

**KEEPING THE LIGHTS ON AND
MAINTAINING WYOMING'S JOBS:
OVERCOMING THE CHALLENGES
FACING WESTERN POWER
GENERATION FACILITIES**

OVERSIGHT FIELD HEARING

BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
SECOND SESSION

Wednesday, August 9, 2006, in Wheatland, Wyoming

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**OVERSIGHT FIELD HEARING ON “KEEPING
THE LIGHTS ON AND MAINTAINING
WYOMING’S JOBS: OVERCOMING THE
CHALLENGES FACING WESTERN POWER
GENERATION FACILITIES.”**

**Wednesday, August 9, 2006
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Wheatland, Wyoming**

The Subcommittee met, pursuant to call, at 12:30 p.m., in Community Room, Platte Valley National Bank, 200 16th Street, Wheatland, Wyoming, Hon. George Radanovich [Chairman of the Subcommittee] presiding.

Present: Representatives Radanovich, Cubin.

Mr. RADANOVICH. Good afternoon. My name is George Radanovich and I come from Mariposa, California, a population of 1800 people, and so I am in the big city today to conduct this hearing, and it is a pleasure to be in Wheatland.

I think the point of this hearing is to hear directly from you folks, and your concerns over energy prices, and I truly appreciate Barbara’s invitation to be here, in Wheatland.

So we can start this hearing on a patriotic note, I will now defer to your state’s distinguished Congresswoman for a few introductions.

Barbara, it is, again, a pleasure to be in your state and a pleasure to be with you.

Ms. CUBIN. Well, thank you so much, Mr. Chairman, and thank you for being here and coming to Wyoming, George, and the staff. George had to get up at 4:00 o’clock to be here with us, and I truly appreciate that. I do owe him one, however. I hope that it is easy on me.

Mr. RADANOVICH. She will pay.

Ms. CUBIN. And then the staff that put all this together. Really, we have a wonderful staff on the Resources Committee and I want to thank all of them for being here as well. And I am also pleased to welcome the citizens of Wheatland, and to begin our hearing, we would like to begin with an invocation, the Pledge of Allegiance and the singing of the National Anthem.

So first, Terry Stevenson, I just saw him—oh, there he is. OK. Terry, would you please give the invocation.

Mr. STEVENSON. Let's all stand together, shall we. Please remain standing through the invocation, the Presentation of the Colors, the Pledge, and the National Anthem.

Let us pray. Father, we are privileged, greatly, to live in this country. We thank you for the grace that has given us this great country. We thank you for the privilege of being able to participate in our Government. It is a great opportunity and a great responsibility, and in light of that we know that we need Your wisdom and Your truth, so we pray that You would grant it to us. We know that Your truth is unchanging and absolute, and yet occasionally our understanding of it wavers and changes. Help us and guide us to the truth. Help us also to be patient with those others who, through ignorance, or their own unmitigated pursuit of their own self-interest miss the truth.

And Father, we ask for these things every day, but, in particular, for this meeting this afternoon. For we know if we fail in grasping the truth and relying on your wisdom today, we will fail, in the long run, on many more important things. So grant us that grace we pray, in Jesus' name, amen.

[Presentation of the Colors]

Ms. CUBIN. Please join me in saying the Pledge of Allegiance.

[Pledge of Allegiance is recited]

Ms. CUBIN. I would now like to ask Jessica Brant to sing our National Anthem.

[Singing of the National Anthem]

Ms. CUBIN. If everyone would please be seated. I would like to give some flags—where are they?—that were flown over the Capitol. Thea, Jessica, Terry, we had some flags flown over the Capitol and I would like to present these to you and thank you so much for taking part in this hearing today. And we also have one for the Commander of the Color Guard. You know, it is for the whole guard but we'll present it to the Commander. So thank you very much for being here and I hope you enjoy the flags.

And by the way, it was Thea Adamo that led the Pledge of Allegiance, and I want to thank everyone for doing that.

So Mr. Chairman, take over.

STATEMENT OF THE HON. GEORGE RADANOVICH, A UNITED STATES REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Here we go. All right. Well, thank you, Barbara, for your patriotic dedication and for a great opening ceremony.

I, again, appreciate your invitation and for your leadership in asking for this much-needed hearing.

As I had mentioned, I am from the Central Valley of California, the heart of irrigated agriculture in an ever-growing state, and like your area, the communities in my district depend on the vital resources of water.

Although the Central Valley is blessed with plentiful water this year, we, too, are very susceptible to drought.

Your region has been hit especially hard by record-setting drought. In fact, I just had the opportunity to fly over the parched

reservoirs on the North Platte River as I was coming up from Denver, just really the South Platte and North Platte.

The river water levels are down but it's abundantly clear that our regions are fortunate enough to have multipurpose projects for irrigation, power, and recreation.

Without these dams and reservoirs, our communities and the overall West wouldn't be what they are today. It seems hard to believe but California and Wyoming have another thing in common—energy uncertainty.

California experiences uncertainty because it chooses to rely on electricity generated out of state and doesn't build enough in state. The State also continues to experience explosive population growth, making the energy equation worse.

The notion of "build it and they will come" is not true in California. They are coming anyway. Your State has been called "the Saudi Arabia of coal" and it will continue to provide even more of this low-cost resource to California and the entire nation, both now and in the future.

But despite this, I have learned that your nearby coal plant has experienced serious uncertainty and high costs in getting reliable Wyoming coal supplies. Other utilities are experiencing this as well. I understand that a Georgia utility was forced to buy imported coal from Indonesia because of domestic rail and transportation issues.

Barbara Cubin and I have fought hard, as members of the Energy and Commerce Committee, and also as members of the Resources Committee, to bring about energy certainty and independence for our nation's consumers.

When I hear examples of utilities importing coal or almost shutting down, it tells me that we still have a long way to go in our quest.

Today's hearing is an attempt to bring about energy security and reliability, especially for Eastern Wyoming.

The rail companies are trying to make real progress in an attempt to help resolve this situation. Some profits are being reinvested to build more rail infrastructure, so I applaud the rail companies for recognizing this need. But the days of coal imports, uncertainty, and volatile transportation costs must stop, and they must stop soon.

Everybody agrees with the overall goals of more water, financially strong railroads and low-cost and dependable energy for our consumers, but well-intended people disagree on how to get to these goals.

And this hearing is about working together to find balance and to achieve these goals. We are fortunate enough to have the right people at the table today to help us in this dialogue.

In conclusion, Barbara, I want to thank you so much for your leadership on this hearing and for trying to find resolution on these important matters. The American energy consumer deserves the very best from all of us, and today is our chance to bring them some real results.

I now recognize the gentlelady from Wyoming for her opening statement.

Barbara.

[The prepared statement of Mr. Radanovich follows:]

**Statement of The Honorable George Radanovich, Chairman,
Subcommittee on Water and Power**

Welcome to today's hearing. It's good to be outside the over-heated Washington beltway to hear directly from the real-world folks in eastern Wyoming. I thank Congresswoman Barbara Cubin for the invitation and appreciate her leadership in asking for this much-needed hearing.

I'm from the Central Valley of California, the heart of irrigated agriculture in an ever-growing state. Like your area, the communities in my district depend on the vital resource of water. Although the Central Valley is blessed with plentiful water this year, we too are very susceptible to drought.

Your region has been hit especially hard by record-setting drought. In fact, I just had the opportunity to fly over the parched reservoirs on the North Platte. The river's water levels are down, but it's abundantly clear that our regions are fortunate to have multi-purpose projects for irrigation, power and recreation. Without these dams and reservoirs, our communities and the overall West wouldn't be what they are today.

It seems hard to believe but California and Wyoming have another thing in common: energy uncertainty. California experiences uncertainty because it chooses to rely on electricity generated out of state and doesn't build enough in-State. The State also continues to experience explosive population growth, making the energy equation worse. The notion of "build it and they will come" is not true in California: they will come anyway.

Your State has been called the "Saudi Arabia of Coal" and it will continue to provide even more of this low-cost resource to California and the entire Nation. Despite this, I've learned that your nearby coal plant has experienced serious uncertainty and high costs in getting reliable Wyoming coal supplies. Other utilities are experiencing this as well. I understand that a Georgia utility was forced to buy imported coal from Indonesia because of domestic rail transportation issues.

Congresswoman Cubin and I have fought hard—as members of the Energy and Commerce and Resources Committees—to bring about energy certainty and independence for our Nation's consumers. When I hear examples of utilities importing coal or almost shutting down, it tells me that we still have a long way to go in our quest. Today's hearing is an attempt to bring about energy security and reliability, especially for eastern Wyoming.

The rail companies are trying to make real progress to help resolve this situation. Some profits are being reinvested to build more rail infrastructure, so I applaud the rail companies for recognizing this need. But the days of coal imports, uncertainty and volatile transportation costs must stop and they must stop soon.

Everyone agrees on the overall goals of more water, financially strong railroads and low-cost and dependable energy for our consumers, but well-intended people disagree on how to meet these goals. This hearing is about working together to find balance and achieve these goals. We're fortunate to have the right people at the table today to help us in this dialogue.

In conclusion, I thank Congresswoman Cubin once again for her leadership on this hearing and for trying to find resolution on these important matters. American energy consumers deserve the very best from all of us and today is our chance to bring them some real results.

**STATEMENT OF THE HON. BARBARA CUBIN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF WYOMING**

Ms. CUBIN. Thank you, Mr. Chairman.

There is an old Western adage that says whiskey is for drinking but water is for fighting, and while some might assert that this saying is outdated, folks here in the Wheatland area, in our great State of Wyoming, and the greater West, would likely agree that it still has relevance.

Wyoming, and much of the West, has been wading through the dust of a severe drought for most of the last seven years. The resulting effect is that our agricultural and energy industries have

been forced to find creative ways to operate, despite the lack of a reliable water supply.

They have only succeeded in doing so due to the cooperative efforts and an understanding that an increased cost burden has to be shared by everyone in the network of water users, from irrigators to electricity customers.

I am hopeful that we will learn more in this field hearing as to how the limited water resources we have can be best managed, until we can break free of this drought for a sustained period of time.

Another factor threatening reliable electricity service to Wyoming's rural families and businesses is the challenge that our power generation facilities face with regards to transportation and transmission infrastructures struggling to keep up with growing demand.

The coal supply shortage that arose last year at the Laramie River station, just outside of town, makes Wheatland an extremely appropriate venue to discuss this important issue. America's consumers deserve reliable, affordable, and long-term energy supplies and the citizens of Wyoming are doing their part to help our nation meet this growing energy demand.

Coal production in the Powder River Basin has more than doubled in the past 15 years. The private and public sectors are continually working to develop new ways to mine and utilize this resource with a significantly smaller impact on our environment and new or updated technologies are being developed to use coal in different ways than we ever have before in our nation—coal-to-liquids or coal gasification being two of the most often discussed.

However, before these advancements and increased production can translate into sustained benefits for our nation's end-users, facilities like the Laramie River Station and its 1.8 million electricity customers must be able to count on an adequate supply of coal being delivered, and in a timely fashion.

I was shocked and dismayed by the rail service disruptions we all read about in the papers, and I heard so much about that from our Wyoming rural electric cooperatives last year, that I was moved to ask the Chairman to have this hearing.

I understand and share the frustration felt by our electricity generators, that it shouldn't be so difficult to obtain this Wyoming resource when it is mined only 175 miles away. I've also been assured by the rail companies, that they are already investing in significant infrastructure upgrades to ensure a coal shortage situation like last fall does not happen again.

At that time, I think we were down to a week's reserve, instead of a three-month reserve which we usually have, and it's my understanding that now we do have a three-month reserve and I am glad that BNSF, that the chairman of BNSF came to my office to discuss the situation and explained to me some of the reasons that that happened.

I am also gratified that the railroad and consumers of the rail service have been able to come together and start talking about this situation, so that problems can be solved.

To fulfill the promise that energy has for our country, and in Wyoming, it will take cooperation from all parties, from delivery to

production, to ensure the needs of power consumers in Wyoming and in neighboring Western states.

The time for finger pointing is passed. I am hopeful that this hearing today will help us fully uncover the challenges that Western power generation facilities have faced as well as the problems that the railroads face, so that an effective solution to ensure an affordable and reliable electricity supply can be found for the future.

Mr. Chairman, thank you so much, again, for making the long trip out here and I think that this will be a very informative hearing. Thank you so much.

[The prepared statement of Ms. Cubin follows:]

**Statement of The Honorable Barbara Cubin,
Representative for All Wyoming**

Mr. Chairman:

There's an old western adage that says "Whiskey is for drinkin', but water is for fightin'." While some might assert this saying is outdated, folks in the Wheatland area, our great State of Wyoming, and the greater west would likely agree it still has relevance. Wyoming and much of the west has been wading through the dust of a severe drought for most of the last seven years. The resulting affect is that our agricultural and energy industries have been forced to find creative ways to operate despite the lack of a reliable water supply.

They have only succeeded in doing so due to cooperative efforts and an understanding that an increased cost burden has to be shared by everyone in the network of water users—from irrigators to electricity customers. I am hopeful that we will learn more in this field hearing as to how the limited water resources we have can be best managed until we can break free of this drought for a sustained period of time.

Another factor threatening reliable electricity service to Wyoming's rural families and businesses is the challenge our power generation facilities face with regards to transportation and transmission infrastructures struggling to keep up with growing demand. The coal supply shortage that arose last year at the Laramie River Station just outside of town makes Wheatland an extremely appropriate venue to discuss this important issue.

America's consumers deserve reliable, affordable, and long-term energy supplies and the citizens of Wyoming are doing their part to help our nation meet this growing energy demand. Coal production in the Powder River Basin has more than doubled in the past 15 years. The private and public sectors are continually working to develop new ways to mine and utilize this resource with a significantly smaller impact on our environment. And new or updated technologies are being developed to use coal in different ways than we ever have before in our nation—coal-to-liquids or coal gasification being two of the most often discussed. However, before these advancements and increased production can translate into sustained benefits for our nation's end-users, facilities like the Laramie River Station and its 1.8 million electricity customers must be able to count on an adequate supply of coal being delivered, and in a timely fashion.

I was shocked and dismayed by the rail service disruptions we all read about in the papers and I heard so much about from our Wyoming's rural electric cooperatives last year. I understand and share the frustration felt by our electricity generators that it shouldn't be so difficult to obtain this Wyoming resource when it is mined only 175 miles away. I have also been assured by the rail companies that they are already investing in significant infrastructure upgrades to ensure a coal shortage situation like last fall does not happen again.

To fulfill this promise will take cooperation from all parties—from delivery to production—to ensure the needs of power consumers in Wyoming and neighboring Western states are well served. The time for finger pointing is past. I am hopeful this hearing today will help us fully uncover the challenges western power generation facilities have faced in the past, so that an effective solution to ensure an affordable and reliable electricity supply can be found for the future.

Thank you, Mr. Chairman, for making the long trip out to Wheatland. I know you will be as impressed as I repeatedly am with this hard-working and friendly community. I yield back the balance of my time.

Mr. RADANOVICH. Thank you, Barbara, and it is good to be here today. What I am going to do, and maybe I will just do a brief overview of how a Congressional hearing works. But this is an official hearing. It is not what we would normally think of as a town hall or anything, in that everything that is testified to today—and I think we have been very careful to make sure that we get people representing all sides of the issue—give a five-minute presentation of their issues, and this goes into the public record, and what we hope to achieve out of this public hearing is a body of information that completely details the issues, so that it helps move it forward, it helps to create legislation, if necessary, but gives us the body of knowledge that we need in order to solve problems.

So I will note that everybody who is testifying here today has submitted a written testimony for the record already.

What you are being asked to do today is to give verbal testimony and I would encourage you to be extemporaneous because your written comments are already in the record. So if you want to do that, that is just fine.

We normally go for five minutes but we don't really have time clocks here today. So if it looks like we are going on too long, I may ask you to stop.

But Mr. Dingman, we will start with you and then work down, for your verbal testimony, and then we will open up the panel for questions from Barbara and I. We will try to make sure that we get every issue covered, and that will be it. So it is that easy, and with that, I want to introduce our panel of witnesses.

The Honorable Joel Dingman, Mayor of the City of Wheatland.

Mr. Jack Finnerty, Board Member of the Wheatland Rural Electric Association.

Mr. Janssen Thompson, General Manager of the Powder River Division of BNSF Railway Company, Denver, Colorado.

Mr. Rich Vasy, the Assistant Vice President for Business Development, Union Pacific, Omaha, Nebraska.

Mr. Larry LaMaack, Executive Director of the Wyoming Municipal Power Agency, from Lusk, Wyoming.

Mr. Jim Neiman, Vice President of Neiman Enterprises in Hulett, Wyoming.

And I think that is it. Gentlemen, welcome to the Subcommittee and Mr. Dingman, you may begin with your testimony.

**STATEMENT OF THE HON. JOEL DINGMAN,
MAYOR, CITY OF WHEATLAND, WHEATLAND, WYOMING**

Mr. DINGMAN. Thank you, Mr. Chairman.

My name is Joel Dingman and I am appearing before you today in two separate capacities. I am currently the Mayor of Wheatland and I am also a shift supervisor at the Missouri Basin Power Projects, Laramie River Station.

I have served as the Mayor of Wheatland for the past 10 years, and was on the City Council for four years before being elected to that position.

My experience at the Laramie River Station is far longer than in town politics. This November will mark my 25th year working at the Laramie River Station.

I would like to welcome both you and Mrs. Cubin to Wheatland. I guess we have bragging rights. We are twice the size of your hometown. We are twice the size of someone. I want to thank you for holding this important hearing, and for allowing us the opportunity to discuss these important energy-related issues and their effects on our state.

I would like to put on my mayor's hat first, and cannot overstate the important of low cost, reliable electricity to the growth and well-being of this community.

Recently, when the heat wave had caused significant disruption in the supply of electricity, we in this area enjoyed a steady supply of dependable power at prices that we can afford.

Electricity has long since passed the status of a luxury and is now in the category of an essential, if not critical, service equivalent to food, clothing and shelter.

Seeing those news reports of electricity disruptions in other states makes many of us realize how much we take for granted the ability to flip the switch and have the lights come on, and turn on an air conditioner and have it work.

With this in mind, there is one message I would like the members of the committee to leave with today, and that is first do no harm. We have seen, in certain areas of the country, where efforts to deregulate the electricity industry, or to make significant changes to the ownership or control of electric facilities, have caused blackouts or significant rate increases for consumers and businesses.

This is not a situation that we would like to see in Wyoming or anywhere else.

The United States is facing a time of needing to reinvest in energy. The electric generation and transmission system in the United States is among the best in the world. But today's system was built 20 to 30 years ago in response to the technology and energy needs of the 1970's and 1980's.

Today, demand for energy is growing, and new power plants and transmission facilities must be built to accommodate that demand. There is a generation of people in the electric industry that weren't a part of the large construction projects of 30 years ago. Legislators and citizens need to look at the alliances that it took to build those projects, and the alliances required to keep those projects going.

Laramie River Station and its water supply from the Greyrocks Reservoir is a perfect example. The reservoir is at dangerously low levels due to the extended drought, as you mentioned earlier, and it now cannot meet the water demands of the station.

In response to that, the needs of the plant, the farmers and the ranchers in the area have come together to move water from wells in the surrounding area to a reservoir at the Laramie River Station to keep the plant operating.

It takes alliances like these, and the one between the six members of the Missouri Basin Project, that created the Laramie River Station, to make projects like that happen.

These types of alliances will continue to be needed as we move forward to meet the electric requirements of the future.

Everyone also must understand that there needs to be a balance in life. We must balance the needs for electric power in this coun-

try with the needs of businesses and the need for a clean and healthy environment.

Laramie River Station and all of the energy industries in Wyoming provide stable jobs that keep the economy of Wyoming and the United States moving along.

But these jobs and industries can be threatened when balance is lost and any one group gains too much influence. What I am talking about is the railroad industry. At the end of 2004, a contract between Laramie River Station and the Burlington Northern and Santa Fe Railroad expired, causing the rates Laramie River Station pays for coal to be delivered from Wyoming mines to double, and they are projected to double again.

If these rates are allowed to go unchecked, that will mean an increased cost of \$1 billion to the consumer-owners of Laramie River Station over the next 20 years.

The plant operator, Basic Electric Power Cooperative, filed a rate case with the Surface Transportation Board at the end of 2004, and that case has still not been decided.

The Surface Transportation Board was supposed to issue a decision in the fall of this year, but the agency unilaterally decided to halt the proceedings in March of 2006, to rewrite the rules related to rate cases like this one.

After assembling thousands of pages of documents, and spending more than \$5 million, and more than two years time, the Laramie River Station owners will have to spend another half million to a million dollars, and wait even longer for a decision to be made.

All the while, our consumers will continue to pay the price of the higher rates. The problems here are twofold.

The Laramie River Station is a "captive shipper." This means Laramie River Station is unable to get coal in any other way except by train, and Burlington Northern and Santa Fe controls the only track to the plant. Burlington Northern and Santa Fe is taking advantage of the situation and using its market power to extract unreasonable rates.

The Surface Transportation Board was given the direct responsibility, by Congress, to make sure those captive shippers who get charged excessive rates have a backstop agency to go to for relief.

The problem is the Surface Transportation Board is not adequately doing its job. The Surface Transportation Board has allowed the railroads to consolidate to the point where four major railroads control over 90 percent of the freight and revenue in the country.

The agency has also allowed railroads to charge whatever freight rates they want, with little or not accountability or regulation.

The process required for a shipper to seek relief is so long, and so complex, that very few companies file a rate case because they simply cannot afford it.

Along with excessive rates, captive shippers are increasingly forced to accept poor service. This spring, the Laramie River Station was down to a six-day supply of coal, far short of our normal 30-day stockpile. The railroads have a common carrier "obligation to serve" requirement.

But the railroads have failed to live up to their obligations and the Surface Transportation Board has not stepped in to address railroad service problems.

And I appreciate your help, Mrs. Cubin, in alleviating that condition, along with the chairman of Burlington Northern and Santa Fe. And now since we have no other resource, the owners of Laramie River Station were forced to pay millions of dollars to find coal at other mines, and the train cars to deliver it, to keep the plant running this spring.

Now due to a six-week outage in April, and the leasing of additional train cars, our stockpile is now at acceptable levels. But with little or no oversight over rail service, we remain highly susceptible to recurring service lapses.

Laramie River Station is not alone in this situation. Many other utilities in the United States are captive shippers and continue to face delays in coal delivery, along with large increases in rates and poor delivery service.

Mr. Chairman, and Mrs. Cubin, I want to make it clear to you and the members of your committee, that the members of the Missouri Basin Power Project are not anti-railroad.

We strongly believe in the need for a healthy, reliable railroad system in this country. The electric power industry, particularly the coal sector, has been a key partner with the railroads for decades. However, that partnership has become far too one-sided, and we strongly believe that there needs to be more effective Federal oversight to stop abuses of monopoly power when they happen. At this time, those protections are sorely lacking.

This Nation survives and thrives on reliable, affordable energy. The electric system we have in place provides well-paying jobs that help sustain strong communities. Our energy demands are growing and we need to build more electric infrastructure to meet those needs.

Building that infrastructure is going to take the work and support of business, communities, States and the Federal Government.

It is also going to require new alliances which work together to balance everyone's needs to keep this country going and growing.

Again, I want to thank you for being here and for allowing me this opportunity to provide input on what is a critical issue for our community, state and our country.

[The prepared statement of Mr. Dingman follows:]

**Statement of The Honorable Joel Dingman,
Mayor, City of Wheatland, Wyoming**

Mr. Chairman and Members of the Committee:

My name is Joel Dingman, and I am appearing before the committee today in two separate capacities. I am currently the Mayor of Wheatland Wyoming and a Shift Supervisor at the Missouri Basin Power Projects Laramie River Power Station (LRS). I have served as Mayor of Wheatland for the past 10 years and was on the Wheatland City Council for four years before being elected Mayor. My experience at LRS, however, is far longer than in city politics. This November will mark my 25th year at LRS.

I would like to welcome the committee members to Wheatland, and to thank you for holding this important hearing and for allowing me the opportunity to discuss energy related issues and their effect on our state. Putting on my mayor's hat first, I cannot overstate the importance of low cost, reliable electricity to the growth and well-being of my community. Recently when heat waves have caused significant disruption in the supply of electricity, we have enjoyed a steady supply of dependable

power at prices we can afford. Electricity has long passed the status of a luxury and is now in the category of an essential, if not critical, service equivalent to food, clothing, and shelter. Seeing news reports of electric service disruptions in other states makes many people realize how much we take for granted the ability to flip a switch and have lights or air conditioning.

With this in mind, there is one message I would like the members of the committee to leave with today: first, do no harm. We have seen in certain areas of the country where efforts to deregulate the electricity industry or to make significant changes to the ownership or control of electric facilities have caused blackouts or significant rate increases for consumers and business. This is not a situation we want to see in Wyoming or anywhere else.

The United States is facing a time of needing to reinvest in energy. The electric generation and transmission system in the United States is among the best in the world, but today's system was built 20 to 30 years ago in response to the technology and energy needs of the 1970s and 1980s. Today, demand for energy is growing, and new power plants and transmission facilities must be built to accommodate that demand. There is a generation of people in the electric industry that weren't a part of the large construction projects of 30 years ago. Legislators and citizens need to look at the alliances that it took to build those projects, and the alliances required to keep those projects going.

Laramie River Station and its water supply from the Greyrocks Reservoir is a perfect example. The reservoir is at dangerously low levels due to the extended drought and now it cannot meet the water demands of the LRS. In response, the plant, farmers, and ranchers in the area have come together to move water from wells in the surrounding areas to a reservoir to at the LRS to keep the plant operating. It takes alliances like these and the one between the six members of the Missouri Basin Power Project that created LRS to make things happen. These types of alliances will continue to be needed as we move forward to meet the electric requirements of the future.

Everyone also must understand that there needs to be a balance in life. We must balance the needs for electric power in this country with the needs of businesses and the need for a clean and healthy environment.

LRS and all of the energy industries in Wyoming provide stable jobs that keep the economy of Wyoming and the United States moving along. But these jobs and industries can be threatened when balance is lost and any one group gains too much influence. I am talking about the railroad industry. At the end of 2004, a contract between LRS and the Burlington Northern and Santa Fe (BNSF) railroad expired, causing the rates LRS pays for coal to be delivered from Wyoming mines to double, and they are projected to double again. If these rates are allowed to go unchecked that will mean an increased cost of \$1 billion dollars to the consumer-owners of LRS over the next 20 years.

The plant operator, Basin Electric Power Cooperative, filed a rate case with the Surface Transportation Board (STB) at the end of 2004 and that case has still not been decided. The STB was supposed to issue a decision in the fall of this year, but the agency unilaterally decided to halt the proceedings in March 2006 to rewrite the rules related to rate cases like this one. After assembling thousands of pages of documents and spending more than \$5 million dollars and more than two years time, the LRS owners will have to spend another \$500,000 to \$1 million dollars and wait even longer for a decision to be made. All the while, our consumers will continue to pay the price of the higher rates. The problems here are two fold. 1) LRS is a "captive shipper." This means LRS is unable to get coal any other way except by train, and BNSF controls the only track to the plant. BNSF is taking advantage of this situation and using its market power to extract unreasonable rates. 2) The STB was given the direct responsibility by Congress to make sure those captive shippers who get charged excessive rates have a backstop agency to go to for relief. The problem is the STB is not adequately doing its job. The STB has allowed the railroads to consolidate to the point where four major railroads control over 90% of the freight and revenue in the country. The agency has also allowed railroads to charge whatever freight rates they want with little or no accountability or regulation. The process required for a shipper to seek relief is so long and so complex that very few companies file a rate case because they simply cannot afford it.

Along with excessive rates, captive shippers are increasingly forced to accept poor service. This spring the Laramie River Station was down to a six-day supply of coal, far short of our normal 30-day stockpile. The railroads have a common carrier "obligation to serve" requirement, but the railroads have failed to live up to their obligations, and the STB has not stepped-in to address railroad service problems. Since we had no other recourse, the owners of LRS were forced to pay millions of dollars to find enough coal, and the train cars to deliver it, to keep the plant running. Due

to a six-week outage in April and the leasing of additional train cars our stockpile is now at acceptable levels. But with little or no oversight over rail service, we remain highly susceptible to recurring service lapses. LRS is not alone in this situation; many other utilities in the United States are captive shippers and continue to face delays in coal delivery along with large increases in rates and poor delivery service.

Mr. Chairman, I want to make it clear to you and the members of this committee that the members of the Missouri Basin Power Project are not anti-railroad. We strongly believe in the need for a healthy, reliable railroad system in this country. The electric power industry, particularly the coal sector, has been a key partner with the railroads for decades. However, that partnership has become far too one-sided, and we strongly believe that there needs to be more effective federal oversight to stop abuses of monopoly power when they happen. At this time, those protections are sorely lacking.

This nation survives and thrives on reliable, affordable energy. The electric system we have in place provides well paying jobs that help sustain strong communities. Our energy demands are growing and we need to build more electric infrastructure to meet those needs. Building that infrastructure is going to take the work and support of business, communities, states and the federal government. It is also going to require new alliances which work together to balance everyone's needs to keep this country going and growing.

Again, I want to thank the committee for coming and for allowing me this opportunity to provide input on what is a critical issue for our community, state and country.

Mr. RADANOVICH. Thank you, Mr. Dingman. I appreciate your testimony.

Next is Mr. Jack Finnerty. Mr. Finnerty, welcome to the Subcommittee.

STATEMENT OF JACK FINNERTY, BOARD MEMBER, WHEATLAND RURAL ELECTRICITY ASSOCIATION, WHEATLAND, WYOMING

Mr. FINNERTY. Mr. Chairman and Representative Cubin, my name is Jack Finnerty and I am a local rancher, a board member of Wheatland Rural Electric Association, the local electric cooperative, and a board member of Tri-State Generation and Transmission Association, a not-for-profit wholesale power supply cooperative that generates and transmits electricity to 44 member distribution cooperatives and public power systems in Colorado, Nebraska, New Mexico and Wyoming.

I also sit on the Board of Directors of Western Fuels Colorado, a subsidiary of Western Fuels Association, a not-for-profit cooperative that supplies coal and transportation services to consumer-owned electric utilities throughout the Great Plains, Rocky Mountain and Southwest regions.

Serving a wide variety of public power entities ranging from rural electric generation and transmission cooperatives to municipal utilities, Western Fuels offers its members diverse and extensive expertise in coal mining, coal procurement, and transportation management.

I appreciate this opportunity to appear here today to discuss the railroad issues that have risen to the top of the policy agenda of the organizations that I represent here today. I believe that hauling rate issues and delivery problems with coal will have a significant negative impact on local cooperative members like myself, and electricity consumers nationwide, if they are not resolved.

As a board member of a member-owned not-for-profit electric cooperative, it is the cooperative's mission, and obligation, to provide a reliable source of electricity to our consumers at the lowest possible price. We take this obligation very seriously. We are keenly aware that we provide an essential service to our customers.

The people that live in the communities that we serve depend on this electricity to run their businesses, to light, heat and power their homes, and to run the hospitals and other emergency services needed to keep the people in rural America safe and healthy.

In addition to our obligation to meet our members' electric needs in a cost-effective fashion, we have to ensure that we maintain the reliability of the electric system as well.

The railroad industry, like electric utilities, should also be subject to an obligation to serve its customers and the national interest.

There is an obligation to provide reliable transportation service at reasonable rates to consumers across the nation. Without requiring the nation's railroads to meet an obligation to serve, our nation's national economy is stymied and our nation will not sustain necessary levels of economic growth and global competitiveness. Adequate, dependable, and reasonably priced rail service is, like electricity, critical to our national and economic security interests.

The Surface Transportation Board has shown little interest in rail service issues, and has no history of directing railroads to provide service to shippers where service is inadequate.

As a co-op that receives power from Laramie River Station, a coal-based generating plant here in Wheatland, Wyoming, our member-consumers have been hit directly at LRS by both increased rail rates and reduced coal shipment. Indeed, the member-consumers of LRS are paying more and receiving less rail service.

LRS is served by a single railroad, Burlington Northern and Santa Fe Railway Company. Burlington Northern and Santa Fe delivers 8.3 million tons of coal annually to the power plant from the Laramie River Station, a distance of approximately 175 miles.

In order to maintain efficiency, coal-based generating plants like Laramie River Station are run nearly continuously.

Maintaining full generation levels at the 1,650 megawatt level, the three-unit LRS plant requires 24,000 tons of coal per day, or one and a half trains every day. A train consists of about 136 carts with 120 tons of coal per car.

In addition, a coal stockpile is maintained at the plant site, which is used as a backup in case of an interruption in rail deliveries. To maintain reliability of service, the plant typically tries to maintain more than a 30-day supply of coal in that stockpile. Earlier this year, as was earlier mentioned by Joel, delivery problems in that stockpile resulted in only a six-day supply of coal.

If the stockpile at LRS had been depleted any further, they would have been forced to curtail generation at a significant cost to its members. If LRS had been forced to curtail electricity generation, they would have had to either use natural gas generators—a fuel that costs five to seven times as much as coal—or buy electricity on the open market.

I think last week the power that was produced for 30 mills out there was on the open market at about three hundred. So that can give you an idea of the impact that would be felt.

Fortunately, stockpiles at LRS are now back up due to improved delivery times by Burlington Northern and Santa Fe, and, more importantly, to a scheduled seven-week maintenance outage of one of the units, and also the purchase of a new set of cars at a cost of about \$10 million.

Other generating stations have experienced similar problems and have cut production at plants that are normally the least costly to operate. Electricity generators have resorted to burning more expensive natural gas, purchasing higher cost electricity from the open market, or purchasing and importing more expensive foreign coal.

Our Nation is blessed with enormous reserves of coal that can provide for electricity and other uses for many decades in the future. Some of the largest reserves are located here, in Wyoming, and I am discouraged by the fact that we cannot deliver this commodity with more reliability.

I believe under the current supervision of the Surface Transportation Board, railroads are allowed to charge above-market rates where there is no viable transportation competition, and we must be satisfied with whatever level of service the railroad provides.

In addition, with demand for railroad services far exceeding the supply of railroad capacity, the railroads have what Wall Street analysts identify as the "perfect pricing power." Thus, in the absence of Government supervision, the railroad industry may have no incentive to jeopardize their pricing power by adding sufficient capacity, particularly for rail customers that have no access to transportation options.

Unless the railroads provide sufficient and reliable transportation capacity for our coal movements, we will continue to face problems for the foreseeable future.

Mr. Chairman, about 50 percent of the Nation's electricity is generated from coal, and in the cooperative community, about 80 percent of our electricity is generated by coal. None of these power plants, or very few of them sit at the mine themselves, so we rely on the railroads to move that coal to the plants.

Coal delivery costs flow straight through to our customers, many of whom are farmers and ranchers like myself, who are already paying significantly high operating costs because of increased energy costs. When we must rely on a single railroad to move coal to the plants, we are in no position to negotiate a mutually acceptable price. Rather, both price and service are provided to us by our railroad carrier.

Captive rail shoppers are forced into an arbitrary "take it or leave it" situation and face higher transportation costs than those shippers that have access to competition.

From my perspective, we are faced with a national rail system that may not be able to deliver coal to the nation's generators reliably and at a reasonable cost unless changes are made.

I recognize that all rail traffic is growing, and there is a need for investment in railroad infrastructure, and I do support these

needed investments, but it must come with some oversight that ensures the reliable delivery of coal resources.

Mr. Chairman, thank you for conducting this hearing today. I do support a strong and viable rail industry that will provide reliable service to its customers at a fair and reasonable price. Thank you.

[The prepared statement of Mr. Finnerty follows:]

Statement of Jack Finnerty, Board of Directors, on behalf of Wheatland Rural Electric Association, Inc., and Tri-State Generation and Transmission Association, Inc.

Mr. Chairman and Members of the Committee:

My name is Jack Finnerty, and I am a local rancher, a board member of Wheatland Rural Electric Association the local electric cooperative, a board member of Tri-State Generation and Transmission Association, a not-for-profit wholesale power supply cooperative that generates and transmits electricity to forty-four member distribution cooperatives and public power systems in Colorado, Nebraska, New Mexico and Wyoming. I also sit on the Board of Directors of Western Fuels Colorado, a subsidiary of Western Fuels Association, a not-for-profit cooperative that supplies coal and transportation services to consumer-owned electric utilities throughout the Great Plains, Rocky Mountain and Southwest regions. Serving a wide variety of public power entities ranging from rural electric generation and transmission cooperatives to municipal utilities, Western Fuels offers its members diverse and extensive expertise in coal mining, coal procurement and transportation management.

I appreciate this opportunity to appear today to discuss railroad issues that have risen to the top of the policy agenda for the organizations that I represent here today. I believe that hauling rate issues and delivery problems with coal will have a significant negative impact on local cooperative members like myself and electricity customers nation-wide if they are not resolved.

Coal, Electricity Reliability and Obligation to Serve

As a board member of a member-owned, not-for-profit electric cooperative, it is the cooperative's mission and obligation to provide a reliable source of electricity to our member-consumers at the lowest possible price. We take this obligation to serve very seriously. We are keenly aware that we provide an essential service to our customers. The people that live in the communities that we serve depend on this electricity to run their businesses, to light, heat and power their homes, and to run the hospitals and other emergency services needed to keep the people in rural America safe and healthy. In addition to our obligation to meet our members' electric needs in a cost effective fashion, we have to ensure that we maintain the reliability of the electric utility system as well.

The railroad industry, like electric utilities, should also be subject to an obligation to serve its customers and the national interest. There is an obligation to provide reliable transportation service at reasonable rates to its customers across the nation. Without requiring that the nation's railroads meet an obligation to serve, our nation's national economy is stymied and our nation will not sustain necessary levels of economic growth and global competitiveness. Adequate, dependable and reasonably priced rail service is, like electricity, critical to our national and economic security interests.

The Surface Transportation Board has shown little interest in rail service issues and has no history of directing railroads to provide service to shippers where service is inadequate. As a co-op that receives power from the Laramie River Station (LRS), a coal-based generating plant here in Wheatland Wyoming, our member-consumers have been hit directly at LRS by both increased rail rates and reduced coal shipments. Indeed, the member-consumers of LRS are paying more and receiving less rail service.

LRS is served by a single railroad, Burlington Northern and Santa Fe Railway Company (BNSF). BNSF delivers 8.3 million tons of coal annually from the Powder River Basin to LRS, a distance of approximately 175 miles.

In order to maintain efficiency, coal-based generating plants like Laramie River Station are run nearly continuously. Maintaining full generation levels at the 1,650 megawatt level, the three-unit LRS plant requires 24,000 tons of coal per day, the equivalent of one and a half trains of coal daily. (A train consists of about 136 rail cars, each carrying about 120 tons of coal.) In addition, a coal stockpile is maintained at the plant site, which is used as backup in case of an interruption in rail deliveries. To maintain reliability of service, the plant typically tries to maintain

more than a 30-day supply of coal in the stockpile. Earlier this year, coal delivery problems resulted in a stockpile that would serve the plant for only 6 days. If the stockpile at LRS had been depleted any further, they would have been forced to curtail generation at a significant cost to the member-consumers. If LRS had been forced to curtail electricity generation, they would have had to either use natural gas generators—a fuel that costs as much as 5 to 7 times more than coal—or buy electricity on the open market, if available, at much higher costs than the electricity produced at LRS. Fortunately, stockpiles at LRS are now back up due to improved delivery times from BNSF and, more importantly, to a scheduled seven-week maintenance outage of one of the three units this spring and the addition of a fourth train set, at a cost of about \$10 million.

Other generating stations have experienced similar problems and have cut production at plants that are normally the least costly to operate. Electricity generators have resorted to burning more expensive natural gas, purchasing higher cost electricity from the open market, or purchasing and importing more expensive foreign coal.

Our nation is blessed with enormous reserves of coal that can provide for electricity and other uses for many decades in the future. Some of the largest reserves are located here in Wyoming and I am discouraged by the fact that we cannot deliver this commodity more reliably.

I believe under the current supervision of the Surface Transportation Board, railroads are allowed to charge above market rates where there is no viable transportation competition and we must be satisfied with whatever level of service the railroads provide. In addition, with demand for railroad services far exceeding the supply of railroad capacity, the railroads have what Wall Street analysts identify as “perfect pricing power.” Thus, in the absence of governmental supervision, the railroad industry may have no incentive to jeopardize their pricing power by adding sufficient capacity, particularly for rail customers, that have no access to transportation options. Unless the railroads provide sufficient and reliable transportation capacity for our coal movements, we will continue to face reliability problems for the foreseeable future.

Rail Rate Concerns

Mr. Chairman, about 50% of the nation’s electricity is generated from coal. In the electric cooperative community, about 80% of the electricity generated by our plants is from coal. Very few of the generating facilities are located at coal mine sites, so most of the coal consumed is delivered by rail.

Coal delivery costs flow straight through to our customers, many of whom are farmers and ranchers like myself, who are already paying significantly higher operating costs because of increased energy costs. When we must rely on a single railroad to move coal to the plants, we are in no position to negotiate a mutually acceptable price. Rather, both price and service are provided to us by our railroad carrier. “Captive” rail shippers are forced into an arbitrary “take-it-or-leave-it” situation and face higher rail transportation costs than those shippers that have access to competition.

Conclusion

From my perspective, we are faced with a national rail system that may not be able to deliver coal to the nation’s generators reliably and at reasonable costs unless changes are made. I recognize that all rail traffic is growing and there is a need for investment in railroad infrastructure and I support these needed investments, but it must come with oversight that ensures the reliable delivery of coal resources.

Mr. Chairman, thank you for conducting this hearing today. I support a strong and viable rail industry that will provide reliable service to its customers at fair and reasonable prices.

Mr. RADANOVICH. Thank you, Mr. Finnerty, for your testimony.
Welcome, Mr. Thompson, to the Subcommittee. You may begin your testimony.

STATEMENT OF JANSSEN THOMPSON, GENERAL MANAGER, POWDER RIVER DIVISION, BNSF RAILWAY COMPANY, DENVER, COLORADO

Mr. THOMPSON. Good afternoon, Chairman Radanovich, and Congresswoman Cubin. My name is Janssen Thompson. I am the gen-

eral manager for the Powder River Division for BNSF Railway. Today, I am going to talk about the operations of BNSF's coal business, the growth that we have experienced, and the capacity expansion that we have undertaken in the past few years to respond to the growth, both here, in Wyoming, and across our network.

I will briefly describe my railroad and our role in the coal delivery system, particularly from the PRB or the Powder River Basin, the scope of our coal network, the capital investment program to support it, our expansion plans in order to meet the increasing demand for PRB coal in the future.

BNSF operates the largest volume railroad network in North America, spanning across 32,000 miles in 28 States and two Canadian provinces.

In Wyoming, BNSF has 1,236 active employees and we will hire some 365 employees this year. BNSF's coal transportation network provides the track, terminals, locomotives, freight cars, and people to haul the PRB coal that now is burned in 38 States across the United States. Each year, BNSF hauls enough low-sulphur coal to generate about 10 percent of the electricity used in the United States.

Today, you will hear me talk about the Joint Line. This is the appropriately 103 mile southern section of the rail lines serving the Powder River Basin in Wyoming. This track is actually jointly owned by BNSF and the Union Pacific Railway. A BNSF predecessor built this line in the 1970's, and UP, through a predecessor, gained access to it in the 1980's.

This is the most intensively utilized railroad in the world. Operationally, it is the railroad equivalent of Chicago O'Hare Airport. This requires intense cooperation between the mines, the railroads, and utilities to run an average of more than 60 loaded coal trains per day to maintain a pipeline of coal to the nation's utilities. There is no other rail infrastructure of which I am aware of that has benefited from the same level of maintenance and expansion investment as the Joint Line.

Over the last 15 years, PRB coal production in the basin has grown dramatically, and at a much greater rate than all other coal sources in the United States. Powder River Basin coal production was 7.56 million tons in 1970, 99.6 million tons in 1980, 200 million tons in 1990, and 415 million tons in 2005. We expect PRB production this year will exceed 450 million tons for 2006.

BNSF has experienced significant growth in coal business over the last decade. Low-sulphur and low-NOx emissions, coupled with the lowest delivered cost per ton have made PRB coal the dominant supply source for utilities in the United States.

But it hasn't been a "hockey stick" growth pattern. Since the formation of BNSF, in 1995, for example, our business incurred growth through 1999, it declined in 2000, it grew slightly in 2001, then declined again in 2002 and 2003, before escalating rapidly in 2004, in light of the unprecedented increases in natural gas prices.

As with electricity generation and transmission capacity, it is difficult to immediately ramp up railroad capacity against a spike in demand.

However, BNSF is appropriately responding with significant investment to increase coal deliveries to meet the demand that hopefully will continue for years to come.

BNSF is proud of its performance in hauling PRB coal for more than 30 years. You may be aware of the unusual episodic events that occurred last May of 2005, when we faced the perfect storm. We had a spring thaw coupled with a freak snow storm and torrential rains along the Joint Line. This was combined with coal dust in the right of way that damaged the rail bed.

The resulting maintenance efforts did negatively impact our customers and our service for several months.

We were not very happy with the consequences of these events and we worked closely with our customers throughout the Joint Line maintenance process.

We still completed 2005, though, by hauling a record amount of coal and rebuilt stockpiles. The intense maintenance program we undertook put us ahead of existing maintenance schedules which will accrue operational efficiencies.

As a result of this incident, BNSF has worked closely with the mines to achieve better grooming of the loading profile for each loaded coal car to minimize coal dust blowing into the right of way. We are also discussing with the mines and utilities about other preventative measures to improve and reduce the amount of coal coming off the cars by using crusting agents on the coal loads.

Our 2006 coal performance has been even more outstanding so far. In July, BNSF loaded a record 24.9 million tons of coal system-wide, breaking the previous record of 24.43 million tons loaded in May of this year. May, June and July are the three highest coal tonnage months in BNSF history, and BNSF has loaded a total of 165.987 million tons of coal through July 31, 2006 of this year. This is up 10.3 percent from the year-to-date of last year of 150 million tons that we had in 2005.

In the Powder River Basin, in which we include the Wyoming and Montana mines, BNSF loaded a record monthly average of 50.8 trains per day. This was the fifth consecutive record average daily train loadings for the BNSF in the PRB.

Delivering this kind of performance to meet the growth in demand for PRB coal does not occur in a vacuum. It requires capital investment to expand rail infrastructure and add locomotives. Between 1994 and the end of 2006, BNSF will have invested \$3.2 billion in increasing its coal transportation capacity, \$600 million in 2006 alone.

We have added more than 150 coal train sets, about 125 cars per train, which requires three locomotives, to the coal network in the past decade.

We are leveraging existing capacity, increasing the number of tons carried by each coal train by 2500 tons since 1995, because car design has enabled us to haul more coal in each car.

Over the next two years, BNSF and UP have agreed to spend an additional \$100 million to finish triple-tracking the entire Joint Line and begin approximately 18 miles of quadruple-tracking. Of the 362 high-horsepower locomotives, cleaner-burning locomotives that we are purchasing this year, about half of those will be added to the coal service.

The BNSF yard at Donkey Creek now has six staging tracks in operation, which is enabling us to more efficiently stage trains to keep the Joint Line at maximum velocity, with trains at the ready for deployment to the mines.

But keeping the coal network fluid goes beyond the Joint Line. By the end of this year, we will have finished upgrades in Memphis, Tennessee, a lot of double-tracking across the Nebraska area, and doing capacity improvements at Lincoln Terminal which is a key part of our network.

All these improvements will result in more efficient movements, improved velocity, and better train cycle times, providing our utility customers with more consistent transportation services.

We will continue to make substantial investments as long as demand forecasts supports it, and that we can continue to improve our returns, which must exceed our cost of capital.

As you can see, BNSF takes seriously this commitment to Powder River Basin coal and to its customers. There is no better evidence than what has been cited here previously at the Laramie River Station.

Earlier this year, they had concerns regarding their coal stockpile. BNSF has worked closely with the Laramie River, and at the end of last week they had 36 days of stockpile on hand, and then July 20, 2006, Energy Information Administration report on coal stockpiles substantiates the efforts that the railroads are making in regards to PRB coal flowing. It states that the coal stockpiles have reached their highest levels since mid 2003.

Overall, we believe rail service in the Powder River Basin continues to be a world class operation, and we have invested to expand our ability to improve throughput and provide reliable service. We have plans in place to do more. BNSF sees a bright future for the Powder River Basin coal and we want to an active partner with the mines and utilities in the future.

We will continue to invest and grow our operations and abilities consistent with the rate of return on capital requirement.

Thank you for allowing me to be here today as a part of these proceedings.

[The prepared statement of Mr. Thompson follows:]

**Statement of Janssen Thompson, General Manger,
Powder River Division, BNSF Railway Company**

Good afternoon Chairman Radanovich and Congresswoman Cubin. My name is Janssen Thompson, and I am the General Manager of the Powder River Division of BNSF Railway Company. I am pleased to be here today in response to the Subcommittee's request for testimony about the operations of BNSF's coal business, the growth we have experienced, and the capacity expansion that we've undertaken in the past few years to respond to that growth, both here in Wyoming and across our network

I will briefly describe my railroad and our role in the coal delivery system, particularly from the Powder River Basin (PRB), the scope of our coal network, the capital investment program to support it, and the step-wise expansion we see in our capability to meet the increasing demand for PRB coal.

BNSF operates the largest volume railroad network in the North America, spanning about 32,000 route miles in 28 states and two Canadian provinces. In Wyoming, BNSF has 1,236 active employees and will hire some 365 employees this year. BNSF's coal transportation network provides the track, terminals, locomotives, freight cars and people to haul the PRB coal that now is burned in 38 states. Each year, BNSF hauls enough low-sulphur coal to generate about ten percent of the electricity used in the United States.

Today you will hear me talk about the Joint Line. This is the approximately 103-mile southern section of the rail lines serving the Powder River Basin in Wyoming. This track is jointly owned and used by BNSF and Union Pacific Railroad (UP). A BNSF predecessor built this line in the early 1970's and UP, through a predecessor, gained access to it in the 1980's. BNSF has access to the Joint Line at Donkey Creek on the northern end and through Shawnee Junction on the southern end. This is the most intensively utilized railroad in the world. Operationally, it is the railroad-equivalent of Chicago O'Hare airport, requiring intense cooperation between the mines, railroads and utilities to run an average of more than 60 loaded coal trains per day to maintain a pipeline of coal to the nation's utilities. There is no other rail infrastructure of which I am aware that has benefited from the same level of maintenance and expansion investment as the Joint Line.

Over the past 15 years, PRB coal production in the Basin has grown dramatically and at a much greater rate than all other coal sources in the United States. Powder River Basin coal production was 7.5 million tons in 1970; 99.6 million tons in 1980; 200 million tons in 1990; and 415 million tons in 2005. We expect PRB production will exceed 450 million tons in 2006.

BNSF has experienced significant growth in its coal business over the last decade. Low-sulfur and low-NOx emissions, coupled with the lowest delivered coal cost per ton have made PRB coal the dominant supply source for utilities in the United States. But it hasn't been "a hockey stick" growth pattern. Since the formation of BNSF in 1995, for example, growth in our coal business occurred through 1999; declined in 2000; grew in 2001, and then declined again in 2002 and 2003, before escalating rapidly in 2004 in light of unprecedented increases in natural gas prices. As with electricity generation and transmission capacity, it is difficult to immediately ramp up railroad capacity against a spike in demand; however, BNSF is appropriately responding with significant investment to increase coal deliveries to meet the demand that, hopefully, will continue for years to come.

BNSF is proud of its performance in hauling PRB coal for more than 30 years. You may be aware of the unusual episodic events of May 2005 when we faced the perfect storm—a spring thaw coupled with a freak snow blizzard and torrential rains along the Joint Line which combined with coal dust in the right of way to damage the rail bed. The resulting maintenance efforts negatively impacted our service capability for several months. We were not happy with the consequences of these events, and worked closely with our customers throughout the Joint Line maintenance process. We still completed 2005 hauling a record amount of coal and rebuilt stockpiles. The intense maintenance program we undertook put us ahead of existing maintenance schedules, which will accrue operational efficiencies. As a result of this incident, BNSF also worked closely with the mines to achieve better grooming of the loading profile of each coal car to minimize coal dust blowing into the right of way. We are in discussion with mines and utilities about other additional preventative improvements, such as the use of a crusting agent on coal loads.

Our 2006 coal performance has been even more outstanding so far. In July, BNSF loaded a record 24.98 million tons of coal system-wide, breaking the previous record of 24.43 million tons loaded in May of this year. May, June and July are the three highest coal tonnage months in BNSF history. BNSF has loaded a total of 165.987 million tons of coal through July 31, 2006, up 10.3 percent from the year-to-date total of 150.524 million tons loaded through July 31, 2005. In the Powder River Basin (PRB), including Wyoming and Montana mines, BNSF loaded a record monthly average of 50.8 coal trains per day in July, the fifth consecutive month of record average daily train loadings for BNSF in the PRB.

Delivering this kind of performance to meet growth in demand for PRB coal does not occur in a vacuum. It requires capital investment to expand rail infrastructure and add locomotives. Between 1994 and the end of 2006, BNSF will have invested \$3.2 billion dollars in increasing its coal transportation capacity—\$600 million in 2006 alone. We've added more than 150 coal train sets—about 125 cars per train set requiring three locomotives—to the coal network in the past decade. We are also leveraging existing capacity, increasing the number of tons carried by each coal train by about 2,500 since 1995 because car design has enabled more coal to be loaded in each car.

Over the next two years, BNSF and UP have agreed to spend an additional \$100 million to finish triple-tracking the entire Joint Line and begin approximately 18 miles of quadruple-tracking. Of the 362 high-horsepower, cleaner burning locomotives being added to BNSF's fleet in 2006, about half have been allocated to coal train service.

The BNSF yard at Donkey Creek now has six new staging tracks in operation, which is enabling us to more efficiently stage trains to keep the Joint Line at maximum velocity with trains at the ready for deployment to the mines. By the end of

2006, 77 miles of the Joint Line will be triple-tracked; the balance will be completed in 2007. By 2008, a fourth main line must be added between Donkey Creek and Shawnee Junction.

But keeping the coal network fluid goes beyond the Joint Line. By the end of 2006, we will have finished upgrading our Memphis yard to ensure that increased intermodal traffic does not slow down coal heading to the eastern seaboard. We will also have double-tracked additional miles on our major coal route through Nebraska and added capacity to our Lincoln Terminal, a key part of our coal network. All of these improvements result in more efficient movements, improved velocity, and better train set cycle times, providing our utility customers with more consistent transportation services. We will continue to make substantial investments so long as demand forecasts support them and we can continue to improve our returns, which must exceed our cost of capital.

Since I am appearing before the Resources Committee, it is appropriate to raise the issue of federal permitting for these critical railroad projects. We work closely with the agencies under your Committee's jurisdiction that approve permits, grant easements and work with each other and state agencies in the permitting process. We believe that generally they do everything they can to be responsive to the tight timelines that we have established for completing these projects which are critical to the delivery of the nation's coal. However, we have been concerned about the amount of agency work required for executing several critical project permits on time and urge you to support and encourage the efforts of Fish and Wildlife Department, the U.S. Forest Service, the Bureau of Land Management in processing critical rail project permits.

As you can see, BNSF takes seriously its commitment to Powder River Basin coal and to its customers. There is no better evidence of this than to cite a nearby power plant—Laramie River Station. Earlier this year, Laramie River Station had concerns regarding the level of their coal stockpile. BNSF has worked closely with Laramie River and at the end of last week they had 36 days of stockpile on hand. A July 20, 2006, Energy Information Administration report on coal stockpiles substantiates the efforts that the railroads have made to keep PRB coal flowing. It states that coal stockpiles have reached their highest levels since mid-2003.

Overall, we believe rail service in the Powder River Basin continues to be a world-class operation and we have invested to expand our ability improve throughput and provide reliable service. We have plans in place to do more. BNSF sees a bright future for Powder River Basin coal and we want to be an active partner with the mines and utilities in that future. We will continue to invest and grow our operations and abilities, consistent with rate of return on capital requirement.

Thank you again for allowing me to be a part of today's proceeding.

Mr. RADANOVICH. Thank you, Mr. Thompson, for your testimony.
Mr. Vasy, welcome to the Subcommittee. You may begin.

**STATEMENT OF RICH VASY, ASSISTANT VICE PRESIDENT FOR
BUSINESS DEVELOPMENT, UNION PACIFIC CORPORATION,
OMAHA, NEBRASKA**

Mr. VASY. Thank you. Good afternoon, Mr. Chairman, Congresswoman Cubin. My name is Richard Vasy. I am assistant vice president for Business Development with Union Pacific Railroad. I am pleased to be here today to discuss Union Pacific's investment in moving Powder River Basin coal.

Wyoming and Union Pacific have a long and great history together as our route across Southern Wyoming is part of the first transcontinental railroad. Today, in Wyoming, we employ over 1500 people and have an annual payroll of \$96 million.

One of the biggest success stories for Wyoming and Union Pacific is the movement of coal from the Powder River Basin to utilities all across the nation. In 1985, it requires about five trains per day to move 19 million tons on the Joint Line, and we did this with a single line. Ten years later, we were moving 25 trains per day.

A large part of the Joint Line was doubletracked but much of the UP route was still single main line. As the market demanded more

Western coal, we responded by building 109 miles of triple-main line. We also double-tracked large portions of the route across Nebraska. Today, Union Pacific averages 36 trains per day out of the basis; but that isn't the real story.

The real story is the tonnage. In 2006, the Joint Line handled an all-time record of 325 million tons, 179 million of this on the Union Pacific, and we are on track to haul even more in 2006. Building the infrastructure to handle the coal was not and is not inexpensive.

Since 1982, our total investment in the coal business has been at least \$10 billion. At the same time we have been making these massive investments, revenue per ton-mile for coal was declining. Coal has the lowest revenue per ton-mile of all rail commodities.

This has made Western coal competitive in many markets, even when transported thousands of miles. In fact, from 1981 to 2004, transportation rates for coal declined 32 percent in nominal dollars while electricity rates have increased 38 percent.

Coal will continue to be important for the Union Pacific. Our capital budget for 2006 is approximately \$2.8 billion. Of this, 1.5 billion is to replace track and increase fluidity and capacity for our customers. Much of this will be spent on our coal corridors.

We wear out more than three miles of track a day, mainly due to heavy haulage on our coal routes. At a cost of \$700,000 per mile for replacement rail, this adds up very quickly. The cost goes up to \$2.5 million per mile for new rail, such as new rail on the Joint Line and on our main coal corridors.

In addition, in May of this year, we, along with the BNSF, announced another significant capacity expansion on the Joint Line.

We agreed to construct more than 40 miles of third and fourth main lines over the next two years. This will cost about \$100 million. This project compliments the construction of 14 miles of third main line track that was completed in the spring of 2005, and an additional 19 miles of third main line currently under construction and scheduled to be fully operational in September.

The total cost of this 75 mile capacity expansion will be about \$200 million, which is split equally among the two carriers.

These investments are not cheap, and in order for us to continue to make them, we must be able to earn an adequate rate of return on our investment.

The rail industry is extremely capital-intensive. Railroads spent an average of 17.8 percent of their revenue on capital expenditures. The comparable figure for U.S. manufacturing, as a whole, is just 3.5 percent.

At the Union Pacific, roughly 19 cents of every revenue dollar goes back into our infrastructure. Unfortunately, we still do not earn the cost of capital, so we must be prudent with our capital resources.

The only wise business decision we can make is to invest in those businesses where the returns justify the high costs. For us to continue to make these huge investments in our coal routes, we must earn an adequate rate of return.

Finally, I want to mention the coal supply chain. Each leg, in this case the mines, the railroads and the utilities, have an important part to play. We have our issues but so do the mines and

utilities. In today's high-demand environment, missed train loadings at a mine are gone forever.

Through the first seven months of 2006, mine production and loading bottlenecks have resulted in 327 missed loadings on the UP.

The mines have to reduce unplanned equipment breakdowns and make sure that their production forecasts reflect a figure they can produce day in and day out.

On the destination end, coal deliveries can be improved by working together to speed the unloading of coal.

In summary, Union Pacific is proud of the role that we have played in developing the coal fields in the souther Powder River Basin. As long as we can earn adequate rates of return, we plan to continue our investments. I appreciate being here today. Thank you very much.

[The prepared statement of Mr. Vasy follows:]

Statement of Richard Vasy, Assistant Vice President—Business Development, Union Pacific Railroad

Good afternoon Mr. Chairman and Members of the Committee. My name is Rich Vasy, and I am Assistant Vice President for Business Development within the Coal Marketing Department for Union Pacific Railroad. I am pleased to be here today to discuss Union Pacific's investment in moving Southern Powder River Basin coal from Wyoming to various locations across the country.

Wyoming and Union Pacific Railroad have a long and great history together as our route across the Southern part of the state is part of the first transcontinental railroad that linked the east and west together. Today this route carries as many as 65 trains a day across the state. In addition to the coal fields in the Powder River Basin, we also serve the soda ash mines in the Green River area. We employ over 1,500 people, and we have an annual payroll of \$96 million. However, one of the biggest success stories for Wyoming and Union Pacific Railroad is the movement of coal from the Powder River Basin to utilities all across the nation, and the massive investment it has taken to make this happen.

In the early 1970s, the Burlington Northern Railroad and the Chicago & Northwestern Railroad were interested in developing Wyoming's coal fields. The Chicago & Northwestern didn't have the financial resources to proceed so Union Pacific stepped in with \$325 million to underwrite their investment. The Joint Line was built, and we moved our first train on it on August 16, 1984.

In 1985, an 11,000-ton coal train was considered very large, and it required about 5 trains per day to move 19 million tons a year on the Joint Line, and we did this with only a single main line. By the time we acquired the Chicago & Northwestern ten years later, we were moving 25 trains per day and the average train size had grown to 12,400 tons. A large part of the Joint Line was double-tracked, but much of the UP route was still single main lines. As the market demanded more Western coal, we responded by building 109 miles of triple-main line with concrete ties and premium rail to handle the heavier loads. We also double-tracked large parts of our route across Nebraska. Today, Union Pacific averages 36 trains per day out of the basin, but that isn't the real story. The real story is the tonnage. In 2005, the Joint Line handled an all-time record 325 million tons, 179 million of this on the UP, and we are on track to haul even more in 2006. In fact, so far this year, the Joint Line has set a number of records for trains originating in one day, in one month, and as a daily average of trains in one month.

Building the infrastructure to handle this type of growth was not, and is not, cheap. Since 1982, our total investment in the coal business has been at least \$10 billion. At the same time we have been making these massive investments, revenue per ton-mile for coal was declining. Coal has the lowest revenue per ton-mile of all rail commodities. This has made Western coal competitive in many markets, even when transported thousands of miles. In fact, from 1981 to 2004, rail rates for coal declined 32 percent in nominal dollars while electricity rates increased 38 percent during that same period.

Coal will continue to be an important partner for Union Pacific. Our capital budget for 2006 is approximately \$2.8 billion. Of this, \$1.5 billion is to replace track and increase fluidity and capacity for our customers. Much of this will be spent on our

coal routes through Nebraska, Iowa, and Kansas. We wear out more than three miles of track a day, mainly due to the heavy haulage on our coal routes. At a cost of \$700,000 per mile for replacement rail, this adds up very quickly. The cost goes up to \$2.5 million per mile for new rail, such as new track on the Joint Line and on our main coal corridors.

In addition, in May of this year, we, along with the BNSF Railway, announced another significant capacity expansion on the Joint Line. We agreed to construct more than 40 miles of third and fourth main lines over the next two years. This will cost about \$100 million. This project compliments the construction of 14 miles of third main line track that was completed in the spring of 2005 and an additional 19 miles of third main line currently under construction and scheduled to be fully operational in September. The total cost of this nearly 75 mile capacity expansion will be about \$200 million, which is split equally between the two railroads. We are making these investments to enhance our ability to serve our customers and meet the nation's energy demands. These improvements will enable the Joint Line to handle in excess of 400 million tons of coal.

These investments are not cheap, and in order for us to continue to make them, we must be able to earn an adequate rate of return on our investments. The rail industry is extremely capital intensive. From 1995 to 2004, U.S. Class I railroads spent on average 17.8 percent of their revenue on capital expenditures. The comparable figure for U.S. manufacturing as a whole was just 3.5 percent. At Union Pacific roughly 19 cents of every revenue dollar goes back into our infrastructure. Unfortunately, we still do not earn our cost of capital, so we must be very prudent with our capital resources. The only wise business decision we can make is to invest in those businesses where the returns justify the high costs. Every business in America must operate this way, and for us to continue to make these huge investments in our coal routes, we must earn an adequate rate of return.

Finally, I want to mention the coal supply chain. The network that is necessary to use coal as a source of energy to generate electricity is like a three legged stool. Each leg, in this case, the mines, the railroads, and the utilities, has an important part to play. We have our issues, but so do the mines and utilities. In today's high-demand environment, missed train slots at a mine are gone forever. Through the first seven months of 2006, mine production and loading bottlenecks have resulted in 327 missed loadings on the UP. The mines have to reduce unplanned equipment breakdowns and make sure that their production forecasts reflect a figure they can produce day in and day out. On the destination end, coal deliveries can be improved by working together to speed the unloading of the coal.

In summary, Union Pacific is proud of the role we played in developing the coal fields in the Southern Powder River Basin. As long as we can earn adequate rates of return, we plan to continue our investment in the infrastructure necessary to deliver this coal to locations both near and far. Mr. Chairman and Members of the Committee, that concludes my testimony, and I would be happy to answer any questions.

Mr. RADANOVICH. Thank you, Mr. Vasy. I appreciate your testimony.

Next, Mr. Larry LaMaack, welcome to the Subcommittee. You may begin.

**STATEMENT OF LARRY LaMAACK, EXECUTIVE DIRECTOR,
WYOMING MUNICIPAL POWER AGENCY, LUSK, WYOMING**

Mr. LAMAACK. Thank you, Chairman Radanovich, Representative Cubin. My name is Larry LaMaack and I am the executive director of the Wyoming Municipal Power Agency headquartered in Lusk, Wyoming.

Thank you for the opportunity to testify here today. We appreciate the Water and Power Subcommittee holding this hearing and are grateful for the role that Representative Cubin plays on the Subcommittee.

WMPA is the wholesale electricity supplier for eight municipally owned electric utilities located in Wyoming. Collectively, WMPA

member utilities and affiliates service some 10 percent of the state's population.

WMPA's power supply comes primarily from its ownership share in the Missouri Basin Power Project, a 1650 megawatt coal-fired electric generation facility located here in Wheatland.

In addition, WMPA also purchases Federal hydropower generated by the Pick-Sloan Western Division of the Missouri River Basin Program and the Colorado River Storage Project, through contracts with the Western Area Power Administration. Pick-Sloan Western Division includes hydropower produced by the North Platte Project.

I would like to focus my testimony today on challenges to the Federal power program as a result of extended drought conditions in the Missouri River Basin, potential impacts to hydropower production that may result from the Platte River EIS, and concerns relating to the MRTU proposal of the California ISO.

The ongoing seven-year drought has reduced power production from the North Platte Project by approximately half, and has resulted in significant power production losses from all of the Missouri River power plants.

As a result, Western has been forced to go to the open market to purchase power to meet its contract requirements. The increased demand for non-hydro places additional stress on the purchase power market and results in higher rates from Western.

Since 2001, Western has increased its wholesale rates four times to the Western division of Pick-Sloan, resulting in a total increase of 26 percent.

It is expected that additional rate increases are imminent through a "drought rate adder"—in fact we understand that to probably be in the neighborhood of 14 percent or so—to cover the exceptional purchase power costs associated with the extended drought.

These increased costs, along with other higher energy costs for gasoline, diesel and natural gas, have had a significant impact on the communities that WMPA serves.

Another challenge facing the Federal power program on the North Platte Project is the uncertain resulting from the Platte Project Recovery Implementation Program.

After more than 10 years in preparation, a Final Environment Impact Statement was released this spring. It calls for a \$317 million plan to manage water use and wildlife habitats along the Platte River in order to avoid jeopardy to four threatened and endangered species.

Although the EIS attempts to minimize impacts to power production, we remain concerned that the analysis was not sufficiently thorough in its assessment of economic harm to hydropower customers.

Before concluding, I would like to mention another power supply issue of concern to WMPA, and many other electric utilities in the West.

The California Independent System Operator has filed a proposal with the Federal Energy Regulatory Commission to make major changes in the way the California electricity market operates.

This proposal is known as the Market Redesign and Technology Upgrade, and it includes many of the market mechanisms that are currently in place in the Eastern and Midwestern electricity markets.

As we all learned during the energy crisis of 2000-2001, whatever happens in the California electricity market affects the entire Western Interconnection.

For that reason, I want to alert this Subcommittee to the fact that many Western utilities, including the Western Area Power Administration, have raised concerns about MRTU because of its proposed pricing and its scheduling rules are different than those used by the majority of other utilities in the West.

In addition, MRTU does not provide long-term transmission rights to load-serving entities. Further, MRTU plans to substitute financial transmission rights for the physical transmission rights that currently exist in the rest of the West.

I urge Congress and FERC to take a long, careful look at MRTU and at the concerns expressed by utilities in other Western States. On July 12, a bipartisan group of 12 U.S. Senators, including Senator Craig Thomas, expressed the same sentiment in a letter to FERC that I am attaching to my testimony.

I appreciate the opportunity to present this testimony and would be happy to answer questions that you may have.

[The prepared statement of Mr. LaMaack follows:]

**Statement of Larry LaMaack, Executive Director,
Wyoming Municipal Power Agency**

Chairman Radanovich, Members of the Subcommittee, my name is Larry LaMaack and I am the Executive Director of the Wyoming Municipal Power Agency (WMPA), headquartered in Lusk, WY. Thank you for the opportunity to testify here today. We appreciate the Water and Power Subcommittee holding this hearing today and are grateful for the role that Representative Cubin plays on the subcommittee.

WMPA is the wholesale electricity supplier for eight municipally-owned, electric utilities located in Wyoming. Collectively, WMPA member utilities and affiliates serve some 10 percent of the state's population.

WMPA's power supply comes primarily from its ownership share in the Missouri Basin Power Project (MBPP), a 1650 MW coal-fired electric generation facility located here in Wheatland. The MBPP was planned and built entirely by a group of six regional, consumer-owned energy organizations, including WMPA.

In addition, WMPA also purchases federal hydropower generated by the Pick-Sloan Western Division of the Missouri River Basin Program (Loveland Area Projects) and the Colorado River Storage Project, through contracts with the Western Area Power Administration (Western). Pick-Sloan Western Division includes hydropower produced by the North Platte Project.

I would like to focus my testimony today on challenges to the federal power program as a result of extended drought conditions in the Missouri River Basin, potential impacts to hydropower production that may result from the Platte River Environmental Impact Statement, and concerns relating to the MRTU proposal of the California ISO.

The ongoing, seven-year drought has reduced power production from the North Platte Project by approximately half, and resulted in significant power production losses from all of the Missouri River power plants. As a result, Western has been forced to go on the open market to purchase power to meet its contract requirements. This increased demand for non-hydro power places additional stress on the purchase power market and results in higher rates from Western, which must recover all the purchase power costs through its rates.

Since 2001, Western has increased wholesale rates four times to the Western Division of Pick-Sloan resulting in a total increase of 26%. It is expected that additional rate increases are imminent through a "drought rate adder" to cover the exceptional purchase power costs associated with the extended drought. These

increased costs, along with other higher energy costs for gasoline, diesel and natural gas, have had a significant impact on the communities WMPA serves.

Another challenge facing the federal power program on the North Platte Project is the uncertainty resulting from the Platte River Recovery Implementation Program. After more than ten years in preparation, a Final Environmental Impact Statement (EIS) was released this spring by the Bureau of Reclamation and the Fish and Wildlife Service. It calls for a \$317 million plan to manage water use and wildlife habitats along the Platte River in order to avoid jeopardy to four threatened and endangered species. The plan must now be signed by the Governors of Wyoming, Colorado and Nebraska as well as the Secretary of the Interior. Although the EIS attempts to minimize the impact to power production, we remain concerned that the analysis was not sufficiently thorough in its assessment of economic impacts to hydropower customers.

Before concluding, I would like to mention another power supply issue of concern to WMPA and many other electric utilities in the West. The California Independent System Operator—which currently operates most of the transmission grid in California—has filed a proposal with the Federal Energy Regulatory Commission (FERC) to make major changes in the way the California electricity market operates. This proposal is known as the Market Redesign and Technology Upgrade (MRTU) and it includes many of the “market mechanisms” that are currently in place in the Eastern and Midwestern electricity markets.

As we all learned during the energy crisis of 2000-2001, whatever happens in the California electricity market affects the entire Western Interconnection. Last time around, FERC failed to give enough consideration to how California’s “experiment” would affect consumers throughout the West. We cannot afford to repeat history. For that reason, I want to alert this subcommittee to the fact that many Western utilities, including the Western Area Power Administration, have raised concerns about MRTU because its proposed pricing and scheduling rules are different than those used by the majority of other utilities in the West.

In addition, and of concern to WMPA, MRTU does not provide long-term transmission rights to load-serving entities, which was directed by Congress in the electricity title of the Energy Policy Act of 2005. Further, MRTU plans to substitute “financial” transmission rights for the physical transmission rights that currently exist in the rest of the West. These are just a few of the MRTU changes that concern me and others throughout the West.

I urge Congress and FERC to take a long, careful look at MRTU and at the concerns expressed by utilities in other Western states. On July 12, a bi-partisan group of 12 U.S. Senators, including Sen. Craig Thomas, expressed the same sentiment in a letter to FERC that I am attaching to my testimony.

I appreciate the opportunity to present this testimony and would be happy to answer any questions you may have.

Attachment

[The letter attached to Mr. LaMaack’s statement follows:]

United States Senate
WASHINGTON, DC 20510

June 26, 2006

Chairman Joseph Kelliher
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Kelliher:

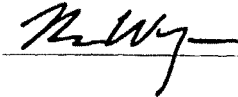
We are writing to request that the Federal Energy Regulatory Commission (FERC) not act in haste while considering the California ISO's proposal, called the Market Redesign and Technology Upgrade (MRTU). The potential impact to consumers in California and the entire West of this 5,000+ page filing (Docket No. ER06-615-000) deserves careful examination before FERC decides whether to approve or reject this complex proposal.

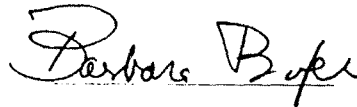
We are concerned that FERC thoughtfully consider the impacts not only to California consumers, but to those throughout the West. As you know, the Western grid is integrated and any changes to the California market will have implications throughout the West.

We know that a number of other entities have urged FERC to examine further the potential impacts of MRTU on the western wholesale electricity market. We too ask that the FERC Commissioners proceed cautiously and provide for a thorough vetting of the issues raised by this proposal. It is more important to get this done right than to get it done quickly. Thank you for consideration of our concerns.

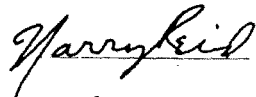
Sincerely,

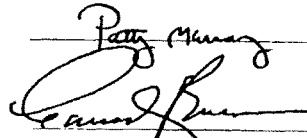




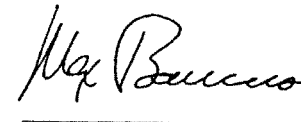




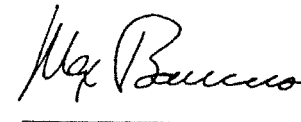


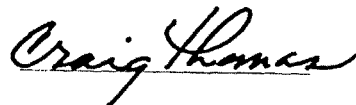














Mr. RADANOVICH. Thank you, Mr. LaMaack, and I know we want to be real careful about patterning yourself after California on your electricity plans.

Mr. LAMAACK. We see it like a caution; yes.

Mr. RADANOVICH. Yes; exactly.

Mr. Jim Neiman, welcome to the Subcommittee. You may begin.

**STATEMENT OF JIM D. NEIMAN, VICE PRESIDENT,
NEIMAN ENTERPRISES, INC., HULETT, WYOMING**

Mr. NEIMAN. Mr. Chairman, Representative Barbara Cubin, I thank both of you and the members of the committee for the opportunity to appear today and discuss transportation, energy and water issues.

My name is Jim Neiman. I am the owner and CEO of Neiman Enterprises, a third generation family-owned business, which owns lumber manufacturing facilities in Hulett, Wyoming, and Hill City, South Dakota, as well as a remanufacturing facility in Sturgis, and by the way, from a town of 400 and some people, yesterday, today, we are larger than Cheyenne. It is the big rally. We should have about 75,000 riders in Hulett today.

Our family business directly employs over 160 employees in Wyoming and over 150 in South Dakota. We indirectly employ through independent contractors another 150 to 200 workers.

We set out on an island in the middle of the prairie with limited population. We have a source of timber, in and around the Black Hills. Our capacity is around 100 million board feet of lumber production per year.

We produce approximately 150,000 bone dry tons of byproducts comprised of bark, sawdust, shavings and wood chips. Some of that byproducts are used to produce steam to dry the lumber and also to heat the facilities, while others are shipped via freight trucks to Merillat in South Dakota, for particle board. Our only other alternative is to ship the remaining chips west by rail to a paper mill near Seattle.

Our rail freight, with fuel surcharges, has gone up over 30 percent in the last 15 months. At the same time, the railroads have determined that no longer do they want to own the gondolas or rail cars that transport the chips.

So an additional lease charge has been absorbed by the paper mills and/or the supplier which is our company. We produce a chip volume equivalent to appropriately 120 carloads, rail cars per month, and have only been able to receive on time 65 to 75 cars per month.

The balance of the remaining chips are then stockpiled, and then we are unable to ship to the paper mills due to quality issues, because they're put on the ground.

The total cost of this rail freight increase, in combination with the shortage of cars, is far in excess of \$100,000 per month to our small company and over \$1.25 million dollars per year to our family-owned business. Due to the limits of our ability to stockpile the chips, we have been faced with production curtailments, at times, due to environmental requirements on pile size, which further compound our loss.

Our company cannot pass the cost on to the consumer. We have to absorb that. It's a free enterprise system in the lumber. The railroads have an Internet tracking system on the rail cars. We have tracked cars, transported empty from Seattle, Washington, to Laurel, Montana, en route to Newcastle, Wyoming, where we load the chips at our reload facility.

In anticipation of normal delivery for those cars, the next day to Newcastle, we would send truckloads of chips to the reload and find out the next day that the cars had passed Newcastle, ended up in South Dakota and Nebraska, and one rare time, ended up in Colorado, still empty.

This results in our stockpiling chips until the cars are turned around and stopped in Newcastle. It is a complicated system but then you have to cancel the orders cause you have already stockpiled them, so there is no way to account for the loss of those.

Powder River Energy Corporation supplies Hulett with all of our electrical needs. Basin Electric is a sole supplier of energy to Powder River Energy, which gets part of its power from right here in Wyoming at the Laramie River Station in Wheatland. Black Hills Power supplies all of our facilities with electricity in South Dakota and has now purchased Cheyenne Light Fuel and Power.

Part of their energy supply comes from Wyoming Coal and power plants, and will also be affected by major freight increases. Any shortage of supply to the power plants and/or freight increases will be passed on to the customers.

Neiman Enterprises pays more than 50,000 per month in electric utility bills in Wyoming and over 60,000 per month in South Dakota. This is a very small scale to a lot of companies but is a major cost to our company.

Any increase directly affects the bottom line of our companies.

By the way, in talking about the rail, it is ironic, the increases and the shortages also happen to appear, as heard earlier, during a negotiation of a rate. To provide an alternative to the rail shipments, we have pursued various means of creating alternative by-product uses. However, one of the simplest solutions would be to allow other rail companies such as the DM&E from South Dakota to enter Wyoming and compete, so we would not have such a captive shipper situation.

Another alternative is to install green power, cogeneration facilities, and convert chips and other wood byproducts to electricity, and ship our energy out on wire, which then creates a steady market for our company.

Our facilities in Wyoming could generate approximately 5 megawatts from wood byproducts and we could easily remove forest wood biomass for approximately another 5 or 6 megawatts.

Our South Dakota operation could produce 6 to 7 megawatts of electricity and also remove in excess of 6 megawatts of generation from forest biomass.

This power is all renewable, clean, reliable energy, and solves our mill byproduct situation. These facilities add high quality jobs to our local small community, help reduce fire danger, and enhance healthier forest.

There is legislation in place to help create incentives and make these projects move forward but they have not been funded.

We need your help to make this project a reality, with other incentives, like wind power has an incentive of 1.9 cents, biomass is only .9 cents.

Earlier discussion on water, Mr. Chairman, there is a direct link between forest management, healthy forest and stream flow.

Just to make it very sweet and simple, a 24-inch pine tree can use up to 300 gallons of water per day. So when you look at forest management, tie that back to healthy forest by proper management, stream flow goes up which provides additional water supply to communities. I can give a number of examples of where forest timber sales provided water to Rapid City in streamflow and provided year-around fishing due to forest management.

Mr. Chairman, thank you for the opportunity to speak to this committee. The issues are very important to solve, not only for our company but for our community, our state and our nation. Thank you very much.

[The prepared statement of Mr. Neiman follows:]

**Statement of Jim D. Neiman, Owner and CEO,
Neiman Enterprises, Inc.**

Mr. Chairman, and Members of the Committee, thank you for allowing me the opportunity to appear today to discuss transportation and energy issues.

My name is Jim D. Neiman, and I am the owner and CEO of Neiman Enterprises, Inc., a 3rd generation family-owned business, which owns lumber manufacturing facilities in both Hulett, Wyoming and Hill City, South Dakota, as well as a remanufacturing facility in Sturgis, South Dakota. Our family business directly employs 160 employees in Wyoming and 150 employees in South Dakota. We indirectly employ through independent contractors another 150 to 200 employees.

Power Bills

We set out on an island in the middle of a prairie with a limited population. We have a source of timber in and around the Black Hills. Our capacity is a little less than 100 million board feet of lumber production per year. We produce approximately 150,000 bone dry tons of by-products comprised of bark, sawdust, shavings, and woodchips. Some of the by-products are used to produce steam to dry the lumber and also to heat the facilities while others are shipped via freight trucks to Merillat in South Dakota to produce particleboard. Our only other alternative is to ship the remaining chips west by rail to a paper mill near Seattle, Washington.

In North America, paper prices have been depressed the last few years, which has forced some of the paper mills to close down. Our rail freight, with fuel surcharges, has gone up over 30% in the last 15 months. At the same time, the railroads have determined they no longer want to own the gondolas or railcars that transport the chips. So an additional lease charge has to be absorbed by the paper mill and/or the supplier, which is our company.

We produce a chip volume equivalent to approximately 120 railcars per month and have only been able to receive, on time, 65-75 cars per month. The balance of the remaining chips are then stockpiled, as we are unable to ship to paper mills due to quality requirements. The total cost of this rail freight increase in combination with the shortage of cars is far in excess of \$100,000 per month and over \$1,250,000.00 per year to our family-owned business. Due to the limits of our ability to stockpile the chips, we have been faced with production curtailments at times, which further compound our loss.

The railroads have an internet tracking system on their railcars. We have tracked cars transported empty from Seattle, Washington to Laurel, Montana en route to Newcastle, Wyoming where we load the chips at our reload facility. In anticipation of normal delivery of those cars the next day to Newcastle, we would send truckloads to the reload and then find out the next day that the cars by-passed Newcastle and ended up in South Dakota or Nebraska, still empty. This results in our stockpiling chips until the cars are turned around and stopped in Newcastle.

Concerns on Rail Freight Increases to Utilities

Powder River Energy Corporation supplies Hulett with all of our electrical needs. Basin Electric is the sole supplier of energy to Powder River Energy, which gets

part of its power from right here in Wyoming at the Laramie River Station in Wheatland.

Black Hills Power supplies all of our facilities with electricity in South Dakota and has now purchased Cheyenne Light, Fuel, and Power. Part of their energy supply comes from Wyoming coal and power plants and will also be affected by major freight increases. Any shortage of supply to the power plants and/or freight increases will be passed on to their customers.

Neiman Enterprises pays more than \$50,000.00 per month in electric utility bills in Wyoming and over \$60,000.00 per month in South Dakota. That is small scale to some companies, but it is a major cost to our company. Any increase directly affects the bottom line of our companies.

To provide an alternative to the rail shipment, we have pursued various means of creating alternative by-product uses. However, one of the simplest solutions would be to allow other rail companies such as the DM&E from South Dakota to enter Wyoming and compete so we would not have such a captive shipper situation.

Green Power Co-Generation

Another alternative is to install Green Power Co-Generation facilities and convert chips and other wood by-products to electricity and ship our energy out by wire, which then creates a steady market for our company.

Our facilities in Wyoming could generate approximately 5-7 megawatts from wood by-products and we could easily remove forest wood biomass of approximately another 5 megawatts. Our South Dakota operations could produce 6 megawatts of electricity from wood by-products and over 6 megawatts from forest biomass. This power is all renewable, clean, reliable energy and solves our mill by-product situation. These facilities add high quality jobs to our local community, help reduce fire danger, and enhance healthier forests.

There is legislation in place to help create incentives to make these projects move forward, but they have not been funded. We need your help to make these projects a reality.

Conclusion

Mr. Chairman, thank you for the opportunity to speak to this committee. The issues are very important to solve, not only for our Company, but also our community, our State, and our Nation.

Mr. RADANOVICH. Thank you, Mr. Neiman. I appreciate your testimony.

The Chair recognizes Mrs. Cubin for some questions.

Ms. CUBIN. Thank you, Mr. Chairman, and I want to thank all of you for your testimony. It was obviously all very well thought out, and I appreciate that very much.

Mayor Dingman, the situation you outlined in regard to the water supply situation for the Laramie River Station is really concerning, at the very best, and while I commend you and the Wheatland community and the station itself in working together to meet the water demand in a cooperative fashion, how long can this arrangement of supplementation with local well water go on?

Mr. DINGMAN. We have an agreement with—we are working closely with the state engineer's office, and we you sign agreements with farmers and ranchers for two years, to use the irrigation wells, and we can only use the water that would normally be used for crops on a certain portion of ground, and when that water, that allocated water has been pumped to the plant, that well is shut down, and that's on a yearly basis.

And so it started out as a smaller project to supplement some needs, where now it looks like, if the job continues for probably another year, year and a half, it might be the only source of water for the plant. It depends on the surface water from snowpack runoff. And so what has happened is the extension of—we have put

in two separate pipelines and extended those out into areas and purchased water from those irrigation wells.

So it is a dire condition.

Ms. CUBIN. It really is. It is, all over.

Mr. DINGMAN. Yes.

Ms. CUBIN. And switching hats from Mayor to Shift Supervisor, can you walk us through, in some detail, the importance of a significant coal stockpile at the plant.

We have heard from the co-ops served by the Laramie River Station about the importance of keeping a coal stockpile of 30 days or more, and what would be the ripple effect at the plant itself, if that stockpile was exhausted, like it nearly was last fall?

But before you answer that question, Mr. Chairman, I would like to ask unanimous consent to correct the record. In my opening statement I said we have a stockpile of three months. Rick told me. I didn't know I said that, but we have a stockpile of 30 days out there.

Mr. DINGMAN. Yes.

Mr. RADANOVICH. No objection.

Ms. CUBIN. OK. At any rate, so if you would go ahead and answer that question.

Mr. DINGMAN. What we develop are contingency plans for a certain amount of stockpiled coal, and because we are—we are dispatched and regulated by the Department of Energy, and what happens is we would have to notify them that there would be a curtailment of generation and we would have to have cause for that.

Now the cause that we would have is that our field supply was getting extremely low and to keep us from completely running out of coal, or fuel, we would curtail generation and continue to curtail until we had reserves built up or we can out of fuel.

Ms. CUBIN. So you would just keep cutting the generation until the coal was all gone.

Mr. DINGMAN. Yes.

Ms. CUBIN. Well, we don't want that to happen.

Mr. DINGMAN. Exactly.

Ms. CUBIN. Jack, you mentioned that improved coal delivery times, plant maintenance, and a fourth train set have all contributed to the coal stockpile at the Laramie River Station being brought back to a comfortable level.

Have the subsequent rates passed through to the electric co-ops also balanced out since the stockpile was replenished?

Mr. FINNERTY. The subsequent what?

Ms. CUBIN. Rates. Have they balanced out?

Mr. FINNERTY. As far as the costs?

Ms. CUBIN. yes.

Mr. FINNERTY. Just an increased cost, across the board. The people I represent here today own 24 percent of that power plant, so as Larry, the people he represented, also an owner, but those costs come directly back, then, to the people here in Wheatland along through Tri-State—

Ms. CUBIN. Right.

Mr. FINNERTY.—and through Wheatland REA. So it has been an increase, and I don't want to tell you on a per kilowatt basis, how

much it has been, but there has been an increase in the costs on account of the coal delivery, so——

Ms. CUBIN. Has that stabilized at all?

Mr. FINNERTY. Right now, yes; yes.

Ms. CUBIN. OK. I am going to ask the rail companies a similar question a little bit later but I am curious as to what your association feels would be a reasonable rate to pay for rail service to the Laramie River Station.

Mr. FINNERTY. You know, these two gentlemen here have been in the railroad business 25 and 30 years and I just started here today, so——

Ms. CUBIN. OK, then. You haven't been in on that.

Mr. FINNERTY. I really don't want to tell you what I think is a reasonable rate of return for them. I would honestly think that at the point in time there was a new contract that we developed at LRS, there was probably an increase, somewhere, that needed to be allowed. I don't think—just like the electric generation business, our costs have gone up. Theirs have too.

What I am hearing, and what I understand, is that everybody in the industry I represent say that to double it might have been reaching the extremes, and I don't even want to leave the impression that I know enough about their business to tell you what would be a fair rate of return, cause I don't. But it has been a very big burden to the electric consumers, that buy their power from LRS. It has shown up in their bills, dramatically.

Ms. CUBIN. Thank you. And I am not going to ask you to be any more specific than that, but I mean, obviously, somewhere between the current rate and double, it seems like that is where we ought to end up. But I guess we will find that out from the——

Mr. FINNERTY. Hopefully.

Ms. CUBIN.—guys that know more than we do, huh?

Mr. THOMPSON, would you please discuss, in more detail, the rail project permitting delays that your railroad has experienced with Federal land and wildlife management organizations, and Government agencies, because Chairman Radanovich and I have been working, ever since we have been in Congress, to try to expedite permitting of not just transmission lines but access to public lands for multiple reasons, and can you talk to us about that a little bit.

Mr. THOMPSON. Well, with the recent demand in coal and the need to expand our capacity, we are working on very short timelines, and for the most part, I think the state and the Federal agencies have been working really closely with us on the permitting process, but sometimes we are seeing some delays with some of the various departments, whether it's U.S. Forest Service, the Bureau of Land Management, to try to get that permitting.

I know that we are experiencing some delays in Nebraska, in a couple places there. We have also been around the Moorcroft, Wyoming area. They were also experiencing some delays with some expansion we are trying to complete this year. We are going to be right up against it to complete it by fourth quarter.

I think we are working very closely and we are going to be able to get some resolution on it. But as we go through and do more expansion, we talked about the triple track that we are going to be adding up, and the quadruple track next year that we are going to

begin construction on. Part of that is going to touch the Bureau of Land Management and we are going to have to work closely with them to try to get the permits to be able to construct that fourth main over Logan Hill.

Ms. CUBIN. Do you know what law or regulation is in the way? Is it the Endangered Species Act? Is it mitigation? Or do you know what those issues are?

Mr. THOMPSON. Actually, I apologize. In my role, I do not know what the barriers are at this time. However, I can try to follow up with these people and get you that information.

Ms. CUBIN. That would be a good idea, and if we can be of any help. Sometimes we can; sometimes we can't. If we can be of any help in dealing with the agencies, we would be happy to do that because it is to everyone's benefit to expedite those permits, I think.

You state in your testimony, that it was a perfect storm of extreme weather conditions. The coal dust erosion on the rail bed. What else did you say was in there?

Did I say maintenance? Yes. Weather conditions, coal dust, and maintenance that caused the supply of coal to get down to six days at the Laramie River Station.

Now I think you have to add to that contract negotiations. When Mr. Rose was in my office, he assured me that contract negotiations had nothing to do with that situation occurring, and I am not saying that he didn't tell the truth, but I am saying that at the very least, the appearance of that during contract negotiations is outrageous.

Can you just talk about that a little bit?

Mr. THOMPSON. I can talk about the service piece of it as far as the stockpile getting down and what we did to get the stockpile back up. There are actually several—

Ms. CUBIN. I didn't make that clear. OK. The maintenance. This is planned maintenance. OK. BNSF had to know that the maintenance was planned. BNSF knew the contracts were expiring and had to be renegotiated.

And for those two things, or that knowledge that BNSF had, how in the world would you plan to do it at the same time, without thinking that customers would expect there was coercion involved?

Mr. THOMPSON. Let me talk a little bit about the maintenance, and if it is OK, I will back up about the factors that led up to 2005, when we had the, as I alluded to, as a perfect storm.

What we have had happen all along the Joint Line, at some of our critical locations, where we meet and pass trains, we have had coal dust come off the trains, and coal is a part of the clay family. So this filters into the road bed and it actually traps the water into the roadbed.

And basically you end up having a pumping action as these heavy trains go across it and this brings all the mud up from the bottom underneath the rock, and actually what it does is it impacts the integrity of the rail and the ties, and basically it has got too many forces on it. We actually see ties breaking in the center, and these are concrete ties, because that water and moisture was being trapped in there.

And normally, over the last several years, we have been very successful in our normal maintenance, keeping up with that. But unfortunately, the spring thaw came out a little sooner and we had a late snow storm, and then, on top of that, we had the rains at that time that were a lot higher than they had been in years past for that time period.

It had been like, I want to say, in excess of close to 6 inches of rain, which is unique for Wyoming, and all that moisture got trapped in the railway bed, and that is what led up to the various derailments that we had in May of 2005.

But as far as leading forward to the maintenance side of it, we do ongoing maintenance year round. We maintain the Joint Line almost 365 days a year. We do limit maintenance somewhat when the weather conditions in the wintertime get to sub zero, but overall, we maintain it.

Ms. CUBIN. Isn't this a lot bigger maintenance project than just regular maintenance?

Mr. THOMPSON. Yes. We had to, once all this coal dust and the moisture we had, we had to do additional maintenance. We actually had to go out and physically pull out switches that were in the track and pull out a section of the railroad, dig out the mud, and put a whole new railroad back in there. And this was more than we had ever had to do in the past because of this enormous amount of rain that we got.

So as far as the maintenance, it was more than we had planned. We did work very closely with our customers on it, tried to minimize it, but even despite that, we still hauled more coal last year than we did even the previous year.

So it did impact us, and I think that we are seeing and we took some more steps to prevent the maintenance in the future, and you can see the results of that from this year. I mean, we are up 10 percent, hauling 10 percent more coal, double digit growth in handling coal this year in terms of volume, compared to previous years.

And again, it is going to be a record month after month up in the basin as far as the amount of coal we are hauling out of there to all of our customers.

Ms. CUBIN. And that is good and I appreciate it. But you are making money when you do it, making a lot of money when you do it, and PRB ought to be treated like Cinderella with your company and Union Pacific. That is what is keeping you guys floating. I mean, it is keeping you alive. That is good. And I accept your answer. I accept your answer.

I would like a more concise answer about—well, I guess I don't need it because I know what you are going to say. But I guess I just should have you say it for the record.

Your position, then, is that there was absolutely no connection between contract negotiations and the maintenance?

Mr. THOMPSON. No; there was not. There is no connection between it at all.

Ms. CUBIN. So the same thing could happen again?

Mr. THOMPSON. The same thing could happen again? As far as—

Ms. CUBIN. Contracts and this sort of a disaster happening.

Mr. THOMPSON. We have contracts going on all the time that expire, and while that is not my area, I just strictly do the operations piece of it, we have them expiring and renewing constantly across the—year after year. I can't tell you the percentages. I can tell you that 90 percent of our business in the coal side is under contract.

Again, I don't know the details of those contracts but we have over 90 percent of it under contract, and those expire at periodic times.

Ms. CUBIN. I am going to let this go now. But somebody in your company needs to—and yours—needs to communicate between—to avoid the appearance of this happening again, somebody in the company needs to make sure that there is a little bit of oversight on stuff like this, because you can explain it and I can believe it, but it still doesn't take the appearance of coercion away, and I know that a lot of people in Wyoming don't believe that it is a coincidence.

I think a lot of people in Wyoming believe that there is intended coercion. But I guess that will all be played out when the contracts are negotiated, and I really am not one of those people that believes that. After I heard everything, I did come to believe that it was a perfect storm but it was a stupid perfect storm. Those contracts didn't need to be negotiated at the same time, or maybe an extension—I don't know.

Anyway, I am going to get off of that. But this is a question I am going to ask both of the rail witnesses.

Today you both stated, correctly, that a tightly integrated and cooperative effort between the coal mines, the railroads, and the generators is necessary to ensure reliable coal production and delivery.

This assertion is well evidenced by the near disaster that we have been talking about, and Mr. Vasy offered further, in his testimony, that missed loadings at the mines also contributed.

What other factors, beyond these, contribute to coal delivery delays and how can they be addressed in a cooperative basis?

Mr. VASY. Is that for me?

Ms. CUBIN. Yes.

Mr. VASY. Well, certainly, when you take into consideration there are three distinct parties involved in the transportation of coal from A to B, you can't—so we have to have the production, and I mentioned about the missed loadings. And any number of events can occur as to why we miss loadings at the mines ranging from weather to just normal episodic events that any industry can have. Certainly we do have the same issues as relates to weather and occasional power requirements and/or crews, on the destination end, breakdowns again. So this whole supply change is very complex and all interdependent.

And so any failure, on anyone's part, any party's part, ends up in missed loadings, because we only have a fixed number of train sets moving and any delay in a train set, ultimately, it is going to end up with a potential loss, loading.

So to the extent that all of the parties can work together in a very cooperative effort has been stated.

We have increased loadings. We are going to set records this year off the Joint Line, and we have a very comprehensive plan to expand our rail network so that projections over the next five or

six years, we are going to be adding something like 160 million tons off the Joint Line, and of course there is more production coming off, to be on the safe side, because of additional mines that they serve, but the Joint Line itself is projected to grow significantly in the next 12 years.

And so that is only going to happen through a cooperative effort on all parties' part, and in recent years we have developed various processes for better coordination between the two carriers, between the mines, and certainly everyone's worked on the destination end of it to ensure that the train sets move in a orderly fashion.

The process that has been developed is an annual look, well, a five-year look, in many cases an annual look, a monthly look, and each month, between the two carriers and the mines and the utilities, we have a plan as to how many trains everyone expects to move.

And so perhaps additional coordination amongst the groups would be better. We certainly are working on that every day, to improve those coordinations, and we may have some joint efforts coming up shortly, between the two carriers and the producers, to have a more efficient rail system.

Ms. CUBIN. I am really glad that there are more trains moving PRB coal. But I don't want that to happen at the expense of all other businesses, for example, Mr. Neiman's business, and his testimony was pretty alarming, plus I have had the opportunity to speak with him in the past about service failure, and when you have captive shippers dealing with a small business like the Nieman's, although I will tell you, the Nieman's business supports that whole area of Wyoming, around Hulett, Newcastle. So to Wyoming, it is incredibly important that he have some sort of, not only a dependable rail service, but at a level that his company can continue to operate like it is.

I am going to ask him to go into this a little bit more. But I just hope that your companies—you know—trying to balance with the coal and the necessity for energy and electricity. But this is also really important, and I am going to want to talk to you in a second.

This is for both of you again. Are you both confident that the expansions for the Joint Line are going to be adequate?

Mr. THOMPSON. I guess I'll start out. I think the answer of that is yes, and if you go back into the 1990's, and both the BNSF and UP, jointly, together, along with the mines, used CANAC to go in and do an assessment of the track expansion necessary to meet the demands, and we completed that just about a year ago, and CANAC has already gone back and studied again. Actually, they look at what the demand side is going to look like coming out of the mines for the next 10 years, and based on that they put an expansion plan together, and even though the final results haven't come out of that, we are already starting, making plans that we talked about earlier.

With additional capital, we are going to be putting into the railroad next year with the more triple track and the quadruple track, because they have given us indications that is where we have to be at in the future.

And it has actually been very successful. I think it goes back to the railroads and the mine and the utilities working together to make sure that we do have adequate capacity in there.

So I am very confident that it is going to happen and that we are going to have adequate capacity in the coming years.

Ms. CUBIN. Mr. Vasy, in your testimony you said that the Joint Line will be able to handle 400 million tons of coal. Then Mr. Thompson stated that the coal production in the PRB is expected to exceed 450 million tons.

So are we going to always be playing catch-up? Is that the goal of the railroad, you know, to hedge their bets? I mean, I'm not saying that is not a smart thing to do or a good thing to do. I just wonder if that is what we are setting up.

Mr. VASY. I think the CANAC study, that we just got the results from the CANAC study last week, and basically we have had preliminary results all along, and the CANAC study clearly outlines that the Joint Line is going to be somewhere in the 490 million tons per year range. So that is what is coming off the Joint Line.

And in addition to the study which is that it has everything that they deem necessary to handle this traffic—train speeds, sidings, triple track, four main lines, whatever. All the necessary infrastructure required to handle the tons safely, they have outlined for us. So it is really a matter of us believing in the study, understanding the study and doing it, and we have invested a lot of money for the study, and I am sure we are believers in the study, and you will see—our plan is to be there because the demand, as they have identified, in interviewing the customers, the producers, that if the producers are aiming for this volume of production, then we need to be there.

So we are working closely with the mines, and CANAC did begin with the mines. So we should all be in harmony.

Ms. CUBIN. Good. Mr. Thompson, you said you added extra train sets to bridge the stockpile, or to bring the stockpiles back up to normal in this Laramie River situation. Who paid for those train sets?

Mr. THOMPSON. I am sure that the utility had to pay for the train sets. You know, it is all based on a tonnage rate and I don't know what the rate is, how much tonnage is hauled in there. I know that there were several reasons we had to add the set.

Part of it was the cycle time. That was getting the trains unloaded. We have done a few things to improve that. At the plant itself, we reduced about three hours of cycle time out of the system, so that trains are getting in and out of the plant a lot quicker.

However, there was also at the time for this fourth set coming on, as we had a lot of mechanical problems with several of the sets that were in that service, that a lot of work had to be done to those.

The trains were experiencing a lot of separations where the trains were actually, what we call a break in two, where the train was actually separated, and this was not occurring with other sets but it was in these particular sets.

So we had to take them out of service for several days to make all the necessary repairs to the equipment also.

But I don't know the details of how that works. I know they own the equipment and it is not unlike any other utility, that most of the utilities do own their sets. BNSF does have a certain number of sets, but also the utilities have a certain number of sets as well.

Ms. CUBIN. And so that is just kind of common practice?

Mr. THOMPSON. I wouldn't say it is necessarily common practice. It depends on the contract, depends on the agreement between the shipper and the railroad on how they are going to do it, and how they structure it.

Some places, we provide the equipment. Some places, they supply the equipment. So I can't tell you the details of their contract cause I have not seen it. I don't know.

Ms. CUBIN. I was thinking of Mr. Neiman's situation there, again, where a small business doesn't have, or might not have the assets to invest in that fashion, and so it would be very difficult, and once again, hope that the railroad would work with small companies in that regard.

Mr. LaMaack.

Mr. VASY. Excuse me, Congresswoman.

Ms. CUBIN. Sure.

Mr. VASY. If I could just make one comment, and going back to the situation that existed last year as it relate to the coal dust situation or the coal issue.

We certainly were affected by the coal dust or the track fouling, and we were not in contract negotiations with the Laramie River Station at the time. All of our customers were affected by it. And when you take a look at normal railroad operations, during the construction season, we have normal maintenance programs that we have out there.

What happened last year in the Powder River Basin was a program that was not, in our estimation, a normal maintenance period. This was an emergency situation. The track was not being—it was not a maintenance program; it was a repair program.

So if you make the distinction between maintenance, which would normally occur, and is occurring this year, and yet we are delivering normal volumes or higher volumes than we have in the past, this year, as we have in previous years, last year was a very unusual year, "the perfect storm" that was referred to is the fact that the water, the moisture and the coal on the track all came to a head, and it is years of collecting there. So that was the perfect storm. So we had to do two things last year.

Ms. CUBIN. So you don't think it was a "stupid perfect storm?"

Mr. VASY. Well, it was an unfortunate perfect storm, for sure. And so it affected all of our customers very significantly, and we may or may not have been in contract negotiations but none of our customers got what they wanted to.

So, again, not knowing exactly what was going on in terms of contract negotiations, because it is not our customer, our customers were affected by the same situation. And just for the record.

Ms. CUBIN. Thank you. Thank you.

Mr. VASY. Thanks.

Ms. CUBIN. See, I said I accepted that answer. So now it makes it easier. OK.

Larry, I really am as troubled as you are that WMPA is forced to continue to increase rates to its Pick-Sloan customers, but I don't know what we are going to do about the drought.

Can you describe what interaction you and other power customers have with WMPA and the Bureau of Rec, to ensure that these agencies are doing all that they can to mitigate the rate increases? Do you think that they are doing all they can and the rate increases are just unavoidable?

Mr. LAMAACK. That is an intricate question, I guess, but the customers, from the various river basins, for instance, the Colorado River Storage Project, have an organization called CREDA or the Colorado River Energy Distributors Association, where we represent about 90 percent of all the power that is bought from the Federal Government off of the Colorado River system, and we meet periodically. We have an ongoing discourse with Western and the Bureau over the facilities.

We look at their budgets, and we share operational insights on things, and you are right—no one can do anything about the drought and it has had a very significant impact.

But along, and on top of that are some fairly serious environmental constraints that have, frankly, hit us probably as hard as the drought situation.

Glen Canyon is an absolutely perfect example of that. When I first started in the power business here in Wyoming, 28 years ago, we had what we called an X over Y product from the Federal Government. It followed our load, and due to environmental constraints, they sawed 400 megawatts right off the top of Glen Canyon, that we can no longer schedule because the ramp rates have been reduced to the point where we simply cannot go from a level of minimum generation, off peak, and with the restricted ramp rates get up to full power plant capacity.

We have a little over 1200 megawatts capacity at Glen Canyon. We can only use about 800 of it. So drought, that kind of impact, and I also sit on a management committee for the power plant here Wheatland, and I have had to bite my tongue a couple of times on the coal discussion.

Ms. CUBIN. Well, speak up.

Mr. LAMAACK. But that is not a theory, that is not a theoretical issue to us. I mean, I have sat at my desk, I don't know how many days, and watched messages flash across it, that that unit has been restricted because of coal quality.

I mean, at one point in time we were down to 118 tons in the stockpile. There was a lot of trash that was coming out—that is not a lot of coal to work with, and Jim I think can testify to that. So we were de facto restricted, for quite some time this spring because of coal quality, because we had so little in the yard.

The kind of curtailment that Jim is talking about is one that is a little more formal, but simply because of the extraordinarily low volumes that we had in the stockpile, there were times when those units were restricted for hours and days at a time because we couldn't get sufficient—there weren't enough pulverizers in the plant to deal with the quality of coal that we had to bring through.

So from a utility standpoint, there has been something of a perfect storm. We have drought, our railroad costs doubled overnight,

our coal costs have doubled in the last four or five years. I mean, there are any number of issues that are really beginning to focus and put serious upward pressure on our rates.

Ms. CUBIN. Could you expand for me—you mentioned in your testimony the Platte River Recovery Implementation Program, and as you probably know, that Senator Thomas and I have worked closely on that over the last year and a half to ensure that current water contracts in the Glendo Reservoir were extended for two years while the implementation program was finalized.

Would you expand for me on the brief concerns that you expressed with the final EIS that was released this spring?

Mr. LAMAACK. Yes; thank you. when you look back at, in the EIS, it identifies about 14 megawatts of capacity that will be lost primarily off the North Platte system. There is an analysis that is a cost, that is part of the EIS, where it attempts to affix how many dollars of impact that represents to the power community.

But, frankly, in today's dollars, the loss of 14—the study says about \$305,000 on an annual basis, impact to the power customers, and I guess we simply don't believe that.

Ms. CUBIN. To how many customers?

Mr. LAMAACK. Well, it would be essentially all the customers of the Loveland area projects, the LAP projects. The Western division of Pick-Sloan is also integrated with the Mount Elbert storage project. That is all marketed under the Loveland Area Project group out of Loveland.

Fourteen megawatts is not a huge amount, but nevertheless, what happens is that 14 megawatts comes off of peak times when the power is most valuable. We actually get more energy because there is more water flowing through the system but because it is confined to the times of days or seasons where the loads are far less, in general, the power is of far less value to us. So it has a significant impact in that regard.

Ms. CUBIN. Do you feel—and if you don't know that's OK—but do you feel that that issue was weighed appropriately in the final EIS?

Mr. LAMAACK. I think a little more attention probably could have and should have been given to it. I believe the Western Area Power Administration was the entity that was trying to essentially work with the Bureau and others in coming up with sort of the final plan, and they were also the ones who were trying to reflect back what the potential impact of our customers were, but I am led to believe that wasn't always a happy relationship, between the Bureau and the Western Area Power Administration in terms of the data flow or assigning of impact and the findings.

So I think there may have been some—I just don't think, in the end, that the number that we see, the \$305,000 is, frankly, realistic, in terms of what the actual impact was going to be.

Ms. CUBIN. Thank you.

Mr. Neiman, I am glad you could join us today and for of you who don't know Jim, he lives in that beautiful area around Devil's Tower, and that is—you know, a lot of people think Jackson Hole is the most beautiful place in the world, and I am going to tell you that Northeast Wyoming challenges Northwest Wyoming. It is really beautiful. I love it up there.

As an end user of the electricity produced at the Laramie River Station, as well as a shipping customer for the railroads, you are really in a unique position to comment for us today.

So I would like you to just make comments that you think are appropriate, and knowing you, you might make some that aren't. But that's OK.

Mr. NEIMAN. I will try to control myself.

Ms. CUBIN. Well, that is OK, because you are in a unique situation but it is a situation that I think requires attention and that I am prepared to go the last mile to help you with.

So would you just talk a little bit about the situation that you have found yourself in, trying to ship your products out?

Mr. NEIMAN. Well, first, referring to the utility rates, fortunately, we haven't been faced with any significant increases in electrical rate but we are getting big warning signs, that if there continues to be shortages down here, we can anticipate huge, significant increases, some in excess of 10 percent, and maybe more.

On the rail side, I hope this is a permanent fix. I had an opportunity to travel back to D.C. when we met with the National Rural Electric Association, and testify and meet with the people back there, and I hope this is a coincidence. But the two weeks prior to that, we didn't have any shortage of cars and we haven't had a shortage the last two weeks.

I am hoping this is a resolution and it is an ongoing resolution to the problem.

My understanding is that we are getting close to the Longview Fiber, which is a company that is buying the chips from us and transporting those is apparently getting close to negotiations, and to talk about the stockpiling and what I was referring to in my documents, in my speech, you have to have one humongous concrete slab, pile, concrete pile or place or bins to store in the neighborhood of 15, 20 truckloads, every day, of chips, and keep them pure.

Paper has to be kept in a very pure environment. Even dust off the ground can contaminate it, plastic, whatever. So it is really important that we have a consistency and a communication between the railroad and our company.

We produce very consistently, five days a week, but if those cars show up late at night instead of that morning when the trucks are there, or the following day, or they disappear and head into another state, it is really critical.

We have tried to communicate with a person that is taking care of that. Their records show that we have nothing of the shortage we do. We have tried to communicate that with them, to get an understanding, get on the same page. We have not got there.

It is frustrating. It is extremely frustrating, how their accountability of being right and wrong doesn't match ours. But I would like to invite them to Hill City and show them the stockpile. I wouldn't dump them on the ground, to prove a point to them.

So I hope we can find a solution because I don't have any short-term answers or solutions to it; just frustration. I would hope it's irony, and just a point of coincidence between the negotiations, but you hate to accuse any company of using those kind of unethical business practices.

But it is obvious that it popped in my mind or I wouldn't have put it in my testimony. I hope that is not true. All of us need good rail freight. We clearly can't depend on trucks to transport clear across the country, so the rail system is a very important part of our transportation system.

But I can tell you, they have efficiencies. I would hope they wouldn't ship empty cars right on past Newcastle to other spots and consistently do it week after week after week, and then ask for a raise when they obviously have avoidable efficiencies that they can gain within their own management.

I, as a company, I deal with an international market. It's a free enterprise system. We have imports from Canada, Russia, Germany, all over the country. I cannot determine what the price of lumber is. I am only impacted by the—you buy the wood from the Forest Service, is on a variable rate of prices based on the market, the free enterprise determines what the lumber price is.

My efficiencies that I can gain can only be gained by me operating a more efficient operation. So when issues like increases in utility rates or increases in rail freight goes up, I have to find other ways to be more efficient.

When you are fortunately sitting by the best energy, by the energy capital in the world, by Campbell County, you have some advantages for fairly reasonable power when I look around the country. But it also has other issues, like some of the highest labor rates in the world.

So it is important that we work, as small as we are, and I know 170, 180 cars a month isn't a huge amount. We'd like 120. That's what? Less than one train load of coal. that isn't very much but it is a huge impact on our little town of Hulett, and as I pointed out, on the health and viability of the whole Black Hills area. Thank you.

Ms. CUBIN. You mentioned in your testimony something, that I didn't catch it all, but something about you were asked to buy some equipment or something?

Mr. NEIMAN. The railroad cars—my understanding is, and I can't speak for the Union Pacific—Big Horn lumber and a few other mills could probably, that use the Union Pacific.

But my understanding, both companies have made an executive decision to no longer own the gondolas, or the rail cars—that is the term, the type of car that they use to transport our chips to any of the consumers.

So that is an additional cost that has to be taken care of by us or by the paper mill. That is something new in the last year.

Ms. CUBIN. How much does one of those cost?

Mr. NEIMAN. We are about eight months into negotiation. With all the troubles last spring, it has been going on and on for about eight months worth of negotiations. I can show you reports last fall, when they said, well, the cost possibly could be from 450 to \$850 per car, per month. I can't tell you. it hasn't been concluded on what the final number is but it is an additional cost, and I can't speak for UP, but all of our communication on that lease is through the paper company.

Ms. CUBIN. Thank you. Mr. Chairman, I have no further questions.

Mr. RADANOVICH. All right. Thank you, Barbara.

Mr. Thompson, you mentioned that you were going to have to work with BLM on future rail lines because you would be crossing BLM land, I think you mentioned, maybe on the fourth track or—

Mr. THOMPSON. On the fourth track over Logan Hill.

Mr. RADANOVICH. Yes. Recently, we had a hearing back in Washington and the Department of Energy was informing us that they are working on a designation of energy corridors, to expedite permitting for these corridors, and since coal would be shipped via your new rail lines, which is an energy ore, that I am wondering if your request for rights of way should be part of the Department of Energy's energy corridors.

Are you familiar with that, that is going on with the Department of Energy right now, or—

Mr. THOMPSON. No. I am not familiar with what is going on with the DOE but I can definitely take that information back and get it to the right people that is looking at the permitting, and tell them that is an avenue we need to take a look at.

Mr. RADANOVICH. I think it is, and we would be happy to give you, at the committee hearing, information that you might want to have, to be pit in touch with those folks, because it sounds like your need is exactly what they are trying to accommodate in this energy corridor situation.

So just a question for all witnesses. I wanted to talk to you briefly about the need for energy security and independence, and as it was said in, I guess it was my opening testimony, that a Georgia coal plant was forced to buy coal from Indonesia because of difficulty in getting coal supplies nationally.

Can you tell me, do you believe that reliable coal delivery should be a key part of energy security?

Do you have any comments on that or is it—if we are adopting an energy security plan for the United States, should coal be a part of it?

Mr. FINNERTY. Mr. Chairman, I think you are exactly right. I think it is very key. I recently sat in on a presentation by Black and Veatch, their estimates—and these are based on pretty good estimates—they are saying that in the next 12 years, from Texas to the Canadian border, there are possibly—on the drawing boards right now, not possibly. On the drawing boards right now are 85 power plants.

And we asked how many of them do you think there will actually be, come to fruition. They are figuring on about half of them.

So if that is true, that in the next 10 years there are 45 new power plants, and we will just say they are 400 megawatts, a third of the size of the one out here, and most of those reported entities are figuring on Powder River Basin coal.

So it is a huge—I mean, that information not only needs to be improved right now, but it is going to take a lot more improving over the next few years or we are all going to be in trouble.

Mr. RADANOVICH. Any other comments on that?

Mr. DINGMAN. Electricity needs to be provided 24 hours a day. Now if we get to a condition where we have “just in time” fuel deliveries to make electricity, we are going to have conditions where

we might not be able to meet the demand for that electricity. And so it is just so important, and I think it can cross over into a national security issue because of the need for electricity for us to even function as a society.

And so we absolutely cannot get into a condition where we have "just in time" fuel deliveries to produce electricity, and it is an important aspect of our energy policy.

Mr. RADANOVICH. OK. A couple more follow-up questions that I have to Mr. Thompson and Mr. Vasy.

What assurances can you give the utilities here today about future coal deliveries to the plant? Will there be any more disruptions or price increases? Can you—

Mr. THOMPSON. I can talk a little about the service, and I apologize, I don't do anything on the rate side of it, so I can't talk a lot about the price. I can't talk about the price piece of it.

But as far as the service, I think there are several things we are doing. One is I think that we talked about what we are doing with the coal dust to improve the reliability of the railroad out there. We are putting crusting agents on it, we are grooming the loads. I think that is going to help us in the long term as far as preventing any future problems like we had before.

But I also think this capacity that we talked about, that is being added, that is also going to minimize any interruption that we may experience also.

So I believe we are doing everything possible. We will continue to invest as we get the appropriate rates of return, and as long as we are getting those and the demand is going to be out there, then we will continue to invest and we will try to invest as quickly as we can.

Mr. RADANOVICH. Mr. Vasy.

Mr. VASY. I agree with the statement. In terms of rate increases, certainly the cost of diesel fuel has gone up significantly for us, and so a number of increases that the utilities are seeing, customers are seeing, are clearly fuel-related.

And if you take a look at the rates for the coal, transportation rates for the last 20 years, as I indicated, they have been decreasing and that has been the result of a number of things.

Certainly the size of the trains that are loaded in the Powder River Basin today versus 20 years ago when we had 110 cars, 112 cars coming out of the basin. Now the trains now are 135 cars and I think both carriers are looking at going to 150 cars.

So there were some efficiencies that were gained through the last 20 years, and we continue to look at any opportunity to improve our efficiencies which ultimately results in lower cost. To the extent that we can do that, we will continue to do that. The rate should either stay or go down.

Ms. CUBIN. Would the Chairman yield?

Mr. RADANOVICH. Certainly.

Ms. CUBIN. Thank you. You—now it just slipped my mind. But I have another thought. You were talking about the cost of fuel, diesel fuel going up. I am reading an article that Fischer-Tropsch process uses coal to make diesel fuel and the equivalency to a barrel of oil is about \$35 a barrel.

Have you looked at that at all?

Mr. RADANOVICH. Go to get on that technology.

Ms. CUBIN. And this is World War II technology. The Germans used it in World War II. Maybe World War I also.

Mr. VASY. I know that both companies are looking at it, and I happen to be on an internal committee looking at that, and as you know, one of the projects is down here at the Arch mineral properties at Medicine Bow. And so we have worked very closely with Arch on that, and all interested parties, in developing that coal into liquids.

And certainly our consumption of diesel fuel in this area, and also with the BNSF, a plant located near these coal fields, and I know that BNSF also has a project up in the Montana area. So we are looking at that process very seriously.

We have been asked to partner in developing a plant that would produce, say, 400 barrels—I have it written here, the size of the plant. It is a pretty significant plant. I think it would produce about 25 percent of our diesel fuel needs if it were constructed. So that is a pretty significant thing, and I think from an energy standpoint, and being independent from the rest of the world, this would play a significant role in the future of the United States and our whole dependency on fuel of some sort—diesel fuel here in this case—and with the reserves that we have, I just hope that this will come to be.

If you take a look at South Africa with Sasol, and all the things that they have done there. They have been doing this for years. They are running locomotives on diesel fuel. There are some issues as to whether the diesel fuel that is produced from the coal to liquids process is the same and can be utilized in our locomotives, but I am sure whatever needs to be done, in the end, GE and all the other folks that look at locomotives, can come up with some sort of arrangement, so that we could burn it, that if somebody else is doing it we should be able to do it.

So, yes, we have looked at it very closely, and are continuing to look at it.

Ms. CUBIN. And if you had a plant by one of the coal areas here in Wyoming, you wouldn't have to be your own customer.

Mr. VASY. Right, and that's a part of it.

Ms. CUBIN. I am sorry, I just couldn't help it.

Mr. VASY. The Medicine Bow mine is the target, so—

Mr. RADANOVICH. To Mr. Vasy and Mr. Thompson, your testimony has talked about how you are reinvesting profits into capital expenditures. Can you give us an idea of the rough percentage of the profits that you reinvest into capital projects like the Joint Line and what are your long-term projects for capital investment?

Mr. THOMPSON. As far as the percentage of the profits we reinvest, and our rate on invested capital is slightly over 10 percent for last year, and so we are slightly above 10 percent.

As we talked about earlier, we just started, I think last year was the first year as a company, where we actually earned our cost of capital, and as mentioned earlier, the railroad is available very capital-intensive organization, it takes a lot to maintain a railroad, you have to invest a lot of money back into it, and actually when you look at it compared to other industries, we are almost

18 percent of the revenue we generate, goes back into the infrastructure of the railroad.

So, it is very capital-intensive to maintain it and to purchase these new locomotives and getting lead time to do all that stuff is very costly.

So as far as the exact percentage, I just can tell you our internal invested capital, I don't have the exact numbers.

Mr. RADANOVICH. OK.

Mr. VASY. For the Union Pacific, we did not make our cost of capital last year, nor have we made it for a number of years. Last year, our rate of return was 6.3 percent and our capital plan for next year is—I think we have announced, or at least we are targeting 15 percent in terms of additional capital. So that our goal is like, I think, 3 point some billion dollars next year for capital expenditure. So that is an increase of—

Mr. RADANOVICH. Thank you. Mr. Finnerty and Mr. LaMaack, what are the resource options for meeting future electricity demands? Will the need for coal grow or will there be other resources there for you to use? Either one or you. Or both of you.

Mr. VASY. As far as the agency's plans go, we are pretty firmly focused on coal to meet our needs in the future. You know, there may be some need for some intermediate to peaking range plants, that they don't function well on coal, so they would probably be natural gas derived. But the balance of our expectations for future resources would be coal-driven.

Mr. RADANOVICH. Very good.

Ms. CUBIN. Are you looking at nuclear at all?

Mr. VASY. If we could find somebody to partner with, the answer would be a qualified probably.

Ms. CUBIN. That is qualified.

Mr. VASY. Well, given the track record of, and the institutional problems that there are, an agency of our size is so small, that we can't take on a great deal of risk in that regard, so it kind a fences us out from early participation in that.

Mr. FINNERTY. In the past year, Tri-State has made a commitment to build \$ billion worth of power plants located from Holcomb, Kansas, over to the Denver area. One in Kansas, two in Kansas, possibly one in Colorado. These will all be served by Powder, or generated with Powder River Basin coal.

So our commitment is long-term based load with coal looks to be a way better option for our consumers than gas, the fluctuating gas price and stuff. So along the lines of generating the diesel fuel out of the coal, I don't know exactly which process the UP's involved with, but we have a distribution co-op on the western slope of Colorado, and they are currently telling us that they need 400 megawatts of power in the next year and a half because that process, they shoot the electricity down into that coal shale, turn that coal shale into a liquid form and bring it back up out of there.

So along with solving one problem you generate another problem, because I don't know where we are going to come up with 400 megawatt of power for those guys in the next year. So one problem is solved and creates another one.

Mr. RADANOVICH. Creates another one. Yes. Interesting. Well, that is all the questions I have.

Barbara, did you have any more questions, or—

Ms. CUBIN. I don't have any further questions but I really would like to thank the panel. I think you all did really an excellent job and I know it was troublesome for you to come, and for other people from the companies to come.

My staff and Senator Thomas and Senator Enzi's staff. I really appreciate you all being here, appreciate your testimony, and would ask permission from the Chairman, if I think of some questions that I didn't ask, if we could submit those to you in writing, I would appreciate that. But thanks for being here, and if you are still around this afternoon, I am having a barbecue.

Mr. RADANOVICH. Thank you, Barbara, and I want to conclude by thanking the witnesses for being here today. It sounds like more rain would solve a lot of problems, but another railroad line or two would add to it and solve it altogether.

I hope the hearing here today has been helpful in bringing the issues together, and into a plan, and some kind of implementation.

Ms. CUBIN. Thank you, George.

Mr. RADANOVICH. But Barbara, I want to thank you for your leadership on this issue, and we are going to hold the hearing record open for 10 days, so if anybody wants to submit written responses, we are very happy to do that.

Or you can also submit your comments for the record into the box that is right on the table there by the door, that the Cubin staff has been able to make available for us.

And again, Barbara, thank you for—

Ms. CUBIN. Thank you, George, very much.

Mr. RADANOVICH.—allowing me to come into Wyoming, and it is good to see you.

Ms. CUBIN. Stay a while.

Mr. RADANOVICH. And that concludes this hearing. Again, thank you very much.

[Whereupon at 2:42 p.m., the hearing was adjourned.]

