

## Executive Summary

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In June of 2001, approximately eight months after the start of our project efforts in Martin County, our student-faculty research team at Eastern Kentucky University submitted a proposal to the Kentucky Appalachian Commission, the Department for Local Government and the Office of the Governor under the *Flex-E-Grant* program initiative. In our submitted proposal, our university research team sought funding to stay in the field in Martin and Perry County. In accordance with the charges outlined in the Flex-E-Grant initiative, we proposed to address specific issues of ‘civic capacity’ in our social impact assessment.

**In our *Flex-E-Grant* proposal, we stated that we would address civic capacity issues at two levels:**

1. First, we would complete our survey, interviews and field research. With our research complete, we argued, we would be in a position to empirically compare and contrast civic issues and civic concerns in both Martin and Perry County. This comparison and contrast, we argued, would allow us to understand and explain differences in civic capacity across two coal economies. In our submitted proposal to the *Flex-E-Grant* program, we argued that Perry County would serve as our “control community” and that this comparative analysis between sites, would allow our research team to objectively evaluate the impact that the coal waste disaster might have had on civic life and civic capacity in Martin County.
2. Second, we proposed to develop a series of recommendations on improving civic capacity in Martin County. In accordance with our community based research design, we proposed to develop this set of recommendations in close consultation with a citizen advisory committee. On this dimension, we requested funding to establish an advisory committee of area citizens. We argued that the CAC would assist us in forming our set of recommendations on building civic capacity in Martin County since the coal waste spill of October 2000.

### Flex-E-Grant Funding

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In August of 2001, the Kentucky Appalachian Commission, the Department for Local Government and the Office of the Governor approved our *Flex-E-Grant* proposal. Flex-E-Grant funding has allowed our university research team to complete our survey and field interview work in both Martin and Perry County. It has also allowed our team to establish a citizen advisory committee (CAC). Through consulting with the CAC, we have developed our project recommendations. Based on CAC testimony, we have also conducted a careful review of the public record and an extensive review of regulatory agency documents. As a consequence, our research team has been able to develop a series of pointed recommendations on how to improve civic and community life in Martin County since the environmental disaster of 2000.

### Recommendations

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**RECOMMENDATION #1: Community Involvement in Recovery and Reclamation:** We encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **explore channels of public involvement in environmental recovery and reclamation in Martin County, Kentucky**. We encourage the above law-makers and their staff of associates, to review the public participation provisions contained under CERCLA and RCRA and legally review how these provisions could be re-invoked, in some form, in providing Martin County citizens with the appropriate civic mechanisms to participate in rebuilding their environment and community since the 2000 October coal waste spill.

**SUBRECOMMENDATION:** In providing Martin County citizens with the necessary civic mechanisms in becoming more involved in community affairs since the disaster, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **act on recommendations set out by the State Environmental Quality Commission (EQC) in January 2001:** After Hearings on the Martin County coal waste disaster, the EQC recommended to state and federal lawmakers that a citizen advisory committee of Martin County citizens be established to oversee cleanup and reclamation activities in Martin County. We encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **act on this central EQC recommendation of establishing a citizen advisory committee**.

**SUBRECOMMENDATION:** In supporting a citizen advisory committee to oversee and provide input on community and environmental recovery, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **hold EPA Region 4 to its formal commitments to its citizen advisory group (CAG) of Martin County citizens.**

**SUBRECOMMENDATION:** In holding EPA Region 4 to its commitments to its citizen advisory group, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **review EPA Region 4 statements and actions surrounding the final submitted stream and reclamation plan.** Testimony from Martin County citizens suggests that citizens were assured by Region 4 officials of a public comment period on the final plan but were, in the end, denied a period for public comment. Further testimony suggests that Martin County citizens, as formal CAG representatives, were not provided opportunity to participate in conference sessions with company and other agency personnel on environmental recovery and stream mitigation strategies.

**RECOMMENDATION #2: Community Involvement in Watershed Management:** We encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor as well as the Kentucky State Public Service Commission to **explore channels for public involvement in water quality and water treatment issues in Martin County, Kentucky.** We encourage the above lawmakers and Public Service Commission to involve a team or taskforce of local citizens in addressing long-term water quality and water treatment issues in Martin County.

**SUBRECOMMENDATION:** In involving a team or taskforce of local citizens in addressing long-term water quality and watershed management issues in Martin County, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to act on the central recommendation contained in this report to **support independent water quality testing with full citizen oversight over the sampling and testing methods.** We encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to act on this central recommendation of our report and involve a team of local citizens and technical experts in water quality testing and monitoring of the local watershed.

**SUBRECOMMENDATION:** In building an independent action team of citizens and technical experts to monitor and test water quality in Martin County, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to **pursue compensation for laboratory, technical assistance and consulting costs that will be incurred.** Many Martin County citizens are of the view that the coal company should be financially responsible for such independent testing and monitoring of the local watershed. However, the project team, upon recommendation from of its own citizen advisory committee, recommends that the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor aggressively explore methods to ensure that citizen testing and monitoring be objective and independent of outside influences and financial ties.

**SUBRECOMMENDATION:** In ensuring independent and objective testing of the local watershed with citizen oversight, we encourage the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor to pursue the prospect of applying for technical assistance grants under CERCLA. As outlined in the *Civic Capacity* and *Water Quality* sections of this report, under CERCLA local citizen groups in impacted areas are able to apply for technical assistance grants (TAG) to assist them in their own independent assessment of the short and long term impact of a chemical contamination on their local environment and community. And, as also outlined in this report, because EPA did not respond under CERCLA in Martin County, such TAG grants were never made available to Martin County citizens in their own bid to independently evaluate the impact to the sludge spill on the local watershed and area soils. But, as also outlined in this report, there appears to have been initial agency maneuvers on the part of EPA Region 4 to respond to the disaster by invoking its authority under CERCLA. Rather than recommending a review of the set of exchanges leading to the shift to CERCLA to the Clean Water Act, this report recommends that, as a corrective measure in fulfilling its statute obligations to citizens and the Commonwealth, the Kentucky Appalachian Commission, the Kentucky Department for Local Government and the Office of the Governor **request that the federal EPA make federal TAG grants available to Martin County citizens.**