

# THE ACT REPORT

VOLUME 14 NUMBER 7  
JULY 2005



A PUBLICATION OF  
THE AFFILIATED  
CONSTRUCTION  
TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

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## Local Workers Protest at Tasty Blend

**U**nion Iron Workers took to the streets on June 29 to protest out-of-state contractors and imported workers building a Tasty Blend Foods facility in Putnam County.

The project was financed heavily with tax dollars through a low interest loan, property tax breaks and money to build the access road and do site development.

Tasty Blend Foods received a \$1.255 million loan from the state Economic Development Authority last year.

The site was developed by the Putnam County Development Authority and the Putnam County Commission recently authorized a property tax break for Tasty Blend.

In addition the state highways department used \$200,000 in industrial road access funding to put in their access road.

“This company promised

jobs and in return got millions of our tax dollars,” said Bubby Casto, Business Manager for Iron Workers Local 301 in Charleston.

“But the contractor erecting the metal building is from South Carolina, and their workforce is from south of the border, way south.”

The West Virginia Division of Labor cited Carolina Metal Building Technology Inc. (CMBT) on June 2 for not having the proper contractors license or wage bond and for having eight workers on site without proper identification.

Just two days earlier Putnam

County Commissioners, in a two to one vote, granted Tasty Blend Foods a property tax break.

The 20-year deal gives Tasty Blend a 20 percent break in their property tax for the first ten years and 15 percent for the

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*PROTESTING OUT-OF-STATE contractors and imported workers at the Frazier Bottom site in Putnam County are members of Iron Workers Local 301, Charleston. Also at the protest were members of supporting crafts including the Cement Masons, Sheet Metal Workers and Operating Engineers.*

## ABC Wants Wages Rolled Back

**I**n their never ending fight to lower workers wages the anti-worker Associated Builders and Contractors is calling for a roll-back of the 2005 wage rates set by the WV Division of Labor.

As part of their ongoing attack against state prevailing wage rates the ABC sent a letter to the state Division of Labor on June 17 demanding the 2005 wage rates be revoked.

They also wanted the DOL to tell the Secretary of State's office to post the 2004 wage rates.

The DOL has denied the request.

Responding for the DOL Assistant Attorney General Elizabeth Farber explained what the ABC asked was against the law. She pointed to West Virginia law that clearly state no wage rate can stay in effect “for a period longer than fifteen months from the date they are published.”

Farber also pointed out the ABC was misinterpreting the code in their request for lower wage rates.

Earlier this year the ABC filed a protest of the 2005 wage rates. The law says when a protest is made the new wage rates do not go into effect.

So for the first few months of the year the old 2004 wage rates were still in effect.

The WV State Building Trades intervened and was allowed to participate in the proceedings.

The protest was heard by an administrative judge who ruled against the ABC stating their claims lacked merit and misinterpreted the law.

At that point the DOL ruled the 2005 wage rates were in place.

However the ABC appealed the ALJ's ruling to the Kanawha County Circuit Court.

Farber explained the law which kept the 2004 wage rates in place no longer applied once

the ALJ denied the ABC's appeal.

Kanawha Circuit Court Judge Jennifer Bailey Walker has asked all parties to have briefs complete by August 9, and unless requested, will not hold a hearing.

“This is the same thing the ABC did two years ago,” said Roy Smith, Secretary Treasurer of the WV State Building Trades.

“They lost at the ALJ and circuit court level. And then they lost at the Supreme Court.

“But this time, with Judge McGraw gone they think they can win. We are taking this very seriously.”

## NEW TOOL TO FIGHT UNFAIR COMPETITION

# Target / Market Recovery Programs at Work

**A new tool being used by construction unions and their members is called Targeting.**

The idea is to use a portion of the locals funds to help make union contractors more competitive when they are bidding against unfair competition.

When such a situation arises, a review of the project, the number of unfair bidders, the number of manhours predicted and other market conditions is made.

Then if conditions justify it a commitment is made to all fair contractors bidding the project that the union will put up a certain amount of funding if a signatory contractor is low bidder.

This allows the contractor to factor in the discount and lower their bid.

The approach is somewhat similar to instances where the union will agree to work at a frozen wage rate or even a discounted wage rate.

However, it has an advantage that the cost of lower wages is spread out among the entire membership, not just those working on a frozen or discounted wage project.

"Sometimes a 90 percent wage rate is what we have to do to get a job, nobody likes it but it's a reality we face," said Gary Tillis, Business Manager for the West Virginia Laborers District Council.

"But the targeting approach

let's those on the job earn full wages, no cuts, and makes for a more productive worker."

Tillis points to a number of recent project where the use of targeting funds has created work for his membership.

bursement of \$5,000.

A union contractor, Chapman-Martin Excavation got the \$250,000 job by just \$3,400.

"Typically all that site prep work out there has gone non-union," said Tillis.

Asbestos Workers Local 80 has been using the targeting approach since 2002 and getting real results.

"When we

see a project that experience tells us our contractors probably won't get, especially commercial work, we send a letter to our contractors offering assistance from our Market Recovery Program (MRP)," said Steve Keller,

organizer for Local 80.

In Portsmouth, Ohio, a tough area for union contractors, six school projects were picked for the MRP and union contractors got all six projects.

The decision was made in 2003, but members are still working on these projects today.

Small projects are often considered, like two Lowes stores, one in Lewisberg and the other in Buckhannon.

The MRP helped a union contractor get both jobs. And even though they are just 120 hours each, they keep the local active and visible in those areas.

Keller said there are a number of factors considered before a project is selected for the MRP funding.

- The estimated number of non-union contractors.

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**SINCE 2002 A LITTLE MORE THAN \$400,000 OF [ASBESTOS WORKERS LOCAL 80'S] MARKET RECOVERY PROGRAM FUNDING HAS BEEN USED TO GENERATE OVER \$3 MILLION IN WAGES.**

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At the Southridge Mall area of Charleston a site preparation project was targeted last month at \$5 per hour to a maximum of 1000 hours.

That meant a maximum reim-

### Laborer's Officials Meet With Senator Byrd



SENATOR ROBERT C. BYRD visits with members of the Laborers District Council of West Virginia during a June event in Morgantown, (from left, Steve Montoney, Jason Hershman, Senator Byrd, and Gary Tillis).

"We appreciate the Senator taking time to talk with us," said Gary Tillis, Business Manager for the Council. "And we really appreciate all the hard work the Senator has done on behalf of West Virginia's working families."

The senator is up for re-election in 2006.

### Tasty Blend

*CONTINUED FROM P. 1*

remaining ten years.

Tasty Blend bought the 10 acre site from the county development authority last August after the county spent million developing the site.

In March of 2004 the state Economic Development Authority voted to give Tasty Blend a \$1.255 million low interest loan.

The loan was for a 58,000 square foot facility that will allow the company to expand its operation, now in Scott Depot, making dry baking mixes and gravy sauces.

Tasty Blend did not put the project out for competitive bid according to organizer Tony Lott and hired Ponderosa Industries as their general contractor.

Lott tried numerous times to contact Tasty Blend and Ponde-

rosa to see if they would hire local workers or subcontractors.

A state economic development spokesperson was quoted in the *Charleston Gazette* saying they "create good, permanent jobs for West Virginians. We have no authority over the construction."

But Casto points to the West Virginia Jobs Act which requires 75 percent of the workers to be from West Virginia or counties located no more than 75 miles from the border.

"The WV Jobs Act requires local workers," said Casto. "If the state wanted to require local workers they could, they just don't want to, and that's a crime."

Casto also points out the jobs will pay \$8 per hour, without benefits, which is not enough to keep a full time worker above the poverty level.

# WV Works TV Show Off Air After Six Years

**A**fter a six year run WV Works aired it's final program at the end of June.

The show was started by the ACT Foundation in May of 1999 in an effort to lead the way for the labor movement to develop it's own television news show.

It was the first, and only, labor run television show in the country that aired on network stations.

As the show evolved other unions and allies of unions were asked to participate.

The United Mine Workers of American, West Virginia AFL-CIO and American Federation of Government Employees were co-sponsors of the show along with ACT.

However more sponsors were needed to help spread the cost of producing and airing the show.

"We had hoped other unions

and perhaps friends in the legal community would help sponsor the show," said Steve White, ACT director. "But it just didn't happen."

"We tried, and we did lead the way, we just couldn't get others to come along."

ACT has invested heavily into public relations and advertising efforts to get a message to the public about the value of local union construction workers.

ACT had developed the show to provide for a forum where stories could be told that couldn't be

told in 30 second commercials.

The half hour news magazine format allowed in depth reporting on issues like contractors using illegal aliens in the construction industry, state economic development efforts that ignored the job opportunities for local construction workers, the state workers compensation system that allowed millions of premiums go uncollected and the acts of courage of average workers when faced with contractors willing to break the law to avoid having to deal fairly with their employees.

The show also provided a format for unions to get their positive events televised. Many networks prefer to focus on the perceived negatives of unions and overlook training and volunteer efforts.

The show was produced and hosted by Eric Spelsberg who will continue to work for the labor oriented Vision Builders Inc.

"Eric did an excellent job," commented Randy May, service representative for the Carpenters Union. "We got a lot of our issues to the public because of the show."

## FERC DISMISSES COMPLAINT

# Longview Power Must Pay Allegheny

**T**he Federal Energy Regulatory Commission (FERC) has denied Longview Power's request to force Allegheny Power to allow access to their transmission lines for free.

Responding to a May complaint by Longview, FERC ruled Longview must pay for access to the lines and to cross property owned by Allegheny.

"While Allegheny has an obligation to provide reasonable access to its facilities," the ruling said, "the commission concludes that what Longview seeks here is to avoid the cost of such a substation by crossing Allegheny's property..."

Chris Colbert, vice president of coal power development for Longview Power's developer, GenPower LLC, said the commission's ruling does not jeopardize the project.

"All it says is we need to negotiate a price."

Longview has proposed two routes to build a transmission line on Allegheny's property.

The first option was rejected without explanation.

For the second option Longview offered \$2 million but Allegheny wants \$5.5 million.

Longview had included in their complaint that Allegheny would not provide valid reasons why they rejected the first option or why they needed \$5.5 million for the second option.

FERC pointed out Longview could interconnect with Allegheny's existing 500 kV Pruntytown transmission line but would have to build a substation and run a short 500-yard line.

FERC suggested Longview and Allegheny use FERC's "Alternative Dispute Resolution Service to facilitate discussions regarding the price for building the line."

The July 6 ruling was issued after a June 30 FERC meeting in Washington, DC.

Longview is trying to build a \$1 billion coal burning power plant in Monongalia County.

They have committed to hiring at least 1200 local union construction workers with a payroll of more than \$120 million during the 39 month project.

## ACT Holds Online Research Classes Statewide



*ACT RESEARCH DIRECTOR Lesly Messina leads an online class on research for union organizers and business agents in Huntington.*

*Participants shared ways to find information on projects and companies using the internet.*

*Using Marshall University's computer lab allowed those in attendance to be online at the same time.*

*One key source of information reviewed was the ACT database.*

*Since ACT was started in 1992 it has developed a database on construction projects and companies.*

*Member unions can access the data through ACT's web site.*

*With 13 years of data the ACT database is the most comprehensive source of construction information in the state.*

*Also examined were numerous online sites to help find out if companies have defaulted on their workers compensation or unemployment payments, OSHA records, tax records for nonprofit's, and corporate registration sources.*

*"We need all of the tools we can find," said Donnie Huff, Director of Organizing for Operating Engineers Local 132.*

*ACT plans to hold the class at computer labs located within each of the five West Virginia Building Trades Council areas this summer.*

# Doctors Group Discharges Union Patients

**A South Charleston medical practice has started firing patients who are union construction workers and their family.**

Doctor Jeff Hively was caught hiring contractors without health insurance, workers compensation or unemployment.

When members of several construction unions pointed this out to the public Hively took quick action - he attacked the union construction workers.

Members of the Carpenters and Laborers placed banners near Hively's new office building last month.

Hively had been approached twice by union representatives during the project, and both times he refused to talk.

Wolfe Construction was hired as the general contractor.

Wolfe has a history of paying substandard wages and hires subcontractors who do the same.

Quiet Storm Construction was a subcontractor on the job. Quiet Storm showed up on the Workers Compensation and Unemployment default lists.

This led to the banner which read "Shame on doctor Hively."

they claimed lawsuits were driving them away," said Scott Brewer, Service Representative, Mid-Atlantic Regional Council of Carpenters.

The Doctor and his wife called a press conference to make their case.

But the Trades members stood firm.

"This is an issue about insurance," said Brewer. "That a doctor would have workers without it is just wrong."

Laborers' field representative Jim Hailey was also manning the banner.

He realized his own doctor, Christopher Skaggs, was in the same prac-

A letter was sent to Hailey, and another to his wife, letting them know they were discharged as patients.

"These doctors only care about themselves," said Hailey.

"The workers don't have health insurance, some contractors don't have worker compensation or unemployment as the law requires but they think

that's OK."

Many other crafts have joined the effort and are looking for ways to let the public know about the issue.

"The doctor keeps trying to make this a union issue but it's not," said Brewer. "Sure we're union, and proud of it, but this is about health care, fair pay and following the law."

**"THIS IS AN ISSUE ABOUT HEALTH CARE. THAT A DOCTOR WOULD HAVE WORKERS WITHOUT IT IS JUST WRONG." SCOTT BREWER, SERVICE REPRESENTATIVE, MID-ATLANTIC REGIONAL COUNCIL OF CARPENTERS**

Claiming the banner was unfair Hively's wife stood out with a sign that blamed the banner for driving doctors out of West Virginia.

"It was just a few months ago

tice as Hively.

When Hailey mentioned he didn't appreciate being a patient of a practice that would only take health care but not pay for it Hively went a step further.



HIVELY'S WIFE STAGED a counter protest but was unable to answer why the company building her husband's office did not have healthcare or workers' compensation. She also could not explain how doctors were being 'driven' out of state by workers who want health care benefits.

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## Target

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- The size, location and manhours requested.
- The amount of subsidy considered and the amount of MRP available.

If the MRP is approved and a contractor is awarded the project then strict records must be kept before any payments are made.

"We require reports from foremen and we often audit the reports to make sure the hours

are worked and the reports are correct," said Keller.

Reports allow Local 80 to track their investment closely. Since 2002 a little more than \$400,000 of MRP funding has been used to generate over \$3 million in wages.

For every dollar spent, more than \$6 in wages were earned.

"The key is getting our contractors in the door and our members working to show what they can do and build a relationship with the customer," said Keller.