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## 2015 Legislature In Review

# Arch Coal Flounders, but Continues to Push Otter Creek Mine and Tongue River Railroad

by Anne Hedges


Arch Coal continues to pursue its proposal to build the largest new coal mine in the United States in Montana's Otter Creek valley. At the same time, it is desperately trying to avoid having its stock delisted from the New York Stock Exchange. Last month Arch warned investors it would be delisted if its stock price stayed below \$1 for 30 consecutive days. The stock has closed below \$1 nine times since mid-April and numerous times since the beginning of the year. While fighting its battles on the "street," Arch continues to seek permission to mine 1.3 billion tons of coal in the agriculturally rich Otter Creek valley.

Arch Coal cannot mine this coal until the Montana Department of Environmental Quality (DEQ) issues it a mining permit, an air pollution permit, a water pollution permit, weakens water quality standards for Otter Creek, and completes an environmental impact statement. Even with all of those things in place, Arch also needs a railroad to haul the coal to the West Coast. That's the reason for its interest in the Tongue River Railroad. And, of course, Arch also needs Asian markets willing to buy the coal. That tale of increasing market uncertainties is a story for another day.

Fortunately DEQ does not appear to be "rolling over." In March 2015, it sent Arch a 65-page letter outlining the extensive deficiencies in Arch's mine permit application. Those deficiencies ranged from missing water quality data to sweeping requests for information on cultural resources, hydrology (including the alluvial valley aquifer), wildlife, and more. Arch has said it will provide that information within a few months. It is certain, however, that any such quick response will be inadequate.

Now that the Montana legislature has weakened some of the State's water quality laws, rules must be adopted to lower water quality standards for Otter Creek. A draft proposal to do so will be issued by May 18th followed by a number of public comment periods. MEIC will keep you posted on when you can comment. DEQ also issued a draft air pollution permit to Arch on May 11th and public comments will be accepted until June 10th.

Everything else aside, Arch Coal cannot develop the mine until the Tongue River Railroad is built. The railroad cannot be built without condemning private property. The federal Surface Transportation Board (STB) is currently considering a number of potential routes for the railroad, and will hold 10 public hearings and accept public comments until June 23rd (see box). The preferred railroad route would cross 42 miles of productive private agricultural land between Ashland and Colstrip. The coal would then travel by existing rail lines across Montana, Idaho, and Oregon and/or Washington to West Coast terminals for shipment to what are declining Asian markets.

MEIC will be calling on its members to help stop the digging, shipping, and burning of Otter Creek coal. Arch simply cannot be allowed to destroy private property, cultural resources, and agriculture operations, or to degrade water quality, or cause the emission of massive quantities of carbon pollution that will further aggravate climate change. The railroad and mine must be stopped. 

## Comment on the Draft EIS:

### By mail:

Ken Blodgett  
STB  
395 E Street, S.W.  
Washington, DC 20423  
ATTN: Office of  
Environmental Analysis  
Docket No. 30186

### Electronically:

[www.tonguerivereis.com](http://www.tonguerivereis.com)

## Public Hearings on the Tongue River Railroad Draft EIS

- June 8, 2015, 2:00-4:00 pm and 6:00-8:00 pm at St. Labre Indian School, 1000 Tongue River Road, Ashland, MT.
- June 9, 2015, 2:00-4:00 pm and 6:00-8:00 pm at Miles Community College, Room 316, 2715 Dickinson Street, Miles City, MT.
- June 10, 2015, 2:00-4:00 pm and 6:00-8:00 pm at Colstrip High School, 5000 Pinebutte Drive, Colstrip, MT.
- June 11, 2015, 2:00-4:00 pm and 6:00-8:00 pm at the Northern Cheyenne Tribal Building, Council Chambers, 600 South Cheyenne Avenue, Lame Deer, MT.
- June 12, 2015, 2:00-4:00 pm and 6:00-8:00 pm at Forsyth High School, 917 Park Street, Forsyth, MT.



# The 2015 Legislative Session: Working Hard to Stand Still

by Anne Hedges, Kyla Maki, and Derf Johnson

The beginning of the 2015 legislative session saw the introduction of a number of proactive bills that would have decreased carbon pollution, protected water quality from natural resource development, and helped Montanans to become more energy independent. But the Legislature, in its wisdom, did not believe that these things were important, and defeated all the bills before the halfway mark. The Legislature then spent the second half of the session giving tax breaks to the fossil fuel industry, trying to force the Colstrip coal-fired power plant to stay open beyond its economic life, paying legal bills on behalf of the coal industry, and weakening water quality standards. Some of the worst ideas were defeated, but far too many became law.

Gov. Steve Bullock did veto a few bills but, frustratingly, he allowed many more to become law. He vetoed bills that would have weakened Montana's renewable energy standard, created conflicting standards for Montana's water quality protection laws, eliminated tax credits for clean energy, among others. His staff also supported many amendments that made bad bills less objectionable. However, he signed (or allowed to become law without his signature)

bills to weaken water quality standards for Arch Coal's Otter Creek mine, to give tax breaks to the fossil fuel industry, and to reduce some water quality penalties by 95%.

Fortunately, as often happens, most of the most anti-environment and anti-public health bills never made it to the governor's desk. Innumerable bad ideas were stopped in committee, such as bills to: deregulate asbestos removal; prohibit regulation of pollution-causing wood stoves; criminalize coal export protests at railroad tracks; ban any regulation that burdened private property in any way; hamstringing the State's implementation of the EPA's Clean Power Plan; and many, many more.

What follows is a summary of the principal victories and defeats at the session. It took a lot of effort to try and maintain the clean air and clean water laws already on the books in Montana. MEIC is extremely grateful to its members for providing us with the means to accomplish what we did. Now that the legislature has left town, MEIC's staff can return to the ongoing work of protecting the environment and public health, and moving the state toward a cleaner energy future. Thank you for supporting all of our work.

*continued on page 4*



Montana  
Capitol  
building. Photo  
by MEIC.

## 2015 Legislature in Review *(continued)*

### Victories: Good Bills That Passed

There were very few "good" bills that passed this session. Many that did were due to MEIC's efforts, and were modest but decent steps forward in environmental protection.

#### Hardrock Mining

**SB 409** (Sen. Chas Vincent, *R-Libby*) establishes a more thorough permitting and monitoring process for mine tailings impoundments with the goal of preventing breaches and leaks. The bill was in response to the Mount Polley mining disaster in Canada. While the bill represents a step forward in the regulation of the hardrock mining industry, MEIC requested several amendments to further protect public safety, assure impartial oversight and to protect the Smith River, but the amendments were not adopted.

#### Right to Know/Right to Participate

**SB 368** (Sen. Matthew Rosendale, *R-Glendive*) requires the Montana Department of Environmental Quality (DEQ) to gather information regarding pipelines that cross navigable waters in the state and to post that information on its website. Currently this information is not consolidated in one place and is extremely difficult for the public to obtain. The January 2015 pipeline rupture that spilled crude oil into the Yellowstone River near Glendive was the impetus for the bill. MEIC worked closely with the sponsor to draft this bill, and it passed with nearly unanimous support from both houses of the legislature.

#### Clean Energy

The legislature passed two bills to improve and expand energy efficiency. **SB 249** (Sen. Jill Cohenour, *D-East Helena*) tightens Montana's energy performance contracting law by requiring better audits and establishing parameters that guarantee energy savings. Energy performance contracting allows universities, state and local governments, and school districts to enter into contracts with private energy service companies to make energy efficiency upgrades to buildings.

These companies guarantee energy savings and the government entities pay for the upgrades over time with the money they save on energy costs.

The second bill, **HB 464** (Rep. Zach Brown, *D-Bozeman*) establishes a voluntary, high performance energy efficiency program for existing state-owned and university buildings. The program allows agencies and universities to set up a special revenue account to which they can transfer any unspent utility dollars to pay for future energy efficiency improvements and maintenance. The bill helps remove the disincentive that currently exists for those government entities to invest in energy efficiency and save money.



*Sen. Jill Cohenour, D-East Helena.*



*Smith River catch. Photo by Billy Pfeiffer.*

**HB 447** and **HB 448** (Rep. Kirk Wagoner, *R-Montana City*) provide judges with greater discretion in awarding attorney's fees to members of the public when they demonstrate in court that the government violated either the fundamental constitutional right to access public documents or participate in government decision-making processes. These constitutional rights are essential to preserving another one – the right to a clean and healthful environment.

### Asbestos

**HB 434** (Rep. Ed Lieser, *D-Whitefish*) was proposed as an alternative to a terrible bill that would have dramatically reduced regulation of asbestos removal from buildings. Instead of deregulating the removal of this highly toxic material, MEIC worked closely with Rep. Lieser and DEQ to craft a bill that shortens DEQ review time for smaller asbestos removal projects and establishes an oversight committee to help DEQ review and improve its asbestos program (which is a complex tangle of various federal regulations). The bill received overwhelming support from both houses, as well as the support of Rep. Jeff Essmann who sponsored the competing bill (**HB 239** - see page 8) that MEIC opposed.

## Victories: Bad Bills That Were Defeated

### Climate Change and Air Quality

The biggest victory for climate change and clean air was the defeat of **SB 402**. For more information see the article on page 18.

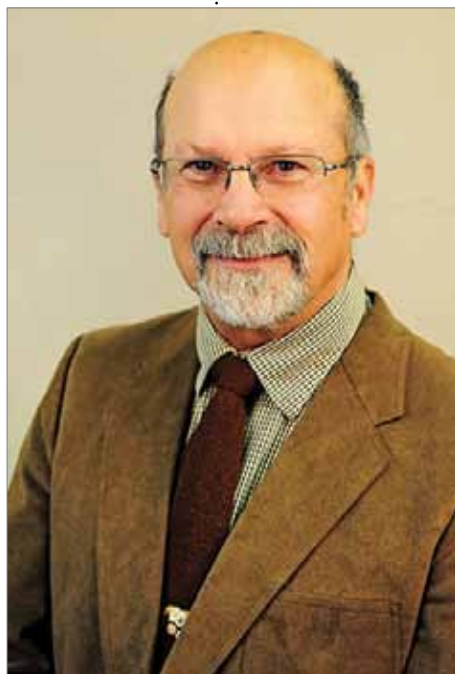
What could have been the second worst climate change bill of the session died an early death. **SB 236** (Sen. Roger Webb, *R-Billings*) would have required the legislature to approve

DEQ's carbon reduction plan for power plants. Such a plan must be developed to comply with the U.S. Environmental Protection Agency's (EPA) Clean Power Plan. The sponsor asked the Senate Energy and Telecommunications Committee to table the bill when he realized the State had to submit its plan prior to the next legislative session or else EPA would develop a plan for Montana.

Two bills were defeated that tried to prevent the State from reducing air pollution by limiting fine particulate emissions from old, inefficient wood burning stoves. Rep. Theresa Manzella (*R-Hamilton*) introduced two bills (**HB 465** and **HB 613**) that would have eliminated DEQ's ability to regulate wood burning stoves. Passage of either bill could have resulted in EPA taking over that portion of the State's air pollution control program. Fortunately, both bills were tabled in House committees.

Another "doozy" of a bill would have required the State to fine the federal

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*Rep. Ed  
Lieser,  
D-Whitefish.*



*Colstrip power plant. Photo by MEIC.*

## 2015 Legislature in Review (*continued*)

Judith Gap Wind  
farm. Photo by  
MEIC.



government for air pollution from forest fires on federal land. **HB 340** by Rep. Tom Burnett (*R-Bozeman*) was a confused attempt to force the federal government to harvest more timber on federal land. Many legislators believe that increased timber harvests are

the answer to forest fires and scoff at the argument that reducing climate changing pollution would help mitigate forest fires and the resultant pollution. This bill was tabled in the House Natural Resources Committee.

### Clean Energy

For the second session in a row, Gov. Bullock vetoed a bill that would have made Montana's Renewable Energy Standard (RES)

nearly meaningless. **SB 114** (Sen. Debby Barrett, *R-Dillon*) would have allowed the electricity generated at all existing (and new) large-scale hydro-electric dams to count as an eligible renewable resource under Montana's RES. The effect would be that regulated utilities would not have to invest in a single new wind, solar, or geothermal project to meet the RES requirements. This is the fourth time the legislature has attempted to gut the RES by "grandfathering" in large-scale dams.

### Right to Know/Right to Participate

Gov. Bullock vetoed a bill that might have curtailed the desire of members of the public to participate in the workings of the legislature. **SB 248** (Sen. John Brenden, *R-Scobey*) would

have required that any time anyone provided testimony to the legislature (either oral or written) they must specify their city and state of residence. While seemingly innocuous, the bill raised privacy concerns and placed legislators in the absurd position of having to ignore testimony if this information was not provided.

A bill that would have reduced the subsidized hourly rate awarded for attorney's fees in natural resource permitting cases was tabled in the House Judiciary Committee. **HB 398** (Rep. Tom Richmond, *R-Billings*) would have reduced the rate recoverable from the State for attorney's fees to the rate charged by the Department of Justice for providing legal services to other State agencies. The bill was an obvious attempt to reduce public participation in government processes.

**HB 369** (Rep. Clayton Fiscus, *R-Billings*) would have required the losing party in litigation to pay the attorney's fees and legal costs of the winning party. The bill was defeated in the House on a 45 to 55 vote.

### Water Quality

Gov. Bullock also vetoed one bad water quality bill this session. **SB 160** (Sen. Duane Ankney, *R-Colstrip*) would have put confusing and conflicting language into Montana's water quality law. The bill would have defined the "natural" condition of any stream as including both human-caused and nonhuman influences. That is a direct conflict with the federal Clean Water Act. Any changes to Montana's water quality law should provide clarification and eliminate any existing conflicts.

Even though much of the legislative action on water quality this session was unfortunate, another victory was the defeat of **SB 159** (Sen. Duane Ankney, *R-Colstrip*). This bill would have weakened water quality standards for the tributaries of specific eastern Montana water



bodies: Rosebud Creek; Tongue River; Powder River; and Little Powder River. All of these streams are already harmed, or threatened, by coal mines. The Senate Natural Resources Committee tabled this bill, but **SB 325** (see page 8), which weakened water quality standards all over the state, was enacted into law.

### Takings

Although **SB 286** (Sen. Cary Smith, *R-Billings*) was somewhat different from traditional takings bills, its impact would have been the same. The bill would have banned the adoption or implementation of any State regulation that burdened private property in any way. The bill made no mention of how the State was supposed to balance one property owner's rights versus those of the neighbors. The bill sailed through the Senate on a party line vote even though there were no proponents, but was tabled in the House State Administration Committee.

### Coal and Fossil Fuels

The legislature defeated **SB 353** (Sen. Rick Ripley, *R-Wolf Creek*). This bill would have put a constitutional amendment on the ballot to cap the Permanent Coal Severance Tax Trust Fund at \$1 billion, and put all new money into infrastructure projects. It also would have made it far easier for future legislatures to raid that funding source. The bill passed both houses but failed to receive the required 100 votes needed to place a constitutional amendment on the ballot.

**HB 171** (Rep. David Moore, *R-Missoula*) was a thinly veiled threat against coal export protests. The bill made trespass on railroad property a felony punishable by at least a year in prison. It defined trespass as any time a person is on railroad property when a train is approaching. The bill was rightfully

tabled in the House Judiciary Committee.

A poorly written and convoluted bill that would have authorized Montana to enter into interstate compacts for the siting of oil and gas pipelines was defeated. **SB 314** (Sen. Roger Webb, *R-Billings*) would have allowed Montana to enter into a compact with other states and provinces of Canada and established a permit regime for interstate oil and gas pipelines. The bill had several technical flaws, and could potentially have resulted in eminent domain being exercised against private property owners in Montana even if Montana opposed the project. The bill was tabled in the House Federal Relations, Energy, and Telecommunications Committee.

### Land Use

This session saw the defeat of all bills that were intended to weaken land use planning, zoning, and subdivision laws. Rep. Forrest Mandeville (*R-Columbus*) was full of bad ideas. His **HB 182** would have limited the application of subdivision regulation to areas with zoning. This terrible idea was defeated two different times on the House floor. His **HB 302** would have shifted the burden of proof for compliance with the subdivision laws from the developer to local governing body. This lousy idea was defeated in the Senate Local Government Committee. Finally, his **HB 640** was a bizarre anti-"Agenda 21" (a United Nations initiative on sustainable development) bill that never



*Governor Steve Bullock.*

*continued on page 8*

## 2015 Legislature in Review (*continued*)



*Sprawl from poor land-use planning.*

made it out of the House. It would have restricted local government regulation of private property.

Other anti-land use bills that failed to pass were **HB 357** (Rep. Kerry White, *R-Bozeman*), which would have forced the State to abide by decisions of local governments, and **HB 380** (Rep. Mike Miller, *R-Helmville*), which would have limited land use regulation of RV parks. Both bills were tabled in the House Local Government Committee.

Finally, **SB 226** (Sen. Roger Webb, *R-Billings*)

was the realtors' third attempt to prevent local governments from considering any future growth patterns when reviewing subdivision applications. Identical bills were passed in the 2011 and 2013 sessions, and vetoed. This time the bill was tabled in the House Local Government Committee.

### Asbestos

Asbestos regulation was one topic this session with a good ending. **HB 239** (Rep. Jeff Essmann, *R-Billings*) would have eliminated regulation of asbestos removal and disposal in many projects

across the state by raising the square footage limit for the projects that do not need State approval by over 3,900%. The bill was tabled in the House Natural Resources Committee in favor of **HB 434** (see page 5).

## Losses: Bad Bills That Passed

### Water Quality

The worst losses at the 2015 Legislature occurred in the area of water quality. Most of the bills were introduced at the behest of Arch Coal, the company that wants to develop the massive Otter Creek mine in southeastern Montana. In order to do so, Arch Coal needs to weaken Montana's water quality protections on Otter Creek, and the company was successful in doing just that at this session.

**SB 325** (Sen. Jim Keane, *D-Butte*) removes protections from pollution for downstream water users by overturning a regulation adopted by the Board of Environmental Review after years of study. The regulation survived a court challenge because it was vigorously and successfully defended by the State. At one point SB 325 contained protections for downstream water users but they were removed from the bill. As passed, SB 325 contains contradictory provisions that, if Arch Coal has its way, will be interpreted to allow significant water degradation based on a flawed interpretation of what pollution in a stream is "natural." The natural condition of a stream can vary over the course of seasons and years. During periods of higher flows, when the water quality is good, downstream water users make use of the water. Conversely, when flows are lower and natural concentrations of harmful constituents are higher, downstream water users cannot use the water. Both conditions may be natural.



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



Arch Coal will argue that this new law should be interpreted to prohibit DEQ from protecting downstream water users from its water pollution discharges even when the water is high quality and contains low levels of naturally occurring contaminants like salts. DEQ and the Governor's Office have promised that this interpretation will not be allowed, but this Summer the Montana Board of Environmental Review will be considering adoption of final regulations to implement this new law.

**SB 112** (Sen. Duane Ankney, *R-Colstrip*) requires DEQ to complete a total maximum daily load (TMDL) analysis on an impaired water body within 180 days of when a company seeks a permit to pollute that water body. TMDLs usually take 2-3 years to complete. TMDLs, are essentially pollution control and clean-up plans. They take time to develop because DEQ must consider historic flows and pollutant levels in a stream over the course of time, as well as work with existing water users to determine the best way to decrease pollution in the water body. This new law, at the request of Arch Coal, will force DEQ to approve a pollution plan before the proper analysis can be completed or be in violation of the time frames in this new law.

**SB 387** (Sen. Cary Smith, *R-Billings*). Although SB 387 was proposed by the building industry, the benefits to the mining industry could be significant. This new law limits the penalty for violations of water quality laws. Currently DEQ has the discretion to charge up to \$10,000 per day or \$100,000 maximum if a company fails to submit its reports that verify compliance with its permit conditions. SB 387 decreases the maximum penalty by 95% in many instances, limiting DEQ penalties to \$500 per day and no more than \$5,000 per violation. Polluters need a disincentive to pollute. Larger potential fines do just that.

**What's next for Arch?** Now that Arch Coal succeeded in weakening water quality laws, it must similarly weaken the State rules that implement those laws, and then it must convince DEQ to impose weaker conditions on the water pollution discharge permits for the Otter Creek coal mine. DEQ is planning to present a draft regulation to the Board of Environmental Review by July 31, 2015. MEIC will closely monitor DEQ's proposal to make sure existing agricultural operations are not jeopardized by water pollution from Arch Coal's proposed mine.

*Coal terminal in the Pacific Northwest. Photo by Paul K. Anderson.*



### Coal and Fossil Fuels

The legislature made clear its strong support for fossil fuel development with the passage of two bills and two resolutions.

**HB 244** (Rep. Jeff Essmann, *R-Billings*) creates a \$1 million legal slush fund for the Montana attorney general to use for such things as suing Washington and Oregon if either state denies permits to proposed coal export terminals. The bill overlooks the negative impacts that increased coal train traffic would have on Montana communities, and ignores the economic and environmental harm that results from mining and burning coal.

*continued on page 10*

## 2015 Legislature in Review *(continued)*



Rep. Nate  
McConnell,  
D-Missoula.

**HB 421** (Rep. Tom Berry, *R-Roundup*) provides millions of dollars of continued tax relief to the coal-exporting Signal Peak mine. The tax break was originally adopted years ago to help the mine open, and HB 421 extends that tax break until 2025. This will cost State and local governments nearly \$2 million a year.

**HJ 11** (Rep. Mike Lang, *R-Malta*) is a lopsided resolution that expresses the Legislature's unmitigated support for the Keystone XL pipeline. The resolution only touts the exaggerated

financial benefits of the pipeline and ignores all of the impacts to private property, water quality, and climate change that result from mining, transporting, and using tar sands oil.

**SJ 13** (Sen. Duane Ankney, *R-Colstrip*) is a similar resolution that exaggerates the benefits of coal exports and shows the Legislature's support for coal mining and export. The resolution grossly distorts the facts about those benefits (e.g., calling coal the most abundant energy resource), and ignores all the costs that coal mining, transport, and burning have on the environment, the economy, and public health.

### Losses: Good Bills That Were Defeated

#### Hardrock Mining

A bill that would have required increased bonding for metal mines with the potential to cause acid mine drainage (AMD) was tabled in

the Senate Natural Resources Committee. **SB 218** (Sen. Mary Moe, *D-Great Falls*) would have required metal mines that proposed mining in ore bodies that contain sulfide mineralization (the precursor to AMD) to post a bond at 150% of the normal bonding amount. This bill was, in part, an attempt to assure that the Smith River is protected from the proposed Smith River copper mine, and to assure that Montana taxpayers are not stuck with the bills for cleanup and perpetual water treatment after mines close.

Another proactive bill that would have protected water quality was tabled in the House Natural Resources Committee. **HB 626** (Rep. Nate McConnell, *D-Missoula*) would have prevented DEQ from issuing a hardrock mining permit to any mine whose pollution would require perpetual water treatment. This bill would have prevented the public from having to pay for water treatment for generations upon generations in order to clean up water contamination from poorly planned mines.

#### Clean Energy

MEIC worked extensively on proactive legislation that would have improved Montana's net metering law. Net metering allows individuals and businesses to install their own wind and solar systems and receive credit on their utility bills for the electricity they produce, up to the amount of electricity they use. Unfortunately, due to opposition by NorthWestern Energy and certain labor unions, all these bills were tabled in their initial committees.

**SB 182** (Sen. Mike Phillips, *D-Bozeman*) would have allowed individuals and businesses to participate in "neighborhood net metering." This would provide an opportunity for those who wanted to invest in renewable energy,

*continued on page 16*



# 2015 MEIC Legislative Voting Record

**M**EIC's Legislative Voting Record has been produced after every session of the Montana Legislature since 1974.

MEIC generally chooses second reading votes unless a third reading vote or a vote on an amendment more accurately reflects legislators' positions on an issue. We encourage you to check on how your legislators voted and to talk to them about those votes. Don't forget to thank them when they voted correctly. But please remember that in order to fully evaluate a legislator, you must also consider committee performance, influence on the floor debates, and responsiveness to constituents.

The plusses and minuses in the Voting Record do not represent "yes" or "no" votes; they indicate whether the vote supported or opposed MEIC's position.

## Bill Descriptions

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

Would have allowed electricity generated at all existing and new hydropower facilities, regardless of size, to be considered as renewable energy under the Renewable Energy Standard. *See page 6.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 34 to 16.*
- *House: 2nd reading, passed 57 to 43.*

**Status:** *Vetoed by the Governor.*

**B = HJ 11** (Rep. Art Mike Lang, *R-Malta*).

Resolution supporting the construction of the Keystone XL pipeline. *See page 10.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 35 to 14.*
- *House: 3rd reading, passed 71 to 28.*

**Status:** *Resolution adopted.*

**C = SB 182** (Sen. Mike Phillips, *D-Bozeman*).

Would have allowed for neighborhood net-metering, in which multiple homes could be served by a single, net-metered system. *See page 10.*

**MEIC Position:** *Support.*

**Vote used:**

- *Senate: Sen. Phillips' motion to take the bill from committee, failed 19 to 31.*

**Status:** *Tabled in the Senate Energy and Telecommunications Committee.*

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

Would have required oil and gas operators to conduct baseline water testing of adjacent water sources before "fracking." *See page 16.*

**MEIC Position:** *Support.*

**Vote used:**

- *Senate: Sen. Stewart-Peregoy's motion to take the bill from committee, failed 22 to 28.*

**Status:** *Tabled in the Senate Natural Resources Committee.*

**E = SB 387** (Sen. Cary Smith, *R-Billings*).

Reduces by 95% the maximum fine that DEQ is able to assess for violations of water quality standards. *See page 9.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 30 to 16.*

**Status:** *Law.*

**F = SB 374** (Sen. Christine Kaufmann, *D-Helena*).

Would have repealed the oil and gas production tax "holiday" and provided funding for communities impacted by oil and gas development.

**MEIC Position:** *Support.*

**Vote used:**

- *Senate: Sen. Kaufmann's motion to take the bill from committee, failed 21 to 28.*

**Status:** *Tabled in the Senate Taxation Committee.*

**G = SB 314** (Sen. Roger Webb, *R-Billings*).

Would have authorized the State to enter into an interstate pipeline compact with other states and provinces of Canada for construction of interstate oil and gas pipelines. *See page 7.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *Senate: 3rd reading, passed 28 to 22.*

**Status:** *Tabled in the House Federal Relations, Energy, and Telecommunications Committee.*

*continued on page 12*



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

Appropriates \$200,000 to the attorney general to litigate for coal ports in the Pacific Northwest. *See page 9.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 33 to 17.*
- *House: 3rd reading, passed 53 to 45.*

**Status:** *Law.*

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

Would have weakened water quality standards by defining “natural” conditions as including all human activities, in violation of the federal Clean Water Act. *See page 6.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 36 to 14.*
- *House: Rep. Williams’ motion to amend, failed 41 to 59.*

**Status:** *Vetoed by the Governor.*

**J = HB 421** (Rep. Tom Berry, *R-Roundup*).

Extends the termination date of the coal severance tax coal washing credit, costing the State over \$1.5 million per year in lost revenue and reducing local revenues by \$400,000. *See page 10.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 3rd reading, passed 36 to 14.*
- *House: 3rd reading, passed 58 to 41.*

**Status:** *Law.*

**K = SJ 13** (Sen. Duane Ankney, *R-Colstrip*).

Requires notice be given to Montana’s Congressional delegation and other federal decision makers that Montana supports coal development, the building of coal export terminals, and the export of Montana coal to Asian markets. *See page 10.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 2nd reading, passed 38 to 12.*
- *House: 2nd reading, passed 73 to 27.*

**Status:** *Resolution adopted.*

**L = SB 286** (Rep. Cary Smith, *R-Billings*).

Would have prevented agencies from promulgating any rules that would burden private property rights. *See page 7.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *Senate: 3rd reading, passed 29 to 21.*

**Status:** *Tabled in the House State Administration Committee.*

**M = SB 402** (Sen. Duane Ankney, *R-Colstrip*).

Would have forced uneconomic coal plants such as Colstrip to stay open and pollute for decades by subjecting

the owners to multimillion dollar penalties if they decided to close the plants. *See page 18.*

**MEIC Position:** *Oppose.*

**Votes used:**

- *Senate: 2nd reading, passed 26 to 24.*
- *House: 2nd reading, failed 43 to 57.*

**Status:** *Failed 3rd reading in the House.*

**N = SB 353** (Sen. Rick Ripley, *R-Wolf Creek*).

Would have diverted funds away from the Permanent Coal Tax Trust Fund to an infrastructure program. *See page 7.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *House: 3rd reading, passed 59 to 41.*

**Status:** *Failed to pass the Senate following Conference Committee amendments, 30 to 19.*

**O = SB 409** (Sen. Chas Vincent, *R-Libby*).

Provides for increased regulation and oversight of hardrock mine tailings impoundments to prevent leaks and breaches. *See page 4.*

**MEIC Position:** *Support.*

**Vote used:**

- *House: Rep. Dunwell’s motion to amend, failed 40 to 60.*

**Status:** *Law.*

**P = SB 325** (Sen. Jim Keane, *R-Butte*).

Removes protections for downstream water users, such as irrigators, by overturning a regulation adopted by the State Board of Environmental Review after years of analysis. *See page 8.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *House: Rep. Bennett’s motion to amend, passed 51 to 49.*

**Status:** *Law.*

**Q = HB 182** (Rep. Forrest Mandeville, *R-Columbus*).

Would have prohibited a local governing body from considering how land that is proposed to be subdivided would be used unless the land is zoned. *See page 7.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *House: 3rd reading, failed 50 to 50.*

**Status:** *Failed 3rd reading in the House.*

**R = SB 402** (Sen. Duane Ankney, *R-Colstrip*).

Would have forced uneconomic coal plants such as Colstrip to stay open and pollute for decades by subjecting the owners to multimillion dollar penalties if they decided to close the plants. *See page 18.*

**MEIC Position:** *Oppose.*

**Vote used:**

- *House: Rep. Steenberg’s motion to amend, failed 39 to 60.*

**Status:** *Failed 3rd reading in the House.*

# 2015 Voting Record: Montana Senate



*Blue boxes indicate when legislators changed their vote between a committee hearing and the floor vote.*

Senator	Town	Score	A	B	C	D	E	F	G	H	I	J	K	L	M
Ankney, Duane	Colstrip	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Arntzen, Elsie	Billings	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Barrett, Debby	Dillon	8%	-	-	-	-	E	-	-	-	-	-	-	-	+
Barrett, Dick	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
Blasdel, Mark	Kalispell	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Brenden, John	Scobey	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Brown, Taylor	Huntley	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Brown, Dee	Hungry Horse	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Buttrey, Edward	Great Falls	8%	+	-	-	-	-	-	-	-	-	-	-	-	-
Cafferro, Mary	Helena	62%	+	+	-	+	-	+	+	+	+	-	-	+	-
Cohenour, Jill	East Helena	92%	+	-	+	+	+	+	+	+	+	+	+	+	+
Connell, Pat	Hamilton	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Driscoll, Robyn	Billings	85%	+	-	+	+	+	+	+	+	+	+	-	+	+
Facey, Tom	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
Fielder, Jennifer	Thompson Falls	8%	-	-	-	+	-	E	-	-	-	-	-	-	-
Hamlett, Bradley	Cascade	38%	-	-	+	+	-	+	+	-	-	-	-	+	-
Hansen, Kristin	Havre	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Hinkle, Jedediah	Bozeman	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Hoven, Brian	Great Falls	15%	-	-	+	-	-	-	-	-	-	-	-	-	+
Howard, David	Park City	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Jones, Llew	Conrad	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Kary, Doug	Billings	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Kaufmann, Christine	Helena	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
Keane, Jim	Butte	31%	-	-	-	+	-	+	+	-	-	-	-	+	-
Keenan, Bob	Bigfork	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Larsen, Cliff	Missoula	77%	+	+	+	+	+	+	+	+	-	-	+	+	-
Malek, Sue	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
McNally, Mary	Billings	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
Moe, Mary	Great Falls	100%	+	E	+	+	+	+	+	+	+	+	+	+	+
Moore, Frederick	Miles City	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Phillips, Mike	Bozeman	92%	+	+	+	+	+	+	+	+	-	+	+	+	+
Pomnichowski, J.P.	Bozeman	100%	+	+	+	+	+	+	+	+	+	+	+	+	+
Ripley, Rick	Wolf Creek	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Rosendale, Matthew	Glendive	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Sales, Scott	Bozeman	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Sands, Diane	Missoula	92%	+	+	+	+	+	+	+	+	-	+	+	+	+
Sesso, Jon	Butte	54%	+	-	-	+	+	+	+	+	-	-	-	+	-
Smith, Cary	Billings	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Stewart-Peregoy, Sharon	Crow Agency	77%	-	+	+	+	+	+	+	-	+	+	-	+	+
Swandal, Nels	Wilsall	0%	-	-	-	-	E	-	-	-	-	-	-	-	-
Taylor, Janna	Dayton	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Thomas, Fred	Stevensville	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Tutvedt, Bruce	Kalispell	8%	-	-	-	-	-	-	+	-	-	-	-	-	-
Vance, Gordon	Belgrade	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Vincent, Chas	Libby	0%	-	-	-	-	-	-	-	-	-	-	-	-	-
Vuckovich, Gene	Anaconda	46%	-	-	+	+	+	+	+	-	-	-	-	+	-
Webb, Roger	Billings	8%	-	-	-	-	-	-	-	-	-	-	-	-	+
Whitford, Lea	Cut Bank	85%	-	+	+	+	+	+	+	+	+	+	-	+	+
Windy Boy, Jonathan	Box Elder	75%	-	+	+	+	E	+	+	+	+	-	-	+	+
Wolken, Cynthia	Missoula	100%	+	+	+	+	E	+	+	+	+	+	+	+	+
Senator	Town	Score	A	B	C	D	E	F	G	H	I	J	K	L	M

# 2015 Voting Record: Montana House



Blue boxes indicate when legislators changed their vote between a committee hearing and the floor vote.

Representative	Town	Score	A	B	H	I	J	K	M	N	O	P	Q	R
Ballance, Nancy	Hamilton	8%	-	-	-	-	-	-	+	-	-	-	-	-
Bennett, Bryce	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Bennett, Jerry	Libby	8%	-	-	-	-	-	-	+	-	-	-	-	-
Berglee, Seth	Joliet	8%	-	-	-	-	-	-	+	-	-	-	-	-
Berry, Tom	Roundup	0%	-	-	-	-	-	-	-	-	-	-	-	-
Brodehl, Randy	Kalispell	8%	-	-	-	-	-	-	+	-	-	-	-	-
Brown, Bob	Thompson Falls	17%	-	-	+	-	-	-	+	-	-	-	-	-
Brown, Zach	Bozeman	100%	+	+	+	+	+	+	+	+	+	+	+	+
Burnett, Tom	Bozeman	17%	-	-	-	-	-	-	+	-	-	-	-	+
Clark, Christy	Choteau	17%	-	-	-	-	-	-	-	-	-	+	+	-
Cook, Rob	Conrad	8%	+	-	-	-	-	-	-	-	-	-	-	-
Court, Virginia	Billings	100%	+	+	+	+	+	+	+	+	+	+	+	+
Cuffe, Mike	Eureka	8%	-	-	-	-	-	-	-	-	-	+	-	-
Curdy, Willis	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Custer, Geraldine	Forsyth	8%	-	-	-	-	-	-	-	-	-	-	+	-
Doane, Alan	Bloomfield	8%	-	-	-	-	-	-	+	-	-	-	-	-
Dudik, Kimberly	Missoula	92%	+	+	+	+	+	+	-	+	+	+	+	+
Dunwell, Mary Ann	Helena	100%	+	+	+	+	+	+	+	+	+	+	+	+
Eck, Jenny	Helena	100%	+	+	+	+	+	+	+	+	+	+	+	+
Ehli, Ron	Hamilton	8%	-	-	-	-	-	-	+	-	-	-	-	-
Ellis, Janet	Helena	100%	+	+	+	+	+	+	+	+	+	+	+	+
Essmann, Jeff	Billings	0%	-	-	-	-	-	-	-	-	-	-	-	-
Fiscus, Clayton	Billings	0%	-	-	-	-	-	-	-	-	-	-	-	-
Fitzpatrick, Steve	Great Falls	0%	-	-	-	-	-	-	-	-	-	-	-	-
Flynn, Kelly	Townsend	18%	-	-	-	-	-	-	+	-	-	+	-	A
Funk, Moffie	Helena	83%	+	+	+	+	+	+	-	+	+	+	+	-
Garner, Frank	Kalispell	0%	-	-	-	-	-	-	-	-	-	-	-	-
Glimm, Carl	Kila	8%	-	-	-	-	-	-	+	-	-	-	-	-
Greef, Edward	Florence	8%	-	-	-	-	-	-	+	-	-	-	-	-
Hagstrom, Dave	Billings	0%	-	-	E	-	-	-	-	-	-	-	-	-
Harris, Bill	Winnett	0%	-	-	-	-	-	-	-	-	-	-	-	-
Hayman, Denise	Bozeman	92%	+	+	+	-	+	+	+	+	+	+	+	+
Hertz, Greg	Polson	0%	-	-	-	-	-	-	-	-	-	-	-	-
Hess, Stephanie	Havre	8%	-	-	-	-	-	-	+	-	-	-	-	-
Boldman Hill, Ellie	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Hollandsworth, Roy	Brady	17%	-	-	-	-	-	-	-	-	-	+	+	-
Holmlund, Kenneth	Miles City	8%	-	-	-	-	-	-	-	-	-	+	-	-
Hunter, Chuck	Helena	100%	+	+	+	+	+	+	+	+	+	+	+	+
Jacobson, Tom	Great Falls	58%	+	-	+	+	-	-	-	+	+	+	+	-
Jones, Donald	Billings	8%	-	-	-	-	-	-	+	-	-	-	-	-
Karjala, Jessica	Billings	100%	+	+	+	+	+	+	+	+	+	+	+	+
Kelker, Kathy	Billings	100%	+	+	+	+	+	+	+	+	+	+	+	+
Kipp III, George	Heart Butte	82%	+	A	+	+	-	-	+	+	+	+	+	+
Knudsen, Austin	Culbertson	8%	-	-	-	-	-	-	+	-	-	-	-	-
Lamm, Debra	Livingston	17%	-	-	+	-	-	-	+	-	-	-	-	-
Lang, Mike	Malta	0%	-	-	-	-	-	-	-	-	-	-	-	-
Laszloffy, Sarah	Billings	8%	-	-	-	-	-	-	+	-	-	-	-	-
Lavin, Steve	Kalispell	8%	-	-	-	-	-	-	+	-	-	-	-	-
Lieser, Ed	Whitefish	100%	+	+	+	+	+	+	+	+	+	+	+	+
Lynch, Ryan	Butte	50%	+	-	+	+	-	-	-	+	+	-	+	-
Representative	Town	Score	A	B	H	I	J	K	M	N	O	P	Q	R



# 2015 Voting Record: Montana House



Blue boxes indicate when legislators changed their vote between a committee hearing and the floor vote.

Representative	Town	Score	A	B	H	I	J	K	M	N	O	P	Q	R
MacDonald, Margaret	Billings	100%	+	+	+	+	+	+	+	+	+	+	+	+
Mandeville, Forrest	Columbus	0%	-	-	-	-	-	-	-	-	-	-	-	-
Manzella, Theresa	Hamilton	17%	-	-	+	-	-	+	-	-	-	-	-	-
McCarthy, Kelly	Billings	83%	+	+	+	+	-	+	+	-	+	+	+	+
McClafferty, Edie	Butte	67%	+	-	+	+	-	-	+	+	+	+	+	+
McConnell, Nate	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
McKamey, Wendy	Great Falls	8%	-	-	-	-	-	+	-	-	-	-	-	-
Mehlhoff, Robert	Great Falls	42%	+	-	-	+	-	-	+	+	-	+	-	-
Meyers, Bruce	Box Elder	8%	-	-	-	-	-	-	-	-	-	-	-	+
Miller, Mike	Helmville	17%	-	-	-	-	-	-	-	-	-	+	+	-
Monforton, Matthew	Bozeman	17%	-	-	+	-	-	-	+	-	-	-	-	-
Moore, David	Missoula	8%	-	-	-	-	-	-	-	-	-	-	+	-
Mortensen, Dale	Billings	8%	-	-	-	-	-	-	+	-	-	-	-	-
Noland, Mark	Bigfork	8%	-	-	-	-	-	-	+	-	-	-	-	-
Noonan, Pat	Ramsay	67%	+	-	+	+	-	-	-	+	+	+	+	+
Olsen, Andrea	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Olszewski, Albert	Kalispell	25%	-	-	-	-	-	-	+	-	-	+	-	+
Osmundson, Ryan	Buffalo	8%	-	-	-	-	-	-	-	-	-	+	-	-
Pease-Lopez, Carolyn	Billings	92%	+	+	+	+	+	-	+	+	+	+	+	+
Peppers, Rae	Lame Deer	67%	+	-	+	+	-	-	+	+	-	+	+	+
Perry, Zac	Hungry Horse	67%	+	-	+	+	-	-	-	+	+	+	+	+
Person, Andrew	Missoula	75%	+	-	+	+	+	+	-	+	+	+	+	-
Pierson, Gordon	Deer Lodge	58%	+	-	+	-	-	-	-	+	+	+	+	+
Pinocci, Randall	Sun River	17%	+	-	-	-	-	-	+	-	-	-	-	-
Pope, Christopher	Bozeman	100%	+	+	+	+	+	+	+	+	+	+	+	+
Price, Jean	Great Falls	100%	+	+	+	+	+	+	+	+	+	+	+	+
Randall, Lee	Broadus	0%	-	-	-	-	-	-	-	-	-	-	-	-
Redfield, Alan	Livingston	8%	-	-	-	-	-	-	-	-	-	+	-	-
Regier, Keith	Kalispell	0%	-	-	-	-	-	-	-	-	-	-	-	-
Ricci, Vince	Laurel	25%	-	-	-	-	-	-	+	-	-	+	+	-
Richmond, Tom	Billings	0%	-	-	-	-	-	-	-	-	-	-	-	-
Salomon, Daniel	Ronan	17%	-	-	-	-	-	-	-	-	-	+	+	-
Schreiner, Casey	Great Falls	50%	+	-	+	+	-	-	-	+	+	-	+	-
Schwaderer, Nicholas	Superior	0%	-	-	-	-	-	-	-	-	-	-	-	-
Shaw, Ray	Sheridan	8%	-	-	-	-	-	-	-	-	-	-	+	-
Smith, Bridget	Wolf Point	58%	+	-	+	+	-	-	-	+	+	+	+	-
Staffanson, Scott	Sidney	0%	-	-	-	-	-	-	-	-	-	-	-	-
Steenberg, Tom	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Swanson, Kathy	Anaconda	67%	+	-	+	+	+	-	-	+	+	+	+	-
Tropila, Mitch	Great Falls	83%	+	+	+	+	-	-	+	+	+	+	+	+
Tschida, Brad	Missoula	25%	-	-	+	-	-	-	+	-	-	-	-	+
Wagoner, Kirk	Montana City	8%	-	-	-	-	-	-	+	-	-	-	-	-
Webber, Susan	Browning	92%	+	+	+	+	+	+	+	+	+	-	+	+
Welborn, Jeffrey	Dillon	17%	-	-	-	-	-	-	-	-	-	+	+	-
White, Kerry	Bozeman	0%	-	-	-	-	-	-	-	-	-	-	-	-
Williams, Kathleen	Bozeman	100%	+	+	+	+	+	+	+	+	+	+	+	+
Wilson, Nancy	Missoula	100%	+	+	+	+	+	+	+	+	+	+	+	+
Wittich, Art	Bozeman	33%	-	-	+	+	-	-	+	-	-	-	-	+
Woods, Tom	Bozeman	100%	+	+	E	+	+	+	+	+	+	+	+	+
Zolnikov, Daniel	Billings	33%	-	-	-	+	-	-	+	+	-	-	-	+
Representative	Town	Score	A	B	H	I	J	K	M	N	O	P	Q	R

## 2015 Legislature (continued from page 10)



Sen. Christine Kaufmann, MEIC's staunchest ally in the Senate.

but were limited by their location or could not afford their own solar or wind system, to invest in and receive credit for a nearby renewable energy project that was not necessarily located on their property (as is currently required).

**HB 192** (Rep. Art Wittich, *R-Bozeman*) would have increased the cap on net-metered systems from 50 kilowatts to 1 megawatt. The current 50 kw cap is lower than most other states and limits many business and commercial scale projects from meeting their energy needs with their own renewable energy system.

**SB 134** (Sen. Jennifer Fielder, *R-Thompson Falls*) would have provided for aggregate net metering. Aggregate net metering allows farms, universities, and multi-unit housing projects with multiple electric meters on the same or adjacent property to offset their energy use from all of those meters with one renewable energy system. Currently, each renewable energy system can only offset the energy use of one meter.

**SJ 17** (Sen. Mike Phillips, *D-Bozeman*) would have required the legislature to study the transition from coal to cleaner energy sources.


### Coal and Fossil Fuels

Several bills that would have protected water quality and private property from oil and gas development were all tabled in their initial committees. **SB 172** (Sen. Sharon Stewart-Peregoy, *D-Crow Agency*) would have required oil and gas developers who wanted to drill within one mile of private property to hire a third party to test the adjacent ground water before drilling. **SB 173** (Sen. Christine Kaufmann, *D-Helena*) would have significantly increased the bonding requirements for oil and gas wells. **SB 177** (Sen. Mary McNally, *D-Billings*) would have prohibited drilling an oil or gas well within 1,000 feet of surface water, water wells, or habitable buildings without the permission of the owner of building or water source.

These bills were a partial attempt to address the rapid and haphazard oil and gas drilling occurring in eastern Montana. However, the sudden decline in oil prices has caused a significant reduction in oil and gas activity in Montana; for example, there are currently no oil drilling rigs operating in the Montana portion of the Bakken formation.

A bill that would have established an oil and gas trust fund, similar to the Coal Tax Trust Fund, failed 2nd reading in the House. **HB 310** (Rep. Tom Jacobson, *D-Great Falls*) would have placed a constitutional referendum on the ballot that, if passed, would have redirected a portion of the oil and gas production tax to a permanent trust fund. The fund would have been a potential revenue source for future generations, and provided a more stable source of government income.

### Land Use

**HB 312** (Rep. Nancy Wilson, *D-Missoula*) would have required the Montana Department of Transportation to consider local planning documents in its decision making. The bill was tabled in the House Local Government Committee. 

Solar installation in Helena. Photo by Solar Montana / Jessica Jones.



# Smith River Mine Update

by Derf Johnson

While the backers of the Smith River mine remained relatively tight-lipped during the 2015 Montana legislative session, it's still very clear that the company intends to move forward with its proposal.

Tintina Resources employed four lobbyists and was an active presence every day at the Montana Capitol. Its lobbyists, who also represented other hardrock mining businesses and organizations, opposed common sense measures to protect Montana's water, such as increasing the bonding required for mines that are likely to create acid mine drainage and denying permits for mines that will require perpetual water treatment.

Furthermore, it's now very clear that Australian-based Sandfire, the major investor in Tintina, has every intention of entirely controlling the proposed mine, thus undercutting previous statements from Tintina representatives that the project would be under local control. In a January 2015 interview on [mining-technology.com](http://mining-technology.com), Sandfire CEO Karl Simich made several revelations about his firm's role in the Smith River mine, readily

admitting "we must have a clear path to control [of the Smith River Mine], otherwise we are not interested. Essentially unless we can pull levers and push buttons we have very little interest in being involved in something."

Simich went on to state: "In my mind, it's not so much even a case of what role Sandfire will play.

Essentially, the project will be part of Sandfire as far as I'm concerned. We'll sit there initially as a 34% equity position with the ability to go to

54% but mentally we will be very much treating it as if it's a wholly owned subsidiary."

An application from Tintina for a mine operating permit is still expected to be submitted to the Montana Department of Environmental Quality (DEQ) in Fall 2015. We encourage you to "stay tuned", and prepare to become involved in the permitting process to help defeat this proposal.

In the meantime, be sure to sign the petition at [www.SaveOurSmith.com](http://www.SaveOurSmith.com) that asks Gov. Steve Bullock and DEQ to protect the cherished Smith River. ♻️

*"Tintina Resources employed four lobbyists and was an active presence every day at the Montana Capitol.."*



Smith River.  
Photo by  
William Rahr.



# Bill To Force Continued Operation of Colstrip Plant Fails – Again and Again

by Anne Hedges

Late in the session, Sen. Duane Ankney (R-Colstrip) introduced **SB 402**, which attempted to force the out-of-state owners of the Colstrip power plant to keep the plant open for another 40 years, or pay billions (yes, billions) of dollars in penalties (referred to in the bill as impact fees). This anti-free market bill was supported almost exclusively by labor unions, which continue to ignore

*“This anti-free market bill was supported almost exclusively by labor unions, which continue to ignore the fact of climate change and argue that coal can be burned for the indefinite future with only positive economic consequences.”*

the fact of climate change and argue that coal can be burned for the indefinite future with only positive economic consequences. This foolish position not only puts the planet in peril, it harms the workers by ignoring the quickly changing reality of energy markets.

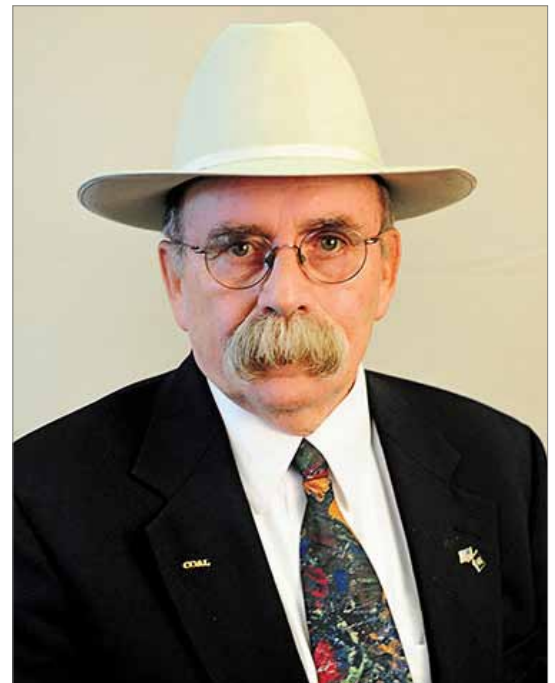
MEIC and Montana Conservation Voters (MCV) fought this bill at every step of its legislative way, including in the last days of the session when an intense effort was made to pass it in a slightly revised form. Through hard work and unusual coalition building we were able to defeat it, again and again.

MEIC supports the imposition of an impact fee on power plant owners, to be put in some type of trust fund, to help coal dependent communities such as Colstrip move away from coal-related jobs and tax revenues. Power plant owners in various places across the country have established such trust funds when they decided to close operating plants. Any impact fee must be reasonable in amount, fairly distributed to affected workers and communities, used to help develop new jobs and retrain workers, and aid in the transition to a cleaner energy system. SB 402 did none of these things; it merely tried to

force out-of-state owners of the Colstrip plant to continue operating it long past the end of its economic life.

SB 402 was opposed by MEIC, MCV, and MontPIRG, as well as initially by two of the out-of-state owners of Colstrip and the Montana Taxpayers Association. The bill was introduced just a few days before the deadline for transmittal of bills to the second house. It “flew” out of the Senate Energy and Telecommunication Committee on a 10 to 3 vote held literally minutes after the committee hearing ended.

MEIC scrambled to prepare amendments to fix the myriad problems with the 19-page bill on the Senate floor. Sen. Sharon Stewart-Peregoy (D-Crow Agency) introduced the amendments, which would have made the bill consistent with the Montana and U.S. Constitutions, would have applied the impact fee to in-state as well as out-of-state plant owners, and would have distributed the fee more fairly, including providing revenue to the Northern Cheyenne Tribe (studies have shown that the Tribe has been economically harmed by



Sen. Duane Ankney, R-Colstrip.

the Colstrip plant since it was built in the 1970s). The amendments were rejected on a 23 to 27 vote, and the bill narrowly passed the Senate.

In the House, Sen. Ankney worked to amend the bill with Puget Sound Energy (PSE), the owner with the largest interest in the Colstrip plant. Unfortunately, it turned out that PSE did not actually want to kill the bill. Apparently it wanted to use the bill as a bargaining chip in Washington State to force regulators there to allow the company to keep dumping ratepayer money into the aging plant. Sen. Ankney, with PSE's support, arranged for an amendment to strike the entire bill, and replaced it with 16 pages of new wording.

This new version of the bill was also fundamentally flawed. It also sent a dangerous message to new businesses in Montana that the legislature might force them to keep operating even if they became uneconomic. It gave false hope to workers that they would receive funding for retraining, it failed to give any money to the Northern Cheyenne Tribe, it only applied to PSE and not the other owners of Colstrip, and it would have allowed PSE to avoid paying anything if it chose not to. Nonetheless, the bill was quickly passed out of the House Federal Relations, Energy, and Telecommunications Committee on an 11 to 3 vote.

On the House floor, Rep. Tom Steenberg (D-Missoula) offered amendments to fix some of the major problems with the bill including providing protections for workers and Tribes. MEIC supported those amendments, which were opposed by organized labor. They failed on a 39 to 60 vote.

Then the bill hit a real snag. The majority of House Democrats joined with free-market conservative Republicans, led by Rep. Art Wittich (R-Bozeman), to defeat the bill on a 43 to 57 vote. The bill's supporters tried a variety of procedural maneuvers to revive it, including trying to incorporate its wording into unrelated bills and seeking the governor's help. But to no avail. Two days before the end of the session, the bill was defeated once and for all on a 49 to 49 vote (although lobbying to revive the bill continued up until the bitter end).



Colstrip coal-fired power plant.

In a funny way, the bill might be an indication that coal companies and organized labor understand at some level that energy markets are changing. Despite their best efforts to stall that change, the market is already deciding coal's fate.

As coal becomes less competitive, there are still important decisions to be made about how to help affected communities move to a new economic base, how to retrain workers to

find different jobs, how to keep electricity rates low and the supply of it reliable, and how to move to a clean and renewable energy system. Perhaps the failure of SB 402 will lead to these important conversations finally beginning. ☺

*"In a funny way, the bill might be an indication that coal companies and organized labor understand at some level that world energy markets are changing. Despite their best efforts to stall that change, the market is already deciding coal's fate."*

# Does the EPA's Clean Power Plan Threaten Electric Grid Reliability?

by Kyla Maki

In April 2015, the North American Electric Reliability Corporation (NERC) released a report that raised questions about the impact of the U.S. Environmental Protection Agency's (EPA) draft "Clean Power Plan" on the reliability of the electric grid. Unfortunately, NERC's assumptions, analysis,

*"Over the last decade, substantial amounts of new clean energy resources such as wind and solar have been integrated into the electric grid without compromising reliability or safety."*

and conclusions are severely flawed and don't take into account the realities of the clean energy deployment that has been underway for well over a decade in the U.S. Its report also

ignores economic and historic realities as well as the flexibility built into the Clean Power Plan.

NERC is a federal nonprofit that provides analyses of grid reliability issues and sets reliability standards across the U.S. so it is understandable that decision makers would pay attention to NERC's findings. Ultimately, NERC concluded that the standards and time frame set forth in the Clean Power Plan may jeopardize the grid's reliability.

The U.S. electric grid can be considered the largest machine ever built in this country. Clean energy resources have been added to the grid ever since large-scale hydro-electric dams were built in the early 20th century. Over the last decade, substantial amounts of new clean energy resources such as wind and solar have been integrated into

the electric grid without compromising reliability or safety.

According to the U.S. Energy Information Administration, over 75,000 megawatts of wind and solar capacity have been integrated reliably into the electric grid. This is enough to power 17 million homes and it has been done without causing a single blackout, interruption of service, or transmission failure. In 2014, the U.S. produced about 281 million megawatt-hours (MWh) of non-hydro renewable energy. This production meets the EPA's Clean Power Plan 2020 target for non-hydro renewable energy generation. Furthermore, if renewable energy growth continues even at a conservative growth rate, the U.S. will exceed EPA's target by 1.1 billion MWh cumulatively over the 2020-2029 period. States and regions are already shifting their energy supplies to cleaner energy resources. The Clean Power Plan gradually builds on the transition that is already underway. Thus far, smart planning has enabled clean energy resources to be integrated smoothly into the nation's electric grid. There is no reason to think that this smart planning won't be an integral part of state implementation of the Clean Power Plan.

Another flaw in NERC's report is the gross underestimate of the amount of energy efficiency that states will deploy to meet the Clean Power Plan's goals. Energy efficiency has already been the cornerstone of successful state and regional efforts to reduce carbon pollution. Comprehensive energy efficiency policies are also helping improve grid reliability and stability. Since the Clean Power Plan provides states with tremendous flexibility in how they meet carbon pollution targets, states will logically deploy the most cost-effective tools such as energy efficiency first. NERC erroneously assumes that only minimal amounts of energy efficiency gains will be made and that states will instead choose to retire coal plants and replace them with new natural gas plants. By disregarding energy efficiency, NERC concludes that states will need to build new natural gas pipelines, plants and

Gordon Butte  
Wind Project



*continued on page 23*



# EPA is Ready to Clean Up Power Plant Pollution

by Anne Hedges

**O**n a sweltering Summer day in 2013, Pres. Barack Obama made a historic speech on the need to address global climate change. He set an ambitious time frame for developing new regulations to limit carbon dioxide pollution from plants burning coal and natural gas, the largest single sources of climate changing pollution in the country. EPA complied with his ambitious schedule and released a draft regulation (or rule), known as the Clean Power Plan, in June 2014. A final rule is expected by mid-Summer this year.

The Clean Power Plan has met with near hysteria on the part of the fossil fuel industry. Already there have been court challenges, legislation in nearly every state (including Montana) attempting to defy EPA's authority, and a "full court press" in Congress to take away EPA's authority and budget to regulate climate changing pollution.

Fortunately, Montana's Sen. Jon Tester has been a staunch advocate of addressing climate change. He has consistently opposed any effort to weaken EPA's authority. The opposite is true for his colleagues, Sen. Steve Daines and Rep. Ryan Zinke. In mid-March 2015 there was a flurry of proposals in Congress to undermine EPA's Clean Power Plan, or to bar EPA from making it final. At the same time, there were also bills and proposals to create a national renewable energy standard, to increase solar energy development, to extend tax benefits for wind and clean energy, and more. Sen. Tester supported all of these clean energy efforts. Sen. Daines and Rep. Zinke did not.


Sen. Daines and Montana attorney general Tim Fox have made their opposition to the Clean Power Plan clear on numerous occasions. They've written letters to EPA, attended anti-EPA rallies, and in March 2015 they conducted a sham "congressional field hearing" on the Crow

Reservation, with a panel of "experts" that excluded EPA and any opponents to coal development on tribal lands.

Although efforts to undermine the Clean Power Plan in the Montana legislature and Congress have failed so far, the real test will come when EPA releases the final Plan this Summer. There will be more lawsuits, more Congressional shenanigans, and more fear-inciting propaganda. Efforts to delay the rule are already underway in the hope that the next president won't care about climate change.

Delaying the rule is the most dangerous thing Congress could do. While it sounds reasonable to give states more time to come up with the required state-based plans to reduce carbon pollution from power plants, the proposals for delay are really just tactics to prevent the Plan from being implemented at all.

When EPA releases the final version of its Plan, Montana and every other state will have one year to design a state-specific plan to reduce carbon pollution from power plants by the 2030 deadline. Any delay in EPA's action is really a vote to defeat the Plan itself.

Please contact Sens. Tester and Daines, and Rep. Zinke, and tell them that this isn't the right time or issue for political maneuvering. The impacts of climate change are too real, and the Clean Power Plan is one of the best ways to begin to tackle the problem. 



U.S. Sen. Jon Tester.

*"Fortunately, Montana's Sen. Jon Tester has been a staunch advocate of addressing climate change."*

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## President's Letter



by Gary Aitken

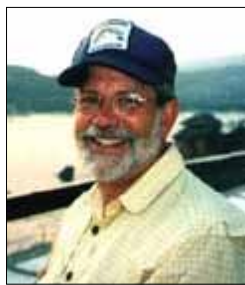
With the legislative session behind us, I find myself appalled at the short-sightedness and apparent gullibleness of Montana's rural electric co-operatives.

The legislature rejected every bill aimed at encouraging the use of clean, renewable energy. Some bills aimed to bring net-metering requirements now applying to public utilities to the electric co-operatives. The co-ops resisted; their arguments generally amounted to "one size doesn't fit all" and "we need to cover our extensive, low subscriber density transmission line costs; if we don't want to provide net-metering, we shouldn't have to." The co-ops showed up en masse at the request of the Montana Electric Co-operatives Association and NorthWestern Energy.

There's no question that the argument of "one size doesn't fit all" is valid. Some of the co-ops have regrettably invested in expensive coal generation facilities, and they have an understandable desire to pay off those debts. In that respect, they are in the same camp as NorthWestern Energy, where user-generated electricity is direct competition. While no prudent business person would invest in coal generation in the United States today, some time ago it did make sense, and we all have to live with and make the best of our past decisions. But that doesn't mean we should ignore the future and the course of our world.

Other co-ops have no generation facilities, and for them anything users generate is almost entirely pure benefit. User generated electricity lowers transmission line usage, since power doesn't have to be transported long distances. That translates to a delay or possibly permanent deferral of the need to expand existing transmission line capacity – a big cost savings. Solar power can offset peak demand needs, by far the most expensive power to provide. In the coming years, as we implement a smart grid,

## Thoughts from the Executive Director



by Jim Jensen

**Libby, Montana.** I don't know how many environmental and public health insults the town of Libby can take, but it was just given another one by the U.S. Environmental Protection Agency. Incredibly, the agency is recommending that only a partial asbestos clean-up be done in the community, leaving many houses' walls and attics full of contaminated insulation.

So, when a contaminated building catches fire, what happens to the firefighters and everyone within the smoke plume that is carrying billions of particles of asbestos? And that's just the first of many questions that come

to mind. What the hell, EPA? Really?

**Labor's Dismal Record at the Legislature.** Organized labor opposed every renewable energy bill this session and promoted the most outrageous (and patently unconstitutional) anti-business and anti environmental bill of the 64th Legislature (SB 402). I ask that every MEIC supporter with members or relatives in the AFL-CIO and its affiliates tell them to take advantage of the new energy future for the benefit of their members and earth's climate.

**A Correction.** In my previous column I wrote that Sen. Jon Tester had not introduced a single piece of climate change related legislation. I was wrong. He has sponsored two bills to encourage renewable energy development on public lands. And he has been the only coal-state senator to support allowing the EPA to adopt rules to regulate greenhouse gas emissions. I apologize for my error. 🌱

user-generated electricity has the potential to contribute to a more reliable grid by reducing the effects of transmission line interruptions, allowing parts of the network removed from the interruption to stay energized with at least minimal, emergency power. Rapid advances and economies of scale in electricity storage technology will soon make 24-hour-a-day solar homes a reality.

One of the co-ops' principal arguments is that net metering reduces their ability to pay for maintenance of transmission lines with low subscriber density. Today, that may be true. But remember, the utility industry was caught with its pants down by the steep decline in solar generation costs. It will happen again. Within the next ten years, storage prices will undergo a similar steep decline.

Virtually everyone installing an alternative energy system asks: "will this make me independent of the grid?" In most cases, the answer is no. Storage costs currently make such a system uneconomical. But with rapid advances in battery, fuel cell, capacitive and other storage technologies, and the huge expanding market, that will change. At some point the reduced cost of storage will make

grid independence a no-brainer.

When, not if, storage becomes economical, the alternative energy generator will have a question to answer: "do I want to be independent of the grid, or do I want to use net-metering?" The answer will depend on individual circumstances, but I do know this; when people have been rubbed the wrong way, they have very long memories. A co-op's refusal to provide reasonable net-metering will result in the answer: "screw the coop; I'll be independent." At that point, the co-op's long, expensive-to-maintain transmission lines will become even more expensive, as customer after customer chooses to disconnect. Montana's co-ops would be wise to think long-term and embrace this new generation opportunity, and the opportunity to be leaders, not relics. It's possible for everyone to benefit. I'm more than willing to stay connected under net-metering with its storage benefits rather than buying and installing my own storage capability. New utility-scale storage allows the co-ops to provide added value and gives their customers a reason to stay connected. The co-ops just need to choose to do so; to the extent they choose not to, they are writing their own obituary. ☺

## Electric Grid (continued from page 20)

other infrastructure rather than take advantage of much less expensive energy efficiency measures and programs. These flawed assumptions lead to the faulty conclusion that states will need more time to address reliability issues than the Clean Power Plan provides. In reality, energy efficiency has already proven to be an easily deployable, cost-effective resource that helps bolster reliability across the grid. Energy efficiency will allow states to meet and exceed the Clean Power Plan targets while maintaining and also improving grid reliability.

EPA is expected to release its final Clean Power Plan in July 2015. States will then develop plans for how they will achieve the targets set forth by the EPA. Reliability is a key issue that states should build into their compliance plans. Timely compliance with EPA's emission

reductions is possible without compromising grid reliability.

NERC's report and assessment is worse than the worst-case scenario. It casts aside reality and successful grid planning practices that have allowed renewable resources to be integrated smoothly into the electric grid for several decades. Delaying emission reduction targets will not help address grid reliability issues. In fact, procrastination will only reduce the incentive for states to conduct proactive planning and could limit their compliance options. Scaling back or delaying the Clean Power Plan is unnecessary and could close the window of opportunity to address climate change and adopt public health and environmental safeguards by reducing carbon pollution. ☺

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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 . . ."

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# Save the Date for MEIC's Rendezvous!

## You're Invited!

It's time to celebrate all that you as MEIC supporters have helped us accomplish on behalf of Montana's clean water and air, and healthy landscapes, and to look forward to what is yet to come. Please plan to attend our 2015 Rendezvous. There will be food, drinks, speakers, silent auction, friends, and fun!

- **When:** Saturday, September 12, 2015.
- **Where:** Ten Spoon Vineyard & Winery, 4175 Rattlesnake Drive, Missoula.

Watch your mailbox and MEIC's website (**[www.meic.org](http://www.meic.org)**) for more details, and mark your calendar today to save the date!



*Ten Spoon Vineyard & Winery*