



Protecting the Environment from Uncontrolled Oil and Gas Development at the Legislature

Over the past decade, oil and gas development in Montana has experienced exponential growth and become a major environmental concern. With the advent of horizontal drilling, combined with hydraulic fracturing (or “fracking” as it’s known) there has been tremendous growth in the number of oil and gas wells, as well as in the associated infrastructure, particularly in the Bakken formation in eastern Montana. Unfortunately, fracking for oil and gas has major environmental implications, including air and water pollution, degradation of habitat, and climate change.

The Montana Legislature has been unwilling to pass, if not outright hostile to, any proposals that would place reasonable safeguards on oil and gas development. This is unfortunate, as oil booms are always followed by an inevitable bust that leaves communities with serious environmental damage and a dramatic loss in tax revenue. As an example, one good bill (HB 243, sponsored by Rep. Mary Ann Dunwell) that would require more stringent disclosure requirements for fracking chemicals and landowner notification has already been tabled in committee.

Sadly, it appears that Montana is once again on this path. Headlines such as “U.S. Oil Rig Numbers Plunge, Especially in Bakken” (oilprice.com, 1/26/15) and “Has the Bakken Boom in Montana Busted?” (Montana Public Radio, 1/26/15) are becoming increasingly common in state and national newspapers.

The recent bust in the Bakken emphasize why we need strong laws on the books to make sure that temporary development does not cause irreparable environmental harm. There are a number of pro-active bills being considered by the Legislature that would protect clean air and clean water, adjacent landowners and irrigators, and Montana communities from irresponsible oil and gas development. They are described below. In addition, we have also listed a number of bills (both good and bad) that we are actively working on this session. For more up-to-date information, visit www.meic.org/legislature. Thanks for all that you do!

Bills to Support

Oil and Gas Bills

SB 177 (Sen. Mary McNally, D-Billings).

Status: *Hearing held in Senate Natural Resources on 1/28.*

This bill would protect rural landowners by prohibiting the drilling of an oil or gas well within 1,000 feet of surface water, water wells, or habitable buildings, provided the owner of the habitable building or water source does not waive this requirement.

SB 173 (Sen. Christine Kaufmann, D-Helena).

Status: *Hearing held in Senate Natural Resources on 1/28.*

This bill would protect taxpayers by increasing Montana’s bonding requirements for oil and gas wells to no less than \$60,000 for most wells, \$20,000 for wells less than 2,000 feet deep drilled solely to obtain geological data, and not less than \$250,000 for a multiple well bond. Operators would also be required to place \$5,000 per

inactive well in escrow or pay annual idle well fees ranging from \$100 to \$500 per well per year.

SB 172 (Sen. Sharon Stewart-Peregoy, D-Crow Agency).

Status: *Passed Senate and House, awaiting action by Governor.*

This bill would provide land and mineral owners within 1 mile of a proposed oil or gas well the ability to have their groundwater tested by a third party before and after development. The testing costs would be paid by the drilling company.

HB 253 (Sen. Rep Virginia Court, D-Billings).

Status: *Hearing held in House Federal Relations, Energy, and Telecommunications on 2/2.*

This bill would protect soil and water by prohibiting the use of earthen pits or ponds during oil and gas development in favor of a “closed-loop system.” This would efficiently

continued on back

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MEIC Bill Tracker:

Visit www.meic.org/legislature for our legislative bill tracker. Our bill tracker provides you with up-to-date information on proposed legislation and the ability to contact sponsors, committee members, and the governor.



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

Capitol Monitor is a publication of the Montana Environmental Information Center designed to keep members informed about environmental issues at the Montana legislature.

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recycle circulated mud used during the drilling process while preventing fluids from coming into contact with native soils and eliminating the need for an earthen reserve pit or pond.

Clean Energy Bills

HB 192 (Rep. Art Wittich, R-Bozeman).

Status: *Hearing held in House Federal Relations, Energy, and Telecommunications on 1/19.*

Under the current law, each renewable energy net-metered system on someone's property must have a separate meter. This proposal would allow farms, universities, or multi-unit housing projects with multiple electric meters on the same or adjacent property to be able to run all those meters as one system so the entire property can benefit from the energy produced on that property.

HB 188 (Rep. Art Wittich, R-Bozeman).

Status: *Hearing held in House Federal Relations, Energy, and Telecommunications on 1/19.*

This bill would allow individuals to carry forward any credits that they don't use during the course of a year and use those credits to offset energy use in future years. Currently, the law only allows renewable energy system owners to carry forward net metering credits from month to month for up to one year. At the end of the year, they forfeit their credits to NorthWestern Energy.

Bills to Oppose

Coal Development Bills

All of these bills have the strong support of Arch Coal because they will facilitate the development of the Otter Creek coal mine.

SB 112 (Sen. Duane Ankney, R-Colstrip).

Status: *Hearing held in Senate Natural Resources on 1/26.*

This bill would require DEQ to complete a total maximum daily load (TMDL) analysis on an impaired water body if a company seeks a water pollution discharge permit for that polluted water body. While TMDLs usually take 2-3 years to complete, under this bill If DEQ fails to complete the TMDL analysis within 6 months, DEQ would have to pay damages to the company that requested the analysis.

SB 159 (Sen. Duane Ankney, R-Colstrip).

Status: *Hearing held in Senate Natural Resources on 1/26.*

This bill would ban any water quality standards for tributaries of Rosebud Creek, the Tongue River, the Powder River, and the Little Powder River from being stricter than ambient conditions. Current water quality standards in southeast Montana are carefully designed to protect irrigators and other existing uses.

SB 160 (Sen. Duane Ankney, R-Colstrip).

Status: *Hearing held in Senate Natural Resources on 1/26.*

This bill would make it more difficult for citizens to protect water quality by challenging permits to discharge

pollutants into state waters when DEQ fails to do its job. A person concerned about water quality would have to prove, with "clear and convincing" evidence, that the original classification for a receiving stream was "arbitrary and capricious."

Energy and Climate Bills

SB 114 (Sen. Debby Barrett, R-Dillon).

Status: *Passed Senate, referred to House Federal Relations, Energy, and Telecommunications.*

The Renewable Energy Standard (RES) requires regulated utilities to acquire 15% of their energy resources from clean renewable resources by 2015, a target which has already been met. This radical bill would make the RES meaningless by eliminating incentives for new, diverse, and often community-based renewable energy development such as wind because it would allow energy from existing dams to be counted toward meeting the RES stanard. The RES originally included smaller hydro (energy from dams less than 15MW), but intentionally excluded large existing dams in order to create an incentive for developing new renewable energy resources.

HB 244 (Rep. Jeff Essmann, R-Billings).

Status: *Hearing held in House Appropriations on 1/27.*

This bill would create a \$1 million slush fund for Montana's attorney general Tim Fox to instigate litigation in Oregon and Washington in support of coal export terminals. This would double the attorney general's entire litigation budget.

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