

Register now for three April safety seminars

Governor Jim Justice has declared April 2022 as “Safe Digging Month.” To highlight the importance of this issue, the GO-WV Environmental and Safety Committee is hosting a Damage Prevention Seminar on Wednesday, April 6, at the Days Inn Hotel in Flatwoods, WV, for those who were unable to attend this presentation during the Winter Meeting.

Registration opens at 8:45 a.m., and the seminar starts at 10:00 a.m. and ends at 3:00 p.m. Lunch will be provided.

Topics include One-Call history and regulatory compliance, the WV 811 role and responsibilities of all involved in ground disturbance activities, WV DPB compliance requirements and operator/excavator expectations, a review of recent investigative findings, a panel discussion of best practices

and initiatives, discussion of damage prevention methods and techniques, with state-wide statistics, pros/cons of different vacuum excavating services and discussion of different line locating tools and resources.

Speakers include Mary Friend of the WV Public Service Commission, Tom Taylor of WV 811, Carrie Clendening of WV Damage Prevention Board, Jerry Poage of USIC and several panelists. You can [click here to register online](#).

Safety seminars



*Robert Radabaugh
Environmental &
Safety Committee*

Continued on page 13

GO-WV hosting Science Teacher Workshop

The Gas and Oil Association of WV, Inc. is hosting a Science Teacher Workshop on June 6 and 7 at Embassy Suites Hotel in Charleston for 40 middle and high school teachers.

The goal of the workshop is to help foster energy education by connecting science education to the energy industry. During the workshop, each teacher will receive resource materials, lesson plans, Internet links and activities, plus a few other special surprises! Seven learning stations will include hands-on experiments, background information, industry guest speakers, graphic organizer ideas, Internet activities and career connections. The free teacher workshop includes: overnight accommodations, meals, curriculum, “hands-on” sessions, evening social gathering and much more!

This is a tremendous opportunity for your company to sponsor this GO-WV event and connect your company to the education process and

encourage young people to explore careers in the STEM field and the oil and natural gas industry. Sponsorships start at \$500 and end with the \$10,000 premier sponsorship. You will be recognized on signage at all events, in online marketing and the July issue of *GO-WV News*. [Click here for more information on sponsorship](#).

Teachers may be able to qualify for Continuing Education Unit credits through Marshall University, based on approval by their county board of education.

Special industry guest speakers, experiments and Internet activities will be available throughout both days.

Teacher workshop



*Jeff Isner
Co-Vice President
and Program Chair*

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Are we too considerate?

Recently, I reviewed a survey from an American Gas Association committee that remarked about the number of electric vehicle adds during the Superbowl. It seems like car makers are being driven to move solely to manufacturing electric vehicles. While I do not understand this logic, I have observed here seems to be a lot more electric vehicles on the road lately. The survey asked, “if the natural gas industry was going to do a Super Bowl ad, what would it be?”

We have all seen very conservative ads, done at a very low level of circulation, that include things like a home heating, manufactured products like plastics and steel, chemical industry, etc. along with what I would call defensive advertisements that provide good statistics about our environmental impact, tax impact, and social impact. But, I don’t think I have ever seen an advertisement for the gas industry that truly attempted to promote the use of natural gas over other energy sources.

Have we been too considerate of our competition or too afraid to rock the boat?

Maybe the recent trends of promotion of Responsibly Sourced Gas (RSG) is our “electric vehicle.” Maybe we have a new tool to actually turn the corner from a defensive position to an offensive position and begin to aggressively stand up and say that natural gas is the better choice.

The work being done in traditional and social media by Charlie Burd and the team from FTI Consulting are expanding the telling of our story to a broader public than we’ve been able to reach before.

The upcoming special section in *The State Journal* will expand our current messages more widely to the targeted business community and state leaders.

Through this important media opportunity, we can begin highlighting our industry by promoting RSG and engaging in the QMRV (quantification, monitoring, reporting and verification) process. We can make our case through evidence-based information, rather than estimates. We can use this type of information to identify and correct problem areas, improve data accuracy and information transparency. The data can be periodically subjected to independent review for to establish completeness, reliability and positive environmental impact.

We often complain about all of the negative publicity our industry receives and increasing advertisement by our competition, but we rarely promote our own industry. The time for preaching to the choir is over.

For the record, an analysis published by the online car shopping marketplace Cars.com immediately following the Super Bowl showed

Too considerate?

Continued on page 15



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Leadership West Virginia class of 2022 welcomes GO-WV members

The cultivation of new leadership is of utmost importance to West Virginia's future prosperity and progress. Leadership West Virginia works to develop and motivate a cross-section of leaders who will use their talents and abilities to inspire others and to foster a new spirit of energy, enthusiasm, and vitality throughout the state.

The 2022 class features 14 individuals representing GO-WV member companies. They are listed at the end of this story.

Each year a class of some 50 leaders is selected to participate in the program. A selection committee reviews the applications of statewide nominees from whom the final group of participants is chosen. Those selected must have demonstrated skills and experience in civic activities, public affairs, and in their professional careers. Although the selected participants will be from different regions, have varied professional backgrounds, and possess diverse talents, they all must have one common characteristic – an abiding interest in West Virginia and her future.

The program consists of eight monthly two-day educational sessions from April through November. Each of the sessions is conducted in a different community and addresses key subjects and critical issues facing West Virginia.

At each session, recognized authorities – practitioners, teachers, entrepreneurs, professionals, and analysts – provide information and insight into the selected topic. A variety of views is presented on each topic, and visits are made to local sites to reinforce, through observation and practical experience, the subject matter of the program.

Participants must be committed to the program and accept the demands of the eight-month schedule, as attendance is mandatory for graduation.

A statewide network of over 1,400 Leadership West Virginia alumni, including GO-WV Executive Director Charlie Burd and Director of Administrative Services Lori Miller Smith, targets areas of involvement and actively engages in finding solutions that will aid West Virginia's

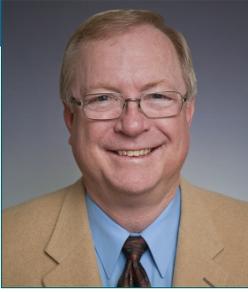


future growth and prosperity. The alumni meet to strengthen relationships developed and to maintain and build on the knowledge gained during their Leadership experience.

Leadership West Virginia graduates represent a broad cross-section of West Virginians — all of whom are engaged in a variety of sectors and at various levels inventing a bright future for the Mountain State.

The individuals representing GO-WV member companies are:

- Vivian Basdekis
Jackson Kelly, PLLC (Charleston)
- Matt Bond
United Bank (Charleston)
- Katherine Capito
Frost Brown Todd (Charleston)
- Patrick Flora
Pickering Associates (Parkersburg)
- Adam Gissy
SLS Land and Energy Development (Weston)
- Heidi Handley
The Thrasher Group, Inc. (Bridgeport)
- David Hutchison
Glenville State College (Glenville)
- Natalie Luppold
Suttle & Stalnaker, PLLC (Charleston)
- Kameron Miller
Littler Mendelson, P.C. (Charleston)
- James Myers, III
MonPower/FirstEnergy (Morgantown)
- Hampton Rose
Steptoe and Johnson PLLC (Charleston)
- Chris Weikle
Southwestern Energy (Charleston)



From the Burd's Nest: Buckets of fun!

As I pen this article, about three weeks remain in the 2022 West Virginia Legislative Session. As always, there is lots of activity pertaining to the oil and natural gas industry--some good, some... well, not so good. Because the outcomes are still way too far away to call, I have decided to give you an update by "buckets" of activities.

Aboveground Storage Tanks. To this point, three bills have been introduced addressing AST's located in the Zone of Critical Concern, **House Bill 4083**, **House Bill 2598** and its companion bill, **Senate Bill 88**. **HB 2598** is the carryover bill from the 2021 Legislative Session that passed the House of Delegates but was not taken up for further consideration in the Senate. **HB 2598** has been modified and now includes (1) expanding the definition of qualifying tanks to include those associated with *transmission, storage and production* activities (2) a provision to exempt certain WV Department of Highway tanks containing brine solutions used for roadway pretreating; (3) specific language clarifying that tanks are to not be lifted for routine inspections; (4) the requirement for a professional engineering inspection once every three years be removed and replaced with an annual self-inspection requirement; and (5) the every 14-day secondary containment inspection is changed to a monthly inspection and documentation. **HB 2598** passed the House of Delegates on February 15. We are very hopeful this bill will be taken up and passed in the Senate, then signed into law by the Governor.

Annual Well Fees/WVDEPOOG Funding. Every year it seems we face the challenge of defending a "per-well" fee assessment to assist in the funding of the WVDEP's Office of Oil and Gas. This year is no different. **Senate Bill 480** has passed its assigned committee's scrutiny and is currently moving toward passage in the Senate. This bill seeks to place a \$100 fee on every well that produces 10 Mcf/day or greater. There are approximately 13,500 such wells so that would equal fees totaling \$1.35 Million. GO-WV does

not support this legislation. A second bill, **Senate Bill 613**, is one that is much fairer and can be endorsed by your Association. **SB 613** seeks to dedicate 1.5% of the current severance tax collections attributable to oil and gas to fund the WVDEP's Office of Oil and Gas. It is currently moving through the committee approval process in the Senate.

Rare Earth Minerals. There is likely no topic this session that has drawn more attention than rare earth elements or minerals. From the 5,000-foot view, there are actually two efforts to discuss. The first is an attempt to establish who has the clear legal right to title of chemical compounds, elements and substances that are derived from the treatment of acid mine drainage on mined lands. This effort comes from companions bills **House Bill 4003** and **Senate Bill 458**. GO-WV has reached out to the sponsors to determine if production water might also be included. Ownership of produced water and acid mine drainage is statutorily different. The second effort is to provide various forms of tax relief to those industries that mine or extract rare earth elements or minerals. **House Bill 4657** is one of several bills that encourage industry to develop rare earth elements. Other bills include **House Bills: 4025, 4075, 4088, 4092, 4657** and **Senate Bill 567**. Earlier in February, the House passed **HB 4025** that would exempt rare earth elements and other critical elements mined in West Virginia from severance taxes. Specifically, **HB 4657** create the *Critical Mineral Investment Tax Credit Act of 2022* and would provide corporate net or personal income tax breaks. Such tax breaks would be based on the cost of the investment property and new jobs created over a ten-year period. At this writing, **HB 4657** sits in Senate Finance for consideration.

Cotenancy. As you will recall, several years ago we were successful in getting Cotenancy passed that would allow us to better unitize our drilling tracts. The one part of that law that was

Burd's Nest *Continued on page 20*



2022 GO-WV Scholarship deadline is March 18, 2022

In 1997, the Independent Oil and Gas Association of West Virginia, Inc. (now the Gas and Oil Association of WV, Inc. - GO-WV) established its Scholarship Program in an effort to become more involved in higher education in West Virginia. The Scholarship Program was specifically created to reward the outstanding scholastic achievements of high school seniors whose parents work in the oil and natural gas industry for association membership companies. The Association also awards deserving high school “student employees” who have completed a required number of working hours at an association member company.

Beginning in 2020, two annual one-time, \$1,000 scholarships were sponsored by Con-

Serv Incorporated. They are for students who are choosing a career path that benefits the oil and gas industry in a vocational/technical field such as, but not limited to, welder, truck driver, well tender, electrician, mechanic, etc.

Since the GO-WV Scholarship Program’s inception, \$191,500 has been awarded to these very deserving students. Complete eligibility rules and documents for both scholarship types can be found at <https://gowv.com/education/scholarship/>.

The completed application, including all required forms and information, must be signed by the high school counselor and postmarked no later than March 18, 2022. From all the applications received, a GO-WV Scholarship Review Committee will award a limited number of one-time only scholarships.

Here is a quick glance at those rules:

1. Applicant must be a West Virginia high school senior.
2. Applicant must be a dependent of an employee/retiree of a GO-WV Company in good standing OR be employed by a GO-WV Company in good standing (Student employee must have worked a minimum of 400 hours in the past calendar year. Validation of hours worked and a letter of recommendation from the employer must be provided).
3. Applicant must enroll in a four-year West Virginia college or university or a community college/vocational-technical school.
4. Applicant must compose an essay answering the question asked on the application form.
5. Application must be signed by the high school counselor.
6. The completed application and all documentation requested must be postmarked no later than Friday, March 18, 2022.

GO-WV will accept completed applications postmarked by March 18, 2022. Should you have any questions, or need additional information, please contact Katie McCracken at 304-344-9867 or kmccracken@gowv.com.



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Endangered species issues slow pipeline completion

The federal Fourth Circuit Court of Appeals has struck down an evaluation by the U.S. Fish and Wildlife Service of the potential impacts on two endangered fish species presented by stream crossings for the Mountain Valley Pipeline. In its [February 3, 2022](#) opinion, the Court concluded that the Service failed to sufficiently establish the “environmental baseline” conditions for each species, and failed to adequately evaluate how the stream crossings, along with other anticipated activities impacting the streams, will affect the species on a cumulative basis. The Court also faulted the Service for not assuming future negative effects of climate change in its analysis.

In September 2020, the Service published a “Biological Opinion” addressing how the proposed pipeline would likely affect five species listed for protection under the federal Endangered Species Act (ESA) (one plant; two fish; and two bats). The Service concluded that the pipeline would likely affect each species, but would not jeopardize those species, which is the key determination under the ESA for whether other federal agencies may issue permits for a project. The Service also issued an “Incidental Take Statement” that authorized certain levels of “take” of each species associated with construction of the stream crossings, which would otherwise be prohibited by the ESA. For purposes of the ESA, “take” of a species means actions “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”

A group of organizations opposed to the pipeline, including the Sierra Club, challenged both the Biological Opinion and the Incidental Take Statement with regard to the two fish species (Roanoke Logperch and Candy Darter) and one bat species (Indiana Bat). The Court only squarely addressed the Service’s evaluation of the two fish species, but included a detailed footnote that strongly recommended a second look by the Service at its evaluation of the Indiana Bat.

The opinion explaining the Court’s ruling primarily focuses on how the Service ascertained the environmental baseline for the two fish species and assessed the cumulative impacts of the proposed pipeline along with other anticipated activities. The Court faulted the Service for not gathering site specific data for each stream crossing proposed in areas of the species’ habitat. The opinion states that the Service did not sufficiently identify the existing “stressors” that were negatively impacting the species in the pipeline path. Although the Service observed that a primary driver decreasing the Candy Darter population is “hybridization” – i.e. interbreeding by the Candy Darter with another similar species of darter – the Court concluded that the Service did not adequately consider other factors negatively affecting the Candy Darter, such as increased stream sedimentation.

The Court rejected the Service’s argument that statistical modeling used to prepare both the environmental baseline determination and cumulative effects evaluation sufficiently accounted for conditions within the pipeline path. The Court did so because (1) the Biological Opinion does not indicate a reliance on statistical modeling to establish the environmental baseline or cumulative effects determinations; and (2) the models were not designed to assess environmental conditions on a small-enough scale to evaluate the specific areas to be impacted by the project.

With respect to climate change, the Court acknowledged that the statistical modeling used by the Service takes into account “environmental stochasticity,” which is defined as “unpredictable fluctuations in environmental conditions.” The Court still found that the Service did not adequately consider climate change because the models assumed a constant amount of environmental stochasticity in the future. According to the Court, “the model failed to account for the one thing we know about climate change: that it will

Endangered species

Continued on page 16

2022 Spring Swing event registration open for May 9 at Berry Hills Country Club, Charleston

Come join your industry peers, invite your clients, get outside and enjoy a day “on the links” at the GO-WV Spring Swing! We will be gathering on May 9, 2022, at Berry Hills Country Club in Charleston.

We have registration options that include sponsorships with foursomes, sponsorships without foursomes, single golfers or foursomes. We’ll match players for single registrations.

We have several levels of sponsorship to meet your goals. Select your sponsorship level and register your team, or select your registration choice if you’re not able to sponsor. You can [click here to sponsor and/or register](#).

- Diamond Event Sponsor (\$5,500) includes foursome fee, banner at event, logo on signage, on web site and in newsletter. The sponsorship can support one of these options: registration and player gift; breakfast; lunch; snack and beverage cart; door prizes; player awards; or entertainment.

- Hole Sponsor (\$1,000) includes foursome fee, logo on signage at hole, on web site and in newsletter. You can request a specific hole number, based on availability.
- Bronze Sponsor (\$500) includes logo on signage, on web site and in newsletter.

Non-sponsor registration options include:

- Member registration only (does not include golf) \$100.00
- Nonmember registration fee (does not include golf) \$170.00
- Single member golf (includes registration) \$200.00
- Single nonmember golf (includes registration) \$270.00
- Member golf foursome (includes registration) \$700.00
- Nonmember golf foursome (includes registration) +\$900.00





Opportunity in adversity

In the summer of my junior year at WVU, I worked as an engineering technician for the Soil Conservation Service (SCS) in Morgantown. The work was enjoyable. My plan was to get an engineering position after graduating with a degree in Agricultural Engineering. Due to the recession after the Arab oil embargo the government had a hiring freeze. The oil and gas industry was booming. A company named Halliburton was interviewing any engineering graduate. I had no idea what they did but decided to check it out.

The Assistant Division Engineer from Pittsburgh, Ray Wenzel, interviewed me. All he talked about were the long hours, *50 hours a week*. Other than the 40 hour a week job at the SCS, my summers were spent working at a country club in the kitchen. We worked typically 10 hours or more a day 6 days a week. I told Ray 50 hours a week was less than I was used to working. He hired me. My first assignment was Albion, Michigan. Ray may have lied to me. During my training I never saw a work week less than 60 hours. It didn't matter because I was single and all my new friends worked at Halliburton.

The oil and gas industry has been a good career. I've enjoyed it and hopefully made a difference. One of the best things that ever happened to me was the government hiring freeze, otherwise I would have never interviewed with Halliburton. The Halliburton job put me in Michigan where I met Lynnnda, my wife of now 46 years. I almost left to be a professional speaker in 2007 until I realized oil and gas is the one industry with biggest impact on our children's future. Energy is essential. I'm not the brightest bulb but felt I could make a difference. Life is full of thin threads. If I got the job I wanted at the SCS I wouldn't have interviewed Halliburton. I wouldn't have the family I have, be doing the exciting work I'm doing now and have so many wonderful friends. What I thought was the worst thing for my life and career turned out to be the best thing.

The Atlantic Coast Pipeline (ACP) project has been cancelled. A court ruling stopped work on the Mountain Valley Pipeline and its future is in question. Each of these pipelines would have carried 2 BCF/day of Marcellus and Utica natural gas out of the basin. This could hurt producers. We never hear about those hurt most, the people and businesses who would have been served by their gas. Eastern Virginia is an under supplied area. Even the Norfolk naval base has had to be curtailed during peak demand periods, according to Virginia Natural Gas. Not a good situation for consumers like my brother-in-law, our grandson and their families.

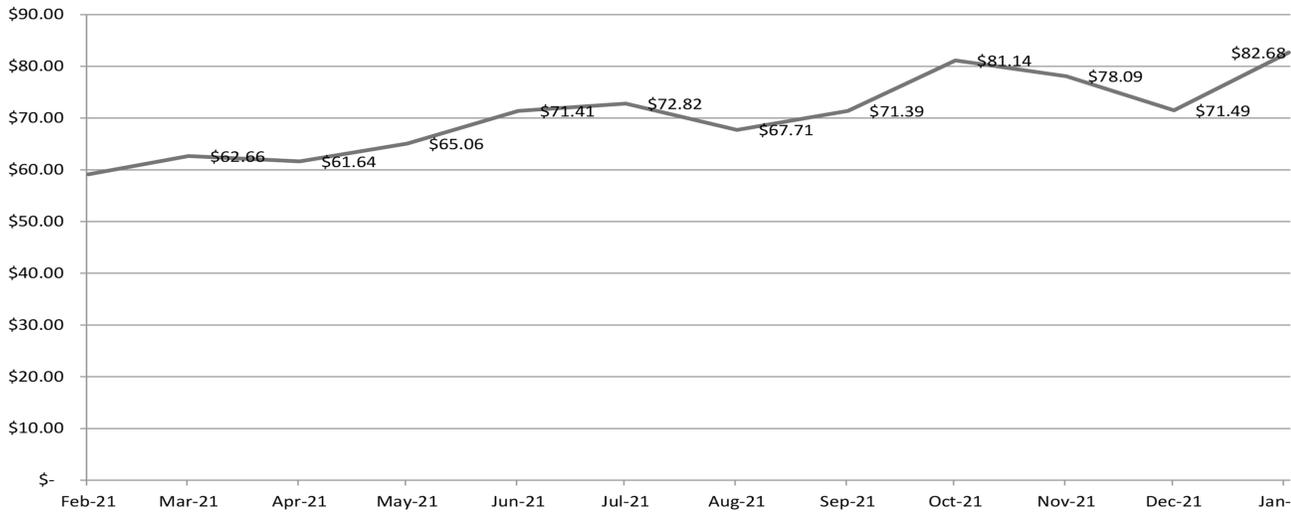
Eastern Virginia has another problem we don't have. Shale Crescent USA is working with prospects who wanted to be close to the Port of Virginia and needed natural gas. We were told natural gas was available but interruptible. Those businesses would be without gas 30-50 days a year. The LDC can't tell them which days. They are now looking for sites in West Virginia and Ohio. Dependable natural gas could be an issue for some existing Virginia businesses.

Pipelines are essential for getting gas to where it is needed. Could there be an alternative to the ACP that can happen quickly? When I was growing up in Pittsburgh the local gas companies did marketing. They promoted natural gas use and natural gas appliances. The Arab Oil embargo in the 70s showed the limits of our oil and natural gas at the time. The gas marketing ended. One WVU Chemical Engineering professor claimed the USA would run out of natural gas in 7 years. Forty plus years later the USA is the world's leading natural gas producer. The Shale Crescent USA alone produces almost twice as much natural gas as the entire nation of China. We produce a great product with a variety of uses. Maybe it's time to do what I did in college faced with a hiring freeze, *look for alternatives*. We don't need to be a Banana Republic.

Opportunity

Continued on page 14

Monthly Appalachian Basin crude oil prices



Series1	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22
Series1	\$59.13	\$62.66	\$61.64	\$65.06	\$71.41	\$72.82	\$67.71	\$71.39	\$81.14	\$78.09	\$71.49	\$82.68



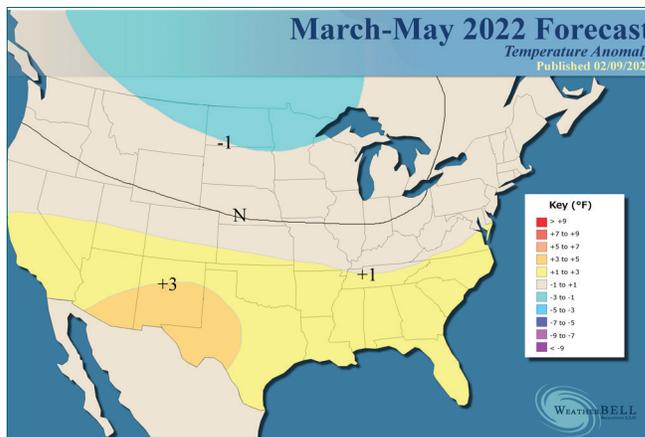
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WeatherBELL's spring 2022 outlook



For more information about WeatherBELL's services and to get the hot-off-the-press forecast updates, please visit our website www.weatherbell.com or contact us at sales@weatherbell.com.

After a cold winter in most areas in the East, we anticipate the coldest air, relative to normal, to continue to shift to Western Canada and the Upper Midwest for the spring. The East Coast will see periodic cold shots, but most of the South should be on the warm side.

With the best chance for milder weather along across the Deep South, this should lead to an early start to the severe weather season and one of the more active ones in recent memory as we head deeper into spring, though the details will depend on the timing of the cold shots.

We will also be watching the drought across the Southwest and Texas, as that should portend a fast start to the cooling season.

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GO-WV Board welcomes two new members in February

Please join the GO-WV Board of Directors in welcoming these members approved in February:

Moonlight Oil and Gas

Daniel Ludwig
PO Box 687
Elizabeth, WV 26143
Phone: (304) 588-5881
Cell: (304) 588-5881
dludwig1983@gmail.com

POP

Neoinsulation

Gary Crisp
100 Merchant Lane
Suite 112
Pittsburgh, PA 15205
Phone: (859) 448-5909
Cell: (469) 434-5909
gcrisp@neoinsulation.com
www.neoinsulation.com

ISP

Industry News

ShalePro Energy Services welcomes new CEO

ShalePro Energy Services ("ShalePro"), a portfolio company of Turning Basin Capital, announces the appointment of **John Snedden as Chief Executive Officer** effective February 14, 2022. Snedden brings 36 years of management experience in the oil and gas industry to ShalePro. As CEO, he will lead the company's growth strategy and oversee all operational and financial functions.

Prior to joining ShalePro, Snedden served as Senior VP for Keystone Clearwater Solutions and previously held upper management positions with Fluid Delivery Systems, Nabors Industries and Pennzoil-Quaker State. His broad background spans the upstream and downstream segments of the industry and includes extensive experience in operations management, safety, marketing and sales.

"We are very excited to have John join our team," said ShalePro's Board Member and Interim CEO, Frank Henderson. "His diverse 36-year oil and gas background will complement our experienced leadership team as we continue to grow our O&M and Construction services for both upstream and midstream customers."

ShalePro has a 27-year history of offering field services to support natural gas producers and midstream operators in the Appalachian Basin. The company currently operates and maintains more than 1,000 wells, 300,000 HP of compression and hundreds of miles of gathering system pipelines. Its construction and fabrication services include well hook-ups, compressor, dehy and facility installations, helical piles and general maintenance.



Upcoming events planned for 2022

March 2-4, 2022

OOGA Spring Meeting
Easton Hilton, Columbus, OH
 Info: ooga.org

March 10, 2022

GO-WV Day at the Legislature
Full Upper Rotunda
 Info: www.gowv.com

March 23-34, 2022

WV Construction and Design Show
Charleston CCC, Charleston, WV
 Info: wvexpo.com/

April 5, 2022

Pipeline Safety Seminar
Marriott Town Center Hotel, Charleston, WV
 Info: www.gowv.com

April 6, 2022

Damage Prevention Seminar
Days Inn Hotel, Flatwoods, WV
 Info: www.gowv.com

April 6, 2022

PIOGA Spring Meeting
The Rivers Casino, Pittsburgh, PA
 Info: www.pioga.org

April 7, 2022

Pipeline Safety Seminar
BHE GT&S White Oak Office Building
Bridgeport, WV
 Info: www.gowv.com

April 21, 2022

SOOGA Spring Membership Meeting
Marietta Shrine Club, Marietta, OH
 Info: www.sooga.org

May 1-2, 2022

2022 Manufacturing and Energy Growth Summit
Oglebay Resort, Wheeling, WV
 Info: www.wvma.com

May 9, 2022

GO-WV Spring Swing Golf Outing
Berry Hills Country Club, Charleston, WV
 Info: www.gowv.com

May 15-17, 2022

IOGCC Annual Business Conference
The Skirvin Hilton, Oklahoma City, OK
 Info: www.iogcc.ok.gov

May 16, 2022

PIOGA Oilpatch Golf Classic
Wanango Country Club, Reno, PA
 Info: www.pioga.org

June 6-7, 2022

GO-WV Science Teacher Workshop
Embassy Suites Hotel, Charleston, WV
 Info: gowv.com

June 13, 2022

Arsenal Resources Teeitup
Pete Dye Golf Club, Bridgeport, PA
 Info: teeitup@arsenalresources.com

June 13-15, 2022

DUG East
David L. Lawrence Convention Center
Pittsburgh, PA
 Info: www.pioga.org

July 20-22, 2022

IPAA Annual Meeting
The Broadmoor, Colorado Springs, CO
 Info: www.ipaa.org/events/annual-meeting-2022/

August 7-9, 2022

GO-WV 2022 Summer Meeting
The Greenbrier, White Sulphur Springs, WV
 Info: www.gowv.com

August 18, 2022

Divot Diggers Golf Outing
Tam O'Shanter Golf Club, Hermitage, PA
 Info: www.pioga.org

Upcoming events

Continued on page 13



GO-WV is hosting two Pipeline Safety seminars in April. The first is April 5 in Charleston and the second is April 7 in Bridgeport. These are presented by the Gas Pipeline Safety Division of the PSCWV. There is no charge to attend, lunch is provided and registration opens at 8:00 a.m. The seminar is from 8:45 to 3:00 p.m. each day.

Mary Friend and Jim Searls of the WV PSC, DEWV, and David Hancock will be our speakers on the WV regulatory update, regulators, completion records, WV top inspection issues, inspections and intervals, forms and procedures, plus time for questions.

You can [click here to register online](#) for either date.

The April 5 session at the Marriott Town Center Hotel in Charleston is sponsored by:



The April 7 session at the BHE GT&S White Oak Office Building and sponsored by:



Upcoming events

Continued from page 12

September 19, 2022

BHE GT&S Charity Golf Invitational
Pete Dye Golf Club, Bridgeport, PA
 Info: gina.palmer@bhegts.com

September 29, 2022

SOOGA Annual Trade Show
ESB Building, Marietta, OH
 Info: www.sooga.org

October 19, 2022

PIOGA Marcellus to Manufacturing Seminar
Seven Springs, Champion, PA
 Info: www.pioga.org

October 20, 2022

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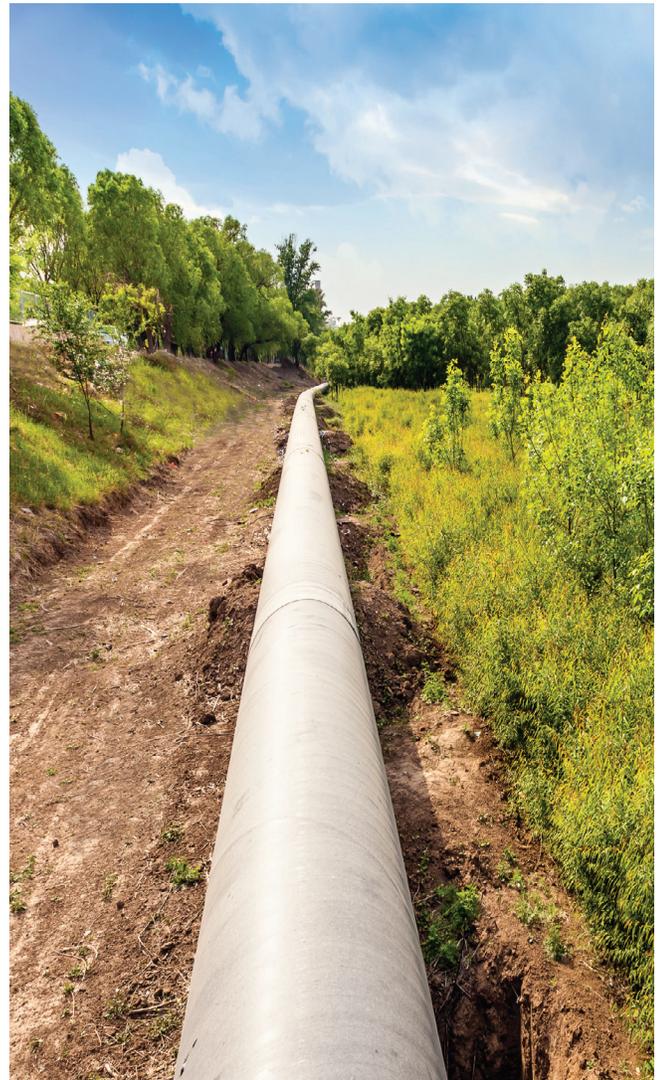
Craig Colombo
 Natural Gas Supply Strategic Advisor
 804-787-6167
 600 Canal Place, Richmond, VA 23219



If we can't send more gas from the Region via pipeline maybe we can do it a different way. What if we exported *products* made from our natural gas and NGLs? Companies are beginning to understand the cost and dependability advantages of regional supply chains avoiding ocean transportation. I met with a local company last week who cut their Asian supply in favor of U.S. based suppliers. Shale Crescent USA research shows labor is only a small part of most product costs. Materials and transportation are the major costs. Transportation cost adds no value. Shale Crescent USA is getting the message to industry. Companies are now listening, believing and acting.

We have what other parts of the USA and countries like China would love to have, **affordable, dependable natural gas**. Isn't it time for us to start selling gas closer to the wellhead and avoid transportation that doesn't add value. It's time to market our product for sale in our region, one of the largest economies in the world. We know how to drill some of the most technically sophisticated wells in the world. We can figure out how to work together to get natural gas to the businesses and industries who want it. Natural gas and NGLs can be sold to industry who can turn them into products here and ship them anywhere. Long term natural gas contracts to industry coming to or expanding in the region will minimize transportation cost to producers and help local industry grow, creating jobs.

We need new allies. People love manufacturing. A young radio host at the University of Colorado student radio station who interviewed me, told his listeners. "We don't like wells and petrochemical plants. We like our cars, cell phones, skis and climbing ropes. If we are going to have those things shouldn't they be made in the USA under U.S. environmental law creating jobs here rather than overseas?" ACP's cancelation was bad. (like my government hiring freeze) But it may be the best thing to happen to us in a long time if we seize the opportunity and market to industry.



Industry Intelligence. Focused Legal Perspective.
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Whether it's managing an environmental or regulatory matter, inspecting for pipeline safety, acquiring title and rights to land, or partnering to develop midstream assets, we help solve complex legal problems in ways that favorably impact your business and bring value to your bottom line.

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that six of the seven car brands that ran an ads that evening featured electric vehicles. A second study, authored by Canalys, an independent analyst company, shows that statistically only 9% of passenger vehicle sales globally are EVs. Of those total 6.5 million EVs sold in 2021, 3.2 million were sold in mainland China, 2.3 million were sold in Europe, and a mere 535,000 were in the United States. That number of EV sales represents about 4% of total new cars sold in the United States.

One more stat...the cost: \$5.5 million for 30 seconds of airtime in the Super Bowl, not including significant costs for talent and production.

So, in answer to the AGA survey question posed earlier, our Super Bowl ad could say that we produce the affordable energy that keeps this country energy-independent and provides the building blocks for virtually everything manufactured for people to use every day--including vehicles!! Sounds like a GREAT commercial!

Teacher workshop *Continued from page 1*

The learning stations will cover:

- **Formation:** Are fossil fuels renewable or non-renewable? Experiments show how the earth “cooked” (heat and pressure) ancient plant and animal life to create fossil fuels. Create infographics about geologic time and the rock cycle.
- **Migrating & Trapping:** Is crude oil and natural gas found in large lakes underneath the earth’s surface? Experiments show how crude oil and natural gas are trapped in porous rocks. Create 2D and 3D rock models to demonstrate porosity and permeability.
- **Exploration:** How do we find these valuable

fossil fuels? Use contour mapping to look below the earth’s surface and “see” rock formations. Create models and calibrate measurements using blank grids.

- **Drilling & Well Stimulation:** How do we recover crude oil and natural gas? Use engineering design to create two models: a weight-bearing derrick and a working oil well applying principles related to porosity, permeability and flow of fluids to the surface.
- **Producing:** What happens to crude oil and natural gas once it is produced? How is it transported? Create a model pipeline and pipeline “pig” and apply principles of force, motion, velocity and engineering design.
- **Refining:** How are crude oil and natural gas liquids (NGLs) transformed into useful products? Use the chemistry distillation procedure to demonstrate the refining process. Follow lab safety procedures, collect data and understand the industry applications.
- **Petrochemicals & Products:** What other products besides transportation fuels are made from crude oil and natural gas? Explore a few of the 6,000 petroleum-based products. Design and implement a materials test for different petrochemical-based fabrics.
- **Sustainability:** What performance measures can be used to consider industry impacts to climate change, the environment, health and safety? Consider new technologies and ways to measure impacts to compare and contrast different energy sources.



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get worse over time.” The opinion identifies anticipated increased water temperatures, frequency and intensity of flooding, and increased sedimentation as negative impacts of climate change that were not considered in the statistical models. The court does not cite to any of the materials in the administrative record to support this observation. Other than referencing a description of climate change by the Service as presenting an “increasing threat,” the Court does not offer any guidance on why the Service should assume conditions for the species will necessarily get “worse” over time due to climate change, or how the Service should go about factoring these considerations into its evaluations.

In light of the Service’s shortcomings described in the opinion, the Court concluded that the Service could not have reasonably concluded that the proposed project is unlikely to jeopardize the two fish species. The Court recognized that the ESA does not prohibit approval of projects “solely because baseline conditions or cumulative effects already imperil a species.” However, the ESA does prohibit approval of a project that will likely accelerate the decline of a species. “Put differently, if a species is already speeding toward the extinction cliff, an agency may not press on the gas.”

The Court rejected several additional arguments advanced by the challengers as grounds to set aside the Biological Opinion and Incidental Take Statement. These included claims that the Service (1) arbitrarily limited the scope of the “action area” (i.e. the impact area); (2) erroneously excluded the Blackwater River from its evaluation of the Roanoke Logperch; and (3) the Incidental Take Statement established “unlawfully vague” take limits.

This opinion highlights the importance of Endangered Species Act considerations for energy projects. The Candy Darter was listed as endangered on November 20, 2018, which was over a year after the Federal Energy Regulatory Commission (FERC) authorized the pipeline project. As noted in the “[2021 Babst Calland Report](#),” the Service has drastically accelerated the pace of proposing and adopting species for protection under the ESA. As more species are designated for protection under the ESA, there is an increased

likelihood that areas slated for development will trigger a rigorous review by the Service before any federal permit may be issued for a proposed project.

The opinion makes clear that the Service must methodically analyze the specific areas expected to be affected by a proposed project to determine whether the project may jeopardize a listed species. This effectively means that project proponents, through their counsel and consultants, must ensure that the Service adequately evaluates potential impacts on listed species, and more importantly, documents that evaluation correctly. A failure by the Service to do so, or a finding that the project will jeopardize a listed species, can stop a project in its tracks. Even one that is “an already mostly finished Pipeline” as the court observed in this case. As of December 2021, 94 percent of the pipeline had been constructed with approximately 20 linear miles remaining.

Endangered species

Continued on page 17



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If you have any questions about the court's opinion or the Endangered Species Act in general, please contact Robert M. Stonestreet at rstonestreet@babstcalland.com or 681-265-1364. The federal Fourth Circuit Court of Appeals has struck down an evaluation by the U.S. Fish and Wildlife Service of the potential impacts on two endangered fish species presented by stream crossings for the Mountain Valley Pipeline. In its [February 3, 2022](#) opinion, the Court concluded that the Service failed to sufficiently establish the "environmental baseline" conditions for each species, and failed to adequately evaluate how the stream crossings, along with other anticipated activities impacting the streams, will affect the species on a cumulative basis. The Court also faulted the Service for not assuming future negative effects of climate change in its analysis.

In September 2020, the Service published a "Biological Opinion" addressing how the proposed pipeline would likely affect five species listed for protection under the federal Endangered Species Act (ESA) (one plant; two fish; and two bats). The Service concluded that the pipeline would likely affect each species, but would not jeopardize those species, which is the key determination under the ESA for whether other federal agencies may issue

permits for a project. The Service also issued an "Incidental Take Statement" that authorized certain levels of "take" of each species associated with construction of the stream crossings, which would otherwise be prohibited by the ESA. For purposes of the ESA, "take" of a species means actions "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

A group of organizations opposed to the pipeline, including the Sierra Club, challenged both the Biological Opinion and the Incidental Take Statement with regard to the two fish species (Roanoke Logperch and Candy Darter) and one bat species (Indiana Bat). The Court only squarely addressed the Service's evaluation of the two fish species, but included a detailed footnote that strongly recommended a second look by the Service at its evaluation of the Indiana Bat.

The opinion explaining the Court's ruling primarily focuses on how the Service ascertained the environmental baseline for the two fish species and assessed the cumulative impacts of the proposed pipeline along with other anticipated activities. The Court faulted the Service for not gathering site specific data for each stream crossing proposed in areas of the species' habitat. The opinion states that the Service did not sufficiently identify the existing "stressors" that were negatively impacting the species in the pipeline path. Although the Service observed that a primary driver decreasing the Candy Darter population is "hybridization" – i.e. interbreeding by the Candy Darter with another similar species of darter – the Court concluded that the Service did not adequately consider other factors negatively affecting the Candy Darter, such as increased stream sedimentation. The Court rejected the Service's argument that statistical modeling used to prepare both the environmental baseline determination and cumulative effects evaluation sufficiently accounted for conditions within the pipeline path. The Court did so because (1) the Biological Opinion does not indicate a reliance on statistical modeling to establish the environmental baseline or cumulative effects determinations; and (2) the models were not designed to assess environmental conditions on a small-enough scale to evaluate the

Endangered species

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See page 23.



specific areas to be impacted by the project.

With respect to climate change, the Court acknowledged that the statistical modeling used by the Service takes into account “environmental stochasticity,” which is defined as “unpredictable fluctuations in environmental conditions.” The Court still found that the Service did not adequately consider climate change because the models assumed a constant amount of environmental stochasticity in the future. According to the Court, “the model failed to account for the one thing we know about climate change: that it will get worse over time.” The opinion identifies anticipated increased water temperatures, frequency and intensity of flooding, and increased sedimentation as negative impacts of climate change that were not considered in the statistical models. The court does not cite to any of the materials in the administrative record to support this observation. Other than referencing a description of climate change by the Service as presenting an “increasing threat,” the Court does not offer any guidance on why the Service should assume conditions for the species will necessarily get “worse” over time due to climate change, or how the Service should go about factoring these considerations into its evaluations.

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most challenging was the provision that required there be a minimum of seven (7) royalty owners for a tract to be included in Cotenancy. This year **Senate Bill 650** and its companion **House Bill 4022** are both running simultaneously, and both call for the elimination of the minimum number of royalty owners required to utilize article one of Chapter 37B regarding lawful use and development by covenants. GO-WV is hopeful one of these bills will cross the finish line before the clock strikes midnight on March 12.

There are dozens of other bills and efforts that we are closely monitoring. They include but are not limited to: producing property valuations **HB 4336**; pooling/unitization **SB 694**; boycotting of our industry by financial institutions **SB 262**; and carbon capture and sequestration **HB 4491/SB 622**.

While it's hard to predict how the session might end, but I have tried to provide you a taste of what we have before us. And as you might expect, this brief summary of activities does not begin to describe the immense effort expended to get these bills placed where they are and may ultimately end up.

As always, I want to commend the best darn lobbying team at the Capitol: Phil Reale, Jim Fealy and Daniel Hall for the outstanding job they have done thus far and in close coordination with our GO-WV leadership team within the Governmental Affairs, Taxation and Executive Committees.

Look for a final report in the April edition!!!

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We've re-organized the display in the yard (shoutout to **Dominion Energy** for their efforts!)

Future **projects** include a new visitor elevator, improved lighting and an upgraded HVAC system.



Our museum at 119 Third Street

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