

# KET censors film on deed

Compiled from Associated Press  
and Mountain Eagle reports

## LEXINGTON

For the second time this fall, a television program covering arguments on behalf of the broad-form deed amendment has fallen victim to censorship.

Kentucky Educational Television late last week said it would refuse to present a documentary prepared by Appalshop Films of Whitesburg

about the citizens' movement for deed reform and families whose land has been mined under provisions of the broad-form deed.

Earlier WYMT-TV in Hazard declined to air a scheduled debate on the amendment because the person named to the debate by Kentuckians for the Commonwealth, a main supporter of the amendment, is a principal in a lawsuit involving the broad-form deed.

KET said Monday it is reconsidering its decision to cancel the telecast and will seek guidance from an independent panel.

The program was scheduled for release Nov. 7, the day before the general election, when voters will be asked whether to limit the deeds' scope.

KET Executive Director O. Leonard Press said he will name an independent committee to review the decision to cancel. Press said that KET will give any recommendation serious consideration but that the final decision remains with his organization.

"We feel we are correct in our decision. But in light of some of the questions that have been raised by reporters, we'll have this group independently review the circumstances," Press said.

KET officials said they canceled the documentary because they felt the program on broad-form deed abuses made too powerful a statement for broadcast prior to the Nov. 8 election.

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## KET has had film since April, Appalshop producer says

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"This piece is so strong that it cannot be balanced with talking heads," Press said. "The only way it could be balanced is with another documentary. Of course, it's far too late to do a different documentary on the opposing side before Election Day."

Appalshop Executive Director Dee Davis said KET has had the film since last April. Davis said he believed the documentary was fair and would educate viewers. The half-hour show is called "On Our Own Land" and was produced by Anne Lewis Johnson.

Davis said KET had told him it would name two people who then would pick the committee to review the KET decision.

Press said no pressure was put on him from coal-industry forces that oppose the amendment to cancel the documentary. He acknowledged that he spoke to KET Board Chairman Terry McBrayer, a Lexington attorney who represents some coal interests.

But he said McBrayer "merely mentioned it in passing to make sure I knew of it" and did not suggest that the program should be cancelled.

Davis said the documentary was the result of years of filming and researching the broad-form deed and strip mining. It was completed early this year and intended to air on KET last spring as part of a seven-part Appalshop series called "Headwaters."

But airing of the series was delayed, and KET officials agreed to begin the weekly series on Oct. 24. Press said KET saw no reason at that time not to air the programs in the order Appalshop intended.

However, in recent weeks Appalshop mailed out 4,000 cards promoting the entire series, including the Nov. 7 airing of the broad-form deed documentary.

Donna Moore, director of public programming services for KET, said she does not recall how she obtained

a copy of the card. She said she believed another KET employee showed it to her, when she noticed that the air date was the night before the election.

She said she and other KET officials reviewed the program. "I could see immediately that it was very well-done, but also that the images were extremely powerful."

Moore and Press said they and Tim Tassie, director of broadcasting, unanimously agreed that the piece should not be aired as scheduled. Press said they even had to reject Davis' pleas to air the program a week or two before the election.

Moore told the Lexington *Herald-Leader* that several people had complained about the timing of the show.

"It's a wonderful documentary but it is a message piece," she told the newspaper. "We obviously as a state agency could not air it. We would have aired the piece had we had a piece of equal value expressing the opposite side to run right after it."

Backers of the proposed constitutional amendment want to stop strip mining under broad-form deeds, which proliferated in eastern Kentucky from 1880 through about 1940. The deeds allowed mining companies to buy the rights to minerals beneath the surface while the landowner retained surface rights. But they allowed the mineral owner to do whatever was necessary to the surface in order to mine the coal.

Strip mining, however, was not a viable technology at the time the deeds were signed; strip mining destroys more of the land than the surface disturbance associated with deep mining.

Kentucky courts have consistently ruled that broad-form deeds gave holders the right to extract coal by any means, with or without the landowner's approval.

If the amendment is approved, the Kentucky Constitution would be changed to limit the types of mining allowed without landowner consent on property where the mineral rights have been sold.

McBrayer, who is chairman of KET's governing board, told the *Herald-Leader* several people in the coal business who received advance television schedules contacted him about the programming. McBrayer said he mentioned the complaints to Press. McBrayer represents several small coal companies but none of the complaints came from his clients, he said.

Davis said the documentary includes remarks by Ron Combs, an attorney for several mining firms, and by Tom Duncan, president of the Kentucky Coal Association, which lobbies on behalf of coal producers. Davis said most of the film focuses on landowners affected by the deed.

Both Appalshop and KET agreed that the program was inadvertently scheduled for the night before election.



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