

KENTUCKY RESOURCES COUNCIL: THE FIRST THIRTY-TWO YEARS

The pages that follow highlight the Council's major accomplishments during the first thirty-two years. Distilled from thousands of issues and cases on which the Council has worked to effectively protect Kentucky's natural resources and the people who rely on them, they are a condensed inventory of KRC's many campaigns, cases and successes. The Council's work would not have been possible without the unwavering support and encouragement of the Council's membership, the Board of Directors, and particularly from the individuals and foundations who have assisted us in our endeavors, and we are deeply appreciative. Their faith in our mission and our ability to bring positive change to individuals and communities in need has helped sustain our work and has enabled our continued success.

The summaries are organized into six main groupings: mining, waste management, development and land conservation, water quality, air quality and general government and legislative advocacy.

Mining

- Brought about major reform in the state's permit requirements for groundwater protection during mining operations. Over 1,000 mining permits were reopened and required the installation of water monitoring wells and the collection of both pre-mining and during-mining groundwater samples.
- Helped end the scourge of the "broad form" mineral deed by authoring the brief arguments adopted by the state Supreme Court in rejecting a challenge to a constitutional amendment.
- Successfully challenged the state's mining program in regards to non-enforcement of state regulations in 1987. A settlement in the suit resulted in a comprehensive agreement to reform the enforcement of the laws in the state.
- Assisted in securing abandoned mine land project approval in both Butler County and Laurel County in the mid-1980's resulted in bringing drinking water to hundreds of families.
- As part of a litigation team with two of the nation's top public interest lawyers, represented coalfield citizens groups in litigation concerning over 150 changes to the national surface mining regulations proposed by the Reagan and Bush Administrations during the 1980's.
- Drafted the first successful Kentucky petition to designate an area off-limits to mining under the 1977 mining law, protecting the Cannon Creek Lake, Pineville's water supply.

- Represented the Tennessee citizens organization Save Our Cumberland Mountains (SOCM) in closing the Rith Energy mine pit that had been leaching acid mine water.
- Authored the lands unsuitable petition protecting UK's 10,000-acre Robinson Forest from strip mining. Later dissuaded the University from mining the forest in order to fund college scholarships.
- Protected hundreds of communities from the adverse effects of coal tipples by challenging federal regulations that would have de-regulated coal tipples located away from coal mine sites.
- Worked with other groups in 1993 to successfully counter a federal proposal to open up national parks and buffer zones around homes and cemeteries to underground and strip mining.
- *Filed a petition protecting the watershed of Fern Lake, which supplies drinking water for the City of Middlesboro, Kentucky, from mining.
- Created the National Citizens' Coal Law Project in an effort to better focus and improve the level of service to coalfield citizens groups across the nation and in Kentucky on mining issues.
- Assisted Eastern Kentucky University in an effort to oppose Southeast Coal Company's plan to mine under Lilley Cornett Woods, one of the few protected tracts of old-growth forest in Ky.
- Successfully imposed responsibility for replacement and repairs on J & H Coal Company following a landslide that threatened the homes of David Norris and Ollie McCoy.
- Successfully challenged a limestone mine permit in Carter County, leading state to substantially improve regulations for controlling the impacts of limestone, sand and gravel mines.
- Obtained a number of reforms of the Kentucky mining program's handling of mine spoil after serving notice of an intent to sue the state, including an end to "wing-dumping" waste into valley fills and permitting of the area between the mining pit and the sediment ponds.
- Represented Harlan County's Pine Mountain Settlement School in securing reclamation of a coal tipple site directly upstream from the school property.
- Again represented Harlan County's historic Pine Mountain Settlement School in a successful effort to designate the as unsuitable for all forms of surface coal mining operations, thus protecting the school and its outdoor environmental education program.

- Obtained replacement water supply from Clintwood-Elkhorn Mining for Mable Hunt.
- Represented Daisy Luster and Pauline Stacy of Ary, Kentucky in a successful challenge to the use of a small county road by a coal company for haulage and access.
- *Secured abatement of a landslide that affected the yard of Nancy and Arthur Kline in Toler, Kentucky and obtained compensation for their damage.
- **Authored** a Petition to Designate Harlan County' Black Mountain as Unsuitable for Mining and negotiated a comprehensive settlement that provides permanent protection for the summit and its' northern forested ecosystem on the state's highest mountain peak.
- Authored a detailed report on the Martin County Coal Slurry release of October, 2001, and worked to maintain public pressure to conduct appropriate investigations of the causes of the failure. Worked with private counsel who pursued private lawsuits against the company for damages caused to private and public properties.
- Represented Rebecca Boggs, a community spokesperson in the Partridge community in eastern Kentucky, in ending routine use of the small road in that community for coal haulage.
- Served a notice of intent to sue Kentucky for diverting \$3.8 million dollars from a mining reclamation bond fund to offset state revenue shortfalls, causing Governor to restore the money.

Waste Management

- Successfully defeated efforts to site a landfill atop a limestone cave system that supplied the water for the town of Livingston, Kentucky. 1985-1986
- Published *What's in Your Backyard*, a citizen's guide to Title III of the Superfund Amendments and Reauthorization Act. This guide was reprinted and distributed by the state.
- Represented the Concerned Citizens Coalition in defeating a proposed commercial hazardous waste incinerator in their area.
- Drafted legislation requiring that nerve gas stored at an Army Depot be regulated as a hazardous waste. Army called the law a "game-changer" that caused it to abandon incineration as an option and to instead select a safer method of chemically neutralizing the nerve agents.
- Wrote three bills that became law in 1988 to help stop Kentucky from being the dumping ground for New York and New Jersey garbage - the first required that all

landfills be upgraded and limiting disposal of exempt hazardous wastes in solid waste landfills; the second, requiring expanded public notice and comment for new or expanded landfills, and the last, allowing counties to tax all waste disposal.

- Assisted numerous local groups around the state to prevent the inappropriate siting of solid waste landfills designed to dispose of large volumes of out of state waste. Also assisted several communities to oppose large-scale solid waste incinerators. The Council's efforts resulted in the state imposing a moratorium on permitting solid and medical waste incinerators.
- Negotiated the state's hazardous waste pollution goals that have remained intact to this day – the remedy for contamination must be protective of public health and the environment, and must consider a wide range of factors if any wastes are to remain in place.
- Working with Joan Robinett to press for an investigation into widespread contamination of land and groundwater resources by National Electric Coil Company in the Harlan County community of Dayhoit. The site was subsequently listed as a federal Superfund Site.
- Acted, at the request of the state Senate leadership, as negotiator for the environmental and grassroots community in a special legislative session on solid waste, resulting in setting recycling goals, increasing state procurement of recycled materials, requiring local communities to plan for solid waste needs and granting authority to limit volumes of waste disposed within the planning area, and requiring background investigations of applicants for solid waste permits.
- Developed strong solid waste management plans and host community agreements for use by any community facing the threat of new landfills and incinerators. The model agreement formed the basis of the Estill, Franklin, Jefferson, Grant and Trimble County agreements. Assisted Hopkins, Trimble, Grant, Pendleton, Madison, Clark, Jefferson, Franklin and other counties in negotiating host agreements or developing solid waste siting and operation ordinances.
- Opposed the deregulation of asbestos-containing floor tiles during housing demolition; a significant health issue for the area near 1,300 homes slated for demolition near Louisville airport.
- At the request of rural Glencoe in Gallatin County, KRC drafted an ordinance to close a regulatory gap and bring better controls on the cleaning of hazardous waste barrels.
- Succeeded in closing down a facility that processed aluminum wastes ("dross") and emitted hydrogen sulfide gases in a poor African-American community in the town of Drakesboro.

- Drafted bill enacted in 1992 requiring local approval of facilities proposing to thermally treat petroleum-contaminated soil, thus closing the loophole in federal regulations.
- Negotiated the closure of a barrel cleaning plant in Portland with the company to move operations to a more appropriate location with new pollution control equipment. Working with the company and neighbors, a site plan for reuse of the property for light (and non-polluting) commercial or industrial uses was agreed-upon, preventing the site from becoming a brownfield.
- Assisted Muhlenberg County residents in defeating a proposal to spread thousands of tons of New York City's sewage sludge onto formerly-mined lands.
- Worked to cause remediation of NORM contamination in Martha oil fields.
- Worked with the Concerned Citizens Coalition in opposing the burning of hazardous wastes in a cement kiln located in southwestern Jefferson County.
- Successfully aided the residents in Magoffin County as they challenged the actions of the local governing body. Despite strong citizen opposition, the local governing body had developed a plan that would allow 14 million tons of garbage to be disposed over the course of 10 years in a community that would generate only 110,000 tons of its own waste in that period. The Council's extensive research on remedies for breaching this contract, which bargained away the public's interests to a private landfill concern, convinced a Special Circuit Judge that the local franchise was unconstitutional and therefore released the community from any obligation to allow the landfill. The Courts later rejected an attempted "SLAPP" suit brought against the citizens.
- Provided extensive support in the successful effort by the residents of Franklin, Kentucky to oppose a chicken processing facility.
- Represented Teena Halbig, founder of the Floyd's Fork Environmental Association, in her effort to end the sludge dumping and "third world conditions" associated with the malfunctioning Birchwood Sewage Treatment Plant.
- Represented adjoining landowners in defeating an attempted rezoning of the land to allow dumping of coal ash on farmland in Bullitt County.

Development and Land Conservation

- Successfully opposed oil and gas drilling in designated wild river corridors, and secured additional conditions on other oil and gas drilling projects in wild river corridors.
- Won an appeal of a swap of a wildlife management area containing the scenic McCammon Gorge and waterfall for a piece of previously strip-mined land; also

successfully facilitated an agreement to end federal timber sales within a corridor of state-protected wild and scenic rivers.

- Worked with two farm families in Pendleton County, to convince county officials to discard a planned 1,600 acre lake that would flood the lands of scores of local farmers.
- Successfully opposed a proposal to build a high dam on the Kentucky River through public testimony and public educational and awareness campaigns. Water supply concerns were instead addressed by working toward a reduction of peak water demand.
- Helped facilitate designation of the Red River Gorge into the federal Wild and Scenic River system by resolving local landowner concerns regarding river access that had blocked path to Congressional designation.
- Assisted HAWK (Help Alert Western Kentucky) in their effort to stop the development of a wood chip mill on Lake Barkley in western Kentucky resulted in success when the local port authority withdrew its proposal to modify the port to accommodate the chip mill.
- Represented the Irish Hill Neighborhood Association in securing a 2004 Court of Appeals requires the removal of a 200-foot high cell tower from the neighborhood.
- Secured an order from the Federal Energy Regulatory Commission that a high voltage line unlawfully installed in front of Dan and Carol Turley's be relocated.
- Worked with the Bashford Manor Area Association, to negotiate numerous improvements in the site redevelopments plans for an commercial mall adjacent to the Bashford Manor community.
- Represented Sheryl Bolling in her successful effort to require that an oil company protect her well water supply, including pre-and post-drilling testing of her water well.

Water Quality

- Succeeded in protecting Kentucky's surface water and headwater streams from oil brine discharges and saline discharges by secure federal intervention to fight the state's exemption.
- Represented Indian Hills resident in aa successful bid to require sewer hookups for the Indian Hills Community.

- Successfully opposed construction of a dam in the headwaters of a candidate national wild and scenic river in Jackson County, Kentucky.

Air Quality

- Helped private counsel to recover damages against a welding operation in northern Kentucky that exhausted toxic air pollutants onto the property of Charles and Reva Cornett. Settlement allowed them sufficient funds to relocate and build a new home.
- Assisted residents of Taylor County in a successful campaign to oppose the use of municipal solid waste and sludges to fuel the boilers at the Cox Interior wood products plant.

General Government & Legislative Advocacy

KRC has been an effective lobbying force in the state legislature, working to advance and protect environmental laws, defend agency budgets, and craft new protections for community health and environmental quality.

- Helped defeat of a 1994 bill that would have stripped local governments of their “home rule” ability to regulate environmental problems such as garbage, stream pollution, etc.
- In 1994 and again in 1998, helped defeat an amendment that would have required all of Kentucky’s environmental regulations to be no more protective than federal regulations.
- Worked closely with the House Majority Floor Leader in 2002 to negotiate a comprehensive solid waste law providing new funding to cleanup litter and to close old city landfills.
- Negotiated a comprehensive siting process designed to assure that the local and environmental impacts of new proposed power plants are fully considered and mitigated before siting is allowed.
- Successfully fought to extend the availability of funds to reimburse landowners who remove leaking underground gasoline storage tanks and remediate the contamination.
- Acted, from 2001-4, as chief negotiator for the public on a comprehensive bill establishing a voluntary program by which owners or contaminated properties can seek to remediate contamination and receive limited protections from state enforcement.
- Successfully opposed and alerted others to oppose paint-industry sponsored bill that would have cut off the rights of renters to sue for lead poisoning damage.

- Negotiated a coalbed methane bill providing notice, protection of groundwater and liability for any damage, reclamation plans, and and appeals by injured landowners.
- Worked with county officials and citizen groups to craft a statewide mandate for a comprehensive program regulating all environmental and landowner impacts of each aspect of oil and gas production and transmission.