

Dakota Counsel

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ASK BEFORE DIGGING

Badlands Area Resource Council members want the Stark County Commission to answer some questions before giving Great Northern Development a permit to mine coal near South Heart.

The Commission will hold a public hearing January 3 on a zoning change and county permit to mine.

Members are circulating a petition asking Commissioners to require that Great Northern conduct an Environmental Impact Statement prior to getting any permit for mining or any coal conversion facilities.

The federal government may not require an EIS, even though the facility would be only about 15 miles from Theodore Roosevelt National Park.

The project is not taking place on federal land or (at least not yet) using federal dollars, two of the conditions that would trigger a federal EIS.

Developers now say they want to build a coal gasification plant rather than an electricity plant, but that doesn't remove local concerns about mining.

“Nothing has changed as far as what we're trying to get answers for,” BARC Vice-Chair Neil Tangen, South Heart, told the Dickinson *Press*.

One of the biggest questions is water.

The existing coal gasification plant at Beulah is permitted for 11,410 acre-feet of water every year.

Great Northern Development has a pending application for the wet stuff from Southwest Water, but it also told the Industrial Commission it would reduce water consumption by using “recycled.”

“What they really mean is that they will use groundwater sources that are destroyed in the process of mining the lignite,” said Mary Hodell, Dickinson.

DRC knows of no wells successfully replaced by coal companies in the state.

The developers also conceded at a closed-door meeting with officials that there are pending studies about the presence of uranium in the coal.

“Isn't the zoning and mining approval a little premature then?” asked one attendee, to which there was no response.

(The meeting itself may have been illegal. It was closed, there was no public notice, a majority of Stark County Commissioners was present, and there was ample discussion of matters pertaining to the mining permit now before the Commission.)

Mining also is likely to mean a land grab for the mining company. Coal companies already own over 90 sections of land in the state, which they apparently have no plans to sell back to local farmers and ranchers or other residents.

Beyond the mining, the concerns of South Heart area residents only multiply.

“We're also concerned about what this plant and its pollutants could mean for a historic site like the Theodore Roosevelt National Park,” said Tangen.

One large question hanging over the future of the plant is whether it can get enough handouts from government toward the estimated \$1.4 billion cost to make it worth the developer's risk.

The state has already ponied up \$10 million.

And then there are the mineral rights the government gave away more than a century ago to railroads like Great Northern.

If Stark County grants the mining permit, developers will still need a state mining permit, not to mention an air quality permit, which has not yet been submitted.

In addition, the mine will need a state landfill permit for disposal of mine waste, a Clean Water Act permit for its water discharges and a Clean Air Act permit for its air pollution.

The National Park Service earlier found that a 500-megawatt coal-fired power plant near Gascoyne, would have “adverse impact” on the park. The South Heart facility is much closer.



Neil Tangen uses a map to show where the South Heart smokestacks would be visible within the national park.

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 YEAR AHEAD

By DRC Board Chair Roger Brenna

With New Year's being so close, I would like to take a look at some of the issues DRC will be involved in for the coming year.

Trade will be a big concern this year with the Peru Free Trade Agreement being passed and the Columbia, Panama and South Korea FTA coming up under the expired fast track formula.



The U.S. is not holding out for fair trade. The Peru agreement does not protect labor in either country, does not protect against large imports and does not protect against investor to state privilege.

This privilege allows foreign corporations to directly challenge laws, rules and even judicial decisions in the United States and thereby threatens loss of national and state sovereign rights.

Energy and renewable energy will be a major issue this coming year. In the oil and gas industry we had some positive results in the last legislature: the 500-foot set back from an inhabited house and proper notification of a well site, as well as reclamation bonding. But we need better surface rights and bonding.

Coal companies need to take on more responsibility for clean air and water issues. We also need to promote more biofuels and clean air energy like wind energy to compensate for overuse of fossil fuels.

Water rights and water use is going to become a more and more serious issue in the near future with the aquifers depleting whether it be caused by drought or too much use.

Food and food safety will be another big issue, with use of GMOs and open borders to all imports with limited inspection. Limited inspection will be a great concern for food safety and quality.

The grassroots affiliates can be involved in these issues and others. I would encourage DRC members to attend your local affiliate meetings and present your concerns and solutions to problems mentioned and any other local issues.



REWARD

A lifetime of gratitude and thanks offered for the contribution of a road-worthy vehicle (looks not too important) to replace the deceased staff car that was viciously attacked



by an antelope on Highway 85. If you are in possession of such a vehicle, would like to free up precious garage space, and also have a tax deduction before the end of the year,

please call Aleta at 483-2851 or e-mail aleta@drcinfo.com.

You just can't imagine how grateful we would be!

ANNUAL MEETING: WATER AND NEW FACES

At its October 26 annual meeting, DRC elected its third chair from McKenzie County in the last decade and heard a lot about the water issues that seem to creep up everywhere these days.

Roger Brenna, New Town, current chair of the McKenzie County Energies and Taxation Association took the gavel and presided over his first Board meeting November 17.

New to the DRC Board this year are the following four members:

◆ Ted Reinert, Minot, Assistant Treasurer, retired, long-time leader of Souris Valley Chapter;

◆ Marie Hoff, Bismarck, Assistant Secretary, retired university professor with a background in social services planning and organizing, and member of Missouri Valley Resource Council;

◆ Verle Reinicke, Bismarck, At-Large, a retired Lutheran pastor who has been active in MVRC;

◆ Kim Simmons, Grand Forks, At-Large, a student and massage therapist and member of Grand Forks County Citizens Coalition;

◆ Matt Shimanek, At-Large, an attorney and GFC3 member who was active in 2006 efforts to pass a renewable electricity standard in Grand Forks.

Staying on the Board, but in new capacities, were:

◆ Bob White, Emerado, Vice-Chair;

◆ Dianne Aull, Bismarck, Secretary;

◆ Terrence Kardong, Richardton, Treasurer;

◆ Dean Hulse, Fargo, At-Large.



Eight of the 2008 Board Members

DRC passed several water-related resolutions, including:

◆ Opposition to any renewed efforts to use oilfield waste saltwater for de-icing North Dakota roads, an illegal practice DRC exposed earlier this year, which the state stopped, but appears to be trying to make a case for continuing;

◆ Opposition to all permits for the TransCanada Keystone pipeline, in part because of the threat of its untested technology leaking;

◆ Urging further testing of groundwater at Charbonneau Creek, site of North Dakota's worst oil spill, and initiation of a complete water monitoring program statewide;

◆ Urging the composting of waste in all concentrated animal feeding operations, to reduce the threat of groundwater contamination.

In other resolutions, DRC:

◆ Expressed opposition to the use of eminent domain for private carbon dioxide pipelines and associated infrastructure;

◆ Urged a carbon tax rather than cap-and-trade system as the preferred method of controlling carbon dioxide emissions;

◆ Urged that land for animal feedlots larger than 1,000 animal units be classified as commercial or industrial rather than agricultural;

◆ Opposed increasing the national beef checkoff and reaffirmed its support of a directable, voluntary checkoff;

◆ Expressed support for local foods organizing efforts that benefit both consumers and producers; and

◆ Decided to try to hire its next staff director and fill other non-organizing personnel vacancies in Bismarck rather than Dickinson.

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The Green Market, Fargo; Tochi Products, Fargo

Afternoon refreshments sponsored by Chieftain Conference Center, Carrington

AG AND TRADE ROUNDUP

North Dakota GM Tour

Wheat contamination and market loss are still a risk, and the U.S. government must reform its oversight of genetically modified (GM) crop testing and deregulation.

That was the message brought by Greg Yielding of the Arkansas Rice Growers Association and Will Rostov, lead counsel for the Center for Food Safety in the lawsuit that un-deregulated alfalfa earlier this year.

Yielding estimated rice industry losses of \$1.9 billion last year as a result of contamination. It came from a variety of GM rice that had supposedly never been grown outside Louisiana State University, where tests on the variety were discontinued in 2001.

Like North Dakota hard red spring wheat, about half of Arkansas long-grain rice is exported—and to essentially the same markets in Europe and Japan.

“If we don’t have the export markets and have to depend on domestic markets, the price will plummet,” Yielding told the Minot *Daily News*.

He estimated that a similar market loss in the case of wheat contamination could reach \$135 billion, based on the relative size of markets.

The Arkansas marketing disaster was an illustration of the failed regulatory system still in place, which got a stern rebuff from a federal judge earlier this year in a suit over Roundup Ready GM alfalfa.

The lawsuit stemmed from the concerns of alfalfa producers relying on non-GM markets, but also affects organic beef, dairy and honey producers.

Unfortunately, even though the Center for Food Safety, DRC and the other plaintiffs won the case, a lot of Roundup Ready alfalfa has already been planted.

Rostov noted that honey producers who identify organic markets are now unable to engage them because the bees can’t be segregated from GM alfalfa. Hence, no domestic organic honey.

“Essentially, it’s biological contamination of the bees,” said Rostov.

Peru Trade Agreement Passes

Congress ignored growing voter opposition to U.S. free trade policy and approved the long-delayed Peru Free Trade Agreement late this fall by overwhelming margins in both houses.

Sen. Kent Conrad and Rep. Earl Pomeroy, who have voted against most free trade agreements, went along with the majority this time.

“The Peru agreement gives new rights to promote off-shoring of U.S. jobs and exposes food safety, environmental, health, and other public policies to challenges by foreign investors,” said DRC Chair Roger Brenna.

Foreign investors gain even greater rights under the new agreement than those conferred by the North American and Central American Free Trade Agreement.

Peruvian investors can now challenge U.S. laws and judicial decisions, no matter how beneficial to the public interest, on the sole basis that they limit profits.

So can any firm incorporated in Peru—in effect giving U.S. companies another chance to weaken regulations after they have already lost in Congress and the courts.

Senate Passes Farm Bill

The Senate cut off debate and forced a vote December 14 on a farm bill that lacked key provisions to improve competition in the cattle industry.

The bill passed 79-14, with both North Dakota Senators in favor, and is expected to go to a House-Senate conference committee early next year. The House bill passed earlier this year on a much narrower vote, 231-191.

Acting Secretary of Agriculture Charles Conner issued a statement calling the bill “fundamentally flawed,” suggesting the possibility that a final bill that looks like the Senate’s might be vetoed.

The Senate bill did include a ban on packer ownership of cattle more than two weeks prior to slaughter, but not the “Captive Supply Reform Act” language forbidding secret, non-price forward contracts.

The bill also required labeling of meats and other fresh foods starting next year.

On GM crops, the bill included an amendment by Sen. Mark Pryor (D-AR) requiring the Secretary of Agriculture to establish new regulations to “improve the management and oversight” of public seed development.

Pryor’s initiative came directly from the hard experience of the rice contamination (see above).

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MVRC held a wine & cheese fundraiser November 16, with proceeds going to DRC. Member Derrick Braaten samples the wares.

NEW ENERGY BILL

President George W. Bush signed an energy bill December 19 that contains some policies DRC has advocated, but leaves many important issues untouched.

The major advances were in liquid fuels.

Automakers must improve gas mileage in their vehicles under the law, which increased the Corporate Automobile Fuel Efficiency (CAFÉ) standards for the first time in over 30 years.

The law also provides a new Renewable Fuel Standard that will increase the use of biofuels and contains some requirements for sustainable production practices.

There is also no funding in the bill for coal-to-liquid (CTL) production. CTL reared its head in the final Senate farm bill, however, through a three-year extension of the alternative fuel tax credit crafted by Sen. Jay Rockefeller (D-WV).

Under the bill, developers must show they are capable of capturing 50 % of the carbon emissions from a CTL facility in the next two years, and the figure must climb to 75 % by 2010.

Unfortunately, CTL will produce more greenhouse gas emissions than unleaded gasoline, even if 75% of the carbon dioxide from the refining process is sequestered.

But the new energy law lacks important provisions passed earlier this year by the House.

Hopes for oil and gas reform in the West will have to wait, as the Senate dropped consideration of the new protections for private landowners and water resources, and stronger bonding and reclamation provisions passed by the House.

Wind energy also took it on the chin, with the Senate dropping the House’s Renewable Electricity Standard (RES). The House RES would have required utilities to produce 15% of their electricity from clean, renewable sources by 2020.

The Senate also failed to find funding for extended tax incentives for the production of renewable energy. Senators balked at raising the money by rescinding tax incentives for the production of oil and gas, and other fossil fuels.

Senate Majority Leader Harry Read (D-NV) dropped the tax reforms from the bill last week after falling one vote short of the 60 needed to defeat a filibuster led by Sen. Pete Domenici (R-NM).

Domenici also who led the charge against the oil and gas reforms, and the White House backed his opposition to both measures by a veto threat.

Congressional Democratic leadership has vowed to bring these measures back in 2008.



PIPELINE: FARGO BOWS OUT

Fargo’s opposition to the TransCanada Keystone pipeline has fizzled out, but the project is still a long way from getting all the approvals it needs.

The city came to terms with TransCanada December 18, dropping its opposition in exchange for some input into emergency planning and some additional water monitoring

Fargo’s concerns about leakage threats that might contaminate its water supply at Lake Ashtabula led the Public Service Commission to reopen the pipeline routing and siting hearing November 27-28.

Experts from Houston Engineering told the PSC it was possible a pipeline leak could take as long as 90 days to detect.

Meanwhile, DRC changed legal counsel, dropping the Minnesota firm of Rinke Noonan and retaining North Dakota native and Plains Justice staff attorney Jana Linderman.

“Contrary to the headlines, we’re in this fight for the long haul,” said DRC spokesperson, Janie Capp, Lankin ND. “This pipeline is a threat to landowner rights and bad for the environment, and it should be stopped.”

The PSC has granted a “public necessity and convenience” finding to the pipeline, but has not yet ruled on the route.

Federal approval for the project is also necessary, and DRC is waiting to see the final Environmental Impact Statement issued by the U.S. Department of State.

Approval will be necessary in several other states as well.

It is becoming more evident that the refinery destination for the Alberta tar sands oil slated to come through the pipeline is to be a huge new refinery planned near Sioux Falls, South Dakota, nicknamed “the Gorilla.”

For a map of the sprawling proposed production and delivery system of the pipeline, check out the website oilsandstruth.org.

ROCKY ROAD FOR COAL

Two proposed coal-fired power plants in coal-rich Wyoming have become the latest victims of greater consideration of the true cost of fossil fuels.

“Coal projects are no longer viable,” Dave Esklesen of PacifiCorp (which operates as Rocky Mountain Power in Wyoming) told the Casper *Star-Tribune*.

PacifiCorp nixed both proposed plants in early December—one a 527-megawatt electricity unit at the Jim Bridger power plant in Sweetwater County, the other a state-funded coal-gasification, carbon capture and sequestration demonstration project at the same site.

Esklesen cited mounting concerns over climate change and likely regulation of carbon dioxide as major factors in the company’s decision.

In other words, money.

The Senate Environment and Public Works Committee on December 5 approved a bill to cut carbon and other greenhouse gas emissions by 70% by 2050 by an 11-8 vote.

The bill would set up a cap-and-trade program based on carbon allowances companies could sell or buy depending on whether they could meet the limits.

It’s the first such bill approved by a Congressional committee, and its prospects are far from certain.

Still, John Cavalier of the investment firm Credit Suisse told Environmental News Service last month “the investment community is already planning for the cost of carbon emissions to be added to energy companies in the future.”

When Xcel Energy, the fourth-largest utility in the nation, filed its resource

plan in Colorado earlier this month, it estimated that a new coal plant capturing just 50% of its carbon would be 75% greater than a wind installation—even without the federal renewable energy production tax credit.

Needless to say, Xcel did not propose new coal, but energy efficiency and solar power as the best way to meet new electricity needs in Colorado.

Xcel, the nation’s largest wind producer, has told Minnesota it will reduce carbon emissions by 22% by 2020.

The money cost of dealing with carbon dioxide—and the human and environmental cost of not dealing with it—were also behind the state of Kansas’ stunning rejection of a coal plant permit application in Holcomb, Kansas this fall.

The state simply said it would not permit the facility because it would not manage its carbon.

ENERGY BURSTS

Spiritwood Questions

Question: Why would you build a 99-megawatt coal-fired power plant?

Answer: To avoid state siting laws.

Question: How can you get 500 megawatts of coal power (well, ok, 495) through without a state siting permit?

Answer: Build five 99-megawatt plants.

Question: How do you make it sound renewable?

Answer: Build an ethanol plant on the same site and power it with “waste heat.”

DRC asked the state December 18 to reopen the comment period on the first of these hybrids, located in Spiritwood just east of Jamestown, after discovering permit changes that re-

moved key requirements to achieve “Maximum Achievable Control Technology.”

The project’s electricity component has grown from about 40 to 99 megawatts since it was first proposed, creating the need for more water. Originally, all the water was to come from an adjacent barley malting plant’s wastewater.

Now the developers are asking the Stutsman Rural Water District for 163 million gallons of water per year from the Spiritwood Aquifer. DRC is submitting comments on the permit application, now before the state Water Commission.

The electricity Great River Energy would produce from the facility is starting to look much more important than the ethanol that was its initial selling

point—yet the destination of the electricity is seldom discussed.

Assuming the power is intended for Minnesota, its legality is questionable.

Minnesota passed a law this year prohibiting imports of coal facilities built since the beginning of 2007 that would contribute to carbon dioxide emissions.

The state legislature gave the coal industry \$500,000 this winter specifically to challenge that law legally.

Hoeven Says No to Carbon Rules

Six Midwestern governors signed a historic accord November 15 agreeing to limit global warming emissions in the region.

North Dakota Gov. John Hoeven wasn’t one of them.

See ENERGY BURSTS p.7

CLEAN COAL IS BALONEY

by Terrence Kardong

I would like to comment on the recent campaign to promote “clean coal” in North Dakota, an effort trumpeted by Diane Hagen of the Williston Chamber of Commerce in the November 12 Williston *Daily Herald*, and attributed to the office of Rep. Earl Pomeroy.

It seems to me that clean coal is an oxymoron: there just ain’t no such animal.

The burning of coal in any form is a serious pollutant, and although this factor can be reduced, it cannot be cleaned up without a good deal of cost.

The problem with weasel words like clean coal is that they start out as a shrewd maneuver to get people to do something but they end up being believed. In other words, we begin to actually trust in our own baloney. But wishful thinking will not make coal a clean-burning fuel—ever.

Another dirty aspect of coal, at least in North Dakota, is that it seems to have an inhibiting effect on truly clean energy sources such as wind.



(Terrence Kardong, Richardton, is chair of DRC’s Clean Electricity Task Force.)

Once we have sunk huge amounts of money into coal-fired generating plants, or the proposed coal-to-liquid processes, we don’t have much money or enthusiasm left for wind. And so the coal industry continues to suppress the wind industry in North Dakota all it can.

Knowledgeable people know there is no clean coal, but their trump card is that it brings good jobs to our state.

What is not often noticed is that alternative energy also produces good jobs. The more wind turbines we have, the more technicians we are going to need, and on a permanent basis.

So we can have clean energy and good jobs at the same time. There is no contradiction and no oxymoron.

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ENERGY BURSTS, from pg 6

Hoeven skipped the meeting in Milwaukee, where the agreement was reached, and later his adviser Lance Gaebe told the Associated Press he wouldn’t sign it.

The state supports “an agreement that sets targets for renewable energy use and production,” said Gaebe, but prefers a national standard for greenhouse gas reduction.

Hoeven should “seize the opportunity to be a part of the global warming solution,” said DRC member Jack Breen, Bismarck. “Right policies could

bring fantastic economic opportunities to our state.”

Minnesota Governor Tim Pawlenty pointed out that the governors’ agreement could serve as a model for the federal government, which “has not met the challenge to date of crafting a comprehensive national response to climate change.”

The agreement among the governors was to create a regional “cap-and-trade” market and set up the rules for it.

See Energy Bursts p. 8

ENERGY BURSTS, from pg 7

Environmental groups generally saw the move as a step forward, but unanswered questions remain.

“It’s critical that we have a public auction to distribute...credits, and not give them away free to the polluters,” said Keith Reopelle of Clean Wisconsin, who told Minnesota Public Radio the revenue could be reinvested in “the lowest-cost solutions to attack global warming.”

Oil Neighbors Lose Out

It’s official. Those living near oil wells now have to spend more time at home than those living near coal mines if they want equal protection.

Last winter’s state legislature barred oil wells within 500 feet of a home, but the state Oil and Gas Division wrote rules saying it applied only to homes occupied at least six months of the year.

There are no such restrictions in state strip-mining law, which also specifies a setback between mining and an occupied dwelling.

DRC asked the legislature’s Administrative Rules Committee December 12 to eliminate the restriction, but they failed to do so, despite vigorous support for DRC’s position from Reps. Jon Nelson (R-Wolford) and Chris Griffin (D-Larimore), and Sen. Tracy Potter (D-Bismarck).

Big Stone II: A Little Smaller?

The remaining utilities in the Big Stone II coal-fired power plant project are now talking about a plant of 500 to 580 megawatts instead of the original 630, promoters told the Minnesota Public Utilities Commission November 13.

A “pre-prudence” petition before the North Dakota Public Service Commission by two of the BSII partners, Montana-Dakota Utilities and Otter Tail Power, has been on hold since two utilities jumped ship in September.

The BSII promoters now have new hearings before the Minnesota PUC January 23-24 on their request for a certificate of need for transmission lines in that state. They expect a PUC decision in April.

Happy Holidays

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