Chapter IV
Landowner Stories

Oil and Gas at Your Door?

A Landowner's Guide to Oil and Gas Development
Second Edition

OIL & GAS ACCOUNTABILITY PROJECT

P.O. Box 1102 • Durango, Colorado USA 81301
Phone: 970-259-3353 Fax: 970-259-7514
www.ogap.org

Chapter IV
Landowner Stories

IV

As has been emphasized throughout this guide, one of the best ways to learn about the potential effects that oil and gas development may have on landowners' lives is to hear or read about their stories. Landowners new to oil and gas development are encouraged to talk with neighbors or community members who have had interactions with oil and gas companies, and to consult with organizations who advocate for surface owner rights. Chapter V contains a listing of some of these organizations.

1. CBM DESTROYS RETIREMENT DREAM
Ron Moss tells his story of how methane in his water well, noise associated with gas compressors, and air pollution from nearby coalbed methane (CBM) development destroyed his family's hopes of having a dream home in Wyoming.

2. COALBED METHANE WATER WREAKS HAVOC DOWNSTREAM
In this story, Ed Swartz outlines how CBM produced water disposal has affected cattle grazing pastures, and created concern about the longterm groundwater supply in his county.

3. EXCERPTS FROM A LETTER TO SENATOR BINGAMAN
In this letter, Peggy Hocutt documents how a spate of illnesses occurred after CBM hydraulic fracturing operation affected the water wells in her neighborhood; and why she was evicted from her home.

4. COUNTY OFFICIALS SAY RESIDENTS IGNORED
This newspaper article outlines the frustration felt by Colorado surface owners when states hold hearings related to oil and gas development (e.g., to determine drilling windows and spacing).

5. THE LONG ROAD: LESSONS LEARNED FROM MORE THAN TWO DECADES OF DEALING WITH THE OIL AND GAS INDUSTRY
In this story, Terry Fitzgerald shares some of the lessons that she has learned regarding oil and gas development, including: mineral rights and forced pooling; deciding whether or not to sign a surface use agreement; and the types of conflicts that may arise.

6. THREATS AND INTIMIDATION: THIS IS CALLED "NEGOTIATION?" FORCE POOLING AN AFFRONT
This article documents how force pooling of mineral leases occurs in Michigan, and what this means for mineral owners.

7. STATE COULD FORCE PROPERTY OWNERS TO ALLOW DRILLING
As in other states, Michigan allows force pooling. This story documents one mineral owner's experiences in trying to better understand the oil and gas leasing process, and force pooling laws.

8. RANCHER NOT INFORMED ABOUT MINERAL LEASING
This is Jeanie Alderson's story about how the federal government can lease federal minerals without informing the surface owner, and that surface owners have no input into the leasing process or decisions that will greatly affect their lives and livelihoods.

9. REACHING AN AGREEMENT: LUCK OF THE DRAW
Pete Dube managed to achieve a Surface Use Agreement with a company, yet, as this story illustrates, even with signed agreements companies may not always act quickly to remedy problems.

10. ONE RANCH FAMILY'S STRUGGLE WITH COALBED METHANE
This story outlines how Nancy and Robert Sorensen were unsuccessful at negotiating a satisfactory Surface Use Agreement, and how the company ended up violating numerous provisions of the agreement that was eventually signed.

11. BUSINESS OWNER STRUGGLES WITH COALBED METHANE
Phil Hoy's story provides a lesson on understanding the potential ramifications of signing agreements, e.g., how certain clauses may allow companies to get out of having to pay for damages to a surface owner's property.

12. WHY I FIGHT: THE COMING GAS EXPLOSION
Tweeti Blancett tells how landowners can stand up to the industry, and win, despite seemingly insurmountable odds.

13. BELLFLOWER WELL
Curt Swanson and his subdivision neighbors pushed to get a gas company to mitigate some of the effects from their wells, and Curt relates how the county and local community organizations proved to be invaluable allies in this struggle.

14. A FIRSTHAND ACCOUNT: SUPPORT FOR BILL COMES FROM EXPERIENCE
This letter outlines how one township in Michigan developed its own ordinances, and the importance of forming alliances in order to pressure the industry and government to carry our reasonable industrial development.

15. HYDRAULIC FRACTURING IN THE GAS FIELDS
Laura Amos is an affected landowner from Silt, Colorado. Her family's water well was contaminated after a gas well was hydraulic fractured near her home in 2001.

16. COMPANY'S THREAT TO BOND AND DRILL IS NOT NEGOTIATING IN GOOD FAITH.
This letter, written in support of a Surface Owner Protection Bill in Colorado, provides insight into the imbalance in power between surface owners and oil and gas companies.

17. WYOMING LANDOWNERS FACE CONDEMNATION OR LOSS OF HOMEOWNERS' INSURANCE.
This story documents a potential lose-lose situation for split estate landowners facing seismic development. If they refuse seismic exploration, their property can be condemned. But if they allow the seismic tests, they may lose their homeowners' insurance.

1. CBM DESTROYS RETIREMENT DREAM

By Ron Moss

Let me share with you my first impression of Gillette when I got off the airplane in Gillette 14 years ago. I came here for a job interview for a position at the Northern Wyoming Community College, Gillette Campus operated by Sheridan College. It was a beautiful day. I felt so good about being here I was hoping that after the interview they would offer me the college position. Before I boarded the plane the next day to go back to Wisconsin I was offered the job. Needless to say, I was thrilled.

During that short visit back in 1987 I experienced my first contact with methane. Campbell County was evacuating Rawhide Village due to a severe methane problem. At that time a total community was uprooted and forced to move. I knew right then that after I returned to Gillette with my family, I would buy a house and property as far away as possible from Rawhide Village. I ended up buying a house and 20 acres in a rural subdivision 10 miles west of Gillette. We bought the house and property with the idea that this is where we would live after I retired. After working for the college for 12 years I retired and have been so for two years.

During the first ten years living in our home we were very happy. Even though we only have 20 acres of sagebrush, we felt very blessed living with nature and the peaceful, quiet surroundings. Then it started. They began drilling for methane east of me.

My first thought was what was going to happen to my water well when they removed all the water from underground. I and others met with three producers and each one assured us that nothing would happen to our well water. We in the subdivision have our own individual wells. Right now I still have water; however, although I had good water for over 10 years I started to get methane in my water after they started drilling. Coincidence? I think not.

I thought in my mind about the methane that closed down Rawhide Village. The methane got so bad in my well that the hose I used for filling the horse tank with water would blow out of the tank unless I held on to it. And I can tell you one thing: You never wanted to flush the toilet while you were sitting on it! Humor helps but when the State of Wyoming told my wife not to light a match near the source of water, humor quickly left. I talked to the methane producer and was told they would be happy to monitor my well; however I would just have to prove they were the cause of the problems. Let me ask you, how can someone living on Social Security and a small Wyoming retirement benefit afford to challenge the producer? I definitely could not. Although the methane in the water has now subsided considerably (not ended but subsided,) I feel our retirement home has been down graded.

"Noise that was so loud my dog was frightened to go outside... sounded like a jet plane circling."

Now comes the second phase. The dreadful noise generated by a nearby large compressor station. Noise that was so loud that our dog was too frightened to go outside to do his business without a lot of coaxing. Noise that sounds like a jet plane circling over your house for 24 hours a day. Noise that is constant. Noise that drives people to the breaking point.

My neighbor called the sheriff, state officials and even the governor and was told nothing could be done about the noise. Like I said, the noise drives people to the breaking point, and my neighbor fired 17 rifle shots toward the station. Unfortunately he received a lot of grief for his actions; however he got the company's attention.

And after many telephone calls and after numerous letters by various neighbors (and eight months later) the company owning the compressor station finally made some modifications to the compressor station to help alleviate some of the noise. However the noise is still a problem for a number of the neighbors. The company also planted 40 small trees around the station to

create a sound barrier. I am already retired and at my old age do you really think 40 trees are going to help me?

One methane producer using the compressor station said the noise wasn't so bad. Of course he doesn't live anywhere near it. The going phrase right now is that we all need to be good neighbors. In order to be a good neighbor I am being asked to accept the current noise level for the good of the industry and what the industry is doing for the State of Wyoming. All I can say is that my retirement home has taken one more step down for the worse.

Now I want to share with you one final event that has shattered our dream of living in our retirement home. A dream that began 14 years ago, when my wife and I moved to Gillette. We are finally licked. Last year my wife suffered severe asthma attacks on four different occasions. Even with medication and the use of a Breathalyzer she nearly had to go to the hospital emergency ward to get help to breathe. Why is this happening now and not before CBM development? It's because during the height of CBM development when you looked over the valleys surrounding our home and Gillette, you didn't see the clean air that once existed. I don't have time to go into details about the problem, but I can tell you I was so thankful for the recent moisture and wind to help clean the surrounding air we breathe. I cannot and will not allow my wife to suffer like she did last summer. My retirement home in the rural subdivision is now useless to me.

I can now relate to all those families that had to evacuate their homes in 1987 due to methane. However where they didn't have a solution to their problem, my problem with water, noise and air pollution could have been alleviated with advanced planning by industry in cooperation with the State of Wyoming. Guidelines would have been established to allow them to drill and ship in a responsible manner this valuable resource that exists in the Powder River Basin. I feel it isn't too late to establish these basic guidelines for the well being of ALL the citizens of Wyoming. We as citizens all have the right to enjoy the good life this great state has to offer. Right now that isn't the case for me. Thank you for allowing me to share with you my experience with methane while living in a rural subdivision.

Reprinted with permission from the Powder River Basin Resource Council's (PRBRC) Coalbed Methane Monitor, Winter 2002/2003. See Chapter V for information on PRBRC.

2. COALBED METHANE WATER WREAKS HAVOC DOWNSTREAM

By Ed Swartz

I own a ranch in Campbell County, Wyoming. The really good feature of our ranch is Wildcat Creek, which meanders about eight miles through the ranch. It flows only during snowmelt or violent storms, and it is typically dry nine or more months of the year. I have water rights on alluvial meadows, which provide winter hay supplies and a lot of our winter grazing.

In early October 1999, coalbed methane discharge water started flowing across my ranch from a neighbor's property. This water ran all winter and finally stopped in late April 2000. When this water evaporated in the spring and summer of 2000, I noticed that all the vegetation and grasses which I usually graze in the winter were dead. This usually dry streambed's soil could not stand water for such a long period of time. Alkali was drawn from the clay soils, and salts and sodium were dropped out of the water. This caused the vegetation to die and left white salt and alkali deposits on the surface.

The next flood will wash these deposits out on my hay meadows and probably kill my alfalfa and grass hay. These same meadows have been irrigated in every flood since about 1901 and there

has never been a loss of vegetation or as much salt and alkali deposits as I got with just seven months of what the agencies say is drinkable coalbed methane water.

Other coalbed methane companies, probably knowing what damage the water could cause, started building reservoirs in the drainages above my water rights to store the water. An employee of the Wyoming State Engineer's office (which is in charge of water rights) told me that there were at least 30 new, unpermitted reservoirs above my water rights.

When I started raising hell about interference with my water rights, the State Engineer allowed the coalbed methane companies to permit these reservoirs as permanent livestock reservoirs instead of industrial coalbed methane water storage reservoirs, which could be removed once development is complete.

One day's coalbed methane water would supply my ranch's water needs for 127 years-in dry years with no reservoir water. Can we afford to lose this much groundwater? What damages will be caused to the soils and vegetation from this much water?

It's way past time for action. I and other ranchers have too much to lose.

Reprinted with permission from the Western Organization of Resource Councils' (WORC's) fact sheet *Coalbed Methane Development: Landowner Profiles.* (See Chapter V for information on WORC)

3. EXCERPTS FROM A LETTER TO SENATOR BINGAMAN

WHY THE OIL AND GAS INDUSTRY SHOULD NOT BE EXEMPTED FROM THE SAFE DRINKING WATER ACT.

By Peggy Hocutt

Dear Senator Bingaman,

The oil and gas industry is not telling the truth about well contamination resulting from coalbed methane development. Just because the industry does not document cases, is no reason to believe they don't exist. The main reason that most of the general public is not aware of well contamination due to coalbed methane development, is because most people don't have the slightest idea of what a methane gas well is, or an underground aquifer, or the important part it plays in a water well, especially when a methane gas well is fractured.

I would like nothing better than to be able to tell you my story in person, but since that is not likely to happen, I would like to tell you some of the events that happened to me, my family, and some of my neighbors due to coalbed methane development.

I cannot tell you my story without giving you some family history, and without telling you about the awesome power USX Corporation unleashed on my family when we stood up against well contamination.

My husband worked for Tennessee Coal & Iron/USSteel/USX Corp., for thirty six years, taking his retirement when the Fairfield Works closed in 1983. His father worked there for forty-two years, retiring in 1971. Our river house, was built in 1952, with family money and labor, on a waterfront lot, leased from Tennessee Coal & Iron/US Steel/now USX Corporation, and located in a remote area of western Jefferson County, Alabama, on the Black Warrior River. It was built as a vacation house, but became our permanent home. The years we spent there were wonderful until the late eighties when the area was re-zoned from agricultural lands to heavy industry.

Our problems started when The State Oil & Gas Board, Tuscaloosa, Alabama, issued Permit #5946-C., to USX-Amoco Oil Production, in September, 1988.

The water used in fracturing this gas well was drawn from an abandoned strip mining lake, which had been used for a landfill for years. Everything from old roofing, trash, creosote lumber, raw household garbage, industrial wastes, junk cars, tires, batteries, paint and oil cans, herbicide and pesticide containers, and dead animals, was dumped in the lake. During the fracture of this particular gas well, I saw trucks there many times filling their tanks and delivering the water to the methane gas well site I am going to tell you about.

This gas well was hydraulically fractured with radioactive sand proppant, and tagged with radioactive material. The Board's approval was primarily based on the absence of water wells in the immediate area, but our house and our water well were located at 720 Big Bend Trail, Adger, Alabama 35006, which was well within the immediate area. This well was fractured in the fall and winter of 1988-1989. The men who worked in the test laboratory at the drilling site, wore special clothing, and their laboratory bore a radioactive logo.

"I, and my family, were the innocent victims of drinking and bathing in water, contaminated with toxic chemicals and radioactive materials."

Early spring, 1989. When the gas well was operable, the run-off was piped directly from the site to a point and then left to run uncontrolled down a hillside gully, through a culvert, and down a ravine where it then emptied into the slough behind our boathouse. The run-off was the color of Coca Cola, foamy, with oily streaks in it, and smelled like oil and rotten eggs. It killed all plant life and water creatures in its path. I never again saw another salamander, bull frog, or lily pad around our boathouse. I didn't know anything about methane gas wells at that time, but I realized if the run-off killed plant life and water creatures, it certainly posed a potential danger to the health of humans.

I called ADEM, (Alabama Department of Environmental Management), and asked for someone to come and take water samples. No one came. I called ADEM again, but nobody came and my calls were never answered. The run-off continued night and day.

May, 1989. I called a local television station and asked for someone to come and see this operation. A reporter came, (with CNN now), and did an environmental report on the river, but I saw nothing about this particular gas well. ADEM finally came, took water samples several times, at our house, as well as other places. I called for, but never got any results of the testing.

June 1989. Something prompted a hydrologist from the State Oil and Gas Board, to pay us a visit. He told me that USX-Amoco, had agreed to shut the operation down until a better way to take care of the run-off could be determined. He also advised me not to swim in our slough.

I thought this would resolve our problem. I was wrong, because something was obviously happening to our drinking water well too. We had 65′ of water in a 110′ well that had always been wonderful, but within a short time, it turned the same Coca Cola rusty brown, with long slimy tags of gunk that floated in a pitcher, when I filled one. It ruined everything it touched. We had to buy our drinking water and send our clothes to the laundry. Every shower bath left us feeling like we were covered in an oil slick.

By 1989, I was experiencing episodes of severe stomach cramps, vomiting, diarrhea, fevers and unexplained rashes which sent me to the emergency room and to the hospital several times. I was finally diagnosed with diverticulosis. I also experienced sudden and unusual, urinary infections. My urologist was baffled. He told me that something had traumatized my bladder, just what, he did not know.

My neighbor had the same experience with her water well. She said it smelled so much like petroleum, she was afraid it was going to explode. She called and officials from the Oil and Gas

Board came. They accused her of pouring crude oil in her drinking water well. A reporter interviewed her and made a photograph of her holding a jar of her water. She mentions a neighbor who is having the same problems. I am that neighbor.

The equipment at the gas well sat idle from July 1989, until the pre-dawn hours one morning in March, 1991, when I awoke to the sound of voices, and heavy equipment, motors and the clanking of chains and metal against metal, coming from the gas well site. The next morning, when I looked in that direction, all of the equipment was gone....including a 500 gallon tank of diesel fuel, used to run a generator. Shortly afterward, I turned my dishwasher, and faucets on, and got huge globs of black, jellied grease, bearing the strong odor of petroleum. I no longer wondered, but knew at once, that my suspicions were correct, and that the underground aquifer, which supplied our drinking water well was affected by the fracture of the gas well and that I, and my family, were the innocent victims of drinking and bathing in water, contaminated with toxic chemicals and radioactive materials, plus the filthy, bacteria filled water, drawn from the strip mining lake. A nagging fear about our health, was forever imprinted in my mind. It will never go away.

Something else happened at the gas well site too. Special efforts were immediately taken to bulldoze the whole area, cover it with a thick layer of soil, and plant grass, then huge piles of rocks and dirt were bulldozed to block the entrance of the road leading to the gas well site, and grass was planted there as well. The USX-Amoco, sign disappeared too.

April 1991. I had a mammogram with good results, but was still having severe attacks of diverticulosis. February, 1992. I had breast cancer, a radical mastectomy, and five years of treatment.

March, 1992. My neighbor, who had complained about her well, had breast cancer, and a radical mastectomy. She also had a cancer surgically removed from her nose. Later on, she had a cancerous nodule removed from her breast scar tissue, and took thirty-three radiation treatments. Later on, about 1995, she was hospitalized and in isolation for several weeks before a doctor from CDC, diagnosed her with a very rare Herpes Pneumonia, (Shingles in her lungs). Last year, she expressed to me again, her firm belief, and her fear, was that her cancers, and the Herpes Pneumonia, were caused by drinking her well water, which was contaminated by the fracture of the methane gas well, but that her fear of USX, retaliating against her family, like it did ours, was so great, it kept her from trying to do anything about it legally.

My brother and my sister-in-law lived across the street from us and also shared our water well. In May, 1992. My sister-in law, had several skin cancers surgically removed. Since then, she has had numerous cancers surgically removed from different areas of her head and body. In August, 1992. My brother was diagnosed with prostate cancer. He had surgery. He later had a cancer removed from his ear.

November, 1992. Another neighbor on my street, had colon cancer. He took a year of therapy. All of us lived well within the immediate area of the USX-Amoco gas well, where the Board said no water wells existed. Since then, there has been five more cases of cancer, with three deaths in the same small area. The neighbors were reluctant then, and they still are, to speak out about contamination and pollution period, because the land they live on is leased from USX Corporation, and some of them either still work, or they are retired from it, and they are afraid of retaliation, and rightly so.

September, 1994. We received a mandatory notice from USX Corporation. "Yes," I want to live on USX Lands, or "No," I do not want to live on USX Lands. Our lease did not expire until December 31, 1994, but in October, 1994, we received a new "License Agreement." The new document was eighteen pages and forty-nine paragraphs of legal jargon, which mainly stated that if we did sign it, we would drop all lawsuits, and we would have no recourse in the event that we, or any member of our family, was injured, or died, due to any operations being carried

out by USX Corporation, or it's Agents, on USX Lands, and that we would have no recourse as far as pollution or contamination on USX Lands was concerned, and that we would offer no resistance should USX corporation, with or without reason, inspect our premises at any time, day or night, and that our License Agreement, could be terminated, without reason at any time, and that USX Corporation, had the right to confiscate our personal possessions and sell them.

We refused to sign this third world document, and when we didn't, USX, entered a summary judgment against us and the judge agreed that we didn't have the right to live on USX Lands, if we didn't sign the new agreement, so we were given thirty days to move forty-four years of family possessions. We were not allowed to sell our home. We wanted to give our home to a worthy family. We were not allowed to. USX Corporation wanted us and our home, removed from the area period, and intended to use us as an example to show the mighty power it held. We could not move our home, because it was immovable, and if we could have, the financial burden would have been too great. We lost our forty-four year investment. USX also demanded, if we did move our house, that the land be put back into the condition it was when we first leased it in 1952. That task would have been impossible. The new License Agreement was created by USX Corporation lawyers, to use against us and the rest of the people living there, and anyone who might live on it's lands in the future....people are not too prone to buy a house there now.

You are probably wondering why we didn't move away. We couldn't. That was our home, a part of our life, and we were nearly sixty-five years old and had hoped to be able to spend our retirement years there. We could not just walk away (or thought we couldn't), and leave our investment. Our home was very comfortable, it was the environment around it that was horrible.

November, 1996. After our eviction, our house was torn down a board at a time, until nothing remained except the skeleton. It stood for several weeks as a reminder to the other people living there to keep quiet or suffer the same fate. We were publicly ridiculed by a USX Corporation Land Agent, who said we were "deadbeats," and "slackers," who just didn't pay our bills, and that was the real reason we were evicted.

I still have episodes of diverticulosis and other health problems. Recently, I was diagnosed with Herpes Zoster (Shingles), in my face, neck and sinus tract. I lost hearing in one ear and lost my sense of smell and taste. I live in a state of anxiety over my health and that of my husband, because I firmly believe that my health problems and the cancers on both his cheeks, are the results of drinking bathing and shaving, in water contaminated by this coalbed methane gas well. My husband recently had those two cancers surgically removed from his face, and is facing another one.

I believe that a company or corporation should have the right to operate, and workers should have jobs, but at the same time, they should not be left to police themselves, and they should have a very strict duty to protect the health and welfare of the general public.

On account of coalbed methane development, it's loose permits, lax regulations, and a giant, ruthless corporation, my home is gone. My good health is gone, our life's savings is gone. The gas well is gone, covered up, and planted over with grass, and we never had our day in court to tell about it.

Senator Bingaman, you have only read parts of what happened at my house when I still lived there. I ask you please, not to sponsor the Bill to exempt the oil and gas industry from The Safe Drinking Water Act.

Sincerely,

Peggy Hocutt
Alabama

4. COUNTY OFFICIALS SAY RESIDENTS IGNORED

By Josh Hoppe, Durango Herald, May 26, 1999

La Plata County residents are being ignored by the state commission that oversees oil and gas development, two county commissioners told the director of the Colorado Department of Natural Resources on Tuesday.

Controversies between the county and the Colorado Oil and Gas Conservation Commission have left residents in four subdivisions feeling powerless, County Commissioner Bob Lieb told Greg Walcher, director of the Department of Natural Resources, which oversees the COGCC.

“The thing that bothers me most is you have a whole group of people who feel powerless,” Lieb said. “You’ve got to be a good neighbor, and some of these gas proposals they have now are not being good neighbors.”

Commissioner Josh Joswick said that the COGCC has not been accessible to residents wishing to express concerns about gas well development because the commission usually meets in Denver. During at least one public hearing, residents were barred from speaking because they did not meet certain criteria that qualified them as “affected parties,” he said.

While the COGCC has a field representative in Durango, Walcher hoped the commission would meet in or visit Durango more often.

“I believe that with any board or commission that decides anything that affects people, they ought to do it there,” he said

Lieb said that when the COGCC allowed downspacing, which permitted one well on 160 acres of land instead of one well on 360 acres, landowners were unexpectedly faced with having a well close to their homes.

On these 160-acre plots, the COGCC designated drilling windows where drilling must be completed. Drilling windows are based primarily on geological data and do not take into consideration where people live.

Lieb suggested that downspacing be made a political process so local representatives would have an opportunity to vote on any similar move in the future.

Once the drilling windows were determined, the maps were overlaid with surface uses and found to be located near residential properties. Even when property owners said that drilling wells in their neighborhood would not be feasible, the commission approved the drilling windows, said Nancy Lauro, the county’s manager of planning services.

Approval of drilling windows despite residents’ opposition demonstrates that something is wrong with the commission and its approval process, Lieb said.

The state has a responsibility to develop oil and gas resources, but the resources must be developed responsibly, Walcher said. Local development regulations are important, but residents cannot expect to have no wells in sight, he said.

Walcher said there needs to be stricter mineral rights disclosure laws so that residents know if a company may extract natural resources from beneath their land. Under current regulations,

title insurance companies only need to inform land buyers that there may be a mineral rights owner, but specific owners do not have to be provided.

"If you know if (J.M. Huber Corp.) or Amoco does in fact own the mineral rights, it might affect whether you buy (land) or not," he said.

Joswick told Walcher that while the COGCC regulates drilling windows and well permits, local governments should have some say in what happens on the ground surface.

"What you're talking about with the COGCC is how they extract the resource and how and where they impact the surface; the surface owner has rights," he said. "When it hits the surface, what we've asserted all along is we have some control over that."

Joswick also expressed frustration with the COGCC's reluctance to discuss gas well locations because the commission says the county is premature in wanting to deal with the issue.

"I don't look at that as being irresponsible because we want to work with a problem we see coming down the line," he said. "We need to start working with this before there's a rig out there drilling."

Reprinted with permission from the Durango Herald

5. THE LONG ROAD

LESSONS LEARNED FROM MORE THAN TWO DECADES OF DEALING WITH THE OIL AND GAS INDUSTRY

By Terry Fitzgerald

When the "landman" comes-a-callin' landowners embark on an unsolicited, long and contentious experience. Such issues as private property rights, the meaning of privacy, and just compensation swirl around us. We ask and debate continually questions such as:

- Why was my property chosen to be a sacrifice area?
- Why is it that the public agencies of my county, state and national government see me at best as a nuisance and at worst, an enemy?
- How does a very small group have the right to change entirely our environment (sounds, water, sight, air)?
- Why do I feel so alone in these negotiations with a multinational industry?

Jim and I own 375 acres southeast of Durango, Colorado. We purchased the property with the understanding that we would own a 1/8th interest in the mineral estate. There was no development in our area at the time. In the 1980s we began to be visited by several different "land men" who consumed a tremendous amount of our time but gave us a very good education in gas drilling and the various rules and regulations surrounding it. They also made us aware of drilling activities on public lands and private lands in pockets of the county. By 1991, there was a well on our land and a well on an adjacent neighbor's land that pulled gas from under our place.

We never signed either a mineral lease or a surface agreement, and from these active omissions we learned the following points:

First, why we did not sign a surface agreement.
We had been very public about the emerging problems from the time we learned of the activity in our county. We attended meetings of angry landowners, and county hearings. There were workshops sponsored by the Oil and Gas Conservation Commission (OGCC) as a response of the state agency to look accountable. By the time the landmen approached us we were afraid to sign an agreement because the contract backed the surface owner into a set of rules; and when the state promulgated new rules, the old contract held.

There seemed very little reason for signing an agreement after the well was drilled. Both from experience and information from others we learned that the companies will not honor any agreements after drilling is completed. Most of us cannot afford to follow the legal roads to enforce the contracts.

On the issue of well pads.
In the state of Colorado the surface owner has a right to use the well pad as long as the activities of the gas producers' activities are not curtailed. People have frequently used the pads for storage of horse and camping trailers, sheep herder wagons, RVs, extra vehicles, water tanks, etc. Also, in Colorado, interim reclamation should be started no later than 3 months after a well is drilled. Much of the pad can be put back into vegetation or crops. The land owner is responsible for requesting their reclamation.

When negotiating with a company about a well pad, never believe their description of how many people and how many trips will be made to the area. Our wells have been operating for about 12 years. At this point there are small chunks of time when the well traffic is a little less, followed by large periods of time with a great flurry of activity.

Mineral rights and force pooling.
We own 1/8th of the mineral rights under our property, and have never leased them. Since the well has never been "paid out" we still do not know the results of this decision. Our decision not to lease was based on a right-of-way dispute. At the time, there was little financial incentive to do otherwise. Through conferences given by the state agency, through discussions with the company, through advice from lawyers, and finally through a careful reading of the state regulations, we understood that we would be "force pooled" if no mineral agreement was signed. The word was used as a threat by the companies, and whispered as if it were a death sentence by the state agency personnel. There appeared, however, no question that if you did not sign a lease you would be force pooled by the company. As production began on the wells of our interest, we contacted the state and told them that no agreement had been reached. The agency gave us false information that would have allowed the company to steal our gas. We asked for clarification from the board of directors of the state agency and ended up force pooling BP-Amoco. Recently, it has come to light that many companies never force pooled small mineral owners, and the state has sanctioned this theft. The state takes no responsibility to protect mineral interests, does not insist on a full reservoir leasing before drilling permits are issued, and the state will not assist mineral owners in the recovery of their payments after the well begins producing.

Conflicts.
If you live near the well conflicts are almost inevitable. We have divided the conflicts into three categories:

1. Workers and crew bosses forget that they are working around others. They seem to get a mind-set where the edge of the pad is the end of the world. If the work boss forgot to install a port-a-potty, well, the worker does the obvious. If the company needs to do some welding, never mind the fire ban. If there are closed gates when you enter, it can't hurt if you leave them open.

- We have felt that these issues usually are best solved by frequent, direct contact with the workers, and calls to the company.

2. Sloppy company procedures. These result in erosion problems, road and dust, fencing and waste pit issues, and the never ending noise (we feel that human beings who can hear are now an endangered species).
   - We have found that dealing with the company is at best a very short-term solution, and usually resolves nothing. Any political entity (county, city, state) will insist that you begin with the company. We have found a simultaneous approach to be more effective. If a well is "blowing off," a frantic call to the company is necessary; a call to the county should follow immediately. Whenever possible, a letter or email is far superior so that documentation exists.

3. Neighbors. It has become customary for the company representatives to foment suspicion among neighbors. Carrying stories about trash, driving habits, infidelities, etc., from one house to another has become common practice. This suspicion can be escalated by secrecy around payments for land use, "better deals" on fencing, gates, culverts, etc.
   - When leasing or surface occupancy begins in an area, neighbors need to guard against these tactics immediately. Hurt feelings are hard to cure.

Over the years we have tasted success in measures to improve our situation. Election times are often successfully used to draw politicians' attention to our problems. The noise problem is still unsolved, but things have improved. No longer are wells "blown-off" to reduce the internal pressure so that work can be done. Now the pressure is released very slowly, and there is no sound. Sound barriers have become routine. Mechanical problems with pumpjacks will be repaired (so long as you report them). Water quality is monitored.

Speaking out really does pay off. The sages of yesteryear who cautioned "Be nice to the company or they will get you" have been proven wrong.

In anticipation of a new well construction, and in the discussion of compensation, remember that you are entering a time (probably a lifetime) of monitoring, reporting and investigating activities around the well to protect your own health and well being, and that of your neighbors. It is no small task - don't sell yourself short.

6. THREATS AND INTIMIDATION: THIS IS CALLED "NEGOTIATION"?

FORCE POOLING AN AFFRONT

By Hans Voss, Michigan Land Use Institute, Great Lakes Bulletin News Service, Spring 1997

About a dozen property owners actually are force pooled each year. But the state's authority to force holdouts to lease strongly affects oil and gas policy across Michigan.

Leasing agents frequently mention force pooling during negotiations with property owners who have questions or reservations, as a tool to pressure them into signing a company's contract. In addition to threats of forced pooling, property owners report that common tactics include constant badgering, misinformation, and inflated estimates of royalties.

The Michigan Energy Reform Coalition often hears stories like these:

- Property owners in Manistee County's Filer Township were pressured into authorizing a natural gas well in their neighborhood. The well contains dangerous levels of poisonous hydrogen sulfide, but residents were not told of the health risks.

Here is part of a description of one couple's conversation with a leasing agent: "When my husband asked what would happen if we did not sign the lease, I remember Mr. – indicating that we would be taken to court and that there would be a lot of money involved and that we would have our mineral rights force pooled to form a drilling unit and in the end we would gain nothing and lose in court. So with the perceived threat of a lawsuit we felt we had no choice and signed the lease."

- A couple in northern Manistee County was told by a leasing agent that all the neighbors had already signed. The agent went on to say that if the couple didn't sign the lease he was presenting, the company would just draw the gas from under their land without paying any royalties. The couple then invited several of their neighbors over for coffee, and found out that most of them also were taking a wait-and-see approach, and had not leased.
- An Antrim County couple was coerced into leasing with promises for royalties of up to $10 per acre per month. Actual royalties turned out to be about 50 cents an acre.

Under current Michigan law, landowners who do not wish to lease their mineral rights for oil and gas development can be forced by the state not only to accept a lease, but also to pay penalties.

The law is called "compulsory pooling." It was developed as part of the original Oil and Gas Act of 1939 to promote development by ensuring that mineral owners who want to lease have "...the opportunity to receive his or her just and equitable share of the oil and gas." In the 1930s other oil producing states across the country adopted similar laws. Legislators of this post-Depression industrial era viewed leaving the oil and gas in the ground as "waste," and enacted laws like compulsory pooling to make sure the resources were developed.

Today, state regulators are required by law to prevent waste of the environment, but the overriding pro-development intent of the 1939 act still drives Michigan's oil and gas program.

Compulsory pooling, also called forced pooling, typically is used when a small minority of landowners, usually no more than 5% of a unit, refuses to lease their minerals. However, the law does not specify an appropriate percentage, or even that the pooled interests should be a minority. It merely requires that the decisions of the Department of Environmental Quality [DEQ] are "just and reasonable."

Once a petition to compulsory pool is submitted by an oil company, the "holdouts" are given 15 days in which to respond. If a landowner or group of landowners protests, a formal DEQ administrative hearing is scheduled in Lansing. The hearings are formal, courtroom-like proceedings. To work through the rigid guidelines, most holdouts need to hire attorneys.

The DEQ, which reportedly receives about a dozen oil company petitions for compulsory pooling a year, rarely denies them. It is unclear if the state has ever denied a company's attempt to force pool.

Once a "holdout" is compulsory pooled, he or she is given two options:

1. Pay to the company the proportionate share of the cost of drilling, completing, and equipping the well, whether it is a producer or a dry hole;

2. Await the outcome of the drilling of the well, and if it is a producer, pay to the company the proportionate share of the cost of drilling, completing, and equipping the well, plus an additional percent determined by the DEQ's Supervisor of Wells.

   Both options make the holdout a full working party in the well. The landowner receives a 1/8 royalty, but unlike the voluntary lessors, the holdout must pay a portion of the drilling

and operating costs. In Option 1 the costs are paid up front, and in Option 2 the landowner pays only if the well proves successful. In Option 2, however, there is an additional charge of usually 200% of the proportionate costs of drilling the well. When the unleased mineral owners do not choose one of the options, the DEQ automatically assigns the terms of Option 2.

7. STATE COULD FORCE PROPERTY OWNERS TO ALLOW DRILLING

Great Lakes Bulletin, Spring 1997

Late in the autumn of 1994, Sue Falco, a greenhouse owner and longtime Antrim County resident, was busy shutting down her business for the season when she received an unexpected visit from an oil company leasing agent. He outlined the company's plans to drill for Antrim Shale natural gas in the area, and said that Sue would be well-rewarded if she signed over her mineral rights to the company.

But Sue Falco is not the kind of woman who signs anything on the spot. She told the agent, who was working for the Traverse City-based Oilfield Investments Ltd. (O.I.L.), that she wanted some time to think it through.

Sue then learned as much as she could about oil and gas leasing, while fending off numerous pleas from leasing agents, and braving two formal hearings in Lansing. Now she is desperately defending what she always thought was a given: Her right to not sign a lease.

Sue is not the only holdout in her Jordan Township neighborhood. Thirteen other landowners have refused to lease, and four others had leased but refused the company's plan for dividing up the royalties. They all are named in a petition that O.I.L. filed with the Department of Environmental Quality, to force them into accepting the company's terms.

And it looks like the DEQ is going to allow it. Michigan law allows companies to "compulsory pool," or force, unwilling mineral owners to join drilling units. The rationale is that holdouts should not be able to prevent neighbors from developing their oil and gas resources. The law typically is used when a small minority of landowners—representing less than 5% or so of a unit's acreage—refuse to lease, or when the owners can not be located.

What is astonishing about O.I.L.'s action in Sue Falco's neighborhood is the scale. The company, which secured authorization from the owners of just 1,517 acres, is trying to force pool 1,283 more acres to form a drilling unit. Even though this would force an unprecedented 45% of landowners into a drilling unit, current law allows such an action.

A DEQ administrative hearing was held in Lansing last fall. The state has not yet made a final decision on the matter. Hal Fitch, the DEQ's Assistant Supervisor of Wells and the decision maker on compulsory pooling issues, defends the forced pooling process as an "important mechanism" to prevent "waste" of oil and gas.

"It certainly does not take away anyone's property rights" Mr. Fitch said. Instead, he said that the reverse is true, and that the law is necessary to protect the rights of those who want to lease. " (If the DEQ did not force pool) we would be in effect taking those rights without compensation," said Mr. Fitch.

One of the main factors of the state's decision will be based on whether O.I.L. made a reasonable effort to obtain signed leases. The company's petition to the DEQ shows that in some

cases the agents called and visited landowners, but in other cases they did nothing more than send a lease by certified mail.

Sue Falco says that O.I.L. did not really negotiate with her. She had consulted with a lawyer, and wanted her lease to be more explicit. She asked for contract language that assured her there would be no roads or pipelines on the property. She wanted a slightly higher royalty rate.And she wanted to specify which geological layers she was leasing. The company agents, however, insisted that they could not change the "standard" lease format.

"I was willing to work with them, but the point is that you just can't work with them," she said. Sue also questions the whole premise of state-controlled negotiations for private property. "Would it be right for a logger to come and log my land for a price that isn't fair to me?" she asked. "No way. You should have the right to deny them."

Reprinted with permission from the Michigan Land Institute.

8. RANCHER NOT INFORMED ABOUT MINERAL LEASING

By Jeanie Alderson

My father and two sisters own Bones Brothers Ranch, a cow/calf ranching operation in southeastern Montana. Like many ranches in this part of Montana, ours has been built over the last 110 years. We own and pay taxes on 8,435 acres, and lease grazing land on the Custer National Forest. While we own some of the minerals below our land, other family members and the federal government own the rest. Many of the federal minerals are under land that is very close to our homes.

I knew that the federal government owned minerals below our ranch; however, I knew nothing about the process of federal mineral leasing. In December 2000, I called a Bureau of Land Management (BLM) official in Miles City to find out if the minerals under our ranch had been leased for coalbed methane development. From the information I eventually received from this BLM official, I learned that five companies and individuals had leased the federal minerals below our land. Although the BLM does not distinguish between regular oil and gas leases and coalbed methane leases, all indications point to these minerals being leased for coalbed methane development.

BLM never informed me they were leasing minerals under our ranch. BLM never asked for input regarding lease stipulations. I was never told about the leasing process, nor did I receive any information about the relationship between surface owners and mineral owners in regard to the development of federal minerals.

Had we been able to be involved in the leasing process we could have provided helpful information about our ranching operation, and how leasing decisions will affect our ranch. We have an intimate knowledge of the landscape and could have provided information about wildlife habitat, native plants, unstable slopes, watersheds and so forth. We could have provided information about where not to allow drilling, and where it might be acceptable. This information could have guided the leasing in a more reasonable and, ultimately more effective, manner.

In the present situation, we had no input into a process that will ultimately affect our land, water, business and lives forever. It seems like common sense that landowners should have more say in what happens on their property, but the simple truth is that oil and gas rights take precedence over surface rights.

Reprinted with permission from the Western Organization of Resource Councils.

9. REACHING AN AGREEMENT: LUCK OF THE DRAW

By Pete Dube

My wife and I own an outfitting business in Buffalo, Wyoming, and about six years ago we bought 5,000 acres in Campbell County as a place to run cows and winter the horses we use for outfitting. The bulk of the minerals under our land are owned by the Federal Bureau of Land Management (BLM).

My experience with coalbed methane was a two-year nightmare of negotiations. CMS, one of the biggest coalbed methane "players" in the Powder River Basin, approached us with a proposal to develop the southwest corner of our land. The company asked us to sign a surface use agreement that was one and one-half pages long. I came back with a more detailed agreement that would have required the company to prepare a water discharge plan prior to drilling, only use existing two track roads, bury all electrical lines, and monitor our two water wells. It took me more than two years to reach an agreement with the company, and I spent at least $5,000 in lawyer's fees.

Then I discovered methane gas seeping up the side of my stock well. I was forced to dismantle the well cover to relieve the pressure of the venting gas, and the pipes to my stock tank froze. Finally CMS responded by fencing off the well and posting the enclosure with danger signs.

My well problems coincided exactly with coalbed methane drilling by CMS on a neighbor's property, but the company initially refused to take responsibility. They were trying to tell me it was just a coincidence, and that my well had been improperly drilled. What irks me is you have to be the one to prove the company caused the problem. The company finally installed a new pump, and solved the problem.

It's kind of the luck of the draw whether or not you can reach a good surface use agreement with a company. If you get a rancher friendly company, you might get along alright; if you get one that's not, you're in for a fight. If an agreement is not reached all the company has to do is post a bond to cover capping the gas wells and they can come on your property.

If I had the mineral rights there would be no development on this land. I don't blame my neighbors for wanting to make some money on this. That's their business. But for me, this is not about money. This is the only ranch I've got. I was out riding and looked down at what's happening to the country, and I thought this must be how the Indians felt when they saw the covered wagons coming.

There goes the neighborhood.

"I came back with a more detailed agreement that would have required the company to prepare a water discharge plan prior to drilling, only use existing two track roads, bury all electrical lines, and monitor our two water wells."

10. ONE RANCH FAMILY'S STRUGGLE WITH COALBED METHANE

By Nancy and Robert Sorensen

We have lived for the last 29 years on a cattle ranch in the Powder River Basin in northern Wyoming, and my husband's family has pioneer roots reaching back over 100 years. This semi-arid environment only allows so much disturbance before the land is stressed to the point that a living cannot be made. My husband's family listened to the land and has persevered for four generations.

Our ranch is typical of many in the West in that the mineral and surface rights to the same parcel of land are often held by different parties (known as a "split estate"). We share mineral ownership 50-50 with Shriners Hospitals for Children under 2,500 acres of our ranch, and the federal Bureau of Land Management and State of Wyoming own the minerals under 200 and 160 acres of our ranch, respectively.

In October 1999, we were approached by a coalbed methane company to drill on a state-owned section of land that we lease. After consultation with the State Lands Office we attempted to reach a surface use agreement with the company that was in line with our philosophy of sustainability. After a long negotiation, an agreement was sent to the company management that we understood they had approved. The company rejected the agreement, and the State Lands Office allowed development operations to begin. A substantially weaker agreement was later offered to us by the company which the state urged us to sign. We did.

Being denied a reasonable agreement was only the first defeat. Next, we tried to get the company to live up to the agreement that it had authored.

Prior to commencing operations the company was supposed to provide us with a map. We finally received one six months after commencement of operations. There were to be no overhead power lines, but the company went ahead and constructed them anyway. The company also failed to discuss water management plans with us prior to beginning operations as it had agreed.

Over time the company has violated at least eight provisions contained in its agreement.

The problem as we see it is the overwhelming advantage of the mineral owner against the surface owner. We need regulations that give surface owners a more equitable bargaining position for surface damages.

11. BUSINESS OWNER STRUGGLES WITH COALBED METHANE

By Phil Hoy

I moved to Gillette, Wyoming in 1972, where I have a welding shop and a 56-space mobile home park six miles north of town. I am in the middle of both coal mining and coalbed methane development.

When I lost my drinking water well to the dewatering of a coal seam, I didn't know what had happened. I was forced to drill a new well at my own expense. I was advised to pursue the Eagle Butte coal mine for remediation, because federal law stipulates that coal companies replace affected or depleted water wells on adjacent properties. As it turned out, an investigation by the

Wyoming Department of Environmental Quality (DEQ) revealed that my water well was depleted by a combination of coal mining and coalbed methane development. The coal and coalbed methane companies agreed to pay for the cost of the water well and its feeder lines.

Afterwards, I agreed to sign a release of liability for loss of the water well with both companies. This created a huge problem because the wording also released the coalbed methane company from future liability for property damages which have occurred and are continuing to occur on my property.

Between 1997 and 2000, Barrett Resources discharged 163 million gallons of coalbed methane water, much of which traveled down gradient to my property. The shallow alluvial sands on my property were flooded by these discharges and an unlined instream impoundment reservoir, rendering my leach field unusable. In 1999, I had to install a sewage treatment plant.

I have been in regular contact with government officials in order to resolve these problems. For example, when I objected to the issuance of a coalbed methane water discharge permit by the Wyoming DEQ, I was told by state officials that the discharges did not violate state law and they had no authority to prevent damages to my property. When I wrote to the State Engineer's Office about the permitting of the impoundment reservoir, they not only neglected my concerns but did not require the company to use simple, common sense measures to protect my property. It's not right for state officials to issue permits when they know that other people's property will be damaged.

12. WHY I FIGHT: THE COMING GAS EXPLOSION IN THE WEST

By Tweeti Blancett

Here's what I once believed: that if the President knew about the damage done to our land by the energy industry, the damage would cease.

I once believed that if you could show that industry can extract gas without damaging land right near us -- as it does on the Southern Ute Indian Reservation, and on Ted Turner's Vermejo Ranch -- that those examples would be followed by every company.

Believing that, I went to Washington, D.C., in August 2002, and met with Kathleen Clarke, who runs the Bureau of Land Management; I met with Rebecca Watson, a Montanan high in the Department of Interior; I met with V.A. Stephens, who is with the Council on Environmental Quality; and I met with the New Mexico congressional staffs. I told them all that gas drilling could be done right but that it was being done wrong. I begged them to enforce existing regulations.

I came home to the small town of Aztec, N.M., and waited for change. I'm still waiting. I suppose not everyone can waltz into Washington and get that kind of entree. But I ran George Bush's 2000 campaign in my part of New Mexico. I ran Sen. Pete Domenici's campaign in my county in 1996. Our family has been on the land here for six generations and going on three centuries. We graze cattle on 17 square-miles of Bureau of Land Management, state and our private land.

We once ran 600 cows on those 35,000 acres. Today, we can barely keep 100 cows. Grass and

shrubs are now roads, drill pads or scars left by pipeline paths. We have trouble keeping our few cows alive because they get run over by trucks servicing wells each day, or they get poisoned when they lap up the sweet anti-freeze leaking out of unfenced compressor engines.

I have not taken this quietly. I have been on a mission for 16 years. In the beginning, I wanted to save the 400-acre farm and the adjacent piece of wild land in northwest New Mexico that I care most about. That's not much out of 35,000 acres. My family thought I was nuts. My son was a senior in high school, and resisted my attempts to enlist him. My husband said I was wasting my time.

They knew I was going against an industry that sharpened its teeth chewing on little people. They thought industry had the upper hand, legally speaking. But I believed industry had the upper hand because it threatened and intimidated. I once met Rosa Parks. I thought: If that little lady could sit, alone, in the front of a bus filled with hostile passengers, then I could act to protect where I live.

Gradually, I came to see why everyone else thought I was nuts. All of San Juan County in southern New Mexico has been leased for 50 years to gas companies. Our fathers and grandfathers signed these "perpetual" leases long ago, when the gas companies were owned and run by neighbors. The rest of the land is federally managed.

The industry claims its right to underground minerals trumps our rights to the surface. We don't deny their rights. We just say that we also have rights. Unfortunately for us and our cows and the wildlife, we are on top of unimaginable wealth, in the form of coalbed methane. Each year, our small, rural and fairly poor county produces $2.4 billion, and most of that money flows right out of here.

My 400 acres sit at the heart of this wealth. Nevertheless, several of us last fall locked the gates to our private land. We have not denied access to those who have leases. But we now control the access. We were tired of being told by the companies that "someone else" had killed the cow, or the deer, or drove across freshly reseeded land. Now we know who is on our land, and when.

It's perfectly logical and legal to control access to private land, except in gas country. So the companies pulled us into court. This, it turned out, was not a bad thing. We found out that industry doesn't have the rights its says it has. And when we go to court, we don't go alone. We bring our rancher friends. We bring our environmental friends -- friends we never dreamed of having. We bring pictures of the surface damage -- pictures that are so bad other states use them to show what happens when you trust industry and the BLM to "do the right thing."

We've been in more newspapers than I can count. We've been in People magazine. We've been on Tom Brokaw's TV news program. This natural gas boom has become a Western plague. In conservative Wyoming, home to Vice President Dick Cheney, the reaction against coalbed methane helped elected a Democratic governor.

But this isn't a partisan issue. We had as much trouble under Clinton as we do under Bush. This is a campaign-contribution problem. They give more than we can.

At times it seems hopeless. Then I hear from people facing similar situations in Colorado, in Montana, in Wyoming, in Utah. Many are like us -- conservative, Republican, pro-free enterprise

people. Others are environmentalists, or just care about land and animals.

Shortly, there will be a huge natural gas explosion, but it won't be pipelines or gas wells that blow. The explosion will come from the average Westerner, who is tired of being used by the oil and gas industry, with the help of state and federal officials.

13. BELLFLOWER WELL

By Curt Swanson

Introduction:
My wife, Anne, and I moved to Colorado in 1997 to build our retirement home on property we had purchased in the Bellflower Ranch subdivision northwest of Bayfield. This subdivision consists of lots between 10 and 25 acres.

Like so many other newcomers, we knew nothing about gas wells or the impact they could have on residents. In looking around we could see pumpjacks operating in open fields, but never thought that they could put these things in subdivisions.

My story here is about the process our community went through in dealing with the drilling company. We learned a lot about how gas companies operate and how to more effectively deal with them. I would like to share with you some of the mitigation wins we managed to obtain and how we achieved them.

The key to any success we had was EDUCATION. That is, educating ourselves on what can and cannot be done and some of the options the drilling companies have that can make gas wells more bearable to our community. We also learned that in the industry there are good guys and bad guys. We managed to draw one of the bad guys.

History:
In March of 2000 the drilling company met with several neighbors to discuss mitigation of the proposed well. We presented a list of what we wanted, and the Company verbally agreed to most of our requests.

Two days after our meeting, we received a letter from the drilling company that they had already submitted a drilling application the previous week. None of our critical mitigation requests had been incorporated in the application. This was our first clue as to how this company operates when it comes to dealing with landowners.

Subsequent to the application, there were several hearings with the La Plata County Commissioners resulting in an agreement with the Company on the mitigation items required to obtain a County permit. Included in this agreement was a low-profile pumping unit and the use of electricity in place of gas to run any equipment after six months of operation. We all walked away from the meetings feeling we had a satisfactory agreement and could co-exist with the gas well.

Two years later we were still waiting for the Company to replace the large, gas-driven pumpjack they had installed. Instead of doing what they promised, they petitioned the County to waive the requirement for a low-profile, electric-driven pumping unit. The County refused. The Company's response was to file a suit in court and to appeal to the COGCC to force the County to abandon their requirement for a low-profile pumping unit. A comprise was finally reached between the

County and the drilling company to install electric-driven equipment in return for not enforcing the low-profile pump unit.

What we learned:

1. We won the County's support because we came prepared:
   - We obtained 70 signatures on a petition.
   - 50 people showed up for the hearing.
   - We researched what other companies were doing.
   - We had data to support the feasibility of both the low-profile pumpjack and electric-driven equipment.
   - We were able to counter the drilling company's arguments.

2. You cannot believe all that a drilling company tells you. You need to research on your own what is feasible for the company to do. Make sure you have any agreements in writing and signed by the company.

3. Some drilling companies are more honest and community-minded than others.

4. The gas industry and the COGCC will blindly support any drilling company action that is within State regulations when it comes to issues of visual or noise mitigation. For example, we found that the allowable noise level of 50 decibels is similar to running a diesel pickup truck 20 feet away from an open window, unacceptable to most residents.

5. Our only line of political defense is the County and our legislators. This is why we feel it is important that county governments be empowered to regulate noise and visual impacts of gas wells.

6. There are organizations in the county that can provide information and help for mitigation issues (Oil and Gas Accountability Project and the San Juan Citizens Alliance are two of them).

7. The gas companies and the equipment manufacturers we visited were more than happy to give us information and to show us what they had done in the way of site mitigation.

   Some of the things that can be done to mitigate sound are:
   - Electric-driven pumping motors (this is the ideal solution). Some gas companies will maintain that 3-phase electricity is required to install electric-driven equipment. In fact, there are electric motors available that will drive up to 60HP using single-phase electricity. Also, single-phase can be converted to 3-phase by use of a converter (approximate cost $2,000).
   - Properly engineered and installed sound panels (e.g., no openings in the panels). For example, we visited a site where a compressor was completely enclosed so that the noise was virtually eliminated outside the enclosure. This enclosure was engineered by C&J Welding in Bloomfield.
   - Hospital grade mufflers on gas-operated engines.
   - Properly maintained equipment.

   Some of the things that can be done to minimize visual impact are:
   using a low- profile pumping unit, landscaping and minimizing the size of the drilling pad (many companies are using pads of less than 1 acre).

8. Above all, you need to be persistent. It took us almost three years to get half of what we wanted, and we are still pressing for a low-profile pumping unit and replacement of dead

"We found that the allowable noise level of 50 decibels is similar to running a diesel pickup truck 20 feet away from an open window, unacceptable to most residents."

vegetation. Fortunately, a new company took over operation of our well and we have improved hopes of reaching our goals.

The San Juan Citizens Alliance has a folder on the people we contacted and some of their brochures. I also would be happy to share any information I have. You can contact me at (970) 884-2163.

14. A FIRSTHAND ACCOUNT: SUPPORT FOR BILL COMES FROM EXPERIENCE

A LETTER FROM PLEASANTON TOWNSHIP

By Gerard Grabowski , Michigan Land Use Institute, Great Lakes Bulletin News Service, December 1997

One of the main reasons our township has been instrumental in Michigan Energy Reform Coalition (MERC) is because the issues surrounding oil and gas development are too big to confront alone. MERC shares our goal -- to create a cooperative partnership with the oil and gas industry that will insure reasonable industrial development in our neighborhoods.

The following article by Mr. Grabowski, a member of the Pleasanton Township Board, is excerpted from a statement he made at a public meeting in Manistee County on proposed oil and gas legislation.

In 1994, Pleasanton Township adopted an Industrial Facilities ordinance affecting the oil and gas industry. The ordinance requires companies to obtain special use permits for processing plants, and to minimize the noise from their compressors. It also requires companies to provide their development plans to neighboring residents and township officials.

I am happy to report that we have gotten full compliance from the oil and gas companies that have undertaken Antrim natural gas projects in Pleasanton. They have told the township that they want to work with us, and pledged that being a good neighbor is very important to them.

These companies are complying with our ordinance because it is reasonable, similar to the minimal requirements imposed on other industries, and in no way prohibits them from doing business here. We welcome this cooperation, and are pleased that we have a working relationship with the industry.

It hasn't always been this way. One company that now has a project up and running in our township was absolutely furious that we were going to require anything at all from them.

This company had plans for over 40 wells and three compressor stations. They sent letters to leaseholders, warning that the Industrial Facilities ordinance was going to make doing business impossible in Pleasanton Township, and that local officials were robbing them of their private property rights. The letters further warned that we had a hidden agenda, which was to stop oil and gas development altogether.

Well, the reality of course is much different, and residents packed our township hall to implore us to make sure our ordinance was obeyed fully. They overwhelmingly supported the defense of our ordinance against attacks from the Geological Survey Division, (the state agency that promotes as well as regulates the development), and the oil and gas industry.

Now -- Pleasanton could never have gotten this far without establishing a network of other Michigan townships, communities, and organizations that are dealing with oil and gas devel-

opment in their backyards. This is why we are one of the founding members of the Michigan Energy Reform Coalition. MERC has provided our township with a statewide view of things, and has given us the access to information and expertise vital to making intelligent decisions.

One of the main reasons our township has been instrumental in MERC is because the issues surrounding oil and gas development are too big to confront alone. MERC shares our goal -- to create a cooperative partnership with the oil and gas industry that will insure reasonable industrial development in our neighborhoods.

It comes as no surprise that some members of the oil and gas industry are loudly complaining that the proposed legislation will put them out of business, and that MERC's hidden agenda is to stop oil and gas development. We have heard these ridiculous accusations before. And we have learned our lesson, which is to let reality take its course, to stick to the truth, to be patient, and with time, our reasonable demands will be met.

The days of letting the oil and gas companies and the GSD behave like dictators are over. The days of companies ignoring the people who live and work amongst their projects are over!

The bills currently under consideration by the Legislature are for minimum changes that are long overdue. They are just the start of a process of insuring that townships, counties, and citizens have a say in the health, safety, and quality of life in their communities. We hope our legislators see that these bills become law.

15. LAURA AMOS: HYDRAULIC FRACTURING

FAMILY'S WATER WELL WAS CONTAMINATED AFTER HYDRAULIC FRACTURING NEAR THEIR HOME.

By Laura Amos

My husband Larry, our daughter Lauren and I live south of Silt in the heart of what we call Encana's Industrial Wasteland. We were among the first in our area to have natural gas drilling on our property. We are among the unfortunate who do not own the mineral rights under our property. The "Good Faith Negotiations" required by the Colorado Oil and Gas Conservation Commission addressed none of our concerns. Encana sent to our home a nice old gentleman who sat at our kitchen table and told us more or less, "I feel for you, but you own the surface, we own the minerals, and we're coming in to drill. Here's the Surface Use Agreement, you can sign it, but you don't have to. If you sign it you get a check for $3000. If you don't sign you get no financial reimbursement for any damages that may occur." We hesitated to sign for a couple of weeks until we learned that what he was telling us was accurate—the law provided us no protection, no mediation, and no real power to negotiate. It also now appears that others who do not own the mineral rights under their land were also bullied.

In May 2001 while fracturing four wells on our neighbors' property (less than 1000' from our house on what's known as the G33 pad), the gas well operator 'blew up' our water well. Fracturing created or opened a hydrogeological connection between our water well and the gas well, sending the cap of our water well flying and blowing our water into the air like a geyser at Yellowstone.

Immediately our water turned gray, had a horrible smell, and bubbled like 7-Up. Water production dropped drastically from 15 gallons per minute to nothing or near nothing. Tests of our water showed 14 milligrams (mg) per liter of methane. That's almost as much methane that water will hold at our elevation. But the Colorado Oil and Gas Conservation Commission (COGCC) claimed that the methane was "transient" in nature. We were assured that methane is safe, that in fact our bodies produce it naturally, and that there are no known health effects. We were warned, however, to make sure there were no closets or pockets in our home where the gas could build up and explode. They tested the water in our well a couple more times that summer, ending in August 2001.

In the spring of 2003 I became very ill. I spent months in doctors' offices and hospitals. I was eventually diagnosed with Primary Hyper Aldosteronism, a very rare condition of a tumor in my adrenal gland. None of my doctors had any idea of how I could have acquired such a rare disease. The tumor and my adrenal gland had to be removed. As a result, I am concerned that my immune system is now compromised, as well as the other endocrine related systems that are linked with the adrenal glands.

For more than two years my husband and I felt more or less abandoned by the COGCC. We resolved nothing. In January 2004 I had had enough and decided to become better informed and make others aware of my predicament. I started my 1st letter-writing campaign. The gas commission came back, tested again, and again found 14 mg of methane per liter in our water. They determined that it was Williams Fork Formation gas, a Notice of Alleged Violation was issued to Encana, but no fine was administered by the COGCC.

In August 2004 I came across a memo written to the US Forest Service and BLM Regional offices in Delta County, describing the health hazard posed by a chemical used in fluids that are injected underground to enhance the release of methane. Dr. Theo Colborn of Paonia, Colorado submitted the memo in response to decisions that were being made in Delta County by the government officials to allow gas exploration and development on the Grand Mesa. Colborn is the President of the Endocrine Disruption Exchange, Inc (TEDX) and for over 10 years directed the World Wildlife Fund's Wildlife and Contaminants Program. She has been honored worldwide for her focus on the effects of synthetic chemicals on human and wildlife health. The focus of Colborn's memo was on a chemical called 2BE, used in fracturing fluids.

The following information was taken from Colborn's report: "2BE is a highly soluble, colorless liquid with a very faint, ether like odor." She wrote that at the concentration to be used in Delta county 2BE might not be detectable through odor or taste. "2-BE has a low volatility, vaporizes slowly when mixed with water and remains well dissolved throughout the water column." "It mobilizes in soil and can easily leach into groundwater." "It could remain entrapped underground for years." She noted it is readily absorbed by the skin and can easily be inhaled as it off-gasses in the home. Colborn cited the Agency for Toxic Substances and Disease Registry Profile that listed the following effects of 2-BE: kidney damage, kidney failure, toxicity to the spleen, the bones in the spinal column and bone marrow, liver cancer, anemia, female fertility reduction, embryo mortality, and the biggie that got my attention…elevated numbers of combined malignant and non-malignant tumors of the adrenal gland.

Of course that sent up a huge red flag! I have had no peace of mind ever since. Remember that from August 2001 until January 2004 no testing was done on our water. Our daughter was only 6 months old when fracturing blew up our water well. I bathed her in that water every day. I also continued breast-feeding her for 18 more months until she was 2 years old – during the time the tumor was developing in my adrenal gland. If there was a chemical in my body causing my tumor, she was exposed to it as well. She was in contact with the chemical through every possible exposure pathway.

After reading Colborn's memo, I tried to find out if Encana used 2BE in fracturing. Encana's spokesman, Walt Lowrey, assured several of our neighbors, and my husband and me that 2BE was NOT used. In addition, Lowrey told many reporters in western Colorado, Denver and the Associated Press that 2BE was not used on the pad, or anywhere in this area.

However, on January 31, 2005, I learned that the industry had not been telling the truth to all of us. In June 2001, five weeks after the operator and the COGCC knew that there was a connection between the gas well and my water well, they proceeded to fracture wells on the G33 pad again. It was reportedly an experimental fracture, a new idea to fracture into the Wasatch formation, the same formation that our water comes from. They fractured 2000 feet below the surface, and they DID use 2BE. Encana is now delivering us alternative water for use in our home, but we are concerned that our well water may never be safe again.

I am ONE MAD MOTHER who intends to continue to challenge the system that allows average citizens to be ignored and trampled on, without consideration for their health, their children's health, and life-long investments. I am ONE MAD MOTHER who believes it is the role of government to protect the average citizen. I believe that I should have the support and concern of the COGCC, but that is far from the case. Instead, it is obvious that the COGCC is continuing to be more concerned with corporate interests. In fact, Brian Macke, director of the COGCC recently told a CBS News Bureau Chief in Washington D.C. that I am crazy, and that my exposure to 2BE may have come from Windex!

Surface owners need some protection and some power in dealing with huge corporations who care only about profit. I am not the only person who believes her health has been compromised because of gas development in Garfield County. There are many others out there who feel that they have been violated. Giving surface owners some legal rights to protect themselves and their property is critical in order to prevent more situations like mine.

16. COMPANY'S THREAT TO BOND AND DRILL IS NOT *NEGOTIATING IN GOOD FAITH.*

THE FOLLOWING LETTER WAS WRITTEN TO ASK COLORADO LEGISLATORS TO SUPPORT A BILL THAT WOULD PROVIDE PROTECTIONS FOR SURFACE OWNERS.

By Bruce Thomson

I'm writing in hope that my story of working with BP Amoco will help persuade you to support the Curry Surface Owners Compensation Bill.

My background is as a CPA, small business owner, and sometimes real estate developer. Along with my wife, I own 157 acres about 15 miles east of Durango that we plan to develop. The land has been conceptually approved by La Plata County for 10 residential lots.

In 2000, we received notice from BP Amoco of their intention to drill another gas well on our land (there was one on the property when we bought it). I specifically asked to work directly with whomever was authorized to make final decisions regarding well placement, pad size, noise mitigation, compensation, etc. I was told that Ralph Chamberlain of Timberline Land Corporation was the man for me to work with. After many hours of work and numerous walks on the land, Ralph and I agreed to a pad location and size with specific protection for about a dozen very nice, large Ponderosas.

Then I got a call from BP Amoco, from the man for whom Ralph was working. This company representative said that what Ralph and I had agreed to had no standing and that BP Amoco and I

would have to begin all over again on working through well placement, pad size, etc. In my mind, this was an egregious breach of good faith. If I had been working with a building contractor in an arm's length transaction, I would have severed the relationship immediately and refused to do business with them.

But as I was reminded by BP Amoco in every phone conversation, letter, and meeting at that time, I had no choice but to do business with them and if I didn't cooperate, they didn't need to do business with me and they would simply 'bond and drill'. 'Bond and drill' became the gun to my head that made me realize that I could only ask for or resist very little and then I'd better shut up.

As it turned out, BP Amoco drilled the well in approximately the location that Ralph and I had agreed to, but with a much bigger pad size so that we lost those dozen or so Ponderosas closest to the gas well that we had hoped to protect. I can't tell you specifically what compensation or promises of mitigation my wife and I got from BP in our Surface Use Agreement because I am legally bound to confidentiality by the agreement itself, but I can tell you that the money doesn't come close to compensating us for the damage to the surface and the promises of mitigation are pretty much non-existent.

I was opposed to the agreement confidentiality provision because I would like to be able to share the experience I had with BP Amoco with other landowners facing the same situation and perhaps help them, but again BP Amoco held the gun to my head and I was forced to leave the confidentiality provision in the agreement. My relations with BP Amoco were and continue to be very cordial, but there's always the implicit understanding that the game is rigged in their favor and I'd better cooperate or else.

I am a businessman and I believe in the free market. I believe that BP Amoco has the right to profit from their mineral rights, but I also believe that I have the right to enjoy and profit from my surface rights. By drilling a gas well on my land without adequately compensating me for surface destruction or protecting against noise or other pollution related to the gas well, I have been denied a portion of my surface rights.

The 10 lots that I will develop on my land will now all have a reduced value because of the proximity of the gas wells and it will be my family and not BP who suffers that financial loss.

I ask you to please support the Curry Surface Owners Compensation Bill to help level the playing field between gas well operators and land owners.

Don't let gas well operators continue to exploit their mineral rights at the expense of land owners' surface rights.

Thank you,

Bruce M. Thomson

17. WYOMING LANDOWNERS FACE CONDEMNATION OR LOSS OF HOMEOWNERS' INSURANCE

By Dan and Barbara Renner

Under the current laws of the State of Wyoming, Landowners who own their surface but not the minerals lying underneath (commonly referred to as split estate) face a desperate decision: Either agree to allow a seismic company to place explosives on your property and detonate them, or be condemned under eminent domain.

But wait, there's more...Should the landowner agree to allow the explosive seismic testing to take place in order to avoid condemnation, they may lose their homeowners' insurance. So, what do you do? You call the Governor, right?

In June 2004 the residents of Clark, WY, a small community on the outskirts of Yellowstone Park, received notification of a pending 3-D seismic testing project in a 47 square mile area that encompassed much of the Clark community. Quantum Geophysical, Inc., based in Houston, TX, was contracted to perform the 3-D seismic testing and proposed 3,420 seismic shotholes in and around Clark. This proposed activity is unusual in that Clark is a residential community encompassing approximately 350 private landowners and this activity will take place in their front yards!

In addition to the seismic testing, Windsor Wyoming, LLC, an oil and gas developer based in Oklahoma City, has applied to the BLM and the State of Wyoming for permits to install approximately 20 miles of pipeline across public and private lands, as well as the Clarks Fork River, and construct a gas separation plant in Clark. Again, this exploration and development activity, will take place in the front yards of Clark's residents. Such activity is not unknown in the area — Windsor has taken over the operation of an abandoned well site that sits just one-quarter mile of 5 homes. But residents in the area had not realized until recently that all of this activity, particularly explosive seismic testing, places them jeopardy when it came to homeowners' insurance.

Much of the private land in the Clark area overlies minerals owned and leased by the federal government. Under Wyoming law, the mineral owner (or the mineral lessee) holds a superior position to that of the surface owner. Surface owners in Wyoming are required by law to allow open access to their lands by the oil and gas industry for the purposes of exploration and development. Attempts to block or inhibit that access will result in condemnation procedures against the surface owner.

In January 2005 Quantum Geophysical began to contact, via telephone and mail, residents in the Clark area regarding the not yet permitted seismic testing they had been hired to conduct. One of the residents, Dan Renner, questioned Quantum,s representative (Bruce Fulker) regarding the possibility of unexploded ordnance remaining on his property following the testing and who is liable should that ordnance explode at a later date. He also requested information regarding the type of explosive to be used, how often misfires occur and how long it would take any unexploded ordnance to deteriorate. The representative could not readily answer the questions, but assured Mr. Renner he would obtain the answers.

The events that have taken place subsequent to Quantum,s phone call have made it abundantly clear that Mr. Renner and other surface owners in his situation are caught in an untenable position: If they allow seismic testing to place and permit explosives on their property, they risk losing their homeowner's insurance; If they oppose the testing in order to maintain adequate insurance coverage, they risk condemnation by the seismic testing company via the eminent domain laws in the State of Wyoming. A full explanation of the events follows:

Mr. Fulker replied, in writing, to Mr. Renner that the explosive his company would be using is Seis-

gel, that approximately 1% of the charges would misfire and that the sleep time for Seis-gel is two years (after which it would begin to deteriorate until it eventually became completely inert). Mr. Fulker did not address the liability issues.

However, Mr. Renner had begun to conduct some research on his own. He phoned his insurance company, advised them of the proposed explosives and seismic exploratory operations and asked about his liability coverage. He was promptly advised that should such activity take place on his property, his homeowner,s insurance would either be cancelled or would not be renewed on the next renewal date.

Mr. Renner's next call was to the Wyoming Insurance Commissioner's office. He posed the same questions and was told that the commissioner's office would have to investigate the matter and would get back to him in about a week. Approximately an hour later, Mr. Renner received a call from the Insurance Commissioner's office advising that they could not be of any assistance to him. He was referred to Eric Nelson, an attorney with the Wyoming Oil and Gas Conservation Commission (WOGCC).

A message was left for Mr. Nelson which resulted in a phone call from Mr. Don Likwartz, State Oil and Gas Supervisor with the WOGCC. Mr. Renner was advised that the issue of homeowner,s liability coverage during and after seismic testing had never come up before and questioned Mr. Renner as to why he had contacted his insurance company. Mr. Likwartz said he did not have any answers at that moment but would look into the matter. The last contact from Mr. Likwartz was approximately a week later. He advised that the WOGCC still didn't have any answers.

Mr. Renner contacted a local insurance agency and asked that they attempt to find an insurer who would be willing to cover him under the seismic testing circumstances. The insurance agent responded about a week later advising Mr. Renner that he had contacted four companies (that would insure ranch property of his type) and was told that "with the possibility of undetonated explosives on his property, they would not be willing to write a policy which would include liability."

Further research led Mr. Renner to Mr. Bob Hartwig, Senior Vice President & Chief Economist with the Insurance Information Institute (NY). Mr. Hartwig stated that he knew of no underwriter who would write a policy for liability insurance under the proposed circumstances. He further advised that if a landowner signed the seismic agreement to allow testing involving explosives to take place without notifying his insurance provider, he had significantly changed the conditions of his coverage; his insurance provider could potentially deny any claim based on that change in conditions. On the other hand, if the homeowner notified his insurance carrier of the seismic activities, he would most likely be cancelled, or at the very least, not renewed on the next renewal date. Mr. Hartwig went on to say, however, that the issue could certainly be resolved, although not quickly. He offered a series of solutions, including legislative changes that would be required, which are attached. Mr. Renner forwarded Mr. Hartwig's email response to Ryan Lance, Office of the Governor, State Planning Office, Cheyenne, WY.

Governor Freudenthal's office, through Mr. Lance, has been supportive to the surface owners in Clark who find themselves faced with a no-win situation and has tried to come up with a quick and adequate solution for all involved. The WOGCC, on the other hand, has taken the approach of "they will sign on the dotted line, or they will be condemned." The BLM has maintained that the issue of insurability on private lands does not fall under their purview and that the issue of insurability on public lands "should not be problem."

The Governor's office issued a final statement to the residents of Clark during a community meeting on February 16: The issue is a private party issue that has to be resolved between the two parties. His office offered to assist in finding a solution, but advised that the surface owner and Quantum would have to resolve the issue on their own. "We can't have the heavy hand of the State

involved in a private property issue," said Mr. Lance. (Billings Gazette, February 22, 2005)

The problem with that solution is that it isn't a "private party" issue. If the parties fail to come to an agreement it becomes a State issue with the seismic company using State eminent domain laws to condemn private property and permit seismic testing to go forward. At that point the landowner is right back where he started with the risk of becoming uninsurable.

Furthermore, the issue is much more far-reaching than an agreement between a landowner and a seismic company in Clark, Wyoming. It affects similarly situated landowner's throughout the State and possibly throughout the U.S. It affects lenders who hold the mortgages on such property and have insurance requirements that must be met by the borrower. It affects the ability of insurers to write insurance in Wyoming and other states where explosive seismic activity is involved.

One has to ask has this administration become so unconscionable when it comes to oil and gas development that they would not only allow, but support development in subdivisions, next to schools, alongside churches, and in people's front yards? Better yet, has the quest for development become so outrageous that the State would allow people's land to be condemned if they do not agree to allow seismic activity in order to maintain their homeowners insurance?