

WRITTEN TESTIMONY of ELAINE TANNER  
JUNE 9TH, 2022

**BEFORE THE ENERGY AND MINERAL RESOURCES SUBCOMMITTEE LEGISLATIVE  
HEARING  
HOUSE COMMITTEE ON NATURAL RESOURCES**

**“Coal Community Protection and Revitalization”**

Good morning, Chairman Lowenthal, Ranking Member Stauber and distinguished members of these Subcommittees. First off, I would like to thank you for this opportunity to share my thoughts on the need for continuing funds to support our coal communities as being presented to this committee. As I present my shared testimony, I will discuss the many ongoing events taking place in our mined-out communities. My name is Elaine Tanner, and I am the founder and now program director of a frontline community outreach organization called Friends for Environmental Justice (FFEJ). We started FFEJ back in 2015 out of necessity after realizing there were other people living in impacted communities where regulations had failed to provide people with very basic needs.

But foremost I want you to know that I come to you today as an impacted citizen living at ground zero in a remote mined-out community. I had been working across this country with many coalitions and alliances around impact issues of fossil fuel extraction for many years. My partner bought his family's property, and our lives became much more focused on that mountain. This helped bring our legacy of working on mining issues to the forefront and made it personal. Today I want to get personal with you. I want to tell you my story.

Jimmy Hall Sr. is my partner of 30 plus years, and he grew up on the mountain where we now live. We started our mountain journey back in 2002 when his uncle passed away. At the time we were living in Ohio and would visit the mountain monthly. It was clear that the mountain's headwaters had water quality issues and damage had been done to our aquifer. Jimmy purchased the property from his uncle's estate and closed in early 2004. At that time, we had been stripped and gutted three times; the mountain has now also been fracked. We were fortunate to find many like-minded residents living in these mountains who also wanted to address the same issues Jimmy and I had been fighting on our own for several years. We retired to the mountain two and a half years ago.

We had a plan to spend the rest of our lives on this mountain. We live outside a small mining community of Deane in Letcher County, Kentucky. This is the place where my partner was born. It is a place where his family cared for the mountain, streams and land for many generations; a place we will be laid to rest up on the hill with the many generations before us. Little did we know that to be here we would have to work so hard to ensure the mountain will sustain the future we have planned. We knew we were headed for a different lifestyle, but we were not prepared for the experiences living here on the mountain at this point in life in our late

60's and early 70's would bring. What we have uncovered in these past few years has taken us down a path that even the ancestors would not believe.



Image: a portion of the mine adjoining our property.

We had no choice but to live with the permit agreement Jimmy's uncle made with Consol Coal to mine 135 of the family's 245 acres. What we could not live with is Consol Coal neglecting to complete high quality reclamation of our land. Much of the land still looks like a blast zone.. At one point we(?) discovered the coal company claimed ownership to the property, having falsified state permit documents so they could change the mining plan and escape properly reclaiming the disturbance left behind. We discovered this while trying to address the lack of reclamation through Kentucky's mining agency administrative court. The original mining permit mentions reclamation plans that mysteriously changed in later versions. The original plan promised 300 trees per acre, but was then changed without proper notification from forest reclamation to "fish and wildlife habitat," which is essential just hydroseeding with grasses. We lost three wells and neighbors had more lost wells to depletion of groundwater, which was likely a result of blasting fracturing underground rock layers. How easy it was for them to neglect to reclaim the mine as outlined in the reclamation plan, and fail to address their impacts to our drinking water. And the state mining agency let them get away with it. .

**DRINKING WATER IN OUR COMMUNITY.** Around 2011, when we had our three wells tested, we were told by the Kentucky Division of Water (DOW) that it was only safe to flush our toilets with the water from our wells. But then the Division of Mine Reclamation and Enforcement claimed there was not enough evidence to prove that mining had caused the groundwater pollution. The DOW told us not to touch the water or use it for cooking or bathing as it was toxic, having been contaminated by arsenic. The state agencies did not proactively reach out to other nearby residents who also used well water, even though it seemed obvious to me that their wells might also be contaminated. Kids were having seizures and young women were experiencing gallbladder attacks at an alarming rate. When we went door-to-door to investigate who had water concerns it seemed like every other house had experienced cancer of some sort.

These are not isolated issues. This is life in a mined-out community. It is estimated that we still have fifty percent of the homes here in Letcher County relying on well water. We need clean drinking water and long term treatment of our polluted streams..

**TRACK THE FUNDING.** In the past I have uncovered Kentucky AML funds allocated to pay for our water lines here on Millcreek had been misappropriated to another nearby community. This cannot be. Speaking from experience, knowing these new federally funded projects are sending available funds to local county agencies, we must demand transparency. Distribution of these funds holds a responsibility to the point there should be consequences should they fail to do so. When dealing with Abandoned Mine Lands (AML), misuse of funds could result in states losing the right to administer mining programs under SMCRA. In my experience dealing with the regulatory process, the system has failed us as community members. For the past two decades we have tried to find some sort of solution to the misuse of power given to mining inspectors and to the Kentucky Energy and Environment Cabinet.. Because of this misuse of power today we face a multitude of problems stemming from failed regulations and failed enforcement by the Kentucky Division of Mine Reclamation and Enforcement. Consol Coal walked away leaving high walls and boulders falling down the slope towards our houses. Mudslides are a seasonal occurrence here on Millcreek.

**MINE IMPACTS.** Today we live in fear of another a rainfall event like the one that recently caused a mudslide to bring down trees and jam up the waterway behind our home. Back in 2021 the waterway filled with mud, the water came over the banks within fifteen feet of our house. This happened in the middle of the night. The mudslide headed for the creek and continued to do so for two days.



Image: mud and debris after a heavy rain fell on the mine behind our house in 2021.

Since 2003 we have protested several actions on these old permits and have been able to prove the bonds were prematurely released. This forced the state to order the bonds back for reclamation purposes. Although limited in coverage, the new coal company (Deane Mining Quest)) was in negotiation to pay state fines and jumped on the remediation immediately. Safe for now.

To date we have stopped six permit for additional mining in our community. We will not stop there as we have this same permit behind our house in mediation addressing all the issues we have faced since a third company (Deane-Quest) came into play. We began fighting for reclamation to be completed in 2008. Since then, we have been stuck in litigation.

Consol Coal has changed the reclamation plans, and made false claims about land ownership. I believe they do this to avoid doing additional reclamation work. Further complicating the situation, the site also has AML problems. But since it was re-mined after SMCRA, that limits the site's eligibility for AML funding. Some reclamation has been done, but more work is needed. The mined out underground seams still fill up with water and risk creating blowouts from the hillside. Water pollution is ongoing. The highwalls and regrading must be completed so that the land is stable and does not risk dropping boulders onto our houses below.

**COAL SLURRY.** High on a nearby mountain there is a slurry pond held back by an earthen dam. The Army Corp of Engineers suggests most earthen dams are planned to last only 30 years.



Image: coal slurry pond above Deane, KY.

The coal slurry dam in the above photo could cause a considerable amount of damage should the dam be breached and millions of gallons of coal slurry full of heavy metals be released. Such a flood would kill people, destroy homes, and leave toxic material on land and in streams for years. Past slurry dam failures have washed out entire communities. In my opinion these are events just waiting to happen.



Image: wastewater below a slurry pond in Deane, KY.

For well over a decade, I have been testing a site (pictured above) where wastewater from a slurry pond enters Rockhouse Creek. The EPA suggested a benchmark of 300 ppm for conductivity in Appalachian streams. This site frequently tests at 1,900 ppm and over.

As many of you know, lithium is a desired precious metal, and we need lithium to transition into a green future. The Department of Energy has funded studies to extract these

precious metals from the slurry ponds to obtain these needed materials. It was told to me they will be extracting the slurry out of the ponds and spreading out the slurry to dry, then transport it by train to a processing facility in the next county. Cryptocurrency and bitcoin mining is of concern as an act of mining. People say the noise from these facilities can be heard for miles away 24 hours a day, not to mention the energy used to create the power to operate these massive cooling systems. We are very concerned about the environment and what will become of our health with these unregulated practices taking place. Please see the provided links for additional information on what dangers may be in our future.

**OUR HEADWATER.** When I think of water, I think of cool, clean water much like a child when we played in as children a creek in the Daniel Boone National Forest at my grandparent's. Our creek was not impacted by mining nor discolored by acid mine drainage that we see all around our mined-out Appalachian communities.

Mill Creek is the headwater on the left fork of our holler, and I live on the right fork. Back in the late 1940s and early 1950s May Coal Company mined the mountain behind the headwater of Millcreek located just over the mountain in Knott County. We are working on the acid mine drainage that is coming in from these mined areas. In the early 2000's Consol Coal re-mined this area and nicked the old mined-out seam. Some remediation took place around 2006. No new mining has taken place since then, but today the old mine keeps pouring mine acid out of numerous portals saturating the bench area above our homes sitting in the valley below. Acid mine drainage destroys our aquatic ecosystems, leaving dead streams behind. The funds we need to treat these rivers and streams will be needed forevermore.

If we have adequate funding we could start projects to filter the water and use it for community use, we could have a sustainable and reliable source of water for our future. I have only worked on a small number of acid mine drainage sites around East Kentucky — there are many more. I requested testing and inspection and investigation of this site three different times since we moved here. My last request was sent in December of 2021; we have yet to hear from the inspector. Remediation for acid mine drainage projects are rarely funded due to being low on the priority list. Let's see what we can do to change this and put the jobs in the hands of the minorities and displaced workers and away from these corporations that just keep changing their names and pocketing more money without doing what needs to be done. They don't care. The people who live here do.

In February of 2020, shortly after we moved to the property, I was headed down the holler and noticed a thick substance (like a milkshake the color of coffee with cream) filling the creek running alongside the road. I quickly looked for signs of the same coming from our right fork and nothing was noted. Early the next day I hiked up to the headwater and discovered a mudslide had blown out of the side of an old mine cavity, knocking down everything in its path of destruction. A similar event took place in 2004. This is another site that was re-mined after the passage of SMCRA and is not eligible for AML funding. I reported this to the Division of Mine Reclamation and Enforcement, and the inspector came out immediately to evaluate the situation. However it took them one year to fix the problem. Today there are more issues with

this site as there will always be issues in this location that we must deal with. What happens when the coal company leaves? What happens when there's no funding to protect the people down below? What happens when there's no inspectors walking around the side of the hill to inspect what's going on? Just to begin to stabilize the many slopes that continuously slide onto our roads and our homes will be monumental. To continue to fund these programs will take an act of Congress. We need to bring back the original contour on these dangerous highwalls and effectively prevent steep cliffs from dropping boulders the size of a room sliding down on our beds while we are sleeping. We know we have a long journey ahead of us. We also know that with the proper funding and guidelines in place, we hope to survive and no longer be listed as collateral damage for these industries. Actually, we want to thrive.

**FACTS.** According to the federal AML inventory, it will cost at least \$21.2 million to remediate the 104 AML sites that have been identified and inventoried in Letcher County alone. The need to support this bipartisan bill under the Stream Savers Act is the way to continue collecting just a part of the funds needed to protect our communities from this legacy mining as these old mines continue fill up with water and dump havoc on our people and these mountains we call home.

**FUTURE MINING.** I urge Congress to limit additional mountaintop removal and surface mining in my region. Remember the environmental justice communities have already paid the price for coal. Global violence and the rise of crypto mining are both creating new demand for dirty fossil fuel energy. Our communities need good jobs and hope for a good life for their families. But they need better options than more coal mining, and an influx of crypto mining centers. So, let's create good jobs for our people as we heal our hollers and restore our streams and rivers. But most of all, look at post law mining and investigate where we can fix what should not be left behind.

**WHAT WE NEED.** These extreme problems have been going on for years and will continue as our mountains start to crumble and fall. I am afraid for our future. East Kentucky communities need help to move forward into a healthier and more fair future. We do not need more mountaintop removal coal mine permits granted in our region. We need the mines that are already here to be properly reclaimed. Coal companies should be the primary part responsible for doing the reclamation. The Coal Cleanup Taxpayer Protection Act would improve reclamation bonding practices. And the RENEW Act would provide a safety net of funding when existing bonds don't provide enough funding for reclamation.

I am happy that the AML program received so much additional funding recently. I would like to see AML projects in East Kentucky benefit local communities and incorporate community input. Acid mine drainage from AML sites is still a big problem in my region. The STREAM Act is vitally important for allowing AML funds to be used to clean up acid mine drainage.

If funding can be brought back into our communities to help create programs that will sustain our future here in Appalachia, then it should be done. It is a beautiful place here in the mountains and so worth protecting and, even better, do what we can to preserve what is left after being stripped, gutted, and fracked with reckless abandon.



Thank you for this opportunity to share my life and work with you, and thank you in advance for your support.

## **SUPPORTING LINKS**

Millcreek Headwater Event 2020

<https://photos.app.goo.gl/A4phAGjyA8Wxy2Mh6>

Photo album of event on left fork blowout 2020

<https://photos.app.goo.gl/ytTSbrdnZmZ111Br7>

Right side of left fork coal property deep in the portals

<https://photos.app.goo.gl/X6yxiE5bDncxKSuD9>

Backdoor view

<https://photos.app.goo.gl/rvE1BRgRqiLa7bdd2>

Behind our house

<https://photos.app.goo.gl/eABkSwhvjrZ9A2Sp6>

Above our house

<https://photos.app.goo.gl/yRCifVW2hMoCKvjN6>

Slurry pond at tipple

<https://1drv.ms/u/s!Ap44qtYf9-c0oB8IWBC997SK26eN>

Link to American Resources

A new reason to protect our mining communities

<https://www.accesswire.com/644621/American-Resources-Corporation-Selected-as-a-Consortium-Member-in-US-Department-of-Energy-Contract-to-Assess-Northern-Appalachian-Critical-and-Rare-Earth-Elements>