

# Down to Earth

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER

Clean & Healthful.  
It's your right, our mission.



**MEIC Issues Report: *Montana Coal Exports are Bad Business, Page 2***

**Get social  
with MEIC!**



## IN THIS ISSUE

- 2 Colstrip Air Pollution Victory
- 3 MEIC Sues Attorney General
- 4 Colstrip Ash Ponds Leaking
- 7 Keystone XL Pipeline Decision
- 8 Smith River Copper Mine
- 9 New Greenhouse Gas Rules
- 10 NorthWestern Energy Plan
- 12 Grantsdale Subdivision

# MEIC Victory: PPL Agrees to Install Continuous Monitors for Soot at its Coal Plants in Montana

by Anne Hedges


After a marathon settlement meeting in early February, Pennsylvania Power & Light (PPL) agreed to install Montana's first continuously operating pollution monitors to assure that the Colstrip and Corette coal-fired power plants are complying with their particulate emission limits. Even short-term exposure to particulate pollution, also known as soot, can contribute to asthma and other harmful respiratory illnesses.

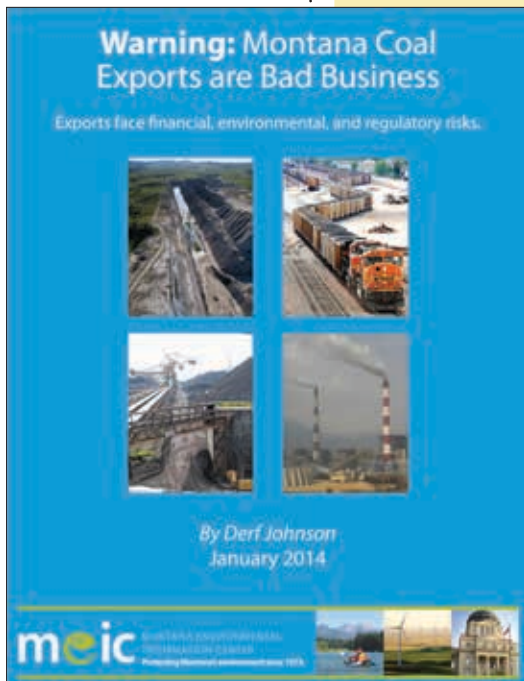
A year ago MEIC and Sierra Club, represented by Earthjustice, appealed air pollution permits issued by the Montana Department of Environmental Quality for the Colstrip and Corette plants. While PPL's dirty coal plants must constantly comply with pollution limits for soot, DEQ was only requiring a short three- to six-hour compliance test once a year at Colstrip and every 6 months at Corette.

Continuous emission monitors are being

used across the country to assure that highly polluting plants actually comply with pollution limits. Unfortunately, no facilities in Montana are required to use this technology for soot, despite the harmful nature of this pollutant. This settlement agreement brings Colstrip and Corette into the modern age of air pollution monitoring. Without sufficient monitoring, it is impossible to know if Colstrip and Corette are complying with their emissions limits – even when those limits are incredibly weak, as they are at both facilities.

PPL agreed to install these monitors on all four units at Colstrip in the next six months to a year. It also agreed to install them at the Corette plant in Billings if it operates after April 15, 2015, the date by which PPL says it will mothball the plant.

This requirement of continuous particulate pollution monitoring will help assure communities downwind that the law is being followed and their health is being protected from this harmful pollution. 



## MEIC Issues Coal Export Report

In January 2014 MEIC released the report **Montana Coal Exports are Bad Business**. It summarizes the major financial, environmental, and regulatory risks facing the coal industry's desire to massively expand coal exports to Asian countries. While the coal industry has touted the purported economic benefits of strip mining large sections of Montana land and exporting millions of tons of coal annually, it has failed to disclose the serious economic obstacles, environmental concerns, and regulatory hurdles such a scheme faces.

A detailed analysis of the idea reveals "the industry faces a laundry-list of obstacles that stretch from opposition to the proposed mines in Montana and the proposed coal ports on the Pacific Coast, to growing concerns in Asia about coal-caused pollution." The report also points out the economic opportunities for clean and renewable energy development in Montana.

The full report can be found at <http://meic.org/category/media-center/blog/>.



## MEIC Sues Attorney General Tim Fox

by Jim Jensen

**M**EIC has sued Montana attorney general Tim Fox for his failure to release public documents related to his opposition to new U.S. Bureau of Land Management regulations on hydraulic fracturing (fracking) for oil and natural gas on public lands.

MEIC supported these modest regulations in order to increase the likelihood that the negative impacts of fracking on the public domain would be minimized. Fox, though, without any public discussion, jointly wrote a letter with four other attorneys general to U.S. Department of Interior secretary Sally Jewell, attacking the BLM's proposal.


After seeing news reports about the letter, MEIC wrote to Fox, asking to see and copy all documents in his office relating to the issue. The purpose of the request was to find out on what basis he took his position.

After a month without a response from Fox, MEIC hired Helena attorney Kim Wilson to write Fox on its behalf. Fox's office then responded with heavily redacted (translation: blacked out) materials. Wilson responded with a letter clarifying for the attorney general what the Montana Constitution says, and what State law requires of him, regarding public documents.

Montana's Public Records Act (2-6-102, MCA) provides that "every citizen has a right to inspect and take a copy of any public writing of this state." The Montana Constitution (Article 2, Section 9) reads: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure." The attorney general is not exempt from this provision.

Fox's office responded that because some people involved in the correspondence might not want their names to be known, and because there might, at some indeterminate time in the future, be litigation on the subject of fracking, he would not give MEIC all the records.

Thus, the lawsuit, which was filed in State District Court in Helena this month.

As MEIC's executive director told the Great Falls Tribune: "There's nothing at all in this record that the public should not be able to see. There is no privacy interest with a state officer." He further said Fox's position "is bad faith and it is illegal. If anyone should understand Montana's laws and Constitution, it ought to be the attorney general." 



Montana attorney general Tim Fox. MT DOJ Photo.


## New Golden Sunlight Mine Pit Approved

by Jim Jensen

**T**he Golden Sunlight mine near Whitehall has received a permit to dig another open pit just north of the existing one. In the letter accompanying her decision to issue the permit, DEQ director Tracy Stone-Manning wrote she had decided not to require the new pit to be backfilled after mining ceases.

This new pit will be in rock that contains high amounts of sulfur. The environmental impact statement disclosed that "most of the waste rock could generate acid when exposed to air and water." It went on to say: "the North Area Pit would extend below the natural water table so dewatering would be necessary."

It is just this set of circumstances that has resulted in water pollution, and the need for perpetual water treatment, at all open-pit gold mines closed in Montana in the past 20 years. The Montana Supreme Court ruled years ago that the right to a clean and healthful environment is both "preventative and anticipatory." Thus, it is MEIC's position that any law passed by the legislature that allows or encourages pollution, or action by the State that fails to prevent pollution, violates the Constitution.

With the Berkeley Pit just over the mountains from Golden Sunlight, it seems obvious that the Constitution's drafters knew what they were doing. At this writing MEIC is considering its alternatives to stop DEQ from continuing to give mines permission to foul Montana's waters with impunity. 

Cover Photo: Coal Train in Missoula Railyard. By Chad Harder/Missoula Independent.

# Clean Coal? Colstrip's Leaking Waste Ponds Confirm the Shattering of that Myth

by Anne Hedges

The myth of "clean coal" was once again dispelled in early February 2014 when a coal ash "pond" owned by Duke Energy spilled



The image above shows the spread of chloride (indicated in green) that exists beneath the Colstrip ash ponds adjacent to the town of Colstrip (left edge of image).

The existence of chloride indicates that other contaminants are present in this area as well. NRIS Image.

tens of thousands of tons of toxic coal ash into the Dan River in North Carolina. An Associated Press reporter who canoed that stretch of river after the spill wrote that he saw "gray sludge several inches deep coating the riverbank for more than two miles." Like other coal-fired power plant owners across the country, Duke had insisted that its coal ash impoundments posed no threat to the environment.

Owners such as Duke, and those at the Colstrip plant in Montana, insist that state environmental agencies are capable of regulating coal ash waste (the second largest waste stream in the United States), and that there is no need for federal government involvement. As a result, coal ash waste impoundments such as those

at Colstrip are completely unregulated by the federal government, even though, in the case of Colstrip, they have been leaking since they were first installed in the 1980s. Meanwhile, the State of Montana has failed miserably when it comes to forcing Colstrip's owners to clean up their mess.

After years of frustration, in 2012 MEIC and other organizations and tribes across the country, represented by Earthjustice, sued the U.S. Environmental Protection Agency (EPA) for its failure to adopt federal regulations for coal ash. In Fall 2013, a federal court agreed that EPA was failing in its duty. In January 2014 the plaintiffs signed a binding agreement with EPA that requires the agency to issue final coal waste regulations by the end of the year.

Unfortunately, EPA's regulations will be too late to help many people living near these impoundments, where extensive damage has already been done to property and public health. That is certainly true at Colstrip, where the plant's massive 800 acres of leaking impoundments have contaminated surface waters in the vicinity and groundwater beneath the town of Colstrip. The groundwater at Colstrip is so polluted that the operator of the Colstrip plant, Pennsylvania Power & Light (PPL), provides clean water to the town using its water rights on the Yellowstone River.

The contaminated groundwater plumes from the Colstrip coal ash waste impoundments continue to spread. Each year PPL converts more and more groundwater monitoring wells into wells that pump polluted groundwater back into the massive leaking impoundments. After these wells are converted to pump-back wells, more monitoring wells are drilled further away from the ponds.

The Montana Department of Environmental Quality (DEQ) has a long legacy of failing to force PPL to adequately analyze the problem, and of failing to require PPL to institute clean-up measures. DEQ has known that these impoundments are leaking since at least the 1990s. It finally signed a nearly toothless consent agreement with PPL in 2012. About all

the agreement says is that some day, somehow, Colstrip's owners will have to clean up their mess. The agreement has no timeframes, no cleanup criteria, and no clear duty on the part of PPL or DEQ to get the job done. DEQ's annual and 5-year cleanup plans issued in 2013 are already behind schedule, and public comments and expert reports to that effect go unacknowledged.

While DEQ continues to operate in its vacuum of innocence and inaction, and fails to respond to PPL's submittals, or to public comments or expert analysis, PPL continues to submit periodic reports claiming that the situation is improving. But the close inspection of PPL's reports conducted by MEIC and its experts disclosed that PPL's conclusions are fundamentally flawed:

- PPL relies on a 2011 report for its proposed background levels for water quality. That report, however, "cherry picked" the highest level of each pollutant found in a well and concluded that high level represented the background water quality for all area wells, despite having specific data to the contrary. In some instances PPL's proposed background number is an order of magnitude higher than the data from some wells. DEQ has had PPL's baseline proposal since 2011, and has yet to issue any response or objection to that report.

- PPL claims that water quality is improving in many areas based on just one pollution parameter, despite that fact that many or all other parameters show increasing contamination levels.

- PPL only relies on data it collects from pump-back wells to determine water quality, instead of relying on data from its more extensive network of monitoring wells. Pumping a well can cause a change in the physical and chemical characteristics of the pumped water. But PPL has never explained why this flawed data is relied upon instead of the monitoring data.

- PPL has never identified the leading edge of the groundwater contamination plumes leaving the various impoundments, to determine where the contamination is flowing.

- PPL has never done the most basic "mass balance" of the impoundments to determine how much coal waste is flowing into the groundwater, even though there is evidence that PPL is

pumping over 800,000 gallons of groundwater per day back into the impoundments.

These are just a few examples of the many flaws with DEQ and PPL's cleanup actions at Colstrip. Among the most serious problems is that DEQ only holds a measly \$7.5 million bond to cover the ongoing pumping and monitoring at the site. A bond covering the actual remediation and reclamation is not expected to be asked for or obtained for years.

The State of Montana has an extensive history of inadequate bonding for the cleanup of contaminated sites. That alone should be a "red flag" to DEQ, particularly given recent disclosures that PPL is expected to lose millions of dollars at Colstrip in the next 20 years (see article on page 6). The similarities between the Colstrip coal ash ponds and environmental disasters such as the Zortman/Landusky mine, Asarco's East Helena lead smelter, the Berkeley pit in Butte, and asbestos contamination in Libby, should underscore the need for urgent action. EPA has already rated many of Colstrip's

2008  
Tennessee  
Coal Ash Spill.  
NRDC Photo.



impoundments as "high" or "significant" hazards. And the recent failures at coal ash impoundments in other states should only add to the urgency of doing something about Colstrip's leaking waste impoundments.

So next time you hear someone talk about "clean coal," describe the situation at Colstrip and remind them that there is no such thing. ☺



## The Mounting Costs of Colstrip

by Anne Hedges

Recent events leave one wondering about the future of the Colstrip coal-fired power plant. NorthWestern Energy (NWE) recently submitted two different documents to the Montana Public Service Commission (PSC) that confirm the financial picture at Colstrip is bleak. In addition, in early February, Washington State regulators issued a historic warning to Puget Sound Energy (PSE) – the largest owner of Colstrip

high potential remediation costs (see article on page 4) among other reasons. The PSC asked NWE to provide more detail on the value of PPL's electricity generating plants.

In early February 2014, NWE submitted financial spreadsheets on PPL's electric generating plants in Montana. These spreadsheets highlight the likely reasons why PPL wants to discard its Montana coal plants. NWE found that the net present value of PPL's share of Colstrip units 1&2 is a negative \$127.5 million. It predicts PPL will lose \$9 million this year on those units. In total, NWE predicts that PPL will lose \$44 million over the next 20 years at Colstrip and Corette.

A similar conclusion was just reached by Washington State utility regulators. They concluded in late January that it might not be prudent for PSE to invest more in Colstrip. They recommended that instead of spending more money at Colstrip, PSE consider as an "alternative, a closure or partial-closure plan." The utility regulators questioned many of PSE's assumptions and concluded that a small change in one or two



Colstrip Power Plant. Photo by Anne Hedges.

– that further investments at Colstrip might not be worthwhile. Pennsylvania Power & Light (PPL) and Puget Sound Energy own all of Colstrip units 1&2 and a large portion of units 3&4.

Last year PPL tried to sell its Montana electricity generating plants – the Corette coal plant in Billings, its share of the Colstrip coal plant, and its 11 hydro-electric dams. According to NWE, it told PPL it was willing to buy the dams and coal plants, but only if PPL slashed the price by \$340 million. Without the two coal plants NWE was willing to pay \$740 million for the dams. If PPL wanted to get rid of its coal plants too, NWE was only willing to pay \$400 million.

NWE requested the PSC to approve its proposed purchase of PPL's hydro-electric system in December 2013. NWE told the PSC it did not want to buy Colstrip or Corette because of the

of PSE's questionable assumptions could make the difference between whether the plant was economic or uneconomic for ratepayers.

The news for Colstrip's owners is not good. The liabilities are mounting. The massive coal waste impoundments continue to pollute ground and surface waters. The need for investments in long-delayed air pollution control equipment is increasingly likely. Across the country coal is less and less competitive with renewable energy and natural gas, as reflected by the fact that over 150 coal plants are being shuttered. Utility regulators in Washington and Oregon, who oversee many of Colstrip's owners, are increasingly aware that unlimited carbon pollution from power plants is not only unwise but not likely to continue. The writing on the wall is becoming clearer and clearer: coal is a bad investment. ☺

# Keystone XL Pipeline: The Final Decision?

by Derf Johnson

In approximately three months, President Barack Obama will decide whether to approve the controversial, climate-threatening, Keystone XL pipeline. Keystone XL is a pipeline proposed by a Canadian corporation, TransCanada, that would run from the northern Alberta tar sands to oil refineries on the Gulf Coast. President Obama's decision will be a major defining moment in his presidency, and a litmus test of whether he intends to make good on his promise to address the climate crisis. The president's choice is clear: will he reject the pipeline, and show the world that it is past time to transition away from carbon-based fuels? Or will he approve the pipeline, and commit the world to continue down the glide path of irreversible climate change?


The president's decision should be of concern to Montanans in particular, as a major portion of the pipeline will go diagonally through northeastern Montana. Keystone's construction will require the condemnation of private property, and put Montana landowners and communities at risk of a toxic tar sands oil disaster. The pipeline will cross under both the Missouri and Yellowstone Rivers, risking a catastrophe similar to the ExxonMobil pipeline rupture that occurred near Billings in 2011.

The impacts of climate change are also becoming more apparent in Montana. This is now the age when hotter and drier summers, and shorter winters with less moisture, are becoming ever more common. Trout streams are warming, and forests are more prone to intense wildfires and insect infestations. These changes

will have enormous impacts on Montana's economy and on Montanans' ways of life.

Unfortunately, President Obama's decision will be partially based on an incredibly flawed U.S. State Department report, which concluded that the construction of the pipeline would not have an appreciable impact on global warming emissions. Such a conclusion by the State Department is important, because President Obama has stated that he will only approve the pipeline if it "does not significantly exacerbate the problem of carbon pollution." Aside from the factual shortfalls in the State Department report, there are serious concerns about the conflict of interest of the contractor, Environmental Resources Management, which prepared it. Certain employees of ERM allegedly have financial ties to TransCanada. The State Department's inspector general is currently investigating these claims.

Secretary of State John Kerry will make the final recommendation to President Obama on approving the pipeline. Fortunately, Secretary Kerry has been a leader on the climate change issue for decades. He may be convinced that the pipeline is not in the national interest, and recommend to the President that it should be rejected.

It is very important for you to take a few minutes, and contact Secretary Kerry. Remind him of President Obama's recent statement on climate change in his State of the Union address, in which he said: "When our children's children look us in the eye and ask if we did all we could to leave them a safer, more stable world, with new sources of energy, I want us to be able to say yes, we did." 



U.S. State  
Department  
Image.

## Contact Secretary Kerry

202-647-4000  
[www.state.gov/secretary/](http://www.state.gov/secretary/)

U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

# DEQ Gives Smith River Mine Exploration a Green Light

by Jim Jensen

On January 16, 2014, the Montana Department of Environmental Quality gave the green light to Tintina Resources, a small Canadian exploration company, to begin drilling an 18 foot high by 18 foot wide, 450 foot

deep into the ground, one mile long tunnel to conduct further analysis of a copper, silver, and cobalt ore body called the Johnny Lee. It is

located on Sheep Creek at the headwaters of the Smith River.

The rock to be mined is *estimated* by the company to be 20%-30% acid-producing, meaning that when it is exposed to air and water it produces sulfuric acid. This acid can dissolve heavy metals that then can poison the

Whitehall, and, of course the poisoned cesspool called the Berkeley Pit in Butte. Regarding the Berkeley Pit, it is important to remember that the acid water comes primarily from the old underground workings that were allowed to flood after mining ceased in 1983. Thus it is not correct when the DEQ staff say, as they did when the Tintina permit was issued, that the Smith River mine cannot be compared to the Butte mine.

The exploration license allows Tintina to mine 10,000 tons of ore (material that contains economically recoverable minerals) that will be trucked to an undisclosed location for testing. It makes it possible, according to mine spokesman Jerry Zeig, for the company to try and raise enough money to do the work. The company's stock trades at around \$0.25 per share (it is what is known as a "penny" stock).

In excellent written comments to DEQ, Montana Fish, Wildlife, and Parks director Jeff Hagener provided an economic basis to deny this permit, in addition to identifying the impacts on fish and recreation. He stated: "Over the past 17 years, the average number of angler days spent on the Smith River float section was 11,155 per year, and the **average annual revenue** generated for the state economy from these trips is estimated at **\$1,202,868** (emphasis added).

In response to DEQ's decision MEIC told the **Great Falls Tribune**: "The Smith River is not a place where we should take the risks. It's too important. It has too many other extraordinarily valuable attributes.... We're certainly not going to stand idly by and allow the Smith River to be the subject of another experiment by the

mining industry."

MEIC's web site will be frequently updated with more information on how MEIC and other organizations will be working together to "Save Our Smith" from this mine. ☺

*"We're certainly not going to stand idly by and allow the Smith River to be the subject of another experiment by the mining industry."*

*Floating on the Smith River. Photo by Sara Marino.*



groundwater and streams and rivers. This is the process that has caused the multi-million-dollar, taxpayer-funded, cleanup at the Zortman/Landusky mines in the Little Rockies. It is also the situation at the Golden Sunlight mine near



# EPA Proposes to Limit Greenhouse Gas Emissions from New Plants

by Anne Hedges

Anyone paying attention to current news today should understand that the most pressing issue of our time is reversing global warming. The only way to address this crisis is to stop using the Earth's atmosphere as a waste dump. Placing limits on the quantity of greenhouse gases that are emitted into the air each year is the most common sense step toward a solution. Since coal-fired power plants are the largest single source of greenhouse gases, limiting their emissions is critical.

And limiting such emissions is exactly what the U.S. Environmental Protection Agency (EPA) has set out to do. In January 2014, EPA again proposed a rule to limit greenhouse gas emissions from new coal-fired power plants. EPA had proposed such a rule previously, but it was subject to fierce opposition. Knowing that any such rule would be challenged in court, EPA decided to rewrite its proposal to make it "bomb proof" in a court of law. EPA is accepting public comments on the rewritten rule until March 10th.

EPA's rule only applies to new coal-fired power plants, and proposals to build new coal plants are few and far between these days. But the coal-supplying and coal-using industries are launching a full scale assault nonetheless. Corporations invested in the status quo are well financed and have strong financial incentives to stop EPA from limiting carbon and other greenhouse gas emissions from coal plants. Fortunately, EPA is merely implementing a mandate from President Obama and a decision of the U.S. Supreme Court.

MEIC's Derf Johnson testified at EPA's hearing on the proposed rule in Washington, DC, on February 6th. In order to demonstrate strong support from Montana for EPA's rule, MEIC and other environmental organizations have held public meetings in Missoula and Bozeman to gather testimony to submit to EPA. The final such meeting will be held in Helena on March 6th.

Unfortunately, limiting greenhouse gas emissions from new coal-fired power plants is only a baby step toward a climate solution. Greenhouse gas pollution from existing sources such as the

Colstrip plant in Montana must be curbed as well in order to have a significant impact on the problem. Colstrip is one of the largest greenhouse gas emissions sources in the nation. It alone emits between 14 and 17 million tons of carbon dioxide each year.

EPA, at the direction of President Obama, is expected to propose another rule in June 2014 that would limit emissions from large existing power plants such as Colstrip. There will be a public comment period on the proposal. EPA is supposed to issue a final rule in June 2015. It is widely expected that EPA will only adopt a very rough framework that directs states to develop programs that will reduce emissions directly or indirectly from large sources such as Colstrip.

States will be allowed to be creative in their plans. The state plans will be submitted to EPA for approval by June 2016. EPA will need to determine if each state's plan is sufficient to meet that state's emission reduction goals. Once EPA approves a state plan, implementation can begin. Those states whose plans fail to meet minimum emissions reductions will be required to comply with a plan developed by EPA.

Even though EPA is on the right track in trying to reduce emissions, there will be no actual reductions at existing coal plants any time soon. The process will be long and controversial, as the "climate denial machine" is already gearing up and will be pouring money into the campaign.

It will be up to each and every one of us to make sure that politicians do not prevent EPA and the states from doing their jobs. The states will be in control, and will be able to develop plans that are tailored to their specific needs. The country, and the world, needs them to take that job seriously, and help to solve the problem of climate change, instead of giving in to the rhetoric of the *status quo*.

There are solutions to the climate crisis that are available today. They are affordable and will create a vibrant new energy economy. Politicians need to have the knowledge, and the backbone, to confront the "denial machine" and move the world toward a clean energy future. ☺



Sen. Mike Philips (D-Bozeman) speaks at the Bozeman public hearing. Photo by Anne Hedges.

# NorthWestern Energy Submits New Resource Plan to the PSC

by Kyla Maki

Every two years NorthWestern Energy (NWE) is required to develop a plan for how it is going to meet its customers' short-term and long-term energy needs. NWE submits this Resource Procurement Plan (the Plan) to the Montana Public Service Commission (PSC) for feedback from the Commission and for public comment. NWE's 2013 Plan focuses on a unique and unprecedented opportunity to meet its electricity needs with the existing hydropower dams in Montana currently owned by Pennsylvania Power & Light (PPL).

In September 2013 NWE announced its plan to purchase eleven hydroelectric dams in Montana from PPL for \$900 million. In total, the nameplate capacity of the dams is a little over 600 megawatts. The PSC has the final say about whether NWE can purchase the dams because NWE is a regulated utility and the purchase would impact customers' rates. The PSC is in the process of reviewing NWE's application and determining whether to approve the purchase.

NWE's 2013 Resource Plan is separate from the dam pre-approval application, but they are inextricably linked. In the Plan, NWE identifies the dams as the "preferred resource" to meet the utility's growing electricity demand. If the PSC approves NWE's purchase, the Plan projects that the utility's resource mix and overall structure will look very different than they do today.

The most important change is that NWE will own the majority of its energy resources. After deregulation, the Montana Power Co. (NWE's predecessor) sold all of its electric generation

assets to PPL. When deregulation proved to be a costly and massive failure, the legislature passed a reregulation bill

in 2007, which allowed NWE to own its own energy supply resources. Since 2007, NWE has been trying to rebuild and restructure so that the

utility does not have to rely on risky and volatile open market purchases to meet its customers' electricity needs. The 2013 Plan and the related purchase of the dams are the most significant steps to date towards utility resource ownership and away from market purchases.

NWE's 2013 Plan and the pending dam purchase represent a "watershed" moment in Montana's energy future. Notably, NWE decided not to purchase PPL's coal-fired power plants in Montana along with the hydroelectric dams, because the coal plants were considered too risky and costly for NWE's ratepayers. Furthermore, the 2013 Plan does not envision NWE investing in any new coal plants to meet its customers' needs in the future.

While the Plan is forward-looking when it comes to existing hydro resources, it lacks sufficient analysis of the viability of new non-hydro renewable energy and greater energy efficiency in NWE's future energy resource mix. The utility does not foresee increasing its non-hydro renewable resources beyond the 15% level required by Montana's Renewable Energy Standard. Additionally, the Plan does not expect that the utility will increase the amount of energy efficiency it will obtain beyond the goal set in its 2009 Resource Plan. In fact, NWE predicts that its yearly energy efficiency goals may decrease due to several factors, primarily the recent decline in natural gas prices.

NWE chooses which resources will meet its future needs based primarily on the cost of those resources and any potential risk they pose to the utility and consumers. Carbon costs are a critical factor in determining how costly and risky certain resources are compared to others. In fact, the risk of future carbon costs helped cause NWE to choose not to purchase the coal plants from PPL. Unfortunately, NWE's 2013 Plan does not consider the viability of its current and future energy resources under low, medium, and high carbon cost scenarios. Renewable energy and energy efficiency resources have zero carbon cost or risk. Consequently, an adequate carbon cost analysis would cause NWE to pursue more

*continued on next page*

*"As NorthWestern plans for the future, it is important that it build a portfolio of energy resources that reduces future costs and risks to consumers."*



# Coal Mining Update

by Derf Johnson

## Otter Creek May Be Slow and Steady, But Hasn't Won the Race

The Otter Creek coal mine in southeastern Montana is the largest proposed coal mine in the United States. Its owner, Arch Coal, wants to strip-mine the tranquil Otter Creek valley and export the coal to Asia's booming economies. Arch has submitted a mine application to the Montana Department of Environmental Quality (DEQ), which is slowly moving through the permitting and environmental analysis process.

Arch Coal is currently acquiring a full year of hydrologic data on the Otter Creek valley, and will submit the information to DEQ in late Spring 2014. Concurrently, DEQ is conducting a total maximum daily load (TMDL) analysis of water quality in the impacted streams, a necessary step in order for Arch to receive a permit.

If and when DEQ decides that Arch's application is complete, the public will have only two weeks to comment on its sufficiency before


*"If and when DEQ decides that Arch's application is complete, the public will have only two weeks to comment on its sufficiency before the DEQ makes a decision on whether to grant the permit."*

the DEQ makes a decision on whether to grant the permit.

For the latest information on the proposed Otter Creek mine, go to [www.meic.org/otter-creek](http://www.meic.org/otter-creek).

## Proposed Expansion of Spring Creek Mine

Wyoming-based Cloud Peak Energy has applied to DEQ for a major permit revision for its Spring Creek mine in southeastern Montana, the largest operating coal mine in the state. The revision would allow Spring Creek to strip-mine an additional 68 million tons of coal, further exacerbating climate change, threatening water quality, and destroying habitat for wildlife (including possibly that of the endangered black-footed ferret).


DEQ recently determined that Cloud Peak's application was complete, and will now substantively review it. MEIC has submitted comments to DEQ on the expansion, which can be found at [www.meic.org/issues/montana-coal-facts/](http://www.meic.org/issues/montana-coal-facts/). Of particular concern are "the cumulative impacts to water quality from the five existing and anticipated mining operations that are contributing to water quality violations and threaten to further exacerbate those water quality violations." MEIC will be engaged throughout the process, because of concerns about climate change, water quality, and wildlife habitat. 

## NWE (continued from previous page)

energy efficiency and renewable resources in the future. Unfortunately, the utility plans to continue business as usual when it comes to renewable energy resources, and possibly less than business as usual for energy efficiency.

As NWE plans for the future, it is important that it build a portfolio of energy resources that reduces future costs and risks to consumers. Risks are not limited to those associated with market purchases compared to owned resources. The

type of energy resource is just as important as who owns it. To reduce impending risks associated with fossil fuels, NWE must pursue, and its Plan should envision, a portfolio with new renewable energy and efficiency beyond the *status quo*.

Public comments on NWE's 2013 Resource Plan are due to the Public Service Commission by March 7, 2014. The Plan can be found at: [http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/N2013-12-84\\_IN20131223\\_PLAN.pdf](http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/N2013-12-84_IN20131223_PLAN.pdf). 

# Large Subdivision Threatens the Bitterroot River

by Jim Jensen

The Montana Department of Environmental Quality (DEQ) is considering a wastewater discharge permit for a large subdivision along the Bitterroot River. The 70-acre, 181-lot, subdivision, called the Grantsdale Addition, is proposed for just 2.5 miles south of Hamilton near Skalkaho Creek. It is seeking permission to put nutrient-rich sewage effluent into groundwater that is directly connected to the Bitterroot River, one of Montana's most famous trout fisheries.

former planning board member, neighboring landowners, Bitterrooters for Planning, many citizens with relevant scientific and legal expertise in water quality and geology, an engineer (a former public works director of Helena), the Western Environmental Law Center, and MEIC. More than 30 people signed in as opponents. There were no proponents. Mildenberger did not even attend or send a representative.

The key concerns identified by the testimony were:

- drinking water contamination;
- fishery degradation;
- proximity to and degradation of an already impaired river;
- lack of in-depth analysis by DEQ;
- the high nitrogen concentrations currently in the aquifer and predicted in the permit; and
- conflict with the Montana Constitution's right to a clean and healthful environment.

According to DEQ's own fact sheet, if approved this permit will allow a discharge containing nitrogen 80 times the DEQ target level for the Bitterroot River. Also, the developer will be allowed to deposit into the aquifer and, ultimately, into the impaired Bitterroot River, an estimated average of 40,000 gallons/day of septic effluent.

It is also important to put this project in a broader context. Allowing lower water quality standards for on-site wastewater disposal systems in rural, high-density, subdivisions not on a municipal wastewater system, creates an economic incentive for rural sprawl development. And, of course, taxpayers ultimately bear the cost when water contamination occurs.

DEQ is now reviewing the testimony and will decide whether to issue the permit with new conditions, or to prepare an environmental impact statement for the project.

*"More than 30 people signed in as opponents. There were no proponents."*

This controversial project has been on the drawing board for several years. It received a permit from DEQ in 2006, but the project was not built and that permit expired in 2011. The developer, Bran Mildenberger of Hamilton, is now trying to restart the project.

Based on the comments received during the public comment period that ended in November 2013, and the additional feedback provided to DEQ concerning the draft permit, the agency re-opened the public comment period for this subdivision and held a public hearing in February 2014 to receive additional comments and testimony from the public and other interested parties.

And it got an earful. Among those testifying against issuance of the permit were a former county commissioner,

*Kelsey Milner testifies at the recent wastewater discharge permit hearing in Hamilton. Photo by Jim Jensen.*





# U.S. Electricity Consumption Declines to Almost a 12-Year Low

by Kyla Maki

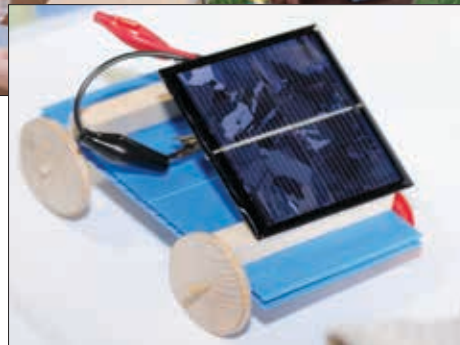
Last year, according to the U.S. Energy Information Administration (EIA), the average electricity use in U.S. homes declined to the lowest level since 2001. Americans owned more electronic devices such as smart phones and tablets in 2013, and more gadgets should mean more electricity use—so what explains this phenomenon? The answer is energy efficiency.

In 2013, the average U.S. household used about 10,819 kilowatt-hours of electricity. Compare that to 2001 when the average household used about 10,535 kilowatt-hours. Household electricity use in 2013 declined for the third year in a row. Several advancements in energy efficiency technologies and policies over the last decade are causing electricity use to decline.

One of the most important changes in policy has been stronger energy codes for residential and commercial buildings. These codes now require new buildings to have more energy efficient lighting, insulation, and windows. Every three years, a model energy code is adopted at the national level and states can choose whether or not to adopt that model code. Montana recently adopted the 2012 model energy code for residential buildings with only a few modifications. On average, buildings built to the newest energy code save 25%-30% more energy than those built about a decade ago.

Another significant driver of the decline in electricity consumption is federal efficiency standards for appliances and televisions. Air

conditioners and furnaces use about 20% less electricity per hour of operation than they did in 2001. New LED televisions use less electricity than a 60-watt light bulb and 80% less electricity than traditional cathode ray tube televisions.



In Montana, the average electricity consumption per household in 2013 was about 10,104 kilowatt-hours, or very slightly below the national average. Despite lower energy use, the American Council for an Energy-Efficient Economy ranked Montana in the bottom half of states for energy efficiency policies and efficiency investment per capita in its 2013 scorecard.

Across the U.S., the outlook for electricity use in 2014 is encouraging. EIA predicts that electricity use will continue to decline as federal policies and incentives expand. ☺

*MEIC Clean Energy Program Director Kyla Maki teaches some of MEIC's youngest members about solar energy at the 2013 Rendezvous. Photos by Molly Severtson.*

## President's Letter



by Roger Sullivan

### Living our Values

One of the things I appreciate about MEIC is its holistic approach to environmental activism. We don't simply oppose myriad ill-advised projects that threaten the environment; we support progressive public policy initiatives such as alternative energy development and energy-efficient building codes. And I'm often inspired by the stories of our members who attempt to bring their environmental values into the ways they live their lives, from minimizing the entrancement of the consumer culture, to recycling, growing their own food, and biking to work. In that spirit I share a personal vignette.

After 29 years my small law firm outgrew our modest office adjacent to the fine old courthouse that sits in the middle of Main Street in Kalispell. New staff has been added as we have responded to the increasing demands of our practice, which focuses on toxic torts, restoring contaminated lands, and preventing thoughtless environmental damage. Instead of building out on the edge of town, we chose to re-purpose the old Sons of Norway building (pictured at right) which had sat sadly vacant for many years in the heart of Kalispell. We resolved to go as green as we reasonably could and, after the initiatory process of surprises that attends the remodeling of an old building, we moved in last month.

We peeled back the wall coverings and added lots of insulation. We went with LED lighting to reduce our consumption of electricity, we used all local fir instead of imported hardwoods for trim, and we crowned our "new" office with 14 kW of solar panels that are integrated via net metering

## Thoughts from the Executive Director



by Jim Jensen

As MEIC starts its 41st year, I want to reflect a moment on how successful our 40th Anniversary celebration (year) was. And it boils


down to this: THANK YOU, MEIC members! We succeeded.

We were successful in meeting our \$40,000 challenge. We had the most successful Rendezvous in our history. We recruited new members, many under 35 years of age. And we ended 2013 with more members than we had 12 months earlier.

We did all of this without being diverted from our core mission of protecting and advancing our (your) right to a clean and healthful environment. As you read this issue of *Down To Earth*, I think you'll be proud of the work that we do. It only happens because of your support. I also want to express my gratitude to

our staff, who make these victories happen.

2014 is going to be a year of important changes in Montana. I believe strongly that we will succeed in seeing a date certain set for the retirement of Colstrip Units 1 and 2. We have a newly appointed U.S. senator in Democrat John Walsh. There is a real primary contest brewing between him and political newcomer Dirk Adams. The winner's opponent, Republican Rep. Steve Daines, is leaving his post in Congress for the Senate contest, thereby creating another high profile race for the vacant House seat. Several Republicans are "duking" it out in the House primary, while newcomer John Lewis seems the front-runner for now in the Democratic primary.

There are very broad differences among these candidates on how the environment should be treated, especially on how to respond to global warming and the dramatically changing climate. Please educate yourself and become involved in these contests, and raise environmental issues important to you whenever and wherever you can. 



into the Flathead Electric Co-op system.

Our biggest surprise? Up in the attic snaking through the still solid barrel-trusses was one old heat duct that we decided to remove to maximize the depth of new blown-in insulation. It turned out the duct was wrapped with asbestos. This was an irony not lost on us, as we have represented victims of Libby asbestos contamination for the last twenty years. Appropriately the project came to a halt, the men in white suits arrived on the scene, and the offending material was safely disposed of (we preferred removal to encapsulation).

MEIC, its staff, and its members are engaging in the most important environmental issues of our time. We do this by advocating for sane policies in the legislature and in

our government agencies, by educating and organizing, and by litigating when all else fails. And we also try to live our lives in ways that reflect these values. This isn't necessarily the



easiest way to do things—for life is indeed full of both big and little surprises! ☺

**MEIC** - a nonprofit environmental advocate

**Mailing Address:**

P.O. Box 1184  
Helena, MT 59624

**Physical Address:**

107 W. Lawrence Street, #N-6  
Helena, MT 59601

Telephone: (406) 443-2520

Web site: [www.meic.org](http://www.meic.org)

E-mail: [meic@meic.org](mailto:meic@meic.org)

**Board of Directors**

*President:* Roger Sullivan, Kalispell

*Vice-President:* Zack Winestine, New York

*Secretary:* J. Kirwin Werner, Ronan

Gary Aitken, Ovando

Joe Biby, Kalispell

Paul Edwards, Helena

Bob Gentry, Missoula

Mark Gerlach, Missoula

Tom Graff, Missoula

Stephanie Kowals, Seattle

Steve Scarff, Bozeman

**Staff**

Anne Hedges, Deputy Director/  
Lobbyist, [ahedges@meic.org](mailto:ahedges@meic.org)

James Jensen, Executive Director/  
Lobbyist, [jjensen@meic.org](mailto:jjensen@meic.org)

Derf Johnson, Associate  
Program Director/Lobbyist,  
[djohnson@meic.org](mailto:djohnson@meic.org)

Kyla Maki, Clean Energy  
Policy Director/Lobbyist,  
[kmaki@meic.org](mailto:kmaki@meic.org)

Sara Marino, Development  
Director, [smarino@meic.org](mailto:smarino@meic.org)

Adam McLane, Business Manager,  
[mclane@meic.org](mailto:mclane@meic.org)

Molly Severtson, Director of Major  
Gifts, [msevertson@meic.org](mailto:msevertson@meic.org)

Gail Speck, Office Assistant,  
[gspeck@meic.org](mailto:gspeck@meic.org)

MEIC's purpose is to protect Montana's clean and healthful environment. The words "clean and healthful" are taken from the Montana Constitution, Article II, section 3 - Inalienable Rights, which begins: "All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment . . ."

*Down to Earth* is published quarterly. This issue is Volume 40, Number 1.

## Pints, Pinot, and Poetry with Wally McRae March 19th in Missoula

MEIC presents Montana's Poet "Lariat," Wally McRae, in a rare public performance, March 19, 2014, at the Roxy Theatre in Missoula. McRae operates the Rocker Six Cattle Co. ranch south of Forsyth, Montana. In addition to being a rancher, McRae is a cowboy poet and a philosopher. He was named one of the *Missoulian's* Most Influential Montanans of the 20th Century and was appointed by President Bill Clinton to serve on the National Council of the Arts. According to MEIC's executive director Jim Jensen: "McRae is truly the West at its Best." His performances are poignant, personal, and profound. He inspires laughter yet makes you cry for the threats of destruction of his Montana home country.

Presented by MEIC for the benefit of the Rosebud Protective Association, a group founded by Colstrip area ranchers led by McRae.

The event will include a reception with drinks and light appetizers.

**WHEN:** Wednesday, March 19, 2014, 7:00 p.m.

**WHERE:** The Roxy Theatre, 718 S. Higgins Avenue, Missoula

**ADMISSION:** \$15 per person at the door, general admission seating





MONTANA ENVIRONMENTAL  
INFORMATION CENTER  
P.O. Box 1184  
Helena, MT 59624

Nonprofit  
Organization  
U.S. Postage  
**PAID**  
Permit No. 93  
Livingston, MT

**CHANGE SERVICE REQUESTED**

# Save the Date!

## Climate Change Rallies Planned for April 26th

On Saturday, April 26th there will be rallies in communities across Montana to address the climate change crisis. Rallies are currently being planned for Billings, Bozeman, Butte, Columbia Falls, Great Falls, Helena, Kalispell, Missoula, and Whitefish. The purpose is to pressure public officials and businesses to support proactive and positive solutions.

Montana is heating up. Wildfires are fouling our Summer air and costing us millions. Beetles are destroying our forests, and our renowned trout streams are warming and suffering from low water flows in late Summer. The Montanans for Climate Solutions Rallies are intended to bring people from all walks of life in Montana together, and to provide a clear and broad voice to our leaders that we expect action to address the changing climate.

Achieving support for policies that address climate change can only happen when we speak with one voice.

Would you like to help organize a rally, or add another city to the list? Please contact Derf Johnson at (406) 443-2520 or [djohnson@meic.org](mailto:djohnson@meic.org).

