



Green Legislative Update

Published Weekly During West Virginia's Legislative Session

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Under the Dome

by Donald S. Garvin, Jr.
WVEC Legislative Coordinator

Week 3 – People Concerned

Headline, Feb. 25: “Board Cancels Hearing Under Bayer Pressure — Public Meeting Was For Discussion Of MIC Storage.”

Headline, Feb. 27: “Bayer Cited, Fined In Fatal Explosion at Plant in August.”

It seems like the indignities and the hazards just keep piling on for “concerned people.”

Just this week the U.S. Chemical Safety Board canceled a public meeting where it planned to brief Kanawha Valley residents on its investigation of the August explosion that killed two Institute plant workers, and to discuss concerns about a methyl isocyanate tank located near the site of the deadly blast.

The federal safety board reportedly canceled the hearing after Bayer officials pressed that such discussions would be a risk to “homeland security,” or some such nonsense.

Then two days later the U.S. Occupational Safety and Health Administration cited Bayer for 13 serious and two repeat violations stemming from the August disaster, and proposed levying a paltry \$143,000 in fines for Bayer’s negligence.

Meanwhile, at the statehouse this week the Senate Energy, Industry and Mining Committee debated the governor’s “industrial accidents and emergency response regulations” proposal (SB 279 and HB 2565).

The governor’s bill is a response to the chaos that surrounded last summer’s incident, when responsible

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“Nuclear Development” Subcommittee To Meet Monday

The study subcommittee of the Senate Energy, Industry and Mining Committee (EIM) will meet Monday, March 2nd, at 10:00 AM in the Senate Judiciary Committee Meeting Room, Rm. 208-W.

This will be the first meeting of the subcommittee. The subcommittee was formed as a result of the full EIM committee discussion of SB 240, legislation introduced by Senator Brooks McCabe (D-Kanawha), that would repeal the ban on constructing nuclear power plants in West Virginia.

Senator Evan Jenkins (D-Cabell) will chair the meeting. He is not calling it a hearing, but told a reporter last week, “I am interested in having a broader discussion about the generation of nuclear power.”

Jenkins offered the following list of questions for discussion: “How does this impact the health and safety of our citizens? How does this impact the coal industry? Are there appropriate safeguards in place for how waste is disposed of?”

When Don Garvin spoke with Senator Jenkins earlier this week, Sen. Jenkins said he only wants to have a “discussion,” and has offered us the opportunity to have presenters and participate. It is only an hour-long session.

Other members of the subcommittee are Sen. Joe Minard (D-Harrison), Sen. Bob Williams (D-Monongalia), and Sen. Frank Deem (R-Wood).

We will keep you posted as this issue progresses.

Think Renewable Energy

E~Day at the Capitol

Wednesday, March 11th

Lower Rotunda area

WV State Capitol, Charleston WV

9 a.m. ~ 3 p.m.

Displays, Grassroots/Citizen lobbying, Press Conference

E-Day Benefit Reception

The Women's Club of Charleston

(Corner of Virginia St. East & Elizabeth St, Charleston)

6:00 p.m. ~ 9:30 p.m.

Live music

Deluxe Soup & Salad Buffet

2009 WVEC Awards For:

Mother Jones

Chuck Chambers Public Service

Laura Forman Grassroots Activist

Linda Schnautz Environmental Courage

Green Entrepreneur

Youth Activism

Admission:

\$15 a person - \$25 per couple

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.

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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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officials could not be located, and Homeland Security officials weren't allowed on the site for more than two hours.

The purpose of the governor's bill is "to provide state and local emergency responders with notice of significant industrial accidents, to require the reporting of such accidents, to provide state and local officials with important information necessary to facilitate a public response and to provide state and local officials with access to certain areas within an industrial facility affected by an emergency event."

The debate in the Senate EIM committee revealed that some Chamber-of-Commerce type senators feel the governor's bill goes too far, so the bill was sent to a subcommittee.

To our eyes, and to the eyes of People Concerned, the bill definitely does not go far enough. For example, the bill sets a 15-minute deadline for reporting an "event." The word "deadline" seems appropriate here – people were dead in Bhopal in less than 10 minutes. And the bill sets only a \$100,000 penalty for violations, an amount so small that it could be considered simply as "a cost of doing business."

People Concerned About MIC is a community organization in the Kanawha Valley dedicated to the protection of health and safety of all who reside, work, and study in the vicinity of local chemical plants producing highly toxic chemicals. The group was formed because the same chemical that killed and injured thousands in the Bhopal disaster, methyl isocyanate (MIC), was being produced in their neighborhood plant.

Last night John Christensen and I attended a meeting of People Concerned at Institute. The meeting was held in a meeting room at WVSU, and most of those attending live in the area. Someone pointed out that a house just two blocks from the campus was damaged in the explosion last summer.

It was an inspirational meeting for me. I sat next to Mildred Holt, a marvelous woman who has been part of the group since its inception in 1984.

Mildred said more than once that there is nothing in the governor's bill that conveys "the urgency" of the situation.

Mildred is right, of course.

People are concerned.

Until next week, keep your bird feeders full.

Nuclear Power Is the Wrong Solution

by Jim Kotcon

A recent study by the General Accounting Office estimated that the risk of a utility defaulting on proposals for nuclear power plants was greater than 50 %, and others have warned that a utility proposing such a plant would jeopardize its credit rating and increase ratepayer costs.

No permanent disposal for nuclear wastes has yet been established. The reason that there have been so few proposals for nuclear power plants in the last couple decades is that stockholders recognize the financial risks. If the stockholders won't take this gamble, why should West Virginia waste time on such proposals?

No private insurer will offer liability insurance for a nuclear power plant, hence nuclear power plants must rely on taxpayer bailouts in the event of serious accidents. Insurance companies have some of the best risk estimators in the world; that's how they stay in business. If no private insurance company anywhere is willing to charge a rate high enough to cover the risk of a nuclear power plant, why would anyone want West Virginia ratepayers to assume that risk?

Why would anyone co-sponsor such legislation (SB 240)?

While some have argued that nuclear power is "carbon-free," that is simply not true. The amount of steel and concrete required just to build the plant means that it will need to run for three years at full capacity, just to break even. Given the incredible cost and complexity, there is simply no way that nuclear power can make a sufficiently large impact on greenhouse gas emissions in time to make a meaningful contribution to slowing climate change.

The same dollars would create more jobs, reduce more emissions, and do it faster, safer and cheaper, if invested in energy conservation.

Nuclear power is the wrong solution.

"Clean Coal"
is an oxymoron

Public Campaign Financing Act Introduced In House

by Carol Warren,
WV Citizens for Clean Elections

The WV Public Campaign Financing Act was introduced in the House this week as **H2764**, and referred to Judiciary and Finance Committees. We still expect that Judiciary Chair Carrie Webster will place the bill in a subcommittee dealing with several pieces of election-related legislation.

As of this writing, the subcommittee has not yet been named, but if your Delegate is a member of the Judiciary Committee, please contact him or her and ask for support for H2764.

Julie Archer (WV-CAG) and I have been making the rounds in the House wing, talking with the Delegates and particularly with members of the Judiciary Committee.

In the Senate, a judicial public financing proposal for the WV Supreme Court has been introduced, S311. It is modeled after our legislative bill and would be funded through the unclaimed property fund. It has been referred to Judiciary and Finance as well.

If you would like information about related meetings during March, contact me at (304) 847-5121.



Energy Bills

Two of the governor's big energy bills have been introduced in both houses.

The "Alternative and Renewable Energy Portfolio Act" is SB 297 in the Senate and HB 2682 in the House.

The carbon dioxide sequestration and storage regulations bill is SB 396 in the Senate and HB 2860 in the House.

Two of WVEC's energy bills have been sent down for introduction in the House by Delegate Barbara Fleischauer (D-Monongalia). Two others are still working their way through the process.

We are still analyzing the governor's bills, and trying to make sense out of the numerous other energy-related bills that have arisen seemingly out of thin air.

Stay tuned.

STOP PATH Power Line Rally Will be on E-Day!

by Frank Young

In connection with the WV Environmental Council's annual E-day! events on March 11th, WV E-Council and other organizations and interested individuals will be sponsoring a late afternoon rally and informational meeting in opposition to the proposed PATH electricity transmission line. PATH is an acronym for *Potomac-Allegheny Transmission Highline*.

PATH is a proposed joint venture between American Electric Power Company (AEP) of Columbus, Ohio and Allegheny Energy Company of Greensburg, PA. PATH, if approved by regulatory agencies and constructed, would be a giant 765 Kilovolt electrical power transmission line that would run 290 miles from AEP's John Amos power plant substation near St. Albans, WV, to a new substation near Frederick, MD.

PATH would include a right-of-way swath 200 feet wide through farms and forests and other public and private properties, across up to a dozen or more WV counties, and through the state's eastern panhandle into Virginia and Maryland. The apparent purpose of PATH is to transfer coal fueled electricity from the Ohio Valley to eastern cities near the Atlantic coast.

Strong local citizen opposition to PATH has developed over several months, with STOP PATH rallies and informational meetings held or soon to be held in almost every county through which PATH would pass.

The STOP PATH rally in Charleston on E-day! will be held at the same location as the WVEC E-day! dinner and awards ceremony- at the Charleston Women's Club at the corner of Elizabeth Street and Virginia Street East, less than two blocks from the state capital building. The E-day! Charleston STOP PATH rally will be held from 3:30 PM until 5:00 or 5:15 PM.

Citizens Against PATH will have a STOP PATH informational table in the capital building rotunda on E-day from 9:00 AM until 3:00 PM, with maps, signature petitions against PATH and other information.

For further information or offers to help with the STOP PATH rally: Contact Frank Young, e-mail fyong@mountain.net, or by telephone 304-372-3945.



Truth is the “Path” To the Smart Grid

by John Christensen, WVEC Lobbyist

It has always been my feeling that the American people can handle the honest to goodness truth despite what our leaders both in industry and government would have us believe.

It seems to me that the biggest issue facing our state and our country is the future of a clean, sustainable and renewable energy source to replace the old carbon emitting ones of the past.

The governor’s ideas for our state energy policy in the coming years were laid out in his State of the State speech a couple of weeks ago, when he introduced his “Alternative and Renewable Energy Portfolio Act.”

If you dig into his plan you see that the “alternative” part is anything but sustainable and would actually put more greenhouse gases in our atmosphere in the form of burning coal “alternatively” . . . hhhmmmm, I smell something untruthful here and it isn’t clean air. Manchin’s alternative (and renewable) energy portfolio plan includes everything coal, which means it doesn’t address climate change or increased efficiencies at all.

Here on Washington St. East, in the offices of the WVEC we have a different take on what a renewable energy portfolio should encompass. It involves maximum conservation efforts first and foremost and the use and development of sustainable renewables like wind, solar, geo-thermal and bio-technologies (that don’t impact the food supply) in order to have a chance at saving our atmosphere for future generations.

One of the biggest issues that comes to mind this session but hasn’t even surfaced yet is the governor’s promise to tax transmission lines like Trail and PATH. Some folks refer to these behemoth lines as the “smart grid” but to me it sounds a lot like clean coal, just another oxymoron for us to decipher.

If the governor gets his way these monster transmission lines will be built, taxed and put in business to support at least five or six NEW coal fired plants in West Virginia that will help to make us the “boiler room” of the nation. That term was coined by none other than Bill Raney during an Interim Committee meeting before the session started.

Don’t let anyone fool you about the smart grid. This turkey is nothing short of an obsolete path to more pollution of our air, rivers, and lands. I liken the

transmission towers as dumb, huge, expensive, dirty extension cords that have no chance of benefiting the citizens of West Virginia.

We need to allow the greener states of the northeast to provide for their own green electricity in the future that is close to the source so they don’t look to us as their “boiler room.”

Surface Owners’ Bill of Rights Introduced

by Norm Steenstra III & Julie Archer
norm@wvsoro.org / julie@wvsoro.org

We all know that there are few protections in state law for West Virginia surface owners. A new legislative session has begun and there are two bills that can give landowners more say in the location of wells and access roads and other matters related to oil & gas exploration on their property. One is being sponsored by members of the Joint Judiciary Committee and is based on laws in New Mexico. Dubbed the Surface Owners’ Protection Act, it is a step up from current law, but we are also reintroducing our own Surface Owners’ Bill of Rights from last year with some small modifications.

While the committee bill provides additional notice to surface owners, our bill gives more notice, and adds the right to negotiate with the drillers. The Surface Owners’ Bill of Rights also gives surface owners the right to purchase gas at cost for wells on their land, and would compensate them for the market value of the property taken for well sites and access roads instead of letting the drillers pay us meadow value for a potential or future home site.

The Surface Owners’ Bill of Rights was introduced Wednesday in the Senate (SB 374), coincidentally on the same day that Senator Walt Helmick (D-Pocahontas) and Delegate Brent Boggs (D-Braxton) gave word-for-word, identical floor speeches in support of the oil & gas industry (visit <http://www.wvpubcast.org/newsarticle.aspx?id=8356> to listen). Senate sponsors are Senators Larry Edgell (D-Wetzel), Randy White (D-Webster) and Jeff Kessler (D-Marshall). We expect the House bill to be introduced next week. The committee bill should also be coming out soon and we will be monitoring it, but of course focusing on getting our bill passed.

More information and updates can be found at www.wvsoro.org.

Bills We Are Tracking

Bill Number	Title	Committee
Senate Bills		
SB 14	Requiring jobs impact statement for proposed legislation (<i>Perennial Bad Bill</i>)	Econ Dev
SB 28	Public health assessment of DEP rules (WVEC Bill)	H&HR
SB 45	Authorizing DEP Secretary to sign NPDES permits (<i>Bad Bill</i>)	EIM
SB 79	Requiring PSC promulgate wind power project rules	Judiciary
SB 92	Eliminating timber severance tax	Finance
SB 234	Exempting fish farm sludge from DEP sludge management requirements (<i>Bad Bill</i>)	Agriculture
SB 237	Establishing returnable beverage container deposit program (Bottle Bill)	Nat Resources
SB 240	Repealing nuclear power plant ban (<i>Terrible Bill</i>)	EIM
SB 241	Creating WV Public Campaign Financing Act (Clean Elections)	Judiciary
SB 279	Industrial accidents and emergency response regulations (think MIC)	EIM
SB 297	Alternative and Renewable Energy Portfolio Act (Governor's Bill)	Judiciary
SB 301	Creating Green Buildings Act (WVEC Bill)	Transportation
SB 311	Supreme Court Public Campaign Financing Pilot Program	Judiciary
SB 325	Creating WV Energy Efficient Buildings Program Act	Transportation
SB 371	Creating Energy Efficient Building Act	Transportation
SB 372	Natural gas and oil severance taxes	EIM
SB 374	Creating Oil and Gas Surface Owner's Bill of Rights (SORO Bill)	EIM
SB 375	Relating to Office of Coalfield Community Development	Econ Dev
SB 396	Regulating carbon dioxide sequestration and storage (Governor's Bill)	EIM
House Bills		
HB 2009	Tax credit for use of West Virginia coal	EIL
HB 2098	Prohibiting oil and gas operators from daylighting	EIL
HB 2133	Increasing the penalties for discarding trash on land and in streams	Passed Nat Res, to Judiciary
HB 2244	Prohibiting solid waste authorities from competing with private recycling businesses	Pol Sub
HB 2314	Surface mining severance taxes	EIL
HB 2321	Extending the alternative-fuel motor vehicle tax credit (<i>Great Bill</i>)	Finance
HB 2328	Increasing PSC appointees	Gov Org
HB 2363	Jobs Impact Statement Act (<i>Perennial Bad Bill</i>)	EIL
HB 2460	Prohibiting mining on cemetery land	EIL
HB 2474	Exempting fish farm sludge from DEP sludge management requirements (<i>Bad Bill</i>)	Passed Ag, to Judiciary
HB 2499	Requiring DEP remediate waste tire piles consisting of more than twenty-five tires	Passed Jud, to Finance
HB 2511	Valuation of managed timberland	Nat Res
HB 2514	Verifiable Science Act (<i>Perennial Bad Bill</i>)	Gov Org
HB 2535	Creating a tax credit for certain solar energy systems (<i>Great Bill</i>)	EIL
HB 2565	Industrial accidents and emergency response regulations (think MIC)	EIL
HB 2602	Establishing a returnable beverage container deposit program (Bottle Bill)	EIL
HB 2640	Adding a member to the Surface Mine Board that represents the interest of labor	EIL
HB 2680	Increasing DEP advisory council to nine members (<i>Perennial Bad Bill</i>)	Gov Org
HB 2682	Alternative and Renewable Energy Portfolio Act (Governor's Bill)	EIL
HB 2735	Changing the membership of the State Conservation Committee	Agriculture
HB 2764	West Virginia Public Campaign Financing Act (Clean Elections)	Judiciary
HB 2781	Tax credit to sawmills for LEED's certification	EIL
HB 2787	Relating to PSC decision notices	Gov Org
HB 2798	Lengthening the period for voter registration	Judiciary
HB 2833	Clarifying the taxation of natural gas and oil	EIL
HB 2835	Relating to the Office of Coalfield Community Development and master land use plans	Pol Sub
HB 2860	Regulating the sequestration and storage of carbon dioxide (Governor's Bill)	Judiciary
HB 2863	Relating to construction of state utility projects	Pol Sub
HB 2872	Allowing county school boards to enter into energy-saving contracts	Education

(NOTE: All agency rules bills have been introduced sporadically in both houses. WVEC is tracking those separately).



Calendar of Events



March 5: WV Division of Culture & History Collegiate Series: "Artist's Dialogue" lecture. Begins at 7 PM. To take place in the Norman L. Fagan West Virginia State Theater. Erika Osborne, assistant professor in the division of art at WV University (WVU) will focus on her multi-media work addressing issues of environment and place.

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 the WVEC office: (304) 414-0143.

March 11: Citizens Against PATH Rally Day in Charleston. A STOP PATH informational table will be in the capital building (Lower Rotunda) as a part of E-day. 9:00 AM until 3:00 PM - maps, signature petitions against PATH and other information available. STOP PATH rally will be held from 3:30 PM until 5:00 or 5:15 PM at the Women's Club of Charleston, 1600 Virginia St. East (just a few blocks from the capitol.) **For further information or to offer to help with the STOP PATH rally**, contact Frank Young, e-mail young@mountain.net, or by telephone 304-372-3945.

March 11: E-Day! Benefit Dinner Reception & Award Presentation Ceremony. 6:00 PM - 9:30 PM. Women's Club of Charleston 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. Admission at the door: \$ 15. **For more information**, call the WVEC office: (304) 414-0143.

March 1: Carefree Snowshoe Tour. Whitegrass Ski Touring Center. Begins at 1:00 PM. Snowshoeing on the Canaan Valley National Wildlife Refuge. Tour includes Natural history and local lore. **For more information:** call (304) 866-4114.

March 8: Carefree Snowshoe Tour. Whitegrass Ski Touring Center. 1 pm. Led by Canaan Valley Master Naturalists Bruce and Andy Dalton. **For more information call:** (304) 866-4114.

April 17 & 18: Annual WV Sustainable Fair 2009 - "Green Makes \$en\$e". 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, alternative transportation 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 call Denise, (304) 617-7073.

May 1: WV Citizen Action Group's Annual Spring Fundraiser. Woman's Club of Charleston - 1600 Virginia Street East. Great buffet, progressive friends, silent auction. More details soon!

May 30: Kanawha Valley Connections: Creating Pathways to Sustainability" Fair. Habitat for Humanity Restore, 815 Young Street, Charleston. All day event. Sustainability themes showcased include, local foods, businesses & jobs, conservation, energy sources, recycling, health, economic development, culture, transportation, recreation. Looking for more local area businesses, artists, environmental organization for booth displays. **For more information:** Will Taylor, (304) 382-1233.

June 27: 6th Annual Lavender Fair - "Just Keep Dancing!". LaPaix Herb Farm, Lewis County. National Historic Landmark (May/Kraus Homestead.) Workshops and talks on using herbs for crafts, culinary and medicinal purposes, organic wild edibles, etc. Demonstrations, interesting booths, wood walks, booths, gourmet food, live music and much more. Admission: \$5/person, \$10/family (one car) **For more information:** www.lapaixherbfarmproducts.com/lavender_fair_2009.htm

Support the West Virginia Environmental Council

2206 Washington Street East, Charleston WV 25311

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

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- _____ \$ 10 Student / Senior
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- _____ \$ 100 Sustaining
- _____ \$ 250 Enviro Steward
- _____ \$ 500 Canopy
- _____ \$ 1,000 Old Growth
- _____ \$ Other



**Come to
E-Day!
March
11th**