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Lawsuit Challenging National Coal Council Comes to an End after Energy Department Shuttters the Council

***Western Grassroots lawsuit results in commitment to improved balance and
transparency***

Billings, Montana – Thursday, May 19th, the Western Organization of Resource Councils (WORC) represented by Democracy Forward and EarthJustice, voluntarily [dismissed](#) their lawsuit against the Department of Energy (DOE) following the dissolution of the National Coal Council (NCC) and the establishment of a restructured National Advisory Committee on Coal (NACC). WORC, Democracy Forward, and EarthJustice are encouraged by the fundamental changes being made at DOE, in part as a result of this litigation. By bringing the Trump administration's DOE to court, WORC, Democracy Forward, and Earthjustice shined light on the blatant disregard for transparency laws.

The National Coal Council (NCC) was chartered under the Federal Advisory Committee Act (FACA), which is supposed to facilitate the collection, by federal agencies, of advice and research from third parties that are [relevant, objective, balanced, and open to the public](#). Under the Trump administration's "Energy Dominance" agenda, the NCC's focus shifted to advocate for the increased use and financial support of coal.

In October 2020, WORC, Democracy Forward and EarthJustice [sued](#) the Trump administration for violating the Federal Advisory Committee Act (FACA) by refusing to make fully public NCC meetings and records, failing to appoint balanced interests to the NCC, and being improperly influenced by a coal industry-funded group, National Coal Council, Inc.

After a federal judge refused to dismiss our lawsuit, DOE allowed the NCC charter to expire on November 20, 2021. They announced the creation of a new advisory group called the National Advisory Committee on Coal (NACC) on January 31, 2022. This litigation has resulted in important changes to how this body will operate. Going forward, WORC and Democracy Forward will be watching closely to ensure that the Biden administration and DOE Secretary Granholm hold firm to their commitments to transparency and balance at the NACC.

"We are dismissing this litigation because we are optimistic that the changes the Department of Energy has made to its advisory committee on coal issues at least partially solve the serious problems with the lapsed 'National Coal Council.' Time will tell, but we are thankful that the Department has heeded our complaint that the previous committee was operating too closely in

alignment with the coal industry and that DOE has modernized it to reflect current challenges facing coal communities and workers. Now the National Coal Council, Inc. needs to update its website to acknowledge that it's a coal industry association and stop masquerading as a federal advisory committee," **said Bob LeResche, Powder River Basin Resource Council and WORC board member from Clearmont, Wyoming.** "We will be keeping watch on how the agency builds the new advisory committee, and hope to ensure it represents diverse voices from coal country, including workers, landowners, taxpayers, conservationists, and public health advocates."

"In the last administration, the National Coal Council flouted federal transparency laws, using its federal charter to single-mindedly push policies advancing the coal industry's interests from behind closed doors," **said Democracy Forward Senior Counsel Aman George.** "We appreciate that the Department of Energy has committed to operating the reimagined National Advisory Committee on Coal with greater transparency and a broader range of stakeholders."

"The National Coal Council was essentially an industry lobby group grafted onto the federal government, so we are pleased it has been dissolved," **said Mark Fix, a spokesperson for the Western Organization of Resource Councils and Northern Plains Resource Council who ranches near eastern Montana coal development.** "We're encouraged that the Department of Energy appears committed to creating an appropriate advisory committee that includes landowners, taxpayers, and other everyday people who are immediately impacted by our national coal policies. The committee's first agenda items should be providing recommendations to ensure responsible reclamation, addressing climate pollution within coal policy, and ensuring that our transition to clean energy sources provides job retraining and pension protections for workers."

Background:

Under the Trump administration's "Energy Dominance" agenda, the NCC's focus shifted to advocate for the increased use and financial support of coal. Since 2017, it has recommended: [eliminating barriers to coal production on federal lands](#), [extensive subsidization of coal plants in the name of "grid resiliency"](#), [government support and funding for using coal to create a suite of products currently made with other materials](#), and [more generous financial support and tax breaks for coal companies, as well as significant amendments to pollution control regimes like the Clean Air Act](#).

The NCC was composed of two entities: the National Coal Council chartered under FACA, and a 501(c)(6) not-for-profit corporate entity called "[NCC, Inc.](#)," funded by anonymous donors. All of NCC Inc.'s members were appointed members of the federally chartered NCC, and, as one court [found](#), there is "no meaningful distinction between the NCC and NCC, Inc."

The NCC was, and the now existing NACC will be, chartered under the Federal Advisory Committee Act (FACA), which exists to facilitate the collection by federal agencies of advice and research from third parties that is [relevant, objective and open to the public, is fairly balanced, and complies with reasonable cost controls](#). In a [letter](#) sent to the DOE in 2021, WORC described how the NCC included no perspectives from individuals or organizations working to

address the negative impacts of coal extraction, and the lack of clear lines of separation between NCC and the corporate lobbying entity NCC, Inc. The industry association blatantly funded and influenced the work of the NCC, resulting in biased information and recommendations to the Department of Energy on behalf of the coal industry.

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[The Western Organization of Resource Councils](#) is a network of eight grassroots organizations in seven Western states with 15,000 members, many of them ranchers and farmers committed to common-sense reform in agriculture, oil and gas development, coal mine reclamation, and rural economic development. Headquartered in Billings, Mont., WORC also has offices in Colorado and Washington, D.C.

[Democracy Forward](#) Foundation (“Democracy Forward”) is a nonprofit legal organization founded in 2017 that litigates cases involving government action on behalf of organizations, individuals, and municipalities. The organization has taken 650 legal actions and achieved victories supporting democracy and improving the lives and wellbeing of people and communities. Democracy Forward Foundation is a 501(c)(3) non-profit organization.

[Northern Plains](#) is a grassroots conservation and family agriculture group that organizes Montanans to protect our water quality, family farms and ranches, and unique quality of life.

[The Powder River Basin Resource Council](#), founded in 1973, is a family agriculture and conservation organization in Wyoming. Resource Council members are family farmers and ranchers and concerned citizens who are committed to conservation of our unique land, mineral, water, and clean air resources.