

Dakota Counsel

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LET THE PEOPLE CHOOSE

Petition drives are now under way in both Fargo and Grand Forks to let the voters choose to consume clean, renewable energy.

South Agassiz Resource Council and a group of DRC members in Grand Forks each announced plans April 27 for an initiated-measure campaign aimed at amending their city’s Home Rule Charter.

The proposed amendments would guarantee that 20 percent of each city’s electricity comes from renewable sources by 2020 and 30 percent by 2030, and further, that at least 50 percent of this renewable energy be produced in North Dakota.

If the amendments pass, city commissioners would include those percentage objectives as a condition in upcoming electric power utility franchise agreements. Xcel Energy serves the majority of residents in both Fargo and Grand Forks.

“Electricity demand in North Dakota isn’t stagnant. It is expected that demand will grow by at least two percent a year, which means that between now and 2020, power consumption in the state will have grown by nearly 35 percent,” says Joe Richardson, a long-time Fargo resident and formal petition sponsor.

“We’re talking about slicing a piece of future pie for renewables, not cutting into any existing generation.”

The Grand Forks group needs 3,647 signatures by August 5 to place the amendment on the ballot.

SARC is aiming at collecting 3,600 signatures for the Fargo initiative. The number needed is based on a percentage of votes cast in the June mayoral election—probably about 3,000.

Al Coen, a retired teacher, and Sr. Maris Stella Korb with Fargo’s Presentation Sisters, are the other Fargo petition sponsors. Dexter Perkins, Jason Schaefer and Matthew Shimanek are the Grand Forks sponsors.

Richardson pointed out that North Dakota is awash in clean, infinitely available wind power. Yet despite having the nation’s best wind resource according to the U.S. Department of Energy, North Dakota dropped from 13th place in 2004 to 16th place in 2005 in terms of wind energy development.

“We’re falling behind other states with a poorer-quality resource base,” said Coen. “This is a recipe for failure. North Dakota needs to pursue aggressively those sectors in which it has a comparative advantage. Clearly, wind power is one of those sectors, along with biomass and biofuels.”

Wind power has the potential to protect consumers from the price volatility now associated with fossil fuels, Coen stressed. At the same time, renewables promise economic development in terms of job creation, income growth for landowners and significant property tax payments from wind farms and other renewable energy projects across North Dakota.

“With global warming today being recognized for the threatening reality it is, it becomes imperative that we take responsibility for our environment and stop contaminating the atmosphere—and ourselves—with pollutants that we create when we burn fossil fuels for energy,” said Korb.

“Asthma is just one of the pollution-related outcomes from fossil-fuel combustion affecting our children today, and one we *can* do something about. A practical energy source alternative for us in North Dakota is wind. It’s plentiful, reliable, renewable and exceedingly healthier.”



Jason Schaefer collecting petition signatures in Grand Forks

The Dakota Counsel is published six times a year by Dakota Resource Council, a nonprofit, grassroots activist organization. The mission of Dakota Resource Council is to form enduring, democratic local groups that empower people to influence decision-making processes that affect their lives. DRC is committed to preserving sustainable agriculture and natural resources.

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THE RAZOR'S EDGE

By DRC Board Chair Dean Remboldt

Discussing contrasting opinions can at times offer up some bizarre statements like the one that young Mr. Hall from Hoople made in a March 8 letter to the editor in the Fargo *Forum*.

In his letter he stated that the Dakota Resource Council is killing our rural communities. Damn, we're good! We were able to effect those changes at least 10 years before our organization's 1978 inception.

Had Mr. Hall been around in the 50s and 60s he would have seen North Dakota agriculture in its heyday. Those of us who were around then witnessed our rural communities brimming with vitality and prosperity. It was a time when our schools and churches were bursting at the seams, when you couldn't find a parking spot within blocks of main street on a Saturday night in Zap, Gackle, Mott or even in Hoople.

Mr. Hall is right about one point though; industrialized agriculture is generating a tremendous amount of both production and subsidy dollars, but when you put those dollars in too few hands, you can't sustain a viable community. With demographics like that, how many overshoes are you going to sell at the local clothing store, canned goods at the grocery store, or haircuts at the local barbershop?

I can forgive Mr. Hall for his transgressions because of his age and perhaps because he hasn't acquired a proper historical perspective on sustainable agriculture and its relationship to our rural communities. But what I cannot forgive is the president of North Dakota Farm Bureau reprinting and giving kudos to Hall for his letter and asking for more of the same from their members.

At what point will these knuckle-draggers begin to see that our cheap food policy only pertains to the production end of the system. Otherwise why would our farmers still be looking for more than a nickel from the same loaf of bread at \$1.65 as they were when it sold for 29 cents?

I am assuming that some of this hostility that is being bestowed on DRC is coming from those who are proposing factory farms, which we oppose from an economic, sociological, and environmental standpoint. Again we must question the sense of using our economic development dollars so unwisely.

In their push for these factory farms some developers are trying to frame this issue as the last hope for their communities. One of their more recent tactics is to try to soften up some communities with a PR blitz. Fortunately they have to deal with people who are willing to question the wisdom of their proposals. Hopefully our media will report the true facts about these factory farms and we can put an end to all of this stupidity once and for all.

P.S. Hats off to our newest affiliate South Agassiz Resource Council (SARC, Fargo) on hosting their first annual meeting. Their program featuring a professor of geological anthropology was an enlightened perspective concerning the global warming issue.



ANYONE HOME AT EPA?

DRC again sued the federal government March 8 for doing nothing—continuing what has become a four-year struggle to bring North Dakota air quality violations to an end.

According to studies conducted by the state of North Dakota and the U.S. Environmental Protection Agency (EPA) in 1999 and 2000, coal-fired power plants are emitting too much sulfur dioxide into pristine areas of the state, violating the Clean Air Act.

Airborne sulfur dioxide (SO₂) contributes to acid rain,

COURT HALTS DIRTY AIR PLAN

Yet another court said no March 17 to a Bush administration plan to let old power plants get bigger yet keep their “grandfathered” status that allows them to pollute many times more than a new plant.

The District of Columbia Court of Appeals turned thumbs down on 2003 EPA rules on New Source Review (NSR) that would make dollars invested rather than potential to pollute the determining factor in cleaning up aging power plants when they are remodeled.

The decision could affect the Milton R. Young Station near Center, which has been under an NSR notice of violation since 2002 for failing to apply for a permit when it added superheaters in 1994 that allowed it to emit more nitrogen oxides (NO_x).

NSR requires power plants to get new permits when they make changes that increase their ability to emit NO_x, SO₂, or other pollutants

The Bush EPA rules would eliminate this requirement unless the plant’s owners spent more than 20% of the plant’s value in making changes.

The court rejected the rules, saying they were “contrary to the plain language of the Clean Air Act.”

“These old plants, built with 60s and 70s dollars, are cash cows that produce enormous income—not from regular electricity customers, but on the “spot market”—as demand grows,” said Ron Saeger, Fargo, a SARC representative to the DRC Board.

“Both utilities and regulators need to remember that the Clean Air Act was meant to improve the health of citizens and should not be gutted for the convenience and profit of industry,” added Saeger.

which harms soil and vegetation and can cause asthma attacks and other respiratory problems.

A 2001 Children’s Health Study commissioned by the state of North Dakota showed that children in the three counties with coal-fired power plants have an increased risk of asthma and respiratory problems.

“For years, the North Dakota State Department of Health has allowed the older coal-fired power plants in the state to continue operate without modern pollution controls,” said Terrence Kardong, Richardton, DRC Energy Policy Committee Chair.

“EPA should have stepped in and taken leadership when the air pollution violations in North Dakota and Montana were first discovered.”

Instead of enforcing the law and requiring the state to tell the power plants to clean up their act, EPA looked the other way, allowing illegal pollution levels to continue for years.

In July of 2004, DRC petitioned EPA to make the state re-do its air quality plan and show how it intends to cut SO₂ emissions. EPA failed to act on the petition.

“Over eighteen months have gone by since we filed our petition and we have not heard a word from EPA,” said Kardong. “What are they waiting for?”

DRC is asking the court to find that EPA has failed to act on its 2004 petition in a reasonable period of time and to order EPA to act on DRC’s request to require the state to do a new air quality plan that addresses the SO₂ violations.

MIXED REVIEWS

Members of DRC’s Energy Policy Committee gave mixed reviews to proposed new legislation announced by Sen. Kent Conrad April 19 in Bismarck.

The members liked Conrad’s proposals to extend renewable energy tax credits, establish a federal renewable energy standard for all utilities and renew energy efficiency programs.

However, members did not like raising to \$4 billion the investment credit cap for coal gasification facilities, thought the bill did not require strong enough steps to counter global warming, disagreed with Conrad’s call for more incentives to increase oil production and wanted to see stronger gas mileage standards for new vehicles.

Conrad admitted that passing the bill would be “an uphill battle” in this Congress.

FARM BILL PREVIEW

South Central Citizens Coalition celebrated its fourth annual meeting March 23 with a panel on federal farm legislation—due to be redrafted in 2007—and still had time for gifts, drawings resolutions and the election of a new chair, Lori Carlson.

Current North Dakota Agriculture Commissioner Roger Johnson led off the panel by urging improvement on the Farm Bill’s energy title especially regarding ethanol. He said the 7.5 billion gallon goal for 2012 would be met three years early and should be increased.

State Sen. April Fairfield (D-Eldridge) said current models for economic development are not working. She said lip service has been paid to entrepreneurship, but the real model has been low-wage job creation, which won’t change the trends of poverty and outmigration in rural America.



Carlson

Fairfield also said the Farm Bill needs a strong competition title to address shortcomings in antitrust enforcement.

North Dakota Farmers Union President Robert Carlson urged inclusion of Sen. Dorgan’s Homestead Act to give North Dakota low-income counties investment incentive, and said we have to get beyond thinking we must lower wages to attract business.

Scott Stofferahn, representing Sen. Kent Conrad, said the biggest danger for farm income is the mounting national debt.

He pointed out that the 2002 Farm Bill added \$11 billion for rural development—all of which has been cut back out in the appropriations process.

“All cuts from now on are hard cuts,” said Stofferahn, who said initial proposals are likely to include a 60% cut in direct payments and no exemption for counter-cyclical payments.

“The main goal of the current administration is access to markets, yet we keep losing market share,” said Stofferahn, who added that the fight for a fair Farm Bill will be against those who are on a “trade binge” but don’t want to spend anything on agriculture.

Co-sponsor for the panel discussion was the Center for Rural Affairs.

Other officers elected were John Huberty, Vice-Chair; Shelly Lund, Secretary; Laurie Mosolf, Treasurer; JoAnn Larson, Historian; Mosolf and Huberty, DRC Board Representatives; and Larson and Brad Mills, North Dakota Progressive Coalition Leadership Council Representatives.



SC3 Members

EARTH DAY 2006!

Three DRC affiliates took part in Earth Day activities April 22.

Missouri Valley Resource Council held an “Earth Day Game Day” for all ages at Richholt/BECEP school in Bismarck—with a six-foot canvas ball painted like the earth (see picture). MVRC also used the event to distribute recycling information.

Souris Valley Chapter took part in Earth Day film festival on the Minot State University campus hosting the showing of “The Future of Food, which deals with genetic modification and features DRC member Rodney Nelson, Amenia, among others.

SARC sponsored a student symposium on sustainable building design at the Fargo Public Library.



BIG GAPS TO FILL

Over 40 came out to hear Jim Kuipers talk about the gap between oil and gas bonding and clean-up costs at the McKenzie County Energies and Taxation Association annual meeting in Watford City, March 7.

“States should act now when the cycle of oil and gas development is up,” said Kuipers, “because bankrupt times come on the down cycle, when big developers get out by selling to small companies, who take what little is left and then take off.”

Kuipers is the author of *Filling the Gaps*, a regional study of the adequacy of oil and gas bonding.

The Foreman Butte oil field in McKenzie County provided one of Kuipers’ examples of shortfall—

\$250,000 in bonds against nearly \$7 million in estimated costs to reclaim roads, oil pads and pipelines for 42 wells.

The field’s developer is Zenergy—formerly Zinke and Trumbo—which this winter caused the largest saltwater spill in the state’s history (see below)

Donald Nelson, Keene, who also serves on DRC’s Oil and Gas Task Force, said the state should move from blanket bonds—under which a single bond covers an unlimited number of wells—to site-specific bonds.

“If the laws change, we would seek to be in compliance with them,” Jay Wilson of Amerada Hess told the *Minot Daily News*.

“This is not about shutting down the

oil and gas industry,” said Kuipers. “All this is about is ensuring fiscal responsibility. The polluters should pay, not the taxpayer.”

In other business, members elected Peter Skedsvold to the MCETA Board, replacing Wanda Chapin.



Jim Kuipers being interviewed by Lauren Donovan of the Bismarck Tribune

DOUBLE WATER THREAT

Besides inadequate bonding, potential water well loss and a poisoned creek loom over McKenzie County oil and gas country residents.

Despite a March 14 state Health Department statement that cattle could again drink from Charbonneau Creek, some area ranchers weren’t so sure.

The beaver dam is the focus of concern for ranchers like Linda Monson, who believes the deep pools downstream fed by overflow of the dam are still dangerously salty.

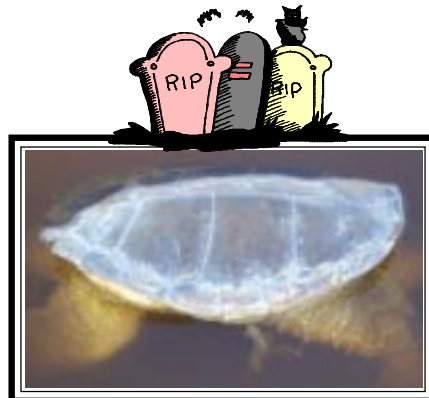
Monson said she was present when Health Department staff took a reading of 67,000 parts per million chlorides/sulfates from one of the pools and heard a state biologist comment, “Nothing is going to live down there—even bugs.”

Monson said the water in the dam is still salty to the taste.

This reading has yet to show up in a Health Department report.

Monson is concerned that spilled saltwater may still be flushing through a gravelly underground area and replenishing the pond. Zenergy’s use of vacuum trucks—to keep the water level low enough behind the dam to prevent discharge into the creek—do not seem to be working.

DRC still has not seen a remediation plan from the Oil and Gas Division.



Dead Turtle in Charbonneau Creek

Meanwhile, Zenergy is seeking new authority to drill yet another water well for industrial use into the aquifer that provides water to some area residents.

The recommendations of the State Engineer do not necessarily address the concerns of area residents. Drilling water wells for oil and gas production should not be allowed from an aquifer that is in use for domestic purposes.

Zenergy has already gotten numerous temporary water permits on an emergency basis—a procedure that eliminates public input. The state Water Commission has also renewed some of these temporary permits—something DRC believes is illegal.

A fight may be brewing over whether state law entitles existing water users to damages if these industrial wells reduce water supply.

DRC is preparing comments on the proposed permit.



AG ROUNDUP

Zoning progress. McLean County added bonding language to its livestock zoning ordinance earlier this year, becoming the fourth county in North Dakota to do so.

The ordinance requires a bond on concentrated animal feeding operations (CAFOs) in an amount “determined by a study conducted by a professional engineer or consultant licensed by the state of North Dakota.”

The ordinance also requires written notice 30 days prior to abandonment of a CAFO and establishes closure standards for lagoon drainage and filling, removal of animal carcasses and other public safety concerns.

There was no opposition to the measure.

By contrast, Ramsey County’s ordinance, passed two years ago, has come under constant attack from Viking Feeders, which wants to put a factory hog production facility near Edmore, and the North Dakota Farm Bureau.

Viking Feeders still has yet to submit a full permit application to the county. It is trying to get the County Commission to set aside its ordinance and grant a permit without bonding or closure requirements, but has yet to find the votes.

The Commission did ask its Planning and Zoning Commission to review the ordinance and recommend changes, but the resulting recommendation did not weaken the ordinance. The County Commission then kicked the issue back to Planning and Zoning, which holds another hearing May 9.

In neighboring Nelson County a cooperative is proposing a factory hog farm near Stump Lake. Residents have raised pollution concerns, and the County Commission is looking into zoning amendments.

Captive supply. The blistering inspector general report on failure to enforce the Packers and Stockyards Act finally woke Congress up last month.

The Senate Agriculture Committee gave the Grain Inspection, Packers and Stockyards Administration (GIPSA) until June 9 to report its progress in implementing the inspector general’s recommendations.

The report also led to the resignation of the agency’s Deputy Administrator, JoAnn Waterfield.

Inspector General Phyllis K. Fong’s report identified what she called “tremendous mismanagement.” Fong said GIPSA repeatedly blocked investigations of anti-competitive behavior.

The Committee’s ranking Democrat, Tom Harkin of Iowa, suggested the problem went higher than GIPSA.

“How is it possible that [GIPSA] was in array for so many years and no one above the level of deputy administrator took corrective action?” he asked, according to *Congressional Quarterly*.

Harkin showed the committee a 2003 letter from Bill Hawks, then undersecretary for marketing and regulatory programs, that claimed the agency was “undertaking a top-to-bottom review” of enforcement. Fong and GIPSA Administrator James E. Link said they had no evidence such a review ever took place.

DRC and WORC have been calling for reforms in the agency since 1990. A petition to the U.S. Department of Agriculture to eliminate captive supply-enhancing no-price forward contracts has languished without action since 1996.

No action has yet been taken on

the Captive Supply Reform Act, introduced in both the House and Senate.

Corporate Farming. DRC joined Farmers Legal Action Group and 34 other organizations in a “friend of the court” brief April 4, asking the Eight Circuit Court of Appeals to reverse a lower court decision declaring Nebraska’s corporate farming law unconstitutional.

Nebraska voters enacted the law through “Initiative 300” in 1982 as an amendment to the state constitution.

The U.S. District Court in Nebraska struck down the law, saying it violates the “interstate commerce clause” of the U.S. Constitution by discriminating against out-of-state economic interests.

Peru Free Trade. U.S. and Peruvian officials signed the U.S.-Peru Trade Promotion Agreement April 12, but recent elections in Peru put its fate in doubt.

Ollanta Humala, who placed first in the April 9 Peruvian Presidential election, is opposed to the treaty and has pledged to “use all legal mechanisms” to stop it if he wins the run-off election later this spring, according to BNA’s *Daily Report for Executives*.

A recount may be necessary to see if Humala’s opponent will be former President Alan Garcia, who has expressed doubts about the trade agreement, or conservative Lourdes Flores, who supports it.

The current Toledo administration in Peru is pushing for the current Peruvian Congress to ratify the agreement. Peru also held a Congressional election April 9, but not all the votes are counted.

The Bush administration wants to see a Congressional vote before the August recess.

STATE PERMIT NOT ENOUGH

by **Bernie Walters**

Those who are promoting huge livestock operations in the state are spreading the notion that those of us who live nearby shouldn't worry. The state will handle everything, and there's no reason to fear.

But the state's record says otherwise.

For example, state Department of Health Environmental Chief L. David Glatt gave the impression in a March 15 letter to the Bismarck Tribune that the state's emergency livestock rules enacted in 1999 were just for the purpose of cleaning up some confusing language.

In fact, the state Department of Health made up its mind at that time that it would ignore the environmental risks of hog manure lagoons, and exempt them completely from laws that apply to all other major sources of waste in the state.

That year, the state enacted "emergency rules" to accomplish this abandonment of responsibility. Later, the 1999 state legislature enacted those rules into the Century Code.

We live with the consequences today, which is why every community in North Dakota needs to protect itself through local zoning.

The state resorted to emergency rules to escape a September 28, 1998 ruling by Judge Bruce E. Bohlman that it was illegal to give Enviropork, a Grand Forks County operation, exemption from state solid waste laws.

The sensible judge saw through the state's mumbo-jumbo and recognized that Enviropork was "not a 'farming operation'...but a pig factory," in his words. So it wasn't entitled to a "farm exemption."

Bohlman added that even if Enviropork was defined as a farm, it made no difference. "It produces waste of a magnitude that clearly requires regulation" under state solid waste laws.

What was at stake was basically the quality of lagoon construction. Built in conformity with state solid waste laws, a pig factory's lagoon is not likely to leak. The way the law is now, leakage is a virtual certainty.

In court, the state argued feebly that it couldn't decide whether Enviropork's waste handling was legal until the facility was actually operating. Bohlman called this approach "illogical and illegal," since it would be too late to do anything about it.

But first the state Department of Health and then state legislators trumped Bohlman's common sense ruling. As a result, every community facing a new pig factory must take into account that it will probably leak quite a bit—unless that community undertakes its own local zoning to protect itself where the state has failed it.

Lagoon construction is not the only problem with the state permitting process. The state also requires no bond to protect the local community against liability when the business goes belly-up. And it doesn't require a manure management plan that assures the public that the operator has a place to dispose of the manure without ruining soil or causing water pollution.

Mr. Glatt came to his position of authority in the Department of Health after the state's shameful response to the Enviropork case, so we can't hold him directly responsible. However, that's no excuse for defending ineffective policy.

(Bernie Walters is a farmer and retired coal mine worker from Center, ND.)



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KIDWIND SETTING SAIL

DRC is going back into the wind education business more than 10 years after developing the state's first curriculum on wind energy, *WindWorks*.

Kidwind, a K-12 teacher course on wind energy will be offered for up to 35 teachers in Jamestown, August 1-2 under DRC's sponsorship.

The state Department of Commerce has given a preliminary statement of approval to provide funds for the course.

North Dakota State University's Continuing Education Department has approved one graduate credit for the course and has listed it in the summer teacher bulletin to be sent to all teachers in the state.

FPL Energy will provide a tour of the Kulm-Edgeley wind farm as part of the course. North Dakota Farmers Union is pitching in by donating a bus for the tour.

DRC is still confirming a specific site for the course.

Teachers can find course information now at www.kidwind.org.

Based in St. Paul, *Kidwind* is doing teacher workshops in six states this summer, including a presentation at the annual American Wind Energy Association conference.

PRINCIPLES OF COMMUNITY ORGANIZING

TRAINING SESSION

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This hands-on workshop covers

- ◆Leadership
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- ◆Organizational development
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For more information, contact Aleta Hendricks,
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