



Green Legislative Update

Published Weekly During West Virginia's Legislative Session

Volume: 17 Number: 6

Date: February 17, 2006

Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 6 – A Wilderness of Vision

"Without enough wilderness America will change. Democracy, with its myriad personalities and increasing sophistication, must be fibred and vitalized by regular contact with outdoor growths - animals, trees, sun warmth and free skies - or it will dwindle and pale." Walt Whitman.

I was really hoping to get through this legislative session without having to fight another stupid, shortsighted Anti-Wilderness resolution.

But the session had barely begun and there it was – SCR 13, sponsored only by Senator Karen Facemyer (R – Jackson) – with the same exact ridiculous and inflammatory language as last year's aborted resolutions.

This is the most infuriating kind of legislation we are forced to deal with at the state house. It's merely a **resolution** and its actions are non-binding. But the language is replete with heated rhetoric, misstatement of facts, and outright false information.

And the passage of misguided resolutions such as this one can do real harm.

Compare the eloquent vision of Walt Whitman to these words from the Facemyer resolution: *"Federal wilderness designation by the United States Congress is a permanent, irrevocable condition that will forever deprive West Virginians and visiting nonresidents of nearly all economically productive uses and reasonable access to recreational opportunities in the Monongahela National Forest."*

Preposterous.

.... continued on page 3

Mercury Rule Does Not Protect Human Health Take action!!!

The Senate Judiciary Committee will take up for consideration next week DEP's proposed rule for regulating toxic mercury contained in air emissions (SB 316). This is a bad bill, and if you have the time you should call members of the committee and ask them to oppose authorizing this rule.

DEP's proposed Rule 45-CSR 37 (SB 316 and HB 4140) adopts and implements a Bush Administration EPA mercury "Cap and Trade" rule that actually **delays any specific action to reduce mercury until after 2010**, and will not result in adequate reductions in emissions of mercury from coal-fired power plants to protect public health **until 2018**.

Coal burning electric power plants are the largest unregulated source of mercury in the nation. EPA found in 2000 that "mercury (from coal-fired power plants) is both a public health concern and a concern for the environment."

Humans are exposed to mercury primarily through eating fish. In the United States, mercury contamination is so pervasive that at least 45 state health departments have issued fish consumption advisories – **West Virginia has issued a fish consumption advisory for EVERY stream in the state.**

Mercury is highly toxic and bioaccumulates in the food chain. Exposure in the womb can cause severe effects in fetuses and children such as mental retardation, cerebral palsy, deafness, and blindness.

Exposure has also been linked to cardiovascular effects in adults and children, heart attacks in adult men, an

.... continued on page 3

"WV's Water & Renewable Energy"
February 22, 2006 ~ 5:30 pm till 8:00 pm
Zando's Restaurant ~ 241 Capitol Street, Chas.

Keynote Speaker: Allan Tweddle

Menu:

Baby Garden Salad
Fresh Baked Rolls & Butter
Ginger Glazed Carrots
Garlic Mashed Potatoes
Spinach & Feta Stuffed Chicken Breast
Roasted Vegetable Lasagna
Fresh Baked Brownies & Cookies
Sodas & Spring Water

Cost: \$25. per person

Reservations are required, as space is limited

For more information, & reservations: Call Denise at the WVEC office:
(304) 346-5905 or deniseap@earthlink.net

Sponsored by: WV Rivers Coalition & WV Environmental Council

Buffalo Creek Day at the Capitol
Monday, February 27, 2006
Room 252 10:00 am ~ 3:00 pm

Buffalo Creek Day at the State Capitol will be held on **February 27th**. In remembrance of the **Buffalo Creek disaster**, and as a reminder of the ever pending possibility of just such another, the **Sludge Safety Project (SSP)** will hold Buffalo Creek Day in **room 252 (House side of the state capitol - Lewis McManus room)** from 10:00 am until 3:00 pm.

Legislators will be invited to attend and see clips of "**Buffalo Creek – An Act of Man**" and "**Buffalo Creek Revisited**". 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.

For more information: Call Abe Mwaura, (304) 522-0246

Legislative Session 2006 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

(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

Ohio Valley Environmental Coalition: If you want to easily get the latest news during the legislative session, check www.ohvec.org/ovec_news.html and 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.

**West Virginia
Environmental Council
2005~2006 Board of Directors**

Denise Poole, *President*
Chuck Wyrostok, *Vice President*
Fred Sampson, *Past President*
Danny Chiotos, *Secretary*
Frank Young, *Treasurer*

Kay Basham Greg Carroll
Janet Keating
Liz Garland Don Garvin
Don Gasper Bob Hamburg
Chris Hogbin Jim Kotcon
Chelena McCoy
Mary Ellen O'Farrell
Cindy Rank Brent Rowley
Elizabeth Sampson
Carol Warren Mary Wildfire
Gary Zuckett

Chuck Wyrostok
Outreach Coordinator
wyro@appalight.com

Don Garvin
Legislative Coordinator
dsgr@aol.com

Denise Poole
Program Coordinator
deniseap@earthlink.net

Don Alexander
*Web Site Coordinator &
E-Mail Listserve Coordinator*

Legislative Update is published by the West Virginia Environmental Council (WVEC) - a statewide organization dedicated to facilitating communication and cooperation among citizens in promoting environmental protection in West Virginia. *LegislativeUpdate*, is published weekly during the Legislative Session.

www.wvecouncil.org

Legislative Update welcomes letters, articles, and art work from readers and reserves the right to edit or reject submissions. Please send materials to:

Denise Poole, *editor*
deniseap@earthlink.net
1324 Virginia Street East
Charleston, WV 25301
(304) 346-5905

Under the Dome ... cont. from pg. 1

Oh, there's more: "...the Legislature hereby recognizes that any expansion of federal wilderness and/or the imposition of any other unreasonably restrictive land management measures would result in losses in recreational opportunity and severe economic harm to more West Virginians than would be benefited."

Well, nothing could be further from the truth.

The truth is that the tourism industry is the fastest growing segment of West Virginia's economy, and wilderness and backcountry experiences are one of the major draws. The truth is that wilderness experiences are contributing to an economic boom.

The fact is that the Monongahela National Forest contains more suitable land for experiencing wilderness than almost any place east of the Mississippi. The fact is that the Monongahela National Forest is within an eight-hour drive of almost fifty percent of the U.S. population. The truth is that the demand for wilderness tourism is only going to grow.

There's a lot more poppycock in SCR 13.

Claims that "*the actions of political activists dedicated to forest abandonment*" cause counties to lose "hundreds of millions of dollars" in timber revenue. Simply not true. Counties containing National Forest land get a fixed amount of federal revenue regardless of how many trees are cut.

And then there are the REALLY absurd claims that wilderness actually leads to a loss of species and biodiversity, and that these lands really need to be timbered for forest health - claims backed by "sound science" provided by right-wing think tanks like the Heritage Society and the Cato Institute. The deceitfulness of this propaganda is so obvious I'm not even going to attempt a rebuttal here.

So why, you might ask, would a state senator put her name on such an outrageous resolution?

Well, all you need to know is that Senator Facemyer and her husband are in the timber business, and this resolution reflects her vision of the world.

It is not mine.

"In wildness is the preservation of the world," - Henry David Thoreau.

There was a snowstorm last weekend and it was almost 80 degrees yesterday in Charleston. The birds must be very confused. So better keep the feeders full.



Mercury Rule... cont. from pg. 1

increased risk of breast cancer in women, blood pressure problems and heart-rate irregularities in exposed children and adults, and the potential to affect the immune system.

While EPA has set a daily consumption reference dose for mercury, **there is no evidence of a safe level** given that health effects have been demonstrated at exposures below the reference dose.

DEP's mercury air rule would adopt EPA's proposed rule, which would not require **any** mercury-specific pollution controls before 2018 (**12 years from now**). As a result, EPA predicts that the mercury emission cap will not be achieved until well beyond 2020.

Health care professionals and state and local air pollution control officials are challenging the EPA rule in federal court, because it actually represents significant roll-backs from existing Clean Air Act requirements for "Maximum Achievable Control Technology" (MACT).

EPA's proposed rule has not even been finalized yet. Not even one state has adopted the EPA rule, and at least six states have already adopted stronger legislation.

Other states are opting NOT to roll back mercury emission standards. Why should West Virginia?

Please call Senate Judiciary Committee members and ask them to send this rule back to DEP and require the agency to develop emission standards for mercury that protect the health of West Virginia's children and adults.

Committee members are:

Senator Kessler (Chair) (Marshall County)

Senator Oliverio (Monongalia County)

Senator Carruth (Mercer County)

Senator Barnes (Randolph County)

Senator Harrison (Kanawha County)

Senator Dempsey (Lincoln County)

Senator Jenkins (Cabell County)

Senator Lanham (Putnam County)

Senator Weeks (Raleigh County)

Senator Fanning (McDowell County)

Senator Chafin (Mingo County)

Senator Minard (Harrison County)

Senator Deem (Wood County)

Senator Foster (Kanawha County)

Senator Hunter (Monongalia County)

Senator White (Webster County)

Senator McKenzie (Ohio County)

You can call these Senators toll-free at: 1-877-565-3447. The link to their e-mail addresses is:

www.legis.state.wv.us/committees/senate/judiciary/sencomJUD.cfm

Citizens Want Moratorium On New Coal Slurry Ponds

By Ken Ward Jr., Staff writer

(reprinted from February 15, 2006 Gazette article)

Coalfield residents came to the Statehouse on Tuesday to ask West Virginia lawmakers to protect them from the potential dangers of coal waste impoundments.

Residents from Boone, Raleigh and other coalfield counties want a moratorium on new or expanded slurry impoundments.

Maria Gunnoe of Bob White said her neighbors — especially area children — live in fear that an impoundment will break and flood their community.

“Our children sleep fully clothed at night,” Gunnoe said. “This is wrong.”

Gunnoe and other coalfield residents joined state environmental activists at the Capitol Tuesday for the West Virginia Environmental Council’s annual E-Day.

Later this week, they expect legislation to be introduced to block new slurry impoundments and require the state Department of Environmental Protection to conduct a special study of coalfield dams.

Delegate Larry Barker, D-Boone, is the lead sponsor of the bill.

“I’m not trying to cost anybody a job,” Barker said. “We need the coal. We need the lights on. But we can do this and live in harmony.”

Under the bill, the DEP would be blocked from issuing new slurry impoundment permits.

The DEP could not approve any changes in existing impoundments unless those changes were aimed solely at “increasing the safety or stability” of the dam and do not increase the size of the impoundment.

Also, the DEP would be required to conduct a detailed study of the safety of existing impoundments. A report would be due by Jan. 1, 2007.

“They call them ponds - that’s a cute name for them,” Barker said. “But nobody wants to live under one of these. It is a danger. The problems are real, and no one has addressed them.”

Raleigh County residents have complained that Gov. Joe Manchin backed off a promise to closely examine safety complaints about a Massey Energy impoundment just upstream from Marsh Fork Elementary School at Sundial.

Pauline Canterbury of Sylvester noted that the legislation would also ban the injection of slurry into

abandoned underground mines.

“They want to fill these holes up with slurry,” Canterbury said. “This is going to be dangerous, I think.”

Canterberry said that there are “modern technologies” for disposal of slurry that do not require impoundments or underground injection.

Carol Warren of the West Virginia Council of Churches said that her group supports the legislation.

“We cannot wait until there is another horrible accident to do something about these impoundments,” Warren said.

Vernon Haltom of the group Coal River Mountain Watch noted that the anniversary of the Buffalo Creek disaster is later this month.

On Feb. 26, 1972, a Pittston Coal Co. waste dam on Buffalo Creek, Logan County, collapsed. The resulting flood killed 125 people and left 4,000 homeless.

“We’re told today the sludge impoundments are engineered and that we have nothing to worry about,” Haltom said.

“Engineers designed the Martin County impoundment that failed in 2000, six years after it failed in 1994,” he said. “[The U.S. Mine Safety and Health Administration] said it was engineered correctly, but obviously they were wrong.

“MSHA is the same agency that is responsible for investigating deep mines,” he said. “They can obviously make mistakes.”



The Boss Says: "Do It"

By Allan Tweddle, WVEC Lobbyist

The West Virginia Public Energy Authority at its meeting this week approved a letter that was signed by the members present, (myself included), that will presumably be signed by Governor Manchin stating that "The PEA supports net metering and recommends that the West Virginia Public Service Commission (PSC) proceed immediately with the drafting and promulgation of rules related to net metering to assure effective implementation."

In addition, the PEA reviewed the contents, and discussed the implications of SB 567, an as yet unnamed Bill, which establishes "the creation of the Division of Energy (WV DOE) within the Department of Commerce". SB567 was originated and introduced by the Chairman, John Unger II and sponsored by the entire Senate Transportation and Infrastructure Committee at their committee meeting this week.

Senator Unger attended a previous meeting of the PEA and evidentially concluded that for the PEA to be effective, it needed a dedicated staff that was totally dedicated to developing a 'Comprehensive Energy Plan (CEP) for the State of West Virginia.' He also chaired the recent "Vision Shared" forum on 'Energy Future for the State'. PEA member Joseph Freeland and I were honored to be invited to the forum.

The staffing of this new WV DOE will be with existing personnel who have been dealing with all forms of energy (including opportunities in renewable energy) and will also be drawn from other departments. The consolidation of talent will bring a concentration of skills and abilities to the entire energy future planning process. The PEA will establish Energy policy, as a recommendation to the Governor. Once approved, the staff will be directed to develop an implementable comprehensive long term energy plan.

The current objective of SB567 is to develop a first draft five year CEP that can be presented to the Legislature at the interims in December. The process of developing the plan will include public hearings. The timing is important, as tax incentives that might be appropriate should be considered along with the Governor's stated intention of holding a special session of the Legislature to deal with Tax Reform.

SB567 was approved by Senator Unger's Transportation and Infrastructure Committee, was then passed is now referred to Senate Finance. Secretary Timmermeyer suggested today at the PEA meeting that it might also go

Green Legislative Update

to Government Organization Committee, but we will see.

The concepts for the plan to be considered, as adopted today by PEA, will include all forms of renewable energy incentives for individual homeowners and small commercial buildings as well as establishing a State Renewable Energy Standard.

We do not intend, or need to reinvent the wheel in this subject. Many other States have already adopted such plans and standards, so PEA will simply need to consider those concepts that work in other States that could work in West Virginia as well.

I know that progress was made today.

" Think Renewable Energy"

Alternatives to Sludge

By Ted Boettner, WVEC Lobbyist

On Wednesday, the House of Delegates introduced our sludge bill (H.B. 4583) that would put a ban on issuing new permits for sludge impoundments, ban sludge injection into abandoned mines, and call for a study on existing sludge ponds. The bill is sponsored by Delegates Barker, Hrutkay, Marshall, Hatfield, Moore and Susman, however other delegates are very supportive of the bill.

Movement on the Senate side has been slow, with very few Senators willing to sponsor HB 4583. After meeting with Senate leadership this week, their principle complaint was that the bill didn't discuss any alternatives to sludge impoundments and injection.

As we know, the dry press method offers the best solution to eliminating large-water sludge impoundments. In addition to dispensing with hazards associated water storage, dry press offers other advantages as well:

1. It doesn't create any slurry that can be injected into abandoned mines or stored above hollows.
2. It eliminates the expensive dewatering process.
3. Coal preparation plants would be smaller, cheaper, require less electrical energy and would have lower operating costs.
4. The absence of sludge ponds is ecologically attractive and rehabilitation costs of mining areas would be reduced.

5. Yields of cleaned coal will be relatively higher

If we can offer a viable alternative to sludge ponds this will go far in convincing many legislators that this issue is not about a lack of means, just a lack of will.

Clean Elections Clears Senate Judiciary - Needs Your Help in Senate Finance

By Julie Archer, WVEC Lobbyist/WV-CAG

After much anticipation, the “West Virginia Public Campaign Financing Act” (SB 124) made it onto the Senate Judiciary Committee agenda committee on Monday, and after a lively debate the committee passed the bill.

Although there are conflicting reports about the vote (the Associated Press reported a 7 to 5 vote, the Charleston Gazette reported a 7-6, while our own count was 8 to 6) we’re just glad the bill is finally on the move. Your calls made the difference! The bill is now before the Senate Finance Committee and we still need your help. If your Senator is on the committee, please call them and ask them to support “voter-owned” elections in West Virginia. Finance Committee members are:

Billy Wayne Bailey - (D-Wyoming)	
bwbailey@mail.wvnet.edu	357-7807
Donna Boley - (R-Pleasants)	
donnaoley@mail.wvnet.edu	357-7905
Edwin Bowman (D-Hancock)	
jwazell@mail.wvnet.edu	357-7918
Truman Chafin (D-Mingo)	
htchafin@mail.wvnet.edu	357-7808
Larry Edgell (D-Wetzel)	
edgell@mail.wvnet.edu	357-7827
Karen Facemyer (D-Jackson)	
kfacemyr@mail.wvnet.edu	357-7855
Jesse Guills (R-Greenbrier)	
jguills@mail.wvnet.edu	357-7959
Walt Helmick (D-Pocahontas)	
whelmick@mail.wvnet.edu	357-7980
Shirley Love (D-Love)	
shlove@mail.wvnet.edu	357-7849
Brooks McCabe (D-Kanawha)	
brmccabe@mail.wvnet.edu	357-7990
Sarah Minear (D-Tucker)	
smminear@aol.com	357-7914
Robert Plymale (D-Wayne)	
grays@mail.wvnet.edu	357-7937
Roman Prezioso (D-Marion)	
cglagola@mail.wvnet.edu	357-7961
Bill Sharpe (D-Lewis)	357-7845
Vic Sprouse (R-Kanawha)	
vic@vicsprouse.com	357-7901
John Unger (D-Berkeley)	
junger@mail.wvnet.edu	357-7933
John Yoder (R-Jefferson)	
jyoder@mail.wvnet.edu	357-7957

On Thursday, February 23 (thanks to generous support from the Reform Institute) the Finance committee

Green Legislative Update

will be hearing testimony from Todd Lang, Executive Director of the Arizona Citizens Clean Elections Commission (the state agency that administers Arizona’s public financing program.)

We hope Mr. Lang’s visit to West Virginia will provide a big boost to our efforts, but Senators still need to hear from their constituents that they support publicly financed elections. With the deadline for bills to be out of committee fast approaching it’s important for Legislators to hear from you this coming week.

3rd Annual Deposit Day Trashes the Capitol

By Linda Frame, linda@wvcag.org

We can’t think of a better reason for skipping a college class - a chance to litter the grounds of the state Capitol. CAG staff got to join students from the WVU Student Sierra Coalition in this endeavor as they piled bag after bag of cans and bottles between the House and Senate wings, perfectly within view of legislators and staff, on a gorgeous, warm E-Day.

Talk about commitment. The students wrote a grant to cover expenses, held recycling drives on campus, and got on the road at 6 AM with their rented truck to deliver 26,051 beverage containers to Charleston, symbolizing one for each WVU student. With hand-made posters touting the benefits a bottle bill would bring to West Virginia, the students attracted a lot of attention from passer-bys and talked up SB 136.

Since it was also Deposit Day, our mock redemption center collected thousands more cans to contribute to the heap and refunded recyclers for their efforts. We had collection jars in case people wanted to donate their deposits to charity groups like the Boy and Girl Scouts, an additional benefit to the law that has been written into this year’s language.

Since our main goal is to raise awareness of the bottle bill, the pile of empties was a great visual for Capitol visitors, legislators and the media. Special thanks go out to Ivan Stiefel, Joshua Rutkowski, Dan Hobbs, Gibran Mancus, Bobby Mitchell, Dave Saville and Jim Kotcon for their work on WVU Student Sierra Coalition’s effort.

We are still waiting for SB 136 to be taken up by Senate Judiciary and hope that will happen this week. Please contact your senators if you haven’t already done so! Thanks for your support!

In other good news, the Jefferson County Solid Waste Authority and the Webster County Watershed Association have both passed resolutions of support for the WV Bottle Bill. Welcome to our growing list of supporters!



Calendar of Events



February 22: "WV's Water & Renewable Energy" - Zando's Restaurant, 241 Capitol Street, Charleston. 5:30 pm - 8:00 pm. Keynote address by Allan Tweddle; dinner catered by Zando's Restaurant. This event is sponsored by WV Rivers Coalition and WV Environmental Council. ***Reservations are required, as seating is limited. Cost is \$25. per person. (See page 2 for menu).** **For more information, and to make reservations, call the WVEC office: (304) 346-5905, or denisap@earthlink.net.**

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". 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. **For more information,** call Abe Mwaura - (304) 522-0246.

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. 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. . See www.blackdiamondsmovie.com/. and www.geocities.com/scmuseum/. Admission is a \$2.00 donation to the museum.

April 29: Greenbrier River Trail Association's 20th annual "Race of the River & Trail" - Marlinton, WV. **For more information:** www.greenbrierrivertrail.com.

May 19-21: Annual Greenbrier Trail Bike Trek. Sponsored by the American Lung Association of WV. This three-day, 100 mile ride begins at the Inn of Snowshoe - and takes participants along the Trail through Pocahontas & Greenbrier counties - ending at Greenbrier County Youth Camp near Lewisburg. **For more information, and to register:** Rachele Beckner, (304) 342-6600 or visit www.alawv.org

May 25-29: The 16th annual Heartwood Forest Council and the 6th annual Summit for the Mountains, Cedar Lakes Conference Center, Ripley, WV (38 miles north of Charleston). Includes programs on Forests, Mountains, and Coal: the connections between them; their impact on air, water, and climate; their role in our history, economy, and culture; with a special focus on ending the devastation of Mountaintop Removal coal mining. Invited and confirmed speakers include: Granny D*, Cynthia McKinney, David Orr*, Jack Spadaro*, Woody Harrelson, Judy Bonds, Maria Gunnoe*, Larry Gibson*, Willie Nelson, Bobbie Ann Mason, Erik Reece, Ed Wiley, and more. *confirmed **For more information & to register:** Janet at (304) 522-0246. ohvec@ezwv.com or Andy Mahler atandy@blueriver.net (812) 723-2430.

June 24: 4th Annual Lavender & More Fair, "Livin' Easy". LaPaix Herb Farm, Alum Bridge WV. Featuring sustainable initiatives; workshops; presentations; wood walks; artisan, environmental & herb booths. Live music, gourmet food prepared by chef Dale Hawkins and so much more. Stay tuned for more detailed information. Please visit the website listed below. **For more information & to register:** lapaixherbfarm.com

Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

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

_____ Renewed Membership
 _____ Change of Address

_____ New Membership
 _____ Donation

Membership Levels

Name: _____

Address: _____

City, State, Zip: _____

Phone: _____ e-mail _____

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

