



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 7 – Whine, Whine, Whine

This award for whining this year (and possibly for the decade) has to go to the WV Farm Bureau and the WV Forestry Association.

Actually, they began their whining six years ago, immediately after the Legislature passed the antidegradation plan for protecting the water quality in our state's most pristine streams – a compromise plan that they themselves had signed off on.

Nonetheless, these two groups almost immediately launched a truly massive public misinformation campaign aimed at inflaming the indignant passions of their members and other rural landowners.

They whined to farmers that if a stream running through their property were designated as a Tier 2.5 stream – “a water of special concern” – that they couldn't add cattle to their herds, cut timber on their land, or subdivide the farm to pass down to their children.

They whined that their property would be so devalued that they probably couldn't even sell the farm, simply because they would no longer be allowed to pollute the stream.

It was all propaganda, and it was all untrue.

The truth is that all those agricultural and timbering and extraction activities – all with the potential to cause non-point source pollution – are **EXEMPT** from antidegradation review.

No matter. Like any lie, if you repeat it often enough it becomes truth. And that's what the Farm Bureau and the Forestry Association and the Chamber of

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Garbage Wars Revisited

by John B. Christensen, WVEC lobbyist

We heard rumors early in the session that a bill may be introduced drastically changing West Virginia's solid waste management policy.

This week, the rumors came true.

SB 701 appeared under the cover of darkness on the last day the Senate could introduce bills. It abolishes the local/county solid waste management authorities' control, mandating the creation of regional solid waste authorities, and authorizing WV DEP to give final approval of the local solid waste plans.

We monitored the House and Senate bill lists daily, talked with WV DEP officials, made visits to legislators hoping this bad legislation would not appear. This is legislation of the bad, nasty kind.

We held our collective breaths that the rumors just weren't going to amount to anything. Then it happened. Our worst fears were realized.... a really bad garbage bill was introduced.

SB 701 was finally out of the cave and into the bill journal room in all its terrible splendor. There it was. All **116 pages** of a bill that effectively does a major overhaul on our hard fought solid waste laws from the early nineties.

This amounted to a sneak attack, a Pearl Harbor event in the annals of solid waste battles in West Virginia. Recon was essential to turn this around.

SB 701 as introduced and sponsored by Sen. Brooks McCabe of Kanawha Co. with **NO** co-sponsors and does the following:

- 1) Abolishes the WV Solid Waste Management Board and transfers power to the WV DEP.
- 2) Abolishes county solid waste authorities and mandates the creation of Regional solid waste authorities.

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E~Day at the Capitol

Friday, March 2nd

House & Senate Halls / Upper Rotunda (well) area
WV State Capitol, Charleston WV

Citizen Lobbying - 9:00 a.m. Meet at the WVEC Lobby Information table near the Robert C. Byrd statue & Senate side of the well.

Press Conference - Begins at 11:30 a.m. in the Gov. Conference room, located through the Secretary of State's office.

Displays - From 10:00 am until 3:00 pm:

WVEC Environmental Council Information

WVEC Citizen Lobby Information

Ohio Valley Environmental Coalition

WV Highlands Conservancy

Mountaineer Chapter Trout Unlimited

Coal River Mountain Watch

WV Rivers Coalition

Friends Of The Mountains

WV Citizen Action Group

Sludge Safety Project

Medicine Song Crafts

Clean Elections Coalition

WV Sierra Club

Sierra Club Central Appalachian Environmental Justice

Bio Fuels/Green Fuelcrop Collaborative

Friends of Blackwater Canyon

Capon Valley Coalition

The Wilderness Coalition

Cleanbrier

Lapaix Herb Farm

Student Environmental Action Coalition (SEAC)

E-Day Reception & Benefit

Perfater's lobby - 1311 Virginia St. East, Charleston

5:30 p.m. - 11:00 p.m. ~ \$10. per person at the door

Dinner buffet: Salad, lasagna, fresh bread, mixed vegetables, dessert, drinks & more. (Sponsors include: Charleston Bread Company, Wellington's, Corey Brothers, U.S. Food Service, Kroger)

6:00 - 7:00 pm: Robin Godfrey on piano

7:30 - 8:15 pm: WVEC's 2007 awards' presentation:

Laura Forman Grassroots Environmental Activist: Ed Wiley

Linda Schnautz Environmental Courage: Drew Forrester

Green Entrepreneur: WV Bio Fuels/Green Fuelcrop Collaborative

Chuck Chambers Public Service: Clint Hogbin

Mother Jones: Don Garvin

Friends of the Mountains present: "Out of the Blue" award:

To: Ann Porter - Accepting on Ann's behalf: Bill Price

8:30 - 11:00 pm: The Bark-O-Loungers

(Michael Lipton, Ammed Solomen & Ted Harrison)

Green Legislative Update

WV Environmental Council

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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. *Legislative Update*, is published weekly during the Legislative Session.

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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Under the Dome ... continued from page 1

Commerce did – they whined and repeated the myth over and over again, like a mantra. Fiction became fact.

They continued this relentless assault on the truth throughout a long and extended public comment process that dragged on and on for way too long. DEP's decision making process on Tier 2.5 stream designation lasted almost six years, with two separate comment periods that allowed only the filing of objections by landowners.

So the Farm Bureau ginned up "objection" form letters and helped their members fill them out. DEP received almost 5,000 such letters, most of which contained no viable grounds or evidence on which to base the objection, other than the whining and misinformation contained in their own propaganda.

And when DEP held thirteen regional meetings around the state, they made sure that their members showed up *en masse* to repeat the same worn out and baseless claims. These public forums only helped to further inflame rural folks and spread the misinformation, because no matter what DEP said about the reality of the antidegradation law, the whining and propaganda had already overwhelmed the truth.

Long before our legislators came to Charleston for this legislative session, the damage to clean water had already been done. Delegates and Senators had received dozens, if not hundreds, of letters from angry farmers spewing out over and over again the same misinformation they had been fed for the last six years.

When the antidegradation rule and Tier 2.5 stream list went to committee, the industry lobbyists continued the assault.

"DEP didn't provide landowners with sufficient legal notice," they whined. This also was blatantly untrue, but why worry about the truth now.

"DEP and DNR don't have sound data and evidence to base these stream designations on," they continued to whine. Also, simply just not true.

Whine, whine, whine.

And it paid off.

This week Senator Walt Helmick (D-Pocahontas) made a motion in Natural Resources Committee to strike all but 38 streams from the Tier 2.5 stream list. The motion carried overwhelmingly, with only Senator Randy White (D-Webster) in opposition.

Thank you, Randy, for not whining. It was refreshing.

It's still winter out there, so don't let our fine-feathered friends become degraded. Keep those bird feeders full.

Garbage Wars Revisited

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- 3) Grants the WV DEP final approval on siting of solid waste facilities (aka siting plan).
- 4) Grants the WV DEP the ability to create the size & make up of the Regional waste sheds.
- 5) Dedicates 50% of the tipping fee currently set up for local Solid Waste Authority (SWA) grants to be used instead by WV DEP to be granted to anyone or used for administrative costs.
- 6) Authorizes the WV DEP the ability to "supersede" all powers granted to solid waste authorities.
- 7) Authorizes the WV DEP the final approval of the local solid waste plan.
- 8) Takes the authority away from the Public Service Commission of WV to issue single hauling permits in each county. This may open up the counties to competition for hauling residential and commercial waste which is the only part of this legislation that some solid waste authorities in the state actually wanted.

My father always told me, "Son, if it ain't broke then don't fix it!" That's the main point to convey to Sen. McCabe (304 357-7990 Capitol office - or 1-877-565-3447) and WV DEP Cabinet Sec. Stephanie Timmermeyer. (1-800-654-5227)

The environmental community worked very diligently fifteen years ago to craft a bill that would turn back the onslaught of out of state garbage that threatened to bury the mountain state. The challenge was that it be within the confines of Interstate Commerce Clause of the US Constitution which prohibits states from regulating interstate commerce, and that includes garbage.

Former Sen. David Grubb was the principal author of our very progressive law that has stood the test of time and accomplished what it set out to do by limiting the size of landfills and mandating that proposed facilities demonstrate that there is a need for them. We wanted local control and a comprehensive recycling program.

This was accomplished by creating the certificate of need process within the PSC, county solid waste authorities and the state solid waste management board in Charleston.

This new bill offered up on the **last day** by only **one Senator** takes away local control and forces us to trust wholly in our WV DEP.

History tells us this is **not** in our best interest.



Bottle Bill Dies Again This Session

by Linda Frame, linda@wvcag.org

The WV Bottle Bill (HB 2773) is dead this session. We learned this week that there were not enough votes in House Judiciary to move the bill. This is disappointing news considering that five of the bill's sponsors are on that committee, and that we were told by enough legislators that they would vote to move the bill to the Finance Committee. Unfortunately, committee leadership arrived at different numbers.

As the fate of bills is decided and the session wears on, we will be regrouping on important progressive issues. The task of educating legislators, with new ones coming in every election, is daunting, and it's much easier for law makers to be scared into apathy by the vast coalition of businesses opposing our bills.

For instance, many legislators are still being told that retailers don't want the burden of taking back the empty containers. This part of the law was removed years ago, yet is still being used to fire up retailers, convenience store owners and other businesses statewide. Legislators are also believing the falsehood that beverage containers make up just 9% of our litter problem. Even the lead lobbyist for the opposition can't cite where that number comes from and doesn't even believe it, yet it is still presented to legislators in letters, phone calls and personal meetings.

Many other states have had this same long, rocky path to travel when getting their bottle bills passed. Pro-Bottle-Bill Maine businessman Mike McCray confirmed this during a visit here this legislative session and has taken the time to write a recap of his thoughts on our bill (see www.wvcag.org to view).

Our two states are similar in many ways but the glaring difference is that Maine's legislators had the political will to overcome the strong opposition and bring legislation to their state to fight the litter problem, increase recycling and virtually do away with highway clean-ups.

And, guess what? Maine lawmakers decided to make the producers of the beverage containers foot the costs of their bottle bill (unlike in our bill where we have tried futilely to dilute their opposition).

Perhaps we are building such a political will here in West Virginia, legislator by legislator, and some day West Virginia can pass progressive public policy in Appalachia without the required crisis, pass a bill that would create jobs, clean up our litter and save taxpayers money. What a concept.

Green Legislative Update

Committee Approves Slurry Injection Study

After weeks of working on final language and lobbying senators for support, the Senate Energy, Industry and Mining Committee this week finally approved SCR 15, the resolution previously approved by the Joint Judiciary Interim Committee providing for a study of the impacts of the practice of injecting coal sludge into underground mines.

The resolution requires DEP to study the contents of coal slurry and the impacts on groundwater from disposing of it by injection into abandoned coal mine seams.

The resolution also calls for the Bureau of Public Health to consult with DEP on the design of the study, and to review the results for the potential of impacting the health of coalfield residents.

The resolution now goes to the Senate floor for passage.

Clean Elections Stalled - Likely to Die this Weekend

by Norm Steenstra, *Clean Elections Coalition*

By the time you read this, the fate of our Clean Elections bill will probably be decided. Senate Finance Chairman Walt Helmick continues to hold up the bill in legislative purgatory. Earlier this week he promised at different times that he would take up the bill to the Council of Churches, the AFL-CIO, Senator Brooks McCabe, and our clean elections lobbyists.

The bill is not on the Friday afternoon agenda. If the bill does not pass Helmick's Committee by Saturday another years efforts to get Helmick to move the bill will be in vain.

Helmick will likely defend his inaction by saying "the committee just ran out of time" - yet late Friday afternoon he had time to move a bill that would permit millions of tons of out of state garbage find its final resting place in McDowell County.

Such is the system we must deal with. A system in which a very few powerful people oblivious and almost immune from public opinion can block progressive attempts to clean up the process. About all we can do yet this session is continue loudly to register a profound disgust of senate leadership's dishonest treatment of Clean Elections. Again, if you haven't done it yet, "spell check "Helmick" we wonder what the program writers knew.

Bill Would Open the Door To Out of State Garbage

by Norm Steenstra, *WV Citizen Action Group*
norm@wvcag.org

A bill almost certain to pass the Senate next week would radically change solid waste management policy in our state. 16 years ago environmentalists led by then Senator David Grubb (WV-CAG Founder) carefully crafted a law that limited the size of landfills and made the cost of dumping quite expensive by imposing a fee of \$8.25/ton.

The law has worked for the past decade and a half. The flood of Out-of-State Garbage has slowed to a trickle. The higher fees made for a modest increase in recycling and encouraged landfill avoidance. It also provided for millions of dollars in local recycling grants to towns and counties.

S.B.629 would change all that. The bill in its current form allows the McDowell landfill to increase its legal tonnage to 100,000 tons/month. Currently the state's largest landfill accepts 30,000 tons of trash a month.

Almost all of the new garbage would arrive in coal cars from the Norfolk, Virginia area. The bill also exempts half of this new tonnage from the current \$8.25 tipping fee and instead allows for a \$4.00/ton payment to various McDowell government agencies. This set-up, in essence, grants a \$2.4 million dollar tax break to the landfill's owner at the expense of the DEP and the Solid Waste Authorities for 54 other counties.

Our real hope is that Speaker Thompson and the House leadership will stop this bill over the next two weeks. I believe if they feel the outrage it will give them the courage to stand up to the powerful Out of State garbage lobby. Call your Delegate early next week, as well as the Speaker's office, and ask them not to radically change our solid waste laws. Ask them to oppose SB 629.

Another Shameless Plea

To those of you who have renewed your membership or sent in other contributions, our heartfelt thanks.

But WVEC needs much more financial support to get us through this session and the upcoming year.

If you have not renewed or made a contribution, please consider helping us out as best you can.

Green Legislative Update

Senate Committee Approves Greenhouse Gas Inventory Bill

by John B. Christensen, *WVEC lobbyist*

Just this afternoon, **SB 337**, the greenhouse gas inventory bill passed out of Senate Judiciary Committee. It now goes to the Senate floor for first reading.

It seems like we always bring you more bad news than good coming from the capitol. But this is a piece of progressive legislation that is making its way through the process and has a good chance of actually passing - finally after two previous attempts.

Coal lobbyists don't like this bill. It attempts to establish: a voluntary program to inventory all emissions, reductions and carbon sequestrations of greenhouse gases; and to establish the baseline emission levels necessary when mandated by federal law.

The program will enable the WV Department of Environmental Protection to analyze the extent to which gross carbon emissions are offset by the rate of carbon sequestration by the state's forests.

It has not yet been taken up in House Judiciary where it is single referenced and sponsored by Delegates Webster, Fleischauer, Hatfield and Guthrie.

We love it that WV DEP has sponsored a bill that actually acknowledges the words "greenhouse gas" in our code.

The coal industry would rather keep the blinders on however, so it should be no surprise that the committee this afternoon passed an amendment exempting coal from the requirements of this bill.

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.

Bills We Are Tracking

Bill Number	Title	Committee
Senate Bills		
SB 118	Creating WV Public Campaign Financing Act (Clean Elections)	Stalled in Finance
SB 177	Creating Division of Energy	Passed Senate – H Gov Org
SB 337	Establishing greenhouse gases inventory program (DEP bill)	Passed EIM to Judiciary
SB 370	Establishing returnable beverage container deposit program (Bottle Bill)	Nat Res
SB 396	Exempting site-specific data on certain rare plant or animal species from disclosure	Passed Senate – H A&N
SB 401	Requiring Public Service Commission promulgate wind power projects' rules	Judiciary
SB 440	Establishing Voluntary Wetland Protection Programs	Nat Res
SB 441	Relating to wind power projects tax treatment	Passed Finance – 1 st Reading
SB 450	Use of Special Rec Funds for watershed improvement projects (bad DEP bill)	Tabled in Judiciary
SB 460	Requiring DNR to promulgate rule applicable in Kanawha State Forest	Passed Senate – H Judiciary
SB 469	Relating to air pollution control permits (bad Chamber of Commerce bill)	Judiciary
SB 509	Banning all-terrain vehicles from all paved roads	Passed Trans & Infra – to Judiciary
SB 552	Modifying Water Pollution Control Act (bad DEP bill)	Passed Nat Res – to Judiciary
SB 558	Requiring Public Health Impact Assessment (WVEC bill)	Judiciary
SB 588	Removing tax exemption for coal syn fuel	Passed EIM – to Finance
SB 629	Creating McDowell County Mega-Landfill (terrible “local” bill)	Passed Judiciary – to Finance
SB 678	Eliminating tax credit for coalbed methane gas	Passed EIM – to Finance
SB 679	Water Resource Protection and Management Act provisions	Passed Judiciary – 1 st Reading
SB 683	Permitting oil and gas well drilling in state parks (terrible idea)	Nat Res
SB 701	Abolishing State and County Solid Waste Management Boards (terrible DEP bill)	Judiciary
SB 727	Creating brownfield economic development districts (DEP bill ??)	Econ Dev
(SB 242 through SB 261 are the DEP “rules” bills).		

House Bills

HB 2367	Requiring DEP to remediate any waste tire pile with more than twenty-five tires	Passed Judiciary – to Finance
HB 2371	Creating WV Public Campaign Financing Act (Clean Elections) (see SB 118)	Judiciary
HB 2399	DNR license fees that may be used for capital improvements and land purchases	Ag and Nat Res
HB 2407	Natural Gas severance taxes	Ag and Nat Res
HB 2492	Defining “fill material” in the Water Pollution Control Act (bad Coal bill)	Judiciary
HB 2769	Establishing a program to inventory greenhouse gases (DEP bill) (see SB 337)	Judiciary
HB 2773	Establishing a returnable beverage container deposit program (Bottle Bill)	Judiciary
HB 2818	Wind Farm taxes (see SB 441)	Judiciary
HB 2821	Relating to air pollution control (bad Chamber of Commerce bill)	Ag and Nat Res
HB 2848	Requiring DNR to promulgate rule applicable in Kanawha State Forest (see SB 460)	Ag and Nat Res
HB 2898	Banning all-terrain vehicles from all paved roads (see SB 509)	Gov Org
HB 2946	Eliminating tax credit for coalbed methane gas (see SB 678)	Finance
HB 2953	Removing tax exemption for coal syn fuel (see SB 588)	Finance
HB 3104	Imposing severance tax on surface mined coal (great idea)	Finance
HB 3120	Creating McDowell County Mega-Landfill (terrible “local” bill) (see SB 629)	Judiciary
HB 3147	Use of Special Rec Funds for watershed improvement projects (bad DEP bill) (see SB 450)	Finance
HB 3150	Requiring Public Health Impact Assessment (WVEC bill)	H & HR
HB 3154	Increasing timber severance taxes (great idea)	Ag and Nat Res
HB 3214	Permitting oil and gas well drilling in state parks (terrible idea)	Ag and Nat Res
(HB 2601 is the DEP “rules” bill bundle).		

(Note: We have removed from this list many of the bills that are “dead” because they will not meet the deadline for committee consideration. However, we are still watching those bills because they can still be originated in committee).



Calendar of Events



February 26: Buffalo Creek Disaster Remembrance - State Capitol - 3:00 p.m., at the Upper Rotunda on the House Side. Join the Sludge Safety Project on this 25th anniversary of the 1972 Buffalo Creek disaster which left 4,000 homeless and caused 125 deaths. **Invited speakers include:** former Delegate Arley Johnson (a Buffalo Creek disaster survivor) and Rev. Dennis Sparks. The Bob Gates' film of the disaster is scheduled to be shown. Snacks provided.

For more information: (304) 234-2618 or e-mail: info@sludgesafety.org

March 2: WVEC's annual E-Day at the Capitol! Senate & House halls & upper rotunda area. 10:00 a.m. - 3:00 p.m. Displays by environmental organizations & sustainable businesses. This is YOUR day at the capitol! Visit your Senators and Delegates - we encourage citizen lobbying, and have scheduled a lobby group at 9:00 a.m. (meet at the WVEC lobby table). A press conference is scheduled at 11:30 a.m.

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 Reception & Benefit. Perfater Law office lobby, 1311 Virginia Street East, Charleston. From **5:30 p.m. till 11:00 p.m.** Highlights include: 2007 Environmental awards bestowed; music by Robin Godfrey and the Bark-O-Loungers (Michael Lipton, Ammed Solomen & Ted Harrison), Dinner buffet w/ salad, lasagna, mixed vegetables, bread, dessert & more.

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

March 21: WV Environmental Education Association Conference: 'Environmental Education Pathways: Gather, Share, & Collaborate.' Jackson's Mill, Weston WV. From 8:00 a.m. - 4:00 p.m.

Registration fee: \$25 (Before March 2nd - \$35 after March 2nd). Includes: all conference materials, breakfast, lunch, and breaks. Highlights: presentation on the National Project for Excellence in Environmental Education, Concurrent Sessions.

For more information contact: Valerie Reed at vreed@oionline.com or (304) 242-6855.

March 23-24: "Yes Fest". St. Marys grade school - West Pike Street, Clarksburg, WV. Renewable energy issues as a focus. Presentations, booths and more.

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.

E~Day at the Capitol
Friday, March 2nd

Support the West Virginia Environmental Council

2206 Washington Street East, Charleston WV 25311

Phone: (304) 414-0143 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



E~Day at the Capitol

Friday, March 2nd

10 a.m. - 3:00 p.m. (at the capitol)

5:30 p.m. - 11:00 p.m. (evening reception)

See inside for details ...

