

# WESTERN ORGANIZING REVIEW

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## WORC Seeks Responsible Energy Development

### Challenges BLM's Largest Oil and Gas Project Ever

**W**ORC and three member groups recently filed lawsuits to force federal agencies to plan for responsible energy development.

On May 1, 2003, WORC joined with Powder River Basin Resource Councils and others to file a lawsuit in federal district court over the federal Bureau of Land Management's (BLM) Final Environmental Impact Statement (EIS) and Record of Decisions on coalbed methane development (CBM) for both Montana and Wyoming. The Northern Plains Resource Council filed separately on the Montana EIS on the same day. The lawsuits are asking the court to toss the BLM's study and require a more effective study. The project is BLM's largest oil and gas project ever.

A month earlier, the Western Slope Environmental Resource Council (WSERC), High Country Citizens Alliance (HCCA), and the Western Colorado Congress (WCC) filed suit in federal district court to challenge the



decision by the BLM and U.S. Forest Service to let Gunnison Energy Corporation (GEC) rework a 21 year old, conventional well in order to explore for CBM.

*See Energy Development page 13*

## Enzi Introduces Captive Supply Reform Act

**T**he WORC applauded Senator Mike Enzi (R-Wyoming) and five cosponsors for introducing the Captive Supply Reform Act to restore open, fair market competition in the livestock industry.

"We commend Senator Enzi and the cosponsors for introducing this bill to end the secret livestock contracts that are so deadly to a working, competitive livestock market," said WORC Chair Shane Kolb, a Meadow, South Dakota, rancher.

Senators Byron Dorgan (D-ND), Kent Conrad (D-ND), Tim Johnson (D-SD), Tom Daschle, (D-SD), and Senator Craig Thomas (R-WY) cosponsored the bill, S. 1044, with Senator Enzi.

Four companies control 59% of U.S. hog slaughter and 81% of U.S. fed cattle slaughter, according to USDA data. Many family farmers and ranchers contend that this level of concentration allows meatpacking corporations to manipulate the purchase of hogs and cattle

to their advantage through what are called "captive supplies."

"Meatpackers are acquiring an increasing percentage of the cattle and hogs they slaughter through arrangements known as 'captive supplies' – livestock that meatpackers either own themselves, or control through contracts with

farmers and ranchers," Kolb said. "Like thieves in the night, packers use captive supplies to manipulate livestock markets much as Enron allegedly used dominant market share and unregulated forward contracts to manipulate energy markets."



PHOTO COURTESY SENATOR ENZI

*Senator Mike Enzi*

*See Captive Supply page 5*

## WESTERN ORGANIZING REVIEW

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WORC is a regional network of seven grassroots community organizations that include 8,250 members and 48 local chapters. WORC helps its member groups succeed by providing training and by coordinating regional issue campaigns.

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## 80 Years is a Long Time to Wait

*“It has been brought to such a high degree of concentration that it is dominated by few men. The big packers, so called, stand between hundreds of thousands of producers on one hand and millions of consumers on the other. They have their fingers on the pulse of both the producing and consuming markets and are in such a position of strategic advantage they have unrestrained power to manipulate both markets to their own advantage and to the disadvantage of over 99 percent of the people of the country. Such power is too great, Mr. President, to repose in the hands of any men.”*

Wyoming Senator John Kendrick spoke these words on the US Senate floor in 1921 as he argued for passage of the Packers and Stockyards Act. Congress was compelled to pass a law to ensure fair and competitive livestock markets at a time when five major companies controlled less than 40 percent of the slaughter market in the US.

Since passage of the Packers and Stockyards Act over eighty years ago, four major companies have gained control of more than half of all US hog slaughter and over 80 percent of the US fed cattle slaughter. The exact thing the law was intended to prevent.

*“Like thieves in the night, packers use captive supplies to manipulate livestock markets just as Enron allegedly used dominant market share and unregulated forward contracts to manipulate energy markets”*

This high level of the concentration is ten times worse because of meatpacker use of “captive supplies”—livestock either owned by the packer or controlled through contracts with producers. Like thieves in the night, packers use captive supplies to manipulate livestock markets just as Enron allegedly used dominant market share and unregulated forward contracts to manipulate energy markets. Increased use of captive supplies is estimated to cost family farmers and ranchers over \$ 1 billion per year for cattle alone. With over half the cattle delivered to US plants for slaughter

acquired through contracts with no negotiated price, the producer’s share of the consumer’s beef dollar has declined 30 percent over the last twelve years.



Earlier this year, Iowa Senator Charles Grassley introduced legislation prohibiting ownership of livestock by packers. But banning packer ownership alone, does not address the secret, Enron-style forward contracts and marketing agreements used to transfer livestock from producers to packers. Wyoming Senator Mike Enzi’s Captive Supply Reform Act addresses these other kinds of captive supplies.

Rather than banning contracts, the Captive Supply Reform Act makes two simple reforms to restore open, fair competition to the livestock market. By requiring a fixed base price in formula contracts and requiring contracts to be traded in open public markets, this bill takes the ‘captive’ out of captive supplies. It preserves the benefits of forward contracts and marketing agreements, while eliminating the characteristics that lead to market manipulation.

It is often said that history repeats itself. Isn’t it ironic, that USDA’s failure to address the market imbalances described by Wyoming’s Senator Kendrick in 1921, are today being championed by Wyoming’s Senator Enzi. Senator Enzi and the co-sponsors of the Captive Supply Reform Act - South Dakota Senators Johnson and Daschle, North Dakota Senators Dorgan and Conrad, and Wyoming Senator Thomas - deserve a lot of thanks as they strive to rectify a condition identified many years ago.

*Shane Kolb is the Chair of WORC. Shane ranches with his wife, Kathy, and their two sons in Meadow, South Dakota. Shane is the Vice-Chair of Dakota Rural Action.*

## Bits and Pieces

**T**wo new local chapters have blossomed this spring and another chapter is budding. The Southeast Citizens Coalition, the **Dakota Resource Council's** latest affiliate, held a kickoff meeting on March 18. The members adopted several resolutions including support for living wages, a moratorium on genetically modified wheat, and strong enforcement of federal country-of-origin labeling.

On May 8, **Oregon Rural Action** launched its third local chapter, the Baker County Grassroots Alliance. The new chapter is challenging the local electric utility's shutoff policy and is pushing for better sidewalks at key sites in Baker City.

By mid-summer, the **Idaho Rural Council** expects to welcome a new chapter in Cassia County. Several IRC members and soon-to-be members in the county face the prospect of a 10,000-head dairy heifer replacement operation and an influx of more large factory farms. Concerned citizens have been meeting since June 2002, and they won an appeal of a permit approval for a factory farm. The operators of the factory farm had failed to properly notify potentially affected neighbors before gaining initial approval for its operation from the Cassia County Planning and Zoning Commission.

The **Powder River Basin Resource Council** presented two *Youth in Conservation* awards for outstanding Wyoming Science Fair projects. Megan Kuper of Greybull High School conducted a laboratory study on the impact of common agricultural antibiotics on aquatic invertebrates (*Daphnia*, brine shrimp) and algae. Eric Harris of Lincoln Middle School completed a field study on the effects of streamside cattle grazing on aquatic macro invertebrates, such as mayflies, stoneflies and beetles. Each winner received \$250.

Members of **Dakota Rural Action** and others in Hutchinson County led an effort to overwhelmingly reject a proposed 3,200-head hog operation in an election held on April 15. Voters in Bon Homme County also soundly rejected a proposed hog facility. Voters decided these issues in the wake of a new state law stopping such votes in the future. But DRA members are challenging this new county zoning law. They're circulating more than 2,000 petitions to refer the county zoning law to a public vote in November. "The people want to be



PHOTO CREDIT: POWDER RIVER BASIN RESOURCE COUNCIL

*Michele Barlow (right) congratulates Megan Kuper and Eric Harris, winners of the \$250 Youth In Conservation awards for their outstanding Wyoming Science Fair projects. Powder River Basin Resource Council established the award in 2001 in tribute to Michele's father, William Barlow, a founding member of Powder River.*

able to maintain local control and make their decisions on each proposed project as it comes to them," said Charlie Johnson, DRA member. "If not, might as well just let the local zoning official make all the decisions."

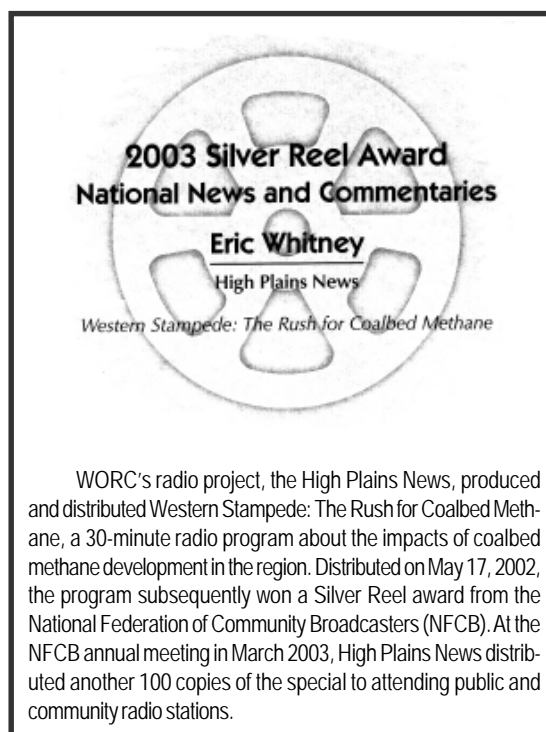
A local chapter of the **Dakota Resource Council**, the McKenzie County Energies and Taxation Association, gained a pledge from the local electric cooperative in April to pursue testing of wind resources. The cooperative expects to receive an anemometer from the Western Area Power Administration (WAPA) as early as this fall. WAPA loans anemometers without cost to cooperatives for up to one year and helps to gather data.

The **Western Colorado Congress** is fighting for a moratorium on biopharming in Colorado. Biopharming refers to genetically changing crops, such as corn, soybeans, and rice, to produce pharmaceutical drugs and chemicals, including insulin, contraceptives, industrial enzymes, and vaccines. WCC is demanding an imme-

diate moratorium on open-air planting of biopharm crops in the state until an open, public process involving all stakeholders demonstrates that these crops are safe. The group also wants Governor Bill Owens to expand a five-member advisory panel to include representatives from both organic and conventional farm organizations, food processors, grocery retailers, environmental groups, and consumer organizations. The current members of the advisory panel are known advocates of biopharming.

The **Northern Plains Resource Council** and other organizations forced a retreat, temporarily at least, in a legislative attempt to undo a voter-enacted ban on cyanide-heap leach mining in Montana. Introduced by Senator Debbie Shea, D-Butte, the bill passed through the Senate Natural Resources Committee. Senator Shea, however, pulled the bill because it was unlikely to get out of the Senate. In the retreat, Senator Shea announced she would join an effort to put an initiative on the ballot to repeal the cyanide ban.

-- Kevin Dowling



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***Captive Supply*** continued from page 1

“We estimate the cost to family farmers and ranchers from the increased use of captive supplies amounts to more than \$1 billion per year for cattle alone,” said Mabel Dobbs, a Weiser, Idaho, rancher who chairs WORC’s Livestock Committee. “Ranchers and farmers should ask their Senators to support this bill, which would take the ‘captive’ out of captive supplies.”

Dobbs said the Captive Supply Reform Act will complement bills already introduced in Congress to prohibit outright ownership of livestock by meatpackers. Proponents of Senator Enzi’s bill say that the packer ownership bills address the problem of meatpacking corporations directly owning livestock, but do not address the secret contracts and marketing agreements through which most hogs and nearly half of all cattle move from the rancher/producer to the meatpacking corporations.

“I’d surely think lawmakers will strongly support Senator Enzi’s Captive Supply Reform Act, along with the packer ban bills, which would go a long way toward preventing an Enron-like disaster from happening again,” said Wyoming rancher Nancy Sorenson, Chair of the Powder River Basin Resource Council.

Senator Enzi’s bill does not prohibit the use of contracts, according to WORC; instead, it would implement two reforms designed to restore open, fair competition to the process of marketing livestock through contracts. Most contract arrangements for cattle and hogs base the amount livestock producers receive on prices determined after the deal is made – prices that critics say can be unfairly manipulated by meatpacking corporations. The Captive Supply Reform Act would end this practice by requiring contracts and agreements to state a fixed base price. Contracts could still be based on futures market prices, and could include premiums, discounts or other adjustments now used in many forward contracts and marketing agreements.

The Captive Supply Reform Act also requires that such contracts be traded in open, public markets (such as an electronic market) to which all buyers and sellers of livestock have access. Proponents say this preserves the benefits of forward contracts and marketing agreements while prohibiting current contract provisions that allow price manipulation and price discrimination.

-- John Smillie

## WORC Trade Team Sets Campaign Plan

The WORC Trade Team met face to face for the first time May 2-4 in Rapid City, SD. WORC members from five states participated in the meeting where they took the opportunity to further WORC's goal in building strong public response in our region to the impacts of "free" trade.

Members representing Dakota Rural Action, Dakota Resource Council, Northern Plains Resource Council, Powder River Basin Resource Council and Western Colorado Congress, participated in generating a campaign plan for influencing the trade issues.

Participants identified trade issues affecting rural economies and the sovereignty of their communities. They also identified characteristics of fair and effective trade laws, rules and agreements that protect domestic markets and producers.

One accomplishment of the meeting was producing a campaign that WORC's member groups can

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*"We have created a campaign of true grassroots organizing locally that will impact trade policy at the international level."*

*-- Shane Kolb*

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use to influence the international issue of trade through local organizing.

WORC Board Chair Shane Kolb said, "We have created a campaign of true grassroots organizing locally that will impact trade policy at the international level."

The "Local Resolution Campaign" gives members an opportunity to become involved at their chapter and affiliate level and empowers people in their own communities. It includes asking local boards like County Commissions, City Councils and other local officials to pass resolutions on trade issues that impact their authority and ability to govern in their communities.

To assist groups in this campaign, meeting participants wrote sample resolutions that groups can use to guide them in writing their own resolutions. There were three main topics for these sample resolutions. One promotes the ability to label products' country



*Skip Waters, PRBRC; Karen Englehart, DRA; Mark Trechock, DRC Staff Director; RJ Stholer, DRC; and Jeri Lynn Bakken, WORC develop strategy for the WORC Trade Campaign.*

of origin and contents. Another sample deals with the privatization of services a community or county provides. A third asks for the abolishment of Chapter 11 in the North American Trade Agreement (NAFTA), which gives corporations the ability to sue any government that creates trade barriers to a corporation's ability to make a profit.

Because this would be so devastating to state and local governments, provisions like Chapter 11 and Privatization of Services would usurp state laws. The WORC Trade Team also intends to assist the states' Attorneys General in their concerns over the impacts of provisions like Chapter 11 and Privatization of Services, which overturn state laws.

This campaign not only gives local members an opportunity to inform people in their community about trade, it gives local governments leverage in impacting the international issues of trade. The combined support of passing many resolutions in communities across the WORC region will influence congressmen who ultimately vote on the trade agreements.

"Even though this campaign is relatively new, its focus fits hand in glove with existing WORC issues," said Kolb, who is also a DRA member.

The Trade Team also took another step forward in developing the "WORC Trade Bill of Rights." This statement will be taken to the WORC Board Meeting in Boise, ID, on June 7<sup>th</sup> for review and approval.

“We are fortunate that WORC Trade Team chair, Gilles Stockton of Grassrange, MT, had the foresight months ago to feel WORC needed a statement on what is healthy, sustainable global trade. Gilles composed the first draft of such a vision statement which WORC could use as a standard against which to com-

*“A key element of our statement is the right for countries to maintain their own sovereignty-- to make their own decisions or example, about the nature, source and security of their foodstuffs.”*

*-- Reed Kelley*

pare the trading activities we’re experiencing,” said Trade Team vice-chair Reed Kelley, who led the meeting in Rapid City.

Kelley added, “The draft did stimulate good, constructive discussions. After a couple sessions on it at the meeting, we emerged with a recommended ‘WORC Trade Bill of Rights’ that participants feel sets forth the standards by which trade should be conducted by all trading parties. A key element of our statement is the right for countries to maintain their own sovereignty - to make their own decisions, for example, about the nature, source and security of their foodstuffs.”

Once ratified by the full WORC Board, the trade team plans to use the document as a tool to guide WORC trade policy and determine campaign direction. Another goal is to use the Trade Bill of Rights as a model for allied groups.

“Trade team participants who were able to be part of the Rapid City meeting deserve much credit for the energy and thoughtfulness they put into refining this ‘Bill of Rights’ and setting the broader messages and other objectives for WORC’s long-awaited trade campaign. My personal appreciation and ‘hats off’ to each of them!” said Kelley.

*-- Jeri Lynn Bakken*

*For more information on how you can get involved with WORC’s Trade Campaign and pass a resolution on trade in your community, contact the WORC office at 701-376-7077 or 406-252-9672.*

## BRANDING DAY ONE-POT DINNER

This is a great recipe for rancher’s wives that also have to be out in the corral as well as in the kitchen. This can be made in the morning before the cattle work starts, and by break time, it is ready to eat.

*-- Zane Davis, Winnemucca, NV*

2 lb. ground beef  
1 1/2 lb. bacon, cut into small pieces  
2 c. chopped onion  
4 - 1 lb. cans pork and beans  
2 - 16 oz. cans kidney beans, drained  
2 - 16 oz. cans butter limas, drained  
2 c. ketchup  
1/2 c. packed brown sugar  
2 tbs. liquid smoke  
6 tbs. white vinegar  
2 tsp. salt  
Pepper to taste

Brown the ground beef in a skillet; drain off excess drippings. Place beef in a crock pot. Brown bacon and onions; drain. Add bacon, onions, and remaining ingredients to the pot. Stir together well. Cover and cook on low 4 to 6 hours. Add a salad and French bread to complete the meal. Makes 12 servings.



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## Farmers Push for Economic Analysis of GM Wheat Introduction

Groups representing wheat farmers from across the country are asking the federal Animal Plant Health Inspection Service (APHIS) to take a hard economic look at genetically modified wheat before the agency clears the way for commercial introduction of the controversial crop.

In a petition submitted to APHIS on March 11<sup>th</sup>, the Dakota Resource Council, Northern Plains Resource Council, Family Farm Coalition, Northern Plains Sustainable Agriculture, and WORC asked APHIS to prepare a full Economic Impact Statement (EIS), including a thorough analysis of the economic impacts, on commercial release of genetically modified wheat. Historically, APHIS has prepared a much less rigorous environmental assessment on seed company requests to approve new, genetically-modified crops.

Monsanto, a multinational biotechnology company, plans to introduce genetically modified wheat into Montana, North Dakota and other states by 2005, and has applied to USDA

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*"We need an economic impact statement so that we can make sure we're not stepping over dollars to get dimes."*  
-- Tom Wiley

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to deregulate its "Roundup Ready" wheat, which is genetically engineered to resist the herbicide Roundup. Once the genetically modified wheat is deregulated, Monsanto will be free to grow and sell the wheat throughout the United States.

"I'm as interested in technological innovation as any farmer, but I also need to protect the value of my crop," said Tom Wiley, a North Dakota wheat farmer and leader of the Dakota Resource Council, speaking on behalf of WORC. "We need an economic impact statement so that we can make sure we're not stepping over dollars to get dimes. Simplified weed control isn't worth losing our valuable export markets."

A report prepared by grain-outlook specialist Dr. Robert Wisner, University Professor of Economics at Iowa State University, backs up farmers' fears. According to Wisner's report, the price of hard spring wheat could drop by about one-third if a genetically modified variety is introduced com-



mercially into Montana or North Dakota in the next two to six years.

"Every available indicator of foreign consumer demand points to a high risk of GM wheat rejection in export markets," said Dr. Wisner.

Deregulation of Roundup Ready wheat by APHIS is the only barrier to the commercial introduction of Monsanto's genetically modified hard red spring wheat. The majority of US hard red spring wheat is exported to countries whose buyers have said they will not buy genetically modified wheat.

### Asian Buyers Repeat Opposition to Genetically Engineered Wheat

"We will not eat nor buy even a piece of GE wheat nor will allow one bit to step on to the land of Japan. Please stop using GE wheat seeds and stay conventional the variety that we have accepted and enjoyed," stated the Japanese Organic Agriculture Association (JOAA), on behalf of over 364,000 individual consumers, farmers and food processors on May 1.

Korean buyers have also reiterated its opposition to genetically modified wheat: "I think consumers will boycott the whole wheat industry," stated Dong Jin Chung, senior vice chairman of Korea Flour Mills Industrial Association which represents nearly 100 percent of the flour mills in Korea. "Millers have no choice, consumers do. If the consumers don't accept GM wheat, then the millers won't. The consumer is king."

--Kerri Nelson

# Landowners Bear Yoke of Energy Policy

By Eric Barlow

There is growing awareness across the United States that the federal government's pilgrimage for "energy security" is placing an ever-increasing burden on western landowners, particularly those that own the surface of a "split estate." The split estate conundrum is revealing the true colors of politicians such as Wyoming's Congresswoman Barbara Cubin, who claims to be concerned about surface owners while voting against them. The split estate is a dilemma that even has various officials in the Department of Interior scrambling around behind closed doors—spitting out the odd memorandum of placating verbiage. The uneasiness is understandable, as private property rights are core to so many freedoms we enjoy in our democratic and capitalistic system—in fact failing to promote them might well be considered un-American.

However, despite the groundswell of public concern, and the valiant efforts of landowners and citizens groups working to even up the stakes of the split estate predicament, there has been little progress. Our efforts and suggestions have been rebuffed, replaced with empty promises that must be exposed for what they are: propaganda that would make an Iraqi Information Minister uncomfortable.

While touted by Representative Cubin as protecting private surface owners' rights, BLM's recently released "Instructional Memorandum" (IM) does little more than provide a review of existing law, and the procedural steps BLM will follow in implementing it. The IM makes no substantive change to the current situation. It does not level the playing field. It does not make whole the property rights of thousands of landowners over millions of western acres. The IM does, however, reconfirm by its existence and content, the dominance of the mineral estate over the surface property. The true effectiveness of the IM can be gauged by the overwhelming silence emanating from industry. If it truly protected the rights of surface owners, as BLM vows it will, surely it would have elicited a response from industry.

During the preparation of this commentary, BLM gave me their personal promise that a draft would be

released for public review and comment. This did not occur. Instead, the IM release was orchestrated to coincide with the House Resources Committee votes on the Energy Bill, thus providing temporary cover for politicians like Cubin to oppose such reforms as Representative Tom Udall's surface

owner protection amendment. Now that the smoke has cleared from this trench of burning oil, the true intent of the IM is clear. It is simply a continuation of the status quo, and industry's right to post a small bond for the privilege of running slipshod over people's land.

Congresswoman Cubin has suggested that any meaningful reform of the split estate issue must happen at the local level in order to be effective, because how could we possibly trust the federal government?

While a great deal of *local* effort has been expended by numerous *local* participants on a variety of *local* energy development issues—there is still reason to believe the *federal* split estate issue should be addressed at the *federal* level. I believe that because federal congressional action caused the problem in the first place, federal congressional action should correct it. Wyoming's delegation has put plenty of effort into sorting out the "split estate" issue between a few coal mines and gas development companies in northeast Wyoming.

There have been countless references to the virtues of "good faith" negotiations in the split estate arena. This is a noble and praiseworthy idea, but it lacks the one thing that would actually make it functional: equality among the stakeholders. If such equal positioning were in place, "good faith" could be replaced by "good business." Good faith requires the landowner to rely on



*continued on page 11*

## Labeling Costs: Less than a Penny a Pound

### New Study Says Benefits of Country-of-Origin Labeling Outweigh the Costs

The U.S. Department of Agriculture should pay attention to a recently released study on the benefits of country of origin labeling, says the Western Organization of Resource Councils (WORC). The study concludes that implementation of mandatory country of origin labeling will benefit consumers and comply with trade laws at very little cost.

According to the study, the first-year cost of record keeping and other tasks would be 90 to 95 percent less than the recent \$2 billion estimate by the U.S. Department of Agriculture (USDA). The consumer's cost would be one-tenth of a cent per pound.

"For way less than a penny a pound consumers will know where their steak, roasts, and burger comes from," said Mabel Dobbs, Chair of WORC's Livestock Committee. "That's a bargain for the consumers and for American producers who want to sell beef to those consumers."

Dobbs said the independent report quantifies what WORC, consumers, and cattle producers have been saying for months.

"Five highly respected experts looked at the costs, benefits, and legal aspects of the labeling law. They found that benefits far outweigh costs and that the labeling law complies with trade law. I hope USDA listens to the findings of this study and respects the intent of the labeling law."

Passed by Congress in the 2002 Farm Bill, mandatory country of origin labeling requires meats, fish, produce and peanuts to be labeled at retail stores by September 30, 2004.

The study was released just as USDA's Agricultural Marketing Service (AMS) conducts public listening sessions on labeling and begins rulemaking for the law.

The report found that current importation practices, such as health or sales documentation, largely cover labeling requirements. However, the authors proposed that USDA work with the U.S. Treasury Department to remove livestock from the current origin marking exemption and to modify U.S. Customs practices to facilitate tags, brands or tattoos that convey origin information to meat packers.

The report, *Country of Origin Labeling: A Legal and Economic Analysis*, was published by The Interna-

tional Agricultural Trade and Policy Center at the University of Florida on May 8<sup>th</sup>. The study is available at WORC's website, [www.worc.org](http://www.worc.org).

### National Coalition Urges Simple Food Labeling

In comments submitted to the agency in April, WORC said USDA should allow U.S. cattle and hog producers to self-certify the origin of their animals, or use origin records already required on imported beef, pork, fish and produce. WORC also asked USDA to simplify record keeping when it adopts new rules and allow consumers to know and choose the country of origin of their food. WORC joined thirty-five other organizations in submitting comments as Americans for Country of Origin Labeling.

"Consumers have a right to know where their food comes from, and farmers and ranchers want to meet U.S. consumers' preference for food raised in the U.S.," Dobbs said. "The comments we submitted give USDA

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*"Consumers have a right to know where their food comes from, and farmers and ranchers want to meet U.S. consumers' preference for food raised in the U.S."*  
-- Mabel Dobbs

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two options to enforce this law without expensive, unnecessary paperwork."

U. S. Secretary of Agriculture Ann Veneman collected public comments regarding the law until April 11<sup>th</sup>, when USDA was set to begin writing the regulations.

"The major beef and pork packers benefit from cheap imports when consumers aren't told where their meat comes from," Dobbs said, "so they don't like this new law. They have tried to bully and intimidate family farmers and ranchers with wild stories and scare tactics about how expensive and cumbersome this new labeling law will be. USDA's first guidelines played into the packers' strategy of intimidation. We want to make sure that USDA corrects that with a simple, inexpensive and effective program that gives consumers the right to buy food raised by U.S. farmers and ranchers."

--Kerri Nelson

## USDA Listening Sessions

The U.S. Department of Agriculture's Agricultural Marketing Service has announced dates and locations for the listening sessions on the Country of Origin Labeling law included in the 2002 Farm Bill. All sessions will be held from 1 - 4 p.m. local time on the following dates and locations:

**June 4 — Cody, WY**  
Holiday Inn  
1701 Sheridan Ave.  
Cody, WY 82414

**June 6 — Billings, MT**  
Holiday Inn  
5500 Midland Road  
Billings, MT 59101

**June 12 — Sacramento, CA**  
EPA Headquarters Joe Serna Jr. Building  
Central Valley Auditorium  
1001 I St.  
Sacramento, CA 95814

**June 19 — Baton Rouge, LA**  
Southern University Agricultural  
Research and Extension Center  
B.A. Little Drive  
Baton Rouge, LA 70813

**June 24 — St. Paul, MN**  
University of Minnesota  
Earle Brown Continuing Education Center  
1890 Buford Ave.  
St. Paul, MN 55108

*For more information on Country-of-Origin Labeling, go to [www.worc.org](http://www.worc.org)*

*continued from page 9*

the benevolence of industry for conflict resolution. I have been bludgeoned at the “negotiating” table often enough to realize that until all stakeholders are on equal footing, industry’s statement of “good faith” will continue to be, “We’re holding all the cards—Get the picture—Neighbor?”

Nonetheless, there is broad based acknowledgement of the inequity that exists in the current situation, which is a significant first step toward achieving an amicable, “win-win” position for all stakeholders. I invite all stakeholders to join me in removing the burden that has been placed on landowners. What we need now is the leadership to take up this worthy cause. Senator Enzi and Senator Thomas have a unique opportunity to stand up for surface owners, as the Energy Bill reaches the Senate floor in early May. A surface owners protection amendment like Representative Udall’s in the House, introduced with no smoke screens to obfuscate the issues, should pass readily, especially if Wyoming’s Senators lead the way.

*Eric Barlow is a veterinarian and 4<sup>th</sup> generation rancher in the Powder River Basin of Wyoming. He is a member of the Powder River Basin Resource Council and recently submitted testimony to the House Resources Committee on energy policy and landowner impacts.*

### Principles of Community Organizing Training Session

July 12-15, 2003 - Billings, Montana

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## Federal Appeals Courts Hear Checkoff Cases

The Eighth U.S. Circuit Court of Appeals heard arguments on an appeal by the federal government and the Cattleman's Beef Board of a lower court decision striking down the beef checkoff in St. Paul on March 10<sup>th</sup>.

The lower court decision by South Dakota Federal District Court Judge Charles Kornmann, agreed with WORC and the Livestock Marketing Association (LMA) that the checkoff program is "unconstitutional and unenforceable" and that cattlemen should not be required to pay for commercials and other speech that they oppose. Circuit Court of Appeals had earlier issued a stay of Judge Kornmann's order to halt collections pending its decision on the appeal.

"The end of this unfair, undemocratic and unconstitutional checkoff is only a matter of time," WORC spokesman Linda Rauser said after Judge Kornmann's decision last year. "The checkoff has only worked for the beef packing and retail industries, which have not shared their increased profits with the producers who pay the checkoff. Checkoff funds go to the National Cattlemen's Beef Associa-




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*"The end of this unfair, undemocratic and unconstitutional checkoff is only a matter of time."*

*-- Linda Rauser*

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tion (NCBA), which has failed to protect independent cattle producers from monopolization in the industry. The mandatory checkoff forces us to pay for our own demise."

Since 1985, livestock producers have had to pay a mandatory \$1-per-head fee to the checkoff program on all cattle sold in the United States. The checkoff funds, around \$86 million a year, are split between the Cattlemen's Beef Promotion and Research Board and qualified state beef councils.

### Government Speech?

WORC and LMA originally brought the suit against U.S. Secretary of Agriculture Dan Glickman in December 2000 for failure to allow cattle producers to vote in a referendum on the beef checkoff af-

ter the groups turned in more than 125,000 signatures on a petition asking for the vote.

The main argument raised by Cattlemen's Beef Board at the March 10<sup>th</sup> appeals hearing was that the checkoff program constitutes government speech, and therefore is not subject to First Amendment guarantees of freedom of speech. Judge Kornmann had found that the checkoff was not government speech and violated the First Amendment rights of cattle producers.

"The question here is essentially whether the government is the speaker or whether the government has instead permitted a private entity to promote its own program and agenda," Judge Kornmann said in rejecting the defendants' government-speech argument. "Congress cannot legislatively extend the power to a private group to abridge First Amendment rights."

The appeals court decision is expected sometime in the next several months.

*Continued on page 15*

***Energy Development continued from page 1*****Powder River Basin**

WORC and Powder River are confronting BLM's plan to expand oil and gas development in the Powder River Basin of Wyoming and Montana. The plan calls for 82,000 oil and gas wells, including up to 66,000 new CBM wells. CBM is a form of natural gas held in coal seams by water pressure. To release the gas, methane operators pump out high-sodium groundwater, allowing the methane to rise to the surface.

Some of the impacts to the basin projected by BLM are:

- Building 26,000 miles of new roads—equivalent to nearly 11 roads from Los Angeles to New York.
- Adding 53,000 miles of pipelines and power lines—enough to circle the earth twice.
- Pumping and dumping 4.4 trillion gallons of water from aquifers—enough to fill more than four million Olympic swimming pools.

Other impacts include 8,000 excavated infiltration pits for water disposal and 300,000 acres of disturbed soils, rangeland and vegetation.

But with such dramatic impacts, the BLM's plan fails to protect landowners, homeowners, and water resources. Members of Powder River and Northern Plains have long expressed concerns about CBM development would harm farms and ranches. Private property sits atop most of the federal minerals in the 12 million acres of the basin.

Ranchers and irrigators are particularly concerned about the impacts on water. The average CBM well in the Powder River Basin discharges 15,000 to 20,000 gallons of water a day.

"The BLM failed to provide a good range of alternatives for the management of the water," said Nancy Sorenson, a rancher and Chair of the Powder River Basin Resource Council.

One Montana rancher, Clint McRae, said the EIS could strike at the most important part of his ranch. "We've got sixteen springs that draw from coal seam aquifers on this ranch and they're the heart of our ranching operation," McRae said. "Under this EIS, we could lose all of them. That's not doing it right."

**Montana**

In its lawsuit, Northern Plains is focusing on the impacts to the Montana portion of the basin. More than 90

percent of the wells will be drilled in Rosebud, Powder River, and Big Horn Counties in southeastern Montana. Northern Plains contends the EIS jeopardizes private property and the availability and quality of surface and ground water.

"According to the BLM's own analysis, methane development will violate water and air quality standards, and drain aquifers that are key to our farm and ranch operations," said Mark Fix, chair of Northern Plains CBM task force. "That's not doing it right. We have to hold methane companies to high standards, or those of us who farm and ranch in the area will be out of business."

**Western Slope of Colorado**

In the Grand Mesa region of Colorado, federal lease holders are targeting entirely new geologic formations for CBM development, posing significant risks to municipal water supplies and the environment. GEC, the region's primary lease holder, has indicated that as many as 600 wells may be required to develop reserves located on the south side of the Grand Mesa. WSERC, WCC, and HCCA contend that both the BLM's 1988 Uncompahgre Basin RMP and the Grand Mesa Umcomphagre Gunnison (GMUG) National Forest's 1993 Oil and Gas Leasing EIS failed to address CBM impacts and are therefore inadequate. WSERC, WCC, and HCCA want the federal agencies to conduct comprehensive, new studies on CBM impacts.

"The GMUG Nation Forest is targeted for major CBM development that far exceeds any impacts ever analyzed by the Forest Service," said WSERC board member Robin Nicholoff.

This potential development threatens the watersheds of the cities of Hotchkiss, Cedaredge, and Paonia, Nicholoff said.

Federal law requires public comment on a draft environmental study, but the agencies arbitrarily excluded the project from environmental analysis and public input. The proposal has elicited many scientific comments citing the potential for groundwater contamination and the need for adequate studies before issuing any CBM approval in the Grand Mesa region.

-- Kevin Dowling

# Congress Takes Up Energy Legislation

**E**nergy legislation is moving quickly through Congress. The House passed its version of the legislation on April 18. The bill will be debated by the Senate during the month of May, with a vote on final passage expected in early June.

Unfortunately, both bills would put the United States on a fast track to increased domestic fossil fuel production, with virtually no new protections to ensure that energy production is done right. The Senate bill S. 14 would:

- Speed up oil, gas and coal bed methane permitting at the possible expense of meaningful public involvement and environmental review of potential damage. The Bureau of Land Management is already moving full steam ahead with oil and gas permitting, and a legislative mandate for the agency to go faster is not needed.
- Fail to address the growing conflicts in the West over oil, gas and coalbed methane operators who lease federal minerals under private property.
- Undermine current federal coal leasing law by promoting speculative holding of federal coal leases, undercutting competitive bidding requirements, and jeopardizing a fair return to taxpayers.
- Encourage more market manipulation by repealing one of the only electricity consumer protection laws on the books, the Public Utility Holding Company Act of 1935. This will open the door to more Enron-type abuses and California electricity disasters.
- Give more than \$10 billion in costly and unnecessary subsidies to the oil, coal, gas and nuclear industries.
- Repeal the federal law that requires utilities to buy wind, solar, and other renewable energy sources when they are less expensive than fossil fuels.
- Threaten state and federal treasuries by reducing royalty payments. The bill would allow the oil and gas industry to eliminate or reduce royalty payments to state and federal governments.

There are some positive aspects to the Senate energy bill. For example, it extends the wind energy production tax credit through January 2007, provides for modest energy efficiency measures, and creates a program for cleaning up abandoned oil and gas wells. However, the bill lacks overall balance and steers our country in the wrong direction.

The Senate is expected to consider hundreds of amendments during the floor debate on S. 14, including amendments that would:

- Provide new protections for private property owners whose land overlies federal oil, gas and coalbed methane.
- Repeal the \$2.5-\$3 billion tax credit for non-conventional fuels such as coalbed methane.
- Establish a renewable energy standard that would require utilities to generate 10 percent of their electricity from renewable sources by 2020.

For more up-to-date information on the energy bill as it moves through Congress, go to WORC's website, [www.worc.org](http://www.worc.org).

--Sara Kendall

## 2003 WORC Calendar

*Dakota Rural Action Board Meeting and Open House*  
Brookings, SD ..... May 28

*WORC Board and Staff Meeting*  
Boise, ID ..... June 5-7

*Principles of Community Organizing Training*  
Billings, MT ..... July 12-15

*Western Colorado Congress Annual Meeting*  
Grand Junction, CO ..... October 4

*Principles of Community Organizing Training*  
Rapid City, SD ..... October 4-7

*Dakota Resource Council Annual Meeting*  
Bismark, ND..... October 25

*Powder River Basin Resource Council Annual Meeting*  
Buffalo, WY ..... November 15

*Northern Plains Resource Council Annual Meeting*  
..... November 21-22

*WORC Board and Staff Meeting*  
Billings, MT ..... December 4-6

Continued from page 12

**Pork, Apples, and Alligators**

On March 14<sup>th</sup>, the U.S. Court of Appeals in Cincinnati, Ohio heard oral arguments on the constitutionality of the pork checkoff. The National Pork Producers Council appealed a decision from U.S. District Court Judge Richard Enslen that the pork checkoff is unconstitutional.

Enslen, like Kornmann, ruled that a mandatory checkoff forces farmers to pay into a program that they believe conflicts with their interests. Hog farmers say that the pork checkoff program supports factory-style hog production and corporate control.

“We’re going to see this through,” said Missouri hog farmer Rhonda Perry, a member of the Missouri Rural Crisis Center and a spokesperson for the Campaign for Family Farms. “Hog farmers should not be forced to pay into a mandatory checkoff that supports Smithfield, Cargill, and Hormel, and hurts inde-

pendent family farmers. We believe justice will be served and this unfair and failed checkoff will be ended because it is unconstitutional.”

*“We believe justice will be served and this unfair and failed checkoff will be ended because it is unconstitutional.”*  
-- Rhonda Perry

Other commodity checkoff program challenges are moving through administrative and legal channels. Federal courts have recently struck down state checkoff programs promoting apples in Washington and alligators in Florida. Challenges are pending against programs funded by mandatory assessments on producers of milk, honey, eggs, avocados, and watermelon.

--Kerri Nelson

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