

# THE ACT TRADES REPORT

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

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## EPA OR FED'S TO REGULATE CO2 CAP AND TRADE LEGISLATION SUPPORTED BY POWER COMPANY

Legislation called 'Cap and Trade', aimed at regulating greenhouse gasses, has passed the U.S. House and is being debated by the Senate.

Mining companies are against it but electric power companies are for it, and local Trades Leaders are studying how construction workers will fare.

The topic was on the agenda at a recent State Building Trades conference where a representative from American Electric Power was asked to explain their position on the bill.

AEP, a major regional utility company operating in West Virginia, is on record supporting the American Clean Energy and Security Act of 2009, better known as the Cap and Trade bill.

Coal companies and the Chamber of Commerce have been very vocal opponents to the measure claiming West Virginia's economy will be severely crippled.

These groups have led demonstrations calling for the defeat of the Cap and Trade measure.

But, in remarks made to delegates at the State Building Trades conference held September 23, AEP Vice President Mark Dempsey said these efforts are misguided.

"Cap and Trade is not the issue," said Dempsey.

"The issue is whether it will be the EPA [Environmental Protection Agency] or Congress who will regulate CO2 emissions."

Dempsey explained that a 2007 Supreme Court decision gave EPA the authority to regulate CO2 under the Clean

Air Act.

Many believe the EPA effort will not have enough flexibility to deal with the costs and effects of regulation.

The Cap and Trade bill is an effort to have a negotiated approach to regulation rather than what would be mandated

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AEP'S MARK DEMPSEY explains his position on Federal Cap and Trade legislation to delegates at the WV State Building and Construction Trades Convention held in late September.

## TRADES WORKERS' GUARANTEED JOBS THREE WIND PROJECTS ADVANCE

Regulatory approval of the \$308 million New Creek wind project in Grant County was just one of three separate advances made by wind power projects in the state recently.

The WV Public Service Commission gave developer AES approval to build the 66 wind turbine project on a

seven mile stretch of the New Creek Ridge.

Called a wholesale generator the project will not sell directly to consumers but to large customers such as power companies and industrial users.

The project will be able to generate up to 160 megawatts of electricity and will use an existing Allegheny Power 500 kV overhead transmis-

sion line.

Darwin Snyder, President of the North Central WV Building Trades offered testimony about local skilled labor and the wages and benefits they would get working on the project.

According to company estimates more than 100 workers will be needed for the project for the better part of a year.

ACT hired an expert who used an economic model called IMPLAN to show the impact of using local workers on the economy.

His report showed that, on top of the local craft workers hired, the project would generate \$45.7 million in sales and would create 265 additional jobs in WV.

Estimated property tax

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# PERDUE-MATHENEY RE-ELECTED PRESIDENT & SECRETARY-TREASURER OF WV AFL-CIO

Kenny Perdue and Larry Matheney were easily re-elected to the positions of President and Secretary-Treasurer at the WV AFL-CIO 27th Constitutional Convention held October 7-9 in Charleston.

Perdue, a member of Sheet Metal Workers Local 33, and Matheney, a member of the United Steelworkers of America, were both elected to their posts first in 2005. This term runs through 2013.

Commenting on the focus

for their new term Perdue stated, "The surest, fastest and most effective way to lift workers and our families into the middle-class is with the strength that can only come with a union contract."

In addition four Building Trades members were elected Vice Presidents of the 14 member WV AFL-CIO Executive Board.

Re-elected were Ronnie Burdette, Operating Engineers 132; Gary Tillis, Laborers District Council WV; and Dan Poling, Painters Council 53. Dave Efaw, Secretary-

Treasurer of the WV State Building Trades was newly elected and took the position formerly held by his predecessor Roy Smith.

Also at the conference a number of legislative and political issues were reviewed in advance of the 2010 legislative session and elections. There are 550 affiliated local unions of the WV AFL-CIO.

"Our four Building Trades members on the executive board represent our overall membership well", said Tillis.

"I am proud to serve."

## CAP & TRADE

*CONTINUED FROM P. 1*

under the Clean Air Act.

Along the same lines both the national AFL-CIO and the United Mine Workers of America have come out in support of the bill, with specific suggestions for improvements.

"Any statutory or regulatory framework to limit U.S. output of greenhouse gasses needs to be crafted to minimize the impact on existing workers while maximizing the potential for job creation

through investments in new energy infrastructure and technology deployment," wrote William Samuel, Director of Government Affairs for the AFL-CIO.

Samuel also promotes the use of prevailing wage protections, 'Buy America' requirements and protections from foreign abuse of environmental rules.

Included in the bill is \$60 billion to assist in the construction of 60 power plants over a ten year period.

In addition there are incentives to help companies

deploy new technology, like carbon sequestration, aimed at reducing emissions from coal fired power plants.

If the Cap and Trade bill is not passed it is believed EPA will go forward and regulate without any of the enhancements included in the bill.

The Cap and Trade approach has been used for other pollutants. In general a company is given a certain level they can emit and must reduce it over time.

Those companies who emit below their allotment can sell their unused emissions levels.

## WIND

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AES will pay to Grant County are \$673,000 per year. In addition, approximately \$219,000 per year in State taxes will be paid for the first 10 years, and \$437,000 each year thereafter.

Another AES project called Laurel Mountain has already received approval and has recently taken bids

for their general contractor to build its \$256 million project. The 125 megawatt project is located in Barbour and Randolph Counties.

Bids are currently under review but a contractor has not yet been selected.

Whoever gets the contract to build the 65 turbine wind farm will use local union workers based on a memorandum of understanding worked out between AES and

the North Central WV Building Trades early in the permit process.

Upon completion of construction, AES will be one of the biggest property tax payers in Barbour and Randolph Counties paying more than \$450,000 per year in the two counties.

The Project will also pay approximately \$340,000 annually in taxes to the State.

The third project to see



LARRY MATHENEY (left) and Kenny Perdue go over paper work during the WV AFL-CIO's 27th Constitutional Convention held October 7-9 in Charleston.

"Building Trades members have performed a lot of work building and refitting electric power plants," said Steve Burton, Business Manager for the Tri-State Building Trades Council.

"And our members have logged tremendous amounts of man-hours installing pollution control equipment in power houses.

We will study this carefully."

progress is called the Pinnacle Wind Farm at new Page and is to be located in Mineral County.

Developer U.S. Windforce has submitted an application to the PSC and a series of public hearings were held in late September.

Trades members attended in support of the proposed 23 turbine project because of the long standing memorandum signed by U.S. Windforce to

use local union construction workers to build their projects.

The \$131 million project will have a generating capacity of 55 megawatts.

"U.S. Windforce believes in local workers so we believe in them," said ACT's Larry Young who was among those in attendance at the hearings.

Their application could take up to a year for approval by the PSC.

ACT GOES BACK TO STATE COURT**JUDGE REVERSES POSITION ON KING COAL**

Federal Court Judge John Copenhaver served a setback to construction workers when he reversed an earlier decision requiring Davis Bacon wage rates be paid on the King Coal Highway project.

His reasoning was that ACT did not have a right to file the suit.

The explanation is hard for those watching the case to take seriously since the issue of standing was brought up years ago.

Even more incredible was the fact Copenhaver took it on himself to review the issue some five years after the legal

action began.

In 2004 ACT went to court to question the King Coal project because more than \$100 million of tax funds were committed to a road project that never went out for public bids.

In addition ACT wanted to know why the standards of highway construction were not to be followed and why Davis-Bacon wage requirements were not included in the contract.

The site became a huge

mountain top removal project that followed neither coal mining nor highway regulations or standards.

The Red Jacket portion of the King Coal Highway located in Mingo County was

They later argued in court it was a unique one time occurrence.

Federal and state dollars would go to coal operators to subsidize their mining costs, in return the coal companies would leave road beds.

The advantage to coal companies is obvious, no mining permits, no requirement to bring a project site back

to original contour, and the taxpayers pay a portion of the mining costs.

The company that got the

project sold out in September of 2005 to Alpha Natural Resources, a major regional mining company.

On September 5, 2007 Copenhaver ruled the project did not have to be bid because it was unique, but that Davis-Bacon wage rates, the equivalent of local prevailing wage rates, must be paid to construction workers.

All that was needed was a final order to work out payment terms. But that order never came.

Copenhaver instead let the case sit with no action for two years even though ACT repeatedly asked for the State claims to be released back to

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*"WHY HE HAD TO TAKE SO MANY YEARS TO MAKE THIS DECISION IS A MYSTERY. IT DOESN'T TAKE A ROCKET SCIENTIST TO FIGURE OUT COAL COMPANIES BENEFIT." STEVE WHITE, DIRECTOR, AFFILIATED CONSTRUCTION TRADES*

touted by government officials as a new model of road building in the Appalachian coal fields.

## WV STATE BUILDING AND CONSTRUCTION TRADES ANNUAL CONFERENCE HELD

More than 90 delegates attended the West Virginia State Building and Construction Trades conference on September 23.

Besides hearing an update on activities from ACT and the State Council those in attendance heard from Speaker of the House Rick Thompson. Thompson thanked Labor for supporting him and other House of Delegate members and pledged to stay on the side of working families.

Representatives from the West Virginia Division of Labor were also on hand to talk about changes to the prevailing wage survey done each year.

Mark Dempsey with AEP spoke about federal climate

control legislation (see story page 1).

Also on hand was Don McCully with Roundstone Insurance, one of the partners in the new Workers Compensation effort started by the State Building Trades and a group of union contractors.

McCully explained how the new approach would benefit union workers and contractors by rewarding safety and fair wages.

Delegates approved four resolutions, two of which went to the WV AFL-CIO for consideration at their convention held in early October.

Both resolutions dealt with legislative efforts backed by the Trades.

One is a bill to require contractors who bid public projects to have health and pen-

sion benefits for construction workers. The second would require a paid break during a regular day.

The WV AFL-CIO adopted both resolutions.



*SPEAKER OF THE House Rick Thompson (D-Wayne) (left) speaks with WV State Building Trades President Steve Burton after talking with delegates at the Trades recent convention held September 23.*

MORE THAN \$107,000 RAISED TO COMBAT DISEASE

# LOCAL 80 HOSTS CHARITY FUNDRAISER FOR MESOTHELIOMA RESEARCH

Insulators Local 80 hosted the first annual Mesothelioma Charity Golf Tournament which raised more than \$107,000 in September.

The event, held at Stone-wall Lake in Lewis County, was organized by the Central States Insulators Conference and the Central States Contractors Association.

Both organizations have joined to form a foundation

for Mesothelioma research called the "Breath of Life."

The committee, which consists of both Union and Labor representatives from the Central States organized, sought contributions from local unions, contractors, and attorneys.

"It really is a worthy cause," said Greg Kincaid, Business Manager for Insulators Local 80. "The ultimate goal of the charity is to raise funds to help find an effective

treatment and cure for Mesothelioma."

Kincaid noted besides the efforts of Local 80, in particular of Tina Jordan, Secretary for the Local, a number of organizations played a key role in putting the event together including Prime Insulation, William "Bud" Turner; Master Mechanical Insulation, Tom Burcham; West Virginia Master Insulators Association, John Martin; Central States Conference; VP Greg

Revard, International Association of Heat & Frost Insulators and Allied Workers; Advanced Industrial; Central States Insulation Association; Motley Rice LLC; Goldberg, Persky & White PC; Harvit & Schwartz LC; and Hartley &

O'Brien PLLC.

The "Breath of Life" foundation will continue to raise money for research until a cure is found for this deadly disease. The mission is to make Mesothelioma a disease of the past.

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PARTICIPATING IN THE Mesothelioma Charity Golf Tournament are (from left) Terry Larkin, VP Middle Atlantic States Conference; Greg Revard, VP Central States Conference; Greg Kincaid, Business Manager Local 80; and Tom Williams, Organizer Central States Conference.

## KING COAL

CONTINUED FROM P. 3

the State Court. However the Court never held a hearing and did not release the State claims until this recent order.

On September 30 Copenhaver issued his ruling which reversed his position on wages. He said ACT did not rep-

resent workers at the project – ignoring signed statements by workers saying they wanted such representation.

While Copenhaver's ruling is a set back it is not all bad. It is now possible for ACT to go back to state court and pursue similar claims.

"We never wanted to be in Federal Court," said Steve

White, ACT Director. "Our case is even stronger under West Virginia law, Judge Copenhaver's ruling is not only wrong, but he really hurt workers and the process by stopping us from going to state court for so long."

"We can appeal to the Fourth Circuit Court of Appeals, an expensive and diffi-

cult process. We are not sure at this point," said White.

"Why he had to take so many years to make this de-

cision is a mystery. It doesn't take a rocket scientist to figure out coal companies benefit."



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