



West Virginia Environmental Council's

# Green

# Legislative

# Update

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## Under the Dome

By Donald S. Garvin, Jr.  
WVEC Legislative Coordinator

### Week 5 – Total Breakdown

Water quality protection in this state has reached a point of total breakdown.

In February the state Surface Mine Board, in a tie vote, refused to overturn a Mettiki Coal Company mining permit that even the Department of Environmental Protection says will eventually pour acid mine drainage into state streams.

DEP had originally turned down the Mettiki permit, saying the operation “would create acid mine drainage that will leave the permit area, requiring chemical treatment for an indefinite period of time.”

The company then submitted a new permit application that included a proposal for injecting alkaline material into the mine tunnels, **so that acid drainage would last only 17 years.**

According to a report in the *Charleston Gazette*, “The company also switched lawyers, hiring . . . Mike Garrison, who had been chief of staff for then-Gov. Bob Wise. Two weeks after he left the governor’s office, Garrison arranged two meetings for Mettiki: one with DEP Secretary Stephanie Timmermeyer and Alex Macia, Garrison’s successor as Wise’s chief of staff, and another with Macia and the governor.”

“Still, DEP permit reviewers in the agency’s Philippi field office said that they didn’t think the company’s new acid-neutralization plan would work. But Timmermeyer and other top agency officials in Charleston overruled them and issued the permit.”

Total breakdown.

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## EPA To Cut WV Smog By 78% (Agency finalizes Clear Skies backup rule with 2015 as goal)

By Ken Ward Jr., Gazette Staff writer

March 11, 2005 article

(Editor’s Note: The EPA announcement regarding its Clean Air Interstate Rule (CAIR) was made just yesterday, on March 10. Although this is considered a “step forward” in reducing pollution from old, dirty power plants there are still a lot more steps that could have been taken in the rule. Please refer to page 7 for a few more details. )

One day after its key air pollution proposal stalled in Congress, the Bush administration on Thursday finalized its backup plan to cut smog and soot pollutants.

In West Virginia, the new U.S. Environmental Protection Agency rule would reduce emissions of sulfur dioxide and nitrogen oxides by 78 percent over the next decade.

Sulfur dioxide emissions would be cut from 540,000 tons in 2003 to 118 tons in 2015, according to EPA. Over the same period, nitrogen oxide emissions would be cut 203,000 tons to 44,000 tons, EPA said.

“This is a huge win for the air of West Virginia,” said Judy Katz, air quality director at EPA’s regional office in Philadelphia.

EPA issued the final version of its Clean Air Interstate Rule, or CAIR, just after the apparent defeat in the Senate of its Clear Skies legislation.

On Wednesday, Clear Skies stalled on a 9-9 vote in a Senate committee, after Republicans delayed a vote several times hoping to garner more support. Opponents said Clear Skies would reduce pollution too slowly and did not include any requirement to reduce emissions of carbon dioxide emissions linked to global warming.

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# E ~ Day! at The Capitol

March 30, 2005

 10:00 am till 3:00 pm 

Senate & House Hallways

Make this day your own 'citizens lobby day' and join us for our annual trek to the capitol. Approx. 30 organizations and sustainable businesses will have displays with loads of information and the latest news on bills of interest circulating throughout the Senate and House.

Lets let our representatives know we care! Lets make this year the biggest turn out yet!!!

**To register your group, organization or business contact:**

Denise Poole, (304) 346-5905 or deniseap@earthlink.net

## *E~Day! Reception from 5:30 till 9:30 pm*

*This is our annual WVEC Awards Dinner & Reception.*

*We will bestow environmental awards to our 2005 recipients who have inspired us with their outstanding work and commitment to protecting West Virginia's environment.*

**2005 WVEC Award Recipients:**

**Mother Jones ..... Dave Saville**

**Laura Forman Grassroots Activist ..... Judy Rodd**

**Green Entrepreneur ..... Myra Bonhage-Hale, LaPaix Herb Farm**

**Chuck Chambers Public Service ..... Libby Chatfield**

**Linda Schnautz Environmental Courage ..... Maria Gunnoe**

*(The full scoop about all these fine people in a later edition!)*

**Join us March 30th! Live music by Steve Himes!**

**Perfater Law Office Lobby, 1311 Virginia Street East, Charleston**

## Legislative Session 2005 Information Sources:

**Legislative Reference & Information Center:**

MB-27, Bld. 1 - State Capitol Complex, Charleston WV 25305

**WV Legislative web-site:** [www.legis.state.wv.us](http://www.legis.state.wv.us)

(For bill tracking, bulletin board (journals), legislators' e-mails.)

**To Call Toll Free:** 1-877-565-3447 or local Charleston area: (304) 347-4836

**WV Environmental Council Web-site:** [www.wvecouncil.org](http://www.wvecouncil.org)

**Ohio Valley Environmental Coalition:** If you want to easily get the latest news during the legislative session, check

[www.ohvec.org/ovec\\_news.html](http://www.ohvec.org/ovec_news.html) and [www.ohvec.org/news\\_gen.html](http://www.ohvec.org/news_gen.html) daily.

Every morning, OVEC checks scores of news sources and post links to make it easier for you to stay informed

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***Legislative Update***

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## Under the Dome

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I guess we shouldn't expect otherwise, because this is the same Division of Everything Polluted that continues to sanction and defend the devastating practice known as "mountaintop removal" mining, which has obliterated hundreds of miles of mountain streams by filling the valleys with mine refuse.

Never mind that these huge valley fills are clearly not sanctioned by the federal Clean Water Act.

This is the same Department of Everything Permittable that continues to allow coal companies to build huge sludge impoundments containing billions of gallons of toxic coal waste – ecological and human disasters just waiting to happen.

Total breakdown.

And then there's the legislature that seems poised to strip the Environmental Quality Board of its authority to set the public's water quality standards and turn it all over to industry and the Division of Everything Perishable (see HB 2889, SB 287 and SB 433).

Four years ago, our lawmakers gutted the EQB proposed antidegradation implementation rules and replaced them first with an industry-written rule, then finally relented to a weaker version submitted by our friends at DEP.

Last year our elected representatives again gutted EQB's water quality rules package, in order to bring us weaker aluminum and manganese water quality standards on behalf of the coal industry.

Total breakdown.

And then there's the EQB itself, that has decided to base its decision concerning aluminum discharged into streams by coal companies on a study funded and controlled by the coal industry itself, and is considering hiring a long-time lobbyist from a major coal burning electric utility company as the board's technical advisor.

Folks, this is total breakdown.

I need to take a walk . . . at least to the bird feeder to make sure it's full.

*"The time is always right  
to do what is right."*

*Martin Luther King, Jr.*

## EPA To Cut WV Smog By 78%

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Clear Skies and CAIR are somewhat similar. But, Clear Skies made broader changes in the actual Clean Air Act, while Thursday's final rule is simply an administrative regulation change that doesn't need congressional approval.

Also, EPA's rule caps emissions of sulfur dioxide and nitrogen oxides at lower levels than those allowed under Clear Skies.

"We remain committed to working with Congress to help advance the President's Clear Skies legislation in order to achieve greater certainty and nationwide emission reductions," said acting EPA Administrator Steve Johnson. "But we need regulations in place now to help over 450 counties in the eastern United States to protect people's health by meeting stringent new air quality standards."

Strictly speaking, the EPA rule requires emissions reductions in West Virginia and 27 other Eastern states that EPA says are partly to blame for pollution problems downwind.

Katz said the rule gives states 18 months to come up with plans for reducing pollution by the required amounts.

John Benedict, director of the state Department of Environmental Protection's Division of Air Quality, said his agency is still looking at the final rule.

"We've been waiting on the final rule to kind of delve into it," Benedict said.

"But I view these regional control programs as necessary, not only to help our neighbors' air quality problems, but to help the state's problems as well," he said.

## Bottle Bill Needs Your Calls!

By Linda Mallet, WV-CAG

The Bottle Bill, SB 273 and HB 2230, is in the House and Senate Judiciary Committees. We are focusing our lobbying efforts on the House Judiciary and "polling" members on whether or not they support this bill, in hopes of getting the bill on the committee's agenda. Calls to these members from you would be extremely helpful:

Jon Amores (Chair), 340-3252; Tim Armstead, Tom Azinger, ; Bonnie Brown, Mike Caputo, Kevin Craig, Joe DeLong, John Ellem, Bill Hamilton, William Hartman, Greg Howard, Lidella Hrutkay, Marshall Long, Virginia Mahan, Clif Moore, Jim Morgan, John Overington, Dave Pethtel, John Pino, Robert Schadler, Kelli Sobonya, William Stemple, Robert Tabb, Richard Thompson, Carrie Webster (bill sponsor).

Some delegates assume this year's bill is the same as last year's. Please remind them that this year's bill takes the bottlers and retailers out of the redemption cycle and would provide hundreds of redemption center jobs.

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## Conscience of Another Conservative

By Allan Tweddle, WVEC Lobbyist

It's hard being a Teddy Roosevelt conservative today. One constantly encounters Neoconservatives who think only about preserving a status quo for a cash cow industry that has been continuing to generate cash and devastation for well over 100 years.

In many ways, President Teddy Roosevelt started the environmental movement by dealing with the outrageous and out of control businesses that were also eating up our natural resources at an alarming rate without any regard to future generations.

I am convinced that he *never* would have tolerated mountaintop removal mining practices. As *that* Republican President learned of the science of pollution and its devastating impact on the citizens, he would have initiated and continued to tighten the laws to stop it. (If you want to read about him in a fascinating book, I recommend Edmund Morris' book "*Theodore Rex*".)

But what I speculate that TR might have done is irrelevant here. This week, we sought the opportunity to speak to the Senate Judiciary Committee about the proposed reduction in emissions allowed in power plants and all other stationary sources that the Rules 14 and 19 will allow. Chairman Kessler graciously agreed and, essentially, I urged rejection of the "Roll Back Rules."

Then Senator Frank Deem spoke. Ignoring any input that would change his closed mind, he asked me to prove that my contracting asthma after moving to West Virginia was due to pollution, "or wasn't it just old age . . . asthma comes on as we age, you know," he stated. While I do not have scientific proof that I contracted asthma from pollution, our dialogue went something like this:

*Allan:* "Senator...West Virginia is the 5th worst state in the country for asthma in children, and scientists *have* shown a connection to pollution, so why would we allow a roll back of pollution standards...isn't that enough of a condition to say that we must be 'more stringent than', Senator?"

*Senator Deem:* "No, the committee has come up with its recommendations, and even if the evidence that you cite is being ignored, I do not want to hear the evidence, so I am going to vote for roll back" (not an exact quote, but the essence of his response).

These rules were greased by industry before they ever got this far. One might even conclude that the entire society of West Virginia has been greased by Coal. The proposed changes at the federal level, which are being challenged in the courts, were developed by the Bush Administration's EPA several years ago as a way of giving relief to the polluters. WV's Rules 14 and 19 were promulgated *before* any Non-Attainment conditions and

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areas were identified in West Virginia. Thinking citizens in WV are tolerated but not heeded.

John Benedict with DEP's office of air quality stated in a letter of August 18, 2004, that WV *must* adopt these rules to be in compliance with the SIP deadline of January 2006. The fact that West Virginia *might* be in a position to toughen the rules based upon our children's asthma and non-attainment conditions never seems to have occurred to DEP.

We have the legislative ability to be "more stringent than" the FEDs, but as I asked last week, who has enough backbone to do what is right for the people of West Virginia, not what Coal wants?

I had an interesting conversation with a lawyer after my testimony. He complimented me on the presentation, stated officially that there are those who argue that these rules will tighten emissions in some bizarre way. But, here's the real point, he also said that the people need to be educated on environmental issues. They, the legislators and the public, believe that they are preserving jobs, and any tightening of environmental laws is a threat to jobs. In essence, they have been brainwashed and it is reflected in the attitudes of their Senators and Delegates.

So as near as we can tell, here in the West Virginia Legislature, ANY opposition to adopting the BUSH air emission rollbacks is unwelcome — unless an army of protests is heard.

We must be louder. We must keep up the efforts to educate the people and be more effective.

SO WRITE, E-MAIL, or VISIT YOUR DELEGATE AND SENATOR. TELL HIM OR HER NOT TO ROLL BACK THE STANDARDS AS THE PROPOSED 45CSR14 and 45CSR19 WILL DO.

## Campaign Finance Measures on Hold

*Julie Archer, WV-CAG*

Two proposals that would help make elections fair and clean in West Virginia remain on hold. The West Virginia Public Campaign Financing Pilot Project Act (HB2486 and SB 247), which would provide full public financing to legislative candidates in two Senate races and three House races in single member districts, is still resting in the Senate and House Judiciary Committees, as we continue to work with supporters to correct problems with the bill.

Deliberation on companion legislation to reign in 527 groups like 'And for the Sake of the Kids' and 'WV Consumers for Justice,' was delayed in Sen. Judiciary Committee this week, so committee counsel could work on a committee substitute for the bill. SB245 would require greater disclosure of contributors to 527 groups and limit the amount - individual, political committee or political party could contribute to such groups. We anticipate movement this coming week. Be sure to check: [www.wvoter-owned.org](http://www.wvoter-owned.org) for the latest.

# School's in and S is for Sludge

By Bo Webb and Vivian Stockman

There are about 150 active coal sludge impoundments and several hundred inactive or abandoned impoundments in West Virginia. Some impoundments are near or even sit above schools—such as the one above Marsh Fork Elementary School on State Rt. 3 in Raleigh County.

About 270 children, from kindergarten through Grade 5, are enrolled in Marsh Fork. Coal mining operations began around the school in the early 1980's. In 1985, a sludge dam was built up above the school.

There's a coal preparation plant that was built close to the school. (Note that there are at least two lawsuits pending, filed by ill coal prep plants workers against manufactures of the chemicals used in coal prep plants; the workers contend those chemicals have made them very ill.) A silo for storing and loading coal towers over the school. These operations changed hands a couple of times; they are now owned by Massey Energy.

In late 2003, Massey Energy filed for a permit from the WV Department of Environmental Protection (DEP) to mountaintop removal mine 1,849 acres above the school and behind the sludge dam. The sludge dam would not only serve to hold waste from the prep plant, but it would also be used as a sediment pond for the surface mining operations.

This expansion of the coal mining activities around Marsh Fork horrified the members of the citizen group Coal River Mountain Watch. The group has spoken with a worker who helped construct the dam. He details violations in construction that compromise the compaction of the dam face. This miner fears that an 80 foot wide by 40 foot deep section of the dam remains unstable to this day.

The blasting associated with mountaintop removal coal mining could possibly further weaken the dam face. In addition, several teachers and students report headaches and asthma (in at least one case relieved when the student was transferred to a different school). Some, including teen-aged former students, have either contracted or died from cancer.

Coal River Mountain Watch worked to draw attention to the problem, holding local rallies and accompanying a TV reporter and other journalists on flyovers of the area. One noted, "This is a no-brainer! Close this mine site down!" The television station aired a report. Within a day, the DEP stated that Massey was operating within the regulations; the dam was checked weekly and posed no danger to the school.

But DEP's statements were cold comfort to Coal River Mountain Watch. They collected over 800 signatures

on a petition outlining their concerns about the impoundment and asked the federal Environmental Protection Agency (EPA) for an investigation. On June 15, 2004 EPA arrived to start an investigation focused on the sludge dam, the prep plant, the coal loading silo behind the school, the blasting, and all related mining activities near the school. The investigation is apparently ongoing.

Coal River Mountain Watch volunteers have talked with the Raleigh County Board of Education about their concerns for the children and teachers at Marsh Fork Elementary. They asked the school board superintendent to contact the DEP and ask for an investigation of this mine site and sludge dam. The superintendent wrote a letter to DEP Secretary Timmermeyer. She wrote back that the mine site was operating within the regulations and the sludge dam was safe.

The DEP has noted that the WV Division of Health and Human Resources' cancer registry determined that the area around the school does have a high rate of cancer, but that was due to tobacco use and old age. Coal River followed up with Pat Colsher at the health agency. She said that yes, the Sundial area was a cancer cluster, but no one could determine if it was tobacco-related or age-related without a thorough investigation. Coal River has since written two letters to Ms. Colsher, asking for that through investigation, suggesting she obtain a roster of the school for the past 15 years, attempt to track down those folks and determine what health issues they may have. She has not responded.

*Please make those calls to legislators* to tell them your concerns about coal sludge impoundments. The Sludge Safety Project, [www.sludgesafety.org](http://www.sludgesafety.org), needs your help in educating policy makers about the dangers of coal sludge impoundments.

## Bottle Bill Needs Your Calls!

*...continued from page 3*

This week I had the pleasure of talking to members of the Morgantown Sierra Club about the Bottle Bill. An action members plan to take, is asking their county commissions, city councils and solid waste authorities to pass resolutions of support. It's a simple one-page document and you can download it from: [www.wvbottlebill.org](http://www.wvbottlebill.org) or give me a call and I'll send you one. It's extremely helpful when talking to delegates and senators to show them this level of support in their communities. Also check out the website for a list of supporters who have already passed resolutions. For instance, many solid waste authorities have already passed resolutions and this makes it easier to approach others.

Please start saving up your beverage containers and bring them to E-Day on March 30 for our 2nd annual Deposit Day. Just like last year, we'll give you a 10-cent "deposit" for each container you bring to our E-Day booth (limit of 50 containers, please).

# Aluminum Study Gets OK From Board

By Ken Ward Jr., Gazette Staff writer

March 11, 2005

State Environmental Quality Board members on Thursday moved ahead with a study to rewrite West Virginia's water pollution limit for the toxic metal aluminum.

Board members pushed aside complaints that the study was still overly controlled by the coal industry.

The board also did not address whether the study committee's initial meeting — held in private without public notice — legally taints the entire process.

Board members strongly defended the study, and industry officials said that their involvement has been misunderstood.

"I really think that the concerns being raised are being addressed," said board member Ted Armbricht.

On Thursday, board members met for the first time since the state Ethics Commission's Open Meetings Committee ruled that the aluminum committee must comply with the state Open Governmental Proceedings Act.

The board formed the committee in January to address a legislative mandate to re-examine the state's water quality limit for aluminum.

Lawmakers ordered the rewrite at the urging of coal industry officials, who said the board's rules were too stringent.

Already, the board has issued a temporarily weakened aluminum limit. Now, board members are hoping to study the issue and come up with a final rule by July 2007. So far, though, coal industry officials have guided the board's study.

Industry officials wrote an initial request for proposals for a consultant who would perform the study. The board committee was supposed to recommend five finalists among the bidders. But, industry officials themselves whittled the list of potential consultants from six to four, and eventually picked the final bidder.

Board chairman Ed Snyder asked agency lawyer Wendy Radcliff to look into whether actions taken at the aluminum committee's initial meeting — including review and approval of the industry request for proposals — are voided by the ethics ruling.

Last week, though, Snyder had said he believed the study needed to start over because initial decisions were made at a closed meeting.

"That should have been an open meeting," Snyder said in an interview. "Because it wasn't, we're going to have to backtrack."

At Thursday's meeting, industry chemist Jennie Henthorn revealed that unnamed business interests would fund the entire study.

Don Garvin, lobbyist for the West Virginia Environmental Council, blasted the board for going along with that arrangement.

"You have agreed to base a public policy decision that affects one industry on a study that is paid for by that industry," Garvin said. "That was a bad decision, and I'm critical of the board for that decision."

Larry Emerson, an environmental official with Arch Coal, said that the industry funding should not taint the process. "The industry just happened to be the funding mechanism," he said.

"It was never the industry's intention for this to be 'the' study," Emerson said. "We encourage the board to consider part, any, or all or none of it."

Henthorn said that industry does not object to holding open meetings. But, she said, the consultant may sometimes need to talk to the committee on short notice that makes it hard to announce meeting dates ahead of time.

Board member Cameron Hackney recommended that the industry group simply name a new committee, consisting of the same members as the board's aluminum panel. That way, Hackney said, the committee would not be a subcommittee of the board and not be subject to open meetings requirements.

At Snyder's suggestion, Henthorn agreed that the aluminum committee would try to schedule weekly meetings during critical phases of the study, to avoid needing to call emergency meetings.

But, Henthorn also refused to go along with one request that she agree not to talk to the consultant outside of the committee meetings.

Board member Scott Simonton, chairman of the aluminum committee, said that he sees the panel's role as one of "peer review" of the consultant's work.

Under preliminary plans, the consultant will review previous scientific studies of aluminum toxicity, do water sampling and fish toxicity tests, and then write a recommended new water pollution limit for the state.

Simonton insisted that the consultant's work would not be the only information the board would consider when it makes a final decision on a new limit.

"This is another study to add to the mix," Simonton said.

Some board members wondered if the entire process might be moot if lawmakers transfer rule-making authority from the EQB to the state Department of Environmental Protection.

Bills to make that change are pending in the Senate and House (SB287, HB2889), with the House Judiciary Committee preparing to take up its version soon.

Under both bills, the DEP would have to hold some discussions about rule-making in open meetings as the environmental board does now.

Both bills allow the DEP to handle some rule-making discussions — such as talks with federal agencies or state contractors — in private.

But, the House bill also allows closed-door meetings for talks between DEP and "any interested party" regarding site-specific changes or variances from existing water pollution limits.

# Clear the Air, Please

## News From "The Beltway"

By Denise Poole, WVEC Prez.

The 'Clear the Air National Conference on Global Warming' was held last week, March 2 - 4 in Washington D.C. The conference was a marathon loaded with panels of experts, power point presentations, and alarming statistics all designed to educate and rally the troops - all of us working "in the field" (if you are not in D.C. a.k.a. "the district" working "on the hill" in "the beltway" - you are considered "in the field") on the latest effects from global warming, and to work on what was identified as "the fight of our lives" to reduce air pollution and somehow protect the Clean Air Act from being completely gutted.

The dirty air bill cloaked as "Clear Skies" (S131) - in reality also known as a 'sweetheart deal for polluters', was of course, identified as the immediate and present danger - and latest hurdle in this battle. But let me tell you, the Bush administration is really facing amazing opposition and has their own battle on this one. This is not going to be the cake-walk they had hoped (*As it turns out, as of Wednesday, the bill was stopped by a vote of 9 to 9 from leaving the Senate Environment and Public Works Committee! Members from this same committee were among the panelists last week.*)

About a hundred activists from around the nation were in attendance and key organizations participating were: U.S. Public Interest Research Group (PIRG), Clean Air Task Force (CATF), National Environmental Trust (NET), Interfaith Global Climate Change Campaign, American Lung Association, National Climate Change, Pew Center on Global Climate Change (PEW) and various state environmental council representatives. Panelists also included committee and council members from House Gov. Reform, Senate Environment and Public Works, House Energy & Commerce, Fred Wertheimer, President and CEO of Democracy 21, and Carol Browner, former EPA Administrator.

Strong support and lobbying for the McCain/Lieberman legislation - the Climate Stewardship Act (S139) - is viewed as the best alternative to "Clear (dirty) Skies" - especially important in light of the fact that the U.S. is not participating in the Kyoto Protocol, signed by 141 countries so far. (even though the United States generates 25% of the world's greenhouse gases.) The 'Clean Air Interstate Rule' (CAIR), the EPA's answer to this mess is now yet another factor to add to the mix.

We are falling behind most of the rest of the world.

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## The Byrd Factor

During a presentation by Ellen Baum of CATF, Robert C. Byrd was referred to as "The King of Coal". I'm not kidding. And I wondered, how did this title become so large? I know he has always stood with the coal industry, and we refer to the coal industry as being king in West Virginia....but please. Even the coal miners were called "his coal miners." A most interesting peek at the perception from the beltway to this enviro from "the field of West Virginia."

The reference was made during a short segment entitled "The Byrd Factor", seeing him as a possible decisive vote. Noting that he may *actually acknowledge that global warming is real*, and *West Virginia's coal fired power plants contribute to it*, at the time of the conference they were not sure which way he would vote. He apparently didn't want to "play his hand" too early for fear of receiving heat from one side or the other on this debate. The heat he has been receiving beyond West Virginia citizens fighting for clean air and a healthy future is coming from these marvelous environmental lobbyists.

Word is, Byrd may have even let "his coal reps" know that they will need to "do something about this" soon. Lets hope the other oxymoron - 'clean coal technology' is not the answer for him! Please keep the heat on Byrd - we are still in "the fight of our lives" here! If "Clear Skies" makes it to the Senate floor, let Byrd know how you feel: call (304) 342-5855 or (202) 224-3954.

## Global Warming Continues

The effects from global warming we are seeing today are the result from years (decades) of past atrocities dating back to, well, we are not sure. Studies are being made. I shutter to think of what we are yet to see in the future from our on going emissions, especially carbons we continue to spew.

Other studies being conducted include the use of more science and technology, looking for that magic element that will take carbon dioxide from the air some day to save us from ourselves. I'm still not kidding.

## Conference Materials Online:

[www.cleartheair.org/conference](http://www.cleartheair.org/conference) to view all of these materials.

## Key failures of the CAIR Rule:

- \* It gives power plants more time to clean up than the law requires.
- \* The emissions caps are too loose
- \* Not enough pollution sources are covered (which means many areas of the country will be stuck with dirty air and unable to meet national health standards for smog and soot.

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# The Assault on EQB Continues

By Don Garvin,  
WVEC Legislative Coordinator

The House Judiciary Committee ran out of time Friday morning to consider a bill that will let the Department of Environmental Protection determine the state's water quality standards, instead of the independent Environmental Quality Board.

So the committee will likely take the bill up Monday afternoon.

The bill under consideration is the Committee Substitute for HB 2889, and it would transfer EQB's rulemaking authority to the DEP, allowing DEP to decide just how clean (or how dirty) our water will be.

This version of HB 2889 would also strip EQB of its responsibility for approving "re-mining" variances, again transferring that authority to DEP. EQB would continue to exist only as an appellate board – hearing appeals of DEP permits. In addition, provisions of this bill would result in less transparency in agency decision-making – by expanding the range of opportunities for DEP to meet behind closed doors with the industries they regulate.

The Senate version of this bill is SB 287. It was also not considered by the Senate Natural Resources Committee this week, but was laid over instead. A companion bill, SB 433, which would pack the DEP Advisory Council with new members from the agriculture and timber industries, was also laid over this week in the Senate Energy, Industry and Mining Committee.

Under current law the Environmental Quality Board (EQB) promulgates West Virginia's water quality standards. The board consists of five members, all of whom must have "expertise in water husbandry," they are appointed by the governor, they serve staggered three-year terms so all are not appointed by the same governor, only three can be of the same political party, and none can work for any company that gets NPDES permits from the DEP.

The EQB is the closest thing we can get to an "independent" board in this state. All of its deliberations and decisions are made in full public view and with full and open public notice and comment. Even though it is greatly underfunded, EQB has in the past had excellent and knowledgeable technical, legal and clerical staff.

Folks, if you have any doubts about the EQB, you only need to ask yourself one question: do you trust DEP, no matter who is the governor, to protect and preserve clean water for the citizens of West Virginia?

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# We simply MUST save the EQB!

**So this weekend or early Monday, please contact members of the House Judiciary Committee and ask them to oppose dirty water and vote against the Committee Substitute for HB 2889.**

**Also, please contact any and all Senators and urge them to oppose SB 287 and SB 433. Tell them we need to keep rulemaking for water quality standards with EQB, and we don't need to add members to the DEP Advisory Council.**

The toll-free number to reach your Delegates' and Senators' offices is 1-877-565-3447. Or you can find your legislator's direct capitol number at the web site [www.legis.state.wv.us](http://www.legis.state.wv.us).

## House Judiciary Committee:

Jon Amores, *Chair*: 340-3252 [jamores@mail.wvnet.edu](mailto:jamores@mail.wvnet.edu)

Kevin Craig, *Vice-Chair*: 340-3248

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# Calendar of Events



**March 30: E-Day! at the Capitol.** From 10:00 am ~ 3:00 pm. 2nd level house & senate hallways. Make this day your own 'citizens lobby day' and join us for our annual trek to the capitol. Environmental organizations and sustainable businesses will have displays with loads of information and the latest news on bills of interest circulating throughout the Senate and House. Lets let our representatives know we care! Lets make this year the biggest turn out yet.

**To register your group, organization or business contact:** Denise Poole, (304) 346-5905 or deniseap@earthlink.net

**March 30: E-Day! Reception and Award Presentation.** Perfater Law Office Lobby, 1311 Virginia Street East, Charleston WV. From 5:30 pm ~ 9:30 pm. Join WVEC as we honor our 2005 award recipients. A wonderful evening to unwind after E-Day! at the Capitol. Enjoy dinner, live music by Steve Himes, enviro friends - and help us show our appreciation to our Mother Jones, Grassroots Activist, Enviro Courage, Green Entrepreneur and Public Service award recipients. Suggested donation: \$10.00

**For more information contact:** Denise at WVEC office, (304) 346-5905 or check our website: [www.wvecouncil.org](http://www.wvecouncil.org).

**April 1: The National Public Broadcasting Service (PBS) airs the first hour of the four hour documentary, The Appalachians.** Check local listings for times. The documentary includes interviews with Ohio Valley Environmental Coalition (OVEC) staff and other mountaintop removal opponents.

**April 9: Last day of the legislative session.**

**April 22: Earth Day!** Stay tuned to *Legislative Update* and *G.R.E.E.N. newsletter* and WVEC website: [www.wvecouncil.org](http://www.wvecouncil.org) for list of events from around the state and region.

**April 22: Mon Earth Concert.** - Met Theater, WVU Morgantown. 2nd annual Mon Earth event! Begins at 7:30 pm. Benefits *Friends of the Cheat* and other groups.

**For more information:** [www.mon-earth.org](http://www.mon-earth.org)

**April 23: Earth Day Celebration.** Join WVEC, and other environmental organizations, artists, sustainable small business to celebrate Earth Day. *Charleston, WV (exact location for this event to be announced.)*

**To participate & information contact:** Denise Poole, deniseap@earthlink.net.

**April 23: Earth Day Celebration!** Concord University, Athens WV. Display tables, demonstrations and live music. From 12 noon till 10:00 pm.

**For more information:** Laurie McKinney - Llynium Entertainments. (304) 320-8833 or llynium@yahoo.com

**April 29: WV-CAG Annual Spring Event.** Charleston, Coonskin Park Clubhouse. Invited keynote speaker: Gov. Joe Manchin. Great food, drinks and silent auction! This is an evening event. *Exact beginning time to be announced.*

**For more information contact:** Linda Mallet, (304) 346-5891 or linda@wvcag.org

**June 25: Third Annual Lavender & More Fair!** LaPaix Herb Farm, Alum Bridge, WV (Lewis County.) Featuring a variety of Workshops, Walks, Booths, Culinary Delights and much more! Silent Auction with proceeds going in support of *Sustainable Living For West Virginia* organization.

**For more information contact:** Myra Bonhage-Hale, lapaix1@westvirginia.net or (304) 269-7681.

**E ~ Day! at The Capitol**  
**March 30, 2005**

10:00 am till 3:00 pm



## Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

Phone: (304) 346-5905 [www.wvecouncil.org](http://www.wvecouncil.org)

\_\_\_\_\_ Renewed Membership      \_\_\_\_\_ New Membership  
\_\_\_\_\_ Change of Address      \_\_\_\_\_ Donation

### Membership Levels

Name: \_\_\_\_\_

\_\_\_\_\_ \$ 10 Student / Senior

Address: \_\_\_\_\_

\_\_\_\_\_ \$ 25 Regular

City, State, Zip: \_\_\_\_\_

\_\_\_\_\_ \$ 50 Seedling

\_\_\_\_\_ \$ 100 Sustaining

\_\_\_\_\_ \$ 250 Enviro Steward

\_\_\_\_\_ \$ 500 Canopy

\_\_\_\_\_ \$ 1,000 Old Growth

\_\_\_\_\_ \$ Other

Phone: \_\_\_\_\_ e-mail \_\_\_\_\_

*Time sensitive material - please deliver promptly. Thank you.*

**^ We simply MUST save the EQB!**

**^ Bottle Bill Needs Your Calls!**

**~ See inside for how you can help!~**

**E ~ Day! at The Capitol**

**March 30, 2005**

 10:00 am till 3:00 pm 

Senate & House Hallways