



Green Legislative Wrap Up

Published Weekly During West Virginia's Legislative Session

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Under the Dome

*By Donald S. Garvin, Jr.
WVEC Legislative Coordinator*

THE WEEK AFTER – In the mental haze and daze that seems to beset all WVEC lobbyists after working a legislative session, the phrase “politics as usual” might best describe the 2002 West Virginia Legislature.

Picture Dick Waybright (WV Forestry Association), Roger Sherman (Westvaco), and Randy Dye (Director of the WV Division of Forestry) walking down a capitol hallway arm-in-arm. Picture Bill Raney and Chris Hamilton (WV Coal Association) huddled with Secretary Mike Callaghan and other DEP minions at the well of the rotunda, or in any one of numerous other more secluded back rooms (I even let Bill Raney take a photo of me standing with the group!).

Well, you get the picture, don't you? Politics as usual. And all that “whining” and dining paid off handsomely. Coal got a \$2.5 million break in the amount they are required to pay for their water pollution permits. Timber walked away with expanded regulatory and tax exemptions for “small” logging jobs. WVU gets to sell off publicly owned land in the name of “economic development,” with little or no public comment or involvement. The tourism lobby and the real estate lobby put the quash to funding the Farmlands Protection Act. Politics as usual.

This being an election year, we were also treated to a wide array of political high jinx. Delegates in tight races would simply leave the room when controversial committee votes were taken. One senator left a committee meeting and took a couple of colleagues with him to avoid voting on a bill sponsored by his upcoming election opponent; the committee was left without a quorum, so it simply adjourned. This same senator actually voted to kill a bill sponsored by the same opponent, and then reintroduced it

as his own legislation! Politics as usual.

As this session unfolded, I watched closely the lobbying efforts of our friends who work for other progressive causes. I think I was aware of this before, but this year it finally hit me squarely between the eyes: we don't lobby the way they do. Whether it's education, health care, or social justice issues, they are actually able to “swing” votes through lobbying legislators one-on-one.

For the most part, we don't have that luxury and we're not very good at it anyway. We don't have the luxury because most environmental issues are totally polarized by one opposition industry group or another. We don't have the luxury because this is a poor state whose newspapers routinely ballyhoo in headlines that “XYZ Corporation Creates 30 Jobs,” and politicians still look for short-term fixes to long-term problems. We don't have the luxury because those same politicians think they must rely on big money from the regulated industries in order to get elected (it's no mystery why election reform can't get off the dime!).

We're not very good at lobbying legislators one-on-one because of all of the above. Instead, we are forced to work with the few friends we have in the legislature or in legislative leadership and to play the political game by using the media and legislative groundrules. We jockey our bills so they are positioned in the right committees and in the right house; otherwise, they will never make it out of committee. And we have little chance of amending bad bills on the floor of either house, because leadership does not like to do business that way and we simply don't have the votes.

Having said all this, the WVEC lobby team really did have a pretty good year. King Coal took it on the chin big time in the overweight coal trucks issue, and we played a role in that. The industrial hemp bill passed, and we played a role there as well. The timber industry finally agreed to criminal penalties (albeit, mainly for administrative matters), and we have been pushing for that for years.

.....continued on page three

A Very Special Lobby Team

As legislative coordinator for the 2002 WVEC lobby team, I want to take this opportunity to publicly thank the individual lobby team members. They were, indeed, a very special group.

I could not have made it through the session without Chuck Wyrostok. Wyro covered for me when I could not be there; he never complained, no matter what I asked of him; he was always trying to make me plan ahead; he was always willing to listen to my rantings; and he always offered sound advice. The passage of the Industrial Hemp Act was due, in no small part, to Chuck's efforts at quietly working in the background and providing important information at critical points along the way.

John Taylor was my inspirational guide for the team. His quiet outrage and moral focus kept the team working to do "what is right." Lobbying was a new experience for John. He asked a lot of questions and wouldn't rest until he got the answers. He kept me on my toes. I will always be grateful for John's research and testimony at the public hearing on S.B. 667.

Gary Zuckett is a lobby team veteran with an incurable sense of curiosity. So it was usually Gary who would ask, "What's this bill all about?" while we were looking at the bill lists each morning. And his hunches are usually right on the money . . . meaning another bill for us to try to cover. I didn't know whether to thank him or not!!

Allan Tweddle was a delightful new addition to the team. He gave us what time he could find in his very busy schedule, as he is seemingly trying to change this nation's energy policy single-handedly! Allan is a transplant from California and a retired engineer who knows a lot about green

energy issues. He's learning about West Virginia politics the hard way, but he knows no fear. I giggled when he and Janet Fout jumped in the car at the spur of the moment and rushed off to ask hard questions regarding campaign finance reform of Congresswoman Capito.

We would not have been a lobby team without the communications provided by Denise Poole, the Update and newsletter editor, and Chris Hogbin, who managed our email alert list. I know we didn't make either of their lives easier for them, but they just kept on and kept on. I considered them full members of the team. And frankly, we all know that there would not be an E-Day without all the hard work done by Denise.

I want to also mention some other "non-official" members of the WVEC lobby team. Julie Archer officially lobbied this year for WV CAG, and she was awesome in the coalition building she did on the overweight coal trucks issue. Conni Gratop Lewis, who lobbied the timber reform issue again for CORL, is a real pro in the lobbying biz; I consider Conni to be a good friend and mentor, and I am eternally grateful for the opportunities I've had to work with her.

Another un-official, yet essential, member of the team this year was Dot Henry, who served as our volunteer coordinator for getting out the Updates and tried her best to make sure the office was operational. Dot and husband Norb were also my landlords, providing me an affordable place to stay no matter what hour of the night or day I came in! Fred Sampson also deserves our thanks. During the last two weeks of the session Fred was at the capitol almost every day, volunteering to cover whatever session we needed him to cover.

And, finally . . . there was Amy – the indefatigable Miss Amy Lynn Strege, our intern extraordinaire. Amy made my heart sing. She kept us all young. She sacrificed a lot from her

studies at the University of Charleston to work for peanuts on the WVEC lobby team. Amy had to do the grunt work, like bill tracking and distributing our handouts to each legislator's office, but she never complained.

I don't believe Miss Amy has ever uttered the words, "you can't do that"! No task ever seemed too daunting to her. Toward the end of the session, I thought it would be a good experience for her to see what a House rules committee meeting was like. So I sent her down to the Speaker's office and told her the protocol was to stand outside the open door and listen to what was being discussed. Only later did I learn that Miss Amy walked right in to the Speaker's office, found a place to stand in the corner, and took notes. No one dared ask her to leave!

As the song says, "Once in love with Amy, always in love with Amy." And so I say, on behalf of the entire lobby team, "Amy, we love you, girl!" Thank you, Amy, and thank you to every member of this very special lobby team.

Donald S. Garvin, Jr.
WVEC Legislative Coordinator

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Hemp bill confounds capitol

By Chuck Wyrostok (chuckwyro@hotmail.com)

Brand new legislation hardly ever makes it through both the Senate and the House of Delegates the first year it's introduced. This is especially true with totally new, controversial concepts. So, after Senator Karen Facemyer (R-Jackson) introduced SB447, a bill that would allow West Virginians to "plant, grow, harvest, possess, process, sell or buy industrial hemp" (marijuana's botanical cousin), odds-makers were having a field day at the Capitol. But what happened after that proved that no matter how savvy anyone thinks they are about the workings of the legislature, they should always leave room to be surprised.

During the last week of the session, after the Senate had passed the measure 25-6 the week before, House Judiciary Committee took up 447. Senator Facemyer showed up to address the members briefly, a few questions were asked, then they voted and passed it overwhelmingly. WV Department of Agriculture officials, who were waiting to extol the virtues of hemp, never even got a chance to testify. Everything seemed to be going too smoothly. Maybe this was a set-up. Politicians like to screw around with each other sometimes or bring things along to an advanced stage only to ask for a favor on another bill.

We decided we would generate hemp "fact sheets" (a tool that mentor and former senator Mike Withers used so effectively a couple of years ago when he so ably roamed these halls). The sheets described simply, briefly, concisely, what hemp was, its uses, and how it could help West Virginia farmers and the economy. We set out to personally deliver these to all one hundred delegates. Most were noncommittal. Some said they thought it was a great idea, but the voters back home just wouldn't understand and they had to vote 'no'. A few flat out said "NO" (and then later voted FOR it). Many said "no problem." Two days before the session ended, Thursday, a floor vote came and 447 passed 69-29! Now the odds-makers were shaking their heads. Who knew?!?

We hope Governor Wise lends his signature to this so that the Agriculture Department can begin to set up the apparatus for licensing, testing, and inspecting the crops. That's money to be made in these hills and this time it's an eco-friendly, sustainable, renewable cash crop!

Much of the credit for the success of this initiative goes to Senator Facemyer for going out on a limb with hemp and tirelessly working fellow legislators. Les Shoemaker of the WV Farm Bureau was a good friend to

have in this fight. Dr. Charles Kaufman of the WV Agriculture Department weighed in with expert testimony. And... due credit should go to the Senators and Delegates who knew a good thing when they saw it.

Under The Dome.....continued from page one

We continued to provide a voice to our agenda for election reform, responsible logging, green energy, clean air and water, and good government.

We were instrumental in gutting a bill that would have virtually halted environmental lawsuits by citizens. And we even managed to kill a bill that contained such vague language that it could have resulted in commercial timbering in our state parks.

So it was not a bad year at all for the WVEC lobby team, even though "politics as usual" was the order of the day.

Spring Meeting?

By Mary Wildfire
WVEC Board President

In addition to the big annual meeting in September, the E-council has traditionally had a second retreat in the spring, usually in June.

Should we have a spring meeting this year? Do we need one? If so, where? I'm hoping that those who think we need a meeting will also attend, and help plan it and set it up.

I'm therefore inviting any interested members to send in their suggestions. We'll probably have our annual meeting at Camp Pioneer again; if you'd like to see a spring retreat in *your* neck of the woods, and know a good eyrie in which to hold it, let us know. Perhaps you could even talk to the elves of the eyrie and find out what the costs would be. Also, any suggestions as to general theme, and workshops or activities are welcome.

If possible, send your ideas in the next week or two, so we can talk about them at the next board meeting in early April. You can either e-mail me at mwildfire@hotmail.com, or contact the WVEC office by calling 346-5905 or writing to WVEC, 1324 Virginia St E., Charleston WV 25301.

HB 4322- WVU Land Screw

By Amy Strege

HB 4322, heavily greased by WVU-backers and unopposed by anyone other than the general public- and who are they to slow economic development with public hearings, anyway - passed into law on Wednesday night, March 6, 2002. Senator Oliverio (D-Monongalia) amended what was called a research and development bill, meant to allow WVU to set up a research park, into an economic development bill. As it stands, it allows any institution of higher learning to donate property and/ or funding in order to build such things as factories, if they are making products that are related to the research and development being done on that same land or with that same money.

So, what started out as a bad idea that allowed big business to grab huge chunks of public land and assets under the guise of research and development, was worsened to become a way to allow big business to do virtually anything with that property and/or funding. And where does this property and funding come from, folks? Your pockets! While other amendments trying to insert public notice and/ or public hearings were offered, they were not accepted. Luckily, the part of the state code referenced has public hearings already in it.

Therefore, as soon as Governor Wise signs this into law (because it is effective from passage, and he is sure to do so), WVU bigwigs can start using public funding and property as pawns for big business deals.

S.B. 666+1 Gutted

S.B. 667, the bill that originally authorized the President of the Senate or the Speaker of the House to intervene “in any court of this state” in lawsuits against any state agency and was later changed to prohibit class action lawsuits against the state, was totally gutted and rendered harmless last week in the House Finance Committee.

The committee action came after a public hearing was held in the House Chamber: 15 persons spoke against the bill and NOT ONE person, even the bill’s sponsors, showed up to speak in favor of the proposal. Unions, lawyers, lobbyists, and environmentalists all teamed up to speak in opposition.

The Finance Committee then basically rewrote the bill, removing all the legislative intervention language, the prohibition of class action lawsuits, and the “loser pays” provisions in the Senate version. All that was kept in S.B. 667 was harmless language requiring notice to the state when lawsuits are filed. The gutted version was passed by the Senate on Saturday.

Green Legislative Update

WVEC Farmland Funding Hail Mary

By Clint Hogbin
WVEC Board Member

Let me first get your attention by telling you how wrong I was in my estimation that farmland preservation funding was dead.

By Friday three versions had died, and the fourth, HB 4331 was showing no pulse. Then, with only twelve hours remaining, Delegate Doyle persuaded Senator Kessler to move HB 4331. It passed out of Senate Finance committee and onto the floor where it passed with an amendment.

With the changes to HB 4331, the House Finance Committee Chair and the House sponsor had to concur with the amendments. Then, the full House had to vote again. Delegate Manuel studied the finer details of the Senate version of HB 4331 and tirelessly worked other key Delegates. Then, Delegate Harold Michael concurred with the amendments and at 11:59 P.M., with less than one minute left in the session, Delegate Doyle stood to also concur with the Senate amendments and the House took its vote. Time was running amazingly close. So close, that only two other pieces of legislation were voted on (after HB 4331) before the session ended. The House vote, I’m told, was around 70-30; HB 4331 passed!! So, yes, the Eastern Panhandle delegation pulled it off!

Because of the last minute nature of the activity I do not have a written version of the bill yet. My understanding is that it allows county commissions who have created county farmland protection boards with approved farmland protection programs to increase the property transfer rate no more than \$1.10 per \$500.00 and specifically dedicate the funding to the county farmland protection board. Any real estate transfers over \$1 M will only pay the fees up to the first \$1M. So, on any amount over \$1M there is no fee. Additionally, I am told HB 4331 requires the Department of Agriculture to create the “State Authority” by July 1, 2002. The Department is also required to place within its budget a line item specifically for the “State Authority” and another line item specifically for “county boards.” No dollar amount was specified. The hotel/motel tax language from previous versions was not included.

The passage of HB 4331 had nothing to do with Clint Hogbin. It had everything to do with nearly heroic efforts from Senator Unger, Delegate Manuel, Delegate Doyle, Delegate Michael, Senator Helmick and Les Shoemaker (WV Farm Bureau). They each deserve our thanks.

By the way, it’s still not quite over. Governor Wise has about 5 days to sign, ignore or veto it. Just one more E-mail folks ... please ... contact the Governor at governor@wv.gov and ask for his support. You can bet the WV Homebuilders Association will contact him with a different request.

Clean Elections Bills Die

Neither version of the WV Clean Election Act (S.B. 654 & H.B. 4532) was able to make it out of their respective Senate or House committees. Likewise, neither version of the Senate or House resolutions calling for an interim study of campaign financing was passed by both chambers. So the issue is dead for this legislative year.

We owe a great deal of thanks to Senators Mitchell, Hunter, Rowe, Burnette and Oliverio, and to Delegates Hubbard, Compton, Marshall, Manuel, Dempsey, Perdue and Randy White for sponsoring the legislation this year.

We also owe the same gratitude to Janet Fout who has worked tirelessly on this issue on behalf of the People's Election Reform Coalition (PERC). We'll just keep plugging away on this issue until West Virginia joins with states such as Maine and Arizona in eradicating the influence of big money on politics through the mechanism of public funding of elections.

Don Garvin - Agent 008

By Amy Strege, novice in the field of sedition

"There's a man who lives a life of danger."
His name is Garvin.
Don Garvin.

Is this man in the trench coat and the green hat just another lobbyist?

No, he is a secret agent for the WVEC lobby team. With his trusty cell phone, he prowls the hallways looking for ways to save his team from certain disaster at the hands of evil spies bent on taking over the world.

Why do they want to take over the world? So they can pollute it as much as they want, extract all the minerals without consideration of those living nearby or along the delivery routes, and most of all, rape the land in return for profit and \$1000 Armani suits.

He, and his band of undercover agents, are the last line of defense against these evil-doers. The WVEC Lobby Team plants covert information, under his direction, in the hands of the legislators.

With the aforementioned cell phone, he confirms delivery of giant inflatable elks on E-Day! and makes sure bill tracking is being done.

After a week of hard work, he retreats, far away from the city and gets refueled for another week of hard work fighting crime.

All of us here are WVEC love you, Don, for all you do!

Update on Timber Bill

By Don Garvin

The only logging related bill to pass both House and Senate this session was S.B. 431, "relating to timbering licenses." This bill reinstated the licensing exemption for landowners that had been struck down late last year through a court decision.

While the bill exempts landowners from needing a timber license if they sell less than \$15,000 worth of timber a year, it also provides that exemption to small loggers who cut timber on property they don't own, and bases the exemption on \$15,000 "stumpage" value instead of gross value (which means they can cut more trees without getting a license).

The bill also contains language that makes it a misdemeanor to "violate" certain provisions of the Logging and Sediment Control Act (primarily administrative in nature, such as logging without a license, etc.), with fines ranging from \$250 to \$500 per day per violation. This provision was actually offered by the WV Forestry Association and the State Division of Forestry, who appeared to be nervous that our persistence for the last several years might result in more substantive changes to the Logging Act.

In the end, however, we lost on amendments that would have required loggers to file their logging plans prior to beginning their operations, limited the license exemption to landowners logging on their own lands, and provided notice to adjacent landowners (talk about a "property rights" abuse issue!). Special thanks go to Delegates Dale Manuel and James Fox, and Senators John Mitchell and Jon Hunter for their attempts to pass those amendments.

None of our other legislation aimed at reform of the Logging and Sediment Control Act made it out of committee, including strong bills by Senator Mitchell and Delegate Rick Staton. We even lost the battle to get a flood study resolution passed by both houses.

WVEC has worked on this issue for the last three years with Conni Lewis (lobbying for the Coalition for Responsible Logging). No one works harder "under the dome" than Conni, and attitudes and votes toward this last basically unregulated extractive industry are beginning to change. We'll just have to try again next year, Conni.



**"Those who profess to favor freedom
and yet deprecate agitation ~ are people who want
crops without plowing up the ground.
They want rain without thunder and lightning.
That struggle might be a moral one;
it might be a physical one;
it might be both moral and physical,
but it must be a struggle.
Power concedes nothing without demand.
It never did and never will.**

Frederick Douglas, Abolitionist

Special Session on Overweight Coal Trucks Delayed

The following is from an article in the March 14 *Charleston Daily-Mail*:

Senate President Earl Ray Tomblin, D-Logan, said he expects to have a special session in May or June to address the overweight truck issue. Tomblin, Gov. Bob Wise and House Speaker Bob Kiss, D-Raleigh, announced Wednesday that they would put together a study group that will report back to the Legislature within 60 days on how to handle the problem.

That means legislators probably won't have to make a decision on the controversial issue until after the May 14 Primary Election. Enforcement of the existing coal truck weight limits led to a protest by haulers Tuesday.

Until the law changes or the governor orders otherwise, the officials will enforce existing truck weight laws strictly, said Randy Coleman, spokesman for the Department of Military Affairs and Public Safety.

Enforcement crews stopped and ticketed 43 overweight trucks over four days this month, Coleman said. Thirty-eight of those were coal trucks. The average weight of the trucks ticketed was more than 140,000 pounds. The legal limit ranges from 65,000 to 80,000 pounds, depending on the road.

Coal companies have been calling members of the House of Delegates to emphasize how urgent the situation is becoming. Bill Raney, president of the West Virginia Coal Association, said that's about all they can do until the Legislature and governor decide to act.

"We're just going to continue to work with the administration and the Legislature in hopes that we can get through the thing," Raney said. "It's going to be a touch and go situation in almost every part of the state."

Raney said that while they had been talking with the legislative leaders and governor Wednesday, they didn't learn the specifics of what was planned until the governor and legislative leaders held a press conference to announce their decision.

United Mine Worker President Cecil Roberts said this morning that he respects the governor's and legislative leaders' decision about what they need to do to reach a compromise on the issue.

"Gov. Wise and the leadership in the House and the Senate have this before them. It's a difficult issue to deal with," he said.

House Majority Leader Rick Staton, D-Wyoming, said there would be no sense in rushing ahead with a special session because neither side has enough votes to push through its proposal.



Photo by Vivian Stockman

Large crowd at Rally against Overweight Coal Trucks February 14, 2002.

"We're no better off than we were in the (regular) session," he said. "I think and others believe that the vote that was forced in Judiciary (Committee) when industry thought they had the votes made matters worse."

The House Judiciary Committee unexpectedly approved a bill sponsored by Delegate Mike Caputo, D-Marion, that would have kept truck weight limits at their current levels with increased enforcement and penalties for violations. The industry had been pushing for higher weight limits coupled with new means of enforcement and higher penalties for violations.

Tomblin said two other issues requiring work in a special session could wait a few months. They include correcting a joint resolution to put a constitutional amendment on property tax increment financing on the November ballot and fixing a problem in a rules bill.

The committee to study the coal truck issue would include two members selected by Tomblin, two by Kiss and an unspecified number chosen by Wise. Tomblin compared it to a similar study group headed by former Marshall University President Wade Gilley in 1998 that examined mountaintop removal mining.

Meanwhile, Caputo told members of the House of Delegates Wednesday night that a hauler had made a threatening call to his family. He said that would not change the legislative process.

"We're gonna continue to debate and we're gonna continue to be respectful but we're not going to allow threats and intimidation to rule this grand institution," he said on the House floor.

State Police spokesman Trooper Jay Powers said that Hanover resident Harold Cline was arrested in connection with the incident. He was charged with telephone harassment and threatening a public official, both misdemeanors, Powers said.

(Articles from the *Charleston Daily-Mail* are reprinted here with their permission).

Calendar of Events

March 22: OVEC's Annual "Tree Huggers Ball", Calamity Cafe' located on Hal Greer Blvd. & 3rd Ave., Huntington. 9:30 till ? Music by: **Big Rock & The Candy Ass Mountain Boys** and others. Cost is \$5.00 at the door. *For more information: 304-522-0246.*

March 26: UC Speakers Series: Erin Brockovich, speaker. University of Charleston - Geary Auditorium, 6:30 p.m. Free and open to the public.

April 13-14: West Virginia/Pennsylvania Wilderness and National Forest Planning Training & Volunteer Weekend. *For more information: contact Dave at WV Highlands Conservancy: 304-284-9548, or e-mail: daves@labyrinth.net.*

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. *Cost is \$30 for one day, or \$50 for both. For more information: Dave Bassage or Candice Shrewsbury - 304-926-3647.*

May 4: "Propagation of Culinary Herbs, Cultivation & Uses" workshop. LaPaix Herb Farm, Alum Bridge, WV. 1:00 - 5:00 p.m. Cost: \$15. *For more information: Myra Bonhage-Hale, lapaix@iolinc.net.*

May 11: Three Rivers Avian Center's 2002 "Migration Celebration." Winterplace Ski Resort, 10:00 a.m. - 9 p.m. Live Music & Dancing, Birds of Prey Program, Taste of Spring Chef Cookoff, Photography Workshop, Hiking, Local Artists, Silent Art Auction. *For more information and directions: 304-466-4683 or 800-721-5252.*

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.*

July 18: WVU Organic Research Farm Field Day. 3:30 - 7:00 pm. *For more information: Jim Kotcon at: jkotcon@wvu.edu.*

August 3: Sustainable Fair 2002, La Paix Herb Farm located in Lewis County. Demonstrations, green business/artisan booths, nature walks, music, art, auction and more. Cost: \$10.00 per person / \$ 15.00 per family at the gate. Sponsored by, Sustainable Development for West Virginia. *For more information and directions, please visit: www.sustainabledevelopmentforwv.com*

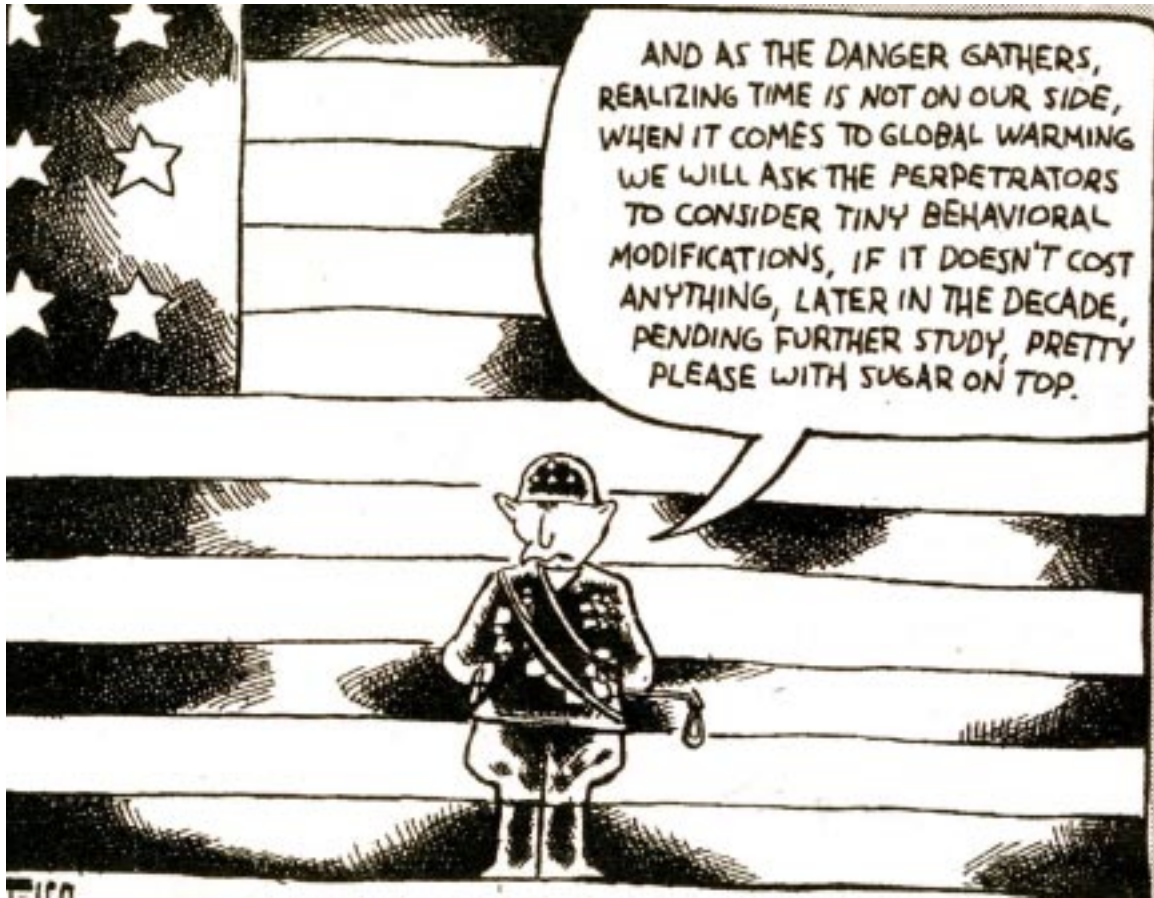
September 8: WVU Organic Research Farm Tour, and MSOGBA Organic Farm Day. *For more information: Jim Kotcon at: jkotcon@wvu.edu.*

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