

KCC Alert



Kentucky Conservation Committee, P.O. Box 1152, Frankfort, KY 40602

502-875-0909

Oil and Gas Industry Could Evade Local Ordinance

HB 458 would eliminate the ability of counties to adopt any ordinance controlling any aspect of the oil and gas industry. This bill has passed out of committee and is headed for the House floor.

Current law grants counties broad powers to protect public health, safety and the environment, subject to a requirement that the county not conflict where the state has acted by adopting a law.

The industry admits there is no current local ordinance that regulates the oil or gas industry. The bill is an effort to override Letcher County, which in response to abusive industry practices has proposed an ordinance regulating the location of "gathering lines," which are pipelines used to convey natural gas.

The root of the problem is that the state Department of Mines and Minerals has never implemented a comprehensive program to make the industry accountable to surface landowners for the damage caused when gathering lines are located. Industry wants to sweep aside the ability of local governments to regulate, while not addressing the problem of overreaching by certain segments of the industry.

Analysis by Tom FitzGerald.

KCC To Do List:

- ❑ **Leave a messages for House leadership: Reps. Greg Stumbo, Jim Callahan, Joe Barrows, Jeff Hoover, Bob DeWeese and Ken Upchurch to recommit HB 458. (see Oil and Gas, pg 1).**
- ❑ **Leave a message for Sen. Ernie Harris in support of HB 473 (definition of municipal waste). (see Trapp, pg 1)**
- ❑ **Ask House Leadership to kill HCR140 (Special exemptions to coal industry waste water discharge permits). Reps. Greg Stumbo, Jim Callahan, Joe Barrows, Jeff Hoover, Bob DeWeese and Ken Upchurch**

Trapp Power Plant Inspires Legislation

Companion bills SB 163 (Sen. Palmer) and HB 473 (Rep. Pasley) would include in the definition of a municipal solid waste facility any facility utilizing waste, processed waste or refuse-derived fuel materials as fuel for electric power generation. This would override a ruling by the Natural Resources and Environmental Protection Cabinet that a proposed power plant, which would do just that, is not a solid waste facility and does not require local siting approval.

The power plant, proposed for Trapp, Kentucky, just outside Winchester, would use an unproven combined cycle gassification process fueled by garbage and coal. The garbage would come from New Jersey and New York in pelletized form. The constituency of the pellets would not be controlled and is certain to contain toxic elements such as batteries. The toxicity of the process waste (called frit) is unknown. Power Gen, the plant owner, has obtained a \$60 million Federal grant to fund construction of this "experiment." They are uncertain how they will dispose of the waste but are hoping it finds use in road construction.

While it has received funding as a demonstration project, it is clearly the intent of the operator to run the plant long after the "demonstration" is over, whether or not the experiment was successful.

In 1991, passage of SB 2 promised localities they could control the importation of solid waste if they managed their own waste. In this case local control over the importation of massive amounts of potentially toxic waste has been denied.

HB 473 has passed out of committee. House leadership must be encouraged to move it to the floor. After passage in the House, we expect the bill to end up in the Senate Ag. and Natural Resources committee. The committee chair's support (Sen. Ernie Harris) will be critical in moving the bill forward.

Budget Cuts Impact Environmental Protection

Cuts in the Natural Resources and Environmental Protection Cabinet's budget will affect both the regulated community, which relies on the assistance and expertise of the agency in processing permits and assuring compliance with environmental laws, and by those of us who expect prompt response and investigation of environmental complaints. In testimony before the Senate Appropriations Committee, Kentucky Resources Council proposed that the agency be allowed to augment its general fund appropriations in order to fill critical vacancies in technical support and compliance by increasing permit application fees to something more representative of the actual cost of processing them.

Kentucky Resources Council also argued before the committee for careful consideration of the tiny budgets for the Environmental Quality Commission and the Nature Preserves Commission. Small agencies, such as these, are more vulnerable to budget cuts as they are less able to absorb them than are larger agencies.

Legislative Schedule Part 2: Feb 4 - March 25

Last Day to introduce new bills: Feb 18
 Concurrence Days March 7,10
 Veto Days: March 11- 21.
 Veto Override: March 24, 25

Contacting Your Legislators

Who are my legislators? You can look up your legislators on the web at www.lrc.state.ky.us/whoswho/whoswho.htm or you can call your local county clerk. All they need is your address.

How do I communicate with them? There are several ways to communicate.

The legislative message line will get you an operator who will write down a message for you, no questions asked. Use the number listed under Legislative Message line in our phone number box. Call 8:00 AM to 11:00 pm.

You can send a fax; the number is listed here. A fax can be sent to multiple legislators, you must list all names individually.

Many legislators have email. They can be found from the web address listed above. Some legislators respond, some do not.

Regular mail can be sent to The Capitol Annex, Frankfort, KY 40601.

What do I say? Your message can be as simple as "Please support bill xyz." You don't have to be an expert. Personal experiences that relate can be effective.

Legislative Information On the Internet

The Bill summaries, status, the full text of all filed bills, the legislative calendar, the orders of the day, legislators' email addresses, and more (updated daily) are available on the Legislative Research Commission's Web Site. <http://www.lrc.state.ky.us/home.htm>

Legislator Message Line: 1-800-372-7181

To talk to a legislator: 1-502-564-8100

Bill Status Line: 1-800-776-9158

Committee Calendar Line: 1-800-633-9650

Governor Paul Patton: 502-564-2611

Secretary James Bickford: 502-564-3350

Legislator Fax line: 502-564-6543

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Bill Summaries and KCC Position

Bill No	Position	Sponsor	Summary	Status
SJR 22		Seum	Jefferson Cnty to seek dismissal of orphan warrants for VET violations	
SB 6	Oppose	Roeding	State and official vehicles to have emission testing same as private vehicles: every two years rather than every year. (See HB 18)	House Transportation
SB 11	Oppose	Seum	Remove VET requirement for vehicle registration after Oct 2003. \$22 fine to reinstate registration revoked after Oct 2003.	House 2 nd Reading, to Rules
SB 47	Monitor	Tori	Planing units must make provisions for the accommodation of military installations within 50 miles of their borders, include in comp. plan.	Posted House Seniors, Military Affairs & Pub Safety
SB 64	Monitor	Harris	Exclude sewer systems run by counties from Public Service Commission control.	House Tourism Dev & Energy
SB 81	Oppose	Tapp	Require only motorized or mechanized pesticide applicators to be registered with the Department of Agriculture	Sen 2 nd Reading, to Rules
SB 127	Monitor	Thayer, et al	Allow revolving loan funds for wastewater and water supply be used for securing bonds issued by the Kentucky Infrastructure Authority.	House Approp. & Revenue
SB 135	Strong Support	Kelly	All sources of sewage must connect to on-site sewage treatment system or sanitary sewer system; prohibit use of straight pipes, and cesspools, and sinkholes; prohibit storm water runoff into sanitary sewer.	Sen Ag & Natural Resources
SB 137	Support	Guthrie	Allow the appeal of a state local debt officer's decision to approve bonds to the Circuit Court of the county proposing to issue the bonds; remove review by the County Debt Commission.	House 1 st Reading, to Calendar
SB 142	Monitor	Tori	Enable federal agencies to participate in water commissions that administer joint water operations. (see HB 357)	Sen. Ag & Natural Resources
SB 147	Support	Harris	Allow Merchant Power Plant Board to hire consultants and enforce orders, require notice of intent for companies seeking permit, and allow applicant to appeal any decision within 20 days	House Nat. Resources & Env.
SB 148	Support	Harris	Electric utilities must sell their power to native load customers in their territory at just and reasonable rates before selling it to anyone else.	Sen. Ag & Nat Resources
SB 150	Support	Worely	Gives Kentucky River Authority prime authority for water supply and drought response plans for the Kentucky River basin; authorizes KRA to assess a fee on water transferred into the Kentucky River Basin.	Sen. Ag. & Nat. Resources
SB 159	Strong Oppose	Harris	Establish guidelines for governmental taking of property or regulation of use of property that is privately owned.	Sen. State & Local Gov.
SB 162	Support	Worely	Disallows experimental permits to treat or destroy chemical agents;	Sen. Veterans, Military

			allow pilot scale operations; require emergency plan infrastructure and funding for emergency planning, community oversight of construction, operation, and closure. (HB 474)	Affairs, and Public Relations
SB 163	Strong Support	Palmer	Defines a municipal solid waste facility as a facility using waste, processed waste or refuse-derived materials as fuel for elect. generation	Sen Ag & Natural Resources
SB 164	Support	Leeper	Allowed controlled burns on land leased or managed by a state agency	Sen. 2 nd Reading, to Rules
SB 165	Support	Harris	Provide public access to mine maps submitted by taxpayers beginning with the 1989 tax year.	Sen. 2 nd Reading, to Rules
SB 170	Monitor	Jones	Name Pine Mt Trail State Park to Harold E. Rogers Pine Mt Trail S.P.	Sen. Econ Dev, Tour. & Labor
HCR 20	Monitor	Buckingham	Study the issue of energy education during the 2003 interim, support the creation of an Energy Education Foundation.	Senate
HCR 99	Monitor	Buckingham	Direct LRC to study coal bed methane extraction, report by 12-31-03.	House 2 nd reading, to Rules
HCR 113	Monitor	Geveden, et al	Offer state support for U.S. Enrichment Corp it pursues technological advances for uranium enrichment.	Posted House Tourism Dev. & Energy
HCR140	Strong Oppose	Yonts	Rescind requirement that coal waste water be tested for oil and grease.	House 2 nd reading, to Rules
HB 18	Oppose	Marcotte, et al	State and official vehicles to have emission testing same as private vehicles: every two years rather than every year. (See SB 6)	Sen. Uncommitted
HB 35	Support	Baugh	A solid waste transfer facility using permit-by-rule must comply with any local ordinance effective up to 30 days after permit registration.	Recommitted House Approp & Revenue
HB 59	Strong Support	Belcher	Create the Pest Plant Board to coordinate a statewide response to invasive, exotic weeds	Posted House Ag & Small Bus.
HB 98	Monitor	Wayne	Monetary claims against 501(c)(3) corps shall first go to mediation; presiding judge shall consider mediation for all other claims.	Posted for passage, House Reg. orders, 2-24
HB 108	Monitor	Palumbo	Interim Joint Committee for Econ. Dev. and Tourism to conduct a study on regulatory policies that affect small business entities.	House, 1 st reading, to calendar
HB 120	Support	Bather	Allow river corridor improvement areas and advisory boards to be created; allow project financing from tax on property in corridor.	Posted House Local Government
HB 122	Monitor	Stumbo	Allow gubernatorial slates to accept contributions within last 28 days prior to the primary election.	Posted for passage, House Reg. orders, 2-24
HB 159	Monitor	Gooch	NREP Cabinet and PSC to study petcoke usage in the Commonwealth.	House, 1 st reading, to calendar
HB 189	Strong Oppose	Bather	Permit vegetation control obscuring outdoor advertising devices located on interstates in Louisville or Lexington.	House Transportation
HB 213	Strong Oppose	Ballard, et al	\$2.00/ton income & corporate tax credit for purchase of coal combustion by-product used as construction aggregate or fill material.	House Appropriations & Revenue
HB 269	Monitor	Stumbo, Moberly	State budget appropriation for FY03-04	House Approp. & Revenue
HB 285	Oppose	Gooch Crimm	Create an energy production tax on electric generating facilities and sunset the coal severance tax by June 30, 2003	House Appropriation & Revenue
HB 286	Strong Oppose	Gooch	Establish a Coal Development Fund to be used to finance projects approved by the Kentucky Coal Council, including research projects.	House, 1 st reading, to calendar
HB 305	Monitor	Thomas	Require quarterly reports, rather than monthly, quarterly, or semiannual, on the number of tons of fertilizer sold in the state	Passed House, To Senate
HB 335	Strong Support	Pasley	Define any electric generating station using solid waste as fuel as a "municipal solid waste disposal facility" (see SB 163 & HB 473)	House Natural Resources & Env.
HB 345	Strong Support	Stein, Marzian	All-terrain vehicle drivers must be 16, carry no passengers, stay off public highways, take a safe rider course, carry proof of training, and wear a helmet. \$500 fine and permit suspension for traffic violation.	Posted House Transportation
HB 357	Monitor	Lee	Enable Federal Agencies to participate in water commissions which administer joint water operations. (see SB 142)	Passed House, To Senate
HB 375	Support	Brinkman, et al	Trans. Cab. To consult with local gov. on desire for noise barriers and erect them along highways if requested.	Posted House Transportation
HB 382	Strong Support	Napier	Require electric utilities to support Net metering.	House Tourism Dev & Energy
HB 401	Support	Nelson	"cash rent" method to set property tax value of forest land.	House Nat Resources & Env.
HB 408	Support	Pasley	Allow counties to require property owners or occupants to remedy public nuisances such as the excessive weed growth, grass, or rubbish.	House 2 nd Reading, to Rules
HB 449	Monitor	Denham	Limit the liability of persons who have agritourism operations	Posted House Ag & Small Bus
HB 458	Strong Oppose	Collins	Reaffirm the State's authority over all aspects of oil & gas exploration; limit oil & gas spillage, venting or destruction whether or not on the surface; add owner notification requirement for permit extension	House, 1st reading, to calendar
HB 468	Monitor	Simpson	Land bank authorities to specify that references to "local school district" include both county and independent systems.	Posted for passage, House Reg. orders, 2-24
HB 473	Strong Support	Pasley	Defines a municipal solid waste facility as a facility using waste, processed waste or refuse-derived materials as fuel for elect. generation	Posted for passage, House Reg. orders, 2-24

HB 474	Support	Moberly	Disallows experimental permits to treat or destroy a live chemical agents except for a pilot scale operation; infrastructure needs in the emergency plan and funding for emergency planning, community oversight of construction, operation, and closure, required. (SB 162)	House Seniors, Military Affairs & Pub Safety
HB 496	Support	Riggs	Establishes procedures to appoint members of air quality boards.	House Reg. orders for 2-24
HB 506	Support	Butler	In addition to any fine for a person cutting timber on the land of another without legal right, add payment of attorney fees and expert witness fees incurred by the owner of the timber.	House Nat.Resources & Env
HB 521	Support	Meeks	Establish a certification program for lead-free structures and a fund for certification activities; require owners of affected properties to register with the cabinet; require liability insurance for affected properties; provide for a tax credit for the cost of certification.	House Health & Welfare
HB 534	Strong Oppose	Coleman	Exempt local government from obtaining a stream construction permit when reconstructing, improving, or replacing an existing road structure	House Nat Resource & Env.
HB 552	Oppose	Hall, Nelson, Cornett, Stewart	Delete the requirement that a violation at a mining operation result in an abate and alleviate order to be replaced with a statement that the mine will diligently pursue abatement of the violation	Posted Nat. Resources & Env.

Key Committee Assignments

Senate Agriculture and Natural Resources

Ernie Harris, **Chair** (R), Vernie McGaha, **Vice Chair** (R), David Boswell (D), Paul Herron Jr (D), Daniel Kelly (R), Robert Leeper (R), Virgil Moore (R), Joey Pendleton (D), Tim Shaughnessy (D), Elizabeth Tori (R).

Senate State & Local Government

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House Natural Resources and Environment

James Gooch, **Chair** (D), Howard Cornett, **Vice Chair** (R), Keith Hall, **Vice Chair** (D), Rocky Adkins (D), Scott Brinkman (R), Hubert Collins (D), Don Pasley (D), Marie Rader (R), Rick Rand (D), Brandon Smith (D).

Internet Access of the Alert

Sierra Club graciously posts the Alert on their web site, go to <http://kentucky.sierraclub.org/alert/billsummary.htm>

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