



West Virginia Environmental Council's

Green Legislative Update

Published Weekly During West Virginia's Legislative Session

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Under The Dome

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

Week 1 - The State of the Governor

Because of my own personal political leanings, I can't remember a "State of the State" address that did not disappoint me. Many of you likely feel the same.

And so it was on Wednesday night that I again felt let down.

Once again Governor Manchin declared that the state is "open for business." AEP will build a 600-mega-watt power plant fueled by coal gasification. Chesapeake Energy, a major natural gas producer headquartered in Oklahoma City, will locate its eastern division office here in West Virginia.

Open for business as usual.

Well, not quite. The Governor also noted that "8,100 new jobs were created in West Virginia last year with more than \$2 billion of new investments in West Virginia's economy." And some of the companies that have chosen to either locate or expand their operations here - companies like Amazon.com and Northrup Grumman - are not your typical extractive based industries.

That's good news for the environment, as well as for workers in the state. That's not business as usual.

This week the Governor also appointed Marion County native Davitt McAteer, former head of the federal Mine Safety and Health Administration in the Clinton administration, to lead a state investigation into mine safety in West Virginia, including the events that resulted in the dreadful tragedy at Sago.

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Grassroots Lobbying!

Coalfield residents met with members of the House of Delegates this week to enlist their support for legislation that would ban the construction of hazardous coal sludge impoundments and also ban the practice of injecting the sludge into abandoned underground mines.

These grassroots citizen lobbyists related their emotional stories of how they have been personally affected by the current methods of handling this toxic coal waste. Their testimony was impressive and moving.

Delegates attending the meetings included Larry Brown, Charlene Marshall, Cliff Moore, Don Perdue, Dale Stephens, and Sally Susman.

The grassroots lobby group included Ernie Brown, Debbie and Billy Sammons, Maude Rice, Donetta and Lisa Blankenship, Terry Steele, Walter Young, Joan Linville, Vernon Haltom, Mary Miller, Pauline Canterbury, Kathryn Stone, Ron Wilkerson, Julian Martin, Regina Hendrix, Bill Price, Denver Mitchell, Maria Gunnoe, Tonya Adkins, Joyce Adkins, Abe Mwaura, and Vivian Stockman.

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Davitt McAteer is well known to and respected by many of us in the environmental community. While he is the logical choice to head this investigation, the appointment caught me a bit by surprise.

It was not business as usual.

And yesterday, our very own Allan Tweddle made a most impressive presentation to the Public Energy Authority calling for the state to develop a comprehensive energy plan with a significant role for renewable energy. I attended the meeting and Allan's presentation was well received.

This was made possible because Allan was appointed to serve on the Public Energy Authority (PEA) by Governor Manchin, who also encouraged Allan to make the presentation.

That's not business as usual.

So what is the "State of the Governor" as he goes into his second year? I would say it is mixed. There are signs of hope.

However, Governor Manchin, if you are reading our little newsletter, we here at the West Virginia Environmental Council would like to draw your attention to what is perhaps the most destructive environmental practice in the country - mountaintop removal mining.

Mountaintop removal mining of coal leaves nothing but disaster in its wake. It has buried hundreds of miles of pristine mountain streams. It has destroyed entire ecosystems. It has eliminated and contaminated vital drinking water supplies for whole communities. It has dramatically increased flooding downstream, putting at risk the lives, health and safety of thousands of coalfield residents.

Until we put an end to this disastrous and **ILLEGAL** method of mining, it will continue to be business as usual in West Virginia. Citizens in this state, particularly the residents of our southern coalfields, cannot survive more "business as usual" as far as mountaintop removal mining is concerned.

Well, folks, the 2006 session of the WV Legislature has begun, and the WVEC lobby team is "open for business."

And even though temperatures have been in the sixties this week, winter is here so remember to keep your bird feeders "open for business" as well.

"Think Renewable"

The Renewable Energy Conversation Has Formally Arrived In West Virginia

By Allan Tweddle, WVEC Lobbyist
allantweddle@msn.com

"That's one small step for man ... a giant step for mankind" ... Neil Armstrong's words come to mind as we gained the acceptance of renewable energy as a part of the total energy mix for West Virginia.

Today was quite a milestone for the environmental community, and indeed, for all West Virginia. As the environmental community's representative on the Public Energy Authority, I presented to my fellow board members in our second public meeting, a summary of what is going on in all the states around us, with the strong urging and recommendation to explore and hopefully embrace renewable energy for the citizens of West Virginia.

Encouraged personally by Governor Manchin, and as his appointee to the newly reconstituted Public Energy Authority, I pressed to make sure the dialogue on renewable energy has begun.

The Governor was not present, so the meeting was conducted by Vice Chairman Stephanie Timmermeyer. Imagine my delight when there was strong acceptance from other PEA Board members, including former State Senator Mike Ross, Ike Morris, and especially Joe Freeland - and even DEP Secretary Timmermeyer herself.

Later, in a conversation with attendees, including Coal Association's Bill Raney, we received full encouragement, acknowledgment and agreement that the time has come for West Virginia to learn from, and embrace what other neighboring states like Pennsylvania, New Jersey, and Delaware are doing to develop a comprehensive energy policy that levels the playing field for renewable energy.

In this day of skyrocketing fossil fueled energy costs, doesn't it make sense to at least make available and attractive to home owners and commercial business owners, renewable energy systems that deploy the infinite supply of renewable energy?

To be sure, there is a lot of work ahead for the PEA to implement a workable renewable energy portfolio. Issues of net metering, tax incentives, low cost loans, certification of installation contractors and technicians, all must be considered in the culture, economy and political landscapes of West Virginia.

But, after weeks of planning, real progress was made today. One step at a time.



Meet The Team

By Donald S. Garvin, Jr.

WVEC Legislative Coordinator

The WVEC lobby team is always stellar, simply because they agree to work grueling hours, always on deadline, in a most depressing atmosphere! This year's team is no exception to that.

Along with me, team lobbyists this year include Allan Tweddle, Julie Archer and Ted Boettner. This is Allan's third year lobbying, and he is coordinating our renewable energy campaign. Julie has lobbied for several years now, and she is heading our efforts on the "Clean Elections" campaign finance reform bill. Ted is new to the team this year. He is incredibly young (perhaps I am just envious), and he will take the lead on our effort to ban sludge impoundments.

In addition, Denise Poole will continue to keep us all headed in the right direction as Program Coordinator, Chuck Wyrostok will be in touch with many of you as Outreach Coordinator, and Don Alexander will again manage our website and e-mail action alert list.

You can look forward to learning more about each of the team members in upcoming issues of the *Legislative Update*.

E-Day! at the Capitol -

Valentine's Day - Tuesday, February 14th
10:00 AM until 3:00 PM in the lower rotunda.

Let's show how much we **love** our clean air & water! Help us show our governor, state senators and delegates that citizens are paying attention this session - and we demand our laws protect and improve WV's environment!

Join us as we mark our **17th annual E-Day at the capitol** and take time to visit your representatives. Environmental organizations and sustainable businesses will join us with display booths and demonstrations loaded with the most up to date information on water quality & quantity, mountaintop removal, sludge impoundments, air quality, renewable energy, campaign finance reform, the bottle bill and much more!

Stay tuned to **Legislative Update** for more details and list of booths.

For more information, and to register: Contact Denise at the WVEC office (304) 346-5905 or deniseap@earthlink.net.

E-Day Reception & Award Ceremony will follow the same evening, at the Perfater Law Offices, 1311 Virginia Street East, Charleston from 6:00 PM ~ 10:00 PM. *Stay tuned for more details.*

Green Legislative Update

Update On Blair Mountain Nomination

By Regina Hendrix, WV Chapter Sierra Club

The WV State Historic Preservation Office (SHPO) forwarded the Battle of Blair Mountain nomination to the National Park Service (NPS) Keeper of the Register, during the week of July 18, almost two months after the unanimous Archives and History Commission vote to save the historic battle site.

During the D.C. evaluation period, the National Park Service granted a request for a 30-day extension from Jeff Vining, of the D.C. offices of Jackson and Kelly, the law firm representing coal and landholding interests. When the 30-day extension expired on September 26, the NPS remanded the application to SHPO for 'Evaluation/Return' comments. They are requesting additional information on the assessment of integrity and justification of the boundary presented in the nomination. Frank Unger, our consultant, will be doing some additional work for us for the re-submission to National Park Service and SHPO will be making some additional submissions as well.

We have been fortunate to gain the support of labor and history groups and other support nationwide. In September, we were contacted by the National Trust for Historic Places who sent Nell Ziehl and Rob Nieweg of their Southern Field Office for a site visit. Kenny King took the National Trust personnel and a Preservation Magazine reporter for an inspection of the 10-mile Spruce Fork ridgeline. After the site visit, the NTHP wrote a letter of support for the nomination.

The Labor History Association has recently inducted Frank Keenely, an early UMWA organizer, into their Hall of Honor. In the early 1920's, Mr. Keenely lead the struggle organizing the miners in Logan and Mingo counties. In 1921 he was found innocent of murder and treason against the state when he was tried for his leadership in the miners' armed march to Blair mountain.

On October 13th we met with the citizens of Blair and devised a campaign to gain support of the union and state and local officials in addition to the Keeper of the Register. As part of the campaign, we will be asking you to contact the Keeper in support of the nomination. We are preparing some campaign material to be used by our supporters. Our attorney, William DePaulo, has recently sent a FOIA request to the NPS.

Stay tuned for more updated information!



Coal Sludge Impoundments: A Top Priority this Year

By Ted Boettner, WVEC Lobbyist

As we head into the legislative session this January, one of WVEC's top legislative priorities will be to address coal sludge impoundments and the inherent risks they pose to public health and safety.

Sludge impoundments are large dams (sometimes over a billion gallons), or artificial lakes, of mine refuse located in the heads of hollows close to coal mining operations, such as the Massey Shumate dam above Marsh Fork Elementary school.

Many of these impoundments are not built to proper engineering standards and have received numerous citations by MSHA inspectors. Citizens are concerned that if these impoundments fail and release this slurry, which mounting evidence has shown as a distinct possibility, that they could not only cause environmental catastrophe but loss of human life.

In conjunction with the grass roots project lead by the Sludge Safety Project, WVEC is supporting legislation that would ban the construction of new coal sludge impoundments, as well as the expansion of existing impoundments; require the use of alternative coal waste disposal methods (other than injection in underground mines); require DEP to identify existing impoundments that are most structurally at risk and begin a shut-down of those operations by the use of alternative coal waste disposal methods; and require DEP to authorize a thorough study of the toxic chemicals contained in existing disposal sites.

Alternatives to slurry ponds do exist. For example, one alternative to dumping coal wastes into sludge ponds is dry press, which has been around since the 1960s. Using dry coal cleaning presses the water out of the slurry, so that it can be immediately reused while the dry waste is buried. Coal companies are reluctant to use this technology because it costs them one dollar more per tone of coal, which considering the potential human and cleanup costs if a dam does break is negligible.

We urge you to contact your delegates and senators and tell them you are concerned about sludge impoundments and the injection of sludge into underground mines.

For further information regarding the Sludge Safety Project please go to: www.sludgesafety.org

"Clean" Can Be "Green"

By Julie Archer, WVEC Lobbyist

While there may be no such thing as "clean coal," the term "clean elections" isn't as far fetched as it might seem. With corrupt officials in southern West Virginia, including members of one of the most prominent political factions, being indicted and pleading guilty to vote buying charges, the passage in September of landmark "527 reform," and the "WV Public Campaign Financing Act" gaining momentum and support in the legislature, there is hope for the future of elections in West Virginia.

The "WV Public Campaign Financing Act" - also known as the "Clean Elections Act" - would create an alternative public financing option for candidates to the state Senate and House of Delegates. Unlike, last year's proposal - a pilot project that applied to only a handful of districts - this year's bill would make public financing available to qualified candidates in all Senate and single-member Delegate districts beginning in 2010, with candidates in the remaining House districts becoming eligible to participate in 2012. The basic concept, however, remains unchanged. Candidates qualify by collecting a specified number of \$5 contributions from registered voters in their district. In exchange for receiving public financing, candidates agree to limit their spending to those funds, using none of their own, and accepting no private contributions.

This voluntary option would allow a greater number and variety of candidates to run for office, and ultimately reduce the role of special interests in political campaigns as well as the influence they have on public policy. In West Virginia, polluting industries, like coal, oil & gas and timber are among the biggest contributors to our elected officials. Since 1996, coal alone has contributed over \$4 million to candidates for governor, the state Supreme Court and the legislature, and coal has been rewarded handsomely in return in the form of tax breaks and other favorable legislation. This is why our efforts to continue to advance Clean Elections are so important. The Clean Election concept is a comprehensive approach to campaign finance reform that makes other reforms possible.

Although, it may seem inconceivable that a legislative body would pass a bill, perceived by some to be against their own best interest, the Connecticut legislature made history in December when it approved full public financing of legislative and state-wide races. Arizona and Maine, the nations pioneering "clean elections" states adopted public financing through the initiative process. This recent victory in Connecticut is another sign of hope, and with any luck perhaps West Virginia will be the next state where Clean Elections take root.

Appalshop's Mimi Pickering at The Cultural Center

Mimi Pickering from Appalshop will give a presentation at the Cultural Center in Charleston WV, on January 25th beginning at 7 PM.

The showing features her two films on the Buffalo Creek Disaster, and discussing the theme - "Do Social Documentaries Influence Anyone?" John Hoskyns-Abrahall, the president of Bullfrog Films, was seriously injured in an accident on Sunday, January 8th, thus forcing him to cancel his planned presentation at The Cultural Center on that date.

Ms. Pickering's first Buffalo Creek film, "Buffalo Creek - An Act of Man," was recently selected by the Library of Congress for inclusion in its National Film Registry. The film was described by the Library of Congress as a "powerful documentary" that "represents the finest in regional filmmaking, providing important understanding of the environmental and cultural history of the Appalachian region." Charleston filmmaker Robert Gates provided some of the footage of Buffalo Creek used in the film and recent South Charleston Museum guest Jack Wright provided the music and narration.

Ms. Pickering herself was a guest of SCM last March as part of its "Women's History Month." She is presently working on three films: community activists Joe and Gaynell Begley and their C.B. Caudill Store, which functioned like a history museum and organizing center in Blackey, KY; and with Anne Lewis in a production of a documentary on Anne Braden, long time civil rights/civil liberties activist from Louisville; just started production on a doc on noted rural journalists Tom and Pat Gish of The Mountain Eagle in Whitesburg.

The two Buffalo Creek films are currently being restored and will be released on DVD sometime in 2006. The WV Humanities Council is supporting showings of these two films around the state including one at the Buffalo Creek Memorial Library in Man, WV this spring.

SSP is also hosting showings of these films. For more info on the program, contact Pat Cowdery at (304) 558-0220. You can find more info on Mimi and Appalshop at <http://www.appalshop.org/>.

"One Touch of nature makes the
whole world kin."

William Shakespeare

Shameless Plea

The WVEC lobby team is your voice for the environment in the halls of the Capitol building - and it takes money to keep the team running!

So please help us out - help the environment out today, by renewing your membership.

If you have already renewed, we thank you, and ask that you consider an additional donation to help us meet our new goal of providing the West Virginia Environmental Council with a year-round presence at the State House.

Money, money, money, money, money, money, money makes the world go 'round' - crass, but true words from the Broadway show Cabaret.

Until we can take the money out of politics, you're going to need the WVEC lobby team to fight the good fight.

Thanks for your support.

Donald S. Garvin, Jr.,

WVEC Legislative Coordinator

Committee Takes Up Bottle Bill

By Linda Frame, WV-CAG linda@wvcag.org

If you think your phone calls and e-mails to legislators are a waste of your time, please think again. Just when we thought the interims would come and go and the Bottle Bill would be ignored, the interim committee assigned the bill took it up in the waning hours of the 2005 interims.

This is truly a testament to the endlessly applied pressure you placed on legislators - in particular Committee Chair Senator Mike Oliverio - to give the bill its turn on the agenda. CAG staff has heard from the folks who take the calls and field the e-mails that the Bottle Bill is supported by West Virginians and these contacts urged that the bill finally be placed on the agenda.

On Sunday night, lead sponsor Senator Brooks McCabe, South Charleston Mayor Richie Robb and I spoke about the wide range of benefits a Bottle Bill would bring to West Virginia. It was our first chance to address a committee on this legislation and it gave us momentum as we enter the 2006 Legislative Session. Special thanks go out to both Senator McCabe and Mayor Robb!

This week SB 136 and HB 2330 were introduced and referred to Senate and House Judiciary Committees. We will lobby this bill as we have in the past, buoyed by the behind-the-scenes support of Gov. Manchin and the Department of Environmental Protection. We'll keep you posted and, in the meantime, keep those calls and e-mails coming!

For more info, please visit www.wvbottlebill.org



Calendar of Events



January 18: Legislative Session Kick-Off Blast! Live music by the VooDoo Kats. Refreshments. Suggested donation of \$8.00 per person or \$15.00 per couple. Perfater Law Office building, 1311 Virginia Street East, Charleston.
For more information: WVEC office, (304) 346-5905.

January 21: WV Environmental Council Board of Directors Meeting. 79er Restaurant, Burnsville WV. 11:00 AM - 3:00 PM.

January 25: Mimi Pickering from Appalshop will give a presentation, showing her two films on the Buffalo Creek Disaster, and discussing the theme - "Do Social Documentaries Influence Anyone?" Begins at 7 p.m. at the Cultural Center, State Capitol Complex, Charleston, W. Va.
For more info on the program, contact Pat Cowdery at (304) 558-0220. You can find more info on Mimi and Appalshop at <http://www.appalshop.org/>.

February 11 and 12: The West Virginia Energy Gathering for Students and Youth. This statewide summit meets Feb. 11 at St. John's Episcopal Church in Charleston, W.Va. Feb. 12 field trip to Kayford Mountain. Housing assistance is needed; please contact abe@ohvec.org if you can provide shelter to the youth. Many non-student youth from around the state, and students from Shepherd, Marshall and WV Universities as well as Glenville State have committed to attend; students from Wheeling Jesuit, Bethany College and Fairmont and other higher education institutions have also expressed interest. Get your college or friends involved!
For more information: E-mail abe@ohvec.org

February 14: E-Day! at the Capitol - Valentine's Day, Tuesday, 10 AM ~ 3 PM. Set up time for organizations and sustainable businesses begins at 8:00 am.
For more information: Call WVEC office, (304) 346-5905.

February 14: E-Day Reception & Award Presentations. Perfater Law building, Virginia Street East, Chas. 6 PM ~ 10 PM.
For more information: WVEC office - (304) 346-5905.

Feb. 27: Buffalo Creek Day at the State Capitol. Join members of the Sludge Safety Project (SSP) in Room 252 of the House Side of the State Capitol (Lewis McManus room). Legislators will be invited to attend and see clips of "Buffalo Creek – An Act of Man" and "Buffalo Creek Revisited" (see Jan. 25 entry above). SSP members whose health and safety suffers because of coal sludge impoundments and coal slurry injection will be present to speak with the public and legislators.

March 11: Regular Legislative Session ends.

March 11, 2006: 7 p.m. West Virginia premiere of "Black Diamonds - Mountaintop removal and the fight for coalfield justice." The film screens at the LaBelle Theatre/Museum, 311 D Street. South Charleston. This documentary charts the escalating drama in Appalachia over the alarming increase in large mountaintop removal coal mining. Filmmakers Catherine and Ann Pancake were born and raised in West Virginia. Catherine has become an award-winning filmmaker and Ann is an award-winning author. Working for more than 4 years on this project, they have traveled throughout Appalachia to chronicle the unparalleled destruction. Interviews with Julia Bonds, Maria Gunnoe, Arley Johnson, Ken Hechler, and William Maxey. Maryland State Arts gave the film's demo tape and Individual Artist Award. See www.blackdiamondsmovie.com/. and www.geocities.com/scmuseum/. Admission is a \$2.00 donation to the museum.

May 25-29: Please hold this date. Heartwood Forest Council/ Summit for the Mountains joint event. Please help plan place, logistics, speakers. If you want to help, contact Janet 304-522-0246 at: ohvec@ezwv.com or Andy Mahler atandy@blueriver.net (812) 723-2430.

June 24: 4th Annual Lavender & Sustainable Fair. LaPaix Herb Farm, Alum Bridge WV. Featuring sustainable initiatives; workshops; presentations; wood walks; artisan, environmental & herb booths. Live music, gourmet food and more.
For more information & to register: lapaix@westvirginia.net

Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

Phone: (304) 346-5905 www.wvecouncil.org

_____ Renewed Membership
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Membership Levels

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- _____ \$ 10 Student / Senior
- _____ \$ 25 Regular
- _____ \$ 50 Seedling
- _____ \$ 100 Sustaining
- _____ \$ 250 Enviro Steward
- _____ \$ 500 Canopy
- _____ \$ 1,000 Old Growth
- _____ \$ Other

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

Leg. Session Kick-Off Blast!!!

Wednesday, January 18th ~ 6 PM till 10:00 PM

Perfater Law Office Building, 1311 Virginia Street East, Charleston

Featuring: **The VooDoo Katz!!**