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DOMINION POST Tuesday 13 December 2011:

Criticized Marcellus bill clears Senate panels

Lawmakers add 7 amendments

BY DAVID BEARD
The Dominion Post

CHARLESTON — The Senate Judiciary and Finance committees OK'd the governor's Marcellus regulatory bill Monday.

It breezed through Finance on Monday afternoon after a nearly five-hour massage in Judiciary on Monday morning.

The full Senate will take up the bill at 10 a.m. today, and some said it will likely suspend its rules to do the final two readings and pass it today. On the House side, its Judiciary Committee will begin examining the bill at 9 a.m. The full House will convene at 4 p.m.

The Senate Judiciary Com- mittee passed out a committee substitute wrapping in seven amendments, and heard pans and praises of the bill from several constituent groups.

Two of the amendments concerned grandfathering. Both were offered by Sen. Mark Wills, D-Mercer. One grandfathers in all permit applications submitted before the new bill takes effect — which is expected to be as soon as the governor signs it. The grandfathered wells — 206 of them according to the Department of Environmental Protection (DEP) — won't be subject to the new regulations.

The second concerns setbacks. Current law for spacing from a dwelling is 200 feet, the new bill makes it 650 feet. This amendment grandfathers in all new wells on existing pads already containing permitted wells.

Sen. Greg Tucker, DNicholas, offered four amendments dealing with surface owner notification. One extends the advance notice for a driller planning a site survey from three days to seven days. Another specifies that a letter to a lienholder, such as a bank, is not sufficient notice to the actual surface owner.

A third requires advance notice of a survey plan to all mineral holders beneath the area of the planned pad. The fourth tidies up some language inconsistency.

Sen. Evan Jenkins, DCabell, offered an amendment requiring the DEP to notify the legislature of all permitting waivers it grants to operators.

A fifth Tucker amendment failed after causing extended quivering among members. The bill requires a setback of 650 feet from an "occupied structure." Members agreed with Tucker that the phrase is vague and could be interpreted to exclude vacation homes, hunting cabins, or homes where the occupants have been away for an extended period.

DEP Secretary Randy Huffman assured members that DEP interprets the language broadly, but members feared a future secretary could choose not to.

But they also feared that the three versions of the amendment Tucker offered could make the problem worse by making the phrase so vague it could include cardboard boxes and such, and trigger lots of pointless litigation. So they stuck with "occupied structure."

Stakeholder views

Senate Judiciary Committee members spent a good portion of the meeting reviewing details of the bill and asking questions of the various experts. Many of the questions had been raised and answered during the summer Joint Select Committee on Marcellus Shale meetings, but only four of the 16 members were on the Select Committee and familiar with the issues.

Five stakeholders aired their views of the bill. West Virginia AFL-CIO President Ken Perdue a gave thumbs up to the portions requiring the state Workforce Investment Council to study various Marcellus employment issues and report annually to the Legislature.

Don Garvin, with the West Virginia Environmental Council, said, "We feel the governor's bill falls short. It removes public notice and comment provisions, he said, removes air quality regulation, allows drill cuttings to be buried on site with DEP OK, among other things.

"I'm really disappointed that the governor doesn't believe the public deserves a notice and comment period," he said.

David McMahon, cofounder of the West Virginia Surface Owners Rights Organization, repeated his previously published objections to the bill making surface owner rights subservient to mineral rights.

Corky Demarco, with the West Virginia Oil and Natural Gas Association, complained about the fee hikes, taxes and well setbacks. "I don't think we're competitive with other states in this basin."

But he said the association supports the bill because it's time to move forward and reap the economic benefits of the Marcellus shale gas. The industry needs certainty and "I think this bill will provide that certainty. ... We need to pass something as soon as we can."

Phil Real, speaking for the Independent Oil and Gas Association of West Virginia, also has problems with the bill, but wants to move on. "It's time we got this issue behind us."

He said his association wants to see more West Virginians put to work, and draw in more from out of state who want to move and settle here.

With the potential for several ethane cracker plants locating here, and all the business that could spark, "this is the most exciting opportunity in my professional career for West Virginia."

House holds public hearing

BY DAVID BEARD
The Dominion Post

CHARLESTON — Sixty-six people queued up to air their views about the governor's Marcellus shale bill during a 90-minute House Judiciary Committee public hearing Monday. The count: 35 against, 31 for.

Each speaker had one minute and the arguments followed common lines: Proponents touted regulatory certainty, economic benefits and more jobs. Opponents panned the governor's weakening of the Joint Select Committee on Marcellus Shale bill and warned of the potential threats to health and the environment.

Here's a sampling of the views regarding HB 401 (SB 4001 is the twin Senate bill).

Against the bill

Carol Warren, with the West Virginia Council of Churches, pulled colorful signs out of a Christmas bag, each containing points she'd like to see in the bill. Among them: No on-site burial of drill cuttings; no allowable variances for well setbacks from homes; mandatory permits for water withdrawals; a two-year window to report water contamination problems.

Alan Johnson, from Pocahontas County, quoted Psalm 21, proclaiming "The Earth is the Lord's." He urged legislators, "Dig down deep into your innermost soul. ... The decision you make will be affecting God's creation." There will be winners and losers, and some will gain financially at others' expense.

John Christensen, of Berkeley County, was "astonished by a lack of a strong, comprehensive law to protect our water, land and air, and jobs. ...Why is the governor in such a rush to pass an inadequate bill?"

Thomas Bailey, of Richwood, termed the issue "big oil, big gas, big greed against clean water, clean air, clean environment" and urged legislators to oppose the governor's changes.

Lois Yeats Jenkins called for a trust fund to pay for future health problems associated with the industry. "It's not a matter of if, but when."

For the bill

Ken Hayhurst, of the West Virginia Royalty Owners Association, said the Marcellus boom is bringing more people more income and urged passage of the bill.

Zack Arnold, Chesapeake Appalachia operations manager, said the Marcellus boom brought him back to his home state. He holds personal and environmental safety in the highest regard. "Our industry is committed to environmental excellence."

Buck Edwards, one of several dozen people sporting white IOGA (Independent Oil and Gas Association) Tshirts, is a trout fisherman, hunter and camper. The industry supports environmental safety. "I am very proud of the industry I am associated with."

Kenny Mason, a gas driller, grew his company from scratch. All his employees are West Virginia residents. He wants to pass the bill to bring needed certainty "so we [the state] can continue to grow and thrive."

George Patterson, an oil and gas lawyer, said the Department of Environmental Protection "has taken care of our state. But additional guidance would be helpful." More business will produce more jobs.

The House Judiciary Committee takes up the bill for consideration at 9 a.m. today.

LETTERS TO THE EDITOR

Fracking industry may be necessary transition

I read with interest the guest commentary about the Marcellus gas industry and as usual the "antis" are using the same stories. Telling someone that fracking has been occurring for 40 or more years is not disinformation, but the truth. If there is

evidence that it has been done with reckless abandon and nothing has been learned to make it safe today, I would like to see some evidence.

I have not been able to find one instance of a municipal water supply being contaminated or destroyed by these drilling methods. To insinuate that there has been — without facts — is more egregious than anything the industry has told us. Probably, the first fracked well was a hand dug water well that the frustrated digger dropped a couple of sticks of dynamite into to open a water vein.

The list of chemicals presented are found under most sinks or in most garages. The acid is in your batteries and your stomachs, and if there are carcinogens being used, name them and the exposure type and level at which they become carcinogenic. Sunlight is carcinogenic, but we walk in it daily without a problem. The industry presentation was not a lie and there were only accusations presented against the industry without facts.

The same list of grievances against the industry are made in each presentation, but without facts to back them up. There is a way to reduce the number of wells being drilled and that is for everyone opposed to this industry to disconnect the gas pipe from their home and stop using gas for heat and cooking. You could also lobby to stop converting vehicles to natural gas from petroleum fuels. The reduction in use would make it too expensive to drill and frack.

Looking at this industry as well as the energy future in this country is causing many to react because there are changes that have to be made. Shutting down one industry and denying the energy produced to the public is not the cure. The only way we can reform the present use of energy is to start a long-term program that switches off oil and coal to wind, solar and atomic energy. A program of 50 years which adhered to could solve many of the problems we see today. Fortunately, natural gas may be the energy source that bridges the gaps in the transformation and make this possible.

John W. Campbell Morgantown

Charleston Gazette Tuesday 13 December 2011:

December 12, 2011

Interests attack Tomblin's ‘tweaks’ of Marcellus bill

By Rick Steelhammer

The Charleston Gazette

CHARLESTON, W.Va. -- Environmental and surface owners' groups gathered in the Capitol Rotunda on Monday to vent their opposition to Gov. Earl Ray Tomblin's reworking of a House/Senate select committee's bill to regulate Marcellus Shale natural gas drilling.

"What we now have is a Christmas tree for the drillers -- it's an industry bill," said Gary Zuckett, director of the West Virginia Citizen Action Group, after details of the governor's

version of a Marcellus bill emerged during the first day of a special session addressing the topic.

"Legislators need to take it back and do it right," Zuckett said. "The whole process was hijacked in closed-door meetings after so much work was done all summer."

"We worked for three years with the DEP and the Legislature to try to develop a respectable regulatory framework," said Don Garvin of the West Virginia Environmental Council. "The bill the select committee came up with did not have everything we wanted, but the governor's bill has nothing we wanted. The Legislature should kill it if its key provisions are not eliminated."

Referring to comments by Tomblin earlier this month that he planned to make a few "tweaks" to the select committee's bill, Carol Warren of the Ohio Valley Environmental Council said bill the governor is proposing "is not a tweak but a hatchet job. He cut out everything that protected citizens."

"The governor's bill is taking us backward," said Julia Archer of the West Virginia Surface Owners' Rights Association.

Archer said the governor's bill, among other things, removes incentives for drillers to work with landowners on well location sites and access roads. It also allows drilling to take place within 625 feet of a home, and allows for variances to drill even closer.

The governor's bill does increase the distance from natural gas wellheads to water wells from 225 feet to 250 feet, but allows for variances to that rule also, she said. Some Marcellus drill pads are large enough that they could cover landowners' water wells and still meet the proposed 250-foot setback.

Archer said the governor's bill also calls for the study of air emissions and the effects of burying drill cuttings and drill mud in onsite pits, but does not fund them. She said state surface owners want the governor's bill to die and have the issue of regulating Marcellus Shale drilling taken up anew during the regular Legislative session.

"The select committee's bill "was already a compromise," said Jim Sconyers of the West Virginia Sierra Club. "Now it is unacceptable. Any bill we would support must contain at least the protections found in the compromise bill."

Among reasons Garvin cited for opposing the governor's draft bill were its removal of public notice and comment provisions for Marcellus permit applications, and eliminating the DEP's authority to deny drilling permits based on "special conditions," like proximity to drinking water supplies, municipalities, natural landmarks or historical sites.

Also cited were the governor's bill's removal of the Office of Air Quality's authority to regulate air emissions at drill sites, its elimination of a requirement to notify adjacent property owners of drilling plans, and its removal of a buffer zone requirement for drilling in the vicinity of streams that don't run all year long.

Delegate Mike Manypenny, D-Taylor, said the changes made in Tomblin's draft bill ignored the work done by the select committee.

"It's our time to hold the industry accountable," he said.

Reach Rick Steelhammer at rsteelham...@wvgazette.com or 304-348-5169.

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December 12, 2011
Governor weakened committee's gas-drilling bill
By Ken Ward Jr.
The Charleston Gazette

Read more about the bill at: *http://blogs.wvgazette.com/watchdog/*

CHARLESTON, W.Va. -- In legislation proposed for this week's special session, Gov. Earl Ray Tomblin removed or weakened a special committee's proposals for public input on natural gas drilling permits, protection of drinking water supplies and mandated standards for well casings.

Tomblin also eliminated language calling for an independent review of West Virginia's regulations on Marcellus Shale drilling, and added provisions that could hamper surface landowners in their dealings with drilling operators.

Those are among the more significant changes Tomblin's office made in reducing to 99 pages the 121-page bill lawmakers on a joint committee spent nearly 10 months crafting.

Industry officials are supporting the Tomblin-backed legislation, saying it provides them with clarity and certainty for what West Virginia's regulatory requirements will be as companies seek to tap into the Marcellus Shale reserves.

"We will recover this resource responsibly," Zack Arnold, West Virginia operations manager for Chesapeake Energy, told a public hearing Monday evening. "Our industry is committed to environmental excellence."

Tomblin said this bill is "landmark legislation that will be a significant step forward in the development of the Marcellus Shale in West Virginia."

"In drafting this legislation, my office has had one key goal in mind: Protecting the environment while providing clear rules to the natural gas industry so that they may continue to develop job opportunities and invest in West Virginia," Tomblin said in announcing the special session late last week.

But changes Tomblin made in the legislation left key citizen groups that had pushed for the special session -- the West Virginia Environmental Council and the West Virginia Surface Owners' Rights Organization -- both opposing the bill, and urging lawmakers to just start over in next year's regular session.

"We had several problems with the bill recommended by the Select Committee on Marcellus Shale," the surface owners' group said in a statement. "The governor's bill is MUCH worse and has way too many problems to begin to fix in a special session."

Among the significant changes in the governor's bill, compared to the legislation proposed by the Marcellus Shale committee:

* Public input: The committee bill required public notices be published for new drilling applications, and allowed Department of Environmental Protection to hold public hearings at the agency's discretion. The governor's bill requires DEP to set up a website and an e-mail notification system for permit applications, but does not mandate notices in local newspapers or allow DEP to hold public hearings.

• Monitoring jobs: The committee bill required companies to disclose information about the residency of their workforce, to answer questions about whether gas industry jobs were going to West Virginians. The governor's bill eliminates that requirement, instead mandating a government study of the issue.

* Denying permit: The governor's bill eliminated language that would have allowed DEP to deny permits based on concerns about proximity to water supplies, municipalities and densely populated areas, impact on water tables, public resources and natural landmarks.

* Drilling pits: The governor's bill allows drilling pits, with drill cuttings and other associated drilling wastes, to be buried on site -- rather than removed for proper disposal elsewhere.

* Permit fees: The committee bill allowed the DEP to enact future permit fee changes through rulemaking, rather than an act of the Legislature. The governor removed that language.

* Surface owner rights: The governor's bill on horizontal wells removes a declaration that the rights of surface owners are equal to those of mineral owners.

* Well casings: Many specifics about the specifications for well casings -- a key to preventing water pollution -- will be set by DEP under the governor's bill, rather than spelled out in legislation, as the committee had proposed.

* Study of state regulations: The governor's bill removes language from the committee that would have sought an updated and independent study of West Virginia's regulation of the natural gas industry.

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December 12, 2011

Views mixed on Tomblin's drilling bill

By Phil Kabler

The Charleston Gazette

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That puts pressure on the House of Delegates -- where Marcellus Shale legislation died at the end of the 2011 regular session -- which takes up the special session bill for a first time today.

Earlier Monday, the Senate Judiciary Committee advanced its draft of the bill, after a 4 1/2-hour marathon meeting. Committee members made minor amendments to the bill, primarily expanding timelines for drilling companies to notify landowners.

Monday afternoon, the Senate Finance Committee quickly approved the bill without amendment.

Finance Chairman Roman Prezioso, D-Marion, said there was consensus on the fiscal side of the bill, including provisions to increase permit fees up to $10,000.

"There had been extensive work in Judiciary Committee on the policy part of it," he said. "I don't think any of our members wanted to open up the policy part again."

In the Judiciary Committee meeting, and later in a public hearing in House chambers, environmentalists and landowners' rights advocates denounced the governor's bill for diluting industry regulations proposed last month by a House-Senate select committee, which had worked through the summer and fall to draft Marcellus Shale regulations.

"We feel the governor's bill falls short," Don Garvin, with the West Virginia Environmental Council, told lawmakers. "These are huge operations that affect a lot more than the surface tract that's being disturbed."

Garvin later Monday urged members of the House to insert the provisions of the select committee bill into the governor's bill when the House Judiciary Committee takes up the legislation this morning.

Dave McMahon, with the West Virginia Surface Owners Association, contended that the administration bill favors oil and gas operators at the detriment of landowners, who could have massive Marcellus Shale drilling pads within two football fields of their homes.

"If a well is 625 feet away from a residence, you will not be able to sleep at night," he said of drilling that initially goes on day and night at well sites.

Both Garvin and McMahon had hoped that legislators would spend the special session strengthening the select committee bill, a proposal they believe does not have sufficient safeguards for landowners, or to protect the state's groundwater supply.

However, McMahon noted, "When we saw the governor's bill, we think it's much worse."

Conversely, industry representatives objected to the bill's high fees and tougher regulations, but in the words of the Oil and Gas Association's Corky DeMarco, said they could "grin and bear it."

He said West Virginia's 5 percent severance tax on natural gas puts it at a disadvantage with Marcellus states of Ohio, with a 7/10th of one percent tax, and Pennsylvania, with no severance tax, and that the industry would be the first in the state to be hit with a 1,400-percent increase in permit fees, from about $400 a well to $10,000 for the first well and $5,000 for subsequent wells.

However, he said the primary issue for industry is regulatory stability.

"We don't want to read about Marcellus every day on every front page of every paper in the state," DeMarco said in support of the governor's bill. "It gives us a set of rules to operate by, and it gives the public confidence so we don't get beat up."

Phil Reale, representing the Independent Oil and Gas Association of West Virginia, agreed that the industry's first objective is stability -- particularly with opportunities such as multi-billion-dollar ethane cracker plants on the horizon.

"When you look down the road, you're seeing tens of thousands of jobs, you're not seeing thousands of jobs," he said of the potential manufacturing spin-offs from a cracker plant.

"It's probably a pretty good indication that not everyone is happy with what's contained in this bill," Reale said. "While nothing's perfect, this represents the opportunity for the industry to move forward."

During the House public hearing, the Independent Oil and Gas Association made a show of support, lining the chamber with dozens of members wearing association T-shirts.

At the hearing, speakers supporting the bill -- mainly those in the oil and gas industry or representing manufacturers -- alternated with those who believe the bill is inadequate to protect the environment or landowners' rights.

"This governor's Marcellus bill is a Christmas gift to drillers," said Gary Zuckett with the West Virginia Citizen Action Group. "We're not against jobs in the gas fields. We want to see a strong, thought-out bill so we don't make the same mistakes as we did with coal."

Reach Phil Kabler at ph...@wvgazette.com or 304-348-1220.

December 12, 2011
Study confirms mountaintop removal stream damage
By Ken Ward Jr.
The Charleston Gazette

CHARLESTON, W.Va. -- A new study in a major scientific journal confirms previous findings that link mountaintop removal coal mining to significant degradation of downstream water quality.

The study, published in the Proceedings of the National Academy of Sciences, found increased salinity and metals in waters downstream from mining operations at Patriot Coal's Hobet 21 complex along the Boone-Lincoln County border.

Duke University researchers Ty Lindberg and Emily Bernhardt, along with five other researchers, co-authored the paper, called, "Cumulative impacts of mountaintop mining on an Appalachian watershed."

"Our results demonstrate that the cumulative impact of multiple mines within a single catchment and provide evidence that mines reclaimed nearly two decades ago continue to contribute to significant water quality degradation within this watershed," said the paper, published online on Monday.

Coal industry officials favor mountaintop removal for its efficiency, and most coalfield political leaders support the practice.

But federal regulators and citizen groups point to a growing body of scientific evidence that shows mountaintop removal causes serious damage to Appalachian forests and streams, and to newer research that strongly suggests a link between mountaintop removal and adverse health effects.

Duke researchers sought to assess the cumulative impacts of more than 100 permitted discharge outlets draining about 11 square miles of active and reclaimed mountaintop removal permits at Hobet 21, in the Upper Mud River watershed.

The Upper Mud flows through Boone and Lincoln counties as a headwater stream until it reaches the Mud River reservoir about 15 miles downstream. For about six miles, the river passes through the Hobet 21 complex, which has been active since the 1970s and is frequently touted by the industry as a well-run mountaintop removal operation with quality reclamation practices.

Duke researchers collected 152 sets of samples from 23 sites, including two sites upstream from mining sites, between May and December 2010. They sampled for electrical conductivity, a measure of salinity, and for concentrations of major ions and trace elements derived from coal or the surrounding rocks.

Co-author Richard Di Giulio said all conductivity measures taken downstream from mine discharge outlets "exceeded levels known to be harmful to aquatic life." Upstream from mining, conductivity measures were within safe levels.

"As eight separate mining-impacted tributaries flowed into the Upper Mud, conductivity and concentrations of selenium, sulfate, magnesium and other inorganic solutes increased proportionately," said co-author Avner Vengosh. "Nearly 90 percent of the variation in trace elements and salinity could be explained by the amount of upstream surface mining."

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Governor weakens bill

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However, McMahon noted, "When we saw the governor's bill, we think it's much worse."

Conversely, industry representatives objected to the bill's high fees and tougher regulations, but in the words of the Oil and Gas Association's Corky DeMarco, said they could "grin and bear it."

He said West Virginia's 5 percent severance tax on natural gas puts it at a disadvantage with Marcellus states of Ohio, with a 7/10th of one percent tax, and Pennsylvania, with no severance tax, and that the industry would be the first in the state to be hit with a 1,400-percent increase in permit fees, from about $400 a well to $10,000 for the first well and $5,000 for subsequent wells.

However, he said the primary issue for industry is regulatory stability.

"We don't want to read about Marcellus every day on every front page of every paper in the state," DeMarco said in support of the governor's bill. "It gives us a set of rules to operate by, and it gives the public confidence so we don't get beat up."

Phil Reale, representing the Independent Oil and Gas Association of West Virginia, agreed that the industry's first objective is stability -- particularly with opportunities such as multi-billion-dollar ethane cracker plants on the horizon.

"When you look down the road, you're seeing tens of thousands of jobs, you're not seeing thousands of jobs," he said of the potential manufacturing spin-offs from a cracker plant.

"It's probably a pretty good indication that not everyone is happy with what's contained in this bill," Reale said. "While nothing's perfect, this represents the opportunity for the industry to move forward."

During the House public hearing, the Independent Oil and Gas Association made a show of support, lining the chamber with dozens of members wearing association T-shirts.

At the hearing, speakers supporting the bill -- mainly those in the oil and gas industry or representing manufacturers -- alternated with those who believe the bill is inadequate to protect the environment or landowners' rights.

"This governor's Marcellus bill is a Christmas gift to drillers," said Gary Zuckett with the West Virginia Citizen Action Group. "We're not against jobs in the gas fields. We want to see a strong, thought-out bill so we don't make the same mistakes as we did with coal."

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Water-rescue training nears for city crews
Tuesday, December 13, 2011
By Joe Smydo, Pittsburgh Post-Gazette

Pittsburgh aims to create one of the best water-rescue programs in the nation, public safety director Michael Huss said Monday, disclosing plans to put about 2,000 police officers, firefighters and paramedics through an eight-hour water-survival course and create about 10 new swiftwater rescue teams, including a pair of elite teams for the most difficult assignments.

Training begins Dec. 19.

"It's a huge undertaking," Mr. Huss said.

The announcement comes four months after four people died in a flash flood on Washington Boulevard.

About a dozen others were rescued that day by emergency-management workers who commandeered boats from a nearby marina. Mr. Huss said chronic flooding in other neighborhoods -- cars in Greenfield and Shadyside have floated away in recent years -- also underscored the need for enhanced rescue capabilities.

Currently, the city has a river rescue boat, inflatable boats carried on a couple of rescue trucks and a handful of other boats on trailers. After the Aug. 19 flood, it placed an inflatable boat at the Zone 5 police station on Washington Boulevard. The paramedics union says about 40 of its members are trained for water rescues.

However, Mr. Huss cited a pressing need for additional equipment -- and people trained to use it -- citywide.

Under his plan, all police cars and fire trucks would be equipped with personal flotation devices and rescue "throw bags." The city would purchase 11 swiftwater boats and place them at flood-prone areas throughout the city.

"I think it's what residents would like to see," said Councilwoman Theresa Kail-Smith, the body's public safety chair who represents western neighborhoods with flooding problems.

Mr. Huss said he hopes to create "one of the most robust water rescue programs in the nation." In a previous position as fire chief in Johnstown, Cambria County, Mr. Huss developed a swiftwater rescue team that has assisted during floods in Allegheny County.

In Pittsburgh, he envisions a "tiered level of capability" that requires new cooperation among the police, fire and EMS bureaus.

He said the first step is to begin putting about 2,000 public-safety employees -- virtually all police officers, firefighters and medics -- through an eight-hour course on water survival. Mr. Huss said the training -- to be conducted at the former Pittsburgh Peabody High School swimming pool -- will show first responders how to keep themselves alive and provide some assistance to others.

Officials of the state Fish and Boat Commission helped to train city public safety workers, who in turn will train their colleagues.

Anthony Weinmann, president of the paramedics union, called the training "a must" for police officers and firefighters who are weighed down by duty belts and turnout gear. He said the training also would be helpful for other city employees, such as public works teams that work around the rivers.

Mr. Huss said the new swiftwater rescue teams culled from public safety workers would receive an additional 48 hours of training, some of it in swiftwater conditions at McConnells Mill State Park.

Mr. Huss said the 11 new motorized boats would be stored on trailers at places such as the EMS stations in Bloomfield, Downtown and Knoxville and fire stations in Brookline, Elliott, Hazelwood, Homewood and Lawrenceville. Two boats would be used for training or as spares.

In all, about 200 employees would serve on swiftwater rescue teams.

Mr. Huss said the "best of the best" swiftwater crew members would be assigned to a pair of 28-member elite teams with responsibility for the toughest assignments, such as rescues hampered by downed power lines. In emergencies, he said, the crews could be dispatched to other municipalities if the city didn't need them.

Mr. Huss hopes to purchase the 11 boats with $250,000 of the $80 million bond issue that Mayor Luke Ravenstahl has proposed floating for capital needs next year and in 2013.

Tom D'Andrea, a city firefighter and Greenfield resident who has lobbied for flood-control measures in his neighborhood, said he's pleased with the swiftwater rescue plan. He said he's especially concerned about elderly residents who might "try to move their cars and get swept away" by fast-moving waters.

Traditionally, water rescues have been the responsibility of the EMS Bureau. Firefighters and the EMS Bureau have had a frosty relationship over the years, but in the interest of public safety, Mr. Weinmann said, the paramedics union is willing to respect the administration's effort to bring firefighters into the program.

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First published on December 13, 2011 at 12:00 am

House approves Shuster's overhaul of pipeline safety
Tuesday, December 13, 2011
By Tracie Mauriello, Post-Gazette Washington Bureau

WASHINGTON -- Gas pipeline leaks and explosions over the last year and a half have led to death, destruction of homes and devastated neighborhoods throughout the nation, including in Allentown, Pa. Now, they have also led to congressional action -- in one chamber, so far.

A usually divided House came together Monday in a unanimous voice vote to pass a fuel-pipeline safety act that its sponsor, Rep. Bill Shuster, R-Blair, said would improve safety while reducing regulatory uncertainties that have kept industry from expanding and creating jobs.

"Recent pipeline incidents suggest there is room for improvement," Mr. Shuster said on the House floor. He said his bill would strengthen enforcement, keep

the industry "on a short leash" and provide avenues for state and local employees to assist in federal inspections.

Yet the bill, in fact, scraps jobs in the federal Pipeline and Hazardous Materials Safety Administration and cuts back maximum fines per violation from $2.5 million to $2 million. Mr. Shuster was unavailable to comment after Monday's House vote, but he has previously been critical of the pipeline safety agency and has declared his belief that industry expertise should guide pipeline safety.

Off Capitol Hill, the bill has support from industry officials and some safety advocates, but others found shortcomings.

"Unfortunately, the bill doesn't directly fix many of the problems," said Carl Weimer, executive director of the Pipeline Safety Trust based in Bellinigham, Wash. "It's more like, 'Let's study the problem for the next couple years and then decide what to do.'

"If they really wanted to do something, Congress would be supporting actual clear rules and regulations," he said in a phone interview Monday.

Mr. Shuster, meanwhile, has said his bill includes sweeping reforms that members of both parties were able to agree on. He and fellow negotiators who worked on the bill said their work was informed by the lessons of the recent tragedies around the country:

• In San Bruno, Calif., a San Francisco suburb, the lack of an automatic shutoff kept fires fueled for more than an hour after an explosion Sept. 9, 2010. Eight people were killed and 38 homes were destroyed.

• In Allentown, a thunderous gas explosion on Feb. 9 of this year killed five people, including a 4-month-old child, flattened two homes and burned a block and damaged more than 80 houses.

• In southwest Michigan, a leaking pipeline on July 26, 2010, spilled a massive amount of crude oil into a creek that feeds the Kalamazoo River. The Environmental Protection Agency estimated the spill at 1.14 million gallons, more than a third higher than the energy company's estimate of 843,000 gallons.

Those incidents led to bill provisions requiring testing to confirm maximum safe operating pressures, installation of automatic remote-control shutoffs and reviews of compliance standards for pipes under rivers.

Mr. Weimer noted that the bill fails to address requirements for replacing deteriorated old pipes, which contributed to the deadly Allentown blast. He also said it had no regulation of pipes traversing sparsely populated areas.

On the House floor, Mr. Shuster said his bill went a long way in adding safeguards. One provision would establish industry-funded regional training centers for local inspectors to study federal standards. Another section adds mishap reporting rules.

Mr. Shuster's bill, dubbed the Pipeline Safety, Regulatory Certainty and Job Creation Act, now heads to the Senate.

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In Rebuttal / Two different standards
An appeals court's deference to industry threatens the Allegheny National Forest
Monday, December 12, 2011
By Ryan Talbott

A recent decision by the U.S. Third Circuit Court of Appeals regarding oil and gas drilling at the Allegheny National Forest prompted David C. Fredley to offer his opinion supporting the court's decision ("Stand Up for States' Rights," Oct. 31). The court held that the Forest Service has almost no authority to protect the Allegheny from oil and gas drilling since it does not own the mineral rights under most of the forest.

Several aspects of Mr. Fredley's column, and the court's decision, merit a response.

Mr. Fredley, a former Forest Service employee, is now, according to his column, a paid consultant for both the Forest Service and the oil and gas industry. As such, Mr. Fredley epitomizes the "revolving door" syndrome corroding our democratic institutions. When former agency officials, whose job it was to regulate to protect our public forests, leave their government jobs to work in the very industries they were previously regulating, it raises significant concerns about their time in government and whose interest they were serving -- the public's interest or private corporate interests that profit from exploiting resources on or, in this case, below public land.

Beyond this obvious conflict of interest, Mr. Fredley's assertion that the Forest Service attempted to "usurp private property rights" when it proposed reasonable regulation of oil and gas drilling on the Allegheny National Forest is completely false. Rather, the Forest Service only required that an environmental analysis accompanied by public comment precede drilling operations. This "informed decision-making" would serve the public interest by ensuring that other multiple uses on the Allegheny, such as recreation, clean watersheds and wildlife habitat, are better protected from the impacts caused by oil and gas drilling. This can be accomplished while respecting the rights of those who own oil and gas beneath the Allegheny.

Mr. Fredley, however, appears less concerned with the public interest than he is with the interest of those profiting from rampant oil and gas drilling on Pennsylvania's only national forest. Over the last several years, there has been a substantial increase in the number of new oil and gas wells drilled on the Allegheny. These new wells require new roads and supporting infrastructure -- pipelines, storage tanks, compressor stations and wastewater disposal pits. In other words, forested areas are rapidly industrialized and consequently lose value for other forest uses. How many people want to go camping in the middle of an oil field? As the Forest Service itself stated in 2003, "the value of the land to provide recreation opportunities is diminished in intensively developed oil fields ... the inherent character of the landscape is converted to an industrial atmosphere in the midst of the forest."

Understandably, Mr. Fredley and the oil and gas industry do not want the public to have an opportunity to voice its concerns about proposals to drill more oil and gas wells on the Allegheny -- especially now as Marcellus Shale gas drilling spreads across the state, causing even more impacts that will be felt for generations. Allowing the public to have a say in how public land is managed would interfere with the oil and gas industry's desire to essentially treat the Allegheny, a national forest that belongs to all Americans, as its own private fiefdom. The industry does not want the long-term cumulative effects of oil and gas drilling on the Allegheny National Forest examined and disclosed to the public -- and the Third Circuit's decision practically ensures that no such examination or disclosure will ever occur.

Quite frankly, the Third Circuit's decision stands in stark contrast to its own previous decisions regarding management of the Allegheny National Forest. For example, when the Allegheny Defense Project sued the Forest Service in 2001 to stop an 8,000-acre timber sale, the appeals court deferred to the agency's judgment and upheld the timber sale. The result? The timber industry got its timber from the public's land.

One would expect that when non-environmental plaintiffs sue the Forest Service, as is the case in the most recent decision where the oil and gas industry filed the lawsuit, the same standard of deference to the agency would apply. The Third Circuit, however, said in this case that it owed no deference to the Forest Service's decision to regulate oil and gas drilling. The result? The oil and gas industry gets its oil and gas without any Forest Service regulation.

Essentially, the Third Circuit has created two separate standards for reviewing Forest Service decisions. When environmental plaintiffs sue the Forest Service to protect the environment, those plaintiffs will have a considerable burden to overcome. When industry plaintiffs sue the Forest Service because the agency was actually trying to protect the environment, those plaintiffs will have a much lower burden. The result in both situations benefits industry, not the environment.

Ryan Talbott is the executive director of the Allegheny Defense Project and attends Lewis and Clark Law School in Portland, Ore. (rtalbott@alleghenydefense.org).

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Charleston Gazette:
December 12, 2011

Alpha to spend $50 million on selenium cleanups

By Ken Ward Jr.

The Charleston Gazette

CHARLESTON, W.Va. -- Alpha Natural Resources will have to clean up selenium pollution at three of the mountaintop removal mines it bought from Massey Energy, under a legal settlement with environmental groups announced Monday.

The Sierra Club said Alpha would spend at least $50 million on the cleanups, which cover the company's Twilight and Red Cedar operations in Boone County and the Kanawha Division along the Kanawha-Fayette County line.

Alpha reached the deal with lawyers for the Sierra Club, the Ohio Valley Environmental Coalition and other groups to resolve a federal court lawsuit the citizens filed over repeated selenium violations.

The settlement, which must receive approval from U.S. District Judge Robert C. Chambers, is the last success by lawyers from the Appalachian Mountain Advocates in forcing major coal producers to deal with selenium pollution.

Previously, environmental groups worked out a selenium settlement with Arch Coal and won a favorable ruling that requires Patriot Coal to install new treatment systems for selenium.

Citizen groups and their lawyers have been pursuing actions over selenium pollution as scientists and federal regulators express concerns that mining discharges are threatening aquatic life.

Selenium, a naturally occurring element found in many rocks and soils, is an antioxidant needed in very small amounts for good health. In slightly larger amounts, selenium can be toxic.

Selenium impacts the reproductive system of many aquatic species, can impair the development and survival of fish and can damage gills and other organs of aquatic organisms subject to prolonged exposure.

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In 2003, a broad federal government study of mountaintop-removal mining found repeated violations of water-quality limits for selenium. The following year, a U.S. Fish and Wildlife Service report warned of more selenium problems downstream from major mining operations.

Since then, coal lobbyists have tried unsuccessfully to weaken the state's selenium limits, but have persuaded the DEP to repeatedly delay compliance deadlines for many operations.

In the Massey case, trial had been set to begin in August before Chambers, who had ruled in April to allow the citizen group suits to continue.

Chambers had ruled that the then-Massey operations were violating selenium permit limits, and said further hearings would be held to decide the scope of injunctive relief and civil penalties. Those hearings were called off when lawyers told the judge they were close to a settlement.

Under the settlement, Alpha will be given time to install certain types of treatment systems, but will have to upgrade those to more expensive technology if selenium violations don't stop. The deal calls for compliance with permit limits by mid-2014.

Alpha will also pay $450,000 in civil penalties and contribute $4 million to the West Virginia Land Trust to help fund the West Virginia University College of Law's new Land Use and Sustainable Development Clinic.

Reach Ken Ward Jr. at kw...@wvgazette.com or 304-348-1702.

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THE STATE JOURNAL:

Citizens push for and against Governor's Marcellus bill

Posted: Dec 12, 2011 7:06 PM EST Updated: Dec 12, 2011 7:09 PM EST
By Taylor Kuykendall, Reporter

Given a minute a piece to tell members of the West Virginia Judiciary Committee what they think of the governor's Marcellus shale legislation, interested parties expressed a very diverse reaction to the bill.

Carol Warren of the Ohio Valley Environmental Coalition asked the Legislature for an early Christmas present, presenting a bag of things she wants put back into the bill before it is passed.

"No onsite waste burial, no variance for distance from occupied dwellings, the industry wants certainty and so do the citizens," Warren told lawmakers. "Require permits for water withdrawal. Give DEP the authority to with the Office of Air Quality, to monitor air emissions …"

Warren continued to outline a number of concern with the bill, many of which coincided with the concerns expressed earlier in the day by the West Virginia Environmental Council and the West Virginia Surface Rights Organization.

Allen Johnson, co-founder of Christians for the Mountains, used passages from the bible to support stronger environmental protections. Later, a clergy member would argue in favor of drilling.

Sen. Frank Deem addressed the House committee in favor of the jobs the bill would produce.

"I would just say one thing thank all of you environmentalists who are concerned about the environment for being here and working on this bill," Deem said. "… Just please consider the economic impact and the job impact that this legislation has."

More than 66 groups spoke to the bill with varied interests in the legislation. Each had about a minute to speak and alternated by those in favor and those not in favor of the bill.

Two companies dispute EPA draft report linking fracking with groundwater contamination

Posted: Dec 12, 2011 5:32 PM EST Updated: Dec 12, 2011 5:36 PM EST
By Jim Ross

Two gas drilling companies have taken exception to last week's report by the Environmental Protection Agency that links hydraulic fracturing with groundwater contamination.

Monday afternoon, Encana Oil & Gas (USA) Inc., the company whose wells the EPA linked to the contamination, issued a news release listing its objections to the preliminary findings linking its operations in the Pavillion, Wyo., area with horizontal drilling and fracturing for natural gas in shale.

"The EPA's data from existing domestic water wells aligns with all previous testing done by Encana in the area and shows no impacts from oil and gas development," the release said. "Of most concern, many of the EPA's findings from its recent deep monitoring wells, including those related to any potential connection between hydraulic fracturing and Pavillion groundwater quality, are conjecture, not factual and only serve to trigger undue alarm."

The release said the EPA issued its draft report before subjecting it to qualified, third-party, scientific verification.

The entire news release can be found here.

Meanwhile, NPR on Monday published the text of an e-mail reportedly sent by Steve Dixon, chief operating officer of Chesapeake Energy, whose operations include shale drilling and fracturing in West Virginia, to all Chesapeake employees.

"I am writing to assure you that the media has missed several key facts about this draft report. Meanwhile, despite minimal regional, geological and hydrological knowledge and after years of properly delegating industry oversight to state regulatory agencies, the EPA appears to be attempting to gain regulatory oversight of our industry. We believe that in their haste to find even one exception to the industry's sterling record of responsible hydraulic fracturing, the EPA has compromised its well testing and data gathering protocols," the email says.

Dixon's email also says, "It is important to note that throughout the report the Agency hedges its bets by regularly using words such as 'likely' or 'might' before addressing key findings. In fact, the EPA's own press release announcing the report says, 'the draft report indicates that groundwater in the aquifer contains compounds *likely* associated with gas production practices, including hydraulic fracturing.' Unfortunately, many in the news media either inadvertently or intentionally missed this nuance and reported a direct causal link between hydraulic fracturing and the compounds detected in two EPA-drilled monitoring wells."

Marathon begins refining crude oil from Utica shale

Posted: Dec 12, 2011 4:59 PM EST Updated: Dec 12, 2011 5:18 PM EST
By Jim Ross

The Marathon Petroleum Corp. refinery at Catlettsburg, Ky., which is less than 10 miles from Huntington, could soon begin refining crude oil from Utica shale deposits in Ohio.

Marathon's refinery at Canton, Ohio, has taken its first deliveries of Utica crude, and plans are in the works to transport crude from Ohio to Catlettsburg by truck or barge.

The end result could be people in southern West Virginia using gasoline refined from shale oil from Ohio.

"Right now we're just in the preliminary stage of evaluating that," said Angelia Graves, spokeswoman for Marathon Petroleum.

Utica shale lies under the Marcellus shale. Both produce natural gas. Drilling efforts in West Virginia have focused on Marcellus shale, with just a few test wells having been drilled into the Utica. But producers in eastern Ohio are investing heavily in the Utica.

The Ohio Department of Natural Resources estimates that the Utica has 1.3 billion barrels to 5.5 billion barrels of recoverable crude oil. According to information posted on the Marathon website, there is no known crude in the West Virginia part of the Utica shale.

In an investor presentation late last month, Mike Palmer, senior vice president of supply, distribution and planning, said Marathon Petroleum "has more infrastructure in this area than anyone else does. And we're taking first mover advantage in capturing the short and the long term opportunities.

"We already have the capacity to move this oil in by truck, and in fact we're doing so. We have a 1,000 barrel-a-day temporary truck rack that we set up in Canton. By the end of the second quarter of '12, we'll have a permanent truck rack that'll be capable of 12,000 barrels a day and expandable to 24,000. Catlettsburg also has a permanent truck rack in place now that's capable of 18,000 barrels-a-day. "

Catlettsburg's total refining capacity is 212,000 barrels per day, with one barrel equaling 42 gallons. It truck rack already receives crude from wells in the area.

"Longer term, we've got a team that's looking at the conceptual ideas to handle the further growth in this area," Palmer said. "As I said, we've got other infrastructure in the area. So we've got terminals at West Wellsville and at Steubenville (Ohio) that have access to the river. So one of

the ideas is to truck barrels to these terminals, load it onto barges and then take it to Catlettsburg."

Graves said she did not know the qualities of the Utica crude – light, heavy, sour, sweet – but Catlettsburg can refine them all. The crude would go into the refining process with oil from other sources and would make the same products, such as gasoline, diesel fuel and asphalt, she said.

House Judiciary chairman previews Marcellus action

Posted: Dec 12, 2011 6:32 PM EST Updated: Dec 12, 2011 7:16 PM EST
By Taylor Kuykendall, Reporter

The next stop for the Governor's Marcellus shale regulation will be the House Judiciary Committee first thing Tuesday morning. Though a completed bill is anticipated in days, a lot of work still faces West Virginia lawmakers.

House Judiciary Chairman Delegate Tim Miley, D-Harrison, said he was still not sure exactly what work may come out of the judiciary committee's work.

"I can't tell if based on those questions there is going to be enough to support to make some changes or not," Miley said. "It will be a long committee meeting tomorrow, I'm sure there will be many amendments made, whether they will pass the House or not, I can't tell at this point."

Miley said some members still have a lot of questions of the bill and he anticipates a number of amendments to be offered to the bill. The Senate amended the governor's legislation with a few minor changes in the House Judiciary Committee and the Senate Finance Committee passed the legislation without amendment.

"We'll just play it by ear and take it as it comes, and we'll see where it goes," Miley said.

Miley, who played a big role in crafting the failed House Marcellus bill last year, said many of the same protections are offered in the governor's bill. He said many of the protections are the same, though there are some added protections and some protections removed in the governor's bill.

During a House judiciary hearing, one commenter said parts of the language reverts back to common law. Miley said if that results in fewer surface owner protections, that is something he would be concerned about.

"I'm not sure what the rationale is for that, I haven't had a chance to talk with the governor's staff about what the purpose was for that," Miley said. "Maybe there is some confusion in how it's written."

Miley said legislators have been busy since the special session kicked off Sunday evening, and many have found it difficult to review the nuances of the bill.

The committee is planning to meet at 9 a.m. Miley said they would recess at 11 a.m. for another meeting if they weren't completed, attend a luncheon and return at 1 p.m. to continue deliberation.

Miley said lawmakers would take a break to perfect any amendments they may offer.

A notable absence from the special session has been Delegate Tim Manchin, D-Marion, who was the co-chairman of the Select Committee on Marcellus Shale. The committee spent the past several months crafting the legislation the governor's bill was based upon.

Critics of the bill have accused the governor of "gutting" that bill.

"Let's just say he's concerned that it went further than what he expected," Miley said of Manchin's reaction.

Miley declined to comment further, but added that Manchin would be attending the rest of the session. He explained Manchin had a prior obligation out of town.

Manchin will be on hand to answer questions in the morning, which Miley said will likely be busy.

There's a lot of work to be done before we get out of here," Miley said. "... It's an important issue, I don't really want to rush things. Even if we get a bill passed tomorrow or this week sometime by both bodies, it's not rushing things. We've been studying it for quite some time, but at the same time I don't want to rush it in the eleventh hour to pass a bill that has errors or flaws in it."

Miley said there may even be attempts to completely block the governor's version of the bill.

"I heard some may try amend the bill by striking the governor's bill and replacing it with the Select Committee bill, but I don't know," Miley said. "… We shall see."

Interest groups react to Governor's Marcellus shale bill

Posted: Dec 12, 2011 3:44 PM EST Updated: Dec 12, 2011 4:32 PM EST
By Taylor Kuykendall, Reporter

Despite, or perhaps because of promises to draw input from all sides of the natural gas drilling debate, legislators have ended up with a Marcellus shale bill that doesn't seem to be please any of the affected parties.

At a Monday meeting of the Senate Judiciary Committee, numerous parties aired their concern or praise of the bill. Details of the Governor's Marcellus shale bill were reported here, and amendments ultimately offered by the Senate Judiciary committee are detailed here.

Union

AFL-CIO President Kenny Perdue said the study of the work force enlisted by natural gas operators was drafted in consultation with Steve White, director of Affiliated Construction Trades. He said he supported that piece of the legislation.

The law pushes for a study of the amount of in- and out-of-state workers employed as well as the wages of those workers. Perdue said his group was in support of the bill.

Environmentalists

Don Garvin, legislative coordinator for the West Virginia Environmental Council, took issue with bill, calling the efforts of the Department of Environmental Protection and lawmakers a "disappointment."

"We feel the governor's bill falls short," Garvin said. "I'm really disappointed that the governor doesn't believe the public deserves notice and comment periods. These are huge operations, a lot more than the surface tract that is being disturbed."

Garvin said the notifications required by the bill are a major disappointment. He also was critical of the handling of air emission regulations in the bill.

According to a position paper provided by the WVEC, the group opposes several elements of the bill.

WVEC is calling for increased public notice and comment, and re-inclusion of language that would allow the DEP to regulate aggregate air emissions. The governor's bill also removes provisions that allow the DEP to condition or deny permits based on proximity to water supplies, cities, impact on water tables, public resources, natural landmarks, archaeological sites, historical sites, rare flora and fauna and other special places, the paper states.

The WVEC also takes issue with portions of the bill that allows drill cuttings and drilling mud be buried on site, with approval from the DEP.

Additionally, the WVEC's complaint includes such issues as inadequate well location restrictions, inadequate restrictions on Karst formation drilling and inadequate regulation of water withdrawal.

A measure to allow $250,000 blanket bonds for all of an operator's wells also falls far short, Garvin said.

"The $50,000 in the bill, is fine, for an individual well bond," Garvin said. "But $250,000 blanket bond for every well that an operator owns is — that's just useless. You will not be able to plug or reclaim all of an operator's well with a $250,000 blanket bond."

Surface owners

The West Virginia Surface Owners Rights Organization was also unhappy with provisions in the bill.

"While we support the fee increases in the bill, there is plenty of money to provide the increased inspectors that are needed now without this bill," the WV-SORO position paper states. "There is not time to fix this bill in a special session. This bill should die, and this issue should be dealt with in the regular session."

WV-SORO is critical that the governor's bill only includes horizontal wells and not conventional wells. Horizontal wells using less than 210,000 gallons of water and disturbing less than three acres of land would also be exempt.

WV-SORO co-founder Dave McMahon said the bill also makes the surface owner's rights "servient" to those of the minerals owner. Legislative counsel indicated that this was not necessarily true, and could be interpreted differently by different lawyers.

McMahon also argued that the 625 feet from well pad to drilling operation requirement was insufficient.

"If a well is 625 feet from your residence you will not be able to sleep at night," McMahon said.

McMahon also criticized the governor's bill for mandating studies, but not funding them as well as additional issues with distance requirements of the bill.

"There's a lot of problems we have with this bill," McMahon told the Judiciary Committee.

Industry

The gas industry itself also remains in opposition to the bill, but industry representatives have largely concluded that they would support the bill in exchange for the predictability.

"I guess we've got some major problems," Nicholas "Corky" DeMarco of the West Virginia Oil and Natural Gas Association said, holding up a copy of the legislation. "Yellow is caution, orange is we don't like it and red is awful."

DeMarco said there are some real concerns about setbacks, but that "nothing is more important than this bill."

"We will agree to support the governor's bill, in lieu of that, because the potential we have economically in this state to go on past where we are today requires certainty," DeMarco said. "I think this bill will provide that certainty. Again, we don't like it. We don't think we got anything out of it."

DeMarco said the bill does not allow West Virginia to be competitive with other states because of severance taxes and other elements of regulation of gas in West Virginia.

"We will grin and bear it because we don't want to lose the opportunity," DeMarco said. "We don't want to see rigs go to Ohio, we don't want to see rigs go to Pennsylvania. We want to develop gas in the state."

DeMarco said the certainty provided by the bill would likely aid in the attractiveness of the state to ethane cracker investment.

"I believe that the DEP has got all the regulatory authority to do whatever they need to do, but the public perception is that they don't," DeMarco said. "The public is reaching out to you all on a continual basis for something that is not in place that provides for this protection they think they need in excess of regulatory abilities right now."

Phil Reale of the Independent Oil and Gas Association said the bill does not help to attract an ethane cracker facility and numerous elements of the bill are harmful to industry. Reale said the bill "takes from some, gives to others; takes from others, gives to some."

"Do we like everything in this bill? Of course not," Reale told the committee. "Do we want that same sort of certainty … absolutely."

Reale said much of the bill and things discussed by the joint select committee have already been addressed in some form by the DEP or industry. He said the bill may have the benefit of changing public perception of the drilling operations.

Marcellus bill: Employment reporting out, employment study in

Posted: Dec 12, 2011 1:16 PM EST Updated: Dec 12, 2011 2:13 PM EST
By Pam Kasey

As the painstakingly drafted bill to regulate the extraction of natural gas through horizontal drilling approached this week's special session, a controversial provision related to employment of West Virginians was changed.

"At the urging of the administration, we met with industry representatives and looked for some compromise language, and that's the result that you see," said Steve White, director of the Affiliated Construction Trades Foundation. "While we're not entirely pleased with the result, we didn't want the reporting piece to get in the way of important environmental regulatory legislation."

Employment Reporting

The draft bill that was completed Nov 18 following months of work by the Joint Select Committee on Marcellus Shale contained an employment reporting requirement.

Aimed at addressing questions and concerns about whether West Virginians are getting a reasonable share of the jobs generated by the gas boom, the provision would have required companies engaged in site preparation, drilling and pipeline work related to horizontal drilling to report annually in-state and out-of-state employment, along with city and state of residence and average salary for each job type.

"Our citizens are asked to withstand environmental damage and damage to the beauty of our state, and to be imposed upon by large truck traffic, by deterioration of roads and temporary impassability — and this is all done for jobs," said Delegate Tim Manchin, D-Marion, co-chairman of the Joint Select Committee, before the special session began.

"The question is, are we really getting those jobs? Wetzel County has the highest rate of unemployment in the state, and yet they're inundated by Marcellus well sites," Manchin said. "As a Legislature, I think we need accurate information in order for us to react."

White said the purpose would have been to learn in which areas West Virginian workers are getting the jobs and in which areas improvements could be made.

"I've heard some things that I think are rather silly: that, while the vehicles have out of state plates, the people inside them are local workers," White said. "At least we would get more factual information out there."

The gas industry argued that it was being singled out.

"I've got a problem with the fairness of it," said West Virginia Oil and Natural Gas Association Executive Director Nicholas "Corky" DeMarco. "The casinos would be another good one. They're border businesses, except for the one in the Kanawha Valley. But no one's asked them."

White said in defense of the reporting requirement that such reporting is frequently required on construction projects receiving public monies, and also is done in the mining industry.

And he said concerns that such a requirement could diminish the state's attractiveness for siting an ethane cracker are "not very credible."

"Forward-thinking industry, who are looking at billion-dollar investments, are not going to focus on that type of reporting," he said. "I think that's just for posturing purposes."

Employment Studies

But between Nov. 18 and the opening of this week's special session, the language was changed.

The reporting requirement was converted, in the West Virginia Workforce Investment Act, to an annual study.

In the modified draft bill, the Department of Commerce's Workforce Investment Council would submit reports each year through 2016 detailing the "direct and indirect economic impact of employers engaged in the production of horizontal wells" in the state.

The reports would include numbers of jobs created, total payroll, average salary per job type, numbers of employees living in West Virginia, and recommendations for a public education agenda.

White expressed frustration.

Without data, he said, a community college might establish a drilling rig program, only to find later that where employment is most available is in land acquisition or in well monitoring or in creating well casings.

"And I think it would have been an excellent opportunity for employers to show their contribution to the local economy and to work with other stakeholders to improve the positive impact on the local economy," he said.

He still would like to see the bill address a different concern.

"There are many companies, contractors and subcontractors from far away working in our state that we don't think are properly registered for payroll tax purposes: unemployment and income tax and the use tax," he said.

"There could be more data collected at the permitting side about who are the contractors working on a permitted facility — that's common in the construction and mining industries," he said. "But that might be a change for the regular session."

Committees Pass Marcellus Bill

December 13, 2011

By JOSELYN KING Political Writer With AP Dispatches , The Intelligencer / Wheeling News-Register

WHEELING - Legislation establishing regulatory policy over the Marcellus Shale industry in West Virginia could see passage in the state Senate today.

Senate Bill 4001 passed out of the Senate's Judiciary and Finance committees by voice vote Monday, but Senate President Jeff Kessler, D-Marshall, thought the process might be moving too quickly. He opted not to hold a vote on the legislation before the full body Monday night, and to give senators a night to review the bill.

The Senate convenes at 10 a.m. today.

"While we're interested in passing it through, I want to make sure there are no technical errors that would make them call us back," Kessler said. "It has moved quickly today. We'll just sleep on it and review it tomorrow. Hopefully, it will then be up for rules suspension and passage."

The House version of the Marcellus legislation - House Bill 401 - was introduced Sunday in the House. It received the first of its three required readings before being assigned to the House Judiciary Committee.

On Monday, Delegate Erikka Storch, R-Ohio, questioned that procedure.

"It seems a little unconstitutional," she said. "It does make me curious. Why are they trying to do this quickly? It's not that I want to waste time ... "

She also pointed out the time for a public hearing on the matter at 4:30 p.m. Monday was announced late Sunday.

"It's unfortunate that most drilling happens far from Charleston," Storch said. "I don't think there was an opportunity for those living in Wetzel and Marshall counties to request a day off and come down where the activity is occurring."

She said the changes to the legislation did seem to benefit the gas and natural gas industries at a time when West Virginia is trying to get an ethane cracker facility, or "maybe two."

"It's a good start," Storch said. "It gives the industry an idea of what rules will be in West Virginia. They don't want to invest too much money then find out things they didn't anticipate."

More than 65 signed up to speak during the public hearing in the House Monday.

Drilling industry interests spoke in support of the legislation, even though they oppose new permit fees stipulated in the measure. They said they favor the bill because it eliminates "uncertainty" surrounding Marcellus policy in West Virginia. Some hinted during the hearing they could invest hundreds of millions of dollars in the state.

Environmental and surface owner groups, meanwhile, said the legislation now before lawmakers was "gutted" from what was earlier negotiated.

"When no one is happy, it's probably a decent bill or at least a starting bill," said Jason Webb, representing the West Virginia Land and Mineral Owners Association, who spoke in favor of the measure.

Several of Monday's amendments aimed to improve language addressing prior notice of drilling to surface owners and the public.

One requires at least seven days notice, up from 72 hours, before survey crews can enter property of a proposed well site. Others increase the number of wells exempted from all or some of the bill's rules.

The committee kept permit fees at $10,000 for an initial well and $5,000 for each additional well at that initial site.

The Department of Environmental Protection estimated the fees would provide $2.4 million annually. That would allow the agency to erase a $311,641 deficit in its oil and gas office while providing the $1.3 million needed to hire 14 more well inspectors and office support staff, Secretary Randy Huffman told the lawmakers.

A special House-Senate committee endorsed draft Marcellus legislation in November after several months of meetings and public hearings. Gov. Earl Ray Tomblin then modified that draft before calling the special session, which began Sunday.

Homes Evacuated and Road Closed

December 13, 2011

By CASEY JUNKINS Staff Writer , The Intelligencer / Wheeling News-Register

PROCTOR - Emergency officials evacuated residents in southern Marshall County for a fire at a natural gas drilling site Monday, while officials in West Liberty dealt with a slippery spill that closed W.Va. 88.

At the same time West Virginia legislators debated new natural gas drilling regulations during a special session in Charleston, Northern Panhandle residents experienced some of the issues that come along with living near drilling operations.

A storage tank caught fire at Gastar Exploration's Corley drilling site along Rines Ridge Road in southern Marshall County at 5:36 p.m. Monday.

"The ignition from a water transport truck is believed to be the cause of the fire, but officials are on site to determine the exact cause," said Mike McCown, vice president of Northeast Operations for Gastar. "There were no injuries during the incident. Workers arrived on site quickly and extinguished the fire by 6:20 p.m."

Marshall County Emergency Management Agency Director Tom Hart confirmed no one was hurt by the fire, but some nearby residents were ordered to evacuate.

"We had a precautionary evacuation for anyone within 1 mile of the well head," said Hart, emphasizing the fire was in a storage tank - not at the well head.

Hart said everyone was able to return to their homes about 7:30 p.m. Monday, noting that in the event of a prolonged evacuation, officials would have opened a shelter for those forced to leave their homes.

With drilling operations well under way, Texas-based Gastar plans to invest about $200 million more in West Virginia's Marcellus Shale field in 2012, with virtually all of the money directed to Marshall County. The company recently spent about $2.5 million to repave Rines Ridge Road and Burch Ridge Road.

Hart also emphasized the Gastar fire was minimal compared to the massive well head fires emergency officials battled last year at Chesapeake Energy and AB Resources (now Chevron) sites in Marshall County.

Meanwhile, near the border of Ohio and Brooke counties in West Liberty, Brooke County Emergency Management Agency Director Bob Fowler led efforts to clean up several gallons of mineral oil accidentally dumped by a truck operated by one of Chesapeake's subcontractors.

"The spill basically stretched from the old West Liberty post office to Harvey (Hill) Road," said Fowler, noting the distance was probably short of 1 mile. Fowler said officials closed the road for about six hours to clean up the spill.

"At approximately 12:30 p.m., during a rig move, a truck with Hodges Trucking leaked approximately 12 gallons of synthetic-based oil drilling mud - primarily consisting of a synthetic mineral oil used in several industrial and commercial operations including commercial food service - along W.Va. Route 88 between Harvey Road and Apple Pie Ridge Road in Ohio County," said Stacey Brodak, director of corporate development for Chesapeake.

Fowler was unsure of the exact amount of liquid spilled, but estimated it was between "10 and 40 gallons."

Brodak said all the material removed will be disposed of at a permitted facility.

"Proper notification has been made to the West Virginia Department of Environmental Protection. There were no injuries and there is no threat to the public or the environment," she added.

Former Justice Not Waiting For Ethane Cracker

December 13, 2011

By CASEY JUNKINS Staff Writer , The Intelligencer / Wheeling News-Register

Richard Neely does not know if a global petrochemical giant like Royal Dutch Shell will build an ethane cracker in West Virginia - and he is not going to wait to find out.

"You cannot, in West Virginia, sit like a baby bird and wait for some mama bird from New York or Texas to come drop some worms in your throat," said Neely, a former state Supreme Court of Appeals chief justice. "We have the people to do this here."

Neely and his new company, Invictus LLC, are looking to raise $2 billion to build what he terms a "hydrocarbon processing plant" on 1,546 acres in Kanawha County. The facility would make use of all portions of the "wet" Marcellus and Utica shale gas, including ethane, propane, butane, pentane and the methane natural gas.

"We can raise that $2 billion in two weeks once we get our air permit" from the West Virginia Department of Environmental Protection, he said. "There is a lot of money out there with people looking to make more money."

Neely noted his company would be in a favorable position to receive gas from West Virginia, Ohio and Pennsylvania.

"We're not going to burn off the energy that would otherwise be wasted," he said, noting this power could be used to run the plant. "This is going to be a state-of-the-art facility."

Neely is making his plans as West Virginia leaders - as well as those in Pennsylvania and Ohio - are waiting to hear where Shell will build its ethane cracker. The company plans to announce which state will get the multi-billion dollar cracker early next year.

In addition to the direct jobs at the cracker, an American Chemistry Council study showed gaining a cracker would help West Virginia create about 12,000 new permanent jobs in related businesses. Officials in Gov. Earl Ray Tomblin's office have said they anticipate generating 270,000 barrels of ethane daily at peak production, an amount they believe will support a Mountain State cracker.

Because much of the Marcellus Shale gas is being produced in the Northern Panhandle, local leaders would like to see the cracker built here, perhaps on property owned by Bayer Corp. along the Ohio River in Marshall County.

This does not impact Neely's project, nor does he believe his plans should deter those of state leaders.

"We are not competing with anyone," Neely said. "You can get three or four of these."

Binghamton NY PressConnects.com:

Judge rejects Dimock water plea

11 families sought restoration of aid from gas firm

10:21 PM, Dec. 12, 2011
Written by
Steve Reilly

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DIMOCK, PA. -- In the latest chapter of a dispute over tainted water wells, this wasn't the ending a group of beleaguered landowners had hoped for.

A Pennsylvania judge issued an order Friday denying a final appeal from 11 families in the Carter Road area of Dimock Township, Pa., who wanted the court to restore water shipments from Cabot Oil & Gas.

Under the order, the families can have their water deliveries resume if they "at least try" a whole-house gas-mitigation system paid for and installed by Cabot Oil & Gas.

Pennsylvania Environmental Hearing Board Judge Bernard Labuskes Jr. also reiterated the terms of a previous settlement agreement that called for Cabot to pay the families between $50,000 and $400,000 each "with no strings attached and no questions asked."

Cabot, in a statement, said it was "pleased" with the decision and "committed to a long-term solution."

According to landowner Craig Sautner, the order only returns the families to square one in their fight with the gas company and the Pennsylvania Department of Environmental Preservation.

Part of the families' appeal was based on claims that other toxics besides methane are contaminating their water and won't be removed by a gas-mitigation system.

"You put that gas separator in your house and your water's coming out like an orange color or a chocolate color -- the gas separator's not going to take that out," he said. "Are you supposed to use that water in your house?"

Sautner said he's afraid that taking the payments he and others have been offered would let Cabot "off the hook" and potentially lead to the families being responsible once the money runs out.

Although his family's water tank was empty as of Monday evening, Sautner wasn't ready to accept the prescribed offer.

"I can't understand the reasoning behind any of the stuff that they do," Sautner said of the ruling. " ... The DEP threw us under the bus. They absolutely threw us under the bus."

While the Environmental Hearing Board determination reached Friday is final, the appeal -- related just to water shipments -- was only a side issue stemming from a larger legal dispute over a December 2010 settlement between Cabot and the DEP.

In the settlement agreement, the DEP and Cabot agreed that Cabot would pay the funds and provide the mitigation systems that were once again offered in Labuskes' ruling Friday.

But the December 2010 settlement also overturned the DEP's previous determination that Cabot would have to pay for the installation of a pipeline, at an estimated cost of $11.8 million, to ship fresh water to the families on Carter Road.

Sautner said the pipeline issue has drawn his ire more than anything else.

"Just because there was so much of a public outcry in opposition to it, they decided to yank it out underneath us," he said.

The families' all-encompassing appeal of the December 2010 settlement is scheduled for an Environmental Hearing Board hearing on March 19, 2012.

Ryan's offer holds

Amid the national debate over the safety of hydraulic fracturing -- a technique used to unlock natural gas from tight rock formations -- the Dimock case has drawn attention from far beyond Susquehanna County.

The plight of the Carter Road families has been featured in prominent documentary films, and pro- and anti-drilling groups have seized on the debate in Dimock to offer their own conclusions about the relative merits of hydrofracking.

Binghamton Mayor Matthew T. Ryan stepped into the fray when, after water shipments from Cabot ended on Nov. 30, he offered to ship city water to the affected families.

The local chapter of the Sierra Club paid about $400 for a City of Binghamton tanker to send water to the families Dec. 5.

But Ryan's offer to form a legal agreement for aid between the city and Dimock Township was shouted down at a town meeting that same day.

"We remain very concerned for our neighbors' health and safety," Ryan said in a statement Monday, "and we stand ready to help if we can."

Barge builder's orders pick up; more workers to be hired in '12

By Joe Napsha
PITTSBURGH TRIBUNE-REVIEW
Tuesday, December 13, 2011

On a 33-acre strip of land stretching about a mile along the Monongahela River in Fayette County, a boatyard is building one river barge every two workdays and expects to expand and add more workers next year.

Brownsville Marine Products LLC expects to build 143 barges this year and 165 next year and to top out at 180 barges in 2013, said CEO and President Timothy Scheib. The boatyard, once known as Hillman Barge Co., built only 86 barges in 2009 and 113 last year before a pickup in orders kicked in.

"Most of our capacity is already booked for the next three years," said Scheib, a Leetsdale native and Quaker Valley graduate. "The barge business is very good. All the yards are working,"

The company is 86 percent booked, and its remaining build capacity is being held for customers in the region looking for new barges next year and in 2013, he added.

The business of building barges for use on American inland waterways is doing well in part because barges were retired faster than they were being replaced about a decade ago, said James McCarville, executive director of the Port of Pittsburgh Commission. When the recession hit in 2008, more barges were retired.

Since then, new economics have entered the inland shipping business. Barges that used to ship coal and other products from Pittsburgh to Kentucky now are shipping coal as far away as New Orleans. Instead of a barge's being in service on a five-day trip, it's now five weeks, McCarville said.

"We need more barges, and we need more towboats," McCarville said. River traffic is not back to pre-recession levels but continues to grow every year, he noted.

"The industry is doing pretty well as a whole" as it benefits from moving oil, gas and grain, said David A. Murray, a former seaman who covers the river transportation business for The Waterways Journal, a trade publication. Demand in Asia for U.S. grain has created more business for inland shipping companies, he said.

Brownsville Marine, a subsidiary of barge management firm Heartland Transportation LLC of Columbia, Ill., is a "small guy" in the barge-building business, Scheib said. It competes against the industry's "big guys" -- Jeffboat LLC in Jeffersonville, Ind., and Trinity Marine Products Inc., which has four boatyards the size of Brownsville Marine and is part of Dallas-based Trinity Industries Inc.

"We have to build the best barge in the industry," Scheib said, speaking with the confidence of a Naval Academy graduate and former naval shipyard commander.

There are an estimated 19,000 barges used nationwide, and about 1,000 barges are built annually, he said. About 3,000 of the current stock is about 30 years old, said John Johnson, vice president of barge operations for Heartland Transportation.

Brownsville Marine is helping replenish the fleet by building barges on two lines in its sprawling boatyard: one inside cavernous buildings and the other on an outside line. The boatyard has seven barges under construction at all times and launches about three a week, Scheib said.

The workers take the huge pieces of structural and plate steel from a storage yard, laser cut the steel to precise measurements, bend it to form the hull and other sections, weld it with machine and hand welders, assemble it like giant pieces of a jigsaw puzzle, then move it to an adjacent paint shop that's heated in the winter. When they are done, a 330-ton barge, about 35 feet wide and about 200 feet in length with a 14-foot hull, is perched above the riverbank, ready to be sent down five steel launch rails.

Barges have the capacity to carry 1,800 tons of cargo, including fertilizer, chemicals, grain, coal and stone, Scheib said.

Heartland Transportation bought the boatyard out of bankruptcy in 2005 after Brownsville's barge-building business struggled for about 20 years, falling in and out of bankruptcy.

The old Hillman Barge Co., which operated since 1939, closed in the 1980s when the steel industry collapsed. Trinity Marine Products, a competitor, bought the business in 1989 and operated it until the barge business plunged in 1995.

Wilhelm & Kruse, a steel fabricator in Rankin, acquired the property in 1998, along with the former Hiller Barge repair shop.After Wilhelm & Kruse filed for bankruptcy in 2001, a group of investors bought the dormant boatyard in 2002. It was resurrected as HBC Barge LLC, but that reincarnation filed for bankruptcy in 2004.

Then Heartland principals Joseph Rose and Brian Mueller bought the business to ensure a steady supply for their barge management company, Scheib said. Their new Brownsville Marine launched its first barge in April 2006.

When he took over in 2009, Scheib said, he cut production costs $100,000 per barge, reduced time needed to build each barge by 1,000 man-hours, improved steel purchasing and inventory practices.

The company is undergoing a $1.9 million expansion that will create 50 jobs in early 2012, adding to the workforce of about 310 employees.

A 44,100-square-foot building is being built by General Industries Inc. of Charleroi to upgrade a steel preparation shop, which will be completed in March.

The biggest problem facing the company is the difficulty in attracting quality workers locally, Scheib said. About 27 temporary workers from the Gulf Coast are working now, Scheib said.

"We struggle hiring folks here. My biggest worry is where are we going to find 40 to 50 folks ... to do this kind of work," Scheib said. "There is a shortage of quality welders across the country."

Joe Napsha can be reached at jnapsha@tribweb.com or 724-836-5252.

Jessica Ernst advises N.B. residents to beware of gas drilling's effect on well water

By Shannon MacLeod
Times & Transcript staff

An Alberta scientist who is fighting a legal battle over gas fracking in her province and the alleged damage done to water wells there is urging New Brunswickers to "say no to the poison apple" of gas fracking.

VIKTOR PIVOVAROV/TIMES & TRANSCR
Jessica Ernst, a 54-year-old scientist with 30 years petroleum industry experience, is suing the Alberta government, Energy Resources Conservation Board (ERCB) and EnCana for negligence and unlawful activities. She spoke at the Memramcook Institute Saturday.

Jessica Ernst is a scientist with petroleum industry experience who is suing the Alberta government, the Energy Resources Conservation Board and EnCana for negligence and unlawful activities. She was at the Memramcook Institute Saturday.

The historic records from Jessica Ernst's well water in Rosebud, Alberta from 1986 show there was no gas present.

The Canadian Association of Petroleum Producers looked at the levels of methane in water wells, said Ernst.

"They found methane in most of the water wells but at very, very low levels. If you can try to remember this, they found levels a less than 0.05 milligram / litre (of water)."

Today, levels of methane dissolved in Rosebud well water, as sampled by a regulator is 30 to 66 mg/l of water. The CAPP Gas Migration Report from 1996 says there is a risk of explosion at 1 mg/l if gas-contaminated water passes through a confined space.

On April 27, Ernst - a 54-year-old oil patch consultant filed a lawsuit against EnCana - Alberta Environment and Energy Resources Conservation Board of negligence and unlawful activities.

"We have very dangerous levels of methane," Ernst said at the Memramcook Institute on Saturday morning. "We also have ethane, propane and butane in some wells."

Ernst told her story to a group of 40 residents from all over the province. After she told her story, they participated in workshops and brainstorming sessions.

"I believe this is so important that if a community asks for help, I go to give help and information. It's to brainstorm and gather information that the communities need."

Ernst bought her home in 1998, a 100-year old farm house in the rural area of Rosebud.

"I love Alberta's big sky or I'd be living down east and I love freedom. What I'm finding with the new unconventional oil and gas is that we are fast losing our freedom in this country."

There are more impacts than just the water, said Ernst.

The Canadian Council of Minister of the Environment held an important workshop in 2002 and they came out with a report, said Ernst.

"They wrote that unconventional drilling poses a real threat to quantity and quality (of water) and that we need baseline hydro-geological investigations to track contaminants."

The Canadian Research Council reported that natural release of methane in coal formations is rare, said Ernst.

"The reason they need to do the hydraulic fracturing with all the massive machinery is because they have to force that reluctant methane to let go."

The Environmental Protection Agency (EPA) just put out their preliminary report on what happened in Pavillion, Wyoming, with the same company, EnCana and they don't know what chemicals were injected, said Ernst.

"Still to this day, we can not find out what chemicals were injected. I do not know what I was bathing in. I do not know what I was ingesting. Or breathing, venting out of my taps."

A hydro-geologic study done in Colorado by Geoffery Thyne in December of 2008 found that increasing methane in groundwater coincided with an increased number of gas wells.

In Saskatechewan, researchers looked at almost 1,000 water wells and springs. They found methane in some of the water, most of the samples had less than 0.3 milligrams per litre. A May 9, 2011 peer-reviewed study from Jackson et al's at Duke University found that there was 17 times more methane in water wells near drilled & fractured energy wells.

When EnCana began work in Rosebud in 2001, they promised they would never frack their aquifers, and frack far below the impermeable layers to prevent gas from migrating into their water, said Ernst.

"The EPA said in their report that they found those promised impermeable layers at Pavillion, Wyo., didn't seem to be so impermeable."

When the water wells started to go bad in Rosebud, EnCana promised the Rosebud Dinner Theatre $150,000, said Ernst.

"I say to you, say no to the poison apple. This is how they divide and conquer communities in my view. They did a really good job with this."

The Rosebud water tower blew up in an explosion on Jan. 11, 2005, said Ernst.

"There was an investigation. I just found out about this recently, (the cause was) an accumulation of gases and sent a worker with serious injuries to hospital."

The new water tower cost the community about $700,000 and they're still paying for it to this day, said Ernst.

"They paid for it. What did they get promised? $150,000 (for the dinner theatre)."

In April of 2007, Alberta Environment drilled three monitoring wells at Rosebud to get baseline data. EnCana had begun their work in Rosebud 2001. Baseline data is basic information gathered before a program begins. It is used later to provide a comparison for assessing program impact. In this case, it would be a base-line-water test, to determine what kind of gases and chemicals were present in well water.

All of Ernst's allegations have yet to be proven in a Canadian court. Ernst filed her lawsuit in April and it's currently in what she calls delay mode.

Criticized by some, Marcellus bill clears panels for W.Va.

12/13/2011 3:31 AM

Associated Press

CHARLESTON, W.Va. - The Senate Judiciary and Finance committees endorsed new rules Monday for West Virginia's share of the Marcellus Shale field, amid criticism of the proposal's attempt to regulate drilling in the vast natural gas reserve.

Both panels advanced the measure on voice votes, two days into the special legislative session. Senate Judiciary also had amended parts of the bill following complaints from key players in the Marcellus debate.

Environmental and surface owner groups condemned the 100-page plus measure, both during Senate Judiciary's nearly five-hour meeting and later at a House Chamber public hearing.

They faulted Gov. Earl Ray Tomblin for removing provisions they favor from draft legislation approved last month by a special joint committee. As modified by Tomblin, the bill grants leeway to the Department of Environmental Protection instead of setting specific standards, they said.

"This is just unacceptable," said Julie Archer, an environmental lobbyist. "There are just too many concerns."

Industry officials took issue with parts of the measure as well but also said they ultimately supported passage.

"Everything about this bill either adds expense or time or delays to our operations and our organizations, which we currently feel are adequately regulated," said Mike McCown, vice president of Gastar Exploration. "But it's important to have some clarity moving forward."

Several amendments aim to improve language addressing prior notice to surface owners and the public of drilling. One requires at least seven days' notice, up from 72 hours, before survey crews can enter property of a proposed well site. Other changes increase the number of wells exempted from all or some of the bill's rules.

The Senate version sets permit fees of $10,000 for an initial well and $5,000 for each additional well at that site. DEP estimates the fees would provide $2.4 million annually. That would allow the agency to erase a $311,641 deficit in its oil and gas office while providing the $1.3 million needed to hire 14 more well inspectors and office support staff, Secretary Randy Huffman told the lawmakers.

Representatives of the West Virginia Environmental Council and the state's Surface Owners Rights Organization told Senate Judiciary they opposed the bill, particularly several of Tomblin's changes.

The council's Don Garvin said he was disappointed Tomblin removed language addressing air quality at well sites. He also targeted the prior notice provisions as "a major failing of this bill."

"These are huge operations that affect a lot more than the surface tract that's being disturbed," Garvin said. "The public deserves the right to know what's going on, and the chance to comment."

Both Garvin and Dave McMahon, of the surface owners groups, slammed the bill's buffer zone provisions. The bill requires 100 feet between wells and wetlands, but the draft had proposed twice that, Garvin said. The pending measure also spaces wells at least 625 feet from houses. McMahon said that's not enough to protect residents from any noise from drilling and well operations.

"You will not be able to sleep at night," McMahon said of that distance.

Other changes leave surface owners on unequal footing with developers armed with gas leases, McMahon said.

West Virginia Oil and Natural Gas Association Executive Director Corky DeMarco cited the permit fees - drillers now pay about $400 - and the spacing requirements. The latter also set zones of 2,500 feet from dairy or poultry barns, 1,000 feet from a public water supply intake and 300 feet from a natural trout stream.

"I don't think we got anything that we feel is important in this bill," DeMarco told Senate Judiciary.

Phil Reale, a lobbyist for the state's Independent Oil & Gas Association, echoed several concerns. But both he and DeMarco said passage of the bill would provide consistent rules.

With plans to take up its version of the bill Tuesday, the House Judiciary Committee held Monday's public hearing. More than 65 people signed up to speak. People in gas industry T-shirts packed the House Chamber alongside sign-bearing environmental activists and Marcellus field residents. Both Archer and McCown were among the speakers.

"When no one is happy, it's probably a decent bill or at least a starting bill," said Jason Webb, representing the West Virginia Land and Mineral Owners Association, which favors the measure.

The bill would apply only to Marcellus wells drilled horizontally. Huffman said Marcellus operators also drill conventional, vertical wells. It is further limited to well sites that disturb at least three acres or consume at least 210,000 gallons of water a month.

Drillers pump huge volumes of water mixed with chemicals and sand down wells to crack the shale. This hydraulic fracturing, or fracking, has prompted concerns over effects on nearby water supplies, people and livestock.

The bill would exempt the 1,655 Marcellus wells already permitted by DEP, most already completed. As amended Monday, it wouldn't apply to another 206 wells with pending permit applications. Its spacing requirements, meanwhile, would not apply to any additional wells drilled on these sites with approved or pending permits.

The mile-deep Marcellus Shale formation stretches beneath much of West Virginia and parts of New York, Pennsylvania and Ohio. Federal officials estimate it contains between two and six times as much natural gas as the entire U.S. industry produced for market in 2009, making it one of the richest reserves in the world.

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Robinson supervisors vote to close hearing on plant zoning change

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McDONALD - Months of public hearings on a zoning change from Champion Processing Inc. and Robinson Power LLC for the Beech Hollow Road power plant ended Monday night.

Robinson Township supervisors voted to close the hearing which had been before them since August and before the township planning commission two months earlier than that. However, supervisors did not make a decision Monday night. They have 45 days to do so.

Robinson Power Co. is attempting to build a 300-megawatt plant that will be both gas and coal fired. The plant could generate enough electricity for 250,000 homes and would burn waste coal that was dumped on the site for decades.

But those who have opposed it, including Jo Post of Oakdale, said the request to allow the plant to burn gas as well as waste coal would only result in more air emissions.

"The gas plant will be there for 30 years at least. The waste coal power plant was to be there and be done with, but now, by doing this, it's just going to provide permanent pollution to our community," she said.

Attorney Lisa Wadawsky, with the Environmental Integrity Project, argued the modification should not be granted for a number of reasons, including a past history of

noncompliance on the part of applicant Raymond J. Bologna, and that his company does not yet have the necessary permits.

She said the project would endanger the public health and welfare with increased air emissions and also could eliminate the original intent, which included plans to reclaim the site where the waste coal was dumped.

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