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## 2017 Legislative Mid-Session Report

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### IN THIS ISSUE

- 2 Clean Energy Bills
- 4 Colstrip Bills
- 6 Land Use Bills
- 7 Water Bills
- 8 Oil and Gas Bills
- 14 The Federal Picture

## Clean Energy Bills at the 2017 Legislature

by Brian Fadie

### Net Metering

A major theme of this legislative session is NorthWestern Energy and its utility allies fighting tooth and nail against clean energy development. Unfortunately, so far the legislature has been listening.

Two particularly dangerous bills attacking net metering – the policy that allows Montana residents and businesses with small wind, solar, or hydro projects to put their excess electricity back onto the grid and be paid for it – remain alive. Both have been vigorously backed by NorthWestern.

**SB 78** (Sen. Keith Regier, *R-Kalispell*) would fundamentally change the economics of net-metered systems by lowering the compensation rate for electricity put back on the grid (electricity that NorthWestern turns around and sells to other customers). The bill would also, in effect, double charge net

metering customers for using the grid. The bill passed the Senate 32-19, and is scheduled for a hearing in the House Energy, Technology, and Federal Relations Committee on March 8th.

**SB 7** (Sen. Pat Connell, *R-Hamilton*) would discriminate against net-metered customers by saying they – and only they – may not benefit from a “subsidy.” This bill runs contrary to reality. The grid is full of customers who cost more or less than others to serve and yet are charged the same rate. For example, rural and remote residential customers often live where grid infrastructure is expensive to build and maintain and only benefits a small number of customers, yet they pay the same rate as residential customers in dense urban areas who are cheaper to serve. The bill passed the Senate 31-18, and is awaiting action in the House Energy, Technology, and Federal Relations Committee.

Not backing down from pushing for positive action on net metering, MEIC and



Solar Rally in Helena. (c) Alex Tenenbaum

Cover Photo: MEIC Executive Director Jim Jensen at the Women's March in Helena. (c) Alexis Bonogofsky.



other organizations worked hard to gather support for **HB 504** (Rep. Bryce Bennett, *D-Missoula*), known as the Solar Jobs and Energy Freedom Act. This bi-partisan bill would have significantly increased solar jobs and energy generation in Montana by giving individuals and businesses the flexibility of choosing how to go solar. Yet despite hundreds rallying in support of the bill around the state and in Helena, and hundreds more contacting committee members, the bill was tabled in the House Energy, Technology, and Federal Relations Committee.

Even modest bills with bi-partisan support to move net metering forward, such as **HB 34** (Rep. Daniel Zolnikov, *R-Billings*), **HB 52** (also Rep. Zolnikov), or SB 201 (Sen. Jedediah Hinkle, *R-Belgrade*) could not make it out of committee. And while a seemingly innocent **HB 219** (Rep. Zach Brown, *D-Bozeman*) did pass the House 98-1, it is not the way forward for net metering.

The second half of the session will be all about defense. We will be counting on Gov. Bullock to be a strong solar goalie and block (i.e., veto) the bad bills, but he will need to hear from you to help keep him strong. Contact his office at 406-444-3111 or [governor@mt.gov](mailto:governor@mt.gov) and ask him to stand firm on moving clean energy forward.

## Other Clean Energy Bills

It is not just net metering and small-scale clean energy projects that have been under attack this session. Utility-scale projects have also come under fire. But there have been a few rays of sunshine that remain alive in Helena.

### Utility-Scale Attacks

A portion of Montana's Renewable Energy Standard is under attack. **SB 32** (Sen. Keith Regier, *R-Kalispell*) would repeal its Community Renewable Energy Projects (CREP) provision. This bill would cost jobs and the new clean energy that could come from these projects that are 25 megawatts or less and have majority

local ownership. Montana-Dakota Utilities has met its CREP requirement years ago, but NorthWestern Energy is only partially compliant. So far CREPs have resulted in over \$40 million in project investments, 87 construction jobs, and 5.5 permanent jobs. The bill has passed both houses and is headed for Gov. Bullock's desk, so please contact him today and ask him to veto **SB 32**: 406-444-3111, [governor@mt.gov](mailto:governor@mt.gov).

**HB 216** (Rep. Jim Keane, *D-Butte*) and **HB 363** (Rep. Dennis Lenz, *R-Billings*) both seek to put onerous permitting and bonding requirements on utility-scale wind projects. While MEIC supports the notion of proper permitting and reclamation for wind projects, both bills would require much more of wind projects than Montana law does of fossil fuel power plants or mining operations. MEIC worked diligently to cause HB 363 to be tabled in the House Energy, Technology, and Federal Relations Committee. MEIC remains vigilant about HB 216, which is awaiting action in the House Energy, Technology, and Federal Relations Committee.

A different kind of attack on clean energy sources comes from **HB 205** (Rep. Alan Redfield, *R-Livingston*). The bill would put a \$95 annual registration tax on electric vehicles and \$30 on all "hybrids." The definition of hybrids is so broad that even hybrid trucks getting only

## Gordon Butte Pumped Hydro Project

In December 2016 the Federal Energy Regulatory Commission issued a license to Montana-based Absaroka Energy to construct and operate a 400-megawatt pumped hydropower plant near Martinsdale, MT. Called the Gordon Butte Pumped Hydro facility. The project would act almost as a very large battery, storing energy by pumping water to an uphill reservoir when electricity demand is low and releasing it through a generating facility to a downhill reservoir when the electricity is needed later. This project could potentially make Montana wind and solar projects more feasible, while avoiding the need for future fossil fuel-powered plants. Absaroka is now looking for utilities, including NorthWestern Energy, to purchase the electricity produced at the facility.

*continued on page 10*

## Colstrip Bills Are a Moving Target

by Anne Hedges

**"T**alen is losing tens of millions of dollars a year. It cannot continue to do that and it will not." Talen Energy's lobbyist testifying before the Montana House Energy, Technology, and Federal Relations Committee on January 16, 2017.

Talen Energy is a co-owner of Colstrip Units 1 & 2, and currently the operator of all four units, and has been very clear in recent months that it is losing money at Colstrip and it wants out – one way or another. Montana has a long history of companies going belly up and leaving the state's taxpayers with the clean-up bill. This should be front and center in every legislator's mind this session, but it is not. Instead of finding ways to protect Montana's interest in the nearly inevitable bankruptcy of Talen, Montana legislators are fixated on "picking around the edges," trying to force someone to compensate the City of Colstrip,

Rosebud County, and the State for lost tax revenue, trying to find someone to buy out the mortgages of Colstrip workers, and trying to prevent clean energy from replacing Colstrip's electricity when the units are shut down.

Here's a review that runs the gamut from modestly good bills that ever-so-slightly move the ball forward to atrocious bills

that would interfere with a Colstrip cleanup and be likely to cause energy companies to avoid doing business in Montana.

### Good Bills

A number of good bills have been drafted but are yet to be introduced. One of those was unanimously proposed by the Senate Natural Resources Committee. **LC 2608** is a response to an awful bill that the Committee rejected because it would have interfered with the cleanup at the plant (see description of SB 37 on page 11). LC 2608 would require the owners of Colstrip to submit a remediation plan to the Montana Department of Environmental Quality that details existing remediation obligations and how the owners will comply with them. The public would have an opportunity to comment on that plan and DEQ would be able to hold the companies accountable for compliance.

Of the seventeen other bill draft requests relating to Colstrip but not yet introduced, ones requested by Rep. Janet Ellis (*D-Helena*) and Rep. Denise Hayman (*D-Bozeman*) are the most likely to move forward and help ensure cleanup and transition at the Colstrip plant while also protecting its workers. As they say, "stay tuned."

Some introduced bills that may slightly help the Colstrip community include the following:

**SB 140** (Sen. Duane Ankney, *R-Colstrip*) would allow the Montana Board of Investments to provide infrastructure loans to the City of Colstrip from the Coal Tax Trust Fund before trust fund interest revenues are disbursed to other projects. This is not "busting the trust" as the money would be paid back. When House members questioned Sen. Ankney about why other communities with shuttered industries such as Stone Container in Frenchtown do not have the same loan program, Ankney's response was, "You probably needed a better Representative." SB 140 passed the Senate 48-0 and is awaiting action in the House Energy, Technology, and Federal Relations Committee.

**HB 209** (Rep. Barry Usher, *R-Billings*) would

Anne Hedges,  
MEIC Deputy  
Director,  
lobbying for the  
environment.



increase grants funded by the coal severance tax to coal-impacted communities from \$1.6 million to \$3.2 million. The hope is that the extra funding will be directed at communities such as Colstrip, and the Northern Cheyenne and Crow Reservations, which face impacts due to the decline in coal production. The bill passed the House 69-27 and is awaiting action in the Senate Taxation Committee.

**HB 22** (Rep. Jim Keane, *D-Butte*) started out as a good measure that would direct the governor to create a coal transition task force. Unfortunately, that provision was removed and now the bill merely gives the attorney general \$80,000 to do something he has already done – intervene in a Washington utility rate case that will address the costs associated with the closure of Colstrip Units 1 & 2 incurred by Puget Sound Energy, which has the largest ownership interest in the plant. The bill passed the House 98-2, and is in the Senate.

**SJ 5** (Sen. Mike Phillips, *D-Bozeman*) would request the legislature to conduct an interim study of the impacts of the transition away from coal to clean energy and identify ways to mitigate those impacts. The bill passed the Senate 34-16, and is awaiting a hearing in the House Energy, Technology and Federal Relations Committee.

The House Energy, Technology, and Federal Relations Committee voted down one good bill sponsored by Rep. Jim Keane (*D-Butte*). **HB 21** would have established a task force to consider how to protect the pensions of natural resource workers. This study is long overdue as the ever-changing natural resource sector includes coal mining and other companies that often find ways to skip out on their obligations to their workers.

## AWFUL (note the emphasis) Bills

A slew of bills are so ill-advised that they may well cause energy companies (or perhaps any company) to avoid doing business in Montana. These bills would charge the owners of Colstrip giant sums of money for closing the plant even if the plant is no longer economical to operate.

This would discourage investments even in clean energy because companies might fear reprisals if someday they decided it was in their economic interest to close a facility in Montana or change their business model. Out-of-state utilities and clean energy developers would simply go elsewhere to acquire the clean energy

their customers demand. These proposals could very well put a giant “closed to new business” sign on Montana.

**SB 38** (Sen. Duane Ankney, *R-Colstrip*) would charge the owners of Colstrip Units 1 & 2 about \$60 million for closing those units. The bill was introduced before the session even started but

*“Talen is losing tens of millions of dollars a year. It cannot continue to do that and it will not.”  
-Talen Energy’s lobbyist testifying before the Montana House Energy, Technology and Federal Relations Committee on January 16, 2017.”*

Colstrip Plant.



still has not had a hearing.

Sen. Ankney’s other bill is still in draft form but is likely to be introduced by the time you read this article. **LC 6**, would force the owners of Colstrip to pay the State for: any lost value of residential and commercial real estate in the Colstrip area; any “cost shift” (whatever that means) to local and state government from the closure of Colstrip;

*continued on page 11*



## Land Use Bills

by Anne Hedges

### Land Use and Takings

This session has seen an unusually high number of bills trying to undermine land use planning, zoning, and subdivision review. Fortunately, one of the worst bills of the session, which would have eliminated most local and state land use regulations, was defeated in the Senate 20-30. The bill, **SB 98** (Sen. Cary Smith, *R-Billings*), would have required local and state governments to pay a property owner if a regulation decreased the value of property, or else waive the regulation for that landowner. The bill's defeat was an important victory to ensure governments can continue to protect everyone, not just individual landowners.

### Land Use and Subdivision Review

Some legislators were brave enough to introduce bills to improve land use regulation.

Sen. Jill Cohenour (*D-East Helena*) introduced **SB 266** that would have improved public participation in the subdivision review process. Sen. Mary Caferro (*D-Helena*) introduced **SB 269** that would have required water quality data that normally is only given to the state, also be provided to the local government body during the local review process. Both bills were tabled in the Senate Local Government Committee after opposition by builders and realtors.

Rep. Jim Hamilton (*D-Bozeman*) introduced **HB 548**. This bill would have fixed a provision in the subdivision law that the Montana Supreme Court declared unconstitutional in 2013. Current law allows a minority of landowners in an area

*continued on page 11*

## Land Use and Water

Protection of water resources and land use regulation often go hand-in-hand. Two bills significantly impact both.

The first, **SB 248** (Sen. Mark Blasdel, *R-Kalispell*) would allow land divisions that are exempt from subdivision review under the family transfer exemption to automatically receive a right to a well of 20 gallons per minute or less. This much-abused family transfer provision in the subdivision law should not be used to create new exemptions from water rights law. Aside from being a terrible idea, the bill is very poorly worded and will take years of court action to determine its actual meaning and impact. It passed the Senate 32-18 and will be heard in the House Natural Resources Committee on March 8th.

Last, but not least, is **HB 455** (Rep. Forrest Mandeville, *R-Columbus*). Currently Montana has water quality laws and regulations that prevent degradation of high quality surface waters. HB 455 directs DEQ to establish exemptions to these rules, but only for subdivisions. Currently septic disposal systems are causing serious water quality issues across the state and a new exemption will only perpetuate the harm. Furthermore, the bill seems to direct the Board of Environmental Review to approve whatever rules DEQ develops. This bill passed the House 58-41 and will be heard in the Senate soon. Please ask your senator to oppose this bill.

# Water Bills

by Derf Johnson

In an era of rising temperatures across Montana, decreased snowpack, and diminishing flows in the state's rivers and streams (all attributable, at least in part, to global climate change), legislative issues involving management and protection of water resources have become momentarily important. How the legislature proceeds over the next decade will determine whether Montana has enough water to sustain the ecological integrity of its rivers and streams, its economic health, and its communities.

By far the most important, and worst, water bill currently working its way through the legislature is **HB 339** (Rep. Carl Glimm, *R-Kila*). This bad bill would overturn a major victory for water resources and management in Montana by reinstating the practice of exempting groundwater wells that pump less than 35 gallons per minute from having to comply with the Montana Water Use Act and obtain a water right.

In 1993, the Montana Department of Natural Resources and Conservation adopted a rule that defined exempt wells. Unfortunately, developers and realtors discovered a loophole in the law that allowed them to build countless homes without having to comply with the Montana Water Use Act or conduct a Water Use Impact Study. It is estimated that during the 1990s and 2000s, three out of every four homes built in Montana used exempt wells. Inevitably, that negatively impacted ground water levels and stream flows, and led to haphazard development that didn't consider water availability.

In 2016, the Montana Supreme Court declared the current exempt well permitting process unlawful, and closed the loophole. However, HB 339 would essentially overturn the court's decision by codifying the poorly constructed DNRC rule from 1993 into Montana law. HB 339 does provide some density limits for exempt wells, but the limits are arbitrary and not based upon science or the hydrologic considerations of the area.



*Flathead River.*

HB 339 passed the House 62-38, and will be considered by the Senate Natural Resources Committee. Because this bill would have major implications not only for water resources but also for land use planning and development across Montana, we highly encourage you to contact the 12 members of the Senate Natural Resources Committee, and urge them to vote against this bill.

Two other bad water bills are currently being considered by the legislature, both of which are sponsored by Sen. Chas Vincent (*R-Libby*).

*continued on page 12*

## Oil and Gas Bills

by Derf Johnson

**W**ith the dramatic drop in the price of oil over the past few years, the frenzy of oil and gas development across Montana has largely abated. With this decrease in development activity, there has been a noticeable reduction in the number of legislative proposals affecting the industry, whether to further regulate or deregulate it.

However, there have been some proposals that could have major implications for the industry.

*“There have also been two bad proposals related to oil and gas development and production. Both of these bills are sponsored by Sen. Tom Richmond (R-Billings), the former administrator of the Montana Board of Oil and Gas Conservation (BOGC).”*

The worst of the bills is **SB 86** (Sen. Tom Richmond, R-Billings). It would reduce the production

tax rate for increased oil and gas production at wells that utilize enhanced oil recovery techniques. This bill would give the oil and gas industry yet another tax benefit, while at the

same time the legislature seems intent on stifling the rapidly growing renewable energy industry (see the article about clean energy bills on page 2). **SB 86** passed the Senate 32-17, and is awaiting action on the House floor.

Another tax bill, but a good one, is **HB 215** (Sen. Mary Ann Dunwell, D-Helena). It would have partially eliminated the oil and gas tax “holiday,” a tax break that allows for oil and gas companies to avoid paying virtually any production tax for the first 12-18 months of production. This time period is also, conveniently for the industry, the time when oil and gas wells are at their highest production. Unfortunately, the House Taxation Committee tabled the bill, even though neighboring North Dakota has no such tax break and neighboring Wyoming requires a production tax when the price of oil is above a certain dollar amount per barrel.

There have also been two bad proposals related to oil and gas development and production. Both of these bills are sponsored by Sen. Tom Richmond (R-Billings), the former administrator of the Montana Board of Oil and Gas Conservation (BOGC).

The first bill (**SB 93**) would create mandatory notification requirements for property owners prior to oil and gas drilling. While this may sound good, in fact this bill would weaken regulations recently adopted by the BOGC. Specifically, it would reduce the distance from the well site at which property owners are required to be notified of a drilling operation, and it would remove habitable structures, such

*Oil Rigs at Sunset.*





as schools and hospitals, from the notification requirements. This bill passed the Senate 32-18, and is awaiting action in the House Energy, Technology, and Federal Relations Committee.

The second bill (**SB 299**), although it would improve the disclosure requirements for toxic fracking fluids and the trade secret exemption provision in the law, would not require that adjacent landowners receive notification of a fracking operation before it begins, which is necessary to allow the landowner to conduct baseline water quality testing. This bill is awaiting action in the Senate Energy and Telecommunications Committee.

Finally, **HB 281** (Rep. George Kipp, *D-Heart Butte*) would have improved the safety requirements for pipelines that cross navigable rivers and streams. The bill would have required pipelines over 10" in inside diameter to cross over, rather than under, rivers and streams. This would allow for a quicker identification and response in the



MEIC Lobbyists: Brian Fadie, Jim Jensen, Anne Hedges, and Derf Johnson.

event of a pipeline breach. The bill would have also required leak detection equipment, a protective covering for exposed pipelines, and a spill response plan. Unfortunately, the bill missed the transmittal deadline due to lack of action by the House Natural Resources Committee. 🌱

## Bills Seeking to Amend the U.S. Constitution

Republican senators seem intent on requesting that the U.S. Constitution be amended – and that's generally not a good thing. While numerous resolutions have been introduced to change the U.S. and Montana constitutions, the two most egregious proposals are **SJ 6** (Sen. Duane Ankney, *R-Colstrip*) and **SJ 14** (Sen. Roger Webb, *R-Billings*). If one is to believe the sponsors and the bills' proponents, these ideas are gaining traction across the country.

SJ 6 is still very much alive. It calls for an amendment to the U.S. Constitution to allow 25% of either house of Congress to object to a regulation issued by the executive branch of government (e.g., regulations on clean air, clean water standards, workers safety protections, etc.). Once a minority of one house objects, the regulation can only be put into effect if a majority of both houses of Congress approve it. The proposal would result in a tyranny of the minority. The proponents included the Montana Chamber of Commerce, and lobbyists for the oil and gas, coal and hardrock mining, and timber industries. According to one proponent 19 states have passed this proposal and groups such as the Madison Coalition are actively trying to get passage in the required 34 states in order to force a constitutional convention. SJ 6 passed the Senate 33-16 and will be heard in the House Energy Committee on March 10th.

The other surreal proposal, SJ 14, would have called for an amendment to the U.S. Constitution which would have allowed states to repeal any federal law or ruling. This country would go from being the "united" states to the "Divided States of America." Fortunately, SJ 14 was tabled in the Senate Judiciary Committee.

## Clean Energy Bills *(continued from page 3)*

20 miles per gallon would need to pay the tax. The sponsor has conducted no analysis of the benefits these vehicles provide due to decreased pollution. HB 205 passed the House 56-42, and is scheduled for a hearing in the Senate Highways and Transportation Committee on March 9th.



Solar Rally in Helena.  
(c) Alex Tenenbaum

### Rays of Sunshine

Thankfully, there are a couple of good bills that made it to the second half of the session. **HB 475** (Rep. Tom Woods, *D-Bozeman*) would allow the Public Service Commission to initiate a comprehensive review of NorthWestern

Energy's gas and electric rates – called a general rate case – whenever it is in the public interest. This would ensure that the rates are fair and justified. In part because the PSC lacks this ability, NorthWestern's rates have not been comprehensively reviewed since 2009, leading many to wonder if current rates disproportionately favor the utility over its customers. HB 475 passed the House 80-20.

**SB 330** (Sen. Chas Vincent, *R-Libby*) would enable local governments to provide Property Assessed Clean Energy (PACE) financing. This innovative financing tool allows residents and businesses to pay the upfront costs of renewable energy and energy efficiency upgrades with a loan from the county that is paid off via a small increase in the property's tax assessment. Typically, an analysis is conducted before purchases are made to ensure that the resulting energy bill savings are greater than the tax increase, resulting in a nice positive cash flow return. SB 330 has yet to be assigned to a Senate committee. ☺

## Climate Change Not Front and Center at Legislature

With the distressing result of the 2016 presidential election, and its implications for the global climate, state-level action has become critical in the fight to stave off irreversible climate change. Regrettably, the Montana legislature seems more preoccupied by the tight State budget situation, and whether hunters should wear pink, than the climate. The following two bills prove the point.

The first, **SJ 10** (Sen. Mike Lang, *R-Malta*) is a resolution expressing support for the Keystone XL Pipeline. This pipeline, which is owned by a Canadian corporation, would carry tar sands oil – an incredibly destructive and carbon intensive form of energy production – to Gulf Coast refineries and allow it to be refined and shipped to Asia.

The second, **SB 235** (Sen. Tom Richmond, *R-Billings*), would allow the Montana Land Board to extend the terms of coal leases on State land beyond their customary 10-year terms. The bill affords no protection to the public in terms of public notice and comment, nor does it require the preparation of an environmental impact statement on the extensions. This bill is most likely a last-ditch effort to get the boondoggle of a project that is the Otter Creek coal mine up and running.

A lone shining beacon in a sea of bad ideas is **SB 190** (Sen. Mike Phillips, *D-Bozeman*). The bill would require the Montana Board of Environmental Review to adopt rules to further define and quantify greenhouse gas emissions in Montana. It would also require the Board to report to the legislature's Environmental Quality Council and provide the Council with proposals for reducing Montana's emissions.



## Colstrip Bills *(continued from page 5)*

any potential lost state or local revenue from the closure; the cost of paying off outstanding local government bonds; and more. A previous version of the bill draft estimated these costs at \$30-80 million. To avoid this penalty an owner would have to negotiate some other arrangement with Montana's attorney general and governor that would address the same issues. This bill would create immeasurable uncertainty for the Colstrip owners and would almost certainly cause out-of-state utilities to replace their Colstrip electricity with electricity from anywhere but Montana.

Finally, at least one awful bill sponsored by Sen. Ankney was defeated. **SB 37** was touted as a Colstrip decommissioning and remediation bill but instead would have undermined existing cleanup obligations and contradicted existing water quality laws. The Senate Natural Resources Committee rightfully tabled this bill.

### The Conclusion?

How the legislature will deal with all the issues surrounding the eventual closure of all the units at the Colstrip plant is still very murky. One might hope the legislature would realize the risk posed by a Talen bankruptcy, as well as the risk posed by scaring away out-of-state companies that might be interested in investing in Montana's world-class clean energy resources. Whatever happens in the next two months, MEIC will work its hardest to provide opportunities for Colstrip workers to transition to cleaner energy jobs, to encourage clean energy investments in Montana, and to do everything possible to make sure that those responsible for the pollution at the Colstrip plant and its associated Rosebud mine pay to clean it up. 🌱

## Land Use Bills *(continued from page 6)*

who own land taxed as agricultural or forest land to prevent local zoning. HB 548 would have changed that to say that only a majority of property owners could protest zoning. Lobbyists for counties, builders, and agricultural and forest interests opposed the bill with no acknowledgment by most of them that the existing law is unconstitutional. The House Local Government Committee tabled the bill on a party line vote.

There are a number of bills that contained a kernel of a good idea but needed work in order to be acceptable. One of those was **HB 245** (Rep. Forrest Mandeville, *R-Columbus*). This bill would shorten the subdivision review process in a way that harmed local government review and public participation. Fortunately, the bill was amended to lengthen the time and give the public a meaningful opportunity to comment, although the timeframes are still too short. The bill passed the House 87-13 and is awaiting action in the Senate Local Government Committee.

Two bills were introduced by Rep. Edward Greef (*R-Florence*) to address the fallout from an important legal victory for Bitterroot valley residents.

One of those bills is a good idea. **HB 445** attempts to fix a legal problem identified by the district court in a lawsuit over an extremely large subdivision that would not have been completed until 2049 with no public input after the initial approval. The bill would allow phased development over a 15-year period, but with each phase being open to public review and comment. The bill is awaiting action in the House Local Government Committee.

Unfortunately, Rep. Greef's other bill is not a good idea because it attempts to undermine the standard of review used by the district court to decide the case. **HB 416** was amended in the House Local Government Committee, and passed by the House 97-0, but the effect and meaning of the amendments is very unclear. 🌱

## Water Bills *(continued from page 7)*

The first is **SB 28**, which would allow parties in water disputes to appeal to the Montana Water Court, rather than to Montana district courts. The Water Court was created to, and has jurisdiction over, the water adjudication process in Montana. Finishing adjudication is critical for determining water management for decades to come. The Water Court does not have the funding or resources to begin hearing other water disputes between individual parties. Further, allowing the Montana Water Court to uninterruptedly complete the adjudication process will save time and money in the future by reducing the number of water disputes.

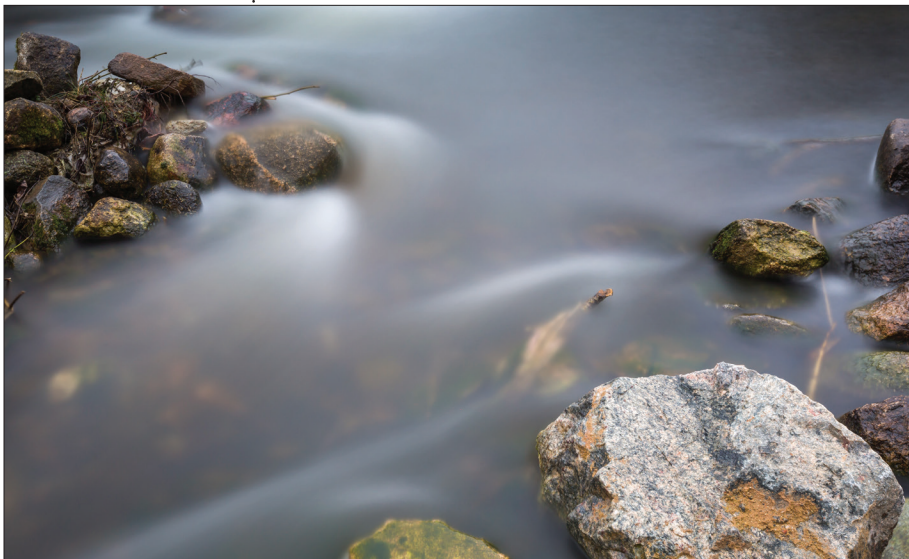
Sen. Vincent's second bad water bill is **SB 48**. It would require the Montana Department of Environmental Quality (DEQ) to take over the Section 404 (of the federal Clean Water Act) permitting process from the Army Corps of Engineers. This program protects Montana's rivers, streams, and wetlands by requiring any person who proposes to impact a "water of the United States" through actions such as dredging or filling to obtain a permit. Currently, DEQ does not have adequate resources to effectively implement the 404 permitting program, potentially compromising Montana's water resources by reducing permitting and enforcement pro-

### PSC Sides With Consumers

In January 2017 the Montana Public Service Commission issued comments strongly rebuking NorthWestern Energy's long-term plan to build 13 expensive and risky new gas-powered plants. The Commission specifically noted that NorthWestern did not properly consider alternatives such as wind, solar, energy efficiency, and pumped hydro storage and told the company to go back to the drawing board. Commissioners voted unanimously to adopt these comments and should be thanked for holding NorthWestern accountable and protecting ratepayers.

tections. This bill would also require Montana taxpayers to assume an additional \$1.6 million in costs associated with administering the program.

One good water bill is **SB 215** (Sen. Bob Keenan, *R-Bigfork*). It would require water-bottling facilities that consume over 100 acre-feet (more than 32,000,000 gallons) of ground water a year to comply with the Major Facility Siting Act (MFSA). This bill was instigated because a proposed water bottling plant in the Flathead near Creston, MT, would produce up to 1.22 billion 20-ounce bottles of water annually. Drawing that much ground water would severely impact the water resources and quality of life for Flathead area residents. For more information, go to [waterforflatheadsfuture.org](http://waterforflatheadsfuture.org). Requiring large-scale water-bottling facilities to comply with MFSA will provide the public with additional notice, participation opportunities, and influence regarding whether and how such facilities should be constructed and operated. ☺





# Zinke Will Fit the Swamp Nicely!

by Jim Posewitz

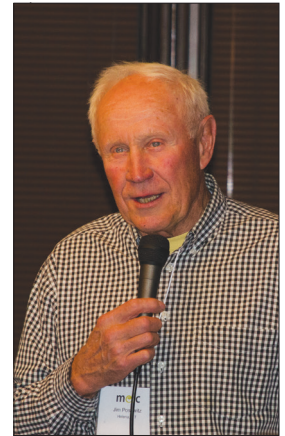
In 2016, Ryan Zinke claimed he was a “Teddy Roosevelt Conservationist,” then voted to transfer management of four million acres of national forests to state-based committees. Theodore Roosevelt’s multiple-use forests were to be sacrificed to industrialization. It was this very activity that Roosevelt (TR) sought to reduce in setting them aside. The March 3, 2017, edition of several Montana newspapers carried two news stories featuring now Secretary of Interior Zinke. One had him riding a horse to work; the other reported him signing an order allowing toxic lead ammunition on wildlife refuges.

In the picture of Zinke authorizing toxic ammunition, he had propped a picture of TR in front of his table. TR created the Refuge System in 1903 for wildlife restoration and conservation. In a staged photo opportunity, with a host of political swamp dwellers, Zinke

opened those places to an activity known to kill waterfowl and eagles. On the very day he assured the death of eagles, his agency was also engaged in sending a near record number of Yellowstone buffalo to slaughter.

Zinke has demonstrated he is little more than a political lemming eager to please Donald Trump while ducks, eagles and buffalo bite the dust. How appropriate to ride a horse to work when all you intend to do as the Secretary of Interior is politically “horse-around.” By claiming TR’s legacy with his words and image, while defying that legacy with his actions, Zinke has proved he will fit the swamp nicely.

*Jim Posewitz of Helena spent 32 years with the Montana Department of Fish, Wildlife and Parks, leading the agency’s ecological program for 15 years. He then founded Orion the Hunter’s Institute, a nonprofit dedicated to the preservation of ethical hunting and wild resources essential to that purpose.*



*Jim Posewitz speaking at MEIC’s 40th Anniversary.*

## Two Ways You Can Help MEIC

### 1. Join MEIC’s monthly giving program

The Pledge Program is a simple but very effective way you can support MEIC. You design the program to best fit your budget and lifestyle. You can pledge any annual amount you choose and make payments in 12 or fewer installments. You could pledge \$240 for the year, and pay just \$20 a month—**that’s only 66 cents a day!**

And it gets even easier. You can sign up to pay monthly with your credit card, or by automatic withdrawal from your bank account, and MEIC will take care of the rest. Pledge members help provide the staying power that keeps MEIC at the forefront of environmental advocacy in Montana.

### 2. Leave a bequest to MEIC

You can provide the financial security and long-term stability MEIC needs to weather unpredictable and cyclical funding by contributing to MEIC’s Permanent Fund, our endowment. All gifts to the Permanent Fund are invested. Only the income earned on these investments is spent, and all of it goes to MEIC. Here are two ways you can contribute to MEIC’s endowment:

- 1) The Permanent Fund accepts cash or property including stock, real estate, and life insurance. These contributions can be made directly to MEIC and are deductible as charitable contributions.
- 2) MEIC also has an endowment account at the Montana Community Foundation, which greatly expands the ways you can help MEIC while taking advantage of a Montana State income tax credit. Call the Montana Community Foundation at 406-443-8313 for more information.

## The Federal Level - Bleaker by the Day

by Anne Hedges

No – we’re not being dramatic or pessimistic!

- Scott Pruitt, one of the best friends the extractive industries have ever had, is now head of the U.S. Environmental Protection Agency.
- Former Montana congressman Ryan Zinke’s first act as Secretary of the Interior was to repeal a long overdue prohibition on using lead tackle and bullets in wildlife refuges (lead buckshot will remain illegal).
- In early March, when members of Congress met to discuss the cost of climate change, they ended up debating whether climate change is even real.
- Secretary of State Rex Tillerson is fighting chief White House strategist Steve Bannon over whether the U.S. should pull out of the Paris Climate Agreement. And yes, the former CEO of Exxon is advocating that the U.S. remain in the international agreement.
- And Bannon himself has been described as a barely disguised Darth Vader in his opinions and, some say, his appearance.

Scott Pruitt, EPA Administrator



In the immediate line of fire by the Trump Administration are many regulations put in place by President Obama. A few were enacted at the last minute, but most were passed in recent years. The Administration has already started to use the Congressional Review Act – an extremist measure that has only been used once before in its 21-year history, and which, besides revoking the regulation in question, prohibits all future administrations from enacting a substantially similar one (a term that has never been defined or tested in the courts). What the Administration cannot undo that way it intends to revoke by executive order. A sample of the rules in the crosshairs includes: a rule that limits methane emissions from oil and gas drilling; the moratorium on leasing coal while BLM updates a 1983 analysis on whether taxpayers are receiving a fair return when coal on public lands is leased; a rule that protects streams from coal mining waste; a rule that protect wetlands from water pollution; and more.

Pruitt, who sued the EPA 14 times while he was attorney general of Oklahoma to stop clean air, clean water and climate regulations from taking effect, has vowed to put the brakes on EPA’s action on climate change. The Administration’s most recent budget proposal includes slashing EPA’s budget by 25%, eliminating 20% of its work force, cutting grant funding to states for such things as lead cleanup by 30%, reducing grants to Native American tribes for fighting pollution by 30%, and entirely eliminating the climate research and 37 other programs. The money saved will go to national defense, and climate refugees would increase across the globe, making everyone less safe.

Now that’s bleak.


Fortunately, long-time MEIC allies such as Earthjustice and Western Environmental Law Center are fighting in the courts to prevent some of the rollbacks, and MEIC will join their efforts whenever we can. We will also do what we have always done and fight for clean air, clean water and clean energy at the state and local level. As one analysis found, the



U.S. is already 80% of the way to meeting the greenhouse gas emission reductions required under the Clean Power Plan (which is also on the chopping block). That progress is due to action at the state and local level. The Clean Power Plan could be a good planning tool and would help reduce greenhouse gas pollution; however it was only one part of a larger story on clean energy replacing coal and other fossil fuels.

Last year, solar jobs in the U.S. grew by 25%, a 17-fold increase since 2010. Clean energy production in the U.S. added the equivalent of the electricity output of 11 Hoover Dams last year. Energy storage projects are increasingly

common, such as the 400-megawatt pumped hydro project in Montana that recently received final regulatory approval (see the article on page 3). Clean energy is quickly becoming a juggernaut that cannot easily be stopped – even by a Trump Administration that bends over backward for fossil fuels.

The next four years will be difficult. The fight to maintain current environmental protections and environmental clean-up programs will be intense. But MEIC and countless other organizations and individuals will continue to work at the state and local level to keep making progress. 

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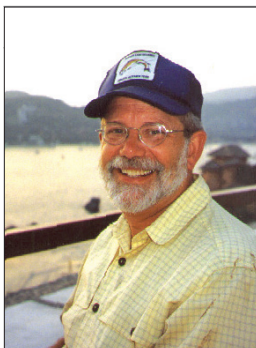
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MEIC's purpose is to protect Montana's clean and healthful environment. The words "clean and healthful" are taken from the Montana Constitution, Article II, section 3 - Inalienable Rights, which begins: "All persons are born free and have certain inalienable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

## Thoughts from the Executive Director



by Jim Jensen

### Signs of Hope

**T**here is a truly heartening groundswell of political energy throughout Montana right now. Donald Trump's election has


ignited a firestorm of grassroots action unlike anything I've seen since the 1960s and 70s.

The 10,000 people who marched in Helena in the Women's March were demographically and culturally diverse and proud to join with others, most of whom had never done anything like it before. This pride was born of shame that our nation had elected Trump, and is growing vigorously as his plutocratic cabinet is announced – along with his nearly daily regressive executive orders and stupid Twitter drivel.

The first test of whether the energy will translate into political action will be the outcome of the special election this May for Montana's sole seat in the House of Representatives.

### Beating a Dying Horse

**T**he town of Colstrip has put zero capital investment into the Colstrip power plant that for decades has provided the town, school district, and county with massive tax revenues which have allowed the residents to pay the lowest taxes in the state for over 40 years. The plant also provided the "prized" jobs within those communities. Now, because coal is no longer competitive with cheaper renewable energy sources and natural gas, the residents view the plant's abandonment as a betrayal – as the utilities walking away after making a windfall off of local coal and labor.

But do the residents accept reality and are they willing to move forward to clean up the legacy of polluted water at the plant and related coal mine site, and to nurture the nascent wind energy industry? No. How quickly they forget their own rewards and the jobs within the community that they have benefited from for decades. Instead, another "victim" group has emerged in what Colstrip's mayor aptly described as a "one horse town" – one that they are trying to beat back to life. 



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### **Available Now! MEIC Specialty License Plate**

Help protect Montana's clean air and water by choosing an MEIC license plate! With an initial extra cost of \$40, and an annual renewal extra cost of \$20, it's an easy way to support our important work. Your donation is tax-deductible, and will be used to protect your right to a clean and healthful environment.

MEIC's specialty plate was released on July 31, 2016, and should be at your local MVD office. You don't have to wait for your current plates to expire. Simply bring your old plates in and be one of the first to purchase and show off our design! Note: the new MEIC license plate may not be in stock yet in your county, but you can order one from your local MVD today.

