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Flaring Boom

New WORC report examines wasteful oil and gas industry flaring practices

Oil production has surged in shale hot spots like the North Dakota's Bakken and Texas' Eagle Ford, but so has the waste of natural gas through flaring.

The waste is so extreme, it is at least as much a "flaring boom" as an oil boom, according to a new study produced by the WORC, *The Flaring Boom.*

The waste from flaring is enormous and growing. Flaring in the United States grew by nearly 65% in 2011 alone. By 2012 gas flaring in North Dakota alone amounted to an estimated 4.5 million metric tons—the carbon dioxide equivalent of putting an additional million cars on the road. Together, seven Western states account for roughly 95% of natural gas flared or vented in the United States.

During a winter when many U.S. rural communities may find themselves short of propane for heating, wasting natural gas may seem absurd.

Several factors are at work, however, to spur the waste.

One is price. Oil prices are not particularly high, but natural gas prices are much lower. Incentive to spend capital to capture and process gas is low.

Second, companies are anxious to recoup their investments before their leases run out. Most oil and gas leases run only three to five years, and if companies fail to drill and produce within the lease period, they must shell out additional up-front capital. For example, many leases in the Bakken that went for $100 or less five years ago are today worth 20 times that—or more.

Third, both state and federal laws, rules and enforcement are weak. For example, flaring gas from all wells for the first six months of operation is allowed in Texas, and in North Dakota, where over 5,000 wells are flaring, the grace period is a full year—although submission of a gas capture plan is now required.

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IN THIS ISSUE:

The View from WORC

By Norm Cimon, WORC Chair

Before moving on to this issue of the *Western Organizing Review*, I want to let you know about some of our efforts in the next few months.

When Congress reconvenes after the November elections, WORC will do everything we can to ensure that no Congressional stalking horses, those riders in appropriations bills we often hear about after-the-fact, come galloping in across the finish line. At the top of the list are efforts by the meatpackers to kill Country-of-Origin Labeling of meat and poultry, and to derail protections targeting unfair livestock market practices.

WORC is also preparing to counter any efforts at passing Fast-Track legislation including the Trans-Pacific Partnership (TTP) trade pact. Only Congress has the authority to pass trade bills, the Constitution makes that very clear. Passing Fast Track would simply hand that authority over to Executive Branch trade representatives, an abrogation of responsibility. That authority has been used to alter U.S. law dealing with food safety in order to yoke our regulations to those international trade agreements. There's more on Fast Track and specifically the TPP in this issue.

WORC has also recently published a new report on gas flaring, T*he Flaring Boom*. It's packed with details about the problem, and the efforts to regulate the millions of cubic feet of natural gas flared at oil and gas sites each day. It describes the scope of flaring, the global impact of those methane emissions, the waste and loss of revenue, and the ongoing efforts to gain a regulatory foothold at the state and national levels. Our cover story reviews the report, which is available on our website: www.worc.org.

This issue also includes comments from Vice-Chair Bob LeResche. The focus is on the EPA's decision to pick coal gasification over clean water. Members traveled to Denver to comment directly to the EPA about its Clean Power Plan. WORC members also traveled to Washington, D.C. to talk fair trade with allies and elected officials. Finally, there's plenty of news on coal in this issue: legal action, a coal port decision, and the details on the unfair market value of coal.

There's a lot going on, and a lot WORC is doing about it. So read on.

Western Organizing Review

The *Western Organizing Review* is published quarterly by the Western Organization of Resource Councils.

WORC is a regional network of grassroots community organizations, which includes 10,000 members and 38 local chapters. WORC helps its member groups succeed by providing trainings and coordinating regional issue campaigns.

WORC's Network

Dakota Resource Council, North Dakota
Dakota Rural Action, South Dakota
Idaho Organization of Resource Councils, Idaho
Northern Plains Resource Council, Montana
Oregon Rural Action, Oregon
Powder River Basin Resource Council, Wyoming
Western Colorado Congress, Colorado

Contributing Staff

Kevin Dowling, Editor
Kerri Nelson Wolenetz, Layout/Publishing
John Smillie, Campaign Director
Sara Kendall, DC Office Director
Anna Lucas, Political Director
Kevin Williams, Director of Organizing
Mark Trechock, Regional Organizer
Liz Moran, Regional Organizer

WORC
220 South 27th Street, Suite B
Billings, Montana 59101
406/252-9672
billings@worc.org
www.worc.org

Around the Region

A look around WORC's network

Dakota Resource Council

Fiery Bakken oil train derailments in 2013 have sparked Dakota Resource Council (DRC) members to campaign for safer transportation of oil. On September 23, DRC members expressed their concerns about "Bakken Bomb" train explosions during a hearing by the North Dakota Department of Mineral Resources.

Comments covered the methods that could render Bakken crude safe for transport, the accidents involving Bakken crude, and the close relationship between the oil industry and state regulators. DRC also urged the agency to slow permitting, Trains hauling Bakken crude produced in western North Dakota exploded last year near Casselton, North Dakota, and Lac Megantic, Quebec, a tragic accident that took the lives of 47 people.

Dakota Rural Action

When the members of Dakota Rural Action's (DRA) Community Energy Development Committee voted to intervene in the Black Hills Power (BHP) rate case, it was to oppose the investments the utility is making in fossil fuels rather than clean energy resources. Little did they know, hidden in the rate case, was a tariff on solar, small wind, and other distributed generation resources. BHP proposed to charge these clean energy producers an additional $5-$20 monthly, effectively killing any incentive to invest in small-scale, local energy production.

DRA members launched a petition drive and campaign to stop the anti-solar tariff. The Rapid City Journal published an extensive article in the Sunday paper in which DRA members Steve and Lynn Hammond and lawyer Caitlin Collier made their case for solar in South Dakota. Just four days after the story came out, BHP announced they were giving up on the solar tariff. While DRA is celebrating the win, there is still a long way to go; BHP only gets 5% of its electricity from renewables and has promised to bring the solar tariff back in their next rate increase request.

Idaho Organization of Resource Council

On September 11, the Idaho Water Resource Board met in Weiser, Idaho, concerning the proposed 300-foot earthen Galloway Dam upstream from the town of Weiser. Members of the Idaho Organization of Resource Council's local chapter, the Weiser River Resource Council, generated turnout for the meeting. An estimated 100 people attended.

Several members testified in opposition to the proposed dam, saying that the dam was unnecessary and that there were alternatives. The proposed dam could flood 13 miles of the Weiser River Canyon and inundate more than 4,600 acres of private land (including nine ranches), 2,000 acres of public ground, 15 miles of free-flowing river, and 15 miles of river-grade trail. WRRC members are reaching out to local ranchers and farmers and the surrounding community.

Northern Plains Resource Council

On September 10, the Surface Transportation Board (STB) issued a ruling granting the Northern Plains Resource Council access to significant financial information in an ongoing proceeding about the proposed Tongue River Railroad. The railroad would haul coal from the proposed Otter Creek mine in southeastern Montana, the largest new coal mine currently proposed in the United States.

The ruling comes as the STB considers the financial viability of the Tongue River Railroad Company, a necessary pre-condition to approving the railroad's permit application. Financial viability is an issue because projects which don't have a solid financial basis are sometimes abandoned by developers, leaving behind damaged natural resources and property owners whose land was condemned for a speculative project.

Oregon Rural Action

Oregon Rural Action members gathered over 700 signatures throughout eastern Oregon as part of a campaign by a statewide coalition to place an initiative on the November ballot that would require labeling of genetically engineered raw and packaged food. The effort collected more than 155,600 signatures. To qualify for the ballot, the initiative needed at least 87,213 valid signatures.

Powder River Basin Resource Council

Northern Wyoming farmers can now sell their products direct to the consumer, right on the farm, after a unanimous decision by Sheridan County Commissioners September 2. Prior to the zoning change, on-farm retail, direct to consumer sales of produce and other farm products in the county was illegal as were greenhouse produce, roadside stands and You-Pick operations. Removal of this regulatory obstacle improves the ability of local foods businesses to flourish.

Powder River Basin Resource Council's Local Food and Agriculture Committee, particularly Chris Shaw and Brad Holliday, deserve recognition for their dedicated grassroots efforts in working with county officials to make local food a bigger part of the community.

Western Colorado Congress

A radioactive materials license is on hold for the proposed Pinon Ridge Uranium Mill. On September 3, a district court judge ruled that the contested license needs further review. The order temporarily suspended the mill license and sent it back to the Colorado Department of Public Health and Environment to determine its legality.

At the crux of the issue is the failure of the November 2012 court ordered hearing to address significant issues raised by Western Colorado Congress and allies. WCC members have expressed concerns about the regional and cumulative impacts of the potential mill on public health, the regional economy, and lack of sufficient insurance money (bonding) to clean up the mill. Located in the Paradox Valley of Montrose County, the facility would be the first new uranium mill in the United States in 30 years.

EPA chooses experimental coal gasification over water

In 2012, the Powder River Basin Resource Council published a six-point plan to protect Wyoming's groundwater. The report found that 99 percent of those living in rural America rely on groundwater, but unfortunately that primary source of water is becoming increasingly limited. We noted that this is especially true in the Powder River Basin, where residents rely almost entirely on groundwater for domestic uses and for most industrial and livestock watering needs.

Drawing down or rendering aquifers undrinkable can have significant impacts both on our society and on the environment. Wyoming and the Mountain West have very few alternative healthy groundwater sources. If depleted or polluted beyond recovery, our economies and communities can only shrivel and disappear.

In early September, the Environmental Protection Agency (EPA)—the federal agency charged with protecting water supplies across the nation—made the unfortunate and troubling decision to explicitly allow contamination of a portion of an important Wyoming aquifer. At the urging of the Wyoming Department of Environmental Quality and Linc Energy, EPA granted an exemption from Safe Drinking Water Act protections for part of the Fort Union aquifer near Wright in southern Campbell County. The exemption allows Linc, the Australian-based company that requested the exemption, to pollute the aquifer as part of its proposed experimental underground coal gasification project.

EPA's decision contradicts important regulatory criteria that must be met in order for the agency to grant any aquifer exemption. Here, the water in the aquifer is clean enough to be used as a drinking water source—a source which EPA is obliged to protect. Yet EPA ignored the clear intent of their regulations to preserve future sources of domestic water supply. Instead of protecting the aquifer, they are allowing it to be contaminated by this project. Past underground coal gasification experiments have created some nasty pollutants, including benzene, toluene, ethylbenzene, xylenes, phenols, and polycyclic aromatic hydrocarbons—all of which are known carcinogens.

Equally troubling is EPA granting the exemption solely because there is coal present in the aquifer, without proving that there are "commercially producible" minerals present, as required. In the case of Linc's project, they don't even intend to sell any synthetic gas produced—instead they will flare it off. Underground coal gasification remains a nascent technology, unproven at a commercial scale. EPA is giving away a Wyoming water source in the mere hope that Linc's technology might work out this time.

But so far Linc's technology hasn't worked out elsewhere. In Queensland, Australia, where they have experimented with similar projects, the company was charged with causing significant environmental harm. The Queensland Department of Environment and Natural Heritage prohibited them from conducting further underground coal gasification projects because of their inability to decommission and clean-up their sites. So far, Linc has been unable to satisfy restoration and clean-up requirements in Australia, and nearby landowners refer to the project as the "Linc Stink." EPA was aware of Linc's regulatory troubles in their home country, but granted the aquifer exemption for the Wyoming project anyway.

Even in the U.S., underground coal gasification has had a rocky track record. Past projects in Wyoming, including the Hoe Creek project in Campbell County, have contaminated aquifers, leaving governments with multi-million dollar clean-up bills. But now, Linc wants to try again, and has some serious political power in its attorneys—former Wyoming Governor Dave Freudenthal and former Attorney General Bruce Salzburg.

"Coal gasification" continued on page 5

Jordan Bends of Western Native Voice registers voters as part of National Voter Registration Day and Native Vote Action Week at Rocky Mountain College in Billings in September.

WORC leaders ask EPA for stronger Clean Power Plan

Three WORC leaders and an organizer pushed for stronger carbon pollution standards in testimony during an Environmental Protection Agency (EPA) hearing in Denver July 29.

Western Colorado Congress President Rein van West, past Northern Plains' Chair Mark Fix, and Powder River Basin Resource Council leader Deb Theriault and organizer Shannon Anderson told EPA to:

- Adopt strong carbon pollution standards.
- Propose tough standards to reduce venting and leaking of methane, a more potent greenhouse gas than carbon dioxide.
- Set more ambitious goals to switch from carbon-spewing fossil fuels to energy efficient and clean, renewable sources of energy.
- Avoid encouraging nuclear energy as solution to carbon pollution.

"Global Weirding"

Mark Fix, a Montana rancher, called the tornado, other severe storms, and wildfires that have plagued his ranch near Miles City, Montana recently, "global weirding."

"Climate change alters the weather, and those of us in agriculture have to deal with the weather every day," Fix said. "The weather can make or break us. If we want agriculture as we know it to continue to thrive, it is an economic and cultural imperative to deal with climate change."

EPA's proposed standards would cut carbon pollution from power plants by 30% from 2005 levels by 2030, and allow states to determine how to lessen their carbon pollution. States can use any combination of clean energy, energy efficiency, and new technology to reduce the amount of carbon from electric power generation.

WORC's leaders joined hundreds of other speakers in Denver endorsing the plan as a good first step. "More needs to be done, though," WCC's van West told the EPA panel. "We can use more renewables in EPA's plan, and have less of both natural gas and nuclear."

EPA is accepting comments on its proposed Clean Power Plan until December1. For more info and to submit comments, go to EPA's website at *www2.epa.gov/carbon-pollution-standards.*

"Coal gasification" continued from page 4

Setting aside the technological and environmental risks, there is overwhelming evidence that commercialization of underground coal gasification in the U.S. is uneconomic. The Energy Information Administration (EIA) estimates recoverable reserves of natural gas at 2,431 trillion cubic feet—enough to meet current demand for 75 years. Little wonder that natural gas prices in the U.S. have plummeted and are projected by the International Monetary Fund to remain flat for at least the next five years. At these prices, underground coal gasification is not viable. It requires more extensive drilling than conventional gas production, with multiple injection wells, separate production wells, and monitoring wells that must be duplicated as the underground burn progresses laterally. Moreover, the process incurs added costs of continuous high-pressure air injection, syngas cleanup, and water treatment to attempt aquifer restoration, which has failed in Australia.

EPA's decision to grant this aquifer exemption on such questionable grounds sets a dangerous precedent. The sacrifice of a share of Wyoming's valuable, essential and dwindling groundwater for an unproven and experimental project by a foreign company is not worth the risk.

— Bob LeResche serves on the board for Powder River Basin Resource Council and WORC. His commentary was originally published in WyoFile, a non-profit news service focused on Wyoming people, places and policy.

Report finds agency prices federal coal too low

Despite explosive growth in U.S. coal exports in recent years, and mounting evidence that coal companies plan for even faster export growth, the U.S. Bureau of Land Management (BLM) ignores exports when setting the selling price of publicly owned coal, according to a new report by Sightline Institute. The report was produced in collaboration with WORC, Northern Plains Resource Council, Powder River Basin Resource Council, and WildEarth Guardians.

The new report, "Unfair Market Value: By Ignoring Exports, BLM Underprices Federal Coal," documents how coal companies operating in the Western United States have bought federally-owned coal for pennies per ton and are now reselling that coal on international markets for hundreds of times more than they bought it for. The report argues that BLM has consistently sold publicly owned coal to private coal companies at unreasonably low prices—thereby boosting profits for the coal industry while shortchanging the American public by millions of dollars per year.

"By ignoring potential profits from coal exports, BLM has set prices for federal coal too low," said Clark Williams-Derry, the study's author. "Private coal companies are buying federal coal on the cheap—and when market conditions are favorable they can make a killing selling that coal to Asia."

The report examines seven mining projects in Montana, Colorado, Utah, and Wyoming where mining companies have detailed plans to purchase coal at low prices from the American public and resell that coal for higher prices on the export market. It also documents efforts by coal companies to purchase new federal coal leases specifically intended to service export markets—and the persistent failure of BLM to consider the profit potential of export sales when setting a price for federal coal.

"BLM's pricing practice is still based on their long-ago goal to provide cheap electricity for domestic consumption. They have not taken into account today's declining U.S. demand and Big Coal's aggressive push for subsidized exports," said Bob LeResche of Clearmont, Wyoming, landowner and Chair of WORC's Coal Team and Board member of the Powder River Basin Resource Council. "As stewards of a public resource, the agency has no excuse for not bringing its pricing policies into the 21st century."

This report is just the latest in a string of critical looks at BLM's coal leasing programs. Last year, the U.S. Department of Interior's inspector general issued a stinging assessment that found that the agency repeatedly set a low bar for coal prices, while systematically overlooking exports when determining the "fair market value" of coal. The IG report intensified the scrutiny of BLM's pricing practices by Congressional oversight committees.

Earlier this year, a Government Accountability Office report called the federal coal program "outdated" because it lacks rigor and oversight in deciding the "fair market value" of coal and does not fully consider coal exports despite market changes.

"It's time to press the pause button on coal giveaways for our economic competitors on the Pacific Rim. BLM needs to address this issue before offering more coal sales," LeResche said.

BLM's policy of selling federal coal at rock-bottom prices has helped fuel the coal industry's ambitions to build massive West Coast coal terminals to service Asian markets. These coal export proposals have sparked intense controversy, with many residents of the Northwest objecting to coal trains, coal dust, the climate impacts of coal exports, and the threats to Native American fishing rights and sacred areas.

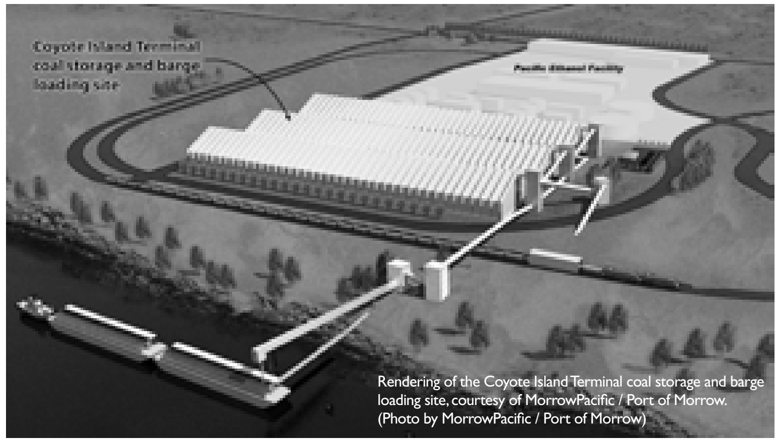
The full report is available at *sightline.org/WesternCoalExport*.

No Mo' Morrow

Oregon agency decision kills 4th of 6 proposed Pacific Northwest coal export facilities

In late August, the Oregon Department of State Lands (ODSL) denied a removal-fill permit for a proposed 8.8 million ton coal export facility by Ambre Energy, an Australian firm with coal interests in Montana and Wyoming. The agency cited the protection of state and tribal fisheries on the Columbia River as one of the key reasons for the decision.

Ambre's project, the Coyote Terminal at the Port of Morrow near Boardman, would have transferred the coal from rail cars to barges and sent them downriver to Port Westward where the coal would be loaded onto ocean-going vessels.



Rendering of the Coyote Island Terminal coal storage and barge loading site, courtesy of MorrowPacific / Port of Morrow. (Photo by MorrowPacific / Port of Morrow)

The Coyote Terminal at the Port of Morrow would have transferred coal from rail cars to barges downriver to be loaded onto ocean-going vessels.

The decision was seconded by the Army Corps of Engineers, which in mid-September announced it was pausing work on its Environmental Assessment for the permit required for the terminal.

Port of Morrow was the fourth of six major coal port facilities proposed in the Pacific Northwest to either withdraw or fail to gain the necessary permits.

Within weeks of the decision, Wyoming Governor Matt Mead, using funds set aside by the Wyoming State Legislature for litigation on ports, joined Ambre Energy in a case to appeal the Oregon decision.

The Director of ODSL received 20,000 comments during three public comment periods. The permit decision was extended eight times as the state agency sought to compile information on the proposal from the applicant.

WORC members and organizations from across the region sent action alerts and filed formal comments on the proposed port, including the Northern Plains Resource Council and the Oregon Rural Action (ORA).

WORC Chair and ORA member Norm Cimon called the decision a good one for citizens both in the coalfields, who live with the long term land and water losses associated with vast strip mines, and the citizens of the Columbia River Basin, who would absorb the costs of expensive infrastructure needed to accommodate numerous coal trains. Citizens along the rail route for the coal trains were concerned for the air and water in the region.

"We are glad to see the State of Oregon protecting our vital fisheries and focusing on a clean energy vision for our future," Cimon said, "and not weigh us down with the many unaccounted for costs of exporting coal to China and India. These include diesel fuel and coal dust in our air and water, backlogs and deteriorating service for our important agricultural shippers who rely on export and timely service, and local and state governments who are on the hook for millions of dollars in costly infrastructure if coal train traffic expands dramatically."

Ambre operates the Decker Mine in southeastern Montana, which was in the process of being shut down before the prospect of coal exports materialized. It is also pursuing federal coal to expand production. WORC and others are harshly critical of the below market compensation the federal government requires for its coal in the Powder River Basin.

"Governor Kitzhaber and his Department of State Lands stood up for dozens of communities along the railroad tracks from Wyoming to Oregon," said Billings pulmonologist Dr. Robert Merchant. "Shipping export-bound coal through towns like mine has significant health impacts ranging from increased problems with asthma and COPD to increased heart attacks and strokes."

The negative health impacts caused by diesel fumes and coal dust from coal trains, as well as global mercury and carbon pollution from Asian coal combustion, were major concerns for many critics.

Another consistent concern raised by critics of the port deals with rail congestion as massive volumes of coal travel over 1,300 miles from the Powder River Basin to the Pacific Northwest and British Columbia ports.

"As a grower of wheat, barley, and pulse crops, I've seen firsthand how coal export leads to rail congestion and prevents Montana grain from getting to market efficiently and timely," said farmer and Northern Plains member Arlo Skaari, of Chester, Montana. "Port of Morrow would have further restricted our ability to sell our product. The project's permit denial is a win for farmers across the region."

WORC joins Northern Plains in Spring Creek Mine challenge

In August, WORC and Northern Plains Resource Council filed a lawsuit to require a hard look at reclamation before any expansion of the Spring Creek coal mine in southeastern Montana. They filed an appeal in federal district court in Billings to overturn the Department of Interior's approval of expanded mining of federally owned coal at the mine owned by Cloud Peak Energy.

The groups argue that the Department of Interior did not properly consider Cloud Peak's failure to reclaim most of its existing mine site. Interior also did not seek public comment through an environmental review, which is required under the National Environmental Policy Act. The groups contend that Interior's Office of Surface Mining is obligated to seek public comment and conduct an environmental analysis that includes the status of reclamation when it authorizes significant new mining of federally owned coal.

"Not one acre of land at this mine, which has been in operation since the early 1980s, has been fully and permanently reclaimed to meet the standards of the law," said Bull Mountain rancher and Northern Plains Chair Steve Charter. "The OSM is obligated to open significant decisions like this to public comment and to accurately weigh the impacts of their permitting decisions. At the very least, they should be considering Cloud Peak's failure to reclaim."

Only 15% of the disturbed land at Spring Creek Mine has met even limited Montana bond release standards for regrading and replanting reclaimed land. None of this reclamation has received bond release that would indicate that viable plant communities have been established at the site.

"Not one acre of land at this mine, which has been in operation since the early 1980s, has been fully and permanently reclaimed to meet the standards of the law," said Bull Mountain rancher and Northern Plains Chair Steve Charter.

Much, if not all, of the expanded coal mining sought by Cloud Peak is believed to be intended for export to Asia. Cloud Peak recently made a deal to export an additional two million tons of coal to Asia through a port in Vancouver, B.C.

WORC flies in for fair trade

WORC leaders and staff travelled to Washington, D.C., in July to meet with allies and Congressional offices about trade policy. On one packed day, the grassroots advocates met with 20 members of Congress (or their trade staff) who represent WORC's region about two major trade agreements under negotiation by the Obama administration — the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Free Trade Agreement.

Thanks to members Mabel Dobbs, Wink Davis, Wilma Tope, Jeri Lynn Bakken, Steve Bartell and Ressa Charter and organizer Liz Moran for making the trip to DC.

TPP is being negotiated in secret, but leaked drafts suggest this pact would expand the worst aspects of NAFTA and other trade agreements, including:

- Establishing corporate profits as a higher priority than public health and safety, a clean environment, and fair wages and prices;
- Threatening food safety and food labeling; and
- Transferring authority from national, state and local governments to transnational corporations and secret and unaccountable tribunals.

The administration is seeking to renew "Fast Track" authority to ramrod TPP through Congress. Fast Track limits the time members of Congress have to review and vote on trade agreements, and requires them to vote on the agreement without amending it.

Trade pact undermines domestic standards

Trade officials from the United States and ten Pacific Rim nations—Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam— have been in intensive, closed door negotiations for six years to sign the Trans-Pacific Partnership (TPP) "Free Trade" Agreement.

TPP is set to be a "docking agreement" so that every Pacific Rim nation from Japan to China and Russia could "dock in," making it the largest trade agreement ever.

Since negotiations began in 2008, none of the negotiating documents have been officially released for public review. In the United States, 600 corporate lobbyists serve as official advisors, granting them regular access to the negotiating texts and the negotiators. Civic groups, journalists and those whose lives would be affected by TPP are unable to review the texts until the negotiations end, when it is more-or-less impossible to change them.

Leaked documents provide some clues to the pact's content. Of TPP's 29 draft chapters, only five deal with traditional trade issues—most set rules on non-trade matters like food safety, domestic environmental and financial regulation, healthcare and more. The public and the press cannot see draft TPP text, but 600 U.S. corporate "trade advisors" have full access.

The Obama administration may push for "Fast Track" authority (See "Fast Track to trade pacts") and approval of TPP during the lame duck session of Congress after the November elections. If adopted, TPP will:

- Make it easier for corporations to shift jobs to wherever labor is most exploited and regulations are weakest;
- Put checks on democracy at home and abroad by constraining governments' ability to regulate in the public interest.

Empowers Corporations

A major goal of U.S. multinational corporations for TPP is to expand a set of extreme foreign investor privileges and rights through the "investor-state" system. This system elevates corporations and investors to the status of the governments that sign TPP. Under this system, foreign firms can skirt domestic court systems and directly sue governments for cash damages (our tax dollars) over alleged violations of their new rights before World Bank and United Nation tribunals staffed by private sector attorneys who rotate between serving as judges and bringing cases for corporations.

If a corporation wins its private enforcement case, the taxpayers of the losing country must foot the bill. Over $3 billion has been paid to foreign investors under U.S. trade and investment pacts, while over $14 billion in claims are pending under such deals. This includes payments over natural resource

"Trade pact" continued on page 11

Fast Track to trade pacts

Fast Track, also referred to as Trade Promotion Authority (TPA), transfers the constitutional responsibility of Congress to regulate foreign trade to the president and his unelected trade negotiators.

By relegating Congress to the sidelines, Fast Track limits the public's ability to affect international trade negotiations and further increases the influence of corporations.

Fast Track expired in 2007 and Congress will have to renew it for upcoming trade agreements like the Trans-Pacific Partnership (TPP). Congress may act on Fast Track after the November elections.

After the president signs a trade agreement, it is sent to Congress for approval. Fast Track prevents Congress from making any changes to a trade agreement. Congress must either accept the trade agreement as a whole or kill it. Congress is only allowed 20 hours to debate a trade bill and must vote within 60 days of introduction. It is virtually impossible to kill a trade agreement under these rules, which means that any trade agreement that is signed by the President is almost certain to be approved by Congress.

Under Fast Track, Congress sets a number of objectives for trade negotiators. Members of Congress have no ability to enforce any of these objectives, however, other than by voting down a trade agreement in its entirety – something that has never been done under Fast Track.

GM wheat pops up in Montana

Genetically modified wheat, unapproved by the U.S. Department of Agriculture (USDA), has been found in Huntley, Montana.

In late September, the USDA announced it will investigate a wheat contamination east of Billings, while discontinuing its investigation into a wheat contamination in Oregon, where they could not find a cause or source of the genetically modified (GM) seed. The Montana contamination was found at Montana State University's Southern Agriculture Research Center in Huntley, formerly a testing location for Monsanto's GM wheat between 2000 and 2003.

USDA's arm that approves field tests of GM crops, the Animal Plant Health Inspection Service (APHIS), investigates contaminations. APHIS will focus on why GM wheat was found growing 11 years after it was supposed to have been completely destroyed, or at least saved under tight security.

Dena Hoff, past Northern Plains Chair and an organic farmer near Glendive, has been working to strengthen test plot rules to protect organic and conventional farmers from contamination.

"The USDA needs to be held responsible for this," said Dena. "It is their lack of regulation and rule-making that has allowed this to happen again and again. They decided to ignore the side of common sense, that we can't control nature, and go with industry control."

Wheat is Montana's No. 1 export, bringing in over $1.7 billion to the state annually. About 80% of Montana's wheat is exported to Asian markets that will not buy genetically modified crops. When GM wheat was discovered in Oregon, Asian markets closed their doors to American white wheat imports for several weeks, dropping wheat prices across the country.

"This will cost our Montana wheat market," added Dena. "If this is in Huntley, it is probably in several more places too. The reason we haven't found it yet, is we haven't been looking. We cannot continue to put our farmers at risk to recklessly test new crops, just to enlarge Monsanto's profit margin. There has to be a better way."

—Maggie Zaback, Northern Plains

"Flaring Boom" continued from cover

Apart from the spectacular waste of gas, flaring results in a declining quality of life in oil-producing communities through increased air pollution, which is often far from monitoring equipment that assesses compliance with air quality rules.

Since most states do not require royalty payments on flared gas, those mineral owners who live in the community can watch their money go up in flames and vanish into thin air.

In *The Flaring Boom*, WORC recommends that states adopt stronger policies on flaring to prevent waste.

Ideally, states should follow the example of Alaska, which adopted what is basically a zero tolerance for flaring in 1971. Flaring is prohibited, except in case of emergency and the need for system testing. Any gas "release, burning, or escape into the air" requires a written report and statement of compliance actions.

WORC urges states that are not ready to adopt the Alaska model to make the following improvements in regulations to limit and discourage flaring.

First, states should adopt hard limits on flaring and hard deadlines for compliance, and make continued permitting of oil and gas wells contingent on compliance.

Second, states and tribes should require companies to pay full royalties to all mineral owners, public or private, on all oil and gas wasted through flaring and venting.

Third, states should ensure that they are keeping accurate records of flaring and venting, and should issue meaningful fines to violators.

Finally, states should review and reconsider their air quality laws and rules, including placement of monitors, in order to develop adequate oversight of oil and gas-related temporary air pollutions sources, and to begin issuing fines to violators.

The Flaring Boom is available at *www.worc.org*.

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policies, environmental protection, and health and safety measures. Even when governments win, they waste resources defending national policies against these corporate attacks.

TPP also grants new rights for foreign investors to obtain compensation from host governments for loss of “expected future profits” due to regulation. The scope of our domestic policies exposed to such attacks is vast, including consumer health and safety policies, environmental and land-use laws, government procurement decisions, regulatory permits, intellectual property, and financial regulation.

Under TPP, corporations would gain an array of privileges:

- Rights to acquire land, natural resources, and factories without government review
- Eliminate risks and costs of offshoring to low wage countries
- Compensation for loss of “expected future profits” from health, labor, and environmental laws
- Rights to move capital without limits
- New rights to cover intellectual property, permits, and derivatives
- Bans Buy American Policies

TPP’s procurement chapter would require that all firms operating in any signatory country be provided equal access as domestic firms to U.S. government procurement contracts over a certain dollar threshold. To implement this “national treatment” requirement, the United States would agree to waive Buy America procurement policies for all firms operating in TPP countries. Some corporate TPP proponents argue that this is good for America because U.S. firms would be able to bid on procurement contracts in other TPP countries. But that is not a good tradeoff: Taking even the most favorable cut on other countries’ markets, the total U.S. procurement market is more than seven times the size of eight TPP countries combined.

Threatens Food Safety & Food Labeling

TPP would require the United States to allow food imports if the exporting country claims that their safety regime is “equivalent” to our own, even if it violates the key principles of our food safety laws. These rules would effectively outsource domestic food inspection to other countries.

Under TPP, food labels could also be challenged as “trade barriers.” TPP would impose limits on labels providing information on where a food product comes from and would endanger labels identifying genetically modified foods and how food was produced. TPP would expand the limits on consumer labels already included in existing trade agreements, like the World Trade Organization.

Destroys Family Farms & Forces Migration

TPP is expected to continue allowing dumping of U.S.-subsidized corn, wheat, soy, rice and cotton on other countries, while also allowing the import of cheaper (and often less safe) fruits, vegetables and seafood from other countries—further consolidating global food supplies, while forcing more and more family farmers off their land and exposing consumers to wild food price fluctuations. This phenomenon under the North American Free Trade Agreement is already a driving force behind migration from Mexico to the United States and is the reason why farmers in many countries are adamantly opposed to TPP.

Increases Fracking & Energy Exports

One of the dirty secrets of TPP is its potential to pave the way for more exports of natural gas produced in the United States, which could increase prices for U.S. consumers and dramatically increase gas production. Currently, in order for the United States to export natural gas, the Department of Energy (DOE) must first conduct a thorough public analysis of the environmental and economic impacts. Under TPP, the DOE loses its authority to regulate exports of natural gas to TPP countries.

TPP, therefore, could mean automatic approval of liquid natural gas (LNG) export permits—without any review or consideration—to TPP countries. Many TPP countries are very interested in importing LNG from this country, especially Japan, the world’s single largest LNG importer. Japan has joined in TPP talks.

TPP could make it impossible to stop construction of coal export terminals. Ambre Energy is mining coal in the Powder River Basin with the desire to ship it, tax-free, to Japan, Taiwan, and South Korea, utilizing the TPP and the Korea Free Trade Agreement as its cushion. The holdup is the development of coal export terminals. If stopped, Ambre could sue the United States for blocking trade-related infrastructure development.

For more information, visit *www.worc.org/fair-trade*.

WORC
220 South 27th Street, Suite B
Billings, MT 59101

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Publications

Heavy Traffic Still Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals Identifies costs for infrastructure due to increased rail traffic, many of which will fall on taxpayers

Watered Down: Oil and Gas Waste Production and Oversight in the West Examines dangers to water quality from oil and gas production in Colorado, Montana, North Dakota, and Wyoming

Gone For Good: Fracking and Water Loss in the West Finds that oil and gas extraction is removing at least 7 billion tons of water from the hydrologic cycle each year in four Western states

A Review of the Potential Market Impacts of Commercializing GM Wheat in the U.S. Report by Dr. E. Neal Blue analyzes the likely reaction of foreign customers for U.S. wheat if GM wheat is deregulated

Law and Order in the Oil and Gas Fields Reviews state and federal oil and gas inspection and enforcement programs in five Western states

Undermined Promise Report by WORC and the Natural Resources Defense Council examines reclamation and enforcement of the Surface Mining Control and Reclamation Act

Download these publications at *www.worc.org*

Calendar

Powder River Basin Annual Meeting
Sheridan, Wyoming....................November 1

Idaho Org. of Resource Councils Annual Meeting
Boise, Idaho....................November 8

Dakota Rural Action Annual Meeting
Pierre, South Dakota....................November 7-8

Northern Plains Annual Meeting
Billings, Montana....................November 14-15

WORC Board and Staff Meeting
Billings, Montana....................December 5-6