

Dakota Counsel

PIPELINE OPPOSITION MOUNTS

DRC landowners who oppose the planned TransCanada Keystone pipeline are winning new friends with clout.

Landowners in other states and national environmental groups have weighed in.

The latest to balk was Fargo mayor Dennis Walaker. Citing concerns about Fargo’s water rights behind the Baldhill Dam on the Sheyenne River, Walaker asked the Public Service Commission October 4 to turn the project down.

Commissioner Tony Clark told the Forum he would see if the PSC could “suspend the timetable” for a ruling, which is due this month.

Earlier, both the Grand Forks *Herald* and the Fargo *Forum* groused about the pipeline. “The potential for long-term environmental damage from a foreign pipeline cannot be kissed off because of the promise of as yet undelivered benefits,” said the *Forum*.

The PSC is also looking into landowner complaints about deceptive and unfair treatment from the pipeline company.

Curtis Novak, Dahlen, told the Associated Press a property negotiator claimed the pipeline was "a done deal," and that all of its permits were issued, in order to pressure family members to sign a compensation agreement quickly.

All this opposition surfaced after DRC testified against the proposed pipeline route before the PSC September 5.

DRC also joined the Natural Resources Defense Council, Plains Justice and several other groups September 24 in

telling the federal government to go back to the drawing board on its environmental study of the proposed TransCanada Keystone pipeline, which would run through the state from roughly Walthalla to Oakes.

“They’re talking about using extremely high pressure to force oil through a pipe under two of our most scenic rivers, through hundreds of farmers’ fields, next to dozens of shallow aquifers,” said Klein. “The study gives us no reassurance that our water and soil resources will be protected.”

The U.S. Department of State issued the draft Environmental Impact Statement (EIS) earlier this summer, held North Dakota public input sessions at Michigan and Lisbon last week, and also took written comments.

Comments submitted by DRC note that underground leaks into aquifers are much more difficult to detect and clean up than leaks into surface water.

“That should have been obvious after Zenergy’s huge spill in McKenzie County last year,” said Klein.

See PIPELINE p. 5



**John & Janie Capp(I)
Ramona & Daryl Klein
after testifying before the
PSC September 5**

ANNUAL MEETING—WATER: EVERY DROP COUNTS

With so many DRC issues revolving around water, the Annual Meeting Task Force chose water as the topic. “Water: Every Drop Counts” is the theme for this year’s speaker and panel, Saturday, October 27 at the Chieftain in Carrington.

Jamestown veterinarian Gary L. Pearson, previously a Research Veterinarian with the U.S. Fish and Wildlife Service Northern Prairie Wildlife Research Center in Jamestown, will deliver the keynote address.

Pearson has received awards from the National Wildlife Federation, the National Audubon Society and the Soil and Water Conservation Society for his resource management achievements.

Three panelists from regional grassroots organizations will discuss the role of water in the local issues they work on.

One is Richard Betting, a faculty emeritus from Valley City State University who has worked with People to Save the Sheyenne, a group opposed to the Devils Lake outlet.

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The Dakota Counsel is published six times a year by Dakota Resource Council, a nonprofit, grassroots activist organization. The mission of Dakota Resource Council is to form enduring, democratic local groups that empower people to influence decision-making processes that affect their lives. DRC is committed to preserving sustainable agriculture and natural resources.

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THE RAZOR'S EDGE

By DRC Board Chair Dean Remboldt

The topic for our annual meeting this year revolves around water. The panelists and speaker will be sharing their expertise from a wide range of best practices and uses of water in regard to balancing the needs of industry, farming and wildlife.

Fresh water is the “lifeblood” of our planet and is one of the most important resources that we need to protect and conserve, not only for supporting life, but also for economic sustainability.

The oceans contain 97% of earth’s water, and 3% is distributed between groundwater, ice, surface water, and water vapor. Only 46% of groundwater is considered freshwater, with the rest saltwater.

No matter where on you are standing, chances are that, at some depth, the ground below you is saturated with water. However, most of the water we use is from rivers and lakes.

According to the United States Geological Survey, water is continually moving around, through, and above the earth as water vapor, liquid water, and ice.

The earth is a closed system, much like a terrarium. That means that the Earth neither, as a whole, gains or loses much water—just recycles it. It is entirely possible that the water you drank for lunch was once used by your great-grandmother to give your grandfather a bath.

I grew up in the Prairie Pothole Region of the Couteau Hills before the practice of agricultural drainage occurred. Unique to the region was what we called temporary sloughs—low spots that would fill with water, especially in the spring, and within a few weeks would dry up.

The benefits provided by these sloughs are twofold. First, the water percolates through the soil and becomes much of the area’s usable groundwater. Second, because of their smaller size and volume, the water from these sloughs warms sooner than a permanent body of water and the invertebrates (water bugs) provides ducks, geese, and other upland birds with needed proteins and minerals for egg production.

CRS has helped efforts to restore many of the temporary sloughs in the area, but as the program loses favor and the land goes back into agricultural production, many of these sloughs, which are considered a nuisance, unfortunately could be diverted or drained.

Water has been one of the numerous reasons for concern about the proposed route for the TransCanada Keystone pipeline. Fargo Mayor Dennis Walaker weighed into the debate this week saying that a potential threat to that city’s water supply should there be a leak in the 30-inch pipeline that parallels and crosses the Sheyenne River. Fargo and West Fargo represents our state’s largest metropolitan area, with more than 100,000 people, and relies on the Sheyenne River for its water supply.

Protecting our water supply is a big part of our interest at DRC. As we go forward, we need to stay diligent in our effort to protect this valuable resource for a sustainable future.



BIOFUELS UPDATE

Home Grown Workshop

DRC partnered with North Dakota Farmers Union and South Central Citizens Coalition to hold a small-scale biodiesel workshop September 18 in Jamestown with about 70 attending.

It was the second workshop of the year for DRC biodiesel advocates.

“The purpose of the workshop was to help farmers and ranchers better understand the economics and the use of biodiesel in machinery while taking advantage of the opportunities this advancing technology presents,” says DRC Vice-Chair Roger Brenna, who farms and ranches farmer near Keene.

Farmers can buy biodiesel processors, but can also build them by hand, according to Ron Strand, Abercrombie, who demonstrated his oilseed screw press at the event.

“The chemical process itself isn’t very complicated,” Strand told the Wahpeton-Breckenridge *Daily News*.

Biodiesel burns cleaner, lubricates better for longer engine life, and is easier on the environment, according to

Strand, who said 100% biodiesel offers the most benefits, although blends are also commonly used.

Making biodiesel combines raw oil from crops such as sunflowers or canola with methanol and sodium hydroxide to break down the glycerin.

Strand said the current cost to produce biodiesel on the farm is about the same as diesel at the pump, but has the

potential to become much cheaper than diesel if petroleum prices go up again.

The workshop also featured presentations by John Nowatzki of North Dakota State University on the economics of small-scale biodiesel, Greg Lardy of NDSU on use of biodiesel coproducts for livestock, and Dere Crompton of the University of Minnesota.

Small-scale biodiesel can help rural communities by keeping money local and being less likely to generate adverse impacts on air and water, according to DRC’s Biofuels Task Force.

About 35 attended a similar workshop held in Watford City by DRC and McKenzie County Energy and Taxations Association in June.



Report Card Available

DRC’s Biofuels Task Force has produced a report card local communities can use to evaluate the benefit of proposed or existing ethanol or biodiesel facilities.

The report card offers a percentage rating system, with half the grade based on carbon dioxide reduction and half on overall community well-being.

CO2 scores go up if feedstocks are raised within 100 miles of the plant, local producers can sell directly to the plant, and renewable energy or energy byproducts are used as a heat source.

Scores also rise with energy efficiency and reduced off-farm inputs for feedstock production.

The community well-being index rises if there are local investors, good community relations, and jobs with good pay and benefits for local people.

Also affecting the score are the use of water conservation technology, local non-intensive livestock markets for byproducts, payment of property tax and the capacity to market fuels regionally.

Call Field Organizer Terry Schaunaman at 298-8685 for more information on the scorecard and how it could be used.

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A second panelist, Glen Koroluk, was the founder of Hog Watch Manitoba and currently serves as the Water Caucus Coordinator for the Manitoba Eco-Network. His main research topic has been the impact of factory farming on water.

Duane Ninneman, Renewable Energy Consultant for Clean Up the River Environment in Montevideo, Minnesota, rounds out the panel. CURE is one of the opponents of Big Stone II (see p. 4). Ninneman will address energy development’s water impacts.

The day begins at 1 pm with the DRC annual business meeting, including the election of officers and adoption of the resolutions. The panels begin at 4:30, and the keynote address follows the 6:30 banquet.

As always, there will be a silent auction featuring a wide array of sale items, including a variety of homemade eats and treats and also a 25 pound beef variety bundle, two 25 pound hamburger bundles and a leg of lamb just to mention a few of the many items up for grabs.

Join the fun, get some super deals and help DRC raise some internal funds!

BIG STONE FRACTURING

The rats started leaving the Big Stone II ship in September after the Public Service Commission granted DRC a hearing to question utility officials about their different approaches to carbon dioxide costs in Minnesota and North Dakota.

Great River Energy, a Minnesota co-operative that runs two coal-fired power plants in North Dakota, and Southern Minnesota Municipal Power Association pulled out of the proposed South Dakota coal-fired power plant just days after Administrative Law Judge Al Wahl’s September 14 decision to order the hearing.

Montana-Dakota Utilities and Otter Tail Power, which still back the project, are asking the PSC for more time to reshuffle their “pre-prudence” proposal in light of the defections.

“Big Stone II is in trouble, and it should be,” said Terrence Kardong, Richardton, DRC Secretary.

“It would burden ratepayers with skyrocketing electricity costs because of the carbon dioxide regulations Congress is sure to enact early in the plant’s 50-year-plus life span.”

Carbon costs have been at the heart of the case since DRC challenged the utilities’ application for the PSC to give their blessing to investing in Big Stone earlier this year.

At the June pre-prudence hearing, MDU and Otter Tail insisted the PSC strictly adhere to North Dakota’s 1995 “externalities” law, which bars placing a numerical value on carbon dioxide emissions costs.

The effect was to restrict testimony by DRC witness David Schlissel, a consultant at Synapse Energy Economics and an expert on how carbon dioxide limitations would increase costs at coal-fired power plants.

“Everyone knows we’re going to have carbon caps before too long. This law insults North Dakotans’ intelligence,” said Dean Hulse, Fargo, DRC Past Chair.

The two utilities muddied the waters, however, by joining other Big Stone II partners in stipulating to costs of \$10 per ton in an August 31 agreement in Minnesota.

Wahl ordered an October 1 hearing on the matter, but MDU and Otter

Tail have asked that all pre-prudence proceedings be suspended indefinitely.

“The delays are fine with us as long as we get that hearing,” said Kardong.

“Coal is not the fuel of the future,” he added. “The nation needs to move to greater use of renewable energy to solve the global warming problem.”

“Fortunately, North Dakota is well situated to provide this energy in large quantities,” said Kardong. “It’s time we started backing the right horse.”

FLAT EARTH LEADERSHIP

While national investment bankers like Citigroup downgrade coal stocks, North Dakota political leadership carries on its flat-earth approach of leaving energy and environmental policy to the lignite industry.

The most recent evidence was the Industrial Commission’s announcement October 4 that it was drafting a letter protesting the Minnesota Public Utilities Commission’s work to draw up carbon dioxide regulations.

The letter went out with no public input under state law allowing the Commission to meet privately on legal matters. The Commission is made up of Governor John Hoeven, Attorney General Wayne Stenehjem and Agriculture Commissioner Roger Johnson.

The state legislature earmarked \$500,000 earlier this year specifically to litigate against carbon regulations.

The Minnesota legislature, on the other hand, passed legislation setting state targets for reducing fossil fuel use.

A decade ago Minnesota backed away from imposing “externality” costs—to compensate for environmental damage—on electricity generated by North Dakota lignite.

With evidence of global warming growing, Minnesota may make a different decision this time around.

Meanwhile, Hoeven shows no signs of letting anyone but the fossil fuel industry into the inner circle of energy policy.

His “Empower” team to guide North Dakota’s energy future reads like a “Who’s Who” of coal and oil interests.

For example, Great River Energy holds the biomass slot, and wind is represented by Xcel executive Mark Nisbet, who earlier this year tried to sell the PSC on a cost of five cents per kilowatt-hour for Xcel customers who wanted green energy.

The PSC said no.

OIL AND GAS LOG

Zenergy Fined

Nearly two years after the biggest saltwater spill in state history, the state has fined the perpetrators.

Zenergy, Inc. will pay the state \$123,300 as part of a settlement agreement for spilling an estimated 950,000 gallons of saltwater into Charbonneau Creek in McKenzie County, the state announced in late September.

The water was 20 times as salty as seawater, killed wildlife and threatened livestock in the area.

The fine includes a civil penalty of \$70,000 for violation of state law, and the balance compensates the state Health Department for time and expenses.

An additional fine of \$31,750 has been suspended for one year and will be cancelled if Zenergy complies with cleanup responsibilities and has no further violations. Local landowners told DRC they have seen two other spills that have occurred but have not been documented by the state.

Removal of contaminated soil and water continue. Zenergy estimates its cleanup costs so far at more than \$2 million.

DRC Critical of New Rules

DRC submitted comments September 14 on proposed state oil and gas rule changes, asking for better protection of surface residents and the environment.

One flaw in the new rules is the state's failure to require simple measures to prevent more spills like the one at Charbonneau Creek.

The rules do not require operators to submit schematics of saltwater pipeline systems, both location and depth.

They also fail to require measuring gauges to insure what enters the pipeline actually comes out at the injection well. Such a requirement would reduce damage from a spill by insuring that it did not go unnoticed.

DRC also criticized the state's attempt to require residents to live six months of the year in a home before it is considered an "occupied dwelling."

This provision looks like an attempt to allow oil companies to drill closer to homes than the legislature decided earlier this year—and without notification.

State coal mining rules define an "occupied dwelling" as "any building that is currently being used on a regular or temporary basis for human habitation." DRC sees no reason to afford oil and gas country residents less protection.

DRC also wants a better definition of the "in good faith" provision related to negotiation of surface damage contracts. DRC thinks a property appraisal is in order, and that residents should know the amounts offered to a sample of other area landowners.

Finally, DRC opposed a proposed new rule allowing condemnation of property for private use as a carbon dioxide pipeline to enhance oil and gas recovery, noting that voters supported a measure last year to limit the private right of eminent domain.

Proposed rules must clear a legislative Administrative Rules Committee before being finalized.

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PIPELINE OPPOSITION MOUNTS, from p. 1

DRC is also challenging the pipeline's applications for "public necessity and convenience" and siting and routing approval before the North Dakota Public Service Commission.

"I don't think the PSC should give power to a foreign entity to condemn our land," said DRC member Mark A. Novak, a Lankin farmer. "And fossil fuels are no longer our friends."

Opposition has also been building in South Dakota, where landowners are also challenging the pipeline company's right to use eminent domain.

The EIS comments submitted by DRC and others also contain these criticisms:

- The pipeline will carry Alberta tar sands oil, whose production and use results in three times as much carbon dioxide global warming emissions that conventional oil;
- The pipeline will not meet the national interest in reduced reliance on foreign oil;
- The EIS fails to consider increased pollution from additional refinery capacity required by this pipeline;
- The EIS fails to consider any alternate siting for the pipeline;
- The EIS fails to answer questions related to prevention of soil damage and surface and ground water pollution.

Federal approval of the final EIS could come early next year.

AG & TRADE ROUNDUP

Grant County Hogs

A North Dakota Sow Center hog factory, Hilltop Pork, has its state permit, but has run into snags at the county level.

DRC called county officials' attention to the fact that they had broke the law by granting a permit prior to holding a public hearing and without involving the county's Planning and Zoning Commission.

The county referred the matter back to Planning and Zoning, which is now gathering information on liability and local effects before making a recommendation.

Water appears to be an issue. Craig Jarolimek of the Sow Center has told the county all water permits are in place.

No application has been filed, however, with either the State Water Commission or Southwest Water, and locals believe existing wells on the property cannot meet water needs.

Hog Waste and Congress

The U.S. Senate Committee on Environment and Public Works heard testimony from WORC recently in opposition to a proposed law that would exempt factory farm pollution from federal Superfund and Community Right to Know laws.

Dakota Rural Action member Nicholas Nemecek, a former South Dakota state legislator, gave testimony before the committee this fall.

The current Superfund law already exempts manure spread on fields at levels that that can be taken up by plants.

The Superfund law has been used by at least three states to hold factory farms responsible for off-site damages.

GM Alfalfa in North Dakota

Information released by the U.S. Department of Agriculture says that Roundup Ready alfalfa was planted in more than 30 North Dakota counties prior to the ban on planting resulting from a federal judge Charles Breyer's decision earlier this year.

Farmers concerned about contamination of their alfalfa crop can call 1-866-724-6408 and be prepared to give the 911 address for their fields.

USDA will provide the distance to the five nearest RR alfalfa fields, although not the exact locations.

USDA, Monsanto and Forage Genetics have appealed Breyer's decision but did not try to lift the injunction against RR alfalfa sales and plantings.

Monsanto has asked for an expedited decision, however, which DRC

opposes. If granted, an expedited decision could ensue in as little as six months.

Peru Flip-Flop

The long-delayed Peru Free Trade Agreement passed through House and Senate Committees in late September and appears headed for Congressional enactment.

Senator Conrad voted in favor of the agreement as part of an 18-3 committee majority.

The agreement includes investor-to-state enforcement rights that allow foreign corporations to sue local, state and national governments to remove laws that protect public health and safety.

Rep. Pomeroy has also stated he will also support the agreement.

Pomeroy and Conrad have voted against previous agreements in part on the basis of investor rights.

Although "fast-track" authority expired earlier this year, the Peru agreement is subject to fast-track rules because it was negotiated prior to expiration.

Farm Bill Competition

DRC Board members Roger Brenna, New Town, and Tom Irgens, Springbrook, joined a WORC fly-in to Washington DC September 15-19 to lobby for a strong competition title in this year's farm bill.

Senate Agriculture Committee Chair Tom Harkin (D-IA) has agreed to include a strong country-of-origin labeling provision in the bill.

Getting Congress to curb forward contracts without a base price, however, looks like a much tougher sell.

WORC has scheduled another fly-in this month specifically to insure that the Captive Supply Reform Act is added as an amendment to the bill.



ANOTHER LANDFILL JUNKED

The Grand Forks County Commission junked a proposed landfill August 21, and the city is now looking at other locations within its extraterritorial zoning.

Commissioners voted 3-2 to deny a special use permit for a landfill in Strabane Township along a beach ridge of Glacial Lake Agassiz about 40 miles northwest of the city.

"It is so obvious that this is not an adequate site," said Commissioner and state senator Connie Triplett, who was joined by Alvin Kvasager and Spud Murphy in vetoing the dump.

See Landfill p.7

PROTECT THE PARK

by Neil Tangen



(Tangen and his family, members of Badlands Area Resource Council, live near the proposed South Heart site and spend their summers at Peaceful Valley Ranch where they operate the riding stables. Neil is the Vice Chair of BARC)

Not everyone is gung-ho about a coal-fired power plant in South Heart.

An August 10, Dickinson *Press* article noted a change in plans for the plant but didn't tell the whole story.

Great Northern Power Development has withdrawn its air quality application to the state Health Department for the proposed 500-megawatt plant from the state health department.

Leave it to the Governor's office to put a positive-sounding, albeit vague spin on what was likely a huge debacle—"The Company is pursuing new technology."

No official word on what that "new technology" is.

The proposed plant was to be built only 15 miles from Theodore Roosevelt National Park—one of the nation's crown jewels and a top tourist destination and revenue generator for North Dakota.

Plans indicated that visitors to the Painted Canyon Overlook would be able to see the plant in the distance.

The National Park Service recently sent a letter to the Health Department regarding another plant, which is currently proposed for the Gascoyne area, 55 miles away, saying that visibility in Theodore Roosevelt National Park could be marred as many as 19 days out of the year if the plant is built.

Clearly, the South Heart plant, at a distance of only 15 miles, would have had a huge impact on scenic vistas in the Park, and the company and the Health Department knew it.

That's not all--the company has not yet found anyone to buy the electricity from the proposed plant. Seems our neighboring states are more interested in purchasing energy generated with clean, renewable sources than with coal.

Another interesting thing about the Dickinson *Press* story is that Great Northern Power is quoted, the Health Department is quoted, the Governor's office is quoted, yet there were no interviews done with regular folks in the South Heart area where the plant was proposed to be built.

A strip mine application is still in the works, so something is still pending.

There are a lot of folks here who would be happy to see the whole thing go away. We live in a beautiful, clean and quiet part of the state and we want to keep it that way.



I'D LIKE TO SUPPORT DRC ENCLOSED PLEASE FIND:

- General Membership
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LANDFILL, from p.6

She cited the high water table and wetlands and drainage issues.

Private investors Paul Sproule and John Scott proposed the landfill, but about 40 area residents appeared at the Commission meeting to oppose it.

Landfill promoters have said they will challenge the decision in court.

They also lost an effort to site a dump in Gilby Township earlier this year.

The city of Grand Forks is scrambling to find a nearby landfill site after losing a seven-year battle to force a landfill in another sensitive area on Turtle River Township residents.

ENERGY EFFICIENCY AWARDS

At the Bijou in Beach

It's open, it has great popcorn—and it's saving energy.

Yonder Window Productions received a USDA Rural Development Energy Grant this fall to help replace the heating system and insulate the roof at the Bijou Show House in Beach, the only movie theater in a five-county area.

The company was formed by DRC member Emanuel Culman, who reopened the theatre in March.

The grant will cover 25% of the cost, and with 90% plus efficiency, Culman expects payback within four years.

DRC lobbied for the energy efficiency and renewable energy grant and loan program that went into the 2002 federal farm bill—and to keep the program funded.

Culman had praise for both Mark Wax of USDA's Bismarck office for his help with the grant, and for Ron Newman of the Dickinson State University Small Business Development Center for calling his attention to it.

The Bijou was built in 1947 and closed in June 2006 until Culman re-opened it.

You can check out the theater's playbill at www.beach-movie.com.

WORC Goes Platinum

The Home on the Range, where the Western Organization of Resource Councils and Northern Plains Resource Council offices are located, qualified this summer for a "platinum" rating from the Leadership in Energy and Environmental Design—one of only 41 buildings nationwide to do so, and the first-ever in Montana.

The 10,000-square-foot building—formerly a grocery store—uses only 21% of the energy and 41% of the water of other buildings its size.

And it cost about 20% less than if the two organizations had torn down the building and started from scratch.

Check it out at the WORC website, www.worc.org, and stop by for a tour when you're in Billings.

*Plan to attend
DRC's Annual Meeting
October 27 at the
Chieftain Conference Center
in Carrington*

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