



# OUR FUTURE AT STAKE?

On January 18th, 2003 the Bureau of Land Management released the Final Environmental Impact Statement on the development of 40,000 new coalbed methane wells to be drilled over the next decade in the Powder River Basin. Eight million acres in the Basin will be opened up to drilling. Over three quarters of the development will take place on privately owned surface overlying minerals owned and controlled by the BLM. This mixed ownership of surface and minerals is known as the "split estate", and under current law the rights of the mineral lessee are dominant over the surface owner. This situation places a significant burden on the surface owner.



Photo: Ann Fuller

So far, around 12,000 wells have been drilled in the Powder River Basin. Read the following testimonies of eleven families and individuals, and learn how more and more private property owners, through no fault of their own, are falling victim to the unfair leasing and development of coalbed methane. Learn about the changes needed to strike a balance between developing our energy resources and protecting Wyoming families and their property. We believe all Wyoming residents can benefit from the development of these resources without sacrificing our land, our water, and our way of life!

Westerners are being told they must sacrifice their land, their water, and their way of life for energy development. The Powder River Basin is the primary target of an ambitious federal energy campaign that will forever alter the natural and human landscape of this area.



Photo: Ann Fuller



BLM predicts that 194,000 acres in the Powder River Basin will be "disturbed" by coalbed methane related facilities. James R. Kuipers of J. Kuipers Engineering in Butte, Montana, estimated the total reclamation liability for CBM in the Powder River Basin at over \$1 billion. Unless bonding requirements are raised, taxpayers and landowners will foot the bill.

**Let's do it right! Our future depends on it.**

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Encouraging Responsible Development Today...

\_\_\_\_\_ For Tomorrow...



## ED SWARTZ

**"Coalbed methane development is threatening to destroy my ranch operations."**

I am a third generation rancher in the Powder River Basin, and I hope to pass this ranch on to my son and my grandchildren. But coalbed-methane development is threatening to destroy my ranch operation. As a result of methane discharge water being released into Wildcat Creek, the soils in the creek bed on my ranch are now loaded with salt deposits, which have killed the vegetation and eroded the creek bed. The grass in that creek bed used to be waist high, and it provided a lot of winter grazing. The next flood event could wash the salt deposits out of the creek bottom and destroy my hay meadows. These same meadows have been irrigated in every flood since about 1901, but



Photo: Ted Wood

now I can't take advantage of my water rights to irrigate the meadows. Without the hay meadows, I do not have a viable ranching operation.

According to Montana's Department of Environmental Quality (DEQ) in a letter dated January 2, 2001 to the Wyoming DEQ, each CBM well in the Powder River Basin produces an average of 20 tons of salt a year. If you do the math on the 51,000 wells proposed in the Powder River Basin, it comes out to 1,020,000 tons of salt going into our shallow aquifers and our ephemeral drainages and onto our soils for every year of production. What damage will be caused to the soils and vegetation from all this salt?

## RON MOSS

**"The methane was so bad in our well that the water hose would blow out of the tank unless I held onto it."**

My wife and I moved to Gillette, Wyoming fifteen years ago and bought a house and 20 acres in a rural subdivision ten miles west of Gillette. When drilling for coalbed methane began east of our home, I



met with three coal bed methane producers who assured me that nothing would happen to our drinking water. But we started to get methane in our water after they started drilling. The methane was so bad in our well that the water hose I used for filling the horse tank would blow out of the tank unless I held onto it. A State of Wyoming official told my wife not to light a match near the source of water. I talked to the methane producer and was told they would be happy to monitor our well, but that I would have to prove they were the

cause of our problems. The dreadful noise generated by a nearby large compressor station was also a problem. I am talking about noise that sounds like a jet plane circling over our house 24 hours

a day, and drives people to the breaking point. My neighbor called the sheriff, state officials, and even Governor Geringer and was told nothing could be done about the noise. Then in 2001, my wife suffered severe asthma attacks on four different occasions from all the road dust associated with the development. Even with medication and the use of a Breathalyzer she nearly had to go to the hospital emergency ward to get help to breathe. We are finally licked. Our dream of living in our retirement home has been shattered.

## ART HAYES

**"Proposed standards will substantially increase the amount of methane wastewater allowed in our rivers..."**

As a Montana irrigator and president of the Tongue River Water Users Association, I am confident that the [MT DEQ's] proposed rules—which will allow salts to



be dumped into the Tongue River Reservoir and rivers and streams—will decrease productivity in southeastern Montana's irrigated soils, render some fields worthless, damage fisheries, and harm any business even remotely tied to southeastern Montana's agricultural economy. Southeastern Montana irrigators—and we number in the hundreds and contribute to nearly 10,000 farm-sector jobs in the area—need water

quality standards that protect all current irrigation practices and the soils and crops in the area. The MT DEQ's proposed standards won't do that. Instead, they'll substantially increase the amount of methane wastewater allowed in our rivers, shifting the costs of methane development onto the backs of family farmers and ranchers in southeastern Montana.

*Art Hayes Jr. owns and operates a cattle ranch along the Tongue River with his family. He oversees delivery of 60,000 acre-feet of irrigation water to Tongue River irrigators.*

## BEV & ROLAND LANDREY

**"The value of our little ranch has dropped to practically nothing with no water supply."**

On September 2nd, 2002, our artesian well quit flowing. That well produced 50 gallons a minute for 34 years, and it supplied our home and our entire ranch operation with water. I discovered on the Wyoming Oil and Gas website, that Pennaco had been drilling in that area for 2 to 3 years and had 61 methane wells pumping water submersibly, but not yet producing gas. These were all within a 10-mile radius of our ranch, the closest one being about 4 miles away. We felt that kind of concentration of wells could have made our well fail, so I called an independent well driller who has drilled water wells in the area for years. He said that a lot of wells had quit flowing, and that in time all the artesian wells would quit, due to the dewatering, with the deepest ones going first. Our well was a deeper one, 890 feet. When I contacted Pennaco (now Marathon), they monitored our well for a week and then said they were not respon-



sible for our well failure. That is the only contact we have had directly with them. We have been in contact with the Coalbed Methane Coordination Committee in Buffalo, the State Engineer's Office, the Wyoming Oil and Gas Commission, one state senator and U.S. Senator Enzi. On Feb. 17, 2003, we had a letter from Senator Enzi's office telling us we could expect a letter from the State Engineer's Office in 2 or 3 weeks.

My husband will soon be 84 years old and I am nearly 71, and we have been hauling water in gallon jugs from the neighbor's for our house use, and the neighbor hauls water to put in a tank for our horses. We travel 40 miles to Buffalo to do our laundry. The value of our little ranch has dropped to practically nothing with no water supply.

## ROBERT & NANCY SORENSON

**"For the first time in our ranching career we have witnessed degradation that I fear is irreversible."**

We have lived for the last 29 years on a cattle ranch in the Powder River Basin in Northern Wyoming, and my husband's family has pioneer roots reaching back over 100 years. This semi-arid environment only allows so much disturbance before the land is stressed to the point that a living can't be made. In October 1999, a coalbed methane company approached us about drilling on a state-owned section of land that we lease. After consultation with the State Lands Office, we attempted to reach a Surface Use Agreement with the company that was in line with our philosophy of sustainability. The company rejected the agreement, but the State Lands Office allowed development operations to begin. A substantially weaker agreement was later offered to us by the company, which the state urged us to sign. We did.



Next, we tried to get the company to live up to the agreement that it had authored. Prior to commencing operations the company was supposed to provide us with a map. We finally received one six months after commencement of operations. There were to be no overhead power lines, but the company went ahead and constructed them anyway.

The company also failed to discuss water management plans with us prior to beginning operations as it had agreed. Over time the company has violated at least eight provisions contained in its agreement, and for the first time in our ranching career we have witnessed degradation that I fear is irreversible.

We have negotiated and signed thirteen separate agreements for various aspects of the coalbed methane play, and in not one of those negotiations could we afford the option of not signing. In not one of those agreements were we able to maintain the control we need to assure the long-term sustainability of our ranching operation. Every time we signed one of those agreements, we were aware that we were giving up pieces of our property rights that neither we, nor our successors will ever be able to recover. Every time we signed one of those agreements, we were aware that we were helping to erode the property rights of our neighbors and of everybody in Wyoming because of our participation in a system that is fundamentally inequitable.



# GEORGE SMITH

**"All I'm asking for is the same compensation my neighbors are getting."**



January 18th. They said they would have that agreement ready in writing by 1 p.m. that same day. The only problem was they had changed the agreement. Then they said if I didn't sign

that day, the deal was off. They just lie to you. They're deal welchers! After that, they tried to get a restraining order to keep me off my own place.

A handshake is good in Wyoming, but evidently not in New Jersey, where their company is based. They may treat people back there like this, but they can expect the people in Wyoming to stand up for what they believe is fair and just.

I would like to express a few concerns about J.M. Huber Corporation, who bullied their way onto my property on Beatty Gulch. Without the mineral rights, I couldn't deny them access. They crossed onto my property and didn't even ask me where to drill. I have tried to strike a fair deal with them on surface damages for over a year and a half, with no success. All I'm asking for is the same compensation my neighbors are getting. Then, after they saw my picture on the front page of the January 17th *Sheridan Press*, Huber decided they wanted to reopen negotiations. I finally shook hands on a verbal agreement with three of their representatives the next day, on

# PETE DUBE

**"What irks me is you have to be the one to prove the company caused the problem."**



My wife and I own an outfitting business in Buffalo, Wyoming, and about eight years ago, we bought 5,000 acres in Campbell County as a place to run cows and winter the horses we use for outfitting. The bulk of the minerals under our land is owned by the BLM. My experience with coalbed methane began as a nightmare of negotiations with a company called CMS. They were one of the biggest coalbed methane "players" in the Powder River Basin before they sold out their interests in 2001. It took me more than two years to reach an agreement with the company, and I spent at least \$5,000 in lawyer's fees. Then I discovered methane gas seeping up the side of my stock well. I was forced to dismantle the well cover to relieve the pressure of the venting gas, and the pipes to my stock tank froze. Finally CMS responded by fencing off the well and posting the enclosure with danger signs. The well was in a culvert, and from October till May of the next year it was bubbling water and gas like a pot of boiling water. I had to have a sump pump put in the well, at my

cost. CMS finally took responsibility for the situation. They had to plug an old drill stem located nearby the water well and also pump concrete down the sides of my water well to seal off the gas and water. Then they placed a new pump in the well. What irks me is you have to prove the company caused the problem.

That episode was before any development was placed on me. Since that time there have been 13 wells drilled on my land, and the problems continue on multiple issues. They are a never-ending source of headaches. If I had the mineral rights there would be no development on this land. I don't blame my neighbors for wanting to make some money on this. That's their business. But for me this is not about money. This is the only ranch I've got. I was out riding in those hills and looked down at what's happening to the country, and I thought, this must be how the Indians felt when they saw the covered wagons coming: There goes the neighborhood.

# DALE ACKELS

**"Why, in a state where property rights are sacred, don't I have any when CBM is on the table?"**



In most of the West, subsurface ownership rights take precedence over surface rights. Not only am I a restricted owner of my property, but, under Wyoming case and statute law, I have no legal right

to compensation for damage done to my property by subsurface owners. As a sop to public opinion, and as a "favor" to us, the drillers will, upon request, offer the surface owner a damage agreement, but as you would expect, the document basically says, "Nothing that goes wrong is our fault." If you protest or refuse to sign an agreement you know to be flawed, the drillers may post a minimal bond (in the amount they deem appropriate to repair the damage they will cause), or they may post no bond, leaving you with no choice but to go to court over the damages. At that point you have no further control of your surface and the driller can come on your place and do anything he wants without your permission. One of the

things I have the hardest time understanding is why in a state where property rights are sacred, I don't have any when CBM is on the table? I get to pay taxes on my property, but I can't control who comes on it and what they do when they get on it, and the state legislature says that's just one of life's little inequities. How does that happen in the first decade of the 21st century?

*Dale and his wife, Bet, came to Wyoming about eight years ago and bought a 50-acre farm on Lower Prairie Dog Creek. They did not acquire the mineral rights to their property. Now, with CBM development encroaching upon them on three sides, Dale has put his property up for sale and is planning to leave Wyoming.*

# BILL & MARGE WEST

**"We lost approximately 100 acres of prime hay meadows, which is the heart of the ranch."**



Devon Energy began developing coalbed methane above our property in 1999, and they discharged the water into Spotted Horse Creek. That creek is normally dry for most of the year, but now there is often salt-laden water running down the creek throughout the year. The water flooded our hay meadows and killed about 200 giant cottonwoods. We lost approximately 100 acres of prime hay meadows, which is the heart of the ranch. They finally alleviated the flooding, but they did nothing to repair our hay meadow or replant any cottonwoods. So my husband tried reclaiming the meadows himself. We don't know if it will work, but we'll find out this spring.

Last fall Devon decided to build three methane water discharge pits on our leased State School Section. So Bill went out with them and showed them where he thought they should be located. First off they built one of them in the wrong place and then told Bill he just "forgot" where he'd told them to put it. But the worst part was, when they brought us the State Engineer's papers to sign, the "discharge pits" were listed as "stock water reservoirs." That way Devon could just walk away and not reclaim them, and Bill and I would be responsible. We had no choice but to refuse to sign the papers. It's been that way since the very beginning. Nothing but lies.

## What PRBRC Stands For

- The preservation and enrichment of Wyoming's agricultural heritage and rural lifestyle.
- The conservation of Wyoming's unique land, mineral, water and clean air resources, consistent with responsible use of those resources to sustain the livelihood of present and future generations.
- The education and empowerment of Wyoming's citizens to raise a coherent voice in the decisions that will impact their environment and lifestyle.

**You can have your voice heard by joining the hundreds of citizens who are already members of PRBRC.**

### Membership Fees:

- \$30 Individual     \$40 Family     \$20 Student/Senior/Scholarship
- \$50 Contributing     \$100 Supporting     \$250 (or more) Benefactor

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Mail to: PRBRC, 23 N.Scott, Sheridan, WY 82801

# ERIC BARLOW

**"Surface owners need statutory acknowledgement of their right to use and enjoy their property."**

My family has been dealing with conventional oil wells on our ranch for the past forty years, and we understand what the impacts are. I can still see the seismograph lines that were shot on this ranch over 20 years ago during the oil boom, and my family is still trying to get the BLM to clean up the idle wells and all the associated infrastructure that was left on our land. And now we're looking at having CBM development too.



Photo: Adam Jahiel

they already provide Notices of Intent (NOI) and Plans of Development (POD) to regulatory agencies for various activities. Why are they incapable of providing the same thing for

the surface owner?

Surface owners need statutory acknowledgement of their right to use and enjoy their property. This includes the right to participate in the development of oil and gas underlying their property in split estate situations. The federal government could step up and take a more proactive role when they hold the mineral estate. They could ensure that the surface estate is given equal value to the mineral estate in the master plan, that development cannot occur before a surface use agreement has been negotiated, and that as development proceeds, the rights of all stakeholders are equally protected. There is beginning to be general acknowledgement on the part of our elected officials, administrators and policy makers that these issues must be addressed before CBM development can proceed smoothly, but a discontinuity still exists among the participants. Now it is time for all parties to become proactive.

## WHAT YOU CAN DO:

- Contact Governor Freudenthal about the need to ensure responsible methane development. Ask him to help level the playing field and give surface owners a fair deal! (governor@missc.state.wy.us)
- Watch for Interim Judiciary Committee legislative hearings on a *Surface Owner Protections Bill*, beginning in May. Dates and locations will be posted on our website at [powderriverbasin.org](http://powderriverbasin.org).

## Congress is drafting a new Energy Bill. Tell your congressional representatives:

- To require *surface owner consent* before federal leaseholders may enter private property for the purposes of exploration or development. Coal mines fall under this requirement. Shouldn't the CBM industry be held to the same standard?
- To require mandatory *Surface Use and Damage Agreements* between landowners and oil and gas operators before development begins.
- To increase the federal reclamation bond to a level that will cover all damages should a company walk away-not the current \$25,000 blanket bond per company no matter how many wells they have in the state!

**For more information, call Powder River Basin Resource Council: 307-672-5809 or visit our website at [powderriverbasin.org](http://powderriverbasin.org).**

**Special recognition goes to the members and friends of Powder River Basin Resource Council who participated in this project, and who have the courage and tenacity to stand up for what they know to be fair and just.**

# MARY BRANNAMAN

**"The CBM industry can't just run over landowners because they don't hold their mineral rights..."**

Paxton didn't even give us the courtesy of a phone call when they started exploring for CBM on our ranch. We didn't even know our land had been leased. But because we didn't own any minerals, they were able to coerce us into signing a surface damage agreement before we knew as much as we know now. The next time, they showed up with a D-9 Cat, dropped the blade, and went right up the hill, pushing topsoil out of the way like it was snow. They sliced right across our pastures to cut roads to their wells, and in winter these roads turned into deep trenches. They cut enormous gouges into the hill-sides for well pads, and dumped the topsoil over the bank. They dug ten wells and then capped them, packed up, and pulled out, leaving a bunch of garbage for us to clean up. I guess they were in a hurry to secure their lease.



Photo Ted Wood

well pads. And not one cubic foot of gas has ever been pumped out of those wells.

In February of 2002 we sued Paxton for the terrible damages they inflicted on our land, and for the loss of income we suffered due to their presence. Paxton did a lot of manicuring on our place after that, but only because the Oil and Gas Conservation Commission ordered them to start reclamation, as it had been two years since they had capped those wells. So now the well sites are all beautifully contoured, but nothing will grow on them because they mixed up good topsoil with subsoils containing high concentrations of salt. The case went to trial this February, and a 12-member jury awarded us the full amount of damages we asked for: \$810,887. It won't replace our ranch, but we hope it sends a message to the coalbed methane industry that they can't just run over landowners because they don't hold their mineral rights, and get away with it. This is more than a monetary issue. It's a moral issue. It's about responsible stewardship of the land. And it's about treating people and their land with respect.

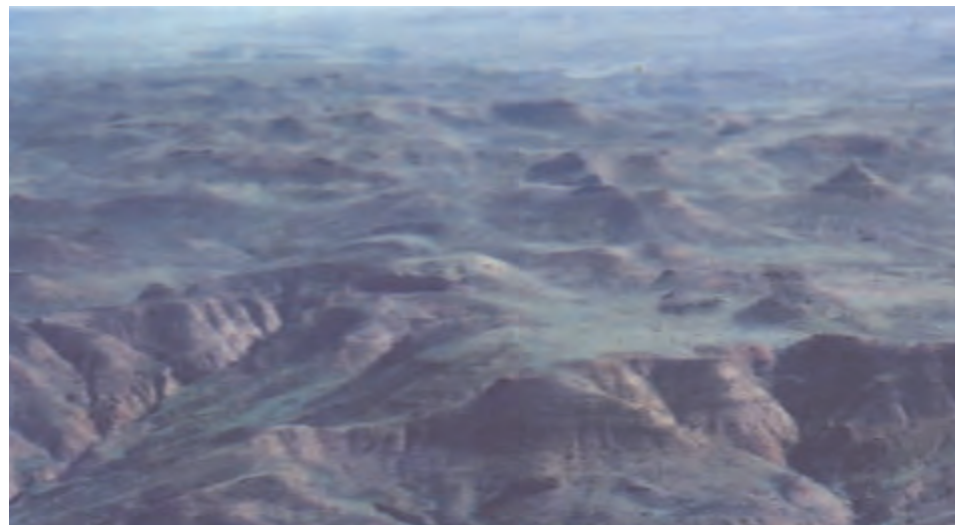
Before Paxton came onto us, you could get on your horse at the barn and ride up into those hills and leave everything else behind. There was nothing but an old cow trail going up there. Now you're never out of sight of that ugly red shale road and all the red spurs leading to the

## Wyoming Congressional Delegation:

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(202) 224-6441

U.S. Senator Mike Enzi  
[senator@enzi.senate.gov](mailto:senator@enzi.senate.gov)  
(202) 224-3424

U.S. Representative Barbara Cubin  
You may email Rep. Cubin by accessing the following website:  
<http://www.house.gov/cubin>  
(202) 225-2311



"Perhaps it is not yet time to grieve, but to ponder whether what the world wants from Wyoming is worth more than what Wyoming already offers the World."

T.A. Larson, Wyoming Historian