

# THE ACT REPORT

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

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# HEARINGS HELD FOR AEP'S \$2.2 BILLION MASON COUNTY PLANT

**If American Electric Power builds their proposed \$2.2 billion power plant in Mason County the economic impact from construction workers wages building the three year project would be substantial and positive to the economy of the local area and the State.**

That conclusion comes from an economic impact study commissioned by the Affiliated Construction Trades and presented during a hearing before the WV Public Service Commission (PSC).

"We know the wage impact will be huge from prior experience," said Steve Burton, Business Manager of Tri-State

Building and Construction Trades Council. "Our study confirms those numbers."

However, figures on man-hours and wages are unavailable for publishing at this time be-

cause of a non-disclosure order needed to protect construction

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**THE STATE PUBLIC Service Commission held hearings on a proposed \$2.2 billion new power plant in Mason County starting December 9. ACT filed to become a participant in the proceedings and was represented by their attorney Vince Trivelli (left).**

# COAL COMPANY SAYS 'NO' TO BACK PAY FOR IT'S WORKERS

**Nicewonder Contracting has asked Federal Court Judge John Copenhaver not to grant back pay for workers building the King Coal Highway.**

The company argued in a December 3 memorandum filed with the U.S. District Court for the Southern District of West Virginia that it's workers or subcontractors were not entitled to back pay for two reasons.

First Nicewonder lawyers argued no private right of action is available to workers once an Agency has made the determination a contract does not re-

quire Davis-Bacon language.

Next Nicewonder claimed since its workers are not members of ACT, ACT has no legal

are not supported by a sound legal argument. ACT must respond by December 17.

At dispute is a contract to

ruled that Davis-Bacon wage rates were illegally omitted from the contract.

In contrast to Nicewonder's arguments, those paying the bill, the Federal Highway Authority (FHWA) agreed to abide by the judges ruling in their memorandum filed on December 3.

"The FHWA proposes that back wages be provided to all covered employees starting on May 6, 2004 through the date of implementation of the new wage rate process."

The FHWA suggested a new wage rate process could be put in place within 120 calendar days of the final order.

In addition they outlined a

**"THE FHWA PROPOSES THAT BACK WAGES BE PROVIDED TO ALL COVERED EMPLOYEES STARTING ON MAY 6, 2004 THROUGH THE DATE OF IMPLEMENTATION OF THE NEW WAGE RATE PROCESS."**

standing to ask for back wages.

Instead Nicewonder proposed workers should only get Davis-Bacon wage rates for future work.

ACT lawyer Vince Trivelli believes Nicewonder's positions

build the road bed for an 11 mile section of the 93 mile King Coal Highway called the Red Jacket Section in Mingo County.

ACT began its court challenge in late 2004 and on September 5, 2007 Judge Copenhaver

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**BCTD PRESIDENT FACILITATED TALKS****CARPENTERS-PAINTERS RESOLVE DISPUTE**

**A dispute that threatened to revoke the Solidarity Charter of the Mid-Atlantic Regional Council of Carpenters has been resolved.**

“We did have a serious dispute but thanks to efforts by all parties, and the leadership of Mark Ayers, the new President of the Building and Construction Trades Department of the AFL-CIO (BCTD), a resolution has been reached,” said Roy Smith, Secretary-Treasurer of the WV State Building Trades Council.

Back in September the BCTD cancelled the Solidarity Charter of the

Mid-Atlantic Regional Council of Carpenters (MARCC) and directed Building Trades Councils in West Virginia to expel the Carpenters by November.

The move came in response to an effort by the

Carpenters to sign up drywall finishers.

Carpenters claim the move was defensive.

**“WE DID HAVE A SERIOUS DISPUTE BUT THANKS TO EFFORTS BY ALL PARTIES, AND THE LEADERSHIP OF MARK AYERS, THE NEW PRESIDENT OF THE BUILDING AND CONSTRUCTION TRADES DEPARTMENT OF THE AFL-CIO (BCTD), A RESOLUTION HAS BEEN REACHED,” ROY SMITH, SECRETARY-TREASURER, WV STATE BUILDING TRADES COUNCIL**

What might have been seen as another jurisdictional dispute became more complex when the Carpenters tried to recruit Painters Union members to switch to the Carpenters Union.

The Carpenter campaign started in early September.

Soon after, a letter from the BCTD was sent to MARCC canceling their Solidarity Charter.

According to the letter the Solidarity Charter would end as of November 11, and served as a 60 day notice of cancellation as required by the agreement.

Without the Solidarity Charter representatives of the Carpenters are prohibited from participating in any Building Trades meetings.

In the days leading up to the cancellation deadline Ayers initiated a discussion of all parties that lasted into early December.

The agreement was extended while the discussions took place, and finally resolved on December 7.

Key to the resolution was agreement by the Carpenters to not recruit Painters Union members.

Solidarity Charters were developed by the AFL-CIO in 2005 to allow participation on the local level for locals and councils whose International had left the AFL-CIO.

In West Virginia the Carpenters, Laborers and Operating Engineers participate in the Building Trades through Solidarity Charters.

tract with Nicewonder was signed, May, 2004.

“Highways has agreed to come up with the money for back pay, so why is Nicewonder trying to keep their workers from getting it?” asked Ronnie Burdette, Business Manager for Operating Engineers Local 132.

After ACT responds to the memorandums Judge Copenhaver will review the opinions and write his decision on how to correct the Davis-Bacon issue.

Copenhaver declined to rule on the state law issues of bidding and state prevailing wage but will allow ACT to do so in state court.

Nicewonder Contracting was sold to Alpha Natural Resources in 2005 for \$316 million.

## TRADES VOLUNTEER ON “EXTREME MAKEOVER: HOME EDITION” PROJECT IN FAIRMONT



**EIGHTEEN MEMBERS OF Painters Council 53 were among the many union volunteers helping in the “Extreme Makeover: Home Edition” project underway in Fairmont, WV. The Reality TV show has selected the Turner family as the lucky ones to get a new home. The Turner’s, a family of seven, had lived in a 600 square foot house and will soon move into a new 2600 square foot home. No details inside of the house will be released until the program airs this Spring. Photography by Robert Sapp of Fairmont, WV.**

## BACK PAY

*CONTINUED FROM P. 1*

proposed seven step plan to pay back wages.

The plan included identifying wage experts, determining appropriate wage rates, determining the appropriate site of work, identifying covered employees, classifying workers, calculating back wages and working out a Supplemental Agreement with Nicewonder and other contractors on the job to provide funding for the payment of back wages.

The West Virginia Division of Highways filed a similar memorandum agreeing with their federal counterpart, that back pay be awarded to eligible workers starting from the date their con-

# JUDGE CLAWGES RULES AGAINST ACT

## Monongalia County Judge Russell Clawges ruled against the Affiliated Construction Trades claim that WVU and the WVU Alumni Association violated state law by not bidding a contract to build their new Alumni Center.

Even though Clawges agreed ACT showed the WVU Alumni group benefitted from tax funds, Clawges sided with WVU's ar-

gument that two separate projects were built rather than one combined project.

"The court finds that there are two projects with some elements of overlap between them," wrote Clawges.

ACT filed the case earlier this year when it learned the construction contract for building the \$15 million new Alumni Center

was not publicly bid and was being considered a private, not public project.

by WVU, was underway.

That project was bid as a public project. ACT wanted to know

why the rest of the job was not treated the same way.

The answer given by the Alumni group was that the building was funded solely by private dona-

amount of funding for the project came from tax payers.

Clawges agreed and wrote "the court concludes for the purpose of these motions that the Alumni Association meets the definition of a public authority" however Clawges goes on to say the new building would not be considered a "public improvement" and therefore prevailing wage laws would not apply.

ACT has four months from the November 28 ruling to decide whether or not to appeal the case to the WV Supreme Court of Appeals.

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**"THE COURT CONCLUDES FOR THE PURPOSE OF THESE MOTIONS THAT THE ALUMNI ASSOCIATION MEETS THE DEFINITION OF A PUBLIC AUTHORITY" RUSSELL CLAWGES, JUDGE, MONONGALIA COUNTY**

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The contract came while a huge site preparation and utility portion of the project, paid for

tions.

But numerous facts found by ACT showed a considerable

# IRON WORKERS 301 SEEKS APPRENTICES

## The Iron Workers Local 301 Apprenticeship Training Program in Charleston is accepting applications for their Winter term.

Until Wednesday, January 2, 2008, applications will be accepted at 2425 Hampshire Drive in Charleston, from 8:00 am to 4:00 pm, Monday through Fri-

day.

The Iron Workers Joint Apprenticeship Training Program teaches in the classroom as well as on the job.

Classes are held two nights a week, allowing on the job learning while getting paid.

The goal is to educate new workers how to safely, efficiently, and effectively perform all aspects of the trade.

Classes consist of a variety of

applications including structural, ornamental, and reinforcing, as well as mathematics, welding, and rigging.

The Apprenticeship is a three year program.

Starting wages are 60% of Journeyman scale with full benefits. Increases are given every six months until training is complete.

Applicants must be at least 18 years of age, have a high school

diploma or GED, and live, for at least the last year, in the area covered by Local 301 which includes the WV Counties of Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Mingo, Nicholas, Putnam, Raleigh, Webster, Wyoming and part of Randolph.

Also included are Buchanan, Dickenson, Russell, Tazewell, Wise and Washington Counties in Virginia, and Pike County

Kentucky.

After completing an application candidates will be called back for an interview and aptitude test.

If selected, a drug test will also be required.

All applications are received without regard to race, color, religion, national origin, or sex.

For more information contact Rick Barker, Apprenticeship Coordinator at 342-5343.

## MASON PLANT

*CONTINUED FROM P. 1*

estimates and proprietary technology.

ACT commissioned the study to show the PSC the positive economic impact the construction phase of the project will have on West Virginia's economy.

The PSC reviewed AEP's application for the plant during hearings that started on December 10. The proposal calls for a new 629 Megawatt plant adjacent to AEP's existing Mountain-eer plant in New Haven.

In addition, the study looked

at other activity the construction project would create including support jobs in trucking and material sales, and the effect of construction wages being spent in the local economy.

"We know for every dollar spent for local construction workers wages, more money will enter the economy because of spending," said Burton.

Burton provided testimony about the work the project will bring local union construction workers and the resulting benefit to the state economy.

"We are working on an agreement with AEP to ensure local union workers will benefit from

these construction jobs," said Burton. "And given the long, positive relationship we have with AEP, I am confident we will reach an agreement."

The economic impact report was authored by Mike Jin, a researcher with the Center for Labor and Community Research based in Chicago.

Jin's analysis came from a computer model called IMPLAN which was developed by the U.S. Forest Service to make economic projections. The economic impact report provides details of the positive impacts on wages of construction and non-construction related

activities as well as increases in income to small business and tax revenues.

The report did not look at additional benefits from employment operating the plant, increased coal purchases or future maintenance.

The project would combine two technologies, coal gasification and combined cycle, to produce electricity with low environmental emissions.

The process converts coal into a gas and moves it through pollutant-removal equipment before the gas is burned in gas turbines that drive electric generators.

The heat produced by the gas

turbines is recovered in boilers that drive a steam turbine also coupled to an electric generator. The integrated process results in fewer emissions of nitrogen oxide, sulfur dioxide, particulates and mercury, in addition to lower carbon dioxide emissions.

AEP has plans to build a similar plant in Meigs County, Ohio. Although approval was granted from the Public Utilities Commission of Ohio, legal appeals must be resolved before the plant can be built.

The PSC will have up to March, 2008 to decide whether to issue a permit for construction of the plant.

**TRADES KEY TO INDUSTRIAL GROWTH****BUILDING TRADES HONORED BY INDUSTRY**

**A gathering of industry leaders from the Tri-State area honored men and women of the building trades at the Tri-State Industrial Appreciation Mixer.**

The event, held in Ironton, Ohio on December 6, was attended by more than 400 people including area plant managers, contractors, and elected officials.

Steve Burton, Business Manager for the Tri-State Building and Construction Trades Council

was asked to accept the award on behalf of the craft members. The event, called Industrial

**“THIS TIME WE WANTED TO THANK THE PEOPLE IN BLUE JEANS WHO MAKE THOSE PROJECTS HAPPEN,”**  
**ROB SLAGEL, EVENT ORGANIZER,**  
**PORTABLE SOLUTIONS GROUP**

represented by his council and affiliated Building Trades Local Unions.

“I was honored to accept the recognition earned by the hard working members of our local unions in the Tri-State area,” said

Appreciation Mixer, is in its seventh year, started in 2000 to welcome new companies to the area.

Previous honoree’s have included Duke Energy, Sun Coke and AEP and have focused on

major construction projects.

“This time we wanted to thank the people in blue jeans who make those projects happen,” said event organizer Rob Slagel with Portable Solutions Group.

“We recognize how important the Building Trades is to the industrial growth in our area,”

Slagel’s company joined with three others to host the event, Brand Service, Workforce Development Resource Center and Air Equipment Sales and Service.

Speakers included Tom Householder, AEP; Dan Walker, Kokosing; and Mike Nester, Babcock & Wilcox.



**REPRESENTING THE MEN and women of the Tri-State Building Trades at the Tri-State Industrial Appreciation Mixer are (standing from right) Steve Keller and Greg Kincaid, Insulators 80; Van Stephens, Boilermakers 105; Dave Holly, Operators 132; George Pinkerman, Boilermakers 667; Tom Plymale, Operators 132; Kevin Libby, Ironworker 769; Robert Elliot, Millwrights 1519; Jim Finley, Sheet Metal 24; and Larry Franz, Pipefitters 577. On stage is event sponsor Robert Slagel, Portable Solutions Group (right) and Steve Burton, Tri-State Building Trades.**

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**MERRY CHRISTMAS  
& HAPPY NEW YEAR from ACT  
& THE WV STATE BUILDING TRADES**

