



West Virginia Environmental Council's Green Legislative Update

Published Weekly During West Virginia's Legislative Session

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Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 4 – Strange week down here in Charleston (nothing new about that, I guess), with temperatures in the high 60's to high 70's the whole last week of January. Not to worry though, 'cause our friends in the electric utility biz tell us there's no such thing as global climate change.

Remember all those "rules" bills I told you about last week? Well, this week we finally got copies of these rules from the Secretary of State's Office. We got them in a kind of indirect way, another example of the principal of "it's who you know that counts" being the name of the game in politics. You see, normally we as common ordinary citizens would have had to pay the Secretary of State fifty-cents a page for these copies. One of these rules was 220 pages long. You do the math! There really ought to be a law . . .

The lobby team spent the week looking at each of these proposed rules. Many of them contain no significant policy changes, but are simply updating the state code to comply with various minor changes in other federal and state laws. However, some of these rules do contain major changes to state environmental regulations concerning air and water pollution. We are doing our best to get a handle on just what is significant in these rules and what is not, and to get some kind of sense of when they will come up in the various committees.

Chasing these rules bills is the "defensive" part of our lobby work. The team is also beginning to be more comfortable with the "offensive" aspect of representing the environmental community. We are now talking with legislators about OUR vision and OUR agenda. Most of this interaction comes from "schmoozing" with delegates and senators in the halls and at committee meetings and, of course, from actual sit-down meetings in their offices.

For example, Conni Lewis and I are working the timber reform issue on several fronts. Conni is the lobbyist for the Coalition for Responsible Logging, and largely through her efforts at least two legislators are in the process of drafting and introducing new legislation to reform the *Logging and Sediment Control Act*, legislation that would increase enforcement efforts and actually make some of the voluntary best management practices mandatory.

Senator Mitchell actually re-introduced our two bills on this issue from last year at the beginning of the session. They are S.B. 87 and S.B. 88 and they would make best management practices mandatory and take enforcement authority out of the hands of the Division of Forestry and vest it in the hands of DEP and DNR (the industry REALLY hates this idea!!). While we don't expect these two bills to have enough support ultimately to make it to the governor's desk this session, there may be as many as half a dozen smaller bills that would favorably "tweak" the existing *Logging and Sediment Control Act* into becoming a better law.

So, while we can't give you specific bill numbers to use as talking points (other than S.B. 87 and 88), if you want to help improve the current timber law, you can **TAKE THIS ACTION:** call your delegates and senators and tell them you are tired of putting up with all the flooding and all the mud in our streams and rivers that is the direct result of irresponsible logging practices. Tell them you want them to reform the Logging and Sediment Control Act so that the regulations are MANDATORY and there is real ENFORCEMENT.

Monday, February 4, is WV Forestry Association Day at the capitol. We're going to put our timber reform fact sheet on every legislator's desk that morning. This thought will actually help me look forward to being back here on Monday!

Time to stir things up. The FUN continues!

No Campaign Finance Reform ~ No Sustainable Development

by John Taylor

The Governor's "West Virginia - A Vision Shared! Economic Development Strategy" asserts several answers to the question: "Why Is West Virginia Where It Is?"

One answer is: **There is no discernable structure for public involvement.**

The document goes on to explain: "**While West Virginians reported many problems, they also wanted to know how to become involved. A wide stretching, inclusive approach to change has not been used in West Virginia in the past. The old way of doing things—including a lack of public involvement—clearly has not worked well for the State.**"

But Sustainable Development requires: * **A political system securing citizen participation in decision making.** This is exactly what we *don't* have, according to the Governor's "Vision Shared" statement. Big money closes the gate on "ordinary" citizens' participation as candidates for office. The current Enron scandal clearly shows the corrupting effect of big money on elections and public trust in elected officials.

* Source: from "Rio+5" a 1997 conference on economic & environmental development. You can see this at: <http://www.ecouncil.ac.cr/rio/susdevelopment.htm>

WVEC Annual E-Day! Just around the Corner

Have you marked your calendar for Friday, February 22nd? If not, do so now! You don't want to miss this year's E-Day! at the Capitol. Lots of WVEC organizations (and folks) will be on hand with their latest information, eco-ware, issue papers and more. Meet the Lobby team, lobby your representatives, and help us honor those special enviros who have worked magic this last year for great causes (2002 recipients to be announced in Update soon.)

While you are in town, stick around for our Fundraiser at the Empty Glass from 5:00 till 9:00 p.m. The band formerly known as "The Porch Band" will get you up off your feet in a hurry. Support WVEC with a \$5 (or whatever you can afford) donation at the door!

Legislative Contact Information:

Governor Wise: governor@wv.gov
Toll-free access: 1-888-438-2731, or (304) 558-2000

Legislators: www.legis.state.wv.us (put Senator or Delegate's name in subject line), or write to: The Honorable _____ Member, WV Senate (or House of Delegates) Bldg. 1, State Capitol Complex, Charleston WV 25305
Toll-free access: 1-877-56-LEGIS (1-877-565-3447)

DEP Director Callaghan:
mcallaghan@mail.dep.state.wv.us - or call: (304) 759-0570

Lobby Team says Thanks!

This past Wednesday, the WVEC lobby team was treated to a very inspirational 'Lobbying our Legislators' Training Session by the one and only Rick Eades. Thank you Rick, for sharing your time, expertise, insights and energy with us.....

Come back Rick, come back!!!

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Legislative Update welcomes letters, articles, and art work from readers and reserves the right to edit or reject submissions. Please send materials (preferably on disk) to:

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Feature Lobby Team Member: *John Taylor*

Journey To Activism

Long ago, but not so far away, when I was down in the primary grades at Arthurdale Elementary School in Preston County I spent a lot of time running around alone on the hills and fields near our home.

My special place was the headwaters of Decker's Creek. The creek was clean then, clean enough to swim in, clean enough to support a population of chubs, bluegills, sunfish, bullhead catfish, the usual minnows, the occasional bass, and even, once in a while, we'd seine in some darters. Looking back now, and remembering, I know they were darters. Back then, they were just strange looking minnows to us, fellow inhabitants of the beautiful and clean ecology we children were so lucky to be living in. I hope the creek is still clean. Truthfully, I'm a little afraid to go back and see for fear another precious part of my life's journey won't be there anymore. Are the darters still there? I doubt it, but I really don't want to know.

Ya'll know Deckers Creek, don't you? It's the beautiful stream that runs north along Route 7 between Masontown, Preston County and the Mon River at Morgantown. It's the stream that runs gray and ugly after it passes the Greer Family's and John Raese's limestone mill at Cascade, just below Masontown, on Route 7 as you travel down Dellslow Mountain to Morgantown.

A long, long time ago my Grandad Taylor bossed the construction of that mill, making a living for his large family. They lived on Bull Run near where Big Sandy Creek joins the Cheat River. My Great Grandad worked in a saw mill there, part of the timbering industry at a time when that whole area, not far from Cooper's Rocks, was clear cut. That's the same Cheat River nearly destroyed by acid mine drainage, the river where my older relatives fished for, and caught trout.

I myself caught many catfish from the Cheat when I was ten, twelve, thirteen years old right there under the Jenkinsburg bridge, not far from the mouth of the Big Sandy. And thirty, forty years ago I camped a lot, by myself, on Big Sandy Creek, nurturing, sustaining times that I can still remember in almost

every detail. I often drank directly from the creek then, and the water was so cold it would hurt your body if you were in it, even in the height of the summer's heat. I've been back to the old camp sites. I wouldn't dare drink the water now, and it's nowhere near as cold.

Advance time's clock to 1996. Robin Godfrey and Janet Fout (may their names be blessed forever) organized me into the "environmental movement" on a constellation of issues: the proposed Mason County pulp mill, Corridor H, and the removal of a few trees from in front of the Statehouse.

It's strange to think of my life as part of the ecological history of this state, but there it is. Bucolic childhood days on Decker's Creek, limestone mills, clear cut timbering, acid mine drainage, fragmentation and destruction of farm land, dioxin in our streams, the whole dismal litany that we all know too damned well.

I often think of Deckers Creek at Arthurdale, and I often, often, often think of how much I want my grandchildren and my great-grandchildren, and all the generations to come to enjoy the same clean water and air I enjoyed as a child. God Dammit, sisters and brothers, it's worth fighting for! I know you all agree with me on this for mostly the same reasons. It's why I'm on this journey and I'm so tickled and proud to be traveling this difficult road with you all.

Be Our Valentine!

If you haven't done so, why not send us a Valentine and renew your WVEC membership? And if you've already renewed, why not consider making an extra contribution for Valentine's Day to help us pay our lobby team costs? Remember, we need both your love and your money, and we're always working hard to gain your respect!!

How about that for a shameless plea???

Don Garvin

"Life is like a ten-speed bike.
Most of us have gears we
never use." *Charles Schulz*

Monster Trucks: Justifying Illegal Loads

Charleston Gazette Editorial, January 31, 2002

BILL RANEY thinks economic concerns justify constant lawbreaking by the industry he represents as president of the West Virginia Coal Association.

In a report in the Charleston Daily Mail, Raney went on at length about why it's necessary to haul coal in trucks bearing illegal loads two or three times greater than law allows.

The coal industry must break the law, Raney said, because loading points are farther and farther from the mines. This is, of course, because loading facilities are expensive. As the Daily Mail article said, "It takes a lot of up-front capital to build a preparation plant, river terminal or other coal-handling facility. Consequently, companies try to use their existing ones as long as the cost of getting coal to the facility is cheaper than building a new one."

As always with the coal industry, the real question is, cheaper for whom? It's not cheaper for the state, which has to rebuild roads and bridges crushed by the overweight trucks. And it certainly isn't cheaper for the people maimed or killed in accidents with overloaded trucks.

A Kentucky engineer who lost his son in an accident with a coal truck recently wrote a letter to Gov. Bob Wise urging him to keep weight limits where they are.

"I understand that you are considering allowing 140,000-pound trucks. Unfortunately, even if trucks at this weight have perfectly adjusted brakes at all times, which they do not ... they cannot meet the federal and state braking requirements," wrote Roy Crawford. "Trucks this heavy are a special problem on the long, steep hills they often use in West Virginia and Kentucky."

In other words, **Raney's economic arguments can't trump physics. You can raise weight limits, but you won't change the fact that trucks this heavy can't stop in safe distances. Nor can you change the fact that roads and bridges aren't designed for such crushing loads.**

The coal industry has gone for years completely unconcerned about weight limits because enforcement was so ineffectual. Now that the public is raising an outcry for better enforcement, Raney wants the limits raised in some kind of bargain.

Only the coal industry would be so arrogant as to assume that it can deal with the state and "accept" enforcement only if it is given what it wants.

The Legislature should prove that arrogance unfounded, and pass strict new enforcement measures with no increase in weight limits. Public safety demands it.

Green Legislative Update

A Solution Waiting to Happen

by Norm Steenstra, WV-CAG Exec. Director

In a surprise move Wednesday, conservative Senator Karen Facemyer introduced a bill to legalize hemp. **SB 447, the Industrial Hemp Development Act**, provides for cannabis sativa to be grown for the "manufacture of rope, sacks, food, oil, baby care, household uses, cloth, paper, carpet, synthetics, fuel, and other sisal hemp products..."

For years many GREEN readers have advocated such a bill, even going so far as to suggest that the E-Council introduce it. Others of us thought that if hemp was ever to be legalized the main effort would have to come from the right wing.

No one is more right wing than Karen Facemyer (timber company owner) yet even the most liberal senators refused to co-sponsor the bill. Her major reason is to give some alternatives to the many tobacco growers in her district. **We all know that hemp makes cents.** We have learned that *cents, not sense* usually gets a bill passed. **Canada and Maryland have legalized hemp's cultivation and other states are considering it.**

Perhaps a year from now Gus Douglas and the Farm Bureau - and other conservative groups, will be supporting the concept. As WVEC lobbyist Chuck 'Wyrostick' said, "If hemp is illegal, then for the same reasons, all mushrooms should be, too."

The legalization and promotion of hemp is one of the greenest of issues. **It is a sustainable solution waiting to happen.** Wouldn't it be ironic if its legalization came from our traditional foes?

"The chief cause of stress is reality."

Lily Tomlin

Eco-Justice Resource now available:

The "Earth Day Sunday 2002 Resource" is now on the: Web of Creation. The address is: <http://www.webofcreation.org/ncc/earthday/2002/index.html>>

It was prepared by the Resource Development Committee. Current articles include: "Raising Children Toxic Free" by Shantilal Bhagat and an action alert on the School Environmental Protection Act - and much more.

DEP Denies Permit to Mine Under Grant Trout Stream

Reprinted from *Gazette*, Thursday January 31, 2002
By Ken Ward Jr., STAFF WRITER

State regulators have blocked a Maryland company's proposal to mine underneath a trout stream that feeds the North Branch of the Potomac River in Grant County.

Mettiki Coal sought a permit to mine under the stream as part of a larger proposal to extend a longwall mine under the river and into West Virginia.

Department of Environmental Protection officials concluded that the mining would cause "material damage" to the trout stream.

"In light of the irreparable harm the proposed mining will cause to a native trout stream - a very valuable natural resource - the agency has no choice but to deny the permit," said Matt Crum, director of the DEP Division of Mining and Reclamation.

Mettiki spokesman David Thomas said the company would appeal the permit denial to the state Surface Mine Board. The permit denial won DEP officials rare praise from West Virginia environmental groups.

"I'm speechless," said Cindy Rank, mining chairwoman for the West Virginia Highlands Conservancy. "I'm amazed and delighted. I think that the implications of this mining proposal were quite frightening."

In western Maryland, Mettiki produces about 3 million tons of a coal a year and employs 235 miners at its D Mine south of Oakland, Md.

In 1995, non-union Mettiki won a contract to supply coal to Virginia Electric Power's Mount Storm Power Station in Grant County. Mettiki beat out unionized CONSOL Energy. Mettiki trucks its coal over local roads, while CONSOL sent coal to the plant through a covered conveyor belt system.

Mettiki operates a longwall miner, a machine that pulls a steel plow or rotating drums across the coal face. Longwall mining is extremely productive, digging huge amounts of coal with a minimum number of workers.

In March 2000, Mettiki applied for a permit to extend its current longwall operation into West Virginia.

State officials in Maryland approved portions of the mine in their state, and the portions directly under the North Branch of the Potomac. But West Virginia regulators rejected mining in their jurisdiction. They based their decision on a report called a Cumulative Hydrologic Impact Assessment, or CHIA.

In the CHIA, DEP hydrologist Joann Erwin concluded that the mining would severely damage an unnamed

North Branch tributary and native trout stream known locally as Hind Leg.

The report said that Mettiki has already mined nearly 6,000 acres underground in Maryland and 8,000 acres underground in West Virginia.

Under its expansion proposal, the company would mine an additional 200 acres. But the proposal would mine directly under at least eight of the 17 springs that feed Hind Leg, the DEP report said. Especially in dry months, the trout stream relies on those springs for much of its flow, the report said.

Mining under the springs would fracture the ground around them and the streambed, the report said.

"Fracturing of the aquifers will deplete the quantity of water available to the trout stream," the report said. "Fracturing of the streambed will additionally deplete the flow, perhaps to the point of no flow."

Under the law, DEP is not allowed to approve mining permits that will cause material damage to streams or groundwater supplies. In the CHIA on Mettiki's proposal, the agency concluded, "Material damage to the surface water will occur due to the loss of spring flow into the native trout stream.

"Material damage will occur to the stream between the mine area and the North Branch of the Potomac River since it will no longer support recreational sport fishing, a use that it was capable of prior to mining," the report said.

"The Potomac River deserves this sort of protection," said Nathan Fetty, issues coordinator for the West Virginia Rivers Coalition. "We're encouraged that DEP is protecting the stream, because subsidence and dewatering are risks the state shouldn't take."

Environmentalists are also watching DEP's review of another Mettiki application to open a new underground mine near Gatzmer, between Mount Storm and Davis along W.Va. 93. That proposal would mine under another trout stream, the Left Fork of Beaver Creek.

"We're still working on it," said Ron Sturm, permit supervisor at DEP's regional office in Philippi. "We have some serious concerns about that application."

No More Overweight Coal Trucks!

The Petition included in this issue is for you to gather signatures of folks against overweight coal trucks! Mail completed forms by February 11th to: Citizens For Road Safety, P.O. Box 651, Whitesville WV 25209.

Don't forget to attend the **Rally** to support **HB 4014** on the State Capitol steps (Kanawha Blvd. side). Join Coal River Mountain Watch, OVEC, WV-CAG, Citizens Coal Council, WVEC, some legislators, United Mine Workers, AFL-CIO, Fraternal Order of Police, State Troopers Association, and others. (*See Gazette editorial: "Monster Trucks: Justifying Illegal Loads" on page 4.*)

Bills Introduced This Week

Bill	Sponsor	Committee	Topic
HB 4257	Carmichael	Ag & NR	Single resident license for all hunting and fishing
4262	Douglas, Kuhn	Gov Org, Fin	Requirements on the sale or leasing of minerals under public lands
4269	Armstead, Harrison	Ag & NR, Fin	Military family resident hunting, fishing, and trapping licenses
SB 426	Anderson, Ross,		
	Helmick, Minear	Ag, Fin	Exempting farming equipment & livestock from personal property tax
431	Helmick, Love, Ross	Nat Res.	Relating to timber licenses
SR 3	Oliverio		Amend senate rules- make origination of bills and resolutions due earlier
SCR 4	Prezioso		Requesting Congress to enact the National Recreation Lakes Act of 2001
SCR 1	Oliverio		Amend Sen. rules- make consideration of bills and resolutions done in orig. house earlier

Rules:

SB	Committee	Agency/ relating to
297	Nat. Res., Jud	DEP/ Ambient Air Quality Standards for Sulfur Oxides & Particulate Matter
298	Nat. Res., Jud	DEP/ Ambient Air Quality Standards for Carbon Monoxide and Ozone
299	Nat. Res., Jud	DEP/ Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61
300	Nat. Res., Jud	DEP/ Standards of Performance for New Stationary Sources Pursuant to 40 CFR part 60
301	Nat. Res., Jud	DEP/ Prevention and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities
302	Nat. Res., Jud	DEP/ Acid Rain Provisions and Permits
303	Nat. Res., Jud	DEP/ Awarding Stream Partners Program Grants
307	Nat. Res., Jud	DNR/ Prohibitions When Hunting and Trapping
313	Ag, Fin, Jud	Commissioner of Ag/ Animal Disease Control
320	Nat. Res., Fin, Jud	DEP/ NOx Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides
321	Nat. Res., Jud	DEP/ Prevention and Control of Emissions from Commercial Solid Waste Incineration Units
322	Nat. Res., Fin, Jud	DEP/ NOx Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Electric Generating Units
323	Nat. Res., Jud	DEP/ Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61
324	Nat. Res., Jud	DEP/ Voluntary Remediation and Redevelopment
325	EI&M, Jud	DEP/ Surface Mining and Reclamation
326	EI&M, Jud	DEP/ Coal Related Mine Safety
327	Nat. Res., Jud	DEP/ Hazardous Waste Management
329	EI&M, Jud	DEP/ State Certification of Activities Requiring Federal Licenses and Permits
330	EI&M, Jud	DEP/ Underground Injection Control
331	Nat. Res., Jud	DEP/ Groundwater Protection Standards at Dominion "Generation" Steam Electric Generation Facility, Mt. Storm, WV
337	Nat. Res., Jud	EQB/ Governing Water Quality Standards
338	Nat. Res., Jud	EQB/ Governing Groundwater Standards
341	H&H Res., Fin, Jud	Division of Health/ Public Water Systems
342	H&H Res., Fin, Jud	Division of Health/ Public Water Systems Operators

Calendar of Events

February 2: Deadline for comments to DEP about Waco Oil & Gas (Glennville, WV) seeking permit to strip mine on a parcel of land they have purchased on Brown Mountain. *For more information: Norman Wolcott: nwolcott@kreative.net or 304-799-6579 with Browns Mountain Area Preservation Society.*

February 5: Bill Moyers Special, "Trading Democracy" on PBS at 10 p.m. Reveals how an obscure provision hidden in NAFTA can cost taxpayers millions of dollars when multinational corporations sue the government over environmental and health laws that threaten their profits.

February 14: Rally to reign in HB 4014 (Overweight Coal Trucks). To begin at 4:00 p.m. on front steps of state capitol (Kanawha Blvd). A Candlelight Vigil to remember victims at 7:00 p.m. (same location). Join Coal River Mountain Watch, Citizens Coal Council, OVEC, WV-CAG, WVEC, United Mine Workers and others.

February 15: Deadline for Young Writers Green Space Coalition "River of Words" Competition. *For more information: Chad Pierskalla, 304-293-2941 ext. 2410 or e-mail: cpierska@wvu.edu*

February 22: Annual WVEC E-Day! at the state Capitol. 10:00 - 3:00. Displays, speeches, award presentation, lobbying. *For more information: WVEC office - 304-346-5905 or e-mail: deniseap@earthlink.net*

February 22: Annual E-Day! Fundraiser. Empty Glass, 410 Elizabeth Street, Charleston. 5:00 till 9:00. Live music, dancing, and food for the soul!

February 26: 30th Anniversary of Buffalo Creek coal waste dam disaster.

March 9: Legislative Session 2002 ends at stroke of midnight! Stayed tuned to Update for WVEC issues "alive" or "dead" - and end of session plans.

April 26: WV-CAG Annual **Earth Day Fundraiser.** Coonskin Park. Music, great food & drink and an auction. *To donate to the auction or for more information: Linda Mallet, 304-346-5891 or e-mail: linda@wvcag.org.*

April 29-30: Sustainable Tourism Conference. Flatwoods Days Inn. *For more information: Dave Bassage or Candice Shrewsbury - 304-926-3647.*

May 24: Dr. Kevin Danaher with Global Exchange speaks about the global economy. Charleston Unitarian Univ. Church, 7:00 p.m. *For more info: Linda at WV-CAG, 304-346-5891.*

Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

Phone: 304-346-5905

_____ Renewed Membership

_____ New Membership

Membership Levels

_____ Change of Address

_____ Donation

Name: _____

_____ \$ 10 Student / Senior

Address: _____

_____ \$ 25 Regular

_____ \$ 50 Seedling

City, State, Zip: _____

_____ \$ 100 Sustaining

_____ \$ 250 Enviro Steward

Phone: _____ e-mail _____

_____ \$ 500 Canopy

_____ \$ 1,000 Old Growth

_____ \$ Other



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