



Capital Eye

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Supreme Court Hears CAG Suit on Governor's Election

By Gary Zuckett, garyz@wvcag.org

On Tuesday the West Virginia Supreme Court heard oral arguments on our petition filed last month to have the Court rule that a new election for governor should happen as soon as possible. Acting governor, Senate President Tomblin has stated that he's fine with waiting until the 2012 November elections to hold the "new" election to let us finally have an elected governor again.

We were joined at the hearing by Thornton Cooper and lawyers for the AFL-CIO and House Speaker Rick Thompson, who all basically agreed with our position. The justices peppered all the attorneys with questions during their oral arguments. Our lawyer, Kathryn Bayless responded, "The people of West Virginia want a new election now, and that's what the Constitution provides." Justice Workman asked if we (the Court) say that an acting governor can't serve longer than a year, can't the legislature fix it? Cooper stated that the Legislature has so far failed to address the problem and they may never do so even with prompting. Pat Maroney, AFL-CIO counsel requested the court to issue a mandate for the acting governor to set a date for a new election as outlined in the West Virginia Constitution. Anthony Majestro, counsel for Speaker Thompson, urged the court to call for a new election by this November. The counsel for Secretary of State Natalie Tennant outlined a time-line that said if they started this week then most all of the normal deadlines for a November election could be fulfilled. Tomblin's lawyer's case could be summed up by his statement, "There is no problem here."

A big THANK YOU is due to our counsel, Kay Bayless for taking time from her busy schedule to represent Citizen Action and all the citizens of West Virginia so they may have the right to vote for a new governor now as provided by our Constitution. The court is expected to issue a ruling very soon so stay tuned!

IMPORTANT! 2011 Legislative Contact Information

Many folks have called or emailed us with queries about how they can contact their Legislators on pressing issues or how to get information relating to the status of a specific bill. All votes on passage of bills are recorded and you may request "roll calls" on specific bill numbers from the clerks of the Senate and the House. You can get that information from:

Jaelyn Jett - Public Information Officer
Phone: (304) 347-4833
Email: jaelyn.jett@wvlegislature.gov

For floor votes in the House of Delegates, roll calls are actually available on the legislative website under a bill's history. For bills for the current session enter the bill number on the home page to access the history, bill text, and committee status. For previous sessions, go into Bill Status and select the session you're interested in, and then enter the bill number. There are many great features on the Legislature's website. The following from the League of Women Voters-WV is a handy summing up of what is available: --

Follow the actions of the Legislature online. The 2011 regular session of the West Virginia Legislature convenes on January 12 at noon. There is a variety of information available at the Legislature's website: <http://www.legis.state.wv.us>.

Bulletin Board Access.

Prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals.

Blog, "Today in the Legislature."

Read an up-to-date summary of daily legislative activities.

Wrap-up.

The Legislature's official newsletter published weekly throughout each regular session. It contains summaries of bills and other legislative actions.

Streaming Audio.

Listen to the Legislature live. Streaming audio is available for House and Senate floor sessions as well as the House Education, Finance, Judiciary

and Government Organization Committees and the Senate Finance and Judiciary Committees. Also, you can keep abreast of bills by using the Bill Tracking and Bill Status features. Legislators' addresses, individual telephone numbers and e-mail addresses are also available at the site.

The Legislature also has a handy toll free number where friendly Legislative Services staff can help with any questions you may have. That number is [1-877-565-3447](tel:1-877-565-3447).

To all who have requested this information, thank you for wanting to be in touch and informed about your lawmakers and how the system works!

Week One, Revolt in the Senate

By Gary Zuckett, garyz@wvcag.org

Like a moth drawn to the flame, I couldn't stay away from watching the drama of the take-over of the Senate by the Kessler gang. No blood was spilled on the floor that day but if words could harm the emergency squad would surely have been summoned. Irony was in the air as out-going majority leader; Truman Chafin, was forced by his status as longest serving member to wield the gavel at the podium as the overseer of what the Daily Mail called his dethronement.

The debate on the change in Senate rules that allowed Senator Kessler to become the "Acting President" of the Senate lasted over two hours. Opponents hammered Senator Unger who held up under enormous pressure defending the reorganization of the Senate and emerging as the new Majority Leader.

Threats of a Supreme Court suit were uttered as well as attacks on the absent President Tomblin for hiding out downstairs in the governor's office. It was not the Senate's finest hour. Especially gruesome was Unger's relentless grilling by Senator Evan Jenkins (D?- Cabell). That same day I came across a quote by Abraham Lincoln that describes it to a T **"He can compress the most words into the smallest idea of any man I know."**

After the successful vote to change the rules, the Senate came back from a short recess to re-elect Tomblin Senate president so he could resume his role as acting governor and Senator Kessler was then elected as Acting President of the Senate. No

fireworks there at all. It was as if the previous hours had never occurred. A more detailed (and less biased) account can be had at: <http://www.dailymail.com/News/statehouse/201101121054>

Day One – Over 500 Bills Introduced

It's always a shock on the first day of the session to go to the bill room and pick up the list of bills introduced. This year's count was 504 – and that doesn't include resolutions and constitutional amendments! Most of these are carryovers from failed legislation introduced last year and thank goodness 99% of them will suffer the same fate this year. The trick is to sort out the ones that have the danger (or promise) to actually start moving toward the finish line.

With the new leadership of the Senate this year, we are cautiously optimistic that some of our efforts may overcome the roadblocks of previous sessions. Time will tell. We are still in the process of sifting through these bills and will have a better handle on which ones to watch next week. Remember you can find & e-mail your hometown lawmakers, read & track bills, and now actually listen in to floor sessions and committee meetings from links on the Legislative web page at: <http://www.legis.state.wv.us/> - It's your democracy, use it or lose it!

Thanks for the Support!

A BIG THANK YOU to all who have renewed their memberships and even sent in a little extra to support our efforts at the 2011 legislature. We can't do it without your continued support! If you've been meaning to pitch in but haven't gotten around to it – now is a great time to drop a check in the mail or navigate over to www.wvcag.org and drop a member renewal into Pay Pal. You'll get that great feeling of being part of the solution instead of part of the problem (and a tax deduction if you send it to our Educational Fund) Try it!

Join Us for Citizen Lobby Days

Who? WV Chapter of the Sierra Club, WV Environmental Council, WV-SORO and others working to protect our land and water resources from destructive drilling practices

What? Citizen Lobby Days

When? Where? Each Wednesday (or any day*) during the 2011 Legislative Session (Starting January 19, 2011) at the State Capitol in Charleston

Why? To urge lawmakers to strengthen West Virginia's oil and gas drilling laws

Please RSVP by contacting Chuck Wyrostock, WV Sierra Club Outreach Coordinator, at (304)-545-6325 or wyro@appalight.com; or Julie Archer at (304) 610-9094 or julie@wvsoro.org.

*A group of organizations working on these issues have picked Wednesdays as Citizen Lobby Days; however, with a little advance notice we'll be happy to meet you anytime you are available to come to Charleston.

Please contact Chuck or Julie in advance to arrange a time and location to meet. We also recommend calling ahead to schedule an appointment with your legislators. **We hope to see you can join us!**

Guns Kill

http://www.youtube.com/watch?v=VC1an_R3GGI



This is a Shocking & Powerful video on our recent, lethal, gun-toting history by *Radio or Not's* Nicole Sandler, with Rachel Maddow narration, all to Cheryl Wheeler's song, "If It Were Up To Me." -

from CommonDreams.org. After you watch this go to <http://www.huffingtonpost.com/robert-creamer/do-americans-have-the-right-to-bear-arms-808419.html> and read "Do Americans have the right to bear weapons of mass destruction?"

USAction Weighs In On Arizona Shootings

A note from our friends at USAction:

Tragedy in Arizona

Support Rep. Giffords and all the victims by joining our vigil online.

Last Saturday in Tucson, someone shot at the heart of American democracy.

What will happen to those who are wounded or what may come next, we don't yet know. But we do know that our USAction/TrueMajority family stands with the families of the victims in Arizona.

You can join our virtual candlelight vigil to share support, prayers, sympathy and wishes for recovery and peace with Rep. Giffords, Judge Roll and all the victims and their families. Take a moment to light a candle and leave a note here:

http://act.truemajorityaction.org/p/dia/action3/comm/public/?action_KEY=159

Linda Brown, the director of our local affiliate the Arizona Advocacy Network, will personally deliver all your comments in the next few days.

I can't imagine my family being shaken by a tragedy like this one. But I know I would draw strength from you and the rest of our community. Please, join me in standing with our friends in Arizona by joining this online vigil.

- Jeff

Jeff Blum
Executive Director
USAction/TrueMajority.org

Interim Committee Advances Marcellus Shale Legislation

By Julie Archer, julie@wvcag.org

Earlier this week, Subcommittee A of the Joint Judiciary Committee advanced a bill establishing a new regulatory program for gas wells utilizing horizontal drilling and hydraulic fracturing. Although the committee advanced the bill without a recommendation for passage by the full legislature, this keeps the bill alive. It also means the legislature will have two comprehensive bills to consider. The DEP has finalized its legislation and acting Governor Earl Ray Tomblin has signed off on the package (although it will not be a governor's bill and Tomblin did not mention it in his State of the State address).

Both bills are aimed at regulating the Marcellus Shale gas well drilling occurring now in West Virginia, but would apply to all drilling using these new techniques. In addition, both bills would provide DEP with much needed funds to hire additional inspectors through an increase permit fees. Although, each bill omits some things we want, (and the interim bill does some things better than the DEP bill and vice versa), both bills are a good start at protecting our land and water resources from destructive drilling practices.

West Virginia Environmental Council Legislative Coordinator, Don Garvin, has prepared a detailed comparison of the two proposals and we'll provide you with more particulars in future updates. In the meantime, visit www.wvsoro.org and check out our new slide show "The Industrialization of Rural West Virginia" to see why we urgently need to overhaul and modernize of its oversight of gas well drilling, and commit more resources to address the impacts of Marcellus Shale development.

Gulf Spill Topic of Next Seneca 2 Event - Spill Continues to Sicken Gulf Residents and Wildlife

Seneca 2 and the WV Citizen Action Education Fund (WVCAEF) have agreed to begin to collaborate on a public information campaign to help counter the single-minded shouting heads who currently dominate our media. With the combined efforts of both groups, we hope to expand the

range of public policy debate here in the Capitol region.

To kick-off our new partnership, we're hoping to sponsor a widely respected US independent journalist, Dahr Jamail who just spent the last six months reporting, recording and photographing on-the-ground accounts of the BP catastrophe in the Delta – wrenching stories of environmental devastation, human suffering, and corporate exploitation.

We plan to host a February forum in which Dahr will give a detailed pictorial presentation of the immensity of the tragedy in the Gulf. He'll particularly emphasize the terrifying environmental & health implications - the price we all pay for the record profits of the oil industry. With the Marcellus Shale drilling boom now taking root in WV, this is a timely presentation. Dahr has received numerous awards, including the prestigious 2008 Martha Gellhorn Award for Journalism, the James Aronson Award for Social Justice Journalism, and the Joe A. Callaway Award for Civic Courage. See some of his work at <http://dahrijamailiraq.com/>

This is where, you, our supporters come in...

Our goal is to raise \$1500 to bring Dahr Jamail to West Virginia. Your support can make it happen! Please contribute what you can to this joint effort. Since this is an educational activity, donations to WV Citizen Action Education Fund for this event will be fully tax deductible. To contribute, put a Dahr Jamail note on the check made out to WV-CAEF and send to: Seneca 2 c/o Marian Keyes, 103 Walker Drive, Dunbar WV 25064.

Thanks in advance from Eva Knapp for Seneca 2 & Gary Zuckett for WVCAEF!

Rockefeller Addresses Commission on Insurance Exchange

By Gary Zuckett, garyz@wvcag.org

Monday night at the State Capitol complex an overflow crowd attended the last West Virginia Office of Insurance Commissioner (OIC) public information meeting regarding their proposal for setting up a State Insurance Exchange. The

Exchange is a critical component needed to implement the Patient Protection and Affordable Care Act (ACA) passed last year to reform our health insurance system.

Senator Rockefeller was the keynote speaker and had only good things to say about the work of the OIC and Commissioner Jane Cline. He recognized Cline for her work on both the Exchange and for her leadership as president of the National Association of Insurance Commissioners. In that role she recently guided the Association in recommending consumer-friendly rules for implementing the new Medical Loss Ratio (MLR) aspect of the ACA. This aspect of reform mandates that the insurance industry actually spend 80-85% of the money they collect in premiums actually providing health care for consumers. The industry term for providing needed health care for their policy-holders is called a "Medical Loss" – hence the need to closely monitor and regulate.

The main focus of the meeting was to provide information and take public comments on how to best configure the West Virginia Health Insurance Exchange. Citizen Action along with many of our health reform allies including West Virginians for Affordable Health Care (www.wvahc.org) were at the hearing to testify. Our concern is that the OIC proposal includes seats on the Exchange Board for a representative each from the insurance industry, medical providers, and insurance agents to "balance" the three consumers on the board. In the coalition comment letter we submitted, this was likened to having the "fox guard the henhouse" (see end of the Exchange section at the above web site for our complete comments). When I offered this opinion at the meeting there were groans from the insurance agents (and Tea Partiers) in the audience.

As mentioned in our last newsletter, we must remain vigilant in both pursuing the implementation of the ACA and defending it against attacks from those who want to retain their excess profits from the broken system we're reforming. Next week the US House will vote to repeal the ACA - a futile move as we expect the Senate to kill the bill. However, there is more than one way to derail this major reform of our health system and the House holds the purse strings. Watch next week for an action alert in regard to this vote and be sure to tell

your Reps what you think about their trying to take away the new consumer protections in the ACA.
Bayer Plant to Cease MIC Production in Kanawha Valley

Great News from People Concerned About MIC This Week!

Dear Friends and Neighbors-

Today there was a victory in the fight against methyl isocyanate (MIC) the chemical that killed thousands in Bophal. Bayer announced that they will cease production of MIC (Ken Ward's article: <http://www.wvgazette.com/News/201101110865>) over the next 18 months and decommission the unit by 2012 (see Bayer's own press release below and the Center for Public Integrity's piece at <http://www.publicintegrity.org/blog/entry/2823/>). While this is a victory for our group and all of those in harms way of the chemical, we still need to remain vigilant in that MIC is not the what caused the August 2008 explosion, it is not what we believe causes the illnesses in our community, nor is it the only chemical of danger to us.

While this is a monumental step in our 26-year campaign to keep our community safe, we stand in solidarity with the workers in their time of struggle. Job blackmail is a common scare tactic used by corporations to divide communities and hide the bad business practices that threaten worker safety and job security. It is this tactic that holds us economic hostages to corporations who are willing to put profits before people and that compromise our community's health and safety.

Our hearts go out to the workers who, over the next several years, will be losing their jobs manufacturing this deadly compound. Yet we must remember that these jobs were lost to them by a company that chose not to plan ahead, not to change to safer technologies, and not to ensure their future in our community.

Next week, the Chemical Safety Board will be having their meeting to let the community know about their final investigation report and their recommendations to regulators and industry about how to make the our valley safer after the August 2008 explosion. I hope you will attend. It will be

held at the WV State University Student Union in Institute on Jan. 20th at 6:30pm.

At that meeting, I believe they will recommend that an Industrial Safety Ordinance (ISO) similar to that of the one in Contra Costa County, California which has drastically helped increase safety and minimize releases that greatly impact the communities surrounding their concentrated industrialized area. This is something I suggest we support. Even though our threat will be greatly reduced without the presence of MIC, we still have MILLIONS of pounds of other deadly chemicals stockpiled in the valley (such as chlorine, ammonia, ethylene oxide) and other corporations (DuPont) who have negligent safety practices and compromise the safety of our community. By implementing an ISO, the public will have access to information that will keep chemical companies vigilant in their safety practices and keep us in the know about what is happening in our community. This is huge step.

For more information on the ISO, visit http://cchealth.org/groups/hazmat/industrial_safety_ordinance.php.

Bayer Press Release:
http://www.bayercropscience.com/bcsweb/cropprotection.nsf/id/EN_20110111

Please come to the meeting with questions, statements and feel free to contact me with your input at 304-389-6859 or peopleconcernedaboutmic@gmail.com.

Congratulations!

Maya Nye, People Concerned About MIC

Urgent Mountaintop Removal News

By Mike Harmon

Folks, there will be an onslaught of attacks on the EPA because of the ruling to deny the permit for the Spruce No.1 Surface Mine, outlined here on EPA's water quality page (linked below). The EPA needs to hear from people like us who believe that atomic-bomb-style mining in West Virginia and

Kentucky needs to cease. Mountaintop removal mining destroys more plentiful, legitimate mining jobs that go with environmental integrity. Communities in West Virginia are having their land, air and water quality poisoned by extensive, dangerous mining practices unchecked by most state and federal regulatory and environmental agencies.

Please share this email with your friends and look for the "Contact us" link on this page:

http://water.epa.gov/lawsregs/guidance/cwa/dredging/404c_index.cfm

Coalfield Residents Mourn Loss of Judy Bonds

Coal Tattoo January 4, 2011 by Ken Ward Jr.



Jeff Biggers has a moving tribute on [The Huffington Post](#):

A little more than a decade ago, sitting on the coal dust-swept front porch with her grandson—the ninth generation of their family to reside in Marfork Hollow in West Virginia—Bonds was outraged to hear her 7-year-old grandson describe an escape route should a nearby massive coal waste dam break and flood their valley. “I knew in my heart there was really no escape,” Bonds told an interviewer in 2003. “How do you tell a child that his life is a sacrifice for corporate greed? You can’t tell

him that, you don't tell him that, but of course he understands that now."

Soup & Salad Buffet
Cost: \$15 donation or \$25 couple

Forced by an encroaching strip mine to move from her family's ancestral land, Bonds spent the next decade as a full-time crusader (and coal miner's daughter) to bring her grandson's message of central Appalachia's role as a national sacrifice zone from the devastating impact of mountaintop removal strip mining to millions of Americans across the country.

When her activism won her [the 2003 Goldman Environmental Prize](#), Judy said of her work: When powerful people pursue profits at the expense of human rights and our environment, they have failed as leaders. Responsible citizens must step forward, not just to point the way, but to lead the way to a better world.

Judy's Memorial is to be held at Tamarack in Beckley at 2PM on Saturday January 15th

For more on the loss of Judy Bonds see the web page of Coal River Mountain Watch, <http://www.crmw.net/crmw/content/remembering-judy-bonds>

Dates to Remember from the West Virginia Environmental Council!

WVEC's Annual Legislative

"Kick Off Blast" Benefit

Wednesday, January 19th

7:00 p.m. – 10:30 p.m.

WVEC Office - 2206 Washington St. East

Live music by Andy Park, Sara Fields and others

Refreshments served of course!

Donation: \$5 or whatever you can afford

Capital Eye is 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.wvcaq.org.

WVEC's Annual E-Day!

Wednesday, February 9th

At the Capitol

9 a.m. till 3 p.m. – Senate Hall & Alcove

Environmental Citizen Lobby Day - Exhibits

E-Day Benefit Dinner & Award Ceremony

Wednesday, February 9th

Charleston Women's Club,

1600 Virginia Street East

6:00 pm - 9:00 pm

WV Citizen Action
1500 Dixie Street
Charleston, WV 25311



We Need Your Support
We can't do it without you!

Please renew your membership or send a donation.

Name: _____

Address: _____

E-mail: _____ Phone: _____

Here's my donation of: \$25 \$50 \$100 Other \$ _____

Clip and mail with your check to West Virginia Citizen
Action Group, 1500 Dixie St., Charleston, WV 25311 -

THANKS!

Donate quickly & securely at www.wvcag.org!