

Powder River Breaks

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Two Wyoming Students Receive PRBRC's Youth in Conservation Award

Look out the nearest window and consider the environment. From the desk of my home-office, I see a human creation that features my retired neighbor's yellow dumptruck, concrete sidewalks lining Park Street, and a utility pole intercepting wires and cables. Nestled in this urban portrait, two stately cottonwood trees pitch from side to side in the Laramie winds.

The point is that at the beginning of the twenty-first century, Wyoming's landscapes are shaped by humans. Their condition, rightly interpreted, reveals our tradition and culture as much as does a western history book, a local newspaper or our state's code of laws. The natural world is in rapid retreat in the face of an increasingly powerful industrial juggernaut. The frontier is a fading memory. As a consequence, young people should be encouraged to explore, study and conserve our natural landscapes. Earlier generations created what we see out today's windows, and our choices, recorded on the land, are creating tomorrow's environment.

In that spirit, the Powder River Basin Resource Council recently presented two \$250 "Youth in Conservation" awards for outstanding Wyoming Science Fair projects. Megan Kuper of Greybull High School conducted a laboratory study on the impact of common agricultural antibiotics on aquatic invertebrates (*Daphnia*, brine shrimp) and algae (*Euglena*, *Spirogyra*). Eric Harris of Lincoln Middle School completed a field study on the effects of streamside cattle grazing on aquatic macroinvertebrates, for example mayflies, stoneflies and beetles.

The 2003 winners of PRBRC's Youth in Conservation award were selected from a field of 11 projects that met the award's criteria: studies of Wyoming's prairie ecosystem or studies on the impacts of development (industrial, residential, commercial or recreational) on Wyoming agriculture. The judging team was composed of retired UW botany professor Dennis Knight, PRBRC organizer Pennie Vance and myself. Many thanks to members of the Youth in Conservation Committee (Kelly Barlow, Kris

Korfanta, Stacy Page) and PRBRC's staff for their valuable assistance.

This year's Wyoming State Science Fair attracted 280 projects and more than 320 students. The annual event is a partnership between Wyoming schools, the University of Wyoming, and Science Service, a non-profit organization that seeks to advance public understanding and appreciation of science.

The Youth in Conservation award was established in 2001 to pay tribute to my father, PRBRC founding member and rancher-conservationist, William L. Barlow. I am humbled to note that, at the present time, the award has been endowed by over fifty-five memorial donations. If Bill were still alive, he would be tremendously pleased that PRBRC is promoting conservation science at the pre-college level.

Wyoming students in grades 6-12 that are interested in competing for the 2004 Youth in Conservation Award should contact the PRBRC office in Sheridan at 307-672-5809 for more information. PRBRC gratefully accepts contributions for the Youth in Conservation Fund from kids of all ages.

Michele Barlow
PRBRC member



Youth in Conservation 2003 Science Fair Winners
(left to right) Eric Harris, Magan Kuper and judge Michele Barlow.

Pennaco Appeals IBLA Decision

A healthy contingent of Powder River members and landowners traveled to Cheyenne on March 13th to watch the legal action in "Pennaco Energy et al vs. the Department of Interior et al." Pennaco recently appealed an Interior Board of Land Appeals' (IBLA) 2002 decision that invalidated three federal oil and gas leases issued by the BLM for failure to take the "hard look" required by the National Environmental Policy Act (NEPA), and to conduct the proper pre-leasing analysis before issuing leases for coalbed methane development.

PRBRC and Wyoming Outdoor Council (WOC) initiated the first challenge to BLM's leasing practices back in 2000, and the first favorable ruling came in April of 2002. Then, because the original IBLA decision did not meet the "fast track" energy development schedule of the Bush administration, BLM asked the IBLA to reconsider the decision, which resulted in an even stronger statement from IBLA on October 15, 2002. Now, almost a year after the original IBLA ruling, Pennaco has appealed the initial IBLA ruling. The hearing was held in Federal District Court before Judge Clarence Brimmer. Pennaco was joined in their appeal by the State of Wyoming and the Petroleum Association of Wyoming (PAW), and defendants in the case were the Department of Interior, the Wyoming Outdoor Council, the Natural Resource Defense Council, and Powder River Basin Resource Council, represented by Susan Daggett of

Earth Justice-with additional testimony from Tom Darin of the Wyoming Outdoor Council. The plaintiffs argued that IBLA had failed to make a "rational" decision based on all the evidence provided in the case, and declaring their conclusions to be "at war with the uncontroverted facts."

Judge Brimmer declared toward the beginning of the hearing that he was "not really sure of the differences between coalbed methane production and conventional natural gas production." When it came time for the counterpoints from the defendants, Susan Daggett and Tom Darin took considerable time to explain the unique impacts of coalbed methane, and why BLM should not have issued the three leases in question before doing the proper analysis. They also focused on NEPA, particularly on the public involvement aspect of the law. "I am here to represent landowners in this case," said Ms. Daggett, "and to see that the private property rights that will be affected by the leasing weigh in on the decision." During her testimony, Judge Brimmer made the comment that "The ranchers with the cause are concerned, I think, because the splitting of surface and mineral estates are having consequences that were never anticipated." We can expect a ruling on the case in the next few months.

Gillian Malone
PRBRC Staff

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Powder River Files Protest of Final EIS

On February 18th, just under the wire, Powder River sent off its formal protest of BLM's Final Environmental Impact Statement for coalbed methane development in the Powder River Basin. The BLM is proposing around 40,000 new CBM wells, while over 12,000 wells are already drilled and producing. The primary focus of the protest was BLM's failure to satisfy a number of requirements of the National Environmental Policy Act (NEPA), the Federal Land Policy Management Act (FLPMA), the Clean Water Act, and the Clean Air Act.

First of all, we questioned the validity of the federal leases, themselves, pointing to two rulings the Interior Board of Land Appeals made in our favor, wherein the IBLA determined that BLM had failed to do the required pre-leasing analysis—a stand that was reconurred by the Department of Interior on February 23rd in the Wyoming 10th Circuit Court (see related story). Yet no mention was made of the existence of such a case in the Final EIS, we pointed out.

Next, we asserted that BLM had failed to take the required "hard look" at the impacts of the existing 12,000 wells, combined with drilling an additional 40,000 wells, as required by NEPA. Nor did they look at the severe economic impact on landowners of the drilling and development of these wells, we said, not to mention providing the financial assurances to cover the cost of reclamation, which one of our expert consultants, James Kuipers, predicted to exceed a billion dollars.

We particularly emphasized the fact that BLM

should have prepared a supplement to the Draft EIS, in order to give the public an opportunity to review and comment on the considerable amount of new, crucial information included in the Final. This serious shortcoming is a violation of NEPA's "public participation and scrutiny" requirement. New information was provided on air quality impacts, and new ways of analyzing air quality impacts were employed, using a 420-page technical support document. New information was also provided on surface and ground water impacts—another 230-page document that includes new assumptions and modeling techniques. Also new was critical information on aquifer recharge rates and hydraulic connections between aquifers not discussed in the Draft EIS. In addition, the number and extent of the impacts was markedly changed between the Draft and the Final EIS, with more roads, pipelines, discharge water containment pits, and acres disturbed than the Draft indicated.

The protest also pointed out that the Final EIS failed to consider the full range of reasonable alternatives specifically required by NEPA, including alternatives that are more environmentally protective than the two action alternatives analyzed by BLM. Only one level of development was offered—the level proposed by industry, we said. The Final document is devoid of alternatives prescribing best available technologies for air and water impacts, nor is there mention anywhere of a phased level of development.

Regarding impacts to groundwater, the protest faults

Continued on page 5

PRBRC Meets with New DEQ Director

On March 16th, Concerned Citizens of Platte County met with John Corra, the new director of the Department of Environmental Quality to discuss hogs, odor and water quality. In general the group was pleased with his candor and especially appreciated his extensive knowledge of Hydrogen Sulfide. KD Kneeburg of CCPC was present to explain the PRBRC affiliate's map of Platte County showing where the four hog factories are and where odor complaints are coming from.

Mr. Corra listened and entertained questions about the effectiveness of different departments in DEQ, from the citizens' point of view. He made no promises to the group and said that he would be meeting with industry people as well.

On March 17th, Powder River held a luncheon meeting at the Sheridan Inn with John Corra and landowners and PRBRC members who are being adversely affected by coalbed methane development. Also attending the meeting were two Sheridan County legislators, Senator Bruce Burns and Representative Jack Landon. The purpose of the meeting was first, to introduce ourselves and the organization to the new director, in order to establish a working dialogue, and second, to provide a forum for Powder River members to describe specific problems they are having with CBM development (particularly in those areas that fall under the jurisdiction of the DEQ), and to suggest possible solutions.

John Corra—who Governor Freudenthal plucked directly out of the trona industry for this appointment—was quick to humble himself to the group. First with the admission that he knew "next to nothing" about coalbed methane, and then with the announcement that he wished to "set the record straight" about his position with industry. "I don't have a job after this job is over," he said. "After four years are up, my position in the trona industry won't be there." He was no doubt attempting to quell the group's justifiable concern about allegations that he had merely taken a leave of absence from the trona industry in order to accept the DEQ position. But apparently the confusion derives from a health insurance policy he will continue to carry from his former job.

For the next four hours landowners offered their testimonies while Mr. Corra jotted down notes, often stopping



Don Kneeburg and John Corra

people to ask a question or to clarify an issue. One of the issues that falls directly under DEQ's jurisdiction is the water quality of CBM discharge or "waste water." Ed Swartz broke the ice, declaring that water discharges into on-channel reservoirs up stream from him that are periodically released into Wildcat Creek are interfering with his 100-year-old water rights. "I had to let a couple of good floods go by a while back," he said, "Because it takes 2 weeks to get a water sample back, and I could not be satisfied that the water was good enough to irrigate with."

Phil Hoy described a CBM discharge reservoir above his welding shop and trailer court that is flooding him out, with sometimes as many as 120,000 gallons of water going into the ground at a time. "There are two state authorities that are permitting these reservoirs," he said, "And they are hurting other people."

Another issue brought to Corra's attention is the cumulative impact of unregulated drilling pits used for CBM production. Jill Morrison suggested that DEQ should require CBM operators to use a "closed loop" drilling system, rather than allowing the use of unlined drilling pits for disposal of drilling fluids, drained motor oil, and sometimes other toxic substances, which operators may simply bulldoze over upon completion of a well. Niles Veal, who works in the mining industry himself, pointed out that requiring construction permits for all "sites and disturbances" might be a way for the state to track what's going on out on the ground. John Dewey

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Powder River Basin Resource Council (PRBRC) is a grass-roots organization of individuals and affiliate groups dedicated to good stewardship of Wyoming's natural resources. PRBRC 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.

PRBRC 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 PRBRC include public education, community organizing and lobbying as permitted on behalf of its membership. PRBRC is a non-profit, 501 (c)(3) tax-exempt organization.

In addition to the "Powder River Breaks" (a bi-monthly newsletter), other publications of PRBRC currently available free include: Coalbed Methane Monitor & Biological Weed Control 1996.

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

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From the National Energy Front

Wyoming Rancher Asks Congress to "Do It Right"

On March 19th, Eric Barlow submitted testimony to the House Resources Committee, urging Congress to make the oil, gas and coalbed methane industry "Do It Right," and protect private property rights. Although a spring blizzard prevented him from actually traveling to Washington, D.C. to appear before the Committee, Pat Sweeney of WORC read the testimony on his behalf. Barlow made the following recommendations to the House Resources Committee:

1.) Private property rights must be protected by requiring surface use and damage agreements, and by improving notification to landowners. 2.) Water resources must be protected by requiring the replacement of water supplies affected by oil and gas operations, reinjection and treatment of coalbed methane produced water, and water management plans. 3.) The oil and gas industry must be held accountable for clean-up costs and damages by instituting a program to clean-up abandoned oil and gas wells, by requiring complete and timely reclamation, by requiring higher bonds, and by beefing up Bureau of Land Management inspection and enforcement program. Eric's testimony can be read in its entirety on our website, www.powderriverbasin.org

When the House Energy Bill came up for a vote, Wyoming Congresswoman Barbara Cubin voted against an amendment authored by Tom Udall of New Mexico that would have provided important surface owner protections. The two editorials below address Udall's amendment, and what it would have accomplished.

The following Casper Star-Tribune Editorial appeared in the April 6th edition of the newspaper, and is reprinted here with permission.

Amendment Would Protect Ranch Lands:

Conflict between surface and mineral rights will intensify

Oil, gas and coalbed methane development are important to the energy security of the United States. However, as such development increases in the Rocky Mountain states, it intensifies the inherent conflict between those who own the surface rights of the land on one side and the federal government which holds title to the mineral rights and its lessees who want to produce the minerals on the other.

Ranchers, farmers and other landowners need some real assurances that they will be treated fairly in disputes regarding agreements with those who own or lease the mineral rights under their land. Many ranch families have lived on and worked their lands for generations only to see the quality of their land threatened by the development of federal oil and gas leases.

Rep. Tom Udall, D-N.M., offered a surface owner property rights amendment to the energy bill being drafted by the House Resources Committee. It was defeated by a slim majority of the committee, 24-21.

Rep. Barbara Cubin, who has often argued for the primacy of private property rights, voted against Udall's amendment. Cubin said the problem should be solved at the local level. That argument seems empty when one reads the Udall amendment.

The Udall amendment would help implement surface-use agreements prior to oil and gas development that would improve and facilitate reclamation and clean up of a project site both during and after the project's completion. The amendment would ensure a legal remedy for landowners so that reclamation and clean up of their land is guaranteed. The amendment requires oil and gas companies to secure a written surface-use agreement with the surface landowner prior to beginning drilling operations. The company and the landowner have 180 days to reach such an agreement, or the matter is turned over to third-party arbitration for resolution.

The amendment would also require the companies to "secure a bond or other financial assurance that covers the cost of reclamation of the damages to the surface, including but not limited to damages to crops or fields, full reclamation of soils, surface impoundments, and replacement of water resources." Surface owners, under the amendment, have a right to participate in the determination of the amount of a bond or financial assurance.

The Udall amendment is balanced in its approach to a serious problem. The amendment actually implements local control at every step, if by local control one means negotiations between a rancher and an oil company that has leased the mineral rights under the ranchers land.

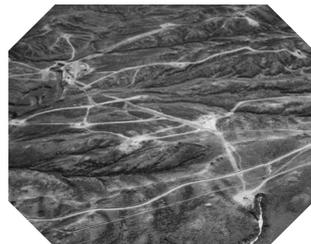
The conflict between surface landowners and those who own or lease the mineral rights will not evaporate, as the congresswoman argues, because a federal agency issues a directive that requires mineral rights owners or lessees to negotiate "in good faith." The Udall amendment would have been a step in the right direction.

LightHawk Seeks Pilots

An environmental aviation organization with headquarters in Lander, WY is actively recruiting volunteer pilots in the Northern Rockies. To join our volunteer pilot team, the minimum requirement is 1000+ hours as pilot-in-command. Please contact Susan Benepe, Rocky Mountain Program Manger to find out more information: 307/332-1642, sbenepe@lighthawk.org.

Aerial photos taken on a Lighthawk flight which document the changes to the landscape as a result of CBM development.

Photos: Ann Fuller



Powder River Basin Developed

There is growing awareness across the United States that the federal government's pilgrimage for "energy security" is placing an ever-increasing burden on western landowners, particularly those that own the surface of a "split estate." The split estate conundrum is revealing the true colors of politicians such as Wyoming's Congresswoman Barbara Cubin, who claims to be concerned about surface owners while voting against them. The split estate is a dilemma that even has various officials in the Department of Interior scrambling around behind closed doors spitting out the odd memorandum of placating verbiage. The uneasiness is understandable, as private property rights are core to so many freedoms we enjoy in our democratic and capitalistic system-in fact failing to promote them might well be considered un-American.

However, despite the groundswell of public concern, and the valiant efforts of landowners and citizens groups working to even up the stakes of the split estate predicament, there has been little progress. Our efforts and suggestions have been rebuffed, replaced with empty promises that must be exposed for what they are: propaganda that would make an Iraqi Information Minister uncomfortable.

While touted by Representative Cubin as protecting private surface owners' rights, BLM's recently released "Instructional Memorandum" (IM) does little more than provide a review of existing law, and the procedural steps BLM will follow in implementing it. The IM makes no substantive change to the current situation. It does not level the playing field. It does not make whole the property rights of thousands of landowners over millions of western acres. The IM does, however, reconfirm by its existence and content, the dominance of the mineral estate over the surface property. The true effectiveness of the IM can be gauged by the overwhelming silence emanating from industry. If it truly protected the rights of surface owners, as BLM vows it will, surely it would have elicited a response from industry.

During the preparation of this document, BLM gave me their personal promise that a draft would be released for public review and comment. This did not occur. Instead, the IM release was orchestrated to coincide with the House Resources Committee votes on the Energy Bill, thus providing temporary cover for politicians like Cubin to oppose such reforms as Representative Tom Udall's surface owner protection amendment. Now that the smoke has cleared from this trench of burning oil, the true intent of the IM is clear. It is simply a continuation of the status quo, and industry's right to post a small bond for the privilege of running slipshod over people's land.

Congresswoman Cubin has suggested that any meaningful reform of the split estate issue must happen at the local level in order to be effective, because how could we possibly trust the federal government? While a great deal of local effort has been expended by numerous local participants on a variety of local energy development issues-there is still reason to believe the federal split estate issue should be addressed at the federal level. I believe that because federal congressional action caused the problem in the first place, federal congressional action should correct it. Wyoming's delegation has put plenty of effort into sorting out the "split estate" issue between a few coal mines and gas development companies in northeast Wyoming. (Ah, but maybe what is good for the goose isn't so good for the gander. After all who gets the golden egg?)

There have been countless references to the virtues of "good faith" negotiations in the split estate arena. This is a noble and praiseworthy idea, but it lacks the one thing that would actually make it functional, which is equality among the stakeholders. If such equal positioning were in place, "good faith" could be replaced by "good business." Good faith requires the landowner to rely on the benevolence of industry for conflict resolution. I have been bludgeoned at the "negotiating" table often enough to realize that until all stakeholders are on equal footing, industry's statement of "good faith" will continue to be, "We're holding all the cards-Get the picture-Neighbor?"

Nonetheless, there is broad based acknowledgement of the inequity that exists in the current situation, which is a significant first step toward achieving an amicable, "win-win" position for all stakeholders. This situation is ripe for a coalition of the willing. I invite all stakeholders to join me in removing the burden that has been placed on landowners. What we need now is the leadership to take up this worthy cause. Senator Enzi and Senator Thomas have a unique opportunity to stand up for surface owners, as the Energy Bill reaches the Senate floor in early May. A surface owners protection amendment like Representative Udall's in the House, introduced with no smoke screens to obfuscate the issues, should pass readily, especially if Wyoming's Senators lead the way.

Eric Barlow



Eric Barlow, PRBRC Member

Task Force Meets to Deal with Air Quality Monitoring in Newcastle

Newcastle Action Group members expressed cautious optimism after two meetings of an Air Quality Task Force convened by the Wyoming Department of Environmental Quality, Air Quality Division. "It's a first step towards meeting the goal of cleaner air in the Newcastle area," said Peg Christie of NAG.

Dan Olson, head of the Air Quality Division of the Wyoming Department of Environmental Quality, brought together members of his department, members of NAG, representatives from the Wyoming Refining Company, and Dr. David Barber of the Wyoming Department of Health. The first meeting was also attended by Jennifer Chergo from the Environmental Protection Agency. The purpose of the task force is to sift through information and find the best way to determine what should be monitored, and the most cost effective way to do that monitoring. Mr. Olson stressed that even if the refinery is in 100% compliance, it will never have zero emissions.

The second meeting of the Newcastle Air Quality Task Force, held on March 25th in Gillette, targeted the monitoring of particulate matter as the easiest and most cost effective first step in analyzing emissions and their origins in the Newcastle area. The Wyoming DEQ has particulate monitors available to the public, as well as extensive experience in operating them.

Particulate monitors trap airborne particles such as soot and dust on a filter that is removed and sent to a lab for chemical analysis. The analysis can detect the presence

of a variety of materials, including heavy metals. The sampling is usually done on a six-day rotating schedule.

As the effort continues, the task force will investigate whether to use monitors for other pollutants such as volatile organic compounds (VOCs), including toxic compounds, sulfur dioxide and oxides of nitrogen.

Wyoming Refining Company and Newcastle Action Group are asking local citizens to fill out and mail in Odor/Symptom logs that will be available in self-mailers at various locations in Newcastle. People can also request a copy of the log by email from doprbrc@coffey.com. Simply put the words "odor symptom log" in the subject line and request the log either by email or send an address where a self-mailer can be sent. When filling out the log, it is very important to note the location, date and time of day where the odor is encountered and what if any physical symptoms were experienced. In addition, it would be extremely helpful if some approximation of temperature, wind speed and direction could be provided. Names are optional. This information will be shared with all members of the task force.

Vickie Goodwin
PRBRC Staff

EQC Inaction Adds to the Stink for Wheatland Folks

The following article, representing Concerned Citizens of Platte County (CCPC), appeared as an op-ed in the April 6th edition of the Casper Star-Tribune

The odors produced by large confined hog farms pose a risk to public health, and lessen the quality of life for people who live nearby. Not only do these people suffer from upper respiratory illnesses, depression, fatigue and nausea, they find it impossible to enjoy something as simple as an outdoor barbecue. In addition, families feel helpless and suffer economic distress due to lowered property values.

Every citizen has the right to breathe clean air and live in a healthy environment. Large confined hog facilities must be held accountable for their actions. No individual's quality of life should be devalued by the actions of another.

This is the message that Concerned Citizens of Platte County (CCPC) and Powder River Basin Resource Council (PRBRC) were trying to convey to the Environmental Quality Council in a petition requesting a change in the odor rules for swine facilities that house more than 2,500 pigs. Currently, all industry in Wyoming is given the gift of diluting odiferous air seven times with clean filtered air. If a representative from Wyoming's Department of Environmental Quality Council's Air Quality Division can still smell an odor after the dilution, the facility producing the odor may be issued a Notice of Violation.

Folks in Wheatland and Eastern Laramie County found that this standard was too lenient to protect them from the odors emitted by the swine operations located in the counties. Using the process available to citizens, PRBRC, CCPC and affiliates in Laramie County and Goshen County petitioned the Wyoming Environmental Quality Council to change the rule, making it more stringent for large confined swine feeding operations-hog operations that house 2,500 pigs or more.

The process took well over two years. When the council first heard the petition, in August 2000, council members denied the groups a hearing because they felt more information was needed. The next request for the EQC to hear the petition was "lost in the mail." Another petition was sent in February 2001. That petition requested a meeting to discuss the petition be held in SE Wyoming, and the council finally heard the request in February 2002. After hearing an excellent presentation by CCPC members, the EQC agreed to a public hearing on the petition (to be scheduled at a future date). Several obstacles were placed in the way, such as an opinion from the Wyoming Attorney General's office as to who paid the costs of such a hearing. The AG's office issued the opinion in April 2002, but the hearing was not scheduled until January 2003.

At the Jan. 16th hearing in Wheatland, EQC members listened to eight hours of comments. Sixteen people spoke in favor of the petition and three industry representatives spoke against the change. Doug DeRouchey, manager of Wyoming Premium Farms in Wheatland, attended the hearing but left the meeting early, so when council members requested that he respond to questions, he was not available. In the end, council members decided to allow more time for public comment and left the comment period open until Jan. 31st. The petitioners agreed to respond to comments by Feb. 7th

so the council could make a decision before new council members took office on March 1st.

The petitioning groups, made up of ranchers, teachers, power plant workers and retired folks, worked very hard to follow the rules and spent many hours reading the transcript of the hearing and the written comments, and researching and preparing responses for the council.

Among the written comments was a letter from Mr. DeRouchey stating that he felt the petition violated his 14th Amendment rights. He also stated, "In the Wheatland area, we have people that have read or heard that the pig farms stink and conclude every time they stick their head out the door and smell some unpleasantness that it must be coming from the hog farm." (thereby insinuating that people only think they smell hogs.) However, WPF has been cited twice for violating the odor standard.

On Feb. 13th, the EQC discussed the petition and spoke of a tour that three members of the council had taken with Doug DeRouchey on Feb. 7th, one week after the public comment period had ended. A study that was downloaded that morning from the Internet about hog operations in Ireland was also discussed. The council tabled the petition.

On Feb. 28th, the council again discussed the petition, and a memo about the tour of the hog facilities was read into the record. This memo, written by councilmember Thomas Dunn, details the tour by Olin Simms, John Morris and Mr. Dunn. The memo tells about the WPF operation (information that WPF could have included in their written comments) and then goes on to comment that Mr. Dunn couldn't understand how some people in the area could smell the odor. He spoke of the Wheatland municipal sewage lagoon and indicated citizens might be smelling that and not the hogs. It was very clear that Mr. Dunn had not heard or read any of the information that explains how odor plumes travel and how chasing odor is somewhat like chasing a ghost.

But the real frustration for the petitioners was the inability to comment on Mr. DeRouchey's information. We don't know what all he said, but he seems to have convinced at least one member of the council that hog manure doesn't stink.

At the Feb. 28th meeting, council members spent a great deal of time justifying their tour with its ex parte discussion with WPF and the extra research. Then the petition was once again tabled because the council still felt they didn't have enough information.

What these Environmental Quality Council members did may have been legal; we aren't attorneys and we don't know. But was it ethical? Would this have happened if Concerned Citizens of Platte County were a multinational corporation with a battery of lawyers on retainer? And by the way, citizens in Platte County are still reporting noxious odors from the four hog factories located there.

Cathy Wilson
PRBRC Member

The Coalbed Methane "Road Show" Goes Canadian



Above: Jill Morrison, Spiro Vassilopoulos and Gwen Lachelt

Over the last couple of years PRBRC members and staff have traveled to numerous communities in the Western U.S. to speak about the impacts of coalbed methane development in the Powder River Basin. Recently, PRBRC expanded that scope internationally into Canada. PRBRC and the Oil and Gas Accountability Project (OGAP) were asked by West Coast Environmental Law (WCEL) in Vancouver, British Columbia to come up and speak to several communities in British Columbia about our experiences

with CBM development in the Powder River Basin and the San Juan Basin. So in March, I spent an amazing week traveling with Gwen Lachelt of OGAP from one end of B.C. to the other showing slides and talking about our experiences with CBM development in our areas.

Our tour took us into three remote rural communities. We embarked from Vancouver by float plane over to Vancouver Island, to the community of Courtenay, where CBM development is in the experimental stage. We had caused quite a stir in the community even before we arrived, because an oil and gas developer by the name of Spiro Vassilopoulos (hailing from Texas and Wyoming) had threatened—then promised—to sue us if we tried to hinder CBM development in B.C.; but after we discovered we had a friend in common—a Greek compatriot who just happens to practice environ-

mental law in Colorado—he dissolved into smiles.

After Courtenay, we returned to Vancouver for a presentation, and then ventured to the far north of the province. In order to reach our next destination, the community of Hudson's Hope, we had to fly into Fort St. John, which is a major oil and gas center, and then continue by car to the beautiful Peace River Valley. Here we experienced 30 degrees below zero and horizontal snow which actually reminded me of the Powder River Basin. From there we traveled (by way of Calgary) to the far south and the popular ski town of Fernie.

We spoke to over 350 citizens in the communities we visited about problems our communities have experienced with CBM development, and how it could be done better. We enjoyed our visits with the concerned citizens, and encouraged them to get educated and involved before the development begins in earnest.

According to Karen Campbell, staff attorney with WCEL, who organized the tour, and joined us on the tour, the Canadian government is promoting CBM development across the British Columbian and Albertan provinces. Ironically, after I arrived in B.C., I learned that the B.C. government's new motto is "We're open for business" — boy did that sound eerily familiar. The government is also keeping most of the information on CBM development secretive under their current "experimental scheme." Industry, however, was very interested to hear what we had to say and see our pictures; they were present at all the community meetings. At one point during our trip, a landman with whom we were visiting said to us, "It's sure hard keepin' up with you girls."

Jill Morrison
PRBRC Staff

PRBRC Soon to Open Office in Laramie

PRBRC will be expanding to cover the southern part of the state with a full time staff member. Pennie Vance is scheduled to set up shop in Laramie within the next two months. Along with her work in Laramie, the plan is for Pennie to be in Cheyenne 2 or 3 days a week, where she will be in close contact with Wyoming's administrative and judicial offices, various state agencies, and legislators, working to keep PRBRC more in the forefront, and to strengthen our position when the legislature is in session. She will continue her work to support the various PRBRC campaigns, and continue as lead staff on Youth in Conservation and Agriculture issues, as well as doing general organizing.

"After having remained in Cheyenne during the entire legislative session this year," Pennie said, "it became clear to me that without the same kind of continuous presence in Cheyenne that other organizations and industries have, PRBRC is at a decided disadvantage when the legislature is in session. We need to work on and keep fresh,

the relationships that often drive the direction of legislation." Pennie also indicated that she found herself frequently being a resource for the staff in Douglas and Sheridan, because she could easily contact state agencies and do the kinds of research that are often needed in PRBRC campaigns.

Opening an office in the southern part of the state (in order to be close to Cheyenne) is a move that PRBRC Director, Kevin Lind has contemplated for some time, but budgetary constraints have always prevented it from actually happening. Pennie is making the move accomplishable by agreeing to work out of her home, at least in the beginning. Although we know it is a good move for the organization, we will miss her professionalism, her great insight, and her camaraderie in the Sheridan office.

PRBRC Staff

State Rules For AFO/CAFO Operations

Wyoming's Department of Environmental Quality, Water Quality Division will be publishing the state's proposed rules for Animal Feeding Operations and Confined Animal Feeding Operations in April 2003.

This rule with reference a Wyoming Pollution Discharge Eliminations System (WYPDES) and will contain all the basic elements of the federal rule. The rule will add buffalo to the CAFO definitions. 1,000 buffalo will be defined as a Large CAFO, 300-999 buffalo will be defined as a Medium CAFO and less than 300 buffalo will be defined as

a small CAFO.

Please plan to review and comment on this new rule. You can get more information from your local Conservation District or by contacting either PRBRC office.

Vickie Goodwin
PRBRC Staff

Protest of Final EIS Continued from page 2

BLM for not addressing the quantitative impacts of water infiltration, changing water chemistry, and long-term aquifer depletion, as well as the impacts to springs and water wells dependent on groundwater sources. These are areas BLM admits are "not well understood."

We also pointed out that they did not adequately research or analyze the impact of discharging 1.4 trillion gallons of methane waste water—primarily into huge infiltration pits on largely private surface—to surface waters. And we outlined our concern for the inadequate bonding and reclamation planning on these impoundments.

Air quality was another of our concerns, particularly the impacts directly associated with the development of roads, well pads and other infrastructure, and simply fugitive dust from all the construction traffic. BLM failed to look at the public health effects that have already been demonstrated to exist with ongoing CBM development, not to mention the effects on livestock and wildlife.

As with the Draft EIS, we stated in our protest that BLM inaccurately portrayed the social and economic impacts of the project by unduly focusing on increased revenues, while at the same time ignoring substantial social considerations, including the effects of noise, loss of solitude, traffic and dust, and community and local infrastructure effects. The inevitable boom-bust cycle, with both social and economic impacts, was downplayed, as was the already occurring property devaluation. Also under economics, we pointed out that BLM made no effort to look at other viable alternatives or technologies such as water treatment options or reinjection for storage and retrieval

that might help alleviate some of the impacts.

Other areas covered in the protest were public safety concerns associated with methane migration, the cumulative environmental effects of already existing CBM development, particularly on landowners that are and will continue to bear the brunt of all the impacts, and such concerns as wildlife disruption and habitat fragmentation, which we fear could lead to an increase in threatened and endangered species. As with the Draft document, BLM put off analyzing both cumulative and long-term impacts until the permit to drill, or APD stage, and we again found that unacceptable.

Finally, we protested the relationship between BLM and the companies financing the EIS, and the hiring of Greystone as the contractor, as well as the manner in which the document was prepared. We claimed, accurately, we believe, that the EIS violates the conflict of interest and third party contracting provisions of NEPA "through the direct involvement in the EIS of the very 'Companies' that hold the federal leases on the minerals to be developed." In other words, we claimed that the companies selected the contractor that wrote the EIS, whereas NEPA regulations stipulate that the contractor must be chosen "solely by the lead agency." This glaring violation, alone, should be reason enough to send BLM back to the drawing table, but with today's political climate and our administration's insatiable thirst for gas, it will likely have little slowing down effect.

Gillian Malone
PRBRC Staff

AG Producers Called To Action On Crisis In Cattle Market Meeting

On April 17, approximately 40 ranchers attended a meeting to address the problem of packer concentration in the livestock industry. PRBRC helped with the logistics of the meeting, which featured the CEO of R-CALF United Stockgrowers of America, Bill Bullard, and Randy Stevenson of Wheatland, an independent feeder and spokesperson for the Cattleman's Competitive Market Project (which raises funds to support efforts to increase market competition).

The focus of Randy's presentation was a synthesis of economic statistics in the livestock industry, which he compiled with the assistance of the University of Wyoming—documenting the cause and effect of increased packer concentration on the depressed cattle markets in the U.S., beginning in 1994. Randy encouraged everyone to come out in support of the Senate Packer Ban Bill, S.27, the House Packer Ban Bill, H.R. 719, and the Captive Supply Reform Bill by Senator Enzi which is scheduled to be reintroduced after Easter Break.

Bill Bullard of R-CALF USA, who is an extremely dynamic and passionate presenter, concentrated on the importance of the regulations now being drafted for the Country of Origin Labeling Law (COOL), which was passed in 2002 as part of the Farm Bill. As you likely know, producers and consumers were successful, after a hard fight, in getting COOL included in the Farm Bill. Now USDA is in the process of drafting the regulations.

The experts at R-CALF see COOL as the single most important tool for US producers to restore competition in the market place, and the first step in changing the US cattle industry's current downhill course, which is driving independent producers out of business. Bill Bullard stressed the importance of producer and consumer input to ensure COOL's success. He then described the packing and retail industry's "all-out war" against COOL. When consumers see that they can buy meat, fruits and vegetables with a USA label, he predicted, the industry will have more difficulty marketing cheap imported goods.

According to Bill, the only way members of the packing and retail industry can effectively attack COOL is to convince producers that COOL is bad for independents, which they are doing by intimidation, threats, and dissemination of out-and-out lies. Their tactics have included letters to producers threatening them with ominous record-keeping nonsense, and spreading inaccurate information by speaking at bull sales and other venues where producers gather. In response to these intimidation tactics, R-CALF USA has filed two formal complaints with the Packers and Stockyards Administration against these entities for engaging in unfair, discriminatory and deceptive practices—some of which may even be illegal.

Bill Bullard said that there is an emergence of a new political power in the coalition of independent cattle producers who have decided to take charge rather than stand

helplessly by and lose their way of life. R-CALF USA of which PRBRC is an affiliate, now has almost 9000 members. Western Organization of Resource Councils of which PRBRC is a member organization represents about 8000 citizens. However, if producers and consumers don't come out en masse to take a stand, we'll likely lose this battle and that's one step towards losing the war to save family farms and ranches as well.

Producers and consumers have a lot at stake in the regulations that are now being drafted and which are scheduled to be finalized in September.

As part of this process, a series of public "listening and education sessions" sponsored by the U.S. Department of Agricultural Marketing Service will be held in several states including Montana, Nebraska and Wyoming. When asked how important he thinks it is for producers and consumers to attend these meetings and speak out, Bill Bullard said, "Extremely important." And what is as important as what is said by producers and consumers, he added, will be how many of us show up and speak out. The Department of Agriculture is looking to see just what kind of support is behind Country of Origin Labeling, he reiterated, and we really do need to pack these meetings.

Here's an opportunity for PRBRC members to make a difference in the outcome of this important process.

Please mark the date on your calendar of the meeting you can attend and get the word out to everyone you know. Closest meetings to us are: June 4/Cody, Wyoming/Holiday Inn; June 6/Billings, Montana/Holiday Inn; May 8/Kearney, Nebraska/Univ of Neb. All meetings begin at 1:00 P.M. Those who speak will be given three minutes for their presentation. The meetings are scheduled to end at 4:00 P.M. but let's hope the groundswell of support from the Ag and consumer communities will keep them going well beyond that time!

If you absolutely can't juggle your schedule to attend one of these meetings, it's extremely important that you sit down and draft a letter.

Send comments to:

**Country of Origin Labeling Program, Agricultural Marketing Service
USDA, Stop 0249, Room 2092-S
1400 Independence Avenue, SW
Washington, D.C. 20250-0249
FAX comments to 202-720-3499 or email to cool@usda.gov.**

Continued on page 8

Federal Renewable Electricity Standard a Possibility

The Union of Concerned Scientists is spearheading an effort to include a strong renewable electricity standard in the Senate energy bill. The House of Representatives has already passed a bill (HR 6) that does not include a renewable electricity standard. A renewable electricity standard would require utilities to generate a certain percentage of their electricity from clean renewable sources by a date certain. Such a federal standard would save consumers money, benefit farmers, create jobs, spur economic development, and improve our energy security.

Senator Jeffords (I-VT) is circulating a "Dear Colleague" letter with the goal of

getting as many Senators as possible to sign on in support of a federal renewable electricity standard. So far, Senators Dorgan (D-ND), Baucus (D-MT), Daschle (D-SD) and Wyden (D-OR) have endorsed the letter. Potential signers include Senators Conrad (D-ND), Johnson (D-SD) and Smith (R-OR). Dakota Resource Council, Dakota Rural Action and Oregon Rural Action are all working to bring these three Senators on board.

The Senate Energy and Natural Resources Committee is expected to mark-up the electricity title of an energy bill the week of April 28, and Sen. Dorgan has agreed to offer a 10 percent by 2020 renewable electricity amendment in the committee.

New Federal Grants are Available to Purchase Renewable Energy Systems and Make Energy Efficiency Improvements

On April 8, 2003, the United States Department of Agriculture (USDA) announced the availability of new federal grants for farmers, ranchers and rural businesses to help purchase renewable energy systems and make energy efficiency improvements. USDA's action implements Section 9006 of the 2002 Farm Bill, which authorizes \$23 million in funding for clean energy incentives each year between 2003 and 2007. A strong response to this year's program will help protect funding for future years.

It is important to note, however, that the Bush Administration has proposed eliminating this funding for fiscal year 2004. The Environmental Law and Policy Center (ELPC) is currently targeting members of the House Agriculture Subcommittee of the Appropriations Committee and asking them to support continued funding for Section 9006 in fiscal year 2004. There are no House members from the WORC states on this

subcommittee, and only Rep. Mike Simpson (R-ID) is on the full committee.

The USDA guidelines are available at www.rurdev.usda.gov/rd/nofas/2003/rep040803.txt. In addition, the Environmental Law and Policy Center (ELPC) is creating a web page where further information and resources related to these guidelines will soon be available (www.elpc.org/farmbill). You can also contact John Moore (312/795-3706) or Faith Bugel (312/795-3708) at ELPC if you have any questions.

These renewable energy "tidbits" have been provided by Kevin Williams, fact finder extraordinaire, and Field Organizer for the Western Organization of Resource Councils (WORC).

Moving Backwards As States Move Forward On Energy Policy

U.S. PIRG (Public Interest Research Group) released a renewable energy report on April 16th. Entitled "Generating Solutions, the report shows how renewable energy can boost local—particularly rural—economies, while saving consumers money and protecting the environment. The following article, reprinted from U.S. PIRG's website, describes the report and its objectives.

Washington, DC — America has the potential to generate four times its current electricity generation from renewables, not counting its considerable solar resources, according to a new report released today by U.S. PIRG.

Generating Solutions: How Clean, Renewable Energy is Boosting Local Economies and Saving Consumers Money shows that a national standard increasing the use of renewable energy to 20 percent of the U.S. electricity supply by 2020 would benefit the economy by creating three to five times as many jobs as a similar investment in fossil fuels, consumers by saving \$4.5 billion by 2020, and the environment by reducing global warming emissions from power plants by 19 percent in 2020.

"The good news is that renewable energy is coming online across the country. The bad news is that more than 90 percent of our electricity still comes from fossil fuels and nuclear power," said U.S. PIRG Clean Energy Advocate Katherine Morrison.

Pointing to recent price spikes in the natural gas market, U.S. PIRG urged Congress and the Bush administration to take steps to protect consumers from future price fluctuations and noted that increasing the percentage of electricity generated by renewable energy could save consumers money in the long run by reducing the demand for natural gas.

"By diversifying the electricity mix to include renewable energy, consumers would have alternative choices when prices rise rather than being held captive to the volatility of the fossil fuel market," noted Morrison.

The PIRG report cited examples of ways the U.S. currently uses renewable energy in 35 states, including Nevada's recent boom in renewable energy development after passing a renewable energy standard. In November 2002, Nevada Power Company signed six contracts that will add approximately 200 megawatts of renewable generating capacity to the utility's power supply. More than half of the new generating capacity will

come from wind power, with the remainder coming from geothermal power.

"Last week, 247 members of the House of Representatives voted for an energy bill that is bad for the environment and bad for consumers," said Morrison. "The Senate is expected to vote on its energy bill in May, but neither piece of legislation currently includes a national renewable energy standard that would boost production of electricity from clean renewable resources," she continued.

U.S. PIRG made the following policy recommendations:

- Create state and national "renewable portfolio standards" (RPS) to require an increase in the amount of electricity from renewable sources of energy, with the national standard set at 20 percent of power generation by 2020.
- Establish a public benefits fund to provide funds for energy efficiency programs, investments in promising renewable energy technologies, and low-income assistance programs.
- Produce national net metering standards that allow consumers who generate their own electricity from renewable technologies (e.g. a small wind turbine, a rooftop solar panel) to reduce their electric bill by getting credit for any power generated.
- Expand and extend the Production Tax Credit (PTC) for builders of renewable energy for at least five years and include wind, solar, geothermal energy, and clean biomass—specifically excluding municipal solid waste incinerators.

"While Congress is promoting legislation that would make our energy problems worse, the states are leading the way and generating solutions," said Morrison. "We urge the Senate to put America's technological know-how to work and replicate these successes across the country," she concluded.

U.S. PIRG is the national lobbying office for the state Public Interest Research Groups. State PIRGs are non-profit, non-partisan public interest advocacy groups. More information about the state PIRGs Campaign for A New Energy Future, along with the complete text of Generating Solutions, can be found at www.NewEnergyFuture.com/newsroom.

AFO/CAFO - The Final Rule

The Wyoming Association of Conservation Districts has been holding a series of meetings around the state to explain the new Environmental Protection Agency final rule for Animal Feeding Operations and Confined Animal Feeding Operations. Shane Cross and Vickie Goodwin attended the meeting in Douglas and found it to be very informative.

The new rule, which PRBRC commented on in July 2001, was published in the Federal Registry on March 3, 2003, and was to take effect on April 12, 2003.

Animal Feeding Operations will now be defined as:

- A lot or facility where the following conditions are met:
- Animals are confined, fed, or maintained for a total of 45 days in any 12 month period, (this means any 45 days and not necessarily consecutive) and
- Crops and/or vegetation are not sustained in the normal growing season over any portion of the lot or facility.
- An Animal Feeding Operations is considered a Confined Animal Feeding Operation through one of three definitions:

• Large CAFO's:

- 1,000 beef cattle or greater are confined
- 10,000 sheep or lambs are confined
- 700 dairy cows are confined
- 500 horses
- 2,500 swine weighing 55 pounds or more or 10,000 swine weighing 55 or less pounds.

• Medium CAFO's:

- 300-999 beef cattle are confined and any of the following two conditions are met - (these are termed unacceptable conditions)
- Pollutants are discharged into navigable waters

through a man-made ditch, flushing system or other similar man-made device or

- Pollutants are discharged directly into waters of the U.S. which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

• Small CAFO's:

- A designation by the Director of DEQ that the AFO is a significant contributor of pollution to waters of the U.S. considering the following factors:
- Size of the operations and amount of waste reaching waters
- Location of AFO relative to waters of the U.S.
- Means of conveyance of animal wastes and process waste waters into waters of the U.S.
- The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal waste and process waste waters into waters of the U.S. and
- Other relevant factors

Large CAFO's, as defined above, are required to be permitted. Operating without a permit is considered a violation. Federal Rules will require Large CAFO's to report annually on the number and type of animals, the amount of manure/wastewater generated, the amount of manure/wastewater transferred, and the land application acres utilized in the previous 12 months. In addition, large CAFO's will be required to submit a summary of the production area discharges and to indicate whether the nutrient management plan was developed by a certified planner. Large CAFO's will be inspected by Wyoming Department of Environmental Quality (DEQ), and inspectors will expect to see

the reporting requirements.

Medium and Small CAFO's will be expected to remove any unacceptable conditions. The new Medium and Small CAFO regulations will likely affect many of our small farmers and ranchers in that any corral or confined area that has a stream running through it will be in violation of the EPA's final rule. The Conservation District Representative noted that Environmental Quality Incentive Program (EQIP) dollars will be available to help farmers and ranchers correct this problem through means such as moving corrals or fencing off streams and piping water into the confinement area. There is no grace period for correction of areas that lie in violation of the new rule, but a member of DEQ, Water Quality Division assured the audience that they will be given a "good faith" exemption if they are trying to correct the problem. One proactive step to gain the "good faith" exemption is to contact your local Conservation District and consult with them on changes that need to be made to your facility.

If you would like more information about whether your operation is affected by the new rules, you can contact your local Conservation District, which will work with producers to learn whether there are concerns and if so, to correct those concerns. They will also help producers learn what money is available for corrections through the new Farm Bill.

NOTE: Animals are no longer considered in terms of animal units. Actual numbers are used (e.g. steer = 1 animal, heifer = 1 animal, etc.) A cow and calf are considered one animal until the calf is weaned. PRBRC pushed hard to keep a cow/calf defined as one animal, as the proposed rule was to count a cow/calf as two.

Shane Cross **Vickie Goodwin**
PRBRC Member **PRBRC Staff**

brought up the issue of enforcement, emphasizing the need for the legislature to finance state agencies charged with regulating CBM development. George Smith, a landowner on Lower Prairie Dog who has had the J.M. Huber Corporation force themselves onto his land, said, "You need to treat these companies just like any other industry, and when they do something wrong, shut them down." John Dewey thought the Oil and Gas Conservation Commission had the authority to do that, but he wasn't sure about the DEQ.

Don Spellman, who ranches out by Spotted Horse, has dealt with a total of five CBM companies, and he has found that "your contract is no better than your company. I had one company describe the road they were proposing through my place as a two-track trail, but when they came to build it, here came a D-9 over the hill pushing the road. It wasn't my idea of a two-track." The lease that company had will be up next month, according to Spellman. They put their wells in four years ago, he claimed and they stopped pumping water two years ago. Now Don is planning to test out the state's reclamation requirement. "I really feel anybody that works the land has a duty to leave the land in better shape than they found it," he said. "That's just my philosophy."

Clay and Gayla Rowley, who own land at the mouth of Clear Creek, where it runs into the Powder River, are worried about the water quality in Clear Creek and the effect it will have on their irrigated hay meadows. "The methane companies haven't reached our ground yet, but they're all around us," Clay said. "If the water in Clear Creek isn't taken care of, it will ruin those meadows." Jill Morrison of PRBRC took the opportunity to point out the need for rulemaking on water quality standards, both for electric conductivity (EC), which is currently set at 7,500, and for sodium adsorption ratio (SAR), for which there is no set standard.

Bernie Barlow described her situation on Dead Horse Creek west of Gillette, where on-channel reservoirs above her ranch threaten the creek bottom her family depends on for grazing. "These creek bottoms are made up of native grasses which provide wonderful grazing in the summer," she stated. "They are like hay meadows to us, and we don't have hay meadows on our ranch." She claimed that she and other landowners on Dead Horse Creek have protested every permit that has been issued

for in-channel reservoirs on Dead Horse Creek, beginning in 1998, with the latest one issued in January of 2003. "None of the landowners want that water coming down on them," she stated. "We would like those reservoirs to be off-channel."

Bernie also brought up a water quantity issue, using seven CBM wells on her ranch that Pennaco drilled on state minerals to illustrate her point. "We allowed them to pump water out of the Big George aquifer for three months," she claimed, "to see what the water quality was. And after three months the water level hadn't gone down—with each well averaging 85-120 gallons a minute." When the Barlows insisted they reinject the water, Pennaco bought an abandoned oil well to use for reinjection, and then claimed it didn't work. "They should have drilled a new reinjection well," Bernie said. She emphasized the fact that Don Likwartz of the Wyoming Oil and Gas Conservation Commission had told her that reinjection would be effective if it were used in a collaborative way, with staged, or unitized development. "This is what we have advocated all along," she said. We asked for storage and retrieval, not disposal via reinjection."

John Heyneman told John Corra he is bothered by what he termed "the lack of enumeration" of the state's declaration of CBM wastewater reservoirs as "beneficial use" for livestock and wildlife. He would like to see the state quantify how many livestock and how much wildlife these reservoirs are supposed to benefit. Heyneman also said he had heard the state wasn't going to issue any more permits for in-channel reservoirs. "I hope that isn't a blanket decision," he commented, "Because in some cases that's an ideal solution."

Art Hayes, who is president of the Tongue River Water Users Association, started out by saying that 30,000 acres are irrigated with Tongue River water, "and nobody is looking at the cumulative effect of putting high sodium water on our soils." The irrigators have recommended a numeric standard for sodium adsorption ratio (SAR) of half a percent at the Montana state line, but they fear the Montana Board of Environmental Review (akin to Wyoming's Environmental Quality Council) will cave in to industry pressure and reject it. "With a livable numeric standard, you have a handle on the situation," Art pointed out, "But the state of Montana was going to let the SAR go to 3.5, which would kill us with those clay soils on the

lower Tongue." The lower end of the Tongue River near Miles City has traditionally been a vegetable growing area, he explained; one irrigator even has a contract with County Market in Billings to grow watermelons. "Agriculture is constantly changing, and we have to keep up with it." The irrigators group has hired a consultant out of Billings to take soil samples as far down as six feet to measure SAR and sodium levels, and around Miles City, some of the SAR levels are already coming out around 45 at four feet depth. "I guess we're going to become record keepers," he concluded.

Jill Morrison presented Bill and Marge West's situation—the extensive damages to their hay meadows along Spotted Horse Creek—and then described how Devon has installed off channel pits which they have called "livestock reservoirs" in order to avoid bonding. The reservoirs also have a valve and discharge that would allow methane water to drain directly into Spotted Horse Creek. One of the biggest problems some landowners have described is that DEQ does not have the authority to go in and inspect a discharge situation. "It needs to be written right into the permit," she said. "Jill also pointed out that the state of Wyoming started collecting baseline water quality data a number of years ago when they were looking at water quality issues and standards, but the data has never been collated or properly analyzed. "So we can't use it," she said. Corra was also urged to meet with the landowners along the Cheyenne River regarding the huge discharge proposal Phillips is trying to get approved.

Ed Swartz managed to summarize everything in one sentence: "We are limited to 25 gallons per minute for both household and livestock wells, and the CBM industry can pump as much water as they want and call it beneficial for livestock and wildlife, and then they can pull the plug and send it down all over the folks downstream." By the end of the meeting the one thing that rang clear to everyone assembled was that John Corra is extremely approachable, and that he genuinely wants to be educated about coalbed methane—this in spite of the customary disclaimer that "not everything that happens in this state is going to satisfy everybody." Now it is up to us to keep up the pressure for the much needed changes we have suggested within DEQ, to continue the education process, and to maintain the dialogue we have initiated.

Cattle Industry Talking Points

To help with what we need to tell USDA (and everyone else you talk to) about COOL, following are a number of talking points drafted by R-CALF USA. Email or call the PRBRC office for the detailed comments on COOL which PRBRC signed onto.

Congress required USDA to implement mandatory country of origin labeling by September 30, 2004. The USDA just began working on mandatory labeling on April 9, 2003, the date the comment period for the voluntary program ended. Below are Guidelines we want USDA to follow when writing its rules for mandatory labeling. These Guidelines will ensure that COOL is implemented in a least-costly, least-burdensome manner, while maximizing benefits for producers and consumers and minimizing the burden on packers, processors, and retailers.

1. USDA should require all imported livestock to be permanently marked with a brand or tattoo indicating its country of origin before it enters the United States.
 - a. All livestock not marked with a foreign brand or tattoo should be considered born and raised in the USA.
 - b. There would be no need for mandatory recordkeeping for livestock producers because the origins of livestock can be determined by whether or not an animal has a foreign marking.
 - c. If producers want to claim that foreign livestock were fed in the United States, they should be allowed to voluntarily keep records to substantiate their claim.
2. USDA should establish a "grandfather" clause that will allow all livestock presently in the United States to be cleared from the system without affecting their value.
 - a. This can be accomplished by simply using Guideline 1 above as the single means of identifying origin of livestock.
3. USDA must ensure that retailers cannot impose a greater burden on suppliers

than is required by the law or the rules.

- a. Retailers and packers have already signaled their intent to put a greater burden on suppliers than is required by the COOL law. For example, some packers are demanding that producers obtain a third-party certification of origin.
- b. USDA can accomplish this by stating that only USDA may conduct audits, and all suppliers and retailers must rely solely on the markings on livestock or the representations made on sales transaction documents.
4. USDA should utilize existing paperwork transactions already used between packers, processors, and retailers to add a country of origin designation.
 - a. As a service to the industry, USDA could develop standardized forms for use where no pre-existing documents are adaptable.
5. USDA should interpret the law to maximize the number of commodities that will be labeled.
 - a. Enhancing a commodity by adding water, flavoring, salt, or other seasoning should not exclude a commodity from the labeling requirements.
 - b. Cooking, curing, roasting, or restructuring should not exclude a commodity from the labeling requirements.

Note: This document was prepared by R-CALF USA and is consistent with R-CALF USA's formal comments submitted to USDA. R-CALF USA's legal advisors are researching how these proposals might be affected by both trade law and domestic law. Updates will be provided as R-CALF USA continues to develop the cattle industry's best approach to labeling.

Pennie Vance
PRBRC Staff