

*Go West, Young Protestor*  
Lessons learned from the  
Anti-Coal Movement in  
Appalachia

M. Shane Harvey

Jackson Kelly PLLC

IMI Annual Meeting & Expo

September 9 & 10, 2014







"I'm participating in this action  
in solidarity with the Appalachian people  
who live every day slowly being poisoned by  
their own drinking water."

—**HEATHER DOYLE**



NOTE: No fish swim in this lake. It is a toxic  
2.8 billion gallon coal slurry impoundment.







# It's Getting Hot In Here

Dispatches from the Youth Climate Movement

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« Free Trade, Violence & the Destruction of the Amazon

You Don't Have to Scale a Dragline to Take Action Today! »

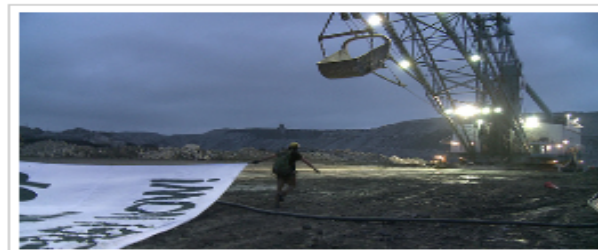
## 14 arrested for shutting down massive dragline on MTR site in West Virginia

Published by mattwilkerson, June 18th, 2009 global warming 22 Comments

**Please donate to the bail fund at:**

[www.mountainaction.org](http://www.mountainaction.org)

14 people were arrested today at the Twilight coal mine run by Massey Energy for shutting down the massive dragline on site. As dawn broke a group of 14 people approached the dragline. As part of the group gained the attention of the operator to get him to shut down the machine, a 4 person climb team ascended the 200 foot boom.



Suspended hundreds of feet in the air the climbers began to unfurl an enormous banner reading, "Stop Mountaintop Removal". On the ground the rest of the team was ensuring the safety of the climbers and everyone on site as well as unfurling other banners. After about an hour police came in and arrested those on the ground.

The climbers managed to hang on for another couple hours until workers climbed the draglines boom and began to threaten the safety of the climbers by approaching their climb gear. At this point the climbers decided to come down rather than risk their lives at the hands of aggressive workers.



This action is the first time ever that a dragline, one of the largest machines on earth, has ever been shut down in a protest, and is an important escalation in the fight against mountaintop removal.

"I've written letters, attended hearings and called my congressman, so far they have done nothing to stop the disastrous and unnecessary practice of mountaintop removal," said Charles Suggs, a 25-year old of Rock Creek, WV who was one of those climbing today. "It has come to the point when we must take direct action to abolish this practice that is immorally robbing Appalachian communities of their culture, their health and their future."



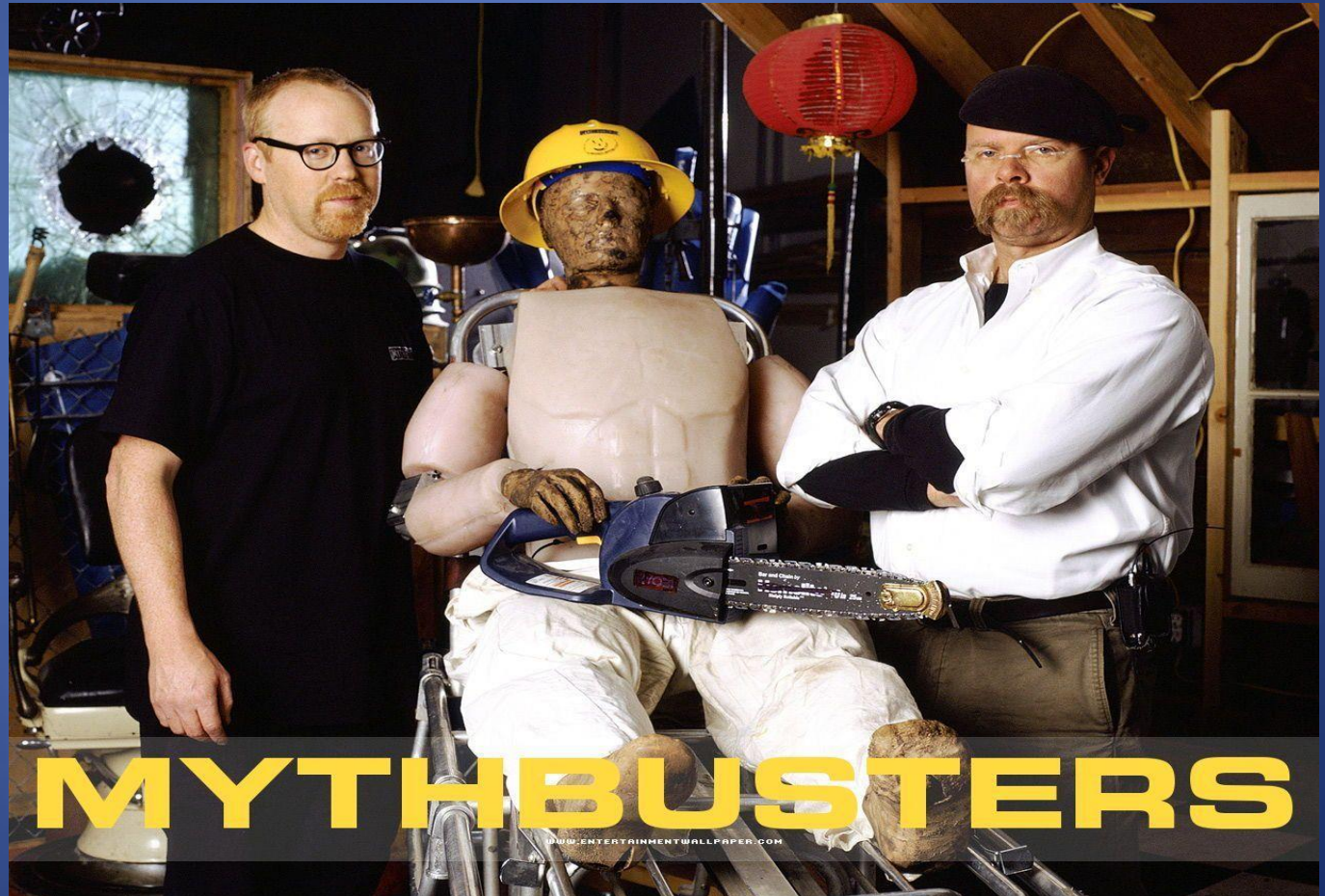








# MYTHBUSTING



# Myth 1: It's an Appalachian Thing





# MOUNTAIN JUSTICE SUMMER CAMP 2014

ANNOUNCEMENTS 🕒 APRIL 17, 2014 👤 BRANDON

{[Register at MountainJustice.org](http://MountainJustice.org)}

2014 will be the 10th Annual Mountain Justice Summer Camp and we are excited to announce that we will be back on beautiful Pine Mountain in Kentucky at the wonderful and wacky place called Wileys Last Resort.

Pine Mountain (elev. 2900 ft) is one of the most beautiful and biologically diverse mountains in Appalachia, and it has numerous hiking trails, mountain views, waterfalls, rare and endangered plant species, black bears and gorgeous forests. The mountain laurel will be in bloom during our camp and there is an abundance of wildflowers on the mountain.

Our Mountain Justice Summer camp will feature nine days of workshops, trainings, learning about coal mining and mountaintop removal and Appalachian history and culture. Our Summer Camp site overlooks a huge mountaintop removal mine on nearby Black Mountain.





## INDIANA BEYOND COAL

## Indiana Beyond Coal Campaign

Indiana stands at an energy crossroads where we can invest in clean, renewable energy; energy efficiency and conservation; or, we can choose yesterday's dirty energy -- coal. Our campaign is uniting people from across the state. Hoosiers want to move beyond coal to clean energy, and here's how we do that:

- Retire old, dirty, outdated coal plants
- Move Indiana Beyond Coal with greater investment into proven clean energy sources like wind and solar
- Educate citizens and decision-makers about the true cost of coal

For a list of Beyond Coal victories check out our Facebook page [here](#). You can also follow us on [twitter](#).

Thousands of Hoosiers are coming together to move Indiana Beyond Coal. Here are some of the activities we do:

- Collecting petitions and writing letters to decision-makers
- Researching and creating educational materials
- Organizing outreach and educational events
- Encouraging public outreach to decision-makers via

## Tweets

Follow

**Indiana Beyond Coal** 15 Aug  
@INBeyondCoal

Cleaner air coming to #Indy!  
@IPLPower announced it will stop burning coal at Harding Street power plant by 2016!  
[sc.org/IndyVictory](http://sc.org/IndyVictory)

Expand

**Power Indy Forward** 11 Aug  
@PowerIndyFwd

TOMMOROW: Clean up our air! A Night of Prayer and Action, 6pm, Friendship Missionary Baptist

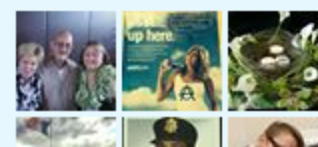
Tweet to @INBeyondCoal



Indiana Beyond Coal

Like

887 people like Indiana Beyond Coal.



## TAKE ACTION

Join our call for healthier residents and a cleaner city!

Add Your Name

TELL THE EPA:  
PROTECT  
OUR  
CHILDREN  
FROM BAD  
AIR

Breathing smog is like a sunburn inside your lungs. Our kids deserve healthy, clean air!

Take Action





Explore, enjoy and protect the planet



SUCCESSES

WATER POLLUTION

AIR POLLUTION

CLEAN ENERGY

GET INVOLVED

SEARCH →



Healthy Community Alliance

Chicago

Prairie State Plant

Midwest Generation

Victories

Get Involved

## BEYOND COAL ILLINOIS

Watch our new "Moving Illinois Beyond Coal" Video!

Illinois Chapter Jack Darin discusses our recent wins in Illinois to move beyond coal and to clean energy!

### Sierra Club Illinois: Moving Beyond Coal

Wet coal ash storage ponds [1], can leak into the groundwater.

Coal ash is not subject to federal protections [2], and state laws governing coal combustion waste disposal are usually weak or non-existent. The result: millions of tons of coal ash are being stored in ponds, landfills and abandoned mines. Many of these sites lack adequate safeguards, leaving nearby communities at risk from potential large scale disasters like the 2008 coal ash spills which contaminated Tennessee and Alabama.

### The Hazards of Coal Ash

Living near a wet coal ash storage pond is significantly more dangerous than smoking a pack of cigarettes a day, according to a risk assessment done by EPA. [3]

The toxins found in coal ash have been linked to organ disease, cancer, respiratory illness, neurological damage and developmental problems. People living with 1 mile of unlined coal ash ponds can have a 1 in 50 risk of cancer [4] —that's more than 2,000 times higher than what EPA considers acceptable.

Exposure to toxic coal ash can lower birth rates, cause tissue disease, slow development and even kill plants and animals, leading to changes in wildlife concentrations and disruptions in entire ecosystems. The toxic pollution from coal ash builds up in exposed animals and plants.



Sierra Club Illinois

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BeyondCoal Oregon Gr

## TAKE ACTION

Phase out the Edwards coal plant!

Send A Message

# TELL THE EPA: PROTECT OUR CHILDREN FROM BAD AIR

Breathing smog is like a sunburn inside your lungs. Our kids deserve healthy, clean air!

Take Action

# Sierra Club wants Indianapolis coal plant closed

Associated Press July 23, 2014 **KEYWORDS** COAL, ELECTRIC, ENERGY & ENVIRONMENT, INDIANAPOLIS POWER & LIGHT, REGULATION, UTILITIES, UTILITY RATES

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## RELATED NEWS AND OPINION

[Edwardsport plant rebounds in March after flat February](#)

[Plant shutdown date sparks fight between IPL, grid operator](#)

[IPL gets green light for Harding Street, Martinsville projects](#)

[Duke's Edwardsport plant slows to crawl in January](#)

[IPL moves to drop coal from Harding Street power plant](#)

The Sierra Club is pressing Indianapolis' local utility to retire an aging coal-fired power plant that's slated to continue burning coal for at least two more decades and has long been the capital city's biggest industrial polluter.

The environmental group and its supporters say the 427-megawatt unit at Indianapolis Power & Light's Harding Street complex threatens the public health with toxic emissions that cause respiratory woes in children, the elderly and others.

A resolution supported by the Sierra Club, the consumer watchdog group Citizens Action Coalition, neighborhood organizations and other groups was endorsed Tuesday by a City-County Council panel [calling for IPL to retire the unit](#) and replace it with a clean, renewable energy source. That measure heads next to the full council for an Aug. 18 vote.



# Myth 2: They Have Limited Resources



“Concerned citizens with their own time and money — through bake sales, selling chocolate candy — have had to fight these battles,” said Sierra Club Illinois Conservation Chapter chair Joyce Blumenshine during the press call. “We are really concerned about the status quo where there’s not enough scrutiny to protect water supplies.”



**United States Senate  
Committee on Environment and Public Works  
Minority Staff Report**

***The Chain of Environmental Command:***



***How a Club of E  
Foundations Con  
Movement a***

**Top Public Charity Activist Organizations**

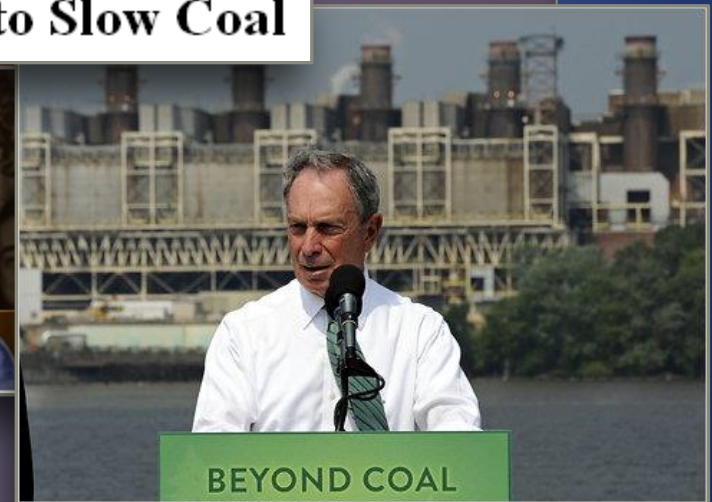
<b>Organization</b>	<b>Total Assets - 2012</b>
American Lung Association	\$31,049,040
BlueGreen Alliance Foundation	\$3,179,681
Center for American Progress	\$50,042,142
Center for Biological Diversity	\$12,282,335
Earthjustice	\$58,945,673
Environmental Defense Fund	\$208,751,208
Environmental Integrity Project	\$1,744,942
Greenpeace Fund	\$15,313,140
League of Conservation Voters Education Fund	\$7,545,946
National Audubon Society	\$450,334,791
National Wildlife Federation	\$66,456,891
Natural Resources Defense Council	\$268,165,564
Nature Conservancy	\$6,168,924,112
Sierra Club Foundation	\$98,974,748
Union of Concerned Scientists	\$8,195,448
World Wildlife Fund	\$450,932,452

# The Washington Post

Mayor Bloomberg gives \$50 million to fight coal-fired power plants

# The New York Times

Bloomberg and Sierra Club Join Forces to Slow Coal



**C40**CITIES  
Climate Leadership Group

“While international negotiations continue to make incremental progress, C40 Cities are forging ahead. Collectively they have taken more than 4,700 actions to tackle climate change, and the will to do more is stronger than ever. As innovators and practitioners, our cities are at the forefront of this issue – arguably the greatest challenge of our time.

—Mayor Michael R. Bloomberg



# Myth 3: They Have No Allies





HEAR  
THE  
TRUTH.  
JBL  
by HARMAN



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POWERFUL  
CAR AUDIO

SHOP NOW

## Jeffrey Joseph: The revolving door no one knows about in Washington

February 12, 2014 | By Jeffrey Joseph

When people hear about the proverbial "revolving door" in Washington, most envision the ever-blurring lines between congressional offices and high-powered K-street lobbying firms that [rely on](#) former staffers' contacts.

But that's just the start of the growing collusion between some of the [federal](#) government's most powerful regulatory agencies and special interest advocacy groups.

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Take the Environmental Protection Agency (EPA), for example. So many EPA staffers have been hired from the Natural Resources Defense Council, an environmental activist group with unabashed anti-business policy [goals](#), that one former employee called the tight-knit group advancing the NRDC's agenda at the EPA and on the Hill the "NRDC Mafia."



“I was in a meeting once and I gave an analogy to my staff **about my philosophy** of enforcement, and I think it was probably a little crude and maybe not appropriate for the meeting, but I’ll go ahead and tell you what I said:

“It was kind of **like how the Romans used to**, you know, conquer villages in the Mediterranean. They’d go in to a little Turkish town somewhere, they’d **find the first five guys they saw and they’d crucify them**.

“Then, you know, that town was really easy to manage for the next few years.”

“It’s a deterrent factor,” Armendariz said, explaining that the EPA is following the Romans’ philosophy for subjugating conquered villages.

Former EPA Regional Administrator Al Armendariz . . .  
 . . . Now with the Sierra Club’s “Beyond Coal”  
Campaign

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The Washington Post

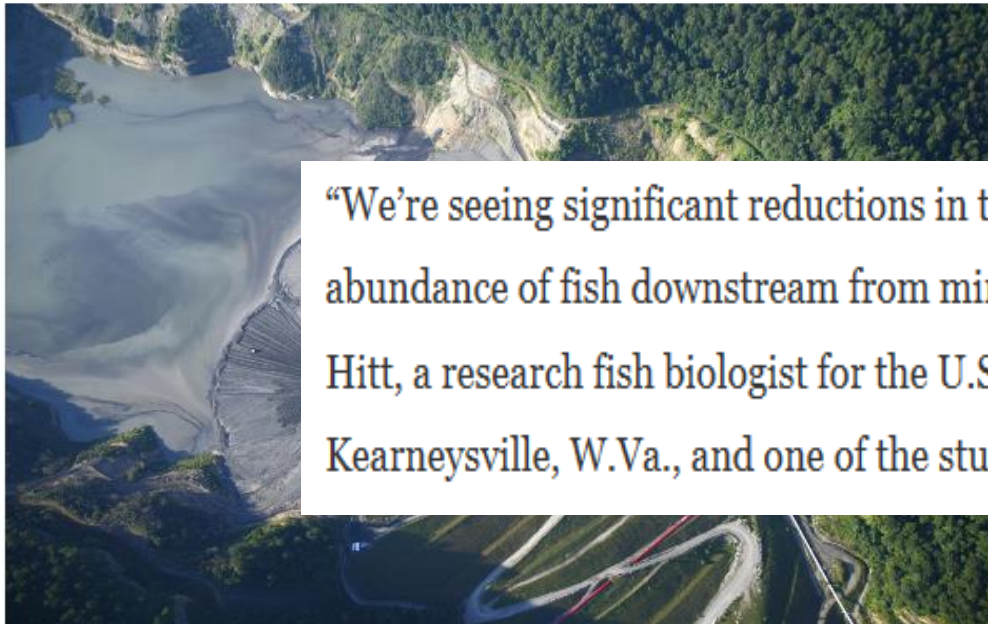
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### Health & Science

# Mountaintop removal for coal hurts water quality and harms fish, study says



A



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## Digger

“We’re seeing significant reductions in the number of fish species and total abundance of fish downstream from mining operations,” said Nathaniel Hitt, a research fish biologist for the U.S. Geological Survey’s office in Kearneysville, W.Va., and one of the study’s two authors.

built in greater  
Washington.



## ABOUT US



### Coal is an outdated, backward, and dirty 19th-century technology.

Not only is coal burning responsible for one third of US carbon emissions—the main contributor to climate disruption—but it is also making us sick, leading to as many as 13,000 premature deaths every year and more than \$100 billion in annual health costs.

The Beyond Coal campaign's main objective is to replace dirty coal with clean energy by mobilizing grassroots activists in local communities to advocate for the retirement of old and outdated coal plants and to prevent new coal plants from being built.

Our goals include:

- Retiring one-third of the nation's more than 500 coal plants by 2020
- Replacing the majority of retired coal plants with clean energy solutions such as wind, solar, and geothermal
- Keeping coal in the ground in places like Appalachia and Wyoming's Powder River Basin



## JOIN US

Mary Anne Hitt,  
Director, Sierra Club's  
Beyond Coal campaign

## TELL THE EPA: PROTECT OUR CHILDREN FROM BAD AIR

Breathing smog is like a sunburn inside your lungs. Our kids deserve healthy, clean air!

**Take Action**

### MOVING STATES BEYOND COAL

Select Active State



**Get Involved**

**SUPPORT THE FIGHT FOR  
CLEAN AIR, CLEAN WATER,  
AND A HEALTHY CLIMATE**

<https://twitter.com/ThanHitt>



**Than Hitt** @ThanHitt · [5 Dec 2012](#)

Take some coal out of your stocking this holiday season: <http://bit.ly/16tonsproject>



OK . . . So What Can We Expect?





# Messaging:





**Jack Darin**



Become a fan



Director, Sierra Club, Illinois

# Time to Protect the Prairie State from Coal Mining

Posted: 04/09/2014 4:44 pm EDT | Updated: 06/09/2014 5:59 am EDT

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Across the Illinois countryside, rural citizens are fighting for their livelihoods, **drinking water, farms, and future**, and they are asking if the State of illinois has their backs -- or not. Last week, these residents came together to **call on Illinois Governor Pat Quinn** and his administration to end the long era of state government promoting coal and protecting it from regulation, and to step up to protect the Prairie State from a new coal rush.

Protecting Vermilion and Champaign counties, IL from Coal mining

## STAND UP TO COAL



[Home](#) [About](#) [Sunrise Coal's Bulldog Mine](#) [Resources](#) [Press](#) [Get Involved](#) [Events](#) [Facebook](#) [Petition](#)

### Damage to Farmland

Coal mining on or under highly productive farmlands can have negative consequences for the land's productivity, both in the short term and the long term. Different mining techniques and waste disposal practices affect farmlands in different ways, but farmers and landowners need to be aware that coal mining can alter the topography, drainage, and fertility of agricultural lands, in addition to the negative impacts that may be had on local water and air quality.

**Room and Pillar Mining**

### Sign the Petition

Let village and county officials know that you support their efforts to protect our land, air and water from Sunrise Coal's proposed Bulldog coal mine - [sign the petition!](#)

**Landowner Education**



# Messaging: “Health” Impacts

Mother Jones

THE ALL-NEW BMW M4.  
0-60 IN 3.9 SECONDS.  
[Learn more](#)

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## Cancer Rates Higher Near Mountaintop Removal Sites

—By [Kate Sheppard](#) | Thu Jul. 28, 2011 7:00 AM EDT

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[iLoveMountains.org/Flickr](#)

Communities near surface mining sites suffer much higher rates of cancer than other parts of West Virginia, according to a new study published this week in the *Journal of Community Health*. The researchers conclude that there are likely thousands of additional cases of cancer in communities near mountaintop removal sites.

West Virginia University researcher Dr. Michael Hendryx conducted the study in several West Virginia counties earlier this year, comparing rates in a county without mountaintop removal coal mining to two where the practice is taking place.

# Mountaintop Removal Mining Birth Defects: New Study Suggests Controversial Coal Operations Linked To Adverse Health Effects

Posted: 06/27/2011 4:54 pm EDT | Updated: 08/27/2011 5:12 am EDT

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Researchers found "significantly higher" rates of birth defects in babies born near mountaintop removal mining sites than those in non-mining areas, according to a [new study](#) released last week.

[Mountaintop removal mining](#) is a particularly environmentally destructive type of resource extraction that involves using explosives to blow the tops off of mountains to expose coal underneath the soil and rock. The unusable dirt and gravel are then disposed of in adjacent valleys and streams. MTR is used prominently in the Appalachian region of the eastern United States.

The mining study, published in the journal *Environmental Research*, examined over 1.8 million live birth records from 1996 to 2003 using National Center for Health Statistics data from the central Appalachian states of West Virginia, Virginia, Kentucky and Tennessee.



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## Michael Hendryx

Professor  
APPLIED HEALTH SCIENCE

 [hendryx@indiana.edu](mailto:hendryx@indiana.edu)



 [Print-quality photo](#)

### Education

- University of Chicago, PD., 1986
- Northwestern University, Ph.D., 1986
- Northwestern University, M.S., 1985
- University of Nevada, B.A., 1982



# Programmatic Challenges?

- Adequacy of Reclamation Bonding
- Reclamation Practices
- Nationwide Permits (Corps of Engineers)
- Buffer Zone Rule
- Inactive Status/Not-Started Permits

# Permit Challenges?

- NEPA Challenges to Corps Permits
  - Health Effects
  - FONSI challenges
  - Mitigation plans
- NPDES Permit Appeals
  - Reasonable Potential Analyses
- SMCRA Permit Appeals

# Citizen Suits?

- Plaintiffs must show violation of NPDES Permit
  - Typically shown through DMRs
  - Some authority for relying on violation of wqs
- If successful:
  - Plaintiffs get attorney fees
  - Permittee pays penalties and must implement fix



# So . . . What Can We Do?

- “Love thy Neighbor . . . ”
  - Communicate with neighbors
  - Address concerns in advance
- Protests:
  - Train your workforce on what to expect
  - Consider steps against repeat trespassers
- Monitor the Internet
- Quality Control For Permits
- Counter False Messaging with the Truth