

University of Colorado Law School

Colorado Law Scholarly Commons

Coalbed Methane Development in the Intermountain West (April 4-5)

2002

4-4-2002

Concluding Comments

Mark Pearson

Follow this and additional works at: <https://scholar.law.colorado.edu/coalbed-methane-development-intermountain-west>



Part of the [Administrative Law Commons](#), [Agriculture Law Commons](#), [Business Administration, Management, and Operations Commons](#), [Energy and Utilities Law Commons](#), [Environmental Law Commons](#), [Hydraulic Engineering Commons](#), [Natural Resource Economics Commons](#), [Natural Resources and Conservation Commons](#), [Natural Resources Law Commons](#), [Natural Resources Management and Policy Commons](#), [Oil, Gas, and Energy Commons](#), [Oil, Gas, and Mineral Law Commons](#), [State and Local Government Law Commons](#), and the [Water Resource Management Commons](#)

Citation Information

Pearson, Mark, "Concluding Comments" (2002). *Coalbed Methane Development in the Intermountain West (April 4-5)*.

<https://scholar.law.colorado.edu/coalbed-methane-development-intermountain-west/34>

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.



William A. Wise Law Library
COLORADO **LAW**
UNIVERSITY OF COLORADO **BOULDER**



Getches-Wilkinson Center Collection

Mark Pearson, *Concluding Comments*, in *COALBED METHANE DEVELOPMENT IN THE INTERMOUNTAIN WEST* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 2002).

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.

watersheds. And third, we need to allocate to meet the TMDLs and divide it between the states of Montana, Wyoming, the Crow Indian Tribe, and the Cheyenne Indian agreement. Fourth, we need to accomplish a reasonable monitoring plan, and it needs to be funded by industry, and we need to start collecting the data now; little, if any, data has been collected for any resource. Finally, discharges should be authorized in an individual MPDS permit not a general discharge permit.

We need to minimize surface impacts. Right now we're talking about 25,000 miles of new road and 47,000 miles of new pipelines in the Powder River Basin. These impacts, among others, will disrupt wildlife populations and result in increased erosion. The solutions to these are: first, where companies are required to share pipelines, where possible, to minimize surface impacts; second...we need to require adequate funding for disturbed lands. That's what the Montana Constitution says. It needs to be guaranteed to restore all the roads, all the well padding and present some unique reclamation concerns and mitigation when we're done. We should not be left with the clean-up bill when development disappears from the basin....The Montana EIS admits that these things and wells are going to be impacted. It wouldn't for some of these resources in heavily impacted areas. Some solutions are to, first, phase in development instead of all at once—that way it would be as development proceeds; second, we need a registered inventory of the groundwater resources and a regional to get that in place today and start collecting baseline data before develop-

ment proceeds. We need to have water bonding similar to the Surface Reclamation Control Act. And the final bond isn't leased until the aquifers recover. And if the spring or well is impacted, industry must not only replace that resource, but it's got to cover the increased cost of maintaining the increased cost until the aquifer is covered . . .

In Montana, there's an EIS looking at the environmental impacts of 26,000 wells. In Wyoming, the BLM is looking at the impacts of 51,000 wells, and the Federal is right now looking at the proposed grass lands, which is 40 miles long, to service the northern portion of the basin in a totally separate environmental impact statement. The contradictions raised by the BLM . . . when you look at the EISs is fairly staggering. A few examples are, in terms of the produced water by each well, Montana says 2.5 gallons per minute, Wyoming says 1.7 per minute. In terms of the life of the well, Montana says 10 years, Wyoming says 7 years. . . . Coalbed methane development and the geology of the basin does not change magically at the border. The solution is . . . complete EISs for the basin, looking at the EISs of the 77 wells, including connected actions, and they need to address the impacts from projects by the Federal and state agencies.

Thanks.

MARK PEARSON, *San Juan Citizens Alliance*

My presentation doesn't include any graphs, charts, figures, cartoons, tables, or equations; and it doesn't have any photos of drill ranges or mud pits or resting barrels or soil. It only has pictures of places, and it's my place. It's the place of the San Juan Basin, San Juan National Forest. [35mm slides shown at the conference are not available here]. And I think what it highlights is that the discussions we've had the last couple of days come down to a clash of values. And those of us who are residents of the places where the development is targeted value our place. And whether their place is a 40,000

acre roadless area on the forest or a 1,000 acre ranch in the Powder River Basin or a retirement home in LaPlata County, when those places are invaded by industrial development, people have a very strong reaction and it creates a lot of conflicts. All of these pictures you'll see that I'm showing are the before pictures. Industry plans call for 300 new coalbed methane wells and associated roads and compressor stations and injection wells and pipelines and power lines laid on this landscape here, which is a significantly different landscape than perhaps a lot of what we're talking about in the San Juan Basin

and in the Powder River Basin.

In the San Juan Basin, we already have 30,000 wells that have been drilled. There's another 12,000 proposed for our basin and the mountains here are the northern fringe of our basin. The 300-odd wells, or the 150 that would actually be in the roadless areas, are a pretty small percentage in this heavily developed basin, and that's where our values will clash, in whether this last bit of the basin needs to be as thoroughly turned into a central industrialized zone as the rest of the basin has. The flagging here marks a proposed well site in the HD mountains. It would clearly convert this grove of Ponderosa pine into a two-and-a-half-acre gravel pad. And those of us who place a high value on the last few remaining big old trees that are left in the San Juan National Forest, would not think that converting this into a gas well is a good idea. The HDs are significant because they're the last old-growth Ponderosa pines left in the San Juans. Most of the San Juans was heavily logged a century ago and all the big trees were taken out because they were accessible and low.

The HDs were essentially protected because they were rugged and inaccessible. A lot of the figures and charts that we've seen today have talked about production of wells or trillions of cubic feet of gas or the value of the tax credits that are generated from this activity or gallons of water that are produced, but very few of them take into account the sort of ecological or ecosystem values that a lot of us have. This is Ignacio Creek. It's the most pristine low elevation watershed in the San Juan National Forest. It's a proposed research area. There's also a proposal for a well pad every 160 acres all the way up this 8- or 10-mile long watershed. Those are two different visions for the future of this place.

How we make the decisions about which future we want to pick will say a lot about us in terms of the places we live; and I think a lot of this view, as someone who lived in Grand Junction through "Black Monday," when Exxon left one day and laid off 2,500 people in the morning when they thought things weren't going to pan out, I don't think we have a lot of faith that the industry is going to build our communities and be long-term community players. They're here for one reason: to extract a resource or to extract a tax credit and then leave.

Now, I think the only solution that we see is to level the playing field. And that is to have decisions about development made in a fashion that allows everyone's

interests to be equally accommodated. I think the residents of the basin feel that we're dealing with a very powerful industry too. I think the industry probably feels the playing field is tilted in their favor right now.

The pressure is on the agencies to process permits faster. So local resident control, in the areas in which we're able to take control, and in our part of the world, that's with our LaPlata County Commissioners. And you heard from Commissioner Joswick about the regulations to protect the interests, the health, the safety, and the welfare of the residents of the county, because our local elected officials are most concerned about their constituents and less interested in what the industry, which is based elsewhere, thinks about in terms of protecting the place in which we live. And there are real impacts to real people. I mean, if you're listening to a 3,000 horsepower compressor 24 hours a day, 7 days a week, 365 days a year, it's a big impact; and people want those sort of issues dealt with; and county commissioners are willing to deal with those kinds of issues. This is still in Ignacio Creek. That is an old-growth Ponderosa pine. The Forest Service had never thoroughly inventoried old-growth, and that is one of the issues that will have to be analyzed in the EIS that's coming up.

For those of us who have had to deal with industry, we've chosen to fight those fights at the local level and with the Federal agencies, like the Forest Service, where we think we have a more level playing field and we get a fair shake. That's why, for example, LaPlata County has adopted regulations. Las Animas County has some regulations; I mean, every county involved in the coalbed methane resources in our state of Colorado will be adopting regulations, and they'll probably be different regulations in every place. The industry doesn't like to have to deal with those kind of diversity of regulations, but since that is the place where we have the interest, we will attempt to get satisfaction. But even with that, I mean, every week we have people call our organization that have a concern about the industry, and it invariably relates to what I would call an abuse of power.

And you heard some of that when Nancy Sullivan spoke this morning about dealing with the companies on their ranch. But companies just appear and put in pipelines and scrape land and obtain discharge permits proposing, as we just had in LaPlata County, proposing 576,000 gallons a day of water into a ditch without actu-

ally knowing where the ditch went and finding out that actually that's also the water supply for a rural subdivision. There's a company operating right now in Archuleta County without any appropriate county permits, despite State Court decisions to the contrary. So they simply ignore their need to obtain county permits. We have another company that bought leases in the HD Mountains that do not allow for any surface occupancy in their entirety. Those companies are just presuming that those stipulations will be waived and they'll just do whatever they please.

In our county, we routinely get sued by the industry. We're sued by the oil and gas association. We're sued by the State of Colorado over our authority to regulate surface impacts under the county's land use authorities. Huber just sued our county a couple of weeks ago because they want to back out of an agreement on a compressor in the middle of a rural subdivision. The individual citizens who have spoken out have had lawsuits personally filed against them by companies in order to intimidate and silence them. We have a really interesting situation in our county right now in that La Plata County will probably institute a ban on burning in the next two weeks because of the drought. There was a forest fire that was started last year by a coalbed methane operation on a road south of Durango. We've tried to get the BLM's report on that, but they have thus far turned us down. But in two weeks, our county will ban burning of irrigation ditches by ranchers, but they won't do anything to prohibit gas wells from flaring in the middle of the forest.

Our county doesn't have any ability to regulate that in terms of a fire and protecting against forest fires. Those are the sort of above-the-law situations that really drive people crazy in our part of the world. So unless we

find some way that we can level the playing field, this sort of conflict and strife is only going to increase. And I guess I kind of view it as both open and guerilla regulatory warfare. And the industry has found out that we're going to make Federal agencies do as thorough a job as they can, we're going to make it take as long as possible, make it cost as much as it can, and hope to achieve some satisfaction in that fashion. And that is going to increase unless we can figure out a better way to do it. And a better way to do that is for industry to voluntarily give up some of the power that they possess.

I mean, that is perhaps foregoing some level of development in some places. It means accommodating public interest, agreeing to comply with the regulations that apply to every other developer. For example, Wal-mart has to go through a county permitting process and you deal with issues about landscaping and visual impacts, and that's the same regulations that our county has adopted to address traffic and visual impacts from the oil and gas company as well. And it means, you know, more public scrutiny of what the companies are doing. It may mean more public hearings, and it may mean that things take a slight bit longer. But I think in the long run that the companies will get acceptance and less antagonism from the affected residents. So that's it. These are the HD Mountains, and this is a place that will obviously be a focal point of CBM development and national energy in the coming year. These are the sorts of places that inspire us, and you can be sure they're places that are going to generate a lot of scrutiny and public concern.

Thanks.

PETER DEA, *President and CEO, Western Gas Resources*

Good afternoon and thank you, for having me and for holding this event. I thought for my ten minutes I'd take a more macroview of things. Driving down from Evergreen this morning from work, I was trying to contemplate who the audience here would be and going through the list in my mind that Jim Martin sent me. Usually my audience is oil and gas companies, investment banks, and analysts and institutional funds.

But then it struck me, I probably have more in common with all of you on a personal lifestyle basis than my typical audience. I like to go kayaking, like Jim Martin, hiking, mountain biking, or skiing. Most of my peers like to golf and I don't golf, so I do not see them on the weekends.

When Jim had first invited me to speak with all of you today, I was asking him about the William Hewlett