

## DEP chief says he's ready for challenge

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kward@wvgazette.com At 7 a.m. Tuesday, **Mike Callaghan** stood outside the Division of Environmental Protection's Nitro headquarters. The new DEP director handed out doughnuts to agency employees.

"The governor did that with coffee, so I thought I'd one-up him," Callaghan said. "I picked up 10 dozen at Krispy Kreme on the way in.

"One of [the employees] told me I was the first DEP director they had met, after 10 years at the agency." Later in the day, Callaghan showed up alone for an hourlong session with a Gazette reporter and editor. The last three DEP directors - all former coal operators appointed by former Gov. Cecil Underwood - insisted on having an agency spokesman sit in on interviews.

By Friday, Callaghan had surprised longtime DEP critic Cindy Rank with an introductory phone call and had shaken hands with members of the West Virginia Coal Association Board of Directors.

Along the way, he learned that Gov. Bob Wise wants to elevate his job to that of a Cabinet secretary, a largely symbolic move that Wise made to try to show his concern for the environment.

"I must be doing pretty well," Callaghan told the coal association's annual mining symposium Friday morning. "I got a promotion already." On Tuesday morning, Wise swore Callaghan in during a rare gubernatorial appearance at DEP's offices in the old Heck's warehouse, surrounded by Nitro chemical plants.

Breaking the coal ties Wise, a longtime Democratic congressman, has never been considered a strong environmentalist. His positions on most issues mirror those of his Republican predecessor.

But during the gubernatorial campaign, Wise promised that he would not - as Underwood did - appoint someone from the coal industry to police the state's environment.

Wise was repeatedly thwarted in that effort. Former federal mine safety chief Davitt McAteer turned down the job, as did several top U.S. Environmental Protection Agency officials.

Two weeks ago, Wise announced that his pick was Callaghan. The former federal prosecutor's major tie to coal was putting a few industry operators in jail for safety and environmental violations.

A 37-year-old Richwood native and lawyer's son, Callaghan is the father of three children. His wife is a physical education teacher.

Callaghan drives a big Dodge pickup truck. He wears cowboy boots, which he'll proudly prop up on the table to show off. ("My favorites were the sharkskin - being a lawyer and going into court with those on," he says.) He likes to fish, bike and hunt. But just as he isn't an industry insider, he is not linked to state environmental groups or causes.

"I don't have a dog in the hunt on the environmental side or the industry side," Callaghan said. "I'm a neutral person." But during a speech to the coal association, Callaghan clearly tried to show that he understood the industry's historic dominance of the state.

"I lived through one of the coal booms in the '70s, and watched a little town of 3,000 grow to 5,500," Callaghan said. "Then, the boom went bust, and I watched the storefronts get boarded up, and they're still boarded up today." Also, Callaghan is making no promises that he will rid DEP's upper ranks of the many former industry officials and lawyers put there by the last two governors.

"I do not have a complete assessment of each and every one of these people yet," Callaghan said. "I don't plan any major staff changes right now." "I don't start the job with a bias against anybody because they came from industry," he said.

'I've got a solid technical base' Callaghan obtained a bachelor's degree in mechanical engineering from the University of Virginia.

"I've got a solid technical base that I can use to understand the issues," he says. "I like to get a bunch of paper, and read everything I can. Then I talk to the people involved." But Callaghan never worked as an engineer. Instead, he sold cars for a couple of years in Virginia, and then went to law school at West Virginia University.

After law school, Callaghan clerked for Chief U.S. District Judge Charles H. Haden II, the author of the mountaintop removal ruling that DEP is now fighting on appeal.

In 1992, Callaghan went to work for U.S. Attorney Rebecca Betts. For five years, he was an assistant U.S. attorney. He handled most of the office's environmental and workplace safety cases.

In 1995, Callaghan prosecuted a Boone County man who owned a sewage treatment plant for the residents of Holly Hills Acres and Kelly subdivisions near Beckley. Donald Jarrell of Van took residents' money, but never operated the plant. Instead, he discharged raw sewage into Marsh Fork, which flows into the Coal River.

U.S. District Judge Elizabeth Hallanan sentenced Jarrell to 30 months in prison, the longest sentence ever imposed in West Virginia for an environmental crime.

Since mid-1997, Callaghan had been in charge of all criminal prosecutions for Betts' office.

Privately, some environmentalists scoffed at Callaghan's prosecutions of polluters. They complained that he went after small-time environmental criminals, and didn't prosecute larger companies.

Callaghan says there's a reason for that.

"Bigger companies can afford to comply," Callaghan said. "But you have two guys in a plating shop with a vat ..." "There are a certain, small amount of coal operators and others who will not follow the law, no matter what you do," Callaghan said. "For those people, I say take fair warning, I'm going to come after you.

"For those who do follow the law, I am going to be trying to make the agency easier for you to deal with." An encouraging choice So far, industry and environmental groups are, as the cliché goes, cautiously optimistic about Callaghan.

Joe Lovett, the lead lawyer who sued DEP over its regulation of mountaintop removal, said he hopes that Callaghan will be a welcome change.

"I am encouraged that the governor would appoint a person of Mike Callaghan's experience and integrity to be DEP director," Lovett said.

"Mike has a challenging job ahead of him to repair what has been an over-politicized and understaffed agency," Lovett said. "Mike's understanding of law and his law enforcement background will be invaluable." Coal association President Bill Raney said his group's main concern is that Callaghan unclog what the industry says is a backlog of mining permit applications.

"It's nice to hear the governor and the DEP director talk about predictability in permitting and speed in permitting," Raney said.

The Wise-Underwood race posed a problem for many state environmentalists. They hated Underwood, but were not enthusiastic about Wise. But many took Callaghan's appointment as a good sign that Wise's idea of balancing jobs and the environment doesn't mean bending the rules to meet economic development demands.

"I think appointing someone like **Mike Callaghan** shows he is serious about this," said Janet Fout, an activist with the Ohio Valley Environmental Coalition. "I think there is a little bit of hope." But trying to pin Callaghan down on any of the major issues facing DEP and the state's environment is practically impossible.

What does Callaghan think of mountaintop removal?

"It doesn't make any difference what my personal opinion is," he says.

"My job is to enforce the laws and give a direction for the agency." Callaghan does call the practice "mountaintop removal," though, not "mountaintop mining," which is preferred by industry and most government officials.

And he adds that he does not think his job "is to try to convince the people of West Virginia of how wonderful mountaintop removal is." On most issues, Callaghan says it's just too soon for him to comment in much detail.

"I found how to turn my computer on and call long distances," he says.

"I found a bathroom and I found the coffee pot." What Callaghan will say - over and over again - is that his central policies will be to follow the law, and have a rational, fair reason for all of DEP's decisions.

"As director and as an agency, we are there to enforce the laws that are on the books," Callaghan says. "We're not there to pick and choose what laws are enforced.

"As director, my job is to stand up to whatever forces don't like the law being enforced." Senate Minority Leader Vic Sprouse, R-Kanawha, said that enforcing the law is all well and good. But Sprouse, a Dow Chemical engineer, said that DEP's real impact on industry is in how agency officials interpret the laws the Legislature writes.

"What we really need at DEP is someone that, while they enforce the laws, they at least work with you," Sprouse said. "At the end of the day, DEP is either going to speed up the permitting process or slow it down." DEP critic Cindy Rank, the mining chairwoman for the West Virginia Highlands Conservancy, said that Callaghan has started off well by declaring an open-door policy. But, she said, there's more to being a good DEP director.

"Having an open-door policy at that office is fine," Rank said. "But more important than having an open-door policy is how deep his commitment is to protecting the environment and the people who depend on it by full enforcement of the law." To contact staff writer Ken Ward Jr., use e-mail or call 348-1702.