

THE ACT REPORT

VOLUME 10, NUMBER 6
JUNE 2001



A PUBLICATION
OF THE AFFILIATED
CONSTRUCTION
TRADES FOUNDATION

The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council, with offices in Charleston and Clarksburg. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

Charleston - (304) 345-7570
Clarksburg - (304) 624-0682

email actwv@compuserve.com



INSIDE

Iron Workers	Pg. 2
Wayne Co. Case	Pg. 2
Election	Pg. 3
Panda	Pg. 4
WV Works	Pg. 4

THE COURTROOM BATTLE CONTINUES

Building Trades Wins Big Federal Court Battle Against Labor Ready

On June 1, the 4th U.S. Circuit Court ruled against Labor Ready and in favor of the Tri-State Building Trades saying the National Labor Relations Board could enforce its remedies from an unfair labor practice case filed in 1996.

Labor Ready will be forced to give former ACT employee Donnie Huff back pay, offer him reinstatement and to post a notice in hundreds of Labor Ready offices across the country informing employees of their right to unionize for the purpose of mu-

tual protection and collective bargaining.

This represents a major vic-

fore Judge John Copenhaver is a suit brought by Labor Ready against the Tri-State Building

practice charges brought by the Building Trades against Labor Ready for filing their suit.

This case involved Huff, now an organizer for the Operating Engineers Local 132, who was working on an organizing effort at Labor Ready. His efforts led to salting Labor Ready and getting other Labor Ready employees to sign a petition urging better pay practices.

The unfair labor practice charges were filed when Huff was illegally video taped while talking to workers about the benefits of being in a union. Eventually Huff was told by Labor

' HOPEFULLY THIS RULING WILL HAVE A POSITIVE EFFECT ON ALL THE TEMPORARY WORKER SERVICES NATIONWIDE, BY MAKING THEM RECOGNIZE THE RIGHTS OF WORKING PEOPLE.'

DONNIE HUFF, ORGANIZER, OPERATING ENGINEERS LOCAL 132

tory in a long running battle between the Building Trades and Labor Ready. Still pending be-

Trades, ACT and a number of local union and individuals. Also outstanding are unfair labor

CONTINUED ON PAGE 3

ACT Shows Good, Bad, Ugly of Recent Power Plant Construction

ACT has gone on the road in an effort to make certain power plant construction in West Virginia is a billion-dollar boom — not a billion-dollar bust.

ACT's Walter "Fuzz" LaRue has made presentations to the Marshall, Monongalia, and Pleasants county commissions asking them to support power plant construction which will be good for West Virginia.

All three county commissions are facing decisions about whether to issue industrial revenue bonds to out-of-state power companies.

ACT's presentation consists of examples of both good and bad investments in power plant construction.

The good is best represented



ACT's Walter "Fuzz" LaRue (standing) passes out information to Pleasants Co. Commissioners. (left to right) Joe Reckard, Mark Bailey and Jim Cotrill.

by the proposed plant of Panda Energy in Cabell County. Panda

hasn't asked for and tax breaks. It will be the largest tax con-

tributor in the county at \$3-4

CONTINUED ON PAGE 2

Judge Dismisses Wayne Co. Industrial Revenue Bond Case

Wayne County Circuit court Judge Darrell Pratt recently dismissed ACT's lawsuit claiming the County Commission issued Industrial Revenue Bonds to Constellation Power illegally.

Pratt said he wasn't going to second guess the county commission as to whether issuing the bonds was a good deal for Wayne County.

ACT lawyers argued the question wasn't whether it's a good deal but whether the bonds were issued legally.

ACT contends the bonds were issued illegally because they were meant to relieve local unemployment—but Constellation has imported workers for construction of the plant and will

only create three permanent jobs when it's built.

"More than \$20 million dollars in tax breaks for the creation of three permanent jobs is a blatant misuse of tax dollars," said Vince Trivelli, ACT Law-

facility than Constellation, with local union workers and no property tax breaks.

If Panda can do it, then Constellation could have too."

Constellation had promised to finish the project using 70 percent local workers, but has not lived up to that promise.

According to documents by the West Virginia Department of

Labor far less than 70 percent of workers come from the local area. The Wayne County Commission has not announced what if anything they plan to do about this latest broken promise.

ACT is weighing whether it should renew its legal fight seeking to prohibit the Wayne County Commission from issuing costly industrial revenue bonds to build the \$110 million 300 megawatt, gas-fired power plant.

'WAYNE COUNTY GAVE AWAY THE FARM, AND THEY DIDN'T HAVE TO DO IT.'

WALTER "RANDY" MAY, CARPENTERS LOCAL 302

yer.

Pratt dismissed the question of legality and possible misuse of funds, again saying he wasn't going to interfere with the county commission.

"Wayne County gave away the farm, and they didn't have to do it," commented Walter "Randy" May, business agent for Carpenters Local 302. "Panda Energy just announced they are building a much larger

PRESENTATIONS

CONTINUED FROM PG 1

million a year when the plant is completed and operating.

Additionally, Panda has already signed an agreement with the Tri-State Building & Construction Trades Council to require local union workers.

But ACT's presentation also warns about bad investments like Constellation Power in Wayne County.

Constellation got more than \$20 million in property tax breaks while hiring non-union, out-of-state workers.

Additionally, when the 300 megawatt, \$110 million plant is

completed it will employ only three permanent workers—effectively meaning the taxpayers of Wayne Co. get little for their \$20 million dollars.

"We are trying to let these county commissioners know West Virginia's supply of a power grid, natural gas, water and most importantly a skilled construction workforce creates a sellers' market," LaRue said.

"They don't have to give tax breaks and get nothing in re-

turn."

North Carolina-based Cogentrix has proposed to build a 1,600 megawatt gas-fired plant in Marshall Co., and a 1,100

'LOCAL WORKERS NEED TO ATTEND THESE [PSC] PUBLIC HEARINGS TO MAKE SURE THAT THEY ARE NOT SOLD OUT'

WALTER "FUZZ" LARUE, ACT REP.

megawatt gas-fired plant in Pleasants Co.

However, Cogentrix has already asked for tax incentives

Iron Workers 697 Joins ACT

Members of Iron Workers Local 697, Roanoke Virginia recently voted to join ACT and the West Virginia State Building Trades.

added.

The Iron Workers have several jobs going in southern West Virginia, which will contribute to ACT and the Building Trades.

Some of those projects include the Bluestone Dam in

'WE LOOK FORWARD TO WORKING WITH ACT.'

RONALD ADKINS, BUSINESS MANAGER, IRON WORKERS LOCAL 697

Iron Workers 697's coverage area includes several counties in West Virginia including Greenbrier, Mercer, Monroe, Pocahontas, and Summers.

"We look forward to working with ACT," said Ronald Adkins, Business Manager, Iron Workers 697. "Wayne Rebich [ACT's southern rep.] contacted me several times offering help with jobs even before we were members, so I think our partnership will only get better," Adkins

Hinton, Greenbank Observatory in Pocahontas County, and several bridges in the Bluefield area

"I think the Roanoke Iron Workers membership is terrific," said Roy Smith, Secretary-Treasurer, WV State Building Trades.

"I'm sure their members will benefit from ACT and the State Building Trades," added Smith,

"We welcome Local 697 and we're proud to have them."

and doesn't want to commit to using local workers.

"If Cogentrix doesn't want to give the people of Pleasants and Marshall counties a fair deal,

Panda is looking for other sites to build more plants," LaRue said.

LaRue also said Genpower of Mass. is proposing a plant in

Monongalia Co.

Genpower opted to buy 5,000 acres of land for \$1,225,000 from the

Monongalia Economic Development Authority on May 15.

LaRue is now planning a series of meetings with economic development agencies in these counties. He is also working on ACT's participation in state Public Service Commissions permit reviews.

"Local workers need to attend these [PSC] public hearings to make sure that they are not sold out," said LaRue.

The Marshall Co. PSC hearing is scheduled for Aug. 7, and the Pleasants Co. hearing is Aug. 27, both in Charleston.

Genpower's PSC hearing hasn't been scheduled

Union Workers Finish USDA Project

Work is almost complete at the federal Cool and Cold Water Aquaculture Research Center in Leetown, Berkeley County, West Virginia.

And once again union workers are cleaning up the mess left behind by a non-union contractor who was low bidder but went bankrupt in the middle of the project.

Construction Company Inc. from Camphill, Pennsylvania defaulted on the \$12.5 dollar USDA Research Center in March of 2000.

Federal officials stepped in and had the bonding company pick up the project. They hired Alexander Construction, a union contractor from State College PA six to eight weeks later.

According to ACT Repre-

sentative Larry Young the new project supervisor said the job was very hard because there

was a lot of shoddy work that needed redone.

In the fall of 1999 the operat-

ing engineers and the labors began a salting campaign against Construction Company Inc.

The unions had seven salts on the job and when the company would not agree to improve working conditions and quality on the job most of the workers walked off the job, causing delays in the construction schedule. This effort coupled with the company's financial trouble and poor project management may have lead to the company defaulting on the job.

"You get what you pay for, if there is a very low bidder on these government jobs that probably means the company will provide low quality work," said Young. "Union workers came in and cleaned up the mess that a non-union, financially unstable contractor made without costing the taxpayers anymore money," Young added.

The project is expected to be completed in late June.



The USDA Cool and Cold Water Research Center in Leetown, WV was finished by Alexander Construction.

LABOR READY

CONTINUED FROM PG 1

Ready Manager Michael Tucker he was barred from every office nationwide, and removed from the premises by the police.

Huff's crime was ignoring the company's newly created 'no solicitation' policy by circulating a petition for a change in company policy and starting a union organization drive. An administrative law judge for the NLRB ruled against Labor Ready saying the policy violated workers' rights to organize.

The issue before judges Wilkins, King and Gregory was whether or not to grant the NLRB the right to enforce its proposed remedies.

Labor Ready lawyers contended that because the com-

pany is a temporary agency, where work assignments usually only last one day, employment is "terminated" at the end of each day. Therefore, they argued, Huff was not an employee when he was waiting for a job and soliciting, so his rights under the National Labor Relations Act did not apply.

Labor Ready also claimed they were not violating the National Labor Relations Act with their no solicitation policy because workers waiting in the office for assignments were not employees. They said workers were only employees when they were at the job site.

However, the facts Huff gathered told a different story. Huff showed he was sent on multi-

day assignments. After the first few days of being paid at the end of each day he was given a payroll account number and received a check for several days' work.

He and other employees were also allowed to keep their boots and hard hats overnight. The company was not requiring them to turn in equipment the end of each day, as they would have if the workers' employment had been terminated.

"I'm very happy the court ruled in favor of working people," said Huff. "Hopefully this ruling will have a positive effect on all the temporary worker services nationwide, by making them recognize the rights of working people," Huff added.

Operating Engineers 132 Win Election at Kanawha Asphalt

Operating Engineers Local 132 has won an organization vote to represent Kanawha Asphalt workers.

Kanawha Asphalt is Skilton Contracting's Asphalt Division workers.

The workers are awaiting National Labor Relations Board certification of the election.

The asphalt workers sought union representation because they wanted the benefits and pay increase a union contract provides, according to Ronnie

Burdette, Local 132, Business Manager.

"The company wouldn't recognize the Operating Engineers voluntarily, but we took them to election without incident," said Burdette.

Skilton Contracting's Construction Division is already signed with the Operating Engineers.

"Skilton is a good company," Burdette said.

"I don't think we will have any problems negotiating a fair contract that both sides will be happy with."

Unions, Others Support Panda Energy

Political, business and environmental leaders were among those appearing alongside organized labor recently in support of constructing an 1100 megawatt, gas-fired power plant in Cabell County.

Joining Panda Energy at the Public Service Commission public hearing last month were representatives of the Cabell County Board of Education, the House of Delegates, various business leaders and the Ohio Valley Environmental Council.

A variety of representatives from Labor testified including Jim Bowen, president of the West Virginia AFL-CIO, Steve Burton, President of the West Virginia State Building Trades as well as Roy Smith, and Steve White from ACT.

All came together to convince the PSC that the Panda plant is a good project for

Cabell County.

"Panda is setting the example for other power companies by agreeing to hire local union construction workers, and by not asking for any industrial revenue bonds," said Burton.

"These construction jobs will last for about two years which is much longer than any projects in recent history," Burton added. "The money from these construction jobs will feed a lot of children and pay a lot of bills."

Other testimony focused on the overall economic benefit to the state.

Also in attendance to support Panda was Cabell County Schools Superintendent David Roach.

Roach suggested Panda's taxes would generate \$3-3.5 million for the school children of Cabell County, making Panda the largest property tax payer in the county.

The general consensus of those at the hearing supporting Panda was summed up



Standing in support of the Panda project are: (L to R) Bobby Boone, Lessa Murphy, Roxanne Rose, and Joe Durst of the Op. Eng. Local 132, and Randy May carpenters Local 302.

by Burton's closing statement.

"I think it is a no brainer, we had members of the labor, business, environmental and legislative communities all come out to support Panda Energy. Your decision should be easy."

If the initial Certificate of Convenience and Necessity is issued, Panda will need to obtain several more permits before construction of the plant can begin, according to ACT lawyer Vince Trivelli.

NON-PROFIT ORG.
U.S. POSTAGE
PAID
PERMIT # 1374
CHARLESTON, WV
25301

ACT Foundation
523 Central Avenue
Charleston, WV 25302
(304) 345-7570

**ACT Annual Convention
Wheeling, WV
Ramada City Center Plaza
center
(formerly McLure House)
July 11 10:00 am**

All members welcome. Contact your Local Business Manager for more information.

WEST VIRGINIA WORKS SHOWTIMES

WDTV Clarksburg & Morgantown Saturdays @ Noon	FOX 59 Beckley & Bluefield Saturdays @ 12:30pm
FOX 11 Charleston, Huntington, Parkersburg Sundays @ 11:30am	
CABLE CHANNEL 10 Wheeling, St. Clairsville & Moundsville Saturdays @ noon	
CABLE CHANNEL 16 Steubenville, Follansbee & Wellsburg Saturdays @ noon	

Give us a call if you have an idea for a show!
1-800-930-WORK!