

# THE ACT REPORT

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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.

Charleston - (304) 345-7570  
Toll Free - (800) 930-9675  
www.actwv.org



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# King Coal Highway Contractor Sold

**N**icewonder Construction, the coal company handed a \$100 million tax funded construction contract for parts of the King Coal Highway, has been bought by Alpha Natural Resources, Inc.

The ACT Foundation has gone to Federal Court challenging the no-bid highway construction contract Nicewonder got last year.

The suit was filed against the state Highway Department, Nicewonder and the Federal Highway Administration.

While the case drags on Nicewonder has decided to sell the contract and some other mines for a reported \$316 million.

The deal was announced at the end of September but still must clear some financial hurdles before being completed.

Various reports place the total reserves in the deal at 27 million tons making some question why the purchase price was so high.

In a telephone interview

stock analyst representatives for Alpha noted Nicewonder's road business was something Alpha had no experience in. But they feel it has lots of potential.

They also stated that future road projects in the southern part of West Virginia and neighboring Virginia would cross areas where Alpha had mineral rights making future road building deals both possible and profitable.

ACT contends the road building jobs should be put out to public

bid, that workers should get the prevailing wage rates and that strict state road building standards should be adhered to.

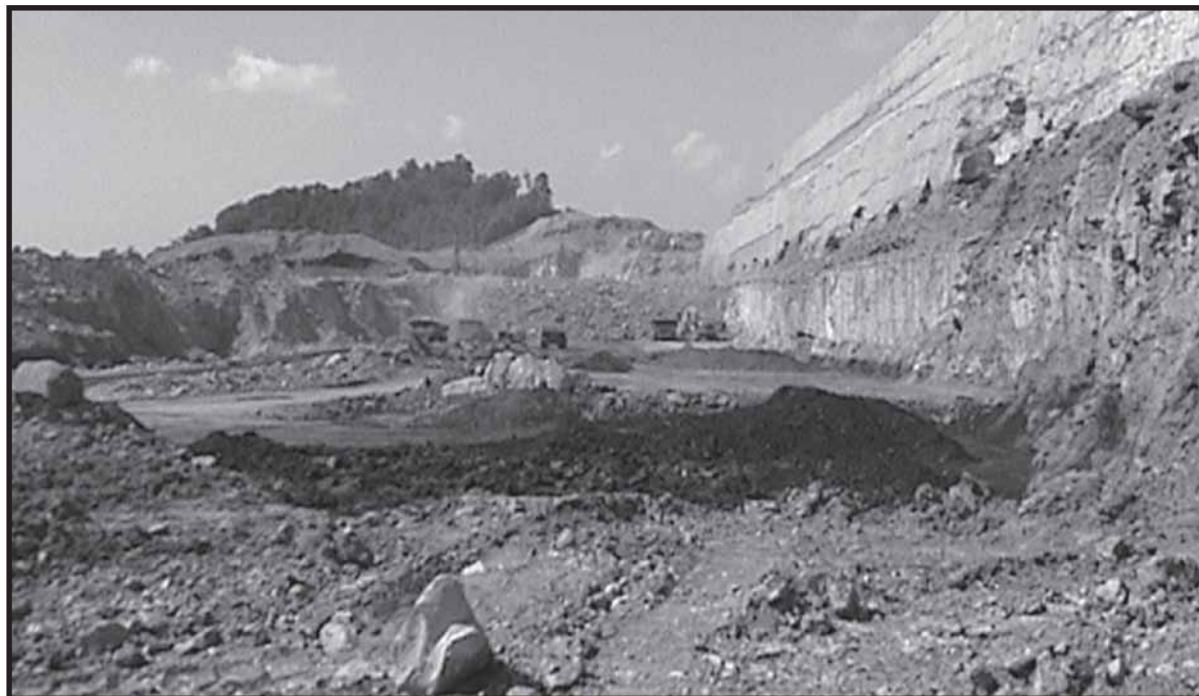
Federal law requires public bidding except in emergencies or extraordinary circumstances. No-bid contracts have been virtually outlawed due to problems of favoritism, corruption and waste associated with them.

ACT research has found that no mining or environmental permits have been issued for the King

Coal project.

"They're not following traditional highway procedures on slope, compaction, safety, or even the route they were suppose to take," said Ronnie Burdette, Business Manager for Operating Engineers Local 132. "And they are not bidding or following the wage or mining laws."

"Now we find out they have sold the contract for millions. This whole deal stinks."



*NICEWONDER CONSTRUCTION WAS handed a no-bid contract to build part of the King Coal Highway in Mingo County and is mining up to three million tons of coal without a mining permit.*

# Whittaker Threatens \$100 Million Suit

**P**owerball winner Jack Whittaker has threatened to sue the ACT Foundation and others based on recent news reports about problems with his construction company Diversified Enterprises.

The September issue of the ACT Report carried a story about Diversified's poor track record. Numerous projects were not completed on time and citizen complaints at ongoing

projects had reached into the thousands.

Several newspapers wrote stories based on the ACT Report story and that caught Whittaker's attention.

Whittaker was quoted in the Charleston Daily Mail to say, "I am preparing a \$100 million lawsuit against all of those people. They are badmouthing my operations without any proof. Don't say nothing about my family or my construction ability. I will not put up with it."

While ACT Director Steve White says he doesn't take any

lawsuit lightly, "We have all the documentation to back up everything in the article."

One issue was the many complaints filed by citizens in the Union Williams Public Service District based in Wood County.

ACT Representative Walter "Fuzz" LaRue had copies in August of at least 1,400 individual complaints about Diversified and their sub-contractor Zion, Inc. Since then more complaints have been sent in.

"The truth is, there are lots of upset people in Wood County," said Joe Bowen, a representative

of the Laborers. "And they are upset because Diversified and their sub Zion, have destroyed property and failed to make adequate repairs."

Whittaker also took issue with ACT's call for an investigation into his relationship with Holley Brothers Construction. Whittaker ran Holley Brothers projects in West Virginia through the 1990's.

Holley owes the state workers compensation fund approximately \$1.3 million.

ACT uncovered documents

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# Institute For Labor Studies Under Attack

**Administrators at West Virginia University are threatening to derail the Institute for Labor Studies program based in Morgantown.**

ILSR Director Steve Cook has been demoted based on trumped up charges of "name calling."

According to Cook's demotion letter he was accused of using the term "milk cow" when

referring to Stanley Hostler, a labor lawyer and major funder of the University.

Associate Provost Larry Cote wrote the letter along with Assistant Provost Paul Becker.

"It is clear these are ridiculous charges, based on misinformation," said Roy Smith, Secretary-Treasurer of the WV State Building Trades and also a member of the WVU ILSR Advisory Committee.

"This action can only be understood as an attempt to elimi-

nate the ILSR, something I think has been the desire of the University for years."

Smith points to an ongoing effort by the University to reduce staff and positions at the ILSR while at the same time demanding the program bring in money through grants and fees.

Recently the West Virginia Federation of Teachers has begun an organizing drive aimed at WVU faculty and staff prompting some to charge the demotion as simple "union busting."

The ILSR was started in 1958 and its existence is required under state law. The program provides training to trade unionists of all types in such areas as labor law, grievance handling, collective bargaining, arbitration and research.

The ILSR has had a special "summer school" program bringing in more than one hundred union officers, agents and rank-and-file members each year for a week long intensive session.

They have also put together

"winter schools" specifically for building trades locals as well as a variety of other special programs.

Members of the West Virginia AFL-CIO and the ILSR Advisory Board have been meeting to put together a campaign to restore Cook to his position and save the ILSR from further cuts.

"It's a shame that the one program we have come to depend on, which helps labor become more professional and capable, is under attack," said Smith.

# Workers Compensation Effort Makes Progress

**Efforts to deal with the changing state workers compensation system are finding opportunities according to both labor and management participants in a construction industry initiative.**

"The numbers are astounding," said Jim Cerra, Executive Director of the Kanawha Valley Builders Association.

"If we do this right we can lower premiums for our contractors and improve the workers compensation system for union members."

One of the numbers Cerra refers to is a study the group had done of premiums collected as compared to claims paid out over the last five years.

For every dollar of premiums the union contractors paid, only 37 cents went to pay claims.

The remaining 63 cents went to subsidize the non-union competition and pay debt created by the coal industry.

Part of the cause is that workers compensation premiums are based on a percentage of pay-

roll. High wage employers pay much more premiums per hour than their low wage competitors.

However, the higher wage unionized sector has a much better system of safety and drug testing programs leading to lower accident rates.

What the group has learned is the savings from safety has for the most part not been used to lower premiums, instead it is used as a subsidy to other companies.

The group has already identified two ways to lower premium costs.

A "back-to-work" program has been available but not used until recently.

The program is designed to find ways to get workers back on the job sooner, working with their doctor making sure they are getting the proper care they need.

"We know the sooner you're able to get back to work the better you'll be," said Bubby Casto, Business Manager for Iron Workers Local 301 and a

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*LOOK FOR YOUR EMPLOYER TO START A BACK-TO-WORK PROGRAM. THE DISCOUNT MAKES THEM MORE COMPETITIVE, THE PROGRAM PROVIDES A BETTER SYSTEM FOR WORKERS.*

---

member of the group.

Another program underway is a drug-free workplace discount.

place are very similar to what union workers already comply with.

The group is urging workers

A five percent discount is available to general contractors who can show they have a drug free workplace.

Standards in

compensation officials to expand the program next year to include other employers such as electrical, road construction and steel erection.

Improving the ways claims are handled is another top priority.

The group is trying to tackle claims issues such making sure injured workers get to the best doctors, without a long wait.

These issues are a top priority.

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*NATIONAL WORKERS COMPENSATION expert John Lewis (right) provides guidance to the labor-management group. Lewis has been brought in as a consultant to help develop new workers compensation programs in the construction industry.*

## LABORERS TO LEAVE AFL-CIO

# WV State Building Trades Convention Held

**E**ighty delegates and guests attended the annual State Building Trades Convention held at the Stone-wall Jackson Conference Center in Lewis County on September 14.

Speakers included Jim Lewis, Commissioner of Labor, who started his career as a pipefitter from Parkersburg and also worked as an ACT Representative.

Lewis gave an overview of the many responsibilities which the Division of Labor has, including enforcement of laws regarding such issues as minimum wage, prevailing wage, contractor licensing, crane operator certification, manufactured housing, boiler and elevator inspections, child labor, amusement ride inspection, weights and measures, and overtime.

Joyce Fox, Manager of the

Union Trades Federal Credit Union, also gave a presentation.

The credit union has grown dramatically in the last few years and now has more than \$18 million in assets.

A new headquarters has been built in Parkersburg and the Charleston branch has been a great success.

George Kovolenko from PACE Integrated gave a presentation on the use of "Smart Card" technology in the construction industry.

Smart Cards are credit card sized identification which have a computer chip capable of holding large amounts of information.

These cards are being used to help workers keep information on training, safety, drug testing and personal medical needs on hand.

Some in attendance had hoped there would be a resolution to recent AFL-CIO problems and the question of how to handle the many questions raised

by the disaffiliation of the Carpenters, Teamsters, Unite-HERE, UFCW and Service Employees.

While the AFL-CIO has issued a "Solidarity Charter" which will allow local unions who have dis-affiliated to participate

in state and local AFL-CIO's, there is still no word on how building trades councils will be effected.

The split appears to be growing with recent news regarding the Laborers Union.

The Laborers International

Union of North America has announced they plan to leave the AFL-CIO.

According to President Terry O'Sullivan it is not a matter of if they leave, just when.

The decision came after a

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WEST VIRGINIA STATE Building Trades President Steve Burton addresses delegates at the annual convention held last month.

# Sen. Robert Byrd Announces Re-Election Bid

**S**enator Robert C. Byrd announced he would seek re-election to the Senate at an event held in Charleston on September 27.

In front of about 500 supporters at the Capitol Rotunda Byrd said he was not yet done representing West Virginians.

Byrd is seeking his ninth term in the Senate and if successful will achieve a record for the most years in office.

Byrd also served in both the West Virginia House of Delegates and Senate.

Sen. Byrd's senior position in the Senate is credited with en-

suring that West Virginia gets funding for critical programs like road building, clean water and other infrastructure projects.

At this time no major opponent has come forward but there has been plenty of speculation the campaign will be targeted by the Republican Party because of Byrd's out-spoken criticism of President George Bush.

House of Representatives member Shelly Moore Capito put an end to rumors she will challenge Byrd by announcing she will not run for the senate seat.

The WV AFL-CIO endorsed Byrd for re-election earlier this year.



SENATOR ROBERT C. BYRD met with a group from the West Virginia State Building Trades in front of the nations Capitol earlier this year.

# Trades Protest Anti-Worker ABC Conference

**L**ocal craft union members protested a recent anti-union Associated Builders and Contractors (ABC) conference in Charleston.

About 20 protesters took to the street with signs and handbills during the ABC's "Construction Labor Summit" held on September 28.

The anti-worker group was taken to task for their repeated efforts to lower construction workers pay in the state by challenging the state prevailing wage rates.

This year, as in 2003, the ABC has gone to court to undo the state prevailing wage law. Their complaint was dismissed by a state hearing officer last April and now is on appeal at the Circuit Court of Kanawha County.

In 2003 the state Supreme Court refused to hear the ABC's appeal on a vote of three to two but this year, with the defeat of Judge Warren McGraw, they believe they can win.

Also at issue was money owed, but not accounted for, from a state training grant the ABC received in 2001.

The ACT Foundation uncov-

ered a series of state grants to the ABC totaling more than \$155,000 which were improperly awarded and administered.

The grants were for expanding their apprenticeship training program but federal government records show no apprentices were brought into the ABC's system during the period of the grant.

Department of Labor Apprenticeship records show almost no graduated apprentices in the ABC apprenticeship program's entire ten year history.

A state audit showed \$14,715 dollars of the grant funds were improperly spent by

the ABC and they have been asked to return the funds.

ACT has repeatedly asked state and federal officials to perform a complete investigation of the grants.

Earlier this year the training program was dismantled.

"We wanted the public to know about the ABC's attempts to lower wages and their history

of misusing tax dollars," said Wayne Rebich, ACT Representative and organizer of the protest.

"We wanted the ABC and their members to know there is a way to contribute to our community instead of just taking, and that's by supporting training, productivity and decent wages."

ACT Foundation  
600 Leon Sullivan Way  
Charleston, WV 25301  
(304) 345-7570

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PROTESTING AT THE anti-worker Associated Builders and Contractors conference are (from left) Randy Gombos, Sheet Metal Workers; Luke Begovich, Carpenters; Henry Neal and Craig Harvey, Laborers; and Rodney Marsh, Operating Engineers. Members of the Pipefitters and IBEW also participated.

## Diversified

CONTINUED FROM P. 1

from the Gallia County Court House that show Whittaker made 30 percent of the profit on projects.

"It appears to us Whittaker was more than an employee of Holley Brothers," said White. "We think if he got 30 percent of the profit he should pay 30

percent of the debt owed to workers comp."

In the end Whittaker and Holley Brothers sued each other in contract disputes that were ultimately settled out of court.

## Compensation

CONTINUED FROM P. 2

ity of the group because it is understood an improved system

will benefit both workers and contractors.

"We're looking at any way we can improve the system," said Cerra.

"I think we can make our signatory contractors more competitive, provide more work opportunities for union members and focus on safety and education which should always be our number one issue."

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## Convention

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September meeting of the Laborers and after the dis-affiliation of a number of other unions from the AFL-CIO.

Earlier this year the Service Employees, United Food and Commercial Workers, Teamsters and United Farm Workers joined the Carpenters Union in leaving the national labor

federation.

Since then the hotel and garment industry workers union, Unite-HERE, has also left.

These groups have all joined the "Change to Win" coalition which had their founding meeting in St. Louis on September 27.

The "Change to Win" group claims to represent six million union members. Before the split the AFL-CIO had approximately 13 million members.