

KENTUCKY RESOURCES COUNCIL 2008-2009

During the 2008-2009 Fiscal Year, KRC has continued a quarter-century long tradition of providing legal, technical and strategic assistance without charge to low-income individuals, to community groups, and to local governments on energy and environmental health and justice issues.

Here's a snapshot of some of the issues, cases and policy work completed in or initiated during 2008-2009:

MAJOR CASES

-Represented the Kentucky Waterways Alliance in three administrative challenges to water discharge permits, resulting in settlement agreements to include additional controls on discharges from a bulk petroleum terminal and a proposed quarry in the Turnhole Springs Basin. KRC also worked with KWA, the Environmental Law and Policy Center and Sierra Club on improving Kentucky's Tier II antidegradation policy.

Represented Cliff Wilburn in his ongoing effort to overturn a condemnation order in a case where a private developer trespassed on his land and installed a sewer, and then paid the City of Flatwoods to condemn the land in order to allow the illegally located sewer line to remain. The case is pending in the Court of Appeals on a petition for rehearing.

Worked with the City of Lynch and KRC Members in Harlan County to oppose an underground mine and a new strip mine that could jeopardize the Looney Creek drainage, which supplies an underground reservoir from which the city draws its water.

Opposed a mining permit for a coal company seeking to create a cut through on Black Mountain as part of a new strip mine.

Obtained improvements in the coal general permit authorizing coal-related water discharges.

Continued to represent Citizens for Alternative Water Solutions in their appeal of the PSC Order approving construction of a Kentucky American Pool 3 water treatment plant and pipeline, and in challenging the utility's right to condemn the property along the pipeline route.

Represented a couple in Madison County in opposing the use of condemnation by the City of Richmond to install a sewer trunk line to a new plant serving the City of Richmond and certain areas of the county.

MAJOR CASES

Continued to represent Elmer Lloyd in his efforts to secure compensation and replacement of a fish pond that was contaminated by sediment from a Nally and Hamilton strip mining operation. A settlement providing Mr. Lloyd with compensation and replacement pond is in the final stages of negotiation.

Successfully challenged the PSC's decision that Laurel County had jurisdiction over the review of a cell tower despite the lack of zoning regulations in the county.

Represented Eboni Cochran in defeating one unfair proposed class settlement and securing changes to narrow the scope of two other settlements, against companies in Louisville's Rubbertown.

Served notice of intent to sue state and federal mining agencies for failing to adequately assess the cumulative impact of all mines within a watershed and failing to impose limits or deny permits as needed to prevent material damage from the mines to receiving streams and groundwater.

Developed with the assistance of mining engineer extraordinaire John Morgan of Morgan Worldwide Consultants, a protocol for use by EPA and the Corps of Engineers on how to apply the 404(b)(1) guidelines to require coal companies to design mining operations in order to avoid and minimize the size and number of excess spoil fills in headwater streams.

Represented solar advocates and installers in negotiating standard guidelines for approval of interconnection of net metering systems with the grid of all of Kentucky's regulated electric utilities.

Represented the Irish Hill Neighborhood Association in defeating a proposal to channelize and relocate 400 feet of Beargrass Creek to all construction of a shopping mall.

Represented neighbors of Bellarmine University in building in protections for nearby properties from construction related noise, blasting and dust, and assuring adequate on-campus parking.

LEGISLATIVE ACTIVITY

The Budget shortfall and the state and national economy preoccupied the 2009 regular session, and much of KRC's work was in defensive lobbying to block passage of bills that would erode environmental protection.

KRC lobbied to prevent enactment of SB 13, which would eliminate current prohibition on granting of a construction permit for a nuclear power plant in Kentucky absent a federally approved disposal site for nuclear plant waste, and replace it with an obligation of the plant to have a plan for storage of high level nuclear waste instead. When the House determined not to hear the bill, the Senate attached it to the Administration's HB 537, causing that bill to die in the House.

KRC lent support to SB 27, which creates a brownfield redevelopment fund for grants and loans to government agencies for brownfield assessments and restoration.

KRC lobbied for a law mandating development of Emergency Action plans for high-hazard coal related impoundments, and then successfully opposed passage of the bill after 11th hour coal industry amendments to a bill whose language had been negotiated, weakened the bill to prevent agency review of the adequacy of the submitted plans.

Successfully opposed the passage of SB 138, which would establish a system for leasing oil and gas reserves on state-owned lands, and after a number of KRC-suggested changes were made in committee, supported a study resolution directing an inventory of land with development potential and those for which such activity would be inappropriate (SJR 67). When the House indicated it would not hear SB 138, the Senate tacked it onto HB 537, causing its demise.

LEGISLATIVE ACTIVITY

Helped write portions of HB 383, which required the Kentucky Medical Association to review and revise guidelines on sports practices to include ambient air quality. The Senate gutted the bill, but KRC has continued to pressure the KMA and Kentucky High School Athletic Association to factor air quality alerts in considering when to curtail or cancel rigorous sports practices. KRC is meeting with the Sports Safety Group created by this bill, on August 10 in order to advocate for revision of KHSAA Sports Guidelines to include consideration of air quality in determining when to curtail or reschedule outdoor high school sports activity.

In all, a session where opportunities to make strides in energy efficiency and renewables was missed, but where, in the face of the most significant economic crisis the generations, no ground was lost on environmental issues. We await 2010 to see if the barometric KRC shoes will get shined!