



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 1 — I lost it!!

It's only the second day of the 2003 legislative session, and I lost it!

This is my fourth year as a WVEC lobbyist and it seems I lose it once each session, but usually way toward the end of the session. But today, on only the second day of the session, I lost my cool.

And it wasn't even at the legislature. It happened in a hallway after a meeting of the Environmental Quality Board. The EQB had just decided NOT to weaken water quality standards by adopting the "harmonic mean flow" method for measuring allowable amounts of carcinogens, such as dioxin, in water pollution discharges (remember "Cancer Creek" and the Apple Grove pulp mill?). So this was a good decision that EQB made today.

But in the hallway after the meeting I engaged in the usual light bantering with a couple of lobbyists and a lawyer representing the polluters, and very quickly the light banter turned serious and accusatory. The straw that broke my camel's back was when this lawyer, who has fought so hard for years for the right to pollute every stream and river in the state, said to me, "You all are against all jobs. You're against having any business in this state."

That's when I lost it. That's when I got in his face, literally. That's when I pointed my finger not an inch from his nose and told him off in my usual quiet voice (those of you who know me know that my usual speaking voice is about as quiet as a freight train!).

Here is what I told him:

"Don't you dare accuse me of being against jobs and against business. I was in the oil and gas business for years, and I didn't have to break every state and

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Rx – Chill Pills?

By Rick Eades

If ever there was a West Virginia legislative session for environmentalists to pick their battles wisely, the 2003 session is it.

Giants will be pummeling legislators. Lawyers, doctors, insurance companies, and tobacco chiefs will be defending turf and leading attacks like Mel Gibson defended his family in *Braveheart*. As in *Braveheart*, scores of our rank and file may become cannon fodder in budget cuts.

If they survive the budget assault, state workers' PEIA premiums could jump like Enron stock just before the corporate fat cats sold theirs'. Forget raises.

State employers could be further crippled by continued Workers Comp fallout, while state employees again are at the mercy of those handling some grossly under-funded retirement programs. Either the Workers Compensation or public employee retirement fiascos could single-handedly bury our state fiscally for decades to come.

If Governor Wise is unsuccessful in getting a substantial cigarette tax passed, federal Medicare money to WV could disappear like Martha Stewart fan clubs.

So, trying to cram an environmental agenda down legislator throats this year could easily produce a reaction nobody likes to see, much less wear. Stand back folks, it could get very ugly.

Let me say this clearly, – *advocating environmental issues that inherently deliver economic positives are critical to gaining the ear of legislators or allies this year.*

As usual, we will have several environmental rules for air, water, and industries and a number of issues to deal with on timber and coal, where all hands will be welcomed on deck.

To the economic positive end, subplots to our Green Energy initiatives are hatching that we hope will be judged favorably in the Big House. *Stay tuned.*

WVEC Winter Fundraiser 2003 Session Kick-Off Blast !!!

Join us Friday, January 17th and help us kick off the
2003 Legislative Session in Style!

Perfater Law Office Building
1311 Virginia Street East, Charleston, WV
From 7:30 PM ~ 11:30 PM

Featuring:

VooDoo Katz



Launching of the VooDoo Katz first cd!!!

Home Brewed Beer!

Silent Auction of over 50 unique items

Tasty refreshments

Meet the 2003 Lobby Team...great opportunity to
get caught up on issues!

bid on the mark bl umenstein sculpture (drawing
will be held in april)

\$5.00 donation at the door

For more information, to donate auction items or to help during this
event, please call Denise at the WVEC office: 346-5905

Proceeds go in support of the WVEC lobby effort

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Denise Poole, editor
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304-346-5905

"Look at Mother Nature on the run... In the nineteen seventies..."

By Chuck Wyrstok

True enough, these words of Neil Young...even more so now than when written years ago. Neither Neil nor any of us imagined a U.S. government in the 21st century so bent on their corporate agenda and so smugly arrogant that they could simply ignore the vast majority of Americans who crave a clean environment. Almost like a dark cartoon, spewing out toxic 'newspeak' edicts almost daily, locomotive-like, their greed is plainly visible through the spokes of their speeding wheels.... "Casey Jones, you better watch your speed!"

Maybe it was the AWOL thing from the Texas National Guard. Maybe losing to Gore and having to be illegally court-appointed. Hard to say. Only a rich semi-literate Texas cowboy wannabe trying to find his manhood would careen down this fast-track so blindly, oblivious to the natural beauty being laid waste in his wake.

This runaway train to hell only encourages his minions in Charleston. Government leaders allow trucks to crush, whole mountains to disappear, homes to be swept away and citizens to become refugees in their own land, while industry CEO's and their grunt lobbyists huddle secretly in dark places, snickering like the kids on Beavis and Butt-head..... "heh-heh, heh-heh".....

Makes you want to PUKE! Well, the good news is that this year's lobby team is equipped with barf bags and cattle prods and will not be deterred by this excess of evil. It's the most diverse group recruited yet. Imagine the potential: a high-spirited pitbull scientist, a dedicated green-energy/clean vehicles Republican engineer, a seasoned liberal lawyer, a very sharp lady who's a veteran on the capitol scene, a young energetic bill tracker who rivals Sherlock Holmes, a respected, tireless team leader, and yours truly (humbly defying description).

Make no mistake, we are up against the forces of darkness. They don't respond to morality or the silent cries of the ecosystem on which all life (even theirs) depends. Truth hurts them the most. **When we shine the light on their sins, they respond with smoke and mirror spin doctors, and lame ones at that. "Coal...cleaner, greener" comes to mind. Puh-leeze!**

We resolve to castrate this sinister ideology with a karmic switchblade.

We have Mother Nature watching, the ultimate teammate, the mama with the final word. And we have our faithful believers, supporters like you, who, like us, cannot... will not, throw the towel in. Bruce Springsteen said it best...."No retreat, no surrender!"

Wish us luck, strength, clarity, swiftness of wit....and grace. Thanks.

Green Legislative Update

Water Sails

By Rick Eades

Who would have believed the sale of the largest water utility in West Virginia history to a European/German conglomerate steeped in international law intelligencia would have moved through the process like greased lightning? The vast majority of West Virginians who commented to the Public Service Commission opposed the sale. But, in these days, corporations rule. Still, West Virginia was apparently the last of 26 states that approved these deals.

How were the corporate cowboys slowed down in their water rodeo? Kudos to Attorney General Darrell McGraw and his legal team of D. L. Hamilton, Fran Hughes, and Silas Taylor.

At the eleventh hour, the AG's Office was able to negotiate some provisions to the sale that appear to offer us meaningful protections. One provision may prevent having our water extracted and sold out of state for corporate profits. Another may prevent RWE/Thames from deploying legions of legal heavyweights to affect the water business in West Virginia by utilizing some potentially very sinister international law treaties and agreements.

My fingers are crossed in hopes we have not opened Pandora's Box. Already, suggestions that RWE/Thames is seeking a takeover of wastewater operations are being heard.

My greatest fear is any precedent or point-of-entry that enables giant out-of-state interests to secure ***the magilla of West Virginia future economic interests*** – the magnificent spring waters originating in limestones in the easternmost counties of our state.

As the session starts, DEP Secretary Michael Callaghan noted in a recent Ken Ward story that he didn't think this year, with all the fiscal nightmares at hand, would be a realistic time to move water rights and protections law. ***Could there be a bigger fiscal nightmare than losing this last great resource in West By God Virginia, our water?***

If the AG-imposed conditions have any loophole and we ever do end up in dispute, i.e. the West Virginia Public Service Commission v. Mega-Conglomerate International Corporation, imagine Huck Finn's Raft holding off a fleet of Aegis Destroyers.



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federal environmental law to turn a profit. I didn't have to kill people to do it. And if the pulp mill proponents had agreed to use the latest technology available to them, today we'd have a chlorine-free, dioxin-free pulp mill turning out paper and employing lots of good folks. So don't tell me that I am the ONE who is against jobs here!"

Afterward, for a while at least, I felt guilty for letting this polluter's lawyer push me over the edge. Normally I would have simply considered the source and dismissed the remarks with a smile and a shake of my head. After all, I know it's a favorite tactic of his, goading you with half-truths and incendiary language, all of which has little to do with the issue at hand.

Now, however, after further reflection on just what was "the issue at hand," I have no regrets about getting in this guy's face today. The issue at hand wasn't jobs, and this polluter's lawyer knew it.

The issue at hand was allowing more dioxins into our water supply. Dioxins, even in VERY small amounts, cause cancer. Cancer kills people. It is not necessary, either for business or for jobs, to put more dioxins, which cause more cancer and kill more people, into our water supply.

Those are MY values, Mr. Polluter's Lawyer. What are yours? **Case closed.**

State of the State or Status of the Status Quo?

Amazingly, the Governor's State of the State speech never used the following words or phrases one time – **environment, water, coal, timber, conservation, air quality, poultry, power plants, overweight coal trucks, or mountaintop removal mining.**

Unofficial results from the highly respected Empty Glass Polling Company reveal that the word most frequently mentioned by the Governor was "jobs," followed closely by the phrase "medical malpractice," then "economy" and "budget."

There you have it.

If you feel the Governor is ignoring you, call his office at 558-2000 – or you could say "you've got mail" at governor@mail.state.wv.us.

Overweight Coal Trucks - Big Issue!

Julie Archer, WV-Citizen Action

For the second year in a row, **Governor Bob Wise did not mention overweight coal trucks** in his state of the state address. He was already on the record as saying he had **no plans** to introduce legislation to address the problem. **He has failed in his commitment to enforce exiting weight limits and his refusal to push for solution to the problem shows not only a lack of leadership but disregard for the health and safety of the citizens of West Virginia.**

Illegally loaded coal trucks continue to endanger the lives of people traveling on West Virginia highways on a daily basis and coalfield residents have complained that coal trucks now run late at night and early in the morning to avoid enforcement crews. Since the Governor and legislative leadership decided to call it quits after passage of the Caputo amendment last July, at least four more West Virginians have lost their lives to overloaded coal trucks. Their inaction has led coalfield residents to the court system in order to seek relief. The madness must stop and Governor Wise and the Legislature have both the power and the responsibility to see that it does.

Despite the Governor's reluctance to get involved in the coal truck debate, at least some legislators anticipate taking up the issue again this session. Delegate Mike Caputo will once again be our champion on the issue and will reintroduce the Governor's bill without the weight increase. The coal industry also has plans to reintroduce their bill, which was sponsored last year by delegates Eustace Frederick and Steve Kominar. Both bills will probably be introduced next week, *so stay tuned.*

Stretching for Silver Linings

Good news for environmentalists may be hard to find, but here's one possibility.

John Pat Fanning is the new chair of the Senate Natural Resource Committee. With a McDowell County base and long term relationships with folks who suffered from 2001 flooding (and hold continued timbering concerns), Fanning might consider protecting citizen and commercial property and limiting flood-related economic liabilities borne by the states more rigorously than others.

“Tort Reform” and the Environment, a Bad Mix

By Gary Zuckett, WV-Citizen Action

The whole nation is watching WV as the doctor’s walk out over medical malpractice insurance continues. What the press is missing is the scope of the proposed “fix” for the problem. The governor’s proposal to “cap” liability awards in damage suits will extend not only to doctors and patients, but to anyone who is damaged by negligence of any kind.

Who else is rooting for this so-called “tort reform”? Makers of defective tires, operators of overweight trucks, coal companies whose slurry ponds collapse in a rainstorm, timber operators whose clear cuts cause flood damage to residents downstream, makers of defective children’s toys, chemical plants that poison the surrounding neighborhood, the list goes on and on – all will be protected from paying the true cost of their negligence. This is why “tort reform” is also an environmental issue.

This “blame the victim” approach actually harms injured parties twice, once at the hands of the medical profession and then again by denying them due compensation for their injuries. The irony is that this “fix” will not reduce doctor’s insurance rates. It hasn’t done so in any state that has passed “tort reform” and it won’t do it in WV.

The best way to reduce medical malpractice insurance rates is to reduce the incidence of malpractice ie, get rid of the small number of bad docs that are causing the vast majority of malpractice. Insurance reform is the other cure to inflated rates. Better state regulation will keep greedy insurance companies from gouging doctors when insurance co’s Wall Street investments take a hit.

Contact you legislators and ask them to enact insurance reform and accountability for bad doctors instead of limiting your rights to a jury if injured. For more information see www.wvcag.org/victimrights.

**Governor! Watch for our
"TURN IT OFF PROGRAM"
money saving series beginning in
next week's issue!**

Green Tort Reform?

With all the doctors and politicians clamoring for tort reform this session, we have a suggestion of our own. Call it “green” tort reform.

How about a cap on the amount polluting industries can pay their overpriced lawyers and lobbyists for advocating on behalf of more pollution of our air and water? After all, these bloated salaries are simply absorbed by polluters as the normal cost of business operations, deducted from the taxes they pay, and then passed on to their consumers.

Why not eliminate any tax deduction for “polluters’ lawyers” expenses and cap the amount that these corporations can tack on to the price of their products or services?

Sounds reasonable to us!

A Bill For Public Financing

By John Taylor

On the surface of things the right to vote is pretty much the most honored and respected right that we have in this country. Most usually, the court decisions on voting describe it as a “right”, “an entitlement” or a “privilege.” Also, the major trend in the court system’s opinions is to expand the voting population by getting rid of the barriers erected in the bad old days such as skin color, gender, poverty and criminal record.

The West Virginia Supreme Court told us in 1942 that all voting laws and regulations in West Virginia must be interpreted liberally toward the right to vote. Written public policy is designed to increase the number of people who participate in our electoral process.

The number of people voting seems to be steadily decreasing with each election. Our public policy on inclusion and increasing participation demonstrates an unacceptable discrepancy between theory and practice. As a nation, our theory and policy on elections is ripped. Anyone who thinks we’re doing good on this needs to explain why only about 40% of eligible West Virginians voted in the last election. You call this good?

Be serious! Why would any person of normal intelligence feel good about voting when you know daggoned well the results are not going to fully and fairly reflect the will of the majority of the working class of this country. When you know the entire system is designed for the needs and desires of rich people, what’s to like? Not very much unless you’re a rich person too. When it comes to electing our leaders, we’re trying to make production with dysfunctional machinery. Parts are broken and banging around in there. Threads are stripped, and bearings are burned out, on the machinery we have to use to

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Timber....Timber....Timber

By Conni Gratop Lewis

This year, the Coalition on Responsible Logging will present several bills that address some of the most egregious timber practices. You know what they are: cutting trees on someone else's property; not paying severance taxes when logs are trucked to other states; not notifying the Division of Forestry in advance. Stuff like that.

Did I mention the silt (topsoil) in our streams? Did I mention the ugly hillsides that will take generations to heal? Did I mention the reduced property values? Did I mention the flooding made worse by bare hillsides?

Apparently logging is the only industry so populated by ethical companies that it doesn't need to be regulated. West Virginians know better. We know that this is an industry with way too many people who don't know or don't care how to log responsibly.

The best interest of West Virginia, her people and her economy will be served when logging is properly regulated and CORL intends to make that happen.

That Old Familiar Shameless Plea

By Donald S. Garvin, Jr.
Legislative Coordinator

The West Virginia Environmental Council has assembled an unbelievably strong lobby team this year. And with some pre-session planning we were able to hit the ground running. Our impact was felt even on opening day, when by mid-afternoon more than one legislator commented that three or four of our lobby team members had already visited them. And this year we will be offering a pro-active agenda of our own, in addition to playing our usual defensive role.

This is a larger lobby team, along with a larger financial commitment, than WVEC has ever attempted. In order to accomplish this, almost all of our regular organizational members have pledged more financial support than in years past. And now the rest is up to you, our individual members and donors.

We are your voice for the environment at the West Virginia legislature. And without your financial support we cannot be here. So if you have not renewed your membership, now is the time to do so. And if you can, please renew at a higher level this year. If you have already renewed, please consider sending us an additional donation. We need your help more than ever.



A Bottle Bill for West Virginia?

By Linda Mallet, WV Citizen Action

For the past several months, WV-CAG has been gearing up to introduce a bottle bill during the 2003 legislative session. Our plan was to go into the session on a wave of public support and you have helped make that happen. Thanks to those of you have signed the on-line and paper bottle bill petition. In addition, Huntington, Charleston, St. Albans, and South Charleston city councils have all passed resolutions of support, and we hope to get more cities and counties on board soon.

We are working in coalition with the WV Farm Bureau, which has made a West Virginia bottle bill one of its legislative priorities for this session. We are excited by this alliance and have begun approaching potential sponsors for the bill.

The legislation we are proposing would place a 10-cent refundable deposit on the more than one BILLION glass, plastic and aluminum single-use containers we use in West Virginia each year. Once consumers are through with their containers, they would return them to either a redemption center or retail store for a full refund. The likely results of this bill would be reduced litter (West Virginia spends \$2 million a year in litter clean-up), reduced reliance on landfills, and increased energy conservation (the equivalent of the energy usage of thousands of West Virginia homes).

What can you do? Please sign our on-line petition at www.wvcag.org. If you are interested in approaching your city council or county commission to ask it to adopt a resolution of support, please contact me at 346-5891 or linda@wvcag.org.

A Bill For Public Financing

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conduct the the most serious and significant, and the most dangerous, of our collective and social task, i.e. the election of our leaders and governments. ("Dangerous" because of the harmful and demoralizing social consequences of elections that don't give full and fair results, elections that are twisted and distorted by the infusion of excessive money and influence into the process from day number 1 until the counting and canvassing of the ballots cast.)

A Clean Election Bill is afoot this session. We all have witnessed first hand how large corporate interests influence and control the environmental political agenda every day.

Having cleaner elections is pivotal to the possibility that we will ever have clean air, pure water, and a pristine landscape.

Calendar of Events

January 8: 2003 Legislative Session begins. Stay in touch through our **Legislative Update** newsletter published weekly during the session. Get all the latest information on important issues, active legislation, events and more.

January 17: 2003 Legislative Session Kick-Off Blast! WVEC Winter Fundraiser - Perfater Law Office, 1311 Virginia Street East, Charleston. From 7:30 pm till 11:30. Live Music & refreshments! **Help us kick-off the session in style!**

Featuring: The VooDoo Katz - launching the release of their first CD!! Enjoy home brewed beer and other refreshments. Meet the 2003 Lobby Team members, mingle with friends, and bid on great Auction items!
Cover: A \$5.00 suggested donation at the door will go in support of WVEC legislative expenses.

For more information: Denise Poole, 346-5905 or deniseap@earthlink.net.

January 24, 2003: WVEC Western Region Fundraiser. Ebineser Church - Huntington, WV - Enjoy live music, a delicious "Potato Bar", with lots of toppings to choose from, vegetable soup, bread & dessert! 5:30 till 8:30.

Cover: \$5.00 suggested donation.

For more information: Denise Poole at deniseap@earthlink.net or John Taylor, 925-7066.

February 25: WVEC Annual E-Day! at the Capitol, Senate & House halls, state capitol, Charleston WV. 10:00 till 3:00. Organizations, groups, eco-friendly business displays and other activities planned. Mark your calendar now, and join us! Lobby your legislative representatives!

For more information and to reserve display area contact: Denise Poole, 346-5905 or deniseap@earthlink.net.

February 25: Annual E-Day! WVEC Fundraiser. The Brick Cellar, 1604 Washington Street East, Charleston. From 5:00 pm till 9:00 pm. Stop by after E-Day! at the Capitol.....Buffet, Auction, and music provided by Steve Hill and Ammed Solomen!

Stay tuned for more details.

For more information: Denise Poole, 346-5905 or deniseap@earthlink.net

March 8: Last Day of Legislative Session. Stay tuned for details of End of Session Gathering.

April 26: Artists for the Environment Fundraiser. Perfater Law Office lobby, 1311 Virginia Street East. Silent auction of visual artwork, live music, wine & cheese, and raffle drawing for Mark Blumenstein sculpture. Join us for this lovely evening and support the environmental efforts in West Virginia!

For more information and to participate contact: Denise Poole, 346-5905 or deniseap@earthlink.net.

Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

Phone: 304-346-5905

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WVEC Winter Fundraiser

*Join us Friday evening,
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Featuring,
The VooDoo Katz launching
the release of their first CD!

See inside for details....

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First Class
Time Sensitive
Please Rush
Thanks!

www.wvecouncil.org