

IS THIS REALLY PROTECTION??

By: Jim Rogers, RCD Board Vice-Chairman

The 2001 Montana Legislature passed the Coal Bed Methane Protection Act. This Act provides up to \$50,000.00 compensation for any private landowners and water rights holders for damage to land and to water quality and availability. The \$50,000.00 comes from the Coal Bed Methane Protection account, which is funded by taking \$400,000 every year from natural gas production taxes and depositing it in the CBM protection account. Money from the account must be appropriated to the DNRC for use by Conservation Districts that have private land owners or water rights holders who qualify for compensation.

Beginning on June 30, 2005, these funds will become available only in the case of an emergency, which is described in the act as a loss of water supply that must be replaced immediately to avoid substantial damage to a landowner or a water right holder. After 2011, earnings in the account may be expended for incurred damages that a CBM operator is not in place to satisfy. In Wyoming, a recent reclamation of a CBM well location consisting of five reservoirs cost \$450,000.00 just to reclaim the CBM impoundments, not including the roads and well pads.

The Conservation Districts that have CBM are responsible for establishing procedures for evaluating claims. A method for submitting applications and a process for determining the cost of damage to land, water, or groundwater must be included in the procedure. The eligibility requirements for receiving compensation and the criteria for ranking applications must also be in the procedures. To date, none of these things have been done as no funding has been made available to the Conservation Districts to write the rules pertaining to the CBM Protection Act.

Although the intent of this Act was to provide a guarantee of protection of the resources of the State of Montana and our Conservation District, it is severely under funded and limits the financial resources to adequately respond to reclamation efforts that will possibly be needed by an affected landowner or water right holder.

The mining industry in the State of Montana is required to post performance bonds for reclamation efforts to restore the land to its natural condition. However, the oil and gas industry uses a different system for bonding. One company may be bonded for exploration at \$25,000.00 for all seismic crews to plug holes used in this activity; a land owner has to pay \$5000.00 per well or \$10,000.00 for all his own wells. However MCA Title 82-11-123-5 requires that a reasonable bond be provided for plugging a well, MBOGC uses its discretion on the dollar amount. MCA Title 82-10-402 provides funding for reclamation of oil and gas wells through the oil and gas mitigation account. This account is funded with \$50,000.00 every two years until the balance reaches \$200,000.00. No more money will be added until the fund amount drops below \$200,000. Although this seems like a tremendous amount of money, this amount could be used up in the reclamation efforts of two CBM ponds. There is no way that this system protects

the land resource associated with CBM or the citizens of Montana from bearing the cost of another industry bail out.

The Rosebud Conservation District has an obligation to protect the resources of our district. Rosebud County could have 4000 wells and 200 ponds associated with CBM. Our goal is to promote the wise use of the county's natural resources through a balanced, cooperative program that protects, maintains, and improves those resources for permanent productive use. We will be working on this act with the state legislature to make it more applicable to the resource needs of CBM impact. A bill needs to be passed that would prevent the kind of harm to our natural resources that the above stated statutes are attempting to clean up. We need to be more proactive than reactive. Two questions that are on my mind are will the Montana taxpayer be left to clean up the CBM fields of eastern Montana or can we come up with a way to require reclamation bonding that is adequate to cover the impacts of CBM?