

WESTERN ORGANIZING REVIEW

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Western citizens call for reforms to the coal leasing program

On July 8, 2015, Secretary of Interior Sally Jewell followed up on her earlier call for an “honest and open conversation” on the coal leasing program by announcing five listening sessions in late July and August. In response, WORC helped lead an extraordinary coalition effort involving over two dozen local, state and national organizations to mobilize hundreds of pro-reform speakers.

Speakers called on the Department of Interior and the Bureau Land Management (BLM) to stop giving sweetheart deals to coal companies by closing loopholes in the valuation of coal for royalty assessment.

The sessions provided opportunities for members to address the highest ranking officials overseeing federal coal, including Secr. Jewell at the Washington, D.C., meeting, and BLM Director Neil Kornze at the Farmington, N.M., meeting. Assistant BLM Director Linda Lance attended Billings and Gillette listening sessions, and Assistant Secretary Mike Connor was on the dais at the Denver session.

Much of the opposition to reform testimony hinged on statements that were fomented in response to the Clean Power Plan to lower carbon emissions over the next few decades. The Environmental Protection Agency released the plan at approximately the same time that the Department of Interior commenced its listening sessions. For more information on the BLM coal listening session, go to www.stopthecoalgiveaway.org.



Over 100 citizens attended a pro-reform rally in Billings outside the BLM state headquarters just before the listening session began. Indoors, of the 75 speakers, 49 supported reforms.

Issues raised by speakers included:

- Reforming the lack of competition in coal lease sales,
- Evaluating the heightened impacts of coal exports on communities in the region,
- Factoring in the high cost of carbon emissions into the price of public coal,
- Halting a practice allowing BLM to exchange coal under privately-owned surface that could not legally be leased under federal law, and
- Holding coal companies accountable for failing to complete reclamation and request bond release for massive acreages at surface mines across the West.

“Coal Leasing Reform” continued on page 10

The View from WORC

By Bob LeResche, WORC Chair

It's been a complex and busy year for the coal industry, and it's far from clear what will fall out from the turmoil we're seeing. The biggest international environmental issue of our time – climate change – has boosted awareness that our region produces 40% of America's coal every year. The Obama administration's initiatives on climate change, including the Environmental Protection Agency's Clean Power Plan have riled our state governments.

Congressional studies of Department of the Interior's (DOIs) coal leasing practices suggest that the U.S. treasury has been bilked of billions of dollars over decades by poor lease and royalty management by Interior's Bureau of Land Management (BLM). Interior has just completed five highly contentious "listening sessions" around the country to discuss their proposals to revise royalty calculations, and we expect reforms to be announced once they finish "listening."

Meanwhile, the global economy has not performed as expected, projected increases in coal exports to Asia have not materialized, and coal prices have tanked, as have share prices in the huge highly leveraged corporations that mine coal from the Powder River Basin of Wyoming and Montana (PRB). Five big coal export port proposals in the Pacific Northwest have been reduced to two, which are also tottering near oblivion.

On August 3, Alpha Natural Resources—one of the "big four" coal mining corporations in the PRB—filed Chapter 11 bankruptcy, after their ability to self bond their reclamation obligation was rescinded by the Wyoming Department of Environmental Quality. Other "big" coal companies such as Peabody and Arch are also flirting with financial collapse.

So what does this all mean to WORC and our member groups?

First, to paraphrase Mark Twain, "rumors of the coal industry's death have been greatly exaggerated." Coal, which now provides 36% of America's electrical generation, will continue to provide 30% or so for the foreseeable future. Gillette, Wyo., will not become a ghost town. Companies will restructure, liabilities will

be shed, and mines will keep mining. WORC's challenge is to do all we can to ensure that liabilities owed the public are not the ones shed, and that our members do not receive the closest "haircuts" as the industry restructures.

Second, the industry can survive and prosper under progressive reforms. Interior should regain control over the management of their own leasing program, and greatly reduce, if not eliminate, "lease by application" non-competitive leases and opaque setting of minimum bid amounts. Royalty calculation methodologies should be revised and self-reporting eliminated.

"Chair's Column" continued on page 11



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 12,212 members and 39 local chapters. WORC helps its member groups succeed by providing trainings and coordinating regional issue campaigns.

WORC's NETWORK

Dakota Resource Council
Dakota Rural Action
Idaho Organization of Resource Councils
Northern Plains Resource Council
Oregon Rural Action
Powder River Basin Resource Council
Western Colorado Congress
Western Native Voice

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Soil is the key

Editor's note: WORC hosted this soil seminar with the Northern Plains Resource Council and the Charter family in May.

Since the Dust Bowl of the 1930s, the importance of soil health has not gone unnoticed by American farmers and ranchers. Yet our national policies continue to contribute to the destruction of our highly complex grasslands, releasing tons of stored carbon each year. Moreover, growing chemical use has reduced the ability of soil to store as much water.

In May, an agro-ecologist from New Zealand, Nicole Masters, showed a crowd of 90 people how to reverse these effects and convert atmospheric carbon into highly productive soil.

Masters stated that if all the farmers on the 13.6 billion acres of agricultural land worldwide increased their soil carbon by only half a percent, we could sequester all the “legacy carbon” that humans have added to the atmosphere. We could also be more resilient to drought, severe weather swings, and price fluctuations.

Northern Plains Chair Steve Charter hosted the seminar at his ranch north of Billings on the edge of the Bull Mountains. He was encouraged by the message the scientist delivered.

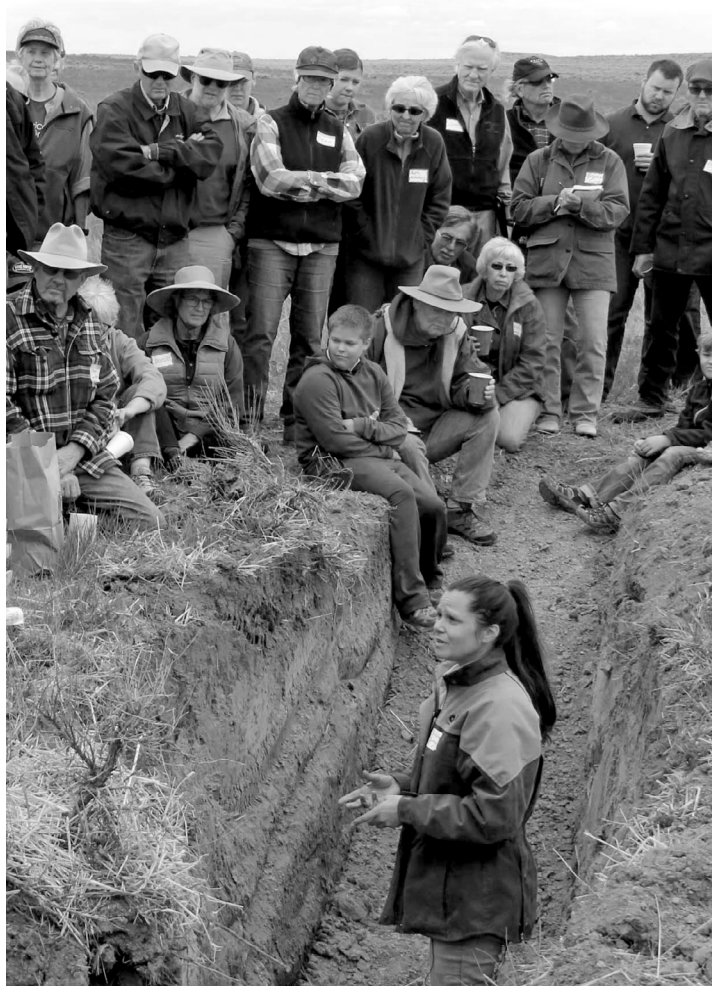
“Her message is relevant to farmers, ranchers, gardeners, and anyone that cares about climate change,” he said. “These innovative grazing and farming methods can build soil at a rate we previously thought was impossible. Changing how we treat the soil will mean doing things differently, but the payback is significant.”

Masters showed the layers of soil and microbial activity in a deep cross-section cut into the ground. She was also able to point to water absorption versus seepage in different layers. The topsoil, full of roots, used to be several feet thick but, over time, we have lost much of that layer where plants grow so well.

Some of Masters’ tools to improve soil health include “compost teas,” intensive grazing, and cover crop cocktails that can be used on operations of any scale to stimulate plant growth and the life of beneficial microbial organisms in the soil.

“This new understanding of carbon capture does not mean that we don’t need to stop putting more carbon into the air,” said Charter, whose land has been threatened by coal development for decades. “We need to slow this process down as much as possible while we slowly build our soils and store the excess carbon deep beneath our feet. That takes time.”

Masters discussed carbon capture, but also touched on the economic benefits of good soil. She estimates that increasing your soil carbon by 1 percent would result in increased nutrient retention equal to adding \$245 in



Nicole Masters, an agro-ecologist from New Zealand, taught a crowd of 90 people how to build soil health through simple methods that also remove carbon from the atmosphere.

fertilizer per acre, and additional water retention of 15,600 gallons per acre.

“Pulling this excess carbon into the soil will not only restore our atmosphere but give us the great benefit of healthy soil,” Masters said. “That means soil with better water absorption and retention, greater productivity without expensive and harmful inputs, and more healthful food.”

—Maggie Zaback, Northern Plains Resource Council

Around the Region

A look around WORC's network

Dakota Resource Council

Members of Dakota Resource Council (DRC) are celebrating a successful petition drive for a ballot measure to repeal state Senate Bill 2351. Passed during the 2015 legislative session, the law allowed exemptions to the state's longstanding ban on corporate-owned farms for swine and dairy. The North Dakota Secretary of State approved the referral for the June 2016 ballot on July 21, delaying the bill from becoming state law on August 1.

Over 21,000 signatures were collected statewide by 46 DRC members and their allies from the North Dakota Farmers Union, The Catholic Conference, and the Independent Beef Association of North Dakota. A minimum of 13,452 signatures was required.

"North Dakota's anti-corporate farming law has been protecting family farms and ranches, and, in turn, rural North Dakota, since the 1930s," said Jeri Lynn Bakken, a DRC member and rancher. "We cannot allow a growing urban-based legislature to undermine North Dakota's farming and ranching culture in exchange for corporate profit. It is now up to voters to decide, and they will side with family agriculture."

Dakota Rural Action

Pipelines have kept members of Dakota Rural Action (DRA) busy this summer. In late July, the South Dakota Public Utilities Commission held a permit certification hearing for the Keystone XL tar sand oil pipeline. State law requires a permit holder to re-certify it can still meet the conditions of the permit if work has not started within four years of certification. DRA intervened in the process and urged the commission "deny the petition for certification, thereby protecting the land and water of South Dakota's residents."



In late August, DRA members and other landowners threatened by the proposed Dakota Access Pipeline began placing billboards along the proposed route. The signs read "Stop Dakota Access Oil Pipeline That Will Cross Here! Act Now. Contact the SD PUC at dakotarural.org."

The pipeline would move crude oil from the Bakken oil fields in North Dakota through South Dakota and Iowa to a hub in Illinois. DRA members are concerned about the volatility and combustibility of the oil, pollution of waterways and aquifers from leaks, and the long-term effects on agriculture.

Idaho Organization of Resource Councils

Idaho Organization of Resource Councils members won one for the public's right to a fair hearing. At a July 15 meeting of the Idaho Oil and Gas Commission, members urged the commission to set aside its exemption to follow the regular hearing requirements for contested cases.

The Idaho Organization of Resource Councils

The 2015 Idaho State Legislature granted the exemption in House Bill 123 to speed up decisions on oil and gas projects. By a 3-0 vote, commissioners ended rulemaking to implement HB 123 and temporarily adopted a process preserving due process and the right to a fair hearing before the commission.

Northern Plains Resource Council

Northern Plains Resource Council members and others have sent in more than 90,000 comments against a permit for the proposed coal-hauling Tongue River Railroad (TRR) in southeast Montana. For 35 years, Northern Plains has fought TRR, which would industrialize an agricultural, prairie valley.



Recently the Surface Transportation Board (STB) extended the deadline for comments on the permit application through Sept. 23. More than 200 Northern Plains members and allies testified in person at various STB hearings and Northern Plains' People's Hearings on the ill-conceived railroad that would haul Montana coal to West Coast ports and on to Asia.

Oregon Rural Action

For the last decade, bees and pollinators have been in decline. In 2014, more than 40% of honeybee colonies died. Our food system relies on bees to pollinate the top 100 human food crops.

Oregon Rural Action's Snake River Chapter decided to address the issue, in part, by creating bee friendly pesticide-free gardens that help pollinators by providing habitat to make them thrive.



The campaign includes a partnership with the local Boys and Girls Club to teach kids about the decline and how to help by growing pollinator-friendly plants without using harmful chemicals.

Powder River Basin Resource Council

The Powder River Basin Resource Council is planting seeds for a farm to school movement in Wyoming. Members met with U.S. Senator Mike Enzi (R-Wyo.) in August to advocate for more funding for the program.

The group is teaming with the Wyoming Department of Education to hold the Wyoming Farm to School Regional Workshop in Sheridan September 23. The event features a chef's demonstration using local items; sessions on producer qualifications, procurement, definition of local food, and starting a school garden; a panel discussion; and vendor display.



Western Colorado Congress

Western Colorado Congress is working with members and residents on a proposal to drill natural gas wells within the boundaries of Battlement Mesa, a small retirement community near Grand Junction, Colo. In June, Ursa Resources applied to drill 53 wells and other facilities in the first phase of the project. The company plans to increase the number of wells to 94 on five pads within the community.

Residents expressed their concerns during a community meeting August 31. They cited health and safety issues, noise, quality of life, traffic, air quality, emergency response, and having a voice in decisions about the proposal.



Western Native Voice

In July, Western Native Voice invited Dr. Heather Cahoon of Missoula to join its Board of Directors. She holds an Interdisciplinary PhD in History, Native American Studies and Anthropology and teaches at the University of Montana. Heather is a member of the Confederated Salish and Kootenai Tribes.

She has worked with tribal and state agencies on reservation economic development efforts and has consulted on related projects sponsored by the U.S. State Department's American Embassy in Paris.



Historic time to reduce oil and gas methane emissions

On August 18, the Environmental Protection Agency (EPA) released its much anticipated methane pollution reduction standard. The proposal is part of suite of rules expected this fall to cut methane emission from the oil and gas sector by 40-45 percent by 2025.

The EPA rule addresses how existing oil and gas wells and infrastructure can reduce leaks, venting, and flaring of methane.

“WORC applauds the Obama Administration for taking a major step towards reducing methane pollution and the waste of a valuable resource,” said Theodora Bird Bear, WORC’s Oil and Gas Campaign Team Chair. “The proposed methane pollution standards will help improve air quality, reduce the waste of methane from leaks and venting, and reduce the climate and health impacts resulting from oil and gas development.”

In addition, the Bureau of Land Management is expected to release standards to reduce methane emissions oil and gas operations on federal and tribal lands.

Methane is one of the most potent greenhouse gases; some estimates state that methane is 80 times more potent than carbon in its ability to accelerate climate change. And, with the present progress towards reducing methane



Proposed methane emission standards on the oil and gas industry will improve air quality, cut waste of natural gas, and lower the effects on climate and health.

emissions, supporters are pushing for the strongest possible rules at the state and national levels to cut significantly or eliminate altogether methane emissions from the oil and gas industry.

WORC is continuing to push for the strongest standards to lower or eliminate methane emissions by the oil and gas industry at both the state and national levels. Our report, *The Flaring Boom*, recommends that oil-producing states prohibit flaring, except for emergencies and system tests.

WORC will submit comments regarding the EPA rules and will encourage folks to send their own comments in the coming weeks. Stay tuned for details.

WORC is hosting two
PRINCIPLES OF
COMMUNITY ORGANIZING
training opportunities in 2016!

Stay tuned for more details or visit
www.worc.org and sign up to be notified
when dates and locations are announced.

Alpha becomes ‘Omega’ as coal companies slide

At its peak, Alpha Natural Resources, Inc. was one of the four largest coal mining companies in the country. For a company whose stock price surpassed \$65 per share in 2011, it was a sign of the difficult times for coal producers that once-giant Alpha filed for bankruptcy in early August. Alpha, which mines coal at two operations in Wyoming as well as dozens of smaller mines in Eastern states, is only the biggest company to file for bankruptcy in recent years. Over three dozen coal companies have filed for bankruptcy between early 2012 and June 2015, according to a review of the industry by SNL Energy. Some firms have even filed multiple times due to prolonged financial difficulties.

While many of the three dozen-plus bankruptcies were of smaller companies, the rash of insolvency has now come to grace the doorstep of major players like Alpha. Many attribute the industry’s financial woes to cheap natural gas and federal regulations. It is true that the shale drilling boom has produced an unexpected glut of natural gas that has undercut coal prices, and that the Environmental Protection Agency has issued rules to clean up some of the worst pollution from coal-fired power plants, but these two factors alone do not tell the whole story. A rarely-mentioned third factor essential to understanding the coal industry’s financial decline comes down to bad management by company executives.

Between 2009 and 2012, coal prices had reached dizzying heights. Energy-intensive economic growth from China and other countries created enormous global demand for resources, including coal burned in power plants for electricity (“thermal” coal) as well as coal used in steelmaking (“metallurgical” coal). For a time, each tonne of metallurgical coal imported to Asia could fetch \$330, with thermal coal reaching nearly half the price.

Coal mining companies around the world responded to such astronomical prices by acquiring profitable metallurgical coal companies for hefty sums and ramping up production. Poster-child for the industry, Alpha acquired Foundation Coal Corp. in 2009 and Massey Energy in 2011 for a combined price tag of nearly \$9 billion. Alpha, like many companies, borrowed the money to make its acquisitions, banking that coal prices would stay high at least long enough to make back their initial investment.

Unfortunately for executives at Alpha and other companies, the projections that justified their big acquisitions were squarely wrong. Executives that jumped at the spike in metallurgical coal prices watched those same prices steadily slide to settle around \$93 per tonne earlier this year, less than a third of their 2011 peak. This slide was largely due to ramped-up production worldwide, which overshot demand and sank prices. Many also miscalculated the longevity of China’s appetite for imported coal, which has begun to wane since the end of 2014. We are seeing the repercussions of company executives’ big bets on metallurgical coal that didn’t pay off.

Alpha’s decline is symbolic for the coal mining industry as a whole, but also begs important questions for Westerners. Chief among these is the question of what will happen to land mined by now-bankrupt companies that has yet to



be fully cleaned-up, or reclaimed. Reclamation is required by the law, but is an expensive process that does not generate revenue for struggling companies.

This casts a pall over the slow pace of reclamation across major Western coal-mining states: of the 450 square miles of land disturbed by coal mining in North Dakota, Wyoming, and Montana, only 46 of those square miles have been fully reclaimed to the extent demanded by the law. (This information was released in WORC’s new report, *Undermined Promise II*, covered elsewhere in this issue.)

Some mines that have operated for decades have not even fully reclaimed a single acre of land. Commenting on the disturbing lack of completed reclamation at a time when many companies are in dire straits, WORC Chair Bob LeResche said, “[R]eclamation should be accelerated while assets are still available to failing corporations. It’s time for [Westerners] to decide what legacy we want to have – a scarred landscape and public liability for cleanup or healthy land, restored by industry, that can be put back to use for agriculture.”

Members lead cottage food victories in three states

This year, more entrepreneurs and food producers will be able to produce a variety of home-made food to sell direct-to-consumers after legislative victories in Colorado, Montana, and Idaho. WORC member groups in each state took on – and won – campaigns to pass or expand “cottage food” laws.

Cottage food laws allow producers to prepare and sell non-hazardous, processed foods made in their home or farm kitchen directly to consumers. The laws vary, but cottage foods sales are generally limited to low-risk foods with a stable shelf life like jams, jellies and bake goods that do not require refrigeration. The laws often include simple regulation like requiring labels and basic food safety handling certification of producers.

This year, Western Colorado Congress built on its previous success by expanding Colorado’s Cottage Food Act the group helped pass in 2012 to include home-canned pickled vegetables. When the act first passed, it excluded pickled vegetables, but WCC heard from small producers and other rural residents that expanding the law would help them start or increase their businesses. WCC members gathered hundreds of petition signatures, drafted bill language, testified and worked with state and local health departments to address concerns and to craft legislation.

The legislation creates two tiers of cottage food products legal to sell. Tier one includes the products allowed under the original law and clarifies additional products like flour, fruit empanadas and tortillas.

The second tier includes pickled vegetables and instructs the State Board of Health to engage in a public rulemaking process to regulate its production and sale. WCC plans to turnout members and generate public involvement in the rulemaking beginning this fall.

Northern Plains members helped pass Montana’s cottage food law in the 2015 legislature. Legislation to legalize cottage food sales was one recommendation from a yearlong study of the state’s food laws in 2014 by three state agencies responsible for food regulation. The study was aimed at unifying the state’s food safety regulation, which is regulated differently across county lines and agencies. Northern Plains members were among the many farmers and consumers who weighed in at the agencies’ public meetings.

Northern Plains collected petition signatures and urged state legislators to pass a cottage food bill. Montana’s law standardizes the registration process so producers won’t have to purchase expensive permits in each county they sell. Northern Plains is drafting and submitting comments as part of the state’s rulemaking phase to weigh in how the law will be enforced.

In Idaho, the sale of homemade food products had been legal but unregulated. Idaho Organization of Resource Councils members set out clarify and improve the consistency of the cottage food law in the Idaho legislature. The



Western Colorado Congress sent grassroots lobbyists to expand the state’s cottage food law to include home-canned pickled vegetables. Three member groups secured opportunities for food producers to sell homemade foods by passing legislation in their state legislatures this year.

bill passed a House committee but went no further. However, the state Department of Health and Welfare agreed to create rules to regulate the sales of cottage foods following a public rulemaking process.

IORC members collected hundreds of postcards and letters in support of consistent cottage food policies across the state, created a video shared widely on social media, and collected photo petitions to support the campaign. IORC members will provide comments and turnout the public to meetings on the proposed rules in the fall. So far, proposed regulation meets nearly all of IORC members’ demands, except the list of acceptable foods to sell excludes pickles and acidified foods.

Cottage food laws are another step toward building Homegrown Prosperity, where food is grown and produced in our rural communities, generating jobs and income, and connecting producers and consumers.

Report finds reclamation at coal mine lags, bonds suspect

In June, WORC released a new report covering the need for greater oversight and enforcement to protect large tracts of strip mined land in Western states.

Undermined Promise II found that reclamation bonds that coal companies are required to post under federal law may outstrip the industry's financial resources. Out of a total of 450 square miles of mined land across Wyoming, Montana and North Dakota, only 46 square miles have been reclaimed, spurring concerns that taxpayers will be stuck with a clean-up bill of roughly \$2 billion and that Western landscapes, agricultural lands, water and wildlife will be permanently damaged.

"Our analysis shows that reclamation is really tardy at mines across the West," stated Bob LeResche, WORC Chair. "It is past time for state and federal regulators to aggressively exercise their authorities to get these lands reclaimed. Timely reclamation work is a win-win for our western communities: it re-opens land for livestock and recreation, it creates good job opportunities, and it minimizes huge risks to the public if a coal company defaults in the future on its bond obligations."

Once a formidable force, the coal industry now faces bond market downgrades and a global divestment movement amid low market prices, a multi-million-dollar tab to upgrade aging power plants, competition from natural gas and increasingly competitive renewable energy prices.

Undermined Promise II found that after decades of mining throughout the region, coal companies are not being held accountable for failing to protect and restore lands in the West to their original state. Cleanup costs are climbing. The largest mines have bonds in excess of \$300,000,000 apiece. The practice of allowing certain companies under the federal Surface Mining Control and Reclamation Act to self-bond is under fire as the industry's economic condition grows shakier.

The report makes recommendations to strengthen reclamation and better enforce the law to meet its promise of full reclamation of mined lands to productive uses.

The report was produced by WORC in partnership with co-authors from the National Wildlife Federation and the Natural Resources Defense Council (NRDC). It built on the work of an earlier report published in 2007, *Undermined Promise*, by WORC and NRDC. Both reports can be found at www.underminedpromise.org.

CASE FOCUSES ON RECLAMATION, PUBLIC INVOLVEMENT

On July 31, WORC and Northern Plains Resource Council (NPRC) brought oral arguments on the issue of ongoing reclamation and public involvement in mine permits in a case challenging the Office of Surface Mining (OSM) for rubber stamping a mine expansion at the Spring Creek Mine in southeast Montana. The case was joined with another suit filed by WildEarth Guardians (WG) raising claims on failure to open up the permit application to public comment or to assess air quality and climate impacts from the mine expansion. Both cases were filed under public participation requirements of the National Environmental Policy Act.

After hearing the case, Magistrate Carolyn Ostby gave the parties a 60-days to find remedies to the issues raised by WORC, NPRC and WG. The case against the Department of Interior and OSM was joined by Cloud Peak Energy and the State of Montana.

In filing the case in 2014, Bull Mountain rancher and NPRC Chair Steve Charter noted: "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. 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.

Much, if not all, of the expanded coal mining sought by Cloud Peak is believed to be intended for export to Asia. Mine owner Cloud Peak Energy made a deal in 2014 to export an additional two million tons of coal to Asia through a port in Vancouver, B.C. Recently, Cloud Peak bought an interest in the Gateway Pacific Terminal proposal at Cherry Point, near Bellingham, Wash.

Voices of reform

Washington, D.C. Listening Session

“The Bureau of Land Management has offered coal for bid without analyzing either the costs or the potential market effects of moving federal coal into export markets. Moreover, in the Bull Mountains, BLM issued the right to mine two additional mineable seams, as part of the sale, that were not even valued. It is decisions like these that underscore the flaws in the current leasing program. Nothing the agency has instituted since investigations by the Government Accountability Office and the Office of the Inspector General has substantially alleviated the problems that led to this giveaway. It is critical that this process be open, with complete transparency about its market analysis, and to propose a minimally acceptable bid for the coal.”

—*Montana rancher and Chair of Northern Plains Resource Council, Steve Charter*

Billings, Montana Listening Session

The secrecy that I have seen breeds distrust of the current process. Leases are advertised publicly, but after that the monetary dealing is all done in a black bag until the final result is announced. In the public’s eyes, “abracadabra, we have a price.” But even after the papers are signed and the lessee, at any time in the future, thinks its hit hard times, the feed due under the lease can be reduced. Therefore the price of the public’s coal may not be determinable at any time.

—*Rancher and Northern Plains Resource Council member, Ellen Pfister*

Billings, Montana Listening Session

“[T]o ensure the fair payment of royalties to the public and Indian tribes, Interior should directly value coal at fair market value, considering all sales including those for export. Further, Interior should report publicly coal values and royalty amounts paid for each lease. The current system of corporate self-reporting opens loopholes for some producers to undervalue coal by ignoring export values, manipulating prices and inflating deductions—all hidden in secret reports.”

—*Former Montana Director of Revenue, Dan Bucks*

Gillette, Wyoming Listening Session

“Every dollar under market royalty Interior collects represents 50¢ less Wyoming receives for education and infrastructure, and 50¢ more some hard-working American taxpayer must cough up. The shibboleth that royalty is a “tax” is tired and has got to go.... The coal industry has traditionally gamed the royalty system through non-arms-length transfers and questionable deductions to the extent that effective royalty payments are 5-6%, rather than the 12.5% required by the leases.”

—*WORC Chair, Bob LeResche*

Golden, Colorado Listening Session

“The West Slope has been subjected to several boom-bust cycles over the past 50 years... It is time to stop this type of economy. It is time to stop the boom-bust economy. I want a boom-bust plan to be part of all permits, to help our local communities.”

—*Professor at Mesa State University and member of Western Colorado Congress, Eric Rechel*

For more information on the BLM Coal Royalty Listening Sessions, visit www.stopthecoalgiveaway.org

EPA releases Clean Power Plan to reduce carbon pollution

On August 3, the U.S. Environmental Protection Agency released the final version of President Obama's Clean Power Plan. Originally proposed in June, 2014, the Clean Power Plan sets a path for decreasing the nation's carbon pollution from the largest single source, existing power plants, by nearly a third from 2005 levels by 2030. The ambitious standards are complemented by flexible pathways to compliance, which begins to level the playing field for clean and renewable energy sources to compete with established and subsidized fossil fuels, while maintaining affordable electric rates and grid reliability.

Under the plan, each state is assigned carbon emissions reduction targets and given the opportunity to craft their own plan to meet the targets. States can choose from a range of options, including retiring coal-fired power plants, increasing coal plant efficiencies, switching coal plants to natural gas, increasing renewable energy and improving energy efficiency. State plans can also include regional collaboration between states to meet targets. Final implementation plans are required from states by September, 2018; a federal plan will be enacted for states that do not craft their own. Compliance with carbon targets is required beginning in 2022, with final targets to be achieved by 2030.

The stringency of final targets for WORC states varies across the board. North Dakota, Wyoming, and Montana each have targets that are among the top-five least stringent (highest) among all states, but are also required to cut the most carbon. South Dakota and Colorado targets put them among the middle of pack, whereas Oregon and Idaho have some of the most stringent (lowest) targets, but also have among the easiest paths to comply.

While Attorneys General for Wyoming and South Dakota have already joined a lawsuit with at least 13 other coal-heavy states asking a federal court in Washington, D.C., to block the Clean Power Plan, not all in the coal industry are confident in such a legal strategy. In the leadoff keynote address at a conference of the American Coal Council on August 11, an executive with heavily coal-fired utility Duke Energy warned that "I would not hang my hat on [a legal challenge]" to halt the Clean Power Plan, instead advocating that utilities plan to comply with carbon targets.

One of the notable new additions to the Clean Power Plan between its 2014 proposal and the final announcement this past August is a Clean Energy Incentive Program that will give states extra credit towards carbon targets for early investments in renewable energy before 2022. One area of the program even offers incentives to encourage energy efficiency investments in low-income communities.

Responding to the release of the Clean Power Plan, WORC Chair Bob LeResche commented, "We believe this new rule strikes a good balance between meaningful cuts in carbon pollution and state flexibility to meet reasonable targets. It will force Western states to rethink our largely coal-fueled electricity grid, but will also provide opportunities. It uses market solutions that minimize cost impacts when states choose to work together to achieve goals, and incentivizes use of our region's vast wind and solar energy resources, and the profitable industries that will result."

"Chair's Column" continued from page 2

Third, BLM Resource Management Plans (especially those for the Buffalo, Wyo., and Miles City, Mont., regional offices) should be revised to reflect thoughtful re-analysis of a rationally based coal leasing plan that recognizes market conditions.

Perhaps most important at this juncture – and this is something WORC's two comprehensive *Undermined Promise* reports analyze in depth – Interior and the involved states must assure industry's inevitable restructuring and financial reorganization not be done at the expense of reclamation. Reclamation, after all, is the bedrock of our surface mining laws. But over the years, self-bonding, lack of contemporaneous reclamation, and now chapter 11 bankruptcy of a corporation with a \$411 million self-bonded reclamation obligation threaten to externalize these huge reclamation costs onto the backs of western taxpayers, adjoining private landowners and grazing leaseholders.

It is critically important that DOI and Wyoming be strong advocates for reclamation in the bankruptcy proceedings of Alpha, so assets needed to restore mined sites hold the most senior position in any reorganization.

WORC must assure that we and our member groups remain aggressively involved watchdogs and organize and empower citizens to pressure the government that reclamation comes first, and that federal coal is managed truly in the public interest.

WORC

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PUBLICATIONS

UNDERMINED PROMISE II Examines coal production in the West and find that mining companies and regulatory agencies are falling short on keeping promises made in the Surface Mining Control and Reclamation Act

FLARING BOOM Explains the underlying causes and the problems caused by flaring and venting methane from oil and gas fields in six western states

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

LAW AND ORDER IN THE OIL AND GAS FIELDS Reviews state and federal oil and gas inspection and enforcement programs in five Western states

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CALENDAR

WESTERN COLORADO CONGRESS ANNUAL MEETING
Camp Kiwanis, Grand Mesa, Colorado..... September 19-20

DAKOTA RURAL ACTION ANNUAL MEETING
Sioux Falls, South Dakota..... October 17

DAKOTA RESOURCE COUNCIL ANNUAL MEETING
Killdeer, North Dakota October 24

IDAHO ORG. OF RESOURCE COUNCILS ANNUAL MEETING
Boise, Idaho..... November 14

NORTHERN PLAINS RESOURCE COUNCIL ANNUAL MEETING
Billings, Montana November 13-14

WORC's DECEMBER BOARD AND STAFF MEETING
Billings, Montana December 4-5