



Capital Eye

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CAG Honors Three Exceptional Women

by: Gary Zuckett

Our mid-May "Spring Fling" was a great success this year, our 41st! The event was held at the Charleston Woman's Club and we had one of the best crowds ever. The place was packed and everyone enjoyed themselves with a catered dinner by Whimsy Catering (with desserts prepared by our board), an eclectic silent auction, and music by Delegate Mike Pushkin and his band - 600lbs of Sin!

Recognition of community members who have given exemplary community service is one of the center points of our spring dinner. This year, three women were honored for their activism and service. First, the Don Marsh Public Service Award was presented to the founders of the WV Sustainable Business Council (SBC): Jeni Burns and Nancy Ward. Jeni runs Ms. Groovy's Catering, and Nancy owned Cornucopia, before retiring this fall. These two local business owners became active during the Freedom Industries MCHM leak that contaminated the drinking water supply of more than 300,000 people in nine counties. After helping pass SB 373, which contained the Aboveground Storage and Public Water Supply Protection Acts, they realized that as small business operators, they had a unique voice in public policy and proceeded to recruit other progressive businesses to form the new SBC. They are now pursuing a co-op recycling program after working with WV CAG to get legislation passed this year that opens up strict PSC rules on haulers of recycled materials.

Nancy Guthrie, who is retiring from the WV House of Delegates in 2016, was awarded our Si Galperin In Defense of Democracy award for the countless battles she fought against the forces of greed and repression at the statehouse. "Delegate Nancy Guthrie embodies the spirit of this award, with her longtime, tireless dedication to her constituents. During her 14 years in the legislature, she has consistently stood up for families, for women, for workers — and for what is right," commented Karan Ireland as she presented the award. Del. Guthrie was one of the founding

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Emmett Pepper from WV CAG presents Public Service awards to Jeni Burns (L) and Nancy Ward (R)

(Continued from page 1)

members of West Virginians United for Social and Economic Justice, which WV CAG organized in 2005, right after George W. Bush was re-elected and tried to privatize Social Security.

Of course, even with all the food, fun and music, we still needed to fundraise at this event. The “Spring Fling” is our biggest event of the year and one that helps us keep the lights on. This year our founder, David Grubb, surprised and wowed the whole room when he presented a BIG CHECK comprised of leftover funds from a consumer legal action his law firm successfully litigated against a national bank. The irony was not lost on the crowd.

Much thanks to the Grubb Law Group for giving us the resources to keep fighting for consumer protection! We’re setting part of this aside as a “Rainy Day” fund. Foundation grants come and go and when too many go ‘poof’ at once, we can get into what regular businesses call a “cash flow” crunch. Other uses for the “Big Check” will be to get back to our “roots” and get a door-to-door canvass going, and to “prime the pump,” increasing development work and grant writing.

Nancy Guthrie (L) receives In Defense of Democracy award from Karan Ireland.



Most folks don’t realize that the big foundations, which are a major source of our funding, do not fund direct lobbying on any issues. Therefore, support from our donors, big and small is what we mainly use to work the legislative session and federal issues. If you haven’t renewed your membership this year – now is a great time. You can do this easily on our newly redesigned and upgraded web page www.wvcag.org. While you’re there click on our Facebook link and “like” us too!

Many thanks to all who worked hard to make this 41st year celebration a whopping success!

E4: Competing to Lose

by: Emmett Pepper

Since 2013, neighbors in Charleston’s East End have been pitted against neighbors to see who can cut their electric bills the most. The E4: Energy Efficiency in the East End program was started in 2013 by the Charleston Area Alliance, with a handful of dedicated community leaders. Energy Efficient West Virginia (EEWV) participated, as did yours truly, though I was not yet employed here. The concept is simple: people join others on their block to compete with other blocks in the neighborhood to use less electricity the year before. The aggregated

energy usage data was provided by Appalachian Power. Initially the program was all-volunteer, with people signing up to be “block captains,” talking their neighbors into participating. This self-selecting competition resulted in fourteen blocks participating, mostly in the more affluent parts of the neighborhood. Still, the competition worked really well and, overall, the participants used less energy than the year before. The winning blocks were portions of Quarrier Street, including one that cut its energy use by 15%.

In the second year, we wanted to increase participation, so, through a grant that the Charleston Area Alliance and City of Charleston was able to procure, EEWV ran a door-to-door canvass, going to every door in the neighborhood. This increased participation, with participants throughout the neighborhood signing up. This second year had twice as many blocks competing. The winning blocks were in the less affluent portion of the neighborhood, with one block cutting energy use by 30%. At the end of the contest, EEWV threw a party for the winning blocks, and also conducted a much-needed energy audit on the WV CAG/EEWV office, which is also in the East End neighborhood. We had two TV crews present, WV Public Radio and newspaper reporters. Mr. Handyman of the Kanawha Valley conducted the energy audit, using infrared technology to find the places where we are leaking air. He later returned and made the necessary upgrades to the building.



WV CAG house flies banner for E4 open house.

(Continued on page 3)

(Continued from page 2)

At the E4 party at the WV CAG office, we also announced the launch of an expanded, city-wide competition. Whereas E4 was a block-by-block competition, the new Energy Efficient Charleston competition will be a



Main entrance to the WV CAG house covered by "blower door" set up to create negative pressure in house to find air leaks.

neighborhood vs. neighborhood competition. We hired an EEVW Outreach Coordinator, Andy White, to coordinate the campaign and lead the charge. Mr. Handyman will be offering reduced-cost upgrades for those who have already gotten their free home energy assessment from Appalachian Power.

If you live in Charleston and want to participate, shoot Andy an email at andy@eewv.org. We would love to include you! If you want to bring an E4-type program to your neighborhood, feel free to give me a call at 304-346-5891 and I can give you some advice!

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Meet Andy

by: Andy White

Hello members and supporters of WV CAG, my name is Andy White. I'm Energy Efficient West Virginia's (EEVW) new Outreach Coordinator. I was born in Washington DC, but moved to West Virginia at an early age.

I have lived most of life here in Charleston, and graduated from George Washington High School. Next I spent a while in Shepherdstown, WV attending Shepherd University, graduating in 2013 with a Bachelor of Fine Arts in Painting/Drawing.

Since moving back to the Charleston area, I have worked for the West Virginia Division of Labor, Clerk's office at the West Virginia House of Delegates, and Taylor Books.

I have stayed involved in various groups and organizations dedicated to bringing more arts and culture to the region. This includes becoming a board member of the West Virginia International Film Festival (WVIFF), with a strong interest in bringing more international animated films to the state. I have also been heavily involved with the local weekly Life Drawing group, giving artists the opportunity to draw from live models.

My time spent on the WVIFF board led me to know

EEVW Director Emmett Pepper and WV CAG board member Greg Carroll. Emmett recognized my organizing skills, ability to run orderly meetings, and social media and community outreach experience. Emmett thought I would be a good fit for the EEVW Outreach Coordinator position, so he invited me to apply.

This led me to become involved with EEVW and its efforts to help West Virginians save money by saving energy. I'm excited to be here and to have this opportunity to work with all of you! Let's make ourselves as energy efficient as possible in coming years!

Feel free to contact me at andy@eewv.org anytime.



Fair Courts Summit Brings Together Advocates Working to Protect Our Courts

by: Julie Archer

In July, Natalie Thompson of the Ohio Valley Environmental Coalition (OVEC) and I represented WV Citizens for Clean Elections (WVCCE) at the second annual Fair Courts State Summit in Washington, DC. The Summit was hosted by our national partner Justice at Stake and sponsored by the Brennan Center for Justice, Wellstone Action, and the Piper Fund, longtime funders of our clean elections work. The Summit brought together advocates from around the country working to insulate courts from political pressure, boost public support for judicial independence, protect the courts' ability to deliver justice and guard people's rights, and ensure diversity among those who become judges.



At the Summit, West Virginia was highlighted as a bright spot for the judicial reforms we've passed in response to Don Blankenship's election meddling and the resulting scandals that led to the Caperton v. Massey U.S. Supreme Court decision. West Virginia is one of only two states with a judicial public financing program in

place (the other being New Mexico). I had the pleasure of serving on a panel with Melissa Price Kromm from North Carolina, where, ironically, the Republican controlled legislature repealed their trailblazing judicial program (in place since 2002) the same year West Virginia lawmakers voted to make our program permanent.

Highlights from the conference included:

- Matt Menendez of the Brennan Center for Justice, Florida Supreme Court Justice Peggy Quince, and other panelists discussed the impact of Williams-Yulee v. the Florida Bar, in which the U.S. Supreme Court recently upheld a Florida rule that prohibits judges and judicial candidates from directly soliciting campaign contributions. As the New York Times reported, the decision effectively upheld measures in 30 states (including West Virginia) that forbid judicial candidates from making person appeals for money. This case is an important victory for fair courts, allowing states to protect the integrity of their courts by shielding justices from the perception that they may be biased in favor of particular contributor. However, it is also a narrow victory dealing with only one judicial canon. Other codes of judicial conduct are under attack, making it critical for advocates to continue pushing for reforms such as robust disclosure of political spending, public financing, and more effective recusal rules that counter threats to fair, impartial and independent courts.

- Reporters shared stories about who is trying to influence the courts, how, and why. Featured panelists included Viveca Novak, an award winning investigative journalist and editorial and communications

(Continued on page 6)

Our Children, Our Future Campaign Update

by: Ciera Pennington

Our Children, Our Future (OCOF) is a statewide campaign of over 150 organizations – WV CAG included – working to end child poverty in West Virginia. Each year the campaign accepts a variety of policy proposals, five of which will go on to be the campaign's primary focus during the legislative session.

The campaign held regional policy workshops across the state during July and August. Hundreds of citizens and local organizations' staff members attended to get updates on the campaign, hear the policy proposals, and have a chance to workshop their favorite proposals.

In mid-September, the campaign hosted the annual Policy Summit. Organizations and citizens from all

across the state came to the capitol to hear about the 18 policy proposals, connect with others, and speak with legislators. You can read more about the Summit here: bit.ly/PolicySummit15.

Now, the campaign is choosing the top ten policy proposals based off of votes from West Virginians like YOU! The platform will be announced October 5th, so visit ocofwv.org to see which proposals made the cut.

Later this fall, join WV CAG and OCOF for a Candidate Training to learn all about running for office or managing another candidate's campaign. See the flyer on the following page for details and a link to RSVP.



West Virginia Candidate Training Academy

Running for Office in West Virginia

presented by the Our Children Our Future Campaign & partners



Co-Sponsors include:

- Our Children Our Future
- WV Secretary of State's Office
- WV Community Development Hub
- WV School Board Association
- Generation WV
- Leadership WV
- WV Healthy Kids & Families Coalition

Ever thought about running for office? We can help you.

The West Virginia Candidate Training Academy is hosting non-partisan training events for people interested in running for elected office of any kind.

*School board?
Local council?
Or perhaps even a state legislative seat?*

Learn from the experts:

- Stump Speech Training: How to tell your story
- How To Ask For Money
- What To Run For, and When
- Campaign Strategy
- Panel Discussion with People Who Can Help You

Training Workshops are being held in:

- ⇒ Thursday, November 12 – Lewisburg
- ⇒ Saturday, November 21 – Martinsburg
- ⇒ Saturday, December 5 – Charleston
- ⇒ Monday, December 8 – Wheeling

To register, go to:

<http://www.ocoofwv.org/whathappening/>

Please contact LeeAnn Shreve, Regional Organizer, for more information at: leeann@ocoofwv.org

‘Courts’

(Continued from page 4)

director at the Center for Responsive Politics, who has reported extensively on dark money groups and their involvement in congressional, presidential, and judicial politics. Pema Levy of Mother Jones magazine was also featured. Levy authored a recent expose detailing how two groups implemented in Scott Walker’s campaign finance scandal spent over \$10 million to elect a conservative majority to the Wisconsin Supreme Court, which ultimately killed the investigation into possible illegal coordination between the Governor and the groups.

- A look at current research documenting the way that politicized judicial selection/elections are undermining our justice system and the ability of criminal defendants to get a fair trial. Presenters included Emory University Professor Joanna Shepherd, whose report, “Skewed Justice,” found evidence that attack ads accusing court candidates of being “soft on crime” make judges less likely to rule for criminal defendants in appellate cases. This was one of the principle findings in the study by Shepherd and her colleague Michael Kang. Additionally, the study found that justices in states whose bans on corporate and union spending on elections were struck down by Citizens United were less likely to vote in favor of criminal defendants than they were before the decision.

- A panel on linking environmental issues and fair courts focused on how polluters are spending large sums of money in judicial elections in states where they face litigation. The discussion kicked off with a screening of a new mini-documentary from Legal Progress highlighting the real human impact of special interest money that is infiltrating judicial elections. The film features one North Carolina family’s story of how coal ash pollution poisoned their community. The film also calls attention to a troubling correlation between North Carolina Supreme Court rulings and the success rates of firms that gave big donations to judicial candidates following the repeal of the state’s public financing system. This was detailed in a Center for American Progress report from November 2014, raising concerns about corporate influence in judicial races. The report profiled corporate polluters such as Duke Energy, which currently has billions of dollars at stake in North Carolina courts over its responsibility to keep toxic coal ash out of the state’s drinking water.

- The keynote address by Sue Bell Cobb, former Chief Justice of the Alabama Supreme Court, whose featured article in the March/April edition of

Politico Magazine, “I Was Alabama’s Top Judge. I’m Ashamed by What I Had to Do to Get There”, provided a first-hand account of how money and politics are undermining the integrity of our courts.

We are looking forward to participating in next year’s Summit — hopefully with more success stories to report from the Mountain State. Next year will be the first Supreme Court election since Justice Allen Loughry used public financing in 2012 to win one of two contested seats on the court. We hope another publicly financed colleague will join him on the bench!

Those who are interested can check out the great panels and keynote address from the 2015 Summit at bit.ly/FCSsummit.

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Website
wvoter-owned.org



Above: Panelists discuss how to make the issue of fair courts relatable to the LGBT, business, and criminal justice communities.

Below: Julie Archer (M) from WV CAG speaks on a panel about public financing.

Photos: Stephen Bobb Photography



Women & Water 2.0

by: Ciera Pennington

Late last Fall, WV CAG wrapped up its Women and Water campaign, a joint campaign through WV FREE, in partnership with other leaders in the fight for social, reproductive, and environmental justice. The goal of the campaign was to shift the public conversation around environmental and reproductive issues and to effect positive change through grassroots mobilization and engagement.

We are happy to announce that, once again, we will be working on the Women and Water campaign with WV FREE and others. Through this campaign, local leaders in the West Virginia social, reproductive, and environmental justice community will formulate new messaging to do public outreach, phone and door canvassing, and partner outreach. After the messaging has been created, outreach will take place over a course of five

months. Leaders will once again meet to discuss findings and data from outreach efforts. The final result of the campaign will be a document of best practices for collaboration between reproductive justice and environmental justice organizations to be used as a standard for similar cross-issue/cross-movement work and organizing in the future.

To learn how you can get involved with Women & Water 2.0, email me at ciera@wvcag.org.



Meet Ciera

by: Ciera Pennington

Hi, WV CAG members and supporters! My name is Ciera Pennington, and I'm the new employee here at WV CAG; I'll be filling the role of Program Administrative Assistant.

A little about me: I grew up in North Central West Virginia, where I graduated from Philip Barbour High School and went on to attend West Virginia University. I'm working towards an undergraduate degree in Multidisciplinary Studies with focuses in Women's and Gender Studies, Political Science, and Strategic Social Media.



As a junior in college, I began an unpaid internship with WV FREE's Working to Institutionalize Sex Education (WISE) Initiative. During that experience, I had the opportunity to visit our beautiful capital city several times, and I fell in love! By the end of my junior year, I

had packed up and moved to Charleston's West Side. By the start of my senior year, I had a full-time job as a field organizer for WV FREE.

During my time as field organizer at WV FREE, I got to work closely with WV CAG and many other local organizations on civic engagement, environmental issues, etc.

After leaving the organization about a year later, I accepted a job in Virginia as a field organizer for the Democratic Party of VA, working to re-elect a state senator. In just two short months, I returned to West Virginia, where I'm now working with (obviously) WV CAG. You may also see me volunteering around town with various other groups, such as Inspire WV.

So, you may be wondering – why did she return? Our young people often leave and don't look back. Well, to be honest, Virginia was great! There was so much more going on, the beach was 10 minutes down the road, and I didn't have to dodge potholes that could eat my car, but the short answer is — it wasn't West Virginia. I wasn't organizing my community. I wasn't making the place and lives of people I love any better.

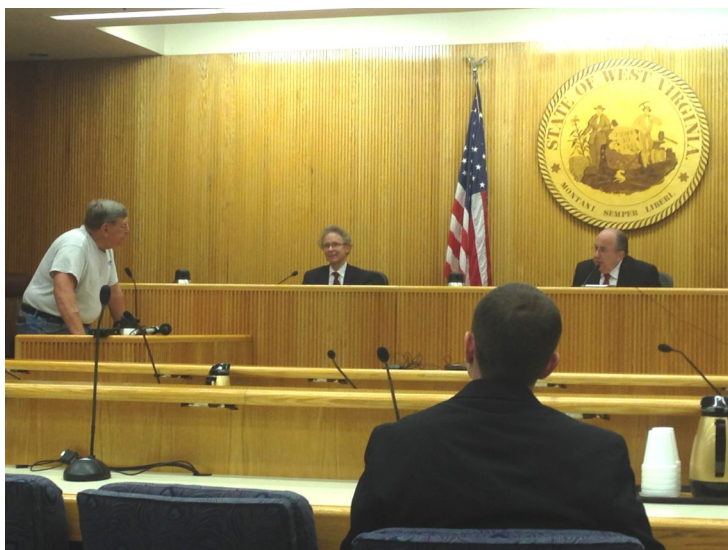
I'm excited to be back in WV and even more excited to have the opportunity to work with WV CAG. I look forward to meeting all of you during my time here. Let's work hard and make WV a better place for all — and a place where young people, like myself, won't want to leave in the first place!

Feel free to contact me at ciera@wvcag.org if you have any questions, comments, ideas, etc.

WV CAG, EEWV in Important Cases at PSC

by: Emmett Pepper

The Public Service Commission (PSC) has had only two of the three mandated commissioners for all of 2015, thus far, but that has not stopped them from taking on some very important cases, not to mention approving large rate increases. In recent years, WV CAG has focused its efforts at the PSC on promoting energy efficiency, through its Energy Efficient West Virginia (EEWV) program, as well as renewable energy. Several important cases are ongoing in each of these areas, including the Net-Metering Task Force, convened by the PSC to inform new Net Metering rules, and several cases that affect energy-efficiency programs.



PSC hearing room in Charleston operates much like a courtroom.

Unfortunately, despite all of these important cases, the PSC is running without a full commission, and, at the time of this writing, it does not appear that Governor Tomblin will be appointing anyone soon. WV CAG joined with several organizations in sending a letter to the Governor, asking him to appoint someone with a history of working for everyday West Virginians, but if you agree that he should appoint a third commissioner, call his office at 304-558-2000 and make your voice heard.

Due to a bill passed in the 2015 legislative session, the PSC is tasked with addressing net-metering. The legislature approved a bill modeled on work that the American Legislative Exchange Council (ALEC) has been doing to benefit utilities, at the expense of distributed solar generation. Net-metering is the law that allows people to produce electricity on solar panels during the day and use electricity from the grid at night. At the end of each month, the customer pays the net amount of electricity used from the grid, or receives a credit for the extra electricity produced. The legislature passed a bill

forbidding “cross-subsidization” to arise from net-metering within the same class of customers, and required the PSC to make any new rules needed to prevent that from happening. For example, a homeowner with solar panels cannot receive services that other residential ratepayers pay for. In practice, this gets very complicated, the closer you look at it.

The main dispute within the Net-Metering Task Force has been about the scope of the rulemaking. For the minimal amount of net-metering that occurs, there is a small amount of cross-subsidization occurring when the meters are installed, but disagreement about whether net-metering customers are subsidizing — or being subsidized by — the rest of the residential customers. The utilities believe, as ALEC does, that other ratepayers subsidize net-metering, while most other task force members point to studies that show that the subsidy runs in the other direction because solar panels make the grid more resilient and produce energy when wholesale costs are among the highest. A big wrinkle in the disagreement is that, even if the utilities and ALEC are right, the number of net-metering customers is so few that the amount of subsidization would be dwarfed by the cost to ratepayers for the investigation and litigation needed to determine how much it is.

The net metering debate indicates a recurring issue with utilities: they do not have an incentive to make a grid that is best for customers and ratepayers, if doing so includes demand-side production. They have an incentive to do everything themselves, because the PSC allows them to get a “rate of return” (a.k.a. profit) from the money they spend, and charge that to ratepayers. This means that utilities are against just about anything that meets customers’ energy needs that they can’t charge to ratepayers and get a rate of return on. This is a recurring theme with utility work, including the recent power plant purchases, etc. The task force is in the process of submitting a report, and the PSC must issue rules by the end of the year.

On the energy efficiency side, EEWV has been continuing to fight for better programs at both major utilities in the state. With the EPA’s Clean Power Plan in the process of being implemented, utilities have a strong incentive to begin planning to increase energy efficiency greatly to meet the mandates in the most cost-effective manner. In 2014, the legislature tasked the PSC and utilities to create integrated resource plans (IRPs) for meeting energy needs, considering demand alongside generation. The PSC issued an order in March of 2015, telling the utilities that they must issue IRPs, and leaving open the possibility that they may have to revise those IRPs in light of the Clean Power Plan. The utilities will initiate new PSC cases for their plans by the end of the year.

(Continued on page 9)

In the first half of the year, EEWV intervened in Appalachian and Wheeling Power's (AEP's) recent energy efficiency case. EEWV negotiated in the 2014 purchase of the Mitchell Power Plant that AEP would request an increase in funding to \$10 million annually in its 2015 energy efficiency case. EEWV asked the PSC to order several improvements of AEP's efficiency programs, but it turned out that the previously negotiated increase in spending was the only concrete improvement to AEP's program. There was some silver lining in the final order at the PSC, however. The PSC specifically did not preclude the possibility that it may act in the future on certain issues. It said it is willing to consider a joint natural gas and electric efficiency program and/or allowing participation in all of AEP's electric utility programs for those who heat with natural gas, and did not rule out the possibility of having an energy effi-

ciency case after the utility issues its integrated resource plan.

On August 14, 2015, FirstEnergy's West Virginia utilities, Mon Power and Potomac Edison, filed for another rate increase, of approximately 12.5%. Most alarmingly, FirstEnergy is seeking to actually reduce its spending on energy efficiency. Unlike AEP, which is now spending \$10 million each year on energy efficiency, FirstEnergy is slated to spend less than \$2.6 million, despite having more customers than AEP. EEWV will be advocating for better efficiency programs at FirstEnergy's West Virginia utilities, which lag far behind AEP, and utilities in bordering states. As always, EEWV will keep abreast of any other opportunities for growing the energy efficient economy in the state.

What's the Big Deal with Iran?

by: Gary Zuckett

Over the past several weeks WV CAG has been coordinating efforts with one of its old allies, West Virginia Patriots for Peace (WVPP), to try to inject some sanity into the local debate over the proposed Iran Deal. This agreement was negotiated among major world allies and the government of Iran to limit Iran's capacity to build nuclear bombs.

The West Virginia members of Congress with "R's" after their titles came out early against this agreement. However, our sole Democrat elected to Congress, Senator Manchin, made himself a national target of the fierce opposition by declaring that he was "leaning" toward supporting the deal.

It was rare to see this level of pressure, outside of an election year, on a West Virginia member of Congress over a vote like this. For weeks, every time the word Iran would appear on the web, it would be accompanied by an ad to call Sen. Manchin, asking him to oppose the deal! Robo calls from "Americans Against a Nuclear Iran" argued the best way to keep Iran from building the bomb was to call and tell Sen Manchin to vote NO on the Deal - twisted logic with lots of money backing it.

"Mystery money" groups that do not have to disclose their funders sprang up solely to oppose the agreement. One of these, Veterans Against the Deal (VAD), flew into the Yeager Airport in mid-August for a press conference and then met directly with the Senator's staff. WV CAG and WVPP were there to greet them at the airport with signs and copies of the excellent Gazette/Mail Op-Ed (bit.ly/1PQBMkt) by a local Iraq War veteran who supports the deal saying, "turning to force without giving

this deal a chance to succeed would unnecessarily put American and Mountaineer [troops'] lives at risk."



WV CAG Director Gary Zuckett and members of WVPP and Unitarian Universalist Church at airport press conference.

The Rev. Jim Lewis, co-founder of WVPP, was actually invited to the podium to speak at the VAD press conference, leading to a lively discussion, some of which was captured in this Gazette/Mail article: bit.ly/1V7Kcqp. Rev. Lewis was wearing his ecumenical collar that day but also carried a yellowed ID card in his pocket from his tour of duty with the Marines in Vietnam.

Rev. Lewis and the local Rabbi Victor Urecki, who is against the deal, also went toe-to-toe on Hoppy Kercheval's "Talkline" radio show a few days after VAD flew away. Listen to their discussion here: bit.ly/1U6GnVu. Also on the site is an interview with former Congressman Nick Rahall, telling Hoppy the reasons he is supporting the Deal. Finally, for those who really want to dig deeper, see this excellent web re-

(Continued on page 10)

'Iran'

(Continued from page 9)

source by the Pro-Deal Jewish group, J Street: irandeal-facts.org.

We worked with WVPP on two more Iran Deal events before Senator Manchin's decision on the Deal. The first was an August 30th public discussion between Rev. Lewis and Rabbi Urecki at the First Presbyterian in

Charleston which drew a crowd of a couple of hundred. The other was a Town Hall meeting put together by Sen. Manchin's office at the University of Charleston on September 3rd.

After Labor Day, Sen Manchin finally sided with the Deal's opponents. However, by that time the President was able to secure the support of 41 Senators, enough to uphold a filibuster and block a vote of disapproval of the Iran Deal. This is the best possible outcome. Let's give diplomacy a chance!

WV SORO, State & National Groups File Notice of Intent to Sue EPA

by: Julie Archer

Last month, the WV Surface Owners' Rights Organization (WV SORO), which was co-founded and is staffed by WV CAG, was one of several organizations that filed a legal notice with the U.S. Environmental Protection Agency. These organizations are demanding regulations to stop oil and gas companies from dumping drilling and fracking waste in a manner that threatens public health and the environment.

WV SORO joined the Environmental Integrity Project (EIP), the Natural Resources Defense Council (NRDC), Earthworks, Responsible Drilling Alliance (PA), San Juan Citizens Alliance (CO), and the Center for Health, Environment and Justice in filing the notice, calling on the EPA to comply with its long-overdue obligations to update waste disposal rules that should have been revised more than a quarter century ago.

"Oil and gas waste is extremely dangerous — yet the EPA admitted decades ago that federal rules are inadequate [to] protect the public," said Matthew McFeeley, attorney at NRDC. "The scary truth is that right now this waste — complete with carcinogens and radioactive material — is being dumped irresponsibly or disposed of like everyday household garbage. Toxic waste should not be sent to run-of-the-mill landfills, sprayed on our roads and fields, or stored in open air pits."

The groups notified the EPA that they will file a lawsuit in 60 days unless the agency complies with its duty under the Resource Conservation and Recovery Act (RCRA) to review and revise the federal regulations governing how oil and gas waste must be handled and disposed. RCRA requires that the EPA review the regulations at least every three years and, if necessary, revise them. The agency determined that such revisions to the regulations were necessary to address specific concerns with oil and gas wastes more than 25 years ago, yet has failed to meet its legal responsibility to act. If the EPA

does not act within 60 days of today's notice letter, the groups intend to ask a federal court to set strict deadlines for the EPA to complete this long-needed update and strengthening of its regulations for oil and gas wastes.

"We're asking that the EPA finally do what it found to be necessary back in 1988: update the regulations for oil and gas wastes," said Adam Kron, attorney at EIP. "The oil and gas industry has grown rapidly since then, and yet [the] EPA has repeatedly shirked its duties for nearly three decades. The public deserves better protection than this."

Over the last decade, the oil and gas industry's fracking-based boom has produced a vast amount of solid and liquid waste. Each well produces millions of gallons of wastewater and hundreds of tons of drill cuttings, which contain contaminants that pose serious risks to human health. The waste materials include known carcinogens such as benzene, toxic metals such as mercury, and radioactive materials. However, the current RCRA rules that govern oil and gas wastes are too weak because they are the same rules that apply to all "non-hazardous" wastes, including household trash. As a result, oil and gas companies are handling, storing, and disposing of these wastes in a number of troublesome ways.

Aaron Mintzes, Policy Advocate for Earthworks, said: "While it's sadly common for states to fail to enforce their own oil and gas oversight laws, it is especially shameful that we should have to sue the EPA, the only federal agency solely dedicated to protecting the environment and human health, to force [the] EPA to fulfill its legal obligations to protect us from fracking pollution."

In April of this year, Earthworks released a report showing that states ignore the risks of sometimes hazardous oil and gas waste despite EPA's exemption of such waste from federal oversight based on "adequate" state management. The report, *Wasting Away: Four state's failure to manage oil and gas waste in the Marcellus and Utica Shale*, examines how Pennsylvania,

(Continued on page 11)

Ohio, West Virginia, and New York neither regulate oil and gas development wastes as hazardous, nor ensure that the public is protected from exposure to hazardous waste.

Among the report's key findings for West Virginia:

- The only type of oil and gas field waste consistently tracked by regulators in West Virginia is flowback. (When a well is hydraulically fractured, much of the water injected returns to the surface along with high levels of salts and Naturally Occurring Radioactive Materials (NORMs) that are released from the target formation. Under state drilling regulations, "flowback" is the wastewater that returns to the surface during the first 30 days after the well is "fracked.") Operators are required to maintain records regarding the amounts of flowback generated and how it is disposed of, but this information is only made available to the West Virginia Department of Environmental Protection (DEP) if the agency requests it.

- None of the data, waste transport manifests, forms completed by operators, or reports from drillers, waste facility operators, or the DEP are available online or otherwise publicly accessible. How about: Even the limited information drillers and waste facility operators are required to report to the DEP regarding drilling waste (although technically public) is not available online or easily accessible. As a result, it is nearly impossible to assess the volumes and types of waste generated in West Virginia or where and how it is disposed of.

- A 2013 study by Downstream Strategies found that nearly half of the liquid waste generated at West Virginia well sites is shipped out of state and much of the remainder is injected underground.

- The DEP does not require oil and gas operators to dispose of solid waste at specialized facilities, allowing them to instead take drilling waste to municipal landfills. Yet West Virginia does not have regulations related to the radioactive content of oil and gas waste. According to the DEP, rules on Naturally Occurring Radioactive Material (NORM) and Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) are not being applied to the oil and gas waste stream.

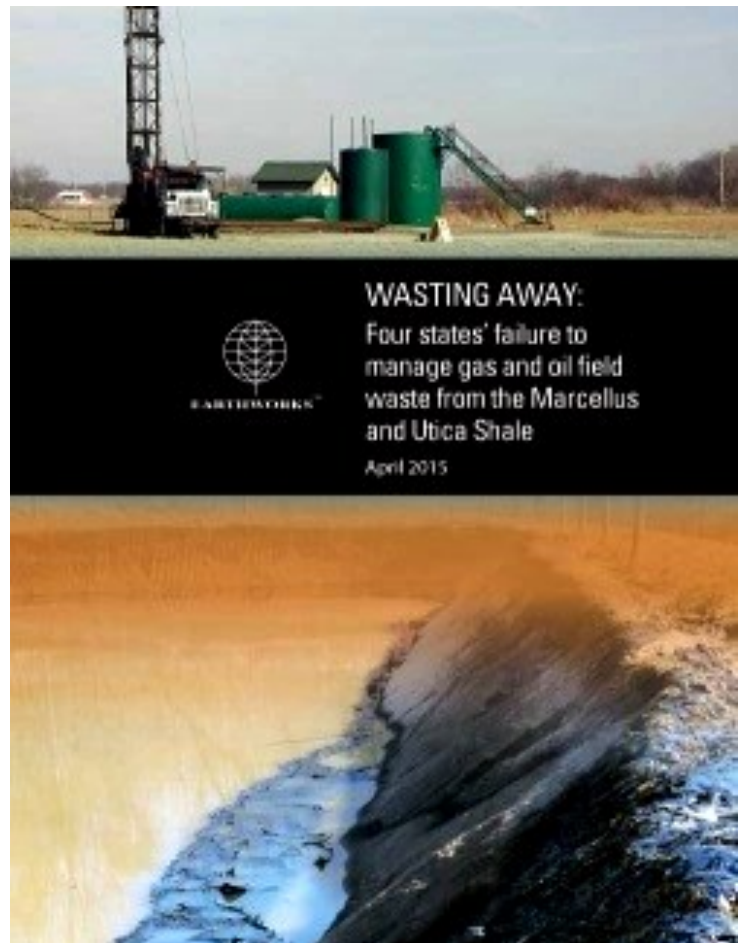
- Proposed changes to regulations on solid waste require oil and gas operators to provide landfills with a comprehensive chemical analysis—but not radioactivity. Nor do current regulations require the treatment of leachate from landfills at a specialized facility before discharge into rivers and streams—even

though municipal wastewater treatment plants lack standards and technologies to handle contaminants and radioactivity in drilling waste.

The report and possible lawsuit against the EPA come on the tails of WV SORO and other groups' 2013 appeal to the WV Environmental Quality Board (EQB), asking the state to shut down a problem waste disposal site in Fayette County. The site has a history of violations that threaten the environment, as well as the health and safety of the community. After the appeal was filed, the DEP finally ordered the operator to close two open pits at the site. The pits were being used to store waste fluid and the DEP had received numerous complaints of a foul odor emanating from the pits starting in 2004.

In early April, the EQB ruled that the DEP violated the law by allowing Danny Webb Construction (DWC) to operate the disposal well without a permit. In its decision, the EQB has given the DEP 30 days to reissue a permit for the site or cease operations. Although the decision is positive in requiring the DEP to follow the law requiring operators of these sites to have permits, the EQB entirely ignored our arguments about the risks

Earthworks' "Wasting Away" report can be downloaded here: bit.ly/WastingAway.



(Continued on page 12)

'SORO'

(Continued from page 11)

the site poses to water quality, and the health and safety of the community.

DWC has applied for two new permits. The DEP held a public hearing on the new permits was held on April 21. Because the permits were not issued in time, the DEP ordered DWC to shut down the site on May 8, pursuant to the EQB's ruling. In response, DWC appealed to the EQB for a stay, which was granted a week later.

A follow up hearing on the stay was scheduled for July 9 and has since been continued twice, as the DEP has yet to make a decision regarding the DWC permits. The parties to the initial appeal, which include WV SO-

RO, the NRDC, the Plateau Action Network (PAN) and local landowners attempted to intervene in the case, along with the Fayette County Commission. However, our motion to intervene was denied by the EQB, saying that the parties could file an appeal if and when the DEP Office of Oil and Gas (OOG) issued new permits for the site, which OOG did on August 26.

In the meantime, area residents remain concerned about the continued operation of the well. They are circulating a petition to halt the issuance of new permits for the site and are asking the EPA and the WV Department of Health and Human Resources to intervene in the case against DWC. You can support their efforts by signing the petition at bit.ly/change_petition.

For more information on this case and other pending legal actions related to oil and gas development in West Virginia, visit wvsoro.org.

Child Poverty & Nutrition

by: Ciera Pennington

WV CAG and the East End Family Resource Center (EEFRC) hosted federal, state, and local officials in early August to showcase the Center's summer foods program that provides nutritious meals for neighborhood children while schools are in summer recess. Those attending included a representative from Senator Joe Manchin's Charleston office; Charleston City Councilwoman Karan Ireland; Sam Hickman, CEO of the WV Chapter of the National Association of Social Workers;

four children in WV now live in poverty – one of the highest rates in the nation. The Summer Meals Act of 2015, now in Congress, is designed to strengthen and increase the reach of summer nutrition programs around the country. These programs provide federal funding to help low-income children access free and reduced-price meals during their summer break. Nutritious meals during the summer help combat childhood hunger and obesity.

Most summer foods sites (including EEFRC) also offer educational, enrichment, and recreational activities that help decrease rates of juvenile crime and teen pregnancy, as well as support working parents.

"With the high rates of poverty and childhood hunger in West Virginia, the Summer Meals Act of 2015 is important to our state and community," said WV CAG Executive Director, Gary Zuckett. "We hope by showcasing a local site like the East End Family Resource Center, officials will recognize the need for expanding summer foods programs. Increasing the reach of these programs could greatly benefit our youth, low-income families, and economy."

For more details on the event and the great things happening at the EEFRC, read this article from the Charleston Gazette-Mail: bit.ly/SMA_15.



Ciera Pennington (L) from WV CAG and Terry Berkley (R), Director of the EEFRC show off fresh food grown by kids at the summer foods program.

and WV Council of Churches Director Jeff Allen.

This critical program feeds kids in schools and community centers all over our state and nation and needs to be expanded to deal with the increase in child poverty. The recent WV Kids Count report cites that one in

Connect with the EEFRC



Facebook
East End Family
Resource Center



Website
eefrc.org

Anti-Poverty Program Gets Push for Permanency

by: Gary Zuckett

Last month, WV CAG, West Virginia Center on Budget & Policy (WVCBP), and other local anti-poverty groups met with Senator Manchin to promote efforts in Congress to make the Earned Income Tax Credit (EITC) permanent and possibly expand the program. EITC has been hailed as the “best anti-poverty program” this nation has ever put forth and is supported by leaders in both major parties. It is like a “reverse income tax” that puts a bigger tax refund check in the mail to families who are working but whose earnings are still below the poverty level.

A middle-aged business owner named Bambi Curry came to share her personal story of how this refundable tax credit has helped her with home repairs and even helped her keep her cleaning business going. An article in the Charleston Gazette-Mail describes her story and an overview of the EITC: bit.ly/TaxCrLifeline.

Although the EITC isn't set to expire until 2017, advocates are pushing now to make this program permanent now. A presidential election next year and a new president coming into office in 2017 will likely take over the attention of an already gridlocked Congress, and we don't want to see EITC reauthorization go down to the wire.

Although neither of WV's Senators was encouraging when asked about a renewal this year, Congress is

moving to make so-called “Tax Extenders,” which are tax breaks for multinational corporations, a permanent fixture in our tax code. These Tax Extenders are not being “paid for” or “offset” by elimination of other corporate tax breaks, yet opponents of expanding EITC are calling to any expansion or permanent status granted to the EITC be paid for by cuts to other social benefit programs. There is one standard for giving away billions to big business and another much more stringent standard for programs to lift families out of poverty.

You can weigh in on this debate by contacting your members of Congress, especially our Senators, to ask them to support expanding and making the federal EITC permanent without requiring cuts to other social programs: bit.ly/contactCongress. For talking points, see this WV Center on Budget & Policy page on the benefits of the EITC: bit.ly/WVCBP_EITC.

West Virginia's EITC team will be setting their sights this coming legislative session to have our state join the majority of states that have a state EITC. Watch for news on this leading up to 2016!

Come by our office each month (except holiday weekends) from 5-8 pm for our First Friday Progressive Happy Hour!

Good food and great conversation with like-minded people.

Feel free to bring your favorite dish and your preferred Friday night beverage!

Why Send Money?

by: Gary Zuckett

As WV CAG's Executive Director, the buck stops at my messy desk. At least it stops here briefly – long enough for me to sign off on the paychecks, utility bills, equipment purchases, repairs, insurance, financial audits — you get my drift — it takes a lot of “green” to keep WV CAG working toward environmental, social, and economic justice. Also, foundation grants rarely allow their funds to be used for direct lobbying, that's where our members come in.

You, our active and supporting members are our essential partners in this struggle. We do this for you and for a better future for us all. We count on your support, but try not to “go to the well” too often.

This is one of those times that we are directly asking you to renew your commitment to a better West Virginia. Please take a few minutes to update your membership as a partner in our efforts to make our state a better

place to live, work, and raise a family. If you can add in some extra, that would be greatly appreciated too!

Online renewals and donations are quick and secure at wvcag.org/membership. Of course, the tried and true method of posting a check to 1500 Dixie St., Charleston, WV 25311 works great, just like it always has. Thanks for being part of the WV CAG Team!



We've Updated Our End, Now We Need You to Update Your End!

by: Gary Zuckett

With the nudging of our new social media staffer, Ciera; the expert guidance of our excellent web dude, Don; and the addition of a powerful new tool box called the Action Network, we have just finished the total upgrade and revamping of all our online media.

An updated web page with our blog, newsletters, action alerts and links to our Facebook and Twitter is ready to go. Check it out: wvcag.org.

The Action Network, our new toolbox for citizen activists, now needs your input!

To keep you current with federal and statehouse actions, we'll need everyone to complete this [form](#) with a full address and email, even if you've provided it to us before; this simply ensures we have it in our new database and it is up-to-date.

Please do this right now as we're getting ready to roll out our first Action Network campaign on making the EITC permanent, and you won't want to miss the action!

Not already signed-up to receive our email action alerts?

Woah, you're missing out! Don't worry, though; it is easy to get signed-up. Just visit this link and enter your information: bit.ly/wvcag_AA.

Do you want to receive a paper copy of our newsletter?

In an effort to save paper, all supporters will be receiving our newsletter via email. If you prefer a paper copy, please visit the link below and fill out the form; we'll add you to the list of people who prefer a paper copy of the newsletter to be mailed to them — free of charge as always!

Click here to indicate you want a newsletter mailed to you: bit.ly/wvcag_physicalnewsletter.



We need your support, we can't do it without you! Please renew your membership or send a donation.

Name: _____

Address: _____

Email: _____

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Please select your donation amount:

☐ \$25 ☐ \$50 ☐ \$100 ☐ Other: _____

☐ Please renew my membership.

Return this form along with your check to:

West Virginia Citizen Action Group
1500 Dixie St., Charleston, WV 25311

You can also donate online: www.wvcag.org

This newsletter was published by WV-Citizen Action, a nonprofit membership organization founded in 1974 and dedicated to increasing citizen participation in economic and political decision-making.

Our members work for progressive changes in federal, state, and local policies by educating people about key public interest issues ranging from environmental protection and consumer rights to good government. Learn more about us at www.wvcag.org.