



Annual Meeting Highlights Importance of Citizen Action

Powder River's annual meeting is always an opportune time for members and allies to socialize, network, and reaffirm the power of numbers. Over 100 people gathered in Sheridan on November 6 to hear Wes Wilson speak on the *Health Risks of the Oil and Gas Industry and the Vital Role of Citizens*. Wilson is a retired Environmental Engineer for the Environmental Protection Agency (EPA) in Denver. During his thirty-year tenure at the EPA, Wilson reviewed environmental documents and helped to develop programs that help mitigate the impacts of industrial development.

Wilson received the EPA Bronze Medal four times, an EPA International Assistance Award, and the BLM's Four C's Award for his insights on coalbed methane development. When an EPA study concluded in 2004 that hydraulic fracturing "poses little or no threat" to drinking water supplies, Wilson was one of several EPA scientists who challenged the study's methodology and questioned the impartiality of the expert panel that reviewed its findings. Wilson went public with his concerns and sought protective status under the whistleblower statutes. Since his retirement from EPA, Wilson has been speaking out on the part of communities that are impacted by oil and gas operations.

"We were very excited to have Wes Wilson come and talk to Wyoming citizens," said 2010 Chair Bob LeResche. "Too often, people get discouraged and feel that their voice isn't heard by government. Wes has a different message—one of hope, and how citizens can



LJ Turner presenting at Powder River's business meeting

make a difference in their communities."

Wilson started off the presentation by pointing out that, while natural gas is currently favored over coal as a burning fuel, the industry has been recently scrutinized for its use of hydraulic fracturing (aka "fracking") in tight sands formations and shale sands—which injects thousands of gallons of water, sand and toxic chemicals into underground aquifers. Fracking essentially allows industry to "get blood from a turnip", he said.

Although the complete list of chemicals still remains proprietary, Wilson pointed out, industry is known to use over 900 chemicals. And two-thirds of these chemicals are unknown to science, which means their effects have not been studied and they are not regulated. "While fracking solutions are mostly water," he said, "there are still dangers—After all, sewage is 99% water." Wilson also cautioned that wells can go bad and "accidents happen every day,"

with leaking pits, spills, and mismanagement of production fluids.

Wilson stressed the importance of private citizens' efforts to improve laws and regulations that protect public health. "It is hard to sustain passion, but we have to," he said. "It's what we count on in America right now." Wilson is pushing for the passage of the *Fracturing Responsibility and Awareness of Chemicals Act* (aka the "FRAC Act"), which will close the "Halliburton Loophole"—a provision from the 2005 Energy Policy Act that exempted fracking from regulation under the Safe Drinking Water Act. "I'm not sure if we have a future for the FRAC Act in the new Congress," he said, "but if we do it will depend on groups like this. If Nixon can go to China, the new Congress can deliver the FRAC Act."

Wilson congratulated Wyoming on taking recent steps to require limited disclosure of the chemicals used in fracking, adding that federal disclosure laws and proper regulation of fracking operations are still needed. In addition to exemptions for hydraulic fracturing, he pointed out, the oil & gas industry enjoys exemptions under most of our environmental laws, including the Clean Water Act and the Clean Air Act. "Oil and gas drilling is like the Wild West," said Wilson "It's exempt from most environmental laws." He stressed the importance of increased regulations and oversight, adding "All of this wouldn't be an issue if we didn't have people ill."

Shannon Anderson
Powder River Staff

Powder River Board Elects New Leadership

At their first meeting, the 2011 Powder River Board of Directors elected new officers. Wilma Tope of Aladdin is the new Chair. Wilma is a founding member of Powder River's affiliate, Ranchers & Neighbors Protecting Our Water, which has organized citizens in Crook County to protect water resources in the face of uranium mining proposals. The new Vice-Chair is Pete Dube of Arvada, who is a rancher and hunting

outfitter. Pete has been vocal on coalbed methane issues in the Powder River Basin. Rounding out the slate of officers are Steve Adami of Buffalo who will remain as Treasurer and Diane Wilkie of Sheridan who was elected Secretary.

Shannon Anderson
Powder River Staff

Message from the Chair



Hello from your newly elected Board Chair. I am greatly honored to have been chosen to serve in this important position. I would like to take this opportunity to thank Bob LeResche for his past 5 years of dedication to this seat. Using his superb writing skills and eloquent speech, he led this organization on a path of many successes. We are truly grateful for his leadership and service, and we will continue to rely on his guidance as a board member at large.

Now a little bit about me. I was raised on a farm in South Dakota, graduated as a Registered Nurse in 1977, and have been married to my husband Jay for 32 years. We have 3 children. We have ranched our entire married life.

In response to impending uranium mining in our area, we formed the group Ranchers and Neighbors Protecting Our Water. The group became an affiliate of PRBRC in 2007. I am Vice President of the group, and continue to be actively involved with uranium issues in the area, and throughout the state. I have been Vice Chair of Powder River for the last 2 years.

I have learned so much while being a board member, and continue to learn from the other board members and from our great staff. I look forward to an exciting and challenging year, and will continue to follow the policies set out by the members of this grassroots organization. Thank you for your support.

Wilma Tope

Message from the Departing Chair

Our Annual Meeting marked my last day as Chair of Powder River. I'm very proud to have led this exceptional organization, and will miss the frequent contact with our outstanding staff and representing my fellow members in a broad variety of situations.

During five years as Chair, and fifteen years since selling our homestead in Alaska to become a landowner in Wyoming, I've certainly learned a lot. This is a stupendous state. The mountains, the high plains and the wildlife. The wildlife! I often see more in one day on our ranch than I would in a month as an Alaska Game Biologist with an aircraft. And the people, the good friends we have made at Powder River and through Carol's CSA (Community Supported Agriculture) produce business, are priceless.

Other Wyoming facts are not so pleasant. We have been a energy colony for so long, many no longer realize it. The energy industry rules here, and the state government is its chief apologist and faithful servant. The worst threat to ranchers with ruined wells near Gillette, destroyed hay meadows near Spotted Horse and poisoned water in Pavillion is not the energy industry—who quite understandably ask for free rein—but rather the state government that grants them that rein. And grants it contrary to the interest of Wyoming's natural citizens (as opposed to corporate citizens), Wyoming's environment, and Wyoming's future.

Now there are certainly some admirable public servants in DEQ (Department of Environmental Quality), the WOGCC (Wyoming Oil and Gas Conservation Commission), the State Engineer's Office, and occasionally maybe even in the Governor's office. But there are others who—maybe instructed by political superiors—have somehow lost track of whom they represent. There are bureaucrats in DEQ who openly maintain that their job is to issue permits. Period. No thought to protecting the environment, or Wyoming citizens, or state lands. There are bureaucrats who are clearly more interested in quarterly state revenues from CBM production than they are in scientific reports citing the infirmities of their agriculture

protection policies.

And then there's the guy who has been in charge. When I first heard our beloved "Governor Dave" say something to the effect that he wasn't about to let any "rancher stick his hand into the revenue stream," I couldn't believe it. No thought to fairly distributing the burden of production among industry, the state and the split-estate surface owner. Governor Dave meant to minimize industry's cost of production despite the disruption of Wyoming surface owners' ranches, the destruction of their soils and the stripping of billions of gallons of water from Wyoming aquifers.

Powder River spent years working with the Environmental Quality Council (EQC) to pass a rule directing Dave's DEQ to restrict CBM produced water discharge in certain circumstances, to reduce damage to soils and vegetation. Dave's DEQ fought it every step of the way, including claiming to the press at one point that the rule would prevent all future CBM wells. EQC saw the wisdom in the rule and passed it. The governor vetoed the rule based on a legalistic parsing of law that could be read several ways. And then he refused to reappoint members of the EQC who had disagreed with him.

When EnCana, a Canadian oil & gas producer, began to "frack" wells and beef up production near Pavillion, people living and ranching there noticed many unpleasant things, from smelly water, wandering stenches, and polluted air, to headaches, miscarriages and even more severe human health effects. The DEQ decided there was no problem. WOGCC did not raise their level of enforcement of drilling and well-maintenance rules. The State of Wyoming told its citizens to trust the industry, that there was no evidence anything was wrong.

Powder River contacted the Federal EPA in Denver, and persuaded them to visit Pavillion, and eventually test wells. Testing is still incomplete, but the EPA has suggested that Pavillion residents not drink the water in their own homes, and probably should open bathroom windows to prevent

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). 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)
- Laramie County Resource Council (LCRC)
- Pavillion Area Concerned Citizens (PACC)
- Ranchers & Neighbors Protecting Our Water
- Sheridan Area Resource Council (SARC)

Board of Directors

- Chairperson.....Wilma Tope
- Vice Chair.....Pete Dube
- Secretary.....Diane Wilkie
- Treasurer.....Steve Adami
- Past Chair.....Bob LeResche
- Roger Davidson, Pam Viviano, John Fenton, Larry Gerard, Dave Haire, Gary Packard, Priscilla Welles & Liza Cuthbert-Millett

Staff

- Director-Kevin Lind
- Office Administrator-Stephanie Avey
- Organizers-Jill Morrison, Bill Bensel, Shannon Anderson and Deb Thomas (in Clark WY.)

Powder River Office:

934 North Main St
 Sheridan WY 82801
 Ph: (307)-672-5809
 Fax: (307) 672-5800
 Email: info@powderriverbasin.org
 Web: powderriverbasin.org

Powder River Breaks

- Editor: Gillian Malone
- Assistant Editor & Layout: Stephanie Avey
- Photos by Powder River staff and members

Wyoming BEC Members Request Investigation of Electrical Service

Over 30 citizens in Clark have asked the Wyoming Public Service Commission (PSC) investigate the quality of service Beartooth Electric Cooperative (BEC) provides for its members living in Wyoming.

During the November 30 PSC meeting, the commissioners received a laundry list of service problems from Wyoming BEC members, including brownouts, frequent power outages, and ruined appliances. After hearing these concerns, the PSC agreed that the problems deserve an investigation and committed staff to assess the service problems and explore potential solutions.

Many members fear their co-op no longer works to provide and distribute affordable reliable power to the members, but instead has become side-tracked by the electricity generation business.

The BEC board has signed contracts with Southern Montana Electric Cooperative (Southern) that hold BEC members responsible for construction of the controversial Highwood Generating Station. After

failing to obtain funding for a coal-fired plant, Highwood is now scheduled to be built as a gas fired plant. (See Sept.-Oct. 2010 *Breaks*) BEC members are asking for a full accounting of the money already spent—approximately 10 million dollars from Beartooth alone—and greater transparency as the project moves forward. Beartooth member rates have spiked in recent years because of investments in Highwood.

Wyoming BEC member Tom McCoy seemed to tie it all together when he made his comments to the PSC: “One of the main concerns for folks here is that Beartooth expects us to pay higher rates for diminishing service. As a result of the on and off surges, we are expected to absorb the expense of repairing or replacing refrigerators, computers, TV’s and other household appliances, again, thanks to the service from BEC.”

Deb Thomas
Powder River Staff

2010 People’s Oil and Gas Summit an East-West Gathering

On November 18, more than 35 organizations from across the country joined forces with Earthworks Oil and Gas Accountability Project (OGAP) for the 2010 People’s Oil and Gas Summit in Pittsburg, PA.

The gathering brought together citizens from Western communities, who have been dealing with oil and gas issues for over a decade, with Eastern citizens who are facing these issues for the first time. This year’s summit, the first to be held in the Eastern U.S., was critical to building a bridge between Eastern and Western populations. Since

2000, OGAP has sponsored seven such oil and gas summits, which have not only empowered citizens and fostered activism in communities dealing with oil and gas development, but increased the strength and momentum of local, state, and national reform efforts.

Over 300 citizens from 26 states attended the conference to share information about public health and community impacts, exchange scientific data, learn the necessary tools to track development, and collaborate on reform efforts. Powder River’s John Fenton, Jill Morrison and Deb Thomas all made formal presentations at the Summit.

John Fenton presented the realities of “living in the gas patch” in Pavillion, Wyoming, showing photos documenting the deadly effects of hydraulic fracturing (“fracking”) on the health and well being of his family and his neighbors, then explaining how property devaluation has exacerbated the problem by forcing people to stay and suffer from contaminated air and water. John then described how a handful of citizens—with the help of Powder River—formed Pavillion Area Concerned Citizens (PACC) in the hopes of better influencing government agencies, elected officials and industry to address the impacts. When the EPA, at PACC’s request, stepped in with its own investigation, he felt that Pavillion residents, for the first time, were being heard, he told the gathering.

Jill Morrison’s presentation was on the boom and bust cycles that have characterized Wyoming’s extractive industries history, and how little the state has learned from its past. Using the “Gillette Syndrome”—a term coined from the early seventies’ coal mining boom—as a point of reference, Jill showed how Wyoming communities undergoing oil and gas development today are experiencing the same social and economic



John Fenton on panel at Oil & Gas Summit

impacts that communities experienced during the strip mining boom: impacts ranging from increased crime, drug abuse, and overcrowded courts, to the financial hardships of local governments faced with paying for increased social services and infrastructure. Is there a lesson to be learned here, she asked?

Deb Thomas hosted a panel on citizen-based monitoring approaches, highlighting the importance of empowering local citizens and communities—Exactly what Powder River is famous for doing!

The summit was packed with helpful and inspiring information. To have a look, go to <http://earthworksaction.org/2010SummitAgenda.cfm>

Hilary Acton, a Summit attendee, posted the following message on Powder River’s Facebook page: “Kudos to all from the Powder River Basin. I am thankful for your tenacity and presence; words of counsel that were wrought from strength and integrity that you all brought to the Summit in Pittsburgh this past weekend. Winter’s winds bring a renewed commitment to halt the tide of the robber barons of the decade; to bring about awareness to others across this vast land, that they shall realize gas is a non-bridge to our energy dilemma. Thank you all for your hard work and time that you give to raise awareness and your time with us in Pittsburgh. ~ Water is Life ~”

Deb Thomas
Powder River Staff



Fenton home surrounded by development and fracking related air pollution

CBM Water “Working Group” Holds Last Meeting

On November 5, the 25 appointed members of DEQ’s “Coalbed Methane Produced Water Working Group” (“CBMPWWG” to the acronym-inclined, but let’s call it the “Group”) gathered for the seventh time in twelve months. During this time, don’t forget, DEQ continued to use their laughably ineffective “Agricultural Protection Policy,” and millions of barrels of saline and sodic water continued to be dumped on our surface lands.

The Group, you might remember, was convened by DEQ Director John Corra after the Environmental Quality Council concluded that what Powder River has long argued and University of Wyoming Scientists and two studies by outside experts from New Mexico have repeatedly confirmed—that core aspects of the “Ag Protection Policy” scheme are scientifically invalid, and that permitted discharges are irreparably damaging surface soils and grasslands, interfering with agricultural uses, and thereby breaching Wyoming’s obligations under State and Federal clean water legislation. The Federal EPA contributed to DEQ’s feelings of urgency by objecting to several discharge permits DEQ had issued under the policy.

Powder River had concerns from the beginning. First, the composition of the Group was gravely unbalanced. Powder River had six representatives, and Wyoming Outdoor Council, one. There were three more landowners on the group, six representatives from industry and industry-beholden organizations, and eight appointees from government agencies. EPA chose not to participate formally, but did observe every meeting.

Second, although the Ruckelshaus Institute agreed to run the effort using their touted environmental mediation techniques, DEQ made it clear from day one that they might not accept any of their recommendations, but would in the end do what they found convenient. Finally, Group composition interacted with the “mediation” technique in a very frustrating way to make minority opinions essentially irrelevant. Actual votes were taken, and well-argued countervailing suggestions were met with silence and thereafter ignored.

Nevertheless, your faithful representatives attended every meeting, did all our homework, and aggressively argued for transparency and valid science for over a year. Two Powder River members were among the six members of the “drafting group” that summarized recommendations about which there was some agreement.

Among those official Group recommendations are important principles such as:

1. “Permits shall protect historically existing (pre-CBM) indigenous plant or crop communities...”
2. “Permits shall be based on vetted, credentialed science, be preventative, not reactive and include meaningful and timely enforcement. Permits should prevent harm to land and require the permittee to demonstrate compliance,” and;
3. “If the quantity of the water is causing unacceptable water quality or has the potential to cause unacceptable water quality, then the EQA gives DEQ the authority to regulate water quantity. (AG Formal Opinion No. 2006-001)”

Had DEQ decided to follow the recommendations of the group and design a new permitting scheme, improvement would have resulted. But read on.

Once the recommendations were drafted, DEQ convened their own “Technical Advisory Group” (“TAT”), ostensibly to review the recommendations for scientific validity and assist the Group in perhaps tweaking the recommendations. We had begged from day one that the Group be provided with some competent scientific guidance, but were repeatedly rebuffed by DEQ. But better late than never, we thought.

The TAT was composed of one academic soil scientist, a retired government scientist, and one Industry scientist, all of whom seem well-qualified by training and experience, if not devoid of conflicts of interest. They met several times and produced a short report, five pages of which did contain some comments on the Group recommendations.

For example, the TAT concluded that:

1. “The concern expressed by the Working Group about ensuring that the native plant species are maintained in the areas impacted by CBM discharge water is legitimate. Large increases in water flow in an ephemeral stream ... will result in changes in the plant species present. ... These conditions should be prevented, and areas [already] impacted reclaimed back to native species.”
2. “In regard to water quantity: (a) overland flooding caused by discharges should be prevented; (b) perennialization of flow occurring in the absence of flooding should not be allowed to cause an unacceptable increase in the water table,” and;
3. “We agree that effective water management is the most critical element in preventing impacts to crop/forage production.”

Unfortunately, though, DEQ had dictated that the TAT downplay methods to *protect* ag uses, and spend most of its efforts (and the other 14 pages of its report) reviewing a complex “matrix” of monitoring techniques prepared unilaterally over the months by DEQ. DEQ revealed the results to Group members the day before the last meeting—which became the primary subject of the meeting. The TAT report was discussed briefly, the TAT’s brief opinions regarding the recommendations were discussed hardly at all, and the Working Group unanimously (the first unanimous opinion in 12 months!) stated that the monitoring plan needed much review by everyone, and did not appear to approach a solution to the problems we had been studying for more than a year.

Director Corra agreed to distribute the “final” monitoring plan to the Group with answers to some outstanding concerns about how it would function, and to arrange a teleconference to discuss it. To date, we have received nothing.

A few words about the monitoring plan.

- First, the Group and the public had been led to believe that the product of the working Group would be a scientifically-valid permitting plan, not a mere monitoring plan.
- Second, we believed the Group product would finally allow DEQ to permit continued CBM development while causing no decrease in agricultural productivity and to meet state statutory mandates and the strictures of the Federal Clean Water Act, neither of which has regularly occurred under DEQ’s existing rules and policies.
- Third, in the early days of CBM permitting, DEQ failed miserably in “monitoring” efforts designed for the same purpose, but terminated when permit conditions were not achievable, and DEQ was unwilling or unable to halt the damaging practices.
- Fourth, DEQ refused to “bench test” their monitoring plan by describing how it would have eliminated damages to some Powder River members’ ranches if it had been in effect when destructive practices were permitted.
- Fifth, DEQ could describe no technique that would allow them—once “monitoring” indicated potential damage to agricultural uses—to change the rules in time to prevent damage.

Finally, our own highly qualified scientific and legal experts have found the monitoring plan essentially farcical on early review. A few quoted examples are:

- *Monitoring is not action at all but just watching the damage continue for a while longer. They are still all screwed up on the notion that, even after monitoring identifies a problem, we should not jump to any conclusions about CBM as a culprit – translation, we’ll watch the damage continue for another while longer. And, the fundamental problem is the burden is still placed on proving the damage has occurred, rather than on the permit applicant proving the damage will not occur.*
- *The proposal to monitor discharge as it has been permitted in the past will serve to document damage but will not prevent it.*
- *The number one problem with CBM product water discharge to date is the continuous discharge of water for long enough periods of time to induce a reducing soil environment (depleted oxygen) in the soils of formerly ephemeral channels. This results in loss of the original plant community (native species or tame hay). This problem exists independently of, as well as interrelated to, soil and water salinity and sodicity issues.*
- *If DEQ continues to write permits which allow continuous discharge directly to channels, then there will be more of the damage (loss of pre-existing plant communities) that has already occurred. The plants (plant community) are the primary producers in the business (agriculture) which is being adversely impacted by the CBM business as the result of the discharge permits issued by DEQ. By the time the negative impacts of the discharge are evident through the proposed monitoring system, the growing site in the channels will have suffered damage which cessation of*

- *discharge will not, by itself, relieve.*
- *Monitoring is not a guarantee that the resources will be protected. Monitoring is a great method for documenting changes (or no change) but does nothing to prevent the possibility of changes to the system. Once monitoring identifies a problem or issue, the damage (change) has already occurred.*
- *How will the variable triggers be determined? How long will the trends need to be monitored before the “trigger” exceeds the variability of the system?*
- *The least amount of detail is given to ephemeral stream systems and the damage that has already occurred and will most likely continue.*
- *The report and recommendations are written as if these are “managed” systems; but they are not.*
- *How all of the monitoring that is recommended can and will be implemented is another question. Who will do it and pay for it is important as well.*

So, disillusionment again reigns supreme. Your Powder River representatives hoped that—finally—an open discussion fairly mediated and based on science would lead to a better permitting program. Instead, it seems to be “déjà vu all over again.” We’ve participated in a charade. The result promises to be a farce.

All Powder River members owe our representatives Steve Adami, Eric Barlow, Ed Swartz, Marge West and staff (alternately Bill Bensel or Jill Morrison) deepest gratitude for grinning and bearing months of disappointment, and working very hard to push the boulder up the hill one more time for the benefit of us all.

Bob LeResche
Powder River Representative on the
CBM Produced Water Working Group

Powder River Requests Transparency in BLM “Cooperator” Meetings Fate of Sage Grouse Hangs in the Balance

The Bureau of Land Management (BLM) determines the fate of thousands of acres of public surface and split estate mineral lands in Wyoming through its Resource Management Plans or RMP’s. Right now, BLM is in the process of revising several of these RMPs including the Big Horn Basin RMP and the Powder River Basin RMP. Of lesser notoriety, but of equal importance, is a sage grouse RMP amendment jump-started by the Executive Order of Governor Freudenthal which designates “core areas” for sage grouse habitat protection (discussed in the August 2010 *Breaks*). The BLM is scrambling to come up with management prescriptions that will implement the core areas framework and stop the sage grouse from becoming listed pursuant to the Endangered Species Act.

BLM’s sage grouse RMP amendment is on a fast-track schedule, and “cooperators” met for several days this fall to debate different management options. Cooperators are state and local government representatives that provide input about BLM’s proposed plans.

To date, BLM has kept cooperator meetings closed to the public, which has generated significant controversy from citizen groups, including Powder River, and even some members of the Freudenthal Administration. In a change of strategy, BLM opened up the cooperator meetings for the sage grouse RMP, knowing that both citizens and the extractive industries were particularly interested in the outcome of the

deliberations.

Powder River staff members Jill Morrison and Shannon Anderson sat in on the meetings in Casper at the end of October where cooperators and the BLM worked to define the range of alternatives to be considered in BLM’s plan. While BLM did not allow members of the public to participate during the meeting, they did, at the end of the meeting however, allow the public to ask clarifying questions or offer brief insights or comments. BLM officials and most cooperators agreed that allowing the public to observe and provide limited end-of-the-day comments had contributed to the success of the meeting.

In spite of this, BLM was being pressured by some parties to close the last series of meetings scheduled for late November and early December where the cooperators and BLM will select which alternative to pursue. Powder River joined Western Resource Advocates in objecting to the proposed closure and requesting that the BLM State Office keep the meetings open to the public. The letter stated:

Meetings of public officials working to develop important amendments to Resource Management Plans governing activities on tens of millions of acres of public lands that may significantly alter current resource allocations and management practices should be open to the public.

Sage Grouse continued from previous page.....

We are not seeking a seat at the table, but rather the continuing ability to listen and observe the work of the BLM and cooperating agencies. Public attendance in no way interferes with or undermines the role or involvement of the cooperating agencies in the process.

victory for government “sunshine,” and we will continue to push for openness and transparency during the other RMP processes.

Look for updates in future *Breaks* on the sage grouse plan as we learn more about the final alternatives and BLM’s management direction. A draft of the plan and a corresponding environmental impact statement is expected next year.

In a press release dated November 18, BLM announced they would open up the meeting to the public. We are celebrating this

Powder River Staff

2010 Resolutions

Checkoff Resolution

WHEREAS, the current mandatory beef checkoff does not have accountability to the cattle producers (who pay for it), by allowing periodic referendums or individual opt-outs; and
WHEREAS, the Wyoming Beef Council sends 15 to 18 cents more to the National Federation than the 50 cent requirement of each dollar; and
WHEREAS, Wyoming producers in the current unstable economy do not want another open ended checkoff tax;
THEREFORE BE IT RESOLVED that Powder River Basin Resource Council opposes any additional mandatory check off dollars being assessed on Wyoming producers by the State of Wyoming or any other entity.

Resolution Supporting GIPSA Rule

WHEREAS, Wyoming’s ranching and livestock business has always played a critical role in our economy and our state’s heritage; and
WHEREAS, the packing and retail food industry continues to exert increasing control over cattle markets and the price paid to producers; and
WHEREAS, only four meat packing companies slaughter in excess of 88% of all cattle in the USA; and
WHEREAS, U.S. Department of Agriculture Grain Inspection, Packers & Stockyards Administration has proposed a rulemaking at the behest of Congress to bring transparency and fairness back to livestock markets; and
WHEREAS, these rules will benefit livestock producers in Wyoming and throughout the nation;
THEREFORE BE IT RESOLVED that Powder River Basin Resource Council supports this rulemaking to return fair and consistent pricing and open sales of livestock for the benefit of our ranchers, farmers, feeders, and the consumer.

Transfer of CBM Wells to Domestic and Livestock Water Wells

WHEREAS, rural residents and ranchers in the Powder River Basin rely on groundwater aquifers in the coal zones for domestic and livestock water; and
WHEREAS, since 1990 coalbed methane (CBM) wells in the Powder River Basin have pumped and discharged over 780,000 acre feet of groundwater resulting in a significant lowering of aquifer levels and loss of domestic and livestock water wells; and
WHEREAS, CBM wells commonly produce gas for only 7 to 10 years and many CBM wells are now at the end of their productive lives; and
WHEREAS, many landowners who have lost water wells and water supplies due to CBM dewatering need to convert end-of-life CBM wells to water wells in order to replace lost water supplies for domestic and livestock use in their ranching operations; and
WHEREAS, the Wyoming Oil and Gas Conservation Commission renders the transfer of these CBM wells to water wells impossible by requiring operators to plug or seal off the coal aquifer zones—often the only zone available for water—thus eliminating the ability of the landowner to use the CBM well as a water well; and
WHEREAS, the State Engineer’s office historically has routinely permitted livestock and domestic water wells in the coal aquifer zones but now endorses the WOGCC policy—thus eliminating the ability landowners to easily transfer CBM wells and beneficially use them as water wells without first plugging off the coal zone and eliminating the use of the aquifer in that zone. (This requires the landowner to re-drill the well back into the coal aquifer);
THEREFORE BE IT RESOLVED that Powder River Basin Resource Council shall encourage State of Wyoming policies that result in the expedient and efficient transfer of the beneficial use designation and ownership of non-economically viable CBM wells to other uses, including domestic and/ or stock water wells, without predetermined plugging requirements.



Powder River Staff and Board Wish You a Very Merry Christmas and Happy New Year



Air of Uncertainty Surrounds 2011 Legislative Session

The 2010 election brought big changes to the make-up of the Wyoming legislature. As a result of quite a few open seats and losses of incumbent Democrats, a quarter of the legislature will be new to the process come January. Additionally, with only a handful of bills of interest considered by interim committees this year, the vast majority of the bills we will work on will be submitted by individual legislators in the first couple of days of the session. In short, this means we don't know what to expect for the 2011 session, but we'll have a better idea of the lay of the land when the session convenes January 11.

In the meantime, we continue to track interim committee work. Here is a sampling of the key bills we are following so far:

Wind Rights Legislation

The Judiciary Committee will be sponsoring legislation to clarify that the right to develop wind energy lies with the surface estate. Under the legislation, wind rights are deemed to be "appurtenant" to the surface estate, which means they belong to the surface and cannot be severed from it, similar to water rights. Under the legislation, landowners can lease out their wind rights to wind energy companies and leases must be recorded at the county courthouse similar to other property arrangements.

Wyoming Traditional Foods Act

The Agriculture Committee will be sponsoring this legislation to exempt nonprofit and church fundraisers and other community events from Department of Health licensure and inspections.

Wyoming Livestock Identification and Traceability Program

This legislation, also sponsored by the Agriculture Committee, proposes a repeal of Wyoming's participation in the bureaucratic and burdensome National Livestock Identification System (NAIS). USDA terminated NAIS in February 2010 and now provides states the opportunity to build their own intrastate program for disease tracking.

Economic Analysis

This legislation was vetoed by Governor Freudenthal in 2010 and has been reintroduced as an Agriculture Committee bill. Our main concern with the bill is the cost for generating data. Socio-economic impact analysis is already a requirement of the National Environmental Policy Act (NEPA) for any federal government land management planning and the Environmental Protection Agency (EPA) must conduct cost-benefit-analysis for any proposed regulation; however, some legislators want Wyoming-generated data to supplement federal efforts and influence federal decision-making. With an appropriation of over \$300,000, there will likely be a thorough discussion about whether the bill will be helpful to local governments, agencies or Wyoming's citizens.

Wyoming Beef Council-fee Collections

Powder River has a long history of seeking greater producer governance and input with use of Beef Check-off dollars. With recent conflicts and questionable spending of the existing \$1 per head Beef Check-off fee at the national level, placing an additional \$1 per head by the state has raised a lot of concerns. Our members continue to seek a referendum on the program and believe that before additional fees are implemented, assurances must be given that funds are not spent to promote competing producers' products from foreign countries (see the resolution adopted at the 2010 Annual Meeting copied in this edition of the *Breaks*).

Mining Permits

The Minerals Committee is sponsoring legislation that requires DEQ to process mining permits within already existing statutory timeframes (60 days for a "completeness" finding and 150 days for technical review). The bill is meant to deal with "delays" in getting permits for new uranium mines. Permit applications for these new mines has taken over three years to process, partly because the information submitted was not sufficient and raised a lot of questions about protection of water resources.

Landfills

For the past several years, the state has spent significant funding to assess whether municipal landfills are contaminating groundwater. Shockingly, this assessment has revealed that almost 70 landfills in the state have pollutants leaching from the facilities. Therefore, the new question is how to tackle remediation. The proposed legislation, sponsored by the Minerals Committee, will require DEQ to compile a list of priority landfills that need remediation and then, presumably, future legislation will help fund clean-up efforts. If all of the landfills need to be cleaned up, that could cost upwards of \$250 million.

Supplemental Budget Proposal

With state revenues in a better position than previously thought, there is a little room for supplemental budget proposals in 2011. The budget covers a two-year cycle and thus the main budget was adopted in 2010 and was designed to carry through 2011; however, there are always quite a few items that get requested for the supplemental budget. One item of interest is a proposal for \$610,000 in planning money to address socio-economic impacts in Southeast Wyoming that are stemming from the Niobrara oil and gas development. The money covers an evaluation of roads, hiring a water rights specialist in the State Engineer's Office, and a contract associated with the High Plains Initiative, which is coordinating efforts to address growth impacts in Platte and Goshen Counties. The outgoing Governor is also recommending over \$6 million for start-up costs for the High Plains Gasification Center and approximately \$20 million for the School of Energy Resources at the University of Wyoming. Both pots of money come from Abandoned Mine Lands (AML) fees from coal mining.

Missing from this list of legislation is a bill that was recommended by the Wind Energy Task Force to limit the power of eminent domain by wind energy companies in the context of collector lines, which are the first step in the transmission infrastructure for wind energy. The bill was not assigned to a committee and thus will need to be sponsored by an individual legislator in order to be considered during the 2011 session.

A complete list of bills and contact information for legislators is available at <http://legisweb.state.wy.us/lsoweb/session/sessionhome.aspx>. The website is updated frequently, especially during the session, so please check back as January 11th approaches. Powder River will once again be sending staff members down to lobby so just call the office if you have any questions about what is happening in Cheyenne. Any member is welcome to help with the lobbying efforts if you find yourself wanting to take a trip to the Capitol. The Equality State Policy Center, of which Powder River is a member organization, will once again be offering its Citizen Lobbyist Training on January 12th. For more information or to register, visit: http://www.equalitystate.org/HTML/civic_participation.shtml



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Encouraging Responsible Development Today... _____ For Tomorrow...

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Save the Date

Dec 10	Ellen Dudley Raffle Drawing
Jan 11	Legislative Session Starts
Jan 12	ESPC Citizen Lobbyist Training
Jan 15	Board Meeting, Buffalo

.....Departing Board Message continued from page 2

explosions while showering.
 Recently Governor Dave was interviewed about various subjects, including the new WOGCC drilling rules, which he has been bragging about to all who will listen. A transcript reads in part: “You know, I hear that, but I don’t see that in our state. ... In our case, we’ve been fairly careful in terms of dealing with the water question. Now, there’s a couple of locations where people are trying to figure out what has happened in the water, particularly in Pavillion. But if you notice, nobody’s quite sure. And part of the problem there is that there’s some of the older pits that were up there, the disposal pits that were there long before anybody thought about lining them. And so it is unclear what the origin of the issue is. But, at its core, you need to remember that in that case, none of those wells have been shown to violate any of the Safe Drinking Water Act standards.”
 A governor pounding the table and demanding answers and solutions when the health of citizens of his state is at risk? Not exactly. Not when really taking leadership and getting to the bottom of things might imply something negative about the energy industry. Maybe Dave should spend a week between jobs visiting John and Cathy Fenton in their home. Of course he’d have to haul water—and be sure to open the

window when showering.
 “We’ve kind of got it figured out here on land,” bragged Dave several months ago after the oil spill in the Gulf of Mexico. “We used our Oil and Gas Commission to pass our fracking rules, we have blowout preventer requirements ... I won’t mess with their knitting [referring to the Feds] if they stay out of ours.”
 I hope it’s a warm winter if we have to rely on what our lame duck governor has “knitted” in the way of regulation and oversight of our oil and gas industry.
 But now’s the time to look ahead. A new Governor takes office soon. The holidays are nigh, and a gentle snow is falling as I write this. I am, and we should all be, supremely grateful that people like the Powder River staff, Board Members and general membership continue to agitate for fair treatment, more perspective and fewer false choices between responsible development and financial health in our beautiful state.
 And for a state government that puts Wyomingites first. Maybe the new administration will.

Bob LeResche
Powder River Past Chair