



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 3 – “A Thousand-Foot Swath”

Senator Jon Blair Hunter (D – Monongalia) caused a minor stir this week when he introduced SB 170.

The good Senator’s bill would prohibit “timbering operations within *five hundred feet* of any stream in this state that harbors native brook trout” and provides “for *criminal penalties* for persons who violate the prohibition.”

I just happened to run into Dick Waybright, lobbyist for the WV Forestry Association, downstairs at the “Bill Room” on the morning this bill was introduced.

Poor Dick was beside himself.

“Is this your bill?” he asked me, smiling and waving a copy of the bill.

No, I told him, it was not “my” bill.

I explained that Senator Hunter had introduced the bill after a Trout Unlimited member from the Northern Panhandle contacted him. I said, “You know, Dick, the Senator is an avid trout fisherman. So he must have liked the idea.”

“Well, do you know how many brook trout streams there are in this state?” Waybright asked.

“This would set aside *a thousand-foot swath* for every brook trout stream in the state,” he concluded.

“Yes it would, Dick. It’s not my bill, but I kinda like the idea too,” I replied.

I smiled. Dick smiled. “I knew you would,” he said.

Of course he knew I would like the idea.

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Déjà vu . . .

Another Division of Energy?

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Senator John Unger (D – Berkeley) introduced legislation this week that would create a new WV Division of Energy.

Remember the DOE? Well, Cindy Rank sure does.

“We HAD a Division of Energy from the time of Arch Moore to 1991. The agency had the dual (and contradictory) charge of promoting and regulating industry. In 1990-91 DOE became DEP. If anyone thinks DEP is bad, you weren’t around for DOE.” That’s what Cindy had to say when she heard about the proposed legislation.

In this case, however, Senator Unger is not proposing a DOE as a regulatory agency. Instead, his proposal (SB 177) is to create an agency that will develop and implement an “energy plan” for the state.

Senator Unger introduced similar legislation last year. And at WVEC’s 2005 annual Fall Conference the Senator outlined his concerns about the nation’s dependence on foreign energy as a security risk for the country, and expressed his belief that technologies such as coal gasification and coal-to-liquid plants should be major elements of a state-wide energy plan.

This bill endorses energy projects that “may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal-mine methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol, and coal liquefaction technologies.”

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Notices ~ Announcements

Clean Elections Day at the Capitol. A day devoted to talking with our legislators about the WV Public Campaign Financing Act. To call ahead to make an appointment with your Delegate or Senator: 1-800-565-3447.

See related article on *page 3* and Calendar of Events on *page 5*.

For more information: Call OVEC office (304) 522-0246; WV-CAG office (304) 346-5891 or E-Council office (304) 414-0143.

WVEC Office Needs / Wish List:

Equipment for our new office: copier, computers, lap-top computers.

Office Furniture: particularly desks and desk chairs (can use 3 each).

If anyone can donate any of these items call the office at (304) 414-0143 or e-mail deniseap@earthlink.net and let us know!

Volunteers Needed: The E-Council can use volunteers in the office during the legislative session. If you would like to volunteer a few hours during the week, Friday afternoons helping with the Legislative Update, or participate on the E-Day planning committee call the office - (304) 414-0143.

WVEC's E-Day at the Capitol

Friday, March 2nd ~ 10:00 am - 3:00 pm

**House & Senate Halls and Upper Rotunda
WV State Capitol, Charleston WV**

Highlights include: Environmental organizations & Sustainable business displays, citizen lobbying.

To participate: Please contact Denise at the e-council office - (304) 414-0143 or deniseap@earthlink.net

E-Day Reception & Benefit

Friday evening, March 2nd ~ 5:30 pm - 9:00 pm

Perfater Law office lobby - 1311 Virginia St. East, Charleston

Highlights include: WVEC's 2006 awards' presentation, deluxe dinner buffet, live music.

Suggested donation of \$10. per person at the door

Legislative Session 2007 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 posts links to make it easier for you to stay informed.

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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:

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We've been trying to get mandatory stream buffers in the Logging and Sediment Control Act for years. And the WV Forestry Association has always been successful in preserving "best management practices" that are only voluntary.

While I don't hold out much hope that Senator Hunter's bill will even make it out of committee this year, with the Legislature considering two critical water quality rules this session, this bill's introduction is really appropriate.

Later this session the Legislature will take up DEP rules 47-CSR-2 and 60-CSR-5. Rule 47-CSR-2 is the Water Quality Standards Package and contains the B2 Trout Stream List, among other provisions. Rule 60-CSR-5 is the Antidegradation Implementation Plan rule and contains the Tier 2.5 Stream List.

Even though we wish that portions of these two rules were even stronger, WVEC strongly supports passage of both rules as proposed by DEP.

Waybright and the WV Forestry Association, however, cannot stand the B2 Trout Stream List because it provides water quality standards necessary to support "aquatic life" – standards that are even stronger than those for drinking water.

And Waybright and the timber boys really detest the Tier 2.5 Stream List, because it provides "waters of special concern" with greater protection from degradation. And guess what? Most of those waters are native brook trout streams.

What goes around, comes around, Dick.

If the timber industry would accept even *minimal* mandatory stream buffers, and stop dumping sediment into our most pristine streams and rivers, then perhaps bills calling for "a thousand-foot swath" would no longer be necessary.

The wintry blast continues, friends, so remember to keep your bird feeders full.

Support the Bottle Bill!

Legislators are telling us they are not hearing support for the Bottle Bill from their constituents. So, call your Senators and Delegates right away and tell them you'd like them to pass a Bottle Bill this session! Call them toll free at: 1-877-565-3447.

Join us for Bottle Bill Lobby Day Thursday, February 8th. Stay tuned for more details.

Green Legislative Update

Déjà vu . . .

Another Division of Energy?

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Senator Unger is a long-time friend of the Environmental Council, however we are likely not going to be on the same page on this issue.

The problem is the coal projects, all of which produce large amounts of greenhouse gases, such as CO₂, and all of which would likely result in additional mountaintop removal mining operations.

WVEC's Renewable Energy Campaign strongly endorses development of a comprehensive energy plan for the state that includes energy conservation and the development of truly renewable energy projects such as many of those promoted in this bill.

But the coal projects have to go!

Very Late Breaking News on Clean Elections!!!

By Norm Steenstra

For the Clean Elections Coalition

We've just been informed by the House leadership that they want US, the Clean Elections Coalition, to poll all 100 members of the House to determine their interest on Clean Elections.

This is a gargantuan task for the lobby team. Until this moment we have focused all our lobby efforts on the Judiciary Committee and House leadership. Now we've got to quickly "educate" and motivate about 65 other House members.

We need help! Please help us pass the most progressive piece of legislation our state has enacted in the past decade – the Public Campaign Finance Act. Be a part in having West Virginia join a hand full of other states that have reformed the democratic process and diminished the influence of special interest money.

We need you to call as many House members as you can over the next 5 days. Come, if possible to the Capitol and we'll put you to work with us. Call one of the Coalition lobby offices and we'll coordinate our efforts and clean up the state. WVEC 414- 0143 OVEC 522- 0246 or WV Citizen Action group 346- 5891.

And don't forget - Clean Elections Day is next week - Thursday, February 1st. See details on *page 2* and the Calendar of Events *page 5*.

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DEP Wants Continued Study of West Virginia Water

By Ken Ward Jr.

Charleston Gazette Staff writer

The state Department of Environmental Protection wants to continue collecting data on how much water is used — and how it is used — in West Virginia as part of the development of a statewide water management plan.

DEP officials suggest the continued study and development of the plan in a thick report provided to lawmakers.

“Although the state is not currently in a crisis situation, the time to collect the necessary data is now, not when the crisis is imminent,” says the 98-page study, completed by DEP and mandated by a 2004 law.

The DEP report found every year, 4.3 trillion gallons of water are removed from state streams and another 30.7 billion gallons from groundwater.

The study said it is not clear how much water flows in state streams, because so many of them are unmonitored. Data is even more incomplete for the state’s underground water resources, the study said.

Lawmakers mandated the DEP water use study after many residents became worried about the purchase of the state’s largest water utility, West Virginia-American Water, by a German conglomerate. Those concerns were further fueled by international battles over access to adequate water, and fears that thirsty neighbors would target West Virginia’s abundant supply.

In its report, DEP concluded that, “West Virginia is blessed with an abundance of water.

“Competition for water is usually not significant, and is mostly associated with prolonged drought conditions,” the report said. “However, changing socioeconomic conditions, especially population growth, have the potential to aggravate water use disputes.

“This is especially true in the Eastern Panhandle, where urbanization resulting from overflow from large population centers to the east combines with the region’s karst geology to set the stage for future water shortages,” the report said. “Because agricultural water use is poorly understood in the Eastern Panhandle, there is potential for urbanization to cause competition for water sources with the region’s farmers.”

In its report, DEP said that the Kanawha River Valley accounts for nearly three-quarters of the surface water withdrawn by major facilities across the state.

The single largest water user in the state, Elkem Metals, is in the upper Kanawha Valley. Elkem alone

accounts for 54 percent of the total surface water withdrawn by major users in the state, DEP said. Its water is used primarily for hydropower, and is diverted through a tunnel constructed on the lower New River near Hawks Nest Dam.

DEP noted that groundwater use along the Ohio River far exceeded surface water withdrawals. The area along the Ohio accounted for nearly two-thirds of the state’s total groundwater withdrawals, the DEP report said.

But, the agency said, these numbers are somewhat misleading.

“Water moves freely between the surface and the subsurface along the river, depending on ever-fluctuating physical conditions,” the report said. “Thus, if a well extends below the river, or is adjacent to the river, and water is pumped out of the well at a sufficient rate, water from the surface will become groundwater as it is drawn through the porous alluvial aquifer by the suction exerted upon it by the pumping of the well.”

In its report, DEP recommends, at a minimum, continuation of certain annual reporting of water use. For example, the agency wants companies to be required to report any changes in ownership or relocation of intakes and discharges, and to annually certify that its water usage has not varied by more than 10 percent from its baseline report.

Also, DEP recommended that a complete survey be conducted every five years beginning in 2010.

DEP also wants about \$118,000 to add five monitoring wells for high-growth areas and three stream gauges for western West Virginia, as well as \$33,500 a year in operation and maintenance costs.

DEP recommended development of a statewide water management plan with the involvement of various state agencies and help from West Virginia University and Marshall University.

“An understanding of the surface and groundwaters of the state, and how they are interrelated, is essential for the wise management of that resource,” the DEP report said.

“Continued support from the Legislature, and the citizens of the state for whom the waters have been claimed, will ensure this valuable resource is wisely managed.”

The DEP report, along with appendices, is available online at www.wvdep.org/item.cfm?ssid=11&sslid=722.

(This article appeared in the January 21 issue of the *Charleston Gazette*, and is reprinted here with their permission.)





Calendar of Events



February 1: Clean Elections Day at the Capitol. Begins at 8:30 a.m. with a breakfast and lobby training at Temple Israel located at 2313 Kanawha Blvd. East, Charleston. Press Conference in the Governor's Conference Room at 10:30 a.m. (inside the Secretary of State's office). From 1:00 p.m. to 5:00 p.m. attending committee meetings and meet with legislators to talk about the WV Public Campaign Financing Act. To call ahead to make an appointment with your Delegate or Senator: 1-800-565-3447.

For more information contact: OVEC office (304) 522-0246; WV-CAG office (304) 346-589; or WVEC office (304) 414-0143.

February 26: Anniversary of Buffalo Creek disaster.

March 2: WVEC's annual E-Day at the Capitol! Located in the Senate & House halls and upper rotunda area. Approximately 30 environmental organizations and sustainable businesses will be represented with displays. This is YOUR day at the capitol! Visit your Senators and Delegates - we encourage citizen lobbying!

For more information and to register your organization contact: Denise Poole at deniseap@earthlink.net or call the WVEC office: (304) 414-0143.

March 2: WVEC E-Day evening reception & benefit. Perfater Law office lobby, 1311 Virginia Street East, Charleston. From 5:30 pm till 9:00 pm. Highlights include: 2006 Environmental awards bestowed; live music; buffet dinner.

March 10: Last day of the 2007 regular Legislative Session.

March 23-24: "Yes Fest". Clarksburg, WV area. Renewable energy issues as a focus. Presentations, booths and more. *Stay tuned for more details.*

For more information contact: Sally Egan, (304) 842-9511

March 24: WV Environmental Council Board of Directors meeting. WVEC office, Charleston. 11:00 a.m. - 4:00 p.m.

June 22-24: WVEC Board of Directors June Retreat. Location to be announced.

June 30: 4th Annual "Lavender & More" Fair. La Paix Herb Farm, Alum Bridge WV (Lewis County). Highlights include: workshops, presentations, demonstrations, variety of booths, wood walks, garden tours, plants, gourmet lunch.

Admission: \$5. per person or \$10. per family.

For more information contact: Myra Bonhage-Hale, steward: lapaix@westvirginia.net or visit the website: www.lapaixherbfarmproducts.com

Mid to Late September: WV Environmental Council's Fall Conference. Stay tuned for exact date, location and other details for our 19th annual Fall Conference, "Making A Difference - Creating A Sustainable World".

April 2008: Sustainable Fair. Davis & Elkins College - Elkins, WV. Highlights include: workshops, presentations, booths, local organically grown food, music and much more. Stay tuned as plans develop for a wonderful event featuring renewable energy and many aspects of sustainable living. Sponsored by Sustainable Living for West Virginia org.

For more information and to participate contact: Denise Poole, deniseap@earthlink.net or Myra Bonhage-Hale lapaix@westvirginia.net Co-Directors.



Support the West Virginia Environmental Council

2206 Washington Street East, Charleston WV 25311

Phone: (304) 414-0143 www.wvecouncil.org

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