

Date: Feb 24, 2011; Section: Local; Page: 1-B

2 Marcellus measures now single bill

Combined version eliminates forced pooling provisions



ments Wednesday.

Meanwhile, the Senate Energy Committee heard testimony on one of the two, which was drafted by the Department of Environmental Protection. DEP Commissioner Randy Huffman offered a complaint — phrased as a thank-you — that this is the first time he has been asked to speak on the bill, 43 days into the

60-day session.

The House Judiciary Committee merged its DEP bill, HB 3042, into the bill created by the joint interim Judiciary Committee, HB 2878. It removed forced pooling provisions from the mega-bill.

A Judiciary subcommittee had approved an amended version of the bill and sent it to the full committee, then recalled it Wednesday afternoon, withdrew the amendments and added a pile of new ones — all drafted either by Delegate Barbara Evans Fleis-

chauer, D-Monongalia, or Mike Manypenny, D-Taylor, or both.

The amendments dealt with environmental or landowner protections: Mandatory aquifer cleanup in case of accidental spills; mediation for surface owners; increasing the distance of a drill site pad from a potable water source or dwelling from 200 feet to 1,000 feet; and monitoring and maintaining pit liners for liquid and solid wastes to prevent leach-

SEE **MARCELLUS**, 4-B

BY DAVID BEARD

The Dominion Post

CHARLESTON — The House Judiciary Committee has combined the two major Marcellus gas industry regulation bills into a single 210-page bill that two local delegates peppered with amend-

Date: Feb 24, 2011; Section: Local; Page: 4-B

MARCELLUS

FROM PAGE 1-B

ing of possible toxins.

One Manypenny amendment failed because of an apparent misconception by a DEP attorney and committee members. Some studies show that material pulled up from horizontal wells — called cuttings and tailings — can be radioactive. It can get dumped into the waste pits and possibly leach into water

supplies years later.

Manypenny's amendment called for that material to get hauled to a hazardous-waste site. But DEP General Counsel Kristin Boggs said no radioactive material has been found yet, and it would be detected and dealt with at the landfill site when it is hauled there — never addressing the waste pits.

Hearing Boggs' explanation, members deemed the amendment unnecessary.

The full Judiciary Committee had the re-amended bill on its agenda, but ran out of time at the end of the afternoon and moved it to today's docket.

The DEP bill

The original DEP bill — the Senate's version is SB 424 — weighs in at 140 pages. The Energy, Industry and Mining Committee attorney spent about 22 minutes just reviewing the highlights:

\$10,000 permit fees, inspectors and inspections, fresh-water impoundments and waste-water pits, stream and homeowner protections, and forced pooling of contiguous Marcellus parcels.

Committee Chairman Mike Green, D-Raleigh, said the House and Senate have an informal agreement that the House will handle the two bills and send whatever it approves — in the form of HB 2878 — to the Senate. Nonetheless, members reviewed the DEP bill and heard testimony Wednesday before he channeled it to a subcommittee.

Huffman told members, "This is the first opportunity to address any committee on the bill the DEP prepared." That comment followed Green's remarks that his committee isn't doing much with it, since the House is handling it.

Huffman said about 70 stakeholders had input into the bill, and no one agrees on everything. But "it's a good bill. It's a solid bill. I know it's late in the session and it's going to be difficult. This is a piece of legislation West Virginia needs."

The \$10,000 permit fee is supposed to pay for hiring more well inspectors. Huffman reminded members there are only 12 working inspectors for 59,000 wells, including 30 Marcellus rigs. "We're not providing nearly the adequate coverage we need," he said.

Asked if the DEP would continue permitting Marcellus wells if a bill doesn't pass, he said it would be expedient, but not right.

Ron Hayhurst spoke for the recently formed West Virginia Mineral Owners Association. They object to the pooling rules, which the

House removed.

"We believe that forced pooling is the taking of individual personal property rights," he said, "forcefully taking private property for private corporation profit and gain."

Among the reasons:

■ A drilling unit can comprise 640 acres of pooled parcels. The actual drilling site may take up only 80, but the remaining 560 acres are tied up, meaning no development, and lost revenue for the state and the surface owner.

■ Various deductions allowed in the bill can deprive the royalty owner of 40 percent of the income possible from the shares.

■ Mineral owners, in the form of the new group, had no place at the table when the bill was written.

Huffman countered that the group is brand new, and mineral owners did have a say.