



Powder River Seeks to Uphold Coal Reclamation Bond Requirements

On July 24, Powder River filed a motion seeking to intervene in Alpha Natural Resources's (Alpha) appeal of the Department of Environmental Quality's (DEQ) decision to remove Alpha's ability to "self-bond" at its large coal strip mines near Gillette.

Self-bonding is a practice that allows companies to mine coal without a third-party financial guarantee that disturbed land will be reclaimed as required by law. As such, self-bonding is allowed by Wyoming and federal regulations only if the company meets specific financial tests that indicate enough funds will be on the table to cover reclamation costs. Alpha currently carries a \$411 million reclamation liability. The company's financial position has slipped considerably over the past year and a half, leading to concerns from Powder River and its members who live near the mines that the company may no longer qualify for self-bond status in Wyoming. On May 26th, the DEQ agreed and ordered the company to provide bonds with third-party financial guarantees, such as sureties or letters of credit. On June 24th Alpha appealed DEQ's decision to state district court in Gillette. Powder River is seeking to intervene in the case to



defend DEQ's decision, which will ensure there are sufficient funds available for reclamation at Alpha's mines.

Powder River member and Gillette area resident Karla Oksanen is concerned that the worth of her property next to the mine will suffer if Alpha does not have the funds available for reclamation work. She stated, "As a resident of over 25 years living next to the Eagle Butte Mine, I have been saddened by the changes to the landscape. From what I have observed, there is still a lot of reclamation work left to be done at the mine, and my land's value as well as lands in the entire area are at risk if reclamation requirements are not held to good standards."

Powder River is concerned that if the company doesn't have the funds to restore the

land, taxpayers will likely have to pick up the tab.

"Since our founding, our organization has advocated for strong reclamation standards and bond requirements at Wyoming's coal mines. We felt it was important to get involved to make sure the public interest is protected," stated Powder River Chair, Gillian Malone. "The state shouldn't be left holding the bag for Alpha's mines, or any other mines in the Powder River Basin."

Powder River's motion is currently pending before Judge Perry in Gillette. However, since the filing of our motion, Alpha filed for Chapter 11 bankruptcy protection in Virginia. In spite of this further evidence of Alpha's financial insolvency, DEQ granted Alpha's request to hold an informal conference before the DEQ Director in an attempt to get DEQ to re-consider its decision. DEQ then agreed to a stay of the state court case, which also stays the Court's decision on Powder River's motion. We will keep our members updated on these events, to the extent that the public is informed.

**Shannon Anderson & Jordan Harper
Powder River Staff**

Council Tables Citizen Petition

DEQ Proposes Web-Based Comment System

In April, Powder River and Citizens United for Responsible Energy Development submitted a petition to the Wyoming Environmental Quality Council (EQC) asking the Council to initiate rulemaking requiring the Wyoming Department of Environmental Quality (DEQ) to accept public comments on environmental permits and rules by email. The Wyoming DEQ will not accept email comments and is one of the last state or federal agencies that still requires public comments to be submitted by fax or snail mail.

For the past five years, Powder River's request to DEQ to accept email comments from the public has been met with resistance. Our petition included correspondence from 2010 when Powder River wrote to then DEQ director, John Corra asking the agency to accept email comments and he responded by saying, "...the current policy not to accept email serves the department and will continue."

We renewed our request in 2013 asking the DEQ to enter the 21st century with the new DEQ Director, Todd Parfitt. Unfortunately, DEQ placed our request on the back burner and continued to refuse acceptance of email comments. In an effort to pull the DEQ into the 21st century we filed the petition with the Wyoming Environmental Quality

Council. In response to our filing a Casper Star Tribune editorial said it best when they wrote:

"The Powder River Basin Resource Council, a landowners group, and the Citizens United for Responsible Energy Development filed the request with the agency's citizen review panel, saying allowing online comment would lead to better decisionmaking. That's true. Conversations about Wyoming's environment affect so many people, in one way or another, and our state agencies should welcome the opportunity to bring as many people as possible into that conversation. After all, this is important stuff: the department works with issues as varied as missile remediation near Cheyenne and an Australian company's wish to oxidize coal in the ground. More public feedback leads to better, more informed decisionmaking, and that benefits us all. We hope the Wyoming Department of Environmental Quality takes quick action to show it believes that, too."

Message from the Chair



This issue of the *Breaks* is a little heavy on coal, with articles and commentary on the BLM Listening Session in Gillette, information on the Environmental Protection Agency's Clean Power Plan, and more. So I won't go into detail, but just throw out a few tidbits for rumination.

The very idea that Wyoming should have to think about reducing our carbon footprint from coal-fired power plants, and perhaps even begin phasing out coal, is anathema to some—including our congressional delegation, governor, and many state legislators—on the guiding principles of our energy-at-all-costs operating strategy. But does it have to be? What if we were to embrace the challenge and come up with innovative solutions that work for Wyoming and her people rather than going down with the coal ship and taking our workers with us? Other states have done so when faced with similar challenges. I had a logger

friend in southeast Alaska, where logging was being phased down, who was given the opportunity, free of charge, to go back to school and learn a new trade. And he now has a thriving silk screening business which caters to both visiting tourists and other local businesses, and which will carry him safely into retirement. Plus he discovered that he was an artist. Not bad.

Wyoming could be doing a lot more for its citizens than it is. For a start, instead of assuming its "woe is me" posture regarding changes in the coal slow-down (which are largely market driven by the way), the state could see to it that laid-off coal miners get retrained and hired to reclaim the vast coal lands that lie "dormant" after mining. Reclamation not only equals jobs, but it ensures that previously mined lands go back into agricultural production or grazing for livestock and wildlife.

And as far as I'm concerned, the coal royalty reform issue is a no-brainer. Wyoming and her people are being short-changed, and the only way to rectify the situation, especially when more Powder River Basin companies seek to increase sales on the international market, is to levy the royalty amount on the international market price rather than at the mine. There is no question that coal is going to be around for awhile, and as long as it is, Wyoming could be receiving a higher royalty than it is currently seeing. Finally, I'd like to remind us that opportunities for renewable energy projects abound in this state, and that they don't always have to be behemoth or even associated with the mega power grid. Why not encourage the development of community-based wind and solar that could offset each other, say at the local school or community center? Wyoming has set examples for the rest of the country on the energy front for a long time, and there's no reason we can't continue to do so.

Gillian Malone

Youth in Conservation Cartridges for Kids Drop Off Locations

Powder River Basin Resource Council, in partnership with Cartridges for Kids, is still recycling used cell phones, empty laser, fax, copier and inkjet cartridges as well as laptops, Palm Pilots, iPods and iPads.

The recycling program is in cooperation with local businesses **Cartridge World, The Business Center, Kuchera Kane Memorials, Bustech Computing, and Sheridan College's Information Technology Department**. Any funds earned from the project will be used entirely to support Powder River's Youth in Conservation program which yearly recognizes young scientists at the Wyoming State Science Fair with a cash award.

Send Us Your Letters

The Board of Directors and the editorial board of the "Breaks" will now accept letters for publication from the general membership.

Letters should be relevant to the issues Powder River addresses and under 300 words. The editorial board will screen letters for those attributes.

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, \$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

- Clark Resource Council (CRC)
- Cheyenne Area Landowners Coalition(CALC)
- Pavillion Area Concerned Citizens (PACC)
- Ranchers & Neighbors Protecting Our Water
- Sheridan Area Resource Council (SARC)

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Powder River Breaks

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Photos by Powder River staff and members

Help Pass the Farm to School Act of 2015



Powder River members Theresa Shaw and Brad Holliday meet with Senator Enzi to discuss the benefits of Farm to School to Wyoming

The Farm to School Act of 2015 has been introduced in Congress and we need your help to get it passed.

Farm to School programs seek to change food purchasing policies by connecting schools to local producers so that students can gain access to healthy and nutritious foods. Even though Farm to School is a national program, it supports local flexibility and allows schools to implement programs and projects that meet the unique needs of their school districts and communities. From bringing farm-fresh produce into school cafeterias, to teaching children how to garden, to opening up new markets for local farmers and ranchers, Farm to School is a win for everyone.

The Farm to School Act of 2015 seeks to build upon the success of the United States Department of Agriculture (USDA) Farm to School Grant Program by:

- Increasing annual mandatory funding from \$5 million to \$15 million
- Fully including preschools, summer food service program sites and after school programs
- Increasing access among tribal schools to farm-fresh and traditional foods
- Improving program participation from beginning, veteran and socially disadvantaged farmers and ranchers

Every five years Congress must revisit a large package of federal child nutrition bills known as the Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act, or CNR for short. CNR authorizes all of the federal school meal and child nutrition programs, which provide funding to ensure that low-income children have access to healthy and nutritious foods.

These programs include National School Lunch, School Breakfast, Child and Adult Care, Summer Food Service, Special Supplemental Nutrition Program for Women, Infants and Children, and Farm to School.

The current CNR, named the Healthy, Hunger-Free Kids Act of 2010, is set to expire on September 30, 2015. While many of the programs associated with CNR are permanently authorized, Congress must still review and update the laws governing these programs by the September deadline.

Under the last CNR (Healthy, Hunger-Free Kids Act of 2010) the Farm to School grant program was awarded, for the first-time,

mandatory funding of \$5 million annually. Countless states and schools have taken advantage of the Farm to School competitive grant program, including the Wyoming Department of Education, which recently received \$65,000 to promote and support Farm to School programs across the state.

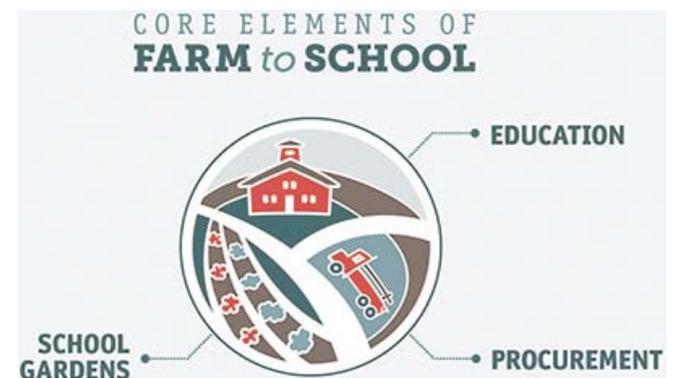
In order for the Farm to School Act of 2015 to pass Congress, it will need a groundswell of support, which is why we are asking for your help. Included in this edition of the Powder River Breaks, is a postcard asking Representative Cynthia Lummis to vote in favor of this important piece of legislation. All you have to do is sign the postcard, affix a stamp, and drop it in the nearest mailbox.

By bridging the gap between local producers and schools through Farm to School, we can provide more marketing opportunities for farmers and ranchers, increase children's consumption of healthy and nutritious foods, and educate children about the importance of local food systems, nutrition, and health.

We would also like to invite you to attend our Farm to School training workshop in Sheridan on September 23. Check out the flier on the following page for more details!

Thank you for supporting Farm to School!

Megan Taylor
Powder River Staff



Farm to School includes three main components:

- **Procurement** - local foods are purchased, promoted and served in the cafeteria
- **Education** - Students participate in education activities related to agriculture, food, health and nutrition
- **School Gardens** - Students engage in hands-on learning through gardening



WYOMING FARM TO SCHOOL REGIONAL WORKSHOP

Wednesday, September 23, 2015
4:00 - 7:00 pm

Holy Name School Cafeteria - 121 S. Connor St.

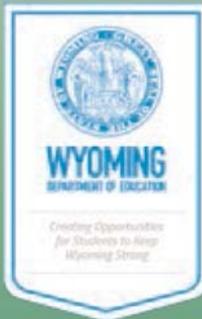
WHO SHOULD ATTEND:

- Food service directors, business managers, all school staff, child care providers, elder care providers, restaurants, hospitals or other interested parties or institutions.
- Producers (small and large scale), educators wishing to grow nutritional foods as part of their learning curricula.
- Community members interesting in purchasing more foods locally, supporting local economy, creating school gardens and providing our kids with knowledge of where their food comes from.

WHAT:

- Chef demonstration featuring local items. (And YES, you get to eat them!!!)
- Short sessions on:
 - How to get involved as a producer, what qualifications are needed?
 - Procurement of local goods.
 - How do we define local?
 - How to start a school garden.
- Expert panel with Q&A following Short Sessions.
- Vendor Show

The workshop will be a great opportunity to network with other interested parties, meet new contacts, learn about Farm to School in your area and enjoy local foods and vendors!



Register online at:

<http://sheridanfarmtoschool.eventbrite.com>

OR RSVP to:

brook.brockman1@wyo.gov

Please be sure to let us know you are planning to attend! We want to make sure we have enough food for everyone!



WOGCC Moving Forward with Bonding Rules Commissioner Purchasing CBM Wells Raises Concerns

The Wyoming Oil and Gas Commission officially announced the agency's intent to proceed with rulemaking on oil and gas bonding at their August 11 meeting. That means a draft of those rules will be available at the September 8th meeting which also marks the start of the 45 day public comment and review process. Governor Mead has discussed the need to reform the state's oil and gas bonding rules, and the issue has been front and center since the CBM bust left the state on the hook for plugging and reclaiming over 3,000 orphan CBM wells from derelict or bankrupt oil and gas companies.

Powder River has been pushing for oil and gas bonding reforms for over a decade and we have provided recommendations to state and federal agencies. So far, we've recommended the following improvements to address current orphan oil and gas wells and help prevent these problems in the future: 1) increase the mil levy on all oil and gas produced to get the 3,000 plus CBM orphan wells plugged and reclaimed quickly; 2) require oil and gas operators to post a bond that will more accurately reflect the true cost of plugging and reclaiming wells, instead of the current \$75,000 blanket bond (one bond for all an operators wells) has proven to be woefully inadequate; 3) Implement a bond of \$10 a foot for all wells rather than just idle wells; 4) do not allow the sale or transfer of oil and gas wells to another company unless the company purchasing the wells is fully bonded for the total cost of plugging and reclamation; or 5) require all former oil and gas owners to retain liability for reclamation and plugging costs in the event the subsequent company goes bankrupt.

These recommendations would break the oil and gas cycle that has been repeated for decades where large capitalized companies sell to

smaller companies when the oil and gas wells begin to decline in production. Powder River also provided these recommendations to Wyoming Oil and Gas Commissioner Tom Fitzsimmons in June, who was leading the effort to draft the proposed bonding rules and gathering input from stakeholders across the state. We were surprised to learn a month or so later that Commissioner Fitzsimmons himself was purchasing around 7,000 CBM wells that Anadarko and WPX have been trying to sell for the last few years.

We talked with Commissioner Fitzsimmons about our concerns and he offered assurances that his new company, Carbon Creek Energy LLC, would be well capitalized and able to bond all the wells. He also told us his business model would include plugging 30 CBM wells a month and that included fee, state and federal CBM wells. Fitzsimmons also acknowledged he would be plugging around 2,000 wells right out of the gate. He says he wants to see responsible operators and this will prevent another High Plains Gas debacle.

Many remain skeptical due to the boom and bust nature of the industry along with the history of well capitalized companies unloading their liability onto smaller companies who cannot pay massive reclamation bills. Additionally, the timing of Commissioner Fitzsimmons's purchase of these wells before new bonding rules are adopted also raises questions about a conflict and whether the companies involved in the deal escape compliance with new tougher bonding rules.

Stay tuned, as we will undoubtedly find out the answers to these questions.

Jill Morrison
Powder River Staff

New Energy Plan Looks to Curb Carbon Pollution

The Environmental Protection Agency (EPA) released its final nation-wide Clean Power Plan at the beginning of August. The Plan sets the nation's first ever limits on carbon pollution from existing power sources. To reduce carbon pollution, each state can craft its own unique plan or collaborate regionally using a mixture of compliance options:

- Decreasing the pollution from existing coal power plants;
- Increasing the amount of power generated from natural gas;
- Increasing power generated from renewable sources; and
- Increasing energy efficiency at the point of use, such as in homes and businesses.

Wyoming has one of the lowest pollution reduction targets in the nation. Under the new standards, all state goals fall in a range between 771 pounds per megawatt-hour (states that have only natural gas plants) to 1,305 (states that only have coal/oil plants). EPA set Wyoming's 2030 goal at 1,299 pounds of carbon dioxide per megawatt hour. EPA estimates that the Clean Power Plan has public health and climate benefits worth an estimated \$34 billion to \$54 billion per year in 2030, far outweighing the costs of \$8.4 billion.

"I know that Wyoming is capable of meeting the goal set by the

EPA," said Powder River Chair Gillian Malone. "And reducing our carbon pollution to safe and sustainable levels is really the only way forward. The plan has built-in flexibility that accommodates states like Wyoming, including the option of partnering with other states, which should make adoption of the plan relatively easy. We hope our state government can be creative and come up with a plan rather than choosing to fight the EPA."

Renewable energy companies in Wyoming are encouraged by the prospect of increasing their role in the arena of pollution free energy. "Independent Wyoming people want to produce their own clean wind and solar power. We hope the state's compliance plan will allow more people to do so. In the process, we work toward a cleaner environment as part of a national team," said Deb Theriault of Casper based Range Solar & Wind, a company that installs renewable energy systems at homes and businesses. "Renewable energy is getting less expensive by the day – it makes sense that EPA is prioritizing renewables as the energy of the future."

Under EPA's plan, states have until September 2018 to develop a state compliance plan to meet the pollution reduction goals, with pollution reductions starting no later than 2022. Though Wyoming's government has yet to offer a state compliance plan, neighboring Montana has laid out several possible scenarios that the state can implement, and most states around the nation have said they could easily meet the new standards.

New Power Plan is the First Step in Protecting Our Future from Climate Change

Editor's Note: The following editorial, written by Powder River member Christy Gerrits, was published in the Casper Star Tribune on August 9, 2015.

Wyoming has been blessed with spectacular wide open spaces, an abundance of wildlife, intact ecosystems which are the envy of many states, and rich mineral resources. We produce 40 percent of the nation's coal, 6 percent of its natural gas and 2.5 percent of America's crude oil, not to mention a respectable amount of uranium. There is however, a problem looming on the horizon which we all need to respect. And that problem is climate change.

There is no longer any debate about why the Earth is warming up. Atmospheric carbon dioxide levels have reached 400 parts per million for the first time in the past 800,000 years, according to ice core data. Because a shrinking but vocal segment of the population will refute any statements from me on this subject, I'll show my work when making any especially controversial assertions. The 400 ppm carbon levels, for example came from: climate.nasa.gov/evidence/.

This time frame encompasses at least four ice ages and warm periods, but during those cycles, the carbon dioxide level never went above 280 ppm. We are now above 400

ppm carbon dioxide and rising, with no end in sight. Once CO₂ is in the atmosphere, it remains there for over a thousand years, continually trapping the infrared heat that would normally escape from Earth, and keeping it here, where it will continue to heat us up.

Our window of opportunity to slow, or even turn this warming trend around, is very short. Since 1880, Earth's average surface temperature has warmed by about 1.4 degrees Fahrenheit, a trend that is largely driven by the increase in carbon dioxide and other human emissions into the planet's atmosphere. The ten hottest years globally have occurred after 1998 and last year, 2014, was the warmest year on record (<http://www.giss.nasa.gov/research/news/20150116/>).

We need to reduce our greenhouse gas output by 2050, or there will be no way that we can prevent drastic and long lasting climate change, including severe protracted droughts, intense, devastating weather events, extended fire seasons, and erratic weather patterns which harm wildlife and agricultural production. It has been estimated that if we want to keep the warming of the earth down to 2°C warming, then we have to start today to bring our emissions down. This won't be easy and it will require the help of everyone.

The Clean Power Plan (CPP) is the first important step toward realizing the goal of reducing our CO₂ emissions in a meaningful way. The CPP recognizes that carbon dioxide is the main cause of climate change and that we need to put limits on the amount that can be released into the atmosphere. The Plan allows states flexibility in how they choose to reach their goals, whether it is through conservation, promoting solar or wind energy, improving the efficiency of power plants, or carbon capture and sequestration. Since each state is unique, the EPA left it up to Wyoming to come up with a plan that is unique to Wyoming. We can choose the different building blocks for our plan that best meet our needs, and we can even work with neighboring states to reach a common goal.

I encourage Governor Mead and Wyoming's other leaders to recognize the importance of creating a plan that will help ensure that Wyoming does its part in reducing carbon pollution, and not waste time and money in fighting the plan. It is in all of our best interests to work together for a healthier, safer, and more sustainable future for the sake of our children. And for the sake of our grandchildren.

Christy Gerrits is a former science teacher living in the Gillette area.

CALC Pushes Strong Mitigation Plans on Oil and Gas

Despite the Laramie County Commissioners' decision to reject a proposed ordinance that would require the oil and gas industry to reduce the impacts of drilling and fracking back in June, Powder River affiliate, Cheyenne Area Landowners Coalition, is still moving forward to bring about tighter mitigation rules within the area by working with the Laramie County Planning and Development Office.

A major development in the works is the revision of the 2001 Comprehensive Plan for Laramie County. The Laramie County Planning and Development Office hosted public meetings throughout the months of July and August so that citizens could give their input as to what they want in a new Comprehensive Plan.

A Comprehensive Plan is essentially a "Local Land Use Plan." A Local Land Use Plan is any written statement of land use policies, goals and objectives adopted by local governments to promote the health, safety and general welfare of all residents. These plans provide an explanation of the methods for implementation, as stated by the Planning and Development Office.

Although The Laramie County Comprehensive Plan is advisory in nature, it can have a substantial impact on policy because it is based on how residents want to approach future oil and gas development.

At these meetings, CALC members voiced their concerns and stated that we need to see the Planning Office include mitigation plans that will address a myriad of oil and gas drilling issues, including noise, light pollution, dust, and truck traffic. Our requests have been specific and coincide with our demands that were outlined in the proposed ordinance back in June. The Planning Office sympathizes with our members' concerns and has promised to take CALC's demands under full consideration.

This document is currently being drafted and will be completed sometime early next year. CALC and Powder River will continue to stay within earshot of any progress that has been made concerning our demands. CALC will continue to push for tighter mitigation regulations with oil and gas by continuing to connect with the Planning Office as well as the Laramie County Commissioners, the City of Cheyenne, the Wyoming Department of Environmental Quality, and the Wyoming Oil and Gas Conservation Commission.

Casey Quinn
Powder River Staff

Managing Coal's Decline

Editor's Note: The following editorial, written by University of Colorado Professor Mark Squillace, was published by WyoFile, a nonprofit online news organization focused on Wyoming people, places and policy.

Coal is in decline. A decade ago over half of all electric power generation in the United States came from coal. Today, that number hovers just over 30%. Last month for the first time since the Energy Information Administration (EIA) began tracking the data in 1973, natural gas overtook coal as the nation's primary source of energy for power generation. No one who looks honestly at the future of energy seriously thinks that coal is coming back. It's not. Investors understand this, which is why coal stocks are tumbling.

Some in Wyoming blame coal's decline on a mythical "war on coal," allegedly being waged by the Obama Administration. In fact, coal's decline reflects simple economics. Producing electricity from new coal plants is more expensive than natural gas and onshore wind even now, long before coal plants will become subject to the Administration's new Clean Power Plan. It is only a matter of time before the price of utility-scale solar energy undercuts coal too. Existing coal plants will provide a market for coal for the foreseeable future, but most of these plants are old and the smart economic choice will lead to shuttering these plants rather than paying for expensive upgrades. So there is every reason to think that the current decline will continue.

Coal decline deniers have been looking to Asian markets for salvation. But coal's decline is not unique to North America. Asian coal prices are so low that it's hard to see how North American suppliers would make a profit even if they found a buyer. And buyers will be hard to come by given that Australian and Indonesian sellers hold a distinct geographic advantage.

As bleak as it looks for coal today, the prospects for Powder River Basin coal are somewhat brighter at least for the short term. It's cheaper to produce and lower in sulfur content than most other coal. So, the PRB stands a better chance to manage the decline to avoid the worst impacts. But it will be up to the federal government to show the way. The vast majority of Western and PRB coal is federally owned so managing coal's decline in the West falls largely on federal hands. As it happens, the federal government is recognizing these broad structural changes in the coal markets and is holding a series of "listening

sessions" this month to solicit ideas for managing what remains of the federal coal estate. Here are two proposals.

First, the federal government must be proactive not reactive. It ought not simply respond to coal lease applications from whoever and wherever they come, but should instead decide up front how much federal coal it wants to sell and where it wants to sell it given current economic conditions and environmental concerns. In line with coal trends, a cap on future leases should come down over time to allow coal communities to plan for a less coal dependent future. And the government should make clear that it will not accept coal lease applications unless the operator has a buyer at an existing and viable coal facility over a long term. This is no time to be speculating about illusory markets for coal. The pending lease application in the Alton coal field of southern Utah offers a good test case for seeing whether the government is capable of saying no to an applicant in a remote, environmentally sensitive region who lacks a clear buyer.

Second, the government should announce that it will not sell federal coal unless it can command a minimum bid price of at least one dollar per ton, and unless it can be produced without "royalty relief." The time for increasing coal royalty rates may be long overdue, but at a minimum the government should make clear that relief from already low royalty rates will not be forthcoming. If we are going to sell the public's coal, let's demand a fair return. The spectacle of selling federal coal for a penny a ton and then granting the coal operator royalty relief on top of that must stop. This will, by the way, place PRB coal in a strong position as it is home to the only federal coal that has produced bids over a dollar a ton, and it is also a place where royalty relief is rare.

Coal has been good to Wyoming. It has created jobs, boosted rural economies, and helped fill the State's substantial mineral trust fund. But the time has come to plan for a day when coal is no longer a significant economic force in the State. The responsibility for managing coal's decline in the West falls largely on a federal government that has historically seemed incapable of the task. Let's use the Department of the Interior's "listening sessions" and open comment period to demand a fresh start.

Mark Squillace is a professor of law at the University of Colorado Law School. He taught at the University of Wyoming College of Law between 1984 and 2002.

Linc Energy's Toxic Legacy in Australia

Editor's Note: The investigation of Linc Energy's experimental underground coal gasification site in Australia continues to reveal serious contamination and a cover up by the company. You may recall that in 2013 the Wyoming DEQ approved a Linc UCG pilot project north of Wright Wyoming just like the one in Australia. A recent report on the Linc contamination in Australia noted that the contamination took place from 2007 to 2013 and the "effects on land are permanent and irreversible." The Australian government imposed an evacuation zone on an area that is 120 square miles and landowners are banned from digging any hole deeper than two metres. Landowners have filed a class action lawsuit against Linc.

The ABC has revealed that a report prepared for the Queensland government says that hundreds of square kilometres of prime agricultural land are at risk from an experimental plant operated by mining company Linc Energy.

Queensland's environment department alleges that the Linc plant at Chinchilla is responsible for the toxic chemicals and explosive gases that have caused "irreversible" damage to valuable Darling Downs farming land. The environment department has launched a \$6.5 million criminal prosecution of the company, alleging that Linc Energy is responsible for "gross interference" to the health and wellbeing of workers at the plant and "serious environmental harm".

Linc operates an underground coal gasification (UCG) plant, which is an experimental method of extracting gas from coal seams that are too deep to mine using conventional coal seam gas (CSG) methods. In conventional CSG fracking, water is pumped into the coal seam to force the naturally-occurring gas trapped there to the surface. In UCG mining, oxygen is pumped into the coal seam, which is then set on fire and allowed to burn underground. That combustion produces synthesis gas, or syngas.

Farmers and conservationists have long been critical of UCG, warning it has the potential to poison aquifers and contaminate land. The Queensland government was warned in 2006, before the plant began operation, that they should investigate the risk of it contaminating aquifers prior to allowing Linc to proceed with burning coal underground. Then-chief policy adviser at the Department of Mines and Petroleum Geoff Edwards wrote in a document prepared for Cabinet in 2006: "If there is any risk of this happening, it would be better to compulsorily acquire Linc's lease and close this operation down immediately". But the government gave Linc the go-ahead and nine years later they have discovered that Linc's activities have released gases that have caused the permanent acidification of the soil. They also found explosive levels of hydrogen and abnormal amounts of methane, which they say is being artificially generated underground, over a wide area. High levels of cancer-causing benzene were also detected at the site.

So dangerous is the area that four departmental investigators were overcome with suspected gas poisoning and had to be hospitalised after testing the soil in the area.

Shay Dougall of the Hopeland Community Sustainability Group said: "We are disgusted that we were living 24/7 with the UCG nightmare and have been complaining to the government about it for the last three years. We're told the government investigators became sick, but what about the landholders who have lived with this toxic mix constantly?"



Linc Energy's underground coal gasification plant in Chinchilla has contaminated land in the Darling Downs.

"The contaminants are still there and we are being subjected to them on a daily basis. We'd like to know when this mess is going to be cleaned up and what sort of management of the landholders' health and safety is being undertaken and what compensation we can expect for this unsafe experiment."

Lock the Gate Alliance's Drew Hutton said UCG should be banned immediately and called for an urgent investigation of possible contamination from Carbon Energy's UCG plant near Kogan, which was supposedly decommissioned but was seen flaring last month.

"Five years ago I warned the state government that it should

not allow UCG in Queensland because of its potential for serious contamination. They went ahead anyway and now we are left with the toxic legacy of this industry.

"This dangerous experiment should never have been started and it should be immediately banned around Australia."

The government has imposed an "excavation exclusion zone" of 314 square kilometres around the Linc facility, where landholders are banned from digging deeper than two metres for fear of an explosion.

The investigation is the biggest in the environment department's history. More than 100 investigators, including consultants Gilbert & Sutherland and scientists at the University of Queensland, have been working on the case since March.

The department alleges that Linc mismanaged the underground burning of coal seams, causing the release of contaminants into the soil, air and water. They allege Linc injected air into underground combustion chambers at pressures that were too high, which allowed toxic gases to escape.

The investigators found "volatile organic compounds, which are known carcinogens, and 'bulk' gases, which at high enough levels, can cause health and safety risks" in an area of up to 320 square kilometres around the Chinchilla plant.

Former workers at the Linc plant told the ABC that gas alarms sounded frequently, there were gas leaks from wellheads and from the ground and they often suffered headaches and sickness.

The government has demanded \$22 million in financial guarantees from Linc to cover the cost of cleaning up the water and sediment in several storage dams at the facility, which are "likely" to be contaminated with dioxins and other pollutants. But Linc has refused to provide the guarantee, claiming the demand is unreasonable and unfounded.

By Kathy Fairfax



The Battle to Keep COOL is Heating Up

The Office of the United States Trade Representative (USTR) recently filed a legal brief with the World Trade Organization (WTO) that demonstrates Canada and Mexico grossly overstated their claims of damages incurred because of mandatory Country of Origin Labeling (COOL), a U.S. law requiring packages of beef and pork to state where the meat was born, raised, and slaughtered that Powder River fought for years to have enacted.

The WTO ruled against the U.S. appeal to retain COOL on May 18, citing unfair discrimination against meat imported from Canada and Mexico. However, the USTR report, delivered to the WTO in early August, claims that the actual losses suffered by Mexico and Canada total approximately \$90.77 million, not the \$3 billion in tariffs Canada and Mexico have threatened to impose on the United States.

The USTR's brief contends that "On its face, neither Canada nor Mexico's estimated trade effects appear to be based on the market realities of trade in the North American livestock and meat markets." The USTR notes that Canada and Mexico's economic model failed to adequately account for the recession, drought,

complexity of the livestock supply chain, and other factors that can influence export opportunities.

While the USTR brief is welcome news to proponents of COOL, it also serves as a stark reminder of how quickly Congress will surrender to the whims of big U.S. meatpackers and foreign trading partners.

On July 10, the House of Representatives voted 300-131 to repeal COOL for beef, pork, and chicken sold in the U.S. and the Senate is considering a bill that will create a voluntary COOL program. The legislation, introduced by Senators Debbie Stabenow (D-MI) and John Hoeven (R-ND) will repeal mandatory COOL for beef, pork, chicken, and ground meat, while granting the U.S. Department of Agriculture (USDA) the authority to establish a voluntary domestic label for beef, pork, or chicken. While a voluntary label might sound like a good compromise, what it essentially boils down to is no label at all. The meatpacking industry has long opposed COOL and we can assume that the big meatpackers will reject voluntary COOL as an unnecessary cost.

Wyoming Senator Mike Ezni is a

co-sponsor of the bill calling for voluntary COOL. In a letter dated June 9, 2015 Senator Enzi declared that he is "opposed to legislation which repeals COOL." Senator Enzi goes on further to state that he was an original sponsor the COOL law and that he "understands the importance of ensuring that the law is implemented as Congress intended. Now that the appeals process over the challenge to COOL is exhausted, the United States must carefully consider its options."

However, the WTO arbitration process is not over and we encourage our Senators to wait for the final WTO decision rather than prematurely weakening or eliminating COOL.

American consumers deserve to know where their food comes from and American ranchers have the right to display the country-of-origin on the meat they produce.

The battle to keep COOL is heating up in the Senate and we will keep you updated on this important debate.

Megan Taylor
Powder River Staff

Council Tables.....continued from page 1

The EQC held a hearing to consider our petition on July 9th. At that hearing Powder River staff attorney Shannon Anderson told the EQC that nearly every other state and federal agency accepts comments from the public via email. "Everyone has email now and it would allow much greater public participation." Anderson continued, "The EPA accepts more than 4 million public comments by email every year without a problem."

DEQ director Todd Parfitt had advised the EQC that the DEQ opposes our petition and urged the Council to deny it. He told the Council there was no need to proceed with the citizen rulemaking because the DEQ is already working on getting a program installed that could accept comments via a web based comment form (which is still in the testing phase). He also noted an urgency to get that program up and running because the temporary building they are moving into during renovations of the Capitol Complex (the Capitol and adjacent Herschler Building which houses most government agencies including DEQ) does not accommodate any fax machines. He also

explained that the DEQ favors a web-based form over email because he is concerned that the government's spam filter could inadvertently block emails, which could cause a delay in permit processing. He said, "We've been proceeding in a very thoughtful and careful manner, because one of the concerns that I have, and the administrators have, is ensuring whatever system we put in place doesn't create delays in the processing of permits or rules that would have an adverse impact to those seeking permits from the agency."

Council members questioned DEQ about their progress and timeline for instituting electronic comments. DEQ responded by promising to have a pilot project for web-based comments tested during an upcoming rulemaking or the Pavillion water report by August or September. The hearing then took a bizarre turn when a council member said a question had been raised about whether they even had the authority to proceed with a rulemaking from citizens that is opposed by the DEQ.

Momentary pandemonium ensued with all sides arguing about what procedures

governed the EQC rulemaking process, and whether the "recommendation" could be positive or negative. The DEQ Attorney General, Dave Ross, claims that a provision of the Environmental Quality Act requires a "recommendation" from the DEQ Director on new rules. He further argued that the Council cannot accept a citizen rulemaking petition that DEQ opposes. Shannon Anderson read from the DEQ rules of practice citing the authority of citizens to petition the EQC. The EQC Executive Secretary (lead staff for the EQC) and the attorney general representing the EQC also had conflicting views.

In the end, the EQC voted 6 to 0 to table the citizen petition and will discuss both the procedural issue and the more substantive issue of the status of the DEQ's electronic comment system further at their next meeting, which is scheduled for September 9th in Buffalo.

Jill Morrison
Powder River Staff

New Staff Jordan Harper



Powder River welcomes Jordan Harper who staffs our newly created Communications Associate position. Jordan will be based in our Sheridan office. His core duties in the position of Communications Associate are to develop and implement communication strategies that promote Powder River and advance the interests of the organization and its members.

Jordan comes to us with experience in on the ground media activities for several Wyoming based groups. Most recently he worked with the Wyoming Business Alliance in its Tour 23, Essentials for Economic Success program. This position took

Jordan around the state to visit all 23 counties in Wyoming and participate in the write up of several county reports. During the 2015 Wyoming Legislature Jordan was both a feature writer and liveblogger for WyoPols.

Jordan has also worked as an intern with Wyoming Public Radio in both the underwriting and news departments. He has been trained in grassroots political campaigning and worked as a Field Organizer and Campaign Manager in a recent election. Powder River is excited to have Jordan join our team and we look forward to working with him.

Bringing the DARK Act Out of the Shadows: Eight Things You Should Know

1. **The DARK Act is not the bill's official name.**

H.R. 1599 is officially titled the Safe and Accurate Food Labeling Act of 2015. However, critics of the bill have dubbed it the Denying Americans the Right to Know or DARK Act, because it would prevent American consumers from knowing whether food items purchased from grocery stores contain genetically modified ingredients.

2. **The DARK Act is the brainchild of the Grocery Manufacturers Association.**

The DARK Act was introduced by the Grocery Manufacturers Association (GMA), a powerful food lobby that is fighting to repeal Country of Origin Labeling (COOL), supports the Trans-Pacific Partnership (TPP) and has blocked GMO labelling efforts in 30 states. The GMA has over 300 member companies, which include many household names such as Monsanto, Coca-Cola, Kellogg, Campbell Soup and Starbucks.

The GMA has endorsed the DARK Act because it would "stop the destructive state-level patchwork approach to food-labeling." The GMA believes that state GMO labeling mandates could force food and beverage manufacturers to spend millions of dollars to comply with food labeling requirements. However, considering that the GMA along with members such as Monsanto, PepsiCo Inc. and Kellogg have already spent millions of dollars to defeat GMO-labeling ballot measures in Oregon, Colorado, Washington and California, we find this argument to be unconvincing.

3. **The DARK Act prevents the Food and Drug Administration from requiring companies to label GMO ingredients.**

The Food and Drug Administration (FDA) has the regulatory authority to require mandatory GMO labeling nationwide. However, passage of the DARK Act would strip away this authority by limiting the circumstances for when the FDA can require disclosures of genetically modified ingredients to health and safety concerns. While the Safe and Accurate Food Labeling bill does allow for the voluntary labeling of genetically engineered foods, it is important to note that the FDA has allowed companies to voluntarily label genetically engineered (GE) foods for over a decade and none have chosen to do so.

4. **The DARK Act would nullify existing state GMO labeling laws.**

Not only would the DARK Act prevent the FDA from requiring genetically modified organism (GMO) food labels, it would also invalidate existing GMO labeling laws and prevent states from adopting their own GE labeling legislation.

Maine and Connecticut have passed GMO labeling bills, which

can only be enacted once enough nearby states have passed similar laws. Vermont's GMO labeling law passed without these restrictions and is scheduled to go into effect in July 2016. However, if H.R. 1599 becomes the law of the land, GMO labeling bills pending in 19 states across the country and the democratically enacted GMO labeling laws in Maine, Connecticut, and Vermont would be null and void.

5. **The DARK Act would allow some genetically modified ingredients to be labeled as "natural."**

The term "natural" has no legal definition within the food industry and unlike the organic label, lacks an official verification process. However, many consumers assume that food labeled as "natural" is non-GMO. While the DARK Act, does require the FDA to define natural within two years of enactment, it leaves the definition of natural wide-open during this two-year window and prohibits states from drafting their own natural labeling laws to prevent consumer confusion. The FDA could also decide to allow GMO foods to be labeled as "natural" after the two year enactment period is over.

6. **The DARK Act has already passed the House of Representatives.**

Representatives Mike Pompeo (R) from Kansas and G. K. Butterfield (D) from North Carolina sponsored the bill in the House. On July 23, 2015 the bill passed the house 275-150, with Wyoming Representative Cynthia Lummis voted in favor of the legislation.

7. **The DARK Act should have a tougher time passing the Senate.**

Senator John Hoeven (R) of North Dakota is drafting a companion bill H.R. 159 for consideration by the Senate. However, the bill has not been introduced at this time, and we do not know when the Senate will consider this issue. In February, Senator Barbara Boxer (D) from California introduced competing legislation, S. 511 - Genetically Engineered Food Right-to-Know Act, which would require mandatory national GMO labeling.

8. **This issue is not about the existence or safety of GMOs, but about states' rights and consumer choice.**

The DARK Act takes away the rights of states by preventing states from introducing and enacting their own labeling laws. Polls show that Americans overwhelmingly support the labeling of GE food, and the Powder River Basin Resource Council believes that American consumers have the right to know what is in the food we eat and feed our families.

Megan Taylor
Powder River Staff

Powder River Speaks in Favor of Reforming Federal Coal Program

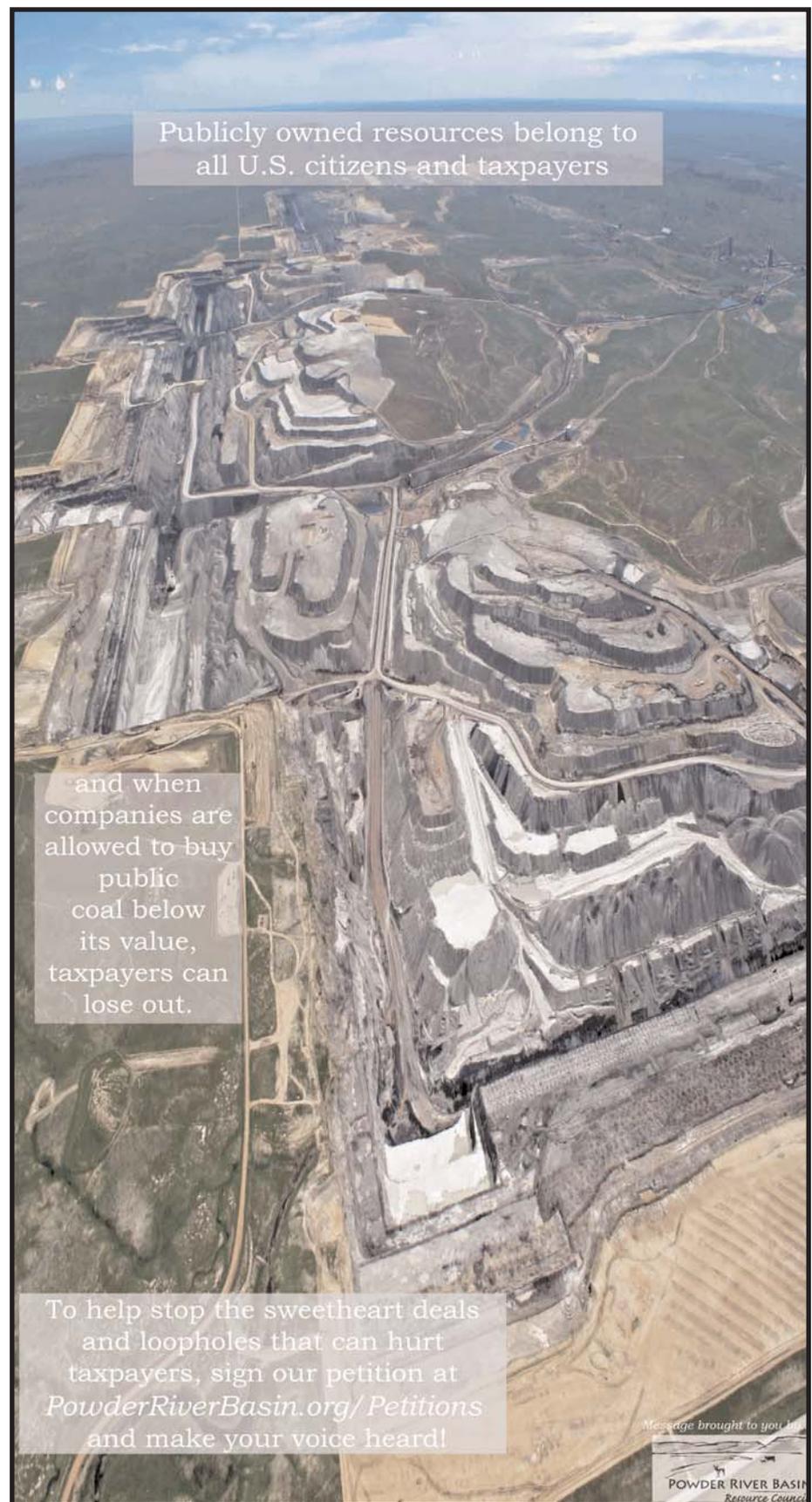
The Department of Interior (DOI) hosted a series of listening sessions late this summer at which the public was invited to share their thoughts on potential reform measures to the federal coal program, including a proposal to increase the royalty rate companies pay when they mine publicly owned resources. The sessions were held in towns across the west, with a kick-off session in the nation's capital at the end of July.

The session in Gillette was held on August 13th, and no session saw as much support for the coal industry, which was expected given the number of coal miners who live in the town. The agitated crowd of company representatives expressed fears that their way of life might change if the already precariously positioned coal companies in the area were pushed to pay increased royalties. The listening session's first public comments came from Governor Mead along with Wyoming's entire congressional delegation who echoed the arguments of the coal companies, often blaming the Obama administration for tying the industry's hands in a tough market, focusing on the relative economic stability of coal in Wyoming since the 1970's and the jobs that the industry has historically provided.

On the other hand, Powder River Board Member Bob LeResche spoke on the need to address the coal program head on, especially with the Administration's commitment to tackling climate change. LeResche's climate change remarks generated some light heckling from the crowd, but he held his own and delivered a strong statement to the BLM Deputy Director Linda Lance and DOI Assistant Secretary Janice Schneider who were visiting from D.C. to host the listening session. LeResche also made the case for sound fiscal reform and accountability on behalf of the public. His comments were echoed by Bri Jones, Executive Director of the Equality State Policy Center, Sarah Gorin, former Powder River and ESPC staff from Laramie, and our staff attorney Shannon Anderson, who ran through the numbers" of how outdated coal program policies are costing taxpayers millions of dollars.

Wyoming's Congressional delegation made little to no mention of the fact that these royalties are actually a way to pay taxpayers for the use of their resources, that it has been decades since royalty rates were adjusted, or that the market might organically be moving away from coal. While the congressional delegation's impassioned yet disciplined adherence to pro-coal talking points drew support from the crowd in the room, it may hint at trouble down the road for the state.

Even before the release of the EPA's Clean Power Plan (see related article in this edition of the Breaks), demand for coal both domestically and abroad was falling. China which was, for a time, seen as a viable market for Wyoming coal is publically backing away from coal as a fuel source amid concerns over air quality. Within the U.S., the stagnant trend in coal production is cause for concern. As renewable energy technology improves and new policies that incentivize natural gas and renewable energy production are adopted, an increase in demand



for coal is almost unimaginable. If the Clean Power Plan sees wide implementation, however, demand for natural gas and renewables will likely increase and provide an opportunity to sure up holes in the state's economy as coal's outlook only gets bleaker.

Certainly the Department of Interior has a lot to "listen to" from citizens in Wyoming and across the country and we look to setting energy policy for the future. Comments can be submitted to DOI by September 17th. Please email them to blm_wo_coal_comments@blm.gov. Alternatively, you can add your voice by signing a petition available on our website at <http://www.powderriverbasin.org/petitions/>

Jordan Harper
Powder River Staff



10th Annual Harvest Celebration Pig Roast & Dance

Music by "Too Wet To Plow"

September 12, 2015

Johnson County Fairgrounds
18 Fairgrounds Road, Buffalo WY



Harvest Dinner 6:00 p.m.
Dance 7:30 p.m.

\$15 Adult \$10 Children (12 under)

Raffle Tickets:
\$5 per ticket or 6 for \$25

- **Barlow Gourmet Lamb and Beef**
Donated by Barlow Ranch
- **Alaska Salmon**
Donated by Bob & Carol LeResche
- **20 lb. Natural Wyoming Angus**
Donated by Robert, Nancy, Neil and Amanda Sorenson

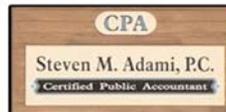
Not to be Missed!
Our Famous



"Pies by Guys"
Pie Auction
Begins at 7:00 p.m.

All Proceeds Benefit the Powder River Basin Resource Council

Thankyou to all our local sponsors



Save the Date
Powder River's 43rd
Annual Meeting

Saturday October 31st
Sheridan Holiday Inn

Powder River's keynote speaker this year is **Andrew Nikiforuk**, an award winning investigative journalist and author from Canada. Nikiforuk has written for two decades about energy, economics and the West. His latest book on fracking, *Slickwater*, will be published this Fall.



Correction:
Ellen Dudley Painting Raffle
"Shapes in the Grass"
16" X 20"
Only 300 Tickets Available
\$25 Each or 5 for \$100.00

Encouraging Responsible Development Today... ____ For Tomorrow...

In this Issue

Powder River Seeks to Uphold Coal Reclamation Bond Requirements.....	Pg 1
Council Tables Citizen Petition.....	Pg 1
Message from the Chair.....	Pg 2
Help to Pass the Farm to School Act of 2015.....	Pg 3
WOGCC Moving Forward with Bonding Rules.....	Pg 4
New Energy Plan Looks to Curb Carbon Pollution.....	Pg 5
New Powder Plan is the First Step in Protecting Our Future from Climate Change.....	Pg 5
CALC Pushes Strong Mitigation Plans on Oil and Gas.....	Pg 6
Managing Coal's Decline.....	Pg 6
The Battle to Keep Cool is Heating Up.....	Pg 6
Linc Energy's Toxic Legacy in Australia.....	Pg 7
New Staff Jordan Harper.....	Pg 8
Bringing the DARK Act Out of the Shadows.....	Pg 9
Powder River Speaks in Favor of Reforming Federal Coal Program	Pg 9
10th Annual Harvest Celebration	Pg 10
Save the Date: Powder River's 43rd Annual Meeting.....	Pg 11

Save the Date

September 12 th	Harvest Celebration, Johnson County Fairgrounds
September 23 rd	Wyoming Farm to School Regional Workshop
October 31 st	43rd Annual Meeting, Sheridan Holiday Inn
November 1 st	Powder River Board Meeting, Buffalo

Planned Giving and Estate Planning Gifts: Don't Forget Powder River Basin Resource Council

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. For this reason, we are inviting you, our extended family of members and donors, to consider including Powder River in your estate plans.

More specifically, we are asking that you consider designating Powder River Basin Resource Council as a beneficiary in your will. Your gift will create a living legacy allowing Powder River to continue our work far into the future and helping to ensure that 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 with a generous bequest to Powder River.

Please consult your legal and financial advisors about how you can use a variety of estate planning tools to support Wyoming's most effective grassroots member organization, and how you might benefit. For example, there is a tax exemption for estate tax rates of up to \$5 million.

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

Powder River Basin Resource Council Fundraising Committee

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