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Montana's Smith River

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EPA's Clean Power Plan – A Critical Step in the Right Direction

by Anne Hedges

Cover Photo:
Smith River.
Photo by
William Rahr.

When Pres. Barack Obama made a stirring speech about climate change on a sweltering day in June 2013, everyone concerned with the issue hoped it was not just political theatre. On that day he directed the U.S. Environmental Protection Agency (EPA) to limit carbon pollution from power plants, the largest contributors to climate change in the nation. On August 3, 2015, he made good on his promise, and took a profound step toward tackling the climate crisis.

In an unusual move, Pres. Obama himself announced the final EPA rule (or regulation) from the White House. The rule, referred to as the Clean Power Plan, will reduce carbon pollution from power plants by 32% by 2030. The rule was developed after years of research and public input – an unprecedented 4.3 million comments were submitted. The final rule changed considerably from the previously proposed version. The final Clean Power

Plan is stronger, more legally defensible, and was improved to respond to concerns about affordability, reliability, and fairness.

In short, EPA listened. As the Edison Electric Institute, an association of electricity companies, wrote in a press release: “Throughout this rulemaking process, EEI raised a number of issues, and EPA seems to have responded to some of our key concerns.... The final

guidelines appear to contain a range of tools to maintain reliability and better reflect how the interconnected power system operates.” Shortly after the rule’s release, the CEO of Dominion Resources, one of the nation’s largest producers and transporters of electricity, told an American Coal Council conference: “I would not hang my hat” on a legal challenge to the rule, and that companies instead should work towards helping states comply.

The final rule, unlike the much criticized proposed rule, establishes consistent carbon pollution limits for all coal plants and all combined-cycle natural gas plants across the country. Every coal plant is required to meet the same carbon pollution emission limit regardless of where it is located. This creates a more fair system across states. While the proposed rule set Montana’s carbon pollution reduction target as the second weakest in the nation, the final version increased Montana’s reduction target. Even with the stronger emission reduction target, Montana still is tied with two other states with the weakest carbon pollution emission standard in the country.

Contrary to the coal industry hyperbole, the Clean Power Plan does not shut down any coal plant. In fact it allows Montana’s power plants to continue to release more than half of the carbon pollution that they emitted in 2012, a total of 11 million tons in 2030 (down from about 18 million tons released in 2012). EPA’s final rule gives states three years to develop a plan instead of the previously proposed one year. States don’t have to begin reducing carbon pollution until 2022 – 7 years from now. The proposed rule required compliance starting in 2020. There are numerous other changes in the final rule that make it easier for states to comply.

EPA allows states to use any combination they think best of energy efficiency, renewable energy, natural gas, nuclear power, hydro-electric power, and coal, to meet their carbon pollution

Solar being installed on a Helena, Montana, home. Photo by Anne Hedges.



reduction target. States will even be allowed to establish or join other states in emissions trading programs. The Clean Power Plan provides states with the opportunity to develop clean energy and create jobs in whatever manner they chose. The flexibility allowed to states to establish a pollution control program is unprecedented.

But none of that has stopped the critics, including Montana's attorney general Tim Fox, from filing lawsuits over the rule. Already there are four lawsuits that have been filed to stop the rule from going into effect or to overturn it. But EPA anticipated those lawsuits and wrote the final rule to address the issues these same naysayers raised during the comment period on the proposed rule. Some people will never be satisfied.

Climate change is real and is intensifying. It is already resulting in hotter and drier conditions that are causing larger, more expensive, and more intense wildfires. Montana has recently been experiencing average temperature increases that are 1.8 times greater than the global average increase. These increased temperatures harm snowpack, water availability, irrigation, wildlife, recreation, and more. The economy, public health, and the environment are at risk, but the country and the state have the ability to solve the problem. The only question is, do they have the will? Pres. Obama did, but will our politicians?

Gov. Steve Bullock was initially critical of the final EPA rule. He had not expected it to change so significantly from the proposal. But he has remained clear that climate change is a real threat and must be addressed. Sen. Jon Tester has had a similar response. Both are strong advocates of clean and renewable energy. Rep. Ryan Zinke and Sen. Steve Daines have taken the opposite approach. They deny climate change poses any threat to Montana (and sometimes they question whether it's really happening). Both advocate a "business as usual" energy system, regardless of the harm Montana is already experiencing and the continued harm that is predicted.

The next step in the Clean Power Plan process will be for the State to begin developing a compliance plan. If Montana fails to develop a plan, as some climate deniers and skeptics advocate, EPA will impose a plan on the State. A Montana-made plan that incorporates Montana's untapped energy efficiency potential and its outstanding renewable energy resources is by far the best path forward. Such a plan can lower electricity bills, create jobs across the state, improve public health, and protect our essential agricultural and recreational economies. Anything less than a Montana-made plan is selling ourselves – and future generations – short. ☺

Clean Power Plan Relies More on Renewables and Efficiency

One of the major differences between the proposed and final Clean Power Plans is that the final Plan assumes greater reliance on renewable energy and energy efficiency. EPA now assumes that by 2030 renewable resources such as solar and wind will supply 28% of U.S. electric capacity, up from 22% in the proposed Plan.

Recent renewable energy and energy efficiency growth rates are staggering:

- Renewable energy (excluding rooftop solar) now represents nearly 50% of new energy capacity additions in the United States.
- In the first quarter of 2015, over 50% of new electric generating capacity came from solar installations, and residential and utility scale solar outpaced natural gas additions. It's estimated that the U.S. now has 21.3 gigawatts of installed solar capacity – enough to power more than 4.3 million homes.
- Between 2002 and 2013 the price of residential and small commercial solar projects dropped by over 60%, and are currently declining at a rate of 14% per year.
- Between 2005 and 2014 wind went from accounting for 0.5% of U.S. electricity generation to nearly 4.5%.
- Wind power represented 24% of electric generating capacity additions in 2014.
- It's estimated that the U.S. now has over 65 gigawatts of installed wind capacity – enough to power nearly 13 million homes.
- Between 2005 and 2013 energy efficiency spending more than tripled in all sectors of the U.S. economy.

The Economics for Colstrip Units 1 and 2 Are Looking Grim

by Anne Hedges

The dominos may be falling. Coal-fired electrical power is quickly becoming uneconomic as cleaner and cheaper energy sources become more available and less expensive. Nationwide over 200 coal-fired plants have been closed or soon will be. The demolition of the Corette plant in Billings proves that Montana is not immune from this domino effect. Recent news indicates that two of the units at the behemoth Colstrip coal-fired power plant are in serious jeopardy – and not because of the U.S. EPA’s Clean Power Plan (see article on page 2).

Three recent developments signal that the two older units (#1 and #2) at Colstrip are in trouble. First, PPL – the plant operator and second largest owner in Colstrip – “abandoned ship” in Montana. Second, investors are increasingly pessimistic about Colstrip’s financial viability. And third, the Washington Utilities and Transportation Commission, which oversees the Washington utilities that

own a large share of the plant, is increasing its scrutiny of any further utility investments in Colstrip, and is analyzing the costs of closure and cleanup of the plant.

In early June 2015, PPL spun off its unregulated power plants nationwide, including its share of the four units at Colstrip. PPL dumped its unregulated power plants into a newly formed company called Talen Energy. Unregulated power producers are not controlled by state public utility commissions, and therefore have no guarantee of a profit. Instead, they must sell their power in the marketplace. When the market is good, unregulated power producers such as PPL Montana make a fortune. When the electricity market is soft, they lose money.

Since Talen Energy was created, investment firms have repeatedly warned it to shed its interest in Colstrip. Talen refers to Colstrip as a “legacy asset.” UBS Financial has referred to Colstrip as a “non-core” asset that Talen should dispose of. UBS reported that Talen wants to

Colstrip power plant. Photo by Colin Ruggiero.



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“de-emphasize its existing Western operations in Montana.” Talen’s other power generation facilities are all on the East Coast or in Texas – over 1,500 miles from Colstrip. Colstrip is truly an outlier in Talen’s portfolio. When Talen recently announced its intention to buy 2,500 megawatts of natural-gas-fired power plants, the CEO said the company will become more “gassy” over time, meaning it will increasingly rely on natural gas to generate electricity, not on coal. All of this is an ill wind that may start Talen’s dominos toppling and cause the company to reconsider its long-term investment in its furthest flung asset – the Colstrip plant.

Then, in late June 2015, the Institute for Energy Economics and Financial Analysis issued a financial assessment of Colstrip’s two oldest units in a report entitled, “A Bleak Future for Colstrip Units 1 and 2.” The report details how these two units – built almost 40 years ago – are quickly becoming financially unsustainable in the fast-changing energy world. The report concludes that the two owners, Talen and Puget Sound Energy (PSE), should prepare to retire the units, and cautions that further expenditures to maintain and modernize the units would be throwing money down the drain. A Talen spokesperson said the findings came as no surprise.

Finally, this Summer the Washington Utility and Transportation Commission, which regulates PSE investments in Colstrip, began a formal investigation of the cost of closing the two older units and cleaning up the extensive contamination at the site. PSE helped build Colstrip and continues to maintain the largest ownership share of the plant. Not long after the Utility Commission started its investigation, a group of Washington conservation groups filed a petition with the Commission asking it to determine if it is prudent for PSE and its ratepayers to invest any more money Colstrip units 1 and 2.

Montanans have been known to complain that out-of-state companies, legislatures, and utility commissions have no right to determine the future of Colstrip. But those out-of-state owners are the same ones that built the plant in the 1970s and 1980s, and have operated it ever since. Ratepayers in Washington, not Montana, have to pay to maintain and upgrade the two older units 1 and 2, and the majority of the other two units. To say the owners of Colstrip don’t have a right to close the plant is like saying a homeowner doesn’t have right to sell her or his own home.

These recent events indicate that the time is ripe to think about life after Colstrip. As communities across the country have learned, if states want to protect and assist coal plant workers and their communities when the transition away from coal occurs, the time to do so is before a plant closes, not after. For the Colstrip plant, that time may be now. ☺

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Colstrip coal plant.

Montana Coal Mining Update

by Derf Johnson

It is becoming increasingly clear that the world is recognizing the absolute necessity of shifting away from carbon-based fuel sources, such as coal, and toward clean and renewable energy. Countries around the world are making commitments to reduce their carbon emissions, clean energy technology is advancing at break-neck speed, and the climate

first eight months of 2015.

This news couldn't be more salutary, because the other side of the story is both distressing and alarming. Climate scientists are increasingly warning of the dire consequences of continuing to increase the amount of CO₂ in the atmosphere, and are recognizing that the world is already changing in remarkable and unpredicted ways. The scientists point out that these changes, if left unchecked, could dramatically alter our planet and make large parts of it inhospitable for human life within a century. (For more information, see, for example, the August 5, 2015 article in **Rolling Stone** titled "The Point of No Return: Climate Change Nightmares Are Already Here," which includes interviews with a number of internationally known climate scientists.)

MEIC is facing up to this very sobering reality, and is doing everything within its power to keep Montana's vast coal reserves in the ground. Doing so is a necessity if we hope to keep the global rise in temperatures below 3.6 degrees Fahrenheit, the threshold identified by climate scientists that the world must stay below in order to avoid a climate meltdown.

What follows is a report on some of MEIC's coal mining work that is aimed at doing just that.

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talks scheduled for November 2015 in Paris are beginning to look promising.

In confirmation of this trend the United States is seeing a precipitous drop in the financial viability of coal mining companies. In the past 16 months, some

of the largest coal companies in the world have declared bankruptcy, including Alpha Natural Resources, Walter Energy, Patriot Coal, and James River Coal. Some financial analysts have suggested that Arch Coal, the company proposing the Otter Creek coal strip mine, is next on the list, having lost nearly 90% of its value on the New York Stock Exchange in the



Otter Creek. Photo by Kestrel Aerial Services, Inc.

Otter Creek Water Quality Standards

The Otter Creek valley in southeastern Montana is the site of the largest proposed coal mine in the United States. Missouri-based Arch Coal, although on the verge of bankruptcy, is determined to strip mine the agriculturally productive and culturally significant watershed in order to sell the coal to Asian markets. However, in order for Arch Coal to mine the coal, it must convince the Montana Board of Environmental Review (BER) to weaken water quality standards for Otter Creek so that Arch can legally pollute the stream.

The current water quality standards for Otter Creek were established through a consensus process in order to protect irrigators from the coal bed methane development bonanza of the late 1990s and early 2000s. The standards recognized the unique and opportunistic irrigation system utilized by farmers and ranchers in the Otter Creek valley, a system that had been in use for well over a century. Natural background water quality in southeastern Montana is notably poor, making irrigation a delicate process. Generally, farmers and ranchers irrigate when water quality is at its best – during the very infrequent high runoff events when the poor quality water is diluted with fresh rain and snowmelt. These irrigation events, which are essential to the operations of Otter Creek farmers and ranchers, may only occur a few times per year and can make or break the success of their businesses.

Farmers are worried about the sodium adsorption ratio (SAR) and electrical conductivity (EC), two ways to measure water pollution. Arch Coal, with the help of the Montana legislature, successfully pushed DEQ into instigating a rule-making process to reduce the water quality in Otter Creek by weakening the EC and SAR standards. The proposed standards threaten the viability of

water quality and consequently the farms and ranches irrigating from Otter Creek.

In Spring 2015, DEQ presented the proposed standards to the Water Pollution Control Advisory Council (WPCAC) on two different occasions, but they were rejected both times by WPCAC, based upon concerns expressed by the irrigators. Regardless, DEQ decided to move forward, and in late July presented the proposed standards to the Montana Board of Environmental Review (BER). It requested BER to initiate rulemaking to adopt the standards. However, BER heard the concerns from irrigators, and instead opted to delay the process in order to collect more information and potentially draft a more adequate standard that would protect downstream irrigators. The BER meets again on October 16, 2015.

“... , in order for Arch Coal to mine the coal, it must convince the Montana Board of Environmental Review (BER) to weaken water quality standards in Otter Creek so that Arch can legally pollute the stream.”

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MEIC's 2015 Board of Directors Election

Cast your ballot today!

It's time for the annual MEIC Board of Directors election. This year we have two incumbent directors and four new candidates running. Please vote. It may seem like a formality, but it is an important part of keeping MEIC a viable and legal organization.

Instructions:

- 1) Only MEIC members can vote; subscribers and business corporations are not eligible.
- 2) Mark a "yes" or "no," or abstain from voting, for each candidate on the enclosed postage-paid card.
- 3) Mail the card back to MEIC in time to arrive by September 30, 2015.

Thank you for your participation.

Alexis Bonogofsky, Billings, MT



As a fourth generation Montanan, hunter, rancher, and outdoor recreationist, protecting Montana's natural resources is extremely important to me. MEIC is in the top tier of most effective statewide organizations protecting our land, water, and air for future generations, and keeping Montana's environmental laws strong. I have worked for over a decade on energy development issues with Tribes and tribal communities throughout the West, and specifically in the Powder River Basin of southeastern Montana, and understand the conservation challenges facing rural and tribal communities. As a potential member of MEIC's Board, I hope to bring that experience and voice to Helena and help MEIC remain one of Montana's strongest environmental organizations.

Bob Gentry, Missoula, MT



Over the last two years I have had the great honor and privilege to act as a member of MEIC's Board. The honor is to work for an organization and its membership that has proven again and again its dedication and extraordinary effectiveness in advocating for common sense measures protective of our human and natural environment. The privilege has been to work with MEIC's outstanding staff and board members in fulfilling MEIC's promise to its generous membership and supporters.

From my first acquaintance with MEIC's work while employed with the Montana Natural Resource Damage Program, through my work with MEIC as a public interest environmental attorney, and throughout my first term on MEIC's Board, I have continued to discover that if there was a Montana watershed or a mountain that touched my heart, or some aspect of our natural environment essential to healthy biodiversity, MEIC has a steady and effective hand in advocating for them, for me, and for all of us.

I look forward to the continuing opportunity of providing my assistance to MEIC's board and staff as an MEIC member and, with membership approval, on MEIC's Board. Together we can continue to assist our elected representatives and government agency personnel to look before they leap, to think before they act, and thereby continue to make real and meaningful our Constitutional right to a clean and healthful environment.

Hannah Gimpel, Hamilton, MT



As a native of Helena and a current resident of the beautiful Bitterroot Valley, I am thrilled to be included in this election to serve on the MEIC Board. I know what a special place Montana is and it is an honor to be able to help protect and restore the state's natural environment. In my role as the associate director at the University of Montana spectrUM Discovery Area, I see a lot of parallels to MEIC's work: collaborating with community partners around the state, doing outreach to foster awareness and, perhaps most importantly, working to educate and inspire the next

generation of Montanans to explore and appreciate the world around them. After all, it takes both education and forward-thinking regulation to ensure that future generations will be able to enjoy this amazing place I get to call home.

Greg Lind, Missoula, MT

I moved to Montana in 1997. The prior decade had been spent in Utah where the battle over protecting amazing landscapes distilled and defined my environmental and political views. Sometime after arrival in Missoula I asked around about active environmental organizations and was pointed to MEIC. I became a member and eventually (after a conversation or two with Jim Jensen) a board member. It was during that time, and in my four years in the Montana Senate, that I saw firsthand the effectiveness of the organization and the quality of the staff.

Personally, I believe that we would all be better off if governments, corporations, and individuals were forced to capture the costs of their activities (not socialize their CO₂, mercury, and arsenic, to name a few). Sooner or later we will all realize that the supply of natural landscapes and wild places is finite and shrinking – I for one hope that realization comes very soon.

Everyone loves a winner and I want to return to the MEIC Board to work on important issues with great people.



Jennifer Swearingen, Bozeman, MT

I became acquainted with MEIC when I joined Montanans Against Toxic Burning, a group formed to fight waste incineration in our local cement kiln. MEIC became an invaluable ally, educating us about our right to participate in government permitting actions, helping us review arcane regulations, and guiding us in grassroots organization. After successfully blocking the local proposal, MATB took those crucial skills to the national level to achieve stronger emissions standards for all cement kilns in the US. I worked closely with Earthjustice and met several times with EPA officials, as part of a national coalition of advocates. The lesson for me: citizen advocacy is essential to protecting our environmental values. But you've got to know how to fight in order to win. MEIC empowers citizen advocates in that fight.

MEIC is bringing that same talent to the fight against climate change. Because I see our warming planet as the greatest threat to our environment, I strongly support MEIC's commitment to challenging new coal mining and advocating for renewable energy. If elected to the Board, I would be honored to devote my time and energy to supporting MEIC's vital work.



J. Kirwin Werner, Ronan, MT

As a long-time member of MEIC, my life-long commitment is to help incorporate natural ecosystem principles into a dysfunctional economic system – be it thru example, persuasion, or litigation. I am currently secretary of the MEIC Board and am seeking a second two-year term.

My passion for environmental causes began in northern Michigan in the 1970s where I was co-founder of the Upper Peninsula Environmental Coalition – a group then, as now, contesting the expansion of coal-fired power plants, iron ore mining, and pollution issues related to Lake Superior. Since returning to my home state of Montana in 1990, I have been instructing biology courses at Salish Kootenai College and conducting research on the amphibians and reptiles in the state. I am the senior author of the state field guide, Amphibians and Reptiles of Montana, published in 2004 by Mountain Press.



Regional Power Plan Predicts Energy Efficiency Gains in the Northwest

by Kyla Maki

Every five years, a federally mandated regional organization called the Northwest Power and Conservation Council (the Council) develops a 20-year power plan for the Columbia River drainage basin – a four-state region that includes Idaho, Washington, Oregon and some of Montana. The Council is in the process of drafting its 7th Power Plan. The Plan will serve as a blueprint to guide electric resource planning and evaluation decisions across the region for the next two decades.

Energy efficiency has consistently been the cornerstone of the Council's previous 20-year plans because the Council's goal is to guarantee that the region's electricity needs are reliably met at the lowest possible environmental and economic cost. The latest computer modeling results indicate that the new Plan will anticipate strong energy efficiency

gains in the region over the next several years. Efficiency gains will be even greater and more robust than previous Plans anticipated. This is positive news for the Northwest's utilities and consumers because energy efficiency has proven to be the most reliable, affordable, and least risky resource available.

Initial modeling for the Council's 7th Plan indicates that:

- Energy efficiency will continue to be the most valuable and inexpensive resource in meeting new energy demand. In fact, the models predict that energy efficiency can meet 100% of all new energy load growth in the Northwest for years to come.
- Between 1,300 and 1,400 average megawatts of cost-effective energy efficiency will be available across the region in the next 5-6 years. This is nearly enough energy to power the entire state of Montana for one year.
- Demand management – voluntarily and innovatively reducing power consumption during periods of highest (peak) energy use – is the preferred resource to meet the Northwest's requirements for the Winter peaking periods. Demand management can be thought of as a more aggregated form of energy efficiency.
- There won't be a need to build any new electric generating facilities until 2021 or later. This is primarily because of predicted energy efficiency gains.

While the Council's modeling and analysis has been strong on energy efficiency for the 7th Plan, it could be improved in two key areas.

- The Plan should analyze and incorporate an accounting of all of the environmental compliance costs associated with operating the Northwest's existing coal plants, particularly Montana's Colstrip units 1 and 2. Leaving out certain operating and retrofit costs could underestimate the economic

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Coal Mining Update *(continued from page 7)*

Tongue River Railroad

The Tongue River Railroad, known to many in Montana as the “coal-to-Asia” railroad, is a proposed rail line that will go from the proposed Otter Creek mine approximately 60 miles north to an existing railroad spur near Colstrip. The railroad is essential in order for Arch Coal to strip mine the Otter Creek valley and ship the coal to Asia. The proposed railroad has been in the works for decades, but is now receiving increased attention due to the April 2015 release of a draft environmental impact statement (EIS) on the project by the U.S. Surface Transportation Board (STB).

The draft EIS is wildly inaccurate in its feeble attempt to portray the environmental and social impacts that the railroad would have on southeastern Montana. It fails to fully analyze habitat fragmentation and the impact that the railroad would have on wildlife species, and completely fails to study fish species in the area. What’s more, the draft EIS concludes that “depending on the scenario, net accumulated life-cycle GHG emissions from 2018 to 2037 could be slightly greater (1.7 MMTCO₂e) under the No-action alternative.” What this means in layman’s terms is that the EIS concludes greenhouse gas emissions could be greater if Arch Coal does not mine 1.5 billion tons of coal!

The serious flaws in the draft EIS, and the enormous public opposition to the proposed railroad, became incredibly apparent when STB held hearings in five different southeastern Montana cities. Hundreds of Montanans, including farmers and ranchers, Native Americans, business owners, and even coal miners, spoke out in opposition to its construction. Only a few people supported the railroad.

Due to the enormous public interest, STB has extended the deadline for the public to comment to September 23, 2015. We urge you to contact STB, and ask that it choose the no-action alternative.

Federal Coal Royalties Review

Coal companies have been exploiting a loophole in the federal coal royalty program and ripping off American citizens by cheating the U.S. Treasury of its fair share of royalty revenue. It’s that simple.

The American public owns federal coal, and coal companies do not have the right to mine and sell the coal unless they pay a royalty. This royalty is shared between the federal government and individual states, including Montana. The royalty is calculated based upon the value of the coal at the point of sale. However, coal companies (especially Cloud Peak Energy, which relies heavily on federal coal) have set up an elaborate system of subsidiaries, and are selling the

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Contact the Surface Transportation Board

Comments must be submitted by September 23rd.

By USPS Mail:

Surface Transportation Board
(Docket No. 30186)
395 E Street, S.W.
Washington, DC 20423

By E-Mail:

Go to <http://www.tonguerivereis.com/>

Tongue River. Photo by Drake Barton.



Coal Mining Update *(continued from page 11)*

coal to these wholly owned subsidiaries at undervalued prices. Shockingly, the federal government is calculating the royalty based upon this “captive” transaction. Of course, the

“... the coal companies then turn around and sell the coal in an “arms-length,” legitimate, transaction for a much higher price, effectively reducing their royalty payments to the federal government.”

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payments to the federal government.

The U.S. Department of Interior (DOI), the agency responsible for managing and assessing royalty payments, recently began an investigation into this practice, and is considering updating its royalty program to crack down on this cheating.

DOI is holding a series of “listening sessions” to evaluate whether to implement changes to the royalty program, including one held in Billings in early August. At the session, 76 people spoke, with 49, including MEIC, calling for tougher rules on leasing and royalties. Many of those who spoke also called on DOI to recognize the climate change impacts associated with coal mining when updating the royalty program.

Bull Mountain Mine Expansion

The Bull Mountain mine north of Billings is Montana’s only underground coal mine. It is owned by a consortium of different companies, including Signal Peak Energy and the Gunvor Group, a secretive international commodities trading firm with potential financial ties to Russian president Vladimir Putin. According to *The Wall Street Journal*, a former company official is being investigated by the U.S. Department of Justice for money laundering, including potentially sheltering some of Putin’s wealth.

In October 2012, the mine applied for a massive expansion that would cover 7,160

acres, potentially making it the largest producing underground coal mine in the country and accounting for approximately 10% of U.S. coal exports. If the mine expands, it will pollute the surrounding groundwater, disrupt Montana communities along the rail line, and exacerbate climate change.

Due to these unavoidable impacts, MEIC, Montana Elders for a Livable Tomorrow, and the Sierra Club, represented by the Western Environmental Law Center (WELC), filed a lawsuit in mid-August 2015 that is challenging the federal Office of Surface Mining Reclamation and Enforcement’s (OSM) approval of the proposal under the National Environmental Policy Act. OSM failed to prepare an environmental impact statement, even though its own guidelines state that the size of the proposed expansion mandates one. Additionally, OSM did not study the health impacts of coal trains carrying Bull Mountain coal through Montana communities to ports in the Pacific Northwest, nor did the agency fully analyze the climate change impacts of mining and burning more coal.

In a parallel action at the State level related to this expansion, MEIC has challenged the Montana DEQ’s approval of the Cumulative Hydrologic Impact Assessment (CHIA) for the mine, the analysis that determines whether the expansion will impact the groundwater resources adjacent to the mine. DEQ is prohibited from issuing a CHIA, a necessary element of the permit, if it finds that the mine expansion will damage water quality outside the proposed mine area boundary. DEQ’s own analysis showed that water quality would, through time, be damaged outside of the permit boundary by violating water quality standards, but DEQ ignored its own analysis and issued the CHIA anyway. A hearing on MEIC’s challenge was held on July 31st in front of the BER, and a decision is likely before the end of 2015. ☺

Montanore Mine near Libby Receives Forest Service's Blessing

by Jim Jensen

The U.S. Forest Service, the federal agency sharing joint authority with the Montana Department of Environmental Quality (DEQ) to grant permission for a major copper and silver mine beneath the Cabinet Mountains Wilderness, has announced its decision.

Forest Service Region 1 deputy forester David Schmid announced in late July 2015 that the many concerns identified by MEIC and other groups and individuals about the shortcomings of the federal agency's environmental impact statement for the proposed Montanore mine on the Kootenai National Forest, while worthy of further analysis, were not sufficient to hold up the project.

Mines Management, Inc. (MMC), of Spokane is the project's current owner. The company claims the ore deposits will produce, over the mine's lifetime, 8 million ounces of silver and 60 million pounds of copper, making it one of the 10 largest silver/copper mines in the world.

Though it has not issued its final decision, DEQ appears ready to allow the mine to move forward, relying in part on a water degradation authorization granted to MMC's predecessor, Noranda Minerals, twenty years ago.

MEIC believes this decision would be legally indefensible for a number of reasons:

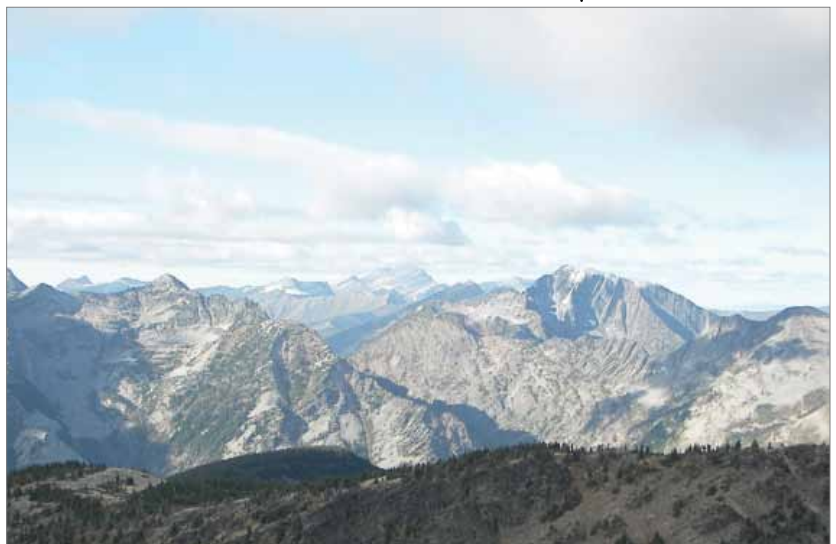
- The permission was granted to a different company for a different proposal.
- Noranda formally abandoned the project in letters sent in September, 2002.
- MMC's ability to rely on a permission its predecessor abandoned is barred by the legal doctrines of "laches" and "waiver."
- DEQ has an obligation under §75-5-303, MCA, to modify and update its 1993 decision.
- DEQ's reliance upon the 1993 decision violates its obligations and duties under Article IX, sections 1 and 2, of the Montana Constitution.

In summary, there is no legal authority for the State to rely on a twenty-year-old decision authorizing levels of pollution far exceeding

those allowable today. MEIC will join other concerned organizations to sue DEQ if it issues Montanore's permit on this basis.

Furthermore, DEQ failed to model the cumulative air quality impacts on the Class I Cabinet Mountains Wilderness Area from this and other pollution sources, in violation of a March 2003 legal agreement with MEIC (Settlement, Stipulation, and Order for Permit No. 2414-01) which says (in part): "The Department agrees that for any future construction, installation, alteration, or use that would be located within 10 kilometers of the Cabinet Mountains Wilderness Area or that would have an air quality impact on that Class I area ... and that requires an application for an air quality permit, including, but not limited to, permit actions involving the Montanore mine project, the Department will, as part of the permit application review process, perform a computer dispersion modeling analysis of the cumulative consumption, by minor and major air contaminant sources, of the air pollutant increments that apply in the Prevention of Significant Deterioration of Air Quality Class I baseline areas." Translating that legalese means that an analysis DEQ is required to perform has not been done. MEIC does not intend to let this omission go unchallenged. ☺

*Cabinet Mountains.
Photo by Save Our
Cabinets.*



President's Letter



by Gary Aitken

Because of a technicality involving environmental analysis for two endangered species, Australia has essentially denied a permit for the construction of the huge Carmichael coal mine and an associated coal export facility, both of which would have threatened the health of the Great Barrier Reef. Australian banks have now pulled out, citing issues including unstable and low long-term coal prices. Commonwealth Bank, Australia's largest lender, had tightened its environmental and social governance policies at a shareholders meeting in November 2014. With no local bank support, it is unlikely other banks will issue loans. Many of the largest banks have said they would not finance a project whose export facilities would be built near the Great Barrier Reef. The Australian government, out of step like the U.S. Congress, is being pre-empted by market forces and the hard realities of our changing world.

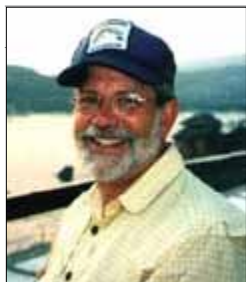
In March 2015, India announced a goal of no thermal coal imports within three years. It doubled the tax on coal imports, and is using the money to fund renewables. The Carmichael mine coal was supposed to go to India.

Alpha Natural Resources, the fourth largest U.S. coal producer, filed for bankruptcy this month. Walter Energy filed last month, and Patriot Coal last May. Stock prices for the two largest remaining public companies, Peabody Energy and Arch Coal, are "in the toilet" with a "thin straw sticking up and breathing foul air." Peabody is at \$1.18, down from \$16 a year ago and \$70 in 2011; Arch is at \$1.54, down from \$33 a year ago, \$360 in 2011, and \$750 in 2008. They are among the biggest losers in this year's S&P 500 Index.

In New Zealand, renewables generated approximately 80% of the country's electricity in 2014. Its target is 90% by 2025. New Zealand-based Genesis Energy announced it will shut down its last two coal-fired power plants. The falling price of renewables was a major factor. Two more "dominoes" are falling. The Kiwis are well on their way to energy independence. Those closures are happening for economic reasons, not regulatory ones. Coal is dead. Governments need to get with the program.

This news is all relevant because coal from the proposed Otter Creek mine would be

Thoughts from the Executive Director



by Jim Jensen

Montana is at another crossroads in its stormy relationship with hardrock mining. A new copper mine is proposed on the Smith River, Kennecott Copper is chasing the same dream on the Blackfoot River near Greenough, two mines are proposed for under the Cabinet Mountains Wilderness Area (Rock Creek coming in from the west, and Montanore coming in from the east), a Canadian firm is asking to explore for gold

in the Yellowstone River drainage just south of Chico Hot Springs, and Atna Resources, the current owner of the Seven-Up Pete properties at the headwaters of the Blackfoot, is seeking financing for an open-pit gold mine.

The inevitable conflicts between mining and clean water need to be resolved in favor of clean water. Montanans need to take a stand to live up to the clear-cut language of the State's remarkable 1972 Constitution (Article IX, section 2: "All lands disturbed by the taking of natural resources shall be reclaimed.") and take whatever action is necessary.

In the coming months, MEIC will be proposing solutions to prevent water-destroying mining, so "stay tuned." ☺

shipped by rail to as-yet-unbuilt port facilities on the West Coast for sale to the Far East. Doing so is uneconomical even now; by the time any coal is ready to be sold, it will be even more so.

The U.S. Energy Information Administration (<http://www.eia.gov/>) released figures for energy production and consumption during 2013 in April 2015. Underground and surface coal miners in the U.S. totaled 80,000, a decrease of 10% from the previous year. 92% of the coal mined was consumed by the U.S. electric power industry. Those numbers have nowhere to go but down.

There are now more than twice as many people employed in the solar industry as in the coal industry. The Colstrip coal mine here in Montana utilizes outdated technology and is responsible for about a half of Montana's CO₂ emissions. It is the 9th dirtiest plant in the

nation, the 2nd dirtiest west of the Mississippi River. It is responsible for some of the worst mercury emissions in the country, and its leaking coal ash ponds are destroying the aquifer of the town where it is located, which is the life-blood of surrounding ranches. If I were a Colstrip employee, I'd be looking for some retraining in the solar or wind industries. And I'd be doing it now.

The handwriting is on the wall, in big bold letters. Our governor needs to quit whining about the EPA increasing Montana's carbon reduction targets, and get with the program. It's going to happen anyway; the sooner we grab the opportunity and move forward, the better position we will be in. Or will Montana be left to pick up just the left-over pieces, much like the U.S. was left to pick up the remnants of the whole renewable energy industry? ☺

Regional Power Plan *(continued from page 10)*

risk of continuing to operate aging and dirty coal plants.

- Even in the highest carbon cost scenarios, the Council's modeling does not anticipate new renewable energy development beyond what is required by state Renewable Energy Standards. Instead, the models predict that existing natural gas plants will run more often in certain scenarios. The Council's model and the Plan should more accurately reflect the low cost, low risk, and high value of significant renewable resources available in the region.

The Plan is shaping up to be stronger than ever before on energy efficiency. This means that states working together in the Northwest can reliably meet future electricity needs at the lowest cost and with the least risk possible. It is critical that the Plan also account for the

total cost of operating existing coal plants into the future, as well as the true value of new renewable energy resources. With strong energy efficiency goals, comprehensive coal costs, and more renewable energy, the Plan can most effectively help lead the region into a clean energy era.

Timeline

- A draft plan will be released for public comment by the middle of October 2015. There will be a 60-day comment period.
- The Council will hold one or two public hearings in each state on the draft plan in November and December 2015. The hearings in Montana will take place in Missoula and possibly Kalispell.
- The Council will release its Final Plan in February 2016.

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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) for more details, and mark your calendar today to save the date!



Ten Spoon Vineyard & Winery