



THE ACT REPORT

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A PUBLICATION OF THE AFFILIATED CONSTRUCTION TRADES FOUNDATION



OCTOBER, 1996

ACT Scores Victory On Pulp Mill Permit

ACT won a major battle in the fight for fairness at the proposed pulp and paper mill in Mason County.

On October 9, Kanawha County Circuit Court Judge Tod Kaufman ruled the water permit for the pulp mill was fatally flawed.

The result - mill developers and the DEP must start all over if they want to get a water permit for the mill.

"We hope this time they address our two key issues," said Steve Burton, business manager of the Tri-State Building Trades.

"We want a commitment to hire local people to build and

operate the mill and for the most modern technology to be used."

"This mill can be built if those two issues are dealt with," he said.

ACT has challenged the Division of Environmental Protection's permits for the

proposed Mason County pulp and paper mill for years.

"It sometimes seems like we take two steps forward and Governor Caperton's DEP, working hand-in-hand with [mill developers] Parsons & Whittemore, knock us one step

back," commented Steve White, ACT director.

"But we refuse to back down."

ACT had provided detailed

"We refuse to back down."

***Steve White,
ACT director***

evidence showing the pulp mills water permit was illegal on two counts.

First, ACT proved the Ohio River already had more dioxin in it than the law allowed. A new permit to add more of the deadly chemical into the river was clearly against both state and federal law.

Second, ACT showed that

the proposed mill had the potential to kill the river by using more oxygen than was safely available in the river.

Dissolved oxygen is needed to sustain fish and other aquatic life, but various chemicals emitted by the mill will absorb it.

ACT showed how the DEP rigged a model used to predict oxygen demand for the project.

"The DEP ran the model seven times, and each time they claimed there was plenty of oxygen available for the mill," said White. "Each time our experts showed the model was dead wrong."

"They just wanted to wear us
Continued on page 3

Amendment 3 **Road Bond On Ballot**

Of the constitutional amendments to go before state voters on Election Day, one could be very beneficial to state construction workers.

The Safe Roads Amendment of 1996 is a \$550 million bond issue that, according to supporters, would require no tax increases or new spending.

Existing bond issues are winding down and the new bonds are intended to take their place.

The current budget payments on bond are \$39 million per year and this replacement issue would basically continue that payment.

The bonds provide money for matching federal funds that raise potential highway spending to \$2 billion.

The money, which would be disbursed over five years, would be spread out among all 55 counties.

"Anytime monies are accrued for road work, it generally means more work for our members," said ACT Director Steve White.

The state's share of the bonds would be released in \$110 million installments starting in July under the Amendment, which received unanimous support in both legislative chambers.

Feds Tipped Off By ACT

11 Deported From Embassy Suites

At 7 AM on a Thursday morning 11 illegal aliens

were apprehended by the U.S. Department of Justice's Immigration and Naturalization Service (INS) upon their arrival at the construction site of the Embassy Suites in downtown Charleston.

By the end of that September day these 11 illegal workers were in Pittsburgh awaiting deportation proceedings.

Steve White, director of the Affiliated Construction Trades Foundation, said his group complained to the INS about illegal aliens allegedly work-

ing on the hotel construction.

The workers, 10 from Mexico and one from Honduras, were hired by Dee Shoring Co. of Richmond, Va. to work on the foundation of the hotel.

At the same project 11 Dee Shoring workers walked off the job in July to complain about poor pay and working conditions.

Leading the fight was Laborers Local 1353 and Carpenters Local 1207 with the assistance of the Charleston Building Trades and most of the affiliated locals.

"We think it's terrible that they're bringing in illegal immigrants when West Virginia has such high unemployment," said

White.

"We have people who are skilled, ready, willing and able to work these jobs. Why won't they hire local people? It's outrageous."

The company response to the INS raid was that they were simply the victim, not the crooks.

"There were in fact illegal aliens working for the company under forged identifications. Some of these had worked for Dee Shoring for several years in various parts of the country," according to Fred Holroyd, a Charleston lawyer representing Dee Shoring.

Holroyd is well known to the labor movement as an anti-union
Continued on page 2



DAYS AFTER local workers went on strike, illegal immigrants, like the worker above, came on the job.

Inside The ACT Report

Harrison County	Pg. 2
NLRB Order	Pg. 2
Endorsements	Pg. 3
\$300,000 Award	Pg. 4
Hydro Project	Pg. 4
ACT Conference	Pg. 4

'The High Caliber Of The Local Workforce Deserves Your Attention' Commissioners Tell Wal-Mart

Harrison County Commission Helps With 'Local Jobs For Local Workers' Effort

A new Wal-Mart in Harrison County may bring jobs for construction workers - or it may bring trouble.

ACT is laying the ground work before construction begins at the Eastpointe IV development in Clarksburg.

The developer of the Clarksburg project is the same developer of the Wal-Mart/Lowe's Plaza in St. Clairsville, Ohio, near Wheeling.

ACT, Operating Engineers Local 132 and Pipefitters Local 83 successfully organized a sub-

contractor on the Lowe's job - West Virginia Mid Valley Construction of Huntington, W. Va.

The general contractor at the St. Clairsville job, R.G. Brinkmann Construction Co. of Chesterfield, Mo., is rumored to be have the Clarksburg job.

ACT continues to push for more local contractors and workers on both jobs, but in the case of the Clarksburg Wal-Mart, they have a little help -- from the Harrison County Commission.

The Commission was approached by three representatives of the Harrison County Building and Construction Trades Council in September: ACT members Kenny Perdue, business agent for Sheet Metal Workers Local 33, Doug Robinson, a representative of Operating Engineers Local 132, and Larry Linch, business manager for the Carpenters District Council.

The three were concerned that local contractors aren't getting a chance to bid on these projects.

"The businesses are coming in with their own contractors and typically there isn't a fair bidding process," Perdue said.

The Commission has little

power over how money is spent because the job is privately, rather than publicly, funded. However, the commission did agree to contact developers of Eastpointe IV.

"We want to express to you our strong desire that you utilize the local resources for workers," commissioners Beth Taylor, Thomas A. Keeley and Roger Diaz wrote in a letter to Wal-Mart.

"The high calibre of the local work force deserves your attention and consideration. We are committed to our local citizens being employed in local construction projects, which in turn stimulates the local economy. We feel that your selection of local contractors and laborers would be a significant expression of good will and we hope that you can recognize the importance of this in our local community."

ACT's northern representative Steve Montoney and North Central Building Trades agent Rick Williams have followed up

Continued on page 4



LONE PICKETER was one of many who did not get a job opportunity on the Wal-Mart/Lowe's Super Plaza in St. Clairsville, Ohio. The general contractor R.G. Brinkmann Construction is rumored to have the job building a new Wal-Mart at the Eastpointe IV shopping plaza in Clarksburg.

Contractor Told To Offer 31 Union Members Jobs

Federal Judge Orders Back Pay

Non-union contractor River Valley Construction was charged with illegal activity by the National Labor Relations Board (NLRB) last year.

River Valley appealed the decision to a federal administrative law judge who recently upheld the NLRB.

William Jacobs, a judge with the NLRB ruled in September that River Valley violated the law by firing union workers and refusing to hire union members.

Jacobs' ruling included ordering the company to hire the fired workers and to give them back pay. The company also is required to employ 31 workers that had been denied jobs because of their union affiliation.

The Charleston Building & Construction Trades Council filed charges last September on behalf of employees Dewey Bruce Murphy and Eric Painter and the other 31 union workers.

Murphy and Painter were non-union workers attempting to organize the job.

They have both since joined the Carpenters union.

"The NLRB report said their firing was part of an aggressive anti-union campaign by River Valley Construction and its

owner, Ronald Hunt," said Bob Sutphin of Carpenters Local 1207 in Charleston.

The NLRB's case revolved around statements Hunt made about union workers including "I'd rather shoot a union guy than hire him."

Hunt also held a meeting with his employees threatening them with firing if they discussed their pay with anyone, soon after he was approached by the union applicants.

"Since (the meeting) was called the very same day as the

"Hunt broke several federal laws in trying to stop the organizing, so he has to pay the price."

**Gary Tillis
Laborers District Council**

INS Deports 11 Illegals

Continued from page 1
attorney.

The company's response has spurred calls for investigations by both the IRS and the Social Security Administration.

"We want to know how this company can claim they did not know illegal workers were on the payroll when they admit these workers were long term employees of the company," questioned White.

"How were IRS and social security payments made?"

INS is continuing its investigation of Dee Shoring to determine if the company knew the workers were illegal.

West Virginia AFL-CIO Election Endorsements

The ACT Foundation does not endorse candidates for any elections. We do print a list of candidates endorsed by the AFL-CIO.

Member unions participate in the AFL-CIO endorsement process.

Endorsement is based on a candidate's stance on issues such

as the West Virginia Jobs ACT, Workers Compensation, Unemployment Compensation, Prevailing Wage, prohibiting the employment of out-of-state strike breakers, the Mason County Pulp Mill, and requiring all construction contractors on public projects to pay health, welfare and retirement benefits.

Pulp Mill Victory

Continued from page 1
out, make us go to the experts over and over again with the hope we would run out of money and give up. Well it didn't work."

Burton pointed out the ACT Executive Board made this project a number one priority. "The ACT funding structure allowed us to carry on this fight," he said. "Without the commitment members have shown by contributing to ACT this mill would be built with out-dated technology and we would have faced an invasion of out-of-state workers. No single local or building trades council has the resources required to wage this type of fight."

The state Environmental Quality Board threw out the dioxin portion of the permit in August of this year.

They agreed there is already too much dioxin in the Ohio River. ACT lawyers then argued if no dioxin level was in the permit then no permit existed, the whole thing should be thrown out.

In a startling move the Environmental Quality Board suddenly reversed their position.

They said they only intended to rule that DEP incorrectly assumed there is currently no dioxin in the Ohio River.

With a hearing on the water permit just days away ACT lawyers asked for a postponement because of confusion over the board's stance on the mill permit's dioxin limits.

ACT argued it was unfair for the board to switch its position just a week before the hearings and resurrect the dioxin issue.

ACT lawyers were able to get the hearing stopped and then asked for the whole permit to be thrown out.

"At the same time DEP revealed it had 'discovered' major problems in water quality modeling concerning dissolved oxygen for the permit," White said.

The problems with dissolved oxygen have been flagged by ACT's technical experts for years as well.

DEP lawyer Mark Scott admitted in a memo to the Board DEP incorrectly plugged numbers into a computer model that estimates how much dissolved oxygen the mill will require.

It all boiled down to a one hour hearing with a judge who agreed that a permit with so many fatal errors was simply not valid under the law. The Environmental Quality Board can appeal the ruling in the state Supreme Court.

"This story is complicated and hard to tell but I will say this, ACT lawyers Stuart Calwell, Shirley Skaggs and others together with ACT's environmental consultant Carpenter Environmental, did an outstanding job," said White.

"We had the experts in our corner and ACT members and their families were well represented.

"ACT members should be congratulated. They paid an enormous price but they have proved they won't be turned back and have kept the decisions from being made behind closed doors."

STATEWIDE

Bill Clinton
President

Jay Rockefeller
U.S. Senate

Charlotte Pritt
Governor

Darrell McGraw
Attorney General

Larry Starcher
Supreme Court (full term)

Robin Davis
Supreme Court (unexpired term)

U.S. HOUSE OF DELEGATES

Alan B. Mollohan
1st District

Bob Wise
2nd District

Nick Joe Rahall
3rd District

STATE SENATE

3rd: Louis F. Flade
6th: John Pat Fanning

8th: David Grubb
14th: Jon Blair Hunter

16th: Herb Snyder

STATE HOUSE OF DELEGATES

1st: Jeff Davis
Loretta Price (R)

Mark Forest Underwood

30th: Pam Nixon
Larry L. Rowe
Sharon Spencer

3rd: Tal Hutchins
Paul Rusen

16th: Susan Hubbard
Joe Hutchinson

32nd: Bill Thomas*
Debra Whanger
David Workman

4th: Kenneth D. Tucker
Scott G. Varner

17th: Jerry "Mike" Damron

18th: Larry Jack Heck

5th: James Fauber

19th: Grant Preece
Harry Keith White

34th: Brent Boggs

6th: Kenneth R. Livingston*

20th: Tracy Dempsey
Greg A. Butcher

38th: John J. Tucci

7th: Paul Janes

21st: Ernie Kuhn

41st: Ron A. Fragale
Larry Linch*

9th: Larry Godfrey

23rd: Joe Sparks

43rd: Mike Caputo
Paul E. Prunty

10th: Sam Henry*
Fred Gillespie (R)

25th: Richard D. Flanigan

44th: Bob Beach
Mike Buchanan
Eugene Claypole
Barbara Fleischauer

11th: Joseph L. Weiland II*

26th: Mary Pearl Compton

46th: David "O.B." Collins

12th: Ginny Starcher

27th: Virginia Mahan
Warren R. McGraw II

51st: Larry D. Miller

13th: Gary Tillis*

28th: Thomas W. Campbell

54th: Laura R. Rose

14th: Debbie Phillips

29th: Tom Louisos

56th: Dale Manuel

15th: David Bell (R)
Margarette Leach

*Indicates building trades members.



CAMPAINING IN PARKERSBURG Democratic Candidate for Governor Charlotte Pritt listens to issues concerning Painters Local 1144 Organizer Dan Poling.

ACT Probe Nets \$300,000 For Pocahontas Workers

An investigation ACT started two years ago has finally been resolved with a payout of \$303,352 in wages.

In October of 1994, ACT's northern representative Steve Montoney uncovered some unlawful practices on the Pocahontas County Hospital project.

The prevailing wage was not being paid to construction workers on the tax funded job.

The hospital agreed on September 17 to a settlement affecting 100 workers.

In his initial investigation, Montoney found the hospital project was funded with public money, including a grant from the governor, in addition to the bonds the county owned hospi-

tal sold.

Funding also came from the Federal Emergency Management Agency.

"Projects funded with federal or state money have to follow federal and state guidelines regarding prevailing wage," Montoney said.

"In this case, the prevailing wage language was taken out of the bidding process and an addendum was put in advising bidders to 'disregard any references to prevailing wage on this project'."

In order to procure the necessary funds to pay the prevailing wage, in back pay and on the remainder of the work, the Hospital had to re-submit for more bonding.

Harrison County Commission

Continued from page 2
by meeting with representatives from both R. G. Brinkmann and West Virginia Mid-Valley Construction in an attempt to work out a deal on the Clarksburg project.

"We are not sure yet what will happen," said Montoney.

"At least we are talking and the county commission is behind us."

ACT's message on the West Virginia Jobs Act and local hiring is paying off.

"We have been approaching county commissions since the end of the legislative session in February to gain support for a resolution for local jobs for local workers, which we are trying to get passed as the West Virginia Jobs Act," said Raymond "B.B." Smith, ACT's legislative representative.

"This just shows that commissioners are taking it seriously and requesting similar requirements on projects in their area," Smith said.

"This time, the bonding agreement included the requirement that prevailing wage must be paid for all work relating to the project," Montoney said.

Montoney said that as soon as the mistake was caught the Hospital Administrator was ready to pay it because it put the project on shaky ground with the bonding company.

"The really unfortunate thing is that the hospital had to pay the

additional funds for the prevailing wage when it could have been bid as a prevailing wage job and the bids would have been adjusted to cover that extra money," he said.

The general contractor Branch and Associates, Inc., was from Roanoke, Virginia, and the subcontractors were mostly out-of-state including one from Kentucky and three from Virginia.

Because language about pre-

vailing wage was removed from the bid documents these contractors did not have to pay the proper wages.

"Prevailing wage bids are much more competitive so it could have been a cheaper and better job because of the higher skilled craftsmen.

"When you bring in workers out of Virginia for \$7 an hour, what kind of workers are you going to get?"



ATTENDING ACT'S fifth annual Update & Planning Conference in Parkersburg are more than 35 representatives of ACT affiliates and invited guests. Responding to the growing anti-union attack from the Associated Builders & Contractors (ABC) was the main topic discussed.

ACT Monitoring Permitting Process

Summersville Hydro Moves Ahead

A hydroelectric project slated for the Summersville Dam is going through the permitting process.

At a recent public hearing assurances were given that local union labor would be used for the \$30 million construction project.

"We went to the public hearing to support the project," said ACT's Bill Thomas.

"We were told by both partners in the project, Catamount Energy from Vermont and Summersville Mayor Steve

LeRose, that local union labor would be used for the project."

Attending the meeting were members and representatives from Operating Engineers, Carpenters, Laborers, and the Charleston Building Trades.

The project needs an extension of their permit from the federal Energy Regulatory Commission because of a few design changes.

Some opposition to the project arose because of a power line needed to bring the generated electricity to a power

grid.

Rafting groups stated they were satisfied the positive aspects of the project equalled the negatives and did not oppose it.

The ACT Report

A monthly publication of the Affiliated Construction Trades Foundation, an association of West Virginia building and construction trades local unions, with offices in Charleston and Clarksburg.

Officers: Bruce Tarpley, President; Steve Burton, Vice President; T.L. Ranson, Secretary Treasurer; Roy Smith, Executive Director; Steve White, Director.

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