



WEST VIRGINIA CHAMBER

2009 Annual Report

West Virginia Chamber Environmental Committee

The West Virginia Chamber Environmental Committee has the goal of advancing ideas for the development of and provide input to proposed environmental policy in West Virginia, our geographic region, the country, and internationally. The Committee meets every month either by telephone or in person.

Kathy G. Beckett is the Chair of the Committee, and Tom Boggs is the Chamber Vice President who staffs the Committee. The Committee has extended the invitation to the other state business and industry trade organizations to meet and coordinate with their environmental efforts to affect an efficient and effective business-friendly environmental policy for our membership.

Relations With U.S. Environmental Protection Agency

As a continuation of a 25-year tradition, more than 20 members of the Environmental Committee met with U.S. Environmental Protection Agency, Region III this July in Philadelphia, Penn. The Committee worked to orchestrate this meeting as early as January. The management at EPA presented answers and discussion to the 30 questions presented to them by the Committee in advance of the meeting. Topics of discussion included: mining permitting delays, total dissolved solids regulatory debate with Pennsylvania, greenhouse gas regulation, etc.

The Chamber has also engaged in federal appellate litigation against U.S. EPA concerning its PM 2.5 designations. A decision was filed on that matter this past Spring.

Relations with WV Department of Environmental Protection

In December 2008, the Committee invited W.Va. Department of Environmental Protection Secretary Randy Huffman and Acting Director, Water and Waste Management Scott Mandirola to engage in an informal discussion of the noted difficulties the regulated community is having with the most recent round of National Pollution Discharge Elimination System (NPDES) permit conditions. NPDES permits are required of anyone that has a direct discharge to the waters of the United States.

The discussion directed the agency to the number of appeals that have been filed and the inefficiency of having to remedy improperly fashioned permits through that process. Jennie Henthorne, Water Subcommittee Chair, is the architect who identified the inconsistencies of the agency's water quality based effluent limitation calculations. Through her leadership, the Committee and the agency identified the need for the agency to hold a workshop to educate both the agency and the regulated community as to the permit development process. The first of those workshops is scheduled to be held this Fall.

Through the efforts of Gale Lea Rubrecht, Waste Sub-Committee Chair, the Committee has been actively monitoring the DEP regulatory development for the Voluntary Remediation and Redevelopment Rule, civil administrative penalties, the waste management fee rule, etc. Ann Bradley serves as the Chamber representative to the Land Stewardship Trust focus group. The Trust is a program, championed by Ken Ellison, Director of the DEP's Division of Land Restoration. It is designed to provide long-term institutional and engineering controls for remediated sites in West Virginia. Ann makes regular reports to the Committee on this initiative.

The Committee also works to maintain a presence at all major agency meetings throughout the year. This both enhances relations and provides opportunity for Chamber input.

Relations with the West Virginia Legislature

Monitoring and reporting on environmental legislation is managed by Chamber Vice President, Tom Boggs, and Committee Chair, Kathy Beckett. In addition, other Committee members assist with lobbying state legislative activities and helps to inform the membership of actions that need to be taken in response to legislative initiatives. The committee also works to inform legislators of key concerns or support, attend legislative hearings, etc. At the end of the regular legislative session an overview report of key environmental bills was provided to the full membership of the Committee.

Relations with the Congressional Delegation

Through the efforts of Chamber President Steve Roberts, the Committee works to communicate the members' issues and concerns about federal legislative and regulatory issues with the state's Congressional delegation. This year the Committee is hosting Congresswoman Shelley

Moore Capito at a joint symposium with the Energy Committee, which is scheduled during the Business Summit where she has been invited to address environmental issues.

SPECIAL TOPICS FOR 2009

Climate Change

The West Virginia Chamber of Commerce has taken a very active, strong and visible position on federal climate change legislation. Steve Roberts, President of the Chamber, personally has taken the lead on setting and articulating the Chamber's concerns about the cap-and-trade bill that narrowly passed the U.S. House of Representatives. In support of his leadership, the Environmental Committee has closely monitored Congress' efforts, as well as those of other governmental entities.

The Environmental Committee has been active in meeting with and providing comments to U.S. Environmental Protection Agency relative to its climate change actions to include the finding that carbon dioxide is a pollutant that warrants regulation under the Clean Air Act. The Committee has received regular reports from its Air Subcommittee Chair, Edward L. "Skip" Kropp concerning activities of the regional Governor's Associations and the regional air planning groups relative to climate change policy. Skip attends a number of those meetings and is able to make first hand reports on issues that directly impact West Virginia.

The Environmental Committee has joined forces with the Energy Committee in bringing to the Annual Business Summit, Michael Gerrard, Esquire. He is a well-respected environmental legal practitioner and scholar on climate change issues. Gerrard grew up on Charleston, West Virginia and is known to the Environmental Committee Chair, Kathy Beckett through their joint activities in the American Bar Association, Section on Energy and Environmental Resources.

Gerrard also works directly with the past chair of the Committee, David Flannery in the distinguished American College of Environmental Lawyers.

Mining Industry Regulation

The Committee has been acutely aware of the barrage of regulatory debate directed toward the mining industry, particularly relative to water issues. The Committee has specifically requested a role with U.S. EPA as it explores regulatory and policy options. The Committee is working closely with the West Virginia Coal Association to support the mining industry.

Oil and Gas Industry Regulation

As new issues are presented through development of carbon capture and storage (CCS) the key role the oil and natural gas industry has to play in the underground storage of carbon dioxide does not go unnoticed. The Committee is monitoring the development of a CCS regulatory program for West Virginia with a view toward ensuring the state oil and gas regulatory program and mineral property rights are appropriately managed.

Additionally, discussion of potential influx of wastewater management issues as the result of the successful exploration and

Annual Environmental Academy

The Chamber's 2009 Annual Environmental Academy was held in May, and the event drew a record attendance. Faculty and topics for this year's program included:

- DEP Secretary Randy Huffman-agency initiatives,
- Robert G. McLusky (Jackson Kelly) - mining litigation,
- Gary Spitznogle (AEP) - Mountaineer carbon capture and storage project,
- David Hoone (Allegheny) – flyash impoundment regulation,
- Homeland Security and Emergency Management Director, Jimmy Gianato –industrial facility emergency reporting,
- Don Elswick (Marathon)- crisis communication,
- David Flannery (Jackson Kelly) climate change policy development,
- Fred Durham (DEP) – state air quality management issues,
- Director DEP Division of Land Restoration, Ken Ellison – land stewardship trust proposal,
- Jennie Henthorne (Henthorne Environmental Services) – NPDES permit condition development ,
- Allyn Turner (Spilman Thomas) – Selenium water quality issues,
- John J. Keeling (MSES Consultants) – Marcellus Shale water treatment options,
- Timothy Stranko (Steptoe & Johnson) Chesapeake Bay water quality impacts on West Virginia, and
- Donald Bludorn (Babst, Calland, Clements & Zomir) – total dissolved solids (“TDS”) water quality issues.



production from the Marcellus Shale is another issue the Committee is actively reviewing. The Committee is coordinating its activities with the Independent Oil and Gas Association of West Virginia and the West Virginia Oil and Natural Gas Association.

Industrial Emergency Reporting

At the request of the Governor, the Chamber served on an industry/agency workgroup that was tasked to develop an emergency reporting statute and regulation. As part of this the governor introduced a bill to require reporting during emergency situations by a select group of industrial operations to the W.Va. Department of Homeland Security. The governor's bill, Senate Bill 279, was passed during the 2009 Legislative Session, and Emergency Rule 170 CSR 2 became effective August 24, 2009. Regulated facilities are to receive direct notice via certified mail from the agency before the reporting requirement is effective on that facility.

Committee Use of Web Technology

A special effort by the Committee has been to integrate technology into its process for delivering useful information to the membership. To accommodate computer usage, the Environmental Academy was set up to allow computer hook-up and seminar materials were distributed using a "thumb drive."

The Committee held its first webinar where Kathy Beckett provided an hour-long slide presentation reviewing the new state's industrial facility emergency reporting program. The lunch-hour presentation via the internet allowed members throughout the state and region to gather important new information and learn about the specifics of this issue.

The Committee's leadership will explore this tool more fully and is committed to further use of this system to allow a more interactive discussion via conferencing and web capabilities.



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