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NACo Legislative Conference

Committee Report: Energy, Environment & Land Use Committee

Submitted by John Prinkki
Carbon County Commissioner,
MACo President

The Energy, Environment & Land Use (EELU) Committee began the NACo Legislative Conference with the Working Group on Coastal Wetlands Issues at 7:30 a.m., Saturday, March 3. Though this committee has little to do with Montana, it was interesting to hear the views of those affected to compare with our wetland issues. The only difference was that coastal wetlands do play a large role in protecting the mainland from erosion and provide habitat for many coastal plants and animals.

The Air Quality Subcommittee heard from Dr. Manik Roy of the Pew Center on Global Climate Change, and Bill Fang of the Edison Electric Institute (EEI) discussed the National Climate Change Policy, "Where Do We Go from Here."

Dr. Roy discussed efforts in Congress to address Global Climate Change. Rep. Nancy Pelosi has stated that she intends to present legislation, but no one is sure what the language in the bill will be, except that they are considering mandatory, but flexible limits on CO₂. Dr. Roy also mentioned, surprisingly, that there is extreme uncertainty in climate change; that at most, 50% of climate change is attributable to human influence. Dr. Roy stated that the Pew Center would support technology development to address greenhouse gas (GHG) emissions.

Bill Fang, of the EEI, stated that any GHG emissions standards had to involve Asia and Australia. There will be a 40% growth in electricity demand by 2025, and there are no short term options for CO₂ capture. Any CO₂ sequestration technologies will not be commercially available until 2020-2025. The EEI does not endorse either mandatory or volun-

tary CO₂ capture programs. IGCC is still more expensive than CFB or pulverized coal boilers, does not capture CO₂, and will not be financed by lending agencies.

The Air Quality Subcommittee discussed the Resolution on Bi-National Pollutants. It passed unanimously when amended to include Canada and asks the federal government to be proactive in discussing pollution that crosses national borders working with Canada and Mexico and those counties that border these countries.

The Energy Sub-committee speaker was our own Cascade County Commissioner, Peggy Beltrone, who talked about the need for local government to be involved in the siting of transmission lines. Peggy discussed the many issues related to transmission lines including the benefits to alternative energy and economic development as well as the challenges of zoning and eminent domain. It was suggested that transmission lines be a topic of discussion at the NACo Annual Meeting.

The Energy Subcommittee discussed three resolutions:

1. Resolution on Climate Change.
 - a. The resolution was withdrawn with language incorporated into the next resolution.
2. Resolution Urging Congress and the Administration to take practical actions to reduce the risk of Global Warming.
 - a. The resolution was adopted unanimously with this policy statement: "NACo urges Congress to address global warming, regardless of its source. NACo supports immediate and long range efforts by the federal government to involve all levels of stakeholders to mitigate possible sources of climate change now through a series of practical incentives and through more federal funding for all means of emissions reduction. NACo will provide a leadership role in the education,

(Continued on Page 11 . . .)



MACo News

Mark Your Calendars

- April**
 April 4 MACo HCT Board of Trustees, 10 a.m., MACo Conference Room
 April 11 - 12 JPIA/JPA Trustees meeting
 April 22 - 26 Magistrates Spring Conference
 April 25 - 27 NACo RAC Fly-In
 April 27 Legislative Sine Die
- May**
 May 8 - 12 WIR, Fairbanks, AK
- June**
 June 5 District 4 & 5: Choteau 10 a.m.
 June 7 District 1, 2 & 3: Broadus 9 a.m.
 June 10 - 14 Montana Assoc. of Clerk of Courts Annual Conference, Cut Bank
 June 11 District 10 & 11: Superior 10 a.m.
 June 13 District 6 & 7: Geysers Senior Center 10 a.m.
 June 14 District 8, 9 & 12: Dillon 10 a.m.
 June 18 - 22 Montana Association of Oil, Gas & Coal Counties Annual Meeting, Lewistown (Tentative)
 June 20 - 22 Montana Sheriffs & Peace Officers Assoc. Annual Conference, Helena
 June 27 MACo Board of Directors Meeting
 June 27 - 29 Montana County Attorneys Association Annual Conference, West Yellowstone
- July**
 July 12 - 18 NACo Annual Conference, Richmond, VA
- August**
 Aug. 7 - 10 Western Planners Association Conference, Dickinson, ND
 Aug. 20 - 24 Montana Clerk & Recorders Association Annual Conference, Great Falls
- September**
 Sept. 17 - 19 Montana Treasurers Annual Conference, Missoula
 Sept. 23 - 26 MACo Annual Conference, Great Falls
 Sept. 30 - Oct. 4 Magistrates Fall Conference

A Tale of Two Cases (With apologies to Charles Dickens)

By Myra L. Shults, Attorney at Law

The guillotine fell on Lewis and Clark County in March, but it was fatal in only one case.

Two important orders were issued by the First Judicial District Court: *Fasbender, et al. v. Lewis and Clark County Board of Commissioners, et al.*, Cause No. BVD-2006-898 and *Helena Building Industry Association of Helena, Montana, et al. v. Lewis and Clark County*, Cause No. BVD-2005-418. The purpose of this article is to provide a synopsis of these orders. The orders can be viewed in their entirety on the MACo website at <http://www.maco.cog.mt.us>.

Fasbender case. The *Fasbender* case was a challenge to the Lewis and Clark County Commissioners' interim zoning adopted pursuant to § 76-2-206, MCA. The Commissioners adopted the interim zoning after they discovered the notice for proposed permanent zoning for the same area was deficient. Besides notice requirements, the main procedural difference between adopting permanent zoning and adopting interim zoning is there is no ability to protest interim zoning, which is limited in duration.

In addition to challenging the procedure used to adopt the interim zoning, and whether an emergency existed, the plaintiffs also challenged the County's determination of the number of protests to the permanent zoning, which was void at the time the complaint was filed.

The court declined to rule on the protest issue for the void zoning (it was, after all, void). The court ruled notice and an opportunity to be heard was the procedure to be used when adopting interim zoning—not the full procedure found in § 76-2-205, MCA—just as a different court in the Twenty Second Judicial District ruled in 2003 in *Farley, et al. v. Big Horn County, et al.*, Cause No. DV 02-75.

Lewis and Clark County did not win all the issues. The court ruled the Lewis and Clark County Commissioners should have allowed the opponents to the interim zoning an adequate opportunity to respond to a report, which substantiated the emergency existed. Following the court's suggestion, the Lewis and Clark County Commissioners will start over with the interim zoning, using the procedure affirmed by the court.

HBIA case. The *Helena Building Industry Association* decision was fatal to Lewis and Clark County's fire protection regulations found in its subdivision regulations. The decision is troubling because the court suggested counties can use § 76-3-511, MCA, to avoid its ruling that subdivision regulations cannot require sprinklers for fire protection. The critical sentence in the order is found on page 8 and states "[f]ire sprinklers are clearly a building regulation, not a subdivision regulation." A building regulation is defined by § 50-60-101(3)(a), MCA, and only the Department of Labor and Industry "is responsible for promulgation and enforcement of building codes" (unless a County has adopted building codes, but even then sprinklers are not required for single family residences). See § 50-60-202, MCA. One has to read the decision to fully understand it.

(Continued on Page 3 . . .)

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MACo News Invites Letters to the Editor

If you have a compliment, complaint, or suggestion, please let us know!

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406.444.4380



MACo News

MACoHCT is Growing and Moving

MACo Health Care Trust (MACoHCT) has grown and is on the move! MACoHCT has enjoyed our big brother relationship with the Montana School Services Foundation (MSSF) over the last two and a half years. MSSF has been instrumental in the study, implementation and development of the MACoHCT.

Under the guidance of the MACo Executive Board and then the MACoHCT Board of Directors, MSSF has been administering the MACoHCT under contract since operations began May 15, 2005 with Petroleum County as our initial member county. Since those humble beginnings MACoHCT has grown to 40 employer groups with nearly 900 members!

The Montana Association of Counties and the Montana School Services Foundation have agreed that the MACo administration will begin administering the operations of the Health Care Trust effective April 1, 2007. Administrative operations will begin a complete operational transition to MACo from MSSF. MACoHCT operations are transitioning to be 100% MACo.

MSSF has agreed to allow the MACoHCT to stay in their building and have graciously offered their staff and systems as resources for MACoHCT. Effective April 1, 2007 please contact us at:

MACoHCT
PO Box 6668
Helena, MT 59604-6668
Toll free 866-669-6428
Direct line 406-443-8102
Fax line 406-443-8103



The MACo staff dedicated to the Health Care Trust: Alyce Bailey, Enrollment/Eligibility Specialist, Customer Service; Linda Taft, Finance Officer/Office Manager; Owen P. Voigt, Plan Administrator.

MACoHCT is the same great organization with the same great service you have come to expect! We extend our sincere thanks to the MSSF for all their guidance and advice for the startup phase of MACoHCT.

Please feel free to contact us with any questions or comments.

A Tale of Two Cases: *Continued from Page 2*

Section 76-3-511 **cannot** be used to adopt a building regulation more strict than those found in Title 50, Chapter 60. Section 76-3-511, MCA, was enacted in 1995 as Section 5 of Chapter 471. This chapter in the 1995 Session Laws, and in particular the whereas, the statement of intent and its applicability in Section 22, clearly indicates the changes made by the bill are limited to those issues addressed by the board of environmental review (BER) and the department of environmental quality (DEQ) [known as the board of environmental sciences and the department of health and environmental science, respectively, in 1995]. The bill addresses air, water, septic, solid waste, and hazardous waste but Section 22 makes it very clear Section 5 (76-3-511) applies "to local units of government when they attempt to regulate the control and disposal of sewage from private and public buildings."

My advice to counties is **not** to use § 76-3-511 to adopt subdivision regulations that require such items as sprinklers or fire-resistant roofs and siding, as the regulations may be deemed building regulations by your local judge. If your county is like Lewis and Clark County, where significant fire

danger exists, the builders and the Department of Labor and Industry should not object to counties protecting the public health and safety by requiring two ways in and out for a proposed subdivision in a high fire hazard area, by requiring an adequate water supply, and by requiring the covenants to contain requirements for defensible space, as these are proposals from the Department of Natural Resources during this legislative session. Whether general powers counties can require these measures without specific statutory authority remains to be seen. What is clear is § 76-3-511, MCA, is not the way to do it.

When discussing mitigation with the subdivider as required by § 76-3-608 (5)(b), MCA, nothing in the law prohibits the subdivider from proposing sprinklers to reduce the amount of water necessary to fight a fire, but sprinklers cannot be required by the County. The subdivider's proposal should be reviewed with the local fire agency to determine whether it is sufficient. Of course, if the County accepts sprinklers as mitigation of the fire hazard, a mechanism must be in place to certify the sprinklers are actually installed.



Risk Management

How Does Overtime Impact Workers?

Provided by DoD Ergonomics Working Group NEWS, www.ergoworkinggroup.org

When management is faced with personnel shortages or the need to meet peak production demands and schedules, overtime is often the solution. But is it a wise decision?

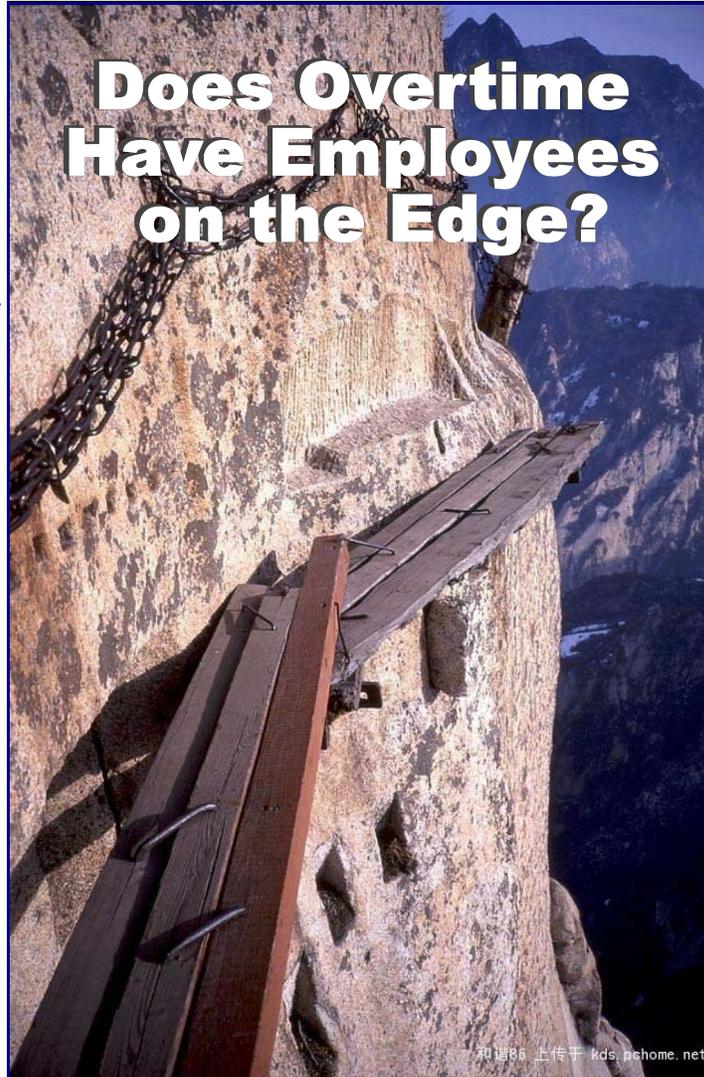
Although management may view overtime as a temporary solution, it often becomes a standard way of managing work demands. In many instances, the extended overtime hours approach the same hours worked in a 12-hour shift system; however, the use of overtime is applied with little consideration to its consequences.

The health effects of extended work hours are well documented and include:

- Increased risk for cardiovascular disease
- Sleep disorders
- Depression
- Ulcers
- Gastrointestinal dysfunction and disorders
- Breast cancer
- Complications of existing medical conditions such as diabetes and epilepsy

In addition to these health effects, working overtime:

- Reduces the amount of quality time to spend with family members and meet family care demands, leading



to increased levels of stress, irritability, and feelings of isolation.

- Increases the risk of substance abuse as workers resort to caffeine, stimulants, and tobacco to stay awake and alcohol and depressant drugs to fall asleep.
- Increases worker concern about their health and longevity.
- Increases absences for sickness and accidents.

Productivity and performance costs are often not apparent to management—but the truth is these costs can far exceed the direct costs of overtime. Just using the example of worker fatigue caused by extended hours—and resulting increased errors and accidents, decreased concentration, slower reaction time, failure to perceive and react to critical signals, impaired motor skills and coordination, decreased ability to handle stress, reduced problem-solving and decision-making abilities, and increased risk-taking behavior—reveals overtime is often not a smart solution.

Finally, and perhaps the strongest argument against extended work hours, **productivity levels and work output do**

not increase in proportion to the hours worked. In fact, extending the workday often causes the tempo of work to slow down and the hourly output to decrease, especially in physically demanding jobs.

Disaster & Terrorism Toolkit

Reserve Your FREE copy through NACo!

The National Association of Counties (NACo), under a Cooperative Agreement with the Department of Homeland Security, has produced a Disaster and Terrorism Toolkit to assist counties in learning about and finding information about disasters and terrorism. The toolkit provides:

- documents on the background and nature of various forms of terrorism
- information that can be reproduced to distribute to the public
- guides for planning on response to various natural, technological, and biological threats to public welfare

-a software-based decision-making tool for elected officials dealing with a catastrophic disaster that is about to occur or is happening

-video that is useful “as-is” or easily adapted for use in your community

For a copy of the toolkit, contact: Rocky Lopes, Homeland Security Project Manager, National Association of Counties, 202-661-8841, rlopes@naco.org

Copies of the toolkit are available at no cost to NACo member counties as long as supplies last. We kindly request limiting orders to one per county.



County News

County Officials

BIG HORN COUNTY Sheriff and County Attorney said they are ready to join the Crow/Northern Cheyenne Safe Trails Task Force, which will bring a wider ring of law enforcement into the county. The task force includes law enforcement agencies from both tribes, through the Bureau of Indian Affairs Office of Justice Services, the FBI, Drug Enforcement Administration, and Colstrip Police Department.

BUTTE-SILVER BOW COUNTY hired Roger Ebner, a Minnesota native, as the county's new emergency management coordinator. He replaces Wilma Puich, who was in the position for more than 50 years.

GALLATIN COUNTY District Judge Holly Brown was named the Woman of Achievement for 2007 for the Bozeman chapter of Business and Professional Women.

VALLEY COUNTY hired Terry Synan as a county sheriff's deputy. Synan is a former Valley County resident who has now returned after 20 years in Virginia.

LAKE COUNTY has a new deputy attorney, Cory Allen, who earned his law degree in 2004 from the University of Minnesota in Minneapolis; however, he's quick to point out that he grew up in Great Falls.

GALLATIN COUNTY's Deputy Attorney, Greg Sullivan, was appointed Director of the county's planning office. He will officially start on April 23.

Subdivisions

TETON COUNTY commissioners approved plats for two new residential subdivisions both near Choteau: the Tumble Weed Estates Subdivision, a five-lot subdivision; and the County Lane Subdivision, presently made up of two lots.

MADISON COUNTY commissioners approved a 55-lot, 160-acre subdivision, which includes a stipulation limiting the size of houses. Shadow Ridge is located about two miles southwest of Ennis. The commissioners also approved an eight-lot, 243-acre subdivision along Bear Creek on the east side of the Madison Valley.

BROADWATER COUNTY Commission approved the preliminary plats for Eagle Ridge Estates, a 133-lot major subdivision, as well as Westside Trails, a 243-lot subdivision. Both are located in the southern part of the county.

Miscellaneous

CASCADE COUNTY Commission gave final approval to the first phase of the 100-acre Manchester Exit Industrial Park southwest of Great Falls near Ulm. Plans are in the works to move the county's road and bridge department, currently in Great Falls, to the new industrial park.

RAVALLI COUNTY departments, except the 911 center, will see cuts this year to fund changes in county government that voters asked for last November. The total one-time costs for the government changes tally \$102,600.

FERGUS COUNTY Sheriff's Department statistics gathered over the last six years show a sharp increase (93%) in the number of criminal citations and warrants being issued. According to Sheriff Tom Killham, the credit goes to his team.

BEAVERHEAD COUNTY voters will decide during the school elections in May whether to tax themselves to raise an additional \$200,000 per year to help run the sheriff's department.

PARK COUNTY will pay a Billings company more than \$60,500 to fix a lift station problem responsible for several raw sewage dumps into Yellowstone River at Gardiner. The spills happened when electrical power in Gardiner went off, and the lift station had to be manually switched to a backup generator.

JEFFERSON COUNTY Commission approved spending up to \$1,950 in metal mines trust fund money toward a \$30,000 sewer engineering study on the Boulder South Campus.

YELLOWSTONE COUNTY commissioners have issued a Request for Qualifications for contractors capable of helping reduce fire danger in rural subdivisions.

LEWIS & CLARK COUNTY commissioners recently agreed to create a records management committee, to ensure permanent records are maintained for posterity and public access.

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District Meetings

June 5, 2007: 10 a.m.

Districts 4 and 5 meet in Choteau

June 7, 2007: 9 a.m.

Districts 1, 2, and 3 meet in Broadus

June 11, 2007: 10 a.m.

Districts 10 and 11 meet in Superior

June 13, 2007: 10 a.m.

Districts 6 and 7 meet at the Geyser Senior Center

June 14, 2007: 10 a.m.

Districts 8, 9, and 12 meet in Dillon



County News

Who is Mike Wendland: Profile

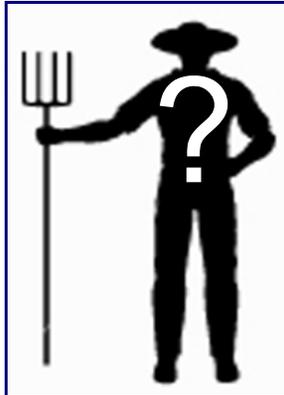
Mike Wendland: New Hill County Commissioner

Beginning with this edition of *MACo News* we will be profiling various county officials around the state.

In this issue, the spotlight is on a Hill County commissioner, who took over for former commissioner Doug Kaercher and officially assumed office as of March 1, 2007. Here are a few facts to help you better know Hill County's newest addition, Mike Wendland:

If are currently married, what is your spouse's name? Sue Wendland

How many years have you been in public service? I have been involved with the Conservation District for over 20 years, and I am a volunteer fire-



man on the Rudyard Department.

What is your occupation(s), and/or what did you do professionally before becoming a commissioner? I am a dryland farmer from Rudyard.

What is something you read every morning and/or night? I like to read the Great Falls Tribune early in the morning.

What is your favorite meal? Beef Steak

What was the last book you read? *Lombardi and Me*

If you would like to contact Commissioner Mike Wendland, he can be reached by phone or email: 406-355-4508 (home), 406-265-5481 (work), wendlandm@co.hill.mt.us (email).

MACSS Hold Annual Conference

By Ed Heard, President MACSS

The Montana Association of County School Superintendents (MACSS) held their annual conference in Helena on February 14 and 15. In addition to the annual conference, the association presented two days of training for the eleven newly elected County Superintendents. The training worked dually as a refresher for the experienced office holders.

Members of MACSS presented the following topics on Monday, February 12: Transportation, Enrollment, Elections, Retirement Levies, Land Transfers, Federal Programs, Budgets, School Board Relations, Home Schools, Teacher Evaluations, and Miscellaneous Information.

On Tuesday morning, the training shifted to the Office of Public Instruction. Tours of assorted buildings and offices were conducted along with an introduction of the personnel and a description of the various responsibilities of the office.

The afternoon was filled with more pertinent presentations: The Montana Association of Counties, The Montana Association of Business Officials, Montana Codes Annotated and Administrative Rules of Montana, and Working with the Treasurers Office.

Tuesday evening wholly comprised of the Annual Banquet, which included the announcement of the Rural Teacher of the Year as well as guest speaker, State Superintendent Linda McCulloch.

This year's Rural Teacher of the Year is Susan Luinstra from Bynum Elementary School in Teton County and will represent Montana at the National Rural Education Association Conference. She is eligible to be considered for the National Rural Teacher of the year, which will be

announced in November.

Wednesday began with the opening of the Business Meeting and setting the agenda; items were presented for discussion and action. The meeting then recessed to hear a presentation by Dr. Claudette Morton about current rural teachers salaries and working conditions. She also spoke about the Montana Small School Alliance, which is the recognized state affiliate of the National Rural Education Association.

Following Morton's presentation, Darrell Rud, Executive Director of the School Administrators of Montana (SAM) gave a comprehensive overview of current legislation and its status and effect on education. MACSS and SAM are affiliated; therefore, Rud also spoke about the mutual benefit to each organization as a result of this affiliation.

The later part of the day was scheduled at the Capitol where Governor Schweitzer gave a slide presentation reflecting the progression, or lack thereof, of funding for education through the two administrations prior to his. He also talked about his current legislative agenda and how it will impact Montana schools and students. The remainder of the day was spent at the Capitol meeting with different legislators and attending pertinent hearings.

The Business Meeting reconvened on Thursday morning, which included various committee reports as well as discussion regarding current legislation and the future role of the County Superintendent of Schools in Montana.

The conference concluded with the elections of the following slate of officers for the next two-year term.

This year's 2007 Fall Meeting will be in Great Falls with the 2008 Spring Conference in Havre.



County News

Innovative Thinking and Funding Make Townsend's New Boiler System a Success

By Angela Farr
DNRC Fuels For Schools Coordinator

Townsend, MT- Townsend School District was the center of attention for the state on March 16th when it unveiled a gem of innovative thinking: a new state-of-the-art biomass heating system. The new system is one of five operating in Montana public schools.

The Montana Department of Natural Resources & Conservation (DNRC), US Forest Service-Northern Region (USFS), and the Headwaters Resource Conservation and Development Area (RC&D) worked cooperatively for approximately two years to assist in the development and fruition of this project. There are currently three other boilers in various stages of construction in the state.

Creative funding solutions were essential to making this project a reality. "This project was made possible due to the \$190,000 Fuels for Schools and Beyond grant the Townsend School District received, as well as other grants and loans from the DNRC and the USDA Rural Development Program. Of particular interest is \$12,420 in offset funding the project received from The Climate Trust," explained DNRC Fuels for Schools Program Coordinator, Angela Farr. "Townsend School is the first school under Fuels for Schools and Beyond to sell carbon dioxide (CO₂) emission offsets, selling over 130 tons per year of CO₂ emission offsets gained from replacing their fossil fuels usage for the next 15 years." The Climate Trust is a nonprofit organization in Portland, Oregon that promotes climate change solutions by providing carbon dioxide offset projects and advancing offset policies.

Not only is the Townsend School the first facility under Fuels For Schools and Beyond to receive CO₂ emission offset replacement grant money, but it is also the first school district that will burn wood pellets in its new biomass heating system. The wood pellets are "all-tree" pellets from Eureka



Pellet Mills. The pellets are composed of materials from logging residues that would otherwise likely have been destined for piling and burning, thereby emitting additional CO₂.

Burning wood pellets is "carbon neutral" because as CO₂ is released from the combustion of wood, growing trees absorb that CO₂, so there is no net gain of CO₂ in the atmosphere. Compare this to the burning of fossil fuels which releases sequestered CO₂ in the atmosphere, creating a carbon imbalance which contributes to global warming.

Townsend Schools are expected to use approximately 250 tons of pellets annually, saving around \$19,000 per year in heating costs. "Although the upfront cost of these heating systems is expensive, the lower cost of wood fuel results in a true cost savings to the district and tax-payers," Farr explained. Over the 30-year life of the system, savings are expected to exceed \$1 million.

A number of special guests were invited to attend this ceremony including DNRC Director Mary Sexton; Peggy Polichio, Deputy Director of State and Private Forestry in the Northern and Intermountain Regions of the USFS; Robert Leigland, Assistant to the State Director of USDA Rural Development; Mike Burnett, Executive Director of The Climate Trust; Linda McCulloch, Superintendent of Public Instruction; and, representatives from Montana's Congressional delegation.

For more information about Montana Fuels for Schools and Beyond, visit www.fuelsforschools.org or <http://www.fuelsforschools.org> or contact Farr at 406-542-4239.





NACo Legislative Conference: Committee Reports

Report on Legislative Conference for Community & Economic Development

By Mike McGinley, Beaverhead County Commissioner, MACo Second Vice President

I enjoyed the Legislative Conference in Washington D.C. this past March. The Steering Committee's meetings and the educational seminars were great and informative.

The Community and Economic Development Steering Committee met all day on March 4 to work on and to review Policy Resolutions as well as hear from national speakers. These included Bryant Applegate, director of America's Affordable Communities, U.S. Department of HUD, and Lisa Mallory-Hodge, Senior Vice-president of the Fannie Mae Foundation.

Applegate and Mallory-Hodge's focus was on Working Families and Workforce Housing. The handbook, "Homes for Working Families," from the Fannie Mae Foundation, was presented. This handbook listed six strategies and 22 high impact policies, one of which highlighted Montana's Homeownership Network.

During the Economic Development session the speakers were Nicholas Owens, National Director of U.S. Small Business Administration and David Heymsfeld, Staff Director for the U.S. House of Representatives on Transportation and Infrastructure. Owens and Heymsfeld stressed the importance of local counties' involvement in business and infrastructure development. They both stated that their mission is to "help navigate the bureaucracy of D.C."

The Resolution of most concern to Montana counties is the Resolution Supporting the Restoration of CDBG. The CDBG funding is in the Farm Bill and our Committee stressed that funding levels should remain at the current level.

The General Sessions were well attended. Four presidential candidates explained their goals and how they plan to reaffirm the importance of county government. It was also great to see Governor Schweitzer present his plan on coal-gasification to a National audience and the positive reaction he received.

Health Steering Committee & Rural Action Caucus Committee Reports

Submitted by Bill Kennedy, Yellowstone County Commissioner, MACo Past President, NACo Health Steering Committee Member, NACo Rural Action Caucus Chairman

I attended the NACo Health Steering Committee and chaired the NACo Rural Action Caucus (RAC) at the NACo Legislative Conference held early March. I would like to give you a brief update on the Health Steering Committee and RAC news.

The NACo Health Steering Committee met with a staff person from CMS (the old Medicaid/Medicare Program) and discussed Subtitle D (the Pharmaceutical Program) and funding for rural hospitals. Jennifer Wilson, Associate Legislative Director for NACo, stated that dollars are tight and we will be lucky to maintain funding at the 2006 levels. The current issue has been funding for rural hospitals and mental health care. With a new Congress and funding levels for FY07 staying at FY06 levels, there is a little hope that we might see a small increase in the FY08 budget. The State Children's Health Insurance Program (S-CHIP) has a proposal from Senator Max Baucus to increase funding for S-CHIP. Mental health parity is being talked about in Congress and may see the light of day with this new Congress.

The RAC met and the Farm Bill is the number one priority. Brandon Willis from Senator Baucus' Office spoke to the committee members on the Farm Bill.

Senator Tom Harkin (Iowa), who chairs the Agricultural Committee, will be crafting the Farm Bill this year. Dollars are tight, but we're still pushing for rural development dollars and an increase in federal dollars into the Farm Bill. In addition to the rural development dollars, Secure Rural Schools and PILT funding are also among our priorities. As of today, Senator Baucus has pushed forward to secure funding for the Secure Rural Schools Act for the next five years. He was very interested and put this as a top priority after our visit.

I will be attending the RAC fly-in towards the end of April and know how important it is to fund rural hospitals, nursing homes, and keep PILT and Secure Rural Schools funding going to our counties in Montana.

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NACo Legislative Conference: Committee Reports

WIR and Public Lands Steering Committee

Combined Reports Submitted by Connie Eissinger, McCone County Commissioner; Alan Thompson, Ravalli County Commissioner; and Mike Murray, Lewis and Clark County Commissioner

Federal Land Payments Subcommittee

Randy Phillips, Executive Director of the Forest Counties Payments Committee and USDA Forest Service Liaison to NACo, noted that there are 20 federal revenue-sharing funds or payments to counties. His committee, which was set up by Congress in 2000 when the Secure Rural Schools Act was passed, is tasked with identifying the purposes of the payments and how long they should occur.

Bob Douglas, President of the National Forest and Schools Coalition, also serves on the afore mentioned committee and reported that at this point in time, a short-term one-year extension of the act is essential. Congress is initiating a discussion on a formula to change to the act after noting that Oregon, California, and Washington are the three top recipients who receive the majority of the forest funds. The Senate is pursuing a multiyear change in formula discussion in the Energy and Natural Resources Committee which Senator Wyden from Oregon chairs. Douglas feels that the percentage of federal acres in a county should be an indicator of the impact of the federal funding.

Gerry Hillier, Executive Director of the QuadState County Government Coalition of California approached PILT with an equitable situation proposal. The 200 counties who are capped by population would receive \$0.70 per acre as a base payment if they receive prior-year payments. A larger county would receive a base payment of \$0.20 per acre. He noted that his proposal is not politically viable. PILT would have to be fully funded with a higher reauthorization; however, the equity issue is critical.

Federal Lands Management subcommittee

This subcommittee was charged with combining two resolutions thought to be at odds with one another. One was a Resolution to Oppose Sale of Public Lands brought by Commissioner Dorothea Farris of Pitkin County, Colorado and the other was a Resolution Regarding the Sale of Public Lands or Acquiring Private Lands to Become Public. After much discussion, the first was eliminated and the second was amended to reflect changes that would allow the subcommittee to support the interim resolution by consensus. The resolution, as amended was discussed at the Public Lands Steering Committee.

Cynthia Moses-Nedd, BLM Liaison to NACo, discussed BLM Transportation Management Planning through the Resource Management Planning process. BLM tried unsuccessfully to get TEA-21 funds for county roads leading to BLM lands.

The BLM National Landscape Conservation System provides opportunities for joint projects with local, state, and federal governments. Some projects focus on science education and getting children/academics outdoors, some on visitor services, water quality, and public access, and some on community and economic development.

Moses-Nedd also noted that RAC membership is down and wants to encourage people to apply and participate. The deadline is April 2, and she mentioned that county commissioners could apply as a landowner or recreation user, rather than in just their position as commissioners.

Gateway Communities Subcommittee

Javier Gonzales spoke about how this subcommittee came into being during his presidency of NACo. The committee was formed in relation to the events of 9-11 and how rural lands were also affected by National Security.

This Committee is looking for issues that affect all gateway communities, and they hope to narrow the issues down to three or four that can be concentrated on as well as effective on those issues.

The various issues that were discussed:

1. Historical / Cultural resource protection
2. Forest health – dead and dying trees
3. Law enforcement issues
4. Noxious weeds and pests
5. Access planning for maintenance – roads, campgrounds
6. Inconsistency with Federal Agencies
7. Collaboration is missing
8. No affordable housing

There was a motion to have leadership look at these issues and decide on the top ones and proceed with implementation.

Western Interstate Region Board

Washington County (St. George) Utah was selected as the site of the May 21-23, 2008 WIR Conference, with Umatilla County (Pedelton) Oregon in 2009 (dates to be determined later).

Kathy Bosak, Chief Financial Officer of NACo presented a healthy financial report for WIR.

The Clean Water Restoration Act of 2007 is a bill intended to reduce uncertainty in the existing Clean Water Act. However, this bill preempts state water jurisdiction by including tributaries, which would take out “navigable waters” and replace the term with “waters of the U.S.,” thereby including ditches or any work within wetlands and would require a permit from the Corps of Engineers.

Assistant Secretary of Land and Minerals Management for the Department of the Interior, Steve Allred, discussed the potential to use woody biomass for two reasons; for the production of fuels for energy and for the reduction of fuel-load on wildlands.

He noted that county sheriffs are critical to join with the BLM to deal with issues on public lands. BLM lands are increasingly used by drug cartels to bring drugs into the U.S. through bordering counties.

(Continued on Page 10 . . .)



WIR & Public Lands: *Continued from Page 9*

Invasive species and West-Nile virus are not being addressed at the federal level, particularly with energy development involving open ponds that should be treated. BLM is working with the governors to get the ponds treated. Without treatment, West-Nile virus could take a toll on the sage grouse and lead to their listing.

A new initiative, called the Healthy Lands Initiative, involves wide-area planning to make wiser decisions for watersheds and lands ecologically contained.

Commissioner Doug Thompson from Wyoming spoke on behalf of the Native American Issues Working Group. A Federal Native American Policy Subcommittee will be created within the NACo Finance and Intergovernmental Affairs Steering Committee.

Supervisor Jim Wattenburger from California serves on the Wildland Fire Leadership Council (WFLC) and presented information on the council's last meeting. WFLC was further discussed in the Public Lands Steering Committee.

Paul Beddoe gave an update on legislation. Representatives Salazar and Udall from Colorado intend to introduce a full-funding bill for PILT; Senator Reid does as well, but intends to get the Safety Net Payments through first. In regard to the Endangered Species Act, the ESA Working Group from the Public Lands Steering Committee and the Energy, Environment and Land Use Steering Committee are working on a consensus draft philosophy statement. Senator Baucus has sponsored a bill providing tax incentives for landowners with endangered species on their land. He has also sponsored a meth bill, SB 365, which would provide guidance on cleanups and funding for substance abuse and prevention.

Bob Douglas discussed the Reauthorization of Forest Safety Net Strategy. In addition to the information he provided to the Federal Land Payments Subcommittee, he stressed that the timing is right for stakeholders to come together and look at a new funding strategy.

Public Lands Steering Committee

Speaker Hon. Lynn Scarlett, Assistant Secretary, United States Department of the Interior

Scarlett reported that 20 million acres of fuels treatment

has taken place under the Healthy Forest Initiative and that there will be 28 million acres treated by 2008. The 2008 budget includes a \$258 million increase for national parks, bringing it up to \$2.1 billion; \$100 million per year is to be matched by philanthropic donations for signature projects like trails.

Wildland Fire Leadership Council Report Hon. Jim Wattenburger, Supervisor, Mendocino County, CA

The President's budget calls for \$150 million for production grants/biomass projects and \$15 million for development of pellet plants. During the last fire season \$2 billion was spent fighting fires; counties will be held responsible for part of the future cost if zoning of the urban interface isn't protected through these means. Oregon presented a proposal for protection of the iron triangle in their state.

Brandon Willis, Office of Senator Max Baucus

Willis spoke to the RAC Steering Committee about the Farm Bill and it's points of debate: cap of receipts of farm payments, proposed 200k, 1031 transfer. The next ten years baseline for the budget is \$80 billion for commodities, \$54 billion for nutrition, \$5 billion for conservation, and \$2.4 billion for research. Wind and Hydro production were proposed to be funded in the Farm Bill.

Subcommittee Reports

The following subcommittees gave reports: Federal Land Payments, Commissioner Connie Eissinger; Federal Land Management, Commissioner Alan Gardner from Utah; and Gateway Communities, Commissioner Dorothea Faris from Colorado.

Joint PLSC/EELU ESA Working Group

The working group met after the opening general session to review the draft for language on the Endangered Species Act policy statement for NACo that was worked out at the December NACo Board of Directors Meeting. Several changes were discussed and made to the document, as well as additional bullets added. The group will compare the new draft to the Western Governors' policy and will participate in a conference call for further refinement in April. It is hopeful that a completed statement be ready for further discussion at the WIR Conference in May.

PILT Formula Working Group

An estimated 40 persons gathered to discuss PILT formula revision. Several proposals were discussed. Eleven issues were discussed for further information and evaluation.

The Future of Wetlands Rules and Regulations

The most disturbing part of the meeting: federal regulations would include county and public road ditches as wetlands and expect local governments to treat their ditches as such. We at MACO need to keep these proposed regulations on our priorities to follow.




The National Association of Counties (NACo), in Partnership with Nationwide Retirement Solutions (NRS), and state associations of counties, provides county employees with a Section 457 Deferred Compensation Program.

Since its inception in 1980, NACo's 457 Deferred Compensation Program has grown to become the largest supplemental retirement program available to county employees.



NACo's Key Legislative Priorities for 2007

Each year the National Association of Counties (NACo) establishes key lobbying priorities for the next congressional session. For the 110th Congress First Session, NACo is promoting a theme of assuring necessary federal funding for critical county programs, the protection of county authorities, and opposition to unfunded mandates. The key priorities listed below address these matters.

These priorities are not the only legislative issues that NACo will be pursuing during the session, but reflect those that have national scope and importance. NACo's eleven policy steering committees will be lobbying on a number of additional issues affecting their respective policy areas.

- Farm Bill Reauthorization
- Repeal of Withholding Tax; Other Federal Tax Changes Affecting Counties
- Health & Human Services Reforms
- Secure Rural Schools & PILT
- Aviation Reauthorization
- Support Efforts to assist Counties with Methamphetamine Crisis
- Oppose Unfunded Mandates

New NACo Logo and Tag Line



In early 2007, NACo revised its logo and selected a new tag line.

The tag line, **The Voice of America's Counties**, was selected for several reasons: one, it was the one tag line most consistently selected and preferred when individuals reviewed our top choices; (several State Executives participated in the process) two, NACo's tag line should speak to what NACo does as an organization; three, The Voice of America's Counties, gives people an idea of who NACo is when they are not that familiar with the acronym NACo; four, the tag line is broad enough for all of us to speak of and present all NACo does, lobbying, research, media/pr, conferences, education and technical and financial services to member counties; five, the words The Voice, denotes strength and being the only national association representing county government; and six, it is straight forward and to the point.

Energy, Environment & Land Use Committee: *Continued from Page 1*

discussion, evaluation, and decision making processes regarding issues of global climate change affecting counties."

3. Resolution on Consideration of Host Community Impacts in the Licensing or Relicensing of Hydroelectric Projects.

a. This resolution passed unanimously. It is hoped that local governments will be included in the Federal Energy Regulatory Commission process for licensing hydroelectric projects.

The Land Use and Growth Management Subcommittee discussed the Resolution on "Waters of the United States." This resolution was adopted unanimously as well. Presented by Robert cope of Salmon, Idaho, the resolution was written to bring attention to legislation proposing broader authority to the Corps of Engineers by defining their jurisdiction to include any standing body of water, and not just navigable streams. "Waters of the United States" could be defined to include ditches, roads, gutters, storm water infrastructure, and water treatment facilities. The resolution opposes any broader authority given to the Corps of Engineers.

The full EELU committee discussed the resolutions

that had gone through the subcommittees. Each resolution was adopted by the full EELU Committee.

A joint EELU and Public Lands Committee working group is also working to develop NACo policy to address the Endangered Species Act (ESA). This policy is a work in progress but has four underlying principles to work from.

1. Counties, along with the states, tribes, and other local governments, must be engaged as full partners in all aspects of species conservation under the ESA.
2. ESA actions must contribute to the recovery of imperiled species. Scarce public resources should be spent on collaborative conservation rather than on conflict and litigation.
3. Critical habitat must be designated as part of the recovery plan. Such habitat must not be artificially created to extend the species beyond its historic range.
4. All ESA decisions must be clearly supported by the "best available science" and "ground truthing" which is developed in a transparent and public process which provides for scientific peer review as well as for the consideration of data submitted by states, tribes and local governments as well as the interested public and affected stakeholders.



Announcements & Reminders

Celebrate National County Government Week April 22-28

The time is now to start planning for National County Government Week (NCGW), April 22-28. NACo-member counties have been mailed a booklet offering ideas and suggestions for planning local activities. The information in the booklet is available on the NACo Web site.

Sponsored by NACo, NCGW was first celebrated in 1991 to raise public awareness and understanding about the roles and responsibilities of the nation's counties. The theme for this year's celebration is "Protecting the Environment."

America's counties take seriously their responsibility to protect and enhance the health, welfare and safety of their citizens in sensible and cost-effective ways. Environmental protection plays a critical role in this great responsibility. NCGW offers an ideal opportunity for counties to showcase their innovative and successful environmental initiatives.

For more information, contact Tom Goodman at 202-942-4222 or tgoodman@naco.org

INTERCAP Loans

The Board of Investments' INTERCAP Revolving Loan Program is celebrating 20 successful years financing Montana's local government, state agency, and university system capital projects. In an effort to continue to meet the changing needs of eligible INTERCAP borrowers, the Board is **increasing the maximum term for INTERCAP loans to 15 years***.

INTERCAP's variable interest rate for the period from February 16, 2007 through February 15, 2008 is 4.85%.

Please contact Louise Welsh, Bond Program Officer, if you would like an application or have any questions regarding the INTERCAP Program:

Louise Welsh, Bond Program Officer
Montana Board of Investments Bond Program Office
2401 Colonial Drive, 3rd Floor
P.O. Box 200126
Helena, MT 59620-0126
Phone: 406-444-0001
Fax: 406-449-6579
E-mail: Lwelsh@mt.gov
Website: www.investmentmt.com

*Eligible governments must adhere to State law when financing capital projects and cannot finance projects for a longer term than allowed. Board staff will continue to consider the maximum loan term authorized in statute, as well as the repayment ability of the eligible borrower, when reviewing loan requests. In addition, loan terms cannot exceed the useful life of the project being financed.

Fish and Wildlife Trust Solicits Projects for Funding

The Montana Fish and Wildlife Conservation Trust will be accepting proposals for project funding for 2007. The Trust will make available up to \$836,000 for projects that restore and conserve fisheries, wildlife and riparian habitat, enhance public hunting, fishing and recreational opportunities and improve public access to public lands.

For this funding cycle the Trust will be accepting proposals between January 29 and April 6, 2007. Money will be awarded for projects with a minimum of 50% to be provided to projects within the hydrologic drainage of the Missouri River between Holter Lake dam and the confluence of the Missouri River.

Project funding is primarily for the purchase of land or land values, however, it may include infrastructure if the work is done in conjunction with the associated purchase of land or land values.

All applications must be postmarked no later than April 6, 2007. Applications may be requested by contacting the Trust at:

Montana Fish and Wildlife Conservation Trust
PO Box 1993
Helena, MT 59624
Phone: (406) 458-0389, 8 a.m. – 5 p.m.
Email: fwctrust@mtwf.org

County Courthouse Awards

The purpose of the award is to profile elected county officials who have improved the lives of citizens through outstanding governance and strong leadership.

From large metropolitan counties to small rural counties, county executives, board members and commissioners are continually working to address many of our nation's most challenging issues, such as homeland security, air and water quality, information technology, health and human services, public safety, and a wealth of other priorities. Managing and prioritizing county's needs may be a commissioner's most challenging task.

These success stories are the foundation upon which other successes can be built. Those individuals selected for one of two awards, will gain national recognition for their county and will receive a \$5,000 college scholarship to present to a student of their choice.

Deadline for application materials is May 7, 2007.

For more information contact: Joe Dunn at jdunn@naco.org or Dalen Harris at dharris@naco.org.



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Conclusions

Renowned Lecturer Fred Kelly Grant Comes to Montana

“Coordinating Public and Private Land Use (Coping with These Times on Our Lands),” will be the topic addressed by a nationally known lawyer and lecturer being sponsored by the Montanans for Multiple Use and Montanans for Property Rights. Speaker Fred Kelly Grant has encountered the many land use related situations and trends, both public and private, unique to this part of the country. He shares his expertise in the strategies, which have proven successful in dealing with programs and policies involving various governmental agencies, Federal, state, and local, as well as special interest groups. This meeting will be an opportunity for attendees to express their concerns and questions concerning land use matters impacting our lives, and to benefit from Grant’s analysis and recommendations. Our problems may, thereby, be converted to challenges and achievable opportunities.

Few people know more about local government than Fred Kelly Grant, who draws upon his vast experience working in and out of government. In his early career he represented Lloyd’s of London with a Chicago law firm before moving on to become Chief of the Organized

Crime Unit in Baltimore, Maryland. He then joined the Governor’s Office in Idaho where he became an expert on open land use issues. He is a consultant to Owyhee County Natural Resource Committee as well as the Idaho Board of County Commissioners regarding Land Use Planning for federally managed lands. His expertise has helped local organizations and individuals develop strategies for coordinated property management, both private and public, merging the interests of each. He has been a consultant to Stewards of the Range since 1997 and is now President of the Stewards Board of Directors and Chairman of their Litigation Committee.

The public meeting will be at the Country Kitchen in the Flathead County Fairgrounds, Kalispell on Friday, April 13, 2007 at 6:30 p.m.

There is no charge for this program, but contributions will be welcome to offset expenses. For further information on this upcoming event, contact:

Fred Hodgeboom, President, Montanans for Multiple Use: 406-837-1363, hodgeboom@centurytel.net

Ron Olfert, President, Montanans for Property Rights: 406-828-0035, rolfert@blackfoot.net.

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