

Dakota Counsel

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Darrell Dorgan: N.D. as ‘Superfund’ site: It can happen here



EDITOR’S NOTE: Reprinted below are two op-eds by DRC members making the case for responsible handling of radioactive waste from the oil fracking process. Darrell Dorgan clearly stated the situation in the Grand Forks Herald April 20. That drew a dismissive opinion from Jay Almee of the Energy and Environmental Research Center at the University of North Dakota on April 29. In turn, DRC Board member Larry Heilmann responded May 10 with facts and logic. Heilmann is a retired microbiologist who worked with radioactive isotopes for many years. Each of these op-eds were in other newspapers, including the Bismarck Tribune, Dickinson Press and The Forum of Fargo-Moorhead. See page 4 for another story on radioactive waste.

North Dakota has one of the world’s hottest economies. Because of a booming oil industry, we have no unemployment, our population is increasing, banks are full of money. We’re the envy of the world.

But we are also being inundated by dangerous radioactive waste, toxic chemicals and unless something happens quickly, this could result, in the words of industry leader, a large portion of Northwestern North Dakota becoming a “Superfund site”. Simply put, a national sacrifice zone---an ecological disaster area.

The job of the Health Department and other state agencies is to protect the health and welfare of people who live here, not increase the profits of the oil industry. But it’s the latter not the former that has been the norm. We have laws but there is no enforcement and someone needs to be held accountable. Radioactive and toxic waste from well sites can and will cause cancer.

The oil industry generates tons of radioactive waste daily from drilling sites. State laws require waste, above five picocuries, to be shipped to an approved site in either Colorado or Idaho to be safely disposed of. The oil

See Dorgan pg. 3

Larry J. Heilmann: Oil Waste Anything but Harmless

In a May 3 column in The Forum, Jay Almlie of the University of North Dakota Energy and Environmental Research Center discussed the safety of the radioactive waste being produced in the North Dakota oilfields. The gist of his opinion is that this waste is essentially harmless, no more dangerous than granite countertops or bananas, and that the public is just too ignorant to understand. They should just leave the handling of this problem to the oil industry, which, incidentally, pays Almlie’s salary.

Wrong term

Almlie uses the term NORM – Naturally Occurring Radioactive Material – to describe this material. He is right that there is radiation everywhere and in everything, but his implication that this means the “natural” waste from oil production is no more dangerous than the soil in farm fields is very wrong. The correct regulatory and legal term for this waste is TENORM – Technologically Enhanced NORM. Almlie knows this term well but chose not to use it. The principal radioactive waste material in North Dakota is radium 226, an alpha and gamma radiation emitting product of the decay of uranium that naturally occurs in some strata of the Williston Basin. The fracking and extraction of petroleum brings some of this to the surface. It has been concentrated and exposed – the regulatory definition of technologically enhanced. The concentration of the radium can be increased as much as several hundred- fold, and it is now exposed to air and water used by people.

See Heilmann pg. 4

The Dakota Counsel is published four 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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Finding our Voice

In between spring rain showers and planting crops or gardens, members were attending hearings and meetings. Many members attended the Bureau of Land Management hearing in Dickinson, ND on May 9, 2014. They voiced their concerns and experiences dealing with flaring in their communities.

U.S. Department of the Interior Deputy Secretary Mike Connor and BLM staff heard them. It was enriching to hear WORC group members not only from DRC, but from Wyoming, South Dakota and Montana tell their close encounters with flaring in their states.

Every week one member or another faces a new challenge. And if you missed it you can hear about it on the podcast on our new website. You can find it on the homepage titled, "DRC Weekly Update."

In July, two new organizers will hopefully join with the board and staff at the strategic planning meeting. With the legislature convening only a few months later, there is much to plan for.

Annual meeting arrangements are coming together. There are some exciting events planned for that gathering in Bismarck late October. Make a note on your calendar. Let us know about possible business sponsors we can contact. And consult your creative muse in putting together a silent auction basket.

People continue to have house parties showing our movie "This is Our Land." Contact our staff for help with those events. It is a great way to share our stories.

Our campaigns progress with help from Mark Trechock and Taylor Brorby as you read on in this issue.

Have a great summer to come.



Anderson Joins DRC

In April, DRC welcomed Liz Anderson to the Bismarck office where she handles the office administrator position. Liz has been doing a great job for DRC since she has started and she has made our work a lot smoother.

Liz was born and raised in Denver, Colorado and left after high school to attend Guilford College where she received her degree in geology. Liz has worked and volunteered on many political campaigns since college and has had experience in organizing.

Liz lives in the Bismarck/Mandan area with her husband Don and their daughter Jean. Liz coaches and plays for the local roller derby team and serves on the school board of her daughter's school.



DORGAN (from Pg. 1)

industry asked the Health Department nearly two years ago to review the shipping rules, citing cost. The department agreed, stopped enforcing the disposal laws until a study was done (using oil industry money). Consequently, for at least two years and maybe five, tons of cancer causing radioactive waste has been dumped in North Dakota. It's in the water you drink, the air you breath, the food you eat. Where? Health Department can't tell you. They simply quit tracking, told local municipalities to keep it out of their landfills.

Last year the landfill at Watford City discovered about 1,000 radioactive filter socks hidden in oil field trucks as they were being smuggled into the landfill. Hundreds more were found at the Williston landfill.

When department officials were asked last year where the radioactive waste was going after being rejected by local landfills, they didn't know, but we're starting to find out.

Hundreds were found recently stashed near Watford city, hundreds more in an abandoned garage in Noonan. It's a safe bet there are thousands more scattered around the state. Stories abound of trucks with radioactive and other toxic waste, dumping in ditches, fields and creeks.

In response to the outrage over the mishandling of radioactive and toxic waste, the Health Department last week grandly announced operators of salt water disposal sites will be required to provide on-site radioactive filter sock containers that will be collected by and disposed of at authorized facilities out of state. It's basically what state law now requires.

I'm thrilled they've decided to begin enforcing rules and regulations regarding radioactive waste but many questions remain unanswered.

1. Why were the new guidelines initiated by the State Department of Mineral Resources Oil and Gas Division, not the Health Department that is supposed to be enforcing the handling of radioactive and toxic waste.

2. Is anyone in the Health Department being held responsible for the lack of enforcement and illegal disposal activity of radioactive waste?

3. What has happened to the tons of waste that has not been accounted for?

4. When will fines be levied, criminal charges brought against those responsible for illegal dumping?

5. Who authorized the Health Department to stop enforcement of laws regarding the handling of radioactive and toxic waste?

6. Did, as rumors suggest, the Department of Mineral Resources allow the North Dakota Petroleum council to review the new guidelines?

7. Has the state Department of Mineral Resources Oil and Gas Division, with permission of the North Dakota Petroleum Council now in charge of establishing new guidelines that would increase the radioactive level of waste?

The health department is understaffed, outgunned. There are more border patrol and FBI agents working the oil patch than Health Department Inspectors.

In the 1970's, despite intense industry pressure, state government joined with farm organizations and other public interest groups to pass stringent strip mine reclamation laws. Our statutes were used as models for federal legislation. Land has and is being reclaimed and industry has safely paid its way. I'm proud of what we did in the 1970s and 80s. I'm ashamed and outraged at what is happening today.

Example: There's a major, unlicensed dump site on the border with Montana. It's been operating a nearly two years without a license. Water aquifers lead to the confluence of the Missouri and Yellowstone. Two weeks ago the site was operating, accepting North Dakota waste. Last time I checked, the site was owned by a Louisiana legislator (that's real comforting).

Health Department and oil industry officials like to claim a five picocurie level of radioactivity is the same as getting a dental x-ray. Could be, but why do they always make you wear a lead apron when they x-ray your teeth?

Much of the waste is significantly higher than five picocuries. Radioactive and toxic waste can and will cause cancer.

Plan to attend
DRC's 37th Annual Meeting
October 26 in Bismarck

Noonan Site Cleaned Up

In the March newsletter, we had a story about an abandoned gas station in Noonan, ND that was filled to the brim with garbage bags of radioactive filter socks. The national media picked up the story often interviewing DRC leaders and now, the state is expected to come out with new rules on illegal dumping of radioactive filter socks this fall.

Pro-industry officials have been saying that even though the dumping of the filter socks is wrong and illegal, there shouldn't be any concern about the small amount of radioactivity in the filter socks.

Those comments concerned Darrell Dorgan, a DRC member and ND Energy Industry Waste Coalition leader, so he packed up his filming equipment and headed to



Photo by Darrell Dorgan

Noonan, ND on April 23 to see how the site was cleaned up. Dorgan wondered, if radioactive filter socks had such a low radioactivity level that won't hurt anyone, then why was the cleanup crew dressed in hazmat suits to protect themselves?

The cleanup took the entire day as the crews in hazmat suits took the garbage bags of contaminated filter socks and put them into containers that were sealed, locked and sent away to a radioactive waste facility.

Originally, the North Dakota State Health Department was in charge of new rules concerning radioactive filter socks, but now, with no explanation, the Department of Mineral Resources said that they will be proposing new rules on radioactive waste later this year.

HEILMANN (from Pg. 1)

Dangerous to kids

This stuff will not kill you immediately. It is in no way the equivalent of reactor fuel rods or weapons production waste, but it is a chronic lifetime accumulative poison. It is particularly dangerous to young children. It is dangerous when ingested or inhaled. Radium is chemically similar to calcium and migrates to the bones where it can become a permanent part of the bone. Anyone doubting all this should google "Navajo uranium mines" and read the horror story of what happened to the uranium miners who produced the raw material for nuclear weapons in the 1950s and '60s. Almlie states that this waste is no more dangerous than a granite countertop in your kitchen. This might be true for the original solid rock 10,000 feet underground that has not been crushed and concentrated. The correct comparison to the material on the filters would be to pulverize the countertop and

chemically concentrate the radioactive components using the same brine and fracking fluid used in the field. That would be a technologically enhanced countertop.

Dust on wind

The filter socks that filter out and further concentrate most of the radioactive material should never be dumped in ordinary landfills and waste dumps, let alone abandoned buildings, old trucks or roadside ditches. The dried dust can be blown by the wind into the air and inhaled by people far from the source. Water percolating through filter socks can dissolve this material and then contaminate local aquifers providing drinking water for farms and towns. Once contaminated, there is no way to clean up an aquifer. Almlie spends an inordinate amount of words complaining about the high cost of proper disposal and how this is costing the oil companies millions of dollars extra. Extra compared to doing nothing. At a meeting with

the North Dakota Health Department last year Darrel Dorgan stated it bluntly: "The purpose of the Health Department is public health, not the preservation of oil company profits."

Same pattern

For decades, the construction industry claimed that asbestos was perfectly safe even though their own research showed it was deadly. Tobacco industry CEOs claimed under oath that tobacco was not addictive. The oil industry claimed for years that leaded gasoline was not harmful, and its scientists testified before Congress that lead in the air was not toxic. Now these same organizations and their paid-for scientists want us to believe that low-level radioactive waste is no danger at all. After all, it is all natural. State and federal laws require special treatment and disposal of radioactive material for a good reason. It is dangerous. Heilmann is a DRC board member.

Members Meet to Talk GM Wheat

In April, the DRC Agriculture and Food Task Force met in Carrington, ND to talk strategy about GM wheat in light of there being test plots in undisclosed locations in North Dakota. Many producers are worried about these test plots. Because GM wheat is illegal in 17 European countries, if GM wheat get

into exports of North Dakota wheat, it could demolish the markets and hurt North Dakota farmers.

All members agreed that there should be better regulations on the hidden test plots in North Dakota and talked about ways to find out where these plots are. The *Grand Forks Herald* asked DRC to write

an op-ed on GMOs. The piece written by Todd Leake is reprinted below.

For more information on GM wheat and other ag and food issues, contact DRC organizer Matthew Leibel by calling the DRC office at 701-224-8587 or by e-mailing him at matthew@drcinfo.com.

TODD LEAKE: The special case of GMO wheat demands special precautions

Todd Leake farms near Emerado, ND and is a long time DRC member. He was a leader of DRC's campaign that helped stop GM wheat from being introduced in 2004. The issue has returned. A little more than one year ago, an Oregon farmer found unapproved, genetically modified herbicide tolerant wheat growing in his field. The GM wheat shouldn't have been there. It was an illegal material. As Todd's op-ed relates, Japan and South Korea suspended imports of the type of wheat grown in Oregon. Once again, foreign markets have made it clear that they will not accept any GM wheat. This op-ed was published in the Grand Forks Herald, April 27, 2014.

EMERADO, N.D. — Just more than a year ago, wheat that has been genetically modified to tolerate herbicides was found growing in a field in Oregon. This GMO wheat shouldn't have been there and was an illegal, regulated material.

Upon confirmation of this contamination by Oregon State University and the U.S. Department of Agriculture, Japan and South Korea — which buy most of the Western White wheat crop — immediately suspended imports of western white wheat, grown throughout Washington and Oregon.

The western white markets were thrown into disarray, and all U.S. wheat markets were hurt.

GMO wheat is not a marketable commodity and should not be commercialized.

In 1996, genetically modified crops or GMOs were introduced into agriculture, primarily with herbicide tolerant and insecticide-producing traits derived from bacteria DNA and introduced into corn, canola soybeans and cotton.

Simultaneously, research was underway in the United States to genetically modify wheat with these same GMO traits. Once field trials of GMO wheat were initiated in the early 2000s, most of the major customer countries for U.S. wheat adopted policies banning the importation of GMO wheat.

These key countries that U.S. wheat farmers export to include all of the countries of the European Union,

Japan, South Korea, Taiwan, Philippines and Algeria. Their purchases represent the vast majority of U.S. wheat exports.

These countries have the right to ban GMO imports under the rules of the International Biosafety Protocol, a global treaty regulating trade in GMO commodity shipments.

In response to these customers' concerns on GMO wheat, the USDA's Grain Inspection, Packers and Stockyards Administration — which inspects and certifies grain export shipments — gave the customers a certification that no GMO wheat is grown commercially in the United States. This satisfies the requirements of the company that is exporting wheat shipments, the company that has bought U.S. wheat for importation and the importing countries' food inspection agency.

Any commercial introduction or accidental contamination of the U.S. commercial wheat supply with GMO wheat will nullify that arrangement. In the words of one major buyer of U.S. wheat, "we will procure our wheat imports elsewhere."

We've already seen two worrisome examples of this market loss play out. In 2006, an herbicide-tolerance trait accidentally was introduced into a rice variety widely grown in Arkansas and Mississippi. The rice was exported to the European Union, where the GMO trait was detected.

See GMO Wheat pg. 8

DRC Members Testify at DMR and BLM Hearings

For two years, DRC members have made it a top priority to reduce the amount of flaring in the Bakken. During that time, members have tried to bring awareness to the North Dakota State Health Department about air quality, lobbied the North Dakota Legislature to reduce flaring, and traveled to Washington, D.C. to meet with Secretary of the Interior and the White House Council on Environmental Quality.

In January, the North Dakota Petroleum Council presented recommendations to reduce flaring to the North Dakota Industrial Commission, which approved the recommendations at their next meeting.

In April, the Department of Mineral Resources (DMR) handled the public comment period and hearing about the resulting new rules. DRC submitted seventeen pages of public comment to the DMR answering all of their questions.

Theodora Bird Bear, the DRC Oil and Gas Task Force Chair, testified at the DMR hearing on April 22. Bird Bear said, "There should be only three instances where flaring can occur — emergencies, production testing and purging. Other than that, there should be no flaring." She also expressed the need to enforce air quality in Western North Dakota.

Bird Bear told the DMR panel that DRC understands pipelines are needed to reduce flaring. She said "Landowners are not a barrier to this development," said Bird Bear. "If industry really wants to work with landowners, they need to reach out in a very genuine way." DRC's

written comments included 25 provisions that should be required in a first contract offer by pipeline companies to make sure land owners are treated fairly.

On May 9, the BLM held a pub-



DRC member Greg Tank testifying at BLM Hearing

lic forum in Dickinson on revising rules that haven't been updated for 30 years. Thirty DRC members traveled to Dickinson to attend and many of them spoke.

U.S. Department of the Interior Deputy Secretary Mike Connor, agreed that there needs to be better rules on flaring saying, "126 billion cubic feet of gas was being flared, which is equivalent to \$23 million of lost royalties."

DRC members made the point that it's not just an economic impact, but there are health effects as

well. Cedar Gillette, a DRC member, noted that, "Twin Buttes is most impacted with 92 percent of natural gas being flared off. It's completely unacceptable. There have been cases of asthma, bloody noses, and a cancer spike, and to be ignorant and say these breathing issues are not linked to flares is completely asinine. You must require meters on all devices and monitor them."

Many other members of DRC testified, including Theodora Bird Bear, Don Nelson, Greg Tank, Ronya Hoblit, Vinod Seth, JP Holmes, Vance Gillette, Lynn Wolff, and Ron

Saeger. Also present were members from other WORC groups. Bob Loresh from Wyoming's Powder River Basin Resource Council informed the crowd that he served as an oil and gas regulator in Alaska decades ago and in his testimony said flaring is a 40-year-old problem in North America.

The BLM forums wrapped up in Washington, D.C. on May 15 and the public comment period ended on May 30. BLM plans to submit proposed rules by the end of the year.

DRC Member Starts Solar Business

DRC member, John Wanecke, has started a business called, Solarize Burleigh County, and is offering a free workshop and a free site assessment. With Solarize Burleigh County you can use clean, sustainable and responsible energy while you get approximately a 14% investment return, just for being a good steward of the land. For more information, you can give John a call at 701-595-3410. Installs are limited...first come, first serve.



DRC News

Taylor Brorby is heading up a special DRC effort to put the necessary spotlight on real life in the Bakken. Explaining what is happening to people is one of the most fundamental parts of successful grassroots organizing to impact the issues we care about.

We need more stories from you in order for this project to have an impact! He has until the end of June to gather these stories.



If Taylor calls you, we encourage you to meet with him and share your experiences. You can reach him by e-mailing taylor@drcinfo.com or contact us at the DRC office at 701-224-8587 or liz@drcinfo.com.

Taylor is highly qualified and inspired to do this work. He grew up and graduated from high school in North Dakota. He holds degrees in English and Creative Writing from St. Olaf and Hamline, which will help with this work, and for the past several years he has been writing and speaking around the country on issues such as the ones we're facing here. In November 2013, Taylor was part of a North Dakota Humanities Council grant to work with people in the Bakken to write their stories. He has written for national media, particularly about the Bakken.

We have wanted to do this more systematically for a long time and we are really pleased Taylor is working with us to make this happen.

Mark Trechock is organizing for DRC for several months. Currently, two of DRC's four organizer positions are vacant and new organizers should be hired by mid-July. During this transition time, Mark will be a great help. He is working on the Salted Lands campaign and on Mountrail County oil and gas issues. Mark is working a quarter time for DRC in addition to his half time work on Bakken issues for WORC.

Affiliate Update

South Agassiz Resource Council (SARC)

Members of SARC recently held their annual meeting in Fargo on May 28. DRC member David Schwaible spoke about his experiences with state regulators and oil companies as a landowner and mineral owner in the Killdeer area. In addition, SARC did a showing of DRC's film "This is Our Country." SARC will be holding a monthly meeting at the end of June. If you would like to attend please contact Scott Skokos at scott@drcinfo.com.

Grand Forks County Citizens Coalition (GFC3)

GFC3 plans to hold a meeting in July to set its direction for the summer-fall of 2014. If you are interested in attending please contact Scott Skokos at scott@drcinfo.com

Missouri Valley Resource Council (MVRC)

MVRC will be hosting a meeting to determine the future efforts in the Bismarck-Mandan area. The meeting will be June 19 at 7 p.m. in the Bismarck Public Library, Room B. For more information contact matthew@drcinfo.com

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DRC on FACEBOOK

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GMO Wheat (from pg. 5)

Those shipments were rejected; a ban was placed on U.S. rice to the European Union for years; and the USDA discontinued its letter of non-GMO status for U.S. rice.

Many rice farmers went bankrupt, and the America's southern rice industry was devastated. One of those rice farmers (along with myself and other industry representatives) testified at a congressional committee hearing on the contamination and market rejection issues, and the 2008 Farm Bill included provisions that directed USDA to set new standards to prevent any such contamination events and market loss from happening again.

Last August, university and private-sector crop breeders, wheat farmers and wheat utilization industry reps met at the USDA headquarters with Secretary Tom Vilsack and undersecretaries to discuss the Oregon contamination and enforcement and tightening of rules to prevent future occurrences. Since then, we have worked with USDA to resolve the problem;

but likely due to industry pressure, the federal department will not tighten GMO field-testing and seed-tracking rules.

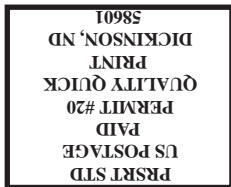
In 2014, open air field-testing of GMO wheat will resume in North Dakota with minimal if any oversight from USDA.

North Dakota is the only state with GMO wheat field testing, and should contamination occur or GMO wheat be commercially introduced, North Dakota hard red spring wheat could be the next commodity to suffer market loss in any or all of our major export markets.

If that were to happen, then according to research from leading agricultural economists from Iowa State and Ohio State universities, farmers could experience a one-third or more decline in the market value of hard red spring wheat.

This loss would be devastating not only to Northern Plains wheat farmers, but also to grain elevators and other agribusinesses and their employees.

Vilsack must take action to avoid GMO contamination and market loss by tightening field test standards and enforcing the law. That's his job.



RETURN SERVICE REQUESTED

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