Fire at Winston-Salem fertilizer operation exposes weaknesses and loopholes in state and federal regulations

By Therese Vick

On the evening of January 31, 2022, the Winston-Salem Fire Department reported that they were on the scene of an active fire at the Weaver Fertilizer Plant. Thus began a multi-day nightmare for the community surrounding the facility. Displacement of residents, many of them people of color and renters, dangerous air emissions, and the risk of an explosion lingered for days. In the words of Fire Chief, Trey Mayo, “I’ve been in this business for 33 years, when I learned how much ammonium nitrate was on the site last night [600 tons], I felt as uneasy at a fire site that I have ever felt.” (Source: Winston-Salem Journal). Timothy McVeigh used a little more than 2 ½ tons of ammonium nitrate in the Oklahoma City Bombing that killed 168 people. Particulate emissions* were at extremely dangerous levels; at the March 2022 meeting of the Environmental Management Commission, Minor Barnette with the Forsyth County Office of Environmental Assistance and Protection said, “I had a panic attack. I had never before seen numbers like that.”

This event also exposed a major loophole in federal chemical reporting regulations – ammonium nitrate is exempted from the Environmental Protection Agency (EPA)’s Risk Management Plan. According to EPA, “The Risk Management Plan (RMP) Rule implements Section 112(r) of the 1990 Clean Air Act amendments. RMP requires facilities that use extremely hazardous substances to develop a Risk Management Plan. These plans must be revised and resubmitted to EPA every five years.” Additionally, Weaver Fertilizer had not submitted required documentation to the Department of Public Safety (DPS).

(Continued on page 10)
On January 22 BREDL Associate Director Rev. Charles Utley spoke as part of the U.S. Department of State's International Visitor Leadership Program (IVLP). This was an opportunity to share information about our work and insight on the community's concerns regarding the Plant Vogtle nuclear facility.

According to their website, IVLP is the U.S. Department of State’s premier professional exchange program. Through short-term visits to the United States, current and emerging foreign leaders in a variety of fields experience this country firsthand and cultivate lasting relationships with their American counterparts.

Professional meetings reflect the participants’ professional interests and support the foreign policy goals of the United States.

Each year nearly 5,000 International Visitors come to the U.S. on the International Visitor Leadership Program (IVLP). More than 200,000 International Visitors have engaged with Americans through the IVLP, including more than 500 current or former Chiefs of State or Heads of Government.
Director’s Report

Fundraising during tough times
By Kathy Andrews, Executive Director

With an uncertain economy, it can seem a daunting task to raise funds. Fortunately for BREDL, the individuals and foundations who give generously continue to donate to BREDL and what they believe in.

At BREDL, we remain steadfast in our mission of environmental justice. We stay in touch with our donors providing them information they need to know. We keep our donors close, but we don’t overload them or pressure them too much. We let them know that what they give is appreciated and how it helps communities across the Southeast.

BREDL is also implementing policies to be transparent about our finances. We voluntarily requested an audit and created a new treasurer position to handle our finances along with our accountants.

In the coming months, we will have a new website designed which specializes in nonprofit organizations like BREDL. The new website will help us engage prospective donors and track the progress of current campaigns so that we can make informed and strategic decisions. We will have systems and metrics in place to know exactly what’s effective and what isn’t. The optimization of social media, digital marketing, payment services, and grant award management are all a part of this new technology to increase fundraising and awareness.

It’s also important to keep communicating to the public and keeping a buzz about our organization so that we can reach new supporters and donors. Public relations and marketing that involve social media as well as traditional media are imperative in today’s world.

We will continue to prospect new donors through personal contacts and phone calls, direct mail, and utilizing simple computer tools and software that provide information on prospective donors.

The fact is, a truly integrated program of fundraising, digital marketing, and communications will continue to boost fundraising efforts and keep BREDL healthy financially and able to meet the needs of communities who turn to us for help.

Photo credit: Photo by Ka Yukawa on Unsplash
Over the past decade, the property located at 828 Martin Luther King Boulevard has been a source of much debate around the town of Chapel Hill, North Carolina. The town originally purchased the property in 1980. Soon afterwards, the site became home to a new police headquarters. In 2013, town officials discovered that coal ash from the coal-fired power plant at the University of North Carolina had been disposed of at the site during the 1960’s and 70’s.

For nearly a decade, the town has been researching and developing potential plans for remediation of the site. On March 23, 2022, the Chapel Hill Town Council entered into a nonbinding Memorandum of Understanding for redevelopment of the property. The initial plans for redevelopment of the site include an 80,000 sq. ft. municipal office space, public green space, and 200 residential rental units. Many of the rental units included in the project will be reserved for lower income residents. Ironically, the coal plant from which the ash in question came sits itself in a lower income, predominantly African American community in Chapel Hill.

A history of Environmental Injustice

"And where is the university's coal-burning plant located? Next to Chapel Hill's historically Black neighborhoods of Pine Knolls and Northside. To this day, the university continues to damage the health of the Black community. A community of people who labor and sweat for the university only to remain poor and sick while watching their deferred dreams die."

-Geeta N. Kapur, Author of To Drink from the Well: The Struggle for Equality at the Nation’s Oldest Public University

While the University of North Carolina undoubtedly provides enormous benefit and service to the State of North Carolina, relics of the school’s violent and prejudiced past often tarnish the school’s legacy. In her book, To Drink from the Well: The Struggle for Equality at the Nation’s Oldest Public University, author Geeta Kapur explores UNC’s long history of systemic racism; from the enslaved individuals who built and maintained the sprawling campus, to the African Americans who fought to gain entry as students in the early to mid 20th century. Predictably, the university’s coal-fired power plant also shares this history. In 1940, the plant was relocated from East Cameron Avenue to its current West Cameron Avenue location, inside a historically black neighborhood.

A growing body of research indicates that minority communities are far more likely to be home to polluting industries than their white counterparts. Recent research from the EPA has shown a direct correlation between redlining—a historical, racially discriminatory federal mortgage appraisal policy—and increased air pollution exposure for many communities of color. In 2018, the National Center for Environmental Assessment found that African Americans are exposed to about 1.5 times more cancer-causing particulate matter than Whites.

Concerns for vulnerable residents

Since entering into its Memorandum of Understanding, the concept plan has been presented to both the Housing Advisory Board and the Stormwater Advisory Board. While each board entertained public comment, both declined to address the coal ash issue directly, deeming
The response from the public has been overwhelmingly negative, with town residents requesting that either the coal ash be removed from the site or that housing be removed from the project altogether. Residents also scolded town officials for their failure to present the concept plan to the town’s Environmental Stewardship Advisory Board prior to the plan being presented to council at the end of April.

The residents’ concerns stem from the potential health risks that lower-income residents and children would face from a project which aims to include a large number of “affordable housing units”. While coal ash is not currently designated as “hazardous waste”, the dangers of coal ash are widely known and have been acknowledged by the Environmental Protection Agency on numerous occasions. The EPA has formally identified at least 70 cases where coal ash poison has contaminated drinking water, creeks, wetlands, and rivers.

Coal ash contains arsenic, chromium, mercury, lead, and many other toxins, including thallium, which is so toxic that the government banned its use in rat poison in 1965 due to a number of individuals being accidentally poisoned after coming in contact with the substance. Short-term exposure to coal ash can cause nose and throat irritation, dizziness, nausea, vomiting, and shortness of breath. Long-term exposure can lead to liver damage, kidney damage, cardiac arrhythmia, and a variety of cancers.

In 2017, scientists from the University of Louisville published a study on the negative health impacts of children living near sites contaminated with coal ash. The study identified significant increases in sleep difficulties in children who were exposed to coal ash.

An unenviable list

When the town of Chapel Hill discovered the coal ash pit in 2013, it became the town’s responsibility, as the owner, to remediate the site. How the remediation of the site moves forward, however, is largely at the discretion of the town. There is no law that requires the site to be capped with residential units. In fact, it’s quite the opposite. North Carolina state law does not allow single family homes to be built on such sites. Only low-income multi-family units must bear this burden.

Moving forward with such a project undoubtedly poses a certain level of risk to future residents of the planned rental units. While the chosen developers of the site have downplayed such risks, they have nonetheless acknowledged them. The town’s desire to move forward with the project, however, appears to be unchanged. It would be wise for town officials to research other cities who have dealt with the impacts of coal ash exposure. Those officials might start by looking at Kingston, Tennessee, home to a deadly coal ash spill in 2008. They might follow that up by researching Huntersville, North Carolina, home to a cluster of extremely rare eye cancer cases near its coal ash pit. Their research will undoubtedly uncover a list of several other communities which have been impacted by coal ash poisoning. In the coming months, the Town of Chapel Hill will decide whether or not its name could one day be added to that unenviable list. One can only hope that they will choose wisely.
BREDL seeks revamping of water quality standards for Mountain Valley Pipeline

By Ann Rogers

On February 19, 2021, Mountain Valley Pipeline, LLC (MVP, LLC) filed an application with Federal Energy Regulatory Commission (FERC) to amend its certificate of public convenience and necessity to change the crossing method for 183 waterbodies and wetlands at 120 locations from open-cut to trenchless. On April 8, 2022, FERC issued an Order Amending Certificate, which gave permission for the requested changes in crossing method.

On May 13, 2021, FERC wrote to Virginia Department of Environmental Quality (DEQ) asking for DEQ’s opinion on whether certification under Section 401 of the Clean Water Act is required for the February 19, 2021 request by MVP, LLC to amend its certificate. In her reply to FERC dated June 25, 2021, Melanie Davenport, Director, Water Permitting Division, DEQ, deferred the decision on Section 401 certification to FERC, citing language in FERC’s certificate issued in October, 2017, which states, “The 401 Water Quality Certification applies to the location of pipeline right of way, access roads, and appurtenances as described in the EIS [Environmental Impact Statement] and any changes thereto subsequently approved by FERC.”

As conclusion to her June 25, 2021 letter to FERC, Ms. Davenport states:

“Although not required by law, at the outset of this project DEQ committed to reviewing and approving all erosion and sediment control and post construction stormwater plans as an additional environmental safeguard. When MVP makes changes to construction plans, the related ESC [Erosion and Sediment Control] and SWM [Stormwater Management] plans must be updated to meet regulatory and technical requirements to protect surface water quality during and after construction completion. These plans must be submitted and approved by DEQ. In any instance where MVP is now proposing to utilize a boring rather than an open cut crossing, plans for controlling erosion and sediment control must be approved by DEQ. This will result in stormwater discharges being controlled as necessary to meet applicable water quality standards and antidegradation requirements.”

In light of DEQ’s requirement, as quoted above, that MVP, LLC’s ESC and SWM plans be updated in response to the changes in crossing method as approved by FERC on April 8, BREDL is seeking a complete and comprehensive revision of the MVP’s ESC and SWM plans. This revision of the ESC and SWM plans should consider the criteria offered in BREDL’s letter to DEQ dated April 2, 2021, which was written under the guidance of Hydrogeological Consultant, Pamela C. Dodds, Ph.D., L.P.G. As BREDL’s consultant, Dr. Dodds conducted a thorough and systematic review of MVP, LLC’s documentation on ESC and SWM for the MVP and provided careful guidance on the writing of BREDL’s April 2 letter, a copy of which is available at: https://app.box.com/s/9sn700h2rm9nu5h1njfabybzpb7jup8a.
Below we provide a summary of the criteria that should be followed in MVP, LLC’s revision to the ESC and SWM plans pursuant to the approved stream crossing methods:

- In order to bring the MVP project into compliance with Std. & Spec. 3.05 and with the highest standards of stormwater management practice, DEQ must require MVP, LLC to delineate complete and correct drainage areas upslope, within, and downslope of the pipeline ROW, and incorporate these drainages into the project’s ESC and SWM Plans. *This action is described in item (2) on page 11 of BREDL’s letter.*

- In order for the MVP project to be brought into compliance with Std. & Spec. 3.09, Std. & Spec. 3.17, and 9VAC25-870-40 Minimum Standard 6.b., DEQ must require MVP, LLC to revise the ESC Plans so that they include runoff calculations corresponding to the “bare earth condition” inside the pipeline ROW. *This action is described in item (3) on page 12 of BREDL’s letter.*

- DEQ must require MVP, LLC to properly size erosion control devices and sediment basins which will adequately control the flow of sediment-laden stormwater downslope of the ROW during construction. *This action is described in item (4) on page 13 of BREDL’s letter.*

- DEQ must require MVP, LLC to amend the ESC and SWM plans to reflect a more realistic runoff scenario for post-construction soils that have been impacted by heavy equipment during the MVP construction process. *This action is described in item (4) on page 13 of BREDL’s letter.*

- DEQ must require MVP, LLC to conduct stormwater calculations using TR-55’s Curve Number for impervious or managed turf and discontinue use of Curve Numbers for woods, because the tree canopy has been removed from the pipeline construction zone, soils have been compacted, and soil functions provided by forests have been lost. *This action is described in item (5) on page 13 of BREDL’s letter.*

- DEQ must require MVP, LLC to conduct stormwater calculations using TR-55’s Curve Number for impervious or managed turf and discontinue use of Curve Numbers for woods, because the tree canopy has been removed from the pipeline construction zone, soils have been compacted, and soil functions provided by forests have been lost. *This action is described in item (5) on page 13 of BREDL’s letter.*

- DEQ must require the MVP ESC and SWM Plans to acknowledge and accommodate the effects of sediment-laden water released from silt fences. *This action is described in item (6) on pages 13 and 14 of BREDL’s letter.*

By requesting that DEQ require MVP, LLC to conduct a thorough, systematic, and appropriate revision to the ESC and SWM plans for the MVP, BREDL is championing improved protection of the priceless freshwater springs, streams, wetlands, rivers, and lakes that are at continuing risk of significant damage resulting from construction of the MVP.
Sharon Ponton has been an activist and volunteer for most of her adult life. She joined BREDL in July 2015. Prior to her position with BREDL, she worked on several local, state and national political campaigns. She came onboard with the difficult task of stopping the Atlantic Coast Pipeline (ACP) and the proposed compressor station slated for Buckingham County, Virginia. Hailing from Nelson County, Virginia, she was instrumental in organizing communities in central Virginia.

Sharon organized the national Hands Across Our Land (HAOL) action on August 18, 2015. Grassroots groups across ten states all the way from North Carolina to Oregon to Texas to New York to Virginia held coordinated actions in their communities. They held hands spanning bridges, in our national forests, in front of churches, on private property, atop our mountains and across rivers and streams to show their solidarity with each other in their ongoing battles to fight the fossil fuel industry’s expansion of fracking, pipelines and compressor stations. HAOL was also held in August 2016.

During her nearly seven years at BREDL, she conducted research on the ACP’s impacts on property values, environmental justice communities and heired property.

In March 2019 Sharon organized a 24-hour Vigil for Justice outside the Governor’s office in Richmond.

Several BREDL chapters and regional organizations participated. The vigil publicized issues with both the Mountain Valley Pipeline and Atlantic Coast Pipeline.

In September 2019, she was one of the main organizers of the Climate Crisis: Tri-State Pipeline Strike, an event held as part of the Global Climate Strike week of action. BREDL chapters and members joined over 40 other organizations from North Carolina, Virginia and West Virginia in two days of activities in Roanoke, Virginia.

In January 2020, the U.S. 4th Circuit Court of Appeals vacated the air permit for the ACP compressor station planned in the historic African American community of Union Hill. That was followed by the July 5, 2020 decision by Dominion and Duke Energy to abandon their plans to build the ACP.

While rejoicing in the demise of the ACP, she wanted to show the solidarity that ACP fighters had with MVP fighters in southwest Virginia. Thus, “the no acp, stop the mvp unity banner tour” was born. On August 18, 2020, BREDL and its chapters and allies presented a Unity Banner Tour.

Sharon Ponton retires from BREDL

Enjoy your retirement Sharon

Suzanne Keller, Virginia Pipeline Resisters; Sue Rucker, Protect Our Water; Glen Besa, Sierra Club; and Sharon Ponton at the 24-hour Vigil in Richmond.

Lee Williams, Virginia Pipeline Resisters; Sharon Ponton; and Sue Rucker, Protect Our Water at the Climate Crisis: Tri-State Pipeline Strike in Roanoke.
Jason Torian has joined Blue Ridge Environmental Defense League as our newest community organizer. Jason will be working closely with our Chapel Hill chapter, as well as assisting various other chapters within BREDL’s footprint.

Jason has been an active volunteer and community activist for nearly two decades. His introduction to BREDL came in 2014 when he joined a local BREDL chapter (PC PRIDE), which was engaged in a fight against a regional landfill. Jason has served on numerous community boards and councils, primarily focused on education and environmental justice. He has also managed and advised multiple successful progressive political campaigns.

Jason holds a degree in Elementary Education from East Carolina University. He worked as an elementary school teacher in Durham, North Carolina from 2018 to 2022. In addition to his work with BREDL, Jason also serves as an elected member of the Person County (NC) Board of Education. He and his wife Theresa have four children. In his spare time, Jason enjoys cooking, gardening, and watching Duke basketball.

Banner to water protectors and pipeline fighters at the Bent Mountain Community Center, Bent Mountain, Virginia. The Unity Banner was created to symbolize solidarity between those who successfully fought and stopped the Atlantic Coast Pipeline and those who are still fighting the Mountain Valley Pipeline.

While we wish her the very best, BREDL staff and communities throughout our region will miss Sharon and her work. Happy retirement!

Presentation of the unity banner from “The no acp, stop the mvp unity banner tour” at Bent Mountain, Virginia.
regarding the chemical hazards that existed at the plant. (Source: Lisa Sorg in NC Policy Watch blog, The Pulse).

Another serious weakness in the RMP rule is that the EPA does not require facilities to use safer chemicals even if they are shown to be affordable and effective.

Fence line communities across the country that bear the hazards associated with these dangerous chemicals have been calling for the inclusion of ammonium nitrate in the RMP for years. They should not have to live with the threat of injury from explosion and uncontrolled pollutants that are released during these events. First Responders must be able to determine what kinds and quantities of hazardous substances are at a facility. The EPA is currently reviewing the RMP Rule. We urge EPA to do the right thing and protect communities from these dangerous and toxic facilities.

- Exposure to such particles can affect both your lungs and your heart. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including:
  - premature death in people with heart or lung disease
  - nonfatal heart attacks
  - irregular heartbeat
  - aggravated asthma
  - decreased lung function
  - increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing. (Source-EPA)

BREDL has three podcast episodes on the fire: Preventing Double Disasters, Reform Happening for Ammonium Nitrate, and The Community Affected by a Chemical Disaster.

The In Our Backyard Podcast can be found at https://anchor.fm/BREDL

The chart below displays the first few hours after EPA’s mobile air monitors began operating. The fire had been burning for over 29 hours before these air monitors were providing air quality data.

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<th>EPA remote, temporary Air Monitors (Range of concentrations over time period, color indicates highest concentration)</th>
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KEY
- Hazardous Air Quality by EPA Health Standards, everyone may be affected.
- Unhealthy for Sensitive Groups Air Quality by EPA Health Standards.
- Moderate Air Quality by EPA Health Standards, sensitive groups may be affected.

- compiled by Mark Barker

Picture credit: Winston-Salem Fire Department - February 4, 2022
BREDL: Who and what we are

In March 1984, fifty citizens of Ashe and Watauga Counties met in the Mission House of Holy Trinity Church in Glendale Springs, North Carolina. Teachers and farmers, home-makers and merchants listened to the report of the Episcopal Church Women on the US Department of Energy’s siting search for a high-level nuclear waste dump in the rain-rich east.

Recognizing that the North Carolina mountains were a region at risk, the assembled group organized the Blue Ridge Environmental Defense League (BREDL) to protect their own backyard and those of other threatened communities.

Grassroots organizing was a cornerstone of our early all-volunteer organization. One of our first multi-county boards of directors adopted our credo, which embodies our mission statement:

**BREDL Credo**

We believe in the practice of earth stewardship, not only by our league members, but by our government and the public as well. To foster stewardship, BREDL encourages government and citizen responsibility in conserving and protecting our natural resources. BREDL advocates grassroots involvement in order to empower whole communities in environmental issues. BREDL functions as a “watchdog” of the environment, monitoring issues and holding government officials accountable for their actions. BREDL networks with citizen groups and agencies, collecting and disseminating accurate, timely information.

BREDL sets standards for environmental quality, and awards individuals and agencies who uphold these standards in practice.

**Moving into the future**

Since then, the Blue Ridge Environmental Defense League has grown to be a regional community-based, nonprofit environmental organization. Our founding principles - earth stewardship, environmental democracy, social justice and community empowerment - still guide our work for social change. Our staff and volunteers put into practice the ideals of love of community and love of neighbor, which help us to serve the movement for environmental protection and progressive social change in Virginia, North Carolina, South Carolina, Georgia, Alabama and Tennessee.

**Grassroots Campaigns**

Nothing creates hopefulness out of helplessness like a successful grassroots campaign - and our chapters have a history of winning. For over three decades Blue Ridge Environmental Defense League chapters have protected their communities by stopping dangerous facilities and promoting safe alternatives.

In the 1980’s and 1990’s, BREDL prevented a multi-state ThermalKEM hazardous waste incinerator, a southeastern nuclear waste dump and a national nuclear waste dump. In the 2000’s, our coordinated grassroots citizens’ campaigns have had further victories. We won a legislative victory with the passage of the NC Solid Waste Act, effectively blocking at least four multi-state mega-dumps. Our Person County chapter convinced their Board of Commissioners to reject expansion of the Republic Services landfill. Our Cascade, Virginia, chapter shut down a huge hazardous waste incinerator. We eliminated mercury waste from the Stericycle incinerator, shut down a tire incinerator in Martinsville, won the landmark environmental justice court decision in Greene County, North Carolina. Further, with our chapters we have protected air quality by blocking scores of asphalt plants, four medical waste incinerators, a PVC plant and a lead smelter, and passage by local governments of eight polluting industries ordinances. Our work on nuclear power and coal plants laid the groundwork for our new Safe Energy Campaign. Victories over twenty-four mega-dumps have resulted in our affirmative Zero Waste Campaign. Guided by the principles of earth stewardship and environmental justice, we have learned that empowering whole communities with effective grassroots campaigns is the most effective strategy for lasting change.
Contact BREDL to help organize your community and plan events to educate others about your issue and expand your membership so you can win!

BREDL is a regional, community-based nonprofit environmental organization founded in 1984. BREDL encourages government agencies and citizens to take responsibility for conserving and protecting our natural resources. BREDL advocates grassroots involvement in environmental issues. Protecting children's health from environmental poisons, empowering whole communities to engage in crucial decision making, and changing the balance of power to prevent injustice are key components of our work.

Annual Membership is only $20
Thank you for supporting Blue Ridge Environmental Defense League
It's easier than ever to join, renew and donate online.
Check out our secure online donation form and use your credit card at www.BREDL.org.
Or send your check to: BREDL, c/o Virginia Staton, CPA, PO Box 2168, Boone, NC 28607
All donations are tax deductible.

Janet Marsh Zeller Honorary Fund
The BREDL Board of Directors established this fund to honor the work of Janet Marsh Zeller, who founded the Blue Ridge Environmental Defense League and served as its executive director for over two decades.

The honorary fund supports BREDL's endowment and our long-term ability to serve communities. Individual gifts are accepted throughout the year. All donations to BREDL are tax deductible. Contributions to the fund will benefit the organization and honor the woman who gave so much to make our world better, one community at a time.