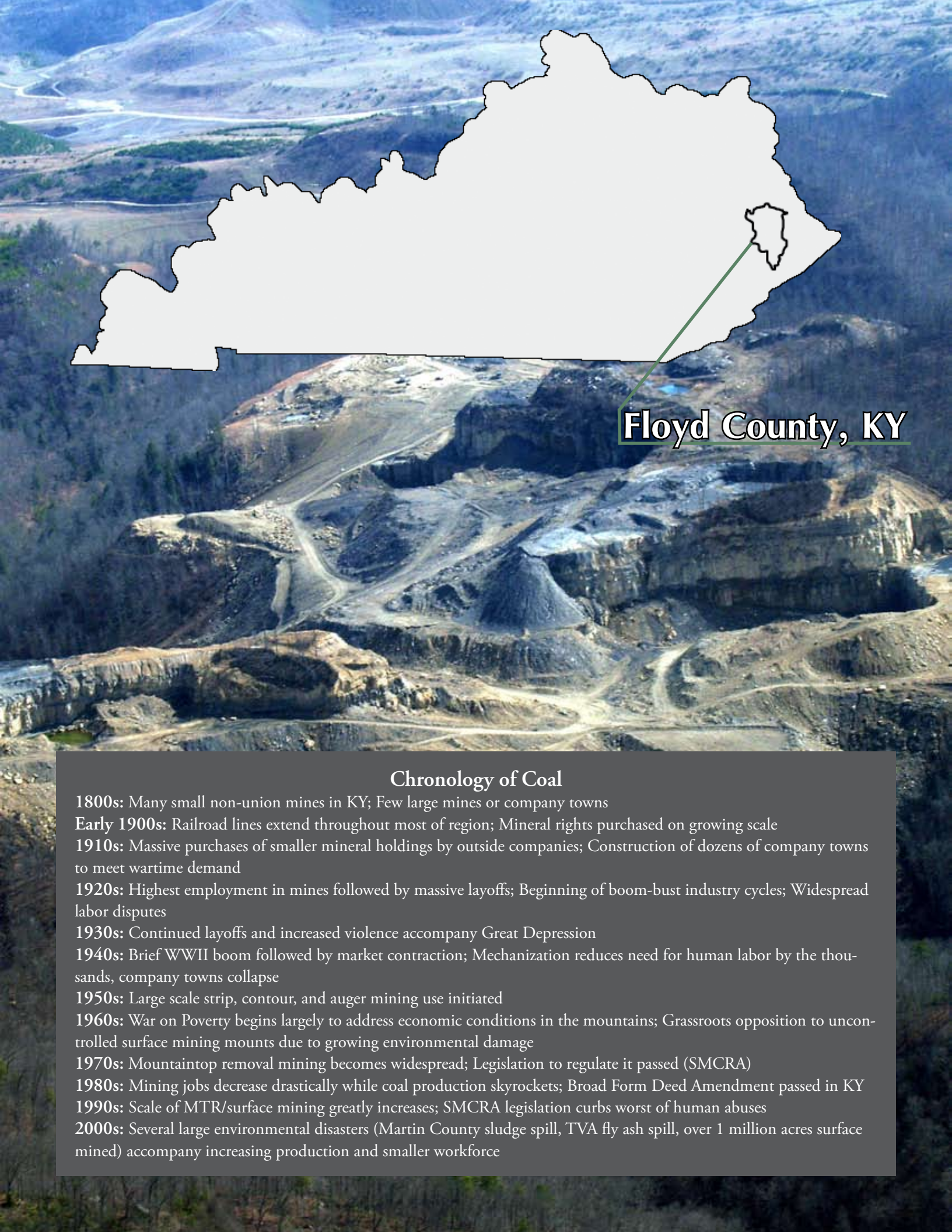




Voices from Appalachia

A Human Rights Perspective
Floyd County, KY

Economic, Social, and Cultural Rights in the United States
Written by ENGAGE in partnership with KFTC



Floyd County, KY

Chronology of Coal

1800s: Many small non-union mines in KY; Few large mines or company towns

Early 1900s: Railroad lines extend throughout most of region; Mineral rights purchased on growing scale

1910s: Massive purchases of smaller mineral holdings by outside companies; Construction of dozens of company towns to meet wartime demand

1920s: Highest employment in mines followed by massive layoffs; Beginning of boom-bust industry cycles; Widespread labor disputes

1930s: Continued layoffs and increased violence accompany Great Depression

1940s: Brief WWII boom followed by market contraction; Mechanization reduces need for human labor by the thousands, company towns collapse

1950s: Large scale strip, contour, and auger mining use initiated

1960s: War on Poverty begins largely to address economic conditions in the mountains; Grassroots opposition to uncontrolled surface mining mounts due to growing environmental damage

1970s: Mountaintop removal mining becomes widespread; Legislation to regulate it passed (SMCRA)

1980s: Mining jobs decrease drastically while coal production skyrockets; Broad Form Deed Amendment passed in KY

1990s: Scale of MTR/surface mining greatly increases; SMCRA legislation curbs worst of human abuses

2000s: Several large environmental disasters (Martin County sludge spill, TVA fly ash spill, over 1 million acres surface mined) accompany increasing production and smaller workforce

The Right to Culture

The Right to Housing

A COMMON

The Right to Water

The Right to Health

LANGUAGE

The Right to Work

Voices from Appalachia is a collection of stories that seeks to understand the impact coal mining has had on the human rights of residents of Floyd County, Kentucky.

Human rights, which include economic, social, and cultural rights, recognize that all people require the same basic necessities in order to live a dignified life: water, food, shelter, and safe and healthy conditions in which to work and live. When one or more of these necessities is taken away from someone, it is a violation of their human rights. Every right comes with a responsibility to respect the rights of others, and not to violate them based on one's own self interest. For example, the right to housing recognizes every person's right not to have their home damaged or made unlivable by neighboring individuals or industry. It is the job of both the local and federal government to protect our rights through the creation and enforcement of laws and regulations.

The application of a human rights framework to the issues present in Floyd County, KY has organizing potential on a national and international level. Just as families affected by coal extraction in Appalachia struggle daily with the effects of mining, thousands of individuals throughout the country and world face parallel situations of exploitation, whether due to mining, other large-scale development projects, urban poverty, or systematic discrimination. To achieve the greatest pos-

sible strength, organizations and individuals must reach out to one another and work together. The language of human rights allows us to connect a wide range of problems, bridging perceived differences across regions, borders, and issues.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) has been signed by 160 governments, in an effort to define and protect the human rights of people around the world. The United States signed the Covenant in 1979, but it has not yet been ratified. Using the ICESCR document as a structure, we will explore the relationship between human rights and the effects of coal mining as illustrated through the personal experiences of residents of Floyd County, Kentucky. In addition, this report aims to highlight individuals and groups who are working to improve their communities and seeking a sustainable course of development for eastern Kentucky. This form of development creates job opportunities through economic diversity, values the health, wellbeing, environment, and heritage of the local community, nurtures youth, and puts power in the hands of local people to shape the future of their own communities. Most importantly, this report seeks to provide readers with the understanding and resources they need to take an active role in building a brighter future for themselves, their families, and their communities.

Kentuckians for the Commonwealth (KFTC):

Kentuckians for the Commonwealth is a statewide citizens' organization working for a new balance of power and a just society. Kentuckians have worked together under KFTC to build strength, as individuals and as a group, to find solutions to real life problems. KFTC uses direct action to challenge—and change—unfair political, economic and social systems. Current campaigns include protecting people against abuses from coal companies, voter empowerment, and economic justice through fair tax reform. KFTC has entered a partnership with ENGAGE with the hopes of building on its current efforts to find common ground between Kentuckians and form connections with organizations in other states.

Educational Network for Global and Grassroots Exchange (ENGAGE):

The Educational Network for Global and Grassroots Exchange is comprised of young organizers who build on the lessons they learned in participatory educational experiences abroad with the goal of building grassroots power at home in the US. The ENGAGE network serves as a mechanism to facilitate educational exchange, collaboration, and solidarity between communities facing separate but connected issues of development throughout the US and internationally.

FLOYD COUNTY, KY

Economic, Social, and Cultural Rights Report



Regional and National Context

Developing over a period of 300 million years, the Appalachian Mountains are not only renowned as one of the world's most ancient mountain ranges, but also as one of its most ecologically diverse. The heavily wooded hillsides, valleys, and mountain streams provide shelter for a large variety of animals and plants. These dense forests also serve as the lungs of the region, working against global warming by turning greenhouse gasses into oxygen. The Appalachians have also been home for many families whose ancestry and heritage are tied to the mountains going back hundreds of years. For many generations the mountains and their natural vegetation have provided shelter from severe storms, protection against flooding, and the natural resources needed to establish a peaceful way of life.

The geological composition of the Appalachian Mountain Range also left a significant mark on the region's heritage. Dead organic matter that built up under the right geological conditions led to the formation of the richest coal deposits in the United States, which attracted a booming coal industry in the early twentieth century. The region quickly became a major fuel source for the industrial age of the United States. Kathy Curtis of Maytown, Kentucky succinctly recounts the region's transformation: "Coal industry came in, farms went away, and everybody started working for the coal industry."²

Many of the cities and towns in present-day Appalachia were founded as coal camps. Eventually, the coal industry came to control the entire region. According to Jerry Fultz, founder of the Wayland (Kentucky) Historical Society, "The [coal] company pretty much owned you, lock, stock and barrel. They owned the homes you lived in, the water system, the schools, the hospital, the stores, everything... [Employees] had to pay their rent and electric bill, and all this was coming out of their checks... So at the end of a two week period, you could actually owe the company."

As the boom years of World War II drew to a close, America found itself with an oversupply of coal, burgeoning urban manufacturing economies spurred by wartime demand, and increasing affluence in many of the nation's cities. Appalachia, however, was faced with a bust coal economy, greatly reduced need for workers, and a massive out-migration to cities such as Cincinnati and Detroit for employment opportunities. Those who remained either clung to increasingly scarce jobs in the mines, attempted to revive family farms that had fallen into disrepair, or were lucky enough to have one of a handful of non-coal jobs in larger towns.

The region never developed a diversified economy. Travel into and out of the mountains was hampered by narrow, poor quality winding roads that made commerce by vehicle difficult. All of the railroad lines were built and owned by the coal companies, enabling companies to control the movement of goods and people. Coal companies maintained a stranglehold over the region that remains even to this day, often permeating local government. Although it provides fewer jobs than ever, the coal industry continues to be a dominant economic, political and cultural force.

Historically, their wealth and influence has allowed coal companies to shirk labor and environmental regulations in the name of economic development and supposed prosperity, and currently Kentucky's coal counties have some of the nation's highest

poverty levels. As demonstrated by the following testimonials, the coal companies' drive for profit has superseded the economic, social, and cultural rights of many families living in Appalachia.

Today, the tension over the issue of coal mining is palpable throughout Appalachia. While most people concede that the damage to the mountains and the residents' living conditions are not ideal, many still cling to and voice support for the coal industry because of the jobs it provides a region where economic opportunities are scarce.

By examining these complex and sensitive issues from a human rights perspective, we hope this tension between pro- and anti-coal factions can be transformed into an outlook that is pro-community, pro-jobs, pro-health, and pro-dignity.

Environmental Impact

Many of the human rights violations in Appalachia are directly linked to the environmental effects of coal mining. In recent decades, mountaintop removal mining has increasingly replaced traditional underground mines. Mountaintop removal mining exposes coal seams by removing the top layers of the mountain--vegetation, rock, and dirt. This "overburden" is placed in adjacent valleys, which often contain rivers and streams. These waters are often covered entirely by the excess rock and soil, or contaminated when the overburden runs into them after heavy rains.

According to a comprehensive study conducted by the Environmental Protection Agency in 2005, over 1,200 miles of stream in the Appalachian coal mining region (most of eastern Kentucky, southern West Virginia, western Virginia, and parts of Tennessee) have been affected. Of these, 724 miles have been completely buried by valley fills. The remaining streams were found to contain higher concentrations and more types of harmful chemicals and metals including mercury, arsenic, and lead. In addition, these streams were found to support lower biodiversity than those not in valley fill areas.³

The process of underground mining may have fewer visible effects on the surface than mountaintop removal, but abandoned deep mines, some of them decades old, create water quality and flood control issues as well. Natural filtration of water in the Appalachian Mountains and coal seams once provided residents with outstanding water quality, but abandoned mines have polluted surface and groundwater sources.

Mine silt and debris is often carried as runoff to nearby streams, clogging and sometimes flooding them and creating sedimentation that is harmful to fish. Additionally, abandoned mines can produce acidic water for over 100 years, lowering the pH of surface water and making it uninhabitable for native fish and vegetation.⁴

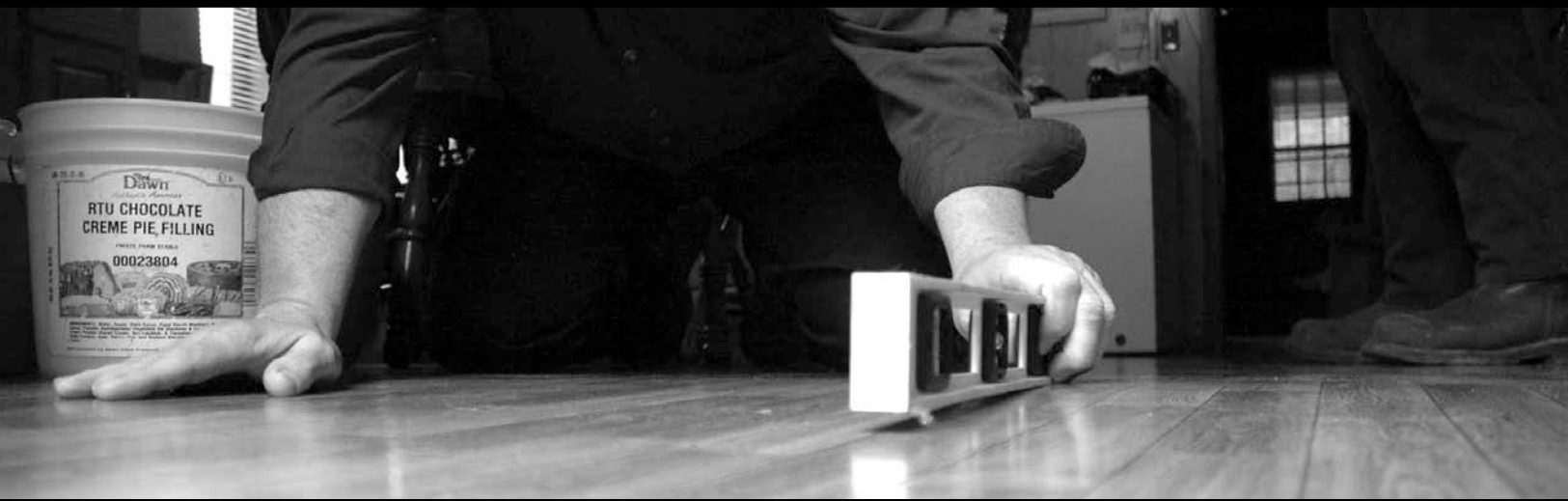
Floyd County Profile

The examination of economic, social, and cultural rights in this document focuses specifically on Floyd County, Kentucky. Floyd County is set in the heart of the Appalachian Mountains, and it serves here as an example of the effects of the coal industry on the greater region.

Floyd County's history is deeply rooted in coal mining. Ten of its current cities and towns, including Wayland, Estill, and Garrett, were initially founded as coal camps in the early twentieth century.⁵ Extensive mining in the years since has riddled the county with 937 mines, more than two per square mile.⁶

The median income of Floyd County's 42,411 residents is \$21,168, more than 30% less than the statewide median and little more than half the national median, \$33,672 and \$41,994, respectively.⁷ Due to high unemployment, low incomes, and countless other factors, the percentage of Floyd County's population living in poverty is 30.3, more than twice that of Kentucky's as a whole.⁸

Floyd County residents have experienced many difficulties as a result of living near coal mines. Their testimonials in the pages to come illustrate how their lives have been affected by the coal industry. These testimonials are arranged into sections based on the rights violations they reflect. Each section begins with an explanation of the relevant ICESCR passages.



The Right to Housing

ICESCR Article 11, General Comment No. 4

The right to housing includes the fundamental right to an adequate standard of living, including “the continuous improvement of living conditions.”

The right to housing means the assurance of adequate shelter, including ventilation and “basic infrastructure.”

The right to housing mandates that “the physical safety of occupants must be guaranteed,” and requires protection from “threats to health [and] structural hazards.”

The right to housing requires that a decline in living conditions be met with “accompanying compensatory measures.”⁹

Violations in Floyd County

As a result of coal mining activities, the right to housing has not been protected or fulfilled for many in Floyd County. Major blasts from strip mining have caused severe structural damage to houses in surrounding areas. These damages include cracks in walls, windows, and bathtubs, warped floorboards, and compromised foundations.

An endless supply of black coal dust from the mines and coal trucks settles over the Floyd County residents’ houses, yards, cars, gardens. Acidic and metal-contaminated water leaking out of abandoned deep mines and surface mine sites floods the crawl spaces under homes as well as backyards, causing foundations to deteriorate and mold to thrive.

Community residents with homes and gardens have few options for protecting themselves against the destructive effects of mining. According to current state law, a homeowner can pursue a damage claim in court, but the cost of hiring attorneys and expert witnesses make this unrealistic for most Floyd County residents.



In Sept. 2009, a Floyd County family arrived home to find a massive boulder had crashed into their home. The state Office of Surface Mining Reclamation and Enforcement determined that it was dislodged by a blast from a nearby strip-mine.

Todd and Barbara Bailey



“If you go outside you can see cracks along the mortar lines and the bricks. It’s actually separating from the window there,” Todd Bailey says as he points out the destruction of his home. He and his wife Barbara have been living in their house in Floyd County for 25 years, and the mountain top removal mining practices in recent years have gradually worsened their living conditions. “On the outside is where the story’s showing, with this brick,” Todd says.

As the blasting from nearby coal mining sites has intensified, the Baileys have noticed more and more structural damage of their home. Todd describes a particularly large blast that caused the movement of the floor to feel like a tidal wave. “The next day when I raised the shade, I saw this crack,” he says, motioning towards the adjacent window.

Damage to the Bailey’s house also means a constant threat to their safety. Ever since a carpenter warned them to avoid sitting in a certain area of their living room for fear the ceiling would give way, the Baileys worry about the structural soundness of their home. “We used to sit closer [to the TV]. He said that right there could fall any time,” the Baileys say.

Although there are clear correlations between damage to the house and strip mining, a system of compensation remains undefined. The Baileys continue to fight the pressure to just move away. As Todd puts it firmly, “I’m not gonna let them run me out of where I’ve grown up my whole life.”¹⁰

Susie Mills

Across Floyd County, concerns have been raised about the dangers associated with abandoned underground mines. Susie Mills is among those living in close proximity and fears for her family’s well being.

Buried in the mountains behind Susie’s home, an abandoned deep mine threatens devastation to those living at the foot of the valley. As the mine fills with water, pressure below ground increases, and the chances of the abandoned mine bursting and flooding the surrounding area is a constant concern. “That’s my greatest worry, it busting,” Susie says. “You know, it may be 20 years from now or it could be the next 20 minutes. We could have kids in the neighborhood when it decides to bust.”



The effects of excess water pooling beneath Susie’s home have eroded her quality of living and affected her ability to keep a safe, comfortable home for her family. “The ground is so saturated. The water, it has nowhere to go,” she says. Additionally, her children are unable to simply enjoy playing outside as they used to. “We can’t go out and toss a ball, or play kickball, because whatever you do, your feet are soaked,” Susie says.

The standing water beneath Susie’s house has also taken a toll on its infrastructure. “You can see everything’s pulling away, from the ceiling to the floor,” she says, pointing out the sagging door frames around her house. “And you can tell the floor’s not level.” The family also experiences water backup through the kitchen sink as a result of the water pooled under the house seeping back in through the pipes. Having received no compensation for the mine’s presence, which compromises the safety and value of her home, Susie expects a prolonged struggle to rectify the damage that has been done and to reclaim a healthy, happy home.¹¹



The Right to Health

ICESCR Article 12.1, General Comment No. 14

The right to health recognizes “the right of everyone: to the enjoyment of the highest attainable standard of physical and mental health.”

The right to health “extends to the underlying determinants of health, such as...access to safe and potable water and adequate sanitation.”

The right to health requires “the prevention and reduction of the population’s exposure to harmful substances such as radiation and harmful chemicals.”

The right to health includes the right to “measures that prevent third parties from interfering” and laws that “prevent the pollution of water, air and soil by extractive and manufacturing industries.”¹²

Violations in Floyd County

In recent years, many studies have tied coal mines to health problems. Even after adjusting the data for other factors that increase risk of chronic illness for people living in rural areas, residents of coal mining communities similar to those in Floyd County have been found to have a higher prevalence of chronic heart, lung, and kidney disease.¹³ Coal-processing chemicals, equipment powered by diesel engines, explosives, toxic impurities in coals, and dust from uncovered coal trucks and general mining activities cause environmental pollution that undoubtedly affects public health.

Coal dust is ever present, and settles over neighboring communities daily. Some families even wash their homes regularly, but it is difficult to escape its pervasiveness. In Floyd County, recognition, protection, and fulfillment of the right to health require stronger enforcement of mining regulations in order to ensure cleaner air and water.



Clinton Handshoe

Reflecting on his current health circumstances, Clinton Handshoe says, “I never had any problems until the mines showed up, but since then I’ve been hospitalized for breathing, I’ve had emphysema, and I had to have all of my stomach removed from cancer.”

The dust in Clinton’s house is so thick one can taste it in the air. Sometimes, just one day after a good cleaning, Clinton can write his name in the dust on the windows. He is angry about the deep mine entrance that sits 317 feet from his front porch, only 17 feet beyond the legal limit.

“They’re killing me, and have been for six years now. My doctor says I need to move, that I can’t stand to breathe the coal dust much longer.” But Clinton cannot afford to move. “I ain’t floating in no money, and with all these problems, who would buy this house now?” he says. The home he grew up in is no longer a safe place for him to live, but there is no escaping the dust.¹⁴

Millie Varnadore

Millie Varnadore is a respiratory therapist, so when dust began raining down on her home from the coal tippie standing less than a quarter mile away, she knew the problem was serious. “I’m not living like this,” she says, as she points to the heavy black dust collecting on her windowsill. “It’s all over the place in the attic, too.”

Even with a new house, built only nine years ago, Millie struggles to keep the toxic dust out. It was particularly bad during the winter of 2006-2007, when a coal pile at the tippie smoldered throughout the winter. Millie remembers watching from the front porch as the cinder and smoke rose towards her. The coal company running the tippie, Frasure Creek Mining, repeatedly failed to follow standard dust-reducing procedures such as running sprinklers, arguing that the water reduces the quality of the coal. Millie describes how her house has devalued \$86,000 as a result of the tippie. “I cannot even sit on my own front porch because of the dust,” she says.



After years of trouble with the dust, Millie and her husband Brett, along with 98 other affected households in the town of Allen, filed an injunction against the coal company. The court case was heard in September 2009. “There’s strength in numbers; we can get something done if we all work together,” Millie explains, and then adds, “I just want people to know that they don’t have to live like this.”¹⁵



Susie Mills

Susie Mills anxiously waits for the day when she will no longer have to worry about her daughter’s health as a result of the coal mining in Floyd County. Her teenage daughter Melanie suffers constantly from asthma, triggered by mold in the home, a result of the standing water accumulating underneath her home and saturating her yard. “When there’s a flu or a cold going around, she can start with a sniffle today and tomorrow her asthma is full blown,” Susie explains.

This has been going on for more than 10 years, but despite medical records, Susie has been unsuccessful in her attempt to hold the Division of Abandoned Mine Lands accountable for her daughter’s health. “I’ve got a report in there, a doctor’s statement, that says it’s the water under our home,” she says.

Regardless of the obvious correlation between mining and health conditions, Susie is skeptical of how soon the government will take care of the abandoned mines. “I think they keep delaying it because they know it’s going to be a major situation,” she admits. Faced with a daily concern, Susie continues to keep track of records, hoping that some day soon the state will step in to make her family’s health a priority.¹⁶



The Right to Water

ICESCR Articles 11 and 12, General Comment No. 15

The right to water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

The right to water includes that “natural water resources are protected from contamination by harmful substances.”

The right to water means maintained “access to existing water supplies” ensuring that it can be “sustainable... for present and future generations.”

The right to water requires that the “costs and charges associated with securing water must be affordable.”

The right to water includes protection from interference of “traditional water sources in rural areas” and from “third parties...denying equal access to adequate water.”¹⁷

Violations in Floyd County

Neglecting to protect, monitor, and improve water quality and distribution in and around Floyd County is yet another human right violation directly linked to the activities of local coal mines.

State inspectors have confirmed that the ground water and surface water in Floyd County is contaminated by methane pollution, but contaminant levels of toxic metals in Floyd County are unknown due to the high financial cost of water testing. Other Appalachian communities in close proximity to coal mines have been found to have contaminants including arsenic, lead, and mercury.¹⁸

Arsenic and mercury both exist naturally in the environment, but mining unearths poisonous deposits tucked away deep in the earth’s crust, releasing them into the ecosystem in dangerous quantities. Contact with high levels of mercury increases the risk of impaired neurological development.¹⁹ Overwhelming evidence at numerous mining sites shows that consumption of elevated levels of arsenic through drinking water is directly related to increased levels of cancer.²⁰

After using the same wells for generations—a previously free and clean water source—many Floyd County residents now have to dig new wells or turn to city water. When city water is not available, they must purchase bottled water. According to law, when mining activity disrupts residents’ water supply, the coal companies are obligated to pay for their water for 20 years. Many community members in Floyd County report that the money provided by the coal companies is not sufficient to cover the cost of a healthy and consistent water supply. Consequently, many Floyd County residents are deprived not only of their once traditional water supplies, but also of safe and affordable water in general.

Clinton Handshoe



“For 150 years we had excellent water here at this house, at this pump,” Clinton explains proudly as he points a few yards away. Decades of clear, clean water ended for Clinton about four years ago when his water started showing high traces of methane. Aside from the methane, the water was likely also contaminated with heavy metals. “I’ve had three wells that have gone out... [the coal company] said they would reimburse me the money so I went ahead and drilled new ones, but when I showed them the bill, they said ‘we owe it to you but you have to prove it,’” Clinton says, beginning to describe the time-consuming process he has been engaged in for the past four years. “I had to go to court and pay for an attorney, so I was losing money,” he says.

The water from the new wells is too poor in quality for bathing, not to mention drinking. “I’m bathing in stinky water,” Clinton exclaims. “I smell worse when I get out of the shower than I do when I get in.” He goes on to explain that he must purchase bottled water, which costs him \$70 per month. “The coal companies paid me for my drinking water for about a year. Then they got tired of doing it,” he says.

In June 2009, after years of not knowing the actual level of methane contamination, Clinton’s daughter and son-in-law who live on the same property hired a private company to have their own well tested. The methane content of their tap water was measured at 2762 parts per million (ppm). It was so high they were told to turn their water off immediately because there was a serious potential for asphyxiation or explosion. Clinton and his family have been trying to get access to city water since September 2009, but as of mid-January 2010, they have not received any. Given the necessity of access to clean water, Clinton has no choice but to keep fighting. “You’ve got to have water; you got to drink it,” he says.²¹

Lucy Gearhart

Lucy Gearhart has seen countless floods pass through her front yard, including May 2009’s record-breaking flood whose severity was greatly increased by a strip mine near her house. Strip/surface mining removes all trees, vegetation, and topsoil from large areas of hilltops, so that when it rains heavily there is nothing to absorb the water before it runs down the hill toward people’s homes. Since the mining started Lucy has only seen the intensity and rapidity of the flooding increase. The flood in May crested at 10 feet above normal levels, which left debris and standing water in her yard, and damaged her home’s foundation as a result of the amount of dirt washed away from the surrounding land. The damage caused by this major flood only adds to the total impact that increased flooding has had on Lucy’s home.



During an annual flood in the 1990s, a sediment pond from a strip mining operation near Arkansas Creek, and just one mile from Lucy’s home, broke, sending contaminated water, mud, and debris into the houses downhill. Before mining began, a well had provided Lucy with limitless, reliable water. “I had all the water I ever needed; [The well] supplied three houses,” she recalls.

Even prior to the flood, blasting from the strip mine had begun damaging and drying up wells, causing residents to complain. “Even my well had gotten low,” admits Lucy. Then the pond break settled it.

“Mud from the pond might have gotten in my well so I didn’t drink it after the flood; I tapped into my parents’ well until I got city water,” Lucy says, making reference to the water meters installed following the flood. All of the roughly 500 residents in Arkansas, Kentucky had meters put in due to damaged wells.

As a result of the flooding and blasting caused by the strip mine, Lucy lost access to drinkable well water that could have sustained her family for generations. This loss combined with flood damage, a problem only likely to get worse, make Lucy worry about her family’s future living on Arkansas Creek.²²



Workers' Rights

ICESCR Articles 6.1, General Comment No. 18

The right to work “includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”

The right to work includes ensuring “the right of the worker to just and favorable conditions of work, in particular to safe working conditions.”

The right to work requires governments to formulate a plan for “stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment.”

The right to work is violated when there is “insufficient expenditure or misallocation of public funds” resulting in the “non enjoyment of the right to work by individuals or groups, particularly the disadvantaged and marginalized.”²³

Violations in Floyd County

Coal companies argue that they provide necessary and well-paying jobs for people in the Appalachian region. The coal industry does employ a large number of regional residents, and historically, coal jobs have dominated the employment sector. But in recent decades, the companies’ ongoing shift to mechanization and strip mining has caused increased unemployment in Floyd County. Over the last 20 years mining employment nationwide dropped 34%, from 135,000 to 89,000 miners, while coal production increased by 19%.²⁴ With new underground mining technology, fewer miners are needed in deep mines. Furthermore, as surface mining expands, heavy machinery and explosives replace demand for human labor.

Coal jobs do pay well for those who have them, but many miners are experiencing lay-offs. Some would like nothing more than to go back to work in underground mines, while others would prefer to take different jobs with equivalent pay. Unfortunately, there are limited opportunities for any kind of work.

Greater economic diversity in Appalachia is necessary in order to respect, protect, and fulfill its residents’ right to work. Governments could use funds and incentives to encourage a variety of economic options that would employ the local workforce. Instead, public funds are annually given to coal companies in the form of subsidies and tax breaks. According to a study by the Mountain Association for Community Economic Development (MACED), the coal industry provided \$527 million in revenue to the state of Kentucky in 2006 and cost the state \$642 million in services and benefits provided to coal companies, resulting in a \$115 million dollar deficit.²⁵ In Floyd County, only half of the coal severance tax returns to the county, and most is immediately used to repair roads and water systems damaged by the coal industry rather than to diversify the economy or improve public education.²⁶

Underground mining is a noble and honest job, but working conditions, while improved, remain dangerous. Over the past 34 years, an average of 24 coal workers in Floyd County have died of pneumoconiosis (black lung) per year, more than in any other county in Kentucky.²⁷ Deep miners often end their careers due to injuries or black lung, leaving them unable to seek other employment.

Delbert Conn

“A real coal miner is a deep miner,” says Delbert Conn, one of thousands of currently laid-off underground miners in eastern Kentucky. “I’ve been working since 2004 and it’s never been this bad.” Employment in the mines runs in cycles depending on a lot of factors, including the price of coal. While some miners appreciate having a bit of time off, others anxiously await getting called back to work.

Delbert speaks from the experience of a fourth generation deep miner: “If it revolves around lumps of coal, my family’s worked in it.” Although Delbert’s spent most of four and a half years working in underground mines as a roof-bolter, he has carried out just about every job below the surface. “It’s grown on me, it’s in my blood,” he says, referring to his lack of interest in any other profession. For Delbert, coal mining is a tradition, a lifestyle, and a great source of pride. He could get a different job as a welder, but he only wants to work in the mines. “[Mining] is not for some people, though,” he says, voicing a need for alternative occupations in the region.

Delbert is not strongly against mountaintop removal coal mining as a practice, but emphasizes the need for it to be a last resort for when underground mining is impossible, rather than as a primary mining method. “If strip mines were to be shut down tomorrow, thousands [of deep miners] would be put back to work.” To Delbert, machinery involved in strip mining is taking away his and others’ jobs. All he wants is an honest day’s pay for an honest day’s work, but right now that does not seem to be an option.²⁸

Jamie Johnson

Jamie Johnson’s 18 year old son has begun working as a night watchman at a local underground mine, but Jamie fears he will be tempted by increased pay to join the ranks in the mine. “It’s not worth working underground for the money, only worth it because you have to feed your family,” Jamie says, recognizing the dangers deep miners face daily.

Jamie’s father ended his deep mining career severely injured and partially paralyzed. And during Jamie’s short stint as a deep miner, his legs were crushed when a portion of the ceiling fell. After fighting for nearly 18 months, his bills had piled up enough that he was forced to settle for just \$65,000 in compensation from the coal company, not enough to cover even the medical expenses. He was given the opportunity to work outside of the mine testing coal and other fuels for burning quality. Jamie immediately jumped at the prospect of leaving underground mining behind.

Injuries due to mining conditions are not uncommon, and Jamie knows as well as anyone. “I feared for my life every day I walked into the mine,” he admits. Since the price of coal recently fell sharply and production has slowed, he has been laid off along with many others who worked in the coal industry. Given his lab specialization he trusts he will be able to find another job before his unemployment runs out, but nonetheless, he wants his son to have options outside of the mines.²⁹

Donnie Combs

Donnie Combs took his first job in an underground mine in 1976. “I worked for about 20 years, and I liked it,” he recalls. “In the mine you got real close to the people you were working with. You had to look out for your friends.” Donnie sacrificed a lot to make a decent living. He worked daylight to dark six days a week, plus overtime, and wouldn’t see his daughter for weeks at a time because he was gone or asleep when she was home. Dust in the mines was so thick sometimes Donnie couldn’t see; yet he never had trouble breathing when he was working. Now, however, he has black lung from the years of breathing coal and rock dust. His wife Judy holds that, “He gave all those years to the coal company, and they tried to keep him from getting his black lung compensation. And when he was injured, they fought so hard to keep him from getting workers’ compensation. It took almost 3 years of no work before they would settle. When they settled, Donnie got about half of what he would have made while working a year in the mine.” Donnie received a one-time lump sum for his black lung, but it has not made up for the burden of poor health.

When it comes to the coal companies, everyone is, as Donnie says, “fighting a losing battle.” Considering the stripped mountains and poverty in the region, he believes that the mines haven’t done anything for the people of Floyd County, yet he worked in them for 20 years. He believes he would still be in the mines today were it not for a serious accident. “It’s the only way to make any money here. It’s all I know,” he says.³⁰





The Right to Culture

ICESCR Article 15

The right to culture includes “the right of everyone to take part in cultural life.”

Violations in Floyd County

The human right to culture encompasses the right of all individuals to freely enjoy any and all aspects of cultural life. In Floyd County, community members have a unique connection to the natural environment. It not only serves as a source of income and food, but also as a primary element of Appalachian culture. Because of coal mining’s adverse environmental effects, many cultural elements of Appalachian communities have been destroyed.

One prominent activity in Floyd County is growing food; for years residents have appreciated spending time in their gardens and those of their neighbors. Due to the recent increase in coal dust and contaminated water run-off levels, many people in Floyd County have experienced a significant decrease in the quality of their gardens, causing some to give up the practice altogether. The decline in gardening not only affects access to a cheap, local, and sustainable food source, it also prevents the practice of what many consider a lifelong tradition.

Hunting has also been affected by mining. Surface mining has actually enabled some larger game to re-enter habitats previously too forested, but some residents argue hunting is no longer safe or successful because of the close proximity of blasting sites. Individuals have become fearful of roaming the mountains behind their homes due to this hazard, and several animal habitats are disturbed by the blasting, forcing the animals to relocate.

Besides growing food and hunting, many people in Floyd County have expressed a deep regret that their children are no longer able to play outside and enjoy nature and the mountains as their parents did when they were young. The beauty and peacefulness of the mountains simply doesn’t exist anymore.

Clinton Handshoe

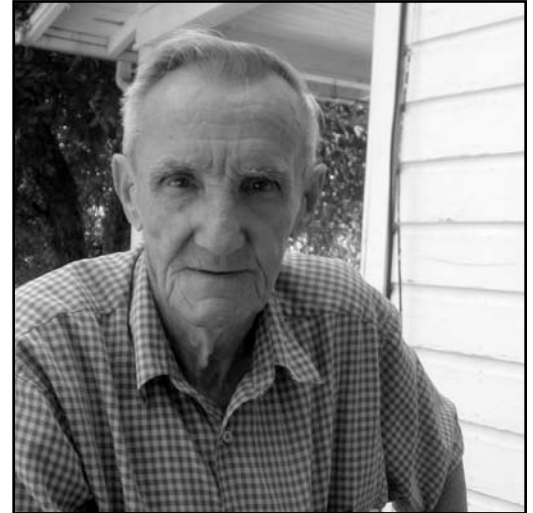
“The mine has changed my life completely to where I don’t want to live here anymore,” Clinton Handshoe says in a quiet voice. He has grown up in the same house on a farm that has been in his family for the past 200 years. Since the mining brought black dust, noise pollution, and vast destruction of surrounding ecological habitats, he cannot do anything he used to enjoy, like gardening, sitting on his front porch, or hunting.

“We do a lot of gardening; it used to be one of my main food sources. I raised potatoes, tomatoes, cabbage, beans, corn, and just about anything you wanted,” Clinton explains. “My whole life I never missed a year, until the mine came.” The black dust settles down on vegetables in quantities that make them inedible.

Clinton feels the burden of the mine’s presence even relaxing around his home. “[Neighbors] call that front porch my roost,” he explains about a favorite pastime. “I’d get out there before the daylight in the morning and get me a cup of coffee.” Now, the heavy dust prevents Clinton from even enjoying this simple pleasure.

Hunting, one of his favorite pastimes, has also been made difficult. “I loved to hunt, but now you go up on the hill and there are blasts, and they took the trees away, which was a big food source for the animals,” Clinton says.

“The use of my property is gone, I can’t enjoy anything. There’s nothing left to enjoy,” Clinton says. “I miss my old way of life, my life before the mine. Our quality of life has really been changed here.”³¹



Josephine Martin

Josephine Martin, 85 years old, has lived in Floyd County her entire life. She has developed a deep love and appreciation for the beauty of the mountains that have always protected her home. The mountains have been not only a source of aesthetic enjoyment, but a major influence on the culture of her region.

Recalling her childhood, Josephine fondly remembers the time she spent daily in the hills behind her house, playing and swinging from the grape vines, which no longer flourish in much of the area. Disappearing along with the vines are the bushes ripe with berries, from which Josephine used to eat. “We’d go back on that ridge,” she says, motioning behind her house, “and we got all the best-tasting huckleberries.”

Fishing was also a widely enjoyed pastime, but since the coal mining runoff has polluted the creek, it has lost much of its charm in recent years. “Now that we have all this polluted water...I wouldn’t eat one of those fish for nothing. That’s not a clean country creek anymore,” she says.

The loss of many of the mountain tops has taken its toll both on nature and on Josephine’s spirit. “People have always loved to come to Kentucky to see the mountains and the trees. Now they look so ugly, so naked,” she says sadly. If there is one thing she wishes to preserve about the area’s culture it would be the beautiful mountains she and so many others cherish.³²



People Working for a Brighter Future

“We don’t need one big industry to replace coal. There is no one big solution. There are hundreds of small ones. Everyone has to work at the solution that best suits them, and together they make the difference.” –Bev May, Maytown, KY

In the face of adversity, residents across Floyd County are finding ways to act on behalf of their communities. From preserving the history and culture to empowering community members and seeking alternatives, individuals have dedicated themselves to fighting injustice in the region and ensuring a better future for generations to come. Since aggressive coal mining began in eastern Kentucky, violations of basic human rights have become increasingly unacceptable, imposing an urgent need for action. As a result, more and more people are uniting in an effort to assert their rights against the coal mining industry and put power back in the average citizen’s hands. The following are initiatives inspired by great passion and hope—they are necessary steps towards change.



Jerry Fultz, Wayland *Preserving the Heart of the Community*

A crowded shelf displays tarnished trophies whose surfaces once shone as bright as the pride that came with their victories. Grainy pictures contain black figures covered in coal soot, expressionless except for their bright white eyes. A scale model shows row upon row of neat and tidy houses sheltered on all sides by lush green mountains. These, along with other curious objects, fill the exhibition room of the Wayland Historical Society. The building is also home to the office of Jerry Fultz, who has worked tirelessly for the last decade to open the community center’s doors and make sure they stay open.

Jerry Fultz was born in 1949 to a family of coal miners and grew up in the city of Wayland. “I was raised by a community. I fell

asleep in 90% of the homes growing up and it wasn't unusual to be eating breakfast with people that lived up the street. That's just the way life was in the small community. You don't lock your doors, it was a wonderful experience."

After years of moving around Kentucky, working as a teacher and basketball coach, Jerry and his wife King were drawn home to Wayland. When Jerry learned the local high school had closed in 1971 as part of a larger trend toward the consolidation of rural schools, "I was heartbroken," he recalls. "It was a huge part of the community; the school played such a role, such a role in the cultural and social life of the town."

Jerry found it difficult to uncover the same warmth and familiarity that he had known as a child, and he noticed people were starting to forget the things Wayland had to be proud of. Having resolved to remind them, Jerry opened the doors of the Wayland Historical Society in 1998. The center is dedicated to preserving the town's history, from its founding in 1914 as a coal camp to the legend of "King" Kelly Coleman, Kentucky's greatest high school basketball legend. It also provides a space for people to congregate for community gatherings.

"I think there is a reason why we're here today and I'm not sure what those reasons all are, but I do know that what we do today is necessary. The fact that these doors are open and I'm sitting here today already has impacted several lives and could do more," Jerry explains. "This is my effort to give back to a community that gave me a safe, warm environment to grow up in. We want to remind people about the good things about the past. When you remember your roots it's easier to see a brighter future." Jerry's greatest goal is to help make Wayland a strong, loving community again, so that his two adult children can return with their families and experience what has forever made Wayland home.

Bev May, Maytown

A Leader in the Pack

When Bev May heard the plan for Miller Brothers Coal to strip mine in Wilson Creek Hollow, her experience as a native Floyd County resident told her the consequences for her community would be dire if she did not take action. "When I heard they were going to come in and blast, tear up the road, tear up the community, and flood my parents, I was just devastated," Bev remembers. Kevin Pentz, a community organizer with KFTC, called Bev soon after. They resolved to have a community meeting so residents could decide together if they wanted to allow the mine. "So here are the neighbors hearing their neighbors, their friends, and the people they go to church with talking about why they thought it wasn't a good idea to have a mine up here," she explains. "It wasn't until that meeting that we had any hope for fighting the mine." After the meeting, the community decided to take it a step further and claim Wilson Creek hollow a "Lands Unsuitable for Mining," a government-issued designation, under which a certain area can be declared incompatible for surface mining.



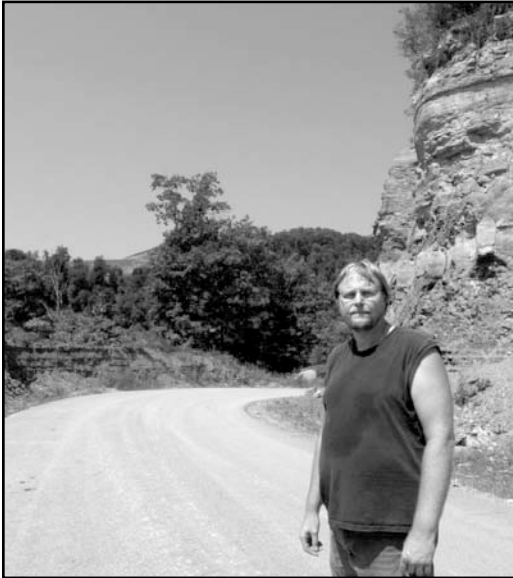
The hearing took place in December 2008. "It was beautiful," Bev exclaims. "We had just the right combination of community people, experts, and legal help from Appalachian Citizens Law Center." Nevertheless, the judge ruled the area suitable for mining, and Wilson Creek lost the hearing. Despite the loss, the Wilson Creek community emerged from the experience with many smaller victories. The judge ruled that coal trucks cannot use Wilson Creek Road as a haul road, thereby preventing their dangerous presence on the narrow street and reducing dust problems for the surrounding area. The company is also required to reforest the area with high value hardwood trees instead of grass seed, helping increase the post-mining ecosystem viability in Wilson Creek. Furthermore, Miller Brothers Coal was denied a waiver they requested for the Approximate Original Contour (AOC) Standard, meaning they would only be able to do contour mining as opposed to mountaintop removal. The AOC standard plus the hardwood requirement made the required reclamation too expensive for mining to be cost effective, which effectively stopped the mine.

Historically, mining activities have already begun by the time residents have signed an agreement, and many of the resulting prob-

lems are irreversible. As Bev explains it, “The blasting starts, the dust starts, the communities begin to suffer, and then they want to get together and do something about it, but by then there is only so much you can do.” However, as Bev and other members of Wilson Creek have shown, much can be done to avoid injustice by unifying in an attempt to fight the unlawful practices of mountaintop removal before it takes a heavy toll on the community.

Rick Handshoe, Hueysville

Learning the Law



For many people across Floyd County, Rick Handshoe symbolizes perseverance in the face of injustice. His dedication to keeping both the government and coal companies accountable to the law has influenced neighbors, friends, and even strangers to insist that their own struggles be rectified. “I tell them, ‘Don’t quit. If you quit then you have lost. Keep complaining, keep documenting it, keep getting people in here,’” he says.

Although the process is time consuming, the successes Rick has experienced as a result of his persistence are enough to keep him going. For instance, after two years spent fighting to protect the water source behind his house, the Corps of Engineers finally agreed that it is a perennial stream, meaning it contains water at all times. Perennial streams are protected by the Stream Buffer Zone rule; mining impacts must be kept at least 100 feet from a stream.

Rick has also gotten dust-reduction laws enforced simply by keeping a close eye on the mining sites and their practices. “If you get them for three violations for the same crime, it’s called a ‘pattern of violations,’ which is a serious problem. We were able to do that,” he says. He attributes his accomplishments to consistent documentation of what he has experienced. “When I walk in with pictures, [state officials] just can’t deny what’s going on,” Rick says decisively.

Organizers from KFTC credit Rick with many of the victories in holding coal companies accountable to the law. Because of his full-time efforts to minimize violations occurring in the area, people in Floyd County see Rick as a source of knowledge and assistance for doing the same.

Although people have been intimidated by coal companies and state authorities, Rick’s example has brought about a resurgence of hope. “That’s why I go to other communities,” he explains. “I don’t want nobody to have to put up with this.”

Kathy Curtis, Maytown

Creating Hope for a New Generation

If there’s one thing Kathy Curtis hates, it’s seeing the youth of Maytown give up on themselves. A calling four years ago brought her to the Maytown Center where she empowers, challenges and supports youth and adults. “The Appalachian people are used to being invisible; they have been trained to be invisible,” Kathy says. “They’ve been kept down because you don’t want an intelligent work force; you don’t want to have people questioning the government.”

To help empower Maytown residents, Kathy leads outreach and community programs at the Maytown Center, facilitating participants’ discovery of their



own talents and passions. She also takes part in KFTC’s High Roads Initiative. Through the Initiative, passionate Kentuckians work to diversify the economy by promoting small businesses, cultivating local talents, and supporting clean energy and green jobs. Kathy’s involvement is driven by her conviction that throughout much of the region, activists are “not offering any jobs...only doomsday messages.... We’re treated like a third world country here,” she declares. But she is convinced Appalachia does not have to remain that way. High Roads is vocalizing the need for a shift toward a new economy and helping provide resources to make that shift. By blending her work at the Maytown Center with that of the High Roads Initiative, Kathy is giving the community just what it needs: hope and alternatives.



Nathan Hall, Allen

Striving for Economic Diversity

Growing up in Floyd County, Nathan viewed his hometown just as most of his friends did. “I just thought this was the middle of nowhere, somewhere to get out of as quick as I could,” he says. Although he appreciated the forested hills, good-natured people, and his ancestral roots that reach back 200 years, the damage to the landscape around him created an undeniable effect on his psyche. “It was strange to be out hiking in the hills, and then all of a sudden come out on a huge expanse of scrub land with old mining equipment just rusting away,” he says. He moved away at the age of 18, only to find within a few years that nowhere else

felt like home and that he decided to make a positive change in his homeland.

Upon first returning to Floyd County, Nathan worked as a deep coal miner. “I did that for a while, about 6 months...actually that was when I first got the idea to start a local business around biofuels or sustainable agriculture,” he says. With a well-established interest in sustainable energy and the future of his fellow Kentuckians, Nathan is finishing his bachelor’s degree at Berea College and is already in the process of starting a community-scale biodiesel business in Floyd County.

“This is ideally just the first step in getting a much bigger and multi-faceted project going around here,” Nathan says. Biomass energy production from old surface mines, anaerobic digestion, and composting of organic wastes, retrofitting existing dams to produce power, and a variety of community-scale, value-added agriculture projects represent a few of the initiatives Nathan would like to facilitate in a region that desperately needs to see that “green jobs” can exist.

With so many youth joining the ranks of the Appalachian “brain drain,” Nathan is using his education and passion to make a brighter future for the community of his childhood. “The era of large scale centralized employment is over,” he says. “I don’t think there’s going to be one big answer to our energy and environmental problems, but a whole bunch of small solutions that add up. There are just so many individual ideas that when put together equal a lot of activity...a whole lot of synergy, everybody playing off of each other’s ideas...that’s what I really want to see happen.”

Wayland, KY Community Group

Power in Numbers

Brittany Combs stands against the wall at the home of Larry and Anna Tignor, taking notes as members of the community discuss “What we love about Wayland” and “What we want to improve about Wayland.” The 20 individuals present have come together because they love Wayland and want to see it thrive into the future.

Susie Mills has been attempting to rally support to address the problems caused by the abandoned mines in Wayland for years. Now, with the help of Brittany, the local KFTC organizer, Susie is finally receiving support. “We’ve got about 25 people, and everyone’s looking for ways to be involved,” Susie claims.

One of the initial tactics of the group is to improve communication between the city and its citizens by providing a strong presence at city council meetings. While attendants were initially greeted with hostility, progress is being made. According to Brittany, “Each meeting is better than the last,” and it has already started showing results. Since the community group started the City, County, and State have undertaken a joint project to replace Wayland’s drain system in order to better drain the water coming from the abandoned mines, the city council has decided to undertake a project to restore Wayland’s sidewalks, and after residents met with Abandoned Mine Lands (AML) to discuss the standing water and other issues resulting from the abandoned mines AML has begun work on a project to find a lasting solution to the problem. Changes are occurring, and even nonbelievers are seeing the results. Community members have set their sights high for the improvement of Wayland, so the work is far from over.

While some consider the 290-person town of Wayland to have fallen off the map when its last coal mines closed in 1953, the formal meetings and informal planning sessions of active community members suggest otherwise. Change is coming to Wayland, and residents are going to make sure it is change they want to see.



KFTC

Fostering Community Collaboration

Kentuckians for the Commonwealth (KFTC) was formed as the Kentucky Fair Tax Coalition in 1981 when a group of eastern Kentuckians began meeting to reverse laws that exempted out of state coal owners from paying taxes. Twenty-eight years later, with over 5,700 members, KFTC now has 11 chapters in 17 counties throughout the state that focus on issues ranging from progressive tax reform, the restoration of voting rights to convicted felons that have completed their sentences and repaid their debt to society, voter empowerment, energy issues, and solutions to bring greater economic diversity to eastern Kentucky. “As we work together we build our strength, individually and as a group, and find solutions to real life problems,” KFTC’s vision statement asserts. As KFTC grows, the interests and needs of mem-

bers continue to drive the priorities of the organization.

Though Floyd County was one of the original chapters of KFTC, its activity had dwindled after a series of successes. In August 2007 interest picked up enough to re-open the chapter. Brittany Combs, a Wayland local passionate about rebuilding the life of her community, was hired on as a new organizer. She works full time for KFTC, rallying membership and support throughout Floyd County. Her position as both a native of Floyd County and an organizer for KFTC has helped the communities make great progress in a short time. “My main objective is to identify and empower leaders in the community,” Brittany explains enthusiastically, pointing to Susie Mills of Wayland as just that kind of leader. According to Susie, “I just wasn’t making any progress [in communications with AML] and I was disgusted.” When she was about ready to give up, Brittany called and “it was just like the sky opened up. We’ve been working together ever since.” Susie is now effectively mobilizing Wayland community members, allowing Brittany the time to expand her work and reach out to new members. Their partnership is just one example of the collaboration KFTC fosters within communities to pave the way for lasting change.

Moving Forward

Below is a list of resources and contact information for the individuals profiled. Each person is listed along with the groups with which they are associated, the kind of knowledge and resources they can provide, phone number, and email address. The greatest resource available is the experience and knowledge that can be shared with one another. Each person has a different approach to working for positive change that suits both them as individuals and the needs of their communities.

Resource and Contact List:

Brittany Combs, KFTC, Floyd County Organizer-

Contact Brittany if you would like to learn more about KFTC actions in Floyd County/Big Sandy area. She can also provide you with the next chapter meeting date, time and location.

Phone # 606-422-0100, Email: brittany@kftc.org

Rick Handshoe, Hueysville, KY-

Rick has a great deal of experience holding government offices and inspectors accountable for enforcing the law. Contact him to learn how to file complaints on dust, trucks, water contamination, etc, who to send them to, and how to make sure that your concerns are heard.

Phone # 606-358-4912, Email: handshoer@bellsouth.net

Kathy Curtis, Maytown Center, Langley, KY-

Contact Kathy to learn more about how to get involved with the Maytown Center and its programs. Also contact her for opportunities to enroll children in after-school and summer programs.

Phone # 606-285-0539, Email: maytownmamaduke@yahoo.com

Nathan Hall, Allen, KY-

Contact Nathan to learn more about his work with bio-diesel and alternative energy.

Phone # 502-468-5346, Email: nathan_hall@bera.edu

Jerry Fultz, Wayland Historical Society, Founder and Director-

Contact Jerry to learn more about the historical society, volunteering, and other ways of supporting the center.

Phone # 606-358-9471, Email: waylandhistoricalsociety@tvscable.com

Susie Mills, Wayland, KY-

Contact Susie to get involved with the community group in Wayland or to learn more about her work in petitioning Abandoned Mine Lands to fix the problems in Wayland.

Phone # 606-358-9233, Email: kathy_mills2000@yahoo.com

Kevin Pentz, KFTC, Canary Project Organizer-

Contact Kevin if you would like to learn more about KFTC's projects and positions on coal on a statewide level.

Email: kevin@kftc.org

KFTC website: <http://www.kftc.org>

Appendix:

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ESCR Mobilization Project

Voices from Appalachia is a collaboration between the Educational Network for Global and Grassroots Exchange (ENGAGE) and Kentuckians for the Commonwealth (KFTC) and was researched and written throughout the course of 2009.

ENGAGE was interested in using the International Covenant on Economic, Social, and Cultural Rights (ICESCR) to frame issues in the United States, and sought out KFTC as a partner for its long and successful history of grassroots organizing.

After KFTC approved ENGAGE's project proposal in the spring, ENGAGE writers and photographers spent the summer meeting and interviewing KFTC's Floyd County chapter members and other Floyd County residents, often staying in their homes and accompanying them to meetings and events.

ENGAGE and KFTC will continue working together to examine the use of the ICESCR framework, and it is our hope that *Voices from Appalachia* be used to create conversations about human rights in the region and in the United States as a whole.

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