



SAN JUAN CITIZENS *REPORT*

June 2007

Organizing for the people and land of the San Juan Basin

Progress for Landowners

Colorado, New Mexico Pass Sweeping Oil and Gas Reforms

by Mark Pearson

New Mexico's legislature in March overwhelmingly passed the nation's strongest law protecting landowners faced with oil and gas drilling, while in May, Colorado Governor Bill Ritter signed Colorado's new Landowner Protection Act and a second bill that revamps the industry-dominated state oil and gas commission. The sweeping reforms mark a sea change in the status for landowners who have struggled for years with the unwanted and destructive impacts of oil and gas drilling on their property.

The bills are a testament to hard work by SJCA members in both New Mexico and Colorado, who worked closely under the expert leadership of the Oil and Gas Accountability Project.

Colorado Landowner Protection Act

Colorado's new Landowner Protection Act, 2007, requires, for the first time:

- that oil and gas companies consider the rights of landowners,
- that oil and gas companies minimize their impact to the surface,
- that unreasonable use of the surface gives a landowner a cause of action (to bring a lawsuit),
- in any litigation, puts the burden of proof on companies - not landowners - to demonstrate their reasonable use of the surface.

The Landowner Protection Act codifies the 1997 decision of the Colorado Supreme Court in *Gerrity v. Magness*, which laid out a framework for accommodation between the competing uses.

Under the *Gerrity* decision, mineral owners may access the oil or gas beneath the surface in a way that accommodates the surface owner's use of their property "to the fullest extent possible." The court's decision provides a standard—minimizing adverse impacts to the surface—that surface owners currently do not have when negotiating with operators under COGCC rules or the Colorado Oil and Gas Act.

The Landowner Protection Act does not mandate specific well locations, production techniques or COGCC involvement in private negotiations. Instead, the law simply requires oil and gas operators to choose those means of operation that will minimize the intrusion and damage to the surface.

New Mexico Surface Owner Protection Act

New Mexico's Surface Owner Protection Act establishes the strongest standards in the nation for landowners. For example, no other state requires: 1) The breadth of information that must be supplied to landowners when a company gives notice of oil and gas operations (the laundry list of items to be included in surface use and compensation agreements is unmatched); 2) the breadth of compensation for damages and use (loss of agricultural production and income, lost land value, lost use of and lost access to the surface



owner's land and lost value of improvements caused by oil and gas operations); 3) and, the duty to reclaim.

The Surface Owners Protection Act requires the oil and gas operator to:

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PRESIDENT'S MESSAGE

Joe Griffith, President

Bill number HR 2262, The Hardrock Mining and Reclamation Act of 2007 (HRMA), sponsored by Rep. Nick Rahall of West Virginia, has been submitted to the House of Representatives.

This bill would replace the 1872 Mining Law. You may find it hard to believe that mining has been carried out for 135 years under a law that old. This original law was created at a time there were very few anglo-europeans in the West. Land was being given away to those who would come West and settle here. There was no sense then of the environmental and social issues we now face.

Today it's a very different situation. Land is now a very precious commodity and there are plenty of people who want to live in the West. In addition, we're living with the results of a mess that some mining companies have left after moving on with the profits when the mineral deposit played out. All of us who live here are experiencing the effects of inadequate mine site clean-up.

In addition, mining companies, which were given possession of the land around the mine, often sold it to be developed as residential areas or cabins in the midst of public lands. For those of us who value our BLM and National Forest lands and want to preserve them for all to enjoy, this has become a major issue.

The Red Mountain Project, created by local hero Ken Francis, has worked to buy some of the abandoned mine lands in the Red Mountain Pass area in order to re-integrate them into the public land that surrounds them. In this effort, the project has used monies that were set aside from offshore drilling leases just for this purpose. Over the past decade they have managed to buy and give back to the public thousands of acres of valuable abandoned mining claims. Now, however, the funds from the offshore drilling have been cut off by the present administration.

The HMRA of 2007 aims to deal with the use of public land in a more appropriate way. It puts clear requirements for operating the mines and restoration of the land. If it is passed in its present form, it would prevent mining companies from patenting their claims. This would mean they would not obtain a free title to the land. They would have the right to mine the minerals, but would be required to rehabilitate the land to modern environmental standards, and the land would then revert back to public ownership.

The bill has some excellent provisions, which have built on the years of experience with the effects of mining on the land. It has been referred to the House Subcommittee on Energy and Mineral Resources and will soon be scheduled for hearings. We can expect that the hardrock mining industry will be busy lobbying to modify or eliminate the bill.

To learn more about the HRMA go to www.miningreform.org to read a copy of the bill and to learn more about the impacts of hardrock mining.

We need to be aware of the progress of this bill because our public lands will continue to be strongly impacted by the effects of mining. Our needs for the many resources on them will probably only increase. We need to have stronger, clearer laws to maintain the environmental integrity and wildness of our lands.



The San Juan Citizens Alliance is a grassroots organization dedicated to social, economic and environmental justice. We organize San Juan Basin residents to protect our water and air, our public lands, our rural character, and our unique quality of life while embracing the diversity of our region's people, economy and ecology.

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VIEW FROM THE DIRECTOR'S OFFICE

by Mark Pearson

We've just wrapped up the most extraordinary legislative sessions for energy reform we've ever seen. Legislators in both New Mexico and Colorado enacted sweeping new laws to improve the status of landowners faced with negotiating surface use agreements for oil or gas wells on minerals underneath their properties. These two laws culminate at least three years of diligent work with our allies, most specifically the Oil and Gas Accountability Project under the capable leadership of Gwen Lachelt, who also happens to serve as SJCA's Board vice-president. The Colorado legislature also rewrote the composition of the Colorado Oil and Gas Conservation Commission to strip industry of its dominance on the panel that writes the rules that govern oil and gas extraction in the state. Now, representatives from local government, agriculture, reclamation, and wildlife perspectives will hold the majority of seats on the COGCC. Of course, any commission is only as good as its members and we'll have to wait and see who Governor Ritter appoints to these positions.

Colorado also took the significant step of mandating 20% renewable energy for major electric utilities such as Xcel, and 10% for Tri-State (which supplies the electric coops in southwest Colorado). New Mexico defeated an aggressive push by Sithe Global for an \$85 million tax credit for its proposed Desert Rock power plant.

While it's great to bask in the glow of these accomplishments, we can't take much of a rest. The summer will see an onslaught of long-awaited major environmental reports. First up is the Bureau of Indian Affairs' Draft Environmental Impact Statement (DEIS) for the Desert Rock power plant. An electronic version of the DEIS is already available, with print versions soon to follow and a slew of public meetings scheduled throughout our region in July. Our initial review reveals drastic shortcomings in the environmental analysis for major



environmental impacts such as global warming, the coal strip mine to feed the power plant, environmental justice, and public health.

Next up should be the management plan for Canyons of the Ancients National Monument, scheduled for release in mid-August. This plan will decide how much more, if any, of the Monument to turn over to energy development as well as setting the stage for recreation in the Monument for the next 20 years. By Fall, we may also finally see the new proposed forest management plan for the San Juan National Forest, to take the place of the 1983 plan under which they currently operate.

There are lots of critical opportunities for the public to engage in these decisions that will shape the face of the Four Corners for the next generation. Please stay tuned, and attend public hearings and write comment letters!

Oktoberfest Goes Green!

SEPTEMBER 29th & 30th
Downtown Durango

Saturday 11:00 am – 5:30 pm
Sunday 11:00 am – 3:00 pm

*Solar powered music, recycled cups,
organic beer and lots more....*

Get involved—contact carol@sanjuancitizens.org

SJCA Leads Appeal of HD Mountains Decision

by Mark Pearson

Local elected officials, farmers, hunters and other area residents concerned about plans for drilling gas wells around the HDs Mountains filed an appeal on May 21 challenging the Forest Service's decision that approved dozens of new coalbed methane wells. The collection of appellants includes the Archuleta County Commissioners, a hunting outfitter, a farmer who relies on the HD Mountains for irrigation and domestic water, and an archeologist as well as a several local, state and national conservation organizations led by San Juan Citizens Alliance.

While the Forest Service's decision was a significant improvement over the original draft, it still left too many concerns for affected residents to swallow.

Roadless Area Impacts

The Draft EIS had proposed 57 well pads and 38 miles of new roads within the boundaries of the HD Mountains inventoried roadless area. New roads and wells were planned for essentially every ridgeline and every valley.

In response to public outcry and to geologic concerns, the Record of Decision significantly reduces the number of authorized wells and roads. It places the heart of the roadless area (Ignacio Creek) off limits to coalbed methane drilling because of concerns about landslide hazards, slope stability, erosion, and watershed impacts, although this restriction could be lifted at some future date if industry demonstrates an ability to construct roads and well pads without impacts. The change reduces the impact to the roadless area from 13,000 acres down to 5,000 acres (out of 27,000 acres the USFS considers roadless).

However, there are still several serious concerns about the remaining wells planned for the roadless area. The agency's preferred alternative includes road construction across 7 miles of steep slopes at high hazard for landslides to reach many of the 30 remaining drilling sites still authorized in the roadless area.

Fruitland Outcrop Impacts

The preferred alternative proposes to authorize about 40 new coalbed methane wells within 1.5 miles of the Fruitland Formation outcrop, nearly all of which are located in Archuleta County. Drilling along the outcrop in La Plata County led to hazardous levels of methane gas in numerous homes along the Pine River valley north of Bayfield in the early 1990s, and resulted in demolition of at least four homes. Drilling near the outcrop has been fingered as the culprit for other hazards around La Plata County, including underground coal fires, methane seeps that killed large swaths of vegetation, and



The Forest Service decision approves a new gas well pad and road for this stand of old-growth ponderosa pines atop the HD Mountains.

hydrogen sulfide seeps.

Because of these problems, the Forest Service continued to ban drilling within 1.5-miles of the outcrop in La Plata County, but approved similar drilling along the outcrop in Archuleta County despite concerns about health and safety. "We are concerned that the Forest Service's decision will not protect the health, safety and welfare of Archuleta County residents from potentially adverse impacts of gas development near the Fruitland outcrop," said Archuleta

County Commission chairman Bob Moomaw in explanation of the county's decision to join the appeal.

Bill Vance raises hay and grain on 80 of his 360 acres that are surrounded by the HD Mountains. "My biggest concern is that a drop in the water table will cause my domestic water wells to dry up," says Vance, "as well as the springs that supply water for irrigation and livestock." Coalbed methane drilling entails pumping massive amounts of groundwater out of coal seams to release the methane gas, a process that often dramatically alters groundwater aquifers, particularly near the outcrop of the coal

seam.

Industry plans for drilling the HD Mountains, as approved by the Forest Service, will punch new roads and up to 30 gas wells cut into some of the steepest and most rugged terrain in the San Juan Mountains. The roads and gas pads will also obliterate some of the last stands of old-growth ponderosa pine forests in the HD Mountains, including some over 400 years old. Ponderosa pine has the least

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remaining old-growth of any forest type in the San Juans, less than 5% of the pre-European settlement figures.

Ancient pre-Puebloan Indians inhabited the HD Mountains, and for that reason much of the area is included in a nationally-designated historic district. "The HD Mountains provide a unique research opportunity to investigate how pre-Puebloan people responded to environmental variables," notes Dr. Jim Judge, professor emeritus of archeology at Fort Lewis College. "We know that people moved into the HD Mountains with a population that peaked in 900 A.D., then moved out around 1000 A.D. We just don't know why they moved in and out in a one-time situation. It seems clearly in response to environmental pressures. But if the HD Mountains are destroyed by gas development, society will forever lose the answers to these questions."

Most recreational use of the HDs occurs during hunting season. "The HD Mountains are a main migration corridor for elk and deer, one of the few that remain intact," says Mike Murphy, a hunting outfitter for the past 25 years. "Drilling will disrupt the migration and scatter the herds." Murphy packs hunters into the HDs on horseback, sets up camp, and guides the hunt. He fears his business will suffer when the drilling starts.

The appellants are represented by

Progress cont'd from page 1

- Notify the surface owner 30 days prior to beginning any oil and gas operations;
- Describe the proposed operations so that the surface owner can evaluate the effects of the operations on his/her property;
- Propose a surface use and compensation agreement that addresses the timing, location and scope of operations and an offer of compensation; the bill provides the elements that should be included in the offer of compensation.

Reformed Colorado Oil and Gas Conservation Commission



Ignacio Creek's watershed would be spared development.

Earthjustice, a public interest environmental law firm, and appealed the Forest Service's April 5 Record of Decision to the Rocky Mountain Regional Forester in Denver. The appeal asserts that the Forest Service violated management standards in its forest plan that protect watersheds, wildlife, and old-growth; that the decision harms air quality in the region, violating levels set by the EPA to protect the public and nearby Mesa Verde National Park and the Weminuche Wilderness; and that the Forest Service failed to abide by the National Environmental Policy Act in

HB 1341 brings balance to the COGCC as well as changing its mission to reflect the task of managing development during a record energy boom. The current mission to "promote" oil and gas development and use is modified to include stewardship of the resource and developing oil and gas in a way that does not harm public health or the environment.

Key Details of HB 1341:

- Revises the mission of the COGCC to include more focus on "responsible and balanced development" and adds specific language to regarding "protection of public health, safety, and welfare, including protection of the environment and wildlife resources."

proving that mitigation measures were feasible and realistic. The Forest Service has 45 days to respond to the appeal.

The list of appellants includes Archuleta County Board of Commissioners, Bill Vance, Dr. Jim Judge, Mike Murphy, San Juan Citizens Alliance, Oil and Gas Accountability Project, Colorado Environmental Coalition, Colorado Wild and The Wilderness Society. Photos, maps, short film clips, and more information are available from www.savehdmountains.org.

- Expands the COGCC to nine members (from the current seven) and lowers the requirement of having at least five members with an industry background to three.

- Requires at least one member of the commission shall have background and expertise in (1) environmental or wildlife protection, (2) soil conservation or reclamation, and (3) local government. These fields are not currently represented on the COGCC.

- The bill requires that the Director of the Department of Natural Resources and the Director of the Department Public Health and Environment sit on the Commission.

Adopt-a-Roadless Area on the San Juan National Forest

Our last remaining wild places face many threats including energy development encroachment, logging, and motorized recreation expansion. Roadless Areas in the San Juan National Forest are critical on many levels. Our economy, quality of life, and environmental health all depend on their existence. These special places have safeguarded the purity of watersheds and the functioning of healthy ecosystems for generations. As they are increasingly under threat of being overrun by unnecessary roads and industrial development, it is important to understand and preserve the wealth of diverse values contained in this ever dwindling reserve.

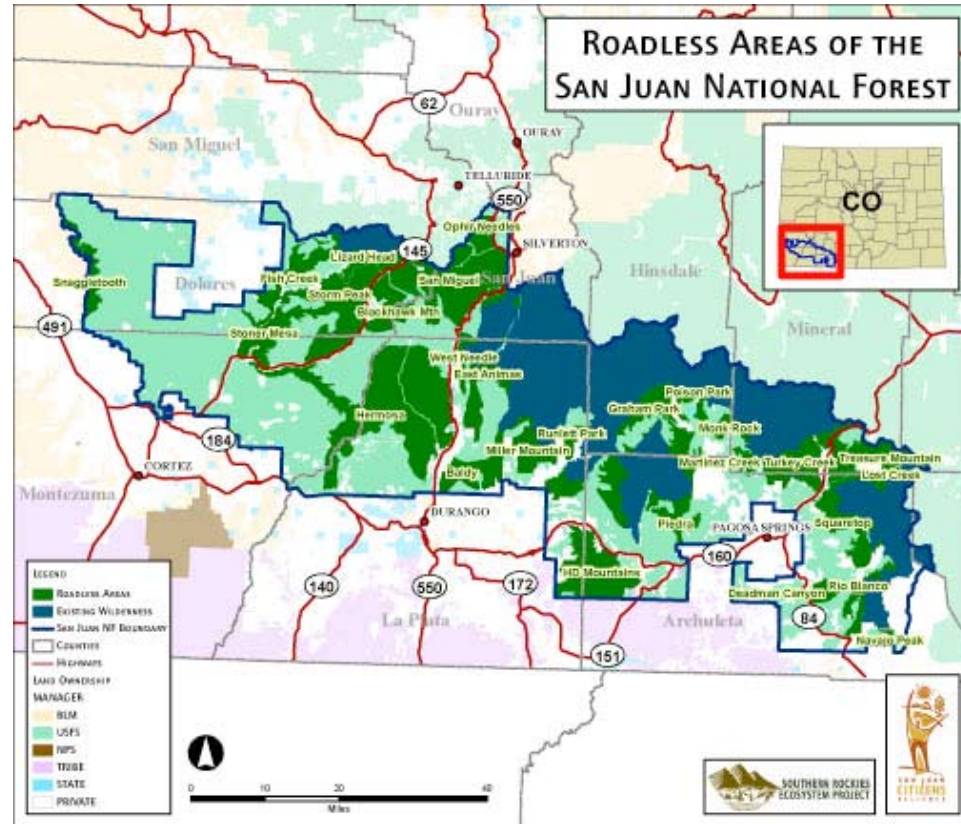
As an adopter, your duties may include:

- 1) Engage in the management planning for the San Juan Public Lands, advocating that the your area's roadless values be protected through wilderness designation;
- 2) Engage in the travel management process, which will determine specific trails that will be legal motorized and non-motorized routes for years to come;
- 3) Get to know the area, monitoring threats like gas wells, resort expansions, timber sales, or other developments.
- 4) Lead a hike or take your friends there so more people are connected to the place and interesting in protecting it.

Adopt a roadless area today!

- Blackhawk Mountain
- Fish Creek
- HD Mountains
- Hermosa Creek
- Lizard Head
- Ophir Needles
- San Miguel
- Snaggletooth
- Storm Peak
- Stoner Mesa
- Squaretop Mountain
- Treasure Mountain
- Turkey Creek

Contact Jimbo at (970) 259-3583 or check our website for details.



Fish Creek Roadless Area, in headwaters of West Fork of Dolores River.

Court Deals Village at Wolf Creek Another Staggering Blow

by Ryan Demmy Bidwell, Colorado Wild

In June, US District Court Magistrate Judge David West issued a recommendation to extend the Preliminary Injunction that has held the proposed "Village" at Wolf Creek at a standstill since last fall. The earlier injunction, which the Court entered November 20, 2006, was set to expire on June 15th. Specifically, the Magistrate Judge recommended that Senior U.S. District Court Judge John Kane continue the Preliminary Injunction until a final decision can be reached on the lawsuit (which could occur sometime in late 2007).

The lawsuit, filed by Colorado Wild and the San Luis Valley Ecosystem Council, challenges the US Forest Service's decision to authorize construction of two access roads across public lands for the purpose of building the proposed 10,000 person "Village" without analyzing the impacts of the proposed development.

The Magistrate Judge's recommendations identify a number of potential flaws with the Forest Service's access decision that warrant careful consideration by the Court before allowing any ground disturbing activities to proceed.

"We are grateful that the Court has taken the time to review our concerns and consider what is at stake," stated Ryan Demmy Bidwell, Executive Director of Colorado Wild. "The Judge's recommendations are both thoughtful and thorough. Even after our years of work on this issue, the closer one looks at the Forest Service's Environmental Impact Statement and the circumstances surrounding its development, the more alarming this whole matter becomes."

"The Forest Service claims it made an informed decision, but seems to have no idea what was going on behind its back,"

stated Bidwell.

The Judge's recommendations describe an agreement where "Tetra Tech was to serve under the direct supervision of the U.S.F.S. to prepare an environmental analysis for the U.S.F.S." and which barred most communications between the Developer and the government contractor developing the EIS (Tetra Tech). During litigation, thousands of pages of communications have emerged that show Tetra Tech Director Dr. Mark Blauer and Developer Bob Honts in

staff that put their "heart and soul" into the EIS.

After a 10 day objection period, Judge Kane will issue an order based on Magistrate Judge West's recommendations.

"Obviously, this is a huge victory for the public. We are hopeful that Judge Kane will adopt Magistrate Judge West's recommendations, and ensure that no construction occurs on the Village until a final decision is reached in this case," stated Bidwell.



The Village at Wolf Creek is planned for the alpine meadow between Alberta Reservoir and the existing Wolf Creek Ski Area parking lot, as seen in this aerial photo.

regular communications about how to get the Forest Service to "see the light" and ignore the impacts of the Village in the EIS. Eventually, the Forest Service gave up on its earlier commitments and caved in to the pressure from the developer.

Dr. Blauer and Bob Honts even discussed the developer getting tickets to NFL Football games for those on Tetra Tech

Opponents presume that as the Court continues to review the Forest Service's flawed decision, the agency will have to go back and objectively consider all of the environmental impacts associated with its decision to allow access from US Highway 160 to the proposed Village site, not just those arising from the footprint of the access roads themselves.

Monument Management Plan on its Way

by Amber Clark

With the highest known density of cultural resources in the nation, deep canyons, and beautiful vistas, Canyons of the Ancients National Monument is a treasure worth protecting. On April 21st, volunteers once again made that statement by spending their day in the Monument with shovels in hand. Working with the Bureau of Land Management, the Alliance organized another successful volunteer project during which thirteen of us braved rain and snow to help prevent unauthorized motorized use near Painted Hand Pueblo.

It was a good time to get out to enjoy the Monument, and to be reminded of the public's key role in ensuring that monument resources are well cared for. Volunteering on the ground is one critical way that citizens impact public lands. Getting involved in the planning process is another.

The BLM is expected to release the long awaited Resource Management Plan (RMP) for CANM in August, which will be accompanied by a round of public meetings in Cortez, Durango, and Denver. Public presence and involvement in these meetings and participating in the comment period is crucial to the future of the Monument.

Due to the long ranging nature of the RMP, its contents are very important. The plan will give guidance on issues such as cultural resource management, oil and gas exploration and development, livestock grazing, transportation, recreation, and wildlife to name a few. We need management prescriptions in the RMP that will lead to adequate protection of the resources for years to come.

We'll keep you updated on the release of the draft and how you can be involved in the coming weeks. In the meantime, here is a refresher on what we're working toward.

Our vision for Canyons of the Ancients, which was developed in consultation with local citizens, is to champion and protect the Monument's relatively undeveloped,

rugged, and remote character and the resources contained therein, and to protect it from current and future threats. Specific components of this vision include:

- Management of all uses within the Monument, including valid existing rights such as oil and gas exploration/leasing and grazing, to conserve scientific, cultural, and historic objects, which the Monument was created to protect.
- Development of a transportation system that protects the values of the Monument and prevents degradation or destruction to Monument resources.

- Accommodation of a range of recreational experiences, without jeopardizing Monument resources.
- Protection of wild and undeveloped lands, including three Wilderness Study Areas within Monument boundaries. Keeping such lands in their natural state safeguards cultural and natural resources.
- Preservation of native wildlife and their habitat, putting emphasis on canyon bottoms and riparian habitats. The variety of wildlife and the uniqueness of some species in the Monument requires special attention.



Smiling volunteers display the fruits of their labor in obliterating illegal vehicle routes near Painted Hand Pueblo during SJCA's April 21 volunteer day in Canyons of the Ancients.

Four Corners Air Quality Task Force – does it have any teeth?

by Mike Eisenfeld

San Juan Citizens Alliance has been actively involved in the Four Corners Air Quality Task Force (4CAQTF) and the earlier New Mexico Environment Department Ozone Task Force, since inception in 2002. As described by the state, the Task Force is a broadly representative group including government, industry, and citizens formed to look at air quality issues in the Four Corners region. Increased development in the area, including new power plants, oil and gas wells, and population growth, all are contributing to air quality concerns. Ozone levels in the region are close to exceeding the health-based national air quality standards for outdoor air. Many residents are concerned with potential health impacts from other pollutants. An overall haze can often be seen in the skies, which impacts visibility. There are concerns for the ecosystem due to deposition of mercury and nitrogen. The responsible regulatory agencies must address these issues to effectively protect air quality. These agencies believe input from residents of the area is important in developing an effective management plan.

The Task Force's final product will be a report of potential mitigation options for regulatory agencies in developing air quality management plans (a draft report is available on www.nmenv.state.nm.us/aqb/4C/FAQ). SJCA hopes these options are more than mere recommendations, and include real requirements for action to clean up our air. Here is what SJCA believes the Four Corners region needs in terms of air quality protection:

- 1) Mandatory control measures and enforceable regulatory actions for reducing air pollution to obtain quantifiable progress in improving air quality.
- 2) Federal agencies in the Four Corners region have emphasized reliance on the 4CAQTF (and the earlier Ozone Task Force) as the means to provide air quality mitigation. For the past four years, the BLM's Farmington office has avoided implementation of mandatory

air pollution control measures while approving new oil and gas facilities that often require wellhead or central compression. The BLM Farmington office has stated that 73,565 tons per year of nitrogen oxides is to be expected in the year 2023 from natural gas production (over 12,000 wellhead compressors). This is more pollution than San Juan Generating Station and Four Corners coal-fired power plants currently emit, combined.

3) We need more monitors and properly located monitors to accurately determine emissions including carbon dioxide, mercury, ozone and particulate matter that are disproportionately high in the Four Corners region.



4) San Juan County, the cities of Aztec, Bloomfield, and Farmington, the New Mexico Environment Department and the Environmental Protection Agency signed the San Juan County Early Action Compact in 2002. The Compact was designed to keep San Juan County from exceeding pollution standards for ground-level ozone. Since then, EPA's Clean Air Scientific Advisory Committee has recommended that the United States adopt much stronger air quality standards for ozone. Ozone readings at Bloomfield ozone monitoring site are already higher than the recommended limit. If San Juan

County cannot remain in attainment for ozone, there will certainly be significant economic and environmental repercussions. The 4CAQTF must require specific emission control measures to reduce precursors of ozone.

5) The emphasis on air pollution emissions reduction for coal and natural gas facilities should be on upfront design for pollutant source reduction rather than reliance on uncertain future mitigation measures (including retrofits for pollution control).

6) The EPA regions 6 (includes New Mexico), 8 (includes Colorado) and 9 (San Francisco office oversees Navajo Nation) must work together to oversee air quality emissions in the Four Corners region, which are fragmented by jurisdictional boundaries.

7) The 4CAQTF must assist citizens in acquiring complete public health records for the Four Corners region concerning rates of human respiratory illness (including asthma), strokes, heart attacks and autism in comparison to other communities in the United States. It is particularly important that the historic health records in the tribal areas (including Navajo Nation, Southern Ute, Ute Mountain Ute) be obtained from Indian Health Service since current and future planned emissions severely impact tribal lands.

8) Modeling air quality pollution has been woefully inadequate, with poor input data, underestimated source emissions, improperly located monitors, and inappropriate application of models. The result is that Federal agencies in the Four Corners are using faulty modeling and deficient planning documents to approve thousands of air pollution sources (including natural gas wells and compressors) that are marginally analyzed for air quality impacts, individually and cumulatively.

The Task Force will offer the public an opportunity to review and comment on its recommendations later this summer. SJCA will alert concerned citizens when the comment period opens.

17 Years and Counting – Oil and Gas Reform Long Overdue

The importance of persistence

by Josh Joswick

If you stick around long enough, you can see everything. That pretty much sums up the 2007 Colorado Legislative session. For the first time in anyone-who-can-still-remember-such-things' memory, issues were addressed and gains were made that were unprecedented, and generally in favor of people, wildlife, and the environment.

2007 was a truly historic year for oil and gas-related activity in the Colorado legislature, with two bills, House Bills 1252 and 1341 standing out as exemplary. Ever since the industry descended on La Plata County in the mid-1980's, the Alliance has led the fight to hold the industry accountable for its impacts not only to the our community but to communities across the state. Given our history in this effort, we were asked to give testimony at the State House Committee hearing on HB 1252, and the State Senate Committee hearing on HB 1341.

Any explanation of HB 1252 has to include kudos and thanks to Citizens' Alliance Vice-President Gwen Lachelt. Gwen had repeatedly worked on getting a bill like this through the legislature for years, and in 2007, with Representative Ellen Roberts as sponsor and lead on 1252, finally succeeded. In general, HB 1252 concerns "the accommodation of the rights of surface owners with respect to oil and gas operators." Several areas in Colorado, notably La Plata County, are in the midst of an oil and gas development boom. This boom has resulted in negative impacts to the people and environment of our state, one of these being significant conflict between surface owners and oil and gas operators over competing uses of the surface. Without HB 1252, under Colorado Oil and Gas Conservation Commission (COGCC) rules, the operator simply posts a bond without having to negotiate an agreement with the surface owner, leading to significant and persistent conflict.



HB 1252 creates a fair framework and reasonable standard for negotiations between surface owners and the industry. Many other states, including Texas, Utah, North Dakota, Arkansas, New Mexico and Wyoming, have adopted this 'accommodation' doctrine in varying forms with no loss of production in oil or gas. Mineral owners may still access the oil or gas beneath the surface, but now in a way that accommodates the surface owner's use of their property to the fullest extent possible. Having addressed the inherent unfairness of a system that put surface owners in a position of limited ability to deal with the impacts of development on their property will prove to be the major impact from HB 1252.

HB 1341 addressed the re-composition of the COGCC itself, the commission charged with oversight of oil and gas development in the state of Colorado. Over the years, 'oversight' in this context, has come to mean 'expediting development'; this definition came from the same dictionary in which 'conservation' is defined as 'aggressive extraction and use', and 'waste' is defined as 'leaving a resource untouched'.

Testimony was an opportunity to remind senators who were grouching about having to deal with this issue now for 2 years, that for 17 years people have been coming up to the legislature and calling for the re-composition of the Colorado Oil and Gas Conservation Commission. And for 17 years, through Democratic and Republican administrations and legislatures, people have been given a deaf ear and turned back in their efforts to change a badly broken system – a system broken because, essentially the oil and gas industry had been in the position of regulating itself; and while that worked really slick for the industry, the people and the world in which they live suffered from that arrangement.

1341 was not only long overdue, it represented the first step in bringing balance to the COGCC by getting people appointed with experience in wildlife, public health, local government, and agriculture. These people will bring their diverse perspectives to how our oil and gas resources should be developed, and this broadening of views will go a long way towards addressing the impacts of development rather than people who

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SJCA Scores Protection for Chaco Canyon

by Mark Pearson

Quick action by SJCA's Farmington staffer, Mike Eisenfeld, and allies in New Mexico quashed plans for two natural gas wells proposed just south of the Chaco Culture National Historic Park boundary, within visual distance of the Chaco Visitor Center. Chaco Canyon is a World Heritage Site and is one of the few areas in northwest New Mexico that hasn't been fragmented and torn up by energy development.

In February, we were alerted to a request by Cimarex Energy Company, a natural gas company out of Denver, to construct two natural gas pads with four wells on the southern boundary of Chaco Culture NHP on state of New Mexico Trust land. The two pads were located within visual distance of the Chaco Visitor Center and could have significantly impacted the archeological-astronomical features at Chaco Canyon that are a primary reason for Chaco Canyon's designation as a World Heritage Site. The wells were to be sited just over a mile from Fajada Butte, the famed "sun dagger" site where light and shadows tracked the cycles of the sun and moon for centuries. Chaco officials were greatly concerned about the potential impact of drilling rigs and operating gas wells on the astronomy night-sky programs that are a central



Pueblo Bonito at Chaco Canyon

feature for park visitors.

In response to widespread concern about the two wells proposed on the boundary of Chaco Culture National Historic Park, the New Mexico state land commissioner pulled the plug on the wells. In March, Patrick Lyons told the company he would exchange their leases for other state lands elsewhere in New Mexico, but that the drilling approval on these leases had been rescinded. After some initial opposition by Cimarex, the company relented and recently agreed to give up the leases.

Lyons also proposed a larger, landscape look at the land ownership pattern around Chaco apparently with an eye to looking at management swaps or other mechanisms to secure the landscape at Chaco.

San Juan County has initiated an environmental assessment concerning potential paving of County Road 7950, the main access road to Chaco. SJCA will alert members about scoping for this EA.

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see resource development strictly from a technical perspective.

This year's efforts are a testament to several things: persistence; importance of voting; knowing that the cause is just and the outcome important; and being aware that the fight is not yet over:

- At the end of the Senate hearing on 1341, an oil and gas attorney said of the Citizens Alliance, "Well, you got what you wanted." He was reminded that it only took 17 years to accomplish that. His response was "But you never stopped coming here." And that was the lesson: We did not quit.

- January 2007, Bill Ritter became Colorado's Governor. Had the previous governor been in office, neither of these bills would have become law. Just as this one person made a difference, all our votes made the difference in our future.

- From the beginning, when people were being run over by the industry, water wells were being lost, roads being torn up, habitat being destroyed, air being fouled, standing up to the industry has been the right thing to do. The consequences of no opposition would have been too dire; the results of taking a stand have proven that the

effort was vital.

- What happens next is crucial. How both 1341 and 1252 are interpreted and how they are acted upon will be as important as their having been passed in the first place. From COGCC rulemaking to the details of Surface Use Agreements, the Alliance's involvement in and work on oil and gas issues will continue.

Desert Rock Environmental Impact Report Falls Flat

by Mike Eisenfeld

The Bureau of Indian Affairs released the Desert Rock Draft Environmental Impact Statement (DEIS) in electronic form in May, but readers were still awaiting printed copies as we went to press. The DEIS can be found at www.desertrockenergy.com.

San Juan Citizens Alliance has actively opposed the proposed Desert Rock coal-fired power plant for the past three years. SJCA is working with a broad coalition of groups concerned about the implications of another coal plant being built in an area already adversely impacted by the legacy of two large coal plants within a huge coal complex. Desert Rock, as proposed, would be a 1,500-megawatt mine-mouth, coal fired power plant built by Sithe Global Power on the Navajo Nation south of Shiprock. The site is directly south of the existing 2,040-megawatt Four Corners coal-fired power plant and the 1,800-megawatt San Juan Generating Station coal-fired power plant. Coal for the proposed Desert Rock facility would be attained from a proposed expansion of the BHP Billiton Navajo open pit strip mine.

Desert Rock is a merchant power plant, meaning that Sithe plans to sell power on the open market and has no current

contracts. Sithe has suggested that Desert Rock "off-takers" (buyers of power) include utilities that service Tucson/Phoenix and the Las Vegas markets. Just 0-5% of the proposed power from Desert Rock would stay on the Navajo Nation, where many citizens continue to live without electricity.

SJCA has significant concerns with the potential siting and impacts of Desert Rock. While fully recognizing the sovereignty of the Navajo Nation in siting Desert Rock, citizens of the Four Corners region would be adversely impacted by the project as proposed. SJCA has begun review of the Draft EIS for Desert Rock. Several important issues stand out in the planning/development process for Desert Rock:

Carbon Dioxide Emissions

Although portrayed by Sithe as a "clean, state of the art coal-fired power plant," Desert Rock is projected (Sithe's own numbers) to emit over 12.7 million tons per year of CO₂ to the atmosphere. The proposed Desert Rock facility would effectively wipe out all positive actions that New Mexico is taking to reduce greenhouse gas emissions. Sithe does not introduce any analyzed alternatives in the Draft EIS that would reduce the CO₂ imprint from the proposed Desert Rock facility. The Draft EIS mentions Global



Warming in the context of the connection between fossil fuel emissions of CO₂ and climate change. The Draft EIS then discusses the concept of Global Dimming and the idea that there may be cooling principles at place with continued CO₂ emissions for coal-fired power plants that are actually beneficial. This document is clearly indicative of the strategy of the coal industry to put a spin on Global Warming and instill doubts in the public as to the severity of the problem that has been created.

Mercury Emissions

Projections are that Desert Rock would contribute more mercury (117 pounds per year, at a minimum) to the atmosphere with mercury controls only "if necessary." This emitted mercury is showing up as mercury deposition in virtually all of the major water bodies in the Four Corners region. These regional waters include the San Juan, Animas, La Plata rivers; Navajo and Vallecito lakes; Narraguinnep and McPhee reservoirs, and numerous water bodies found on the Navajo Nation where fish consumption advisories due to mercury contamination have been issued. The Draft EIS for Desert Rock claims that the existing power plants are not the source for mercury showing up in our region's waterways.

Cumulative Air Quality Impacts

continued on next page

Durango Revives Community Relations Commission

by Eddie Soto

In 1997, a fight broke out between Latino and Anglo youths at the Durango High School. In response to this incident, School District 9-R, La Plata County Government and Fort Lewis College went to the city council and requested the formation of a Community Relations Commission; on May 5, 1998 the city council unanimously approved the creation of the Durango Community Relations Commission. Unfortunately, nothing more took place with the Community Relations Commission other than that vote. The city was supposed to appoint a member of the city council or city staff to participate and act as a liaison between the Commission and the city of Durango. The city of Durango was also supposed to convene the first meeting of the Commission, an act that never took place.

In the last couple of years, incidents of racial intolerance have been increasing in the Four Corners Area. In Farmington, New Mexico, a Native American was

shot multiple times by a police officer. The Farmington Police Department never allowed an independent group to investigate the case, creating a feeling of distrust between the community and the Farmington Police Department. In Cortez, a long history of non-Native on Native violence has brought the Colorado Civil Rights Commission to investigate that police department and city government. Durango has been showing some signs of racial intolerance, from protest signs that espouse hate towards the Arab community, to cases of racial profiling by the Durango Police Department, to hate flyers being placed at groups that help minority groups. All these events prompted Compañeros to try to revive the old Durango Community Relations Commission.

Many groups (including Fort Lewis College, 9-R School District, National Organization for Women, Sexual Assault Services Organization, Adult Education Center, Promoviendo La Salud, and San Juan Basin Health) joined us in urging the City of Durango to appoint a city council

member to sit on the Commission and to convene the first meeting.

We went in front of the current city council on June 5th asking that the council step up and launch the Commission. John Dulles of the Justice Department's Civil Rights Division spoke in support of Durango launching the Commission, and brought commitments from the U.S. Justice Department and the Colorado Civil Rights Division. With such strong support from the community and outside resources, two city council members – Leigh Meigs and Renee Parsons – volunteered to spearhead the Commission and get it off the ground. We look forward to working with them, the city of Durango and La Plata County to create a Commission that helps to protect everybody's civil rights in our area.

For information on the first Durango Community Relations Commission meeting, call Eddie Soto at (970) 375-9406.

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The proposed siting of the Desert Rock facility, as currently designed, would be detrimental to citizens of the Four Corners region through increased emission levels of CO₂, mercury and pollutant contributions that result in the formation of ozone. There are literally thousands of sources (coal plants, refineries, natural gas compressors) that are contributing to the formation of ozone in the Four Corners. It is essential that the states of New Mexico and Colorado, and Federal legislators be involved in siting and design decisions for the Desert Rock facility, to understand potential alternatives (including renewables, demand-side management, energy efficiency) that preclude the need to build more coal-fired power plants in our state.

Disproportionate Impacts

The Draft EIS clearly states that Desert Rock power would be marketed for Phoenix/Tucson and Las Vegas. The Draft EIS also states that the Four Corners area has disproportionate public health impacts associated with the existing power plants in the region. Of particular note is the idea put forward in the Draft EIS that high cancer rates in the Four Corners are the result of natural arsenic in the soils, rather than any connection to the legacy of energy development in the region. The conclusion of the Draft EIS is that the opportunity to provide cheap power to areas far from here is more important than the public health of citizens of the Four Corners.

Failure to analyze a Reasonable Range of Alternatives

The Draft EIS for Desert Rock fails to fully analyze renewable energy options or carbon sequestration in comparison to the proposed Desert Rock project. Given the recent implications of the Supreme Court ruling that EPA should regulate CO₂, the Draft EIS is deficient. SJCA will provide comment analysis on the Draft EIS that will include renewable energy alternatives to Desert Rock.

Tentative Public Hearing Schedule

July 17	Farmington, 5 – 8 pm, Farmington Civic Center
July 18	Cortez Area, 10 am - 1 pm, Ute Mt Casino, Towaoc
July 18	Durango, 5 – 8 pm, Iron Horse Inn
July 19	Albuquerque, 1 – 4 pm, Indian Pueblo Cultural Center
July 20	Santa Fe, 1 – 4 pm, Larrazolo Auditorium, Runnels Building
July 23	Shiprock, 10 am – 1 pm, Chapter House
July 23	Nenahnezad, 5 – 8 pm, Chapter House
July 24	Burnham, 10 am – 1 pm, Chapter House
July 24	Sanostee, 5 – 8 pm, Veterans Memorial Center
July 25	Window Rock, 10 am – 1 pm, Navajo Nation Museum

Three Ways You Can Help SJCA – without even using your checkbook!

by Tracy Daniels

As a member of San Juan Citizens Alliance, we know you want to protect the land and the citizens of the San Juan Basin. With your annual membership contributions and other donations, you help us to do just that. This year SJCA would like to invite you to get more personally involved in our work!

Volunteer!

Volunteer for SJCA and gain valuable experience, meet knowledgeable and friendly people, and learn more about preserving the beautiful area where we live.

We have many volunteer opportunities: participating in special events like our annual Oktoberfest, attending public forums and meetings where your presence and voice is important, and helping with monthly mailings to members. If you have an idea how you can help the San Juan Citizens Alliance, please contact us and we will gladly put you to work.

Brainstorm Givebacks!

Do you have a Brainstorm or Frontier Internet account that costs **more than \$10 a month**? If you do, this is the easiest way for you to raise money for SJCA. Brainstorm has created the Community Givebacks Program for local non-profits. All you have to do is sign a letter, authorizing Brainstorm to contribute 20% of your bill to SJCA, without any changes to your account. Thank you to Brainstorm Internet for supporting local non-profits!

Toner Donor!

Another way to support your favorite organization is to participate in our Toner Donor Cartridge Recycling Program. We have placed boxes to recycle your printer cartridges in the lobbies of many Durango businesses. Take your empty cartridges to any of these sites and you are raising money for the San Juan Citizens Alliance, it's that easy!

If you work for, or own a business that

disposes of printer cartridges every month, please call our office so we can bring you a Toner Donor box and get you started in this great recycling program.

All of us at the San Juan Citizens Alliance appreciate your support. If you are interested in any or all of these programs, please contact Tracy Daniels at (970) 259-3583 or tracy@sanjuancitizens.org.

Thanks to the businesses currently participating in Toner Donor!

First National Bank
Bank of the San Juans
Durango Herald
The Wells Group
Natures Oasis
La Plata County
Durango Office Suites
Mercury Payment Systems
Coldwell Banker
Connecting Point
Graden Mercantile Building



SJCA members and donors enjoy poetry from San Miguel County Commissioner Art Goodtimes at Cyprus Cafe in Durango on May 20.

Durango's Bike to Work Day – June 27

Don't pollute, bike commute!

by Tracy Daniels

According to Bicycling Magazine, more than half of all Americans live less than five miles from where they work. Why then don't more people ride their bikes to work? It's been over 30 years since the 1970's oil crisis and the launch of the environmental movement. And here we are again, preoccupied with gas prices and now global warming, and suddenly interested in traveling lighter. How about traveling on a bike?

People come from all over the world to ride their bikes in Durango. We have well built roads (usually with shoulders), many miles of bike paths and endless miles of county dirt roads for the rougher riders. There is no better time to take advantage of one of those fabulous bikes in your

garage and start riding to work. Even just riding your bike one day a week makes a difference.

May 15th marked the one-day boycott on buying gasoline. Unfortunately, we did not witness any oil corporations crumbling under the pressure. Some would argue that not using a car at all is the best solution to high gasoline prices. That's part of the inspiration for Bike-to-Work Day (BTWD), originally organized by the League of American Bicyclists. It is part of National Bike Month, which in May celebrates 50 years of pedaling in America.

Durango's Bike to Work Day is coming soon, Wednesday June 27, from 4-7 pm on Main Avenue between 10th and 11th Avenue. BTWD will look very different this year. We want it to be bigger and

better than it has ever been, and we can only achieve that with your participation. Tell everyone you know and plan to ride your bike to work and stop by the event on your way home.

Durango Transit will be giving free rides all day, and you can ride with your bike. There will be kid's events, Durango's first Commuter Challenge created by Trails 2000, lots of free giveaways, all your favorite bike shops, the chance to win a Trek cruiser, music, beer garden, and so much more. We are also proud to announce that this will be a bilingual event.

Please don't miss BTWD this year. Let's celebrate the unique cycling community that we are and don't forget, commuting by bicycle produces zero pollution!

SJCA Volunteers of the Year – Margaret Wanner and Mitch Blylstone!

We would like to offer special thanks to our two terrific "volunteers of the year."

Thanks to **Margaret Wanner**, wife of SJCA rivers organizer Chuck Wanner. Margaret has graciously taken over our recycling program of ink cartridges. She has raised over \$2,000 and has recycled over 800 ink cartridges!

Thanks to **Mitch Blylstone**, champion volunteer for Oktoberfest. Mitch has been the coordinator for all the great music for 4 years. He has also contributed his time on several other Alliance fundraisers.

We can't thank these volunteers enough for their time and dedication. We couldn't do it without you!



SJCA Volunteer of the Year, Mitchell Blylstone.

Join San Juan Citizens Alliance!

Put my tax-deductible gift to work for the land, wildlife,
and people of the San Juan Basin!

- \$1000 \$ 100 \$ 30
 \$ 500 \$ 50 Other

Name(s): _____

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City: _____ State: _____ Zip: _____

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Specific areas of interest to me include: public lands oil & gas

rivers/water social justice green business _____

Please make checks payable to SJCA or San Juan Citizens Alliance and mail to
P.O. Box 2461 Durango, Colorado, 81302. Thank you!

(we do not sell, trade, or share our mailing list)



Act Local!

When you are thinking about donating to a social or environmental cause, think local! We can stretch a dollar a long way in protecting the land and values of the Southwest!



San Juan Citizens Alliance
P.O. Box 2461
Durango, CO 81302

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