

WV (finally) gets a unitization mechanism

After many years of attempting to pass legislation to allow for efficient unitization of mineral interests for production purposes, the West Virginia Legislature passed Senate Bill 694 in the last week of the recent legislation session, which Governor Justice is expected to sign. The legislation represents a compromise between producers, mineral owners, and surface owners, including the agricultural sector.

As technology drove producers towards increased use of horizontal drilling, West Virginia struggled to modernize its code to allow the combination or “pooling” of mineral interests within a defined area (or “unit”) that would allow the efficient drilling for oil or natural gas through horizontal wells. Prior efforts in West Virginia usually foundered upon how to deal with mineral owners who either refused to agree to the “pooling” of their minerals into a larger “unit” or who

could not be located. As a result, a single mineral owner could prevent the formation of a larger “unit” for drilling, which drove up costs and resulted in less efficient extraction of the minerals.

Many months of stakeholder negotiations resulted in SB 694, which passed with minimal changes or opposition in the Senate and House.

SB 694 adds a new article to the West Virginia Code beginning at §22C-9-1, which includes a description of the public policy addressed by the legislation. Not surprisingly, the statute declares that the Legislature “finds that horizontal drilling is a technique that effectively and efficiently

Unitization Bill

Continued on page 14



*Mychal S. Schulz
Babst Calland*

Location changing for one of three April events

The GO-WV Environmental and Safety Committee is hosting Pipeline Safety Seminars on April 5 and 7 and a Damage Prevention Seminar on Wednesday, April 6.

The first Pipeline Safety Seminar, sponsored by Mountaineer Gas, is April 5 at the Charleston Marriott Hotel. The second, sponsored by BHE GT&S, is April 7 and the new location is the Pete Dye Golf Club in Bridgeport.

These are presented by the Gas Pipeline Safety Division of the PSCWV. There is no charge to attend. Registration opens at 8:00 a.m. and class is from 8:45 to 3:00 p.m. Lunch is provided.

Speakers from the PSCWV and DEWV will discuss the WV regulatory update, regulators, completion records, top inspection issues, inspections and intervals, forms and procedures.

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

Registration for the Damage Prevention Seminar, sponsored by Dominion Energy, WV 811, Apex Pipeline and TC Energy, opens at 8:45 a.m. at the Days Inn in Flatwoods and class starts at 10:00 a.m. and ends at 3:00 p.m. Lunch will be provided.

Topics include the One-Call program, WV 811, WV DPB compliance requirements, recent investigative findings and panel discussions.

Speakers represent the WV Public Service Commission, WV 811, WV Damage Prevention Board and others.

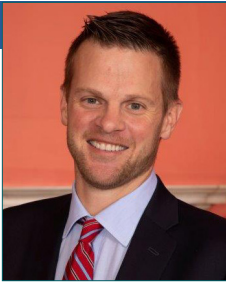
You can [click here to register online](#).



*Robert Radabaugh
Environmental &
Safety Committee*

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We benefit West Virginia and the world

At this time of global unrest, I take comfort in the fact that the United States is energy independent, and I am proud that our industry is a foundational contributor to making this possible.

Our non-conventional Marcellus and Utica producers have made our region one of the top natural gas producing areas in the world and our conventional developers have enhanced production to increase supply and reliability.

We, as a nation, are blessed with the natural resources and technological ability to produce the energy we need here at home while producing enough to export it to those in need across the globe.

The United States became a net total energy exporter in 2019 for the first time since 1952.

As it relates to natural gas and according to an article on [OilPrice.com](https://oilprice.com) (*What Energy Independence Really Means for The US*) highlighting U.S. Energy Information Administration data, "Gross exports of natural gas have increased every year since 2014, and in 2017, the United States became a net exporter of natural gas for the first time since the late 1950s. In 2020, natural gas gross exports reached a record high of 14.43 billion cubic feet per day (Bcf/d), and gross imports of natural gas fell to 6.99 Bcf/d, the lowest level since 1993. Increases in domestic natural gas production and increases in liquefied natural gas export capacity have contributed to growth in natural gas exports."

We all know the shale revolution helped usher in this era of U.S. energy prosperity and all of us have played a pivotal role in making America energy independent. This, along with the fact that growth in natural gas use nationally has led total energy-related CO₂ emissions to drop to 30-year lows, is something we should all take pride in.

And the public recognizes the importance of U.S. energy independence as well. The American Petroleum Institute released a survey recently highlighting American's beliefs on the topic of energy development. Key findings include:

- 90 percent of voters support the U.S. developing its own domestic sources of energy rather than relying on other regions of the world (Democrats 92%; Independents 86%; Republicans 90%).
- 85 percent believe producing natural gas and oil here in the U.S. helps America maintain a leadership role during a period of global uncertainty (Democrats 82%; Independents 78%; Republicans 91%).
- 85 percent believe that producing natural gas and oil here in the U.S. could help lower energy costs for American consumers.

We benefit everyone

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GO-WV soliciting nominations for 2022 Board of Directors

In accordance with the GO-WV Bylaws, this is your opportunity to nominate candidates for YOUR Gas and Oil Association of WV, Inc. Board of Directors for the coming year(s). The GO-WV Nominations Committee is accepting nominations from all interested and eligible persons. All nominations must be submitted and/or received no later than Thursday, April 7, 2022.

This election is an important one as it our first as a new association and because we will be elect-

ing directors to fill all 15 Board positions. Terms ranging from 1 to 3 years will be assigned to the winners as provided in the Bylaws. (In future elections, only positions whose term is expiring will be open for election and they will be for a 3-year term.)

The specific categories for which directors will be elected are:

- Producers (8) (with at least three representing conventional producers and 3 representing non-conventional producers)
- Pipeline Sector (4) (with at least one each from an interstate pipeline, a processor, and a gathering company)
- Industry Service Provider (1)
- Local Distribution Company (1)
- General (1) (no specific membership category required)

The only requirement to be nominated is that the nominee represent a voting member that is in good standing. No voting member may nominate more than one candidate from their company for a board seat.

Each nomination should specify the classification and, if applicable, sub classification, the person is being nominated to fill, i.e., Producer-Conventional, Producer-Nonconventional, Pipeline-Interstate, Pipeline-Midstream, Pipeline Processor, Pipeline-Gatherer, Industry Service Provider, Local Distribution Company or General. If you have questions about nomination categories, or if there are questions about the elections process in general, please contact the GO-WV office.

Again, please submit your nominee(s) directly to Charlie Burd, GO-WV Executive Director, via email (cburd@gowv.com) or by fax or letter no later than 5:00 p.m. Thursday, April 7, 2022. Once the board has confirmed the eligibility of the nominees and the nominees confirm that they are willing to serve, ballots will be sent to all voting members along with a short biography of each candidate and instructions for voting.

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From the Burd's Nest: Bubbles, brackets and buzzer beaters!

If you're a college basketball fan, this is your time of the year! This mid-March through the beginning of April timeframe is when the National Collegiate Athletic Association (NCAA) men's and women's college basketball tournaments are held in venues throughout the country. And every year there are the teams that seem to surface out of nowhere, the teams that get left behind, the unexpected upsets and those that achieve the final success. March Madness is the appropriate description that describes the agony of being on the bubble, making it into one of the regional brackets, and playing to the end with the hope of getting that final buzzer beater shot that takes you forward to the next round or possibly wins the championship.

The West Virginia Legislative Session is very similar. Although it's ending as March Madness is beginning, the process is the same: you have legislation that (1) finds itself on the bubble of being introduced, considered and/or passed; (2) legislation that gets grouped or held together because of commonality, and (3) many bills that get done only in the last days, hours or minutes of the Session.

A quick review of the Legislature's website shows that 2,216 pieces of legislation were introduced between January 12 and March 12. Of those, only 293 (13.2%) passed both Chambers and completed legislative action. Senate bills comprised 143 and House bills comprised 150 of that total. Of the 293, Governor Justice has, thus far, signed fewer than 50 into law.

As a follow-up to my March article, please let me provide a preliminary final report on how GO-WV and the oil and natural gas industry fared this session.

LEGISLATION SUPPORTED AND PASSED (by Bill number)

1. **Boycotting of Lending Institutions: Senate Bill 262** is a bill submitted by the West Virginia State Treasurer in response to major banking institutions boycotting of lending to fossil

fuel energy companies. Generally, this bill authorizes the Secretary to develop, post and maintain a list of financial institutions engaged in the boycott of energy companies; requires the Treasurer to publicly post the list and submit the list to certain public officials; and further authorizes the Treasurer the authority to refuse to enter into a banking contract with a financial institution on the list. GO-WV supported this Legislation which **passed on March 12 and became law on March 30.**

2. **Underground Injection Control Senate Bill-285**

SB-279 (as Bundled w/SB-285) is the rules bill authorizing the WVDEP to promulgate legislative rules relating to Underground Injection Control (UIC) and establishes primacy and oversight on Class VI wells used to inject carbon dioxide (CO₂) into rock formations. (For more information see: <https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=17482>) **This rules bill, not opposed by GO-WV, passed both Chambers and was signed into law by Governor Justice on February 22, 2022.**

3. **Cotenancy: Senate Bill 650** As you may recall, back in 2018, the Legislature passed House Bill 4268 (known as the Cotenancy Modernization and Majority Protection Act). This Act permitted oil and natural gas development within a mineral tract owned by seven (7) or more cotenants if the royalty owners vested with at least 75% of the right to develop the minerals had consented to the development of the oil and natural gas. **SB-650** simply eliminates the requirement that the tract be owned by seven (7) or more cotenants in order for an operator to develop the oil and natural gas under the Cotenancy statute. The bill does not change any other provisions of W. Va. Code § 37B-1-1, et seq. The effect of passage of **SB-650** is to make the Cotenancy

Burd's Nest

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Congressman David McKinley visits GO-WV office, members and staff



United States Congressman David McKinley (R-3) visited with GO-WV members and staff recently.

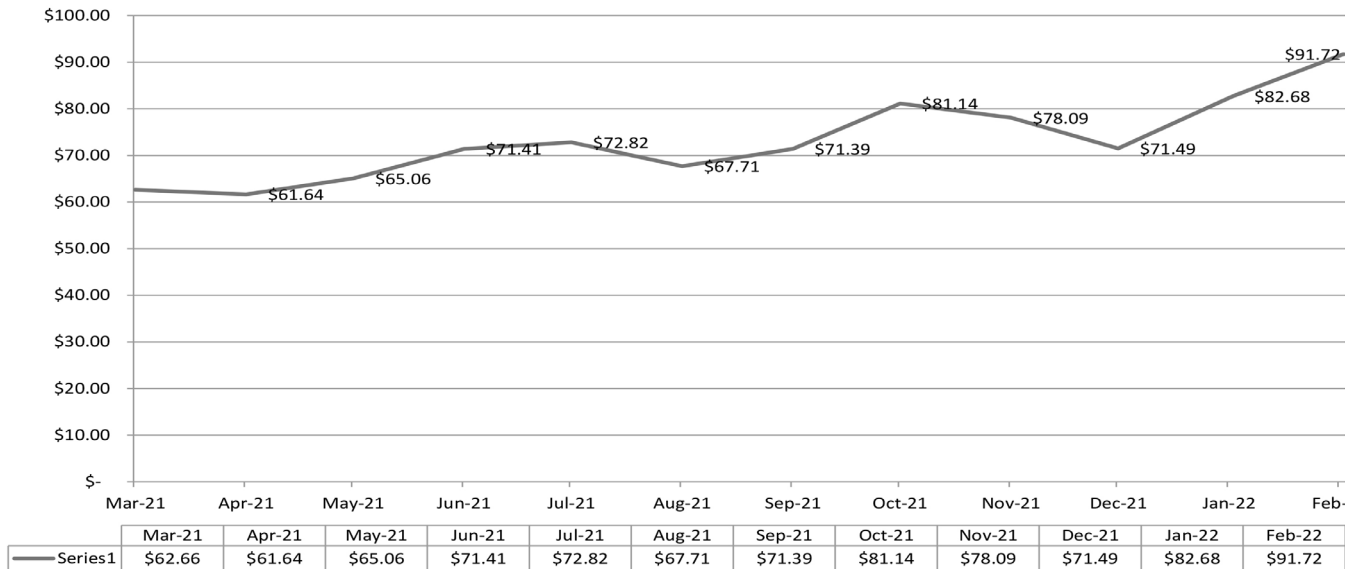
A roundtable discussion took place in the GO-WV offices to share information with the Congressman on matters of importance affecting the oil and natural gas industry. The conversation included both state and federal issues.

Approximately two dozens members participated in the meeting, including those joining virtually. Those attending in person were, from left: Jeff Isner, Pillar Energy; Jason Harshbarger, BHE GT&S; Mike John, Northeast Natural Energy; Phil Reale, The Law Offices of Phillip A. Reale; GO-WV Executive Director Charlie Burd; Congressman McKinley; Brett Loflin, Northeast Natural Energy; Hannah Hutson, Diversified Energy; Kelly Moss, Apex Pipeline; Tom Westfall, Mountaineer Gas; and Jim Crews, MPLX.



Congressman McKinley meets with industry leaders in person and virtually to learn about our issues and concerns at the state and federal levels.

Monthly Appalachian Basin crude oil prices



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GO-WV Board welcomes two new members in March

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

MDE Enterprises, LLC

Matthew Evans
160 Excavation Lane
Dry Fork, WV 26263
Phone: (304) 866-4953
Cell: (304) 866-4179
mullenax27@yahoo.com

ISP

On Target Technologies, Inc.

Thomas Woolman
385 Lost Ridge Lane
Ridgeley, WV 26753
Phone: (215) 805-7357
Cell: (215) 805.7357
t woolman@ontargetet tek.com
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But the **present** is filled with **challenges**.



Our historic building needs some **refinements**.

We're **drilling** down to the easy stuff, **fracking** the more difficult areas, **refining** what we find, and sending it **downstream** through the **Oil & Gas Museum pipeline**.

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

But first, we **desperately** need **help** with **our windows!**



How Can You **Help?**

We plan to restore each of our 83 historical windows.

The average cost per window is \$1,000.

May we restore a window in your name? Part of a window?

Sponsoring all or part of a window will earn you a place of honor.



☐ YES I'll help. Put me down for _____ windows at \$1,000 each \$ _____ **TOTAL GIFT**

☐ FULL WINDOW/\$1,000 ☐ TWO PANES/\$500 ☐ ONE PANE/\$250

☐ I don't do windows, but would like to help. Put me down for \$ _____ **TOTAL GIFT**

Please fill out and return with your check to Oil & Gas Museum/PO Box 1685/Parkersburg, WV 26102


Name/Company _____

Address _____ City/State/Zip _____

If you'd like to hear about our progress, please include your e-mail _____

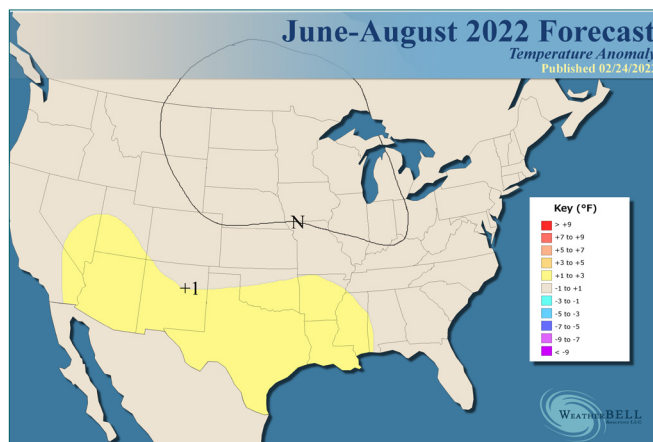
Thank you



If you'd prefer to put your gift on a card, just log on to oilandgasmuseum.org and click on **DONATE**....or use your phone to click on this QR Code 



WeatherBELL's summer 2022 outlook

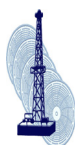


Our first forecast for the summer months calls for the warmest weather to be in the Southwest and over the southern Plains and Texas. We expect a wet and humid East.

The best chance for cooler weather, relative to normal, is in the western Great Lakes and northern Plains. This is subject to change, as we have to monitor the spring storms to see how soil moisture feedbacks will influence the patterns.

We also continue to watch the drought across the Southwest and Texas, as that should portend a fast start to the cooling season and may have implications as late spring and summer mature.

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.



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Upcoming events planned for 2022

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

Pete Dye Golf Club, Bridgeport, WV

Info: www.gowv.com

April 21, 2022

North American Coalbed Methane Forum

Virtual Platform

Info: www.marcelluscoalition.org

April 21, 2022

SOOGA Spring Membership Meeting

Marietta Shrine Club, Marietta, OH

Info: www.sooga.org

May 2-3, 2022

2022 Manufacturing

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

September 19, 2022

BHE GT&S Charity Golf Invitational

Pete Dye Golf Club, Bridgeport, PA

Info: gina.palmer@bhegts.com

September 27-29, 2022

Shale Insight Conference

Bayfront Convention Center, Erie, PA

Info: <https://marcelluscoalition.org/shale-insight/>

Upcoming events

Continued on page 15



Jeff Isner *Co-Vice President and Program Chair*

Register now for May 9 Spring Swing event at Berry Hills Country Club

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



Berry Hills Country Club - Hole No. 13 - Par 5 - 515 Yards

©Steve Payne 2012



Power in being back out with people

Shale Crescent USA was in Houston at the World Petrochemical Conference (WPC) in mid March. It's great to be back at in-person conferences. Watching presentations on-line or in-person isn't a big difference. The real value of in-person conferences and meetings are networking opportunities. WPC had over 1,400 attendees. We had meetings with prospects the first afternoon. My friend JB told me shortly after I was transferred to West Virginia over 30 years ago, "Kozera, you always have to be out among people." In operations or sales, I always learned new things and made great contacts when I got out of the office.

The opening morning of the WCP conference, one of the people and companies we wanted to connect with just happened to sit next to me. What are the odds? I introduced myself. We had a great visit and met again at breakfast the next day where they introduced me to two of their vendors who they felt needed to meet us. Three contacts from a chance meeting because we were out among people. They also attended our special luncheon presentation. We will talk again next week. This would not have happened if I had been virtual. We met a large plastics manufacturer from Ohio looking to expand in our region. They are having trouble finding workers even though they pay over \$20 an hour. We may be able to help them. If they can't hire the workers they need, the alternative is to expand to Mexico. Local expansions like this increase demand for local natural gas.

We engaged in conversations with several speakers after their presentations, something we could not do on-line. The theme of the conference was *Navigating to Net Zero*. However, because of the Ukraine situation, everyone's first concern was energy, feedstock and supply chain security. The United States and our region in particular is advantaged because energy and feedstock are right under most manufacturing plants. Manufacturers are also advantaged because they are in the middle

of their customers inside one of the largest economies in the world, thus eliminating transportation.

The opening speakers at WPC focused on energy security and said decarbonization is secondary. However, European companies are doubling down on renewables and won't back off climate commitments. Over 40% of Europe's natural gas comes from Russia. Part of the solution to Europe's Russia dependency is expanded U.S. production, especially from our region. If government and environmental groups get out of the way, we can help. I wonder how much of the funding for some of the "environmental" groups is Russian based?

The Shale Crescent USA luncheon presentation, ***Energy, feedstock and supply chain security while reducing emissions***, had a full room. We could network with attendees before and after the presentation. Shale Crescent USA is leaving Houston with new prospects and a renewed relationship with current prospects considering the region. We made new friendships and visited with old friends at the breaks and evening receptions. Companies understand the importance of energy security and now understand the energy advantage of the Shale Crescent USA.

A discussion with a foreign visitor at WPC reminded me of a unique advantage the USA has. He said, "In my country almost everyone was born there. We have very little immigration so there is little diversity of thought. Here you have people from all over the world with different life and cultural backgrounds. They bring different and new ideas. The United States is far more creative than my country." The USA and our industry have always been able to develop solutions to problems. The USA is the only nation to put a man on the moon. Because of creative new horizontal drilling and fracturing technology, the USA went from an energy crisis in 2005 to the leading natural gas and oil producer in the world in less than 10 years. In the last 15 years, the USA has

Power in being out

Continued on page 20

WV Manufacturing Energy Growth Summit set for May 2-3 at Oglebay Resort, Wheeling

The West Virginia Manufacturers Association has created an exciting agenda focused on exploring the intersections of the manufacturing and energy sectors and the challenges and opportunities they face.

GO-WV is a supporting partner of this conference.

Panels and presentations touch on relevant industry topics and experts will present a variety of current hot topics.

May 2 features optional golf or spa activities on your own, plus set-up for exhibitors, a welcome reception and the Summit Dinner. All conference activities are in the Glessner Room.

The activities for May 3 include:

- **Why Global Economic Factors Favor US Based Operations**
9:15 AM - 9:45 AM
Joe Eddy, Shale Crescent USA
- **Panel Discussion: Tri-State Low Carbon/ Hydrogen Industrial Hub Efforts**
9:45 AM - 10:45 AM
Brian Anderson, Ph.D., NETL/Working Group on Coal & Power Plant Communities (moderator)
Kevin L. Zeik, Ph.D., US Steel Corporation
Eelco Ghering, Shell Polymers
- **US Shale: The Biggest Green Initiative on the Planet?**
10:45 AM - 11:15 AM
Toby Rice, EQT, Inc.
- **Why West Virginia: Engaging Locally for Economic Opportunity**
11:15 AM - 12:00 PM
John Farris, Nucor
Ben Pickett, Nucor
John Musgrave, Mason County Economic Development Authority
Mitch Carmichael, West Virginia Office of Development
- **Networking Lunch/ Exhibit Visits**
12:00 PM - 1:00 PM

- **Shale Power Project Announcement/ Lunch**
12:00 PM - 1:00 PM
- **Keynote Speaker: Energy Realism, Energy Affordability, & the Future of Hydrocarbons in America**
1:00 PM - 1:45 PM
Robert Bryce, Author
- **Redefining Advanced Recycling for a Circular Economy**
1:45 PM - 2:30 PM
Prapti Muhuri, American Chemistry Council (moderator)
Manav Lahoti, Dow
Jeremy DeBenedictis, Alterra Energy
- **Expo Break**
2:30 PM - 2:45 PM
- **The New Nuclear**
2:45 PM - 3:45 PM
Kathy Beckett, Steptoe & Johnson (moderator)
Benjamin Reinke, X-Energy
Jeff Navin, Terrapower
Jeremy Harrell, ClearPath
Stephanie Fishman, Hogan Lovells
- **The Evolution of Environmental, Social and Governance Criteria**
3:45 PM - 4:15 PM
David Yaussy, Spilman Law
- **Adjournment/Announcements**
4:15 PM
Barbara Buck, Covestro/
WVMA Board Chairman



recovers natural resources and should be encouraged as a means of production of oil and gas[.]” Notably, however, in addition to identifying the “development, production, utilization, and conservation of oil and gas resources by horizontal drilling in deep and shallow formations” as in the public interest, the statute also recognizes the desire to “[s]afeguard, protect, and enforce the property rights and interests of surface owners and the owners and agricultural users of other interests in the land.” See §22C-9-7a(a).

Per §22C-9-7a(c), to obtain a horizontal well unit order from the Oil and Gas Conservation Commission, a producer must meet three conditions related to (1) a benchmark of royalty interests, (2) a benchmark of operator interests; and (3) negotiations with all mineral owners within the proposed unit.

First, as to royalty interests, a producer may obtain a unit order upon getting consent from the mineral interest owners of 75% or more of the “net acreage in the target formation to be included in the horizontal well unit[.]” The mineral interest owners include traditional royalty owners, “executive interest” owners, and “unknown and unlocatable interest owners.” Under this formula, therefore, a producer may utilize §55-12A-1, *et al.*, (unknown heirs) or §37B-1-1, *et al.* (co-tenancy), to add acreage to get to the 75% participation threshold. §22C-9-7a(c)(2)(A).

Second, as for operator interests, a producer must control, by ownership, lease, or otherwise, “55% or more of the net acreage in the target formation proposed to be included in the horizontal well unit,” which threshold applies to both shallow and deep horizontal wells. §22C-9-7a(c)(2)(B).

Finally, the statute requires that a producer make “good faith offers to consent or agree to pool or unitize” to mineral owners and negotiate “in good faith” with all “known and locatable royalty owners having executory interests in the oil and gas” within the proposed unit, even those whose interests are not subject to development under §37B-1-1, *et seq.* §22C-9-7a(c)(2)(C).

Notably, for purposes of determining if these conditions have been met, the Commission may not consider overriding royalty owners, nonexecutive interest royalty owners, or acreage owned or

held by unleased, unknown, and unlocatable interest owners whose acreage is not subject to development per §37B-1-1, *et seq.* In addition, acreage held by other operators within the proposed unit may not be included in the calculation of the thresholds unless such operators have consented or otherwise agreed to develop their operator interest in the net acreage in the target formation proposed to be included in the horizontal well unit. §22C-9-7a(c)(3).

The statute specifies what must be included in a horizontal well unit order. See §22C-9-7a(f). Perhaps most notably, the statute specifies how non-consenting mineral owners whose minerals will be included in the order must be compensated by the operator. For example, an order must require that non-consenting mineral owners with valid leases, whose minerals are included within the horizontal well unit, must be paid an amount equal to (1) 25% of the weighted average monetary bonus on a net mineral acre basis of the bonuses, and (2) 80% of the weighted average production royalty percentage paid to other executive interest owners of leased tracts within the horizontal well unit. §22C-9-7a(f)(6).

On the other hand, non-consenting mineral owners *without* a valid lease must be given the choice to either (1) surrender their oil and gas within the tract in the unit in exchange for an amount equal to the weighted average amount paid, per net mineral acre, by the applicant to executive interest owners in the same target formation underlying the horizontal well unit; or (2) elect to participate in the unitization. §22C-9-7a(f)(7)(A) and (B). If the non-consenting mineral owner consents to participation in the unitization, the amounts paid must either be (1) on agreed upon terms, or (2) for a bonus payment equal to the average bonus paid to other mineral owners by the applicant within the unit, and a production royalty equal to the highest royalty rate in any lease to a mineral owner within the unit dated in the previous 24 months. §22C-9-7a(f)(7)(B)(i) and (ii). Notably, in lieu of this method of calculating a production royalty, non-consenting mineral owners without a valid lease may make a one-time election to be paid production royalties for natural gas based on either an index price as of the beginning of a

Unitization bill

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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

PIOGA Fall Conference

Seven Springs, Champion, PA

Info: www.pioga.org

November 16, 2022

Multi State Tax Seminar

Location TBA

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Continued from page 2

ers and small businesses (Democrats 81%; Independents 80%; Republicans 90%).

- 84 percent agree that producing natural gas and oil here in the U.S. helps make our country and allies more secure against actions by other countries such as Russia (Democrats 83%; Independents 78%; Republicans 88%).

These are strong results that showcase the public's understanding of the importance of U.S. en-

ergy independence. I am hopeful that, over time, this will lead to federal and state policies that prioritize further buildout of our industry's transportation infrastructure and LNG capacity, which will further enhance our nation's ability to remain energy independent and secure and support our global friends and allies.

The work that we do is not only providing jobs and economic benefits to West Virginians, but also keeping America strong, safe and able to assist those in need around the globe.

Unitization bill

Continued from page 14

month published in an independent publication or on the weighted average sale price. This election must be made before the Commission issues its unit order. §22C-9-7a(f)(7)(B)(ii). If this election is made, the non-consenting mineral owner without a valid lease must receive production royalties for natural gas liquids calculated, at the election of the applicant, based on either the index price or the weighted average sales price. Importantly, production royalties for natural gas liquids must be calculated "using the sum of the proceeds received at the tailgate of the processing facility for each natural gas liquid product during each month divided by the volume of such natural gas liquid product that was sold during such month and shall not be reduced by post-production expenses." §22C-9-7a(f)(7)(B)(ii). Finally, any mineral owner who simply refuses to make an election under the statute will be considered to have elected to participate in the unit per §22C-9-7a(f)(7)(B).

The statute also contains provisions related to an operator whose interests are included within

the proposed unit, including both consenting and non-consenting operators. §22C-9-7a(f)(9) and (10).

Notably, HB 694 received support from the West Virginia Surface Owners Rights Organization, in part, because it provides a mechanism by which surface owners may acquire the mineral interests of unknown and unlocatable interest owners in oil and gas underlying a horizontal well unit. Specifically, if an action under §55-12A-1, *et seq.*, has not commenced, and the taxes are not delinquent, the applicant must inform the surface owner that the underlying interest of the unknown and unlocatable interest owners may be obtained from the applicant pursuant to the process detailed in §22C-9-7a(o).

This article only highlights unique features of the new statute. Any operator or landowner affected by a potential unitization order is urged to carefully consult the statute for further details. For now, however, West Virginia finally has a unitization mechanism in place.

Act applicable to all mineral tracts in the state so long as the oil and gas producer satisfies all provisions of the statute. **GO-WV supported this Legislation which passed on March 5 and was signed by the Governor on March 30 and becomes effective June 30.**

4. **Unitization / Pooling: Senate Bill 694** was the product of some very intense and prolonged negotiation between many of our non-conventional producers, the West Virginia Farm Bureau, the West Virginia Surface Owners Rights Association and the West Virginia Royalty Owners Association. While understandably too complex to explain in its entirety here, the bill is generally crafted to allow for the unitization of individual tracts and total drilling units in a more efficient and effective manner. Among its many provisions, it establishes a threshold that at least 75% of the acreage that operators propose to drill as one unit be under their control, whether the drilling is shallow or deep. It also addresses issues related to unwilling and unlocatable mineral owners, surface owner land use agreements, good faith negotiations, and adds an agriculture and a royalty owner representative to the Oil and Gas Conservation Commission. GO-WV made comments in support of this legislation at a March 7 Public Hearing at the Capitol. **Passed on March 9, this bill was signed by the Governor on March 30 and becomes effective June 7.**
5. **Rare Earth Minerals: House Bill 4003** relates generally to the ownership and commercial benefit of substances removed from waters of the state by the treatment of mine drainage and provides that all chemical compounds, elements and other potentially toxic materials found within the waters of this state and derived from the treatment of mine drainage which have economic value may be used, sold or transferred by any party who successfully removes them from the waters of this state for commercial gain and benefit. GO-WV had initially reached out to the sponsors of this bill to determine if produced water might also be included. However, that initial

Burd's Nest

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tive was placed in abeyance since ownership of produced water and acid mine drainage is statutorily different and comes with potential liability issues. **GO-WV did not oppose this Legislation which passed on March 10 and has become law on March 30 and becomes effective June 8.**

6. **Producing property valuation: House Bill 4336** rewrites HB-2581 from the 2021 Legislative Session. It is the product of an extended stakeholder process between GO-WV, the WV State Property Tax Division and House of Delegates and Senate Leadership. This legislation establishes that the value of producing properties is to be based on actual revenues from oil, natural gas and NGL's, with the deduction of actual expenses after the payment of royalties. To get to this final property valuation, there is also a series of definitions, methods, limita-

tions and calculation methodologies and other requirements. The bill also retains the existing "safe harbor" of \$5,000 in expenses per marginal well. There will also be rules developed to accompany this legislation. **GO-WV did not oppose this legislation which passed on March 11 and was signed by the Governor on March 30 and becomes effective June 9.**

7. **Carbon Capture and Sequestration: House Bill 4491** was crafted to give the WVDEP regulatory authority over the permitting, drilling, operation and closure of injection wells for the sequestration of carbon dioxide in underground storage reservoirs. In addition to many other things, the provisions in this legislation: apply only to underground carbon dioxide sequestration operations and facilities; direct transfer of carbon dioxide ownership to surface owners upon completion of project; provides that all liability and regulatory responsibilities to transfer to the state upon completion; established two special revenue accounts for administrative needs; establishes ownership of pore space formations; authorizes entry onto lands to conduct seismic surveys and other work; provides for just and reasonable compensation for unknown, unlocatable and nonconsenting pore space owners; provides for hearings to establish interests of pore space owners in reservoirs; provides for management of funds of unknown and unlocatable owners; limits and establishes requirements for surface use; and expands the jurisdiction of the Oil and Gas Conservation Commission. **Passed on March 1, this bill, supported by GO-WV, was signed by the Governor on March 30 and becomes effective May 30.**

RESOLUTIONS SUPPORTED AND ADOPTED:

1. **SCR-55** that urges the current presidential administration to open federal lease sales onshore and offshore was adopted and passed by both Chambers.
2. **HCR-36** that names the bridge locally known as the Bulltown Bridge, carrying US Route 19 over Little Kanawha River in Braxton County, the "John Calvin 'J.C.' Baker Memorial Bridge" was adopted and passed by both Chambers.



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3. **HR-19** urging Congress and the President to pass federal legislation to speed up the environmental permitting process on new wells and mines was adopted and passed by both Chambers.

LEGISLATION SUPPORTED BUT NOT PASSED

1. **Aboveground Storage Tanks, House Bill** 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** was modified this session to expand the definition of qualifying tanks to include those associated with transmission, storage and production activities; added a provision to exempt certain WV Department of Highway tanks containing brine solutions used for roadway pretreating; added specific language that clarified tanks were to not be lifted for routine inspections; modified the requirement for a professional engineering inspection once every three years be removed and replaced with an annual operator self-inspection requirement; changed the every 14-day secondary containment inspection to a monthly inspection with appropriate documentation. While **HB-2598** passed the House of Delegates on February 15, it was not taken up in the Senate and died in Senate Energy, Industry and Mining Committee. **GO-WV fully supported the passage of HB-2598 and is hopeful it can be reconsidered in an upcoming Special Legislative Session later this year.**
2. **Annual Well Fees/WVDEP Office of Oil and Gas Funding.** This year, we faced two bills that sought to increase fees to support the funding of additional oil and natural gas inspectors. **Senate Bill 480** passed Senate Energy, Industry and Mining Committee as introduced placing a \$100 fee on all wells which produce 10 Mcf/day or greater. There are approximately 13,500 such wells equaling industry assessed fees totaling \$1.35 Million. GO-WV did not support SB-480 which was assigned to the House Finance Committee--where it was not taken up for further consideration. A second bill, **Senate Bill 613** was later

introduced that sought to dedicate 1.5% of the current oil and natural gas severance tax collections to the WVDEP's Office of Oil and Gas to meet its funding request. This bill was soon modified to dedicate 0.75% with an accompanying request for industry to pay the balance of the needed funds. GO-WV convened a special meeting and determined it would support the funding request through a 6-A permit modification fee increase. However, there was not enough time left in the session to appropriately amend the language contained in Senate Bill 613 into Senate Bill 480. The effort died without being taken up for further consideration.

Overall, this was a very good session for the industry. GO-WV was able to achieve success in getting legislation passed that provides for fair and equitable taxation on oil and natural gas producing properties, made positive changes to the Cotenancy provisions, finally saw the adoption of unitization, Class VI well primacy rules put into place, and got our first start on CCUS regulations and rare earth mineral ownership determination.

When you think about "Bubbles, Brackets and Buzzer Beaters" put that in context to the day to day activities your GO-WV lobbyists accomplished in maneuvering artfully to provide up to the minute factual information and support on our issues to legislators; by working as a team in securing and aligning key committee votes on

Burd's Nest

Continued on page 19

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See page 21.





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these and other matters of great importance; and sometimes with little to no warning, the ability to get certain pieces of legislation placed onto or removed from committee agendas.

In conclusion, please allow me to thank the GO-WV Executive Committee of Tom Westfall, Ben Sullivan, Maribeth Anderson, Jeff Isner, Jason Harshbarger and Kelly Moss for their outstanding support of our efforts. Add to this list Chris Weikle and Greg Hoyer, your chair and vice chair of Governmental Affairs, for being there to sort out the different viewpoints and maintain control of the issues. Also, to your dedicated Taxation Committee chairs Elizabeth Burg, Marc Monteleone and Don Nestor who worked non-stop on getting the producing property tax valuation bill across the finish line--a bill that will benefit all producers. And last, but certainly not least, my eternal gratitude to our lobbying team of Phil Reale, Jim Fealy and Daniel Hall who absolutely commit themselves to see GO-WV achieves legislative success. I assure you, there is not a more dedicated group of individuals walking the marble at the Capitol for sixty days--and sixty nights.



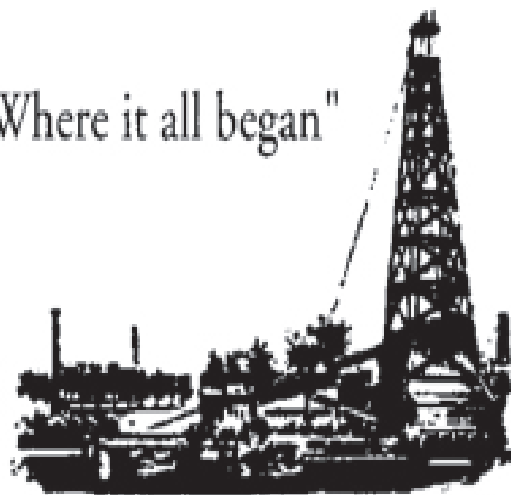
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lowered carbon emissions by 24% according to the IEA. No other nation, including Europe with all of the hardships they are inflicting on their people, is even close.

Attendees at WPC are a melting pot of the world and was reflected in the presenters. Attendees are high level managers and executives. The decision makers. About a third are women executives. The WPC is about business. No one cares about race, gender, religion, politics or even country, since most companies operate in multiple countries. Business is the focus, not the other issues we hear about in the media and can allow to divide us.

We have a lot of follow up work to do this week following WPC from all of the people we met. Because of COVID, the last time WPC was held in person was in 2019. There were a lot of new faces who didn't know about our region's energy and transportation advantage because of its location. Many of our previous contacts retired or moved to other companies. We could not have reached all of these people and built our new relationships with a virtual meeting.

We have an incredible opportunity to grow natural gas demand for manufacturing and petrochemicals close to the wellhead. Shell's cracker will be operational this year. Intel is investing \$20B to make microchips in Ohio. Nucor Steel is building a plant in West Virginia. Numerous other companies have already expanded operations or are in the process of expanding to our region. We need to continue to tell our region's story and stay out among decision making people.

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DMV-54-GO
Rev 05/21

West Virginia Department of Transportation

Division of Motor Vehicles

Application for a Gas & Oil Association of WV License Plate



1-800-642-9066

dmv.wv.gov

PLATE SAMPLE



A) Applicant/Owner(s) Information • Use Name(s) of Owner(s) as shown exactly on current registration card that you wish to register the license plate.

Applicant's Name _____

Name(s) on Registration _____

Street Address _____

CITY _____ STATE _____ ZIP _____

B) Vehicle Information

Make _____ Year Title No. VIN No. Current Plate No.

C) Insurance Information

Effective Dates of Policy From: ____/____/____ To: ____/____/____ Policy No. _____

Insurance Company _____

NAIC Number Insurance Agent _____

D) Applicant Certification

I certify that all information on this application is true and correct and if I cease to be in good standing with the above organization, I will immediately return the special license plate to the Division of Motor Vehicles.

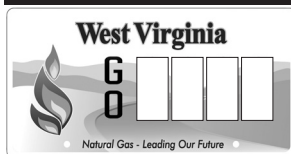
(X) _____ / ____/____ Phone No. (____) ____-____
SIGNATURE OF APPLICANT DATE

E) Application Information

1. Anyone is eligible to apply for a Gas & Oil Association of WV license plate.
2. A vehicle must be Class A and have a West Virginia title and license plate in the name of the applicant before a special plate can be issued.
3. The current license plate must be returned to the Division of Motor Vehicles after the special plate is received. After issuance of the special plate, the exchanged plate is canceled and cannot be transferred to another vehicle. There are no refunds.
4. A \$91.50 fee will cover the cost of the license plate for the 1st year or a portion of the 1st year. This is a flat fee for all applicants and is not prorated. This plate will expire on July 1st every year and have a renewal fee of \$66.50.
5. Send the application and the **\$91.50 check or money order payable to Gas & Oil Association of WV** at the address listed below. Please include your personal property tax receipt or an affidavit from the assessor if your registration is expiring within 60 days of your application.

Gas & Oil Association of WV c/o Charlie Burd
300 Summers St. Suite 820 Charleston, WV 25301

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OFFICE STAFF INSTRUCTIONS:
Insert the plate numbers on the plate diagram to the left and submit this form to the WV DMV for recording and processing. Be sure to retain a copy for your records.





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