



DEQ Agrees to Stronger Groundwater Protections

Issues First Microbial Bio-Conversion Permit

Because of Powder River's actions, the Wyoming Department of Environmental Quality (DEQ) is requiring stronger protections for groundwater in its first permit for microbial bio-conversion. In January, DEQ issued the Rough Draw permit to Patriot Energy, a subsidiary of Luca Technologies, allowing the company to inject chemicals into freshwater aquifers in an attempt to convert coal to methane gas.

Unlike many injection permits, the chemicals injected in the microbial conversion process are injected into drinking water

aquifers. Powder River was deeply involved in reviewing the permit and working to increase protections for domestic and livestock water wells in the area of the proposed injections. In the first round of the permit, we succeeded in getting disclosure of the chemicals to be injected, inclusion of domestic and livestock wells for baseline water testing, and continued monitoring of the groundwater.

Initially, DEQ rejected our request to require additional permit limits and baseline testing and monitoring of volatile organic compounds (VOC's), in spite of the fact that

these potentially hazardous compounds can be a waste product of the microbial conversion process. Powder River sent a written request for a permit modification to DEQ director John Corra, urging DEQ to reconsider their decision and provide additional protections for groundwater. To support our request, we provided DEQ with United States Geological Survey (USGS) research results stating that "little is known about microbial degradation of the complex organic geopolymers in coal to produce methane, the nature of the microbial community involved, and important

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Wild & Scenic Film Festival a Success!

Over 150 movie-goers attended two shows at the Sheridan Centennial Theatre in Powder River's first Wild and Scenic Film Festival. The audience was treated to eight featured films from around the world, including the Brower Youth Awards for outstanding community work by young people in the USA, the story of Germany's first renewable energy power company owned by the people it serves, and the film *Chasing Water*, which followed the Colorado River from its headwaters to its tragic demise in old Mexico. Other movies featured paddling the Hawaiian island channels in traditional native boats, the returning of bald eagle populations to native habitat in the Channel Islands of California, and local young activists working to restore polluted Indonesian rivers through efforts of a charismatic young teacher.

Prize drawing winners: Mary Watsabaugh won the complete summer barbeque for a party of ten from Killy's Deli and Warehouse Market; the Landon's Greenhouse



plant & gift certificate went to Sahnte Evans; and the Osprey backpack was won by Pippin Robinson. National sponsor items from Patagonia and Sierra Nevada Brewing Company went to lucky winners Katie McCurry & Dick Kindt.

Ticket holders also received a membership from Powder River including the bi-monthly Breaks newspaper and giveaway bags from local sponsors.

We want to thank all our generous local sponsors and national partners for allowing us to bring this event to the community: Good Health Emporium, Back Country Bicycles and

Mountain Works, The Sport Stop, Warehouse Market and Killy's Deli, Barlow Ranch, The Office Copy Shop, Landon's Greenhouse, First Federal Savings Bank; and national partners Osprey Packs, Patagonia, Clif Bars, Mother Jones magazine, and Sierra Nevada Brewing Co.

We also want to thank all our great volunteers that helped make the event a success and to the Powder River staff for their hard work.

With such great attendance, terrific sponsors and prizes, not to mention great films, the Wild and Scenic Film Fest will likely return to Sheridan next year. Watch for it!

Bill Bensel
Powder River Staff

Message from the Chair



Yes, we finally got a little rain, and we are so thankful for it. Of course, we are still hoping for more!

As I drove to our last board meeting, held in the home of our gracious hostess Bernie Barlow, I was struck by the awesome beauty of our state. The Powder River breaks have a unique and unparalleled splendor, and it reaffirmed to me the reason this organization of ours exists. Powder River Basin Resource Council has worked for the last 40 years to preserve this wonderful area, and the accomplishments of our staff and members have been many. We continue to be vigilant and dedicated.

Kevin Lind and I went to a dinner at the Governor's home in Cheyenne several months ago and we were introduced to a new term: "mitigation banking." I had never heard this term before, though the first speaker after the dinner was a gentleman promoting mitigation

banking for the State of Wyoming. Upon researching I discovered that it is just as Kevin and I had suspected, and as the term implies, it is a banking system for use by the big corporations to offset the damages they do to the environment by investing in a "pristine area" or the "bank." The National Mitigation Banking Association (NMBA) defines it as "The restoration, creation, enhancement, or preservation of a wetland, stream, or other habitat area undertaken expressly for the purpose of compensation for unavoidable resource losses." They also say that mitigation banking "typically involves the consolidation of small, fragmented mitigation projects into one large contiguous site. Units of restored, created, enhanced or preserved land are expressed as credits, which may subsequently be withdrawn (purchased) to offset "debits" incurred at a project development site." NMBA also states that the benefits of using mitigation banking are that it saves time and money, may reduce permit processing times, and eliminates risk and responsibility for the developer.

My question is: what if my ranch happens to be in the sacrifice zone? Should conservation and care just be done in the so called "important, pristine areas?" Don't we all warrant the same protection from damages by the big corporations and the energy developers? I think we do. I would advise the use of caution when the mitigation banking process is encouraged and instead opt for careful care of all the lands and water in our magnificent state.

Wilma Tope

Support Us!!

Powder River Cell Phone Collection Drive April 18 Thru May 16

Youth in Conservation ~ Cartridges for Kids

Clean out those drawers, ask your friends, neighbors and co-workers for their unwanted, used or even broken cell phones. Powder River Basin Resource Council, in partnership with Cartridges for Kids, is doing a cell phone drive that kicked off at Powder Rivers' Wild and Scenic Film Festival April 18, 2012. Powder River also recycles empty laser, fax, copier and inkjet cartridges as well as laptops, Palm Pilots, iPods, iPads, video games, GPS systems, DVD's and digital cameras. The recycling program is in cooperation with local businesses **Cartridge World, The Office Copy Shop, Radio Shack, Sherwin Williams, Kuchera Kane Memorials, Verizon Wireless/Carl's Corner, Wyoming Forest Service, Bustech Computing, and Sheridan College's Information Technology Department**, which are also drop sites for the program. 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.

Stephanie Avey
Powder River Staff

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 can be either emailed to resources@powderriverbasin.org or sent to the office at 934 North Main Sheridan, WY 82801. Letters should be relevant to the issues Powder River addresses and under 300 words. The editorial board will screen letters for those attributes. For the next five issues of the "Breaks" letters should be sent no later than June 18, August 20, October 15 and December 3.

Powder River Basin Resource Council (Powder River) is a grass-roots organization of individuals and affiliate groups dedicated to good stewardship of Wyoming's natural resources. Powder River was formed in 1973 and stands for the preservation and enrichment of our agricultural heritage and rural lifestyle; the conservation of Wyoming's unique land, minerals, water and clean air consistent with responsible use of these resources to sustain the livelihood of present and future generations; and the education and empowerment of Wyoming's citizens to raise a coherent voice in the decisions that will impact Wyoming residents' environment and lifestyle.

Powder River is a member of the Western Organization of Resource Councils (WORC). WORC member groups are Dakota Resource Council, Dakota Rural Action, Idaho Rural Council, Northern Plains Resource Council, Oregon Rural Action, Western Colorado Congress and Powder River Basin Resource Council.

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

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

Active Affiliate Organizations

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

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Powder River Breaks

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Photos by Powder River staff and members

Powder River Joins Groups Seeking Fracking Chemicals Information

In an effort to protect the public from exposure to toxic chemicals, Powder River, along with the Wyoming Outdoor Council, Earthworks and OMB Watch, has asked Wyoming's Seventh District Court to require the Wyoming Oil and Gas Conservation Commission (WOGCC) to disclose information about chemicals used during the controversial oil and gas development process known as hydraulic fracturing, or fracking.

Under regulations approved in 2010, Wyoming became the first state in the nation to require well operators to disclose the chemicals that are mixed with water and injected into the ground during fracking. But since the regulations were adopted, the Commission has approved some 50 chemical secrecy requests by Halliburton and other oil and gas service companies.

The nonprofit environmental law firm Earthjustice filed a petition on behalf of the groups asking the court to rule whether WOGCC acted illegally in granting the trade secrets requests and arguing that companies must reveal the identities of chemicals used during fracking. "As a landowner facing deep oil and gas development, I need to know what chemicals are being injected underground so I can protect my water and land," said Cheyenne resident and Powder River member Marilyn Ham.

Disclosure of hydraulic fracturing chemical information is a critical step in protecting public health and water quality. The information that is already available is sobering: 78 percent of known fracking chemicals are associated with serious short-term health effects such as burning eyes, rashes, asthma-like effects, nausea, vomiting, headaches, dizziness, tremors, and convulsions. Between 22 and 47 percent of those chemicals also are associated with longer-term health effects, including cancer, organ damage, and harm to the endocrine system.

"Without knowing more about the chemicals used during fracking, it's nearly impossible for residents to determine whether their drinking water has been contaminated by oil and gas development," said Earthjustice Attorney Laura Beaton. "The more information we have, the easier it will be to keep people safe and healthy."

Last November, the groups submitted a public records request to the WOGCC, requesting a complete list of fracking chemicals that had not already been publicly disclosed. WOGCC withheld the names of chemicals, saying that drilling companies claimed they were exempt from reporting requirements under trade secret laws. But a review of agency files found that WOGCC approved industry trade secret claims that were insufficiently justified and overly broad.

"We appreciate Wyoming's leadership role in getting companies to disclose hydraulic fracturing chemical information," said Powder River organizer, Shannon Anderson. "But like all new rules, it's time we took a look at how it's working. We found a lot of the information is being improperly labeled a trade secret, which means it is not public information as the regulation intended."

The case could set a broad legal precedent—as the states of Texas, Arkansas, Pennsylvania, Colorado, Montana, and Michigan all have fracking chemical disclosure regulations similar to Wyoming's on the books.

"As additional states, such as Oklahoma and Ohio, the federal government, and even some European countries, begin work on their chemical disclosure regulations, it is more important than ever to make sure that the trade secret exemption is not used improperly," said Earthworks Senior Staff Attorney Bruce Baizel. "Unfortunately, our initial review of exemption requests showed that some companies appear to be taking advantage of the minimal state review."

For a link to the petition filed by groups, visit:

<http://earthjustice.org/documents/legal-document/pdf/wogcc-petition>

For more information about the health effects associated with chemicals used in oil and gas development, visit:

<http://www.endocrinedisruption.com/chemicals.multistate.php>



Editor's note: The following is a statement by Powder River member Marilyn Ham in support of the court case on the impacts of fracking and the need for disclosure of chemicals used in the process.

I am a landowner in Laramie County, Wyoming, which is in the southeast part of the state. Our neighborhood is facing an oil boom with deep horizontal wells planned by several companies. The oil companies use hydraulic fracturing to produce these wells. We're concerned about the possible impacts to our water and land and we need the best information we can in order to protect our property.

The reason behind the original Wyoming Oil and Gas Conservation Commission rules was to "put to bed" the concerns of surface owners as to what chemicals were being used. The rules were meant to give landowners like me better information about the hydraulic fracturing process. The spirit of the rules was for FULL disclosure. That spirit is not being met. We get disclosure of what industry deems we should know, not what we need to know to protect our property.

We're not asking for the formula, recipe that is, we just want to know what's being pumped into the ground in the eventuality that those same chemicals appear in our water. We're not asking if they are putting a ¼ cup or two cups of 'eye of newt'.

We're asking if hazardous chemicals such as benzene, toluene, diesel fluid, 2-BE, glycol or other chemicals are being used. After all, benzene is a carcinogen at 5 parts per billion and we're talking, in Laramie County, of an aquifer that underlies 7 States. So, it's very important for the public, and especially potentially impacted landowners, to know what's going down the well. We believe the rules intended that public disclosure and that's what we're trying to make sure will happen with this case.

Marilyn Ham
Powder River Board Member

Oil and Gas Impacts Push Sage-grouse to the Brink

A study conducted on sage-grouse viability in the Powder River Basin confirms what many landowners have observed regarding the severe impacts of coalbed methane development on the bird and its habitat. The study warns that the impacts from energy development combined with West Nile virus outbreaks have placed the remaining population of sage-grouse in the Powder River Basin at risk of extirpation (local extinction). The report concludes that "if development continues, future viability of the already small sage-grouse populations in northeast Wyoming will be compromised."

The study was conducted by University of Montana wildlife biologists Dave Naugle, Rebecca Taylor and L. Scott Mills, at the request of the Buffalo Bureau of Land Management (BLM) to address ongoing energy development impacts and the possibility of wiping out sage-grouse in the Powder River Basin. The study will be incorporated into the BLM's revision

of its resource management plan that governs all types of development of BLM lands and minerals across the Powder River Basin. The study should make BLM re-assess business-as-usual because it shows that breeding sage-grouse populations are severely impacted at oil and gas well densities commonly permitted in Wyoming, and that those impacts from energy development are universally negative and typically severe.

The study highlights the need for BLM to focus efforts on reclamation and restoration of habitats where CBM wells are no longer producing or plugged and abandoned. It states, "Focusing restoration where plugged and abandoned wells are clustered would increase the size of habitats available to birds, thus enhancing the chance of increasing their abundance and distribution. Leaving energy infrastructure such as roads, power lines, and water impoundments on the landscape for other purposes is an unintended impact of development that will compromise restoration success."

Powder River requested a copy of the sage-grouse viability study from BLM last fall. We finally received a copy in March after we filed a Freedom of Information Act Request (FOIA). Powder River released the study to the public and press with a statement from our



board member, former regulator and wildlife biologist, Bob LeResche.

LeResche wrote, "We now see so clearly that what we warned about regarding the rush to develop without proper planning, careful phasing of development and requiring timely reclamation is having lasting impact on an iconic prairie species. The more measured and holistic approach to oil and gas development that Powder River asked the Buffalo BLM to adopt in the beginning of the CBM boom was ignored by BLM and now we are all paying the price." LeResche continued, "BLM must heed the results of this study and take immediate action to buffer the sage-grouse core and connectivity areas in the Powder River Basin. They must require industry to speed up the reclamation of thousands of defunct or idle CBM wells if the sage-grouse is to have any available habitat to re-populate."

The study highlights the documented loss between 2001 and 2005 of 82% of sage-grouse populations within Powder River Basin CBM fields, and the failure on the part of land managers to protect critical habitat. The study states, "These declines further reduced options for delineating large and intact core areas containing an abundance of high quality sage-grouse habitats. As a result, questions remain regarding the ability of core areas in

northeast Wyoming to support viable sage-grouse populations."

The study accurately outlines the problems and challenges and aptly concludes: "In northeast Wyoming, the far reaching influence of development has already negatively impacted the 103 remaining active leks inside core areas, largely because the large scale of impacts (12.4-mi radius) spans an area 38 times that of a 2-mile radius. Despite impacts, the potential may still exist to maintain a population inside core areas, but further drilling in and around cores will compromise their remaining value.

Furthermore, disease outbreaks in northeast Wyoming are the wild card in core area management, and management must be geared to preserving sage-grouse affected by multiple stressors, not just energy development."

Powder River agrees with these findings and said, "BLM must carefully consider the impacts of new horizontal oil and gas drilling which is already underway in the Powder River Basin. We must not allow the oil and gas industry's political muscle to continue to

overwhelm science and the need for careful planning. We must balance oil and gas development with other resources." LeResche stated, "We encourage land managers in other states and in other areas of Wyoming to heed the findings of this study and to do it right and do it better while there is still a chance to preserve critical habitat for the sage-grouse and other species."

Powder River compliments the Bureau of Land Management for funding this study and the other critical studies done in the Powder River Basin on sage-grouse habitat and impacts. We hope they will continue to fund the ongoing study of sage-grouse habitat issues in the Powder River Basin. We also commend the researchers, Rebecca Taylor, Dave Naugle and Scott Mills for this important study and for studies and recommendations to address the loss and decline of sage-grouse and their habitat. We believe we should follow their study recommendations.

**Jill Morrison
Powder River Staff**

Wyoming BLM Deputy Director Agrees with Powder River Buffalo BLM Failed to Address CBM Impacts to Wild Horse Creek

Powder River recently won a favorable decision from the Wyoming BLM Deputy State Director, Larry Claypool, who agreed that the Buffalo Field Office failed to address impacts of pollution and discharged water to Wild Horse Creek from coalbed methane (CBM) operations. Last summer, Powder River filed an appeal of the Buffalo BLM's approval of 43 drilling permits that allowed Williams Co's to discharge CBM produced water and associated pollution into Wild Horse Creek. We reviewed the Williams project and discovered the Buffalo BLM failed to analyze or take



Wild Horse Creek Coalbed Methane Flooding

into account the serious damages CBM produced water discharges have wrought to a once ephemeral Wild Horse Creek.

In our appeal, we noted that "The EA completely fails to disclose or analyze any of the dramatic changes that have taken place on Wild Horse Creek including, extensive flooding, the replacement of bottom land meadows with swamp and extensive cattails, salt tolerant vegetation, the salt loading of soils, loss of hundreds of cottonwood trees and the creation of ideal mosquito habitat and breeding grounds for West Nile virus." We also provided

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Air Emissions Exacerbate Health Problems in Pavillion

Pavillion Area Concerned Citizens (PACC) members recently participated in a teleconference with environmental scientist Wilma Subra, who explained that air emissions from gas production in Encana's Pavillion Gas Field are likely responsible for a host of health problems experienced by local residents. Pavillion residents join communities across the country that are reeling from the pace and frenzy of gas development and struggling to cope with the health impacts. Air quality issues top the list:



monitoring has been done. "Not only can our water make us sick, our air can, too!" said Rhonda Locker, who suffers from severe neuropathy and seizures. "It's terrifying to look around the room at my friends and neighbors and realize our families have the conditions Wilma is describing."

Under Wilma's direction, PACC members conducted a health survey in the Pavillion area during March of 2010. The results of the health survey—along with a report on chemicals detected in the groundwater and

methane, condensates and associated hydrocarbons—along with toxic chemicals added to fluids used during drilling and fracking—contain volatile organic compounds (VOC's). The VOC's are released during drilling, production and separation processes, and continue to be emitted from storage tanks and pipelines.

While an ongoing EPA investigation is providing long needed information about water contamination in the Pavillion area, very little air

chemicals known to be present in the air associated with oil and gas activities—were published in July of 2010. The report, produced by Subra Company and Earthworks Oil and Gas Accountability Project, confirms that acute and chronic health impacts are experienced by individuals living in close proximity to gas drilling and production wells. In the Pavillion area up to 81% of the residents experienced health conditions known to be caused by oil and gas production.

Citizen Voices Key to 2012 Legislative Session

Wyoming is one of the few states in the nation to have a citizen legislature. This means that our state legislators have a full-time job outside their work at the Capitol. It means they are normal folks, like you and me. But their lack of professional staff, and the fact that most legislators have little experience in multiple areas of the law can mean that they are swayed by lobbyists or others who appear to know more about a subject than they do. To counterbalance these corporate lobbyist pressures, citizen lobbying is a crucial part of the system. Both lobbying from home through emails and phone calls, and traveling to Cheyenne to meet face-to-face, carry significant weight with legislators—who are genuinely interested to hear what their constituents think about a bill. During the 2012 legislative session, our members once again demonstrated their ability to influence key policy discussions with their activism and engagement.

Here is a rundown of some of the key bills we were following this session:

House Bill 38 - Coal Severance Tax Industry Factor

Sponsored by the Joint Revenue Committee, this bill sought to change the way coal mines are taxed from a proportionate profits methodology to a set "industry factor." Based on the bill's fiscal note, the change in taxation methodology would have left the state with a \$12 million shortfall in severance taxes. The Equality State Policy Center led the public pressure against the bill. The bill passed easily through the House, but luckily the Senate put up some roadblocks and killed the bill by re-referring it to committee, thus ensuring that the bill would not make deadlines for passage.

House Bill 79 - State Sales Tax Exemption for Small Renewable Energy Systems

Representative Esquibel (D-Laramie County) championed legislation to extend the state sales tax exemption for residents and businesses that install small renewable energy systems. The sales tax exemption is set to expire June 30 of this year. The bill did not get enough votes on introduction to move forward, but we have been working with an alliance of organizations and renewable energy companies to bring the bill back next year (see article on page 7.)

House Bill 121 - Abandoned Mine Land Funds

Sponsored by the Joint Appropriations Committee, this bill establishes the many ways that Wyoming will spend its abandoned mine land (AML) funds from coal mining. Originally part of the surface mining law, to cover reclamation of abandoned coal mines, the funds are now used for a variety of purposes including highways, energy research projects, air quality monitoring, and university funding.

This year's AML allocation includes a controversial \$10 million to fund construction of a minerals-to-liquids plant—the funding could go to a company called Nerd Gas for a proposed plant near Lake DeSmet or to a company called DKRW for a proposed coal-to-liquids plant near Medicine Bow. Representatives Steward (R-Carbon County) and Madden (R-Johnson County) unsuccessfully sponsored an amendment to remove the \$10 million authorization. Representative Madden argued that the \$10 million investment would make the state a business partner with a risky investment should the project go sour. Being a catalyst for development is different than becoming a risk partner in an unproven venture, he pointed out. Representative Steward questioned the constitutionality of the provision, arguing that a feasibility study should be done before any funding is authorized—so that the state can make "good decisions based on good information." Representative Teeters (R-Goshen County) came out in support of the amendment. These

types of projects tend to have a "checkered history," he said, and most likely the money would go to a company unable to get private financing that would come back to the state asking for a check. The amendment was narrowly defeated. The joint conference committee for the bill reduced the amount to \$9 million (to allow some giveaways to other energy industries), but the Governor signed the bill with the appropriation.

Senate File 25 - Public Records and Senate File 27 - Public Meetings

Sponsored by the Joint Judiciary Committee, these bills will improve our public records and open meetings laws to facilitate better access to government information. These antiquated laws have been seriously lacking for a long time, and the bills represent a good compromise to move the issue forward. The bills were signed by the Governor.

Senate File 51 - Natural Gas Regulations

Sponsored by Senator Kit Jennings (R-Natrona County), this bill would have rolled back regulations for coalbed methane wells and would have given a big fat tax break to the natural gas industry. Senator Jennings recognized its controversy and opposition and did not bring the bill up for an introductory vote.

Senate File 53 - Public Land Access

This bill would have allowed the state to acquire easements across private land to connect to public land through the use of eminent domain. Because of its controversial expansion of eminent domain authority and strong opposition, the bill failed to get enough votes on introduction.

Senate File 85 - General Permits

A few years ago, the Department of Environmental Quality (DEQ) attempted to "streamline" permitting for produced water and associated pollution from coalbed methane projects by using a "general permit" as opposed to individual pollution discharge permits. Instead, it streamlined pollution and cut landowners out of the public permitting process. Wyoming Outdoor Council (WOC) appealed the permits and won a victory in state district court, holding that the general permits are more akin to rules and the DEQ violated the state's Administrative Procedure Act in issuing them. The DEQ, of course, disliked the court's decision and asked the legislature to effectively overrule the court by creating an exemption in the Administrative Procedure Act for all current and future general permits issued by the agency, not just CBM pollution discharge permits.

Luckily, Senator Schiffer (R-Sheridan/Johnson County) led a charge in the Senate for an amendment that requires a thirty day public notice and comment period for any DEQ authorization to use a general permit. Impacted parties will also have the ability to appeal that DEQ authorization. This amendment was watered down in the House but thanks to the public pressure, the Senate failed to concur with what the House did and a conference committee opted to go with the Senate version in an effort to keep the bill. The Governor signed the bill with the amendment in it.

All in all, our members can be proud of Powder River's role in the legislative process. We continue to be a rational and well respected voice for conservation and the rights of landowners and the public interest.

The 2013 Session is Already Underway!

Because Wyoming has such short legislative sessions, a lot of the committee work happens between sessions, aka the "interim session." Here is a summary of the interim session topics we will be following:

First on the list are the Judiciary Committee's consideration of 1) bonding requirements for seismic activities, and 2) a possible extension of the current moratorium on the use of eminent domain for wind collector lines. The Judiciary Committee's first meeting is June 18-19 in Fort Washakie.

Because House Bill 38 was defeated this session, the Joint Revenue Committee will return to the drawing board to consider coal valuation options. The Equality State Policy Center will continue their good work on this topic during the interim.

The Select Water Committee will continue to assess funding options to supply drinking water for the community of Pavillion, which has experienced a loss of potable drinking water because of contamination

most likely caused by oil and gas operations. Our affiliate organization, Pavillion Area Concerned Citizens (PACC), will be involved in these activities.

Finally, as always, some of the most important topics we are following are in the Joint Minerals Committee. The committee is slated to consider a variety of topics including federal natural resource management issues, state energy issues, DEQ permitting, solid waste management, and University of Wyoming energy programs. The first committee meeting is scheduled to be held in Riverton June 14-15.

Powder River Staff



**Kate Barlow, Sheridan College
Wyoming Legislative Intern**



Senate Floor



**Terry Jones and Scott Kane at the
legislative renewables education
event hosted by Powder River**



**Shannon Anderson
Powder River Lobbyist**

Powder River Forms Renewable Energy Alliance

With support from renewable energy companies and Wyoming Conservation Voters, Powder River recently took the first steps in forming a new alliance in Wyoming devoted to promoting small renewable energy systems and energy efficiency. The Renewable Energy Alliance of Wyoming brings together a group of renewable energy businesses, customers, and allies to advocate for more balance in the state's energy portfolio and to support a growing business sector centered on renewables. The Alliance consists of Powder River Basin Resource Council, Range Solar & Wind, Creative Energies, Cheyenne Wind & Solar,

Wyoming Conservation Voters, the Wyoming Chapter of the U.S. Green Building Council, Wyoming Outdoor Council, and a variety of citizen advocates.

The Alliance's first foray into the world of state policy was supporting House Bill 79 this session. Unfortunately, the bill failed on introduction, and the state sales tax exemption for small renewable energy systems will expire on June 30. In response to concern about the lack of policy initiatives supporting renewable energy and energy efficiency, the Alliance held a legislative reception in Cheyenne in late February. It was very well attended by

legislators and key policy staff, and the Alliance used the reception as an avenue to launch further discussion about possible state incentives and policies to promote clean energy options for Wyoming citizens. As a result of the successful reception, the Joint Minerals Committee agreed to include small renewable energy and energy efficiency as a topic to be considered during the interim session. We'll keep you posted on these exciting developments.

**Shannon Anderson
Powder River Staff**

Wyoming and EPA Set to Reduce Haze-Causing Pollution

One of the most important parts of the Clean Air Act that has yet to be fully implemented is the Regional Haze Rule, which requires reducing pollution that has dirtied the air in the nation's parks and wilderness areas. Wyoming submitted its plan to implement the haze rule to the Environmental Protection Agency (EPA) last January and EPA has been actively reviewing it. Under a consent decree with various organizations, EPA is set to issue a draft decision approving or disapproving Wyoming's plan by May 15th.

EPA's May 15th decision will be great news for people who want to breathe cleaner air and enjoy clearer vistas in the nation's most scenic national parks, including Yellowstone and the Badlands. As a primary avenue to address haze in our national parks, Wyoming's regional haze rule will curb harmful air pollution from some of our biggest and



Dry Fork Power Plant

oldest coal-fired power plants. Therefore, the regional haze rule also represents the best avenue we have to improve the public health of people living near coal plants.

The decision has been a long time coming as Wyoming and EPA have spent years delaying the plans because of political pressure. There continues to be tremendous

pushback from coal-burning utilities and their political allies over this issue, and we don't expect EPA's decision to be strong enough to get coal plants to clean up their act. We have been leading a coalition of organizations that are working to make sure Wyoming's plan to reduce pollution is as strong as it can be, and we'll be looking to our members to be engaged in the public comment period over the summer and to be vocal supporters of clean air in Wyoming.

If you want to learn more about Wyoming's regional haze plan or ways you can get involved, please contact me at 307-672-5809 or sanderson@powderriverbasin.org.

Shannon Anderson
Powder River Staff

Utility Wants to Convert Wyoming Coal Unit to Natural Gas

Editor's Note: Powder River is participating in a case before the Public Service Commission to consider the prudence of installing pollution control upgrades at the Naughton Unit #3 coal plant in southwest Wyoming. In the latest development in the case, PacifiCorp has decided that converting the facility to natural gas would save customers money and still meet the environmental objectives of reducing air pollution. There will likely be more developments to come. The article below is reprinted from WyoFile, a nonprofit news service focused on Wyoming people, places and policy.

Due to the increasing cost of scrubbing pollution from coal-fired power plants and the increasing availability of cheap natural gas, PacifiCorp (which operates as Rocky Mountain Power in Wyoming) plans to convert one-third of its Naughton power plant in western Wyoming to natural gas.

It's part of a growing national trend, but one that particularly stings here in Wyoming—America's coal supply powerhouse. Wyoming supplies more than 40 percent of the nation's coal. Pending regulatory rules to curb greenhouse gas emissions (still years away for existing coal units) is only a minor consideration, according to utility officials.

"The cost differential between emission controls (for coal) and converting (to natural gas) is significant. It's a better deal for customers," Rocky Mountain Power (RMP) spokesman Dave Eskelsen told WyoFile.

Exactly how much of a savings, RMP officials aren't saying. Blame the quantum leap in drilling and completion technology (chiefly hydraulic fracturing - or fracking) for a glut of shale gas in the U.S. market. Natural gas is now barely above \$2 per thousand cubic feet (mcf), a basement level price not seen since 2002. It is this free-fall in natural gas pricing—and an outlook that it will linger in the basement—that has greatly accelerated what had been a slow march away from coal among U.S. utilities.

Naughton's "Unit 3" is the latest chip to fall in a cascade of coal unit retirements and fuel switching that is expected to result in a 10 percent decrease in coal consumption among U.S. utilities this year alone, according to the U.S. Energy Information Administration. RMP, Wyoming's largest regulated utility, announced years ago it had removed coal from its list of new facilities planning—despite a forecast for steadily increasing electrical demand in the region.

To meet the demand, RMP expects slightly more hydro-electric and renewable sources in its portfolio of fuels. Coal will continue to lose its share of RMP's portfolio, while there's a major push for gains in efficiency, said Rita Meyer, vice president of RMP's Wyoming division.

The 700-megawatt Naughton coal-fired power plant was constructed in 1963, and consists of three units. RMP officials say the plant will not lose any of its electrical generating capacity by switching to natural gas, and the company says it is gaining a lot of experience in making such conversions.

The current proposal to convert Unit 3 at Naughton is part of an ongoing rate case. The math driving it has little to do with future rulemakings by the U.S. Environmental Protection Agency to curb carbon dioxide emissions. And Naughton is among the existing fleet of coal-fired power plants exempt from EPA's March rulemaking limiting the volume of CO2 allowed from power plant smokestacks. That rule applies only to new power facilities.

It simply costs too much, according to RMP, to add scrubbers on coal units to meet more stringent standards for nitrogen oxides, sulfur dioxides and particulate matter. The company estimates that by 2014 it will have retrofitted 16 coal units across its service area in the West at a cost of more than \$1 billion. And it's been a major source of irritation for customers.

"We looked at a lot of inputs in making that decision (to convert Unit 3 to natural gas)," said Meyer. "Certainly, in today's environment, converting to natural gas was the best decision."

Powder River Selects Science Awards

For the ninth year in a row, Powder River selected students for our Youth in Conservation Award from among hundreds of participants at this year's State Science Fair, which was held at the University of Wyoming on March 5 and 6.

Four great projects were selected this year. Two projects were judged to be the best this year in the areas of Wyoming ecosystem studies and studies of the ecological impacts of industrial, residential, commercial and recreational development on Wyoming agriculture.

Travis Sylvester, a 12th grader from Greybull High School is a repeat winner from 2011. His project, titled *Improving Mine Reclamation Through Continuing Innovation*, was selected by the Powder River judges as an outstanding project that will have impacts on future mine reclamation in Wyoming and beyond. Also winning in that category was Brexton Bennett an 8th grader from Big Piney Middle School whose project called *Flaming Beetles* studied the tree burn impacts of the Pine Beetle epidemic.

Winners in the category of renewable energy and energy conservation and efficiency were two young students whose projects focused on wind turbine efficiency. Katrina Maria Haines, a 9th grader at Southeast High School in Yoder, conducted an experiment using Ducted Wind Turbines. Olivia Thoney, a 6th grader at Sheridan Junior High, titled her project *Electrifying Wind* and looked at the efficiency of turbine designs.

Together, the students received \$750 in cash awards and became honorary members of the Powder River Basin Resource Council.

The Youth in Conservation Award is presented annually at the Wyoming State Science Fair in memory of Bill Barlow, a founding member of Powder River, who died in 2001.



Travis Sylvester, Katrina Maria Haines, Olivia Thoney & Brexton Bennett

"It is always exciting to see what students are thinking about and interested in studying," said Kelly Barlow, a judge for the event. "It is a privilege to be a part of this process and I believe Grandpa Bill would have enjoyed it as well. This event renews my view of youth," she added. "They aren't all attached to video games and cell phones. I love getting to be a judge and I am tempted to interview all the projects that fit in the category, but we don't have time for that."



Kelly Barlow and Dennis Knight

Anchoring the judges for this year's award, as he has done for many years, was Powder River member Dennis Knight, a Professor Emeritus in Botany at the University of Wyoming. "Working with Dennis was a real joy, as his knowledge and understanding of the science, and his methods to ensure that all eligible projects were reviewed made it easy for a new judge like me," said Kevin Lind, the third Council judge at the fair, who also happens to be Powder River's executive director. "Kelly and Dennis really knew what they were doing and seeing them in action with the students made judging a wonderful and enjoyable experience," said Lind.

Powder River Staff

Thank You Powder River

Dr Mr Lind,

I would like to thank you for your support of the State Science Fair. I appreciated the award I received in recognition of my project, *Electrifying Wind*. I am especially honored as the award is given in memory of Mr. Barlow. I have recently learned of Mr. Barlow and his many contributions of conservation and preservation of Wyoming's natural resources. In addition, I admire the Council's goal of educating and empowering Wyoming's citizens to have their voice heard regarding those decisions that will impact our environment and the lifestyles of generations to follow.

Again, thank you for the generous award. I am both honored and grateful.

Sincerely,
Olivia Thoney

Powder River Granted Intervention Request for Uranium Mining

On October 27, 2011 Powder River joined the Natural Resources Defense Council (NRDC) in petitioning the Nuclear Regulatory Commission (NRC) for an intervention request in the agency's review of an application by Strata Energy for a source materials license. The license would allow Strata to pursue in-situ uranium mining (ISL) at their proposed Ross project in Crook County, Wyoming, near Devil's Tower National Monument. ISL mining involves the drilling of multiple wells in a tight grid pattern over an ore body located in sandstone groundwater aquifers.

We won a major victory in February when the Atomic Safety and Licensing Board, the administrative appeals body for the NRC, granted our intervention request. Because the hearing takes place after the NRC staff review of Strata's application, it will likely occur in the spring of 2014.

Our intervention petition included "contentions," or claims that Strata Energy's application is legally and technically deficient. The

contentions largely focused on impacts to water resources and on the strong likelihood that Strata Energy will be unable to restore the aquifer to pre-mining water quality. The petition also claimed that the application failed to discuss the cumulative impacts from that project and other industrial projects in the area.

Pam Viviano, a Powder River board member who lives near the proposed project and fears that her water could be impacted by the in-situ mining process, welcomes the intervention opportunity and is generally concerned about proposed uranium mining in Crook County. Past and currently operating ISL sites already have serious problems, she pointed out, saying, "We don't want those same problems to happen in Crook County and are asking the NRC to do everything it can to protect our water."

Shannon Anderson
Powder River Staff

U.S. Appeals WTO's Ruling Against Country-Of-Origin-Labeling

In late 2010, after years of battle by consumer groups and independent agricultural producers, Country of Origin Labeling (COOL) became a reality in the United States. Powder River had been supporting this action for many years and our members had met with Wyoming's Congressional delegation many, many times to garner their support on COOL for our meat products.

Almost immediately, the COOL rules were challenged by our neighbors Canada and Mexico, along with Australia, Argentina and China, in a complaint to the World Trade Organization (WTO). Last year the WTO ruled that the commonsense labeling requirement, part of the 2008 Farm Bill passed by Congress, violates WTO agreements and is out of compliance with their rules on international trade.

On March 23, 2012, the U.S. Trade Representative Ron Kirk notified the Dispute Settlement Body within the WTO of his decision to appeal the panel reports made against the COOL law. Powder River's Livestock Committee applauded the U.S. response. This appeal has initiated a dispute resolution process that may take at least a year to conclude, and will focus on Canada's accusation that COOL accords less favorable treatment to imported Canadian cattle and hogs than to "like domestic products."

Canadian ranchers and beef producers have been pushed hard over the last two decades by corporate beef packers like Excel Beef to move from more traditional diversified agricultural marketing ramping up their export market production, and increasing the risks.



The National Cattlemen's Beef Association (NCBA), the American Meat Institute (AMI) and their corporate partners are supporting the WTO in opposing the labeling law as a protectionist measure. The NCBA and several powerful food trade organizations claimed to be "very disappointed in the action taken by the U.S. Trade Representative.

Nevertheless, Senator Enzi led a bi-partisan action to uphold COOL, with 17 members of the U.S. Senate announcing their support for the U.S. Trade representative's appeal, which states, "It is clear that it is within our authority under our WTO obligations to implement such a program".

Consumers, independent ranchers and farmers, and Powder River and its allies hailed the original passage and implementation of COOL, which has been serving as a legitimate food labeling practice over the past two years, while providing consumer education and a respected market for U.S. raised products.

If the COOL law is revoked or changed as a result of international pressure, Powder River will be joining again with consumers and independent ranchers and farmers to support our democratically passed laws.

Bill Bensel
Powder River Staff

Local Food Expo at Sheridan College



Powder River helped organize and support the second annual Local Foods Expo on April 14.

We appreciate the University of Wyoming Extension, Sheridan College and other sponsors for responding to a "growing" public demand for locally raised meats, vegetables and fruits.



intermediates in the degradation pathway."

DEQ responded to Powder River's request saying, "We want to take the opportunity to step back and in conjunction with UW experts evaluate it all and make a decision on how to proceed. We just need some time to process it all."

In March, DEQ agreed with our request for additional monitoring and groundwater protections saying, "Staff carefully reviewed the background papers by USGS that you provided us and identified appropriate lab methods that would identify many of the constituents USGS detected in the wells that they sampled including any that have toxicity standards or health advisory levels associated with them. We will be modifying the Rough Draw permit accordingly."

DEQ is about to finalize the permit modification to require permit limits for di-butyl phthalate, di-ethyl phthalate, anthracene, flourene, and naphthalene, which are all potentially toxic organic compounds that could impact water quality. DEQ also plans to establish permit limits for hazardous volatile and semi-volatile organic compounds, including phenols. These permit limits will be a big step in the right direction in helping to ensure that the microbial conversion process does not negatively impact groundwater.

**Jill Morrison
Powder River Staff**

BLM Agrees with Powder River.....Continued from page 5

BLM with several photos and documents showing the extensive damage and transformation of Wild Horse Creek from an ephemeral stream supporting large hay meadows, bottomlands and a large cottonwood gallery to a perennial CBM stream replaced by bare ground, cattail swamps and dead cottonwood trees.

The BLM Deputy State Director, Larry Claypool, wrote in his decision, "Because the Buffalo Field Office (BFO) did not accurately document current existing conditions and analyze the impacts to Wild Horse Creek resulting from additional discharge through the Echeta facility as proposed by Williams, the Deputy State Director cannot affirm the BFO decision to approve the additional proposed discharge to Wild Horse Creek." The BLM deputy director reversed and returned the decision to the Buffalo office ordering the field office to "document, analyze and disclose the existing conditions(s) and impacts to Wild Horse Creek resulting from the additional discharge through the Echeta facility as proposed by Williams."

Claypool also agreed with Powder River's claim that Williams did

not identify the potential erosion impacts to Wild Horse Creek or to lands downstream, and wrote, "Without this information the Deputy State Director cannot determine if the finding of no significant impact is supported by the existing analysis."

Just as this issue of the "Breaks" was set to go to press, we received a copy of the Buffalo BLM's response to Claypool's remand. Rather than redoing the analysis of the impacts on Wild Horse Creek as ordered, Buffalo Field Office Manager Duane Spencer has performed a bureaucratic paper shuffle to reproduce his desired "finding of no significant impact" (FONSI), and Powder River will be forced to appeal the decision once again.

**Jill Morrison
Powder River Staff**

Pavillion Air Quality.....Continued from page 5

After multiple requests by local residents, the state located a mobile air monitor in the Pavillion area. The monitor has been collecting ambient air quality data over the last year, but no monitoring has been done near people's homes or in the fields they work in. Most residents believe the ambient air monitoring is a good start, but feel the state needs to continue air monitoring in the gas field. "We need to know what the emissions are where we live," said Alan Hofer, who farms in the area. "The Subra Company report clearly explains that the toxic chemicals produced and emitted cause the same health problems many of us have. Doesn't the State look at the data? They must recognize how dangerous these emissions are." Alan and his girlfriend, Donnet, had planned to retire on Alan's farm, but after becoming increasingly ill with respiratory ailments, Donnet had to move out of the Pavillion area.

Not able to wait for the state to take action, PACC members plan

to move forward with a citizen air monitoring program. "We've made multiple requests to the state of Wyoming asking for more air monitoring, but it just doesn't happen," said Rhonda Locker. "If there's no monitoring, there's no information to explain why we're so sick."

"If the state won't do the monitoring, we'll have to find a way to do it ourselves," added Rhonda's husband, Jeff. "I guess we can add air monitoring to the long list of skills we need to have. Gone are the days when I could be just a farmer. Now I have to know how to work with the press, read scientific reports, be an expert on oil and gas law—and make sure industry is following it."

**Deb Thomas
Powder River Staff**

Utility Wants to Convert.....Continued from page 8

The shift from coal to natural gas provides for an interesting dynamic in Wyoming. Wyoming is the nation's largest coal producer, and it is among the largest natural gas producers as well.

The biggest utility customers in Wyoming are in the business of extracting and refining minerals, and the biggest customer in those sectors is natural gas. Wyoming Energy Industrial Consumers, representing major natural gas producers, has intervened in RMP's recent rate cases, carefully scrutinizing RMP's choices to make certain rate hikes are justified and minimized.

It's also the industry that stands to gain the most in the current national shift from coal to natural gas. And the plot thickens. Natural gas producers in the Pinedale Anticline and Jonah gas fields want to steadily increase drilling operations, but they're up against an existing non-attainment designation in the Upper Green River Basin (the Naughton power plant resides just upwind of the basin) for emissions that have helped trigger dangerous winter ozone spikes.

Their pitch to squeeze new drilling operations into the existing air emissions in the region? More electricity and less natural gas and diesel to power field operations. EnCana Oil & Gas USA says it's shopping for 20 megawatts of electricity to power its proposed Normally Pressured Lance field surrounding the existing Jonah gas field. Naturally, EnCana must look to RMP as a potential supplier.

Wyoming politicians have operated under the failed notion that Americans will simply ignore climate change just to preserve the burning of Wyoming coal. But using more natural gas because it's cleaner (at least at the smokestack) and more affordable—that's something they get behind. Natural gas has even found an eager partner in wind energy. It will make for many interesting and awkward legislative sessions over the next few years.

Contact Dustin Bleizeffer at 307-577-6069 or dustin@wyofile.com.

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

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Save the Date

April 18- May 16	Cell Phone Collection Drive
September 15	Harvest Celebration
November 3	40th Annual Meeting & Auction-Sheridan

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

Member support and generosity have kept Powder River working for 40 years! In order to lessen financial uncertainty and provide future generations and future members a viable working organization, we are seeking new alternatives to bring in funds to make it all happen—even beyond our first fifty years.

"Planned Giving" is, in part, based upon bequests provided in Last Wills and Testaments with consideration for estate planning, taxation and resources the donor may have available to pass on to beneficiaries, including Powder River.

Much of this process involves donor planning and looking ahead to needs of family and what will become of his or her estate, including real estate, cash, financial accounts, life insurance and other things of value.

In our **"Planned Giving"** initiative, we ask that when our members, old and young alike, construct their wills and plan ahead for

the future, they consider Powder River Basin Resource Council as a benefactor. Your gifts can allow Powder River to keep working for our agricultural heritage, conserving our natural resources and empowering our citizens for years to come. You can also gain a tax exemption for 2012 estate tax rates of up to \$5 million.

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 your generous bequest to Powder River.

Please consult your legal and financial advisors about the opportunity to support Wyoming's premier grass roots member organization—today and tomorrow.

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

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