Simple Benchmark Water Quantity Law?

By Rick Eades

Apparently.....

- The Bush Administration’s power to open ALL U.S. water supplies to international treaties and exploding European Corporate interests - in March this year!
- Plus, West Virginia ominously being one of only two states east of the Mississippi with NO water quantity protection law!

. . . .resulting in a straightforward draft of a couple of paragraphs that could lead to a basic water quantity law this session.

House leadership devoted legal resources, and now the Senate may review a draft and consider a simple law directed at establishing sovereign control of our water - before the Bush Administration potentially gives the green light for this incredible economic resource to be offered to non-sovereign interests.

For right now.....

As we understand it, the preliminary draft language effectively says no more than, the waters of West Virginia are ours! And….our water resources will be governed and controlled by us…for use by our citizens and the future economic prosperity of our businesses.

In a sense, whether this bill actually comes to life is up to powers that already know it’s importance, and would have to nurse it carefully through a very crowded calendar without missing a step. For right now, we have to hold our collective breath and hope that Leadership on both sides of the aisle have already decided to do this of their own volition.

...continued on page 3

Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 7 – Zoom, Zoom, Zoom . . .

Every time I hear that little “zoom, zoom, zoom” jingle in some car commercial I think of ATVs and pickup trucks and the newest West Virginia sport of “muddin’”.

If you are in Buckhannon on a summer Friday or Saturday night, don’t stop for gas at the local Sheetz unless you want to go to the carwash afterwards. The parking lot will be packed with vehicles that are so mud covered you can’t tell the color of their paint.

Muddin’ has become the latest craze in my small town. And every commercial you see for ANY four-wheel drive vehicle promotes their off-road use. Run those babies right through the mud, right down the middle of a stream.

Zoom, zoom, zoom.

While most of the focus on the ATV bill this session (HB 2121) is on safety, for me these things are an environmental nightmare. Running them thoughtlessly off-road destroys riparian and wildlife habitat and puts a lot of mud in our streams (mud is sediment and sediment is pollution, folks).

Now I know that the ATV bill does not deal with the off-road use of these vehicles, but almost every version I have seen promotes off-road use by allowing them to be driven on roads and highways – the access needed to get off-road.

So while I do hope that the legislature finally puts helmets on the kids who ride ATVs, they also ought to prohibit their use on roads in and around our state parks, state forests, wildlife management areas and federal public lands, such as the Monongahela National Forest.

Get off that ATV . . . and take a walk to feed the birds.

Green Legislative Update
Dear Friends and Supporters of the WVEC

What a winter this has been, and perhaps not over yet! Some of our lobby team and office staff are experiencing difficulties familiar to our general membership, supporters, and readers of the Green—cold homes and dark nights without power, deep snow drifts, long lines at gas pumps and hazardous roads. Still, we persevere because we must, and because this is our time. We must do our best work during the Session—we can’t put it off until later, no matter what the obstacles may be.

As you continue coping with whatever problems the weather is causing for you, please spare us a few thoughts, a few prayers, and—we hope—a few dollars. Your excellent lobby team is working diligently to protect and restore the health and beauty of our beloved state and her citizens, and to promote healthy and sustainable economic development. Like you, they need support, appreciation, and money (at least some!) to do their best.

Please remember your WVEC, and send whatever contribution you can. We need it now more than ever!

All our best,

Mary Ellen O’Farrell, WVEC President
Lobby Team & Office Staff

Please Join Us For E-Day!

This year marks our 14th anniversary for E-Day! at the Capitol. The first E-Day! occurred in 1990, one year after WVEC was formed. We (all those wonderful activists at the time) dubbed this "the birth of a movement." 1990 began "The decade of the Environment."

Chuck Chambers was the speaker of the House. Water wars were raging. Large Landfills were looming. There were "Groundwater Groupies" and "Garbage Guys."

The first communication to environmentalists across the state and beyond in 1989 was to the Groundwater Coalition, from Norm Steenstra (who had been hired to work on groundwater issues by David Grubb, founder of WV Citizen Action Group and its Executive Director at the time.)

A strong lobby presence followed, increasing over the years with WVEC lobbyists too numerous to mention here today. We will be writing more about these people, and our history in these pages however in the near future.....promise.

The first E-Day! in 1990 boasts Lois Gibbs as the Keynote Speaker. House Speaker Chuck Chambers received our first award, Mother Jones, and 500 citizen activists attended. So began the birth of a movement, and E-Day! was off to a grand start.

So here we are. Fourteen years down the road. Our environmental battles are many, some we never dreamed we’d be taking on in 2003. We would love to have hundreds of activists arrive for E-Day! So. Take the day off work. Skip class. Come to E-Day! You will be glad you did. Really!
Long Term Water Policy/Study On Tap

By Rick Eades

SCR 27, directing a year-long interim study to develop a Comprehensive Water Policy for West Virginia most likely will be taken up Monday in Senate Natural Resources. The House will apparently await action on the Senate side.

Senator John Unger has worked long and hard on this issue. He has brought heightened knowledge from years of watching Eastern Panhandle droughts and observing in detail the process neighboring Virginia is currently going through.

Senator Brooks McCabe also has had a longstanding interest in protecting this vital resource for West Virginia, and seems to clearly value our state’s economic future and sovereign control of our water resources.

Sen. Unger crafted SCR 27, though some amendments may be considered in the committee from a separate draft Sen. McCabe apparently had been working on early in the session.

Effectively, this Resolution Train is out of the station. An array of interests will no doubt drive the engine from here, though our eyes will obviously be on this process to the end.

It seems all parties are currently on board with this resolution, from state agencies to industries to Legislative leadership.

Simple Benchmark Water Quantity Law?

continued from page 1

The only constructive action I can recommend as we go to press might be:

- A gracious call to House Speaker Kiss thanking him (and Majority Leader Staton, and Judiciary Chairman Amores) for recognition of how critical this simple bill might be, and for his leadership’s interest and commitment to contribute to the process, and;
- Asking folks you know from “non-environmental” interest groups that might have the ear of Senate President Tomblin to contact him, if THEIR interests would be served by moving such a bill.
Overweight coal trucks (SB 583) in the Senate EIM Committee leads to endless questions, but several that insult economic or enforcement sanity:

- In our economy, can we allow a weight increase to 126 tons to deliver DOH estimates of possibly $2.8 billion in roads and bridges damages – or roughly $20 million dollars for every High School in the state of West Virginia?
- Even if penalties for overweight violations were dedicated to road and bridge repairs (they are not), would the maximum penalty ($10K penalty if 35+ tons above the 126 ton limit) be collected 280,000 times to pay for the taxpayer costs?
- How is an insultingly low $500 permit fee per truck that is going to a coal road repair fund going to pay for these road and bridge damages?
- As Senator Kessler noted other trucking companies have to post bonds, is there zero bonds for coal trucking operations to take care of road and bridge damages?
- Would cheaters dare to cook the books or alter weight records, given the allowance of 5 days notice to shippers before any record inspections?
- Would enforcement work best if all weight shipping records are destroyed except those of the most recent 3 months?
- Wouldn’t Enron love these types of taxpayer paid provisions for repairing their damages, and the really tough records and inspections provisions?

Governor Wise rightly points out that extensive safety provisions have been gutted from the worst of last year’s industry supported bills. By the way, the agency charged with enforcement and setting all permit, safety, and inspection rules didn’t even show up to the committee meeting – even though every public road in West Virginia would also be opened up to 80 ton trucks!

EIM cancelled the re-scheduled meeting set for Friday, with Senator Sharpe announcing during the floor session that EIM will, "meet early next week sometime."

This coal industry bill has so many problems it’s hard to believe anyone could embrace it. This bill sets the bar at it’s absolute lowest, and promises the greatest expense to taxpayers and nothing in statute for the safety of our public roads.

Should SB 583 make it out of EIM, it would land in Senate Finance next.
Bill.....Hello....Bill....Who Wrote The Bill!?!?

By Chuck Wyrostok

For those of you with a “fondness” in your hearts for those coal lobbyist boys, you will like this.

At Wednesday’s Senate E.I.M. Committee meeting, coal (cleaner, greener, meaner) lobbyists Bill Raney, Chris Hamilton and apprentice Jason sat along the wall of the conference room with that “cat that just ate the canary” look. E.I.M. was about to take up their re-designed, slicker-than-slurry “Crush Thy Neighbor” coal truck bill.

Things started to fall apart right at the gate when Chairman Bill Sharpe asked for a representative of the Department of Transportation to come forward to speak. Nobody stood up. Nobody was there. Sharpe blustered about it...(like “how can we talk about 60 ton behemoths pulverizing your asphalt?!?” he did not say)...and went on to the customary staff counsel to explain the bill.

As the details of the bill were unrolled, questions flew about enforcement and bills of lading. Counsel blinked more than once with uncertain answers, and with TV cameras rolling, finally threw a sideways glance toward the coal boys, looking for some support. But they remained characteristically mute, leaving the lawyer swinging in the wind. More questions from committee slurried the waters. Sharpe got more irritated and vowed to get the DOT there for Friday’s meeting at high noon.

The TV and newspaper reporters cornered WVEC’s Rick Eades for comments, after which coal’s Bill Raney tried to make the best of it with his impression of a stoned robot.

Things had fallen apart. What would dubya do, he probably thought.

Finally, an astute reporter asked the obvious question, “Who wrote the bill?” Raney hesitated momentarily…and unconvincingly replied, “I don’t know”.

Good people and angels everywhere snickered audibly.

The Infamous ATV Bill

By Conni Gratop Lewis

As of Thursday evening, conferees had been appointed, lawyers had been meeting and everyone gathered for a 4pm conference committee meeting. About 25 people hoped to attend.

Suddenly there was a strange turn of events, and we were all informed that the committee would not meet and we’d try again Friday morning. Apparently, another glitch was found and needed to be fixed.

We shall see what happens. Meanwhile, those ATV’s keep rolling where they will.

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Treaty Breaking Coal Bills Still Alive

By Rick Eades

Coal’s “no more stringent than federal standards” bill (SB 480 and HB 2956) still looms. The WV Coal Association apparently will still attempt to break a range of deals and gut the West Virginia surface mining regulations developed and/or passed in large part by the Legislature – many of which were agreed to by the coal industry. These bills are still before Senate EIM and House Judiciary, respectively.

The WV Coal Association materials, accompanying the treaty-breaking bill on the Senate side, cited many provisions that Coal shamelessly want to eliminate from our state regs, including this short list:

- Contemporaneous reclamation rules – is Coal OK if future mining related flood damages and huge taxpayer costs result in budget hemorrhages for West Virginia?
- Postmining land use rules – well, coal did diddly squat to meet federal law for 20+ years (the unofficial 1977-1998 Coal Wasteland Creation Act) until federal court lawsuits forced Coal to at least pretend to propose post-mining land uses that are equal or better land uses, when the mountains are not restored to their original contour.
- Coal dam or slurry impoundment safety rules – maybe frequent washouts, scores of violations, expensive reclamation ($7.5 million ripped from our state’s reclamation fund for one impoundment in Gary this year), and potential for millions of gallons of coal waste slurry gushing through our streams and backyards doesn’t warrant extra safety.
- Restoring material to the approximate original contour (AOC) of the land if no better post-mining land use is provided.
- Ensuring storm water runoff does not increase from pre-mining conditions, by constructing valley fills to prevent such horrors as the Lyburn valley fill disaster last year or the 49 other valley fill washouts in the past 5 years.
- Undoing the Consent Decree agreed to before Federal Judge Charles Haden.

When EIM committee members questioned the Coal Association about eliminating the Office of Blasting and the Office of Coalfield Community Development - which the Legislature devoted immense resources to creating - the Coal Association started backpeddling and effectively acknowledged that as the bills are written, those programs would be done away with. Jeez!

Still harping on how easy everything is in Kentucky, the Coal Association fails to admit that West Virginia was badly trailing Kentucky in tons of coal produced throughout most of the 1980’s. We caught ‘em and blew their doors off in the 1990’s and out-produce them dramatically now. Has is occurred to others that we might not want to follow the model of Kentucky’s coal industry?
APPALACHIAN SPRING:  
A breakthrough is evolving  
*By Allan Tweddle, allantweddle@bigplanet.com*

As I write this, I am enjoying for the umteenth time Aaron Copeland’s uplifting and jovial work, Appalachian Spring. But did you know that it was renamed, by the distinguished American lady for whom, and to whom Copeland originally wrote it, named and dedicated the piece? Who was she, and what has that got to do with us?

This week I testified before the Education subcommittee that was considering our SB2961 “Turn It Off”. The primary sponsor, subcommitte chairman Delegate David Perry of Oak Hill, (D Fayette County) commented how nice it was to have the E-Council presenting “AGAIN” a positive and pro-active piece of legislation. After I thanked him, a Republican member, in jest (I hope) asked: “AGAIN??”

I stated that I would be happy to accept the compliment either way. It was a pleasant and cordial meeting. The questions were good, and all were answered to the members’ satisfaction. The Sub committee UNANIMOUSLY voted the bill back to the committee. And today, Chairman Mezzattesta placed it on the agenda for Monday at 9:30 for the full Education Committee.

Friday, we are meeting with the Senate Leadership to be sure that SB559/590 becomes one bill, and is passed out of Committee. In the Senate, there has been very positive response from Senators Oliverio (Monongahila) and Caldwell, (Mercer) the sponsors, as well as verbal kudos from the Minority Leader, Senator Vic Sprouse, (Kanawha) and Senator Boley (Pleasants).

We are excited, because we have the beginnings of a new image, one that says you can count on us for a positive a proactive approach to some of the State’ problems. This positive bipartisan image will cast our team as an dependable resource for the legislature.

And like lady who renamed Aaron Copeland’s Appalachian Spring, our voice will achieve new attention. For you see, even though it appears that our School Energy Bill will not make it this year, this developing precesdent with HB2961 and its new attendant image will enable us to gain even more ground....on energy conservation, green fleets, green energy. And we can show the Legislature how to save money by embracing these proven ideas.

Combine that with the brilliant work that Rick Eades has done on the HUGE water quality issues this week, we are on target, and as he would say, “on a roll”. Not exactly time to celebrate yet. 

There’s still a lot of work yet to make these efforts successful, but the reception is very warm. A winter thaw is encouraging us to reach for the sounds of spring.

So what appeared in the beginning of the session to be an impossible task is coming together. And hopefully we will make a few more tiny steps of progress in saving the beauty of Spring in our Appalachian Mountains that Copeland described, but Martha Graham named.

**QUIDVIS RECTE FACTUM QUAMVIS HUMILE**
**PRAECLARUM**

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**Some Good News on Environmental Rules**

*By Rick Eades*

**HB 2603, which now has all DEP environmental rules wrapped into it,** passed House Judiciary and was on the House Floor when we went to press. Some battles may later loom on the Senate side on selected items (landowner notification for deep oil and gas wells, and surface mining rules top that list).

Surface mining rules for new valley fill construction, surface water runoff analysis and control, sediment pond improvements all were amended into the “Rules Bundle.”

Delegate Virginia Mahan, who served on the interim rules committee and chairs the regular session House Rules Committee made the amendment. Note on the other side of the Legislative aisle, the Senate had not mentioned taken up any of these flood rules in any committee to date.

How good is the news? Judiciary Chairman Amores’ committee voted unanimously to approve Del. Mahan’s amendment, and include all these surface mining flood-related rules in HB 2603.

Hereafter, every DEP rule (regulation) before the Legislature is wrapped into HB 2603, including all the rules on air quality, water, mining, oil and gas, sewage sludge, etc.
Save Counties from Managed Timberland Tax Abuses

By Conni Gratop Lewis

Senator Donna Boley has introduced a bill (SB543) to limit the acreage any landowner can claim as managed timberland to 1000 acres per county. This was mentioned a few weeks ago in these pages.

While the bill has not yet moved, there is growing interest. A meeting was held this week with Sen. Boley, the Wirt County commissioners, Vivian Parsons of the County Commissioners Association, and Mike Crane, Sen. Tomblin’s attorney. Also yours truly.

The Wirt County representatives explained their plight, showing information verifying that in several counties the only entities affected by this bill are corporations like Georgia Pacific - not individual landowners.

In a few counties there are large family landholdings, but this is rare. No surprises there!

The bill might actually move if Senate Finance ever gets caught up on its work. As of Thursday, workers compensation is finally done. They still face the tobacco tax issue, medical malpractice is still in conference and some 80 other bills are in Finance committee.

Bottle Bill - Just in the Nick of Time

Linda Mallet, WV-CAG

Just in the nick of time, SB 552 was introduced on Monday. Now we have bottle bill legislation in both Houses and it’s time to get it moving. SB 552 is double-referenced to the Senate’s Natural Resources and Finance Committees.

Please call your Senators and Delegates today and ask them to support the WV Container Recycling and Litter Control Act, SB 552 and HB 2926. There are lots of great reasons for a West Virginia Bottle Bill but remind your legislators that we are a state that relies on tourism and this 10-cent incentive to recycle would clean up our state and more than double our recycling rate. It would save you, a taxpayer, money on clean-up costs and landfill fees. If that’s not enough, educate your legislators a bit. Here’s how:

In West Virginia we use 1 BILLION containers each year. A 10-cent deposit on these containers raises $100 million. With a recycling rate of 80%, $20 million in deposit would remain unclaimed (tourists driving through the state, folks not wanting to redeem their containers, etc.). That’s a lot of money for a state that has a $250 million budget deficit.

For more discussion points and bottle bill facts, please see www.wvcag.org.

Bad Bills Lurking In the Shadows

HB 2717 (SB 214) - this bill would create a new water quality board and take rule-making authority away from the current Environmental Quality Board. It’s an awful proposal that would give the Secretary of Agriculture and the Director of the Division of Forestry a direct role in setting our state’s water quality standards. The bill is currently in House Government Organization Committee and someone is pushing for its consideration. WV Rivers Coalition has requested a public hearing on the bill.

SB 144 - “Flood Thy Neighbor” - this is Senator Ross’ annual “recreational bulldozing” bill that would allow landowners to run heavy equipment in streams without a permit and without penalties. It still sits in a Senate Judiciary Committee sub-committee, chaired by Sen. Ross. He’ll no doubt attempt to run the bill the last week of the session, just for fun and games.

We will keep you posted on both these bad bills.
# WVEC Bill Tracking List

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Selected Rules (regs): All bills have now been "bundled" into one: Rules 2603

FN = Fiscal Note; Comm = Committee refs.
Call 1-877-565-3447 (Legis Services) for Comm Members list
Online bills at [http://www.legis.state.wv.us](http://www.legis.state.wv.us) (clicks on Bills icon; choose House or SSenate)
February 25: WVEC Annual E-Day! at the Capitol, Senate & House halls, state capitol, Charleston WV. 10:00 ~ 3:00. Organizations, groups, eco-friendly business displays and other activities planned. 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 Reception/Fundraiser. The Brick Cellar, 1604 Washington Street East, Charleston. From 5:00 pm till 10:00 pm. Stop by after E-Day! at the Capitol......Music provided by Steve Hill & Ammed Solomen and Big Rock & the Candy Ass Mountain Boys! Refreshments, Award presentation, Silent Auction items. Buffet available at an additional cost.  
**Suggested Donation:** $ 5.00 at the door.  
**For more information:** Denise Poole, 346-5905 or deniseap@earthlink.net

February 27: Appalshop documentary "Coal Bucket Outlaw", by Tom Hansell. Begins at 7 pm in the John W. Eye Conference Center - Mountain State University, Beckley, WV. Free Screening - Discussion to follow.


March 8: Last Day of Legislative Session. Stay tuned for up to date information from the capitol, and any environmental legislation active till the stroke of midnight!

**For more information:** John Williams, 269-7902

April 19 & 20: Stanley Heir’s Foundation 14th Year Easter Kick-Off Celebration! Kayford Mountain. Picnicing, Easter egg hunt and more. Open to the public.  
**For more info & directions:** Larry Gibson, 542-1134.

April 26: "Artists for the Environment” Fundraiser. Perfater Law Office lobby ~ 1311 Virginia Street East, Charleston. From 1:00 ~ 7:00 pm. Artists from around the state are donating their talent in support of WVEC! Items for sale; Silent auction of artwork; Live music; Poetry; WV Wine & Home Brewed beer; Refreshments; Raffle drawing for Mark Blumenstein sculpture! Join us for this post-Earthday event - support the Arts and the WV Environmental Council’s environmental efforts!  
**For more information or to participate contact:** Denise Poole, 346-5905 or deniseap@earthlink.net.

**For more information:** WVHA website, www.wvherb.org. or contact Dot Mongillion (304-269-6416) smokecamp@iolinc.net or Laura Yokochi (304-782-3190) lyokochi@aol.com.

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**Support the West Virginia Environmental Council**  
1324 Virginia Street East, Charleston WV 25301  
Phone: (304) 346-5905  Fax: (304) 414-0629  www.wvecouncil.org

<table>
<thead>
<tr>
<th>_____ Renewed Membership</th>
<th>_____ New Membership</th>
<th><strong>Membership Levels</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>_____ Change of Address</td>
<td>_____ Donation</td>
<td>$$ 10 Student / Senior</td>
</tr>
<tr>
<td>Name: __________________</td>
<td>___________________</td>
<td>$$ 25 Regular</td>
</tr>
<tr>
<td>Address: _______________</td>
<td>__________________</td>
<td>$$ 50 Seedling</td>
</tr>
<tr>
<td>City, State, Zip: ________</td>
<td>___________________</td>
<td>$$ 100 Sustaining</td>
</tr>
<tr>
<td>Phone: _________________</td>
<td>e-mail_____________</td>
<td>$$ 250 Enviro Steward</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$$ 500 Canopy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$$ 1,000 Old Growth</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$$ Other</td>
</tr>
</tbody>
</table>

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*Green Legislative Update*  
*page 9*
The West Virginia Environmental Council’s
E-Day! At The Capitol

Tuesday, February 25, 2003
House & Senate Hallways
10:00 am ~ 3:00 pm

Featuring:
Groups, Organizations & Green
Business Displays!
Recognizing our 2003 Award Recipients
Citizen Lobbying ~ Press Conferences

Reception & Fundraiser to Follow from 5:00 till 10:00 pm:
The Brick Cellar ~ See details Inside!!!

West Virginia Environmental Council
1324 Virginia Street East
Charleston, WV 25301

First Class
Time Sensitive
Please Rush
Thanks!

www.wvecouncil.org