



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 – Energy Politics

Wednesday night Governor Joe Manchin devoted a major portion of his State of the State address to his idea of what a “comprehensive energy” plan for West Virginia should look like.

He’s been talking about this for months now.

This summer he told reporters that if his proposals for turning coal into diesel fuel and other “clean coal” technologies were going to be viewed as credible, then the state would have to embrace the world-wide movement toward renewable energy as well.

It’s an example of the new politics of energy.

So Wednesday night the Governor said that West Virginia should be in the forefront of new energy development and he unveiled his proposed “Alternative and Renewable Energy Portfolio Act.”

The plan would require 10 percent of energy sold to customers in West Virginia by 2015 to be generated by alternative or renewable energy sources, and would increase the requirement to 25 percent by 2025.

“There’s been a lot of debate about clean coal technology,” he said. “Whether you agree or disagree with the concept, one thing is certain: We can improve the way we use coal, and reduce the carbon that is released into the atmosphere.”

The Governor’s bill also requires the state Public Service Commission to expand the availability of net metering to West Virginia energy customers, and he pledged additional state investment in development of “clean coal” technologies.

Green Legislative Update

Blast From The Past Nuclear Power Plants in West Virginia's Energy Future?

by Denise Poole, WVEC Program Coordinator

Merely 2 days into the session - and 13 years after WVEC successfully lobbied passage of a bill placing a ban on construction of nuclear power plants in West Virginia - SB 240 was introduced to repeal the ban.

Lead sponsor Senator Brooks McCabe (D-Kanawha) is joined by Senators Foster, Plymale, Caruth, Sypolt and Wells. SB 240 has been double referenced to the Committee on Energy, Industry and Mining (EIM) and then to Judiciary.

During the 1996 session, it was seemingly easy to obtain sponsors for the ban. Even (then Delegate) Vic Sprouse (R-Kanawha), laughed as I asked for his signature saying, "Sure, I'll sign it - why not? We have coal in West Virginia! That will never happen here."

Counted among WVEC's proud accomplishments during our 20 year existence as an organization, this unexpected development has already caused quite a stir as news spreads among concerned environmentalists.

My first reaction (well, I really can't print that) was, "ARE YOU SERIOUS?? - I MEAN, REALLY!!" (for all you fellow Saturday Night Live fans.)

As we take this historical journey to a blast from our past, lets hope our present 79th legislative body is wise and this bill sees no movement. Our future depends on renewable energy sources, not nuclear power plants.

I mean, really. Stay tuned.

"Think Renewable Energy"

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This Week - Up Front :

WVEC's 2009 Legislative Kick Off Blast !!!

Tuesday evening, February 17

Women's Club of Charleston

1600 Virginia Street East, Charleston
From 6 - 9 PM ~ Suggested Donation: \$8

Music provided by: Andy Park,
Moe Morgan, Robin Godfrey & others



Bottle Bill Presentation

Thursday, February 19

To Joint House Judiciary & Finance Committees by John
Ferrari, President of NexCycle's California Operations.

(see more details in article on page 3)

House Chambers, State Capitol Building, 1:30 PM.

Public encouraged to attend

For more information, contact Linda at:
WV Citizen Action Group, Linda@wvcag.org.

Legislative Session 2009 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

WVEC Office: (304) 414-0143

CAPWIZ: <http://capwiz.com/catholicconferencewv/issues/alert/?alertid=10836991>

Ohio Valley Environmental Coalition:

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.

WV Environmental Council

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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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The Governor said he would also introduce legislation to regulate and monitor carbon sequestration projects in the state.

The “Alternative and Renewable Energy Portfolio Act” is a big bill, and here at WVEC we have just begun to study it. In addition, we have not yet seen a copy of the carbon sequestration bill.

And while there are probably several elements of the Governor’s plan that we can support, the devil is always in the details.

But one thing seems clear, even at first blush – what the Governor is proposing is not truly a “Renewable Portfolio Standard” for the state. Instead, the Governor’s plan is to mine and burn more coal, wave a magic wand and call that “clean.”

Another thing is certain as well: the “Renewable Portfolio Standard” legislation that WVEC has proposed would lead to real reductions in greenhouse gases and would propel the development of new, green jobs in a state that truly needs them.

It’s just mid-winter, so remember our fine-feathered friends and keep your bird feeders full, if they weren’t blown into a neighboring state Wednesday night – ain’t climate change grand??.

National Expert To Speak on Bottle Bill to House Committees

by Linda Frame, linda@wvcag.org

If you want to learn more about how a deposit on beverage containers works in other states and how it can work here in West Virginia, come to the Capitol on **Thursday, February 19 at 1:30PM in the House Chambers.**

John Ferrari with NexCycle, the country’s largest glass recycler, will present to the Joint House Committees on Judiciary and Finance. Our bill has been referred to both of these committees in previous sessions. John is making an encore visit – he was here last year to help us promote the Bottle Bill to state legislators and the governor.

Please come to the Capitol to watch his informative presentation and show your support. If you would like to come early or stay afterward to talk to your legislators, we will help you.

You can also tune in to Hoppy Kercheval’s talk radio program at 11AM that morning to hear him talk to John.

Green Legislative Update

WVEC 2009 Legislative Priorities

Adopted by WVEC Board at Annual Fall Conference

Energy Related Bills:

Renewable Portfolio Standard Act: mandate utilities use 20 % renewable energy by 2020.

Energy Efficiency Standard Act: reduce electricity use by 15 % by 2015.

PSC Siting Reforms Bill: require landowner notification, protect environmental values, and consider less damaging alternatives.

Green Buildings Act: “green building” certification for all new and renovated state buildings

“Clean Coal” and Coal-to-Liquids: continue opposition to coal-to-liquids and other so-called “clean coal” projects because they are too expensive, dirty, and dangerous.

Coal Sludge Injection and Impoundments: continue to push DEP to complete the coal slurry study, and continue to push DHHR to provide a thorough and accurate analysis of the health impacts from slurry injection and sludge impoundments as authorized by the Legislature.

Oil and Gas Issues: support initiatives to adequately regulate Marcellus shale gas drilling operations that impact both water quantity and water quality. Continue support for a Surface Owners Bill of Rights..

Clean Elections: continue to support legislation that would provide public funding for election campaigns.

Bottle Bill/Recycling: continue to support legislation establishing a refundable deposit on beverage containers, and other recycling and waste reduction initiatives.

Public Health Impact Bill: continue to support legislation that would require DHHR to provide an assessment of the public health impacts of DEP proposals to change water quality or air quality standards.

Toxic Chemicals: support the efforts of People Concerned about MIC .



Governor's Energy Plan Gets Mixed Reviews

by Ken Ward Jr.

Charleston Gazette staff writer

Gov. Joe Manchin's proposed alternative energy plan met mixed reactions Wednesday night from environmental groups, power companies and the coal industry.

Manchin called for power companies to provide a share of their electricity from "alternative and renewable" sources, but in draft legislation defined those terms to specifically include certain types of coal-fired power plants.

"We can't simply abandon the way we live and generate electricity," Manchin said in his State of the State address. "But we must find newer and cleaner ways to produce energy with the abundance of natural resources we already have."

The governor added, "There's been a lot of debate about clean coal technology. Whether you agree or disagree with the concept, one thing is certain: We can improve the way we use coal and reduce the carbon that is released into the atmosphere."

Coal operators and electric utility officials praised the governor's proposal. Environmental advocates gave Manchin credit for talking about renewable energy sources such as wind and solar, but blasted the governor for including coal in his legislation.

"I'm glad he's talking about renewables," said Vickie Wolfe, who follows energy issues for the West Virginia Environmental Council. "But I don't think that carbon capture and storage is a solution.

"We would not support so-called 'clean coal,'" Wolfe said. "Coal cannot be clean because of what happens when it's mined and because of the waste that is created when it's burned."

Along with his energy supply standard, Manchin said he would also introduce legislation to govern a variety of matters relating to the capture and burial underground of carbon dioxide emissions from power plants. Details of that legislation were not immediately available Wednesday night.

Under Manchin's "Alternative and Renewable Energy Portfolio Standard," electric utilities would by 2025 be required to obtain 25 percent of their power from "alternative energy resources." The requirement

would be phased in, starting with a 10 percent requirement by 2015 and 15 percent by 2020.

At least 29 other states have similar programs, commonly called "renewable portfolio standards," or RPS, according to the U.S. Department of Energy.

But Manchin's proposal seems to closely follow similar programs in Michigan, Ohio and Pennsylvania, which are also structured loosely enough to allow coal plants to comply.

"It's a broad definition," said Jonathan Deem, the governor's general counsel. "We're trying to include a broad range of alternatives."

Manchin's legislation allows utilities to count electricity from "advanced coal technology" toward meeting the requirements. That term is defined in the bill as "a technology that is used in a new or existing energy generating facility to reduce airborne emissions associated with the combustion or use of coal and includes, without limitation, carbon dioxide capture and storage technology, ultra-supercritical technology and pressurized fluidized bed technology."

"We welcome Gov. Manchin's initiatives in this area," said Phil Smith, spokesman for the United Mine Workers union. "Carbon capture and storage is the future of coal in West Virginia."

Bill Raney, president of the West Virginia Coal Association, said Manchin's proposal makes a lot of sense.

"We've got a commodity that not many other states do," Raney said. "If people have problems with it, then we have to figure out how to deal with those problems, and stay out of the courtroom and out in the [mining] pits."

Mark Dempsey, spokesman for American Electric Power's West Virginia operations, said his company would prefer a voluntary energy supply standard, but could live with Manchin's proposal.

"As far as I know, we plan to support these measures," Dempsey said. "The language that's in there is acceptable to us."

(This article appeared in the Feb. 12 issue of the Charleston Gazette, and is reprinted here with their permission).

"Clean Coal is an Oxymoron"

DEP Slammed Over Coal Slurry Study Delay

by Tom Breen, Associated Press

A study into the effects of coal slurry on groundwater has missed three deadlines and is still months from completion, and West Virginia lawmakers are running out of patience.

Department of Environmental Protection Director Randy Huffman bore the brunt of legislators' frustration Tuesday, as they said even the appearance of foot-dragging on a public health issue is inexcusable.

"This body makes deadlines for specific reasons," Sen. John Unger, D-Berkeley, told Huffman.

When those deadlines are missed, "It sets up a situation where either you're not showing respect to the legislative branch and what we're trying to do, or there's an inadequacy that's preventing you from getting it done," Unger said.

The DEP is working on the first phase of the study with the federal Office of Surface Mining, to determine what effect coal slurry - a chemical soup formed during the process of cleaning coal - may have on groundwater when it's injected into worked-out mines.

A second phase of the project, to be led by the state Department of Health and Human Resources, will examine whether slurry in groundwater has adverse effects on human health.

Slurry forms when coal is washed with water and chemicals to separate clay, rock and other impurities that keep the carbon from burning efficiently. Underground injection is one way companies can legally dispose of it. It can also be stored in massive impoundments or dried and buried.

About 15 percent of the coal slurry produced in the state is injected at 15 sanctioned sites, according to a presentation the DEP showed to lawmakers.

The Legislature commissioned the study in 2006, with an original deadline of Dec. 31, 2007. The department missed that, and subsequent deadlines in June and December of 2008. The first phase of the study is now expected to be done by April or May, Huffman said.

"It sounds like you're suggesting April or May, but you may not really have any idea," said Delegate Don Perdue, D-Wayne, chairman of the House health committee.

In a packed committee room dotted with the yellow T-shirt-clad members of an environmental group

opposed to slurry injection (Sludge Safety Project and OVEC members were there along with members of other WV groups), Huffman said the delays were regrettable but unavoidable, given the size of the task and how much data has to be gathered and analyzed.

"We felt like being right was more important than being in a hurry," he said.

Coordinating the efforts of both state and federal agencies has also proved tricky, Huffman said. The final component holding up completion of the study is work being done by the federal mining office, he said.

Some environmental groups, like those in attendance at the meeting Tuesday, want underground injection banned, while industry groups like the West Virginia Coal Association contend the practice is safe.

Complicating the question is the fact that the U.S. Environmental Protection Agency, which said in 2002 its existing rules are adequate to protect groundwater, hasn't studied the issue of slurry in a decade.

Once the first phase of the report is done, the Bureau for Public Health has a year to complete its review of possible ill effects on human beings, a lag time that rankled lawmakers.

"I'm extraordinarily frustrated by the lack of involvement of DHHR in this so far," Perdue said.

Members of the water resources committee agreed to send a letter to state DHHR Secretary Martha Walker asking if the agency can start collecting data sooner.

(This Feb. 11 article by AP reporter Tom Breen is reprinted here with their permission).

Valentine's Day Hugs To You

Call it a Valentine's Day heartfelt expression of gratitude, or call it a glad-to-be-green-like-you thanks! The lobby team, board of directors, and staff wish to thank our membership for the support received thus far.

And, we love getting all the notes of encouragement you send in along with your membership renewals & donations. Keep em' coming!

As we begin to send out individual thank you's to everyone, allow us to "group hug" you at the moment!

Naturally, we aren't out of the woods yet, and the session has just begun. Please do whatever you can to continue the support for the 2009 WVEC lobbying effort. We'll continue to work hard and keep you informed!

Thank you! Happy Valentine's Day!

PATH & MTR Mining - Lost Jobs And Lower Property Values

by Danny Chiotos, WVEC Board President

Who benefits most from the coal-fired electricity produced in West Virginia?

For more than a century, West Virginia coal miners have sacrificed their backs, lungs, and health to put food on their families table. For more than fifty years, West Virginia communities have seen not only massive job loss, but an escalating loss of our mountains to strip mining, more commonly known as mountaintop removal. For more than twenty years, West Virginia miners have had their most powerful voice, the United Mine Workers of America, broken by aggressive coal companies with Don Blankenship & Massey Energy leading the union-busting charge. For more than ten years, West Virginians have seen the ultimate taking - “the taking of our homes” - to mountaintop removal and the valley fills it creates.

Right now, the same people who have been responsible for all of the above are pushing for a giant power line to ship electricity from the Charleston (WV) area to the Eastern Seaboard. The Potomac-Appalachian Transmission Highline (PATH) starts in Putnam County, WV then cuts its way across the mountains and valleys of 17 West Virginia communities on its way out of state.

If built, this line would be a 765-KiloVolt Transmission line. An Administrative Law Judge for the Pennsylvania Public Service Commission has said that the proposed 550-Kilovolt Trans Allegheny Interstate Line (TrAIL) would require four additional coal plants. PATH, at 765 KV, has double the transmission capacity of TrAIL and simple multiplication dictates that there would be eight additional coal plants needed for this line.

This is at a time when West Virginia is already exporting about two-thirds of the electricity (98% of WV’s electricity is coal-fired), we don’t need this power line to further ship our power out of state. If you think we’ve already seen too much profit for Don Blankenship & his buddies, too much union busting, and too much mountaintop removal “you ain’t seen nothing yet.”

If all that above isn’t enough for you this monstrous power line harms local property values, increases harmful herbicides sprayed on the ground near the lines, and harms human health. All of this for a line that West Virginians would end up paying for through increased electricity rates. It’s clear who benefits most from coal-fired electricity produced in West Virginia and it’s not West Virginians.

Green Legislative Update

Morgantown City Council Passes Marcellus Shale Resolution

by John Christensen, WVEC Lobbyist

In order to express major concern over the possible hazards to water supplies due to drilling for natural gas in the Marcellus shale, the Morgantown City Council adopted a comprehensive resolution calling for the Legislature to adopt stricter standards and “emergency measures” to prevent water contamination resulting from that activity.

The resolution also asks for the Legislature “to petition Congressional leaders to amend the (2004) federal Safe Drinking Water Act” which “exempts hazardous chemicals used in hydraulic fracturing – even diesel fuel – from limitation.”

Citing the completion of three public forums with over 50 organizations attending and the fact that there are approximately 40 municipal water systems and 20 waste water systems which depend on the sufficient quality and quantities of the upper Monongahela River water for drinking supplies and for numerous commercial, transportation, power generation, and recreation investment uses, the council felt a public need to act strongly.

The three page resolution addressed the hazards of the 300-odd chemical compounds used in the fracturing process developed by the Halliburton Corporation in which a pressurized brine solution is injected along with one to six million gallons of water for each well to explain their heightened response for safety.

The resolution cited increasing reports of water contamination relating to gas well sites and drilling processes, and singled out the DEP for not having regulatory guidelines nor a comprehensive plan to address water source protections, composition of fracturing fluids, TDS/brine levels or requirements relating to the disposal of fracturing solutions in West Virginia waters.

The City Council recognized the vital natural “capital” of a safe, environmentally sound and economically sustaining water supply for Morgantown and surrounding communities as being paramount in their considerations and they identified other states like NY, PA., CO, and NM that have already taken the necessary steps to limit or control the potentially hazardous impacts of natural gas drilling.

The resolution asks “emergency measures” be instituted during this legislative session to require the DEP to protect the water supplies until permanent legislation is activated.

The water quantity and quality issues arising from the drilling of Marcellus shale gas wells are priority issues for the West Virginia Environmental Council.

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Calendar of Events



February 17, 2009: WVEC's "Legislative Kick Off Blast" / Benefit!!! Women's Club of Charleston, 1600 Virginia Street East. 6 PM – 9 PM. Live music provided by Robin Godfrey, Andy Park, Moe Morgan and other special guests. Join us as we kick off yet another session in style! All proceeds go in support of our 2009 lobbying efforts. Suggested Donation: \$8. at the door (or whatever you can afford). Yummy refreshments served.
For more information, call the WVEC office, (304) 414-0143 or deniseap@earthlink.net

February 19: Support the Bottle Bill! Presentation to Joint House Judiciary & Finance Committees by John Ferrari, President of NexCycle's California Operations.. House Chambers, State Capitol Building, 1:30 PM. Public encouraged to attend.
For more information, contact Linda at WV Citizen Action Group, Linda@wvcag.org.

February 22: Go Green Convention. WV Wesleyan College, Buckhannon, WV.
For more information: www.gogreenconvention.com

March 11: – E-Day at the Capitol! Lower Rotunda - State Capitol Complex, Charleston. Citizen / Grassroots Lobby Day! Environmental organizations and sustainable business exhibits from 9 AM - 3 PM. Join us this day for a full day of lobbying, press conference, program, visit exhibits and more.
For more information or to reserve a table, contact Denise: deniseap@earthlink.net or call Chelena McCoy: (304) 533-8878 or call the WVEC office: (304) 414-0143.

March 11, 2009: E-Day! Benefit Reception Dinner & Award Presentation Ceremony. 6:00 PM - 9:30 PM. To be held at the Women's Club of Charleston located at 1600 Virginia Street East (corner of Elizabeth). Join us after E-Day at the Capitol to unwind, visit with friends, honor our award recipients and lobby team! Dinner will be served. Live music. Suggested donation at the door: \$ 15.
For more information, call the WVEC office: (304) 414-0143.

April 17 & 18: Annual WV Sustainable Fair 2009 - "Green Makes SenSe". Stonewall Resort, Roanoke WV. Jeffrey Barrie, noted filmmaker, serves as keynote speaker addressing "Kilowatt Ours The Energy Conservation Solution". Seminars, panel discussion, booths, demonstrations, art exhibit and more. Admission only \$5. at the door. Early reservations for "Taste of WV - Farmers and Their Chefs" Friday dinner and "Sustainable Feast" Saturday dinner available.
For more information: deniseap@earthlink.net or (304) 617-7073.

May 30: Kanawha Valley Connections: Creating Pathways to Sustainability" Fair. Habitat for Humanity Restore, 815 Young Street, Charleston.
For more information: Will Taylor, (304) 382-1233.

June 27: 6th Annual Lavender Fair. LaPaix Herb Farm, Lewis County. Workshops, demonstrations, wood walks, booths, gourmet food and much more.
For more information: www.lapaixherbfarmproducts.com

Support the West Virginia Environmental Council

2206 Washington Street East, Charleston WV 25311

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- _____ \$ 500 Canopy
- _____ \$ 1,000 Old Growth
- _____ \$ Other

WVEC's 2009 Legislative Kick Off Blast !!!

See inside for details!

