



Green Legislative Wrap Up

Published Post West Virginia's Legislative Session

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Under the Dome

By Donald S. Garvin, Jr.
WVEC Legislative Coordinator

End of an Era

A significant era is coming to an end.

This was the final regular legislative session for Senator Jon Blair Hunter.

After serving for three distinguished terms, the senior Senator from Monongalia County has decided to hang up his hat and not run for re-election.

I can only *begin* to describe to you what an invaluable friend and ally this good Senator has been over the last twelve years. He is one of the few legislators in either chamber who would qualify for a 100% “green” record on any environmental scorecard. That’s saying a lot in a state like West Virginia, where politics is so overwhelmingly dominated by the powerful corporate lobbies of the polluters.

Senator Hunter was the vote we could always count on. He was always there to sponsor our bills or to push a study resolution at the last minute. And he was the guy we turned to when we needed a “strategy.”

His office door was always open to us. In fact, his office is literally where the WVEC lobby team hung our coats and hats. In the early days he would get some grief from Senate leadership about that, but later on they just gave up complaining. They must have finally realized that there was nothing they could do to change Jon Blair Hunter.

Three things made this man stand out in my mind. First of all, he is a political “junkie;” he simply *loved* the ins and outs of politics. Secondly, he has a great sense of

..... continued on page 3

Wrapping It All Up

By Denise Poole and Don Garvin

So how did the environment fare during the 2008 Session of the West Virginia Legislature? As usual, it’s pretty much a mixed bag. There were some significant victories, and there were some losses.

But no matter the outcome, once again the WVEC lobby team had a respectable presence at the Capitol and made a significant impact on environmental legislation. Along with the two of us, this year’s team included lobbyists John Christensen and Vickie Wolfe, with Chuck Wyrostok doing outreach to members and member groups and Don Alexander managing our web site and action alerts. We put in some long and grueling hours.

An Expanded Lobby Team

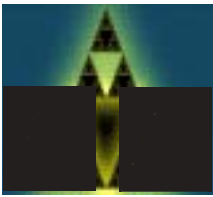
There were noticeably more lobbyists this session “working the halls” as allies on behalf of an ever-expanding list of environmental related issues. This is a great development!

First of all there was everyone at WV Citizen Action Group – Gary Zuckett, Linda Frame, Julie Archer and Norm Steenstra III (the *younger*).

There were veteran lobbyists like Dave McMahon taking the lead on a host of oil and gas issues for the newly revitalized Surface Owner’s Rights Organization (a WV CAG effort), and Perry Bryant, lobbying primarily for West Virginian’s for Affordable Health Care, but serving always as our trusted advisor.

There were frequent appearances from coalfield groups such as OVEC, Coal River Mountain Watch, and the Sludge Safety Project; and new involvement from the Student Environmental Action Coalition.

..... continued on page 10



W.V. Sustainable Fair 2008



**"Green Makes \$en\$e". April 18, 19, 20
Davis & Elkins College - Elkins, WV.**



Deborah Koons Garcia

Deborah Koons Garcia will be the keynote speaker at this year's event. Her topic is "Food and Integrity", based on her award winning documentary film, "The Future of Food". Her film will also be available for viewing in the Video Room. Ms. Garcia is a native of Cincinnati, Ohio.

The *Future of Food* examines alarming issues surrounding the rapidly increasing corporate domination of our food supply. It is the first major film to cover the history and technology of genetic engineering and the complex implications of untested genetically engineered crops on the environment and unlabeled foods on consumers. Garcia's other film credits include *All About Babies*, *Poco Loco*, and *Grateful Dawg*, a documentary featuring her late husband, Jerry Garcia.



Gourmet dinners are under the supervision of Dale Hawkins, Executive Chef, Stonewall Resort (right) along with Graceland Chef Melanie Campbell.

Friday evening's "A Taste of WV" features 15 local chefs. Tickets through reservations or at the door. Saturday evening's "Sustainable Feast" reservations limited. Contact Jan Myers, Treasurer, at (304) 269-7019 or denjanwv@juno.com

Saturday WV Symphony Orchestra Concert reservations: (\$12. / \$10. seniors & students / \$8. groups) contact Carol Schuler, schulerc@davisandelkins.edu or 304-637-1338.

For exact times and full schedule: <http://www.lapaixherbfarmproducts.com/SustainableLivingforWestVirginia.htm>.



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

humor – if you weren't going to win you might as well have some fun losing! And thirdly, he is extremely loyal; he was always there to do his best to defend me when – not if – I opened my big mouth and said the wrong thing (who, me?).

Some will remember Jon best as the Senator who this year sponsored SB 588, a bill that essentially would have eliminated large mountaintop removal mines by outlawing the practice of dumping mine wastes into stream beds, and for engineering a remarkable “informational hearing” about the impacts of this method of mining in the coal fields.

But I will remember Jon best as the Senator who valiantly waged an unsuccessful battle to protect a little brook trout stream called Fill Hollow Creek from future pollution, and then went on the floor of the Senate chamber to berate his fellow Senators, along with a half-frozen rainbow trout as a prop!!

Now that was a special moment!

Never mind that it was not a brook trout. Never mind that he had caught the fish in another stream. The good Senator made his point.

The good Senator took a trout onto the Senate floor.

Now that's “*real*”!

So, Senator Jon Blair Hunter, here is a great big “thank you” from all of those on the West Virginia Environmental Council lobby team who have had the honor and pleasure of working with you these last twelve years.

And from me, personally, I leave you with these words from *A River Runs Through It* by Norman Maclean:

“... I often do not start fishing until the cool of the evening. Then in the Arctic half-light of the canyon, all existence fades to a being with my soul and memories and the sounds of the Big Blackfoot River and a four-count rhythm and the hope that a fish will rise.”

I'll see you on the stream, my friend.

And for the rest of you, a reminder that Spring is here and the songbirds are beginning to take on their brightest courting colors, so fill your bird feeders and enjoy the show.



Legislature Expands Tier 3 Definition

By Donald S. Garvin, Jr.

WVEC Legislative Coordinator

After a battle that has lasted more than eight long and grueling years, the WV Legislature finally adopted an Antidegradation Implementation Rule that should protect the state's cleanest streams from future pollution.

The Legislature's action eliminates the Tier 2.5 stream category, and adds a new and expanded definition of Tier 3 waters.

Tier 3 streams now are “all Federally designated rivers under the ‘Wild and Scenic Rivers Act’, 16 U.S.C. §1271 et seq.; ***all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams;*** waters designated under the ‘National Parks and Recreation Act of 1978’, as amended; and pursuant to subsection 7.1. of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource.”

So, the Tier 2.5 category is now gone in both the Antideg rule and the Water Quality Standards rule, and the new Tier 3 definition was put into both rules. (Tier 2.5 was a compromise with industry in the first place, created by DEP several years ago to avoid having to list all reproducing trout streams as Tier 3, and it would have allowed those streams to be further polluted).

The final Tier 3 language above is different than the version reported in our last Update; it modifies that version by including the words, “***high quality waters or naturally reproducing trout streams***”. The final language makes it clear that marginal or impaired waters do not necessarily qualify for Tier 3 protection.

During the final week of the session, the final Tier 3 language was accepted by voice vote as a floor amendment when the rules bill, SB 373, was on second reading in the House. An amendment offered by Delegate Bill Hartman (D-Randolph) to gut the rule was rejected by a vote of 65 to 32, with three members not voting. The House then approved the entire rules bundle by a vote of 67 to 32, with one member not voting.

And finally, the Senate voted unanimously, 33 to 0, with one member not present and not voting, to concur in the House amendments.

It was done.

... continued on page 9

The Good, The Bad, and The Ugly

(Compiled by WVEC lobbyists Donald S. Garvin, Jr., John Christensen and Vickie Wolfe)

According to the Legislature's web site **2,134** bills were introduced during the 2008 Session of the West Virginia Legislature that ended on March 8, with only **250** of those bills ultimately being passed by both the House and the Senate.

Here is a brief summary of some of the environmental bills that made it through the sausage-grinding process, and some that did not.

SB 770 – The McDowell County Mega-Landfill Bill:

This was truly an ugly bill that would have encouraged the importation of out-of-state garbage by offering to reduce landfill tipping fees statewide. It was simply another attempt to raise the tonnage cap at the McDowell landfill and turn it into a mega-dump for East Coast garbage. This bill was fast-tracked and passed by the Senate. Thanks to a lot of hardwork by WVEC lobby team member John Christensen, and a strong showing by grassroots folks at the public hearing, the bill was never taken up for consideration by the House Finance Committee and died a well-deserved death.

HB 4267/SB 438 – DNR Rules on Drilling in State Forests:

This was a good piece of legislation that was passed by both chambers. It was basically a response to terrible land management practices by an irresponsible oil and gas operator at Kanawha State Forest, but morphed into a rule that would apply on all State Forests. The rule provides for increased protection and oversight of drilling activities on State Forests, and also increases public involvement in the process. Kudos to long-time public interest lobbyist Dave McMahon for his leadership on this rule.

HB 4438/SB 626 – Expedited Air Pollution Permits for Minor Sources:

This is a truly ugly bill that basically allows construction to begin on minor-source facilities and modifications to minor-source facilities before their air pollution permits are approved! This was a Chamber of Commerce sponsored bill that they have been pushing for several years, and this year the Department of Environmental Protection (DEP) got on board in support. The basic premise of the bill is simply bad public policy. The WVEC lobby team negotiated some amendments to

the bill that would have improved it somewhat. Those amendments were accepted by the House, but were mostly gutted by the Senate. The bill passed in the final hours of the last night of the session.

SB 622 – Voluntary Rural and Outdoor Heritage Conservation Act:

This is a good bill that began as an Interim Study on creating a mechanism and funding source for farmland and natural resource preservation. The bill was subjected to an arduous track through the legislative process, but was finally approved by both houses. Kudos to Beth Wheatley with the Nature Conservancy for putting together a strong coalition of lobbyists for this bill and persevering to the bitter end. Unfortunately, the final version adopted by the Legislature is pretty stingy regarding the funding amount. But I am betting that Beth will be back working hard on that problem!

SB 641/HB 4501 – Amending the Water Resources Protection and Management Act:

This is the “*water quantity*” bill. The bill authorizes the continuation of the water resources survey; authorizes DEP to develop a state water resources management plan; and authorizes the designation of regional and critical area water resources planning areas and plans. The bill was passed by both houses, but only the House version of the budget bill contained the more than half a million dollars funding for the bill. The budget conference committee restored the funding in the Senate version.

SB 88 – Creating Brownfield Economic Development Districts:

According to the note attached to this bill, “The purpose of this bill is to create brownfield economic development districts *in areas involved in the extraction and processing of coal, limestone or other natural resources* and that are currently designated as brownfield or voluntary remediated sites by the state.” While we still have some reservations about this bill, it appears simply to expand the current brownfields statute and contains adequate safeguards. The bill passed both houses, and was signed by the Governor.

HB 4476/SB 643 – Public-Private Transportation Facilities Act:

This is a controversial bill that has been debated for a long time. Basically, it will allow the private development of new state roads and highways. It would allow the costs and profits to be recovered by collecting tolls from the users. And environmentalists have been leery of similar proposals in the past that focused on extracting

industries' use of this type of mechanism. This bill seemed to be going nowhere for most of the session, but then got new life the last couple of weeks, when the WVEC lobby team was busy with other issues. The bill passed both houses late in the session.

Energy Bills: First, of all nothing bad happened – there was no coal-to-liquids bill for example. Secondly, not much good happened either.

However, a few positive bills did make it through the process. **SB 474** provides a sales tax holiday for Energy Star products for home use. This year, the holiday will be September 1-7; in 2009 and 2010, it will be the entire month of September. And **HB 4434** creates a revolving loan fund for energy and water savings projects at state institutes of higher education.

Delegate Barbara Fleischauer (D-Monongalia) sponsored five progressive energy-related bills passed both houses. **HB 4028** did pass both houses, and allows counties and municipalities to enter into contracts for energy savings at public buildings. Unfortunately her other four energy-related bills never even made it onto a committee agenda. These were **HB 4066**, the Green Buildings Act; **HB 4083**, which would have created a renewable portfolio standard; **HB 4095**, which would have created a commission to study the impact of global warming in West Virginia; and **HB 4133**, which would have resulted in West Virginia adopting California's low-emission vehicle standard.

Miscellaneous DEP Bills: Each legislative session the Department of Environmental Protection proposes several agency statutory changes. Most of these are fairly minor in nature. However, this year the agency proposed **SB 751 – The Surface Coal Mining Special Reclamation Fund**. The monies in the Special Reclamation Fund are used for reclamation of mine sites that were abandoned or where bonds were forfeited after 1977. Because this fund is basically going broke again, this bill adds another 7.4 cents per ton to the special reclamation tax (bringing the total now to 14.4 cents per ton. The bill also creates a Special Reclamation Water Trust Fund to reclaim and restore water treatment systems on forfeited sites. The bill passed both houses.

Another DEP proposal – **SB 517/HB 4594** – would have authorized the DEP Secretary to sign mining NPDES permits for water pollution, rather than have the permits reviewed and signed by the Office of Water and Waste Management. This was a bad idea in the first place

and contrary to the provisions of the federal Clean Water Act in the second place. The bill was never taken up by committee in either house and died a well-deserved death.

Good Bills That Went Nowhere: As usual, some really good ideas for the environment never even got onto committee agendas. These included (once again) **SB 135/HB 2773 – the Bottle Bill**, and **SB 240/HB 4050 – the Public Campaign Financing Act**, and **SB 23 – Requiring a Public Health Assessment of DEP Rules**. And add to that list some bills that were introduced for the first time this year, such as **SB 482/HB 4286 – the Oil and Gas Surface Owner's Bill of Rights**, and **SB 588 – Eliminating Valley Fills** (Senator Hunter's bill).

WVEC E-Day Reflections 2008 Environmental Awards

On February 22nd WVEC held our 18th annual E-Day. As in the past, we kept with tradition and set aside a day to bring our environmental concerns and advocacy to our legislators at the state capitol.

In the evening, we relaxed at the Women's Club of Charleston for our reception and awards ceremony. We'd like to once again thank everyone who came out to support WVEC and our 2008 award recipients.

Our *Mother Jones* award went to **Senator Jon Hunter** for his tremendous record of sponsoring good environmental legislation and voting "green" while serving in the state senate. This session, he sponsored SB 588, addressing the dumping of mine waste into stream beds and called an informational hearing about the impacts of this method of mining before his committee on Energy, Industry & Mining. Presenting his award was Don Garvin.

Our *Chuck Chambers Public Service* award went to two people this year: **Delegate Mike Burdiss**, and **Delegate Joe Talbott**. Both serve on the rule-making committee, and both are strong supporters of protecting as many streams as possible in West Virginia. Presenting Delegate Burdiss's award was Vickie Wolfe, and to Delegate Talbott, Carol Warren.

We also gave two awards for our *Laura Forman Grassroots Environmental Activist*. **Chuck Nelson** received the award for his outstanding activism fighting mountaintop removal mining. Presenting to Chuck was Maria Gunnoe. **Matt Keller** received the award for his

..... continued on page 7

Musings of a First-time Lobbyist

By Vickie Wolfe

For a very long time, I've been really cynical about government - primarily because of my perception that we have government of, by and for corporations rather than of, by and for "the people." One thing that concerned me about the prospect of being a lobbyist was that watching the sausage-making up close might make me even more cynical.

So I am happy to report that, for the most part, it actually had the opposite effect. I saw that there really are some good people in the legislature, folks who have integrity and who are doing it for the right reasons.

I did, however, also see some things that disturbed me; most of them occurred in the Senate.

I watched as the Senate slashed the number of streams proposed for Tier 2.5 protection from 309 to 108 (this was before the Tier 2.5 category was eliminated).

I watched as the Senate Judiciary Committee, kowtowing to the Coal Association, voted to amend the water quality rule (different from the antidegradation rule) so as not to afford statutory protection to the additional 329 trout streams that DEP had recommended. Senators voting as coal requested (i.e., for the amendment that was proposed by Senator Don Caruth), were Green, Jenkins, Minard, Wells, Barnes, Caruth, Deem, Hall, Stollings, Oliverio & McKenzie. Voting against the amendment were Senators Foster, Hunter, Kessler and White. Senators Yoder and Chafin were absent.

I watched as, at the behest of the Chamber of Commerce, that same Senate Judiciary committee removed compromise language we had managed to get inserted into an air pollution permitting bill to make it less objectionable. (Typically these are voice votes, so I can't give you the tally on that one.)

I watched as, on the very last day that bills could be introduced, Senator Truman Chafin (D-Mingo) introduced a bill (S.B. 770) that would have encouraged the importation of out-of-state trash and discouraged recycling. The bill was fast-tracked, and passed overwhelmingly in the Senate. Thanks in part to intensive lobbying by John Christensen, the House had the wisdom not only to kill it, but to forego even putting it on a committee agenda.

I watched as the Senate failed to adopt House Concurrent Resolutions 113 and 114, which requested that, between now and the beginning of the next session,

the legislature study the issues of climate change and recycling/solid waste, respectively.

In summary: from an environmental standpoint, the West Virginia State Senate is, on the whole, a dismal, regressive place. Yes, they passed a water rules package for which a lot of positive things can be said. But it appears that, when they removed the Tier 2.5 designation, they were assuming (erroneously) that most of the streams would revert to Tier 2.0, which allows more degradation.

So don't make any assumptions based on the "D" that follows many of their names. Some of those "D's" are to the right of some "R's" I know.

Finally: there is, I think, a very important message in one of the things I observed.

Had it passed, S.B. 600 would have added gays and lesbians to the list of those protected by the Human Rights Act from discrimination in housing and employment situations. I watched as it was debated and passed by the House Judiciary committee, but then I heard it was not going to be placed on the House calendar for a floor vote. I asked a delegate why, and was told it was because 35 Democrats had said they would not vote for it. It appears the reason - for the most part - was that these Democrats were afraid of losing the votes of their constituents who are religious.

The message? *These folks assume you are watching! They are, at least in some cases, concerned about losing their elections if they vote for things their constituents don't want. So don't ever assume your opinion doesn't make a difference! Keep up with the issues, and be sure you communicate to your legislators how you'd like them to vote.*

Being a lobbyist was, on the whole, a positive experience and one from which I learned a good deal. So if you're in Charleston during the '09 session, head up to the Capitol and try it! The lobby team will show you around if they know you're coming. If you're not in Charleston, use the telephone and e-mail. The legislature's website makes it possible to track most of what's going on from the comfort of your computer chair. There is strength in numbers; if we all communicate regularly with our legislators, we will make a difference.

**"Clean Coal" ...
is an Oxymoron**

Musings of a Second-time Lobbyist

By John Christensen

My second session as a lobby team member for WVEC ended on a sour note when I found out that the “mysterious blue haze” bill had been passed without one of our amendments intact. I will get over it. I realize now that the chamber of commerce types that lurk the halls of the Capitol can’t be trusted on an “agreed to” compromise. Perhaps in the future we should concentrate more of our efforts on killing such a bad bill, not just amending it, even though “the powers that be” were behind it. Thanks to our friends on committee staff, a certain retiring senator and Jim Kotcon for help in coming up with some language to make this bad bill a little more to our liking.

I would rather concentrate on the positive aspects of this past Session. We killed another garbage bill in large thanks to the incredible response we got at the public hearing in the House chambers and a little old fashioned lobbying on our part. McDowell county citizens, county solid waste authority members, WVEC members and Delegate Clif Moore (D-McDowell) are to be thanked for their timely contribution in defeating this bad bill.

Thanks also to Norm Steenstra III for his help on this as he was familiar with the House Finance Committee. Everyone at WV CAG came through in the clutch like they always do. It marked a first for me as I got to appear on the statewide Hoppy Kercheval show on MetroNews on the Friday before the public hearing. There is no way to describe the tension and logistics required to pull off a victory like this one. In this case a victory for us meant the defeat of the bill. Our efforts will be short-lived though as we expect another even more clever McDowell mega-landfill bill to come up next session. While our efforts are focused on progressive legislation like the Bottle Bill they always seem to come up with something that champions the opposite effect with long lasting implications to boot.

We were also successful in amending the DEP proposed rule on spending grant money for recycling to include capital improvements on land owned or controlled with long term leases by our county Solid Waste Authorities. Even DEP went along with this one. Special thanks goes out to Clint Hogbin, WVEC member and chair of the Berkeley County Solid Waste Authority, who alerted us to our chance to make a change and then provided us with the language to do it. With this important

change in the rule county solid waste authorities will be able to plan for the future improvements to their respective programs.

I learned much about the inner workings of the Legislature this session. I made a new friend in fellow lobby team member Vickie Wolfe who was instrumental in obtaining co-sponsors for a host of new progressive energy bills that were introduced. She showed herself to be independent and knowledgeable on many fronts. The valuable work of Chuck Wyrostok can’t be overstated as he reached out to involve all of our state environmental organizations via phone, letter and email. I also increased my appreciation for the work of our mainstays at WVEC, Denise Poole and Don Garvin without whom we wouldn’t even be having this discussion.

Hey, Don, I hear they are talking about a Special Session . . .

(Note to John from Don: You heard right, my friend, and I was there!).

E-Day / Environmental Awards

... continued from page 5

remarkable work for the WV Wilderness Coalition, and his continued commitment to protecting our state and national forests. Presenting to Matt was Dave Saville.

Our *Linda Schnautz Environmental Courage* award went to **Chrystal Gunnoe** - our youngest recipient to-date, at age 13. Chrystal has endured mountaintop removal mining near her home, and community. She has stood shoulder to shoulder with her mother Maria (last year's recipient of the same award), and is determined to continue this fight for justice in the southern coalfields of West Virginia. Presenting her award was Dianne Bady, with Larry Gibson by her side.

The *Green Entrepreneur* award went to "**Mountain View Builders / Mountain View Solar**", based in the eastern panhandle. Co-Owner Mike McKetchnie was on hand to receive this award for their wonderful sustainable business. Presenting the award was John Christensen, who nominated the company.

We added a new award to our list this year - the *Youth Activism* award. Our first recipient was **Danny Chiotos** who works with the Student Environmental Action Coalition. He works tirelessly organizing students and other youths for environmental causes. Presenting his award was Danny's colleague Dana Kuhnline.

Once again, congratulations to all of our awardees, you have our gratitude for all you do!

In the News . . .

DEP Chief to Quit: On March 13 Department of Environmental Protection Secretary Stephanie Timmermeyer announced she will step down effective July 1.

Timmermeyer cited passage this session of a final state stream anti-degradation policy as a major accomplishment, as well as one of the reasons she decided to move on from the \$95,000-a-year job.

"It just feels like time," said Timmermeyer, who has held the DEP's top post since January 2003. "Things are going well, and the agency is moving in the right direction."

Timmermeyer was the first woman and, when she took over at age 33, the youngest person to hold the top job at the state's environmental protection agency. Initially appointed during Gov. Bob Wise's administration, Timmermeyer stayed on for most of Manchin's four-year term in office.

Timmermeyer has asked for and received a waiver from the state Ethics Commission that frees her to seek employment from entities that are regulated by the DEP. She must recuse herself from decisions regarding any possible employers, and after leaving the DEP cannot represent any new employers in matters before the DEP for a year, said Lew Brewer, the Ethics Commission's director.

(Excerpted from *Charleston Gazette* article by reporter Ken Ward Jr.)

Seven Counties Fail Revised Smog Limits: More than a third of West Virginia's residents are breathing air that may violate a new federal smog standard announced in March by the U.S. Environmental Protection Agency.

EPA officials announced recently that they were tightening the nationwide smog standard from 80 parts per billion to 75 parts per billion.

Currently, based on data through last year, seven counties in West Virginia don't meet the 75 parts per billion standard. Those counties - with a total population of 623,000 - are Berkeley, Cabell, Hancock, Kanawha, Monongalia, Ohio and Wood.

John Benedict, air quality director for the state DEP, said that he wasn't highly concerned about meeting the new standard.

Benedict said that many, if not all, of those areas may show enough improvement by 2010 to meet the new smog standard. State officials hope that new pollution reductions already expected in the next two years will clean up those problems. But EPA officials said that additional emissions controls may still be needed.

"West Virginia still has not implemented a lot of the mandatory measures that have been adopted by its

neighboring states," said Judith Katz, director of air protection for EPA's regional office in Philadelphia.

(Excerpted from *Charleston Gazette* article by reporter Ken Ward Jr.)

WVU Study – Coal Counties Have Higher Disease Rates: West Virginians who live in the state's coal counties are more likely to have heart attacks, lung disease and diabetes, according to a new West Virginia University study.

Higher levels of coal production are associated with higher rates of a variety of lung, heart and other illnesses among residents, according to the study. Based on phone interviews with nearly 16,500 residents, the study may be the first of its kind to examine health effects of living in U.S. coal-mining communities.

"As coal production increased, health status worsened, and rates of cardiopulmonary disease, lung disease, cardiovascular disease, diabetes and kidney disease increased," said the study, being published in the April issue of the *American Journal of Public Health*.

The study was done by Michael Hendryx, an associate professor in WVU's Department of Community Medicine, and Melissa M. Ahern of Washington State University.

Meanwhile, Governor Manchin said just this week that he plans no immediate state review of coal pollution's impacts on public health following the release of the study.

Stephanie Timmermeyer, DEP secretary, said that such concerns about coal's impact on public health are beyond her agency's purview.

DEP reviews mining permit applications, and ensures that they comply with federal regulations, Timmermeyer said. Then, DEP inspectors make sure mines follow their permits, she said. Looking into whether mines or processing plants are making residents sick isn't DEP's job, Timmermeyer said.

"We are the agency that regulates emissions from facilities, and the way we regulate those emissions is based on environmental quality standards," Timmermeyer said. "Most of those are developed on the federal level."

Joe Lovett, director of the Appalachian Center for the Economy and the Environment, said he wasn't surprised that the Manchin administration was not acting on Hendryx's research.

Lovett also said that DEP has clear authority to deal with such issues, under state and federal laws that prohibit mining operations from causing any "off-site damage."

"If this isn't off-site damage, what is?" Lovett said. "DEP doesn't understand its job. It never saw a law it wanted to enforce."

(Excerpted from *Charleston Gazette* articles by reporter Ken Ward Jr.)

Legislature Expands Tier 3 Definition

... continued from page 3

So what does all this mean?

Well, it's a victory for stream protection in several ways:

- **The State has finally made an official commitment to stream protection;**
- **All reproducing trout streams on public lands in West Virginia will now automatically be Tier 3;**
- **Streams on private lands can be nominated for Tier 3 designation, without requiring legislative approval.**
- **And there will be no more tier lists for the legislature to approve!**

However, there is also a down side.

As a result of eliminating Tier 2.5, streams not on public land will now be treated as Tier 2, which means that they could be polluted ultimately down to their water quality standard. So while the Legislature expanded the Tier 3 definition, they failed to address the issue of whether Tier 2 protection would now be adequate for the majority of high quality waters that will not qualify for Tier 3.

Meanwhile just last week DEP officials announced at a meeting of the DEP Advisory Council that the agency is developing a "Tier 3 Guidance Document," without further stakeholder participation, and said they would put that document out for a 30-day public comment period.

Lastly, the other stream rule up for consideration by the Legislature, the Water Quality Standards rule, was weakened considerably. After a bunch of whining from the coal lobbyists, both houses approved the Senate Judiciary Committee amendment to remove the additional trout streams that DEP had included in the updated B2 list (this is the only stream list the Legislature still has the authority to approve). But the definition of "trout waters" was left intact, along with the old B2 stream list in Appendix A.

So the Coal Association partially got what it wanted in the Water Quality Standards rule: a weakened standard for aluminum, and the ability to appeal permit decisions on trout streams not officially on the list.

Obviously, there is still lots of work for us to do in order to protect all waters of the state from future degradation.

But for now, the Legislative war over stream protection is over.

What's Next . . .

By Chuck Wyrystok, WVEC Outreach Coordinator
wyro@appalight.com

In February, I phoned many of you asking that you take a more active role as "citizen voters" by becoming "citizen lobbyists". I stressed that personal contact with your Senators and Delegates was both crucial to our cause and supportive of WVEC's Lobby Team. To those I spoke with, I thank you for your time, input and most of all, your willingness to help. Many of you were pleasantly surprised to hear from us personally and suggested we broaden our efforts. For those who I didn't reach, have a little faith . . . we're planning to call everyone on our membership list.

Now that the Regular Legislative Session is over, here's what's next.

Dine with your Delegate. While your Senators and Delegates are home, it's a great opportunity to call them and invite them to breakfast or lunch at a local eatery to discuss their views on our environment. It's a much more relaxed and receptive atmosphere than the Capitol. Take some friends along. Enjoy the ease of local lobbying. Remember, throughout the year there are Interim Sessions scheduled about once a month. Although no laws get passed, many issues are studied, deals are hatched and plans are made for next winter's session.

Help us. If your email address changes, please let us know. If you want to volunteer to help with our outreach to our members, but are tight on time, try our "low maintenance phone from home" program. It's a simple and easy script, using your own cell phone on "free-minute weekends".

Recruit. We need to grow our numbers to ratchet up the pressure on our elected officials to make West Virginia a healthier place to live. Surely you know people who care about our common environment and might be interested in supporting WVEC and the more than fifty member organizations who make up the Council.

Let us hear from you. We're all in this together.



Sustainable Fair 2008

Davis & Elkins College

Elkins, WV

April 18, 19, 20

Wrapping It All Up ... cont. from pg. 1

And there was a growing presence on environmental issues this session from the faith-based community: folks like Reverend Dennis Sparks from the WV Council of Churches, and our own Carol Warren, lobbying for the Catholic Archdiocese as well as for OVEC.

We owe all of these people our thanks for their hard work.

Volunteer Support

We absolutely depend on WVEC volunteers to help with numerous tasks, spending time at the Capitol and in the office.

Rowan Zoeller was our most consistent grassroots citizen lobbyist. She spent time at the Capitol tracking bills, attending public hearings and committee meetings whenever she could. Rowan was invaluable with the Legislative Update mailings, Kick Off Blast and E-Day reception and much more.

Our Kick-Off Blast benefit and E-Day reception couldn't have happened without Greg Carroll's finesse and his love of music, "party planning", and cooking skills.

Special thanks for the multi-faceted support from Mary Ellen O'Farrell, Robin Godfrey, Chelena McCoy, Susan Hayden, Sandy Fisher, Dot Henry, Norb Federspiel, Cindy Ellis, Becky Young, Todd Garland, Carrol Warren, Frank Grant, Regina Hendrix, Mary Ann Maul, and Bob Hamburg.

Other Support

As always, our two legislative session events couldn't have been as successful or fun without live music. Huge appreciation for the talents of the VooDoo Katz (Mark Davis, Ammed Solomon, Andy Park, Kai Haynes, Deron Sodaro) for playing at our Kick Off Blast. Same goes to The Blue Notes (Steve Himes, Mac Cary, Chris Hudson) for playing at the E-Day reception. Special gratitude to Bonni McKeown for playing piano & singin' the blues as we gathered up!

Thanks to Mike Myers and Paul Perfater for once again allowing us to boogie down in the cold of January for our Kick Off Blast in your great lobby. Thanks to the Women's Club of Charleston - our E-Day reception & awards ceremony in February was lovely in your space.

We cannot thank our individual members enough for your generous monetary support this year. Hardly a day went by all session without receiving donations in the mail. Thank you, thank you, thank you!

We simply could not have a lobby team without support from organizations and groups: We've said it

before, however thank you so much to: WV Highlands Conservancy, OVEC, WV Rivers Coalition, Mountaineer chapter of Trout Unlimited, WV Sierra Club, Friends of the Cheat, Plateau Action Network, Appalachian Center for the Economy and the Environment, Mountain State Environmental Research Foundation (MSERF).

A big thank you goes out to Mother Earth Foods (Parkersburg) owner Kurt Hawkins for including WVEC as one of three groups receiving funds from his creative program supporting recycling.

The lobby team received special deliveries from Charleston Bread Co. owner Libby Chatfield in the form of breads and pastries throughout the session. We thank you very much Libby, as do our waistlines!

Political Leadership and Courage

While there are legislators who almost always vote "green," there were several who distinguished themselves this session by showing political leadership and courage.

Many of those leaders emerged during the battle over the water quality rules. Foremost among those was Speaker of the House, Delegate Richard Thompson (D-Wayne), who never faltered in his goal of protecting as many streams as possible from future pollution. He was joined in this effort by strong support from the entire House leadership, and particularly by Delegate Bonnie Brown (D-Kanawha), co-chair of the Legislative Rule-Making Review Committee, Delegate Carrie Webster (D-Kanawha), chair of the House Judiciary Committee, and Delegates Mike Burdiss (D-Wyoming) and Joe Talbott (D-Webster).

Leadership in the water rules battle on the Senate side came from Senator Jeff Kessler (D-Marshall), chairman of the Senate Judiciary Committee, who finally said enough with the compromises and offered the amendment to eliminate the Tier 2.5 stream category. Strong support for stream protection was also shown by Senators John Pat Fanning (D-McDowell), Randy White (D-Webster), Dan Foster (D-Kanawha), John Unger (D-Berkeley) and, of course, Jon Blair Hunter (D-Monongalia).

Leadership was also demonstrated this session by Delegate Barbara Fleischauer (D-Monongalia), who made a strong statement in support of addressing global climate change by introducing six bills related to decreasing our dependence on fossil fuels.

We have recognized other legislators for their efforts throughout our Updates. They all deserve our thanks.



Calendar of Events



April 10: "Global Warming and Alaska" with Deborah Williams, President of Alaska Conservations Solutions. From 6:30-8:30 p.m. Marie Redd Senior Center, 1750 9th Avenue, Huntington, WV. Sponsored by OVEC and Cabell-Wayne Branch of NAACP.
For more information: OVEC office, (304) 522-0246

April 11: WV Citizen Action Group's Annual Spring Extravaganza. Charleston Woman's Club. From 5:30 - 9:00 p.m. Silent Auction, Awards presentations, Music by *Full Flavor*. Tickets: \$30.
For more information contact: WV-CAG office (304) 346-5891 or e-mail linda@wvcag.org.

April 12: "Global Warming and Alaska" with Deborah Williams, President of Alaska Conservations Solutions. From 2:30 - 4:30 p.m. Taylor Books, Charleston, WV. Sponsored by WV Citizen Action Group, WVEC.
For more information: (304) 346-5891

April 16: "Global Warming Crisis: The Science, Facts and Opportunities for West Virginia" with Allan Tweddle. 12 noon. Main Library, 123 Capitol Street, Charleston.
For more information: www.ohvec.org

April 18- 20: 2008 Sustainable Fair, "Green Makes \$en\$e". Davis & Elkins College - Elkins, WV. Keynote address by Deborah Koons Garcia on "Food & Integrity", Workshops, Booths, Gourmet Benefit Dinners Friday & Saturday evenings, Art Exhibit - "Sustenance for the Soul, Children's Activities Program, D&E Bookstore Open (Friday & Saturday), Music by *Public Outcry* (Friday night), WV Symphony Concert (Saturday night), Play entitled "Urinetown" performed by D&E theatre dept., (Sunday) , Tours to Sustainable Sites (Sunday).
Friday or Saturday dinner reservations: Jan Myers, (304) 269-7019.
For WV Symphony Tickets: Carol Schuler w/Davis & Elkins, (304) 637-1338 or schulerc@DavisAndElkins.edu.
Cost: \$12. per ticket / \$10. seniors & students / \$8. groups of 10 or more.
For more information: Denise Poole, deniseap@earthlink.net or call (304) 617-7073 or visit: www.lapaixherbfarm.com

April 19: Earthday Celebration. Appalachian South Folklife Center. Music, camping, environmental displays.
For more information: www.folklifecenter.org

April 19-25: "Almost Heaven Habitat For Humanity Earth Week "Blitz Build". Pendleton County. A house will be build utilizing green building techniques and materials - all within this week. Booths on April 25th.
For more information: Michelle Conner, (304) 358-7642 or visit: www.earthdayblitzbuild.com

April 22: Earthday WV Premier of "Burning the Future: Coal in America". Documentary featuring OVEC volunteers and staff. This is the 23rd Annual West Virginia International Film Festival Spring Festival. WVSU Capitol Center Theater, 123 Summers Street, Charleston, WV. Begins at 6:30 p.m.
For viewing the trailer: www.burningthefuture.com.

April 22: Earthday DEP Oversight Press Conference & Open Public Hearing. Capitol Building, Charleston, WV. OVEC joins once again with the WV State Workers Union, UE 170, to demand that the legislature do an investigation into the functioning of the DEP.
For more information: OVEC office, (304) 522-0246.

May 3: "Cover the Uninsured Week" Rally. State Capitol. Meet at West Virginia Health Right (1524 Washington Street East at 10:00 a.m.) March to the Capitol. Speakers on Health Care Reform from 12 noon - 1:00 p.m.
For more information: Gary Zuckett, (304) 346-5891

May 24: WVEC's "Artists for the Environment" Benefit Celebration. WVEC office building, 2206 Washington Street East, Charleston. From 12 noon till 5:00 p.m. Featuring: live music, art exhibit & sales, booths, wine tasting, refreshments. Drawing for Mark Blumenstein's sculpture, "Un-frayed" will occur at 4:00 p.m. You do not need to be present to win.
A donation to WVEC of \$5. (or whatever you can afford) is requested to support our organization.
To participate, and more information: (304) 414-0143 or e-mail Denise Poole at deniseap@earthlink.net.

June 28: 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 (early reservations encouraged - cost is \$25. Menu is on the website). Delicious Ala carte food and drinks are also available all day.
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.
Visit WVEC's website: www.wvecouncil.org for more information and details as this event draws near.
To participate or more information: (304) 414-0143

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: _____	_____ \$ 10	Student / Senior
Address: _____	_____ \$ 25	Regular
City, State, Zip: _____	_____ \$ 50	Seedling
Phone: _____ e-mail _____	_____ \$ 100	Sustaining
	_____ \$ 250	Enviro Steward
	_____ \$ 500	Canopy
	_____ \$ 1,000	Old Growth
	_____ \$	Other



Meet us at the fair ...
the **Sustainable Fair** that is!
April 18, 19, 20
Davis & Elkins College Campus
Elkins, WV

See inside for details ...

