

A case study in non-compliance and non-enforcement in KY

One citizen's story

Rick Handshoe – June 2011 through May 2012



My name is Rick Handshoe. I'm a retired radio technician from the Kentucky State Police. I live in Hueysville, Kentucky, along the banks of Raccoon Creek. A number of coal companies have been strip-mining in this community for about 16 years. I live within half a mile of at least nine hollow-fills. There are also two abandoned underground mines nearby.

I love living here. My ancestors have lived here for over two hundred years. It's real quiet. It's the place where I grew up and learned to appreciate our mountains and streams. This community is really close. Everybody here is either family or we grew up and went to school together. We've known each other for generations. Everybody in my community has a garden to supply their food during growing season, plus we do a lot of canning for wintertime. The whole neighborhood does that. We like to hunt and hike and spend a lot of time outdoors.

All of us used to play in the creek years ago. The stream was our playground. We'd catch minnows and crawdads to use as bait when we went fishing. And many families watered their gardens with the creek water. But none of that happens any more, because Raccoon Creek is dead. Nothing can live in this stream. A neighbor recently used the creek water to fill his stocked fishing pond. His statement was that "it boiled the fish alive." He had raised these fish like pets, but it killed a whole lot of them. My neighbors who watered their sweet potatoes with creek water noticed that the plants wilted immediately. We have to wonder what harm the pollution is doing to our health.

My stream has been dead for several years as a result of pollution flowing from a discharge pipe that carries water off a mine site operated by James River Coal Company. The water is supposed to be treated and then it enters a settlement pond where the iron and other pollutants have a chance to drop to the bottom before the water flows downstream.

The coal company that operates the mine frequently shuts down the system that is supposed to treat the water. On those days, the stream runs like orange juice. And it's not just the stream that is poisoned. Raccoon Creek flows into Salt Lick Creek, which flows into Beaver Creek, which flows into the Big Sandy River. Raccoon Creek is upstream of the water intake for Southern Water District, a municipal system that serves my family and more than 6,000 customers in Floyd County, as well as many in Knott County.

Over the past five years I've done everything I know to bring attention to the situation, get the coal company to obey water quality laws, and get state and federal officials to enforce the laws that are meant to protect human health and the environment. I've hosted hundreds of tours of my property, including journalists, church groups, community groups, Congressmen, and top officials from state and federal agencies. Recently I've hosted the Director of the federal Office of Surface Mining, the Director of EPA's Region IV office, and the Director of Kentucky's Department of Mine Reclamation and Enforcement. I've purchased water-testing equipment – the same kind that state inspectors use – and I take weekly tests of conductivity and iron levels. When I call state inspectors to report a problem with the water quality in my stream, I am 110% sure that they will find a violation, because I've already done the tests.

On April 7, 2011, Governor Steve Beshear visited my place as part of a tour hosted by Kentuckians For The Commonwealth. I gave him a first hand look at the situation and talked with him about the

serious problems we have with poisoned water and the lack of enforcement of mining laws. He watched while I tested the water in my stream. It had conductivity levels nearly three times above the federal standard.

The Governor acknowledged the problems with my creek, and then he said, "But you are on city water, aren't you?" I pulled out a quart jar of polluted water from my tap that I had collected just three days earlier. I had to explain: Yes, I'm on city water. But our public drinking water comes from a river that is fed by this creek. And this is just one of many, many polluted headwater streams. They all flow into rivers that provide drinking water for tens of thousands of people who live downstream.



People here drink that water every day. Babies are fed formula that's mixed with this water.

I didn't expect miracles when the Governor came to visit. But I sure didn't expect that the lack of enforcement by state agencies would get worse. But it has. Much worse.

Since March there have been four times when my creek has run orange. One of those times was just before the Governor's visit, but all the others have happened afterwards. On the fourth time, the creek ran orange for five days while state inspectors from the Division of Water and Department of Mine Reclamation and Enforcement refused to even come out to inspect the situation. They still, to this day, have not issued a notice of violation to the coal company for illegal discharge of pollution into the stream that occurred in late May.



I've done everything I know to try to protect the health of my community and get water quality laws enforced. And I've documented every step I've taken along the way. I would like to ask the Governor and the Attorney General of Kentucky, along with state agencies and the US EPA, to review this case study. Somebody needs to tell me what more a citizen has to do to hold coal companies accountable and get mining laws enforced. When state agencies won't respond, where are we supposed to turn?

Below is a brief summary of the steps I've taken to address repeated water quality violations by James River Coal Company, and the lack of response from state and federal agencies that are supposed to enforce our mining and water quality laws.

March 2011: I noticed orange water in the creek.



I called and filed complaint with the Kentucky Division of Mine Reclamation and Enforcement (DMRE). Jeremy Blackburn responded and wrote up a notice of violation for two different water quality standards.

Early April 2011: I noticed orange water again.



I called DMRE and spoke with Matt Dillon. He was in Western KY at the time. He said to call his supervisor. I called Erik Allen. He called me back. He said he was sick and couldn't come out. But he sent Keith Humble. Keith came, visited the creek with me. We did a field test. We went to the pond. He said he had notified the Division of Water that they were discharging polluted water into the creek, and he wrote a second violation.

Mid-May 2011: My neighbor noticed orange water, again.



Two weekends before Memorial Day, a neighbor called and asked if I had looked at the creek. I asked him to call in the complaint while I took samples. I tested for conductivity and tested for iron. He called Matt Dillon with DMRE. Matt told him that he wouldn't come out until Monday. That was on a Saturday. They didn't respond until Monday, when the water was still in violation. That Sunday night I sent a message to Carl Campbell and Jennifer Thompson saying that no one had responded to my complaint in a timely way. The iron was 9 milligrams per liter,

which is just about maximum for the meter. My neighbor also called on Monday morning and filed a complaint with Jennifer Thompson at the Cabinet for Energy and Environment because no response had come from DMRE. Matt came on Monday. Jennifer told my neighbor that she had received my pictures and had sent them to Carl Campbell, the Commissioner of DMRE and Jim Dickinson with Division of Water. She said in the future, if we needed someone to come out and DMRE wouldn't do it, we should call the 1-800 division of water hotline.

Late May 2011: I noticed orange water again. This time two state agencies refused to respond.

On Thursday evening, I went to the garden and the creek was like orange juice. I came straight back to the house, called the Div. of Water hotline and filed a complaint. They said they would have someone out there. I also sent Gwendolyn Keyes Fleming, the Director of EPA region IV pictures. On Friday morning the creek was still running orange. I called the hotline again. I asked what they found when they came out to investigate.

I was told that no one responded and they weren't going to. I was told they would not send out an inspector for orange water.

So I took pictures and offered to send them pictures. I then sent pictures to Gwendolyn Keyes Fleming at the Region IV EPA and let her know that the state told me they weren't going to respond. I also called Matt Dillon at DMRE. He either said he was 6 hours or 600 miles away, I can't remember which. He said to call his supervisor, Erik Allen. I called him and left a message. He never called back. Still hasn't.

I tried to call Greg Weddington, the director of the Prestonsburg office of DMRE, twice on his home number and nobody answered. On Saturday Erik Allen with DMRE still had not called back. I took pictures and sent another message to Gwendolyn Keyes Fleming with EPA Region IV that I had not gotten a call back from Kentucky's DMRE or Division of Water.

Sunday morning I went back down and it was still running orange. I took pictures, called the Division of Water hotline again. I told them that I wanted to file another complaint. I said we had had four days of constant orange water. I asked, "Were they going to respond? I need to know so I can let Gwendolyn Keyes Fleming know." The guy said, "Is that the EPA lady?" I said yes. He said he would send the emergency response team. I sent Gwendolyn Keyes Fleming a message that the Emergency Response Team was supposed to come out.



On Monday I called Matt Dillon with DMRE. He was at the pond. He said they were working to put an aerator in the pond. But they did not issue a violation. I tried to find out who responded from the Division of Water. It should have been a guy named Robert from the Hazard office. But he was gone for the week. When I finally caught up with him, he said he had never gotten the message and had not been assigned to respond. I talked with a Josh George

out of the Hazard Division of Water office. His name was on the form that documented my complaint. He said he had been over to the pond at the same time that Matt Dillon from DMRE was there on Monday. His advice was that they stop the discharge pipe, dip the pond out, treat the water, and then let it enter the pond and the stream again.

But what DMRE chose to do was to let the polluted discharge flow right into the stream.

Josh George told me to call Robert Francis with the Division of Water in Frankfort. He was out. I called again the next day and we spoke. I told him what had happened. He told me that they don't respond to orange water because there is nothing they can do about it. I said, "You are absolutely wrong. You can cite them for violations, and you can make them turn the caustic soda back on to treat the water." He wanted to know what caustic soda does, which really shocked me. And whether they can fix it or not, it's still a violation.

He told me, "We'll respond next time." I said, "But you let this water run into this stream for 5 solid days, 24 hours a day. We are drinking this stuff. Babies are drinking formula. Your department let DMRE bully them around." I agreed that my stream is dead. It's been dead for a couple years now. But this water is supplying drinking water for tens of thousands of people.

I've called Sandra Gruzesky, the director of the Kentucky Division of Water, twice. She did call back once. I've not heard back on my second call.

I've called Mike Haydon's office. He's the Governor's Chief of Staff. I told him that since the governor has been here, things have gotten worse. State agencies won't even respond now. He called me back. I told him the story. He said that by Monday, if I didn't hear back from Division of Water to let him know.

Mike Haydon said James River Coal is supposed to be the most environmentally friendly coal company in the state. I said they've not proven that to me, and no one in state government is responding to my problem. I asked, "So who do I call?"

On Monday I got a message from David Jackson with the Division of Water. I told him the story. He said he had no power to do anything. He was told to call me and see what was going on. He said he would refer it up the ladder. That's the last I've heard.

Later I called Greg Weddington, the manager at Prestonsburg DMRE. He told me next time to call everyone on the emergency list, until finally someone would answer. He said they had dropped the ball.

He explained that they were going to put in an aerator system. I understand that it may not fix the problem. But they are working on it. There is a big difference between doing nothing and working to fix the problem.

Coincidence?

Why did the state DMRE and Division of Water respond three times to complaints about orange water in my stream, but later refused to inspect or issue another notice violation for the same problem? Perhaps that's just a coincidence. We have a lot of those where I live. For example, it's always a coincidence that the coal companies know when a public official is going to visit my place.

But it also seems possible that the state agencies stopped sending their inspectors to respond to my complaints because it could set up what's called a "pattern of violations" in the federal Surface Mining Control and Reclamation Act. If a company has more than three serious violations within a certain period of time, it's considered a pattern, and that can trigger more severe penalties. Of course, the company can always challenge those violations, which allows them to delay or avoid the consequences. But they sure don't want to keep getting additional violations. And it seems possible to me that the state agencies are doing what they can to help by refusing to respond to citizen complaints.

My story is just one citizen's story, but it is cause for alarm for all of us in Kentucky who drink water from the rivers that have their headwaters in the coalfields of eastern Kentucky, including the Cumberland River, Kentucky River, and the Big Sandy River. We all live downstream.

What we want

I am often asked by public officials, “What is it that you people want?” It’s not really that big a mystery. I want our water quality and mining laws to be enforced. I want public agencies and elected leaders to hold coal companies accountable and make them do everything possible to fix the problems they have caused. I want the health of my family and neighbors to be valued more than coal company profits. I want state and federal agencies to stop giving new mining permits in our mountains if they can’t prevent problems like what’s happened to my community. And I want elected officials to get serious about helping to create a different economy in this region, one that doesn’t depend on destroying our land and water.

Those were some of the things that a group of us spoke with Governor Beshear about last February when we did a sit-in in his office. In Appendix I I’ve included a written list of our demands that we shared with the Governor last February and when he visited eastern Kentucky in April. Sadly, we have seen no progress on any of these items, and the problems have only gotten worse.

For all these reasons, on May 17, 2011, I again asked for a meeting with Governor Steve Beshear on behalf of Kentuckians For The Commonwealth. He had already told us in April that he would sit down with us to discuss our concerns in greater detail. And a few weeks after that his chief of staff invited us to submit a request for a meeting that could take place in mid-July. But despite a letter and follow-up calls to his office, we have received no response to our request.

Progress report: some progress, some inaction

On June 23, 2011 I met with Chief Deputy Attorney General Patrick Hughes and several other KFTC members to request a full investigation. I asked the AG's office to investigate the repeated poisoning of Raccoon Creek by James River Coal Company and the failure of state agencies to adequately enforce the law. I followed up that meeting with a letter and a copy of this report. I never did hear back from anyone in the Attorney General's office.

On that same day last June we spent several hours sitting in Governor Beshear's office to protest his lack of response to these problems. He happened to be down the hall at a press conference at that time. So our group walked into the room and stood quietly in the back with our signs. At the end I put a copy of this report in his hands, but he didn't stop to talk.

Some things did get a bit better after that. The company installed some special equipment at the pond that continuously treats the water before it is allowed to enter the stream. That has made a difference.

Last August we had a long meeting with Commissioner Bruce Scott, who is over the Kentucky Department for Environmental Protection, and then-Commissioner Carl Campbell, who was over the Department for Mine Reclamation and Enforcement. I wanted to hear Bruce Scott say that mistakes had been made, but that things would be different the next time for anyone else in my situation. I didn't get that answer.

I understand that the state is in negotiations with the coal company over its Pattern of Violations. I have never been notified of any outcome. It seems like there should be a way for citizens who are directly affected to have a say in that process, especially when the violations were the direct result of citizen monitoring and complaints.

New Year, New Problems

Then, sometime in January 2012, I noticed something new and very odd about another creek on my property. This second creek runs 500 feet behind my house. It was covered with foam. When I tested it, the pH was about 4.5, which is very acidic.

Normal rainwater has a pH of about 6.5. As you go lower on the pH scale, each new number means the water is 10 times more acidic. So when my tests showed that the creek had a pH of about 4.5, that means it was 100 times more acidic than rainwater.

The way I understand it, the foam on the surface of the water is a sign that acidic water is eating through organic material in the stream. It's also an indicator that the problem is a recent one, because after a while all the organic matter would be gone.

These are problems I tried to prevent

To understand the situation, you need to know a bit about the mining around here. There's a long history of deep mines in this area. A couple years ago Miller Brothers Coal Company started surface mining up on the hill behind my house. The company has since changed hands several times. It's now owned by James River Coal.

Before they got started, I challenged their proposed mining permit. I told the state that there was already an unstable slide on the mountain from an old logging job, and I was concerned that mining would make that problem much worse. I also tried to protect the two streams on my property.

At the time, the state Department of Mine Reclamation and Enforcement said you can't look into the future and say they are going to destroy the water. So they approved the company's permit. But now those problems are happening and I'm having to fight them to deal with it.

I also had to work for more than two years to get the US Army Corps of Engineers to admit that the stream behind my house was, in fact, a perennial stream. It wasn't listed that way on the coal company's permit, which would have allowed them to mine right through it. For two years I had to document that the stream was flowing all the time, even in the middle of a big drought. Finally, I won that argument. The company had to quit mining so close to the stream.

From bad to worse: At what point are you going to call this a blow-out?

My stream started to foam this past January. It happened at the same time that the coal company brought some equipment on the backside of the mountain to do reclamation work. It's not clear what happened, but something put pressure on acidic water inside the old deep mines and caused it to come to the surface and enter the stream.

I notified the Kentucky Division of Water and the Department for Mine Reclamation and Enforcement about the problem. (I even brought pictures of the foam and described the problem to Commissioner Bruce Scott when some KFTC members and I had a meeting with him in February about other issues.) They sent some guys out to do tests. They've been back checking on it here and there for five months. But they haven't taken any action, and they continue to let poison water run down this hill.

Over these months, I've seen some friction between those two state agencies that are part of the same Energy and Environment Cabinet. They don't seem to communicate. One inspector in the Division of Water told me he can't get any information about my situation from his sister agency. They don't share information. They don't agree.

After three and a half months of the acidic water in my creek, other strange things started happening. The water has always run out the right side of this holler. But all of a sudden one day in April it quit running there and started shooting out the left side. And the creek got really muddy. I called the state Department of Mining and asked, "Do you have an inspector here close?" They said no. I said I would go up and look myself. I found a place where there was water shooting out of the side of the hill from a hole as big as the upper part of my arm, a place where no water has ever come from before.

I called an inspector named Wesley Smith and said, "You ain't going to believe this, but the water has just about dried up where we've been testing it for years. And now it's shooting out the other side of the hill. He came up and looked. He said, "You aren't lying to us."

He checked the water and found the pH was really low and the conductivity was about 1,900 microsiemens. Then he drove back to Frankfort. Later I called him and asked what he found about the water coming out of the deep mines. He said what are you talking about? I asked, "Didn't you check the water coming out of the deep mines?" He didn't even know where those were. They had to send him back out from Frankfort. Sure enough, the water from the deep mines is just as acidic as the water coming out behind my house. The whole water table is destroyed. And for some reason it's under pressure and pouring out where it never has before.

A little later another inspector came out and found a new hole about the size of my wrist had opened up and there was water shooting out. One inspector said that he observed the water there flowing at 8 gallons a minute one week, and 20 gallons a minute a week later.

Then last week, I called and said, "Guys, something else is happening." I've got twice the normal water flow. And I spent 7 hours walking the mountain and I found an old "house coal" mine up on the hill. (That's where they would tunnel into the mountain to get blocks of coal to heat people's homes.) Water is just pouring out of it. The inspector said, "When I was up here last week, there was no water coming out of that mine." I said, "You are right. This is the third incident. At what point are you going to call this a blow-out?"

I know I'm in danger

All that water is running into the existing slide and causing it to move. It's moved about 2.5 feet down hill. I'm below it. And now there's another new slide that's formed above that. It is located on the company's permitted area, just feet from where their dozer blade stopped. But I've got a letter from the state is saying that it's not where there was active mining and is not mine related.

Would the old deep mine have fallen in if they hadn't mined around the edge of the mountain and taken out all the structural support? My concern now is that there's still a whole lot of water in there. If there's an additional cave-in, that's when it could be catastrophic. It would be like having a bottle full of water and smashing it. All that water has to go somewhere.

I believe this is a life-threatening situation I'm in right now. The mountain is moving. If the mountain blows, there is no time to get to safety. The problem is 500 feet above my house. There is nowhere else for the water to go.

I've given the state 5-months to deal with the poisoned water, and a month and a half to address this more serious situation. They've been checking. But they've never done anything. I've got their documentation that they have seen this water change over a several month period. But at no point did they say, "You are in danger, Rick." I know I'm in danger.

I realized I needed to talk with Joe Blackburn or Gail Smith at the federal Office of Surface Mining (OSM) in Lexington. It's a sad situation when you call the OSM office and no one will answer you. The recording says there is nobody here by the name of Blackburn or Smith. I left a message and got a call back from a fellow named John.

I told him what had been going on. I explained, "I gave these guys with the state 5 months to deal with the low pH problem. I've given them a month and a half to deal with water blowing out the side of a hill that has never done that before. How much longer are you going to let them pollute this

stream?” He asked if I thought I was in danger. I said, “Mister, I’ve been in danger a month and a half. I made my daughter leave. It may happen or it may not happen while we talk on the phone right now. The state has seen this situation developing and nobody is even saying it is dangerous.”

I also called Gwendolyn Keyes Fleming at the EPA Region IV office in Atlanta. They always say she’s in a meeting. Finally yesterday the secretary let me talk with her assistant. I said, “We need some help here. They are letting poisoned water run down this hill for five months. I’ve given the state every opportunity to take care of this problem. I’ve got 76 acres of property. I’ve got 2 perennial streams running through and joining on my property. And every day I have to buy water to water my tomato plants. That’s making me angry. The water that I’m buying is water that is running downhill and is being pumped back to me on the city water system. I’ve done everything I can to save the one stream that was left, and now it is gone. And I have dangerous blow-out up here and can’t get any help.”

I see problems the state refuses to see

After that the OSM sent several inspectors came out. I told them I believe that I am in imminent danger. They seemed shocked by the things they saw when they were here. When they started looking at all the reclamation behind my house, they kept saying, “This is all in violation.” One guy said, “Rick, even though they haven’t mined where that slip is, they mined within 20 feet of it and the slip is still on their permit.” But the state is still saying no, the slip is not mine related. No state inspector has written them a violation.

The same day the OSM was here, we also saw a state inspector up on the hill looking at the slide. (Maybe that’s another coincidence.) One of the federal inspectors said to him, “Look, there are all kinds of violations around here.” The state inspector replied that he hadn’t done his quarterly report yet and hadn’t had time to look things over. But I know he’s been up here many days over the past month.

I went up on the hill a little ways to show the OSM inspectors a violation that the state has never issued because their inspector is too lazy to get out of his truck to see it. (Somehow even from helicopters they never see two big pits and two big points that have never been reclaimed.) Later in the day I believe those federal inspectors had a visit from the coal company, because they later told me they couldn’t look at more permit violations. They said they were only there to determine if I was in imminent danger. And they asked me if I had a right to be up on the hill on the permitted area.

That question told me that the company had gotten to them. I said, “Yes, I did get a registered letter from the coal company telling me I can’t go up here. You can see for yourself why that is. They don’t want me here because I see problems that the state refuses to see.”

It never ends. And it’s making me angry.

The federal Office of Surface Mining inspectors came out here almost two weeks ago to evaluate the situation and determine if I face imminent danger. Since then I haven’t heard a word. I’ve left messages, but I get no response. They may be waiting for the state to put out their own report. I just

don't know. It's really a strange situation. If they declare that I am in imminent danger, what actions will that trigger? I don't have a clue. This is new territory.

The water flowing out of this hillside now is the weirdest looking water I've ever seen. It's shiny and clear. The conductivity was 1,900 in January. Last week it was 4,200. That's the highest reading I've ever heard of. The most recent pH reading was 2.6. That's the same acidity as lemon juice and it's about 1,000 times more acidic than rain water.

It all makes me wonder, how long will the state agencies allow this poisoned water to flow downstream before they take any action?

I can't sleep. You know how when you have a baby you sleep with one ear open? That's what I'm doing. It never ends. And it is making me angry.

There are a lot of people across Kentucky who have been to my place. They have seen what I'm dealing with. They'd be surprised at how much things have changed in these last few months. At this point, I'd like for everyone to stay tuned. Let's see what action the state decides to take. Right now we are all just waiting for them to do the right thing.

What would the right thing be? Well, they've got to stop the poisoned water from running into the stream. That means creating a pond where it can be treated. The blow-out, I don't really know. But we can't continue to let this water run in the stream.

Appendix I – A Summary of Actions members of KFTC have asked Governor Beshear to take to begin an economic transition in eastern Kentucky and protect our land, water and people

Support an economic transition to create good, new jobs for our miners and mountain communities.

- Foster a sincere, public discussion about the opportunity we have to begin an economic transition for coal workers and communities.
- Support significant new investments in job creation in the mountains, especially in the areas of land and forest restoration, energy efficiency, and renewable energy development.
- Vigorously support the Clean Energy Opportunity Act (In 2011 this was HB 239)
- Invest in plans proposed by the city of Lynch and other eastern Kentucky communities to retrofit public buildings, help local residents and businesses save money by saving energy, and develop community-scale renewable energy projects.

Stop the destruction of our land, water and people by fully enforcing existing laws designed to protect our health and communities from destructive mining.

- Direct the Kentucky Energy and Environment Cabinet to withdraw from the lawsuit it joined last October, in which your administration sided with the coal industry against the EPA's efforts to protect our health and water quality.
- Direct the Kentucky Division of Water to stop using a rubber-stamp process (known as the 402 general coal mining permit) which allows companies to pollute our water with minimal restrictions and without public input about site-specific health and environmental impacts.
- Publicly support efforts by city leaders and residents of Lynch, Kentucky to prevent proposed mining that threatens their water supply, cultural heritage, economic development investments, and ecological systems.
- Support proposed federal mine-safety rules that are aimed at eliminating black lung disease and allowing essential enforcement actions to be taken in deep mines that demonstrate a pattern of violations.

Speak honestly and publicly about the real challenges faced by our mountain communities, namely:

- Call for an end to extreme and violent speech aimed at citizens who are working to protect Kentucky's land, air and water.
- Acknowledge that surface mining causes unacceptable and widespread harm to our land, water and people;
- Acknowledge that coal jobs and reserves have entered a period of rapid decline in eastern Kentucky, in large part due to market forces, business trends, and finite resources;
- Make it clear that it is going to take all of us working together to protect our land, water, and health and transition to a new economy and clean energy future.



KENTUCKIANS FOR THE COMMONWEALTH

30 Years of Action for Justice

P.O. Box 1450 • London, KY 40743 • 606-878-2161 • www.kftc.org

May 17, 2011

Honorable Governor Steve Beshear
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Beshear,

It was our pleasure to host you, along with Secretary Len Peters and advisor Eddie Jacobs, during a visit to communities affected by destructive mining practices in eastern Kentucky. Thank you for the opportunity to share our hopes and concerns and to ask for your help.

We were glad that you agreed to Stanley Sturgill's request for follow-up meeting. It is our sincere hope and intention to continue a dialogue with you and members of your administration and to make meaningful progress on a number of long-standing concerns. With this letter, we would like to formally request that a date be scheduled at the soonest possible opportunity for this important conversation. Our contact information is provided at the end of this letter in order to discuss and confirm plans for this meeting.

We suggest that the next meeting take place in Frankfort in order to allow for participation from appropriate representatives of the Energy and Environment Cabinet or other state agencies. We would welcome the opportunity for a detailed discussion with you and members of your administration about our concerns. Below are some of the issues we believe would be beneficial to discuss:

- ⇒ Actions needed to protect the communities of Benham and Lynch from pending surface mining permits that threaten the water and many economic and cultural assets of the community. This could include denying pending permits, approving a Lands Unsuitable for Mining petition or negotiating to purchase additional mineral rights on Black Mountain.
- ⇒ Actions needed to improve the state's enforcement of water quality and surface mining laws and to strengthen Kentucky's cooperation with the US EPA to protect human health and the environment. This could include withdrawing from the state's lawsuit against the EPA, directing the KY Division of Water to stop using 402 general coal mining permit or re-open the 402 general permit for revision, addressing concerns about the need for additional resources for environmental protection and enforcement, and addressing concerns about persistent lack of enforcement by the Kentucky Division of Water and Kentucky Division of Mine Reclamation and Enforcement.

- ⇒ Actions need to support significant new investments in job creation in the mountains, especially in the areas of land and forest restoration, energy efficiency, and renewable energy development.

- ⇒ Actions needed to foster a sincere, public and civil discussion about many critical challenges facing mountain communities, including the projected decline of coal production and jobs in the region, the widespread harm to health and the environment caused by surface mining, and the need and opportunity to begin an economic transition for coal workers and communities.

Thank you for your continued attention to these important matters. We look forward to hearing from a member of your staff to confirm and develop plans for this meeting.

Sincerely,

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