



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 – Amazing

This week was both the final week of Legislative Interim sessions and the first week of the regular legislative session. Any way you look at it, it was an amazing week for WVEC.

On Sunday the Joint Legislative Rule-Making Review Committee actually agreed to restore the Antidegradation Policy language to the Department of Environmental Protection's proposed air quality rules.

The language that DEP had removed from the rule was just three short paragraphs that DEP said were "redundant" because of changes they were proposing in other sections of the rules. However, I had pointed out to the committee – for the last two years – that this Policy was the only place in the air quality rules that contained a commitment by the State "to obtain and maintain the cleanest air possible."

So on Sunday, after hearing our arguments one more time, Delegate Joe Talbott (D-Webster) made a motion to amend the stricken paragraphs back into the rule. The motion was approved by a unanimous voice vote, and the amended rule was also approved.

I was somewhat stunned.

Then on Monday, the same committee approved the Water Quality Standards Rule. DEP had proposed to greatly expand the "B2" trout stream list contained in this rule. WVEC has been in strong support of this rule because it provides water quality standards that are higher even than drinking water standards for a large segment of West Virginia streams.

Again, I was somewhat surprised that coal industry lobbyists (who *really* hate this rule) did not ask to speak in

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WVEC Rolls Out Citizens' Energy Plan

By Vickie Wolfe, WVEC Lobbyist

Chances are you're aware that the Manchin administration has developed an energy plan for the state that includes five coal-to-liquid facilities while giving only lip service to renewables and conservation. (If you haven't read it yet, the governor's plan is accessible at <http://www.wvdo.org/community/EOD.pdf>).

Producing liquid fuels from coal is a bad idea for a number of reasons including increased greenhouse gas emissions, the amount of water used, the low efficiency of the process, the uncertainty surrounding carbon capture and storage, the economics, and the increased coal mining that would be called for.

Three public hearings were held—one each in August, September and October—at which many concerned citizens showed up and expressed their concern about coal to liquids. The citizens offered dozens of ideas for a more progressive energy policy. However, those hearings turned out to be a waste of West Virginians' tax dollars, because none of the public's input was integrated into the plan.

The WVEC therefore has developed a Citizens' Energy Plan, which you can read on our website at www.wvecouncil.org. The goals of the Plan are to 1) reduce greenhouse gas emissions; 2) promote the development of new, economically sustainable businesses and jobs; 3) reduce the United States' dependence on imported oil; and 4) conserve energy resources and water. We propose that these goals be accomplished through the implementation of energy efficiency and conservation

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WVEC's 2008 Legislative Kick Off Blast !!!

Join us this Wednesday evening,
January 16th for our:

Kick Off Blast Benefit

Myer's & Perfater's Law Office Lobby
1311 Virginia Street East, Charleston
From 6 p.m. ~ 10 p.m.

Music provided by,

The VooDoo Katz

Meet your 2008 Lobby Team!
Support WVEC's 2008 Legislative Initiatives
Hear about our Citizens' Energy Plan
Enjoy great refreshments

Cost: Donation of \$10 and above

Mark Your Calendars:

The 18th annual **E-Day at the Capitol**

Friday, February 22
House & Senate halls
10 a.m. till 2 p.m.

To reserve a table for your group:
Contact Denise at deniseap@earthlink.net or
call the WVEC office (304) 414-0143

E-Day Reception & Benefit to follow:

Women's Club, located on the corner of Elizabeth &
Virginia Street, Charleston
From 6:00 p.m. ~ 10:00 p.m.

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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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opposition and that the rule passed with relatively little discussion.

But then on Tuesday, in a truly amazing turn of events, this same Rule-Making Review Committee voted to restore the Tier 2.5 stream list to the 309 streams proposed in last year's Antidegradation Implementation rule!

After a lengthy debate, Delegate Mike Burdiss (D-Wyoming) rose from his chair and unrolled a really great map of WV streams and then gave one of the most eloquent speeches about streams and water quality I have ever heard a lawmaker give.

"As a legislator, I think that I have a responsibility to vote for clean water for my residents," said Burdiss, a retired coal miner and former United Mine Workers lobbyist.

"What are we doing here?" Burdiss asked. "The Chamber [of Commerce] says to vote to pollute, to degrade the water?"

Delegate Talbott also spoke eloquently in favor of restoring the streams that DEP had proposed to slash from the list.

"Water is the most important asset in West Virginia," Talbott said. "It's more important than coal, more important than timber."

Delegate Burdiss then made a motion to restore the list to the 309 streams. All the Democrats on the committee – Burdiss, Talbott, committee co-chair Sen. Joe Minard (D-Harrison), committee co-chair Del. Bonnie Brown (D-Kanawha), Del. Tim Miley (D-Harrison), Sen. Roman Prezioso (D-Marion), Sen. John Unger (D-Berkeley), and Sen. John Fanning (D-McDowell) – voted in favor, and all the Republicans – Sen. Karen Facemeyer (R-Jackson), Del. Kelli Sobonya (R-Cabell), Del. John Overington (R-Berkeley) and Sen. Donna Boley (R-Pleasants) – voted against it. The vote was the same on approving the rule as amended, eight to four, and so the stream list was restored.

So here's where we stand today on the two water rules — exactly where we were this time last year!! Both rules are the same as proposed last year. We are back to square one, with almost 60 brutal days to go.

And then on Thursday, we rolled out the WVEC Citizens' Energy Plan with a very successful press conference.

All in all it was a really great week for the Environmental Council. I don't know if I can stand all this fun!

Until next week, keep your bird feeders full.

Rolls Out ... continued from page 1

measures, and through the diversification of West Virginia's energy portfolio to include renewable energy sources.

Here are just three highlights of the Citizens' Energy Plan:

- More than half the states have adopted Renewable Portfolio Standards (RPS) that require an increasing amount of electricity to come from renewable generation. We recommend that West Virginia adopt an RPS requiring electric utilities to generate a minimum of 25 percent of their electricity from renewables by 2025.
- In order to encourage conservation of gasoline (and thus decrease both greenhouse gas emissions and dependence on foreign oil), we propose that West Virginia's vehicle registration fee should be based on the vehicle's fuel economy rather than its value: the lower the fuel economy, the more the owner would have to pay. Those who want gas guzzlers can still have them, but their registration fee would be quite large. Those who own the most efficient vehicles, such as a Toyota Prius, would pay nothing.
- We recommend that West Virginia set energy efficiency requirements for new and renovated state buildings.

We hope you'll contact your legislators and express your support for our Citizens' Energy Plan, as well as your disapproval of the Manchin administration's regressive plan.

A Successful Press Conference

On Thursday, the WVEC introduced our Citizens' Energy Plan at a press conference held in a capitol conference room.. The room was filled by representatives of WVEC member organizations, supporters, legislators and a few reporters. Among those speaking was Delegate Barbara Fleischauer (D-Monongalia), who briefly discussed four environmental bills she's introducing this session (more on that next week!). Overall, the event was a great success!



Rule on Oil and Gas Drilling in State Forests Moves Forward

The Interim Legislative Rule-Making Review Committee has approved a new rule controlling oil and gas drilling in State Forests.

The rule requires the driller to give notices to the State Forests and to the public that contain proposed well and access road locations and other information. Notices of proposed road maintenance are also required. The notices are posted on the Division of Natural Resources web site and e-mailed to those who have requested notices by e-mails. For a new well, the notices are also published in a local newspaper. The public can then submit comments to DNR to consider when DNR responds to the driller's plans and to the driller's application to the Department of Environmental Protection for a drilling permit.

The rule also requires the driller to consider recreational uses, natural resources, and endangered or rare species known to DNR or that are identified by the public. It prohibits cutting trees on the side of access roads, called "daylighting", unless DNR specifically agrees. The steepness of roads is limited and extra stabilization and erosion control structures are required. It allows DNR to suspend road building and other activities, other than actual ongoing drilling, during inclement weather. Re-vegetation of well sites and roads is improved by requiring seed mixtures that are friendlier to wildlife. DNR can require native seeds if they are effective and not too costly. Improved road maintenance practices are required and bull dozer "blading" of roads for maintenance is limited. The rule requires most roads to be gated and for the driller to compensate the State for damages if a gate is left unlocked.

"We believe this is a huge step for the forests and the forest users," said David McMahan, a lawyer (and long-time WVEC member and all-round good guy progressive lobbyist) who has worked with the citizen group pushing for the new protections.

"We would have preferred to have a public hearing instead of just written comments, and we would have liked the driller to be required to do a full biological inventory of the surface they are proposing to disturb. But the State's rights as a surface owner, where the State does not own the minerals, will be better honored now, and the public who really owns the Forests will have some real input."

Green Legislative Update

Green Energy: Is the Governor on Board?

Wednesday night Governor Joe Manchin devoted an unusual amount of his State of the State address to speaking about energy issues. On Thursday WVEC rolled out our Citizen's Energy plan, which emphasizes renewable energy sources and conservation.

Is the Governor on board? You be the judge. Here is the text of the energy portion of the Governor's speech:

"And as important as the topics I've discussed so far are, I believe one of the biggest issues that we face not only as a state but as a nation is energy.

"Today, we hear the terms Energy Security and Climate Change spoken almost constantly. As we consider how our nation can provide an adequate energy supply that is environmentally acceptable, we must recognize the critical role of clean coal technologies in this discussion. Because of its wide availability, versatility and reasonable cost, clean coal will be strategically important to our energy future. Coal currently is the fuel source for almost half of the electricity generated in the United States. I sincerely believe that technological solutions leading to the greening of the coal industry hold the key to America's security - which is why I am so committed to working toward the continued development of clean coal technologies and the construction of clean coal power and fuel liquefaction plants.

"And with the carbon that these new technologies can capture having been proven to enhance natural gas and oil production, it is clear that those industries have bright futures in our state as well. In 2006 West Virginia produced over 1.7 million barrels of oil, and through enhanced oil recovery, we will now be able to extend the production horizon of our reserves. Natural gas is also a fundamental building block of our state's economy. We produce over 225 billion cubic feet of natural gas a year to heat our homes and fuel our factories, and so I look forward to the continued success of both of these industries in West Virginia.

"I also recognize that West Virginia is rich in renewable energy sources too, such as biomass in the form of wood and crop residue that will eventually be used to make fuel. Solar and wind opportunities also have their place in our energy portfolio as well. To that end, I am committed to examining the legal barriers that restrict

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Public Financing Act 2008

By Carol Warren, Citizens for Clean Elections

The coalition partners of West Virginia Citizens for Clean Elections are ready to roll with our Public Campaign Financing Act again during the 2008 session. We have spoken with almost all our Senate and House sponsors of last year's bill and are finding them very willing to sponsor again. We have a great core group of supporters with which to work! Lead sponsors will be Senator Jeff Kessler and Delegate John Doyle.

This year, we will be focusing our attention on the House, hoping to move the bill there after a couple of frustrating sessions in Senate Finance Committee. Coalition members will be doing everything we can to educate more Delegates and Senators about the bill, and the advantages it offers to both citizens and candidates. And we very much need you to contact your representatives and let them know you support public financing for West Virginia campaigns!

If we want public policy that reflects our desires and values, we need to be able to elect people with good ideas, not just people with big campaign war chests. Public financing frees elected officials from constantly chasing campaign contributions and allows them to spend more time hearing from their constituents. Citizens already pay for elections through special deals and incentive packages provided to large campaign donors. Doesn't it make more sense to spend the five dollars per household it would cost for public financing and greatly reduce this special interest influence?

Bottle Bill Introduced

By Linda Frame, linda@wvcag.org

On the session's first day, the WV Beverage Container and Litter Control Act (AKA Bottle Bill) was introduced in both the House (HB 2773) and Senate (SB 135). The bill's first stop is to the Judiciary Committee in each house.

In February, a representative from the recycling industry in California will be visiting West Virginia and Tennessee to help promote our bottle bill campaigns. He will meet with legislators and the media. We'll keep you posted on events surrounding this visit and how you can join us. In the meantime, check out www.wvbottlebill.org and stay in touch!

Green Energy / Gov? ... cont. from pg. 4

the post-mining development of surface mining operations and exploring ways to give priority to post-mining uses involving renewable energy projects such as biomass, solar and wind, for the purpose of making these lands productive.

"However, we must acknowledge that the main ingredient to a successful energy future is sustainability. We need to keep learning how to optimize the use of our resources, become more energy efficient, and minimize waste. And we can all do our part by simply switching to compact fluorescent bulbs and installing high-efficiency heating and cooling systems, proper insulation and storm doors - and the state will help you with these purchases in 2008 by providing a new 'energy efficient products' tax incentive.

"We can also promote renewable energy and energy efficiency in our building designs. As part of that effort here at the Capitol, we entered into an energy conservation and savings contract in 2005 that guarantees that the State Capitol Complex will reduce its energy consumption by at least 5 percent. However, I believe we can do more, and so I am directing our agencies to reduce consumption by at least 10 percent this year. And I would ask you, in your homes and your businesses, to do the same. Every little bit of conservation can make a big difference in our overall energy consumption, and it's as simple as turning off a light when you leave a room.

"In addition, as we renovate the buildings on the Capitol Complex or build any new buildings in the future, we're going to put in place energy-saving mechanisms that will make these buildings 'green.'

"Not since the 1970s has there been so much discussion about the role of energy and how it is produced and used - and I challenge us all to do our part to ensure our state and our country have a stable energy supply so that we can control our own destiny and protect our nation's security."

***"Clean Coal"
is an oxymoron***

Power Line Deal Includes Free Electricity For Some

Allegheny Energy will provide free electricity to certain residents along the route of a \$1.3 billion power line across northern West Virginia, under a deal announced Monday afternoon. The company will also severely limit clearcutting and not use aerial herbicide spraying to maintain the power line right of way, under the settlement with the state Public Service Commission's Consumer Advocate Division.

Allegheny announced the deal just two days before Wednesday's start of the PSC's formal evidentiary hearings on the Trans-Allegheny Interstate Line, or TrAIL. The tentative settlement requires PSC approval.

And at the first day of those evidentiary hearings the PSC heard testimony that plans for the power line across northern West Virginia were hatched as a scheme to funnel more coal-fired electricity into eastern cities, and that no studies were done to weigh the possible environmental negatives from various power sources, such as greenhouse gas emissions from coal burning.

Nature Conservancy Buys New River Gorge Land

The Nature Conservancy announced this week it had purchased 4,584 acres of land – about seven square miles – in the scenic New River Gorge, and that the land would be managed by the West Virginia Division of Natural Resources as a wildlife management area.

The property is primarily woodlands that nestles between Babcock State Park, Beury Mountain Wildlife Management Area and the New River Gorge National River. The DNR will add the tract to the Beury Mountain WMA, more than doubling its size. Together with Babcock, it will form a more than 18-square-mile chunk of undeveloped land along the Gorge.

According to news reports, the DNR will reimburse The Nature Conservancy its nearly \$4.6 million purchase price in three installments, using money from state hunting and fishing license sales.



New Lobby Team Member

WVEC has a new lobby team member this session, Dr. Vickie Wolfe. Vickie has graduate degrees in Environmental Health and Environmental Science, and for the past three years has taught biology at Marshall University.

Here's what she says about the five years she has lived in West Virginia:

"For beginners, I feel quite at home here, having lived and grown up on a tobacco farm in the northeastern-most county of East Tennessee, about four hours from here. It's a very beautiful part of the state. I am an Appalachian, and doubt I'll ever live outside Appalachia again.

"Since West Virginia has a reputation as a 'poor' state, the first thing that struck me was the amount of wealth here. It quickly became obvious that the financial gains derived from West Virginia's vast natural resources are concentrated in the hands of a few people, and have not benefited average people very much. In that respect, it's similar to a third world country! This is a tragedy, since it's such a beautiful state and the people are very friendly. Don Blankenship's (sometimes successful!) attempts to buy elections are also similar to what would happen in a third world country. Then there's the atrocity of mountaintop removal, of which I was unaware before moving here—I'd only heard of 'strip' mining.

"I've always been something of a Don Quixote, so I'd like to do what I can to bring about social and environmental justice. Lobbying the legislature seems a logical way to try to accomplish that."

Shameless Plea, Week One ...

This is going to be an exciting and challenging year for the WV Environmental Council. And we have real opportunities to bring positive change to the state house if we can find the resources necessary to get the job done.

That's where you come in ... with your increased financial help, we can be more aggressive this year in our campaigns for clean air, clean water and renewable energy. These are all big issues at the capitol this year.

If you haven't yet sent financial support to WVEC, now's the time to do so. If you've already contributed, thank you so much for helping us get started this session!



Calendar of Events



January 16: WVEC's annual "Legislative Kick-Off Blast" benefit. To be held at Myer's & Perfater's law office lobby, located at 1311 Virginia Street East, Charleston. Beginning at 6:00 p.m. and going until 10:00 p.m. Music provided by, **The VooDoo Katz!**
Cost: Donation of \$10 or above.

February 22: WVEC's annual E-Day at the Capitol. Located in the House & Senate halls and around the well. Environmental & sustainable business displays, citizen lobby day, press conference and more.

February 22: WVEC's E-Day evening reception & benefit. To be held at the Women's Club, located on the corner of Elizabeth Street & Virginia Street, Charleston. From 6:00 pm till 10:00 pm. Highlights include: 2008 Environmental awards bestowed; live music; buffet dinner and more.
Cost: Donation of \$15 or above.

February 26: Anniversary of Buffalo Creek disaster.

March 8: Last day of the 2008 regular Legislative Session. Join WVEC for an "Open House End of Session" gathering. To be held at our office, located at 2206 Washington Street East, Charleston. Bring your favorite dish and beverage! Let's celebrate our successes together - walk to and from the capitol as the clock nears midnight to watch the last bills passed for 2008 regular session.

April 18- 20: Sustainable Fair. Davis & Elkins College - Elkins, WV. Highlights include: Keynote address by Deborah Koons Garcia, "The Integrity of Food"; a "Taste of WV" buffet on Friday night, with live music to follow; a splendid "Sustainable Feast" dinner (reservations only) Saturday evening featuring chef Dale Hawkins; workshops, booths, and much more. Spearheaded by, Sustainable Living for West Virginia org. in association with Davis & Elkins college and a host of groups and green businesses.

For more information and to participate contact: Denise Poole, deniseap@earthlink.net or call (304) 617-7073

June 18: 5th 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: lapaixpeace@gmail.com or visit the website: www.lapaixherbfarmproducts.com

October: WV Environmental Council's annual Fall Conference. Join WVEC this fall as we set our 2009 agenda, offer workshops, recreation outings and more. Stay tuned for exact date, location and other details for our 19th annual Fall Conference.

Support the West Virginia Environmental Council

2206 Washington Street East, Charleston WV 25311

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- _____ \$ 10 Student / Senior
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- _____ \$ 500 Canopy
- _____ \$ 1,000 Old Growth
- _____ \$ Other

WVEC's Legislative **Kick Off Blast !**

Wednesday, January 16th

Featuring music by the:

VooDoo Katz

See details inside