



## KENTUCKIANS FOR THE COMMONWEALTH

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*Action for Justice*

### **Appendix of Specific Concerns and Grievances**

We stand at an important moment in Kentucky's history. We reside in the center of the storm when it comes to the debate over the impacts of mining and burning coal and the need to transition to cleaner energy sources. Kentucky's residents and businesses are vulnerable to sharply rising costs of fossil fuels. We also lag behind neighboring states in terms of innovation and the development of new clean energy jobs. Kentucky has a genuine opportunity to build a more prosperous economy based on cleaner, healthier energy sources. We need leaders who are willing to pursue a vision of a better future, conduct full and fair public discussions about our energy challenges and opportunities, and chart a course that is independent of powerful energy interests.

However, we find such leadership to be lacking in the General Assembly. Below is a description of our specific concerns, which are articulated in three categories: the hostile and dangerous atmosphere that has been created in our communities; the excessive political influence of the coal industry on our democratic institutions and leaders; and the pursuit of public policies that put the interests of coal companies and other powerful energy players ahead of the public interest.

#### **Hostile and Dangerous Atmosphere**

The coal industry, some elected leaders, and some media outlets have created a hostile and dangerous atmosphere in Kentucky, especially in coal producing communities. Efforts to enforce existing federal and state laws are frequently characterized as a “war on coal.” A representative of a U.S. Senator told a crowd of 4,000 at a public hearing in Pikeville that a federal proposal to give closer scrutiny to permit applications for burying streams is “telling these men to start digging their own graves.” Such extreme claims are even more regrettable since it has since come to light that the industry was, at the time, concluding negotiations to voluntarily operate in the manner being proposed.

This type of rhetoric has been picked up, repeated and sometimes sensationalized – but seldom challenged – by the media. An eastern Kentucky newspaper described the public debate about mountaintop removal and valley fills as a “war.” WYMT-TV calls those fighting to protect their drinking water as “opponents.” The media unquestioningly quote claims that those fighting mountaintop removal and valley fills are “outsiders,” while knowing this is not the case and ignoring the fact that most major coal companies operating in eastern Kentucky are based out of state.

And, up to now, our political leaders have – at best – failed to speak out against extreme speech aimed at those who are working to protect Kentucky's land, air and water. Their silence, in conjunction with other more direct efforts to intimidate and sow fear, has pitted neighbor against neighbor and contributed to troubling levels of polarization. As a result, many people live in fear of being the targets for verbal and possibly physical abuse and are afraid to speak freely.

Below are just some examples:

- When a coal company operating in Perry County was ordered by an administrative judge to stop using a haul road that it was using illegally, the company told its workers to picket in front of the

houses of the neighbors who had made the complaint.

- When a coal company in Harlan County was ordered to stop adding more sludge to a pond that already was several feet higher than its permitted level – a pond that was perched above several homes – the coal company laid off its workers and told them a couple in the community who had made the complaint were to blame for the loss of their jobs.
- Recently, a local official in Perry County wished for the death of an individual who has been outspoken for clean water and against destructive mining practices. He made this statement to a classroom of high school students! In the same month, a federal mine inspector in Pikeville posted the message “hang a tree hugger today” on a social networking site. These incidents were reported in the media, yet our elected leaders and industry representatives have been silent and have not publicly spoken out to condemn such threats.
- A community college professor was warned by a State Representative after she was seen having a conversation with a KFTC organizer at a public meeting. A local community service organization has been warned that some donations it normally receives may be in jeopardy because an active KFTC member sits on its board.

As has long been the case, miners are also subject to intimidation by their employers. KFTC members stand with our friends, family and neighbors who have been ordered to falsify dust samples or operate in an unsafe manner or in unsafe areas of a mine, and who face the threat of being fired if they don't comply. We know many workers who have been pressured to attend rallies organized by their employers, told to show up on the clock or even on a scheduled day off. And we understand that beneath all the noise, fear and anger of the public debate, we share a common love for our families, communities, and the places we call home.

### **Excessive influence of the coal industry on our democratic institutions and leaders**

The coal industry has a troubling influence on and close ties with key legislators and committees in the General Assembly, especially those who are responsible for regulating the industry and providing leadership to the development of energy policies.

For example, in 2009 the Lexington Herald-Leader reported that House Speaker Greg Stumbo earned \$41,000 as a board member of Energy Coal Resources, while Majority Floor Leader Rocky Adkins was employed by the same coal operator as public affairs director. (Adkins's position ended in 2009 and the company has gone bankrupt.) Rep. Rocky Adkins and Rep. Keith Hall both reported in 2009 that they had a financial stake in Beech Fork Coal Company, where Rep. Hall was CEO. Rep. Adkins financial disclosure statement indicates that he is now the President of RJS Enterprises. A December 2009 Courier-Journal story indicated that he does work for Joseph Craft, the CEO of Alliance Resource Partners. Craft has contributed at least \$25,500 to state and local candidates in recent years. Alliance Coal's political action committee has given an additional \$9,000 to state and local candidates since 2008; its employees have collectively donated \$54,000 to Kentucky candidates since 2000.

Another example is Rep. Jim Gooch, chairman of the House Natural Resources Committee, who is appointed to his position by House leadership and whose close ties to the coal industry have been well documented. Rep. Gooch was listed as a member of the Western Kentucky Coal Association and is vice-president of West Kentucky Steel Construction, a company that does significant business with the coal industry. During 2009, 4 of 5 House Democratic leaders made personal contributions to Rep. Gooch's re-election campaign. He was also handsomely supported by the coal industry. From

November 2008 to November 2009, a time period in which there was no election, he received \$16,950 in campaign contributions, 76% of which came from individuals or political action committees connected with the coal industry.

In fact, the House Natural Resources and Environment Committee, which is appointed by House leadership, is significantly comprised of legislators with close personal, financial and political ties to the coal industry. Rep. Keith Hall, who is CEO of Beechfork Mining and vice-chair of the House Natural Resources Committee, explained to a public audience last October in Pikeville that he was the chair of the interim energy committee in Frankfort and, “I don’t think I got that position by accident.”

### **Harmful Public Policies**

The excessive influence by the coal industry has negative consequences for public policy and fair democratic process. For example, this is the fifth year in a row that the House Natural Resources & Environment Committee, chaired by Rep. Jim Gooch, has not held a hearing on the stream saver bill (HB 396, HB 416) or the issue of mountaintop removal strip mining and valley fills.

In addition, a clean energy bill (HB 408) was recently assigned by House leadership to the House Natural Resources Committee rather than to the more appropriate House Tourism Development and Energy Committee. This bill would promote energy efficiency and renewable energy in Kentucky. We urgently hope that it has not been sent to lie quietly in this coal-dominated committee or, at best, be considered only through a pro-coal lens.

The chairman of the House Natural Resources Committee, Rep. Jim Gooch, and his vice-chairman Rep. Keith Hall are listed as sponsors on five bills or resolutions (HB 213, HB 409, HR 132, HJR 20, and HCR 84). that put the interests of the coal industry ahead of the public interest. The remaining vice-chairs of this committee (Rep. Stewart, Rep. Steele and Rep. Couch) are listed as sponsors on three of the five proposals. And 8 of the 14 members of the House Natural Resources Committee have sponsored two or more of these bills or resolutions, described below:

HCR 84 was sponsored by Rep. Tommy Thompson and co-sponsored by 19 others, including Reps. Gooch and Hall, to create a “Natural Resources Caucus” to promote the interests of the coal, oil and gas industries. Forming such a caucus will allow those industries and their lobbyists to evade legislative ethics rules and spend an unlimited amount on food, drinks, and entertainment for the members of this caucus.

Rep. Rocky Adkins has sponsored, and nine other legislators including Reps. Jim Gooch and Keith Hall have cosponsored, HB 213 to allow “pipeline companies” to condemn private lands and receive taxpayer- funded subsidies to construct carbon transport pipelines across those lands. This bill passed unanimously through the Natural Resources Committee and later approved in the House. It is pending in the Senate.

Rep. Ancel Smith sponsored, and eleven other legislators including Reps. Gooch and Hall cosponsored, HB 409 to allow overweight coal trucks and other over-sized vehicles to park whenever they choose in the middle of public roads without a special permit, blocking traffic for up to an hour each time. The bill would also allow those trucks to pay a few hundred dollars for permission to block a road for up to 4 hours any time they wanted. This bill was later withdrawn due to public concern.

Rep. Joe Fischer has sponsored, and 9 other legislators including Reps. Jim Gooch and Keith

Hall cosponsored, HJR 20 before the House Natural Resources Committee to prohibit all state and local governments in Kentucky from enforcing any regulations aimed at reducing greenhouse gas emissions. Here is a case where the chair and the vice-chair of the committee with the mandate to protect the environment are working to keep environmental laws from being enforced!

Rep. Jim Gooch sponsored, and thirty-one other legislators including House Speaker Greg Stumbo and House Majority Floor Leader Rocky Adkins cosponsored, HR 132 calling on Congress to prohibit the U.S. Environmental Protection Agency from regulating greenhouse gas emissions. This legislation passed the House on February 23 with a vote of 76 to 16.

In addition to those bills, a number of other troubling coal and energy measures have been advanced this session. For example:

A constitutional amendment was introduced in the House and Senate (SB 3 and HB 253) to “declare that no law or rule shall prevent the severing of coal,” a sweeping statement that would render ineffective numerous existing health, safety and environmental laws, and conflict with the broad form deed constitutional amendment approved overwhelmingly by Kentucky voters in 1988. This bill got 55% of the votes on the Senate floor, but failed because constitutional amendments need a 60% majority.

Legislation (HB 491) was recently filed in the House to seize land deep underground as the property of the Commonwealth for the purposes of storing carbon dioxide pollution. The bill gives the Energy Cabinet the right to condemn necessary property rights if it is “unable to reach agreement with owners of affected surface, mineral or water estates.” While private corporations would profit from the creation of carbon storage facilities on seized properties, the bill transfers long-term ownership of the stored waste, including costs and liabilities, to a new Kentucky Carbon Storage Authority that would be appointed by the governor.

Additionally, the Kentucky Senate passed SB 26 to end the state's ban on nuclear power generation in the Commonwealth and issue permits for nuclear plants even though they lack a long-term disposal solution for their radioactive waste. This action is supported by the Beshear administration, which said that the ban must be lifted in order to begin a conversation in Kentucky about nuclear power.

While the above examples describe actions taken during the first half of the 2010 General Assembly, Kentuckians have endured a long history of actions taken by legislators with close ties to powerful energy companies to weaken protections for mine safety, public health and the environment. For example, in 1998 Rep. Gooch sponsored a bill to prohibit the Natural Resources Cabinet from developing rules to control greenhouse gas pollution in response to the Kyoto Protocol. He was appointed chairman of the Natural Resources Committee soon after. In 2007, he played a prominent role in attempts to weaken important mine safety legislation that was needed to address serious shortcomings in existing law that led to the death of several miners. And in 2008 and 2009, committee members Reps. Keith Hall and Ancel Smith were sponsors of bills to weaken those improved safety standards. Their proposal was approved by the House Natural Resources Committee in 2009, although it did not become law.

**Sources:**

For information about 2010 legislation: <http://www.lrc.ky.gov/record/10RS/record.htm>

For information about campaign contributions: <http://www.kref.state.ky.us/krefsearch/>

For information about legislators statements of financial disclosure:

<http://klec.ky.gov/reports/legislators.htm>

Related newspaper articles:

Bill would ease mine safety regulation, Lexington Herald Leader, John Cheves, 2-25-2009

Call for ethics targets Stumbo, Lexington Herald Leader, John Cheves, 1-09-09

Adkins working for coal operator Craft, The Courier Journal, Tom Loftus, 12-09-2009

*February 25, 2010*