

DAKOTA COUNSEL

Watchdogs of the Prairie

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A Look Ahead To The 2023 Legislative Session

The 2023 North Dakota Legislative Session is fast approaching, thus, we want to provide DRC members a preview of what we think is to come in the coming months. Before we get into our prognostications, we'd like to congratulate all of the DRC members who won election or re-election to the legislature, with an especially big congratulations to DRC At-Large Board member Lisa Finley-DeVill for being elected to serve as the representative to District 4a, which serves the Fort Berthold Reservation.

The main focuses for DRC in 2023 are likely going to be eminent domain reform (specifically surrounding CO2 pipelines), soil health funding, defending the anti-corporate farming law, opposing the use of the Clean Sustainable Energy Authority as a fossil fuel slush fund for carbon capture, and lastly defending against any oil and gas regulatory roll-backs.

DRC staff is in the process of looking over the pre-filed bills as well as talking with our allies at the legislature about what legislation to expect. In addition, DRC staff is considering working with some of our legislative allies to introduce a few bills in January. Lastly, DRC will be hosting a training in January how to testify at the legislature, and we are also considering doing a lobby day at a strategic moment during the session, so stay tuned for more information as we get training and meetings planned.

We look forward to keeping you all informed about our work at the legislature with our regular email updates. Do not hesitate to give us a call if you have any questions or want to know how you can get involved: 701-224-8587.

Letter From the Chair



The DRC Annual Meeting's theme was "Still Fighting for Family Farms". The meeting included a panel regarding the future of North Dakota family farms and private property rights featuring former Agriculture Commissioner-Sarah Vogel, Attorney Derrick Braaten, and me; and Jane Kleeb, founder and president of Bold Alliance, and Chair of the Nebraska Democratic Party as our keynote speaker.

Sarah Vogel spoke about her concerns about State Attorney General Wrigley's lack of due diligence in pursuing whether the sale of Campbell Brothers' farmland to a Bill Gates trust violated the corporate farming law which prohibits corporations from owning farmland and engaging in farming. She accused the attorney general of doing only the most cursory investigations of the Campbell Brothers' potato farm purchase. She believes that Gates used the vehicle of a "trust" to provide a cover for his corporate investments, as the trustee of the trust that bought the Campbell brothers farmland is a Gates-owned corporate executive who is also the head of Agriculture Investment Management for Cottonwood Agriculture, a subsidiary of Gate's Cascade Investments. She argued that it is a bad idea to repeal anti-corporate farm law, and Governor Burgum's proposal should be rejected out of hand by the legislature. Instead, she argued, the legislature should make it more effective. She discussed some simple, inexpensive amendments that would help do that.

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Executive Committee

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DRC Affiliates

**Badlands Area Resource Council
(BARC)**

**Fort Berthold Protectors of Water
& Earth Rights (POWER)**

**McKenzie County Energies &
Taxation Association
(MCETA)**

**Missouri Valley Resource Council
(MVRC)**

**Citizens Local Energy Action
Network, (CLEAN)**

Dakota Resource Council
1720 Burnt Boat Drive, Suite 104
Bismarck, ND 58503
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(LETTER CONTINUED)

Attorney Derrick Braaten spoke about his experience in standing up for landowners and the land, especially when it comes to protecting private property rights from corporate overreach using the process of eminent domain. He was particularly concerned about the taking of private property for nonpublic gain as the legislature proposed doing with the taking of landowners' pore space for storage of gas and oil. Summit Carbon Solutions is attempting the same use of eminent domain with the carbon dioxide pipeline. Derrick is best known for winning a complaint filed on behalf of Northwest Landowners Association in Northeast Judicial District Court asking it to declare Senate Bill 2344 an unconstitutional taking of private property. The district court decided in favor of the Landowners Association. The Court agreed that the bill was an unconstitutional taking, and it struck down the law in full. The State appealed the decision to the North Dakota Supreme Court which agreed with the landowners, stating that SB 2344 constituted a per se taking without compensation. Derrick also discussed with Sarah Vogel how the legislature could improve the corporate farming bill by explicitly requiring full disclosure of a trust's beneficiaries when that trust holds farmland, and to exclude corporate trusts from owning farmland.

In preparation for my presentation for the panel, I grabbed my 37-year-old dissertation from the shelf. The title is "Family farming: Persistence, decline or transformation?" I had not perused it much since I left Iowa State University in 1987, but I was struck, now after all these years, how prescient it was. As I mentioned at the presentation, my predictions for the future of family farming have happened: Family farming is persisting as an organizational form while it is declining numerically and being transformed. What I did not foresee in 1984-85 was how rapidly family farming would be transformed through vertical integration via confined animal feeding operations (CAFOs) whereby the farmer provides the labor, land, and capital while the integrator provides the hogs, feed, veterinary services, and management. Also unforeseen in 1984-1985 was the rise of larger-than-family-farm operations, i.e., family farm corporations, where the corporation rents farmland, provides the management, hires farm laborers, owns or rents the machinery, contracts out certain services, and the corporation's farmers may, or may not, live in the community where they farm.

The keynote speaker for the annual meeting was Jane Kleeb. Jane is an experienced grassroots organizer, political strategist, and nonprofit entrepreneur. In 2010, she founded Bold Nebraska organizing a group of farmers and ranchers that call themselves "Pipeline Fighters." She is currently working with Dakota Resource Council and landowners in North Dakota to fight the Summit Carbon Solutions Pipeline Project. Jane talked about her current work on carbon pipelines as well as her past work on the Keystone XL Pipeline in Nebraska. I was most interested in hearing her speak about how rural Democrats can win back rural voters.

Jane has been fighting the national party for more resources, and she has been building a voting block that the party has ignored and forgotten. Her work on organizing rural people to oppose the Keystone XL Pipeline demonstrated that rural people of diverse backgrounds can come together with environmentalists to oppose climate devastating energy projects. She said that before organizing, she had to listen to their stories and to understand their deep connection to the land. Everyone engaged in the fight -- at both the national and local levels -- put aside areas about which they disagreed in favor of working toward the common and shared goal of protecting land and water. Although they disagreed on strategy, messaging, or actions they should take, they were able to work through these conflicts because they had built mutual trust. They needed resources to develop local leaders who organized year-round to win the fight and the national environmental groups, with all their resources, understood this and gave them the space to lead the campaign at the local level.

She maintained that the national party does not engage rural communities in a deep and authentic way. Instead, what she saw happening again and again was when a race got close in a rural district or rural state, the party sent in outside consultants and staffers to try and win the race, but the investments were often too late to be effective. She referred to the KXL fight as an example where no one who examined it on paper thought farmers, ranchers and Indigenous people would have succeeded. All the conventional wisdom suggested that they should have invested in national environmental groups and focused on pressuring the president from the

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(LETTER FROM THE CHAIR CONTINUED)

inside. One reason that they won the KXL fight was because the national environmental groups realized that they had lost the fight on the inside by playing the safe game.

Jane insisted that the old Democratic playbook must be discarded to win again in rural communities. There are talented rural people who understand their state and communities, and who can win elections. Just as with the KXL fight, rural states will need partnerships with national groups. Rural leaders in the Democratic party can explain the policies rural people need to be emphasized. They can show that the grassroots approach they take to reach voters, wherever they are, can be effective. They can explain with credibility that the online tools that the national party uses may not work in rural communities.

She emphasized that although there are distinct differences between urban and rural constituencies, they share common ground on big issues that rural communities need emphasized at state legislatures and in Congress. Four policy areas that urban and rural Democrats can stand together on include accessible and affordable health care, ending eminent domain for private gain, confronting climate change through biofuels and regenerative agricultural practices, and leveling the agricultural playing field by eliminating policies and programs that protect Big Ag and instead, promoting policies that support family farming and local food systems.

It was reassuring to know that Dakota Resource Council and its allies have been organizing around rural issues exactly as Jane Kleeb recommended and that DRC has been actively organizing around three of the four policy areas that she emphasized. It is disappointing that neither the state nor the national Democratic Party has been engaged in or organizing around these issues.



*From the Staff & Board at
Dakota Resource Council*

Ag and Food

DRC members attend 2022 IBAND convention Elected officials give remarks, IBAND “Beefs Up” School Lunch Program



Left to right, Sam Wagner, Jenna Vanhorne, Rena Nelson, Donny Nelson

Building on a partnership with the Independent Beef Association of North Dakota (IBAND), DRC members attended the IBAND convention on November 19. In attendance were Senator John Hoeven, a representative from Senator Kevin Cramer's Office, and Rhonda Amundson, ND School Lunch Administrator.

Senate Remarks

At the conference, Kevin Cramer's representatives demonstrated that there is little thought put into beef issues. Cramer's office has prioritized insurance for calf loss for ranchers and crop loss for farmers, and has bolstered a few other programs. Senator Cramer did not mention Mandatory Country of Origin Labeling (MCOOL), Captive Supply Reform, or Checkoff reform as part of the office's priorities.

Contrasting Cramer's office, Senator Hoeven spent an hour talking with IBAND members and came out in support of MCOOL, Captive Supply Reform, Right to Repair, and a promise to learn more about the beef checkoff. Senator Hoeven remarked that he will push back against National Resources and Conservation

(IBAND CONVENTION CONTINUED ON PAGE 5)

Service (NRCS) and Waters of the United States Act (WOTUS) to make the wetland programs more farmer friendly. He also noted that the impending railroad strike would be a high priority of the senate to be resolved.



Sen. John Hoeven Speaking at IBAND Convention

Farm to school lunch program

Rhonda Amundson, ND School Lunch Administrator, gave the keynote speech about IBAND's partnership with the farm to table program. This program allows schools to purchase farm fresh fruits, vegetables, eggs, honey, meat, and more from local producers for their school lunch menus. IBAND, along with the Farmers Union, is working to simplify the process of making local foods available to schools by creating a separate list of local commodities that farmers will provide that can easily be filled out by schools.

Currently, USDA gives schools a checklist of over 200 commodities the federal government will provide and deliver for a flat fee. Schools can buy those commodities elsewhere, but paperwork and receipts are required for school districts to be reimbursed by the federal government as opposed to just checking a box and getting the food. Each commodity the school buys, needs a recipe that is approved by the federal government to ensure that the food purchased meets federal nutrition guidelines. If the school buys a

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Upcoming Events

DRC to Hold Farm Bill Listening Sessions

Thursday Feb 2nd Casselton ND

Mon Feb 13 Valley City ND

Thursday Feb 16th Jamestown, ND

Contact DRC Organizer Sam Wagner

(IBAND CONVENTION CONTINUED)

commodity without a verified recipe they do not receive federal money. IBAND and Farmers Union are looking to simplify this process by creating a local checklist of North Dakota grown products that IBAND or NDFU members can sell and deliver to schools along with recipes, in one simple handout, to give to the federal government when a school wants to buy food for their lunch program. If you would like to learn more about this program, contact Sam Wagner at sam@drcinfo.com to learn more about how you could contribute or if you would like to participate.

DRC staff and Members Attend National Conference

Members and staff of DRC and WORC visited the UC Davis Campus with the National Healthy Soils Policy Network (NHSPN) Meeting. NHSPN was formed as a way for states to combine their resources and expertise to strategize ways to make better local policies. The meeting featured breakout sessions on how to create and promote soil health policy in states. The meeting featured presentations from the National Sustainable Agriculture Committee from Washington DC who gave an update on the Inflation Reduction Act (IRA), the Agricultural Reform Act (ARA), and the 2023 Farm Bill.

Soil wins and updates from Washington

The Inflation Reduction Act is a big victory for Soil Health. Conservation programs and technical assistance got huge boosts in funding. Grazing land management and drought programs were given priority, as at least 50% of the funding was allocated to grazing, giving ranchers more money for irrigation and pasture management. The only problem is the funding given to many of these programs will come from the IRA instead of through Farm Bill legislation to which they have been traditionally tied, and the current Farm

Bill has not expired. Local farm services are currently drawing funds from those two pots of money.

The 2023 Farm Bill has at least two options regarding conservation programs:

1. Let the conservation programs expire and tie future funding to future climate bill packages such as the IRA going forward.
2. Scrap the line items for conservation programs from the IRA and tie the money back to the Farm Bill.

Both solutions have risks. Tying conservation programs to climate bills could be risky in the future if a climate legislative package is politically unworkable, or a group wants to obstruct it. Putting the programs in the Farm Bill makes it tougher to cut them but there is the possibility that funding gains that were made through the IRA, could be cut.

Farm Bill 2023 negotiations will start soon and the Agriculture Reform Act will be released soon as a marker bill to start negotiations. We will outline the Agriculture Reform Act when we see it. DRC will be contacting the Ag committee to begin reaching out to Sen. John Hoeven to support it. Keep an eye out for the action alerts

North Dakota Association of Soil Conservation Districts Meeting

DRC members tabled and met with Soil Conservation representatives at the North Dakota Association of Soil Conservation Districts (NDASCD) in Bismarck. DRC members Shelley Lenz and Olivia Johnson spoke with representatives from the State Soil Districts to receive feedback on some of DRC's ideas about retaining soil district employees and removing disparity from soil districts. Soil Conservation districts reported that they will have an extra \$350,000 in their budget over the next year to help retain staff. DRC will also be advocating for NDASCD to receive an additional \$2.65 million to renovate, repair, and build new cold storage facilities and tree nurseries. DRC's soil committee will be setting up more meetings in December and will meet with representatives of the budget committees of both houses of the ND legislature.

Anti-corporate farming law may be in danger in 2023 legislative session

DRC members have worked hard over the years to protect the anti-corporate farming laws, fight CAFOs and the encroachment of corporate influence in agriculture.
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(CORPORATE FARMING CONTINUED)

In 2016 a bill was passed exempting hog and dairy farms from our anti-corporate farming bill. DRC and Farmers Union helped mobilize ND voters, resulting in every ND county voting to keep the anti-corporate farming law intact. In 2016, DRC members stopped a hog barn that would have been built too close to Buffalo, ND in Howes Township. In that same year, 2016, members also stopped a hog barn in Ramsey County.

Unfortunately, after several speeches by Governor Burgum, a questionable reaction to the “Bill Gates” land purchase from Attorney General (AG) Wrigley's office, and a recent court ruling surrounding Howes Township's ability to zone, it seems the 90 year-old-law, anti-corporate farming may once again be challenged in the state legislature.

After a speech and subsequent interview covered in AgWeek at the Big Iron farm show in West Fargo, Governor Burgum was quoted as saying neighboring states are “clobbering us” (in livestock based agriculture) because of our anti-corporate farming law.

In November of 2021, a group called the Red River Trust, purchased 2000 acres and paid more than \$13 million for a large potato farm in Northeastern North Dakota. After some investigative journalism, it was discovered that the trust was linked to Bill Gates, now the largest owner of farmland in America. Gates usually purchases land through a series of shell corporations that he owns and directly controls. According to DRC member Sarah Vogel, the AG's office did not do their due diligence to ensure the Red River Trust met the qualifications to be eligible under our anti-corporate farming law. The only evidence the Trust provided was a one page affidavit signed by the top corporate officer of the Gates owned and run corporation, swearing that the trust was legal. Vogel stated “This doesn't meet the “smell test”.”

The AG's office has spent \$1.3 million for legal fees to fight the EPA on behalf of the coal industry in North Dakota to avoid conflict of interest. It's suspicious that they haven't mustered more than a few staff hours of research to investigate corporations owned by billionaires that appear to be trying to evade North Dakota's anti-corporate farming law by use of spurious “trusts”. The AG has a conflict of interest as he was appointed by Governor Burgum who is friends with Gates and served as a Microsoft executive.

The posturing of the AG's office seems to indicate that there is not much will to enforce our current laws. Beyond the AG's office, the courts haven't been friendly to people opposing or wanting to regulate CAFOs either.

In July of 2022 a Cass County Judge ruled in *North Dakota Farm Bureau vs Howes Township* that the township's requirements and setbacks were unlawful and that the township does not have authority to regulate an animal feeding operation's appearance, burden on the streets, or general compliance with the Township's Comprehensive Plan. This case sets bad precedent if other township laws are challenged. Tyler Leverington, attorney for the Farm Bureau in the case said, “Townships got sold a bundle of ordinances, once upon a time.” He continued, “They haven't been changed because they haven't been challenged” “When you have townships that are either adversarial to, whether it be certain individuals, or animal agriculture more generally, it can create a huge mess because the permitting is an expensive time consuming process.” Lawyers are trying to frame these township ordinances as overzealous, but safety nets are there for a reason.

This time the wolf in sheep's clothing is going to be dressed up as a poor, downtrodden livestock producer that just needs to cut the red tape to be profitable. Randy Melvin, a landowner for whom the Howes Township lawsuit was filed, was quoted in AgWeek saying that he just wants animal agriculture on his land. The article failed to mention that his land is extremely close to the town of Buffalo and would affect hundreds of people living in the area.

People like Melvin are finding help from the North Dakota Livestock Alliance, which was formed in 2017 to help lobby for new livestock operations and get rid of any pesky regulations that might stop them. The Farm Bureau has once again stepped in to fund legal assistance to challenge township authority whenever possible. Most of the funding is from out of state interests that want to invest in livestock production in North Dakota but cannot legally do it.

In 2022 Burgum announced a red tape initiative that will be reaching out to state departments and one of the complaints was the anti-corporate farming law. It would seem likely, considering the posturing of the Governor, the lobbying groups set up, the media releases, and the lack of enforcement from the AG's office, that the anti-corporate farming law is under attack more than ever.

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Farmers Union President Mark Watne said in Agweek “Everybody is mad because Bill Gates bought land. They think changing this corporate farming law is going to make that any better? It’s just going to increase the thing that everybody is upset about?” It is unclear how much the Farmers Union will challenge the repeal of the Anti Corporate Farming Law if the issue is brought up in the 2023 session.

What Can You Do?

DRC can keep you updated on the latest developments in the legislative session this year and we will take action on bills that threaten our anti-corporate farming laws. Keep an eye on your email or our website drcinfo.org to find action alerts.

Oil and Gas

Opportunities Abound for DRC’s Oil and Gas Campaigns

Bonding and Reclamation

In 2021, Senators Lujan (D-NM) and Cramer (R-ND) introduced the REGROW Act which looked to fund orphaned well cleanup on state, private, public, and tribal lands. Before the REGROW Act passed, much of the funding it would have provided was rolled into the Inflation Reduction Act (IRA.) This led to Senators Lujan and Cramer introducing the Abandoned Well Remediation Research and Development Act (AWRRDA) to address what the IRA left out of their REGROW Act.

The regional oil and gas campaign team (ogct) of which DRC is a part, had only one day to provide a quote, so we passed on the opportunity. We are all in agreement that we do not support the (AWRRDA), as it supports repurposing wells, for things including CO2 injection for storage or enhanced recovery, rather than plugging and remediation. We did not support the REGROW Act in 2021 and this is basically the same legislation minus what the IRA included.

Representative Lowenthal’s (D-CA) Bonding Reform and Taxpayer Protection Act of 2021 passed committee and is on the calendar to be voted on in the House of Representatives. WORC’s ogct provided input for content of this bill 2 years ago, strengthening a flawed system, but it still retained state and national blanket bonds. This was not the language we wanted, so we ended up supporting another bill that was stronger. This current bill does push for increased bond requirements and an increase of those bonds every 3

years. As with much of the work in DC, it is not perfect, but is perhaps a step in the right direction. Unfortunately, this bill is unlikely to pass due to the end of year time crunch and the House’s focus on appropriations.

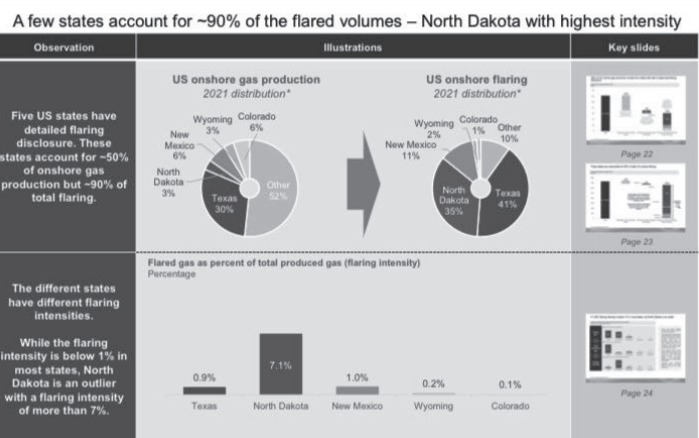
We were part of a petition to pressure the Bureau of Land Management (BLM) to pass long lasting, strong bonding rules. We are discussing what would be the most effective way to get our message through.

It will be interesting to see what bills are put forth at this year’s legislative session. Two sessions ago Lynn Helms put forth two bills addressing bonding, one to remove blanket bonding (where multiple wells are covered by one bond, a bond that isn’t even enough for one well, let alone multiple) in favor of well-by-well bonds. The second bill tried to get a named responsible party requirement so that wells owned by small, fly by night operators can’t just pull up stakes and leave the state, (i.e. the taxpayers) to pay for plugging and reclamation.

As things progress, we will keep you updated.

EPA and BLM Methane Rulemakings

EPA – Last month, President Biden and the Environmental Protection Agency’s (EPA) issued their updated draft rule to cut methane and other harmful pollutants from oil and gas operations across the country. This proposal is an important step toward addressing the climate crisis, protecting the health and safety of communities across the country, and prioritizing the creation of quality, family-sustaining jobs.



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(METHANE CONTINUED)

The need for this “supplemental” and the original EPA rulemaking is a result of the Trump administration’s gutting of President Obama’s 2016 EPA rule which was passed only because POWER members lobbied their Tribal Business Council and got them to sign a letter to then Senator Heitkamp asking for her support. She then lobbied Senator McCain and the bill passed by one vote. So, we are walking the same ground again.

The updated draft rule improves upon many of the standards in the [original draft rule released by EPA in 2021](#) identified by climate, public health, and environmental justice advocates by doing the following:

DRC and Fort Berthold Protectors of Water and Earth Rights, (POWER) have and are asking for many of the improvements included in this updated draft rule including strengthening leak detection and repair (LDAR) requirements, including requiring inspections at small wells with leak-prone equipment which are responsible for half of all methane emissions nationwide. Maintaining the zero-emitting pneumatic equipment requirements for pneumatic controllers and expanding this requirement to include pneumatic pumps. Taking steps toward addressing super-emitters through a third-party/and/or community monitoring program and requiring that abandoned wells are subject to inspections until closure and that oil and gas companies must submit a closure plan and conduct a post-closure survey of these wells.

A major disappointment for DRC and POWER is that ending the wasteful practice of routine venting and flaring was not well addressed

Attorneys and policy experts in our federal methane coalition have been digging into the full text of the proposal to help inform and engage environmental justice communities, Tribes, NGOS, businesses, industry, and state and local governments in EPA’s public engagement process to ensure we have the strongest possible safeguards in place to tackle climate change and protect public health.

DRC members submitted comments to the Office of Management and Budget ahead of the filing and release of the rule. Public comment to EPA on this draft rule will be held virtually January 10-11, 2023. If you would like to testify, or have questions, please contact Liz at liz@drcinfo.com

BLM

In late November, the Biden administration released the [draft U.S. Bureau of Land Management \(BLM\) methane gas waste rule](#). The proposal is an important first step but falls short of President Biden’s commitment to eliminate routine venting and flaring of associated gas by 2030, a practice which wastes domestic energy resources and harms the health of surrounding communities and ecosystems.

The proposed rule would charge royalties, (also addressed in the IRA,) on certain flared gas but would not require flared gas to be captured and used.

Members of POWER and residents of Fort Berthold Reservation are severely impacted by venting and flaring. North Dakota flares 7x more than the next state and the Bakken is the source of more flaring and venting than any place in ND. It is critical to the health and well-being of those living in the Bakken to have BLM require capturing rather than flaring methane and the other harmful toxins released in flares and vents. POWER is talking with certain tribal business council members to get them to support this rulemaking. We hope council members will sign on to a letter to Interior Secretary Deb Haaland advocating for strong, durable rules that will protect their tribal citizens and other highly impacted communities from the harms due to venting and flaring.

Written comments on this proposed rule will be accepted by the BLM through January 20, 2023 at [Federal Register: Waste Prevention, Production Subject to Royalties, and Resource Conservation](#) For more information or assistance with writing and/or submitting a comment, please contact Liz at liz@drcinfo.com

NEPA

National Environmental Policy Act (NEPA) was created in 1969 to ensure federal agencies consider the environmental impacts of their actions and decisions. It provides the public access to the information necessary for informed decision making resulting in a more just, democratic process. The Trump Administration gutted NEPA and the Biden Administration is working on restoring this essential policy.

(STORY CONTINUED ON PAGE 10)

(NEPA CONTINUED)

Opponents of NEPA erroneously contest that “over regulation” slows projects down even though it has been shown that it really comes down to getting approved projects funded in a timely manner. NEPA is one of the few pathways tribal citizens get information about projects and have an opportunity to give public comments.

NEPA was saved from a piece of legislation which would have seriously weakened it. Senator Manchin’s (D-WV) “dirty deal,” which would silence our communities by rubber stamping dangerous fossil fuel projects, put polluters over people, and make our communities and our nation less safe and secure than before, was defeated again...and again, actually!

This legislation failed three times because of the irreparable harm it would cause to our communities and climate and the strong opposition from across the nation, including DRC. Last-minute efforts to tie the dangerous plan to the National Defense Authorization Act (NDAA), another piece of must-pass legislation, has been stopped.

Phase I of Biden’s NEPA reform faces a Continuing Resolution Act (CRA) which passed the House (see Dakota Counsel’s last newsletter for more CRA info), but has yet to be brought up in the Senate where the CRA will likely fail. Phase II was scheduled to be released in June of 2022 but that release date has been delayed until January of 2023. Phase II will address some of the more complicated issues that were not addressed in phase I.

FEDERAL LEASING PROGRAM

DRC is still engaged in trying to better the federal leasing rules which are particularly important as a LA federal judge vacated Biden’s federal leasing pause this past summer.

Department of Interior (DOI) has a mandate to protect America’s public lands and cultural heritage, yet, for decades, the federal leasing program has short-changed our public lands, wildlife, and taxpayers while threatening the health of our communities and our environment. New, durable rules are long overdue and desperately needed to ensure the program better serves everyone.

Recently WORC sent in a sign-on-letter asking that DOI move a rulemaking forward that incorporates the germane pieces of the historic Inflation Reduction Act (IRA) which includes several critical updates to the onshore oil and gas program and makes other reforms to the federal oil and gas

leasing program before new lease sales take place.

We asked that at a minimum,

DOI implement the policy changes included in the IRA, including the long-overdue increases to the fiscal rates and terms for leasing and development on public lands and eliminate the wasteful practice of leasing lands noncompetitively for just \$1.50/acre.

Address the remaining core problems that the Department highlighted in its report from November of last year by 1) requiring oil and gas companies to fully pay for potential clean-up costs so that taxpayers aren’t stuck with the bill for well clean-up; 2) avoiding the massive leasing of areas with low potential for oil and gas development; and 3) creating and ensuring a more transparent process that provides meaningful opportunity for public engagement and Tribal consultation; and

Utilize all available discretion to pursue additional changes that will move the Bureau of Land Management’s stewardship of our public lands closer in line with the public’s interest in protecting and preserving public lands and wildlife.

Good things coming to Fort Berthold

Long-time DRC partner REAMP is collaborating with DRC and POWER via An Air Monitoring for Climate Justice Action Team to connect community-based air monitoring from Detroit to Fort Berthold Reservation. A grant proposal has been submitted with the following proposals:

A group from Detroit (including Ecology Center staff) will travel to North Dakota to meet with frontline communities there, train folks at Dakota Resource Council/Fort Berthold POWER, install air quality monitors and provide technical training for how to use monitors as an advocacy tool to hold corporations and regulators accountable as well as provide on-going technical and data management support. The grant would pay for the air monitors, too.

A tool kit will be created to share with the North Dakota/Fort Berthold community, and other communities that want to use air monitoring in their work for clean air, and to fight dirty energy projects. The tool kit could also include policy/false solutions advocacy and action components.
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(FORT BERTHOLD CONTINUED)

Then, folks from DRC will be brought to Detroit to meet with EJ activists, learn about urban air monitoring and clean energy work from groups in Detroit. The plan is to do this during September 2023, when RE-AMP holds its Annual Meeting in Detroit. We hope to plan a session during the annual meeting such as a panel presentation addressing the intersection of climate, energy, and clean air (air monitoring), featuring the leaders from POWER and Detroit sharing their experience/clean air and MI Environmental Justice Coalition might do something that links to the solutions/policy advocacy.

This an exciting opportunity to connect highly impacted communities and to learn about issues that are unique to each location – urban and rural – as well as learn and connect over similar struggles that most oil and gas impacted communities face.

CLEAN ENERGY

Unprecedented Opportunities Are Now Possible Through Rural Electric Cooperatives.

The final quarter of 2022 is closing strong with an optimistic outlook for the future of Rural Electric Cooperative Reform in North Dakota. Thanks to monies made available by the Inflation Reduction Act (IRA), the Rural Utility Service (RUS) division of the USDA will be allocating \$9.7 billion in direct investments for rural electric cooperatives. Last week, the USDA solicited nationwide public comments on the rollout of these funds for input on how they should be allocated.

Dakota Resource Council made three main points to the USDA. We want to make sure process transparency is highlighted so that rural communities are given a fair shake when it comes to understanding and applying for all the funds available. We called attention to North Dakota's history as a "sacrifice zone" for the rest of the country. For decades, our land and waterways have been exploited for the sake of powering major cities and communities beyond our borders. Lastly, we asked for infrastructure projects like carbon sequestration to be deprioritized and that actual renewable energy investments such as solar

and wind take precedence as the type of technology that moves the needle (not just the money) on carbon emissions.

Starting in 2023, we will be launching a public awareness campaign to get the word out, not only on the aforementioned USDA loans, but the many other IRA provisions and associated funding streams. There is a total of \$369 billion to address energy security and climate change. The impact of these federal investments for rural communities stand to be a gamechanger in aiding small towns, our aging population, and economically disadvantaged communities from energy insecurity and exploitation.

While the provisions of the IRA are tremendous, individual households are encouraged to use websites such as [RewiringAmerica.org](https://www.rewiringamerica.org), particularly the "IRA Savings Calculator" tool to learn more about how much energy cost savings they may be eligible for. There are many programs and funding streams related to solar and wind energy, energy efficiency, weatherization, battery storage and electric vehicles.

In addition to getting the word out on the IRA, we are excited to work on reenergizing North Dakota's rural utility member-owners, by further-building our relationship with co-op members. There will also be a push to educate the general public on the importance of maintaining the state's unique national history of creating successful publicly-owned enterprises. Beyond our claim to the nation's only state-owned bank, elevator and mill, still standing strong after more than a hundred years, rural cooperatives have been, and still are, a critical part of our social fabric and the reason North Dakota has managed to weather many storms.

Throughout the push to engage the public on cooperative reform opportunities, we'll be working to identify enthusiastic people to start running for the boards of their respective co-ops. Candidates committed to protecting public health, building community wealth by centering equity and democracy, climate, and job creation will be centered. While we are just getting started, currently we have 7 interested candidates representing four of the largest cooperatives in North Dakota. We will be working to ensure that first-time candidates are set up for success with everything they need to run and win these board seats. DRC will be helping to elevate candidates

(STORY CONTINUED ON PAGE 12)

(CO-OP'S CONTINUED)

whose values mirror those of our members and the positions they have historically taken, and continue to uphold, on coal power plants, carbon capture, wind and solar energy.

If you are interested in running to become a board member for your co-op, please reach out to Andrea Denault at andrea@drcinfo.com

CLEAN Establishes Greater Momentum in the Community

Fargo Mayor Mahoney, Commissioner Strand and members of the City's Sustainability and Resilience Committee (SRC) just voted unanimously to create an official working group in partnership with FM C.L.E.A.N. along with other area experts and stakeholders.

In November, FM C.L.E.A.N. presented a slideshow to the Fargo SRC on implementing Electric Vehicle (EV) car charging infrastructure, particularly for Fargo apartments. The SRC expressed concerns that the costs of implementing the infrastructure to apartments could be passed down to renters when building codes require EV chargers. However, due to the \$26 million awarded to North Dakota through the Bipartisan Infrastructure Bill for EV charging, municipalities may be eligible for even more EV grant funding through the Inflation Reduction Act. The grants could ostensibly make the building updates free or very inexpensive for both the city and property owners alike, and overall, make the decision to purchase an EV much more feasible for area residents.

The SRC agreed to form a subcommittee to focus on EV infrastructure for apartments and determine which city department heads need to be at the table and look at what funds are available to make the proposal a reality in Fargo.

Dakota Resource Council through C.L.E.A.N. will assist the City of Fargo in understanding the block grants available with federal dollars and will work with the National League of Cities on competitive grant training to ensure the best possible outcome for successfully securing these funds.

After collecting more than 400 petition signatures in support of EV infrastructure throughout the Fargo Moorhead area, FM C.L.E.A.N. wants to bring

their presentation to West Fargo and Moorhead city councils as well. FM C.L.E.A.N.'s major milestone of collaborating with the City of Fargo in a formal capacity was made possible after several months of grassroots outreach by C.L.E.A.N. members including participating in the Second Annual EV Car Show last summer in collaboration with Care for Creation, and tabling at events such as Pride in the Park in order to secure the large number of local signatures demonstrating strong support for the initiative.

COAL COUNTRY AND CO2 PIPELINE

Coal Counties balk at approved Wind Farm; concerns about increased rates for Coal Carbon Capture and Sequestration

On November 30, 2022, the North Dakota Public Service Commission approved the proposed \$390 million Badger Wind project by a vote of 2-1. Commissioners Fedorchak & Commissioner Harden-Haugart voted to approve the application while Commissioner Christmann voted against the project. This will be a massive wind project— one of the largest to be permitted in North Dakota. The wind project will consist of 74 turbines with the ability to produce 250 megawatts of energy. In a review of the application: Badger wind was able to attain 100 percent voluntary easements and all local permits needed for the project.

Unfortunately, the North Dakota coal counties balked at this project and they explicitly lobbied for the PSC to not approve the application. Their concern? The project will be located on a congested area of the electrical grid and therefore displace baseload coal power. Government Affairs manager for North American Coal, David Straley, argued this to the commission: "That'll be an issue for the coal conversion counties," Straley said. "We can tell you pretty firmly if those electrons go online, our electrons are coming offline, so that will directly affect the coal conversion counties."

(STORY CONTINUED ON PAGE 13)

(WIND PROJECT CONTINUED)

In a 2 page dissent, Commissioner Christman echoed these exact same concerns, stating that the project would harm the coal counties and therefore have a negative impact on the welfare of the people of North Dakota: "Historically our siting cases had minimal impact on the welfare of the citizens because the electric transmission system had plenty of capacity," Christmann wrote, "but that is no longer the case in some areas of the state, so we must start focusing more of our attention on the second half of that directive." Commissioner Fedorchak expressed sympathy with the coal counties– but argued that most concerns were related to federal energy policy and not in the purview of the PSC.



A question that is important to ask is, why? Why are the Coal Counties so reluctant to embrace other forms of energy and economic development when clearly the institutional capital world is done with coal:

https://www.willistonherald.com/news/oil_and_energy/north-dakota-energy-leaders-wrestle-with-esg-metrics-during-forum-featuring-goldman-sachs-ceo/article_fb9412de-1279-11ec-9a0f-3b237a319af7.html

This is of course a complicated question— but a large reason stems from the fact that the coal counties have been sold a carbon capture dream where coal plants will remain viable for decades and be able to compete in the new energy economy. In communities whose identity and jobs are so deeply intertwined with coal— this news is incredibly welcome and helps to ease concerns of economic anxiety. There are, however, many drawbacks to coal CCS. We've written about this before and the major concerns we have with Coal CCS: [CCS Technology on Coal-Fired power plants: A Failed Climate Solution - Dakota Resource Council \(drcinfo.org\)](#)

New information from Wyoming confirms some of our major concerns. A major power company stated to the Wyoming PSC that installing CCS technology on their coal plant would raise rates for consumers by \$100 a month: Utilities: Wyo CCUS mandate could spike monthly bills by \$100 | Wyoming | gillette news record.com. This would be economically devastating for the people of North Dakota as inflation remains high and people continue to recover economically from the COVID-19 Pandemic. We will continue to educate the public about the risks and unintended consequences of CCS.

The Badger Wind project is an exciting endeavor and a key piece in the puzzle of attempting to diversify our energy economy. We should welcome these projects when they gain approval from their local communities and local landowners. We are also committed to ensuring that coal counties don't get left behind and that they have the tools they need to diversify their energy economy. The energy transition should benefit all energy communities and citizens.

Additional sources: [December 2, 2022 Newsletter - WDEA \(ndenergy.org\)](#)



Burleigh County Citizens Organize an Ordinance



Burleigh County landowners attending a DRC informational meeting on the proposed Summit Carbon Pipeline earlier this summer.

Introduction:

The Summit Carbon Solutions pipeline has been a trending topic across North Dakota over the past year. Six counties on the pipeline route have passed resolutions opposing the use of eminent domain—meant to send a message to PSC regulators about how local residents feel about the project. This past election, Burleigh County voters approved an extension of the Home-Rule charter. This new Home-Rule Charter now gives the right of the County Commission to: “Provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety and welfare.” In simple terms: the County Commission can now pass ordinances. The Summit Pipeline seems to be a prime opportunity to leverage the new home-rule charter given the large engagement and major implications this project would have on the City of Bismarck.

“Everyone in the room who is opposed to this pipeline... please stand up”

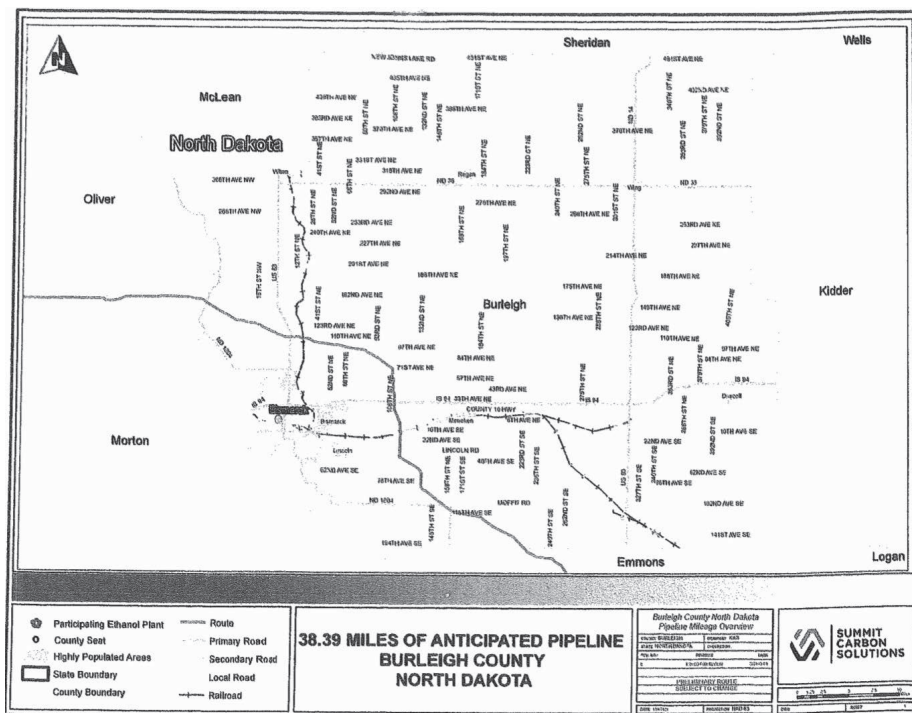
DRC members and Burleigh County residents organized ahead of the late November County Commission meeting— and well over 100 people packed into the Burleigh County meeting room. A presentation by an affected landowner and a presentation by professional land surveyors upset with Summit’s practices was planned ahead of time— but multiple residents spoke in front of the commission to air their concerns about the project. These concerns encompassed a wide variety of topics: safety, eminent domain, property values, and survey tactics, just to name a few. At one point during the meeting: everyone opposed to the pipeline was asked to stand up. Every single person including all five County Commissioners stood up— a very powerful moment for everyone who worked hard to get this meeting to fruition. The Commissioners also committed to drafting an ordinance to address citizen concerns with input from all areas of County government and the public. The ordinance will address establishing reasonable setbacks and zoning requirements to protect the economic and public health interests of the County. The new Home-Rule Charter does not allow for any ordinances to be passed until January 1st— so in the interim, we will be gathering information for the County to ensure a strong ordinance can be implemented as soon as possible.

Summit Carbon Solutions has sued four counties (two in IA & two in SD) for their ordinances—arguing in federal court that they’re preempted by the Pipeline Safety Act. These lawsuits will hopefully provide clarity on this issue. The ongoing legal debate surrounds the tension behind safety being preempted by the federal government while local governments still retain authority over zoning and routing regulations. To learn more about these legal issues— you can read more here: [Does Federal Law Prohibit Counties from Imposing Setbacks on CO2 Pipelines? - Community Rights US](#) (STORY CONTINUED ON PAGE 15)

NO EASEMENT



NO EMINENT DOMAIN

**(PIPELINE CONTINUED)****Next Steps:**

Sustained public engagement will be essential as newly elected commissioners will be seated when the ordinance is put up for a vote. Ensuring the commissioners realize how important this issue is to the people of Burleigh County will be crucial in ultimately getting this ordinance passed. We plan to be in regular contact with the commission to ensure an ordinance is passed timely.

Our hope is to replicate similar ordinances across the pipeline route in ND. To get involved in the Summit Pipeline effort, please contact Eliot: eliot@drcinfo.com

And the Winner is...

The winner of the 2022 Art and Grace Link Volunteer Leadership Award is Sonja Kaye. Sonja really stepped up in 2022 as a key leader of Dakota Resource Council affiliate, Fargo-Moorhead CLEAN by serving as Chair. In addition, Sonja ran for the North Dakota Legislature and did multiple speaking engagements making the case against expensive carbon capture as a climate solution. Lastly, through Sonja's leadership, Fargo-Moorhead CLEAN has become an influential group surrounding electric vehicle charging infrastructure in Fargo. We would like to thank Sonja for her leadership and dedication to DRC!



Dakota Resource Council
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Bismarck, ND 58503
www.drcinfo.org

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58503, OR join at
drcinfo.org/join

1. Choose membership level

- ☐ \$1000* Watchdog of the Prairie
- ☐ \$500 Sustaining
- ☐ \$250 Supporting
- ☐ \$100 Century Club
- ☐ \$55 Household
- ☐ \$35 Individual
- ☐ \$15 Student/Senior

2. I ALSO want to join my local affiliate, please choose one at \$10.00

- ☐ Badlands Area Resource Council
- ☐ Fort Berthold Protectors of Water & Earth Rights
- ☐ McKenzie County Energy & Taxation Association
- ☐ Missouri Valley Resource Council
- ☒ Citizens Local Energy Action Network

Name _____

Address _____

City, State, Zip _____

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