

Dakota Counsel

October 2010

Organizing • Research • Advocacy • Education

Vol. 33, No 6

ANNUAL MEETING OCTOBER 23

“Strong Roots: Local Foods and Rural Communities” is the theme for the DRC 2010 annual meeting at the Gladstone Inn, Jamestown, beginning at 1 p.m.

This year’s keynote dinner speaker is **Mark Schultz**, Associate Director of the Minneapolis-based Land Stewardship Project (LSP).

Back in 1988, Schultz spoke at the DRC annual meeting, outlining organizing being done by LSP to hold large farmland-investing life insurance companies (like John Hancock) accountable for their foreclosures, leasing and resale policies, and poor conservation practices on family farms they took over.

Schultz has 29 years of organizing experience in both rural and urban communities. Currently, he works with leaders and staff in LSP’s three major programs: Farm Beginnings, Community-Based Food Systems, and Policy and Organizing.

The afternoon panel will also feature speakers who want to inspire activism and working toward sustainable communities.

Kandi Mossett is an activist and organizer who works with tribal colleges throughout the upper plains and western great lakes to support the development and sustainment of initiatives to reduce their contribution to climate change. She will also discuss the impacts of oil and gas development on native communities.

Karl Limvere, pastor of United Church of Christ in Medina, and will be discussing local foods and the need for justice within our food system.

Limvere is a board member of FARRMS which empowers people to dream and realize those dreams by creating thriving, exciting, diverse, and sustainable rural communities. FARRMS establishes links between people, good food, living farms and the environment through hands-on educational experiences.

Derrick Braaten is a partner with Sarah Vogel Law Partners in Bismarck. His practice focuses on agricultural law, American Indian law, environmental law, and legal work supporting small businesses and economic development.



Mark Schultz

Braaten worked with the Minnesota Institute for Sustainable Agriculture for two years before moving on to law school at the University of Minnesota.

The **business meeting** leads off the day’s activities at 1 p.m. with a review of DRC activities and accomplishments for the year.

Members will consider new resolutions related to livestock market reform, genetically-modified crops, mining reclamation, energy efficiency and problems associated with oil and gas extraction and shipment.

As always, the **silent auction** will run throughout the day, with lots of delicious local foods and gift items to bid on.

DRC will also hold its annual elections. Candidates are:

- ♦ Chair: Marie Hoff, Bismarck.
- ♦ Vice Chair: Leo Walker, Maddock.
- ♦ Secretary: Terrence Kardong, Richardton
- ♦ Asst. Secretary: Travis Schulz, Bismarck.
- ♦ Treasurer: Verle Reinicke, Bismarck.
- ♦ Asst. Treasurer: Linda Weiss, Belfield
- ♦ Members at large: Steve Merrill, Minneapolis; Bette Stieglitz, Fargo; Robert White, Emerado; Vicki Rosenau, Valley City.

A NEW RIDE!

Thanks to the generosity of long-time members Art & Rose Sickler (below) of Dickinson, DRC is the proud owner of a 1991 Cadillac.

Rose served as the DRC Chair in 1984 and 1985 and both Art & Rose were active members and lobbyists during DRC’s formative years.



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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COME TO THE MEETING

By DRC Board Chair Marie Hoff

Dear fellow members,

Please mark your calendars and plan to attend this year's Annual Meeting on October 23rd in Jamestown! There are many reasons to attend.



1) We are a grassroots organization. Your participation and your perspectives are vitally important to DRC's mission to represent and advocate for the needs and rights of "ordinary folks" in North Dakota.

2) Our keynote speaker—Mark Schultz of the Land Stewardship Project is a highly effective leader in the national campaign to protect family farmers and promote responsible soil stewardship. Schultz is sure to motivate and inform us on important rural issues (as well as their urban effects).

3) We live in "exciting" times in North Dakota. Our future quality of life depends on how we handle many current challenges, such as oil and gas drilling, a proposed coal mine near Theodore Roosevelt National Park, fuel pipelines proliferating around the state, new wind energy and transmission lines, fair markets for farmers and safe food for consumers.

We need your participation and your perspectives on these challenges.

4) The Annual Meeting is free to all members (thanks to the generosity of underwriters). It is the one opportunity each year for all members to socialize, exercise the right to help elect officers, and to offer your input to resolutions which express member concerns, and your views on how to work on them.

5) The Annual Meeting is fun! Our silent auction is just a hoot as everyone runs around bidding up 40 lb. squashes, homegrown lamb, homemade breads, pastries and other attractive items. (I do some of my Christmas shopping at the silent auction.) The silent auction is both a fun-raiser and a fund-raiser for DRC. Contribute an item for sale or just come and enjoy the bidding.

6) We have several new and highly energetic staff and we are eager for them to meet you and for you to meet them. They too will be very interested in getting to know you and hearing about your concerns and interests.

In recent months the Board of DRC has been having some serious conversations about how to increase our membership and how to motivate greater active participation among our members. We (Board members) have challenged ourselves to each recruit three new members within the next twelve months.

As a grassroots organization we are only as strong as our members. Increased membership will also help us stabilize our funding base and reduce our dependency on grants, thus enabling DRC to be more flexible and persistent in responding to the felt concerns of grassroots North Dakotans. I am asking each member of DRC to seriously try to recruit at least one or two of your friends, neighbors or relatives to join DRC in the coming months.

With such an "each one reach one" campaign, we could double our membership within a year—and thus strengthen YOUR voice in public decision making about the future of North Dakota.

I look forward to seeing you in Jamestown.

KILLDEER FRACKING SPILL

The first major North Dakota accident involving hydraulic fracturing fluids occurred September 1 in Dunn County at a well drilled directly through the Killdeer Aquifer.

State officials estimated the spill at more than 2,400 barrels, which included crude oil and hydraulic fracturing fluids, and called it the worst spill in state history on a horizontal well.

The exact contents of “fracking” fluids are not known, since a 2005 law (sometimes called the “Halliburton loophole”) passed by Congress exempted the industry from reporting them, but they generally include toluene and benzene.

The lack of reporting makes it difficult for federal agencies to trace the

source of contaminated water that shows up in oil and gas producing areas.

A report by Riverkeeper released in September listed more than 100 cases of contamination it says are related to natural gas drilling around the country, according to the Associated Press.

Twenty of the cases were from Pennsylvania, where there is heavy natural gas drilling in the Marcellus Shale formation.

Ten surface water spills of drilling fluid have been reported in that area, and the state’s Department of Environmental Protection has logged 1,435 violations of state oil and gas law.

The state Congressional delegation voted for the 2005 exemption and has long opposed lifting it.

The company responsible for the North Dakota spill was Denbury Onshore LLC.

The Texas company reportedly operates 185 wells in North Dakota.

The casing break that released the oil and fracking fluids was evidently caused by a mechanical failure that created pressure too high for the casing to withstand.

The company plugged the well and cleaned up spilled liquids on the surface by September 3.

Department of Mineral Resources Director Lynn Helms said stricter rules for pressure testing were enacted after a similar accident two years earlier.

He said the state would investigate possible violations.



DC ENERGY NEWS

Climate Change

With the cap and trade bill officially dead, opponents of timely action on climate change are now setting their sights on outlawing federal enforcement.

Sens. Conrad and Dorgan have both signed on to S. 3072, the Stationary Source Regulations Delay Act, sponsored by Sen. John D. Rockefeller IV (D-WV).

The bill would prevent the U.S. Environmental Protection Agency from greenhouse gas emissions from power plants and other large industrial sources for the next year.

In a letter to DRC, Dorgan said he supports efforts to reduce greenhouse gas emissions but wants Congress rather than the EPA to do so.

The U.S. Supreme Court decided in 2007 that EPA had the right to regulate carbon dioxide and other greenhouse gases under the Clean Air Act.

EPA formally declared carbon dioxide a health hazard in December 2009 and began drafting rules to reduce emissions from cars and trucks.

These pending rules evidently would not be affected by S. 3072.

Dorgan says he wants Congress, not EPA, to decide how to reduce carbon dioxide emissions, although it has failed to act so far, and there is no indication it will act this year.

Coal Ash

EPA is still dithering about whether to regulate coal ash as household garbage or potentially hazardous waste.

The agency essentially issued draft rules covering each possibility earlier this year and is still holding hearings.

Coal ash contains toxic metals such as cadmium, mercury and arsenic and is by far North Dakota’s largest waste stream.

Coal-fired power plants nationally generate about 150 million tons of coal ash annually.

The coal industry and its allies have lobbied heavily to keep coal ash untested for toxicity under the federal Resource Conservation and Recovery Act.

The official line of the North Dakota lignite industry, echoed by the *Bismarck Tribune*, is that the states can do a better job than the federal government.

DRC member Gene Wirtz, who lives near Coal Creek Station, noted that the state makes utilities dispose of coal ash in pits lined with clay or composite plastic.

“That’s not a valid reason to oppose similar federal rules,” said Wirtz. “It will only hurt people in other states that have failed to put common sense protections into place.”

SOUTH HEART COAL TO CHINA?

Could South Heart coal be heading to China?

DRC and its local affiliate, Badlands Area Resource Council, raised this question October 12 at a public meeting in Dickinson on the future of the South Heart coal project.

Great Northern Properties, which owns the coal, has never identified any specific prospective buyers for either electricity or synthetic natural gas from a conversion plant, or coal from a “merchant mine.”

China is in the market for coal, however.

The U.S. Energy Information Administration reported that foreign exports of U.S. coal increased by about one-third from the first quarter of 2009 to the first quarter of 2010.

By far the greatest increase in exports was to China, which increased its imports of U.S. coal by a factor of more than 1,000.

Other countries with growing appetites for U.S. coal include South Korea, Egypt and Turkey.

Demand for coal has fallen in the United States because a number of coal plants have shut down in this country while virtually no new coal plants have come on-line.

“This may be rational market behavior,” said Linda Weiss, BARC Chair, “But is it good policy to rip up productive American farmland to provide coal to China?”

Weiss said it remained “very unclear just what the South Heart coal project is,” but stressed that it was fundamentally “an effort to cash out mineral rights given away in the 19th Century to promote transcontinental railroad systems before the coal becomes an unusable stranded assets.”

Great Northern Properties, an out-of-state company, holds these former railroad rights in the South Heart area and in many other locations across the nation. It is the largest private holder of U.S. coal rights.

The company also leased coal rights from another 25 mineral owners in the area in 2003.

Originally, Great Northern applied for a permit to build a conventional coal-fired power plant near South Heart, but withdrew its permit application in 2007 after the U.S. Department of Interior found that a similar plant proposed in Gascoyne would have an “adverse impact” on Theodore Roosevelt National Park.

Since then, promoters have been saying they would build a “clean coal” facility on site, but they have never applied for the necessary air quality permit.

They also haven’t submitted a coal mining permit that addresses the 37 deficiencies found by the Public Service Commission in their March application.

If the company moves toward a merchant mine, noted Weiss, it will produce a lot fewer jobs than promised, maybe only 50 instead of 350.

It would have to compete cost-wise with coal from the Powder River Basin and elsewhere, and contracts might hinge on the success of the experimental GTL Energy (GTLE) coal-drying process.

Two tests on North Dakota lignite removed more than two-thirds of the moisture and increased energy value by 42% and 53% respectively, but what that means competitively is not clear.

The company’s test of lignite from Texas were comparable, and lignite from Indonesia and New Zealand did better than North Dakota’s.

Area residents attending the meeting expressed many concerns about mining.

Chris Kanski, South Heart, told the *Dickinson Press* he was concerned about the amount of pollution the project might create and “the poor record some companies have about turning the land back over to the landowner after they have completed their work.”

“The key to a healthy economy for the Dickinson area in the long run is a prosperous agricultural sector, together with maintenance and expansion of the area’s base of manufacturing and professional services,” said Weiss.

“A coal mine near South Heart would put a number of local farmers and ranchers out of business because of the large tracts of land that would be unusable for agriculture over a long period of time,” she added.

The company has been silent for a long time on its plans.

Will it keep trying for a “state of the art clean coal” plant? Or will it wind up exporting raw materials overseas?

U.S. COAL EXPORTS (selected countries in short tons)		
Country	1st Qtr. 2009	1st Qtr. 2010
China	124	1,674,282
South Korea	253,739	1,452,215
Ukraine	-0-	422,737
Turkey	75,558	742,040
Egypt	5,023	330,553
Romania	56,046	256,889
Croatia	128,113	230,555
All US exports	13,334,822	17,806,595

PETITION MDU ON-LINE

Don't Charge for Unearned Profits

Missouri Valley Resource Council is asking Montana-Dakota Utilities ratepayers across the state to sign a petition urging the utility not to charge customers for anticipated profits from the failed Big Stone II coal-fired power plant.

The plant, planned for northeastern South Dakota, folded earlier this year after Otter Tail Power dropped out.

MDU could still bill ratepayers for estimated profits from the phantom plant with the approval of the state Public Service Commission.

The PSC first gave MDU and other Big Stone II investors an "advance determination of prudence" in 2008.

This year, after the utilities abandoned the project, the PSC ruled it was no longer prudent—a decision that could allow MDU to recover its \$13 million in costs from the ratepayers plus another \$952,000 as a return on investment.

"We shouldn't have to pay for a project that was never built," said Verle Reinicke, MVRC chair.

MDU ratepayers can sign the petition by contacting Energy Organizer Scott Skokos at scott@drcinfo, or by signing MVRC's online petition:

<http://www.PetitionOnline.com/MVRC/petition.html>

GASIFICATION PLANT: COSTLY EXPERIMENT

Basin Electric Power Cooperative made its last payment to Uncle Sam this month for the Beulah coal gasification plant, which it bought in 1988 after the original owners abandoned it and defaulted on a \$1.5 billion loan.

Basin may have fulfilled its responsibility, but it hasn't been a bargain for the U.S. taxpayer.

The total amount repaid was just under \$400 million, less than one-third of the original loan.

It is true that the government did not have to pay out the \$1.3 billion in unused tax credits, which were figured into the deal. But it also wouldn't have paid them out if it had simply let the plant fail in 1988.

If the feds had been able to collect the cost of the original loan adjusted for inflation (less than 3% per year since 1988), the total repaid would have been nearly \$3 billion.

Here's another way to look at it. If instead of making the original loan, the feds had distributed \$1.5 billion to those living in Mercer County at the time, it would have meant \$500,000 for each family of four.

That figure would be higher today, since the population of Mercer County has declined by 36% since 1984 according to U.S. Census Bureau figures.

Daryl Hill of Basin told the *Bismarck Tribune* there are 700 jobs at the plant (although he does not say how many are held by Mercer County residents). Given the difference between the original loan and what Basin paid back, that's \$1.67 million per job in taxpayer money.

Unaccounted for in any of these calculations are the public health costs that resulted because the plant consistently violated its emissions limits for sulfur dioxide for the first 15 years of its existence.

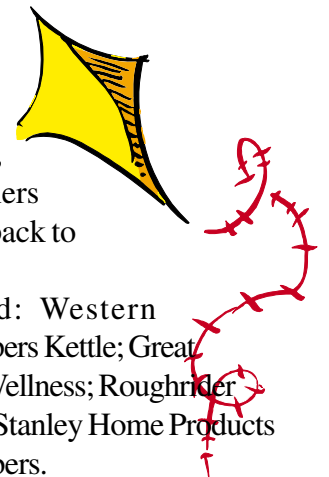
KITE-A-THON WINNERS

BARC held its 12th annual Albert E. Hlebechuk Memorial Kite-a-thon September 12 and filled the skies above Belfield with a wide variety of kites, many given away, and all powered by the wind.

Grand prize kite winner was Ashley Lauth, Dickinson. Other winners were: Jim Barnett, Belfield; Jakob Weiss, Bismarck; Ken Pierce, Dickinson; Ernie Klem, Belfield; Sara Wolff, Fargo; Richard Davis, Belfield; Linda Weiss, Belfield; Corinna Evoniuk, Belfield; Bekke Hlibichuk, Belfield; Luke Hurt, South Heart; Bob White, Emerado; Noreen Kudrna,

South Heart; Chantra Boehm, Richardton; and Carolyn Heidt, Dickinson. Many of the winners graciously donated their kites back to BARC for next year's prizes.

Kite sponsors included: Western Cooperative Credit Union; Trappers Kettle; Great Plains National Bank; Western Wellness; Rough Rider Electric; Irsfeld Pharmacy; and Stanley Home Products along with several BARC members.



AG & TRADE ROUNDUP

Free Trade Losing Favor

More than half of all Americans now believe free trade agreements have hurt the nation, according to a recent poll by NBC News and the *Wall Street Journal*—up from 30% in 1999.

Nearly 70% of Americans now believe that trade agreements have cost the country jobs, while only 18% believe they have created jobs.

The issue crosses ideological lines, with 65% of union members and 61% of Tea Party sympathizers agreeing free trade has been bad for the country.

According to pollsters, those earning more than \$75,000 per year represent the largest swing to free trade opposition.

Illegal GM Beets

Sugar beet co-operatives that bought into Roundup Ready seeds may be facing yet more problems in court.

The federal judge who ruled that USDA should have conducted an environmental impact statement prior to legalizing the GM beets said September 27 that USDA probably erred again in allowing limited seeding permits late this summer.

Judge Jeffrey S. White will consider the problem at an October 22 hearing.

Organic beet growers and other interested groups won a suit a little over a year ago charging that USDA approved deregulation of Roundup Ready beets prematurely, using arguments similar to those that won the day in the case of Roundup Ready alfalfa.

Issues in the case included the rise of herbicide-resistant weeds and cross-pollination resulting in damages to those who rely on non-GM markets.

Most state press has been sympathetic to beet growers, but editor Marvin Baker of the *New Town News* said “any farmer who has gone to this GM variety should have seen this coming from 10 miles away.”

“The world doesn’t want genetically modified crops,” said Baker.

Monsanto’s Decline

Last December, *Forbes* named Monsanto “company of the year,” but earlier this month television stock market commentator Jim Cramer said Monsanto “may be the worst stock of 2010.”

Why?

It just isn’t producing anything new according to *Grist* commentator Tom Philpott.

Monsanto’s newest seeds “offer just tarted-up versions of the same old traits it has been peddling for more than a decade: herbicide tolerance and pest resistance.”

An example cited by Philpott is SmartStax corn seed, designed to address the problem of Roundup-resistant superweeds by combining Monsanto’s Roundup Ready trait with Dow’s Liberty Link.

The problem is that Smart Stax is “providing yields no higher than the company’s less expensive corn,” according to Andrew Pollack of the *New York Times*.

For years, Monsanto has been promising new seeds with new genetically engineered traits, like wheat engineered with drought resistance and scab resistance. Where are they?

Philpott thinks the problem is with genetic engineering itself, which he says is “much cruder and less effective than its champions have let on.”

“It’s one thing to isolate and splice in a gene like Bt that kills insects, but quite another to affect something like a plant’s ability to take up water and resist drought,” wrote Philpott.

Breeding for that kind of complex trait involves not just one gene but groups of genes interacting in ways that are not well understood, according to Doug Gurian-Sherman, senior scientist at the Union of Concerned Scientists.

Gurian-Smith says conventional breeding has shown some success in nitrogen-use efficiency, for example, where GM experiments have so far failed.

GM Non-Adopters Better Off

Meanwhile, non-GM corn farmers are seeing a better bottom line than those who plant GM Bt corn, according to a study conducted at the University of Wisconsin and published in *Science*.

The biggest factor in non-adopter success is probably that they are not required to pay a technology fee, according to the study.

The study focused on corn producers in the U.S. Midwest from 1996 to 2009, where Bt technology has been widely used during that time to control the corn borer.

Researcher Paul Mitchell concluded that better control of the corn borer had a \$6.9 billion benefit to corn producers in Minnesota, Iowa, Wisconsin, Illinois and Nebraska over the past 14 years.

Yet 62% of that benefit fell to those who didn’t plant GM corn. In Wisconsin, the percentage was 75%.

MISSING COMPETITION CLOSE TO HOME

by Link Reinhiller

I live in rural Hazen, North Dakota, where I have been a cow-calf producer since 1964.

I am a member of Dakota Resource Council, R-CALF, North Dakota Farmers Union and the National Farmers Organization.

In recent years I have worked with other cattle producers to market cull cows directly to slaughter plants. A major obstacle to our marketing efforts is that a competitive market for cull cows in our region does not exist.

There are only five slaughter facilities for cull cows that are located within a reasonable shipping distance. One company, American Food Groups, owns all five. The same company is also the only bidder for cull cows brought to auction sale barns in North Dakota.

In other words, there is no competition.



UNDUE PREFERENCE COMMENTS DUE NOVEMBER 22

There is still time for livestock producers to submit comments on proposed USDA "undue preference" rules by the November 22 deadline.

Comments can be submitted by e-mail to comments.gipsa@usda.gov.

USDA also accepts comments by fax at (202) 690-2173.

If you are sending comments by surface mail, address them to Tess Butler, GIPSA, USDA, 1400 Independence Ave. SW, Room 1643-S, Washington DC 20250.

The best comments will say how individuals have been hurt by lack of competition in the livestock industry over the long haul.

Comparisons of cost of production, feeder calf prices and profitability over time are a good idea.

In addition, American Food Groups has contracted with a South Dakota feedlot to feed Canadian cull cows for them. This expands captive supply into a new area of beef production, and further depresses the market for my cull cows.

What is happening in our region with cull cows is symptomatic of the rampant monopoly buyer power in U.S. cattle markets today.

Cow-calf operators like myself, and rural communities as a whole, desperately need the federal regulatory enforcement of the Packers and Stockyards Act to return competition, and a fair return on investment and labor to this nation's cattle industry.

(Link Reinhiller is the chair of DRC's Trade and Livestock Task Force and represented DRC at the U.S. Department of Agriculture and

So are comments that talk about the loss of local livestock markets, fewer bidders at remaining markets and fewer country buyers.

Comments should emphasize concentration of packing companies and retail outlets and the need for open, competitive public markets for slaughter cattle that offer real price discovery.

The rules contain several features that DRC regards as favorable, including prevention of bonded buyers from acquiring cattle for more than one company and written justification for paying different prices for the same quality cattle.

The rules also clarify that violations of the Packers and Stockyards Act may be proved without showing an injury to competition in general.

Department of Justice workshop on livestock competition in Fort Collins, August 27. Link gave this brief talk as part of a rally the evening before the workshop.



I'D LIKE TO SUPPORT DRC ENCLOSED PLEASE FIND:

General Membership

___ \$500 • Watchdog of the Prairie

___ \$250 • Sustaining

___ \$100 • Century Club

___ \$ 55 • Household

___ \$ 35 • Individual

___ \$ 15 • Student/Low Income

BARC/DRC Membership

Household \$60___ Individual \$40___

GFC3/DRC Membership

Household \$60___ Individual \$40___

MCETA/DRC Membership

Household \$65___ Individual \$ 45___

MVRC/DRC Membership

Household \$60___ Individual \$40___

SARC/DRC Membership

Household \$75___ Individual \$ 45___

Name_____

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City, State_____

Zip_____ Phone_____

e-mail_____

VOTE LIKELY ON FOOD SAFETY

Bill Could Disadvantage Small, Local Producers

After many delays, comprehensive legislation on food safety may reach the U.S. Senate floor during this fall's "lame duck" session.

Problematic in the Senate bill (S.510) is its extension of complex rules to small farmers who market directly to retail outlets and to facilities processing local foods for local markets.

WORC estimates that over 1,000 North Dakota small businesses would be affected and may be forced out of business.

The House bill passed this summer with these provisions.

It did exempt retail food establishments but did nothing to relieve the burden on farms and processing facilities that market local foods.

The key problem with the bill is that it subjects small, local producers and processors to the Hazard Analysis and Critical Control Point (HACCP) system.

HACCP's track record is not good. The number of regional and local meat packers has declined since its

inception, and the number of independent, hands-on inspectors at giant slaughter and meatpacking plants has actually decreased.

Not surprisingly, e-coli and other food-borne illnesses have increased under HACCP.

The Farm and Ranch Freedom Alliance also notes that S.510 in its current form would create "incentives for retailers to import more food from other countries, by burdening domestic producers with requirements that, in practice, will not be equally enforced on foreign producers," leading to a "significant competitive disadvantage for all U.S. agriculture and food production."

Sens. Jon Tester (D-MT) and Kay Hagan (R-NC) plan to submit a floor amendment to S.510 that would exempt small farmers and processing facilities.

In recent correspondence with DRC, Sen. Kent Conrad discussed concerns about S.510 but stopped short of endorsing the Tester-Hagan amendment.

You can let Sen. Conrad know your views by calling (202) 224-2043. Sen. Dorgan's office can be reached at (202) 224-2551.

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