



## **Introduction of Bill of Rights Raises Awareness of Driller Abuses**

*by Julie Archer & Norm Steenstra III*

During the recent legislative session the WV Surface Owners' Bill of Rights (HB 4286 & SB 482) was introduced to give landowners more say in the location of wells and access roads and other matters related to oil & gas drilling on their property. The bill was sponsored by Delegates Mike Burdiss, Bonnie Brown, Jeff Eldridge, Clif Moore, Nancy Guthrie, Danny Wells & Mary Poling, and Senators Larry Edgell, Jon Blair Hunter, Brooks McCabe, Randy White and Jeff Kessler. They deserve a big "thank you" from WV-SORO members for standing up for property owners' rights.

The proposed legislation would require a face-to-face meeting between the driller and the landowner before a permit application is filed. While some companies already talk to property owners in advance of drilling, the new law would require they all do so. Other provisions in the Surface Owners' Bill of Rights include:

- Earlier notice that the driller is coming, including requiring notice before the driller comes on the property to survey well site, access road or pipeline locations.
- Allowing for a pre-permit negotiating period to give the surface owner input in planning and executing well site(s) and access roads.
- Ensuring fair and equitable compensation by requiring the driller to post an individual well bond if no pre-drilling agreement is reached between the driller and the surface owner.
- Requiring operators to offer surface owners residential gas service, at cost, from the wells or gathering lines on their property.

*(continued on page 2)*



WV-SORO member Sharon Marshok welcomes everyone to our regional meeting in Doddridge County.

## **Surface Owners Pack Meetings in Roane and Doddridge County**

More than 100 concerned property owners attended recent WV-SORO meetings in Roane and Doddridge counties to learn more about their rights as surface owners when oil & gas companies decide to drill wells on their property.

Special thanks to Chuck Wyrstock for helping with logistics and getting the word out about the meeting at the Heritage Park Community Center in Spencer. Thanks also to Robin Wilson and John Snyder, founding member, citizen organizer & researcher extraordinaire, for their behind the scenes support and assistance.

We would also extend a big thank you to Sharon Marshok & Nancy Powers for taking the initiative and helping us organize the meeting at the Doddridge County Park. Sharon and Nancy are working with other area landowners to form a local surface owners' rights group in their area. Please contact them if you want to help coordinate local efforts. Sharon can be reached at (304)-623-1245 or [smarshok@msn.com](mailto:smarshok@msn.com). Nancy can be reached at (304) 623-0482 or [Nancypsalem@aol.com](mailto:Nancypsalem@aol.com).

## Introduction of Bill of Rights

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Unfortunately, the bill did not pass this session. The oil & gas industry signed on several extra lobbyists and spread misinformation about what is in the bill and its impact on the industry. They said there was really was no problem and dismissed abuses as isolated incidents. They also claimed our bill would put them out of business and dry up severance taxes to the state and counties. These allegations are simply not true (see **Facts & Myths About the WV Surface Owners' Bill of Rights** on reverse side of the enclosed questionnaire).

On the bright side, we made progress this session making lawmakers aware that property owners statewide are outraged about existing drilling practices. Your calls and letters to legislators made a difference and legislators are becoming more aware of the problems and abuses surface owners experience.

We did get a hearing on the Surface Owners' Bill of Rights before the House Industry & Labor and Senate Industry & Mining committees to clear up the industry's misinformation and properly inform legislators of the bill's intent. In addition, both committees passed resolutions (SCR 57 & HCR 77) urging the legislature "...to study the existing law and regulation of oil and gas drilling by the State of West Virginia and whether the law should be updated or otherwise changed to improve protection of the public interest and the varying interests of surface owners" as well as "the feasibility of requiring free, wholesale or retail gas for surface owners upon whose land well sites and access roads are or have been placed."

The Senate resolution further recommended studying "other general changes in the law regarding the exploration for, drilling for and production of oil and gas, including coal bed methane gas."

While the resolutions were not adopted by the full legislature, we still have a good chance of getting the interim study. Both committee chairs want the bill to be taken up for study during the interim sessions. House Speaker Richard Thompson gave us a verbal commitment to looking at the issue and several other legislators are on record saying the issue is will be studied prior to next year's

legislative session. Legislative leaders will meet April 6-8 to finalize interim study assignments. We'll keep you posted.

We knew this would be an uphill battle, and expected the bill to take more than one year to pass. We will keep up the fight until it passes. See **Speaking Truth to Power** on page 4 for more on what you can do to improve our chance for passage next year.

## WV-SORO Hosts Day at the Legislature

On February 6, WV-SORO hosted its inaugural day at the legislature starting with a morning press conference. Then the 30-40 citizen activists who came in from a dozen different counties fanned out to track down their representatives to lobby them on the Surface Owners' Bill of Rights. We extend a big thanks to all who traveled long distances to tell their tales of abuse by careless drilling outfits. Our efforts to "balance the scales" for surface owners were greatly enhanced by your presence that day.

Special thanks go out to Nancy Powers, John Snyder, and Russ Richardson for sharing their stories with the media. We had excellent coverage with *the Charleston Gazette*, *the Beckley Register Herald*, *the State Journal*, and West Virginia Public Broadcasting all in attendance. See coverage at [www.wvsoro.org/news](http://www.wvsoro.org/news).

We also want to thank everyone who attended the informational hearing on the Surface Owners' Bill of Rights on February 20.



WV-SORO co-founder Dave McMahon speaks to the media at our press conference

## Thanks (and No Thanks) to Legislators

by Dave McMahon

We want to make sure WV-SORO members know which legislators were helpful (and not so helpful) to us during the 2008 legislative session. We have listed the Senators and Delegates below, followed by their home county. Please look to see if any of your legislators made our list and let them know you appreciate their efforts (*or not*) on behalf of surface owners.

### Thanks to the following Senators:

Larry Edgell (Wetzel) for being the lead sponsor of our Surface Owners' Bill of Rights in the Senate.

Brooks McCabe (Kanawha), Jon Blair Hunter (Monongalia), Jeff Kessler (Marshall), Robert Plymale (Wayne), and Randy White (Webster) for co-sponsoring the Bill of Rights.

Clark Barnes (Randolph) for highlighting the Surface Owners' Bill of Rights in the January edition of his *Barnestorming* column. Senator Barnes attended our recent regional meeting in Doddridge County and will be working with us to schedule a meeting in his district in late spring or early summer.

John Pat Fanning (McDowell) helping push through stricter regulations for oil & gas drilling in state forests.

### Thanks to the following Delegates:

Mike Burdiss (Wyoming) for being the lead sponsor of our Surface Owners' Bill of Rights in the House and for help on related issues.

Mary Poling (Barbour) and Jeff Eldridge (Lincoln) for co-sponsoring the Bill of Rights.

Bonnie Brown, Nancy Guthrie and Danny Wells (all from Kanawha) for co-sponsoring the Bill of Rights, and helping push through stricter regulations for oil & gas drilling in state forests.

Joe DeLong (Hancock) for going the extra mile to get the right sponsors on the Bill of Rights. Delegate DeLong is running for West Virginia Secretary of State and we wish him good luck.

Kenneth Tucker (Marshall) who, as chair of the Industry and Labor Committee, arranged a presentation on the Bill of Rights to two legislative committees.

Bob Ashley (Roane) who attending our town hall meeting in Spencer, supports surface owners' rights generally and is interested in sponsoring legislation to let mineral ownership revert to the surface owners, if mineral property taxes are go unpaid.

Bill Hamilton (Upshur) who sponsored a bill to prohibit "daylighting" and was strongly in favor of the Bill of Rights.

Speaker Rick Thompson (Wayne), who has promised us an interim study on surface owners rights between the 2008 and 2009 legislative sessions.

### No Thanks to the following Delegate:

Sam Cann (Harrison) was the biggest, most outspoken opponent of any surface owners' rights legislation. He also refused to talk of any compromise on a small bill that came out of last year's interims giving surface owners more notice of a drillers permit application. He even made calls to legislative leadership to try to block the legislature from simply studying the issue.

Most Senators and many House delegates represent more than their home county. If your county isn't listed, visit the "Educate Your Legislators" page (<http://www.wvsoro.org/contact/legislators.html>) at our website and use your zip code to find out who your legislators are and if they made the list.

## Speaking Truth to Power *by Julie Archer*

Living with the oil & gas companies isn't easy. There are a lot of problems and things need to change. WV-SORO has identified several changes that are needed to help give landowners more say in the location of wells and access roads and other matters related to oil & gas drilling on their property.

We all need to work to make these changes happen. We need to make sure people know what it is really like to live with the oil & gas companies and dispel the myths being spread by the industry about the changes we need. We need to make sure that our elected officials and candidates for elected office, as well as our friends and co-workers, hear the truth and know what is really going on.

There are a lot of myths about living with oil & gas companies. A lot of people think a well site is a nice clearing in the woods, a good place to hunt. They think it is great to get free gas. They think the gas companies have to put wells, pipelines and access roads where we tell them to, and that we all get royalties from the operators. As surface owners, these are myths about what we live with but it's what many people who haven't dealt with the drillers think. The industry is all too happy to perpetuate these myths and spread misinformation about what we want and need. They have plenty of money to spend on PR – billboards, newspaper, radio and even television ads – not to mention lobbyists and campaign contributions.

### Oil & Gas Industry Contributions To Legislative Candidates

Election Cycle	Senate Candidates	House Candidates
2002	\$47,800	\$56,030
2004	\$68,540	\$82,470

Source: WV Peoples' Election Reform Coalition (PERC-WV). 2006 data not yet available.

**At a recent legislative meeting on the Surface Owners' Bill of Rights in Charleston, there were no less than 25 industry representatives there.** The industry groups have lobbyists; many of the companies have lobbyists. This year we learned they hired extra lobbyists. This means they are

taking our efforts seriously, but they are spreading misinformation that what we are asking for will put them out of business, put their employees out of work and dry up severance taxes for the state & counties. This is simply not true.

Many of the things we are asking for, like earlier notice, won't cost anything. Fair compensation for the land they take from us and wholesale gas will add little to the cost of drilling a well. But just as many people who haven't had to deal with it believe the myths about what it's like to live with the gas companies, many of our elected officials believe we are asking for too much because they hear more from industry than they hear from us.

**This legislative session, calls and letters from WV-SORO members helped make legislators more aware of the problems and abuses surface owners experience, but we are up against one of the two or three most powerful industries in the world.** We need to respond to their propaganda by being vocal and visible. We all need to get in touch with elected officials and candidates tell them the truth.

**Our legislators need to hear the truth and our county commissioners need to hear it.** Tell the governor, too. Call talk radio, write letters to the editor, but most importantly talk to legislators, county commissioners and candidates for these offices (– it's an election year and we need to consider our candidates, particularly our legislative and county commission candidates carefully). The legislators are the ones who can change the law. The county commissioners need to hear the truth because they were tricked into opposing the Surface Owners' Bill of Rights by the industry telling them they'll lose severance taxes if the bill passes. If they don't hear from you, they won't know any different.

**Finally, we need to respond to the industry assertion that there isn't a problem because hardly anyone files complaints with the DEP.** During the legislative session, industry representatives dismissed industry abuses as isolated incidents and said there's no problem. As proof, they cited the number of complaints files with the DEP Office of Oil & Gas. A series of form  
*(continued on page 5)*

## Speaking Truth to Power (continued from page 4)

letters sent to legislators by a number of industry representatives stated that while there were approximately 7,500 permits issued over a three-year period, only 324 complaints were made, and 100 of those were self-reported by industry.

The number of complaints is an easy number for the industry to get, and if it's a small number, it's easy for them to lie about it. If it's a big number they'll still probably lie about what it means, but there won't be any doubt it means people aren't happy about the way they are treated by the drillers.

### **When you have a problem file a complaint and let's get those numbers up.**

These are things we can all do – that YOU can do. WV-SORO is here to help you but we all need to make an effort to speak up and speak out.

### **Your Turn: Ask County Commissioners & Commission Candidates About Surface Owners' Rights**

We've made it easy for you. Simply provide your county commissioners or commission candidates with a copy of the enclosed questionnaire. The questionnaire gives some basic information about oil & gas drilling in West Virginia, along with background about the Surface Owners' Bill of Rights. It then asks their position on specific issues addressed in the bill. If possible, we would like the surveys to be returned to WV-SORO no later than Monday, April 21, 2008, so we can share information with our members.

WV-SORO does not make endorsements, but we want to let our members to know where their elected officials and candidates for elected office stand on the issues important to them so that they can make informed decisions when they go to the polls. WV-SORO will be sending a similar survey to legislative (House of Delegates and state Senate) candidates and state Senators who are not up for re-election this year.

In addition to learning elected officials and candidates positions, distributing the questionnaire also gives us an opportunity to educate them about issues affecting surface owners. Thanks for your help with the survey.



### **Bad Examples: Send Us Yours**

The above photos show a drilling rig and other equipment being pulled to the next drill site by a bulldozer because the access road is in such bad shape that the drilling rig and truck cannot get there on their own. It is common practice for bulldozers to pull rigs and trucks in this fashion due to road conditions. These road conditions would clearly violate State regulations after drilling is done. Although, they may or may not violated current state regulations during drilling. A suit could be brought that this driller is exceeding his common law rights to do only what is fairly necessary to the surface in order to produce the minerals.

We are looking for more bad examples of bulldozer work, poor road construction and maintenance, as well as pictures of site and pit problems. If you have photos you would like to share send them to [info@wvsoro.org](mailto:info@wvsoro.org). Digital photos are best, however, printed photos may also be sent to WV-SORO, 1500 Dixie Street, Charleston, WV 25311.

## A New Horizon by John & Sally Snyder

When it comes to drilling the Marcellus Shale and what it might mean to Roane County or the State of West Virginia, there are no ready answers, but a multitude of questions.

Most of the information available is either in technical articles, court filings, financial reports and/or press releases of individual companies. While this information is available on the internet, it is not printed information, which is readily available for anyone not involved in the energy industry to understand and make informed decisions. If you don't have access to the internet, and know where to look, and what to look for, chances of acquiring knowledge about this subject are even more remote.

At the present time, several major energy companies want permission from the State of West Virginia to drill wells into this formation. These energy companies want to drill wells with 1,000 foot spacing between wells, on over 1,000,000 (one million) acres in 28 counties. The counties affected are:

Boone, Lincoln, Logan, Mingo, McDowell, Wyoming, Barbour, Harrison, Taylor, Marshal, Wetzell, Marion, Monongalia, Preston, Taylor, Lewis, Randolph, Upshur, Webster, Braxton, Calhoun, Clay, Fayette, Gilmer, Jackson, Kanawha, Nicholas and Roane.

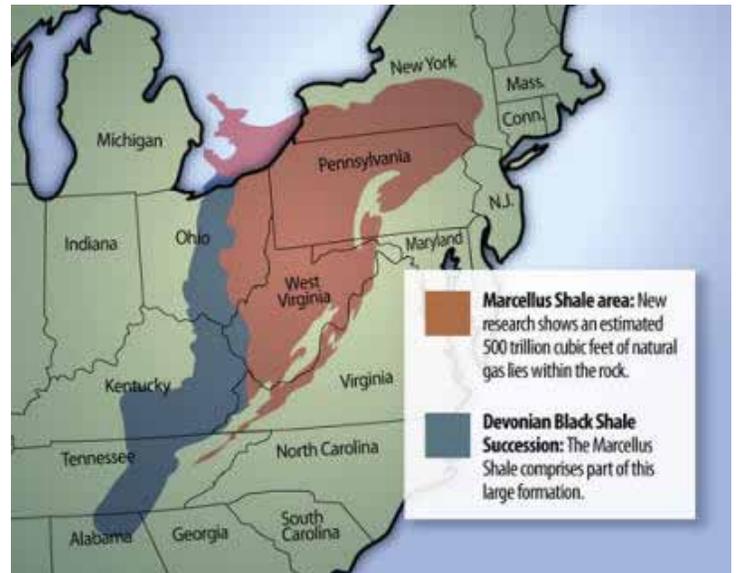
For size comparison, according to the official Blue Book, three of the largest tracts of government land within West Virginia are the Monongahela National Forest (909,174 acres), the George Washington National Forest (104,866 acres) and the Jefferson National Forest (18,526 acres). The total acreage of these three national forests is 1,032,566 acres. Almost the same acreage under consideration for 1,000 foot well spacing.

Consider that in West Virginia, motorized vehicle access is controlled on most government owned land while the surface owners of the lands overlaying the Marcellus Shale are required by existing state law to allow the development of the mineral reserves under their land with little or no input in the process.

When most of the minerals were leased or the surface land was severed from the minerals and sold separately, no one knew anything about a "Marcellus Shale". In fact, until recently, no company even knew how to extract the trapped gas from this formation.

No company or landowner (surface or mineral) probably contemplated that this vast formation even existed.

How vast? It underlies most of West Virginia, a large part of Pennsylvania and a major portion of New York, with an estimated thickness of 100 feet or more in most places. This is a huge area for potential exploration and exploitation.



Source: *Buffalo [NY] Business First*. Map by [Appalachian Fracture Systems](#), using U.S. Geological Survey sources.

Drilling and hydraulic fracturing of this formation is generating up to 40,000 gallons (42 gallons = 1 barrel) of produced effluent per well that must be disposed of properly and in an environmentally safe manner. During the drilling and fracturing, and while in use, but before disposal, this effluent must be stored on the well site location. Maybe good questions are "What is the long term consequence of the use and disposal of these large amounts of water?", "Where did the water come from?" and "Who does it belong to?"

Larger well sites combined with steep slopes, the mountainous topography, and perennial watersheds of West Virginia pose a lot of unanswered questions for 1,000 foot well spacing on such a large area.

Just consider, that if you own 100 acres, this 1,000-foot spacing, as proposed, would allow the drilling of nine wells, with nine access roads and nine gathering pipelines on 100 acres. A lot of fragmentation in the heart of many a great temperate hardwood forest.

## WV-SORO Website Highlights News, Current Events & More

The WV-SORO website has a “Current Events” page ([www.wvsoro.org/current\\_events](http://www.wvsoro.org/current_events)) where you can read more about drilling the Marcellus shale and other issues affecting surface owners. Other topics include the *Tawney* class action court case in which large oil & gas producers were found guilty of shortchanging landowners more than \$133 million in royalty payments. The *Tawney* case and the dispute over whether well spacing and royalty sharing will be required for “Marcellus” formation wells are currently before the West Virginia Supreme Court.

At the website, you can also read news about WV-SORO members who are speaking out about their experiences and organizing in their communities.

John and Sally Snyder, founding members and authors of **A New Horizon** (page 6) were recently featured in a story in *the Roane County Reporter*. The article (Landowners Feel Ignored) chronicles their fight against Stalnaker Energy after the company drilled a well on a site where they were planning to build a home for their son. *The Wetzel Chronicle* featured a story (Local Chapter of Surface Owners’ Rights Organization Forms) about Ray Renaud and the Wetzel County Citizen Action Committee (<http://edeltanet.com/Citizens/>), who are organizing to address safety and road condition issues related to the heavy truck traffic associated with oil & gas drilling. They are also working to raise awareness about how the recent boom in drilling in Wetzel County will affect surface owners.

The “News” page ([www.wvsoro.org/news](http://www.wvsoro.org/news)) also has coverage of WV-SORO Day at the legislature and other news of general interest to surface owners. Check it out.

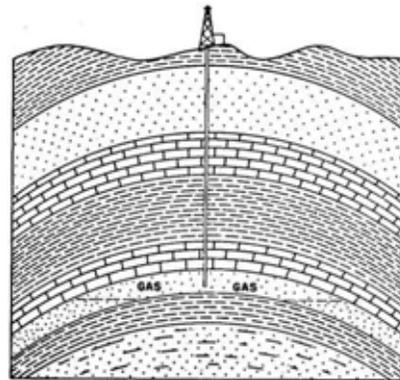
### Did You Know? *by Dave McMahon*

In most cases, drillers can be fairly flexible in where a well site is actually located.

Many people believe that drillers have to drill in an exact spot (and some drillers do not let on otherwise). In some parts of the country that is true (and it can be true for the relatively small number of very deep wells that are drilled in West Virginia).

It is true in some parts of the country because oil and gas there are found in “structural” traps in the subterranean rock strata. The first illustration in the next column is an illustration of one form of

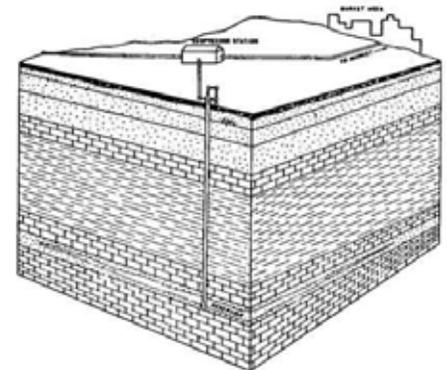
“structural” trap. A dome or “anticline” of impermeable rock over the eons traps upwardly migrating oil and gas in a specific location.



Most geology textbooks teach that the oil or gas is trapped under domes of “cap rock”. This is called a “structural trap”. In many parts of this country, and of the world, that is true.

However, in West Virginia, most of our oil and gas is found in “stratigraphic” traps. The illustration below shows a stratigraphic trap. The rock layers are level, or nearly so. The gas migrates upwards over the eons until it hits the nearly level, impermeable cap rock. When it hits the level cap rock, the gas spreads out in all directions. (Think of a bubble of air under pond ice.)

In West Virginia, however, most of the gas is trapped in a horizontal layer, or strata, of porous or permeable rock that lies just underneath another horizontal strata of rock that is impermeable. This impermeable strata is called a “cap rock”. The gas forms an extensive pool underneath the impermeable strata. This is called a “stratigraphic trap” of gas.



For this reason, there are relatively few dry holes in West Virginia. Drillers know how a gas well on their lease or on an adjacent lease produces, so they drill a neighboring gas well into the same strata with reasonable assurance that they will hit the same horizontal bubble of gas.

This means they can move their well site short distances in order to accommodate you, the surface owner, in where the well site will go.



WV Surface Owners' Rights Organization  
1500 Dixie Street  
Charleston, WV 25311  
[www.wvsoro.org](http://www.wvsoro.org)

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## ~ Upcoming Events ~

**Saturday, April 5, 2008**

**Informational Meeting in Wetzel County  
on Deep Drilling, Heavy Truck Traffic  
& Surface Owners' Rights**

Sponsored by:

**[Wetzel County Citizen Action Committee](#)**

**1 PM at the Wileyville Auction House  
WV Route 7, just east of New Martinsville**

**For more information contact  
Bonnie Hall ~ (304) 775-2439**

**Thursday April 24, 2008**

**WV-SORO Regional Meeting in Danville  
6PM to 8PM**

**Danville Community Center  
731 Hopkins Road  
Danville, WV 25053**

**For more information contact  
Norm at (304)346-5891 or [norm@wvsoro.org](mailto:norm@wvsoro.org)**

## WV-SORO E-Updates & Action Alerts



We have been sending regular e-updates and action alerts to members who provided us with their e-mail address. If you gave us your e-mail but haven't been hearing from us, please get in touch so we can make sure your address is correct.

If you use email, but haven't given us your e-mail address, we hope you will do so. Here's why: Email updates are faster, more frequent, and often discuss something that needs action before paper mail can get to you. We promise we will not load up your inbox, and we will not give your address to anyone else.

Send your e-list inquiries and updates to  
[info@wvsoro.org](mailto:info@wvsoro.org).