

# POWDER RIVER BREAKS

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ENCOURAGING RESPONSIBLE DEVELOPMENT TODAY ~ FOR TOMORROW



## Bill Does Not Solve Water Problems

The CBM industry has pumped out over 500,000 acre feet of groundwater in the Powder River Basin in the past 15 years—enough to provide a 5 or 6-year water supply for all of Wyoming's citizens. The industry continues to discharge over 1 million barrels of water a day. State projections show that by 2013 discharges will peak at a rate of 1200 million barrels a year, about 141,000 acre feet of water—and the discharge will continue for a decade or more.

Yet no value is being placed on this water. Too much of this water is being wasted—dumped down normally dry draws, destroying soils, trees and grass that landowners depend on for livestock and wildlife. Too little of this water is being put to a *real* use.

The state finally recognized this dilemma and assigned a task force to look into the problem, and to come up with answers. The task force recognized the value of the water, but what is finally being offered by the Minerals Committee as a solution—in the form of Senate File 46—does little to stop the water waste or solve the real problems facing downstream landowners.

The proposed legislation not only encourages ongoing squandering of our groundwater, but it provides a mechanism for "institutionalizing" the discharge of CBM produced water down ephemeral or intermittent drainages, and it includes a provision for "restoring natural channel capacity"—otherwise known as "ditching."

This "ditching" provision gives landowners the dubious choice of allowing CBM water to flood out their best meadows—which also serve as seasonal drainages for collecting spring run-off—or allowing the state engineer to bulldoze these meadows into artificial channels so that industry can keep the



CBM Ditching on Maycock Ranch

groundwater flowing downstream, year-long. While theoretically the "ditch" would keep CBM water from overflowing onto these bottom lands, it often ices over in the winter, and it floods landowners with CBM water in the spring and interferes with water rights by interrupting natural flows. Whatever the "choice," the water flows out of state, lost to Wyoming forever.

CBM extraction, as it is being practiced in the Powder River Basin, is wasting a resource that will take generations to recharge. We've pushed for rule changes, made presentation after presentation to legislative task forces, even hired lawyers and experts, all in hopes of getting the state to do its job: To see that coalbed methane development is done responsibly. We just can't fathom the notion that water is our most essential resource, and yet our state is *willingly* squandering it and destroying our land in the process!

We've been discouraged over and over by how public processes that started out as collaborative, democratic efforts to work out a problem become hijacked by industry. Policies, new rules and regulations—or potentially good legislative efforts—are proposed, tossed around and finally watered down until industry is

willing to sign off on them.

We understand the strong financial incentive for the regulators, the Governor and the Wyoming legislature to try to accommodate CBM interests. But we suggest it may be short-sighted to do this at the expense of our water that will likely turn out in the long run to have been far more valuable. We count on our elected officials to make an informed decision that weighs the short-term benefits of CBM development against the long-term loss of our state's valuable water resource and the damage to the landowner. SF 46 isn't it.

We know the state and our legislature—and the industry itself—can do better. We've seen developers work with landowners to put water to good use, build pipelines to transport the produced water to where it is needed, or inject it into the ground for future use. We commend the Wyoming Pipeline Authority for its efforts to build a pipeline and move this water to places it can be used. SF 46 will not encourage those efforts.

Doing it right might cost industry a little more, but let's face it: the CBM industry has had free rein in the Powder River Basin for well over a decade, and it shouldn't continue to push those costs off on Wyoming landowners and citizens.

What Wyoming needs is leadership on the coalbed methane water management issue—not a bill that wastes our groundwater or that takes advantage of landowners to serve the CBM industry. We'd like to think our children will be able to make a living off this land when the CBM is gone.

*Editor's note: This article, by Powder River board member LJ Turner, appeared as an op-ed in the Casper Star-Tribune on Friday, Feb. 8th.*

## Governor Sides with Lay Wasters

*Editor's note: The following LTE by Powder River Board Chair Bob LeResche defends Montana Governor Schweitzer's rejection of a deal with Wyoming that would have undermined water quality in Montana and Wyoming from CBM development.*

Editor:

I think the Star-Tribune missed the forest for the trees in the Jan. 11 Casper Star-Tribune editorial, "Montana says, 'Nyet!'"

Gov. Schweitzer may have been a little rude if he failed to contact Gov. Freudenthal as Gov. Dave expected. But he definitely made the right decision in rejecting the one-sided, lousy settlement which would have harmed not only Montana farmers, ranchers and fishermen, but also Wyoming farmers, ranchers and fishermen.

If we want to discuss lack of leadership, maybe the spotlight should be on our own governor, rather than Montana's. Freudenthal allied with the coalbed methane industry in a lawsuit that attempts to force Montanans to lower the protections they provide their waters, not only the Tongue River, but also the Powder River and its tributaries.

This resulted in the embarrassing spectacle of our state arguing for the right to increase levels of pollution in our own waters and Montana's waters.

The true leadership that Wyoming deserves from our governor would have involved joining with Montana and Wyoming ranchers and fishermen in defending environmental protection in both states, rather than sucking up to the industry that profits from degrading and wasting our water.

# Message from the Chair



Bob LeResche, Powder River Board Chair

wasteful discarding of this resource has caused to date.

The study describes production ratios of over 300 barrels of water (12,600 gallons) for every mcf of methane produced. An mcf of Powder River methane sells these days for \$3-\$6 (probably less than 50 cents of that going to the state which owns the water), and these ratios imply that the benefit to Wyoming of allowing 12,600

gallons of water to be wasted is approximately \$0.00004 per gallon. What's wrong with this picture?

The WSGS study suggests that if the Governor immediately institutes a moratorium on CBM development in the Clear Creek and Crazy Woman Creek drainages, it will save 20% of the water that would otherwise be produced and wasted in the basin, while costing only 0.15% of the methane that would otherwise be produced. This would save 130 BILLION GALLONS of water over the life of the gas play.

It is clear to me that the Governor, and the State Engineer, have no choice but to follow the WSGS recommendation and immediately institute a moratorium on CBM development in these two drainages. The weight of logic and good sense, and the irrationality of deeming this water production as having a "beneficial use" under these circumstances, leads to no other conclusion.

Finally, we learned this week that a Windsor Energy reservoir near Clearmont and near Clear Creek was breached sometime before October 3 last fall, and dumped 3.3 million gallons of saline CBM production water into the Clear Creek drainage. USGS monitoring records show sharp elevated spikes in EC (salinity) and SAR (sodium adsorption ratio) at a station on Clear Creek downstream from the breach.

So in this case, not only did this production and discarding of over 3 million gallons of water produce absolutely no "beneficial use," (which is required before the State Engineer can legally permit its production); but also, this produced water constituted a very real danger to downstream agricultural operations. At the time of the discharge, hay and very salt-sensitive greenhouse produce crops were being irrigated from Clear Creek downstream, and cattle were being watered.

And the DEQ has yet to notify downstream landowners that this occurred, even though DEQ staff visited these operations during their long "Watershed Permitting" exercise.

Go figure.

**Robert LeResche**

This has been a fascinating year already, for several reasons. We learned that we are not alone in our many struggles with our state government, and bonded with several valuable new allies; An agency of the State of Wyoming acknowledged that our groundwater might have an intrinsic value and should not be wasted, at least if its wastage results in insignificant methane production; and, Another agency of the State of Wyoming underscored this point through abject incompetence and secretive behavior.

Early this month, Shannon Anderson and I were privileged to attend a work session in Reno. The session was attended by us and two representatives of the Equality State Policy Council of Wyoming, and 21 others, from Montana, North Dakota, Idaho, Nevada, Colorado, Utah, New Mexico, Arizona and Washington. You'll notice that all came from states whose economies rely heavily on extractive industries, such as oil & gas, hardrock mining and coal mining.

We spent two days comparing our situations, reviewing and learning from a comparative analysis of our states' tax and regulatory treatments of our extractive industries. The analysis had been prepared especially for this session. We then proposed and discussed a myriad of possible programs and campaigns we might create together to right the unfair situations existing in all states today.

Most importantly, we established a communications network among us all, through which we can share facts and suggestions for dealing with these industries and our sometimes overweening extractive industries and their lapdog state agencies. In the future, when a company threatens to leave Wyoming for Idaho, for example, while simultaneously threatening to leave Montana for Wyoming, we'll know. And we'll know when Wyoming regulates our CBM industry much more liberally than any other state regulates their own.

Last week the Wyoming Geological Survey issued a press release describing a study of water/gas ratios in various areas of the Powder River Basin. The contents of the study are described in another article on page 3 of this newsletter. But the key factor in this report is its tone, and the fact that it represents the first instance I'm aware of that a State of Wyoming Agency has spoken rationally about the intrinsic value of our groundwater, and the political damage that the state's capricious management and

## Powder River Welcomes New Affiliate

A group of landowners and citizens in Crook County are in the process of forming a Powder River Basin Resource Council affiliate. The group, simply calling themselves *Ranchers and Neighbors Protecting Our Water*, is concerned about the potential impacts of "in situ" leach mining (ISL) being proposed by Powertech Uranium Corporation, a Canadian company conducting exploratory drilling in Crook County.

Wilma Tope, who sits on Powder River's board, owns a ranch bordering the exploration site, and her family is concerned about possible contamination of the water they use for domestic and livestock purposes.

For more information about the proposed uranium mining, or about Powder River's newest affiliate, please call Shannon Anderson at the Powder River office, or Wilma Tope at 307-896-4706.

**Powder River Basin Resource Council (Powder River)** is a grass-roots organization of individuals and affiliate groups dedicated to good stewardship of Wyoming's natural resources. Powder River was formed in 1973 and stands for the preservation and enrichment of our agricultural heritage and rural lifestyle; the conservation of Wyoming's unique land, minerals, water and clean air consistent with responsible use of these resources to sustain the livelihood of present and future generations; and the education and empowerment of Wyoming's citizens to raise a coherent voice in the decisions that will impact Wyoming residents' environment and lifestyle.

**Powder River** is a member of the Western Organization of Resource Councils (WORC), which is a regional network of seven grassroots community organizations with 7,000 members and 45 local chapters. WORC member groups are Dakota Resource Council, Dakota Rural Action, Idaho Rural Council, Northern Plains Resource Council, Oregon Rural Action, Western Colorado Congress and Powder River Basin Resource Council.

**The services** provided by Powder River include public education, community organizing and lobbying as permitted on behalf of its membership. Powder River is a non-profit, 501 (c)(3) tax-exempt organization.

**Membership dues:** \$30 for individuals, \$40 for families and \$20 for students and senior citizens. Powder River is dependent on contributions for its work; contributions, large and small, are welcomed.

### Active Affiliate Organizations

- Clark Resource Council (CRC)
- Ranchers & Neighbors Protecting Our Water
- Newcastle Action Group (NAG)
- Sheridan Area Resource Council (SARC)

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### Powder River Breaks

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# WSGS Releases CBM Water Study

## Calls for Moratorium in Clear Creek, Crazy Woman

The Wyoming State Geological Survey (WSGS) released a study on CBM water and gas production in the Powder River Basin (PRB) which acknowledges serious problems with water management and makes recommendations they believe "would place regulation of CBM activity in the PRB on a sound scientifically-supported path." The study analyzed over 20,000 CBM wells which produced over 4 billion barrels of groundwater in the gas production process—yet a significant number of these wells produced mostly water and very little gas. The WSGS study recommends changing the way the state goes about permitting CBM wells and managing groundwater.



Clear Creek

300 barrels of water would have to be pumped for every mcf of gas produced.

The WSGS study recommends that the State Engineer review every CBM well drilled in the Powder River Basin with a gas/water ratio greater than 3 after two years of production. The study also points out that eliminating all CBM wells with water/gas ratios greater than 10 would have saved more than a quarter of the water produced in the basin, but reduced gas production by a mere 1.6%, "This report strongly supports a moratorium on all CBM activity in

the Clear Creek and Crazy Woman Creek drainages," the researchers conclude.

Suggesting that results of the WSGS study may "help lessen animosity toward the CBM industry and facilitate produced water solutions," a February 6 press release describes how researchers compared water/gas ratios for CBM wells throughout the Powder River Basin for the first ten years of CBM development, finding that wells on the eastern edge of the basin produced only gas, whereas some wells elsewhere produced almost all water.

"A well's water to gas ratio reflects how much water it produces per thousand cubic feet of gas (mcf)," the release states, "And is one of the most important parameters to consider when trying to maximize gas production and minimize water production."

The study found that wells with water/gas ratios greater than 10 accounted for less than 2% of total gas production but around 27% of total water production. Wells with ratios greater than 5 accounted for a little less than 5% of total gas and slightly over 38% of the water, and wells with ratios greater than 3 accounted for about 10% of the gas and 49% of the water.

Researchers took these results and used them to predict the water/gas ratios for areas targeted for development through 2020. While water to gas ratios for the entire Powder River and its tributary drainages would likely fall below 3 they predicted, ratios in the Clear Creek and Crazy Woman tributary drainages could be as high as 300—meaning

Powder River board chair Bob LeResche applauded the Wyoming State Geological Survey "for recognizing how serious the issue of water management and mismanagement has become in CBM development in the Powder River Basin. Their analysis is very professional and presents some astonishing facts that should impel major changes in water management by the State Engineer and the Governor," he said.

LeResche also underscored the study's prediction that, in the next 13 years, out of all the wells planned in the Powder River Basin, those in the Clear Creek and Crazy Woman Creek drainages would account for only 0.15% of the gas, but 20% of the water produced during that period. He reiterated the study's conclusions, saying that "drilling the same number of wells in more favorable drainages would increase the state's overall methane production, while at the same time saving more than 130 billion gallons of water, which would otherwise be lost."

"We support the idea of a moratorium for the Clear Creek and Crazy Woman drainages to stop the waste of more water," said LeResche. "The State Engineer can no longer rationally assert that CBM groundwater in these drainages is being put to a 'beneficial' use, as required by law."

**Jill Morrison**  
Powder River Staff

## "Building the Wyoming We Want"

To "make sure that the Wyoming we all enjoy today will endure into the future," Gov. Freudenthal hosted the "Building the Wyoming We Want" conference at Casper College January 10 and 11. Because I hadn't done my homework, I assumed that the focus would be wide, possibly including such diverse topics as education, government, human and environmental resources, transportation, maybe even health care, but I quickly realized that I should have paid closer attention to the first word of the conference's title: **Build**.

Ryan Lance, the governor's Deputy Chief of Staff, skillfully shepherded the speakers and overflow attendees through two days of presentations, panels and break-out sessions that had us consider how Wyoming can prepare for the growth that is already spilling over from our neighbors in the Rocky Mountain west.

The conference got right to the point with some land-use heavies. Luther Propst of the Sonoran Institute addressed approaches to growth taken by Tucson, Bozeman and even L.A., and encouraged us to "keep the tent large": Define ourselves by region, not just by counties.

Ellen Hanak of California's Public Policy Institute and Mike Purcell of Wyoming's Water Development Commission each waded into the water issue, addressing competing uses and misuse, (but if either were aware that much of our Basin's water is being discarded as a byproduct of the energy industry, it was not apparent to me.)

Robert Grow, the founder of Envision Utah provided ample food for thought as the luncheon speaker, and was subsequently referred to as "that guy from Utah." He used growth occurring in the Salt Lake area as a possible model for Wyoming's future.

Maryland's former Governor Parris Glendening (1995-2003) reflected upon his state's creation of a smart growth initiative that has protected open space and used tax credit as a community revitalization tool.

By noon the terms *sprawl* and *land-use planning* had penetrated the Krampert Theater, and although panel discussions were followed by questions from the audience, even the afternoon break-out sessions were carefully scripted. Among the questions we were asked to tackle:

- What are the most important tools/resources available to local governments to prepare for sustainable growth?
- If we value open spaces, ranches and wildlife, what are the best ways to reach a balance between sustainable growth and the protection of open space and wildlife habitat?
- What is the role of landowners, developers, private business, and the legislature?

Some ideas included using county endowments for maintenance of infrastructure, disallowing "special districts" and phasing out state bail-out of faulty rural infrastructures; taking a look at subdivision laws, clustering, the provision of services and annexation laws; and lastly, the possibility of implementing "performance bonds" for developers.

At Friday morning's discussion of "Tools, Best Practices, and Good Ideas," we were advised that building the Wyoming we want will involve a paradigm in which we embark upon a process, not a project. We will need land

# Powder River Intervenes to Protect Downstream Landowners

Powder River's thwarted rulemaking campaign for state regulation of coalbed methane water discharges in the Powder River Basin has not halted ongoing efforts to protect downstream landowners from the harmful effects of badly managed CBM water. Last year, when the governor put the kibosh on Powder River's petition process, members and affected landowners vowed to continue working for improvements in CBM water discharge practices—even if they had to proceed permit by permit.

So when Powder River learned that Pennaco—a CBM company owned by Marathon oil—had appealed a number of CBM discharge permits issued by the Department of Environmental Quality (DEQ), the organization filed in December to intervene before Wyoming's Environmental Quality Council (EQC).

Pennaco is appealing the water quality limits in the permits as "too restrictive"—accusing the DEQ of setting overly strict "end of pipe" thresholds for discharges, requiring unreasonable CBM water containment measures for 50-year flood events, and over-limiting EC (Electrical Conductivity) and SAR (Sodium Adsorption Ratio) levels.

(Both EC and SAR are measurements of salinity and sodicity, which if too high will harm soils and kill vegetation.) Pennaco is claiming the limits are "arbitrary and capricious," and the company is pressuring DEQ to relax the standards in the permits.

Pennaco wasted no time in protesting Powder River's motion to intervene, and not surprisingly, in late January the DEQ joined Pennaco in announcing that the two will be going into settlement discussions. But in spite of attempts by Pennaco and the DEQ to "vacate the hearing" on the motion to intervene, on January 29 the EQC granted Powder River's motion.

Powder River looks forward to being a "full party" to settlement discussions between Pennaco and DEQ, and to ensure that sound science forms the basis for decisions governing CBM water management. The EQC expects to have a status report on settlement discussions in early March.

**Jill Morrison**  
Powder River Staff

# Transmission Dominates Wyoming's Energy Future

Wyoming has the sometimes dubious advantage of producing a wide variety of energy products—including ranking among the top in the nation for both coal production and wind resources. Because of our small population, we are first and foremost an energy export state, and will likely remain so. The challenge, for Wyoming and the rest of the West, is finding access to transmission for our exported energy.

This year's "Roping the Wind" renewable energy conference, held in Douglas in early January, took on just this challenge, devoting the entire second day to presentations on wind energy and transmission capacity.

"Wyoming's future is wind," said Jerry Vaninetti, once interim director of Wyoming's Infrastructure Authority who now works for TransElect, LLC, a company actively pursuing transmission projects in Wyoming and neighboring states.

"Wyoming wind is cheaper than coal, cheaper than gas," he told the audience, especially when carbon taxes on fossil fuels are included in the equation—which they will be, even in Wyoming, he promised. "But

Wyoming wind will not fly without transmission."

Presenter after presenter echoed this theme, citing predictions for energy demand increases as high as 70% by 2025 in places like Phoenix, and reeling off transmission projects with names like *TOT 3*, *TransWest X*, and *Gateway South and West*.

While new transmission lines are a necessary evil if we are to get Wyoming wind power to market, they don't come without the impacts associated with tearing up a lot of ground and disturbing ecological systems—not to mention the eminent domain implications of tromping on private property rights to secure access.

But these projects pale in comparison to the little publicized but very real transmission corridor project currently being proposed by the federal government as a part of the 2005 Energy Policy Act. See what is in store for the West in the following article.

**Gillian Malone**  
Powder River Staff

# An Octopus Wants to Eat the West

What's 3,500 feet wide, 6,055 miles long and 2.9 million acres big? That's wider than Hoover Dam, bigger than Yellowstone National Park and almost three times as long as the Mississippi River. This behemoth goes by the name of the West-Wide Energy Corridor, and if you live in the West it could soon devour a landscape near you.

This huge new system of energy corridors was mandated by the Energy Policy Act of 2005. You remember 2005: That was when newly re-elected President Bush claimed a "mandate" and Congress was controlled by Republicans.

The Energy Policy Act was a grab bag of tax breaks and incentives to various sectors of the energy industry that failed to raise vehicle

mileage standards or take any other meaningful steps to reduce energy demand.

Section 368 of the law directed the Secretaries of the departments of Agriculture, Commerce, Defense, Energy and Interior to designate corridors on federal land in 11 Western states for oil, gas and hydrogen pipelines and electrical power lines. These agencies have now released the federal West-wide Energy Corridor Programmatic Environmental Impact Statement, a three-volume document totaling well over 1,000 pages.

If its bureaucratic verbiage numbs the brain, its system maps should make anyone sit up and take notice. Check them out at <http://corridoreis.anl.gov/eis/dmap/index.cfm>.

They show a network of cracks spreading across the West, from Puget Sound to El Paso, and from San Diego to the Little Bighorn. On these maps, our beloved West looks like a shattered and poorly mended dinner plate. And that is an entirely accurate image.

These new energy corridors—averaging six-tenths of a mile wide—will fracture a landscape that is already a maze of hairline cracks—the lines made by highways, railroads and the current, comparatively delicate energy rights-of-way. These existing corridors have been enough to severely fragment habitat in the West, interfering with the movements of pronghorn, elk and bison, and weakening the ecological health of deserts, grasslands and

# Thousands Seek Protection for Fortification

## BLM will Consider Phased Development

Over 20,000 citizens, both local and from across the US, sent in comments to the Buffalo BLM during a recent public comment period, the majority seeking long-term protection for the little known Fortification Creek Area in the Powder River Basin. A number of leaseholders and energy companies are clamoring to develop coalbed methane gas in this rugged area, which represents one of the last tracts of undisturbed land in the Powder River Basin. The comments urge BLM to protect Fortification Creek because of its unique set of resource values, including habitat that provides refuge for an isolated herd of prairie elk.

Named for the winter protection it afforded a western expedition in the last century, the Fortification area is unusual country to find in the Powder River Basin. Rising out of a flat and unbroken landscape, it is a 100,000-acre, self-contained ecosystem, with steep breaks and narrow rocky draws carved by the area's multiple drainages, the largest of these being Fortification Creek. These deep ephemeral drainages, flanked by stands of old growth cottonwood and juniper, support thriving wildlife populations. An elk herd that was relocated from Yellowstone back in the '50's finds year-round protection and water sources here, with upland meadows providing forage.

The Fortification area is bounded on the west by the Powder River, one of the last remaining wild prairie rivers in North America, and on the east by Wild horse Creek. It rises like a triangular island in the geographic center of the Powder River Basin. In the heart of the Fortification lies the only Wilderness Study Area (WSA) in the Powder River Basin, or anywhere on the high plains. Adding to its distinction is the fact that the public lands immediately surrounding the wilderness study area have been nominated for designation as an Area of Critical Environmental Concern (ACEC).

Both BLM and the public have long recognized the significance of the resources in this area, which are documented in seven different planning documents from the 1970s through 2003. Among the "special resource values" identified in the various planning processes are the 12,000-acre Wilderness Study Area and the Area of Critical Environmental Concern, landscapes that exhibit "high visual qualities," outstanding "cultural, historical or paleontological values," and the tremendous diversity of wildlife—the Rocky Mountain elk herd, mule deer, antelope, whitetail deer, wild turkeys, peregrine falcons, sharp tail and sage grouse, bobcats, mountain lions, swift fox, bald and golden eagles, and a variety of songbirds.

Because coalbed methane development has increasingly fragmented wildlife habitat and other ecological systems in the Powder River Basin, the Fortification area represents an intact haven of naturalness in what is otherwise becoming an industrialized landscape.

Citizen comments on the Fortification area largely focused on expanding protections for the area as a whole, but particularly around the Wilderness Study Area. Many commenters said that, should CBM development be allowed to proceed, a phased developmental approach should be pursued that requires underground power lines, keeps roads to a minimum, and ensures viable habitat for the elk herd and other wildlife.

The Wyoming Game and Fish echoed the importance of expanding protections around the Wilderness Study area, and also recommended phased development for the area. The State Land Department commented favorably on the option of pursuing a land exchange for a state section located inside the WSA.

Industry comments came out in opposition to any expanded protections for the area, concentrating instead on their right under existing leases to develop the area. Gene George, on behalf of Yates Petroleum accused the BLM of managing by "convenience," and enforcing only those provisions that it deems "desirable."

"The area is not unique," and "the elk herd is not indigenous," he wrote, claiming that the recoverable gas is "as significant and valuable" as the herd and the scenic value of the area. Nonetheless, he then offered the services of CBM operators "to collar and relocate the elk for future replenishment should it be deemed necessary after development."

Powder River board members and staff met with BLM in January to follow up on the Fortification issue. We learned from BLM Buffalo Field Manager, Chris Hanson, that BLM will indeed pursue phased development as an alternative in the upcoming Resource Management Plan Amendment on Fortification. He told Powder River that BLM had met with the operators in December, and that the operators had agreed to consider a phased development approach, with combined infrastructure and an expanded elk study.

Powder River has been advocating for phased development of coalbed methane development ever since BLM began conducting its Environmental Impact Analysis on CBM in 2002, and we are pleased that the agency is taking this approach for the Fortification Creek area. But, as Powder River told the BLM, "the devil is in the details," and we will be watching for meaningful progress on this issue.

**Jill Morrison**  
Powder River Staff

# DEQ Approves Coal Plant with Expired Permit

For more than a decade, Two Elk Generation Partners, a subsidiary of North American Power Group (NAPG), has obtained successive extensions of its air quality permit for the proposed Two Elk coal-fired power plant outside Wright. State law requires companies to seek a new permit if construction has not continued for a period of two years, and in August of this year, DEQ found no construction had taken place and determined NAPG's permit was invalid.

In November, however, DEQ reached a deal with NAPG and reversed its determination that NAPG's permit was invalid. The settlement

agreement was based on "confidential" documents that have not yet been released to the public. If not required to obtain a new permit, NAPG may avoid more stringent air pollution limits that were not in place when the permit was originally issued.

"Our understanding of the environmental and public health impacts of coal-fired power plants has changed dramatically since NAPG applied for its permit back in 1996," said Powder River board member LJ Turner. "The company should not be allowed to delay construction and get away with using outdated technology and environmental analyses that are now more than

a decade old."

Powder River has joined with Sierra Club to challenge DEQ's settlement. While the case rests on the fact that NAPG has not continued construction as necessary to keep its permit, the two groups are also concerned about the back-door nature of this deal between the company and DEQ. We hope that through this process, we can bring documents and other information to the public's eye that will help maintain transparency and accountability of agencies and corporations operating in this state.

**Shannon Anderson**  
Powder River Staff



# Farm Bill: A Mixed Bag for Wyoming

By December of 2007, both the Senate and the House had completed action on their separate versions of the Farm Bill, which will direct a wide array of farm and food programs for the next five years. For Wyoming livestock producers, the *Livestock Title* has received the most attention—both from independent producers hoping to win fair market competition in the increasingly corporate controlled food industries—and from those interests who would like to see market reforms fail.

"The prices that producers are paid for their Wyoming cattle are increasingly influenced by big packers who control huge numbers of animals from feeding-to-slaughter," said Donley Darnell, a Newcastle rancher who chairs Powder River's Agriculture Committee. "This bundle of farm bill legislation is incomplete without strong language to protect producers against anti-competitive practices in the highly concentrated, meatpacking sector. We still need market reforms."

Livestock oriented reforms contained in

the Senate bill include Country of Origin Labeling for consumer choice—known as COOL, a ban on packer ownership of livestock, establishment of an Office of Special Counsel to safeguard agricultural competition, authorization for interstate shipment of state-inspected beef, and a change from mandatory to voluntary arbitration for livestock contract growers.

Before the Farm Bill can be considered whole, The Senate and House versions must be reconciled in conference committee, a process that is expected to begin some time in mid to late February and be completed by early March.

Senate conferees have just been appointed as of this writing. In referencing past voting records on the Livestock Title, it appears that several of the conferees will continue to oppose the reforms.

The conference committee process will open opportunities for lobbying that may generate major changes to the hard fought Livestock Title. Interest groups ranging from

consumers and ranchers to Agri-business are already mounting campaigns to influence lawmakers in the conference process. The Packer Ban contained in the Senate version has already been targeted for elimination by corporate interests as have the Voluntary Arbitration and Office of Special Counsel.

After conference committee work is completed, the bill goes to the president, for his signature or a veto. If the bill passes, it must then undergo rulemaking—both for purposes of implementing the law, and to ensure it is interpreted as lawmakers intended.

"The process is far from over," said Darnell. "The question for us is whether Wyoming ranchers and livestock producers will compete in a free and fair market or be ultimately beholden to packer control."

**Bill Bense**  
Powder River Staff

# ICOW Elects Officers, Approves Resolutions

The year-old Independent Cattlemen of Wyoming (ICOW) has elected a board of directors, and members have collectively approved more than a dozen resolutions to guide ICOW policy in the future.

"This is a grassroots, member-driven and member-led organization," stated newly elected board president Judy McCullough of Moorcroft. "The officers are elected and the policy set by ICOW members. We're proud of the fact that ICOW is a truly member-driven outfit."

ICOW members passed policy resolutions supporting competitive agricultural market reforms, as well as brucellosis testing for wildlife in northwestern Wyoming. They passed resolutions opposing mandated animal I.D. programs, the importation of cattle over thirty months of age, and the importation of both live cattle and beef products from any country with recorded cases of BSE (Mad Cow).

ICOW members also chose to formally affiliate with R-Calf USA and to distance themselves from the NCBA.

Newly elected directors are Charlie Stevenson and Taylor Haynes in District 1, Les Dunmire and Lisle Munroe in District 2, Eric Barlow (Secretary) and LJ Turner in District 4, Judy McCullough (President) and Ed Perry (Treasurer) in District 6 and Russell Bell in District 7.

"I am proud of ICOW's Wyoming members for building this organization in such a short time," said McCullough. "We've got some dedicated folks here, and I know we're all looking forward to a successful future for independent producers in this state."

For more information, please call Judy McCullough at 307.756.3249

## "Building Wyoming" .....continued from page 3

databases, analyses of "today" and resources and transportation, and we will need everybody's voice.

Those who have gone through this process before us cautioned that although each interest group will have its own agenda, we should not let a single issue take the "wind out of the big picture", and we must find the "right scale" in our approach. They also advised the participants to maintain transparency throughout the process—in other words keep the press involved, and be aware that there is not necessarily one best answer—try to avoid "analysis paralysis."

The conference's emphasis on providing tools for communities and regions to make decisions about the pace and pattern of growth speaks to Powder River's mission of empowering "Wyoming's citizens to raise a coherent voice in the decisions that will impact Wyoming residents' environment and lifestyle."

It will be interesting to see how the information, advice and brainstorming of these two days may help spearhead or affect regional planning.

**Edith Heyward**  
Powder River Board member

*The following websites offer a variety of planning approaches and tools:*

- **www.buildingwyoming.com** has an *Articles* link to such resource categories as "best practices tool kits" and "the real costs of sprawl."
- **www.govinstitute.org** provides non-partisan technical assistance to governors with a *Resources* link to information from federal agencies and "smart growth" organizations.
- **www.planetizen.com** is a planning and developing network with a scope ranging from air pollution at fast food drive-in windows to issues of native American villages in Alaska.

# EnCana Passes the Buck on Contamination in Pavillion

For decades, wells on the Meeks and Locker ranches near Pavillion had reliably delivered clean, clear water for their homes, stock tanks and gardens. But that ended in early 2005, shortly after EnCana Oil & Gas USA took over development of the surrounding gas fields.

Almost immediately, water in the Meeks home began to stink. It left ugly stains in the sinks and tubs. Louis Meeks and his family stopped drinking it. At the Locker home, the water ran gray, coating hoses and fittings in a greasy black slime.

Common sense and everyday experience would lead most of us to conclude that there's a cause and an effect on those Pavillion-area ranches. But most of us don't work for a multinational oil and gas conglomerate—or, for that matter, for the Wyoming Department of Environmental Quality.

With all the crafty calculation of an O.J. Simpson defense lawyer, EnCana's "geology consultant" found all kinds of other explanations for the degradation of the groundwater the Meeks and Locker families used to rely on. On contract to the developer, Anthony Gorody pointed his finger at the families' neighbors—and the families themselves. Those folks had used pesticides on their pastures, he mused accusingly. And what about those household septic systems?

As for tests Meeks himself had paid for, Gorody concluded with no apparent basis that the findings were tainted. Glycol—an ingredient in the fluids oil and gas companies use to break up underground rock to release their precious gas—had been found in the samples Meeks sent in, Gorody conceded. But, he added, it must have come from someplace else. It was probably due, he finally decided, to sloppy scientists and

technicians who had introduced it in the lab.

And the state's environmental bureaucrats? Paralyzed by doubt, boxed in by rules and regulations the oil and gas industry has helped them write, they appeared to accept the self-serving questions Gorody and other industry apologists raised. Problems clearly plagued the Meeks and Locker water supplies, some of them agreed, but it was way too early to pin those problems on any definite cause.

In the meantime, though, they've allowed EnCana to put its so-called "voluntary remediation program" on hold—just as that program was beginning to produce solid findings of contamination.

In other words, it's all business as usual in Wyoming, with oil and gas calling the shots while landowners and residents are left to worry about their property, their ranch productivity and their health.

We've all been down this road, too many times before. It's time we found another route.

For starters, we can acknowledge that oil and gas development is here to stay. The industry is vital to the state, and to the nation. Wyoming depends on the revenue this activity produces, and consumers across the country need the energy it supplies.

But that simply can't be the end of this discussion. People and their property, and the health of both, are too important to be treated as an afterthought when developers sink their drills into the land.

If we agree that oil and gas development is going to continue, we also have to agree to hear and respect the concerns of ordinary people who live in the areas under development. They

shouldn't be expected to give up their rights to use their property, to make a living on it or to drink their water without fearing for their lives.

How would this work in practice? It really shouldn't be too hard. To begin with, the oil and gas industry—as well as the state officials who are supposed to regulate it—could agree to actually listen and offer a meaningful response when landowners raise red flags about the impacts of development. As things stand now, residents' concerns are too often dismissed or even ridiculed, and landowners are forced to make their cases on their own, at their own expense.

Next, the industry's routine assurances that it is already heavily regulated, and that therefore nothing bad can possibly happen, must be closely and skeptically reviewed. Frustrated landowners in the Powder River Basin have already learned how inadequate those regulations can be, and they successfully made their case to the state's Environmental Quality Council. Despite Gov. Dave Freudenthal's tortured reasoning in blocking it, their effort stands as a reasonable citizen-led response to an under-regulated industry.

Finally, we have to learn to look beyond the legalistic and scientific smokescreens industry mouthpieces pump out whenever ordinary people—people like Louis Meeks and his neighbors—bring us clear evidence of dangerous impacts from oil and gas development.

We, our neighbors, friends, and fellow citizens want to support efforts to protect our water, soil and homes.

**John Fenton**  
**Powder River Member**

*Editors Note: John Fenton is chair of the newly formed Pavillion Area Concerned Citizens (PACC)*

## Work Plan Released for Clark Contamination Investigation

Windsor Energy Group, LLC has released both the final *Public Participation Plan and Remedial Investigation Work Plan* to the public. The work plan outlines how Windsor will complete its remedial investigation at the Crosby well blowout site. It does not address how the company will clean up the groundwater contamination that has fouled two aquifers in the Line Creek drainage and continues to spread.

The investigation now encompasses 63 monitor wells, 20 private water wells, 6 springs, and 5 locations on Line Creek. So far, groundwater contamination has been identified in both the shallow and deep aquifers of the Line Creek drainage, and 2 private water wells are contaminated. Water tests also show the presence of what are referred to as "tentatively identified compounds" (TIC's) in at least 4 other private water wells below the two Windsor drilling sites on Line Creek.

In an effort to curb the contamination plumes that are moving down the valley, Windsor is digging an 800 foot trench to house an "air sparge

system," which the company hopes will "volatize" some of the contaminants out of the soils and water table and into the atmosphere. "Now unfortunately we get to breathe the toxic soup instead of drinking it," Clark Resource Council member, Sands Dickson commented.

Windsor and the WDEQ will be hosting a public meeting on Tuesday, February 26, 7:00 P.M., at the Clark Rec Center to discuss plans for monitoring and interim remediation of the contaminated groundwater and water wells.

One and a half years after the Crosby blowout, Clark Resource Council continues to press Windsor and the State of Wyoming for the best monitoring plan possible, and for full disclosure to the public of how the investigation and the cleanup will proceed.

**Deb Thomas**  
**Clark Resource Council**

forests.

The West-Wide Energy Corridor, if enacted, would be a death sentence for many wildlife populations. The corridors it outlines would cross national wildlife refuges, national recreation areas, national monuments and national parks. One tentacle would split the Big Horn Basin of Wyoming; another would run the length of California's Owens Valley between Sequoia and Death Valley national parks; another would cut from Mesa Verde National Park in Colorado to Bandelier National Monument near Santa Fe.

You have to wonder why the government didn't simply use the existing system of energy corridors and rights of way. And here is the government's answer: "This option was considered but eliminated for a number of reasons. Many of the existing energy corridors and utility rights-of-ways are sized for relatively small transport systems (both in terms of capacity and distance) and could neither support added systems nor be expanded to accommodate additional energy transport facilities. These limitations make them too fragmentary or localized to serve the need for long-distance energy transport across the West."

Well, many readers may think, fair enough. We do have to upgrade our energy delivery systems, don't we? Isn't this an example of the government being prudent and planning for the future?

Arising out of the political context of 2005, the Energy Policy Act did not entertain the possibility that energy use could actually be reduced

through conservation, and it gave little consideration to local power generation by wind farms or solar arrays, for example, that would not require massive, long-distance energy corridors. In other words, the West-Wide Energy Corridor was never a prudent attempt to plan for the future: It simply takes a failed energy distribution model and makes it bigger.

Then there's the contentious issue of property rights. On the maps, the lines representing the corridors are frequently interrupted, only to pick up again after a gap. Those gaps are private land; the map shows only the rights of way proposed for federal land. Obviously, those gaps must be filled in, and if you happen to be a landowner in the way, watch out!

If you value the integrity of our public lands and the sanctity of private property, you owe it to yourself to take a look at <http://corridoreis.anl.gov/eis/dmap/index.cfm>.

To me, it looks like an octopus trying to devour the West.

*Editor's note: This commentary, by Pepper Trail, was reprinted with permission from the author and High Country News. Pepper Trail is a contributor to Writers on the Range, a service of High Country News (hcn.org). He is a biologist and writer in Ashland, Ore.*

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## Save the Date

- Clark Resource Council Public Meeting with DEQ and Windsor Energy, Clark Rec Center 7:00p.m. **February 26, 2008**
- Living With Wildfire Program, Sheridan College CTEL Sponsored by Chamber of Commerce Ag Committee Contact Jamie Martin at 307-673-4303 or [jmartin@swca.com](mailto:jmartin@swca.com) **February 28, 2008**
- "Leap into Leadership" Day at the Wyoming Legislature Sponsored by the Wyoming Women's Legislative Caucus Contact Melissa Turley at 307-734-3908 or [met@equipoisefund.org](mailto:met@equipoisefund.org) for more information. **February 29, 2008**
- WORC Ag & Trade Team Meeting, Rapid City, SD Sponsored by the Western Organization of Resource Councils Contact WORC at 406-252-9672 or [billings@worc.org](mailto:billings@worc.org) **March 3-5, 2008**
- Regional Uranium Meeting, Hot Springs, SD Contact Shannon Anderson at 307-672-5809 or [sanderson@powderriverbasin.org](mailto:sanderson@powderriverbasin.org) for more information **March 13, 2008**

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