



## Capital Eye

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### **Week One, Slow Ride**

by Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)

Well it's that time again when the lawyers, lobbyists, doctors, school bus drivers and citizens from all walks of life converge on the capitol to grind out legislation like sausage. The official kick-off was Wednesday night when now-elected governor Tomblin gave his state of the state address. If you missed it listen to the four and a half minute version on WVPR. You won't have missed much.

WV Center on Budget & Policy commented that Tomblin, "talked at length about creating jobs and lowering taxes. His remarks seemed to lack concrete solutions, however, that can truly bring good-paying jobs to West Virginia." The governor seems to think the problems facing our state will be solved by drug testing unemployed coal miners and creating new methods to judge teacher's performance. Oh yeah, and the EPA should just go away so we can win the "war on coal."

I watched the show at Bruno's with a pint of stiff brew in my hand and good fellows from the Charleston Drinking Liberally chapter (yes this is a real group – look them up). The governor's speech was a lot louder than the club's music system but as he spoke, strains of the Rolling Stones' tune "Sympathy for the Devil" bled through from the speakers behind the TV creating an interesting impromptu commentary...

### **First Week Highlights**

This week was highlighted by two events in which CAG staff participated. The first was a visit Monday morning by Dēmos Democracy Director, Steven Carbo and two county election officials from North Carolina. Julie invited them in to present to

the Legislative Interims and to lunch with the county clerks (and Secretary of State) to relate the benefits of Same Day Registration (SDR) where voters can show up to both register and vote during early voting. This is a proven way to increase voter participation. See Julie's piece inside for the details.

The other event was a long look at Green Building & Energy Efficiency hosted by WV GreenWorks. This opportunity for legislators and the public to hear from experts in the field was held in the House Chamber. Mike Harman and Cathy Kunkle from Energy Efficient WV (the new collaborative CAG is helping organize to promote public policies geared to conserve energy and keep down utility rates) were two of more than a dozen presenters. WV GreenWorks filmed the whole thing so watch for it on their site soon.

### **Marcellus Musings**

The governor's Christmas gift to the gas drillers was a big hit in the media and at the legislature. Too bad he left out most of the good stuff. Now that our lawmakers think it's fixed we will be hard pressed to convince them it's still broken. Dave McMahan, our counsel for the WV Surface Owners Rights Organization (WV-SORO), feels that our best chance to enact change at this time is through the civil justice system. See info on current lawsuits against drillers inside.

Even disposing of the vomit that comes out of these monster Marcellus wells is dangerous - causing earthquakes in Ohio and WV in the past several weeks. The closer one looks at the process of Hydrofracking, the more toxic it becomes. Will we be left with any clean groundwater in the northern gas fields? Also, who is even looking at the NORMS (radioactive elements) coming out of these wells from a mile underground, where they belong. "What, me worry?" comes to mind...

### **Stay Informed**

As of today, the second day of the session, a total of 936 bills have been introduced in both House and Senate. How did they do it so fast? Well, the first 900 or so were recycled or "carried over" from the

last session. Several of our bills from last year are in the mix such as the ones on Same Day (voter) Registration and Energy Efficiency. Sorting them all out will take a while - more on good and bad bills next week.

Meanwhile, concerned citizens can keep up with the legislative sausage grinding in a number of new, high-tech ways. A daily blog of legislative activities can be found at [www.legis.state.wv.us](http://www.legis.state.wv.us). Bill tracking, contact information for your legislators, and live audio streaming of selected committees and House and Floor sessions can be accessed through this site. Public TV's 'The Legislature Today' provides a daily recap of legislative activities and will air at both 6:30 pm and 11:30 pm daily beginning next Monday. Governor Tomblin will be the first guest interviewed on Monday.

### **We Need Active Citizens**

Get ready to get active in protecting your state's economy and environment from the over-paid lobbyists eternally asking lawmakers to "give away the candy store" to their special interest employers. It's you, the concerned voter that calls in or visits the capitol that can help hold back this money-go-round. Don't underestimate your power. When enough of you make noise, the lawmakers take heed. After all, it's an election year and the whole House and half the Senate are up for reelection. Don't let them forget it!

### **Advocates Promote Same Day**

**Registration** by Julie Archer, [julie@wvcag.org](mailto:julie@wvcag.org)

On Monday, election officials from North Carolina joined Steve Carbo of Dēmos, a nonpartisan organization that focuses on national issues, in testifying before the West Virginia Legislature's Judiciary Subcommittee C to talk about the benefits of same-day voter registration (SDR) (see coverage at [www.wvcag.org](http://www.wvcag.org)). The following day, Steve, Jason Perry, Director of the Stokes County, NC Board of Elections and Sharon Lewis, Deputy Director of the Carteret County, NC Board of Elections gave presentations to and participated in a discussion about SDR with a dozen county clerks

from around West Virginia. Secretary of State Natalie Tennant and Delegate John Doyle (D-Jefferson), who has been a supporter and champion of SDR, also attended at Tuesday's meeting.

In the past, West Virginia's county clerks have vigorously opposed previous efforts to implement SDR in the state citing administrative challenges and concerns about fraud and the legislation languished in committee. However, studies have shown that election officials in states with SDR were able to handle SDR in an efficient and orderly way without much, if any, added expense. These officials also report very few problems with fraud. Tuesday's meeting gave the clerks an opportunity to hear about SDR from the perspective of other election officials. The meeting was a positive first step towards addressing fears and concerns, and hopefully garnering their support.

SDR is a proven, cost-effective way to enfranchise eligible voters and increase participation in our democratic process without placing an undue burden on election officials, and without jeopardizing the integrity of the vote.

Nine states, including North Carolina, allow citizens to register and vote on the same-day, and those states have seen a dramatic increase in voter participation. States with SDR have historically seen average turnout rates that are 10 to 12 percentage points higher than non-SDR states. These states led the nation by 7 percentage points in the high-turnout 2008 presidential election, and nearly 6 percentage points in the 2010-midterm elections. The five states with the highest turnout in the last presidential election – Minnesota, Wisconsin, Maine, New Hampshire, and Iowa – were all SDR states. All told, over 1.5 million Americans were able to participate in the historic 2008 presidential election because of SDR.

In addition to voters, election administrators also benefit from and like the process because it is easier to implement than provisional ballots, and they are far less likely to have to turn away eligible voters from the polls.

We are extremely grateful to Demos for their generosity and for making this week's presentations possible. We would also like to extend a big thank you to Steve, Jason and Sharon for making the trip to West Virginia and being so generous with their time. We are also grateful to the members and staff of the Joint Judiciary Subcommittee for giving our guests the opportunity to testify and to all the county clerks who attended and participated in Tuesday's discussion.

For more information on SDR visit [www.demos.org](http://www.demos.org) or check our out YouTube channel (<http://www.youtube.com/user/WVCAG/>) to watch Tuesday's presentations.

### **Start the New Year Right: Join the 99% Fight Against "Citizens" United!**

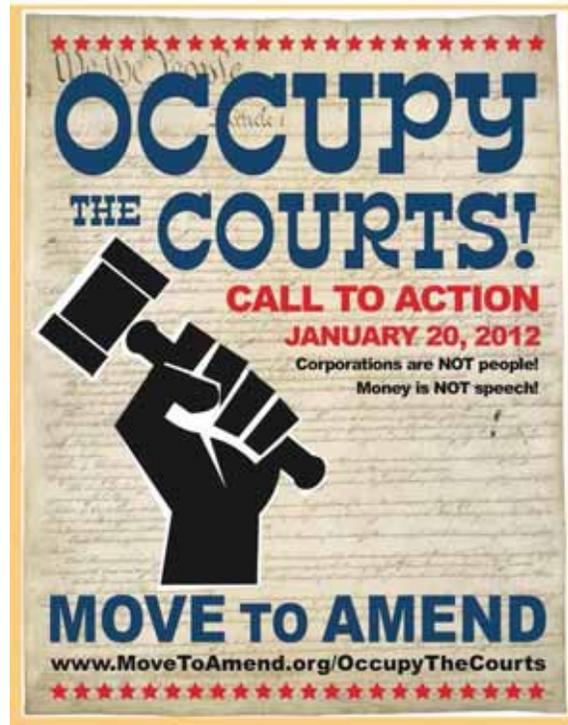
by Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)

This month marks the second anniversary of the Citizens United (CU) Supreme Court ruling. Citizens United gives corporations the right to spend unlimited money in elections under the guise of "free speech" and thereby swing elections and increase their influence in our government. Defeating corporate corruption of our democracy is the key political challenge of our age, and Citizens United is the current lightning rod for that larger effort. Not only is Citizens United a bad ruling, it has also become the poster child for the corporate takeover of government and the Supreme Court.

Occupy the Court Protest in Charleston Friday  
Place: Byrd Federal Building, 300 Virginia St East  
Date: Friday, January 20, 2012 Time: 11:30am until 5:00pm

Protest the Supreme Court's decision to treat corporate money as "free speech"! Bring a sign, come between 11:30 am and 1:30 pm, dress warm & stay as long as you can! There will be music, inspiring speeches, a skit with The Five Slow Supremes, an inflatable "fat cat", and all the fun you can handle. BE there because this is about YOUR country, YOUR future, YOUR democracy!

Spread the word to friends, neighbors, family. Main rally & speakers will be 12 noon and 1 pm, but come early and stay longer if you can.



### **Will Legislators Revisit Marcellus Shale This Session?** by Julie Archer, [julie@wvcag.org](mailto:julie@wvcag.org)

As Surface Owners' Rights Organization (SORO) cofounder Dave McMahon told the Charleston Gazette earlier this week, the Marcellus Shale bill passed by the legislature in December "was the industry's bill" and "had almost nothing for surface owners." The bill falls short of providing citizens and the environment with needed and deserved protections and were many provisions that WV-CAG, SORO and allied organizations concerned about Marcellus shale drilling felt should be in the bill that were not included.

Although some lawmakers in both the House and the Senate have acknowledged that there is more work to do, whether legislators have the stomach or the will to revisit the bill this legislative session remains to be seen.

We are encouraged by the fact that some legislators would like to strengthen the well location

restrictions, which specify how close gas wells can be drilled to homes and water wells. However, after four years of trying to get some incentives in the law for the drillers to recognize the rights surface owners already have under the common law, we expect we'll get more recognition and fairness for surface owners from the courts, and there are two potentially precedent setting cases already in progress.

In one case, Dave McMahon is representing a Marion County man who is suing two of the state's largest gas producers arguing that they don't have the right to use his land for two large well pads that will drain the gas from neighboring mineral tracks.

In the other case, which is now before the Supreme Court, a Doddridge County man claims that state regulators didn't do enough to protect his land or the environment when they issued a permit to drill a Marcellus Shale well on his property. At issue in the case is whether a surface owner has the constitutional due process right to a hearing before the Department of Environmental Protection's Office of Oil and Gas, and whether there should, similarly, be a right to appeal the DEP's decision to Circuit Court when they issue a permit to drill a well on the surface owner's land. SORO has been granted intervener status in the case.

Both cases could give landowners an advantage in their dealings with natural gas companies. (For more information on these cases visit [www.wvsoro.org](http://www.wvsoro.org) and check out the Fall 2011 Newsletter.)

### **Coalition of Progressives to Lobby**

by Maggie Fry, [maggiemfry@gmail.com](mailto:maggiemfry@gmail.com)

West Virginia progressive organizations will rally in the Capitol Wednesday, February 8<sup>th</sup> for a day of social justice lobbying.

The West Virginia E-Council is working with WV-CAG, Planned Parenthood, WV FREE, ACLU, Fairness WV, Rainbow Pride and Covenant House to organize a broad ranging day of citizen advocacy. Rachel Huff, of WV Free says that the event

represents, "a collaboration of like-minded people who are committed to moving West Virginia forward towards social justice."

Progressive businesses and organizations in the state are encouraged to attend. Participants will have an opportunity to receive free training, meet with WV Legislators, and sit on committee meetings.

Organizations and businesses are invited to host demonstrations and sell items related to the promotion of social justice in the State. Those interested in setting up table or registering to lobby, contact Denise Poole at (304) 617-7073 or [deniseap@earthlink.net](mailto:deniseap@earthlink.net) for more information.

The E-Council will host a "Legislative Kick Off Blast" to fundraise for the progressive lobbying event on Wednesday, January 18<sup>th</sup>. Organizers suggest \$5.00 donations for an evening of music provided by Andy Park, Sarah Fields, and others. A cash bar will be available and folks can meet with their 'favorite lobbyist' at the E.Council office at 226 Washington St. East, from 6:00-10:00 pm.

### **A Critique of the Governor's Industrial Language** by Joe Dickerson, [joe@wvsoro.com](mailto:joe@wvsoro.com)

In the latest State of the State Governor Tomblin vowed to fight the Obama Administration's Energy policy. Vowing; "As long as I am governor I will continue to fight the administration's war on coal." Tomblin's language of warfare and conflict is part of a broader attack on environmentalism. A little over a year ago David Barton and his party of favorites at Wallbuilders.org released a 12 part DVD series called "Resisting The Green Dragon" ([www.resistingthegreendragon.com](http://www.resistingthegreendragon.com)), that attempted to debase and discredit the environmental movement. This series portrayed the environmental movement "one of the greatest deceptions of our day" that it is "seducing your children" and "striving to put America and the world under its destructive control." Well, before you dismiss this line of logic as a joyride in the idiotmobile there is a frightening validity behind the attacks on environmentalism.

Governor Tomblin is simply a local example of the venomous attacks against the EPA, environmentalism, and any who stand in the way of industry. Working with WVSORO for the last few months I've been witness to the environmental, economic, and human effects of hydraulic fracturing. The WVU Law School Fracking Symposium, that I like to refer to as, "That Dog and Pony Show", framed the conflict between industry and environmentalist very well. Industry presents its side of the argument with a steely efficiency. They frame the issue in terms of States' Rights, Energy Independence, and Job Creation, tossing these buzz words around with little to support their claims. These "facts" amount to little more than advertising. Those who do not buy their products or their ideology are presented as kooks, radicals, and nitwits. Environmentalists are "othered" and dismissed. Industry hopes that people do not examine their claims beyond the surface. Digging past the veneer of clean energy, abundance, and gainful employment, there is the uncomfortable reality of stolen land, pollution, and destruction. The human cost of cheap energy is very real. The sad irony for those who expose the grim nature of cheap energy is the "shoot the messenger" mentality in this country. Those who present uncomfortable facts are damned for it.

At the heart of the Green Dragon series is this idea that Environmentalists care more for the Earth than they do for humanity. The series operates with the idea that the discussion about human population is directly linked with a need to reduce that population. Unfortunately for the environmental movement this language is not restricted to extreme groups such as Wallbuilders. Issues of consumption and responsibility delve into a world of ethics and morality that is troubling for those in the developed Western world. In essence an ethical crisis forms, which forces us to examine the uncomfortable aspects of comfort culture. Erazim Kohak sums up this crisis stating; "We are too numerous, demanding, and powerful." We and our demands are part of the ecocrisis and sadly much of the discussion about human faults is personalized. The use of natural resources as fuel for our lifestyles is not only a serious finical but societal

issue. Jobs, quality of life, and culture are affected by the use of these resources. In West Virginia the debate seems to be focused on the resources producing culture of the state. When environmentalists speak negatively about the environmental impacts of coal, many West Virginians are quick to see this not as a criticisms of an industry but as an attack on their way of life. A fact politicians, energy industrialists, and those who benefit from West Virginian labor are quick to exploit.

Regardless of whether people want to realize it or not, there is an ecocrisis. The world is being changed by human action in profound and permanent (at least as humanity measures time) ways. Ignoring the debate between science and pseudo-science over proving climate change, we as a society are deeply engaged in the discussion of the environment. What those who fight for the environment in West Virginia must realize is that the concerns over preserving the environment often conflicts with the culture of the state. While not everyone values this culture there is a need to respect those who do. Industry may resort to slander, but we must remember to not get distracted by the rough language and the direct attacks and focus on our message and goals.

## **MLK Day Events**

*by Gary Zuckett, [garyz@wvcag.org](mailto:garyz@wvcag.org)*

Monday is our nation's celebration of a great American, Dr Martin Luther King. Even though state offices are closed, the legislature will be holding an afternoon floor session and committee meeting after the annual Ecumenical Commemoration and Celebration of Dr King beginning at 10:00 am at the Asbury United Methodist Church, 501 Elizabeth St. A symbolic march follows the service up to the state capitol where the governor and other officials will speak at the Annual Bell-Ringing Ceremony at Noon at the Capitol's Liberty Bell (North Portico). Sunday evening at 7PM at the State Theater in the Culture Center there will be a Holiday Gala in Dr King's honor. All are invited.

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