POWDER RIVER BREAKS

January/February 2024 Volume 52, Number 1

Celebrating 50 Years

ENCOURAGING RESPONSIBLE DEVELOPMENT TODAY ~ FOR TOMORROW

POWDER RIVER BASIN Resource Council

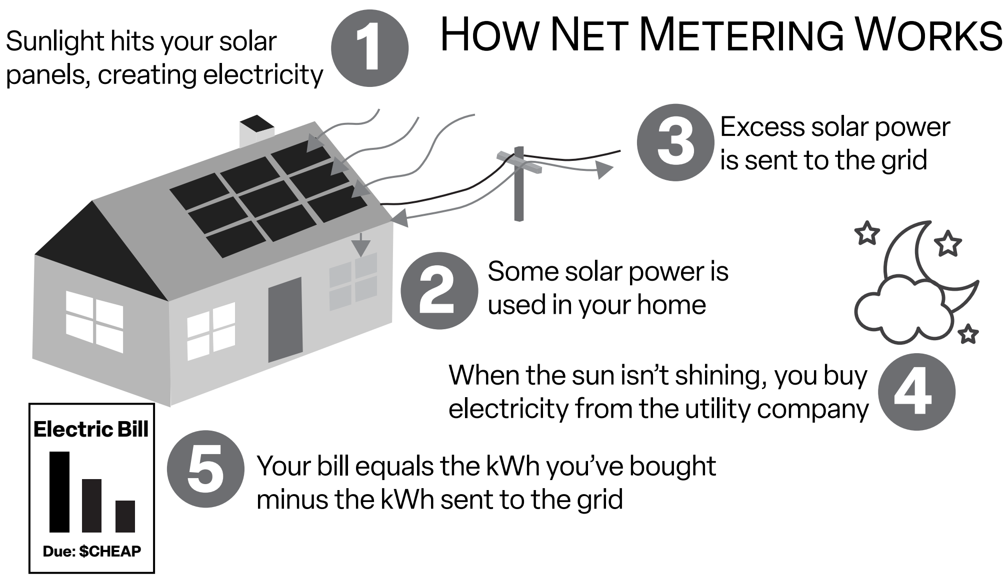
# Powder River defends Wyoming net metering statute at Wyoming Supreme Court

SHANNON ANDERSON
Powder River Staff

Last year, High Plains Power became the third rural electric cooperative, and the largest, to significantly reduce the compensation it provides to customers who generate their own solar electricity. Called net metering, Wyoming law provides that a utility has to credit or compensate a solar owner for power they do not consume on site but export to the grid.

The vast majority of utilities in Wyoming credit net metering customers for their excess generation on a monthly basis at retail rate. In other words, if the electricity generated by the net

NET METERING continued on page 11




# Powder River joins *No Farm Bill without COOL* campaign

PENNIE VANCE
Powder River Staff

In January, Powder River members, Joyce and Michael Evans, and staff member, Pennie Vance, along with other ag leaders from Dakota Resource Council, Dakota Rural Action, and Northern Plains Resource Council, gathered in Billings, Montana to develop the 2024 work plan for the Western Organization of Resource Councils (WORC) Livestock Competition Team.

While the team meets monthly online, this was the first in-person meeting since before the pandemic. Sitting together at the table to discuss issues facing our independent ranchers today resulted in a strong, grassroots engagement plan guided by the team's vision to create a competitive, profitable and fair livestock market for independent producers. Country of Origin Labeling (COOL), Packers and Stockyards Act reform and checkoff reform were affirmed as the priority issues for 2024.

Policy goals and actionable objectives were established for each of the priorities, and it was agreed that each member group would utilize face-to-face meetings with their ag members as a key tactic in achieving these objectives. As their number one

FARM BILL continued on page 5

Powder River member Mike Evans talks with WORC ag campaign coordinator, Elizabeth Bean, at the Livestock Competition Team meeting in January.

# Message from the Chair

I've spent the past two months working in Juneau, Alaska, and will spend the next month continuing to work here and in Anchorage. I've been moved by the stunning landscape—the mountains rising straight out of the sea on both sides of the Gastineau Channel, the changes from full sun to deep overcast skies, snow falling day after day foot after foot. One day walking to work I passed a group of about eight people shoveling their cars out, shoveling their walks out, shoveling paths to their trash cans and mailboxes. Kids were sliding down the huge berms made by the snow plow. It was the Southeast Alaska version of a block party. The ravens sat wherever they wanted, explaining it all to me. Then the rain came causing the snow to turn to mounds of slush. And the freeze. The ravens stopped explaining and started laughing.

Here by myself away from family and friends, I've sometimes felt lonely, homesick for Wyoming, which has made me think about what it is I love in our state. The landscape, the openness, the blazing sun with hot summers and cold winters. All of that but what I love more is that we share these things, that we experience place through our relationships with each other. We protect and nurture our physical world as a shared home.

I'm going to put forth a theory now—that we all long for some control over our lives, for the ability to shape our lives in a given landscape. That brings me to the current legislative session, the time of year when our representatives meet to determine so much of what our lives will be like. While many bills will be considered in this session, I want to mention one whose passage would limit our ability to protect our environment and to shape our lives, while bringing to the fore actions that risk dividing us as neighbors and friends.

The proposed bill is Senate file 44, an amendment to an existing law regulating "limited mining operations." Senate file 44 is described as "An act relating to environmental quality…" But in reading the bill I see it is more an act meant to allow certain mining operations to be carried out without prior environmental impact assessments and without input from landowners and neighbors adjacent to property on which mining is to occur. The bill also strips from county commissions the authority to prevent limited mining operations authorized by the state.

Limited mining operations are described in the bill as any commercial or noncommercial removal of "any noncoal mineral, except minerals regulated by the United States nuclear regulatory commission and minerals regulated by the state…" A limited mining operation can cover up to fifteen acres of affected land, excluding access roads. Such a mine could be seeking rare earth minerals, gold, or any other resource that is noncoal. The requirements to begin mining are only that the operator has received permission to mine from the landowner and has notified the land quality division of the department of environmental quality and the inspector of mines within the department of workforce services of the location of the land to be mined.

That's it. No oversight from local authorities as county commissions are barred from preventing such mining operations. No ability of adjacent landowners and neighbors to comment on the influence a particular mine might have on their lives. No environmental assessment so no information required concerning impacts on local air, water, and soil quality. No requirement for assessments of possible archeological significance at the site. Get the owner's permission and tell the state you're mining, and you can mine.

You can see that I think it's a bad proposition. And especially today, standing on the beach near the site of the 1917 Treadwell gold mine cave-in here in Southeast Alaska, the site of a long ago disaster that is now a place of beauty and recreation. It makes me think of my home in Wyoming, a vibrant living landscape whose future will, I hope, be shaped by each of us. To that end, I urge you to read Senate File 44 and to speak with your local senators about the bill, to encourage them to support measures to help us work together in making decisions for the benefit of all.

David Romtvedt

**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 Organization of Resource Councils, Northern Plains Resource Council, Oregon Rural Action, Western Colorado Alliance, Western Native Voice 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, $50 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**

- Alliance for Renewable Energy(ARE)
- Clark Resource Council (CRC)
- Cheyenne Area Landowners Coalition(CALC)
- Pavillion Area Concerned Citizens (PACC)
- Sheridan Area Resource Council (SARC)

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**POWDER RIVER OFFICES:**

MAIN OFFICE:
934 North Main St
Sheridan WY 82801
Ph: 307-672-5809
Email: info@powderriverbasin.org
Web: powderriverbasin.org

**POWDER RIVER BREAKS**

EDITOR: Robin EH. Bagley
Photos by Powder River staff and members.

# Laramie community shows support for environmental goals

CLAIRE DEUTER
Powder River Staff

Laramie community members packed the room to discuss local renewable energy opportunities at the Alliance for Renewable Energy's (ARE) January meeting. Jay Smith (City Natural Resources Administrator), Brannen Moen (City Manager Analyst), and Corrinne Scieszka (City Climate Action and Sustainability Graduate Research Assistant) attended the meeting to give updates on the City of Laramie's environmental efforts, discuss community involvement, and answer questions from participants. The local Wyoming Sierra Club chapter teamed up with ARE to promote the event and provide resources on renewable energy opportunities from Inflation Reduction Act.

The meeting participants emphasized their desire to work together to support the City of Laramie in its efforts to become carbon neutral by 2050, a goal established back in 2020 through Resolution 2020-14. Although there are barriers to accessing some funds through the Inflation Reduction Act, such as low staff capacity and state policy limitations, the city is forging ahead. The city hired Scieszka, who is also a University of Wyoming master's student, to develop an Emission Reduction Plan to provide a roadmap and guide Laramie toward its net zero emissions goal. Through comprehensive research and revisions based on feedback, Scieszka developed the draft Emission Reduction Plan, which is poised to be voted on by the city council in April. Once the council formally approves the plan, community members and groups like ARE can support the city to reach benchmarks as provided in the plan. The plan also recommends that the city hire a sustainability coordinator which would greatly assist in reaching its emissions goal.

Laramie community members can voice their support for the Emission Reduction Plan by emailing the Environmental Advisory Committee (EAC) at jsmith@cityoflaramie.org or attending the next EAC meeting on Monday, March 4 at 6 pm in the City Council Chambers in City Hall (406 Ivinson Avenue). The EAC, which consists of members appointed by the city council and county commissioners, will decide whether to recommend that the city council approve the plan. ARE is working to mobilize community members to show their support for the Emission Reduction Plan, so if you live in Laramie, please contact the EAC and attend the meeting. Your voice matters! If you have any questions, feel free to contact me by calling the Powder River office at 307-672-5809 or emailing me at cdeuter@powderriverbasin.org.

Community members listen as the Laramie City Natural Resources Administrator, Jay Smith, discusses local renewable energy opportunities.

# Powder River hosting *Growing Your Local Foods Business* event

PENNIE VANCE
Powder River Staff

If you produce food for your local market, or are interested in doing so, then plan to attend *Growing Your Local Foods Business* at the Sheridan County Public Library, Inner Circle Room, March 22, 12 – 2 pm. Casper resident and well-known local foods advocate, LeAnn Miller, better known as the "Veggie Lady," will share her time-tested advice on how to expand your local foods production business.

With her many years of growing and marketing local food in Wyoming, Miller brings valuable skills to the local foods community. She has been the driving force behind multiple local food activities in Casper and throughout Wyoming, including the Casper Community Greenhouse Project and the Natrona County School District's Farm to School Program. She's a key player in the local food procurement programs for the Food Bank of Wyoming and school districts across the state.

While growing her own ambitious gardening and marketing business, Miller helped found the Wyoming Food Coalition as well as the WY Food Matters and Wyoming Farm-to-Plate stakeholder networks. Currently she is the local food broker for Fresh Foods Wyoming and Eat Wyoming Online Farmers Market, connecting producers and consumers throughout the state.

The event is being hosted by Powder River's Local Foods Group, consisting of Sheridan area food producers. The group meets monthly to share concerns and ideas about growing and marketing local foods. Anyone interested in local foods growing and marketing is invited.

Local food producers who want more information about the group can contact Powder River's ag organizer, Pennie Vance at 307-672-5809 or penniev@powderriverbasin.org.

| SOLAR STATS | Energy Produced: | Carbon Offset: | We offset an equivalent of 4 trees in December & January |
|---|---|---|---|
| | 339kWh | 541 pounds | |

# WILL RAMACO'S RARE EARTHS MINE BOOM OR BUST?

SHANNON ANDERSON
Powder River Staff

In late December, a self-described global financial research and due diligence firm called Wolfpack Research issued a scathing report on Ramaco Resources' controversial proposal to turn its yet-to-start coal mine into a rare earths mine. Wolfpack synthesized publicly available information and spoke with sources to take apart Ramaco's claims of a $37 billion rare earths deposit in Sheridan County.

The report highlights the low concentration of rare earth elements at the proposed Brook Mine site in Tongue River Valley and questions Ramaco's ability to economically mine reserves in clay and coal. Wolfpack estimated that the cost of processing the rare earth elements could be double the profit Ramaco could extract per ton of material.

Wolfpack further states:

> *The history of METC's Brook Mine is one of failed ventures: it started with a failure to sell the thermal coal to powerplants or local homeowners, and then pivoted to a failed "coal to cars" initiative led by convicted felon, Charles "Charlie" Atkins, brother of METC's current CEO, Randall Atkins. Now the CEO is trying to convince investors that this failed asset is a world-class rare earth mine.*
>
> *CEO Randall Atkins also has a troubled history, marred by a $32 million judgment after a federal bankruptcy judge held in 1988 that he was "guilty of conversion" for his role in Charlie's tax fraud.*

The full report is available for download at https://wolfpackresearch.com/research/metc/

# Arch advances future for Coal Creek Mine land

SHANNON ANDERSON
Powder River Staff

It is the big dream of government officials and company representatives in Campbell County: repurposing infrastructure and land at the region's large surface coal mines for new economic development opportunities. That dream is fast becoming a reality for Arch's Coal Creek Mine south of Gillette, as the company took the first step in advancing its plan by gaining approval from the Campbell County Board of County Commissioners to zone a small portion of the mine to allow future heavy industrial development.

The county's decision on Jan. 17 paves the way for Arch to sell off this part of the mine and attract new businesses into the area that want to continue using the valuable rail line, buildings, and other large infrastructure at the mine.

Meanwhile, the rest of the mine (roughly 88% of the mine's 18 square miles) will continue reclamation activities to achieve a final land use status of recreational and agricultural per the mine permit conditions.

While Arch and county economic development folks promoting the plan were silent on what kind of business will eventually occupy the space, the heavy industrial zoning designation provides plenty of options. With lucrative tax credits and subsidies from the federal government on the table, there is a push in coal regions around the nation to redevelop mine lands as a means of economic transition in coal-dependent communities.

At our 2022 Annual Meeting, Powder River members supported a policy resolution to encourage repurposing of coal mine infrastructure, with the focus on attracting new clean energy development like wind and solar. However, members did not want to offer blanket support for other industrial development that could further the legacy of negative impacts to the region's water, air, and land resources. Our members in the Gillette area will continue to watch this proposal, and we plan on participating in future permitting decisions of environmental regulators as needed.

# Lease sales lately drawing limited interest

KATHERINE STAHL
Powder River Staff

Despite grumblings of a war on American energy, the oil and gas industry has been slow to bid on parcels offered in the Bureau of Land Management's (BLM) recent onshore oil and gas lease sales. A December report from Center for Western Priorities (CWP) details BLM's unpopular recent lease sales in Wyoming. In our state, just over half of all acres offered for federal oil and gas leases sold in 2023.

The reasons behind industry's declining interest in new federal leases are manyfold, states the report. Although the passage of the Inflation Reduction Act (the crown jewel of the Biden-Harris Administration's climate action agenda) brought with it a requirement for quarterly lease sales, it also established a fee for nominating parcels, raised the minimum bid requirement, and increased rental rates for leased land. All these components reduced speculative leasing, or the practice of locking up federal land and land overlaying federal minerals for potential oil and gas development, thereby preventing the land from being managed for other uses. Oil and gas reforms included in the IRA are now being codified through federal agency rulemakings.

The CWP report also details the revenue breakdown for the Wyoming 2023 oil and gas lease sales: 3.5% of the total acreage offered for lease represented 84% of total lease sale revenue. On the opposite end of the spectrum, 78% of the total acreage offered by BLM in 2023 either did not sell or sold for the minimum bid, meaning only one company bid on the parcel.

The oil and gas reforms included in the IRA are working as intended to reduce speculative leasing. Also at play here, adds the CWP report, is the fact that oil and gas companies know where drilling is likely to be successful, and they have, for the most part, already leased out those areas. In Wyoming, oil and gas companies are in possession of 3.8 million acres of non-producing land, with 2000 unused permits to drill. Under the Trump Administration, and prior to the passage of leasing reforms in the IRA, oil and gas companies accumulated 6 million acres of land across the country in lease sales.

There are multiple factors affecting operators' interest in federal oil and gas lease sales in Wyoming, but we can rest assured that reforms instituted under the IRA and soon to be codified through BLM are encouraging better land management practices. We can also be sure that, despite what our state's politicians may say, there is no war on energy and the oil and gas industry is free to make use of their 2000 unused permits to drill any time they would like. Our federal government is simply cracking down on outdated policies that enable bad business practices.

# FARM BILL

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priority, the team chose the reinstatement of mandatory COOL through passage of the American Beef Labeling Act S.52, not as a standalone bill but as part of the 2024 Farm Bill.

That objective was branded as "No Farm Bill without COOL." Powder River, WORC and our rancher allies across the U.S. believe that while passing legislation in the current Congressional climate would be very difficult, we do have a rare opportunity to reinstate COOL by making it part of the Farm Bill.

To help achieve this objective, Powder River and the other team members have committed to organizing small meetings with members and their ranching friends and neighbors at kitchen tables, local taverns, coffee shops or wherever the ranching community tends to gather.

These meetings will provide an opportunity to discuss the importance of including mandatory COOL in the Farm Bill. Fact sheets, legislator contact information and other resources will be shared at the meetings to help folks talk to Wyoming's Congressional delegation. We hope this will encourage more people to host "No Farm Bill without Cool" meetings in their neighborhoods.

While COOL is the top priority for WORC's livestock team, meeting attendees agreed to continue work on honest and competitive price discovery in the live cattle market for slaughter through Packers and Stockyards Act rulemaking. They will also continue to work for reform of the mandatory beef checkoff program to increase transparency into how these funds are used and hold groups accountable on how they spend the rancher checkoff dollars that they collect.

# After four years, HB 200 is a failed experiment

RONN SMITH | Powell

*EDITOR'S NOTE: This is reprinted from the Feb. 12, 2024 issue of WyoFile. WyoFile is an independent nonprofit news organization focused on Wyoming people, places, and policy.*

Like a bad penny, the law mandating carbon capture and storage at Wyoming coal-fired power plants keeps turning up for revision. This year House Bill 200, which originally passed in 2020, reappears as Senate File 42. Why the repeated efforts to fix a statute that has proven unworkable and costly?

The Public Service Commission granted both Rocky Mountain Power and Black Hills Energy rate increases to cover the burden of compliance.

As the Wyoming Office of Consumer Advocate warned, electricity consumers are "being asked to pay for unproven research and development."

Four years, millions of dollars, and untold hours of deliberation have brought us no closer to the intent of HB 200. Natural gas power plants are far superior to coal plants with carbon capture modifications in meeting its stated goals:

**Cost Effective** – Black Hills Energy reports 20 times higher capital cost for carbon capture vs. coal-to-gas conversion. A high-ranking U.S. Department of Energy official and leading expert on carbon capture acknowledged, "It's fairly clear that carbon capture may not make economic sense on the remaining coal-fired power plants in the U.S."

**Reliable** – Natural gas power plants across the U.S. consistently achieve higher availability than the more complex and generally older coal plants.

**Dispatchable** – Natural gas combined cycle plants respond quickly to changes in electric loads and supply, making them a better backup to wind and solar.

**Low-Carbon** – A modern natural gas combined cycle plant without carbon capture generates fewer CO2 emissions per kilowatt-hour than a Wyoming coal plant equipped with 75% carbon capture. In the latter, emission reductions are offset by a 30% energy penalty, lower thermal efficiency and higher carbon intensity.

Senate File 42 changes the net-power emission standard to a carbon removal standard, signaling the true motive behind carbon capture and storage. It's not to generate low-carbon power, but to manufacture high-value CO2 tax credits. Paradoxically, this revised standard incentivizes inefficiency by turning the carbon capture energy penalty into a bonus. The more coal burned just to supply steam and power to the capture plant, the more CO2 available to remove and monetize.

> "Senate File 42 changes the net-power emission standard to a carbon removal standard, signaling the true motive behind carbon capture and storage. It's not to generate low-carbon power, but to manufacture high-value CO2 tax credits."
>
> – Ronn Smith

One must wonder whether the backers of HB 200 believe their own story. Wyoming officials recently opposed the EPA's version of a carbon capture and storage mandate for power plants. Gov. Mark Gordon claimed it would increase utility costs and threaten grid reliability. U.S. Sen. Cynthia Lummis complained that for Wyoming coal-fired power plants, the proposed rule sets "an egregiously unrealistic target that is not feasible based on current carbon capture technology." How true. But these are precisely the arguments raised against HB 200 four years ago.

Conversely, the dubious reasons cited by proponents of HB 200 are echoed in the EPA's justification for carbon emission performance standards. "EPA has determined that [carbon capture] … is adequately demonstrated, achieves significant reductions in greenhouse gas emissions, and is highly cost-effective."

Senate File 42 prolongs the obligation and the expense of evaluating carbon capture by extending the compliance period to 2038. The burden of proof is a moving target. Every coal-fired carbon capture plant built or planned represents a first-of-a-kind facility. The challenges of energy inefficiency and solvent degradation have spurred continual process adjustments and solvent reformulations. Financial markets penalize first-of-a-kind facilities by charging a steep risk premium. Until the prevailing technology stabilizes or a replacement emerges, we should view coal plant carbon capture as pre-commercial and ill-suited for regulatory mandates.

Obsolescence poses another risk. Black Hills Energy and Babcock & Wilcox recently announced an award of $16 million from the Wyoming Energy Authority to fund research into a novel carbon capture and hydrogen production technology. The chemical looping process exposes a circulating oxygen carrier to coal, which burns to produce easily separated CO2 and water.

The depleted carrier is replenished with oxygen from steam, leaving pure hydrogen as a valuable byproduct. Innovations like this could supersede conventional carbon capture technology and leave enormous stranded investments.

Senate File 42 perpetuates the unlimited risk borne by ratepayers. Ostensibly, the law limits ratepayer exposure to 2% of their monthly bill. But the clause that follows makes this cap meaningless. If the 2% rate recovery surcharge doesn't fully compensate the utility for its compliance costs, the Public Service Commission must "take such actions as necessary" to cover those costs, "notwithstanding any other provision" of the statute. In other words, the 2% cap is mere window dressing.

House Bill 200, and now SF 42 provide the means for their own repeal should the PSC so advise. Chairperson Mary Throne is concerned that the law is pushing the PSC beyond traditional rate-making principles of "just and reasonable" costs. Well, the statute empowers the commission to push back. Credit the PSC for expressing hope that utilities can find financial support for carbon capture analysis from sources other than their ratepayers. But hope cannot substitute for regulatory policy.

# Don't judge beef by its (misleading) sticker

JOYCE EVANS | Fort Laramie

*EDITOR'S NOTE: This is reprinted from the Jan. 27, 2024 issue of the Casper Star-Tribune.*

You need to beware of misleading "Product of USA" labels on supermarket beef because looks can be deceiving.

Consumers buying a package of steaks at the supermarket marked "Product of USA" likely believe that the label means it was raised on an American ranch. Maybe it's also marked "Grass Fed," and they imagine a grassy hillside somewhere in the U.S. dotted with healthy cattle. They assume they know where their family's food comes from.

The problem? The beef in the package labeled with a big USA sticker on it might actually have come from Brazil, Namibia, or Mexico. Thanks to lobbying efforts by powerful meatpackers, such as JBS, Tyson and Cargill, current law allows use of the "Product of USA" label even when the beef was born, raised, and processed in a foreign country - as long as once the meat enters the U.S. it undergoes minimal processing or repackaging.

These labeling loopholes prevent consumers from knowing where the beef they feed their families is coming from and whether or not their dollars are supporting American ranchers. The current laws also deprive livestock producers from being able to differentiate their beef from the imported product.

No matter how diligent a rancher is in producing the healthiest beef on the market, without accurate labeling laws, once it leaves the ranch there's no way for consumers to know that they are purchasing genuine American beef.

The meatpackers complain that it is too costly and difficult to keep domestic beef sorted from imported beef, an incredulous claim when accurate country of origin labeling (COOL) is required on other meats and hundreds of other food items. The more salient reason behind the packers' position is they are worried about profits, surveys show if labeling is accurate, most consumers will choose to purchase genuine American beef.

Wyoming's ranchers have joined others across the country in a fight for accurate mandatory COOL for beef. Mandatory is necessary because it has been shown that if labeling is voluntary for processors and retailers, they simply won't bother. Why would they?

Good COOL bills that would allow "Product of USA" labeling only on beef that's born, raised and processed in the U.S. are being sponsored by our representatives in D.C., Senator Cynthia Lummis, the American Beef Labeling Act (S52) and Congresswoman Harriet Hageman, the Country of Origin Labeling Enforcement Act (HR5081).

The opportunity to pass mandatory COOL is at an all-time high. However, we are up against powerful industry lobbyists in the U.S. Ranchers and supporting organizations are fighting. Wyoming's lawmakers are fighting. But we need American consumers, who have the right to know where their beef is coming from, to join this fight.

Consumers have a voice. If every beef-eating American called, emailed or visited their elected officials demanding their support of accurate country of origin labeling bills for beef, it would soon become law, and those stickers on the packages would actually mean something.

We need to tell our Congressional delegation that we want to know where our food really comes from. Thank Senator Lummis and Representative Hageman for sponsoring useful legislation to support American ranchers and ask their offices how to spread the word to other congressional offices.

Write letters to the editor and demand that you, as a consumer, are truthfully informed about the source of your food. You deserve to know the truth.

# Wyoming's coal mandate continues to cost electric customers

DUSTIN BLEIZEFFER
WyoFile

*Editor's Note: The following article, re-printed from the Jan. 24, 2024 issue of WyoFile, highlights the ongoing costs and risks associated with Wyoming's novel and controversial regulatory mandate to require utilities to pursue carbon capture at the state's aging coal plants. Powder River has been stalwart in our opposition to this ill-advised regulation, and we will continue to protect utility customers through intervention at the Public Service Commission and before the legislature. If you would like to get involved in this work, please contact the office. Check out the Wyoming Association of Ratepayers website or social media channels for more information. WyoFile is an independent nonprofit news organization focused on Wyoming people, places, and policy.*

State regulators this month approved a $1.1 million annual "low-carbon" surcharge for Black Hills Energy's Wyoming customers — an overall 0.67% increase that will be added to monthly bills beginning in February.

That's just the beginning of what could add up to $1 billion in additional costs for the company's 145,000 customers in the state, and more than $2 billion for Rocky Mountain Power's Wyoming customers, according to preliminary filings with the state, if the utilities move forward on a state-imposed mandate to retrofit coal-fired power plants with mechanisms to scrub carbon dioxide from smokestacks.

Wyoming lawmakers, who frequently warn against the hidden costs of abandoning coal-based power in favor of renewable energy, passed the controversial House Bill 200 – Reliable and dispatchable low-carbon energy standards law in 2020. The mandate is intended to compel utilities to retrofit coal plants with carbon capture technologies rather than retire the facilities. Proponents say it's an effort to maintain electric reliability and to keep Wyoming coal plants viable amid increasingly ambitious climate policies in other states.

But the law presents several questions of fairness and practicality, according to critics including the Wyoming Office of Consumer Advocate. The primary concern is cost.

The commission-approved rate hikes thus far only cover the cost of analyzing the viability of installing carbon capture systems. Actual deployment would cost much more.

According to a preliminary report filed by Black Hills Energy in March 2023, applying the technology could cost more than $500 million at the Wygen II coal plant and about $475 million at the Neil Simpson II plant — both located at Wyodak complex outside Gillette. Both price tags far exceed the original costs of the plants, according to filings with Wyoming Public Service Commission. Neither estimate accounts for the cost of replacement power; adding carbon capture would reduce total power generation output at the plants by 15% to 36%, according to the company's 2023 analysis.

In addition to Black Hills Energy's Wygen II and Neil Simpson II, Rocky Mountain Power operates three coal-burning units in the state that are subject to the law: one at the Dave Johnston plant near Glenrock and two at the Jim Bridger plant east of Rock Springs. The utility began charging its 144,000 Wyoming customers a 0.3% carbon capture compliance surcharge last year to collect an estimated $2 million annually.

In addition to the giant price tags, critics point to costly budget overruns and operational challenges associated with past efforts at retrofitting existing coal plants with carbon capture technology.

"We're being asked to pay for unproven research and development-type of projects that, at least at this time, do not show a viable path toward being implemented," Office of Consumer Advocate Administrator Anthony Ornelas said.

## MOVING TARGETS

The coal power plant carbon-capture surcharges that Black Hills Energy and Rocky Mountain Power are charging their Wyoming ratepayers — $1.1 million and $2 million, respectively — represent ongoing costs of complying with Wyoming law by hiring engineers and consultants to measure the viability of adding carbon capture to the utilities' five coal-burning units

House Bill 200 does allow the utilities to apply for an exemption, which could be granted if they prove to the Public Service Commission that adding the technology would be too expensive or result in less reliable power availability.

The first opportunity for such a request or determination could come soon after utilities file annual progress and updated cost estimate reports in March. However, lawmakers may consider a draft bill this session that would revise some targets.

Senate File 42 – Low-carbon reliable energy standards-amendments would push back the deadline to install coal plant carbon-capture retrofits from 2030 to 2038, and change the minimum standard of capturing 90% of the greenhouse gas that would otherwise be emitted into the atmosphere to 75%. The bill would also exempt regulated utilities with fewer than 10,000 customers.

While those revised targets may give emerging technologies the time needed to become commercially viable, continued engineering studies will only become more expensive, the Office of Consumer Advocate has noted, even if the companies and the state ultimately decide not to retrofit the power plants.

Black Hills Energy has estimated that the second phase of engineering analysis could cost between $8 million and $12 million, according to filings with the state. That would result in a higher carbon capture surcharge. The same rising costs of engineering studies to comply with the law apply to Rocky Mountain Power and its customers.

Ornelas, the Office of Consumer Advocate administrator, is doubtful that engineering studies — pending legislation notwithstanding — should move on to the next, more expensive stages.

However, his office is reserving judgment until after the utilities file their new estimates in March, he told WyoFile.

## WHO BENEFITS, WHO PAYS?

The recent Black Hills Energy request to impose a carbon capture compliance surcharge, which was challenged by the Office of Consumer Advocate and some of the utility's largest electric consumers, revealed many more questions of fairness and affordability regarding the 2020 mandate.

Black Hills Energy is the parent company of two separate, regulated electric utilities in Wyoming: Black Hills Power, which serves about 2,600 customers in the Newcastle region, and Cheyenne Light, Fuel and Power, which serves about 44,000 customers in the southeast corner of the state.

COAL MANDATE continued on page 10



# CARBON MARKETS

Learn about the latest opportunities in carbon markets and connect with experts and like-minded individuals.

***Free and open to the public. Lunch provided.***

## DATE & TIME

10 am - 2pm
Monday, March 18, 2024

## ROGER & BETSY INDRELAND

Hear firsthand experiences from a ranching family from Big Timber, Montana who recently entered the carbon market.

## LOCATION

Watt Agriculture Building
1090 Dome Loop, Sheridan, WY 82801

## CHRIS MEHUS

Learn more about the market, the pros and cons, what to be aware of, and more from the Program Director of the WSE.

## REGISTER

For more information or to register, visit the link below. Virtual option available.

(307) 672-5820 ext. 3 www.sccdwy.org

# NET METERING continued from page 1

metering customer exceeds that consumed and supplied by the utility, the net metering customer is credited for the excess generation with the kilowatt-hour credit appearing on the bill for the following month, compensated at the same rate they pay for the electricity they consume. However, High Plains is switching to compensating net metering customers for their excess generation by paying them on a monthly basis at a much lower rate, called avoided cost. Avoided cost is typically about 1/3 of the rate customers pay for electricity, and by cashing out excess generation on a monthly basis, net metering customers of High Plains won't be able to roll over generation credits into future months. Overall, this dramatically reduces the value of solar for a customer-generator.

Not wanting the precedent of High Plains' action to stand or influence other utilities, along with our partners at the Wyoming Outdoor Council (WOC), Powder River intervened in the Public Service Commission (PSC) proceedings reviewing High Plains' proposal in 2022. We brought in expert Tom Beach of Crossborder Energy who pointed out numerous flaws in High Plains' analysis and contended that avoided cost is not adequate compensation for solar owners in the High Plains service territory. We also raised legal arguments asserting that Wyoming's net metering statute requires compensation for excess generation to be the same as a kilowatt hour credit on a bill, again, what utilities have been doing for decades across the state.

Unfortunately, after lengthy deliberations, the Public Service Commission approved High Plains' proposal on a split 2-1 vote. Powder River, along with WOC, appealed that decision to state court and our case is currently before the Wyoming Supreme Court.

If you would like to learn more about the case, contact Claire Deuter at our office. We'll let you know when oral arguments are scheduled in Cheyenne.

# COAL MANDATE continued from page 8

A handful of Cheyenne Light, Fuel and Power's largest customers argued over who should share the financial burden of engineering studies to comply with carbon capture mandate.

Microsoft, which operates a growing data center complex in Cheyenne, said it shouldn't be forced to pay because it doesn't rely on either of Black Hills Energy's coal-fired power plants. Instead, Microsoft has an arrangement with Cheyenne Light, Fuel and Power to rely only on power market purchases — most of which come from renewable energy resources, in line with the company's own initiatives. None of the data center's power comes from the coal units in question, the company argues, so Microsoft shouldn't have to pay for their retrofits.

"My view is that the Legislature stated a policy of favoring coal-fired generation," Public Service Commission Chair Mary Throne stated in the commission's hearing regarding Black Hills Energy's surcharge request last week, "that it's a good that [power from coal] should be encouraged in Wyoming, and that therefore all customers of a utility should pay.

"It doesn't exclude any customers," Throne continued, and added that the time to make such arguments is when lawmakers consider such laws.

"All the participants in this proceeding certainly had the opportunity to make that argument to the Legislature."

That interpretation of HB 200, Ornelas said, could discourage climate-conscience companies like Microsoft from coming to Wyoming.

"This could have the effect of really discouraging future investments in and around Cheyenne and other parts of Wyoming. These are large industrial customers, often data centers. These customers do not rely, in any way, shape or form on Wyoming coal-fired generation to meet energy needs."

## 'VIGOROUS PURSUIT OF GRANT FUNDING'

The initial cost estimates — ranging from $500 million to $1 billion to retrofit a single coal-burning unit — are driving the push to possibly amend the 2020 HB 200 law in the upcoming budget session in February.

Proponents of the existing mandate, including Gov. Mark Gordon, hope that the recently expanded federal "45-Q" tax credit program for carbon capture facilities, along with technological developments, will bring down the cost of retrofitting existing coal plants to emit less carbon dioxide.

Still, the Public Service Commission, which is charged with implementing the mandate, has expressed concerns that state law is pushing it beyond traditional rate-making principles of "just and reasonable" costs that are prudent to pass on to ratepayers.

All three commissioners — Throne, Chris Petrie and Mike Robinson — have said they hope Black Hills Energy and Rocky Mountain Power can find financial support for such carbon capture analysis from sources other than their ratepayers.

"I'd like for the companies to proceed from here with the clear understanding that vigorous pursuit of grant funding, or other non-ratepayer funding, should be given a very high priority in this process," Commission Deputy Chairman Petrie said.

# CALENDAR

**MARCH 15 |** Powder River Board Meeting **|** Online

**MARCH 18 |** Carbon Markets Event **|** Sheridan

**MARCH 22 |** Growing Your Local Foods Business Workshop **|** Sheridan

POWDER RIVER BASIN Resource Council
Celebrating 50 Years

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## IN THIS ISSUE



## PLANNED GIVING AND ESTATE PLANNING GIFTS

The Powder River "family" has been thinking a lot about the future lately, because, as the saying goes, "We aren't getting any younger." We want to make sure this organization remains viable for future generations in the same way it serves today's members. So we're inviting you, our extended family of members and donors, to consider including Powder River in your estate plans.

Your gift would create a living legacy allowing Powder River to continue our work far into the future and helping ensure Wyoming remains the place we know and love for our kids and grandkids.

As one long time Powder River member, Digger Moravek stated, "I want to raise Hell long after I'm gone." You too can do this through a bequest to Powder River.

The two easiest ways to include Powder River in your estate planning take little time (and no legal assistance).

· THROUGH YOUR RETIREMENT ACCOUNT (Your IRA, Roth-IRA, SEP-IRA, 401(k), or other such account): Name Powder River Basin Resource Council as a Primary beneficiary for a percentage. One percent, 10%, 25% or whatever you wish. You can do his through the account custodian, or often even on the custodian's website in a few minutes (Powder River's Tax ID is 74-2183158).

· THROUGH YOUR LIFE INSURANCE POLICY: Name Powder River Basin Resource Council as a primary beneficiary of any percentage of your life insurance policy. You can do this through your insurance agent or the insurance company, or often even on your insurance company's website in only a few minutes (Powder River's Tax ID is 74-2183158).

If you are preparing a formal will or living trust document, you can include Powder River Basin Resource Council as a primary beneficiary of a specific dollar amount or percentage of your estate. If you already have such an instrument, you can have it revised to include Powder River. This is probably best done through your attorney.

Finally, there are several more complex tax-advantaged ways to contribute to Powder River's future and receive continuing income and tax advantages during your lifetime. These include "charitable remainder trusts" and sale of appreciated and depreciated securities. Please consult your legal and financial advisors about how you can use such tools to support Wyoming's most effective grassroots member organization, and how you might benefit.

If you have any questions, please give Powder River a call at 307-672-5809.

## WYOMING DELEGATION CONTACT INFORMATION

**BARRASSO, JOHN (R)**
307 Dirksen Senate Office Building
Washington, DC 20510
Website: barrasso.senate.gov
Phone: 202-224-6441

**LUMMIS, CYNTHA (R)**
Russell Senate Office Building
Suite SR-124
Washington, DC 20510
Website: lummis.senate.gov
Phone: 202-224-3424

**HAGEMAN, HARRIET (R)**
1531 Longworth House Office Building
Washington, DC 20515
Website: hageman.house.gov
Phone: 202-225-2311