



*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 Lobbyist*

### Week 1 – WVEC Adopts 2013 Legislative Agenda

In a process that began at our annual Fall Conference, the West Virginia Environmental Council board of directors recently finalized the organization's legislative agenda for the 2013 regular session of the West Virginia Legislature.

While the issues out there are numerous, our resources are limited. So it is always necessary for us to winnow the list down and set some priorities.

This year the board chose one priority issue for the session: improving the state's regulation of horizontal drilling and hydraulic fracturing for natural gas. This will include working to insure that §35CSR8 – the DEP Horizontal Well Control Act Rule – is not weakened by industry amendments as it works its way through the torturous legislative process.

It will also include responding to the two DEP studies that were due to be reported to the Legislature at the first of the year (both reports are now past due): the first is the study of air/noise/dust/VOC's as they relate to the proximity of well pads to peoples' homes; the second is the study of the safety of pits and impoundments.

We will also be looking for opportunities to improve the Horizontal Well Control Act that was passed in the December 2011 Special Session, as well as opportunities to improve the implementing rule.

Other issues on our 2013 legislative agenda include:

- Supporting Energy Efficient West Virginia's efforts to pass legislation requiring "Integrated Resource Planning" and "Energy Efficiency Resource Standards" for electric utility companies;

- Working with the Coopers Rock State Forest Foundation to pass a bill that would transfer the management of part of this wonderful recreational resource from the Division of Forestry to the DNR Parks Division;
- Supporting the Fire Commission rule -- §87CSR4 – updating the energy code within the state building code to the 2009 International Energy Code standards;
- Opposing DEP’s WV/NPDES Rule (water quality standards) for Coal Mining Facilities -- §47CSR30. This rule implements SB 615, a bad bill passed by the legislature last year that removed from state law a measure requiring coal mine facilities to meet not only their specifically permitted effluent limitations but all of the state’s water quality standards.
- And a short list of on-going efforts that includes a “Bottle Bill”, a “Public Health Impact Assessment” bill, extending the Supreme Court public campaign financing pilot project, support of a resolution opposing the “Citizens United” Supreme Court decision, creation of a severance tax “Future Fund”, and a “Complete Streets” bill.

You will be hearing more about all of these issues in upcoming editions of our weekly *Legislative Update*.

So the Legislature’s back in town. Let the fun and games begin!

And it is definitely winter out there, so remember to keep your birdfeeders full.

## **Tomblin Speech Light on Talk of Energy Issues**

*By Ken Ward Jr.*

*The Charleston Gazette (re-printed here by permission) February 13, 2013*

Gov. Earl Ray Tomblin on Wednesday night promised to keep fighting tougher federal regulation of the coal industry, touted continued growth of the state's natural gas business, and said he would spare West Virginia's mine safety agency the budget cuts hitting other sectors of state government.

But in a speech heavy on details of Tomblin's proposed overhaul of the state school system, the governor focused less on energy issues -- and said hardly anything about pressing issues in communities where coal is mined and gas is produced.

"I think he did a disservice to the natural wealth of the state, in ignoring what is happening to the workers and to the people in our communities," said Cindy Rank, longtime leader of the West Virginia Highlands Conservancy.

Jim Sconyers, chairman of the state chapter of the Sierra Club, said he was "taken aback" that the governor spent so little time talking about coal.

Sconyers said he would have liked to hear Tomblin talk about coal's contribution to global warming or about the growing scientific evidence that residents living near mountaintop removal mining operations face greater risks of serious illnesses, including cancer and birth defects.

"Energy was just not really in the picture," Sconyers said. "Maybe it's just gotten so controversial that he didn't even want to bring it up."

Tomblin did bring up both coal and natural gas, though they were discussed less than last year, when lawmakers had just finished a special session on Marcellus Shale regulations and the governor was proposing a new package of mine safety rules.

This year, for example, the governor said that West Virginia is "making the most of the opportunities associated with" the state's abundant supplies of natural gas.

"We are working with the private sector to take advantage of our natural gas resources by converting more vehicles to compressed natural gas," Tomblin said.

In one paragraph dedicated to coal, the governor called the industry "an integral part of West Virginia" and promised to keep up his battle against U.S. Environmental Protection Agency efforts to curb coal's negative impacts on the environment, public health, and the global climate.

"I believe in the production of coal, its value to our country, and I will continue to do everything that I can to fight the EPA and its misguided attempts to cripple this industry," Tomblin said.

That one paragraph was good enough for West Virginia Coal Association President Bill Raney.

"I thought it was a whale of a speech," Raney said. "The important thing is to keep our operations open and keep our people working and make sure we can keep mining coal."

Tomblin lamented that, "significant declines in the production of coal have battered West Virginia's economy." But observers noted that the governor offered little in the way of a vision of how to diversify coalfield economies as the industry continues to decline in the face of mined-out reserves, low natural gas prices, and competition from other coal basins.

"He started out great, talking about preparing for our future, but then he totally ignored talking about a West Virginia future without coal," said Don Garvin, lead lobbyist for the West Virginia Environmental Council.

Tomblin has refused requests that he form a special commission to plan a coalfield transition, and has declined to support proposals from various groups and Senate President Jeff Kessler, D-Marshall, for some sort of a "future fund" that would use coal and gas taxes for education, infrastructure and economic development programs.

"West Virginia needs to invest in transitioning our economy by ensuring that we use our rich natural resources to create sustainable wealth that is reinvested in our people," said Ted Boettner, executive director of the West Virginia Center for Budget and Policy.

Tomblin talked about last June's derecho, calling it "storm like no other we'd ever experienced before," but did not mention climate change and its links to increasing incidents of "extreme weather" in the state or around the world.

The governor mentioned briefly that his plan for state budget cuts "does not take money away from mine safety programs." But environmental groups noted that Tomblin made no such promise regarding the state Department of Environmental Protection, an agency that has struggled with a shortage of natural gas inspectors and a long-standing need staffing problem in its strip-mine enforcement program.

The governor praised West Virginia's coal miners, saying their dedication "is the work that built our state and the work that sustains it."

But he didn't mention that two miners have been killed on the job in the last week, while a third remained in critical condition Wednesday night after an accident the prior evening. Tomblin made no mention of a series of failures by his administration to implement key portions of last year's mine safety legislation.

"The governor is absolutely right that the work of miners built our state and sustains us, but the absence of real meaningful change on mine safety and health is a failure of the Legislature and the executive," said Davitt McAteer, a longtime mine safety advocate who led an independent team that investigated the Upper Big Branch Mine Disaster.

On natural gas issues, Dave McMahon, a lawyer with the West Virginia Surface Owners' Rights Organization, said his group would like to see more discussion of expanding the state's new drilling law to provide more protections to surface landowners -- something the state Supreme Court recently suggested might be needed.

"We hope this new Legislature does not weaken, and may even strengthen, the DEP's proposed rule carrying out the governor's Marcellus Shale bill passed in 2011," McMahon said.

Tomblin also did not mention the push for stronger state efforts to improve energy efficiency, an issue that's getting more attention nationally with President Obama's call in his State of the Union address to cut in half the energy wasted by homes and businesses.

"West Virginia certainly lags behind the rest of the country in energy efficiency," said Cathy Kunkel of the group Energy Efficient West Virginia. Energy efficiency efforts will lower utility bills, Kunkel said, "and also create more jobs per dollar than investments in the traditional electric and natural gas utility sectors."

Reach Ken Ward Jr. at [kw...@wvgazette.com](mailto:kw...@wvgazette.com) or 304-348-1702.

## **National News: Just In**

West Virginia Senator Joe Manchin has been named Chairman of the Public Lands, Forest, and Mining Subcommittee of the Senate Energy Committee. The subcommittee is responsible for Public Lands, Forests and Mining that oversees national mining policy, mining education and research, public lands and wildlife refuges.

Manchin stated that he is honored - and along with the Energy Committee's ranking member Senator Lisa Murkowski of Alaska, there will be an "all of the above approach that leads to energy independence".

So we can look forward to drilling rigs on every acre of public land in Alaska and the rest of the continental U.S.!!



## In Memoriam – The Loss of Two Very Special Friends: Don Gasper and Bob Gates

**Donald Craig Gasper** passed away Thursday, January 31<sup>st</sup> at the age of 82. Don served in the U.S. Air Force during the Korean War, and attended Rockhurst College and the University of



Missouri. He became a fish biologist and retired from the West Virginia Division of Natural Resources after 38 years of service to West Virginia. He was the first fisheries biologist assigned to the Monongahela National forest. A tireless worker, he continued to practice fish and water related sciences throughout the rest of his life. He was a pioneer in the fields of cold-water fisheries, acid mine drainage mediation, forest hydrology and acid rain studies. He was a 50-plus year member of the American Fisheries Society, a longtime active member of Trout Unlimited, the WV Highlands Conservancy, the West Virginia Environmental Council and the Buckhannon River Watershed Association.

The West Virginia Environmental Council is honored to have had Don as a friend, advocate and supporter for more than 20 years.

**Bob Gates** passed away on February 2<sup>nd</sup> at the age of 69. He is a noted West Virginia filmmaker who focused on the impacts of mining on coalfield residents and the environment. He helped found the West Virginia Filmmakers Guild, and was a member of various environmental groups over the years, including the West Virginia Highlands Conservancy and the West Virginia Environmental Council.

Bob's passion for the environment and West Virginia's people shows in his vast amount of photography and filmmaking. Noted films include, "In Memory of the Land and People" – his first, in 1977; "All Shaken Up: Mountaintop Removal Blasting and Its Effects on Coalfield Residents"; and "Mucked."

A memorial celebration will take place on Wednesday, February 27<sup>th</sup> at The Empty Glass (410 Elizabeth St., Charleston) from 5:30 – 8:00 PM. A sampling of Bob's films will be shown.



## February 19: Rally for Democracy – Rally for the Resolution

Join WV Citizen Action Group and be part of democracy in action Tuesday, February 19<sup>th</sup> at the WV State Capitol Building's Lower Rotunda at 11:30 AM. Support the Resolution calling on congress to stop giving corporations and wealthy individuals the right to buy our Democracy!

Speakers include: Senate President Jeff Kessler, Secretary of State Natalie Tennant and other elected officials, WV Citizen Action Group and Public Citizen Representatives. An appearance by Uncle Sam is planned - he will instruct the US Supreme Court members in the differences between a Corporation and a real live person! Music provided by Paul Epstein.

West Virginia Environmental Council's  
**Legislative Kick Off Blast!**

Tuesday, February 19<sup>th</sup>

6 PM – 9 PM

**Little India Restaurant ~ Upstairs Bar**

**Suggested Donation: \$10**

*Featuring the music of*

**VooDoo Katz**



Join us as we kick off the 2013 legislative session in style!  
*Appetizers provided. Feel free to order from **Little India** menu  
on your own – they will serve you upstairs during the benefit!*

Sponsored by:

- WV Environmental Council
- WV-Citizen Action Group
- WV Highlands Conservancy

[www.wvecouncil.org](http://www.wvecouncil.org)

(304) 414-0143

## It's Time to Support Your Lobby Team

The West Virginia Environmental Council is **your** voice for the environment at the statehouse. Our work is financed primarily through contributions from our member groups and individual members.

Your donations will go to support WVEC's lobbying efforts for the 2013 legislative session. Thank you in advance for supporting our policy work. Please send whatever you can afford to our new mailing address: P.O. Box 1007, Charleston WV 25324.

### Calendar of Events

**February 19:** Rally for Democracy – Rally for the Resolution. WV State Capitol Building, Lower Rotunda at 11:30 AM. Speakers include: Senate President Jeff Kessler, Secretary of State Natalie Tennant and other elected officials, WV Citizen Action Group and Public Citizen representatives. Approve a Resolution calling on congress to stop giving corporations and wealthy individuals the right to buy our Democracy! Lobbying: visit your legislators from 9 AM – 11 AM **and** 1 PM – 5PM. For more information contact: Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org) or Norm Steenstra, [norm@wvcag.org](mailto:norm@wvcag.org) or call WV Citizen Action (304) 346-5891

**February 19:** Annual “Legislative Kick-Off Blast” Benefit. Little India Restaurant - 1604 Washington St. East, Charleston WV. 6 PM – 9 PM. Featuring live music by **The Voodoo Katz** from 7:30 PM – 9:00 PM. Suggested donation: \$10 (or whatever you can afford). Sponsored by WVEC, WV-CAG, WVHC.

**February 23:** 2013 Appalachian Folk and Heritage Conference. John P. Stephens Cultural Arts Center, Raceland-Worthington High School, Raceland Kentucky. From 10 AM – 6 PM. Films include, “Banjo Player from Bull Creek” and “Hazel Dickens: It’s Hard to Tell the Singer from the Song”. Panel on “Forging Our Future: 21<sup>st</sup> Century Appalachia”. Speakers include: Ernie Tucker – “Take a Feather from a Groundhog”; Soc Clay – “The Mad Trappers View”; Christie Cook – “Oral Storytelling, the Heart of Appalachian culture. For more information: [www.http://appalachianconference.weebly.com](http://appalachianconference.weebly.com)

**February 27:** “Power Hour” with Energy Efficient WV. Morgantown Library, Spruce Street – Room A. From 6 PM – 9 PM. Why is your power bill going UP? Say NO to pricey old power plants, and YES to efficiency. Discussion on two bills in the WV legislature this session regarding energy efficiency. Learn how you can help support these pieces of legislation. Chris Shepherd from Energy Efficient West Virginia ([www.eewv.org](http://www.eewv.org)) will be giving the presentation. Light refreshments provided.

**February 27:** Celebration of the life and work of Bob Gates. The Empty Glass – 410 Elizabeth Street, Charleston. From 5:30 – 8:00 PM. Friends of Bob Gates are invited to attend. A few of Bob’s films will be shown.

**March 14:** WVEC Annual E-Day at the Capitol. From 9 AM till 3 PM. Senate & House Halls & Upper Rotunda. Environmental Groups, Sustainable Businesses, Local Artists, Citizen Lobbying. For more information: [www.wvecouncil.org](http://www.wvecouncil.org) or contact Kevin, [a\\_clean\\_wv@yahoo.com](mailto:a_clean_wv@yahoo.com)

**March 14:** WVEC Annual E-Day Benefit Dinner & Awards Ceremony. The Women’s Club of Charleston (corner of Elizabeth St. and Virginia Ave.). From 6 PM – 9 PM. Enjoy our dinner buffet, cash donation bar, silent auction, live music and award presentations (to be announced). Join us and relax after E-Day at the Capitol. Suggested donation of \$20 per person at the door. For more information: [www.wvecouncil.org](http://www.wvecouncil.org) or contact Kevin, [a\\_clean\\_wv@yahoo.com](mailto:a_clean_wv@yahoo.com)

## Legislative Session 2013 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](http://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

**Listen Live:** West Virginia Legislature page <http://www.legis.state.wv.us/> and click on "listen live."

**WV Environmental Council Web-site:** [www.wvecouncil.org](http://www.wvecouncil.org)

WVEC Office: (304) 414-0143

### Ohio Valley Environmental Coalition:

[www.ohvec.org/ovec\\_news.html](http://www.ohvec.org/ovec_news.html) and [www.ohvec.org/news\\_gen.html](http://www.ohvec.org/news_gen.html) daily.

Every morning, OVEC checks scores of news sources and posts links.

*Legislative Update* is published by the West Virginia Environmental Council (WVEC) – a statewide organization dedicated to facilitating communication and cooperation among citizens in promoting environmental protection in West Virginia. *Legislative Update* is published weekly during the regular Legislative Session.

We welcome letters, articles, and artwork from readers and reserve the right to edit or reject submissions. Please send materials to Denise Poole, *editor* at [deniseap@earthlink.net](mailto:deniseap@earthlink.net)

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## Support the West Virginia Environmental Council

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Donations are not tax deductible.

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