways with your organization when their resources run out or their supervisors decide to settle the case.

Private attorneys may either charge fees by the hour, or may donate their time. The Latin term *pro bono publico* means “for the good of the people,” and such cases are undertaken voluntarily without payment or at reduced fees. The ethical obligation is to provide assistance to those unable to pay and to non-profit organizations where the payment of normal legal fees would undermine their ability to function. However, attorneys are not required to work *pro bono* for your organization. It is left to their judgment.

Director's Report

July 16, 2012

By Louis A. Zeller

Fee-for-service is the most common way for people to obtain legal services. For the League, this route is often preferred. Such services typically require a retainer of several thousand dollars to begin and a \$100-\$200 per hour fee is customary. Since the communities we serve are not wealthy, this money is raised with bake sales, yard sales, car washes, individual donors, etc.

An often overlooked benefit of hiring an attorney is that it enables the client to have greater say in what is done. In order for legal tactics to serve the needs of a broad campaign goal, you must retain control of the non-legal elements of a lawsuit. You must assert yourself. Many attorneys prefer to keep things close, to call the shots and control the publicity. These concerns are based on the normal considerations for a court case. But attorneys can be poor publicists and some would shun attempts at making news. These are attorneys to avoid. Involving your chapter group in the case allows you to anticipate opportunities for public education and news events.

Being your own attorney, also known as *pro se*—for yourself, is possible and sometimes preferable. In exchange for the absence of fees, the *pro se* litigant gets an education in the law. It is a well-established legal option: “the right to file a lawsuit *pro se* is one of the most important rights under the constitution and laws.”ⁱⁱ Be prepared for many hours of study to become familiar with statutes, rules and procedures. Find a law library and ask questions. You will have some advantages. A *pro se* litigant’s pleadings are not held to the same high standards as a lawyer’s.ⁱⁱⁱ However, it is not advisable to represent yourself or your organization without first establishing in yourself a genuine respect for the law and your opponent.

“There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. Yet the impression is common, almost universal.”^{iv}

Forget television judges. Be prepared. Learn to write and speak clearly and precisely. Argue the merits of your case. Develop a thick skin. Take absurdities with a grain of salt. Remain calm. Being emotional does not serve you in a courtroom, being persistent and thorough does.

“The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government.”^v

The rule of law is one of America’s gifts to the world. But, in our experience, legal action is but one arrow in a quiver which includes public education, media work, direct action, technical research and community organizing. These are essential elements without which a campaign has little chance of success■

A lawsuit can consume tens of thousands of dollars which could be used otherwise to better effect.

ⁱ Ron Simon, Esq., CHEJ Legal Counsel, *Everyone’s Backyard*, Winter 2000-2001

ⁱⁱ *Elmore v. McCammon* (1986) 640 F. Supp. 905

ⁱⁱⁱ *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Picking v. Pennsylvania R. Co.*, 151 Fed 2nd 240; *Pucket v. Cox*, 456 2nd 233

^{iv} Abraham Lincoln, Notes for a Law Lecture, written in the early 1850s

^v *Fundamental Principles of Professional Conduct*. Rules adopted by the State of Washington Supreme Court (2006)

Unequal Protection from Pollution in the Southeast



By Rev. Charles Utley,

BREDL Environmental Justice / SRS Campaign Coordinator / Community Organizer

There are a vast number of industries that pollute our environment on a daily basis. The sad thing is that the great majority of these plants are found in Environmental Justice communities in the Southeast. We need to continue to study the effects of these plants on our environment, but just as important is the need to know the effects these plants have on the residents of these communities. This is a great injustice that communities of color and the poor face. When we consider that many new nuclear reactors are being considered or being built in America, we must consider their locations. First, we must look at the geography of the United States. The majority of these polluting industries—including nuclear reactors, chemical plants, mass burning incinerators and nuclear power plants—are geographically located in the Southeast.

This excess number of polluting industries in the Southeast is evidence that there is a growing Environmental Justice problem and that the problem is focused on our communities. But Blue Ridge Environmental Defense League's work extends far beyond the boards of our service area of Virginia, North Carolina, South Carolina, Tennessee, Alabama and Georgia. There are real problems that are being created through polluting industries and factories from hydrofracking drilling to nuclear plants in the back yards of our communities. Virginia and North Carolina, in particular, have a great need for communities to be

concerned about hydrofracking. The long term effects of this fast moving industry should be closely monitored in our Environmental Justice communities where it is prevalent.

With the proposed *cookie cutter* design of the AP 1000 by Westinghouse for nuclear power in America, there is a great need for epidemiology studies to be conducted in targeted Environmental Justice communities. Radiation may be everywhere, but these communities in particular are receiving a disproportionate amount of radiation. This is because of the multiple siting of polluting industries in close proximity to these communities. The Environmental Justice movement was designed to put a stop to these practices and it has made a great impact, but there is still work to be done. We must remain alert throughout the Southeast because of the environmental injustices that are being placed on these communities. We must counter legislation and environmental impact studies that exclude the Environmental Justice component. This component is for the protection of these communities. It should be mandatory that the scoping plans for any proposed waste facility or air pollution permit not be considered without an Environmental Justice impact evaluation.

Because of the enormous costs involved, the nuclear industry requested more loan guarantees from the government totaling \$100 billion. The US Department of Energy also sought another \$9 billion through other legislation for the utility companies, Southern Company and Oglethorpe

Power, for Plant Vogtle located in the Shell Bluff Community near Waynesboro, Georgia, as well as three other plants for the installation of five proposed reactors. With federal assistance, the nuclear power companies continue to push their unsafe practices on Environmental Justice communities.

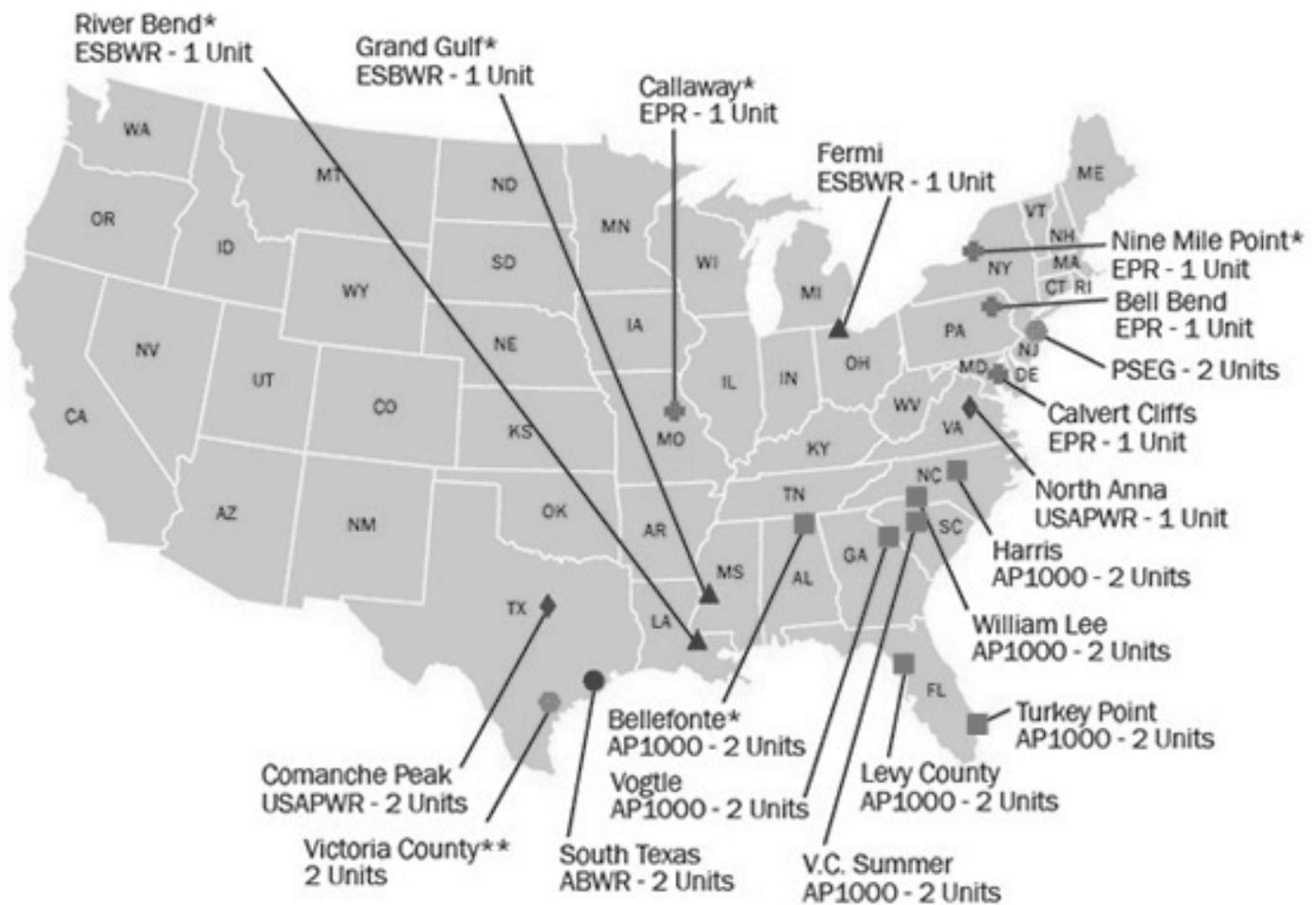
When we look where these polluting industries are located and are being proposed to be built, it is clear that we must seek new legislation to protect those who live around these plants.

Blue Ridge Environmental Defense League and other organizations will continue to rally around the Environmental Justice community of Shell Bluff in the fight against two new additional reactors by Southern Company. We need the support that was shown when activists came together from all over the Southeast on the anniversary of Fukushima to Fairfield Baptist Church in Waynesboro. This show of support to local communities causes an emotional high for those who are living under these conditions. The impact of environmentalists who came together from across the Southeast strengthens the community to continue to fight in their struggle against all forms of injustice. With the massive amount of money being spent on the development of nuclear power plants under the umbrella of the "need for *jobs*," Environmental Justice would be taking a serious step backward, and the impact of these plants' exposure accelerated, unless we act now. ■

Location of Projected New Nuclear Power Reactors

“It should be mandatory that the scoping plans
for any proposed waste facility or air pollution permit
not be considered without an Environmental Justice impact evaluation.”

~ Rev. Charles Utley



*Review Suspended by Applicant

** COL Application Amended by Applicant to ESP on 03/25/2010

Pittsylvania County Citizens Speak Out About Uranium Mining

By Ann Rogers, BREDL Community Organizer



At the request of concerned Pittsylvania County residents, Pittsylvania County Supervisors Marshall Ecker and Jessie Barksdale held a special meeting on the evening of July 9 for the purpose of soliciting the views and comments of county residents in consideration of whether the state should lift its moratorium and allow uranium mining and milling as proposed by Virginia Uranium, Inc. to take place in the county.

Mr. Barksdale opened the meeting by announcing to the packed audience in the General District Courtroom in Chatham that many residents who had come with the intent to speak were left standing outside due to lack of seating capacity inside the courtroom. Each speaker was given four minutes.

The overwhelming majority of residents who gave comments spoke against bringing uranium mining and milling into the county and into Virginia. In his comments, Jerry Hagerman, Pittsylvania County Supervisor for the Callands-Gretna

District, said he receives many phone calls on this subject from county residents, not one of which has been in favor of the mine. He said local residents are starting to complain to him that they can't sell property that is near the proposed mine/mill site.

Ben Davenport, Chairman of both Davenport Energy and First Piedmont Corp. and past president of the Virginia Chamber of Commerce, said the county and state have "one opportunity to get it right" on the uranium mining issue. He cited the \$80 million investment made in the Danville/Pittsylvania County economic development corridor between 2001 and 2007, involving a partnership with Virginia Tech and the creation of the Institute for Advanced Learning and Research in Danville. This multi-faceted economic development initiative seeks job creation in economic sectors driven by research and technology -- including motorsports engineering, plant biology, robotics, and polymer processing. Davenport warned that technology-based companies looking for communities

in which to relocate would see the presence of a uranium mine as a disincentive to come to Pittsylvania County, and that the uranium mining industry would create an unsustainable boom/bust economic cycle in the county.

The impacts to the county's animal agriculture industry that would result from uranium mining were cited by several speakers. Dr. Paul Erwin, a Pittsylvania County veterinarian who specializes in livestock, said that animals have to drink the water, eat the plants, and breathe the air potentially contaminated by byproducts of uranium mining and milling. Tommy Motley, owner of a dairy farm located within one mile of the proposed mine/mill site, asked, "If I lose my water, who should be responsible? No one has told me who." His dairy has been recognized for very high standards in milk production and, due to proximity to the proposed mine site, would be at risk of losing groundwater as a result of mine dewatering.

Representatives of both Hargrave Military Academy and Chatham Hall, which are exclusive private boarding schools with deep roots in the history and culture of Pittsylvania County, spoke of the stigma that would be placed on them with the presence of the uranium mine and mill in close proximity, resulting in their inability to compete with other private schools for students. Chatham Hall is five miles from the proposed mine/mill site, while Hargrave Military Academy is 8.5 miles away.

Kay Patrick, a county resident living five miles from the center of the proposed mine site, asked what it would cost for Pittsylvania County to bring potable water to those residents whose springs and wells would vanish as a result of mine dewatering.

Many speakers, including representatives of Piedmont Residents in Defense of the

Environment, the BREDL chapter working on this issue, asked the Pittsylvania County Board of Supervisors to pass a resolution in support of keeping the state's moratorium on uranium mining.

Kenny Rorrer, a Pittsylvania County resident, local historian, and producer of "Back to the Blue Ridge," a weekly radio program on WVTF Public Radio, spoke against bringing uranium mining to the county, citing recent examples of environmental catastrophes in the U.S. where government regulations were poorly enforced or ignored. He recounted the lyrics of an old ballad about a young woman who brings a "poor half frozen snake" into her house and fixes him a comfortable place next to the fire where, revived, the snake proceeds to bite her. She cries out, "You know your bite is poisonous and now I'm going to die." The snake replies, "You knew I was a snake before you took me in." Rorrer concluded with a plea to the supervisors – "Don't bring a snake into our house."

BREDL will offer a workshop titled "Local and Site-Specific Factors: Mining and Milling at Coles Hill" on Thursday evening, September 13, from 7 to 9 p.m. at the Olde Dominion Agricultural Foundation in Chatham. The workshop will be conducted by Val Green, who taught mining at the New Mexico Institute of Mining & Technology and served as New Mexico State Mining Commissioner. The workshop will examine topics related to mining and milling uranium in the water-rich environment of Coles Hill, including mine dewatering, mine decommissioning, acid mine drainage, seepage of mill tailings containment into groundwater, and the need to divert surface waters from mining areas and places where mine waste will be stored.

Uranium mill tailings remain radioactive for up to 100,000 years, and Virginia Uranium, Inc. plans to store its tailings underground at the Coles Hill site.■

"You knew I was a snake



before you took me in."

Hydraulic Fracturing in North Carolina



By
Therese
Vick
BREDL
Community
Organizer

“ Once upon a midnight dreary,
while I pondered, weak and weary,
Over many a quaint and curious volume of forgotten lore... ”

From “The Raven ” by Edgar Allen Poe



On July 3 2012, in the dark of night, by mistake, hydraulic fracturing became legal in North Carolina. This despite the massive citizen outcry for Governor Beverly Perdue to veto SB820, which she did. The calls and letters turned to the Legislature where it was hoped that there were enough votes to prevent an override.

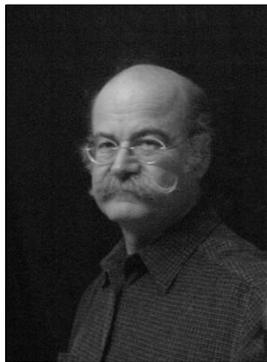
Representative Becky Carney, exhausted by the long day, accidentally voted to overturn the Governor’s veto by hitting the wrong button. Carney leapt to her feet asking permission to change her vote and her light was on (like raising your hand) , but Speaker Thom Tillis instead recognized Representative Paul Stam who did a procedural move called a “clincher” to close the vote on the veto override.

While it is not clear what legal ramifications will develop, fracking is now law in North Carolina. This is just a preview of the political corruption we can expect with this industry. For example: the next step in this process is the appointment of the Mining Commission. There are two conservation slots: one to be picked by the Speaker of the House, one to be picked by the Senate President Pro Tempore. One conservation slot was filled by speaker Tillis with Ray Covington, a Lee County landowner and founder of a group whose stated goal is to drill.

Besides the concerns for air and water quality, infrastructure challenges, social disruption, and extreme effects on the rural landscape, perhaps the dirtiest thing that fracking brings to a community are the corrupt politics which seep into every nook and cranny, much as fracking fluid does. Government transparency and clean politics will be like the sludge at the bottom of a wastewater impoundment; dirty and toxic.

All is not lost, the battle is not over, and grassroots organizing continues across the state. As has been said in many campaigns, “we just have to last one day longer than they do.” And we will. ■

We Win One! (Continued from page 1)



By Louis Zeller

In the same decision, the Court ruled for the State of New York that the NRC's analysis of temporary spent fuel storage at reactor sites was insufficient because of the potential danger of leakage and catastrophic fires.

The impact of the decision is immediate. The court's ruling invalidated a broad federal regulation which supports all US nuclear power plant licenses: 10 CFR Section 51.23. Without the general rule's assumption that waste would go to a repository someday, there is no longer any legal basis for nuclear power plant operators avoid environmental assessments of long-term irradiated nuclear fuel storage at nuclear power reactors in fuel pools or dry storage.

For example, in 2008 BREDL submitted a contention which raised this issue in its petition opposing Duke Energy's license for

a new nuclear plant near Gaffney, South Carolina. ⁱⁱ In refusing to admit BREDL's original waste confidence contention, the Atomic Safety and Licensing Board concluded, "In light of the plain language of the rule and its regulatory history, the Waste Confidence Rule applies to this proceeding."ⁱⁱⁱ That conclusion is no longer justified. Under the National Environmental Policy Act, a federal agency must look at both the probabilities of potentially harmful events and the consequences of those events. Duke Energy and scores of other nuclear utilities will now have to go back to the drawing board.

In 2011 the Blue Ridge Environmental Defense League helped set this challenge in motion with our interventions in nuclear power plant licenses. We provided standing and evidence from our license interventions at Bellefonte (AL), WS Lee (SC), North Anna (VA) and Vogtle (GA). The other two clients were Southern Alliance for Clean Energy, and Riverkeepers, Inc. We are grateful to Diane Curran of Harmon Curran Spielberg and Eisenberg, LLP in Washington, DC who provided us with legal representation *pro bono publica*; i.e., free.

Meanwhile, we are not wasting any half-lives. On June 18, two dozen groups and individuals

including BREDL petitioned the Nuclear Regulatory Commission to ensure that the environmental analysis directed by the Court of Appeals is now incorporated into the licensing of nuclear power plants across the nation. Then, on July 9 we filed new arguments challenging specific power plant licenses across the country. BREDL and its chapters targeted three in our service area: Bellefonte in Alabama with BEST (Bellefonte Efficiency and Sustainability Team and Mothers Against Tennessee River Radiation), William States Lee in South Carolina with SAFE Carolinas and North Anna in Virginia with the People's Alliance for Clean Energy. These are legal steps necessary to hold the electric power companies' feet to the nuclear fire.

It is important to build upon the recent federal court victory striking down the Nuclear Regulatory Commission's patently ridiculous Waste Confidence Rule, which should now be enshrined in Blackstone's dictionary along with other legal fictions. For years we have had no confidence in NRC's claims about nuclear waste and we have not been silent about it. Finally, the courts have agreed with us. We look forward to injecting some sanity into the debate on nuclear power. ■

ⁱ *State of New York v. NRC*, USCA Case No. 11-1045, Argued March 16, 2012; Decided June 8, 2012.

ⁱⁱ See Petition for Intervention and Request for Hearing by the Blue Ridge Environmental Defense League, June 27, 2008

ⁱⁱⁱ LBP-08-17 (September 22, 2008)

Coming soon to YOUR Backyard:

(continued from page 1)



In a recent News and Observer article, Representative Gillespie stated, “I have not even scratched the surface. It would take me a decade to get to where I would see us being even for what ’s been done to me and the private property rights of citizens across the state.”¹ This is the height of arrogance, and is an ugly demonstration of a personal vendetta, which will increase the poisoning of North Carolina citizens.

The changes in the regulations also make meaningful monitoring of facilities impossible. For instance, if there are several sources of emissions at one site, when estimating a toxics emission inventory DENR will only be able to

consider the sources that do not come under the less-stringent EPA toxics requirements. If a source is exempt from the North Carolina standards, its contributions to the level of toxic emissions are not considered- **even though the source may be the largest emitter of toxics onsite.**

For example, in the diagram there are three emissions sources pictured. Source one and source three will be regulated by the stronger North Carolina standards. Source two, the largest, will be regulated by the technically based EPA standards. Under North Carolina ’s Air Toxics rules, ambient air levels are monitored at the fenceline, and must be at or below certain levels. Under the new rules, many facilities will be exempt from fenceline monitoring, and many questions remain concerning how adequate and accurate monitoring can be done when several different emissions sources are at one location. Will neighbors on one side of the property be exposed to more poisons than the other?

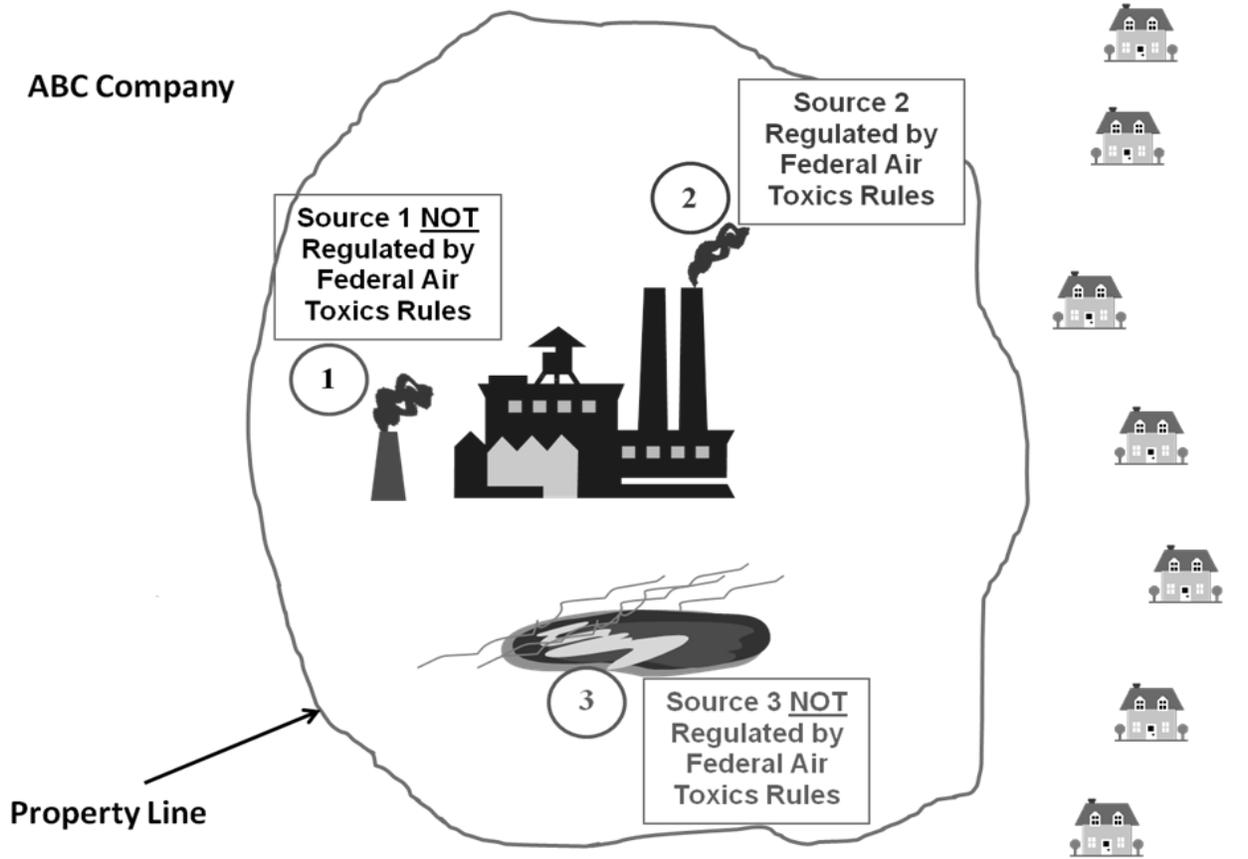
There is much at stake, particularly for children, the elderly, those already ill and expectant mothers. Medical Advocates for Healthy Air, a coalition of health care professionals providing education to “colleagues, patients, and policy makers about the connection between poor air quality and disease”² released a report last month that shows higher premature death rates in counties and areas surrounding them with the highest toxic emissions.³ The most vulnerable, disenfranchised, and medically underserved communities will likely endure the increased ill effects from decreased air quality. Industry called it a jobs bill. Perhaps it is—for doctors, hospitals, ICU ’s and morticians. ■

¹Jarvis, Craig. “State House targets environmental regulations.” *News and Observer* 24 June 2012. Print. <http://www.newsobserver.com/2012/06/24/2155345/state-house-targets-environmental.html>

² Link to Medical Advocates for Healthy Air brochure: <http://cleanaircarolina.org/wp-content/uploads/2012/03/MAHA-brochure-Jan-2012.pdf>

³ Link to Health Outcomes Report: <http://cleanaircarolina.org/wp-content/uploads/2012/06/Health-Outcomes-Map-and-chart.pdf>

Example Illustrating State and Federal Air Toxics Programs



“I have not even scratched the surface. It would take me a decade to get to where I would see us being even for what’s been done to me...”



Rep. Mitch Gillespie

KNOW NUKES Y ' ALL SUMMIT: Huge Success!

Hosted by Mothers Against Tennessee River Radiation (MATRR) and Bellefonte Efficiency & Sustainability Team (BEST)

Veteran activists and concerned citizens from across the Southeast and as far afield as Iowa, Wisconsin and New Hampshire gathered June 28th-30th at the University of Tennessee-Chattanooga for the Know Nukes Y ' all Summit.

The conference gathered a cornucopia of national, regional and local activist groups to compare notes and educate each other. The conference was at once a family reunion, a networking opportunity, a working meeting and an intensive seminar.

BREDL Environmental Justice and Savannah River Site Campaign Coordinator and Community Organizer, Rev. Charles Utley, opened the summit with an inspiring and uplifting song.



Rev. Utley spoke passionately about Cancer clusters found in the African-American community in Shell Bluff, GA near the Vogtle Nuclear Plant and showed the need for Environmental Justice.

Others represented at the conference were the Sierra Club, NIRS (Nuclear Information Resource Service), Alliance for Nuclear Accountability, Beyond

Nuclear, Nukewatch South, Georgia WAND, Southern Alliance for Clean Energy (SACE), Mountain Justice, Oak Ridge Environmental Peace Alliance (OREPA), Southern Energy Network, NC WARN, SAFE Carolinas, New South Network, Nashville Peace & Justice Center and Carolina Peace ... and of course the Helen Caldicott Foundation.

The Dave and Dave Show

Keynote speakers S. David Freeman and David Lochbaum, dubbed the Dave and Dave show, anchored the conference. Lochbaum, a twenty-year nuclear industry veteran became a whistle-blower and switched sides, now working for the Union of Concerned Scientists. Lochbaum combined his nuclear expertise with dry wit and deadpan humor that leavened the discussion. Could a Fukushima type event happen in the U.S.? Lochbaum described the possible things that could go wrong, how Murphy 's Law could easily unravel nuclear precautions and how precarious the current situation was, particularly with spent fuel piling up in pools in reactor buildings. Lochbaum urged removing such spent fuel and placing it in dry cask storage on site.

Freeman, a spry and vital elder, was a former TVA Chairman and utilities executive who shuttered several nuclear reactors. The financial money pit and cost overruns of nuclear power swayed him to mothball the plants. With industrial customers, churches and consumers realizing the increased cost of

nuclear, he was able to steer the TVA board to this decision.

Too Expensive to Meter

Discussions included challenging CWIP (pronounced quip) laws, authorizations to increase rates for Construction While in Progress (CWIP), basically blank checks for utilities to spend on nuclear construction leaving customers on the hook. Iowa and North Carolina had seen successful campaigns to block CWIP; while Georgia and South Carolina ratepayers had been put on the hook for new nuclear reactors. The successful campaign against CWIP in Iowa had even enlisted the help of AARP! David Freeman, in a following discussion, counseled an irresistible argument: "convince industrial and residential customers that nuclear will make them pay more" and, in more colorful language, that they 're being "screwed by the utility." With cost overruns averaging 200% according to DOE 's own figures, as Lochbaum pointed out, consumers are being stuck with huge debt burden. Another incalculable burden is the cost of a Fukushima style accident; the German government estimated the cost of such an event at \$11 trillion dollars. Consequently, Germany is phasing out nuclear and making major progress with renewable such as solar. Nuclear corporations in the U.S. are Limited Liability Corporations, meaning the bulk of the cost of such a disaster would be born by the taxpayers, not the company responsible for it.

Running the Nuclear Gauntlet

Topics ranged from the harmful effects of radiation, the TVA, high and low level waste, the consumption of water resources by nuclear energy, Fukushima style reactors, uranium, to the nuclear weapons complex in the Southeast. Cancer clusters found in the African-American community in Shell Bluff, GA near the Vogtle Nuclear Plant and in Appalachia in Erwin, TN home to several uranium processing facilities showed the need for Environmental Justice. Billion dollar boondoggles with the MOX plutonium fuel fabrication facility at the Savannah River Site in SC and a new Uranium

Processing Facility (UPF) in Oak Ridge, TN were described. MOX boosters hope to sell the MOX plutonium fuel to the TVA since there are no commercial customers that want it; meanwhile, the UPF represents a new nuclear weapons facility when the US is already bristling with excess nuclear weapons. Nonviolent actions with the Clamshell Alliance to shut down the Seabrook nuclear plant were detailed alongside more recent actions by Mountain Justice activists in a workshop on Creative Nonviolence/Civil Disobedience. The history of resistance to nuclear power and nuclear weapons was chronicled in another workshop.

Dotmocracy

Having boned up on nuclear issues, we were ready to take the next step as organizers and activists. In the literature room, conference goers voted on several possible break out discussion topics for Saturday afternoon. With three dot stickers each, conference goers voted on their preferred topics placing their stickers on topics that soon grew into clusters of dots. Hence Dotmocracy, which is actually a quite effective means of democratically narrowing scope onto a handful of important issues. ■

Special Thanks to David Matos, President of Carolina Peace, Columbia, SC, who shared portions of his informative summit report with The LEAGUE LINE.



Sandy Kurtz, BREDL Tennessee / Alabama Vice President, was one of the more visible Tennessee folks that kept the conference on track and moving forward. Sandy enjoyed “the final celebration where we sang songs of solidarity and proudly displayed our ‘No Nukes’, ‘Yes Green Energy’ signs at a Chattanooga Park along the Tennessee River in the 105 degree heat.”

Thanks to all who had a hand in organizing, promoting and supporting this crucial Southern summit.



BREDL
 PO BOX 88
 Glendale Springs, NC 28629
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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 to empower whole communities in environmental issues.

We are a true league of grassroots chapters working in rural communities in the Southeast. For twenty-eight years the same organizing principles have guided our work: public health protection, environmental democracy, earth stewardship and social justice. Our mission is to prevent harm from air and water pollution and to create sustainable alternatives for sound waste management and economic development. 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.

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