

Down to Earth

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER



DEFEND MONTANA'S CONSTITUTION!
PROTECT OUR RIGHTS



**At the Legislature:
Energy, Water,
Mining**

**Victory in the
Bull Mountains**

**Montana
Tunnels
Bankruptcy**

In This Issue



16 Conservation Lobby Days in Helena

3	From a Board Member	16	Legislative Event Season
4	Victory at Signal Peak	18	Plastic Bills Defeated
5	Protecting Water at Rosebud	18	EPA Reinstates Mercury Rule
6	MEIC's Mid-Session Report	19	Montana Tunnels Declares Bankruptcy
7	How to Engage in the Second Half	20	NorthWestern's IRP Moves Backwards
8	Energy Bill Update	21	NorthWestern's Colstrip Aspirations
10	Bills that Impact Mining and Water	22	EPA Gets Involved in Greeley Neighborhood
12	Sustainable Communities in the Legislature	24	MEIC Who: Hernandez Family
14	How Water Policy Exacerbates Sprawl	26	MEIC's Upcoming 50 th Anniversary Celebration
		27	From the Executive Director

Cover photo:
The Rally to Defend Montana's Constitution was a rousing cry for action.

MEIC is a nonprofit environmental advocate whose purpose is to protect Montana's clean and healthful environment.

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From a Board Member

by Kathy Juedeman

For this and future issues of Down to Earth, we will feature voices of all of our board members so you can get to know the extraordinary people who guide MEIC.

From the vantage point of protecting clean air and clean water, and encouraging clean energy, 2023 has been the most challenging Montana Legislative session in a generation. Our staff has shown outstanding dedication and daily perseverance to the MEIC mission, even facing down this disappointing legislative bill roster. This work is hard. Say “thank you” to a staff member, if you get the chance.

One of the issues that I have watched closely this legislative season was rooftop solar. We have solar at our Helena house where the installed panels allow us to operate our home and charge our electric car with energy produced from the panels. We also have solar installed at our family ranch near Great Falls, where the energy produced is an integral component of the family operation. Solar generates energy to heat the calving barn, to warm block heaters for tractors, and to keep stock tanks filled and ice-free.

Installation of solar was a good choice at both locations for us, and it would be a similarly good decision for lots of our Montana neighbors. **HB 643 (rep. Josh Kassmier, R-Fort Benton)** threatened to undermine fair rates for solar, making solar prohibitively expensive for Montanans across the state; defeating that bill was good for Montana. This defeat was a successful coordination across nonprofit allies, including Montana Renewable Energy Association and Northern Plain Resource Council, who also recognized the dangerous consequences of this bill.

Our MEIC team has worked hard to prepare for the 2023 session, understanding that this would be challenging. They are well-prepared and well-informed, with a community-centric focus. While there is so much to commend in MEIC’s work this legislative session, what stands out about our staff is their unwavering attention to preserving and protecting the Montana that we love. Keeping Montana clean and

healthful is the issue of our time.

The other heroes in this legislative session are you, our MEIC members. Communications & Engagement Director Katy Spence implemented the online Action Center & Bill Tracker in 2021, and this continues to

improve our involvement in the legislative processes. Our MEIC members have used the information from the Bill Tracker to amplify staff efforts: Zooming to hearings, writing letters to the editor, sharing actions on social media, signing petitions, making phone calls to key legislators, sending emails to individual legislators, and sending emails to entire committees. This is an incredible mobilization fighting for Montana’s environment.

Your efforts have made a positive difference in outcomes with a number of bills and in the tone of conversations, encouraging legislators to fully consider impacts to clean air and water, mining, land use, and clean energy. Positive conversations on environmental topics build stronger baselines for discussions in future sessions: Montanans care about the environment, and we aren’t going away.

MEIC members continue to demonstrate a community working together to keep Montana’s air and water clean, and our governing officials can see that force of will. Thank you for your continued support of MEIC and our mission.

Kathy worked in the energy industry for 32 years. Her career included broad experience in management, project management, and a background in global information technology. She has been a supporter of MEIC since the 1990s and intends to be a strong advocate for advancing Montanans’ right to a clean and healthful environment. 🌿





Victory

Judge Protects Bull Mountains' Water, Ranchers from Coal Mine

by Anne Hedges

The Signal Peak coal mine cannot get its story straight, and a federal judge has finally put the brakes on mining federal coal in an enormous expansion of the mine. For years, Signal Peak has sought approval to expand the coal mine north of Billings, which would make it the largest underground coal mine in the nation. Numerous courts have ruled that federal and state regulators ignored mining laws and concerns raised by the public when they approved Signal Peak's Bull Mountain mine expansion. The expansion harms freshwater springs perched above the mine upon which wildlife and ranchers rely, threatens endangered species in the area and along the rail route, and contributes to the climate crisis. The most recent legal victory in this ongoing saga is a result of the dogged work of attorney Shiloh Hernandez, Western Environmental Law Center, and Earthjustice.

In 2011, the Bureau of Land Management (BLM) leased federal coal to Signal Peak so that it could expand its Bull Mountain coal mine north of Billings. **MEIC** objected to the lease, but BLM said the mine expansion was in the public interest because the coal would be for domestic use and provide national energy security. Today, virtually all of the coal from the mine is exported to Asian markets.

A few years after leasing the coal, both the state Department of Environmental Quality (DEQ) and Office of Surface Mining (OSM) issued mining permits to allow the extraction of approximately 176

million tons of coal. DEQ's first permit approval was overturned by former Gov. Steve Bullock's Board of Environmental Review and required DEQ to redo its analysis. Unfortunately, DEQ's subsequent analysis was also deeply flawed. However, this time, the board, recently appointed by Gov. Greg Gianforte, approved the expansion despite obvious legal errors by DEQ. **MEIC**, represented by Shiloh Hernandez with Earthjustice, has appealed that decision to state district court.

Since leasing the coal, OSM has conducted two deeply flawed environmental analyses (EAs) on the impacts of the mine expansion. A federal district court and the 9th Circuit Court of Appeals have ruled that both EAs are legally flawed because they failed to consider the impacts of the mine's expansion on the climate, endangered species, and water resources.

After the most recent appeals court decision, OSM agreed to conduct a more rigorous environmental impact statement (EIS). Unfortunately, Signal Peak continues to fight against any meaningful regulatory oversight of the mine and recently attempted to convince the federal court to allow it to continue mining federal coal while OSM conducts the required EIS. However, the court didn't buy Signal Peak's argument and flatly rejected its request, citing the severe harm the mine is causing to the area springs and the ranchers who depend on them.

The court found that "Signal Peak feign[ed] confusion" over the court's ruling and attempted to



present new evidence and arguments that it had never before bothered to provide to the court. It ruled that Signal Peak failed to present the required legal rationale when asking the court to reverse its decision. Instead, the court found that Signal Peak provided testimony that contradicted previous testimony and didn't meet the required legal standard. **MEIC**, 350 Montana, Sierra Club, and WildEarth Guardians are represented by Earthjustice and Western Environmental Law Center in the federal litigation, and will continue to press for accountability and clean water in the Bull Mountains.

Signal Peak has a long, sordid history of corruption, criminal indictments, worker safety coverups, and bribery, not to mention the criminal behavior of the company's owners. State and federal regulators' (along with a few Montana politicians) continued defense of this bad actor mining company is shameful enough, but it is particularly vexing when they also ignore their legal duties and the needs of existing ranching operations and wildlife that rely on the area springs and a clean, safe environment. 🌿

Protecting Clean Water from the Rosebud Mine Expansion

The Rosebud Mine is one of the largest coal strip mines in the nation and the sole source of coal for the Colstrip power complex. The 40,000-acre mine has a footprint larger than the city of Billings and has contaminated or depleted water resources surrounding the mine, yet the state Department of Environmental Quality (DEQ) continues to issue new water pollution discharge permits contrary to the requirements of the Clean Water Act.

Most recently, DEQ approved a water pollution permit for a 9,000-acre expansion of the mine, which would result in the mining of an additional 62 million tons of coal. All area waters leaving the mine are already impaired by pollution, including Rosebud Creek. Rosebud Creek flows into a stretch of the Yellowstone River that is impaired for total dissolved solids (salts), nutrients, copper, lead, zinc, pH, and sediment. The expansion would only exacerbate the already-elevated levels of toxins and other harmful substances leaching from the mine.

Instead of protecting the area waters from increased pollution, DEQ evaded the legal requirements by reclassifying sections of prairie streams where the increased pollution would go and weakening the water pollution standard that the mine would have to meet. In doing so, DEQ failed to follow the legal process required to change the classification of the receiving waters and to allow higher levels of pollution, even though the U.S. Environmental Protection Agency has made it clear that DEQ's approach violates the Clean Water Act. On March 2, **MEIC**, Sierra Club, and Wildearth Guardians, represented by Earthjustice, challenged the permit issuance in state district court in Rosebud County. 🌿

MEIC's Mid-Session Report

by Anne Hedges

We are happy to report that we are better off than we expected at the halfway point of the session. Of course, that's not saying much considering we expected it to be a disaster. Fortunately, thanks to so many of you who contacted your legislators, some of the worst ideas so far this session were defeated the week before the transmittal deadline. These victories and many more give us hope that we may still be able to stop some of the most objectionable proposals in the second half of the session – and perhaps even get some positive legislation passed.

The victories came daily before the transmittal break. First up, NorthWestern Energy had some proposals that were so offensive that they were even too much for conservative legislative committees. NorthWestern's bill to essentially allow it to establish new rates for rooftop solar customers (**HB 643, Rep. Josh Kassmier, R-Fort Benton**) was objected to by some of the most conservative politicians in the state: former Rep. Derek Skees and current Public Service Commissioner Randy Pinocci. Both argued that the state needs all of the power it can get, including from rooftop solar, or there will be electricity blackouts. While we disagree with those arguments, they were persuasive. The bill was defeated in the House Energy, Technology, and Federal Relations Committee. (A similar proposal will likely be introduced by the time you read this. See article on pg. 8 for details.)

The next day, the Senate Energy and Telecommunications Committee defeated another outrageous NorthWestern proposal to give it



complete control over upgrades and expansions of the electric transmission system (**SB 353, Sen. Walt Sales, R-Manhattan**). This obscure bill posed a huge threat to consumers and the climate, as it could have put Montanans on the hook for billions of dollars in increased costs while allowing NorthWestern to interfere with the development of renewable energy across the state. This proposal was rejected by all but one of the committee members.

The very next day saw another rotten proposal defeated. Once again, Sen. Steve Fitzpatrick (R-Great Falls) brought a bill to expand takings law in Montana (**SB 287**). The state and federal constitutions already prohibit the government from taking private property without compensating a landowner. Sen. Fitzpatrick's bill would have dramatically expanded the definition of "property," thereby increasing the instances in which large corporate interests could argue that the

government must compensate property owners for potential losses due to regulations.

The first half of the session also saw the defeat of two enormous tax increases on wind energy, bills to undermine the judicial branch, bills to (illegally) take control from the federal government for coal mine and air quality regulation, bills to require a vote to adopt local growth policies, bills to support a U.S. Constitutional Convention, and bills to

Transmittal means we're halfway through Montana's 90-day biennial legislative session, when most legislation must pass the house of origin (either the Senate or House), and be "transmitted" to the other chamber. It's a critical time for legislation dealing with Montana's environmental safeguards because most of these bills must meet this deadline. Bills dealing with revenue, appropriations, or constitutional amendments have until March 28 to be introduced and April 3 to transmit. It's also an important time for separating the "wheat from the chaff" of legislation, so that we can focus on the legislation that continues to move forward in the process.

make it more difficult to fight back mining proposals, such as the Smith River mine.

These victories and many other smaller ones give us hope that cooler heads will prevail this session. But as we know from experience, the second half can be even worse. Bad bills get introduced as revenue bills, terrible amendments can be added to otherwise good bills, and the last minute undemocratic conference committees that are supposed to work out differences between the House and Senate versions of a bill can completely rewrite a bill without public involvement.

MEIC's lobbying team will continue to work with our partners and fight back against such shenanigans, to defeat or amend bad bills, and to keep you informed so you can help us do so!

How to Engage in the Second Half of the Session

We've passed transmittal, which means Senate and House bills are moving through the second chamber. You'll have more opportunities to comment on bills that made it through the first half. In addition, there will be revenue bills and Constitutional referenda coming forward in droves that will need your attention.

During the second half, we encourage you to make more phone calls to heighten the impact of your comments. You can leave a message for a Committee or up to 10 legislators at a time at the Legislative Services desk between 7:30 am and 5 pm. It can be tough to get through, but keep trying if you can: 406-444-4800.

You can also find your legislators' phone numbers on the Legislator Roster: www.leg.mt.gov/legislator-information/roster

If you call Legislative Services, you are likely to get a receptionist who will take your message. You're also likely to get a legislator's voicemail if you use the legislative roster. If you talk to a legislator or they call back, address them as Senator or Representative.

Don't know what to say? Follow our handy script:

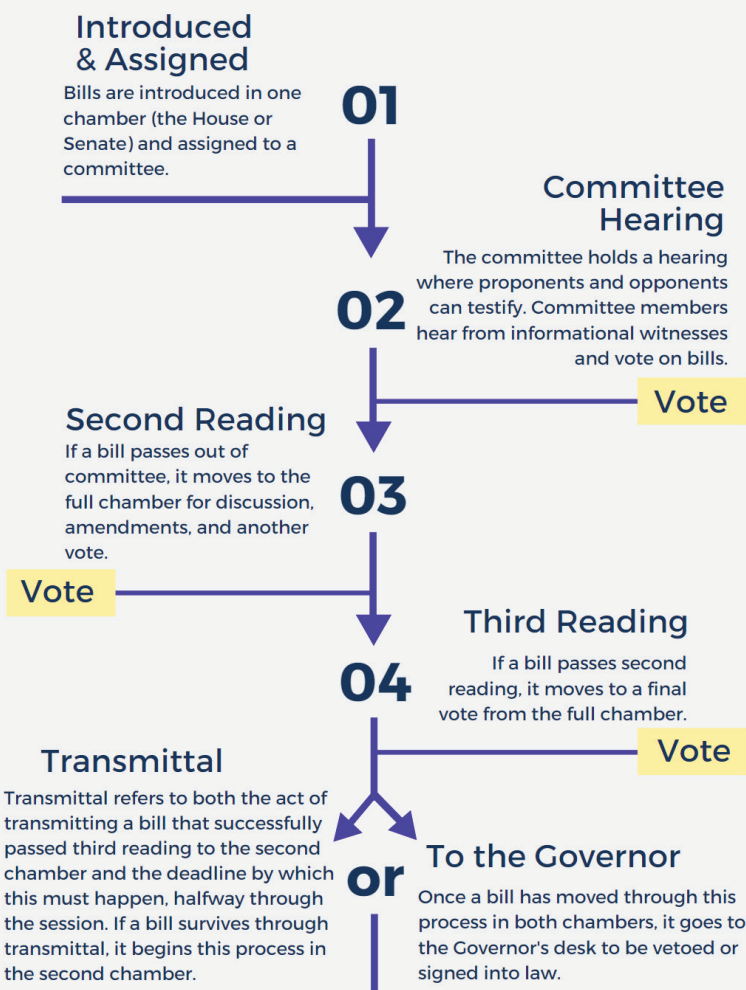
- Please be respectful and keep your message short.
- Say your name and where you are from.
- Provide a bill number and a very brief description.
- Be brief, honest, explicit, and courteous.
- Try to provide a personal perspective.
- Don't overstate your case and always admit it if you don't know an answer.
- Thank them for their time.
- Follow up with any information you promise to provide.

In addition, consider getting your community more involved. Reach out to your local government and ask them to stand up against bills that restrict local control, such as SB 228 and SB 208 (see article on pg. 8). Submit letters to the editor to your local paper, and forward our weekly 3 Things You Can Do email to your friends and family.

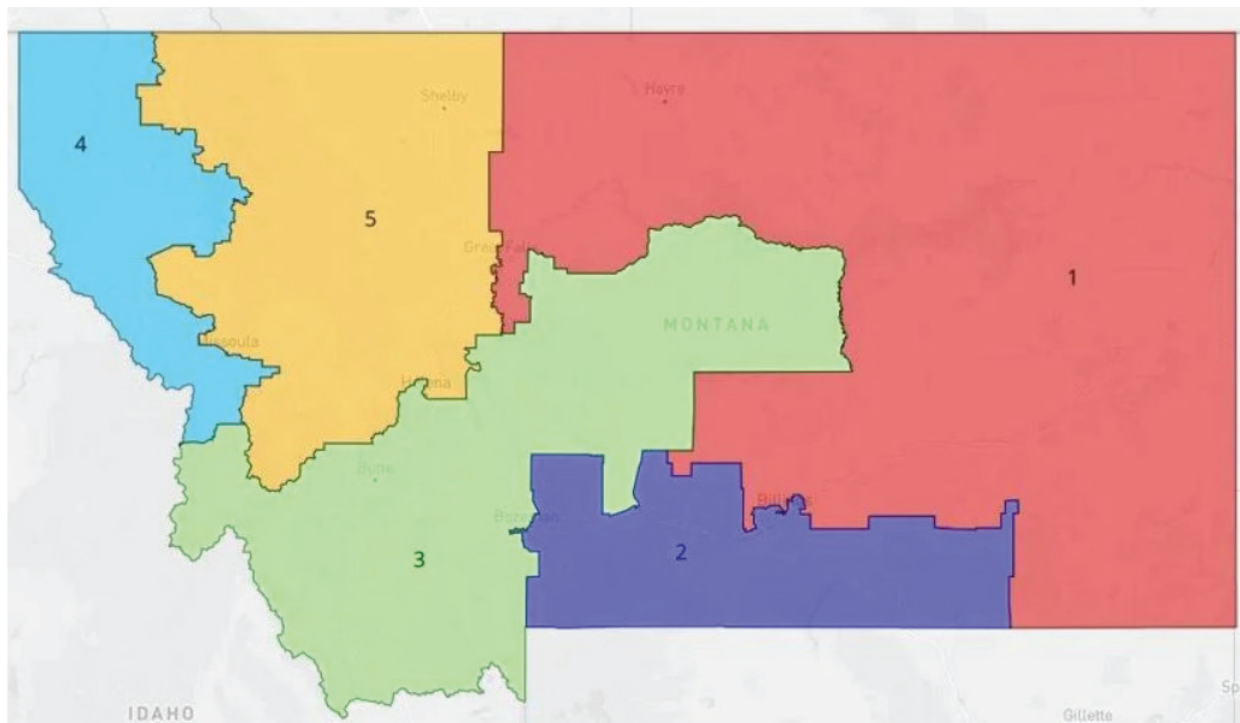
We had great momentum during the first half. Let's keep it up! 🌱

Why do I have to comment on the same bill more than once?

Bills start in one chamber (the House or Senate) and move through a process before a due date called "transmittal." If the bills pass all votes, they are "transmitted" to the second chamber to go through the same process. There are multiple votes on each bill, so you can comment multiple times during the session.



Montana Legislature: Energy Bills Could Burden Consumers



SB 109 would establish new PSC districts and cut every major Montana city into more than one district.

by Ian Lund

Under the copper dome in Helena, utilities and conservative lawmakers are pushing laws that would undermine existing regulations and make it more difficult for cities to pass progressive energy policies. This is bad news for electricity customers and the climate. Here are a few of the bills about which we are most concerned.

Undermining the PSC's Authority

HB 220 (Rep. Josh Kassmier, R-Fort Benton) establishes a special committee to rewrite all energy planning and resource acquisition laws. The committee would be made up of mostly utilities and Republicans, and would recommend changes to the Public Service Commission's (PSC) new resource acquisition rules. The new rules protect consumers and give the PSC more oversight over a regulated utilities' acquisition of new energy generation resources (a.k.a. power plants). Despite strong opposition from NorthWestern Energy, the PSC unanimously approved the new rules in December 2022. HB 220 gives NorthWestern a

platform to replace the rules with ones that are more favorable to the utilities' interests. The bill takes aim at specific provisions designed to protect consumers, such as the competitive solicitation process, which forces utilities to publicly evaluate the cost of various resources to ensure selection of the least cost option. The PSC exists to protect customers from poor decisions by utilities, but HB 220 puts the utility in the driver's seat instead of the PSC.

In 2022, a Montana district court struck down the statute that allowed NorthWestern Energy to seek "pre-approval" from the PSC for new generation resources, on the grounds that it was "special legislation," only benefiting one public utility. HB 284 (Rep. Jerry Schillinger, R-Circle) fixes that by extending pre-approval privilege to Montana-Dakota Utilities. However, this bill does nothing to address the harm that pre-approval can cause to ratepayers. Right now, pre-approved projects commit ratepayer funds to a project that can never be reviewed and denied at a later date or deemed imprudent. Additionally, there are no conditions for when pre-approval can be

granted, meaning the utility can ask for pre-approval of resources before even comparing them to alternatives. Any pre-approval process should include a competitive solicitation process so the PSC can verify that the utility is getting the best possible deal for customers.

NorthWestern Energy is also deputizing legislators to attack rooftop solar net-metering rates. **HB 643 (Rep. Josh Kassmier, R-Fort Benton)** was its first attempt: It would have forced the PSC to create new rates for rooftop solar generators without taking into account the benefits of distributed solar for the grid. The House Energy Committee killed that bill, but now the same legislator is bringing another bill that does the same thing: decimating the compensation rate for the energy rooftop solar generators provide to the grid. At the time of this writing, the bill has not been assigned a number.

HB 170 (Rep. Steve Gunderson, R-Libby) repeals Montana's state energy policy, a policy that has stood for 30 years and works to promote energy efficiency, conservation, production, and consumption of energy sources that represent the lowest costs and the greatest long-term benefits to Montana citizens. It makes no sense to repeal a sound principle when it could be improved to mitigate the worst impacts of the climate crisis and ease the transition to a clean energy economy. Rather than repealing this policy, it should be improved by amending it to: include support for a transition away from reliance on fossil fuels to a clean energy economy; make better use of Montana's existing transmission capacity; and establish plans for a just transition for fossil fuel dependent-communities and workers.

Finally, **SB 109 (Sen. Keith Regier, R-Kalispell)** gerrymanders the PSC districts to all but ensure Republican control of the Commission. **MEIC** supported the bill as introduced because the previous districts were unconstitutional, but amendments were added to gerrymander the districts and split every major Montana city into at least two different districts. Last fall, a court found the PSC districts were lopsided and thereby unconstitutional for failing to provide people with adequate representation. The Secretary of State and the court established new districts for the elections during Fall 2022. SB 109 was introduced

to adopt that district map but was then amended to create gerrymandered districts. These gerrymandered districts will likely violate the requirement for compact districts.

Prohibiting Local Regulation

In line with the theme of the session, **SB 228 (Sen. Jason Small, R-Busby)** attacks local control by preventing local governments from prohibiting the purchase or use of any petroleum-derived fuels: methane, oil, propane, gasoline, and diesel fuel. It also restricts local governments from limiting the use of vehicles, vessels, tools, appliances, or equipment that burn or transport petroleum fuels. As a result, local governments would be unable to regulate various activities involving petroleum, such as storage tanks, power plants, gas stations, semi trucks, and cars. This bill is written so broadly that it may even prohibit local governments from limiting gasoline or diesel vehicles, regardless of where they are driven or how fast.

Cities and counties around the country are limiting new methane gas hookups as a means to protect public health and safety, and decrease methane pollution. **SB 208 (Sen. Jason Small, R-Busby)** preempts any attempt by a local government to ban or limit the use of methane gas in Montana. SB 208 would prohibit the Department of Labor and Industry (MDLI), which writes the state building code, from writing any building codes that leave flexibility to cities to limit or prohibit the use of energy resources, and the bill denies local governments the power to obstruct the connection of fossil fuel infrastructure. In other words, it prevents cities and counties from taking meaningful action to protect public health and safety, and limit greenhouse gas emissions. Methane emissions from gas appliances have been shown to be harmful to the environment, health, and climate; local governments should have the ability to address these concerns as they deem necessary.

Lastly, **HB 241 (Rep. Josh Kassmier, R-Fort Benton)** would prevent local governments from requiring that new homes be designed to accommodate rooftop solar and electric vehicle (EV) charging.

story continues on pg. 23

Montana Legislature: A Race to the Bottom on Coal, Water Regulations



The Rosebud Mine north of Billings.

by Derf Johnson

While the coal industry is in a long-term structural decline both in the United States and here in Montana, due in large part to its replacement by far cleaner, more efficient, and more affordable energy sources, a majority of the Montana Legislature is still beholden to the coal industry and apparently willing to sacrifice water, air quality, and our climate for short-term industry profits. There's no doubt that coal has been a backbone energy industry for a long time and has provided well-paying union jobs and energy for Montana. But the energy system in Montana and the United States is rapidly changing, and it would behoove the Legislature to plan for an orderly transition to clean energy and not let coal mining companies pollute our rivers and streams on their way out the door.

This context makes the legislature's current reforms of coal mining a bit perplexing. There's not another way to put it: the coal mining bills that are still "alive" would weaken environmental standards and public accountability for the coal mining industry. If they pass (as written), the ability for coal mining companies to ignore environmental safeguards and trash sensitive eastern Montana prairie streams — all while avoiding accountability for doing so from the public — would be

greatly expanded. Four bills in particular are incredibly troublesome and will be discussed in more detail below.

Interestingly enough, while these bills propose to slash regulations, they would not actually become effective law without the consent of the federal government. This is because Congress has vested most of the power of coal and clean water regulations with the Office of Surface Mining (OSM) and the Environmental Protection Agency (EPA), and any state that carries out the law on behalf of the federal government, and that significantly changes aspects of its program, must submit those changes to EPA and OSM for final approval. The feds cannot approve any changes that go below federal standards or otherwise conflict with federal laws, such as the Clean Water Act and the Surface Mining Control and Reclamation Act. And so the Montana Legislature is now in an audacious game of chicken with the federal government in proposing to weaken Montana's laws right up to the federal baseline, or even below it.

The most problematic legislation is **HB 576 (Rep. Rhonda Knudsen, R-Culbertson)**, which changes the way in which mines are allowed to pollute water resources outside of their permit boundaries, known as "material damage." There is a strict prohibition on coal mines causing material damage to the hydrologic system. Under current law, one of the ways to

determine whether mines are causing material damage is to assess whether water quality standards are being violated from the mine's operations. This is a very clear, easily enforceable definition of material damage, as it is a numeric assessment of water quality impacts. HB 576 would remove violation of water quality standards from the definition of material damage, injecting uncertainty and subjectivity into making material damage assessments and ostensibly allowing for coal mines to pollute in excess of water quality standards. The bill is also retroactive and would apply to all previously-issued coal mining permits that are currently under review by a judge or hearing examiner but have not had a final decision. Needless to say, this is an attempt to undermine a number of ongoing legal actions.

Two proposed bills attempt to undercut the ability for citizens to participate in coal mine and water pollution permitting processes. The first, **SB 392 (Sen. Steve Fitzpatrick, R-Great Falls)** attempts to eliminate the ability for citizens and organizations to go to court in order to prevent or eliminate environmental harms from coal mining. The bill would radically change the way attorneys' fees are assessed by prohibiting a judge from considering the "identity" of a party, meaning that the court cannot distinguish between a corporation, individual, non-profit, government entity, etc., in the assessment of whether fees are appropriate. The language of this bill would make individuals and non-profits potentially responsible for paying the attorneys' fees and expert costs of large corporations and government agencies, which could cost millions of dollars and ultimately make it riskier to go to court to correct an environmental harm.

Next, **HB 561 (Rep. Marty Malone, R-Pray)** attempts to reduce public input and accountability in water pollution permitting (for all discharge permits, not just coal mines) by reducing the time period for public comments and requiring that appeals of permits go first to the Montana Board of Environmental Review (rather than district court), which has lately proven to be a cumbersome and time-consuming process that can take years for a final decision.

Finally, **HB 656 (Rep. Gary Parry, R-Colstrip)** would allow for most coal mine expansions that are under 320 acres to be classified as a "minor amendment" to an existing permit. Minor amendments receive very limited scrutiny and analysis by the Montana Department of Environmental Quality and do not require public notice or comment. Minor amendments are normally reserved for administrative changes or minor changes to the mine plan that do not increase the mine area. Typically, an actual expansion of the mine area would have to go through a "major amendment" process, which includes an analysis of the hydrologic and other environmental impacts, and a requirement that the public be notified and given the opportunity to comment.

The second half of the legislative session will determine which of these bills ultimately make it all the way to Gov. Greg Gianforte's desk. It's likely that at least one, if not all, will be signed into law. As mentioned, the one saving grace is that major portions of these bills will not effectively become law until the federal government approves the changes. For now, we highly encourage our members and supporters to engage in the second half of the session and try to stop these rollbacks on coal mining safeguards. 🌿



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Sustainable Communities in the Legislative Limelight

by Ann Schwend

With affordable housing at the top of everyone's minds, subdivision review, zoning, and tax rebates were some of the first bills out of the chute at the beginning of the whirlwind 2023 Legislative Session. Bills to "cut red tape," skip government review and public involvement, increase density, or reduce taxes have been primary themes so far. Here are the good, the bad, and the ugly land use and community-related bills for the first half of the session.

Subdivision Review

Potentially the most significant and positive bill of the past several sessions dealing with land use and sustainable communities is **SB 382 (Sen. Forrest Mandeville, R-Columbus)**, the Land Use Planning Act. This bill is the result of several years of collaboration led by the Montana League of Cities and Towns. It is a complete rewrite of the process for developing comprehensive growth and planning policies. The legislation would create a robust public participation process during the development phase and is based on extensive data on impacts to natural resources, potential hazards, population projections, and future housing needs.

The comprehensive plan will identify the type of growth and appropriate locations that the community envisions, then enact subdivision and zoning policies that will help guide and direct future growth. This proactive approach is a widely accepted, best-practice form of planning in other states and is a much-needed change to Montana's current planning methods. This model will be required for the fastest-growing communities in the state (cities with a population of over 5,000 residents and located in a county with over 70,000), while smaller municipalities and counties can opt-in to this new planning method. SB 382 passed the Senate with overwhelming support and is now headed to the House.

Landing at the top of the list of bad bills this session is **SB 152 (Sen. Forest Mandeville, R-Columbus)**. This bill would result in more sprawl because it would set a new trigger date to determine whether a subdivision is a major, subsequent minor, or minor subdivision. The bill changes the trigger date from 1973 to 2003 to determine the level of review required for new developments. All minor subdivisions in that 30-year timespan are now eligible to be split further into another five lots without an environmental assessment or a public hearing, among other things. Also high on the list of bad bills is **SB 158 (Sen. Jason Ellsworth, R-Hamilton)**, which would allow developers to evade the subdivision review process by allowing lots to be split through the much-abused family transfer exemption if the lots are five acres or larger in existing subdivisions, exempting these parcels from the standard subdivision review process. This will likely result in piecemeal development in existing subdivisions that avoid environmental and public review.

Another problematic bill, **HB 211 (Rep. Larry Brewster, R-Billings)**, would allow local governments to allow developers to present new information at a public hearing on a subdivision and on which the public has never had an opportunity to review or comment, without requiring a new opportunity for the public to review and provide input on the new information. This bill infringes on the public's right to know and participate by reducing when subsequent hearings would potentially be required.

Unfortunately, SB 152, SB 158, and HB 211 have been transmitted to the House.

The lead contender in the "ugly" category is **SB 240 (Sen. Jason Small, R-Busby)**, which would exempt certain subdivisions from having to undergo environmental review entirely. While SB 240 has passed the Senate and has been transmitted, most of the worst bills related to environmental and sanitation review in the subdivision process have thankfully been tabled.

Finally the "worst makeover" award goes to **SB**

379 (Sen. Steve Fitzpatrick, R-Great Falls), which debuted as a bill prohibiting counties from zoning for minimum lot sizes. While this idea was initially tabled in committee, it was subsequently resurrected. The minimum lot size changes were stripped from the bill, and a collection of municipal zoning bills that target increased density as well as broadening the family transfer exemption were amended into the bill in the frantic moments before transmittal. Thankfully, the terrible section expanding the family transfer exemption was amended out of the bill before it was transmitted. This exercise proves once again that we can never be certain how or when a bill could be amended.

Affordable Housing

Several early ideas tried to address the affordable, attainable, or workforce housing conundrum, especially through property tax or income tax relief for homeowners: **HB 318 (Rep. SJ Howell D-Missoula)**, **HB 370 (Rep. Dave Fern, D-Whitefish)**, and **HB 416 (Rep. Jim Hamilton, D-Bozeman)**. Unfortunately, these were all tabled in committee.

SB 15 (Sen. Shannon O'Brien, D-Missoula)

would have provided some much-needed assistance for low-to-moderate income homeowners and renters, but sadly did not make it across the transmittal line. Rep. George Nikolakakos (R-Great Falls) proposed a pair of bills to increase public notice and rights for mobile home park tenants (**HB 428 & HB 429**) to create resident-owned cooperatives for mobile home parks, but neither of these bills made it out of committee.

The good news is that **HB 246 (Rep. Scot Kerns, R-Great Falls)** passed the House. It would define and codify “tiny dwelling units” so that they won’t be discriminated against in municipal zoning. **HB 546 (Rep. Dave Fern, D-Whitefish)** also has some momentum, which is good because the bill provides more funding for the Coal Trust Fund Multifamily Homes Program. **HB 574 (Rep. Kim Abbott, D-Missoula)** would put \$500 million into a Workforce Housing Trust Fund and will hopefully be supported by both sides of the aisle. There are several other funding bills waiting in the wings, and we are looking forward to the second half of the session and additional bills to provide much-needed funding for affordable housing opportunities. 🌱



Better built cities will be more dense, less demanding of water resources, and help combat the climate crisis. Graphic via Farmland Information Center.

Montana Legislature: How Water Policy Loopholes Drive Sprawl

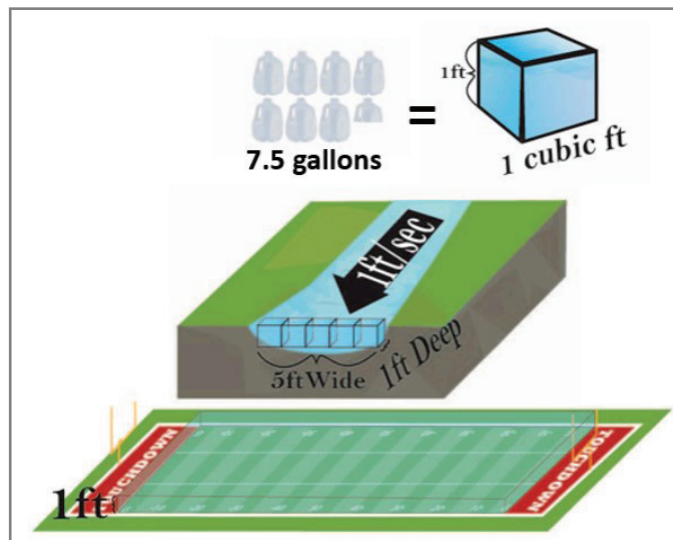
by Ann Schwend

Water and land use are inextricably linked, and where we build matters, especially for our water future. In many cases, water is, or should be, the limiting factor on whether a development is appropriate in arid, dry, and water-constrained Montana. Water “rights” create a complex tapestry of regulation and control. And like in a tapestry, loopholes can have devastating effects on water quantity, water quality, and the battle against sprawl.

Current Montana water laws are complicit in driving subdivision sprawl, especially just outside of fast-growing cities. Exempt wells – or those water uses that are “exempt” from the traditional permitting process – were originally intended to provide small amounts of domestic and livestock water where public water systems are not available. The intent was to have a simplified process to provide small amounts of water without a complex and cumulative analysis of potential impacts to other water users, which seems appropriate in very rural areas. Unfortunately, this simplified process has created a loophole that is now commonly used for subdivision development and having a profound effect on open spaces, water resources, and sprawl.

In many parts of Montana, we already recognize that there is not enough water to meet current legal demands, so the state has “closed” many areas to permitting new surface water rights. Since Montana water law also recognizes that surface water and groundwater are connected, the surface water closures make it extremely difficult to get a new groundwater (well) permit in an administratively-closed basin. Thus, new developments face many challenges to getting a water right if they want to build a public water system for a subdivision outside of a municipal area. This means the default mechanism is to rely on exempt wells for household and landscaping water supplies.

However, there are many problems with using exempt wells to supply water for subdivisions. Since these wells are exempt from the detailed level of



There are 7.5 gallons in a cubic foot. A ditch five feet wide and one foot deep, flowing at a speed of one foot/second, has a flow of five cubic feet/second (CFS). A flow of five CFS will fill a volume of one acre-foot in 2.5 hours. An acre-foot is about a football field covered one foot deep. Image via MSU Extension.

environmental analysis that a typical water permit application requires, it is difficult to measure the cumulative impacts on surrounding water supplies. An individual homeowner can simply drill a well and then file a simple notice with the Department of Natural Resources and Conservation (DNRC). DNRC reviews the application and issues a certificate defining the rate and volume allowable for that well, which cannot be greater than 35 gallons/minute and not more than 10 “acre-feet” per year. This is a lot of water: 10 acres of water at one foot in depth. However, most of the time, there are no requirements for the homeowner to measure or report on actual usage, so the individual and cumulative impacts are difficult to ascertain.

In many cases, the exempt well provision is the leading cause of sprawl in Montana’s fastest growing areas. If a development is located in a closed basin and the developer cannot acquire an existing water right or hook into an existing public water system, they default to using the exempt well provision. Some developers are willing to drill the wells for each of the lots before selling them, but they are not required to do so, and

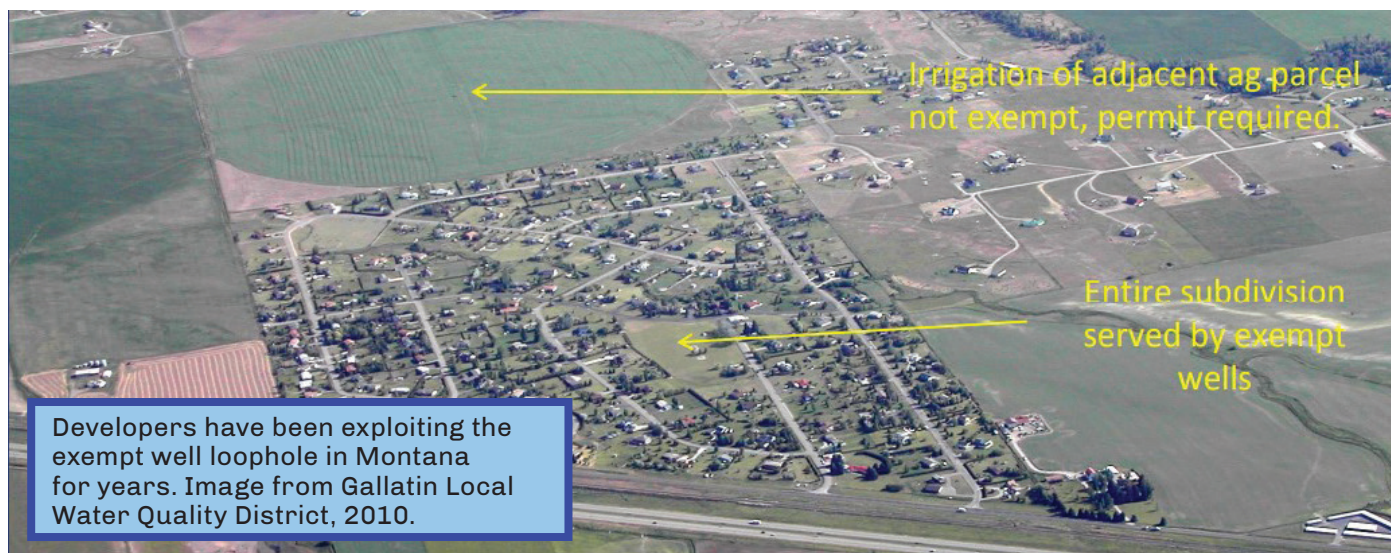
many don't. Some developers might drill one well and then put in the infrastructure to deliver water to each of the lots (as proposed in **HB 435, Rep John Fitzpatrick, R-Anaconda**). Or the developer can pass the expense (and confusion) onto the new unsuspecting lot owners to independently drill their own wells. In each of these situations, the total amount of water allowed for the proposed subdivision is 10 acre-feet, regardless of how many individual wells are installed.

In the situation above, the cumulative amount of water for the subdivision is defined under current rules as a "combined appropriation," meaning that all of the wells in the subdivision are presumed to be pumping from the same aquifer. This definition was reinstated following a lawsuit in 2014 with the intent of protecting existing water users and tightening the exempt well usage. While the definition closes the loophole to some extent, when reviewing a subdivision application, DNRC can only determine the legal availability of water for that specific project area, without due consideration of the impacts to surrounding water users. **HB 642 (Rep. Casey Knudsen, R-Malta)** seeks to nullify the combined appropriation language and expand the amount of water that could be used by exempt wells in subdivisions. It would also be retroactive and allow users to modify their pre-2014 applications, further complicating an already messy and unmitigated issue. **MEIC** opposes this bill.

Using exempt wells to provide water for rapidly expanding subdivisions creates multiple problems. As with any exemption, these wells should be the

exception, not the default. The individual wells are a key factor in encouraging sprawl. If each lot is using an individual well, they also often have their own septic tank and drain fields as well. The Montana Department of Environmental Quality has minimum separation requirements between those systems on the homeowner's lot, as well as setbacks from neighboring properties. These setbacks require at least one acre per lot, which increases the amount of land needed for each individual home and water/wastewater system. Multiple septic systems also increase the potential for contaminating shallow groundwater and areas where local wells may be pumping water. But the biggest concern is that these individual wells and septic systems are requiring more land than most homeowners can practically manage, and spread the development over much larger areas. Sprawl by definition.

As the demand for more homes increases and more people opt to live in rural subdivisions, do communities really want to consume large swaths of valuable agricultural land and open space, while also increasing the reliance on vehicles? Or should communities invest in their collective future, minimize footprint, and find ways to accommodate more people within existing urban areas, where sustainable neighborhoods can thrive? Let's rethink existing spaces, shore up public infrastructure, and provide adequate and well-monitored public water and wastewater systems. Let's reduce the loopholes for water use in developments that encourage sprawl across the landscape. 🌿



Showing Up for Our Environment



by Katy Spence

With Montana moving to a more hybrid legislative session this year came the return of an **MEIC** favorite: in-person events. **MEIC** has attended, promoted, and hosted a number of events this session, including Conservation Lobby Days, Legislative Roadshows, online events with a host of organizations, and rallies, rallies, rallies.

Here are some highlights of our busy legislative event season.

Rallies

'Tis the season for rallies! **MEIC** has participated in several rallies this session. Hundreds gathered at the Climate Advocacy Rally on Jan. 20 to urge legislators to keep the climate in mind as they considered legislation. **MEIC**'s Anne Hedges urged attendees to emphasize the need for action now, as we're running out of time to take meaningful climate action. A special shoutout to Families for a Livable Climate for organizing this great event with a wide range of inspiring Native American speakers and young people.

Feb. 1's We Love Our Montana Constitution Rally gathered people from around the state to tell our legislators: No changes to our Montana Constitution! A non-partisan lineup emphasized broad support for our Constitution, and the event ended with a cheeky

song to stick in legislators' heads. Thanks to Northern Plains Resource Council for taking the lead to organize this bipartisan event.

The Public Lands Rally on Feb. 23 was a chilly but always meaningful gathering, featuring a diversity of speakers and a crowd of outdoor enthusiasts. These are some of our most staunch supporters when it comes to environmental work, as clean air and clean water are the foundation of a healthy outdoors.

Our latest rally was the March 15 Rally to Defend Montana's Constitution. **MEIC** worked with a huge group of organizations that span issue areas and expertise to make this event a success. This rally focused on threatened Constitutional rights, such as a Fair and Impartial, Free and Open Elections, Right to a Clean and Healthful Environment, and Right to Privacy. Thanks to our partners for helping to make the day a huge success.



Conservation Lobby Days

One of **MEIC** staff's favorite events is Conservation Lobby Day, where members come to Helena to work with conservation organizations to learn more deeply about issues they care about before being set loose in the Capitol to engage with legislators.

This year, we worked with Montana Audubon, Montana Conservation Voters, Montana Renewable Energy Association, and Northern Plains Resource Council to cover a wide swath of conservation issues over three events.

Legislative Roadshows

If you can't come to Helena, we'll try to come to you! This session, we visited six communities around the state to meet our members in person and talk about what we're seeing in the Capitol and how they can help. Seeing our members in person is inspiring for us and helps remind us why we do what we do.

Online Events

Each week, **MEIC** has hosted our Weekly Legislative Update, and each week, we're impressed



MEIC staff and board enjoyed meeting new folks at our Kalispell Legislative Roadshow. Photo by Renata Harrison.

and buoyed by our members' attention and thoughtful questions. This regular touchpoint is vital to ensure we're all working together to influence legislation and stop the bad bills while supporting the good ones. We're often joined by folks from our partner organizations, such as Montana Audubon and Forward Montana. We'll continue to meet on Thursdays until the end of the session, and it's never too late to join. We'll be glad to see you. 🌿



Mica is one of 16 youth plaintiffs in *Held v. Montana* and spoke at the Rally to Defend Montana's Constitution. Photo by Katy Spence.

Solutions to Persistent Plastic Pollution Tabled

by Matthew Passini

Single-use plastic items come in many forms. People are probably most familiar with plastic bags from the grocery store, “Styrofoam” to-go containers for food and drink from restaurants, and (my most hated) brittle plastic utensils, often wrapped in plastic, that accompany takeout meals.

These disposable plastic items are toxic to produce and can be toxic to living things. Single-use plastics are made out of petroleum products and are just about impossible to recycle. Plastic never biodegrades; it just breaks down into smaller plastic particles becoming the modern nuisance called “microplastics.” Recently, plastic pollution has been found in the deepest part of the ocean, the most remote land on earth, and even inside the tissues of living things.

Two progressive Representatives sponsored bills to help remedy the plastic pollution problem in Montana. Rep. Ed Stafman (D-Bozeman) introduced **HB 413** which would have repealed a law passed by the 2021 Montana Legislature, HB 407. This 2021 bill originated from the American Legislative Exchange Council (ALEC) – a nonprofit, ultra-conservative group dedicated to writing and sharing template legislation throughout the country – and prohibited



local governments from limiting or banning auxiliary containers such as plastic bags, to-go boxes, gas station cups, etc. Unfortunately, Rep. Stafman’s 2023 bill failed in the House Local Government committee.

Rep. Marilyn Marler (D-Missoula) brought **HB 638** into the House Natural Resources committee to phase out the use of polystyrene foam containers (i.e. “Styrofoam” to-go boxes) on a state-wide level. Just like Rep. Stafman’s bill, the testimony on HB 638 featured more proponents than opponents. However, Rep. Marler’s bill also failed to make it out of committee.

The science is clear. Plastic items have only been widely used for about 50 years, but they wreak havoc on public health and the environment. When legislators stick their heads in the sand with regards to plastic pollution, people will suffer as they find themselves surrounded by toxic bits of plastic and Styrofoam. **MEIC** will continue working with other committed individuals and groups across the state to fulfill everyone’s fundamental right to “a clean and healthful environment.” 🌿

EPA reinstates mercury rule for power plants

by Anne Hedges

The Trump Administration took office and immediately set about undoing public health protections from coal-fired power plants. Despite the fact that coal plants had been complying with limits on mercury emission or nearly a decade, the Trump Administration overturned a previous Environmental Protection Agency (EPA) finding that it was “appropriate and necessary” to limit such emissions. This eliminated the foundation of the rule which had allowed EPA to regulate mercury and toxic air pollution from the largest industrial source of mercury pollution in the nation: coal-fired power

plants.

In February, Pres. Joe Biden’s EPA again affirmed that it is necessary and appropriate to regulate mercury from power plants. While this step is important, it is only one step towards what needs to be done. The existing mercury regulations need to be strengthened in order to protect people and ecosystems from the toxic impact of mercury. EPA is expected to release a new proposed rule any day, and we are hopeful that this administration will close some of the loopholes in the law and strengthen the standard. When the proposed rule drops, we will be asking you to submit comments to help advocate for clean air. 🌿

Another Mining Company Files for Bankruptcy Protection

by Derf Johnson

In Montana, it's a tale as old as time. A mining company gets a permit for a mine, exploits the land for several years, upstreams their valuable assets to a parent company, declares bankruptcy, and avoids the full costs of reclamation. Wash, rinse, repeat. Our history is replete with examples of these types of operations, littered across all four corners of the state. In listening to regulators and elected officials, one would think that our



Montana Tunnels is located south of Helena near Jefferson City. Photo via MTPR.

reclamation laws are adequate and protective, and that the historical examples are of a bygone era and can no longer occur. But the proof is in the pudding, and the pudding is poisoned.

Late last year, Montana Tunnels filed for Chapter 11 bankruptcy protection. The mine, located in Jefferson County just south of Helena, produced gold, silver, zinc, and lead in its heyday, but has not operated since 2008. Over the past several years, it became apparent that the reclamation activities at the mine had all but stalled and that the site was falling into disrepair. Clancy Creek, formally an excellent fishery, is now required to flow through a ¼ mile long plastic pipe in order to avoid being captured by the open pit, the highwall of which is now cracking, sluffing, and going to fail.

The unwinding stability at the Montana Tunnels site could have been avoided with adequate regulations, more frequent inspections, and an adequate bond. None of these happened. The Montana Department Environmental Quality (DEQ) estimated the full costs associated with the site to be at least \$36.5 million. However, the current bond held by DEQ amounts to only \$19.7 million, leaving a \$17 million shortfall of required reclamation funds. Montana Tunnels' bankruptcy filing raises serious doubts about whether

the company will ever be held responsible for the additional costs associated with reclamation at the site.

One would think that, with yet another round of history repeating itself, regulators and policymakers would be proactive about addressing what actually went wrong at Montana Tunnels. Unfortunately, the Montana Legislature, the primary entity responsible for the mess in the first place, doesn't see a problem here. There are not currently any legislative proposals to beef up or otherwise improve hardrock mine bonding requirements at Montana's mines. In fact, in legislative sessions over the past decade, there have been proposals to improve Montana's reclamation bonding laws, but all of them have failed by the request of industry (and in some cases, DEQ).

Reclamation after mining is the cost of doing business in this state. Our Constitution also clearly requires that all lands disturbed by natural resources extraction be reclaimed. Sadly, this promise in our Constitution has not been kept. Hopefully, this is the last time **MEIC** will ever have to write about another mine with underfunded reclamation responsibilities that declares bankruptcy. Sadly, that is unlikely to be the case, and the state's current "path" all but assures it. 🐦

NorthWestern Energy Can't Stop Moving Backwards

by Ian Lund

As Montana's largest utility, NorthWestern Energy is responsible for providing reliable and affordable electricity to its customers, but once again, its recent antics around its Integrated Resource Plan (IRP) show that the utility is not operating in good faith, is thinking of customers as an ATM machine for its investors, and does not plan to enter the modern energy age for decades.

Every three years, NorthWestern Energy is supposed to file an IRP that outlines the utility's plan to provide affordable electricity to meet customers' energy needs for the next 20 years. NorthWestern typically hires a consulting group to model various scenarios – including resource acquisitions and retirements – to come up with potential resource combinations that would keep the lights on at the “least cost” to consumers. Historically, this utility has manipulated the modeling process to predetermine outcomes favorable to its own bottom line, generating profit for shareholders instead of prioritizing the best interests of its customers and the environment. This year is no different.

NorthWestern submitted a draft IRP in 2022 for stakeholders like **MEIC** to review and offer feedback. Our comments urged NorthWestern to amend its IRP to factor in reduced costs of renewable and storage technologies covered by the Inflation Reduction Act, reflect the increased costs of pipelines for methane gas plants, and address other model manipulations.

Ostensibly in response to stakeholder feedback, NorthWestern announced in December that it would delay filing its IRP until March 31, 2023. However, it quickly became clear that NorthWestern was buying time because it was closing a deal behind the scenes to double its share in the Colstrip coal-fired power plant. NorthWestern is inserting the new Colstrip plant capacity into its IRP as a “core assumption,” meaning it is not modeling how the new Colstrip addition compares to other more modern resources such as energy efficiency, demand response, renewable energy, renewables plus storage, standalone storage, methane

CLEAN UP NorthWestern Energy

gas, and small modular nuclear reactors. Instead of the Colstrip plant being transparently compared to these other resources on a cost-per-megawatt basis, NorthWestern just inserts the costs of the Colstrip plant in the rate base, ignoring the full costs of the acquisition to ratepayers (see article on pg. 21).

Acquiring a larger share of the Colstrip plant is crazy for a number of reasons, but most relevant to the IRP is simply a question of cost: a recent study from Energy Innovation showed that every single coal plant except one in the United States could be economically replaced by renewable generation plus storage. NorthWestern's acquisition of a larger share of the Colstrip plant represents a step backwards in the transition to cleaner energy sources.

That's not all NorthWestern changed in its IRP, though. The list of potential resources that NorthWestern presented last month is suspiciously shorter than what it shared in its December IRP. Although it included them in its 2022 draft IRP, NorthWestern excluded “hybrid resources,” i.e. wind or solar paired with an energy storage system, from its February 2023 presentation, meaning that the model cannot select any renewables plus storage systems to recommend as least-cost options to build. This is withholding important information from consumers and regulators, and means that NorthWestern is intentionally excluding information that will help inform future decisions regarding what constitutes the least cost path for customers.

Luckily for Montanans, the public has the *story continues on pg. 23*

NorthWestern Energy Wants More of Colstrip

(hold on to your wallets)

by Anne Hedges

NorthWestern Energy's proposal to permanently increase homeowners' and small businesses' electricity rates by 25% is bad enough. Add to that its proposal to build a \$1 billion methane gas plant outside of Laurel to be paid for by customers over 20 years. Then there is its failure to submit its Integrated Resource Plan to the Public Service Commission (PSC) on time. To top it all off, now NorthWestern is proposing to add even more of an old, expensive, climate-damaging power plant to its portfolio, even as other utilities divest from coal. While the lifeboats are ready and the rats are jumping ship, NorthWestern is working to gouge its customers while it forces them to go down with the ship.

The news that NorthWestern wants to double its ownership share of the coal-fired Colstrip power plant isn't new. It has tried three times in the past to increase its share, and three times it has failed. This time, the company wants to take over the costs and liabilities of Avista Energy's 220-megawatt share of the plant, giving it an interest in Unit 3 (and its liabilities) for the first time. Starting on January 1, 2026, NorthWestern would become the only identified utility in the United States that is increasing its share in coal-fired power. Lucky us [*eyeroll*].

NorthWestern is shouting from the rooftops – and in its monthly bill inserts – that its customers are getting this new share of the plant for free! But we all know that there is no free lunch. NorthWestern is dangling this “free” share of the Colstrip plant in front of politicians and its customers, hoping that no one notices that it is picking your pocket. There's a reason that Avista told its regulators in Idaho that the sooner it exited the plant, the more money it would save customers. What should concern everyone is what NorthWestern is not saying.

NorthWestern is not talking about how much it

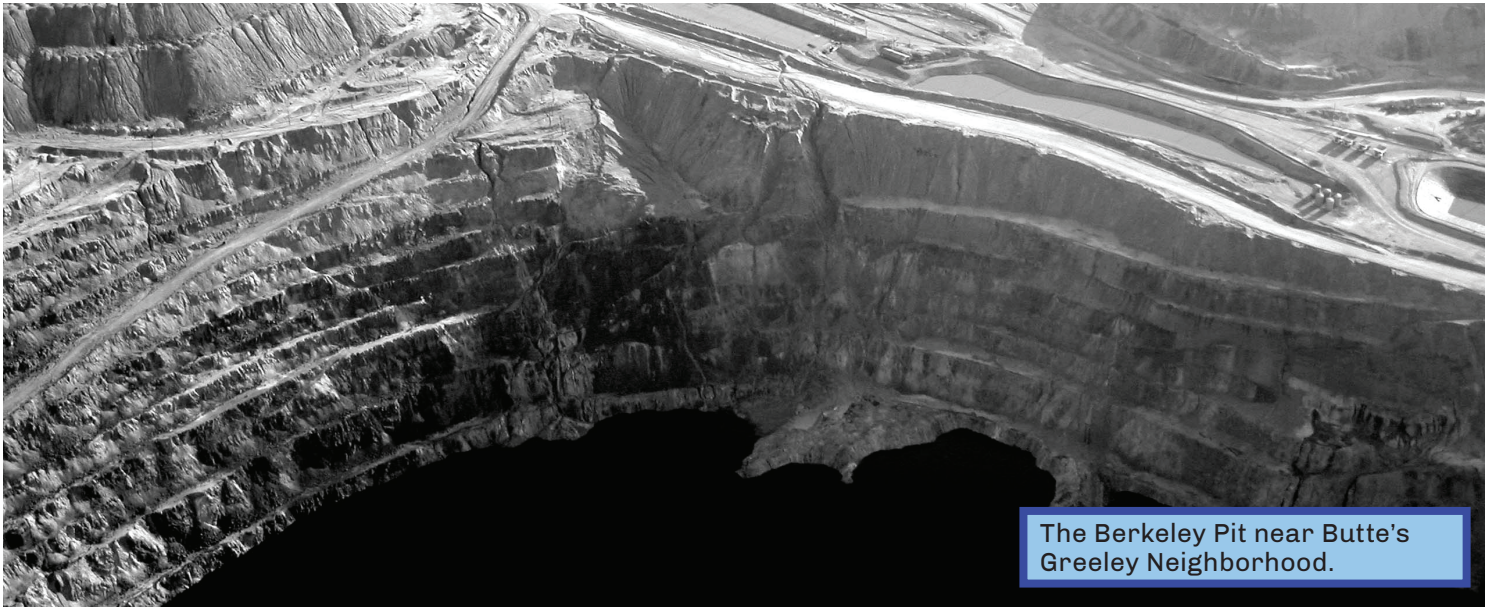
costs to operate and maintain the aging Colstrip plant, nor is it mentioning how much it pays for the coal from the massive and polluting Rosebud mine, a mine that has spent decades extracting the lowest cost, highest value coal. It doesn't want to discuss how the mine has provided the plant with the most expensive coal in the Powder River Basin for decades, and those costs will likely increase again when its coal contract expires at the same time NorthWestern's share doubles.

NorthWestern's recent filings in its ongoing rate case give a small preview of how much it will cost to acquire this “free” share of the plant. The utility already owns 220 megawatts of the plant and is proposing to increase that by the same amount. Estimating the cost of this new share can be done by simply doubling the cost of its existing share. In its current rate case before the PSC, NorthWestern said that it will need \$23 million for operation and maintenance costs, \$10 million for taxes, and \$36 million for coal for its 30% share of the plant, annually. That's \$69 million each year to operate 20th century, polluting technology, and these costs don't even cover remediation of the leaking ash ponds, which will cost hundreds of millions of dollars. NorthWestern may not be responsible for Avista's share of cleaning up the ash ponds (though that remains to be seen), but NorthWestern will be responsible for twice the operation and maintenance costs, twice the coal ash disposal costs, and twice the cleanup costs for all coal disposed of after the date of the transaction.

On top of these costs, there will be capital improvements required at the plant, because old equipment needs to be fixed and replaced. Avista recently told the Washington utility commission that its share of capital improvement projects at the plant would be about \$16 million between 2022 and

story continues on pg. 23

Public Records Request Shines Light on EPA's Misbehavior in Butte



The Berkeley Pit near Butte's Greeley Neighborhood.

by Katy Spence

It's been the talk of the town – in a recent story by Wilson Criscione of InvestigateWest, emails obtained through the Freedom of Information Act reveal a surprising connection between the Environmental Protection Agency (EPA) and Butte's active mining company, Montana Resources.

For more than two years, MEIC has worked with some members in Butte's Greeley neighborhood to get answers about the health implications of living next to a dusty heavy metal mine. A May 2022 presentation to the Butte-Silver Bow Health Study Advisory Committee (HSAC) by an expert hired by MEIC shined a light on faulty assumptions with 2021 air quality research in the area.

The presenter, Dr. Ron Sahu, offered a number of recommendations for moving forward, including that Montana Resources and the local government collect data informed by the active mine's actual activities to better determine its impacts on the community. He also suggested the HSAC set up a steering committee of diverse local stakeholders (or further empower the HSAC) to oversee this research and activity.

In addition, the Greeley Neighborhood Community Development Corporation (GNCDC) sent a letter to the HSAC outlining steps based upon Dr. Sahu's recommendations that could be taken to

begin studying the dust and its potential impact to public health.

Several months passed without a response to the GNCCDC's inquiries and requests.

In February, GNCCDC and MEIC published an op-ed in the Montana Standard. In it, we outlined these recommended steps forward and made an earnest plea to the HSAC and Montana Resources that a solution could be found if we all worked together.

Just a week later, the InvestigateWest story was published in High Country News. Beyond the expected involvement of Montana Resources employees, local academics, and the Greeley residents, EPA was prominently featured in the story for its questionable activities in attempting to discredit active scientific research on potential health impacts in Butte.

EPA's involvement is especially troublesome, being that the agency firmly denies any responsibility for regulating or managing the active mining in Butte. The active copper and molybdenum mine is adjacent to one of the largest Superfund sites in the United States (which EPA does play a lead role in managing) as well as the Greeley neighborhood.

As the story develops, MEIC is dedicated to the people in the Greeley neighborhood and will continue to work with and support them in their efforts to find some accountability and answers about what toxins they may be breathing. 🌿

Energy Bills *(continued from page 9)*

Requiring such designs is a small lift for developers and could save homeowners thousands of dollars in future retrofits for their homes. MDLI passed new state building codes in 2022 that allowed self-governing cities to adopt voluntary city codes including solar-ready construction requirements. They would require new construction in those jurisdictions to design and build homes in such a way that adding solar panels later would be a cheap, convenient, and efficient option for building owners. HB 241 bans the MDLI and cities from adopting solar-ready codes at a time when we need local governments to help create climate solutions.

Taxing Electric Vehicles

The Legislature is still trying to figure out how to tax EVs. **HB 60 (Rep. Denley Loge, R-Saint Regis)** seeks to tax EVs when they are registered annually with a tax that would range between \$130 and \$1,100 for Class 4 vehicles. Passenger vehicles would be taxed \$130/year and electric trucks would pay \$190/year, while heavier vehicles would be taxed even more. EV taxes aren't uncommon, but only nine other states have higher taxes for light duty vehicles, and only five have

higher taxes for trucks. Additionally, Montana already has high registration costs for new vehicles. So, if someone wants to buy the new Ford F-150 Lightning, they would pay a \$217 annual registration fee and the \$190 electric vehicle tax. That's \$407 every year for the first four years of ownership, easily making Montana the most expensive state to own an electric truck.

Rep. Loge was concerned that the registration fees did not go far enough to tax the clean vehicle transition, so he introduced **HB 55**, which taxes EV charging at public stations. The intent is to make out-of-state EV owners pay their "fair share" of the state gas tax. It creates onerous, expensive, and complicated requirements for businesses that offer EV charging services. To enable utilities to charge the 3 cent/kilowatt-hour tax, every business must install a new electric meter specifically for the EV charger. This is especially inconvenient for "legacy" EV chargers, which may need expensive retrofits to comply by 2028. The one silver-lining of the bill is that because Montanans would be double-taxed if they paid the new registration and the charging taxes, the proposed registration tax would be lowered by 30% in 2028. 🌿

Integrated Resource Plan *(continued from page 20)*

opportunity to participate in the decision-making process for NorthWestern's energy future by attending and providing comments at public hearings hosted by the Public Service Commission (PSC). The PSC can identify deficiencies in the IRP and issue feedback

to the utility. By showing up at PSC hearings and highlighting the problems with NorthWestern's IRP, we can help stop NorthWestern from manipulating the process to enrich its executives and shareholders at customers' expense. 🌿

NorthWestern & Colstrip *(continued from page 21)*

2024. Avista was worried that the Washington utility commission would refuse to make customers pay for these investments because they would extend the life of the plant beyond 2025, something that is not allowed under Washington law. It is unclear whether NorthWestern's deal with Avista will require it to pay for Avista's share of these costs prior to NorthWestern's acquisition of this "free" share of the plant.

Paying twice as much to maintain a 40-year-old plant that was projected to operate for 40 years when it was built and is subject to expensive and extensive breakdowns for which customers are required to pay? Doesn't sound free. It sounds like a way to ensure NorthWestern executives keep raking in the cash at customers' expense. 🌿

Environmental Activism Runs in the Family



From left to right: Cesar, Colleen, Shiloh, and Hannah on Hannah's sailboat on Flathead Lake.

by Katy Spence

Hannah Hernandez's favorite place is deep in the Cabinet Mountains: hidden lakes, borne from snowmelt. That is, when her favorite place is not Flathead Lake, where she lives on her sailboat for five months of the year.

"If I had to define a concept of freedom, it's being out on a body of water being propelled by the wind," Hannah said. "You're so immersed in the elements."

Hannah's Montana roots run deep. Her father, Cesar Hernandez, and mother, Colleen Hinds, settled in Heron in 1973. Although they were in a log cabin a ways off the main road, the young people found community with other like-minded folks looking to be closer to nature and work toward its protection.

In those days, Cesar befriended Mike Comola, and they founded Northwest Citizens for Wilderness (NWCW) in 1974 to protect and promote roadless area designation as wilderness. NWCW merged with the Cabinet Resource Group (CRG) in the early '80s. Over the years, Cesar has worked with communities around the state to help form groups to fight ill-advised mining projects, such as the Rock Creek Alliance (RCA). CRG has served as an incubator for other conservation organizations such as the Yaak Valley Forest Council,

RCA, and the Citizens Action Network.

Cesar also met one of **MEIC's** early executive directors, and the two organizations have worked together for decades to fight damaging mining proposals in the Cabinet Mountains.

"Cabinet Resources Group has been involved with **MEIC** for 40 years at least," Cesar said. "When we needed expertise that we didn't have, especially legal issues, **MEIC** was really helpful in providing those contacts and bits and pieces of strategy."

Colleen said Cesar is a fierce advocate for the environment.

"If it's a fight, he's on the front line," Colleen said. "He wrote letters for every lumber sale, for anything."

Colleen said as a former nurse, her activism occurred closer to home. Growing up, she and her sisters formed an outdoor club and called themselves the "Wild Woods Women."

"I had a blessed childhood, to be able to run free in the woods, to build forts, and climb things," Colleen said. "It's getting now that if you want to do that, you have to have money. It shouldn't be like that."

Colleen served as the president of CRG and is now on the board of directors for the organization. Colleen feels in tune with the natural world surrounding the Heron log cabin and wanted to pass that appreciation

on to her kids, Hannah and Shiloh.

“I’m really proud my kids have picked up on that love of nature,” she said. “They got that like baby food when they were young.”

Hannah’s earliest memories are also all about being outside. As a young child, she liked to wander. Colleen would fasten a bell onto the two-year-old so she could keep track of where Hannah would wander next. But she didn’t discourage her children from being outside – far from it.

“My love affair for the outdoors and the mountains was nurtured by mom,” Hannah said. “When we were older, she would take me and my brother hiking all over the Cabinets.”

Hannah said she earned the title of “environmentalist” from her classmates early on, but she didn’t take any guff about it. From a young age, Cesar would take Hannah with him to public comment meetings for timber sales. As the only kid and often the only female in the room, Hannah quickly learned how to talk with people who disagreed with her. Many of her classmates came from mining families, so they naturally butted heads on mining issues. But she learned an important lesson from those conversations.

“There are those who always say, ‘It’s jobs or the environment,’” Hannah said. “I’ve always felt that was such a limiting conversation, and that we could actually find win-win-win situations. But that takes a lot more creativity than ‘business as usual.’”

Like her father, Hannah’s earliest activism was

in the middle of the fight. But as time has gone on, Hannah’s approach has become more relational and draws from philosophies that focus on engaging people and growing their understanding of our relationship with the natural world and our impact on future generations. She said **MEIC** is a strong advocate for ensuring a livable world for future generations.

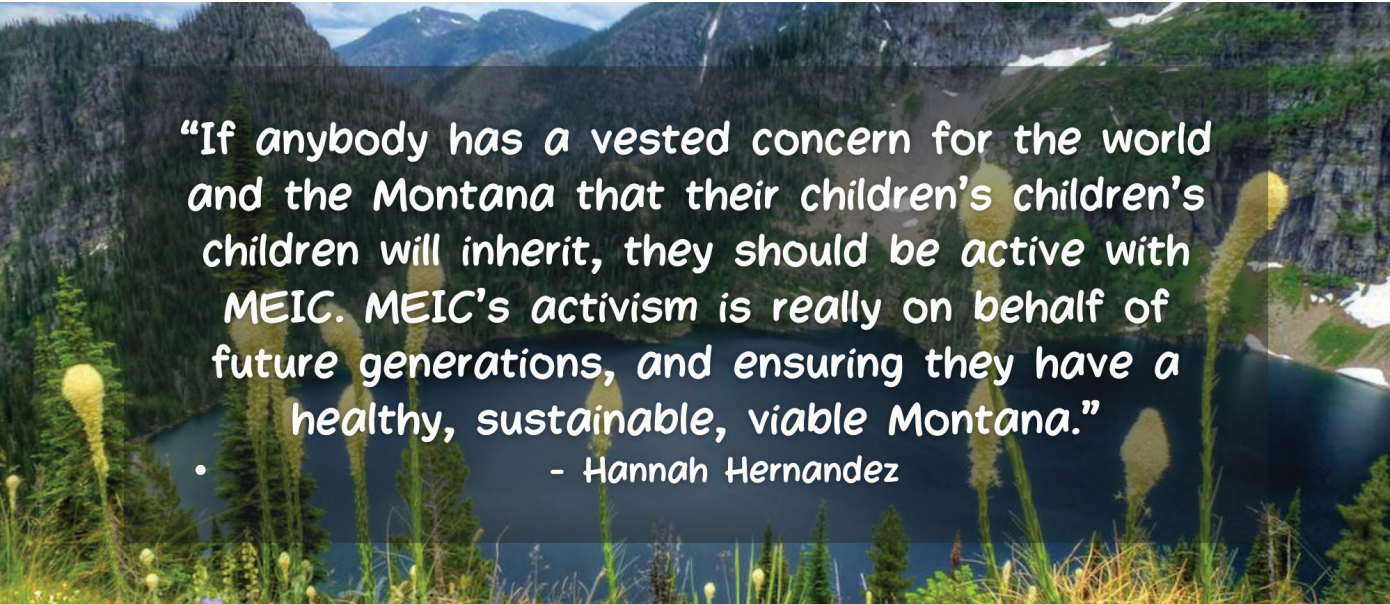
“If anybody has a vested concern for the world and the Montana that their children’s children’s children will inherit, they should be active with **MEIC**,” Hannah said. “**MEIC**’s activism is really on behalf of future generations, and ensuring they have a healthy, sustainable, viable Montana.”

It’s an attitude that runs in the family. Hannah’s brother, Shiloh, is an environmental lawyer who often works closely with **MEIC**, and their half-sister, Taleah, is one of 16 youth plaintiffs in the landmark *Held v Montana* case.

“My kids know how they were raised,” Cesar said. “They benefited from [spending time outdoors] and want to pass it on to their kids.”

When he’s not advocating for Montana’s mountains and waterways or helping guide other organizations doing the same, Cesar is the principle mechanic for Hannah’s sailboat on Flathead Lake.

And though their paths of environmental activism are different, all paths lead back to Flathead Lake during the summers or to hidden alpine lakes in the Cabinets, where the family enjoys pristine pieces of the Montana they’re all working to protect. 🌿



“If anybody has a vested concern for the world and the Montana that their children’s children’s children will inherit, they should be active with **MEIC**. **MEIC**’s activism is really on behalf of future generations, and ensuring they have a healthy, sustainable, viable Montana.”

•
- Hannah Hernandez

MEIC'S 50TH ANNIVERSARY CELEBRATION



We're celebrating 50 years of clean and healthful, and you're invited!

Our celebration will be at the Smith River Creek Ranch in Victor on Sept. 16. Join us in the afternoon for breakout sessions, or come for cocktails, dinner, and dancing in the evening!



Featuring keynote speaker Abigail Dillen, President of Earthjustice

Abigail's work includes a deep history of advocating for a transition from fossil fuels to clean energy, coal retirement, and environmental justice. She and Earthjustice have long been friends to MEIC.

BREAKOUT SESSIONS

While events will earnestly begin in the evening hours, we're planning optional breakout sessions in the afternoon. These will include a place names tour led by the Séliš-Qlispé Culture Committee, a hiking group, a macro photography lesson, and family-friendly crafts and activities. Stay tuned for more information.

LOOKING TO CAMP?

The Bitterroot Valley boasts a number of public and private camping areas.

Here's just a sample:

- Charles Waters Campground
- Black Rabbit RV Park
- Gold Creek Campground
- Blodgett Campground
- Angler's Roost RV and Campground
- HipCamp

We're also gauging interest in on-site camping. Let us know if you'd be interested!

MUSIC BY THE TIMBER RATTLERS



TICKETS GO ON SALE IN MAY!

Our Connections Create the Wins and Weather the Losses

by Cari Kimball

I was recently listening to an interview with Casper Kuile – climate activist and divinity school graduate – who spoke to the importance of connection as a driving force for movement building and change-making. His words reminded me of how energizing it has felt this year to see our members show up for Zoom-based legislative update events and in-person lobbying events and rallies. In particular, our Legislative Roadshow trip to Kalispell and Whitefish was an absolute smorgasbord of connection moments.

The drive from Helena to the Flathead area is one of my favorite cross-state treks. I loved reconnecting, albeit in passing, with some of my family’s favorite summer camping areas (oh hey, Nevada and Monture Creeks!) when they’re blanketed in snow. And a new favorite windshield time treat is what I have lovingly named “Law School with Derf,” wherein Derf generously responds to open-ended prompts to provide riveting environmental policy lessons while driving. On the trip northward, Ian, Derf, and I discussed stream access, checkerboard land ownership, and the connections between environmental issues like sprawl today and the historic land-grabs of yesteryear.

Once in Kalispell, board member Roger Sullivan generously hosted us for lunch with a number of longtime **MEIC** supporters, where we enjoyed ample time to connect and learn from one another. Our evening event gathered several newer **MEIC** community members, including folks who we’d never connected with in-person before. I hadn’t fully realized just how much I’d been hankering for those extended conversations with our people, and the entire trip really filled my cup.

In the interview, Casper reflects on the weight of burnout he experienced in the climate advocacy realm, fueled largely by the sense that he and his colleagues were failing, and I was transported to some of the down moments we’ve had this session: seeing bad bills introduced, working our tails off to stop them, and watching them pass anyway. Like Casper, **MEIC**’s



work for climate action and environmental protection taps into questions of how we build community and how we create lives of meaning, purpose, and justice. The connections we create with ourselves, our people, and our environment provide the scaffolding we need to weather the highs and lows. If we are not resilient in the face of losses, we simply cannot stick with this work for the long haul. And, ultimately, our connected, vibrant community is what makes our wins possible when they do come, despite the tough odds.

Finally, Casper also remarks on the essential ingredient of gratitude in building connection and creating meaning. With that in mind, I want to express my bone-deep gratitude to you, a member of **MEIC**’s community of change-makers, for joining us in our efforts to pass along a Montana worth inheriting to future generations. Because you’re with us, generously supporting us, responding to our calls to action, and sharing our vision with your friends and family members, we are stronger and more durable than ever before. 🌿



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What will your legacy be?

Give a clean and healthful environment to the next generation of Montanans by making a planned gift to MEIC. We'd be honored to help you create the lasting legacy that means the most to you.

Planned Giving is easier than you think:

- ▶ Make a simple gift in your will, also called a bequest. Make a provision in your will that designates a specific dollar amount or percentage of your estate to MEIC, just as you would for a person.
- ▶ List MEIC as a beneficiary on life insurance policies. Policy benefits pass directly to MEIC with no federal estate taxes.
- ▶ Designate MEIC as the beneficiary of the remainder of a retirement or savings account.

Need sample language or have questions?
Contact Cari Kimball at ckimball@meic.org
or 406-443-2520.



**Clean and healthful.
For them. Forever.**