

# Down to Earth

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER



## MEIC Board Elections, p.10

### IN THIS ISSUE

- 2 Victory!  
Montanore  
Mine
- 3 Victory! CREPs
- 4 Smith River  
Update
- 5 Montana's Coal  
Industry
- 6 Unnatural Gas
- 7 NorthWestern  
Releases Plan
- 8 Cosltrip's Early  
Closure
- 9 Renewable  
Energy Roundup
- 10 MEIC Board  
of Directors  
Elections



Cover Photo:  
Libby Creek,  
downstream  
from the  
Montanore  
Mine. Photo  
by Bonnie  
Gestring.

Victory!

Cabinet Mountains  
Wilderness. Photo  
by Flickr user Scott  
Butner.

# Major Victory for Water Quality and Wilderness

by Jim Jensen

On July 24, 2019, Montana district judge Kathy Seeley ruled, in a lawsuit brought by MEIC and its co-plaintiffs that the water pollution discharge permit issued by the Montana Department of Environmental Quality (DEQ) to the proposed Montanore Mine beneath the Cabinet Mountains Wilderness was illegal.

Seeley wrote that DEQ's re-issuance to Hecla Mining Co. and its wholly-owned subsidiary Montanore Minerals of the 27-year old permit to pollute Libby Creek violates both the federal Clean Water Act and Montana's Water Quality Act. She vacated the permit, and returned the matter to DEQ for further action consistent with her ruling.

The Montanore mine is projected to operate for 16 to 20 years, with the removal of 20,000 tons of material anticipated at peak operations, and at

least 20 years of closure and post-closure work. It would employ around 450 people at full production.

Luke Russell, a spokesperson for Montanore, responded to the ruling in the *Flathead Beacon*, saying: "this permit was originally issued in 1997, renewed in 2006 and again in 2015, and receiving waters remained protected. The 2015 renewal included the most stringent limits yet, and so the court action essentially sent back to DEQ the permit with the most protections to the receiving waters." He added: "we thought — and continue to believe — that DEQ got it right."

Noranda Minerals Corp. first sought a permit for the Montanore Mine in 1989, but ceased work on the mine when MEIC received an anonymous tip and made public the fact that the company was discharging nitrates above legal levels into Libby Creek, and that the State was refusing to enforce the limits. MEIC sued the State when it refused to release the relevant files. We won, yet no enforcement was taken by the State. Nevertheless, the company moved forward successfully with permitting. Of interest is the fact that DEQ has never denied a major mine permit.

Noranda was re-issued a Montana Pollutant Discharge Elimination System permit in 1997 that had first been approved in 1992. That permit allowed Noranda to discharge water used in the mining process to groundwater and Libby Creek. In 2002, Noranda ceased exploration and allowed most of the permits associated with the project to

*continued on page 20*



# MEIC Wins on Community Renewable Energy Projects

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 with violating a State law that encourages local renewable energy projects. In August 2019, the judge's ruling came back and...we won!

The law in question was passed in 2005 and is called the "Renewable Power Production and Rural Economic Development Act" (aka the Renewable Portfolio Standard, or RPS). The theory was that by requiring a modest amount of new renewable energy production Montana would: 1) have more clean electricity flowing on its grid; and 2) rural areas would reap economic benefits. This is precisely what happened, as new wind projects, in particular, were built and sited in rural areas, creating jobs, tax revenue, and land lease payments. But 14 years later, the requirements of the law still haven't been completely complied with by NorthWestern.

Under the law, NorthWestern must acquire at least 65 megawatts of renewable energy from small-scale Montana-based projects known as "Community Renewable Energy Projects" (CREPs). Unfortunately, the company has never complied with its obligation and it still needs 30 more megawatts. Since 2012, when compliance was first required, NorthWestern 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 challenged the PSC's decision to grant waivers for 2015 and 2016, the most recent years for which NorthWestern has requested them.

The standard for receiving a waiver is high. State law requires a company to prove that it took "all reasonable steps" in a given year to acquire electricity from these projects but could not for legitimate reasons that were outside its control. 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. Ultimately, the judge agreed. For example, NorthWestern was requiring wind and solar developers to go through the PSC approval process and complete construction of their projects within an 18-month time frame when the company itself had said such a task would require at least 24 months. The judge also agreed that NorthWestern should have pursued negotiations with a wind project that



**Victory!**

*continued on page 13*



# Smith River Fight About to Get Real

by Derf Johnson

We are now at the 11th hour in our fight to protect the Smith River from the ill-conceived and reckless Smith River Mine. Within the next few weeks or a month, the Montana Department of Environmental Quality (DEQ) plans to release the Final Environmental Impact Statement (EIS) that will analyze Australia-based Sandfire Resources' plan to mine adjacent to and underneath the Smith River's most important tributary, Sheep Creek. The contents of the document will be critical in determining the fate of the Smith River and whether the Smith River Mine will be permitted and able to move forward. While we

Cliffs on Smith River. Photo by Gary Aitken.



maintain a small modicum of hope that DEQ will do the right thing for the Smith River, comply with the law, and deny the permit – the reality is that DEQ has never denied a hardrock mining permit. This practice of rubber-stamping permit applications has led to numerous hardrock mine environmental disasters across the state, both historic and modern. MEIC and its coalition aim to assure that the Smith River isn't added to this list.

Looking back in time, the permitting process for this mine has been anything but smooth. Initially, in 2012, during the exploration phase of the project, Tintina (the entity that Sandfire took over for this project), attempted to amend its exploration permit to allow for the construction of a 16' x 16' mile-long tunnel directly under Sheep Creek that would have allowed the company to access the ore body. This construction of a major adit to the ore body was well beyond the scope of the exploration permit, and yet DEQ approved the amendment. MEIC brought suit in court, challenging this egregious abuse of the Montana's hardrock mining law. Almost immediately, Tintina withdrew its application for the amendment, but suggested it would instead apply for a full-scale operating permit.

Tintina did apply for an operating permit, which triggered a several-years long process involving multiple deficiency reviews by DEQ of the documents Tintina submitted, reviews that continued in spite of the inadequate, or in some cases entirely

*continued on page 13*



# Montana Coal Industry's Long Goodbye

by Derf Johnson

West Virginia coal mine workers are blocking the tracks at their former job site in order to prevent coal trains from leaving, because their employer Blackjewel LLC, stiffed them on pay. Last week, approximately 1,500 megawatts of coal-fired power plant closures were announced in Illinois. In Arizona, the largest coal plant West of the Mississippi, the Navajo Generating Station, plans to close by the end of this year, and the last of the 265 miners supplying coal to the plant were laid off this month. Closer to home, in July, 2019, 600 Wyoming coal miners were

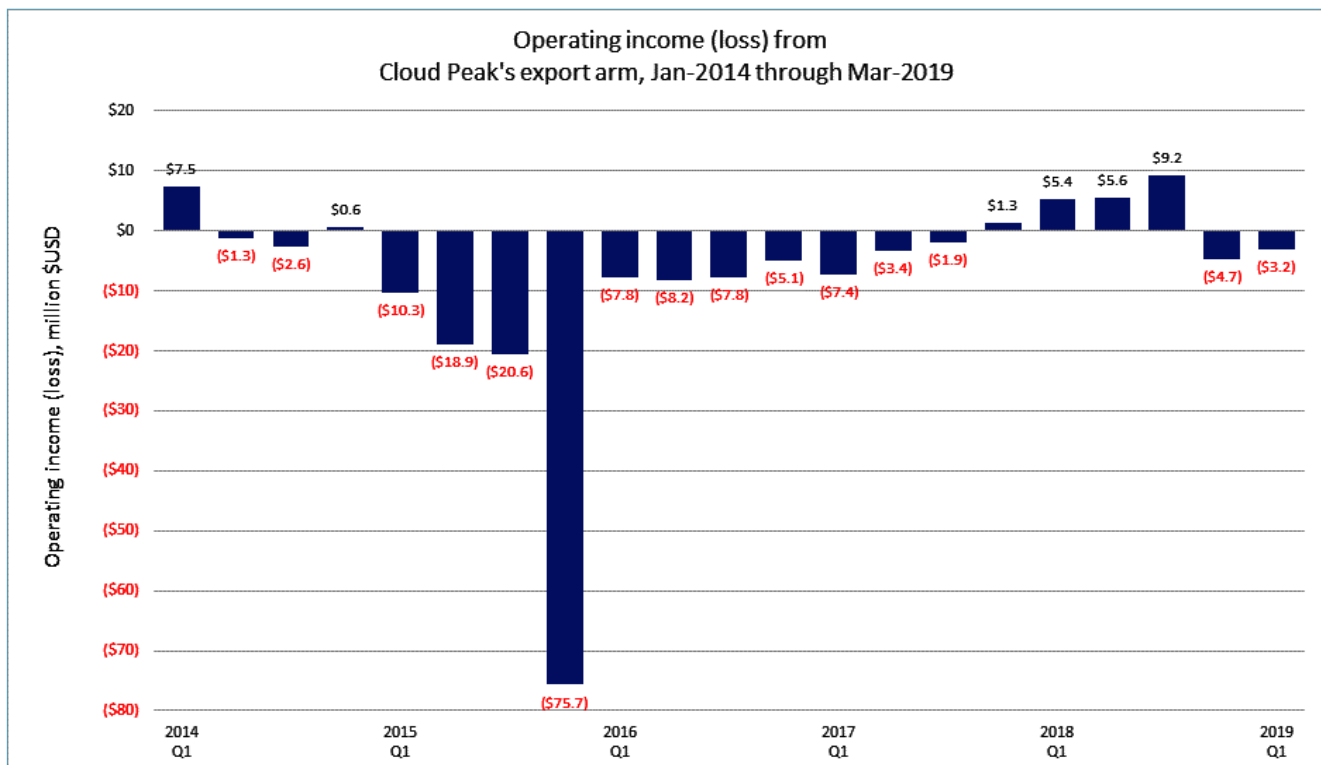
given pink slips with the abrupt closure of two of the largest coal mines in the country.

All of these are signs of a coal industry in rapid decline in the United States. Moody's Investor Service recently projected that coal would account for only about 11% of electricity generation in the U.S. by 2030, a far cry from when coal accounted for about 50% only a decade ago. These trends are only bound to become worse as cleaner and cheaper electricity generation options further penetrate the market. Montana will be no exception.

While some Montana politicians, unions, and the coal industry want

*continued on page 16*

Why would NTEC want to buy Cloud Peak, when Cloud Peak's export losses have been so significant? Source: Clark Williams-Derry, Sightline Institute, based on Cloud Peak Energy SEC filings.





# Curse of "Natural" Gas: a Serious and "Unnatural" Problem

by Anne Hedges

Coal has been a major concern of climate activists for so long that we risk overlooking the dangers posed by gas. Gas may be "natural" because it comes from the earth but, just as much as coal, it is extremely damaging to the climate. There are people who scoff as cities such as Berkeley, California, move to ban gas infrastructure in new buildings. But decreasing reliance on the nation's extraordinarily leaky gas infrastructure is essential to tackling the daunting challenge of climate change. MEIC is working to decrease Montana's, and the country's, reliance on gas by limiting its development, requiring improvement to the leaky infrastructure, and preventing the deluge of new gas plants that utilities are proposing. Your help

is essential to this fight.

"Natural" gas consists mostly of methane, which is 84 times more efficient than carbon dioxide at trapping the heat in the Earth's atmosphere. Experts say that to tackle the climate crisis, gas must go. That's why MEIC is working to limit gas development and prevent the waste of gas – but it's an uphill battle. While we will continue to work on the legal and policy fronts to reduce gas emissions, it won't be enough. Each of us must also do our part to reduce our reliance on gas if there is any hope for tackling the climate crisis.

## The Problem of the Curse of Gas

Pumping gas from deep beneath the earth's surface to make electricity or heat homes and businesses is fraught with danger and inefficiency. Underground formations are "fracked" in order to extract gas. Increased fracking (a technique to extract more oil and gas from the earth) since 2006 is thought to be largely responsible for the recent steep rise in methane emissions. Fracked gas is brought to the earth's surface and moved through a series of pipelines and compressor stations that pressurize the gas so it will flow through pipelines. This extraction process, along with the pipelines and compressor stations used to extract and move gas, is known to leak gas.

Gas travels through increasingly smaller pipelines until it reaches our homes and businesses or until it goes to a power plant to generate electricity.

*continued on page 18*

MEIC and  
Western  
Environmental  
Law Center staff  
outside the US  
Federal District  
Courthouse.  
Photo by Laura  
King.





# NorthWestern Releases Backward Looking Plan

by Brian Fadie

Every three years NorthWestern Energy is required to create a 20-year plan that evaluates different ways for it to meet future energy needs. These plans are common in the utility world, often called “Integrated Resource Plans” or, in the case of NorthWestern, a “Resource Procurement Plan.” NorthWestern released its 2019 Plan in August.

Utilities are not required to strictly adhere to the plans, because being a rigid guide isn’t necessarily the plan’s primary purpose. They are scenario planning exercises designed to make utilities think about possible futures they could face and then model the costs and benefits of responding in different ways. Because power plants often run for 20 years or more, the plans are supposed to ensure that when a utility does decide to build a new plant it fits the long-term needs as best they can be predicted.

MEIC continues to review the 2019 Plan. However, some unfortunate problems are already apparent. Watch your inbox for more information once our full review is completed. For now, here are some things to know.

**#1. The Plan pretends Colstrip will never close.** Despite the louder-than-ever alarm bells going off indicating the Colstrip power plant will close by 2025 or sooner, NorthWestern’s Plan pretends Colstrip will never close. The Plan assumes the plant will operate during the entire

20-year period. This is a fundamental problem that undermines the Plan’s legitimacy, putting ratepayers at risk in the process. When the Colstrip plant closes, NorthWestern will have to adjust, in some manner, its energy procurement strategy. This is just a fact of life that will inevitably occur when NorthWestern’s 220-megawatt share of Colstrip’s electricity is removed from the company’s “resource stack.” By not modeling any scenario in which Colstrip closes, ratepayers are exposed to serious risk of bad decisions being

*continued on page 15*

Protesting  
NorthWestern’s  
bias against  
clean energy in  
October 2016.





# What Early Closure of Colstrip Units 1 & 2 Really Means

by Anne Hedges

It seems that every week the news for the coal industry is bleaker, and Talen Energy's announcement in early June 2019 that it was closing two of the Colstrip units was no exception. Talen, the operator and the owner of the second largest share of the Colstrip

*Coal plants across the country are being replaced with cheaper, cleaner-burning sources such as wind, solar, pumped storage, and natural gas. Reliance on coal has dropped from 52.8% of the total electricity supply in the U.S. in 2000 to 27.4% in 2018.*

plant, announced that it would close Units 1 & 2 by the end of 2019 – two and a half years earlier than required by a settlement agreement with MEIC. The two 307-megawatt units, built in the mid-

1970s, have exceeded their 40-year life expectancy. And in a typical coal and power plant scenario, Talen only gave its workers and the State six months advance notice. Talen had two lobbyists and spent over \$25,000 at the 2019 legislative session, yet it

gave no indication that the two units would close by the end of the year. It's a very familiar story.

Talen cited the “financial challenges” of the units and the fact that it was “unsuccessful in making the units economically viable.” Coal plants across the country are being replaced with cheaper, cleaner-burning energy sources such as wind, solar, pumped storage, and natural gas. Reliance on coal for electricity generation has dropped from 52.8% of the total electricity supply in the U.S. in 2000 to 27.4% in 2018. The conservative-leaning U.S. Energy Information Administration expects that number will drop further to 20% by 2030.

Not surprisingly, Talen also cited the ongoing difficulty in negotiating a new price for the plant's coal supply from the adjacent Rosebud coal strip mine, which is owned by the recently bankrupt Westmoreland Coal Co. The Rosebud Mine supplies coal to all four units of the Colstrip coal plant. The plant's contract with the mine ends at the end of 2019 and despite negotiating since 2012, a new contract still has not been signed. Any new contract will be likely to increase the cost of coal for the plant. Talen said fuel costs are its highest expense. Currently the owners pay about \$150 million each year for coal. (There's a reason that wind and solar facilities are outcompeting coal. Their fuel costs are \$0).

The closure of Colstrip Units 1 & 2 means that the future of Colstrip Units 3 & 4 just became bleaker. In 2016 Talen

*continued on page 14*

Colstrip Power Plant.



# Renewable Energy Roundup

by Brian Fadie

## Montana \$1 Billion Energy Storage Project Receives Fresh Funding

A giant Montana-based energy storage project known as the “Gordon Butte Pumped Hydro” received new financial backing in July 2019, putting that project in an even better position to be built. The investment came from a Danish company known as “Copenhagen Infrastructure Partners.”

The project would mean an estimated \$1 billion investment in the Martinsdale, MT, area (Meagher County), creating jobs and new tax revenue for an area where billion-dollar projects are not a “dime a dozen”. Rated at 400 megawatts, the facility would hold a large amount of water in two reservoirs at different elevations. When electricity is needed on the grid, water would flow downhill from one reservoir to the other, passing through a turbine and thereby generating electricity. When energy demand is low, the facility pumps water from the lower reservoir back to the higher one to be used later in high-demand hours. The facility is designed to be a “closed-loop” system so that it doesn’t need to continually draw in new water.

Energy storage is a key technology on the path toward 100% clean energy. Projects such as this one offer Montana (and the region) a tremendous opportunity to help reach the clean energy future that is so needed.



## Portland General Electric Identifies Montana Wind Energy as the Best Value

Current Colstrip partial owner and future Montana energy customer, Portland General Electric (PGE), released its latest 20-year resource plan in July 2019. It contained positive findings for Montana wind energy. Statements such as the ones below demonstrate that Montana wind energy has tremendous value to the Pacific Northwest and it may well mean that soon contracts will be signed to bring Montana new jobs, new tax revenue, and clean energy with them.

(All underlining in the quotations below is added.)

“Montana presents a potentially appealing location for siting wind generating facilities. Its high average wind speeds suggest generating

*continued on page 23*

Judith Gap Wind Farm, Montana.



# MEIC's 2019 Board of Directors Election

## Cast your ballot today!

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

Instructions:

- 1) Only MEIC members can vote; subscribers and business corporations are not eligible.
- 2) Mark a "yes" or "no," or abstain from voting, for each candidate on the enclosed postage-paid card.
- 3) Mail the card back to MEIC in time to arrive by October 10, 2019.

*Thank you for your participation.*



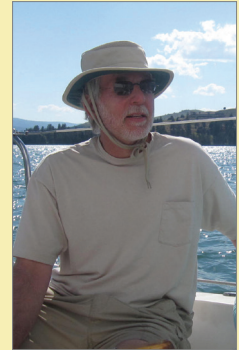
**Gary Aitken, Ovando, MT**

MEIC's mission is pretty straight forward – to protect our clean and healthful environment. But straight forward doesn't necessarily mean easy. MEIC's strengths have always been its depth of knowledge, its attention to detail, and its ability to get things right. MEIC has been fortunate to recruit and retain outstanding, competent, dedicated, and talented staff. It can do this because what we do is meaningful, important, and successful.

The board's primary job is to help set MEIC's goals, ensure that the resources necessary to achieve those goals are available, and to generally ensure that the organization stays on track. I am interested in serving on MEIC's board because I believe MEIC's mission is critical to making life on this planet and in this state worthwhile. I hope my analysis and organizational skills and attention to detail will help keep the organization successful. If MEIC succeeds, we all benefit.

### **Bruce Bender, Missoula, MT**

I want to thank you for the opportunity of serving on the MEIC Board the past two years. I have been inspired by the quality and dedication of the staff and other board members. MEIC has been involved in the key water quality and climate change issues in both the courts and state legislature. Additionally, it has been instrumental in exposing NorthWestern Energy's efforts to stymie energy renewables. My main issue is supporting wind and solar energy while reducing coal and natural gas usage. MEIC is on the leading edge of these efforts. I want to continue being supportive of these efforts by serving again on the MEIC Board.



### **Charles Besançon, Missoula, MT**

I want to thank you for the opportunity of serving on the MEIC Board the past two years. I have been inspired by the quality and dedication of the staff and other board members. MEIC has been involved in the key water quality and climate change issues in both the courts and state legislature. Additionally, it has been instrumental in exposing NorthWestern Energy's efforts to stymie energy renewables. My main issue is supporting wind and solar energy while reducing coal and natural gas usage. MEIC is on the leading edge of these efforts. I want to continue being supportive of these efforts by serving again on the MEIC Board.



### **Augusta "Gusty" Clarke, Chicago, IL**

For the past several years I worked at Montana Land Reliance, helping to protect agricultural lands, fish and wildlife habitat, and open space across Montana. As a dedicated sportswoman, I understand the importance of these resources to our rural and state economies and to our identity as Montanans.

I recently started my first year of graduate school at the University of Chicago's Booth School of Business where I'm deepening my expertise in the economics of community-based solutions to conservation problems.

I am excited at the prospect of helping to guide our state's preeminent environmental defense organization in addressing critical environmental threats and to work to promote and preserve laws that protect our environment and our way of life. I believe in Montana and pledge to work diligently as a board member of MEIC and to raise a strong voice to promote what is good and unique about our land and culture.

*continued on page 12*





### Malcolm Gilbert, Helena, MT

Early on, I learned to fill my cup deep in Montana's mountains, rivers, lakes, and streams. I've always had a good sense for the threats my favorite places face, and that it takes real effort to thwart them, but it wasn't always so clear to me that good environmental advocates are able to shift the public's perception of those threats and create a lasting culture of environmental awareness, accountability, and progress. MEIC and its staff have long been accomplishing this, and have been mentors and a stable source of inspiration to me in doing so as I continue carving out my own space in the conservation community. I'm eager to bring energy and passion for MEIC's issues to its Board of Directors with inquisitiveness and an open mind, and am hopeful to offer a millennial's insight so that we can keep the fire burning for many decades to come.

### Neal Ullman, Helena, MT

I have a record of protecting clean air and water working in Congress and alongside MEIC's lobby team as a lobbyist for Montana Conservation Voters. As a congressional staffer, I led efforts to defend the Clean Water Act and preventing new industry loopholes in the Clean Air Act. In Helena, I worked with allies to come within a single vote of expanding clean energy by creating aggregate net metering. When I worked at MCV, I successfully urged the organization to join MEIC in a lawsuit designating the Hecla Mining Co. as a "bad actor," helping to protect water and sacred cultural sites on the Flathead Indian Reservation. I'm excited to bring my experiences to MEIC's Board and look forward to addressing climate change, expanding clean energy, and protecting Montana's streams and rivers.



**Many thanks to all of our volunteer board members!**

***Are you interested in serving on MEIC's board? If so, please contact Jim Jensen at [jjensen@meic.org](mailto:jjensen@meic.org) or (406) 443-2520 to learn more. We value your voice!***

## Smith River *(continued from page 4)*

missing, information. MEIC and its coalition partners hired a number of experts to review the different technical aspects of the proposal. Eventually, about two years ago, DEQ deemed the application to be complete, which started the EIS process. Finally, in 2018, a draft EIS was released, which was incalculably weak in its analysis of potential impacts of the mine, and certainly not a guiding document for the public to rely upon. Once again we hired a team of technical experts to further substantiate our concerns and claims.

So now we are the 11th hour in this fight. DEQ's decisions based on the final EIS will in turn determine our strategy in preventing the mine

from moving forward. But you can bet that this will be a fight to the bitter end. However, we have a real shot at preventing this destructive boondoggle from ever happening. 🌿

Floaters on the Smith River.



## CREPs Victory *(continued from page 3)*

would have been located in Cascade County. That project received a perfect 10 out of 10 viability score by NorthWestern's own consultant, and it was the lowest cost project of that year. NorthWestern, however, chose to pursue other projects that had less favorable characteristics (and therefore were less likely to actually receive PSC approval and be built, which is ultimately what happened).

The law calls for a penalty if a utility fails to meet the CREPs requirement. PSC staff calculated the penalty to be about \$1.2 million for each year of NorthWestern's noncompliance.

Proceeds from the penalty go to a low-income home weatherization and energy bill assistance fund. The penalty costs may not be passed on to NorthWestern customers.

NorthWestern again failed to comply with its legal obligation to purchase CREP-generated renewable energy in 2017, 2018, and appears to be headed to failure in 2019. With the victory in this case, MEIC hopes these self-induced failures by NorthWestern will come to an end, but we'll be watching.

MEIC was represented by Earthjustice in this proceeding. 🌿



## Colstrip Closure *(continued from page 8)*

told a Montana legislative committee that closure of Units 1 & 2 would be likely to increase the operating costs of Units 3 & 4, and would increase the overhead costs for the mine because



Coal ash ponds  
at Colstrip Power  
Plant.

there would be fewer owners to share the mine's overhead and property tax costs. NorthWestern Energy told the Securities and Exchange Commission the same thing. Colstrip already costs NorthWestern Energy customers more than any other electricity resource at about \$74 per megawatt-hour, compared, for example, to the Judith Gap wind farm electricity that costs about \$30 per megawatt-hour.

It is ironic that Colstrip Units 1 & 2 will be likely to close before the Montana Department of Environmental Quality

(DEQ) ever receives adequate bonds to assure the cleanup of the leaking coal ash ponds for these two units. DEQ estimates that cleanup of the entire site could cost \$400-\$700 million, with the cleanup for the ash ponds for Units 1 & 2 being a significant portion of that amount. Talen's announcement underscores the need for DEQ to immediately obtain sufficient bonds from the owners of all four units.

Let us hope that Montana won't wait until the Colstrip owners announce the closure of the remaining units before it plans for a cleaner energy future. Clean energy means new careers, a replacement tax base, and energy

production that other states want. Montana is at a critical decision point, and must embrace change in order to position itself as a leader in generating clean, renewable energy. Market forces and customer demands can no longer be ignored. 🌱

## NorthWestern's Plan *(cont'd from page 7)*

made because it is unknown whether alternative resources will fit well in a “No Colstrip” future. Other Colstrip-owning utilities have protected their ratepayers by modeling futures without Colstrip – NorthWestern should have done the same.

**#2. The Plan includes no new renewables, only fossil-fuel-fired natural gas plants.** This was also the case in the company's 2015 plan.

**#3. Transparency is already an issue.** The Plan's release started off on the wrong foot for transparency and accessibility. At first the company only put Volume 1 of the Plan on its website, which essentially contains the Plan's conclusions. Volume 2 is where much of the data that supports the conclusions can be found, but it was not put online. Instead Volume 2 had to be requested separately and it would have been sent on a CD in the mail. After MEIC pointed out the accessibility problem (for example, many computers don't include CD readers anymore) the company started putting Volume 2 online. While this was a good step, the fact that NorthWestern thought it was fine to not publish this key piece of the Plan online is a demonstration of its anti-transparency mindset. NorthWestern often tries to withhold or block information from being released in order to keep people from knowing what's really going on and being able to challenge the company. MEIC will continue to fight for transparency and accessibility as the public comment and

planning process continues.

Now that the final Plan has been released, there will be a public comment period. The Public Service Commission (PSC) is likely to announce a 60- or 90-day comment period. It will also hold an in-person public meeting to receive comments. The PSC does not “approve or deny” the Plan. Rather it issues its own comments on it, which can be quite influential.

MEIC will let you know the details of the public comment process when they are finalized, so please watch your inboxes. 🐦

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**The Plan includes no new renewables, only fossil-fuel-fired natural gas plants.** *This was also the case in the company's 2015 plan.*

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Workers installing solar panels.





## Coal Industry (continued from page 5)

us to believe that the Last Best Place is somehow the unicorn in the coal industry, and that with some tweaks in regulations the state will be out of this “temporary lull,” the facts say otherwise. Right now, Cloud Peak Energy, the owner of the largest coal mine in Montana, the Spring Creek coal mine, is going through bankruptcy proceedings. In August 2010, the Spring

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*This means approximately one third of the Rosebud Mine’s production will no longer have a buyer, cutting deeply into the mine’s profits and making the existing production more expensive.*

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Creek Mine, along with two of the largest mines in Wyoming and the U.S., were purchased by Navajo Transitional Energy Co. (NTEC) for a paltry \$15.7 million.

This transaction required NTEC to assume \$60 million in debt, post bonds to assume responsibility for reclamation, and caused the Institute for Energy Economics and Financial Analysis to release a report characterizing the deal as an “ill-timed gamble.”

If you recall, earlier this year MEIC was preliminarily successful in a legal action against the Spring Creek Mine regarding a massive expansion of the mine, in large part

because the environmental assessment failed to account for or analyze the massive amount of greenhouse gas emissions that would be released into the atmosphere if the expansion were to proceed. This decision is currently on hold, pending the outcome of Cloud Peak’s bankruptcy proceedings. What’s more, DEQ just approved another expansion of the Spring Creek Mine into an area with 78 million tons more of marketable coal, with zero, and I do mean zero, analysis of climate impacts. Stay tuned for the public comment on this unjustifiable decision and on MEIC’s next steps.

A stone’s throw from the Spring Creek Coal Mine is the Decker Mine, owned by Lighthouse Resources. Lighthouse Resources was hoping, as a “Hail Mary” endeavor, to export coal to Asia instead of relying upon the declining U.S. market. In order to do so, Lighthouse will need increased capacity of export facilities on the West Coast. Fortunately, in early August 2019, a Washington State appeals court ruled that the State Department of Natural Resources was correct in denying a permit for building the Millenium Bulk export terminal, in which Lighthouse was a major investor. That poses a significant setback for Lighthouse’s export plans.

North of Decker and Spring Creek mines, the Rosebud coal mine continues to supply coal solely to the Colstrip coal-fired power plant. In June 2019, Talen Energy, the operator of the plant, announced that Units 1 & 2 of Colstrip would be closed by the end of the year. This means approximately one third



of the Rosebud Mine's production will no longer have a buyer, cutting deeply into the mine's profits and making the existing production more expensive. Western Energy Co., the former owner of the Rosebud Mine, recently emerged from bankruptcy, and sold the Rosebud Mine to a conglomerate of investors and shareholders.

The Rosebud Mine has been particularly damaging to the environment of Eastern Montana, trashing the water quality and quantity of several prairie streams. MEIC is awaiting a ruling from the Montana Supreme Court regarding the mining company's appeal of our successful legal challenge to the Rosebud Mine's discharge permit. That permit illegally declassified the water quality category of an adjacent stream and required incredibly weak monitoring of water quality and quantity from Rosebud to demonstrate compliance with its permit requirements. MEIC has also appealed an unfortunate adverse ruling from the Montana Board of Environmental Review involving the Rosebud Mine regarding the water quality and quantity issues in its coal mining permit. Finally, MEIC has appealed the coal mining permit based on water quality concerns at a massive expansion of the Rosebud Mine to the Board of Environmental Review, and is considering other legal options for several serious flaws in the permits.

About 100 miles to the northwest of the Rosebud Mine is the Bull Mountain Mine, owned by Signal Peak. The Bull Mountain Mine is Montana's only underground coal mine – a longwall mining operation that is wreaking havoc on the water supply of the arid Bull Mountains. MEIC is in the process

of challenging a major expansion of this mine in U.S. district court over the expansion's impacts upon our climate (which the U.S. Office of Surface Mining chose to sweep under the rug). We are also challenging the water quality and quantity permit for this mine, because the DEQ issued a woefully inadequate and legally vulnerable one.

The truth is that nothing will save the coal industry in Montana. Not coal exports, carbon capture, or the fictitious rumor that there will construction of Colstrip Units 5 & 6. It's just not going to happen, and anyone who claims otherwise is doing a disservice both to the public and to the people who currently depend on the coal industry for their livelihoods. Right now, coal production in Montana is down approximately 50% from a year ago. This decline will continue, perhaps with some ups and downs along the way, until coal is no longer mined in Montana.

The best thing that can be done for those impacted by the industry's decline is to focus on providing economic and educational assistance to those in need, and increasing the diversification of the economy in impacted communities. What we should not do is lie to those dependent on a coal-based economy because it is politically expedient to do so. 🌿





## Unnatural Gas *(continued from page 6)*

From beginning to end, this gas plumbing system is so leaky it results in an alarming number of explosions each year. New research shows that the problem is even worse than previously thought. The federal government admits there were about 3,000 gas leaks detected over the past decade, resulting in hundreds of deaths, thousands of injuries, and over \$9 billion in identified costs. But that's an underestimate. An expert who recently analyzed the problem for the National Oceanic and Atmospheric Administration wrote: "We found that emissions from leaks and end-use losses from five cities combined was larger than the EPA reports for leaks for the entire country." Other experts estimate that gas extraction and transport release as much methane as burning it for fuel. That's really bad news for the climate.

in court to prevent this wasting of gas resources at the expense of the planet, and so far, we've been winning. But the Trump Administration isn't giving up, so the battle rages on.

MEIC is also challenging the public lands giveaway, aka the leasing of public lands for oil and gas development. Such development harms the climate, public lands, water, and wildlife. MEIC will continue to fight this giveaway with the help of the Western Environmental Law Center and others. MEIC also challenged the federal government's proposal to open huge swaths of public lands for oil, gas, and coal development. We won that lawsuit too, but not surprisingly, the Trump Administration is trying to find a way around the court order. Despite its best efforts, we will continue to fight back.

The second approach is to prevent gas from being used to generate electricity, especially as the nation moves beyond coal. In Montana, that largely entails preventing NorthWestern Energy, the state's largest electric utility, from building new, expensive gas plants. NorthWestern's plan is designed make NorthWestern richer at everyone else's expense. For more on how MEIC is working to stop NorthWestern's proposal to build more gas plants and increase our long-term dependence on the curse of gas, see the article on page 7 of this issue of *Down to Earth*.

The third approach to tackling the curse of gas involves ending the use of it in buildings. Buildings are responsible for 12% of total U.S. climate-changing emissions according to the federal government – and that doesn't count

Oil and gas extraction. Photo by BLM.

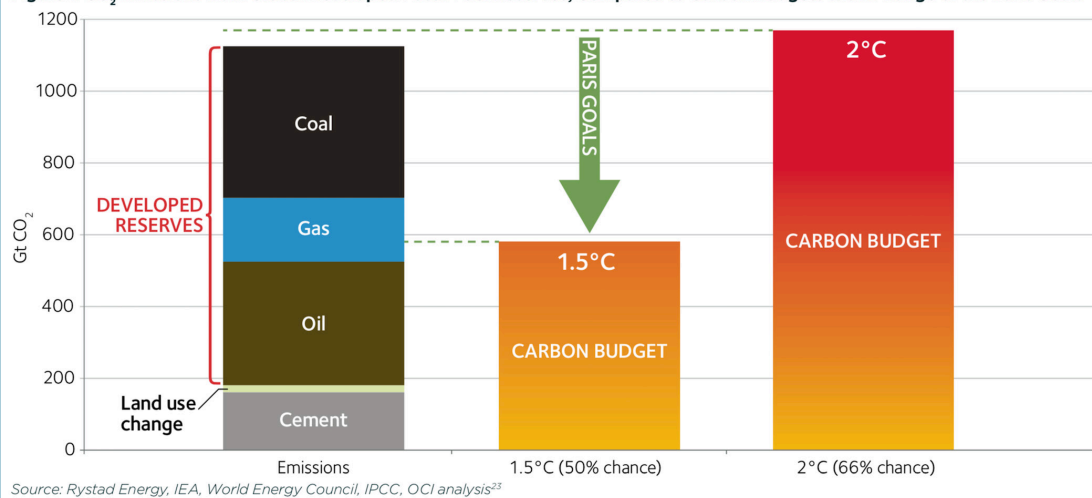


### The Solutions to the Curse of Gas

MEIC believes we need to tackle the problem from many different angles.

First, we need to put our finger in the dam until we implement wholesale changes to the gas system. For nearly a decade MEIC has been involved in legal action to force companies to fix leaky gas infrastructure with existing technology. At the end of President Obama's tenure, his Administration adopted a rule to require the gas industry to use cost-effective measures to prevent leaks. But, surprise (not!) the Trump Administration is trying its best to reverse that rule. MEIC and others, including a few states, are

Figure 1: CO<sub>2</sub> Emissions from Global Developed Fossil Fuel Reserves, Compared to Carbon Budgets within Range of the Paris Goals



Source: Rystad Energy, IEA, World Energy Council, IPCC, OCI analysis<sup>23</sup>

Source: [https://cdn.vox-cdn.com/uploads/chorus\\_asset/file/16308095/oci\\_gas\\_bridge\\_budget.png](https://cdn.vox-cdn.com/uploads/chorus_asset/file/16308095/oci_gas_bridge_budget.png)

emissions from the leaky infrastructure used to bring gas to the buildings. That's why some cities are starting to ban gas infrastructure in new buildings. We must find ways to decrease, and eventually eliminate, this use of gas. We should start with energy efficiency measures such as adding insulation or installing a programmable thermostat. Next, as the nation moves toward cleaner electricity, experts recommend swapping out gas appliances for electric ones. For example, heat pumps are three to five times more efficient than gas storage water heaters, and can efficiently and affordably heat and cool air and water. Induction stovetops are safer and more responsive than gas

stoves. Minimizing and eventually eliminating gas from buildings is not only possible, it is very important.

Together we can fight the curse of relying on gas. If we don't, the temperature of the earth's atmosphere will quickly exceed the limits that the scientists recommend for a livable planet. Gas is not a bridge to a clean energy future, and the sooner utilities such as NorthWestern Energy and individuals accept that, the sooner we can tackle the nearly overwhelming crisis we are facing. 🌿

### Where the natural gas industry is leaking methane

Methane leaks occur at every step and stage from production to distribution. These estimates are from 2016.



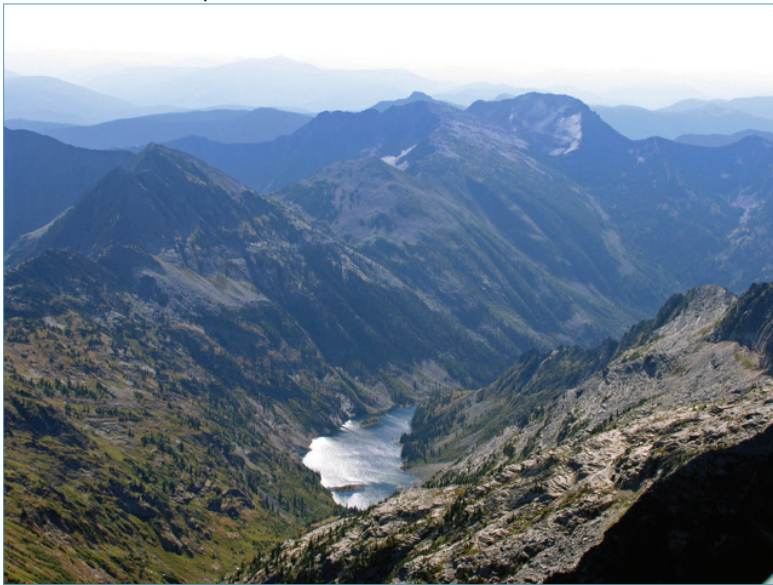
Chart: The Conversation, CC-BY-ND • Source: Environmental Protection Agency



## Wilderness Victory *(continued from page 2)*

expire. In her decision Seeley wrote that the discharge permit was allowed by DEQ to remain in effect only to allow reclamation, not to regulate mining operations.

Meanwhile, through a series of trades and sales, the project eventually



Saint Paul Lake,  
Cabinet Mountains  
Wilderness. Photo  
by Save Our  
Cabinets.

was acquired by Hecla in 2015.

Furthermore, in her decision Seeley wrote: “The operational life of Noranda’s project ended in 1991, when Noranda abandoned the project, relinquished its federal mining authorization, and began reclamation.” She added that restrictions on degradation of high-quality waters also have changed since the 1992 authorization.

In particular, the 1992 action allowed Noranda to discharge waste water and contaminated storm water into multiple streams that provide habitat for bull trout, which were listed as a threatened species in 1998 under the U.S. Endangered Species Act.

The discharges included copper, zinc, ammonia, and sediments.

This State court decision comes two years after U.S. district court Judge Donald Molloy ruled that the U.S. Forest Service’s “approve now, study later” approach to the Montanore Mine violated several laws and could jeopardize both bull trout and federally protected grizzly bears. Molloy also ruled in a separate opinion that the U.S. Fish and Wildlife Service didn’t properly assess the impacts to grizzly bears and bull trout.

Hecla is also the subject of a lawsuit filed by DEQ to stop it and its CEO Phillips Baker from moving forward with both the Montanore and nearby Rock Creek mines because Baker was in violation of the State’s “bad actor” law. Baker formerly was the chief financial officer of Pegasus Gold Corp., which operated and abandoned cyanide heap-leach gold mines in Montana in the 1990s, thereby requiring taxpayers to clean up the huge mess that was left behind.

The “bad actor” law prohibits issuing a permit for the development of a new mine in Montana if a company or its executives had previously defaulted on clean-up obligations. Hecla and Baker are challenging DEQ’s determination.

MEIC was joined in the lawsuit by Save Our Cabinets and Earthworks. Katherine O’Brien, of the Bozeman office of the nonprofit environmental law firm Earthjustice, represented the groups. 🐦

## The next generation needs us to act NOW.

### Facts:

- Climate change is accelerating the most cataclysmic environmental and social justice issues that humanity faces today.
- Coal fired and gas power plants are the preeminent sources of greenhouse gases.
- Montana has immense fossil fuel reserves AND potential for renewable energy.
- MEIC is the scrappiest, most effective organization in Montana working to end the extraction and burning of fossil fuels and the transition from those sources to renewable energy.
- Your donation to MEIC makes a BIG difference for the future of Montana and the world.



If you can find it in your heart and your budget to make a donation of \$10, \$20, \$50 or more today, please go to <https://meic.org/donate-now/> or send a donation in the enclosed remittance envelope. Donations to MEIC are a tax-deductible, high-yield investment in the future of Montana.  
Thank you for your support!



# Thoughts from the Executive Director

by Jim Jensen

## Gov. Bullock's Colossal Waste of Time and Money.

It is this: Bullock recently appointed a committee of 40 members, which includes 11 of his cabinet members, to advise him on climate policy for the state.

The council members include several of Montana's leading climate deniers, who will never agree to any meaningful actions to move beyond the state's carbon intensive energy dependence. They include David Hoffman, chief lobbyist for NorthWestern Energy, the leading proponent for continued dependence on Colstrip's power plants and enemy of renewable energy expansion in Montana, Todd O'Hair, former lobbyist for coal company Cloud Peak Energy and current head of the Montana Chamber of Commerce, Alan Olson, executive director of the Montana Petroleum Association, and



Montana Gov. Steve Bullock.



Al Ekblad, head of the Montana AFL-CIO, an organization that has consistently fought every legislative measure to seriously deal with climate.

But, wait just a minute. Didn't former Gov. Brian Schweitzer appoint a similar committee in 2006? Well, as a matter of fact he did. It was called the Montana Climate Change Advisory Committee. Its product was the Climate Change Action Plan, issued in November 2007. It included 54 specific recommendations for actions to be completed by 2020.

What happened to those 54 recommendations? Were there periodic updates on deadlines to be met? Were there any follow-up analyses of how much atmosphere-destroying pollution had been prevented – or reduced?

It turns out that none of that happened. It was, as nearly all such studies are, left to collect dust on the shelf of history. These kind of exercises are merely intended to provide political cover when politicians don't actually want to be held accountable for inaction.

So, why wouldn't Bullock just take up the Schweitzer committee's recommendations and move forward with them instead of establishing a process that will inevitably lead to the same outcome and be expensive to taxpayers? Paying the expenses for all these people to meet in Helena will cost money.

Good question, but only the governor can answer it. What is known is that our climate is changing in a very bad way far faster than has been previously predicted. We simply no longer have time for dithering. It is time to act. As Washington Gov. Jay Inslee said recently: "the house is on fire." 🌿

# Renewables (continued from page 9)

facilities could have attractive capacity factors. Further, its geographic diversity relative to the current PGE wind portfolio and the seasonal timing of the generation could provide increased capacity contribution benefits compared to other locations.” [PGE 2019 Integrated Resource Plan, page 147.]

“As shown in Figure 6-15, the Montana Wind resource outperforms the Washington Wind resource across all sensitivities because it provides more value to the portfolio.” [PGE 2019 Integrated Resource Plan, page 173.]

## Renewable Energy Exceeds Coal Energy for the First Time

In April 2019, renewable energy sources such as solar, wind, and hydroelectric provided 23% of the electricity in the United States

compared to 20% from coal. This data comes from the Energy Information Administration, a federal government entity. It marks the first time renewables have outproduced coal in the United States.

April is a low electricity demand month due to its moderate temperatures, meaning coal facilities are typically producing less than they might in high demand months such as July, so this milestone does not mean renewable energy will outproduce coal in every month going forward. However, it is an important achievement that will only continue and grow from now on. Soon it will be March and May as well, then September, October and November, and so on.... 🌿



Clean Energy Rally, 2017. Photo by Alex Tenenbaum.

MEIC - a nonprofit environmental advocate

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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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Thanks for helping MEIC fight hard for Montana's air, water, land, and a life-sustaining climate. With just a 7-person staff, MEIC is careful to efficiently steward our resources. Want to help? MEIC's Snowberry Society, our monthly giving program, is the most powerful, efficient way for you to maintain your membership.

### ***Here's why...***

- Breaking up an annual gift into smaller monthly donations can make a larger membership contribution more affordable.
- With automatic monthly payments, your membership is current until you say "stop." You won't receive renewal requests and MEIC saves paper and staff time!
- Less hassle. More impact. Everyone wins!

Please consider signing up for the Snowberry Society by using the included remittance envelope, being sure to check the "Monthly Pledge" box and include your credit or debit card information.

**Bonus!** If you sign up at or above the \$5 monthly level, you'll receive a charming Snowberry Society decal (pictured at right).

