

Down to Earth

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

meic

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER

**Get social
with MEIC!**



2015 Montana Legislature, Page 2

IN THIS ISSUE

- 2 2015 Montana Legislature
- 3 Smith River Copper Mine
- 4 Otter Creek Coal Mine
- 6 Montana and the Clean Power Plan
- 8 Montana Futures Raffle
- 10 PPL Pollution
- 11 Golden Sunlight Mine
- 12 Clean Energy and Co-ops

2015 Montana Legislature: Is It “Here We Go Again” or Not?

by Anne Hedges

The outcome of the November elections might lead one to believe that the 2015 Montana legislative session will be a lot like 2013: unending attacks on the environment and public health protections; no progress toward protecting water, land, air, and health; and, of course, endless partisan rancor. While many

of these things are nearly inevitable in the current political climate, there are a few reasons for hope.

Here are some of the reasons for pessimism. The Democrat to Republican split in the Montana Senate is unchanged at 29-21. Republicans control the House 59-41, a loss of two Republican seats. Both the new

president of the Senate and the new speaker of the House received scores of “0” in MEIC’s Voting Records for the 2009, 2011, and 2013 sessions. There are already outlandish bill proposals; for example, two bills would prevent anyone without identification and anyone not a Montana resident from commenting on environmental review documents under the Montana Environmental Policy Act. And, of course, there are already bill requests in that are anti-land use planning, anti-government, anti-climate solutions, anti-clean water, and much, much more.

But there are a few reasons for optimism as well. First, Gov. Steve Bullock proved last session that, while not as flashy as his predecessor with his veto authority, he is willing to reject bad

ideas. Last session he proposed amendments to improve bills that as originally written would have harmed water quality, interfered with land-use planning and local subdivision review, and stifled clean energy development. When those amendments failed to be accepted by the legislature, he quietly wielded his veto. He has already told the press that he hopes to work with the 2015 Legislature, but he’s also willing to use his veto authority when necessary.

Second, some issues cross the deep partisan divide. At the top of that list is small-scale clean energy. Roof-top solar electric systems mean independence from rising utility bills, freedom from corporate profiteering and government whims, and a step toward self-sufficiency. These concepts have appeal regardless of political affiliation. There is hope that some clean energy proposals will pass this session.

Finally, there is always hope simply because Montanans do care about a clean and healthful environment. Poll after poll shows that the majority of Montanans want clean air, clean water, and healthy landscapes, and care about protecting the iconic Smith River. They understand that climate change means not only environmental damage but also economic harm. Even a recently released fossil-fuel industry poll, with a strong bias against action on climate change, found that only 21% of Montanans supported doing nothing.

The people of Montanans may be our best “secret” weapon when it comes to fighting against the legislature’s anti-environment, anti-public health, and anti-public participation measures. When legislators and the governor hear from constituents, it makes a difference. After all, the elected officials are sent to Helena to represent you. So this session, please pay attention to MEIC’s updated legislative website, take action when you receive action alerts, come to an MEIC lobby day, and do call your legislators and the governor. Let them know you expect them to protect your rights and your environment. ☺



MEIC lobbyists from left to right: Kyla Maki, Anne Hedges, Jim Jensen, and Derf Johnson.

Cover Photo: The Montana Capitol Building.

Australian Corporation Buys Into Smith River Mine

by Derf Johnson

The threat of a mine on the headwaters of Montana's famed Smith River has become a much more real possibility. Mining company Sandfire Resources, based in Perth, Australia, recently became a one-third owner of Tintina Resources, the company that is proposing to develop a copper mine on the headwaters of Montana's Smith River. The deal infused Tintina with an additional \$16 million in capital, providing the company with the necessary financial resources to move forward with its application for a full-scale operating permit. Sandfire currently operates the Degrussa copper-gold mine in eastern Australia.

The Smith River mine was originally proposed by Vancouver, Canada-based Tintina, on the banks of Sheep Creek, the most important tributary of the Smith River. Tintina is a relatively small, penny-stock start-up company, which has probably been searching for "strategic partners" (i.e., companies with money) in order to move forward with the mine. It found Sandfire.

Shortly after Sandfire made the decision to invest in Tintina, the Centre for Australian Ethical Research issued a report that criticized the corporation for its environmental and social practices. The findings were damning enough that Australia's top university, Australian National University, decided to divest its holdings of Sandfire stock, as part of the "Socially Responsible Investment Policy" that guides its decisions about which particular assets and corporations to hold in its investment portfolio.

The decision by Sandfire to invest in Tintina could spell disaster for the Smith River. Not only does Sandfire have a questionable reputation in Australia, it also has the potential to become the majority owner of Tintina. Sandfire now owns more (36%) of Tintina's

shares than any other investor. The purchase contract allows Sandfire the option of buying a total of \$44 million in shares, which would give it a 53% stake in the company. Sandfire's entry into the picture raises the likely prospect that major financial decisions about the company and the Smith River mine will be made ten thousand miles away in a foreign country, limiting Montana's political and legal recourse when things inevitably go wrong. The issues of bankruptcy, and of insufficient bonding for reclamation, also become more complicated for the State of Montana.

One thing is now clear: the controversy over the proposed Smith River mine is not going away anytime soon. We encourage you to be ready to help us oppose legislation in the upcoming 2015 Montana legislative session that might help this terrible idea move forward by proposing to weaken environmental standards. In addition, make sure that you speak up to Gov. Steve Bullock and Department of Environmental Quality director Tracy Stone-Manning by signing the online petition at www.SaveOurSmith.com, which asks them to protect the Smith River. ☺

"Shortly after Sandfire made the decision to invest in Tintina, the Centre for Australian Ethical Research issued a report that criticized the corporation for its environmental and social practices. The findings were damning enough that Australia's top university ... decided to divest its holdings of Sandfire stock...."



Smith River. Photo by William Rahr.

Otter Creek Mine Inching Forward

by Anne Hedges

At the end of October 2014, the Otter Creek coal mine moved one step further in the mine permitting process. Otter Creek Coal, LLC, a wholly owned subsidiary of the financially beleaguered Arch Coal, submitted a mountain of new documents to the Montana Department of Environmental Quality (DEQ) as a supplement to its application to develop the largest proposed coal mine in the United States.

“These documents, which were confusingly presented and badly organized, are supposed to provide essential data on groundwater, area hydrology, and the alluvial valley floor in the mine permit area.”

The new data was extensive. It consisted of 227 new or modified documents totaling

thousands of pages. These documents, which were confusingly presented and badly organized, are supposed to provide essential data on ground water quality, area hydrology, and the alluvial valley floor in the mine permit area. In addition, they provide critical baseline information on wildlife, and on historic and cultural resources.

There are only two official public comment periods during the coal mine permit application process. The comment period at the beginning of the process is the longer of the two. In the beginning, after an applicant submits a mine permit application, the public has two months to review and comment on the application and to request a public hearing. The agency is required to respond to these public comments in writing. After that public process, DEQ informs the applicant of the additional information that must be submitted for the agency to complete



Otter Creek. Photo by Kestrel Aerial Services, Inc.

its final review of the application.

At the tail end of the permitting process the rules of the game change dramatically. Once the agency declares the application complete DEQ has only 45 days to notify the public, accept public comments, hold a hearing if requested, respond to comments, and issue a record of decision and written findings. This short timeframe is hardly enough time for DEQ, and certainly not enough time for the public (or MEIC) to hire experts (if needed), review the material, and submit formal comments. Despite the fact that the company had years to prepare the material, and DEQ months to review it for completeness, the reality is that the public ends up with only ten days to two weeks to review and comment on the complete permit application before DEQ must approve or deny it.

However, the law does provide that if an applicant submits so much new material that it constitutes a significant modification of the original application, DEQ must start the permitting process over and give the public an opportunity to review the new material. In the case of the Otter Creek mine application, it seems clear that 227 new or updated documents, totaling thousands of pages, constitute a significant modification of the application.

It is clear that Arch Coal does not want DEQ to start the permitting process over. The question is: will DEQ agree with Arch? If it does, then there will be little opportunity for additional meaningful public involvement and review of all the important new material.

DEQ argues that the public will be allowed to comment on the application during the environmental review process under the Montana Environmental Policy Act (MEPA). But the legislature has done everything in its power to divorce the MEPA

process from the permitting one. Each review involves different issues, and DEQ's authority under MEPA is significantly limited. The MEPA process cannot be used as a substitute for the mine permitting process itself.

If DEQ fails to restart the application process and allow meaningful public review of these most recent materials, as

required by law, then the entire coal mine permitting process becomes a sham that appears to be designed simply to grant approval to all applications. MEIC strongly believes the process is intended to be more than that. The law requires meaningful and substantive dialogue between the applicant, the state agency, and the public before a permit can be issued. Anything less is just window dressing.

MEIC and its allies are prepared to take all steps necessary to ensure that public participation in the review of Arch Coal's permit application to build the largest coal mine in the U.S. is more than just a mere charade. ☺

"It is clear that Arch Coal does not want DEQ to start the permitting process over. The question is: will DEQ agree with Arch?"

*Otter Creek. Photo by
Kestrel Aerial Services, Inc.*



Montana Responds to EPA Carbon Pollution Plan

by Anne Hedges


When the U.S. Environmental Protection Agency (EPA) proposed its Clean Power Plan in June 2014 to limit carbon pollution from the nation's largest sources – power plants – climate-denying politicians were up in arms. Some sued over the proposed plan; others, for example Montana's attorney general Tim Fox, threatened lawsuits.

“Bullock is showing he is a problem solver and is willing to put together a plan that is tailor-made for Montana.”

Politicians and climate deniers complained that the Obama Administration was trying to single-handedly “bring down” the economy for no good reason.

Some politicians, however, such as Montana's governor Steve Bullock, rolled up their sleeves and asked what the state would need to do to decrease its carbon pollution. Bullock directed the Montana Department of Environmental Quality (DEQ) to analyze different ways the state could meet EPA's proposed carbon reduction targets for Montana. In late September 2014, DEQ released a document called “Options for Montana's Energy Future.” This document outlined five potential options for complying with the proposed EPA standard for Montana. EPA has proposed that Montana reduce its carbon emissions by 21% – the second weakest reduction target in the nation. The truth is that the state is already on its way to attaining that target.

DEQ's options are far from perfect. All of them assume that the Corette coal plant in Billings would close, as PPL announced two years ago. However, none of the options assume the closure of any Colstrip units between now and 2030. One option assumes the small Lewis & Clark coal plant in Sydney would switch to natural gas. Another option assumes some carbon emissions would be captured and sequestered underground. Most of DEQ's proposals rightly focused on increasing renewable energy production and energy efficiency. Clean energy options such as these are currently available and are already cheaper than the electricity from Colstrip for Montana's largest utility, NorthWestern Energy. A future that relies on renewable energy and energy efficiency will save Montanans money, improve public health, and benefit the climate.

“Options for Montana's Energy Future” is not the final word on how Montana will comply with EPA's requirements. It is just a start. EPA will not even finalize its proposed regulation for existing power plants until June 2015. After that it will be up to the states to determine how they want to comply. Some states are likely to thumb their noses at EPA, refuse to develop a plan, and assume a court will eventually block EPA's proposal, even though the courts rarely overturn EPA's clean air protections. Thankfully, Bullock is showing he is a problem solver and is willing to put together a plan that is tailor-made for Montana. It will be a long process but there is no time like the present to start reducing carbon pollution. 

Judith Gap wind farm.
Photo by Pat Judge.



Clean Power Plan Critical in International Negotiations

by Anne Hedges

Many climate skeptics (and Fox News pundits) have long argued that unless China reduces its carbon pollution, there is no point in the U.S. doing so. The U.S. and China are the world's largest emitters of climate changing pollution and many countries are reluctant to limit their emissions until the U.S. and China show they are serious about tackling climate change. The good news? That just happened, and EPA's Clean Power Plan was a critical part of the agreement.

On November 12, 2014, the White House announced an historic agreement with China that it said would "achieve deep economy-wide reductions on the order of 80% by 2050." China is primarily concerned about its untenable air pollution problems. Limiting its reliance on coal is one of the most important methods to address that problem. That means relying on cleaner energy sources.

The U.S. has committed to reducing carbon pollution by 25%-28% by 2025 through increased vehicle efficiency measures, the Clean Power Plan, and other carbon reduction initiatives. China, in turn, has agreed to have 20% of its energy come from zero emission sources by 2030. This will require China to deploy an additional 800-1,000 gigawatts of zero emission generation capacity by 2030 – more capacity than all the coal-fired power plants that exist in China today and close

to total current electricity generation capacity in the United States.

Congressional leaders have already vowed to block this agreement by whatever means possible. Fortunately, there is little role for Congress in implementing the U.S. carbon reduction strategies. As China and the U.S. head into another round of international discussions on climate change, the message is clear: these two super power/super polluters are finally serious about tackling this moral obligation.

The task before us now is to keep the Obama Administration on course and to make sure Congress doesn't muck things up. ☺

Air pollution in Hong Kong, primarily the result of coal-fired power plant emissions.



MEIC's 2014 Montana Futures Raffle

Your chance to win . . . and help Montana's environment!

Invest in Montana's future! Here's your chance to participate in a special event: the 2014 Montana Futures Raffle. The 2015 legislative session will be here soon, and the Montana Futures Raffle is the main source of funding for MEIC's lobbying efforts. Supporting MEIC is one of the best ways you can affect Montana's environmental policies.

MEIC will be working on many critical issues such as ... challenging attempts to put the Smith River mine on a fast track ... expanding clean energy solutions while thwarting proposals to roll them back ... preventing efforts to increase the use of dirty coal ... promoting a healthy future for Montana's families ... and protecting the Constitution's fundamental right to a clean and healthful environment.

MEIC needs to be at the Capitol presenting a strong voice for the environment, as it has been every session since 1974. YOU can help!

Here's how it works:

The Raffle has great prizes: exciting outdoor adventures, original artwork by well-known artists, overnight stays, fine meals, high-quality outdoor gear, and other items.

Tickets are \$100. The average prize value is \$160 with some worth more than \$500. Prizes valued at less than \$50 will be combined.

If buying a whole ticket is simply out of the question, you can buy half a ticket with a friend or let us pair you up. The drawing will be held on December 31st, and we will contact you to let you know if you won a prize. You do not need to be present to win.

Buying a raffle ticket makes us all winners—you, MEIC, and Montana's environment. Be a winner and send in the enclosed form today!

Thank you to all the raffle prize donors. We appreciate their generosity and hope you will support them when you can.

To buy a ticket, visit www.meic.org or call Sara Marino at (406) 443-2520. **Thank you!**

Send us your raffle ticket order TODAY!

I'll buy _____ Montana Futures Raffle Tickets @\$100 each.

Amount enclosed: \$ _____

Name: _____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

E-mail: _____

Please make your check payable to MEIC. Because the funds are raised to support MEIC's lobbying efforts, the cost of the Raffle ticket is not tax-deductible.

EAT, DRINK, & BE MERRY

Barnstormers, Helena: 5 pounds of Cafe Mam organic "Fair Trade" coffee. \$55

Signs Now, Helena: gift certificate to Chico Hot Springs. \$250

Taco del Sol, Helena: 2 gift certificates for dinner for 2. \$36

Bozeman Brewing Co., Bozeman: 2 pint glasses, koozies, and a filled growler of beer. \$34

Boulder Hot Springs, Boulder: 10 visit soak/swim pass. \$60

Good Food Store, Missoula: gift certificate. \$20

Beverly Magley, Helena: choice of locally grown winter harvest dinner or garden party for 4, in Helena. \$200

Ten Spoon Vineyard & Winery, Missoula: 2 bottles of Wilderness Act Syrah and 2 wine glasses. \$62

Sanders Bed & Breakfast, Helena: 1 night's lodging and breakfast for 2. \$140

Murry's, Helena: gift certificate. \$25

Lifeline Produce, Victor: selection of either organic winter storage vegetables or spring bedding plants. \$100

Hub Coffee, Helena: 2 gift certificates for lunch for 2. \$36

Amy Budke, Helena: 1 hour therapeutic massage. \$60

Radiance Skin Care Salon, Helena: gift certificate for a custom facial. \$65

Montana Ale Works, Bozeman: gift certificate. \$50

Lewis & Clark Brewing Co., Helena: T-shirt, 2 pint glasses, and a filled growler of beer. \$50

Blackfoot River Brewery, Helena: gift certificate for 10 growlers of beer, an anniversary growler, and 2 tulip glasses. \$145

Myrna Loy Center, Helena: 2 movie tickets and 2 free popcorns. \$25

Windbag Saloon, Helena: lunch for 2. \$50

KettleHouse Brewing Co., Missoula: T-shirt, hat, and koozie. \$43

SPECIAL FEATURES

Gary and Dona Aitken, Ovando: sturdy toy box, made of local Ponderosa pine, clear or blue stained, inlaid with the name of your choice. \$250

Wilbur Rehmann, Helena: two-hour duet jazz concert in the Helena-area location of your choice by saxophonists Wilbur Rehmann and Sarah Dramstad. \$400

Phil Campbell and Judy Fay, Helena: guided trip for 2, with lunch, by kayak, sail boat, or motor boat, to Wild Horse Island in Flathead Lake. \$250

Helen Edwards, Helena: handcrafted black pearl and sterling silver necklace. \$175

Nancy Erickson, Missoula: framed 13 in. x 10 in. colored pencil drawing, All The Pretty Colors. \$250

Roger Sullivan and Lucy Smith, Kalispell: summer evening sail for 2, with wine and hors d'oeuvres, on Flathead Lake. \$250

Sarah Jaeger, Helena: 14 in. porcelain platter. \$200

Yellowstone Alpen Guides, West Yellowstone: snow coach tour for 2 to Old Faithful or the Grand Canyon in Yellowstone National Park. \$250

Gary and Judy Matson, Milltown: Ruana hunting knife made in Montana. \$285

John Wachsmuth, Kalispell: 1 day guided float-fishing trip for 2, with lunch, on the Flathead River. \$500

Custer Tours, Billings: 2 prizes of a half-day guided tour in your vehicle of the Custer Battlefield site with noted historian and retired National Park Service superintendent of the site. \$250

Adam Koltz, California: 16 in. x 23 in. framed watercolor painting, Haystack Butte. \$495

Three Circle Ranch, Birney: 40 pounds of all-natural prime beef. \$300

Allegra Print & Imaging, Helena: gift certificate to Chico Hot Springs. \$250

Anne Hedges and Michael Downey, Helena: 40 in. by 34 in. framed limited edition lithograph by Bruce Lattig and John Craighead, Goshawk. \$600

Mystery Ranch, Bozeman: Snapdragon backpack. \$200

Vicky McLane, Arizona: Two framed paintings by contemporary landscape artist John Mendoza. \$300 each

ARTS

Michael Lee Photographic Art, Helena: Photo of your choice from Lee's gallery. \$150

Jeanette Barnes, Butte: framed hand-lettered quotation from Pablo Neruda. \$100

Dee Linnell Blank, Whitefish: framed 16 in. x 20 in. photograph, Ear Mountain Rocky Mountain Front. \$150

Anonymous, Washington: framed art, Kimono. \$50

Lava Jazz Pottery, Polson: lead-free porcelain baking dish. \$68

Buckskin Clothier, Kalispell: 9 in. deerskin shoulder purse with 2 pockets and a braided shoulder strap. \$160

Marjorie Reck, Cameron: 9 in. diameter red antler decorated gourd. \$175

Lindy Miller, Helena: salt-fired white stoneware bowl. \$100

Larry Weinberg, Oregon: 2 prizes of limited edition art prints by Rod Frederick. \$150

Eliza Wiley, Helena: one hour professional photo shoot, in the Helena area, with a CD containing the images. \$100

Anonymous, Washington: framed woodcut, Two Cats. \$50

Wild Wind Foundation, Big Sky: 2 prizes of a book, a DVD, and 5 music CDs by the late Walkin' Jim Stoltz. \$90

Turman Larison Contemporary, Helena: 2 watercolor gift cards handpainted by Doug Turman. \$100

Jeannine Willison, Conrad: Monte Dolack poster, Going To The Sun. \$50

Jim Barrett, Livingston: matted fine art print. \$180

Exploration Works, Helena: one-year family membership. \$75

Alysoun Johnston, Idaho: Czech Republic green glass vase with grape and leaf design. \$60

Mel Griffin, Helena: 13 in. ceramic platter with crab motif. \$120

Thirteen Mile Lamb & Wool Co., Belgrade: Two crocheted and felted 100% wool rugs. \$65 each

Anonymous, Washington: framed wood engraving by A.C. Kulik, Crow in the Snow. \$100

Charlotte Sanddal, Helena: Set of three pillows adorned with molas, made by the Kuna women in Panama. \$100

Outdoor Gear and Adventures

Bridger Bowl, Bozeman: 2 adult lift tickets. \$104

Crazy Creek Products, Red Lodge: 2 Crazy Creek "Original" chairs. \$50 each

The Base Camp, Helena: North Face Wasatch sleeping bag. \$99

Harold Dramstad Production & Design, Helena: wildland firefighter's personal gear backpack. \$150

Birds and Beasleys, Helena: DVD field guide, "Better Birdwatching in the West." \$30

Stan and Glenda Bradshaw, Helena: guided canoe trip for 2 on the Missouri River with lunch and canoeing instruction. \$200

Ron Stirling, Missoula: 1/2 day guided float trip for 2 on a Missoula-area river. \$400

Montana Raft Co. and Glacier Guides, West Glacier: half-day whitewater raft trip for 2 on the Flathead River. \$104

Rocky Mountain Outfitter, Kalispell: gift certificate. \$150

Freeheel and Wheel, West Yellowstone: full-day Nordic ski rental, a one-hour lesson, and a coffee drink. \$80

B Bar Ranch, Emigrant: 4 one-day cross-country ski passes. \$40

Patagonia Outlet Store, Dillon: woman's and man's down vest. \$169 each

Steve Braun, Whitefish: 1 day float trip for 2, with lunch, on the Middle or North Fork of the Flathead River. \$250

Great Divide Ski Area, Marysville: 10 half-price lift tickets. \$59

Glacier Raft Co., West Glacier: half-day guided whitewater float trip for 2 on the Middle Fork of the Flathead River. \$116

Bohart Ranch Cross Country Ski Center, Bozeman: 4 one-day passes. \$60

Our thanks to all the raffle prize donors. We appreciate their generosity and hope you will support them when you can.

PPL Wants Another Year of Polluting

by Anne Hedges

In 1990 Congress decided that mercury and other toxic air pollutants were harmful to public health and the environment and should be reduced to the lowest levels possible. It directed the U.S. Environmental Protection

Agency (EPA) to study emissions from power plants and, if necessary, to require limits on the harmful emissions. Unfortunately, the largest emitters of


mercury and air toxic pollution – companies that owned coal-fired power plants – were able to stall EPA from adopting any regulations for their toxic air pollution.

Then, in 2012, after decades of intense debate and legal battles, EPA finally adopted a regulation to require coal-fired power plants, such as Colstrip in Montana, to clean up their acts. EPA gave the plant owners three years to install air pollution controls for the most harmful emissions. For example, the EPA regulation required Colstrip, which emitted over 300,000 pounds of toxic air pollution in 2013 alone, to install pollution controls by April 15, 2015.

Apparently 25 years was not enough time for Colstrip's owners to prepare for this requirement. In September 2014, Colstrip's operator, PPL, requested an extra year to limit its toxic pollution. It sent a request to the Montana Department of Environmental Quality (DEQ) that said (in part): "the Colstrip owners must carefully balance the budget to address new environmental requirements and equipment reliability while ensuring adequate availability of funds for operation of the units in a manner to meet their electrical demands." Decoded, that means the owners don't want to pay for pollution controls right now, because they make too much money when the plant is

operating, and they don't want to limit their profits for any period of time. Colstrip's owners reported earning \$2.4 billion in net profits in 2013. Their CEOs earned a combined \$33 million. It will cost them only \$15 million to finish installing the technology to limit toxic air pollution and comply with the EPA regulation.

MEIC and hundreds of MEIC members, along with many others, objected to the request. DEQ responded by asking PPL to provide additional information to support its claim that the extension was necessary. PPL responded in late October 2014, but still failed to answer the State's most basic question – why can't the remaining work be done next Spring when demand for electricity is at its lowest.

DEQ has not yet decided whether to grant the one-year extension. If it does, people downwind of Colstrip will continue to be unnecessarily exposed to toxic air pollution. 

"DEQ has not yet decided whether to grant the one-year extension. If it does, people downwind of Colstrip will continue to be unnecessarily exposed to toxic air pollution."



Colstrip coal-fired power plant. Photo by MEIC.

Golden Sunlight Mine Hearing Coming Up

by Jim Jensen

MEIC's new legal challenge to the Montana Department of Environmental Quality's (DEQ) decision to allow the Golden Sunlight mine to create a new open pit, without requiring that it be backfilled after mining is completed, will be heard before Judge Loren Tucker in state district court in Boulder on December 17, 2014.


The Golden Sunlight mine began operation in 1975. It has since expanded to become one of North America's largest open-pit gold mines. It has been plagued with problems throughout its life, including a leak of 19 million gallons of cyanide-laced water into the aquifer beneath the waste tailings pond in 1983. The mine also had to close for seven months in 1994 when the company's engineers wrongly allowed the dumping of hundreds of millions of tons of waste rock where it caused the side of the mountain to slump, placing the huge tanks at its processing facility in jeopardy of failure. The mine is the last in Montana able to use cyanide leaching because it was "grandfathered" when this method of mining was banned by MEIC's Initiative 137 in 1998.

MEIC, the Gallatin Wildlife Association, and the National Wildlife Federation first sued the State in 1992 for failing to require the mine's open pit to be reclaimed after mining is done, as required by the Montana Constitution. Article IX, Section 2, of the Constitution says: "all lands disturbed by the taking of natural resources shall be reclaimed." After 19 years during which the groups won several rulings, the case was ultimately lost in 2011 when Judge Tucker ruled

that the groups should have sued even earlier (i.e., before the mining commenced).

Now the mining company has proposed a new, much smaller pit to extend the mine's life by a few years. And, yet again, DEQ is failing to require that the mine be reclaimed, agreeing with the company that the unreclaimed high walls and the deep hole in the ground might be used by raptors and possibly bats, and that those speculative uses are sufficient to be called reclamation. DEQ also argues that requiring anything more would constitute "full" reclamation, something it says is not in the Constitution. DEQ fails to mention that the Constitution also does not say "most minimal and inconsequential" reclamation either.

IF DEQ's views prevail, then the Constitution's provision is meaningless. Ultimately, the issue will probably be decided by the Montana Supreme Court.

To read the briefs in the case, go to MEIC's web site, www.meic.org. 

*Golden Sunlight mine.
Photo by Wilburforce.*



Clean Energy Opportunity for Rural Electric Co-ops: Will They Take It?

by Kyla Maki

The U.S. Department of Agriculture (USDA) has a new loan program that will help remove some financial barriers that have prevented rural electric co-operatives and their members from investing in energy efficiency and certain renewable energy

“The evidence shows that helping co-ops and their members to invest in clean energy is money well spent.”

projects. Last year, USDA secretary Tom Vilsak announced the creation of the Energy Efficiency and Conservation Loan Program (EECLP). It will make \$250 million of zero-interest funding available for rural electric co-ops to invest in energy efficiency programs and renewable energy projects, starting in 2014. Montana co-ops have yet to take advantage of this free money to invest in clean energy for their members.

The evidence shows that helping co-ops and their members to invest in clean energy is money well spent. For example, USDA modeled its energy efficiency and clean energy loan program on a successful pilot project in South Carolina. The Electric Co-ops of South Carolina’s

Rural Energy Savings program provides low-interest loans to co-op members to conduct energy efficiency audits and implement energy savings measures in their households. Consumers pay back the loans through the money they save on their energy bill—an arrangement called “on-bill” financing. Since energy savings are required to be greater or equal to the cost of the improvements, there are no out-of-pocket expenses to consumers. The net benefit is particularly important, because the program is focused on consumers with low and fixed incomes.


In Montana, Flathead Electric Co-operative has had success with its on-bill financing program for customers’ energy efficiency improvements. Montana’s 25 other rural electric co-ops could implement similar programs to help their members save energy and money by applying to the new USDA loan program. Co-ops must apply on behalf of their members. The EECLP also could help consumers invest in renewable energy such as geothermal systems, ground source heat pumps, and even wind and solar electric systems.

Photo by Laurie Lohrer, a customer of Fergus Electric Co-operative.



Several public utilities, and rural electric co-ops across the country have documented significant savings from successful energy efficiency programs. In fact, 90% of rural electric co-ops nationally have some type of energy efficiency program already in place. The USDA's new program can help co-ops expand on their existing energy efficiency programs and develop new ones.

Two new energy efficiency initiatives at co-ops in North Carolina and Arkansas will be taking advantage of the USDA loans. In North Carolina, the Roanoke Electric Membership Co-operative received \$6 million from USDA to improve the efficiency of the building envelope in 200 homes and businesses as well as retrofit them with new HVAC systems. In Arkansas, the North Arkansas Electric Co-op is using \$4.6 million from the USDA's program to fund new energy efficient lighting, geothermal systems, and ground source heat pumps for its members.

Montana's rural electric co-ops have yet to apply for any of the new energy efficiency and conservation loan money through USDA. Homeowners and business owners who are served by electric co-ops in Montana should encourage their co-ops to apply. The funding would help lower energy bills for the hundreds of thousands of Montanans who are member owners of rural electric co-operatives. 

Goodbye to Old Friends and Hello to New Ones

MEIC's most heartfelt thanks go out to Paul Edwards, Mark Gerlach, Steve Scarff, Roger Sullivan, and Zack Winestine, who have retired from MEIC's Board of Directors. Their dedication and commitment



to strengthening the work of MEIC has been tremendous, and greatly appreciated, and will be missed.

Happily, MEIC welcomes returning board member Stephanie Kowals, as well as new members Erin Farris-Olsen, Greg Findley, Dustin Leftridge, Bill Madden, Bob Ream, John Rundquist, and Kim Wilson. We are looking forward to working with them all to advance MEIC's mission to protect Montana's natural environment for generations to come.

Thank you to all the MEIC members who cast their votes in the election.

'Tis the Season!

Thank you, MEIC members, for helping us achieve another year of success in protecting Montana's water, air, and land! Please join us at MEIC's annual holiday party in Helena to celebrate.

- **When: Thursday, December 11th, from 5 pm – 7 pm.**
- **Where: The lobby of the historic Placer Hotel, 21 N. Last Chance Gulch (on the walking mall next to Taco del Sol) in downtown Helena.**

And in this season of giving, why not give your loved ones the gift of a clean and healthful environment by purchasing an MEIC gift membership today!



Presidents Letter



by Gary Aitken

The elections have come and gone, and for friends of Montana’s environment, natural resources, and just plain clean, healthy air and water, they were a disappointment. The 2015 session will be a

challenge in the Montana legislature.

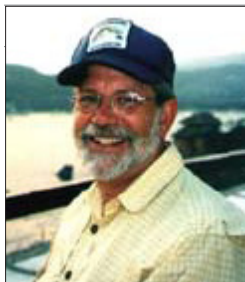
One election you can be delighted in is that of new directors for MEIC’s board. A number of directors were term-limited, and some had to leave because of other commitments. MEIC’s board is the most committed and active board I have been privileged to work with. Going forward, our new directors will only improve on that state. In conjunction with our outstanding

staff and executive director, you have in MEIC an extremely effective organization for protecting your right to a clean and healthful environment.

That is in stark contrast to some state agencies whose full-time job it is to protect that environment. Unfortunately, the Montana Department of Environmental Quality (DEQ), while often paying lip-service to protecting the environment, seems to view its own work more as a facilitator of corporate exploitation than as a guardian of Montana citizens’ resources.

Lest that statement be considered overly harsh, consider that DEQ has not (as of this writing) rejected Arch Coal’s permit application for a massive coal strip mine mine in Otter Creek and required the company to submit a new one. As explained on page 4, DEQ has instead chosen to consider 60 primary documents totaling over 1,764 pages, and at least 167 appendices, figures, tables, and maps totaling at least an additional 3,687 pages (a whopping 2.3 GB of data overall)

Thoughts from the Executive Director



by Jim Jensen

Marijuana, Cliven Bundy, and the Civil War.

What in the world do the American Civil War, the U.S. BLM’s incompetent handling of Nevada rancher Cliven Bundy’s refusal to comply with a federal court order to remove his cattle from the public domain, and the legalization of marijuana use in various states have in common?

And why should environmentalists care?

Here is the what (the why will, hopefully, be obvious). The common denominator is that all were or are being driven by a belief in so-called “states rights.” Purveyors of this ideology would have Americans – and especially Southerners and us Westerners – believe that the supremacy clause of the U.S. Constitution does not exist.

They seem to have forgotten that we fought a horrific Civil War over this exact question and the result was that, yes, the federal government and federal laws are the laws of the land. To wit: slavery could be outlawed by the federal government regardless of the contrary laws of individual states. So, why does the Obama Administration take the position that it will not enforce the federal prohibition on marijuana use in the face of state laws to the contrary? And how about failing to enforce public land laws in the face of armed resistance in Nevada and elsewhere? As one might expect, only weeks after the Bundy stand-off, his son joined a group of anti-federal lands crackpots who drove four-wheelers into an off-limits area in Grand County, Utah. Again, no enforcement action was taken.

One result of these failures is that now a radical Utah legislator is persuading right-wing zealots across the West, including here in Montana, that states have the right to manage the federal lands within their borders. They even

to be just a minor permit modification for which, apparently, public oversight would be of little value. Those documents took a large corporation with huge financial and human resources a year and a half to generate.

Downloading the documents alone took about five hours of human interaction, as the files are poorly organized, some are missing, and some have duplicate names. The entirety of the document set is not bundled for easy download; the process should take about five minutes to initiate, instead of five hours of babysitting.

If DEQ seriously considered its job one of properly administering the public's resources and involving the public in the process, it would not only provide web access to the individual documents, it would also provide a bundled one-click link to download the whole ball of wax. And that bundled download would be reasonably organized. It would save people interested in studying the application hours of time.

Let's say most people work eight hours a day; sleep eight hours; add a half-hour each way

for commuting, a half-hour for breakfast, an hour each for lunch and dinner; that's 19.5 hours a day. We'll give you half an hour to interact with your family, leaving four hours a day to go over the documents. Given DEQ's overall process and the time constraints under the law, Suzie M. Public will have ten days to read the documents, digest their contents, and consider their implications and ramifications, and construct meaningful comments to DEQ. Well, cripes, what's the matter with all of you? Are you uneducated idiots, or what? Slow readers? Math challenged? Visually impaired? What's your problem? Surely four hours a day for ten days, a total of 40 hours, basically your entire life for two weeks, is enough time to fully understand 5,451 pages of technical documents and to comment on them!

Enough said. Unless DEQ changes its practices, and its decision, in this matter, MEIC will most likely be in the news again in connection with the Otter Creek mine. If it's not, that's good news. It means the work we do quietly is also yielding fruit. 🍏

go so far as to assert that federal ownership does not exist.

And, finally, each year additional states expand marijuana use. Whether you are for or against legalizing marijuana, the constitutional principle is the same. If you want to change the law, pressure Congress to do so. I believe, in this particular case, that it is way overdue.

I am certain that a next step in this "states rights" progression will be an attempt to say that the federal Clean Air and Clean Water Acts are subservient to the various state laws, and then attempts to weakened them to meaninglessness will ensue. There are already Montana legislators saying that the proposed EPA regulations of coal-fired power plants violate Montana's sovereignty. Montana attorney general Tim Fox agrees.

Just as South Carolina thought about the growing national consensus on slavery in 1861. Then came the battle of Fort Sumter.

It is time to adhere to the Constitution's principles for the sake not only of our environment, but of this country. 🍏

Join our list!

Want to know the latest way you can help protect Montana's environment? Want to take action during the upcoming 2015 Montana legislative session, and help MEIC defend Montana's environmental laws? Join MEIC's Action Alert Network, stay tuned in, and make a difference. Sign up today at: <http://meic.org/get-involved/join-our-network/>

Get social with MEIC!

MEIC regularly updates its social media with the latest news about Montana's environment. We also offer unique action items of ways that you can help protect Montana's air, land, and water. Friend or follow us, whichever you prefer, and keep in the loop!

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

E-mail: meic@meic.org

Board of Directors

President: Gary Aitken, Ovando

Vice-President: Bob Gentry, Missoula

Secretary: J. Kirwin Werner, Ronan

Treasurer: Tom Graff, Missoula

Joe Biby, Kalispell

Erin Farris-Olsen, Helena

Greg Findley, Bozeman

Stephanie Kowals, Seattle

Dustin Leftridge, Kalispell

Bill Madden, Augusta & Chicago

Bob Ream, Helena

John Rundquist, Helena

Kim Wilson, Helena

Staff

Mel Griffin, Donor Relations

Manager, mgriffin@meic.org

Anne Hedges, Deputy Director/

Lobbyist, ahedges@meic.org

James Jensen, Executive Director/

Lobbyist, jjensen@meic.org

Derf Johnson, Staff Attorney/Lobbyist

djohnson@meic.org

Kyla Maki, Energy Advocate/

Lobbyist, kmaki@meic.org

Sara Marino, Development

Director, smarino@meic.org

Adam McLane, Business Manager,

mclane@meic.org

Gail Speck, Office Assistant,

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 4.



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

Double Your Money!

You've done it before! Thanks to all of you, we have matched our special one-time \$25,000 challenge grant to raise funds for our work to move Montana "Beyond Coal."

Do you want your hard earned dollars to go twice as far once again? MEIC has been fortunate enough to receive another challenge grant. It will match any extra donations we receive before the end of the year.

That means your gift will go twice as far in helping protect Montana's clean water, fresh air, unspoiled landscapes, and unique quality of life.

As you consider your year-end giving, please don't forget Montana's environment. It is MEIC's loyal and committed membership that have allowed us to prevent the tar sands mining mega-loads from steamrolling Montana, to stop the development of two proposed coal-fired power plants, and to fight to protect key environmental laws at the legislature.

But as you read this newsletter, you can see that the threats never stop coming. We need your help now to protect our world-renowned Smith River from a proposed copper mine, to slow global warming by keeping the Otter Creek valley coal in the ground, and, of course to gear up for the 2015 legislative session.

Help us match the challenge grant by December 31st by using the enclosed envelope to mail a check, by making your donation online at www.meic.org, or by giving us a call at 406-443-2520. Thank you.

