

# 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; Randy May, Vice President; T.L. Ranson, Secretary Treasurer; Roy Smith, Executive Director; Steve White, Director.

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# 'Up Hill Battle' Against Pulp Mill Is Finally Over

**To tell the truth, when we first began to fight in 1990 I thought we had an uphill battle—at best.**

That's how Steve Burton, Tri-State Building & Construction Trades Council business manager, describes the 1990 beginning of the campaign over the pulp and paper mill at Apple Grove in Mason County.

Tri-State was the initial driving force behind questioning the pulp mill proposed by New York-based Parsons &

Whittemore (P&W) even before the Affiliated Construction Trades Foundation was created.

"We thought we could convince them to use people within the community to build the mill and to operate it

safely," Burton said.

"But the more we got into it the more we knew that wasn't possible."

And now eight years later the pulp mill is dead.

It was officially laid to rest last month when the

West Virginia Division of Environmental Protection (DEP) forced P&W to prove they still had an interest in the project.

The DEP was considering an air permit being challenged by the Ohio Valley Environmental

Council, yet early last year it was learned that P&W had let their option on the property expire.

"If you look back you can see throughout the fight for

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**'WE KNEW IF WE ALL WORKED TOGETHER AND HAD THE UNITY WE DISPLAYED, AND HELD TOGETHER ON THIS, NO ONE COULD BEAT US.'**

STEVE BURTON,  
TRI-STATE BUILDING TRADES

## IN 1998 LEGISLATIVE SESSION

# Cranes, Jobs & Comp Top Agenda

**The ACT Foundation will work to enact legislation to license crane operators, hiring local workers on publicly-financed construction, and change Workers Compensation laws during this year's West Virginia legislative session..**

The Legislature began addressing the issue of crane operator licensing two years ago in an amendment offered to another bill requiring cranes to have a warning device alerting operators when they neared a high-voltage power line.

ACT worked to add skills certification as an important part of crane safety.

ACT's push this year will

require crane operators to be certified by either a national organization or the state. The National Commission for the Certification of Crane Operators, a cooperative effort be-

tween trade unions and both union and non-union industries which use cranes, has established standards and certification procedures.

"In order to drive a car or

cut hair you need a license. But anyone can operate a crane," said Bruce Tarpley ACT President and Business Manager for Operating Engineers Local 132.

Recent news articles show that West Virginia has the second highest construction fatality rate in the nation.

Tarpley said recent accidents prove the need for licensing. "We don't pretend that crane operator certification will end all accidents," said Tarpley. "Yet, for us to have the deaths we've had and sit here and do nothing would be criminal," Tarpley said.

"I don't know of any intelligent contractor that wouldn't support something like this,"

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PREPARING FOR POLITICAL INVOLVEMENT ARE THESE APPRENTICES FROM MILLWRIGHTS LOCAL 1755 AT AN ACT TRAINING SESSION.

# PULP MILL BATTLE OVER

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water and air permits Parsons & Whittemore had let the state do their fighting for them," said Burton.

"I guess the state just got tired of footing the bill."

The mill's water pollution permit was thrown out earlier by a Kanawha County Judge when ACT showed there was too much dioxin already in the



**STEVE BURTON**

*"HE CALLED US RADICALS"*

Ohio River.

"To tell the truth, I'm a little disappointed it's not being built," Burton continued.

"It seemed so simple for them to meet three simple requests--to have it built using modern technology, to make it environmentally safe, and to use local people, within a two-hour distance of the (Apple Grove) community to build it.

"If they wouldn't do that we didn't want it built at all."

And despite an all-out effort by West Virginia state officials, led by former Gov. Gaston Caperton, the mill wasn't built at all.

When the trades began fighting the mill's effort to weaken West Virginia's environmental standards, then Gov.

Gaston Caperton had a legislative bill introduced to increase the allowable limits of deadly dioxin in state streams.

The bill's opponents, however, immediately dubbed Caperton's proposal the "Cancer Creek Bill" and the battle was on in full force.

"If the governor (Caperton) had his way the paper mill would be there," Burton said.

"He called us radicals, extremists. But he never grasped what was going on.

"The further we went the better it looked for our side, the better it looked that we were on the right side.

The Legislature never passed Caperton's bill.

But the fight continued in the trenches.

Led by Charleston lawyer Stuart Calwell (ACT's attorney) in the courtroom and before state agencies the trades:

- Created ACT and worked with the West Virginia Citizen Action Group and Ohio Valley Environmental Council in opposition to the pulp mill.

- Studied effects of "Cancer Creek" legislation, a study not done by the DEP, showing up to eight times more cancer causing chemical would have been allowed in all state rivers.

- Sponsored a public forum at Marshall University to get more mill information from company and state officials. One state official attended.

- Mailed 70,000 "scratch and sniff" cards to area residents warning of the economic and environmental consequences of the proposed mill.

- Developed a 30-minute television show about the dangers of "Cancer Creek" and aired it statewide.

- Learned state officials were secretly prepared to give the pulp mill up to \$738 million in tax breaks and conspired with P&W against the use of union construction workers thanks to a Freedom of Information suit brought by the Charleston Gazette.

And still the fight dragged on--seven years of it.

Until P&W, finally, called it quits.

Burton says true credit for the victory goes to the building and construction trades rank-and-file in the region.

"If it wasn't for the rank and file having trust in me and all the business agents who first contributed that \$110,000 up at the Carpenters Union hall in Point Pleasant at that first meeting we couldn't have won," he said.

"We knew if we all worked together and had the unity we displayed, and held together on this, no one could beat us.

"It was American as apple pie."

## Charleston's City Planners Nix Walmart

**Charleston's City Planning Commission voted 10 - 2 against a zoning change to facilitate development of a Walmart Superstore.**

Nearly 600 concerned citizens, the vast majority in opposition to the retail giant's development, attended the Jan. 7 meeting.

The Charleston City Council Planning Committee and the full Council will still consider Walmart's proposal at a later date. However, Mayor Kemp Melton and many members of the City Council have already expressed their opposition to the plan.

"Communities have a right to decide what goes on in their neighborhoods. That's why we have the zoning laws," said ACT director Steve White.

ACT along with the Charleston Building Trades, the United Food and Commercial Workers and the Kanawha Valley Labor Council agreed early on to support the local community against the Walmart proposal.

"In all the debate, we tired of hearing the rhetoric about jobs for construction workers when we know Walmart and the construction companies they use seldom, if ever, hire local construction workers."

The biggest concern from the public was the increased traffic from the project. People were also troubled about the impact Walmart would have on local businesses.

Walmart also has plans for a similar project in New Martinsville, a community where opposition to the development also is emerging.



ATTENDING THE W.VA. BUILDING & CONSTRUCTION TRADES COUNCILS' second annual weekend training session were these business agents and organizers from across the state.

## LEGISLATIVE AGENDA

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added Jim Cerra, president of the West Virginia Construction Council, which represents union contractors.

Crane operator certification laws are being use now in 12 states and 5 major cities.

For the third year in a row ACT will be asking the Legislature to enact the West Virginia Jobs Act which would require 90 percent of all per-

ACT, along with other labor groups, will be urging legislators to examine the guidelines used to determine a workers disability. Since the law changed, permanent disability awards have almost disappeared while workers continue to suffer the same injuries.

Also, ACT will ask the Legislature to end the politicizing of workers compensation pre-

**'FOR US TO HAVE THE DEATHS WE'VE HAD AND SIT HERE AND DO NOTHING WOULD BE CRIMINAL'**

**BRUCE TARPLEY,  
ACT PRESIDENT**

sons hired for construction projects funded in whole or in part by state and local tax dollars to be from the local area.

Although the Jobs Act has had tremendous public support, both the House and Senate have previously prevented the bill from getting on almost all agendas.

"Often the construction activity of economic development is overlooked," said ACT's B.B. Smith,

"When it's our tax dollars being spent West Virginia workers should have first shot at those jobs."

The 1995 Legislature passed so-called "reforms" of the workers compensation system. Organized labor spoke out loudly against many of these ill-advised and damaging "reforms."

Today, many of the same legislators who supported the 1995 legislation now acknowledge parts of the bill went too far and need to be revisited and corrected.

mium rate setting.

Deals cut with large employers, and political friends, by the workers compensation administration over the years have jeopardized the financial stability of the fund.

This results in costs being shifted to smaller, responsible West Virginia businesses and cuts in needed and deserved benefits to injured workers and their families.

**The H. W. Trushel Construction Co. of Wheeling was found in December to be paying workers on a Preston County project out of classification and submitting inaccurate or incomplete payroll records.**

Trushel was restoring the McGrew House, a project overseen by the Region VI Planning and Development

## Tucker Citizens Lead Query

**Two Tucker County residents have raised questions regarding contract bidding, material purchasing and the hiring of new employees on the Tucker County Commission's flood control construction projects.**

Marvin "Bud" Parsons and Jim Nelson, both Tucker County residents, have sent a letter to several thousand families in Tucker County to report on some of their discoveries regarding these projects.

The pair also ask for help in completing their investigation.

In their letter the two report finding several potential violations of state law by the Tucker County Commission.

"In several taxpayer financed projects, we believe state laws weren't followed with regard to contract bidding, material purchasing and the hiring of new employees to build these projects," Parsons and Nelson say in their letter.

"We even believe one project was built for the benefit of a county official."

The letter alleges workers may have been hired on the basis of political connections to county officials in violation of law.

Parsons and Nelson close the letter acknowledging need for the flood control projects in a county hard-hit in recent years by rising waters.

But then the pair adds:

"Our purpose is to make sure our tax dollars are spent

efficiently and legally."

ACT has been working with Parsons and Nelson from the beginning of their inquiry.

ACT is concerned about legal abuses on bidding and hiring for construction paid with public funds.

Parsons is a business representative for Operating Engineers Local 132.

Nelson is President of Nelson Excavating.

## ACT Investigates Worker Pay Errors

**ACT Northern Representative Steve Montoney recently uncovered mis-classification by a company previously cited by the West Virginia Division of Labor (DOL) for the same illegal practice last year.**

According to payroll records retrieved by Montoney, Williams Mechanical Inc. of Beckley employs three sheet metal work-

ers and one laborer at the Seneca Rocks Visitors Center on an HVAC project. But established work practice dictates sheet metal workers are to do all of the work on HVAC projects.

Montoney contends the laborer on the project should be classified as a sheet metal worker and paid sheet metal workers wages.

"I've contacted Mary Saint Louis, a compliance officer in

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## Contractor Pay Records Wrong

Council.

"There's an ongoing investigation into that case by the Planning Council and the West Virginia Division of Labor," said Steve Montoney, ACT Northern Representative.

According to a letter dated December 11 to Leroy Stanley, of the North Central W. Va. Regional Council of Carpenters, from Kent E. Rollins, labor compliance officer with Region VI, Trushel's

"...pay requests and future funds are being withheld, not only for wage matters but also due to unsatisfactory work performance."

Rollins also found "many weeks classifications were missing, calculations weren't completed, deductions not posted, and certifications not signed."

Rollins conducted more than 25 interviews and visited the site "...an additional 12 times

during the course of construction, and it became apparent that I was more aware of the types of work being performed than the payroll persons."

Trushel is still at work at a School Building Authority (SBA) project in Pocahontas County.

"I've asked the SBA to see if Trushel owes any money," Montoney said. "If so the SBA should withhold payment on the Pocahontas project."

**OUT-OF-STATE COMPANY PAYING POVERTY WAGES****Workers Strike At Craigsville Plant**

**W**orkers at the Jeld-Wen construction project in Craigsville began a strike on Jan. 12 to demand wage increases beyond the current poverty-level wages they now receive.

Also at issue are the lack of health care, pension, and issues of workers rights and safety on the job.

Jeld-Wen is constructing a new wood products facility, which will primarily produce doors, and is serving as their own general contractor on the project.

When Jeld-Wen announced their new plant many thought it would be a boost to the local economy. But when local construction companies were never called to bid the project people became concerned.

"We learned Jeld-Wen was planning to be their own contractor and import their sub-contractors, said Wayne, an ACT representative working as a salt on the project. (We won't use his real name to protect him from being black-listed.)

Wayne and ACT's Bill Thomas have been working in the southern part of the state looking for ways to provide more job opportunities for members and ways to organize new members.

Wayne and Thomas have been holding COMET training classes in the area and have talked to hundreds of construction workers. "The only way we can improve things is if we all work together," said Wayne.

The Jeld-Wen project looked like another economic development disaster for West Virginia construction workers so Wayne and Thomas set to

site to join together.

"We could see a lot of situations like this in the future from non-union workers getting tired of being abused," said Thomas.

"It's obvious in this case Jeld-Wen simply wants to further drive down labor costs and living standards in this area." Jeld-Wen has a reputation in other parts of the country for being

**'WE COULD SEE A LOT OF SITUATIONS LIKE THIS IN THE FUTURE FROM NON-UNION WORKERS GETTING TIRED OF BEING ABUSED'**

**BILL THOMAS  
ACT REPRESENTATIVE**

work.

The job site was "salted" using mostly local workers. Most of the "salts" are non-union but have completed COMET training. Local building trades business agents and organizers have worked closely with the workers. They quickly convinced other workers at the

anti-worker and anti-union.

"We plan to take this one day at a time," said Wayne. "We feel being local folks that we will get good support here."

Nicholas County has one of the lowest per-capita incomes in West Virginia.

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**ACT INVESTIGATES**

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the federal Forestry Division, and she plans to investigate using the certified payroll records I'm providing her," Montoney said.

"She said if the workers are misclassified, then Williams Mechanical should pay the wage difference.

"Payment on the project can be with-

held until they comply."

This wasn't the first time Williams Mechanical has been caught.

Last spring Dusty Perdue, compliance officer with the DOL, cited Williams Mechanical for similar misclassification at the Circleville High School project.

In that case, Williams Mechanical's payroll records listed only one sheet metal workers and four helpers.

You're Invited to...

## ACT'S ANNUAL CONSTITUTIONAL CONVENTION

10:00 a.m.

Tuesday, January 27

Charleston House Holiday Inn

600 Kanawha Blvd., East

Legislative Reception  
Beginning At 5:00 p.m.  
12th Floor

Open To All ACT Members

For Further Information, Contact Your Local Business Agent