

**Legislative Hearing Follow up Questions Thursday, June 9, 2022**  
**Subcommittee on Energy and Mineral Resources**  
**Witness testimony on, H.R. 2073, H.R. 2505, H.R. 4799, H.R. 7283, and H.R. 7937**

**Respondent Elaine Tanner, Friends for Environmental Justice Letcher County Kentucky**  
**“Coal Community Protection and Revitalization”**

*“When coal companies won’t simply clean up the mess they have left behind.”*

**BROKEN PROMISES**

When coal was extracted using the practice of mountain top removal the work force went from 30-40 underground and support workers down to just a couple of equipment operators to mine the same amount of coal. Back in the 1980’s Nixon messed with the black lung benefits for miners’ widows. These families lived in coal communities and then cared for the family when the spouse could no longer breathe. In 1977 SMCRA was drafted to protect mining communities. The problems we face today are where modern-day mining practices shift of responsibility to where remined permits do not count and many of these modern-day mines fall through the cracks. If regulations had been implemented as planned, we would not be here. Short of supremacy over these failed agencies these bills may be the only responsible way we could possibly move forward.

The median age in my community is 46.7. Of our 230 residents we have 50 children aged 18 or younger. One third of the homes are unoccupied. It is recorded that 71% of the people here report 0 income. For years, these families went without clean water. Kids did not want to go to school when they could not properly care for themselves leaving the door open for the effortless way out. Perhaps funding education loan programs to get the youth to stay or after college come back home.

As we look at these numbers, it might be helpful if we could create programs that encourage youth to take part in agriculture and food study programs that would encourage healthy habits. We must create jobs to keep the youth here in the mountains just to sustain a workforce taking us into a just economy. This means 71% of our little community is surviving on a check. This leaves very little room for motivation to move out of a broken system.

A problem resulting in substance abuse and relying on a system feeds the problem. Understanding the social structure of mining community and how this contributes to these numbers must first be addressed. In my opinion if you continue to feed the problem and not replace the actions, people will fail at trying to change their habits. We need programs that work together requiring people to step up and take care of themselves. We have billions of dollars headed to our communities from all directions.

*Question...Tell us in more detail, what are your environmental justice priorities, and how are community-driven solutions leading the way?*

**ENVIRONMENTAL JUSTICE CONCERNS**

As you heard from my testimony like many others our community fits the profile. Industry seems to think that working out the messy details like fines and adding the infamous contemptuous reclamation

band-aids will fix things. This approach is not working. We must look past 1977 prelaw and address today's problems before we can create new ones. Word directly from the horse's mouth to mine is "our coal company plans to focus on reclamation." Thought they did that. **HR 2505** offers protection where the burden is not placed upon the communities. Here the buck has been passed down the line so far even the state questions what permit is where and in what status as they improvidently continue to issue permit renewals with these permits under review. If they do not know where one permit ends and another new company begins, then who does? Why should it be left up to the property owners to force the states to address the abuse of these federal regulations? Why did it take 20 years to get the attention needed to address the real problems? Passing the buck works for some because people get old and die off here in coal country. Some do not have the stamina to endure what it takes to see a path for change.

When I mentioned filing a petition under the SDWA in 2013 do understand that the act failed my community. For the first two years after testing results came in no one was told just how bad the water was. Under the SDWA 1431 Emergency Act we should have received bottled water within 10 days of the petition. Within 30 days a buffalo to hold water enough to operate our homes and care for our families. Within one year we were to have water lines run to our homes. The cost was to be covered under the act and they would address the who did it after the fact. Instead, the original funds from the federal program issued in 2006 were moved (illegally) to another community and had to be refunded in part by AML funds. When reported this was just brushed aside. This does not change the facts (documentation available) we may find ourselves there again if we do not properly address these violations with the proper administrative laws in place and the staffing to implement.

Addressing stabilization is a priority as is the cleanup. My written testimony addresses these many problems just in my backyard. Now it is time we do more than visualize this big picture. Please understand that we are not just talking about Millcreek. This would include the thousands of creeks and streams disturbed by mining activity. Hundreds of mountain tops dumped into our valleys and streams. We are talking about an entire region of mining communities left behind. We are talking about reclaiming the mountains left behind and stop these companies from hiding behind a wall of corporate moves shifting the responsibility off onto the people.

*Question...What do you think are the best ways to turn things around?*

### **ENVIRONMENTAL PRIORITIES**

Kentucky's own Representative Yarmuth gives us a starting point under the proposed ACHE Act introduced as **HB 2073**. Health studies will show the true effects we already know from past mountain top removal sites. Industry fears this bill will stop MTR mining. This is an opportunity to move forward towards a just transition in a green economy. We cannot continue to blow off the tops of our mountains knowing the environmental and social impacts of the past still plagues our mountain communities. As an environmental justice community, it is unjust to continue exploring new methods of extraction when we are still under threat from existing problems that are yet to be addressed and funded into the future.

Representative Cartwright's **HB 7283** Stream Act has bipartisan support. We have seen these programs fail our people in the past. The work ahead is to connect the funding coming into Appalachia to the people in need.

Keep these funds out of the hands of the industry as **HB 4799** suggests to "Close the loopholes" is addressed under this Coal Fairness and Communities Investment Act. Please remember this is about the people not the party where we just need someone to care. Reach out to your colleagues and ask for their support. Keep lifting these bills up to a level of acceptance for protection of a culture that kept the lights on for generations.

*Question...What would environmental justice look like in your community?*

### **COMMUNITY DRIVEN SOLUTIONS**

Environmental justice is part of a movement created to address underprivileged communities from unjust exposure to harms associated with resource extraction, hazardous waste and other land uses.

As a frontline community outreach organization, we feel it is important to reach the people. For many years our people have felt helpless against trying to challenge these corporations' cookie cutter permit applications. Time after time these agencies side with the corporations and the people are left to spend decades of their lives fighting for environmental justice. In the past, permit actions were approved and sanctioned by these state agencies regardless of the mistakes uncovered along the way. We have literally spent the past 20 years trying to find environmental justice for this place we call home. The projects we had in mind were for a much younger people ready to address the physical labor it would require planting the 300 trees per acre here on the disturbed parts of the mountain. We would be prepared to open the educational center here on the mountain and showcase how we were able to irradiate the lespedeza the autumn olive and the kudzu that smothers out indigenous plants that were destroyed from past mining. What we got was hydro spray on everything from a tree stump to a pop can in order to cover up the forgotten reclamation and failed attempts to keep these sites in line with permit actions.

*Question...Ms. Tanner, coal companies said for years that they would take care of the communities they operated in, providing work, healthy pensions, and good healthcare – as well as promises to clean up after themselves. That isn't happening. Do you agree that this is an environmental justice concern?*

### **ADDRESSING THE MESS**

Having an opportunity to address these real issues on this level of legislative policy is a good start. For centuries our Appalachian communities have taken the blunt of fossil fuel development with relatively little support from the outside. Sending money to our states does not necessarily guarantee the programs are working. Perhaps consider a task force set up to oversee each community receiving funds. Have this as part of a requirement to receive funds and then have someone set to check on them. This is Kentucky and we know what we are up against. State auditors are not the best choice and, in the past, may not have had the capacity to follow these funds. Creating public access to the spending records would eliminate some problems and likely address transparency.

We need supporting bills that will greatly benefit Appalachian workers and their families, and we need to make sure they remember our region when writing these bills.

It has been suggested that we could be reviving and modernizing the Civilian Conservation Corps, expanding clean manufacturing technologies, building sustainable transportation systems such as electrified buses, and investing in energy efficiency practices and renewable energy sources. We could achieve our climate goals while implementing community labor standards and launching pre-apprenticeship programs, prioritizing coal communities who would otherwise be left behind in the energy transition period.

### **SAMPLE PROJECT LIST**

Please see the list of projects that could be duplicated to fit any number of mine sites throughout the region. We no longer hold the 501 3c status. The wait to get to the mountain took too long and today we are focused on the administrative parts to find some relief. We have been in administrative review and in the circuit courts since 2008.

Just in the two years we have been on the mountain we have built a high tunnel for extending our growing season. When reality set in the MTR site was not doable and we moved the project to the workspace in the valley to have access to electricity and water. We have cleared several sites for building the mentioned projects at ground zero and are in the process of setting up a sawmill to do the tiny houses for our training and tours. Time will tell what we are able to accomplish. Parts of the property are still under permit control, and we do not have access to do work on some of these areas.

**Kelp Remediation** [https://docs.google.com/document/d/1HY-sR-BDMiypkEAwE8baSWZM0Mhy5gqdtNR6TTz\\_lgs/edit?usp=drivesdk](https://docs.google.com/document/d/1HY-sR-BDMiypkEAwE8baSWZM0Mhy5gqdtNR6TTz_lgs/edit?usp=drivesdk)

**Solar** <https://docs.google.com/document/d/1W5LMOBysLNR0u4hVMnesG2-0cl4ozWOiGZReNujUlx8/edit?usp=drivesdk>

**MTR Gardens** [https://docs.google.com/document/d/16KD88QuaEA3bWDQz3lmjNz0q3qNlxdP\\_xNp-g4Alz8Q/edit?usp=drivesdk](https://docs.google.com/document/d/16KD88QuaEA3bWDQz3lmjNz0q3qNlxdP_xNp-g4Alz8Q/edit?usp=drivesdk)

### **Ground Zero**

<https://docs.google.com/document/d/1789Ew3komCnIO9SFFllzc1m9P8CyygUcWEjAkIAHQ/edit?usp=drivesdk>