

# THE ACT REPORT

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TRADES FOUNDATION

The ACT Foundation is an association of West Virginia building and construction trades unions, with offices in Charleston and Clarksburg. Bruce Tarpley, President; Steve Burton, Vice President; T.L. Ranson, Secretary Treasurer; Roy Smith, Executive Director; Steve White, Director.

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# Fab Shop Votes In Fitters

The West Virginia State Pipe Trades Association's new full-time statewide organizer just celebrated his first organizing success with a win at a Kanawha County fabrication shop.

Ironworks Fabrication Services in Cross Lanes held a second union vote in early July

which turned out to be in the union's favor 7 to 4.

Its approximately 15 employees will be members of Plumbers & Fitters Local 625 in Charleston.

Tim Jividen said he tar-

geted the shop because it had "a skilled workforce that

**"Anytime you have highly skilled people in your jurisdiction, you should get them in the union. It helps both the local and the union because not only do you obtain good people but also good jobs as well."**

**-T.L. Ranson  
Local 625 Business Manager**

turned out 'quality work.' In February he handbilled the employees as they left the shop.

"Even though it was a small company, we could see with the quality of work they were turning out it would grow. We knew it would be a good move for the workers to join a union and an asset for the union and company as well," Jividen said.

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# First Sentry Bank Problems Continue

Even though the pickets have come down temporarily, problems at the First Sentry Bank in Huntington are not over, according to ACT's undercover organizers.

Handbilling efforts are underway according to Tri-State Business Manager Steve Burton.

"We intend to let the public know about the actions taken by First Sentry and its board of directors while building this new project," Burton said. "We think poverty level wages are a terrible way to build your business."

The picket was put up last

month when two salts were fired for voluntary organizing.

Two ACT salts were offered \$8.25 an hour, no benefits, to lay block for the bank that has former Marshall football coach Jim Donnan on the board of directors and also involves Huntington businessman Marshall Reynolds.

The day they revealed they were voluntary union organizers, they were told they would no longer be needed.

Unfair Labor Practice charges have been filed on their behalf by Tri-State Building and Construction Trades Council with the National Labor Relations Board (NLRB).

When a two gate system

was put up Tri-State responded with two pickets one at each gate. "We believe that not only did Rush Industries committ unfair labor practices but that the bank did as well," said Tom Williams, organizer for Tri-State.

First Sentry responded by filing charges against Tri-State

for alleged secondary boycott activity.

Tri-State's attorney asked for proof that no employee of the bank was on the job and was told that the individual was in fact an employee of the contractor, had been for three months, but had just recently

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## Bonding Company Takes Over

# Jo-Del Ordered To Pay

An administrative law judge recently ruled Jo-Del Construction of Huntington must pay five former employees who were illegally discriminated against.

Unfair Labor Practice Charges had been filed by Tri-State, according to its organizer Tom Williams.

Jo-Del was ordered to make

the employees 'whole for any loss of earnings and other benefits, suffered as a result of the discrimination against them.'

"We don't have a figure yet, but in one case they reduced a union supporters pay by about five to six dollars per hour, we're looking at approximately \$200 per week over several months," Williams said.

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FIRST SENTRY put a fence around their job site so striking workers couldn't see. It didn't work.

# Supreme Court Favors Regional Jail Authority

**ACT's four-year-old case against the Regional Jail Authority has finally come to an end with a Supreme Court decision, which was mostly in the Authority's favor.**

The case involves payroll information from NLP, Inc., a contractor working on the construction of a regional jail in Beckley.

ACT's prevailing wage monitoring program hinges on

certified payrolls, and their status as public information.

In this case, the Regional Jail Authority was the awarding agency but refused ACT's request for payrolls claiming they did not have the documents in hand.

The question before the Supreme Court was whether or not they must get the documents.

ACT's attorney Shirley

Skaggs with Calwell & McCormick argued there's a state statute [21-5A-8] requiring contractors working on public improvement projects to keep certified payroll records which must be open to review by the Division of Labor (DOL) and the contracting agency.

**"The funny part is -- under the federal scheme of things, all federal agencies, not just the U.S. Department of Labor but all awarding agencies are required to keep this information, so this decision is somewhat inconsistent."**

**-Shirley Skaggs  
ACT Attorney**

"That statute is in place because certified payrolls are necessary in order to properly enforce wage and hour laws," Skaggs said.

"The DOL and the awarding agency have a responsibility to see the proper wages are paid to employees by the contractor and sub-contractors on public improvement projects."

"We felt the awarding agency was the right place to

go for these documents. They're the ones spending our tax dollars. But the court apparently wanted us to sue the DOL as well," Skaggs said.

"The Supreme Court said the DOL has the enforcement and manpower to acquire these documents so if ACT has no other recourse, a request can be made to the DOL to provide them."

The decision means an additional burden on DOL employees, Skaggs said.

"We don't

want to heap up the work on their desks higher, but the Supreme Court has made it clear we must go to DOL for the documents.

"The funny part is -- under the federal scheme of things, all federal agencies, not just the U.S. Department of Labor but all awarding agencies are required to keep this information, so this decision is somewhat inconsistent."

# Environmental Board Weakens Regulations For Dioxin In Fish

**Yet another decision has been made regarding the pollution permits for the pulp mill proposed for Mason County, this one weakening the standard for dioxin levels in fish tissue.**

Current state regulations for edible fish limits dioxin accumulation in fish tissue to 0.14 parts per trillion.

The West Virginia Environmental Quality Board (EQB) recently decided to scrap the fish tissue regulation entirely.

"The only real reason this standard is being removed is to make way for the pulp mill in Mason County," said Steve White, ACT Director. "We have heard many times the mill is a dead issue but the permits just keep rolling along."

According to White the state

EQB has been meeting for months after an earlier failed attempt at gutting fish tissue regulations.

"The irony is EPA told our state the regulations were too weak as compared to our standards for dioxin in water," White said. "So instead of protecting the public, they want to wipe out this standard, just to help the mill."

"In the process of permitting for Apple Grove Pulp and Paper, this matter came to the attention of the EPA, I think is somewhat suspect," said

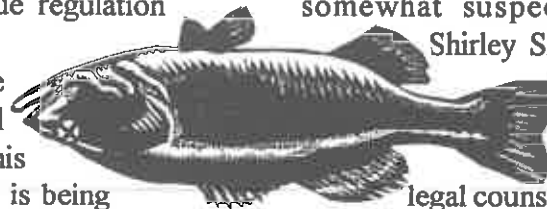
Shirley Skaggs, an attorney with

ACT's legal counsel Calwell & McCormick.

"This was the only obscure regulation the EQB deemed worthy of revision, so the EQB singled it out and held meetings for several months."

A committee formed by the

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## Heavy/Highway Group Selects President

# Contractors Pick McBride

**The Constructor's Labor Council of WV, Inc., (CLC) named retired astronaut and assistant NASA administrator Jon McBride as interim president in mid-July.**

The CLC consists of more than 200 heavy/highway construction companies throughout the state, all of which are signatory with Building and

Construction Trades Unions.

McBride, a Beckley native, said his immediate priorities are to address the safety concerns of the industry, maintain the CLC's labor-management relations, as well as prepare the council's member contractors and their employees for the "exciting era" of highway and infrastructure construction in West Virginia.

"Over the next several years,

billions of dollars will be spent building West Virginia infrastructure, literally 'paving the way' for a brighter future for all of us," McBride said. "My goal is that this is all done safely and professionally by skilled West Virginians."

The CLC completed more than \$700 million in construction contracts in 1996, it's most successful year.

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## The Marshall/Wetzel/Tyler Labor Council

Welcomes All Local Unions To Participate In The

# Paden City Labor Day Rally & Parade

Monday Sept. 1 - Old Paden City Middle School  
Rally - 11:00 & Parade - 1:00

A covered dish dinner will follow the parade with hamburgers & hotdogs provided by the Council.

For more information call B.B. Smith (304)455-5500.

# Shop Votes In Fitters

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Three employees responded to Jividen's handbilling.

"The campaign grew from those three workers to five and then seven and it involved a lot of meetings," Jividen said. "I was on the phone nearly every night."

In early May he had authorization cards signed by a majority of the workers, so he petitioned the NLRB for what would turn out to be the first election on May 28.

"Thirteen employees voted, two of which I challenged, and the vote turned out 6 to 5 against the union," Jividen said.

However Ironworks committed unfair labor practices by promising better wages and benefits to employees right before the election.

"They also terminated three employees, one the day of the election and two shortly after

so we challenged the election."

The three were immediately made members of Local 625 and put to work within a week, with help from Parkersburg Local 565, Jividen said.

"When we went to trial, the company just gave up during a recess and said 'what do you want -- another election?'"

The second election was set for July 30.

"The vote was seven to four in our favor, they challenged three additional votes but no matter what we will win," Jividen said.

The case is still pending about the firing of the three employees, he said.

Jividen said ACT helped him all the way.

"Bill Thomas went with me to those first meetings with the guys who were interested, and pretty much helped me step by step through the whole thing."

Local 625's business manager T.L. Ranson, said "Bill Thomas was a mentor to Tim and for him to make this capture on his first try was outstanding.

"We didn't have any information about Ironworks to begin with so their research and timeliness is invaluable. No doubt without

ACT everything is about twice as hard to do," Ranson said.

The next step for Ironworks is getting a contract settled that both parties can live with, "one that benefits the employees and the company stays

## Volunteering for a good cause...



**HELPING BIG BROTHERS & BIG SISTERS build a dance floor for a fundraiser in Charleston were members of Carpenters 1207, Ironworkers 301, Boilermakers 667, Charleston Building Trades, State Building Trades, Sheet Metal Workers 33, Millwrights 1755, Cement Masons 887 and Bricklayers 9.**

competitive."

Ranson is heading the contract negotiations.

"Everything is on schedule," Ranson said, "hopefully we'll have a contract within a couple of months. Anytime you have

highly skilled people in your jurisdiction, you should get them in the union. It helps both the local and the union, because not only do you obtain good people but also good jobs as well," Ranson said.

## Environmental Board Weakens Regulations

*Continued from page 2*

EQB included a representative of the West Virginia Manufacturers Association but no one represented the interests of workers, Skaggs said.

"ACT asked to be on the committee several times and the EQB refused," Skaggs said,

"even though ACT had been very active in the dioxin challenge for the pulp mill."

Regardless, ACT had its consultant, Carpenter Environmental, analyze the issue and submitted ample scientific data supporting the current regulation.

In order to compensate for weakening the fish tissue stan-

dard, Skaggs said, the EQB said it would use a new, more complicated testing method to measure accumulative dioxin in the water.

"However, the company gets to decide on the location

**"The only real reason this standard is being removed is to make way for the pulp mill in Mason County."**

**-Steve White  
ACT Director**

and time of the testing," Skaggs said. "So if that company wants to it can identify a certain place as less polluted, and pick a time of year when there is heavy rainfall, and the test will come out in their favor.

"It's misleading to the public to call that more restrictive testing for dioxin in the water.

The new measures must be

approved by the legislature so ACT has some recourse in fighting the new regulations on that front.

"ACT's position has not changed from day one," White said. "We continue to encour-

age that the mill be built with local labor and with state-of-the-art technol-

ogy that does not pollute our environment, and we will fight for that in the legislature too."

White said that even with lessening the fish tissue regulations the pulp mill would pollute more than is permissible.

"The only way the pulp mill is viable is if they use totally a chlorine-free bleaching method," White said.

You Are Invited To Attend . . .

**ACT's Annual  
Update & Planning  
Conference**

**Wednesday, Sept. 10  
10:00 a.m.  
Ramada Inn,  
Morgantown**

*Please contact your business agent for more information.*

# Sheet Metal 33 Strikes Contractor's Pick McBride

**M**embers of Sheet Metal Workers Local 33 employed by Schodder Manufacturing Co. in Wheeling went on strike August 11.

Employees install, fabricate, repair, and service heating and air conditioning systems.

According to Randy Gombos, Local 33's organizer, members voted July 31 to strike in response to Unfair Labor Practices committed by the company, "they felt they had no alternative."

"I hope Schodder takes the appropriate corrective action so our men can return to work," Gombos said.



**STRIKING** are employees of Schodder Manufacturing Co. and members of Sheet Metal Workers Local 33.

*Continued from page 2*  
"The Constructor's Labor Council is an impressive organization that is building West Virginia, employing tens of thousands of our citizens and improving our quality of life," he said.

McBride said his position returns him to familiar ground -- his first job as a young adult was in construction. Among the projects he assisted on include the Oak Hill Bridge, Summersville Dam and Theodore Roosevelt Bridge in Washington, D.C.

When asked about right-to-work

legislation, McBride said, "I don't think it's made that much difference in surrounding states -- the real key is to stimulate the economy and create more jobs for everyone. West Virginia has had a terrible time doing that in the last couple of years. It's a non-issue for me and the CLC."

"I'm really happy to be involved with CLC and am looking forward to forming a good working relationship with everyone, not only on the contractor's side, but the labor leaders and members as well."

## Jo-Del Ordered To Pay

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Tri-State is still involved in other charges against the company.

"This is not the final word. We've got other charges against Jo-Del that are only now being investigated by the NLRB," he said.

In addition to the Unfair Labor Practices Charges, Tri-State also filed objections to the conduct of the employer during the election in May.

The union election at Jo-Del in May was 32 for and 32 against -- in order to win Tri-State had to get more than fifty percent, with ties going to the company.

"We have no word back on those charges yet so there is still a lot unsettled."

Williams pointed out Jo-Del has some serious problems completing current projects.

"I know a bonding company has taken over Jo-Del's two remaining sizable jobs, and the company's building is for sale and in the hands of a realtor," he said.

"But I'd like to stress that putting a contractor out of business is never the intent of our organizing campaigns. If they want to spend so much on attorney fees fighting their workers' organizing campaign, that's not our call.

"We'd much prefer to have a quick election, win a contract, get everybody working and end up with a viable union contractor," Williams said, "but we can't make that judgement for them."



**JO-DEL'S** Company headquarters, located in Huntington, are for sale.

Non-Profit  
U.S. Postage  
PAID  
Permit No. 88  
Chas., WV 25301

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

## Bank Problems Continue

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received his first paycheck.

"We are questioning why they supposedly worked a man for three months and didn't pay him when state labor laws require employees to be paid at least every two weeks," Williams said.

But the NLRB threw the burden of proof back on us, he said, by saying prove to our satisfaction that he was an

employee of the bank.

"At this time we only know that there was a person on the site who we believed to be an employee of the bank and who is not accounted for by any other contractor as a legitimate employee. Without access to bank records we can't show he was an employee."

Tri-States attorney advised the picket come down on the First Sentry side.