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The ACT Foundation is a division of The West Virginia State Building and Construction Trades Council, with offices in Charleston and Clarksburg. Steve Burton, President; Roy Smith, Secretary-Treasurer; Steve White, Director.

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NONUNION APPRENTICESHIP PROGRAM ILLEGALLY SCREENED WORKERS

NLRB Sides With Carpenters in Unfair Labor Practice Case

The National Labor Relations Board (NLRB) will side with the Mid-Atlantic Regional Council of Carpenters (MARCC) in Federal Court on April 15 when they square off against Lee Reger Builds Inc. over numerous violations of labor law during an organizing campaign.

Starting in May of 2001 charges were filed with the NLRB after the management of Lee Reger broke several labor laws trying to stifle a strong push for union representation by a majority of its workers.

More than 30 charges were

originally filed against Lee Reger. Some of the most outrageous ones include the unlawful firing of 16 workers for being union sympathizers as well as interro-

ers bargaining agents.

According to Leroy Stanley, Senior Organizer for MARCC, he hopes to see three things come out of this hearing.

'APPRENTICESHIP PROGRAMS ARE FOR LEARNING, NOT SCREENING OUT UNION SUPPORTERS.'

DICK ULLUM, ASST. EXC. SECRETARY, MARCC

gation, coercion and threatening workers with "deunionizing", pay cuts and deduction of benefits.

Lee Reger's actions were so serious the NLRB skipped the election process and simply recognized MARCC as the work-

First, MARCC wants Lee Reger to bargain in good faith with the union to reach a contract, which would include a living wage and benefits for its workers.

Secondly, the company must reinstate the 16 workers who

were unlawfully fired and pay them back pay.

Finally, MARCC expects Lee Reger to post notices of workers' rights at all of its job sites.

"It's a shame that workers have to put their jobs on the line when they ask for representation to get them a decent wage and benefits," said Stanley.

Part of the reason these workers wanted representation is because Lee Reger was mis-classifying workers at the federal prison in Glenville.

According to the Federal Department of Labor the company didn't adhere to prevailing wage law and owes workers thousands of dollars in back wages.

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DOL Issues Cease and Desist Notice

The Division of Labor (DOL) issued a cease and desist order to Virginia Building Systems for not getting a West Virginia contractors license.

The company didn't post a proper wage bond before beginning work on horse barns at The Greenbrier.

According to DOL rules the company has five days to comply with all regulations for which it received citations.

"One of these days out-of-state companies will learn that when you cheat in West Virginia ACT will hunt you down," said Wayne Rebich, ACT Representative. "The Greenbrier should take responsibility for companies illegally operating on its property."

VIRGINIA BUILDING SYSTEMS from Staunton, Virginia got caught building this horse barn at the Greenbrier without a West Virginia Contractors License or a wage bond. ACT's Wayne Rebich complained to the WV DOL which in turn issued a cease and desist order.

UNIONS PAY NO DAMAGES, ADMIT NO FAULT

Labor Ready Suit Against Unions Is Finally Settled

Labor Ready Inc., the national construction temporary agency, and local union members have agreed to settle the remainder of their ongoing legal battle out of court.

"It's unprecedented in my 25 years of practicing law to have a plaintiff, like

Labor Ready, file such an enormous suit seeking hundreds of thousands of dollars in damages and then

beg to dismiss it without collecting any money," said Stuart Calwell, ACT attorney.

Due to a confidentiality agreement, few details about the settlement were released. What is known is that neither side admitted any wrongdoing and the union did not pay Labor Ready any money.

"This supports our position all along that the suit was baseless even though Labor Ready admitted no wrongdoing."

The case stems from organizing activity launched by various unions starting in 1996.

Labor Ready first opened an office in South Charleston, then Huntington, to dispatch temporary workers.

Led by the Tri-State Building Trades an organizing effort was started among Labor Ready workers and picketing activities followed at Labor Ready offices and sites.

Labor Ready claimed several union members violated labor law by engaging in secondary union activity such as coercing customers not to do business with them.

The unions maintained they did nothing wrong.

Union attempts to organize Labor Ready led to the arrest of ACT representative Donnie Huff

the first round of this case. Late last year Federal Judge John Copenhaver dismissed two counts of the lawsuit saying the National Labor Relations Board did indeed have jurisdiction over the case and its remedies would be carried out.

In addition the National Labor Relations Board had issued a ruling that the suit against Tri-

State and a long list of unions and representatives was an illegal act of retaliation.

Tri-State Building Trades attorney Lafe Chafin had the

knowledge and experience to know that the suits were nothing but a smoke screen intended to impede organizing efforts.

Therefore he filed Unfair Labor Practice Complaints and the NLRB agreed.

"I think the NLRB rulings had a lot to do with this case settling," said Steve Burton, business manager at the Tri-State Building Trades.

But Burton points out the fight against Labor Ready has been a tough one. "This is a huge national company that set out to break us. Thanks to the support of ACT we held our own."

"We settled because it was the best move for our membership," said Burton. "I feel confident we, a little labor group in West Virginia, came out on top of this David and Goliath contest."

For more details on the settlement contact your business agent.

for ignoring Labor Ready's illegal "no solicitation" policy.

In a ground breaking legal case the NLRB has already ruled the solicitation policy to be an unfair labor practice.

Labor Ready challenged that ruling to the business friendly Fourth Circuit Court of Appeals and lost.

Shortly afterwards the company sued several union members and locals claiming they had committed various crimes such as trespassing and assault while picketing a job site.

ACT was prepared to hold its position that all of the union members' activities were lawful because Labor Ready had not presented any credible evidence to suggest otherwise. Labor Ready had no customers willing to testify that union members had coerced them into not doing business with the company.

Labor Ready had already lost

ACT Wins, Loses at WV Supreme Court

Two recent Supreme Court actions regarding the construction of the \$110 million Big Sandy power plant in Wayne County provided mixed results for working families.

The good news is the court sided with ACT on the ACT v. PSC case. The bad news is the court voted 3-2 not to hear ACT v. Big Sandy and the Wayne County Commission.

The State Supreme Court's favorable ruling on ACT's appeal of a Public Service Commission's (PSC) decision set some important precedents that will positively impact future projects.

lawyer.

Regarding whether or not the complaint should have been heard the court said "In dismissing ACT's Complaint, the PSC erred in finding an absence of ACT standing and in holding that Big Sandy was not a public utility subject to PSC authority."

The PSC claimed ACT couldn't complain after the permit was issued because it did not seek intervenor status earlier in the application process.

The Court also looked at whether or not the PSC should have revoked the permit because the industrial revenue bonds issued to Big Sandy were not in the best interest of the taxpayers.

On these matters Justice Jo-

'THIS RULING WILL HELP US MAKE SURE PROMISED JOBS GO TO LOCAL WORKERS'

ED BOONE, Bus. Manager PLUMBERS/FITTERS 152

ACT had been denied the right to file a complaint against Constellation Power and the misrepresentations made in their filing for a certificate of necessity and convenience. The certificate allowed the company to construct the power plant.

ACT fought the power plant's construction because contrary to the original proposal, the plant was being funded with public money and no local workers were being hired.

"This decision will make it much easier for all interested parties to voice concerns about public works projects in the future, regardless of early involvement," said Vince Trivelli, ACT

seph Albright wrote, "...the PSC erred in failing to thoroughly scrutinize allegations of misrepresentation regarding internal funding and economic impact. ...the public interest requires that representations of benefit to a local community which underlie a certificate application or the intended use of public financing require the PSC to fully consider such representations and require continued compliance therewith to assure that the public funding mechanism assure such compliance."

While the Supreme Court didn't overturn the PSC decision, it said ACT had every right

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Session Yields Positive Results

Although the end of this year's regular legislative session put many positive changes on the books for working people, some important legislation met an untimely end.

A labor-backed bill was passed to set up a mechanism to fund economic development projects such as the Victorian Outlet Mall in Wheeling, the new baseball park in Charleston and Pullman Square in Huntington.

The bill includes the creation of a committee by the governor to oversee \$220 million dollars in economic development projects.

Also the bill requires all of these projects be subject to prevailing wage and competitive bid laws.

Bundled in this economic development bill was a rewrite of the Super Tax Credit. A proposal to add a credit based on the number of construction jobs created by a project was striped out of the bill during the last few minutes of the session.

The Legislature also passed a Tax Increment Finance bill. Four years ago ACT opposed this

measure when it was put before the state's voters as an amendment to the state's constitution. "The Wise administration addressed all of our concerns about the bill including a requirement that all projects using this incentive be subject to prevailing wage, competitive bid and open record laws," said B.B. Smith, ACT Legislative Representative.

This economic development legislation is aimed at revitalizing communities with new businesses by offering the businesses relief with their property taxes.

Another important bill passed, thanks to lead sponsor Sen. Jon Hunter (D-Monongalia), will allow workers to count wages earned on national guard duty toward their work record for unemployment benefits.

"This bill was especially important to construction workers who serve in the Guard because they often have no job to come back to due to the temporary nature of construction work," said George Pinkerman, Busi-

ness Manager for the Boilermakers Local 667.

Despite the good news, legislators opposed some of the legislation important to West Virginia's working families.

The apprenticeship requirement bill faced opposition from contractors and some other labor unions and didn't make it very far in the legislative process.

"We'll continue to work on this bill for next year because its

companies to finance and build road projects such as Rt. 35, Rt. 522, Rt. 2 and Southern Coal fields highways.

"It is undemocratic that Harold Micheal can defy the will of the majority of the legislature by tabling a bill," said Jon Deutsch of the Constructors' Labor Council, a union contractors association which originally sponsored the bill.

The Legislature passed a bill that allows WVU to give away land and funds for research and development.

The House version of the bill included

no definitions of economic development or public notice.

"Fortunately, the bill passed with a few changes such as a requirement that any economic development had to be a direct result of the research conducted at WVU," said Jim Bowen, President of the WV AFL-CIO.

"This will keep WVU from giving land to Wal-Mart."

Another labor-backed bill, led by Del. Mike Caputo, D-Marion, aimed to regulate over-

weight coal trucks died during the last week of the session.

The coal truck bill took several forms during the session but like the public/private road bill it ultimately died in the infamous House Finance Committee.

"People are being killed by these illegal, overweight trucks that race down the hollows," said Randy Atkins, Business Manager for Teamsters Local 175.

"And the Legislature's response is to study it for another year while even more people could be killed."

The Legislature passed a Division of Labor bill, which holds companies responsible for keeping workers' identification records on the job site for purposes of checking payrolls and other state law requirements.

"This law will make it much easier for the DOL to enforce its laws," said Roy Smith.

"Too many companies, always from out-of-state, bring workers without proper identification."

"ACT and the State Building Trades would like to thank all of its members who participated in the legislative process to try to make West Virginia a better place to live," said Smith.

'PEOPLE ARE BEING KILLED BY THESE ILLEGAL, OVERWEIGHT TRUCKS THAT RACE DOWN THE HOLLOWWS.'

RANDY ATKINS, BUS. MANAGER, TEAMSTERS LOCAL 175

core concept is a very good one," said Roy Smith, Secretary-Treasurer of the WV State Building Trades.

Unfortunately a few members of the House Finance Committee decided to kill the public/private partnership road construction bill.

With labor-management backing this bill passed the Senate 34-0 and one committee in the House.

It would have allowed private

SUPREME COURT

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to appeal the actions of the PSC.

The opinion, written by Justice Albright, stated: "We find that the PSC had the authority to revoke or suspend the permit or to impose monetary penalties during the construction of the facility."

The PSC claimed it didn't

have authority to regulate Big Sandy because the company was selling electricity on the wholesale market and not directly to local customers.

"This ruling will help us make sure promised jobs go to local workers," said Ed Boone, Business Manager for the Plumbers and Pipefitters Local 152. "For

proposed projects, like the one near Morgantown, we need to know that these companies will be held accountable for their promises."

Although the court gave a favorable decision on the PSC case it declined to hear a different case regarding the same project.

ACT had asked the court to review the actions taken by the Wayne County Commission when they agreed to issue industrial revenue bonds for the project.

ACT's position was industrial revenue bonds were issued in error because they were meant for alleviating unemployment and

that didn't happen in this case.

Big Sandy got the bonds even though they hired very few local construction workers and only three permanent employees.

Justices Starcher and McGraw were out voted by Justices Davis, Albright and Maynard in the court's decision not to consider the case.

ARMY CORPS OF ENGINEERS SHOULD SUPPORT LOCAL WORKERS

Workers Picket Nonunion Company

Me m b e r s o f t h e Operating Engineers, Iron Workers, Bricklayers, Cement Masons and other crafts demand local workers be hired at the Marmet Locks and Dam project near Charleston.

The picket line went up after the Corps of Engineers gave a \$1.5 construction contract to Tab Construction of Shinnston, without requiring Tab to hire local workers.

Because Tab is a 'disadvantaged business enterprise', the contract was awarded without going through the bidding process.

"The Corps isn't being fair to local union workers," said Tommy Plymale, Business Agent for Operating Engineers Local 132.

"Their tax dollars fund these projects right in their backyards but they don't see any

benefit from it.

"Although this is a small project, it is still very important to us," said Plymale.

"On the one hand we need all the work we can get, and on the other this is just one of three local Corps projects we need to make sure local workers build."

The other two local Corps projects are the London Locks and Dam and a second job at the Marmet Locks.

OCCI of Missouri was awarded a \$17 million project at the London Locks and Dam last month.

OCCI has not yet begun construction on the project.

Discussion between OCCI and the Trades are underway but no agreement has been reached.

"We have yet to see if any local workers will be hired for this," Plymale said.

Another project at the Marmet Locks should be awarded in two months. Proposals are currently under review by the Corp. Requests for proposals on this \$100-\$250 million project were due March 15.

"West Virginia has one of the highest unemployment rates in the nation,"

said Plymale.

"One would think the federal government would take steps to alleviate the problem."

"We will continue to fight and do whatever it takes for as long as it takes to get our people working on these projects."



MEMBERS OF THE OPERATING ENGINEERS, Carpenters, Ironworkers, Bricklayers and Cement Masons picket at the Marmet Locks and Dam. The union members are protesting the use of nonunion contractors hired by the Army Corps of Engineers.



CARPENTERS

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Also mentioned in the complaint was the West Virginia chapter of the antionion Associated Builders and Contractors (ABC).

The NLRB charged Lee Reger used the ABC apprenticeship program "to avoid employing employees who are affiliated with any labor organizations."

ABC Executive Director Tom Hardiman

"interrogated its [Regers'] applicants for employment regarding their union membership, activities and sympathies."

"Apprenticeship programs are for learning, not screening out union supporters," commented Dick Ullum, head of the Carpenters in West Virginia.

"The ABC involvement shows their training program is a farce."

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Steubenville, Follansbee & Wellsburg
Sundays @ 11:00am --NEW TIME!

CABLE CHANNEL 10
Wheeling, St.Clairsville & Moundsville
Sundays @ 11:00am --NEW TIME!

WEST VIRGINIA WORKS SHOWTIMES

WOAY 4
Oak Hill
Sundays @ 11:00am

FOX 11 Charleston,
Huntington, Parkersburg,
Beckley, Bluefield
Sundays @ 11:30am

WDTV 5
Clarksburg & Morgantown
Sundays @ 11:00am --New

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