

Down to Earth

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER



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MEIC Raffle, page 12-13

2019 Legislature: All About Posturing and Money

by Anne Hedges

The State has been in a financial hole for quite a few years. That hole led to the Special Session in 2017, which resulted in deep and disturbing cuts to many important programs. The hair-trigger threshold that automatically required those reductions was enacted by the 2017 legislature and signed by Gov. Steve Bullock. Now the governor wants to restore some of those essential government services, but he faces two obstacles.

First, the very tight-fisted Republicans who don't see much value to government are in control of both the Montana House and Senate. That will make it extremely difficult to fund those reduced programs or to find new money to extend programs such as Medicaid expansion (something Gov. Bullock cares deeply about).

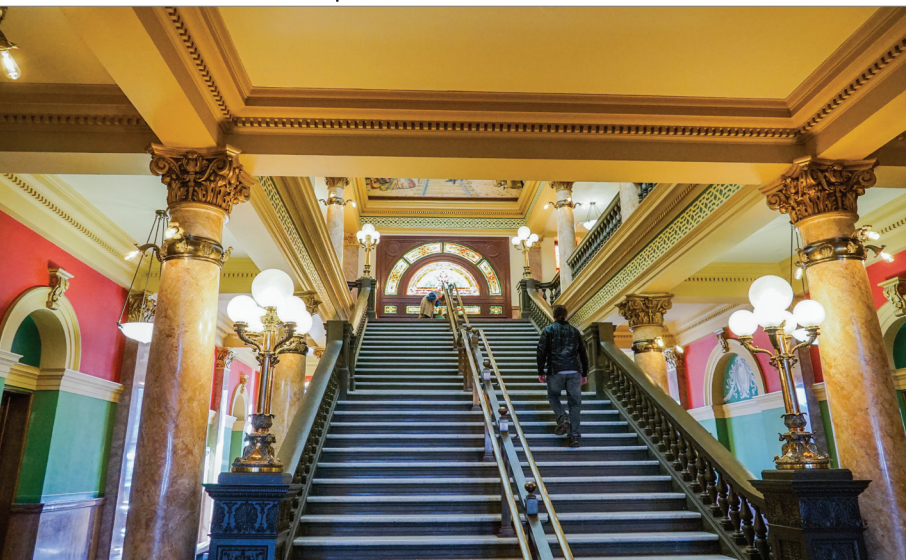
Second, the 2020 elections for governor and president are already looming large. Not only is Bullock considering throwing his hat in the ring for president, but anyone with the slightest interest in replacing him as governor will be posturing to win their party's primary election by increasing their name recognition and ideological credibility. At the same time that these politicians are vying for higher office, the opposing party will be doing everything it can to undermine their efforts. Ah, politics.

What does this all mean for the environment? There are a few possibilities. The good news is that a large number of legislators on both sides of the aisle see clean energy as an economic development tool. The bad news is that a majority of legislators don't believe in the overwhelming scientific consensus and refuse to acknowledge that climate change is occurring. They see no need to limit greenhouse gas emissions from the extraction, transportation, and burning of fossil fuels. Many legislators simply want fossil fuel and natural resource extraction revenues to pad Montana's coffers. Short-term thinking usually rules the day when it comes to balancing the State's budget.

The resource extraction industries and their legislative allies will take advantage of this short-term thinking, urging legislators to balance the budget at the cost of public health and the environment. They will try

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Capitol building,
Helena.



Initiative 186 Fails

by Jim Jensen

You have probably heard by now that last month Montana ballot initiative 186 was defeated by a vote of 44% in favor to 56% opposed. The measure would have prohibited the State from issuing a permit to any new mine that would require perpetual water treatment after it closed.

Understanding why we lost this vote is important in order to never lose such a measure again.

An important element of the explanation involves a critical but obscure part of the process a proposed initiative must go through before it is approved for signature gathering. One step in that process is the preparation of a fiscal note by the governor's budget director. This note is printed on the ballot to show the measure's impact on the State's budget.

There are three elected officials who are involved in approving a ballot measure for signature collection. They are the secretary of state, the attorney general, and the governor.

After a proposed initiative has been submitted, the secretary of state sends it to the Legislative Services Division of the legislature. That division reviews the measure and accompanying statements for conformity with the most recent edition of the State's bill drafting manual.

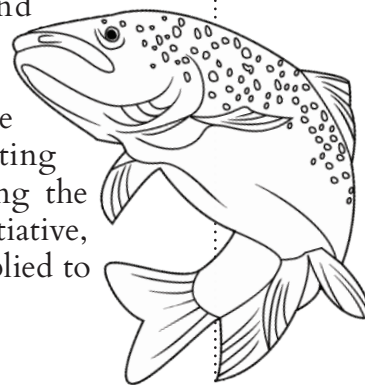
Once that review is complete, the measure is sent to the attorney general for review. The attorney general reviews it for compliance with the restrictions on subject matter that are found in the State's



Constitution. The attorney general also reviews the ballot statements for fairness and clarity. That official is required to seek the comments of opponents and proponents in conducting this review.

The critical part of this process regarding I-186 was the next step – preparation of the fiscal note by the Bullock Administration. The then budget director Dan Villa, a former Anaconda legislator and mining industry friend, wrote in the fiscal note that the measure could be interpreted to apply to existing mines, completely ignoring the clear wording of the initiative, which said that it only applied to new mines.

Floating the Smith River is a fun family adventure.



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A Big Victory: MEIC Faces Down a Coal Mining Bully

by Anne Hedges

In June 2018, MEIC was shocked to find out that the owner of the Bull Mountain coal mine had filed a lawsuit against MEIC and two area ranchers who own land above the mine near Roundup, Montana. It was a blatant intimidation tactic by Signal Peak, the mine owner.

MEIC has a familiarity with this type of SLAPP suit (strategic litigation against public participation). In this instance, Signal Peak tried to insist that it had the right to depose the landowners, who were not even parties in the case. It has been years since industry used this bullying tactic against MEIC, and we strongly believe the best way to deal with a bully is to fight back. With the help of the Western Environmental Law Center and Billings attorney Randy Bishop, we did just that. Just before Thanksgiving, Billings district court judge Donald Harris issued a blistering opinion against the mine. His unequivocal decision means that MEIC has won 5 of the 5 lawsuits that have ever been brought against it.

Signal Peak wanted to scare both MEIC and the landowners against questioning its proposal that would make the coal mine the largest in the United States. MEIC has already challenged that expansion in State and federal courts and won in both. The State issued another permit in 2016 that failed to remedy the flaws in the previous mine permit that was found to be illegal. We challenged the newest

version of the permit based upon water quality and quantity issues. The two landowners had raised concerns with the underground mine's impacts on their ranching operations and water supply. The judge said that the landowners' concerns were already a part of the official record that DEQ and the mine had prior to DEQ making its permit decision over two years ago. He said forcefully that further depositions were unnecessary and would serve no purpose.

This lawsuit was a harassment technique meant to scare MEIC and these landowners from exercising their free speech rights. Apparently questioning a mining operation should be illegal – in the eyes of the mining operation.

Fortunately, Judge Harris saw through this sleazy tactic and rejected Signal Peak's attack. In his thoughtful and well-researched decision, the judge found that Signal Peak's lawsuit had no merit. His decision was a welcome relief for those who question rich and powerful corporations. It's important to stand up to bullies. 🐦



Victory!

MEIC Makes a Utility Do The Right Thing

by Brian Fadie

MEIC is happy to report a victory in a recent case involving NorthWestern Energy (NWE – Montana's largest electric and gas utility) involving how it will spend some of an unexpected windfall. Here's what happened.

The federal tax reform bill that passed in December 2017 resulted in a windfall for large corporations such as NWE. Utilities collect money from customers throughout the year in order to cover the corporate income taxes they have to pay. When the corporate tax rate dropped from 35% to 21%, NWE suddenly had a pot of money that had already been collected to pay the higher rate but was no longer needed for that purpose.

In April 2018, NWE proposed to the Montana Public Service Commission (PSC) that half the windfall money be returned to customers and that the other half be used for tree trimming outside its transmission line rights-of-way. Tree trimming is already a normal utility operation. In May, MEIC joined forces with the Northwest Energy Coalition to challenge NWE's proposal, with Earthjustice representing us. We argued that some of this unexpected windfall should go toward a one-time expenditure to assist with community transition for the Colstrip area. NWE is a part owner of the Colstrip power plant, and some of the other owners have already made this type of commitment. We also argued that

some of the windfall should go toward low-income energy efficiency programs, which will benefit all utility customers by reducing the demand for electricity (and thus the need to spend money on producing it).

In November, the PSC approved a settlement agreement that MEIC and the Northwest Energy Coalition entered into with NWE and the other parties in the case that resulted in \$1 million going toward low-income energy efficiency. The agreement also resulted in about \$20 million being returned to customers in the form of bill credits. While this agreement is less than we wanted, it represents a gain that would not have taken place without our efforts. More low-income homes around Montana will receive energy efficiency upgrades than before, and that is a good thing. The settlement also does not preclude us from pushing for Colstrip community transition funding in the future.

We would like to thank our partners at the Northwest Energy Coalition and Earthjustice for their invaluable expertise and efforts in this case. 🌱

Victory!

Rally outside NorthWestern Energy's Butte headquarters, 2016.



What Is a CREP? (Hint: it's not edible)

by Brian Fadie

In late November 2018, MEIC filed a legal challenge in State court charging the Montana Public Service Commission (PSC) and NorthWestern Energy (NWE) with violating a State law that encourages local renewable energy projects in Montana.

MEIC is defending the Community Renewable Energy Projects (CREP – there's the answer) provision of Montana's Renewable Power Production and Rural

required, NWE has relied on the PSC to issue annual waivers so that it doesn't have to comply and its shareholders don't have to pay a penalty. MEIC is challenging the PSC's decision to grant waivers for 2015 and 2016, the most recent years for which NWE has requested them.

The standard for receiving a waiver is high. State law requires the company to prove that it took "all reasonable steps" in a given year to acquire these projects but could not for legitimate reasons that are outside the control of the utility. If any step taken by the company is proven to be unreasonable, or if any reasonable step is identified that the company did not take, then a waiver should be denied.

MEIC intervened in the PSC waiver docket and identified multiple reasonable steps the company should have taken but did not, and steps it took that were unreasonable. For example, even though NWE has said before that renewable energy projects take at least two years to become operational, for the CREP projects the company required developers to complete them in much less than 18 months. The company also claimed at the PSC hearing that it could not negotiate with a very promising wind project because the project was located near a former mining site with clean-up issues. However, the company never substantiated this claim with written evidence, and its own consultant had previously given that same project a 10 out of 10 viability score when evaluating it.



Economic Development Act. Under the law, NWE must acquire at least 65 megawatts of renewable energy from small-scale, Montana-based projects. Unfortunately, the company has never complied with its obligation. Instead, since 2012 when compliance was first

The PSC's own staff also identified a number of reasonable measures NWE could have taken in order to comply. Under the law, NWE's failure on any of these steps makes it ineligible for a compliance waiver.

Nevertheless, the PSC voted 3-2 to issue the waiver for both 2015 and 2016. Commissioners Bob Lake, Tony O'Donnell, and Brad Johnson voted in favor of the waivers, while Commissioners Travis Kavulla and Roger Koopman opposed them.

The commissioners voting in favor of granting the waivers cited no reason they believed NWE had actually taken all reasonable steps to comply, instead deciding they wanted to "send a message to the legislature" to eliminate the law. However, Commissioner Koopman was adamant that "clearly not all reasonable steps were taken" and "we do not have the authority to nullify law because we think it's bad law. That's not our

job or our authority, our constitutional authority as an administrative agency. We're not a jury. We cannot flout the law."

The law calls for a penalty if a utility fails to meet the requirements. PSC staff calculated the penalty to be about \$1.2 million for each year of NWE's noncompliance. Proceeds from the penalty go to a low-income energy assistance fund. The penalty costs may not be passed on to NWE customers.

NWE again failed to comply with its legal obligation to purchase Montana-owned renewable energy in 2017 and appears to be headed to failure in 2018. With a victory in this case, MEIC will help ensure this self-induced failure by NWE comes to an end.

MEIC is represented by Earthjustice in this proceeding. 🌱

2019 Legislature *(continued from page 2)*

to put Gov. Bullock in a bind when it comes to funding the budget and having the programs he really cares about (i.e., early childhood education and Medicaid expansion). In his first six years Gov. Bullock has been a strong ally for the environment and has largely defended it against these

false choices. Let's hope he will continue to do so.

Please call his office and ask him to continue to stand up for clean energy, climate science, and a healthy environment. 🌱

DEQ Approves a Mine Expansion for a Bankrupt Company

by Anne Hedges

While the alarm bells about climate change are reaching an ear-piercing level, the Montana Department of Environmental Quality (DEQ) moved forward with



approving an enormous expansion (in what is known as Area F) of the Rosebud coal mine. When burned, the coal from the expansion will contribute about 140 million tons of carbon dioxide to the air.

The Rosebud mine is one of the largest coal mines in the United States. It has two customers, the Colstrip power plant, which burns 8 to 9 million tons of coal per year, and a nearby small waste-coal power plant that burns about 250,000 tons of coal a year.

The proposed mine expansion will increase the size of the mine by over 6,000 acres and allow the mining of over 70 million tons of coal. Each year about 97% of the coal goes to the adjacent

Colstrip plant, which pumps about 15 million tons of carbon dioxide into the air each year, making it one of the largest sources of carbon dioxide emissions in the nation. This expansion would allow the mine to provide coal to the plant for about 20 more years – long past the time this country needs to have stopped burning coal, and long past the useful life of the plant.

Last Spring Westmoreland, the coal company that owns the Rosebud mine, started telling investors that it was deeply in debt and that it might need to declare bankruptcy. It received some short-term loans but it repeatedly had to ask for loan extensions, whose time frame kept getting shorter and shorter. In late September 2018 it was clear that bankruptcy was imminent. October 5th was the date set for loan repayment (or default). But on that day Westmoreland received a one-day extension from its creditors and, that very day, DEQ declared the mine expansion permit “acceptable.” Westmoreland declared bankruptcy the next business day.

Later in October Westmoreland announced that it might have to sell some of its mines. By November, the company had set an auction date of January 22, 2019, for the sale of the Rosebud mine.

The permitting process for this expansion of the Rosebud mine began in 2011. The mine, in its already permitted areas, has enough coal to last for many years. There was no need to rush through the final permit for Area F. But that is exactly what DEQ, and

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I-186 (continued from page 3)

Boats on the
Smith River. Photo
by DH Brown
Photography.

The fiscal note was forwarded to the attorney general, Tim Fox, who latched onto it and put the wording in his proposed ballot explanation statement. Proponents of I-186 responded by submitting a second draft of the initiative that doubly clarified it only applied to new mines. Fox's ballot statement was also confusing and misleading in that it said the initiative itself was unclear, and that the State Department of Environmental Quality would have to conduct rule making to define terms and otherwise implement the new law. This confusing and unneeded addition gave I-186 opponents yet another misleading argument to use in their campaign.

Even worse, the news media, led by Butte's *Montana Standard*, ran with the narrative that we were trying to

shut down existing mines, including the Montana Resources copper mine in Butte. Bear in mind that Mark Thompson, the manager of the Butte mine, is also president of the Montana Mining Association. He met with the *Standard's* editorial board and perpetuated the lie.

Unfortunately, other Lee Enterprise newspapers were led down this same path, reprinting the news stories of the *Standard* that always included the misleading narrative.

Then the Mining Association's money spout opened and by the end of the campaign we were outspent by roughly \$6 million to \$1 million.

It is a truism that \$6 million in lies beats \$1 million in truth pretty much every time. 🐸

The Trump Administration's Rush to Gas

by Anne Hedges

In spite of the enormous drawbacks to developing and using gas resources (see the article on page 11), the Trump Administration is blindly pushing for it at “full speed ahead.” Here is the “tip of the iceberg” (or perhaps that should be the “tip of the melting iceberg”) story about oil and gas development in Montana.

Methane Waste

MEIC began fighting about a decade ago to end the federal government's failure to rein in the wasting of methane gas during oil and gas development. MEIC challenged the U.S. Bureau of Land Management's (BLM) failure to require oil companies to use readily available technology to capture methane emissions, to put that gas to good use,

and to pay federal royalties on it. A hostile federal judge did everything he could to prevent the case from moving forward. Finally the Obama Administration adopted a rule requiring oil and gas companies to use

cost-effective technology to capture methane emissions and reimburse taxpayers for this lost public resource. The industry sued the government. MEIC, represented by the Western Environmental Law Center (WELC),

defended the government's decision in court.

However, when Donald Trump was elected president, everything changed. He hired the pro-fossil-fuel and now scandal-ridden Ryan Zinke to head the Department of Interior. The federal government switched sides in the litigation described above and argued against its own methane waste rule. The industry went to Congress but was rebuffed in its attempt to stop the rule. But Zinke was determined. His Department of Interior has been a legal contortionist in its effort to allow the oil and gas industry to waste methane produced on public lands.

So far courts have seen through these unabashed gifts to the oil and gas industry, but there does not seem to be an end in sight to Zinke's shenanigans. MEIC and its allies, including WELC and Earthjustice, will continue to fight these battles in courts across the country. This daunting assault on public resources is likely to continue as long as Trump is president. But MEIC and its allies will continue their efforts to protect the environment and the pocket books of taxpayers.

Public Land Leasing

Even more serious and difficult to address is Zinke's brazen attempt to increase the leasing of public land for oil and gas development. As a recent article in *New York Times* said, “The Trump administration made three times as much land available to bid on in the last fiscal

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Department of
Interior Secretary
Ryan Zinke.



Fracked Gas is Deadly, Not "Natural"

by Anne Hedges

What do you think of when you hear the words "natural gas?" Most people say clean, safe, or affordable energy. But the truth is very different. "Natural" gas is a term used by the gas-producing industry to make its product seem benign. The truth is that it is dangerous, harmful, and a leading cause of the air pollution that is changing our climate.

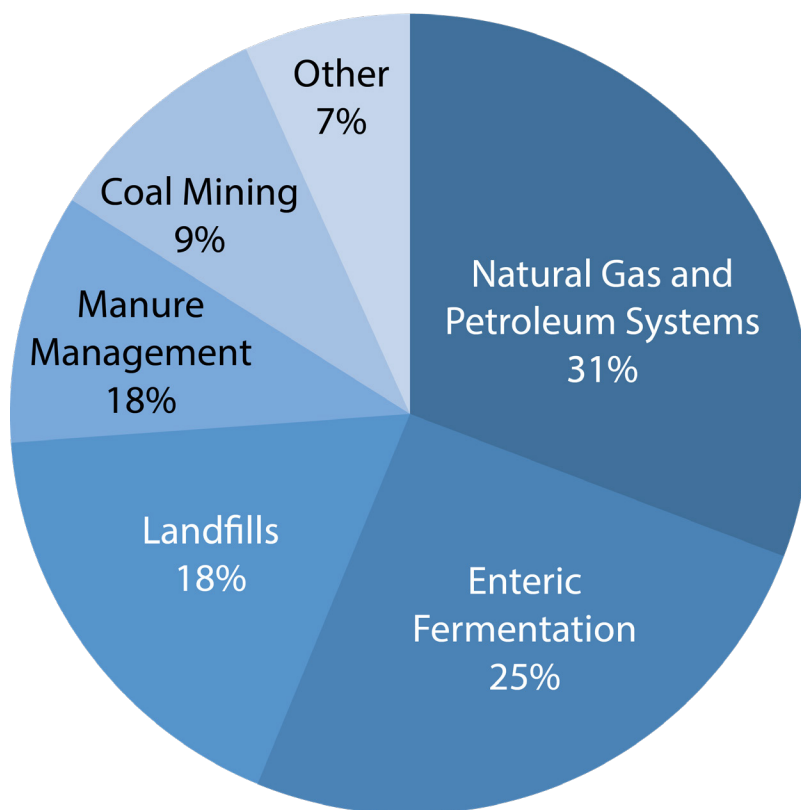
It is time to stop calling gas a safe alternative to coal and to eliminate the word "natural" from our vocabulary when referring to gas. Arsenic and mercury occur in nature too, but calling them natural does not change their toxicity. Gas is dangerous from the moment it is taken from deep underground through the time when it is burned or released to the atmosphere. Just as with coal, the world must wean itself from gas in order to save lives and the planet.

Starting from when the gas is pumped out of the ground, it is deadly. Workers who extract gas and oil are killed seven times more frequently than all other U.S. industries, according to the U.S. Department of Labor. A recent energy "death print," published by *Forbes* magazine, analyzed how many deaths per year are directly attributable to each energy source, calculated on a per-unit-of-energy-produced basis. Not surprisingly, coal was the highest. Oil was next at 36,000 deaths, and gas was at 4,000 deaths. Cleaner energy sources, such as solar and wind, were an order of magnitude less deadly than gas.

During the drilling and extraction process highly toxic fumes are released, explosions occur, and workers are injured or killed (not to mention the homeowners and wildlife in the area that have to breathe the fumes after the workers go home). Each year there are about 600 incidents in the U.S. in which pipelines carrying oil and gas leak or explode, killing and harming people, wildlife, habitat, and property. These incidents cost hundreds of millions, and occasionally billions of dollars, in public

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2015 U.S. Methane Emissions, By Source



Your Best Bet is MEIC's Montana Futures Raffle!

Raffles are fun, but we can't afford to gamble on the future of Montana's water, air, and land.

The 2019 legislative session is right around the corner, and MEIC is ready for the fight of its life. Some legislators forget what happens when polluters dictate political priorities. But MEIC remembers. We recall the era of the Copper Kings and the creation of the ticking time bomb that is the Berkeley Pit. And today we see the impacts on ecosystems and human health in Libby and Fort Belknap. We know that industry titans aren't looking out for our best interests.

That's why MEIC will be at the session, challenging bad environmental policies and promoting the good. MEIC's Legislative Raffle funds our lobbying work in this crucial time.

MEIC will be working on many critical issues, including:

- challenging attempts to fast track mines that threaten the Smith River and the Cabinet Mountains;
- thwarting attacks on renewable energy and removing barriers to its growth;
- preventing efforts to maintain our reliance on dirty coal;
- promoting a healthy future for Montana's families by protecting clean air and water; and
- protecting our constitutional right as Montanans to a clean and healthful environment.

Montana's environment and people need steadfast representation at the Capitol. MEIC has been that voice in every legislative session since 1974, but we can't do this work without YOU.

Thanks to our generous donors from communities across Montana and the country, we have incredible raffle prizes. From outdoor adventures and beautiful artwork to overnight stays, fine meals, and high-quality outdoor gear—there's something for everyone here. Over 60 prizes will be awarded—take a look!

Tickets are \$100. The drawing will be held on January 2nd, and we will notify you whether or not you've won an item. You do not need to be present to win.

Buying a raffle ticket makes us all winners—you, MEIC, and Montana's environment.

The Lark Hotel, Bozeman

One night's lodging for two, and two tickets to a show at the Rialto theater \$350



Montana State Law prohibits the use of credit cards for raffle ticket purchases, but you can use debit card, a bank account (via PayPal), check or cash. Raffle ticket purchases are not tax-deductible.

**Thank you to all the raffle prize donors and ticket purchasers.
We appreciate your generosity!**

The long list of fabulous prizes includes...

Gary & Dona Aitken, *Ovando*

Handmade lamp of juniper wood, with marquetry design and shade **\$400**

Wilbur Rehmann, *Helena*

Jazz concert in the Helena-area location of your choice by saxophonist Wilbur Rehmann & trombonist M.J. Williams **\$400**

Paul Edwards, *Helena*

Handcrafted and lavishly decorated bracelet and earrings **\$250**

Nancy Erickson, *Missoula*

Original oil paintstick art work of a lynx **\$500**

Steve Gilbert, *Helena*

One-day guided fishing trip on the Missouri River, with lunch, for two **\$500**

Gary & Judy Matson, *Milltown*

Ruana hunting knife handmade in MT **\$315**

B Bar Ranch, *Emigrant*

One-night stay for four people in a backcountry cabin, and two days of cross-country skiing **\$150**

Patagonia Outlet Store, *Dillon*

Woman's down sweater jacket **\$229**

Murry's, *Helena*

Private catered dinner for 4-6 people in the Helena area **\$180**

Fly FisHer, *Helena*

3 hrs. of fly-fishing instruction **\$300**

Crazy Creek Products, *Red Lodge*

Crazy Creek "leisure" chair **\$84**



The Base Camp, *Helena*

Granite Gear Crown 38 backpack **\$185**

Stan and Glenda Bradshaw, *Helena*

Guided canoe trip for 2 on the Missouri River, with lunch and canoeing instruction **\$250**

Glacier Guides & Montana Raft Co., *W. Glacier*

Half-day whitewater or scenic raft trip for 2 **\$122**

Freeheel and Wheel, *West Yellowstone*

Full-day Nordic ski rental, a ski lesson for two, and two coffee drinks **\$80**

Bridger Bowl Ski Area, *Bozeman*

Two 1-day adult lift tickets **\$126**

Darlene and John Grove, *Stevensville*

Framed and out-of-print Monte Dolack poster, "Sweetgrass Bakery" **\$300**

Great Divide Ski Area, *Marysville*

6 half-price lift tickets **\$144**

Bryce Daviess, *Helena*

One-day guided fishing trip on the Missouri River, with lunch, for two **\$500**

Blackfoot River Brewery, *Helena*

50/50 brand insulated growler, and one free fill each month for a year **\$154**

More prizes listed on page 15...



The Future of Rooftop Solar Is at Stake – and MEIC is There for You

by *Brian Fadie*

In late September 2018, NorthWestern Energy (NWE) filed paperwork at the Montana Public Service Commission (PSC) that started an important decision-making process called a “general electric rate case.” The outcome of the case could greatly influence the future of both coal and clean energy in Montana, as well as the rates that NWE customers pay. The rate case is likely to take at least nine months to complete.

MEIC has joined with the Sierra Club to intervene in the case, with legal representation by Earthjustice. The reasons for our involvement are: 1) to make sure that NWE customers are not saddled with the extreme costs and risks that are associated with fossil-fuel power plants such as Colstrip; 2) to fight for NWE having to contribute to a transition fund for the Colstrip area, just as some of the other facility owners have done; and 3) to defend renewable energy and rooftop solar from NWE’s attacks, which have already proven to be harsh.

In its rate case filing, NWE proposed changes to the rooftop solar policy known as net metering – changes that would harm Montanans’ ability to develop more solar generation. The company wants to separate residential rooftop solar customers from all other types of customers and then create a costly new monthly charge just for those rooftop customers. Based on the energy usage data provided in the filing, the

Montana Renewable Energy Association estimates that this new charge could cost the average residential customer an additional \$600 per year if they installed solar panels. Importantly, this new charge, known as a demand charge, could not be offset by solar generation. It’s a brazen attack by NWE against Montana’s rooftop solar industry and Montanans’ ability to choose to install solar generation.

MEIC and others will be fighting to make sure solar is treated fairly by the PSC and that NWE’s malicious proposals are rejected.

NWE also appears to be digging in its heels on coal. In the current stage of the rate case, parties are allowed to ask each other questions about the others’ proposals. MEIC has asked for information from NWE about the number of dollars of capital expenditures it plans to make in the next five years to keep the Colstrip plant running. Rather than be transparent, the company has asked the PSC to block this information from becoming public. Utilities in other states have also attempted this tactic of hiding information when questions are asked about uneconomic coal plants. MEIC will be fighting hard to make sure that this and other tough questions are asked and answered throughout this case. The public deserves to know exactly what it will be paying for.

The rate case is likely to continue for many months, and involve a lot of back-and-forth like this. MEIC will keep you updated as this important case progresses. 🌱



More Raffle Prizes *(continued from page 13)*

Marjorie Reck, Cameron
11" diameter turquoise antler gourd \$200

Birds and Beasleys, Helena
Art print of a junco \$30

D. Linnell Blank, Whitefish
Framed 16" x 20" photograph, "Winter Bighorns" \$120

Darlene and John Grove, Stevensville
Framed and out-of-print Monte Dolack poster, "Going-to-the-Sun Bikecentennial" \$300

Lava Jazz Pottery, Polson
Gift certificate \$60

Michael Lee Photo Art, Helena
Photo of your choice from his archives, printed on archival paper up to 11" by 17" \$250

Nancy & Adam McLane, Helena
Framed 28" x 25" poster, produced for a 1988 Metropolitan Museum of Art exhibit, of a Georgia O'Keeffe painting of a lily \$150

David Hull, Helena
Limited edition print by Nick Ladas, "Guardians of the Lamar" \$50

Jim Barrett, Livingston
Giclee print of a painting of John Lennon \$75

Turman Larison Contemporary, Helena
Etching and letterpress matted artwork \$200

Whitefish Pottery, Whitefish
Ceramic cookie jar \$56

East of Billings, Billings
8" x 12" matted original photograph \$125

Nancy & Adam McLane, Helena
Two framed 26" x 24" original paintings of a red-tailed hawk and of an osprey \$300

Darlene and John Grove, Stevensville
Framed art card by Bev Doolittle, "Doubled Back" \$175

Nancy & Adam McLane, Helena
Framed 10" x 36" poster, produced for a 1996 Anchorage Museum of History and Art exhibit, of Yupik masks \$50

Nancy & Adam McLane, Helena
Framed 13" x 14" modern reproduction of an Albrecht Durer painting of a rabbit \$50

Harold Dramstad Production & Design, Helena
Wildland firefighter's personal gear bag \$140

Steve Braun, Whitefish
One-day float trip for 2, with vegetarian lunch, on the Middle or North Fork of the Flathead River \$300

Great Divide Cyclery, Helena
Specialized Align biking helmet \$45

Art Hayes, Birney
2 prizes of 15 pounds of all-natural prime MT beef \$150 each

The Hub, Helena
2 gift certificate for lunch for 2 \$18 each

Alexis Bonogofsky and Michael Scott, Billings
20 pounds of grass-fed, pasture-raised, antibiotic-free ground lamb \$160

Barnstormers, Helena
5 pounds of Cafe Mam organic "Fair Trade" coffee \$75

Community Food Co-op, Bozeman
Gift certificate \$50

Good Food Store, Missoula
Gift certificate \$50

Ten Spoon Vineyard & Winery, Missoula
2 bottles of vintage wine \$40

Great Harvest Bread Co., Missoula
Gift certificate for a loaf of bread every month for a year \$86

Lifeline Produce, Victor
Selection of organic and homegrown vegetables, or bedding plants \$100

Montana Ale Works, Bozeman
\$75 gift certificate, T-shirt, hat, and mug \$129

KettleHouse Brewing Co., Missoula
Case of locally brewed beer \$55

Ten Mile Creek Brewery, Helena
Growler, growler fill, a pint of beer, and a pint to go \$26

Fact and Fiction Books, Missoula
Bag of books selected by the staff \$50

Lisa Fairman, Helena
3 sessions of Rolffing structural integration \$360

Anne Hamilton, Missoula
One simple will for an individual \$300

Amy Budke, Helena
1 hour 5-element acupuncture treatment \$120

Greg Lind, Missoula
1 hour massage by Shauna Dutton \$70

Exploration Works, Helena
One-year family membership \$85

Hawthorne Bottle Shop & Tasting Room, Helena
Two bottles of wine \$44

Buckskin Clothier, Kalispell
Deerskin shoulder purse with braided shoulder strap \$175

Pan Handler Plus, Helena
Zwilling Henckels two-knife set \$140

Thirteen Mile Lamb and Wool Co., Belgrade
Locally made predator-friendly wool rug \$110

Myrna Loy Center, Helena
2 movie tickets, 2 drinks, and 2 free popcorns \$32

Tracy Christensen, Missoula
Initial consultation and acupuncture session \$70

NWE Delays Producing a Resource Plan

by Brian Fadie

Every two years NorthWestern Energy (NWE) is required to submit a plan to the Montana Public Service Commission (PSC) outlining how the company plans to meet its energy resource needs over the next 20 years. The document is called the “Resource Procurement Plan” and while the company is not required to follow

Rally for clean energy, 2017.



it precisely, the plan has significant implications for certain PSC decisions, such as whether to approve or deny applications for new power plants.

NWE’s previous plan was a disaster. It proposed acquiring absolutely no new

renewable energy resources over the next 20 years, and instead called for building a fleet of expensive and risky new fossil-fuel gas plants. Stakeholders across the board derided the plan as being created using a poor process, using absurd cost estimates for wind and solar, and for not properly evaluating other energy options such as energy efficiency or battery energy storage.

The PSC largely agreed with stakeholders, issuing strong comments that essentially told the company to go back to the drawing board to create a new plan. Which brings us to today.

The next plan was supposed to be submitted by December 2018 but NWE received an extension. In granting the extension the PSC added some helpful stipulations, which include:

- NWE must issue a draft version of the plan by March 15, 2019. It can do so before then, but it must make a draft publicly available by that date.
- Then there must be a minimum of 60 days for stakeholders to review and comment on the draft. This will be a vast improvement over the previous planning cycle when NWE offered stakeholders only three days to review and comment on the many-hundred-page draft document.
- After the comment period ends, NWE can file the final plan at any time with its only deadline being December 15, 2019. However, the final plan must have



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Friday, December 14th, 5-7:30pm
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- We'll provide appetizers, beverages, and dining ware. We ask that you bring a dish to share (if you can) and your holiday spirit!
- Contact Cari Kimball (443-2520, ckimball@meic.org) if you have questions or if you will bring a potluck contribution.



a section that describes how the company is responding to the public comments on the draft, meaning at a minimum the final plan should not be submitted to the PSC until a few weeks after the comment period is over.

- The PSC will then make its own public comments on the final plan and issue its own comments.

MEIC has participated in the planning process for this latest plan and is very concerned that NWE will once again come out with a plan that includes no new renewables resource acquisition and only new fossil-fuel gas plants.

Whenever the draft and final plans are submitted, MEIC will make sure our members know what the plans contain, and how our members can comment in the most impactful way possible. 🐦

Colstrip: A Tangled Web of Corporate Deceit and Shell Games

by Anne Hedges

In late October 2018, Talen Montana (the operator of the Colstrip power plant) made an audacious move and sued its creator PPL, PPL's board of directors, and a number of its former executives for fraud, deceit, unjust enrichment, negligent misrepresentation, and much more.

In the years leading up to 2014 when PPL formed Talen Montana, PPL readily admitted it was not making money in unregulated energy markets

such as Montana (i.e., the deregulation pushed by the electric power industry just wasn't lucrative anymore). So when PPL, and the energy behemoth Riverstone, formed Talen Montana and spun off their profit-bleeding energy generation sources such as Colstrip, it was no surprise. That's how rich corporations often try to shed their liabilities and avoid their responsibilities.

According to Talen's lawsuit, PPL executives ran Talen Montana for the first two years. Once those executives were gone, their replacements discovered that the company could not

afford to pay the estimated \$700 million clean-up tab at Colstrip, nor could it fulfill its pension obligations to 700 existing and former workers. The last former PPL executive left Talen Montana in December 2016.

Almost two years later, Talen Montana filed lawsuits in two different courts in Montana. This raised the question: "why now?" The answer appeared to come the next day.

The very next day after the lawsuits were filed, the Montana Department of Environmental Quality (DEQ) approved Talen's clean-up proposal for one of the three coal ash ponds at the Colstrip plant. (The other two ponds are even larger and more complex. Neither of those areas has an approved clean-up plan or a bond.) DEQ's approval letter required Talen to post a bond of \$65 million within 30 days.

It seems very unlikely that the cleanup of this coal ash area can be completed for \$65 million. Talen's estimate of clean-up costs in the lawsuit claimed that \$700 million would be needed. Either Talen anticipates that the cleanup of the other two areas will cost about \$635 million, or it is trying to extort more money out of PPL than it needs. Regardless of which company pays for cleanup, it must be sufficiently thorough to allow economic development in the area and not leave Montana with another sacrifice zone. 🌱



Bankrupt Mine *(continued from page 8)*

the federal Office of Surface Mining (OSM) in the Department of Interior under Ryan Zinke, have done. Despite knowing that the Rosebud mine will be on the auction block shortly, DEQ and OSM issued the final environmental impact statement (FEIS) for the mine on November 30, 2018. The FEIS clears the way for final mine expansion approval by the end of the year.

Not surprisingly, given DEQ's track record and the rushed production, the FEIS is appallingly flawed. It discusses numerous and serious long-term, sometimes permanent, impacts to water quality and quantity despite the fact that the analysis excludes consideration of the cumulative impacts with other areas of the mine. The FEIS mentions long-term, sometimes permanent, impacts to agriculture. But it brushes aside these serious impacts. Finally, it dismisses the climate crisis by saying the Colstrip plant would obtain coal from somewhere else if the mine expansion is not approved. Therefore, it concludes that there will be no impact on climate change from mining coal which will produce another 140 million tons of climate-altering air pollution. This deceptive argument also ignores the fact that the plant was designed specifically to burn the Rosebud coal.

The most offensive part of the FEIS, though, is the fact that government agencies continue, to count all the economic and other benefits of the mine, but say that it is impossible to use the readily available government-developed

calculator for determining the costs of the climate-changing pollution. In 2017, in another case, a federal judge agreed with MEIC that this type of one-sided analysis, one that does not consider the costs of a project, puts the government's "thumb" on the scale and is unacceptable. OSM and DEQ appear to be trying to avoid analyzing the cost of climate change by simply changing the word "benefit" to "impact." Deception is no substitute for compliance.

Finally, State and federal mining laws require the agencies to consider a mine owner's compliance history and ability to follow through on reclamation obligations. If the agencies do not even know who will own the mine in a month, they cannot verify that the new owner has the capacity to comply with the law, or isn't a frequent violator of mining laws. These inquiries are central to the federal coal mining law, which was adopted in the 1970s, and was intended to keep coal companies from continuing to skip out on their obligations, thereby transferring the burden and costs of cleanup to states, neighboring landowners, and taxpayers.

DEQ and OSM should immediately put their approval on hold until they know who is going to own the mine after it is sold. More importantly, DEQ and OSM should do their jobs and protect agriculture, water resources, and the climate on which we all depend. 🌱



Colstrip and the Myth of Carbon Capture and Sequestration

by Anne Hedges

Politicians on both sides of the political aisle like to pretend that the future of the Colstrip coal-fired power plant would be bright if only someone could invent a feasible and affordable

carbon capture and sequestration (CCS) technology. CCS is the process by which a large amount of energy is used to separate carbon dioxide from the other gaseous emissions at a coal-fired power plant. That carbon dioxide is then pressurized, put in a pipeline, and transported to a place where it can be injected deep underground and

safely stored for eternity.

While the theory of CCS may be appealing, taxpayers and electric utility consumers have been burned (pun intended) before.

- \$7.5 billion was wasted on the Kemper, Mississippi, coal gasification plant (that facility is now a gas-fired plant!). Hundreds of millions of dollars of federal subsidies were lost and consumers will continue to pay about \$99 million a year for another 8 years even though the plant will not gasify coal.
- Closer to home, the Beulah, North Dakota, gasification plant was originally hailed as saving

the future of coal. It actually did remove carbon dioxide from the power plant's waste stream and sent it to Canadian oil fields where it was used to extract more oil. In recent years the plant's financial record has been so abysmal that its electric co-operative owner does not expect to earn a profit until 2024.

It takes a large amount of energy to remove a small percentage of carbon dioxide from power plant emissions. New pipelines must be built. New deep geologic storage locations must be found to safely store the carbon dioxide. Failure to properly store CO₂ can be fatal because if a large volume of carbon dioxide escapes a geologic formation, it will stay low to the ground and suffocate anything in its path.

But the real hurdle to CCS is its expense. Coal-based electricity is increasingly uneconomic compared to wind, solar, and fracked gas. No one wants to pay more to make coal a little less dirty. Colstrip is already one of NorthWestern Energy's most expensive resources. CCS will only increase the cost of Colstrip's electricity when wind and solar are already cheaper.

The "pie in the sky" attitude that legislators, local residents, and even industry officials have about CCS at Colstrip, or anywhere else, provides only false hopes. Colstrip employees have proudly flown to Washington, D.C. to advocate for CCS at Colstrip. The technology would need major subsidies from the federal government. The proponents will probably ask the Montana



legislature to pitch in too. Instead of leading them on, it is time to tell them the truth. CCS will make Colstrip electricity even more expensive, will decrease carbon dioxide emissions very little, and will

cost taxpayers and customers more than wind, solar, storage technologies such as batteries, or fracked gas-generated electricity. It is time for a more honest Plan B at Colstrip. 🌿

Rush to Gas *(continued from page 10)*

year as the average for the last four years of the Obama administration.”

In early November 2018, MEIC submitted two separate protests to BLM in advance of its December oil and gas lease sales. One protest, filed by Earthjustice, argued that BLM failed to consider impacts to groundwater, particularly drinking water resources, in its lease sales. The other, filed by WELC, largely focused on BLM’s failure to consider cumulative and climate-related impacts. The proposed lease sale involves 23 parcels of land covering 12,517 acres. As proposed it was much larger but was reduced in size when an Idaho federal court ruled against BLM’s new internal guidance on oil and gas leasing.

MEIC, through the Western Environmental Law Center and Earthjustice, previously challenged the oil and gas lease sales in Montana for December 2017 and March 2018 for similar reasons. BLM has yet to do a meaningful evaluation of the cumulative impacts of its expansive leasing program. The December 2017 and March 2018 lease sales include 187 parcels of land



covering over 150,000 acres of land across Montana.

The BLM is continuing its efforts to lease more public land to oil and gas development in Montana and throughout the West. Such leases on public lands, if approved, will harm landscapes, wildlife, water resources, public health, and the climate. Zinke and Trump clearly do not care much about these impacts. MEIC is counting on the federal courts to hold them both accountable to the law. 🌿

“Natural” gas flaring.

Fracking... (continued from page 11)

and private expenditures each year.

But all of these problems are minor compared to the methane that is released during the extraction, processing, transportation, and use of gas. Fracked gas is largely made up of methane, an incredibly potent greenhouse gas. Methane is 30 times more effective than carbon dioxide at trapping heat in the atmosphere. Low natural gas prices have resulted in huge volumes of methane gas being wasted during the drilling and extraction of oil. When methane is

flared or otherwise goes unused during the oil development process, American taxpayers lose tax revenue, permanently lose the gas resources, and suffer increased damage from climate change.

The chart on page 11 shows methane emissions by source. Just look at the portion contributed by gas (and petroleum.)

It's simply time to start rethinking our relationship to gas, the unnatural fuel source. 🌱



Thoughts from the Executive Director

by Jim Jensen

It is pretty clear that Montanans agreed with the hardrock mining industry's line that there is no need to change our State's laws. In the I-186 campaign that is what they said. Enforce existing laws and the industry will protect the environment.



So, how come no fewer than 11 legislative bill draft requests for the 2019 Legislature have been filed to "generally revise mining laws?" Could it be that the Montana Mining Association wasn't telling the truth in its campaign ads? Can you believe that?

On a happier note, the change of control in the U.S. House of

Representatives will undoubtedly result in considerable sunshine being focused on the Environmental Protection Agency, the Forest Service, the Department of the Interior, and others, by their respective oversight committees. The profound corruption in the Trump administration needs to be exposed, and those responsible held to account.

Also, it was very illustrative to see the press coverage of President George H.W. Bush's 1989 speech on the Montana Capitol steps. The speech was an inspirational call to action to protect the environment in Montana and the rest of the globe. His congratulatory comments on Montana's environmental protection laws as a source of pride to Montanans showed that partisan polarization of these issues could – and should -- be absent from our public dialogue.

Let's hope history of his sort repeats itself before it is too late. 🌱

Thank You for Voting, and Welcome to Kathy Juedeman!

MEIC's Board Elections are complete, and we thank you for taking the time to vote. We're welcoming one new board member, Kathy Juedeman. Kathy grew up in the South and has lived in Houston and New Orleans. She was introduced to Montana soon after meeting her husband in the mid-1980s, whose family lives and ranches here. Since then they've come to Montana several times a year to help with the ranch, as well as for camping and hiking. Kathy moved fulltime to Montana in 2015, upon her retirement. 🌱



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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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Double Your Giving Impact!

As you consider your year-end giving, we hope protecting Montana's environment will be a high priority. 2018 was a doozy. In Montana we've seen DEQ approve a permit for a Colstrip-related mine expansion, continued affronts to clean energy, and the defeat of an initiative intended to end perpetual mine pollution. Nationally and globally we see climate change driving wildfires, flooding events, and coastal erosion. Simultaneously the rights of women, indigenous people, and workers are trampled. We know that these things are interconnected. When we turn our backs on our connections to other people and our environment, we lose our humanity. Things get ugly in a hurry.

Despite the quagmire, we saw success in our settlement with NorthWestern Energy that will fund weatherization and energy efficiency improvements for low-income households and a win in our battle against the Bull Mountain mine owners. In a time where the darkness can seem overwhelming, we at MEIC want to say "thank you" to you, our supporters-- y'all are shining lights. With your help, we're still advocating for Montana's treasures—our clean air and water, our stunning rivers, mountains, and plains.

Please use the enclosed envelope, or your credit or debit card at www.meic.org, to make a special year-end contribution. Because of our challenge grant, your hard-earned dollars will go twice as far if we receive your gift by December 31st.