



## West Virginia Environmental Council's

# G R E E N

*Grass Roots Environmental Effort Newsletter*

Volume: 14 Number: 1

Date: August 5, 2003

## WVEC Annual Gathering & Membership Meeting!!!

**Saturday, September 6, 2003**

**Asbury United Methodist Church  
501 Elizabeth Street, Charleston, WV**

### **Tentative Agenda:**

9:00 A.M. .... *Board Meeting, Nomination of Officers*  
12:30 P.M. .... *Potluck Luncheon*  
1:30 P.M. .... *Regional Sessions*  
2:00 P.M. .... *Legislative Issues Briefings*  
3:00 - 5:00 P.M. .... *Setting Legislative Priorities*

### **Evening Social Event to Be Announced**

You are invited to attend the 2003 WVEC Annual Membership Meeting. For a variety of logistical reasons, the E-Council has compressed this year's meeting down to a one-day event, instead of our customary weekend long gathering. Even though Charleston is a more or less central meeting location, we realize that some of you will still be traveling from distant parts of the state. Therefore, Charleston area members are offering to provide lodging for out-of-town members on Friday and Saturday nights. If you need a place to stay, please contact the E-Council office as soon as possible by phone at (304) 346-5905, e-mail Denise Poole: [deniseap@earthlink.net](mailto:deniseap@earthlink.net) or drop us a note at WVEC, 1324 Virginia St. E., Charleston, WV 25301.

This is your opportunity to help set the legislative priorities for the WVEC lobby team. We need to know what **your** environmental issues are in order to develop appropriate legislative strategies. If you cannot attend this annual meeting, please send us your thoughts by August 23 by e-mail to [wyro@appalight.com](mailto:wyro@appalight.com) or by snail-mail to Chuck

Wyrostok, 230 Griffith Run, Spencer, WV 25276.

**We look forward to seeing you on Saturday, September 6th!** Please come and join with new friends and old as we chart the course for the coming year (and don't forget to bring a yummy potluck dish to share at the luncheon).

## Campaign to End Mountaintop Removal Hits the Road

In April, Julia (Judy) Bonds, organizer for Coal River Mountain Watch, was awarded the prestigious **Goldman Environmental Prize**. Known as the "Nobel prize of the grassroots environmental movement," the Goldman prize is awarded each year to outstanding activists from each of the inhabited continental regions. The award recognized Judy's work opposing mountaintop removal coal mining and her efforts to protect our mountains, streams, forests, and residents of the coalfields.

**The West Virginia Environmental Council congratulates Judy on this well deserved recognition!**

Judy is generously donating \$49,000 of her \$125,000 prize to fund projects of Coal River Mountain Watch and other grassroots organizations working to end the devastating practice of mountaintop removal. One of these projects is a national road show to promote the campaign against mountaintop removal and build support for the Clean Water Protection Act of 2003.

The following is excerpted from "Campaign to End Mountaintop Removal Begins," reprinted with permission from the Spring 2003 edition of *Appalachian Voice*:

*Conservation and human rights groups across Appalachia say that there is new hope to end mountaintop removal coal mining. On February 12, Republican Christopher Shays and Democrat Frank Pallone introduced the Clean Water Protection Act (HR 738), a bipartisan bill that clarifies the intent of the Clean Water Act by ensuring that industrial and mining waste cannot be used to bury streams*

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# Legislative Interim Committees Examine Mining Rules & Water Use Law Update

by Conni Gratop Lewis and Don Garvin

The legislative interim committees that we are interested in got up and running starting with the June interims, after pretty much doing nothing in April and May. However, they are now running at a quicker pace. The August interims are meeting as we write this. Here is an update on what happened in June and July:

## Select Committee on Surface Mining

The June meeting featured Bill Raney regurgitating that “partially” because WV laws and regulations are “more stringent than” federal laws and regulations, the poor coal industry cannot compete with its neighbors, such as “Kentucky and Wyoming”! Matt Crum speaking on behalf of DEP totally blew away King Coal’s argument that it takes longer to get a permit in WV than in Kentucky. DEP has until the October interims to respond to all the industry rant. There is **not one pro-environment vote on this committee**. Staff attorneys are Joe Altizer for the House and Rita Pauley for the Senate.

At the July meeting in Parkersburg, the West Virginia Rivers Coalition made an outstanding presentation to the committee that rebutted the coal industry claims, point by point. Presenters were Liz Garland, Evan Hansen and Rick Eades. Cindy Rank, Margaret Janes, and Don Garvin also assisted in preparation of the presentation.

While few committee members actually attended, the attention level was high. Liz focused on some policy issues. Evan gave examples of NPDES permits that allow too much selenium into the water. And Rick did the big picture. The presentations were well received. Sen. Bill Sharpe said they were the best ones he had ever heard, and basically challenged the coal industry to respond in kind!

The only coal industry rep at that meeting was Bill Raney, who seemed startled by Sen. Sharpe’s challenge. The attention to detail and hard numbers separated the Rivers presentations from others. Sen. Weeks asked if it took longer for mines to get their NPDES permits than other applicants. Hmm . . . that’s actually a good question. Could it be that mine operators submit not quite complete applications for their permits? There will be opportunities for other environmental and citizen groups to present their views during the fall.

## Special Committee on Water

As this was the committee’s first real meeting in June, every lobbyist for business and industry was in attendance. The room was packed. The committee is dealing with two topics: the first is the water quantity resolution and SB 650; the second is another Farm Bureau attack on the Environmental Quality Board - this time we are hearing that they want to eliminate EQB altogether! The committee will not deal with the EQB issue until later this fall. The co-chairs are Sen. John Unger and Del. Nancy Houston.

**On the water quantity issue**, the committee heard a background presentation from House Judiciary counsel Joe Altizer and then a presentation by Larry George (former Highlands Conservancy president, former DEP director, and current attorney) on the law of water ownership in WV. According to Larry, water quantity and use in WV are still governed by English common law,

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**G.R.E.E.N.** is the quarterly newsletter of the West Virginia Environmental Council (WVEC), a statewide organization dedicated to facilitating communication and cooperation among citizens in promoting environmental protection in West Virginia. Subscriptions are \$25 per year. Subscribers will also receive the **LegislativeUpdate**, published weekly during the regular Legislative Session.

**G.R.E.E.N.** welcomes letters, articles, and art work from readers and reserves the right to edit or reject submissions. Submit materials (preferably e-mail or on disk) to:

**G.R.E.E.N.**, Denise Poole ~ *Editor*  
deniseap@earthlink.net  
1324 Virginia Street East  
Charleston, WV 25301  
304-346-5905  
www.wvecouncil.org

## Legislative Interim Committees ...

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which made it into our constitution via preceding Virginia laws. The WV constitution states that “the priority use of WV waters is for fishing, hunting, and fowling.”

While Sen. Fanning said in June that the committee would take this issue very slowly, in July committee staff actually presented the committee with a draft bill to regulate inter-basin transfers of water. It was not well received by the Republicans on the committee and probably needs work. But it did get the conversation started and allowed Del. Houston and others to reiterate the need to do something, since we are one of only two states east of the Mississippi that do not have water ownership protections under state law. Industry representatives were again out in full force, so they are clearly concerned about the bill.

**(NEWS FLASH:** At the Aug. 4 interim meeting the committee formed a stakeholder group to work on the water quantity issue, and WVEC and others have been invited to participate.)

### On Other Issues ....

**Public Lands:** A finance sub-committee chaired by Walt Helmick met in June to consider a resolution that claims that public lands such as parks, forests and wildlife management areas are a real tax drain on the counties by taking these lands off the tax roles. Reportedly this was spearheaded by Sen. Sarah Minear. Almost all the testimony came from Mike Withers for DNR (what irony). You don’t want to argue taxes with Mike Withers, I guarantee it. Mike did an admirable job, whenever Helmick would quit ranting long enough for him to answer.

Sen. Facemyer is apparently upset with DNR about this issue as well, and she is barely coherent when talking about it. At the July interims Mike Withers of the DNR presented information listing the counties where DNR owns or leases the most land. The tax department will calculate the property tax revenue loss for a future meeting. This list of course, did not include other state owned acreage (highways, prisons, colleges) or any tax exempt land (churches etc) or federal acreage. Just DNR land.

**Coal Trucks:** For those who read about Don Blankenship’s rant on coal truck weights, that was not actually on a committee schedule for July. He was invited to make a presentation about coal gasification to an economic development committee. It was during the last few minutes that he complained about the coal truck weight bill. And it was then that Sen. Bowman made his remarks about how he might not have voted for the bill if those comments had been made during the session. I think Sen. Bowman spoke for other legislators.

The actual coal truck weight bill presentation was to the joint committee on government and finance, which includes the highest ranking legislators in both parties. The

PSC rep, Mr. Williams, spoke about the citations and warnings already given. And each time the PSC pulls you over for a citation, they do a safety check of the vehicle. Fred Van Kirk spoke about the proposed coal haul road system and the process to be used to finalize it. The process includes four public meetings and lots of information on the internet. **(See Div. of Highways & PSC article by Julie Archer on page 4).** He spoke frankly about the 600 bridges, 100 of which are not able to safely carry some trucks, and 300 that look problematic. Sen. Tomblin asked if maybe some of those might be fixed up in the next few months. (It won’t and can’t happen).

Finally, we are also keeping our eyes on other issues such as DEP regulations bills, a newly proposed ATV bill, and work in the Forest Management Review Committee. This summer we have been fortunate to have other WVEC members in attendance at most of the interim meetings. Folks like Fred Sampson, Frank Young, and Allan Tweddle come to mind immediately. This is very helpful, and Conni and I really appreciate this kind of support.

## Continuing Down the Road to Clean Elections

*by Julie Archer*

During the August interims Subcommittee B of the Joint Judiciary Committee took up the **West Virginia Clean Elections Act** and heard a presentation by Clean Elections “ambassador” Cecilia Martinez - who works for Senator John McCain as Executive Director of the *Reform Institute for Campaign and Election Issues* in Alexandria, Va. *Citizens for Clean Elections* arranged her visit to West Virginia.

As Director of the Clean Elections Institute, Ms. Martinez advocated for implementation of Arizona’s unique Clean Elections law, passed by initiative in 1998. In 2002, Arizona became the first state to elect a Clean Elections governor. In Arizona, it is now the political norm to run for public office free from direct dependence on private donations!

*Citizens for Clean Elections* hosted a reception for Ms. Martinez on Sunday, August 3 at the Dockside Bar and Grill in Charleston. At the reception, Ms. Martinez presented a special video taped message to West Virginians from Senator McCain. On Monday, August 4, Ms. Martinez was the featured speaker at *Citizens for Clean Elections’* first “Democracy Rescue Forum” in Huntington. The forum focused on Clean Elections and campaign finance reform in West Virginia and was co-sponsored by the Huntington League of Women Voters.

There will be more “Democracy Rescue Forums” in the month’s ahead and we are working with Ms. Martinez to arrange a visit from Senator McCain. We are also working with Secretary of State Joe Manchin to bring Maine’s Secretary of State, Dan Gwadosky, to West Virginia to talk to our legislature about the success of Clean Elections in his home state. **Stay tuned for the latest.**



# Division of Highways and Public Service Commission Hold Public Meetings on Coal Trucks

by Julie Archer, WV-CAG

On July 1, WV Department of Transportation Secretary Fred Van Kirk released a proposed list of roads that may be included in the “Coal Resource Transportation System” established when the legislature passed SB583 earlier this year. Last week the DOH began holding public meetings as it tries to decide which roads will be designated for coal trucks weighing 120,000 pounds. DOH will hold meetings this week at the following times and locations:

**Tuesday, Aug. 5:** 3 to 7 p.m. Chief Logan State Park Convention Center (between Chapmanville and Logan). **Wednesday, Aug. 6:** 3 to 7 p.m. in the cafeteria of Riverside High School in Belle.

**The DOH will also accept written comments until September 5. The DOH has only received a handful of comments so far. You need to submit comments if you want to keep these trucks off our roads.** Submit written comments to: John Lancaster, WV Division of Highways, Planning and Research Division, 1900 Kanawha Blvd. East - Bldg. 5, Charleston, WV 25305.

If you are requesting that a specific road be removed from the list **you must give a reason and provide specific information.** You should also include detailed information on the condition of bridges, even though the DOH has said they may certify some roads for the weight increase even if the bridges can't handle 120,000 pounds – they will just post the bridges with a lower weight limit. The list of candidate roads is available at DOH district offices and county courthouses (but call before you go) and at: [www.wvcag.org](http://www.wvcag.org). The list covers more than 1,700 miles of road in 15 counties.

The Public Service Commission has scheduled five workshops on the proposed rules it will use to enforce SB 583. The PSC will explain the rules, as well as the application and permitting process for coal haulers. The public will have the opportunity to ask questions and make comments. Workshops will be held on the following days:

**Tuesday, August 12:** Chief Logan State Park, 1pm to 3pm and 6pm to 8pm.

**Thursday, August 14:** National Guard Armory in Beckley, 1pm to 3pm and 6pm to 8pm.

**Friday, August 22:** East Fairmont High School Auditorium in Fairmont, 4:30pm to 7:30pm.

In addition the draft rules are being explained on the

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“Inside the PSC” television show. The show is being aired on the Library Television Network, which is carried by a number of cable systems. The 30-minute show will repeat several times each week. Check local listings for the schedule. Copies of the proposed rules are posted at the PSC’s website, [www.psc.state.wv.us](http://www.psc.state.wv.us). **The PSC intends to issue emergency rules no later than October 1. These rules will only be as good as their enforcement. Send a clear message to the PSC that you expect the laws to be strictly enforced.**

The question remains unanswered as to whether the new rules for violating the law will apply to roads not included in the “Coal Resource Transportation System.” Written comments on the proposed rules should be sent to: **Sandra Squire, Executive Secretary, WV Public Service Commission, 201 Brooks Street, Charleston, WV 25301.**

The PSC has established a toll-free truck safety hotline for citizens to report hazards created by coal trucks (and other trucks). **Call 1-866-SEE-TRUX (1-866-733-8789) Monday thru Friday 7:30am to 10pm.**

## Campaign To End MTR Hits The Road

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*and rivers. Its passage would effectively end permitting for the largest mountaintop removal sites. ...*

*... The bill's introduction also provides new opportunities for organizations working to stop mountaintop removal. Judy Bonds, an organizer with Coal River Mountain Watch, said, “The holocaust in the coalfields of West Virginia has gone on too long. While local organizing is as important as ever, our only chance to stop mountaintop removal is to take our message beyond the Southern Appalachians and to the rest of the nation. Representatives Shays and Pallone are heroes to the people of West Virginia.”*

*Appalachian Voices is putting together a road show with images and interviews from the coalfields. Lenny Kohm, Appalachian Voices' Conservation Director, said, “Folks in this country have to understand that the practice of mountaintop removal destroys the lives of their fellow Americans in the Appalachian coalfields. We need to be aware that every time we turn on our lights it affects the lives of someone in Appalachia. This road show will serve to bring this reality to the heartland of America.” ... Activists are urging citizens concerned about this issue to contact their congress persons, asking them to co-sponsor the **Clean Water Protection Act (HR 738)**. You can write your representative at Senate Office Building, Washington, DC 20515. Phone numbers for your reps can be found at <http://clerk.house.gov/members/index.php>.*

The MTR road show is expected to begin touring the country in September, targeting representatives who serve on the Water Resources and Environment Subcommittee of the House Transportation and Infrastructure Committee. For more information, and what you can do to help, contact Appalachian Voices at (828) 262-1500 or Coal River Mountain Watch at (304) 854-2182 or visit them on the web at [www.appvoices.org](http://www.appvoices.org) and [www.crmw.net](http://www.crmw.net).



# Calendar of Events



**August 9:** "Walk Between the Parks" - an eight-mile walk between Blackwater Falls and Canaan Valley Resort state parks.

**For information and Registration:** Contact Donna Harr (304) 866-4121

**August 29:** Deadline for comment period for EIS (Environmental Impact Study) on Mountaintop Removal. Send written comments to: Mr. John Forren, U.S. EPA (3ES30) 1650 Arch Street, Philadelphia, PA 19103. You can peruse the 5,000 page EIS by visiting OVEC's web-site: www.ohvec.org or stop by the WVEC office to view our printed out copy from EPA.

**September 6:** Annual WVEC Gathering & Membership Meeting: Asbury United Methodist Church, 501 Elizabeth Street, Charleston, WV. Begins at 9:00 am with a Board of Directors meeting and continues throughout the day. Potluck lunch at noon. Mark your calendars! Stay tuned for details for an evening social event being planned to be announced. So! Attend the WVEC Gathering, then stay around to relax, listen to music, bond with old friends and meet new ones!

**For more information, & to pre-register:** Call the WVEC office: (304) 346-5905 - e-mail Denise Poole: deniseap@earthlink.net - or send your info to the office: 1324 Virginia Street East, Charleston WV 25301. Don't forget - if you cannot attend, we would love to hear from you - let us know about your particular issue(s): contact Chuck Wyrostok at: wyro@appalight.com or please give us a call at the WV E-Council office!!

**September 19-20:** Annual Elkhenge Music Festival: Benefit for the Shavers Fork Coalition & Highland Trails Foundation. Two (yes 2) days of music, food & camping! Weekend cost: \$10.

**For more information:** www.elkhenge.com or (304) 637-3911.

**October 17, 18 & 19:** West Virginia Herb Association Fall Conference 2003 "Wisdom from the Herb Garden: An Introduction and Beyond". Jackson's Mill Conference Center ~ Weston, WV. Keynote Address by James Duke, Ph.D Ethnobotanist & Herbalist. Workshops, Exhibits, Demonstrations, product sales, children's activities and more.

**For more information, how to register & conference news:** Contact Dot Motgillion (304) 269-6416 or e-mail smokecamp@iolinc.net. You may visit the website at: www.wvherb.org.

**October 23-30:** West Virginia Highlands Conservancy Fall Review. Cheat Mountain Club, on the beautiful banks of the Shavers Fork River in Randolph County, WV.

**For more information:** fyoung@wvhighlands.org

DEP now has a web-based mailing list that citizens can subscribe to, and receive the latest DEP news. Simply go to the main DEP web page at: www.dep.state.wv.us, scroll down to the bottom of the page, type in your e-mail address, and click the subscribe button. Subscribers will receive all the DEP press releases, meeting announcements and other related material they might be interested in.

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## Support the West Virginia Environmental Council

1324 Virginia Street East, Charleston WV 25301

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**West Virginia Environmental Council**  
1324 Virginia Street East  
Charleston, West Virginia 25301



## West Virginia E-Council's Fall Gathering!

**Saturday, September 6th ~**

**Join us for our annual gathering  
and membership meeting!**

***See inside for details.....***