



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 – “Environmental Excellence” ???

When the statute creating the “Environmental Excellence” Program was adopted by the Legislature in 2004, I had my doubts.

Various members of the environmental community had some input to the legislation at that time, and to their credit DEP responded to some of our concerns. However, our support for this program has at best been luke warm, and we realized at that time that “the devil was in the details,” and that the issues we were most concerned with would be addressed in the rule.

DEP has finally proposed the rules to implement this program, and I still have my doubts, as do other WVEC members like Dr. Jim Kotcon (Sierra Club) and Dr. Margaret Janes (WV Rivers Coalition and Appalachian Center for the Economy and the Environment).

WVEC’s strength lies in the fact that we are a coalition and can draw on the individual expertise of our members and member groups. The lobby team needs all the help we can get when we are down here, so naturally I asked Jim and Margaret, who have considerable background in dealing with state regulatory programs, to provide me with their comments on this rule.

Margaret fired back to me, “I am very troubled by this proposal.”

“There appear to be many loop holes with the participants getting a lot of credit for planning and intentions that seemingly have no real on the ground monitoring in terms of environmental improvement. The whole term ‘environmental performance goals’ is worrisome as

..... continued on page 3

In Wake Of Disaster, Mining Damage Should Not Be Overlooked

By Judy Bonds, Coal River Mountain Watch

(Judy wrote the following article for the *Charleston Gazette*).

In response to Susanna Rodell’s thoughtful column, “Looking for the human element,” I would point out that the “human element” is a two-sided issue.

Are workers at strip mines concerned about the humans living in nearby communities who have to endure blasting, flying rocks, air pollution, water pollution, coal dust and flooding caused by strip mining? Are they concerned about what will be left for their children when they destroy their own home place? Where will our children live when the coal is gone and the land is destroyed and nothing can survive here?

Please note that coal-producing counties are among the poorest counties. Coal has corrupted this state so badly that a mono-economy exists, thus taking away employment choices. Citizens should demand different types of employment, but people won’t stand together because it is easier to challenge little David, the activists, than to challenge Goliath, the coal barons. It’s even easier to keep silent.

This is similar to the battered wives syndrome. A man keeps abusing a woman and children, but he has a job. She knows one day he will beat her and the children to death, but she is in denial and continues to allow herself and her children to be abused for the sake of money and convenience.

Marsh Fork Elementary School is an example of this.

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E-Day! at the Capitol - Valentine's Day !

Tuesday, February 14th from 10 AM ~ 3 PM

Lower Rotunda

Join WVEC for a full day of citizen lobbying and soak up the 'green energy' we emit at the capitol ... help us launch our renewable energy campaign; gather the latest information on environmental issues from participating organizations; visit the sustainable business booths; gather together with environmentally concerned citizens from around the state and region.

Approximately 25 organizations and sustainable businesses will be on hand with displays and products. **Included in the festivities: Deposit Day**, sponsored by WV Citizen Action Group ... start saving your beverage containers to bring with you! Stay tuned to *Update* for details in the following two issues!

Mark your calendar now, as E-Day! is just around the corner!

To register your organization or sustainable business: deniseap@earthlink.net or call the WVEC office, (304) 346-5905.

E-Day Reception & Award Presentations ~

Join us after a full day at the capitol for a fun filled evening at the Perfater Law Building, 1311 Virginia Street East, Charleston from 6 pm ~ 10 pm. Featuring live music, dinner buffet, award presentations, stimulating conversation ... what could be more romantic than spending Valentine's Day with WVEC??? Rumor has it that we may even have candlelight and chocolates

Congratulations to our 2006 award recipients:

Mother Jones Frank Young
Chuck Chambers Public Service *Stay tuned ... to be announced*
Linda Schnautz Environmental Courage Phillip Gaujot
Laura Forman Grassroots Activist Dave Cooper
Green Entrepreneur William McGlinchey, *AFV International, LLC*

Stay tuned for more information on our recipients, and details of our E-Day festivities in next week's Legislative Update!

For more information: WVEC office - (304) 346-5905 or deniseap@earthlink.net.

Legislative Session 2006 Information Sources:

Legislative Reference & Information Center:

MB-27, Bld. 1 - State Capitol Complex, Charleston WV 25305

WV Legislative web-site: www.legis.state.wv.us

(For bill tracking, bulletin board (journals), legislators' e-mails.)

To Call Toll Free: 1-877-565-3447 or local Charleston area:
(304) 347-4836

WV Environmental Council Web-site: www.wvecouncil.org

Ohio Valley Environmental Coalition: If you want to easily get the latest news during the legislative session, check www.ohvec.org/ovec_news.html and www.ohvec.org/news_gen.html daily. Every morning, OVEC checks scores of news sources and post links to make it easier for you to stay informed.

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www.wvecouncil.org

Legislative Update welcomes letters, articles, and art work from readers and reserves the right to edit or reject submissions. Please send materials to:

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

performance doesn't mean results — sort of like build a fence or place a rock and hope that has an environmental impact. Plus some of the incentives mean easing off on hazardous waste facilities.”

Exactly.

Jim's comments were similar and typical of his critical analytical eye. He went through the “Regulatory and Administrative Incentives” section, pointing out his concerns with each section line by line – the provisions calling for reduced inspection frequency, flexible air permits, reduced reporting frequency for MACT (hazardous air emissions) facilities, and reduced frequency for filing water discharge monitoring reports.

“The reduced inspection frequency and ‘flexible air permits’ concepts are exceedingly vague,” he said, “and are a recipe for trouble and an invitation for abuse. The reduced reporting frequency will reduce availability of data for citizens who might want to monitor discharges or who are concerned about an ‘upset’ from a facility.”

“There are a few other aspects of this rule with which I am still not comfortable,” Jim continued. “The most important of these is the overall vagueness of the rule and the potential for abuse of the program. If we assume that West Virginia's voters will never again be suckered by a politician bought and paid for by polluters who then fills DEP posts with cronies in order to do favors to industry, then this well-intentioned program may end up being fairly innocuous. But past history indicates this is not a safe assumption.”

Say it's not so, Jim

Then he concluded with the following observation: “If environmentalists were drafting an environmental excellence program, it would take a very different form, and it would certainly not be one in which the polluters apply for the incentives, a blatant conflict of interest if ever there was one.”

Exactly.

DEP's “Environmental Excellence” program misses the mark because its very concept is ass-backwards. The polluters have succeeded nationwide in the political realm by hoodwinking environmental regulators into believing that actual regulations are evil, onerous and un-American.

Instead, they say, we need voluntary programs and profitable incentives to do the right thing.

Nonsense.

Don't forget to keep your bird feeders full this winter. It's the “environmentally excellent” thing to do.

Green Legislative Update

In Wake Of Disaster ... cont. from pg. 1

A man shouldn't have to put children in danger in order to feed his family. One need only look at the sludge dam, strip mine, coal dust, preparation plant and the silo so close to the school to see the problem.

As for the “greenies” and the Mountain Justice activists, these brave young people have every right to defend their future, their clean air and clean water from polluters. Bigoted people called the activists of Mississippi Freedom Summer during the civil rights movement long-haired, ill-dressed, outside protesters as well.

College activists are networking to demand clean renewable energy so they can have the basic necessities for survival, like clean air and clean water. It is our duty to leave our children a livable earth. It's insane for us to use all the resources, leave our children with the destruction and mess to clean up and nothing left for their energy needs.

Coal is a finite resource and should be a transition fuel. It is mined and burned in a way that is killing humans, poisoning our children, destroying our state, destroying the air and water that we need in order to live.

We must demand that the coal industry put the safety of workers, residents and the environment above their profits.

(Judy is a coal miner's daughter and ninth-generation Coal River resident. She is employed by Coal River Mountain Watch, and is a long-time WVEC member).

U.S. Ranks 28th on Environment

WASHINGTON, Jan. 22 - A pilot nation-by-nation study of environmental performance shows that just six nations - led by New Zealand, followed by five from Northern Europe - have achieved 85 percent or better success in meeting a set of critical environmental goals ranging from clean drinking water and low ozone levels to sustainable fisheries and low greenhouse gas emissions.

The study, jointly produced by Yale and Columbia Universities, **ranked the United States 28th over all**, behind most of Western Europe, Japan, Taiwan, Malaysia, Costa Rica and Chile, but ahead of Russia and South Korea.

The pilot study, called the 2006 Environmental Performance Index, has been reviewed by specialists both in the United States and internationally.

Source: americanprogressaction.org

Lobbying Really Can Suck At Times

By Allan Tweddle, WVEC Lobbyist
allantweddle@msn.com

Grabbing a legislator by the . . . collar (not my first choice) and asking him how the hell he got elected for more than head of household doesn't work. At least that's what the "How To Be An Effective Lobbyist" handbooks tell you.

But honestly, what do you do with a legislator who will listen to a smooth talking lobbyist from the deep pockets that supported the legislator's election and expect him to even think in terms of what the needs of his constituents might be.

Take mercury pollution, for example. I know we talked about it last issue of G.R.E.E.N. . . . ***but it's a serious issue that we are not going to let go without a serious fight.*** We all have been exposed to mercury's poisonous effects, because, as we all now know, the power plants have been tossing it out like harmless confetti all these years, poisoning our air, water, fish and us.

Poisoning our **CHILDREN** . . . and that really sucks.

But now that we do know, and have the science to prove it, what's happening? Lo and behold, the polluters have stepped forward to offer their generosity. Picture a real smooth talking \$500 per hour suit standing up in front of a bunch of legislators and announcing that the benevolent electric utility industry is really stepping up to the bar by generously announcing they will agree to their President's marvelous offer to cut mercury emissions by 75% by 2018.

And the legislators swallowed it. They didn't ask, "Well Mr. 'F', is that the best you can do for the health of our children?"

They didn't ask, "What's wrong with the Governor of Illinois' approach . . . 90% reduction by 2009?"

I would have loved to hear Mr. "F's" response to those questions, but they didn't ask.

Nor did they ask the representatives of the DEP present in the room if the proposed rule for mercury air pollution is a roll back of current West Virginia regulations (it is). Or if the Department of Health reviewed the proposed rule for health impacts to our children (they haven't).

They didn't ask these questions.
Shouldn't you?

Call your representatives, Senators and House Members, and ask those questions. Let them know that DEP's proposed rule — Rule 45-CSR 37, using the slow Bush approach isn't good enough for the health of West Virginia's children.

I've quoted her before, I'll say it again. As Debbie Fields says . . . ***good enough isn't***, and we shouldn't have to suck in any more mercury.

Our Readers Want Renewable Energy

Dear Allan,

My husband and I are currently living off the grid (small solar system, gravity feed water, and bottled gas for cooking) but will at some point in the near future be buying a house on the grid. I will be looking to do whatever is feasible both economically and practically to use less energy. A major part of that would be to add solar panels that will tie into the grid.

I haven't looked into this yet, but I would hope there would be real tax incentives to do this. Also I know that in some states the energy companies are required to buy back any extra energy produced. In some cases the refund is the retail cost per kw, in others its the wholesale price (which is negligible).

It would be good to have a well-informed government agency to help individuals make the changes.

A few years ago when in Spain, I read about a mine that had closed and they turned it into a solar panel factory. The first contract they got was to the school system, which outfitted something like 50+ schools in the province with them. So what does this do but leave more money for education, not energy. This just seems like common sense. We also have many government buildings, not only schools that would be perfect for solar panels and small windmills.

In the last couple alternative energy catalogs I've gotten, there was a comment that there was a longer than usual waiting time to get the larger panels since the supply is not meeting the demand. Sounds like good potential for a new business for WV.

I appreciate your putting some of your time into this issue.

Sincerely,
Donna Mitchell, *Montrose WV*



Critical Vote for “Clean Elections”

... Ask Senators to Support S.B. 124

By Julie Archer, julie@wvcag.org

Senate Judiciary Committee Chairman Jeff Kessler plans to put S.B. 124, the “**WV Public Campaign Financing Act**,” on the committee’s agenda early next week. **At this time it appears the committee vote will be very close.**

The following Senators are considered to be “swing” votes and could be critical to the bill’s passage. **They need to hear from their constituents and constituent groups urging their support for S.B. 124, the “WV Public Campaign Financing Act.”**

- Senator Mike Oliverio, (D-Monongalia) 357-7919
- Senator Charles Lanham, (R-Mason, Putnam, Jackson, part of Roane) 357-7843
- Senator Clark Barnes, (R-Hampshire, Hardy, Morgan, Pendelton, Randolph, Pocahontas) 357-7973
- Senator Joe Minard, (D-Harrison, Braxton, Gilmer, Lewis) 357-7904
- Senator Truman Chafin, (D-Mingo, McDowell, Mercer, Wayne, Wyoming) 357-7808
- Senators can also be reached toll free at 1-877-565-3447

If you live in these Senate districts PLEASE take a minute to call your Senator and ask them to vote in favor of S.B. 124. Let them know you are a constituent by leaving your name and address with your message.

Background:

The WV Public Campaign Financing Act (S.B. 124) would create an alternative public financing option for candidates seeking election to the state Senate and House of Delegates. The system is voluntary and candidates who participate agree to abide by contribution and spending limits. Public funds would be made available to candidates for the state Senate and House of Delegate candidates in single-member districts beginning with the elections to be held in 2010, and to candidates in the remaining House districts beginning in 2012.

Public financing is an important step to reduce candidate reliance on special interest money and enable candidates who lack personal wealth or access to wealthy contributors to run a competitive campaign – paving the way for ordinary citizens to have a voice in the political process.

At least six other states have already adopted full public financing programs for some or all state offices and *Green Legislative Update*

several others are considering similar legislation. In Maine and Arizona, the nation’s two pioneering “clean elections” states, it is now the political norm to run for office free from direct dependence on private campaign contributions.

If West Virginia’s legislature passes S.B. 124, candidates for the statehouse could spend more time talking about issues instead of fundraising. They could run on the merit of their ideas. Incumbent legislators who opt to run under this “voter-owned” system would be free to vote their conscience-instead of feeling beholden to special interest contributors.

Public financing of elections is a sensible approach to changing the status quo and moving toward a government that is more honest, open and accountable to the needs of all its citizens, not just a select few who can afford to make big donations to candidates.

So please take the time to call the Senators listed above today. You can also reach them toll-free at 1-877-565-3447. For more information see www.wvoter-owned.org/.

Logging The Panama Canal?

(Featured in January 21, 2006 Gazette/Mail's Kid Corner, "GEO WEEK"):

It’s hard to believe that the largest man-made canal in the world, connecting the Atlantic Ocean on one side to the Pacific on the other, might be having water problems.

But it is. the problem isn’t too little water, but rather the sporadic way that nature delivers it.

Think of the canal as a series of pools stair-stepping up over the Isthmus of Panama from both oceans. At the center sits Gatun Lake, a massive artificial lake built at the same time as the canal to feed water into the locks that lift the boats from one ocean to the other.

Gatun Lake is fed by runoff from the surrounding mountains and jungle, and the annual rainfall is more than enough to supply the canal’s needs. But in recent years loggers and clear-cut farmers have destroyed an estimated 53 % of the forest in the watershed. Without the forest to slow the runoff, the water quickly flows into the lake and over its dam, lost for use to fill the canal’s locks.

The Panamanian government is now actively trying to educate people living in the canal region in hope of changing their behavior and conserving the remaining forest in the watershed.

(Apparently, the Panamanian government could tell the WV Legislature a thing or two about increased runoff from clear cut forests.....)

Redefining Mine Safety

By Norm Steenstra, norm@wvcag.org

I worked in a small underground coal mine for a couple of years. Roof falls were common and electrical fires were a constant threat. We had a “bad air” episode and I still marvel that we made it out. The Sago and Logan mine tragedies stirred up emotions placed in storage for over 25 years. In a small way I could visualize what the trapped miners went through.

I commend the quick action taken by the governor and the legislature in addressing the causes of these recent tragedies but the safety issue is far more comprehensive. Mine safety does not stop at the mine portal.

Hundreds of West Virginians live, worship and send their children to school down the hollow from some of the state’s 140 coal impoundments. Thirty-four years ago the world learned at Buffalo Creek that these dams could fail, erase communities and kill entire families. More recent episodes in Kentucky and our own state indicate that coal dams are still not safe. Miners have the United Mine Workers to advocate for their safety but who lobbies for the potential victims of dam failure? Why don’t the people down stream merit the same disaster communication systems and new regulatory scrutiny?

Coal impoundments are a disaster waiting to happen. Located 4 football fields away from a huge AT Massey impoundment, Marsh Fork Elementary is a poster child for a potential calamity. Massey also owns the impoundment that failed in Martin County, Kentucky several years ago. Both dams have received numerous construction violations from federal inspectors. Common sense says sooner or later, due to negligence, people will die as a result of a West Virginia dam failure.

I said I could somewhat relate to the miners’ terror but I cannot relate nor have I ever experienced the terror of living downstream from a coal impoundment. People living with this omnipresent risk need leadership from both the governor and the legislature now.

"We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

Martin Luther King, Jr.

Spotlight on WVEC Lobby Team

Bio Pick of the Week: Julie Archer

By Julie Archer, julie@wvcag.org

Growing up near Parkersburg - I have spent 34 of my (almost) 35 years in West Virginia. After graduating from Marshall University in 1994, I spent a year working in Wyoming – first as an intern for the Equality State Policy Center (ESPC) working on, of all things, a state legislative accountability initiative. My work with ESPC lead to my first lobbying position working for the Wyoming Chapter of the Sierra Club.

After returning to West Virginia, at the suggestion of friends I decided to get involved in environmental issues here and began doing volunteer work with the Ohio Valley Environmental Coalition (OVEC) and WVEC, when they and other groups were fighting the Apple Grove Pulp Mill.

In 1999, I joined the staff of WV-Citizen Action Group (WV-CAG.) The following year I did my first stint as a WVEC lobby team member and I have been lobbying in some capacity - either for WV-CAG, WVEC or both every year since. In addition to lobbying, I manage the People’s Election Reform Coalition WV (PERC-WV) databases on contributions to West Virginia political campaigns as part of WV-CAG’s joint project with the Ohio Valley Environmental Coalition (OVEC) and WV-CAG’s sister organization, the Mountain State Education and Research Foundation (MSERF).

Although environmental issues are what initially led me to become an activist, I have always felt strongly about a woman’s right to make her own childbearing decisions and am active with and serve on the board of WV FREE, a statewide organization that advocates for reproductive rights.

When I’m not working, I enjoy mountain biking and roaming the hills of my Lincoln County farm with my husband Terry and our seven dogs. We often take in stray dogs in need of a home; so if you’re looking for a dog to make your life complete, contact me. We may have just the right dog for you!



Think Renewable Energy



Calendar of Events



February 11 and 12: The West Virginia Energy Gathering for Students and Youth. This statewide summit meets Feb. 11 at St. John's Episcopal Church in Charleston, W.Va. Feb. 12 field trip to Kayford Mountain. Housing assistance is needed; please contact abe@ohvec.org if you can provide shelter to the youth.

Many non-student youth from around the state, and students from Shepherd, Marshall and WV Universities as well as Glenville State have committed to attend; students from Wheeling Jesuit, Bethany College and Fairmont and other higher education institutions have also expressed interest. Get your college or friends involved!

For more information: E-mail abe@ohvec.org

February 14: E-Day! at the Capitol - Valentine's Day, Tuesday, 10 AM ~ 3 PM. Set up time for organizations and sustainable businesses begins at 8:00 am.

For more information: Call WVEC office, (304) 346-5905.

February 14: E-Day Reception & Award Presentations. Perfater Law building, Virginia Street East, Chas. 6 PM ~ 10 PM.

For more information: WVEC office - (304) 346-5905.

Feb. 27: Buffalo Creek Day at the State Capitol. Join members of the Sludge Safety Project (SSP) in Room 252 of the House Side of the State Capitol (Lewis McManus room). Legislators will be invited to attend and see clips of "Buffalo Creek – An Act of Man" and "Buffalo Creek Revisited" (see Jan. 25 entry above). SSP members whose health and safety suffers because of coal sludge impoundments and coal slurry injection will be present to speak with the public and legislators.

March 11: Regular Legislative Session ends.

March 11, 2006: 7 p.m. West Virginia premiere of "Black Diamonds - Mountaintop removal and the fight for coalfield justice." The film screens at the LaBelle Theatre/Museum, 311 D Street. South Charleston. This documentary charts the

escalating drama in Appalachia over the alarming increase in large mountaintop removal coal mining. Filmmakers Catherine and Ann Pancake were born and raised in West Virginia. Catherine has become an award-winning filmmaker and Ann is an award-winning author. Working for more than 4 years on this project, they have traveled throughout Appalachia to chronicle the unparalleled destruction. Interviews with Julia Bonds, Maria Gunnoe, Arley Johnson, Ken Hechler, and William Maxey. Maryland State Arts gave the film's demo tape and Individual Artist Award. See www.blackdiamondsmovie.com/. and www.geocities.com/scmuseum/.

Admission is a \$2.00 donation to the museum.

April 29: Greenbrier River Trail Association's 20th annual "Race of the River & Trail" - Marlinton, WV.

For more information: www.greenbrierrivertrail.com.

May 25-29: Please hold this date. Heartwood Forest Council/ Summit for the Mountains joint event. Please help plan place, logistics, speakers.

If you want to help, contact Janet 304-522-0246 at:


ohvec@ezwv.com or Andy Mahler atandy@blueriver.net (812) 723-2430.

June 24: 4th Annual Lavender & More Fair, "Livin' Easy". LaPaix Herb Farm, Alum Bridge WV. Featuring sustainable initiatives; workshops; presentations; wood walks; artisan, environmental & herb booths. Live music, gourmet food prepared by chef Dale Hawkins and so much more. Stay tuned for more detailed information. Please visit the website listed below.

For more information & to register: lapaixherbfarm.com

E~Day! at the Capitol

February 14, 2006



Support the West Virginia Environmental Council

1324 Virginia Street – East, Charleston WV 25301

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_____ \$ 500 Canopy

_____ \$ 1,000 Old Growth

_____ \$ Other



Don't forget to join us for **E~Day!** at the Capitol ~
February 14th ~ Lower Rotunda