

Down to Earth

NEWS FROM THE MONTANA ENVIRONMENTAL INFORMATION CENTER

Our Legislative Predictions: How Bad Will It Be?



**Arsenic & Dead
Minnows at CHS-
Refinery**

**Nuclear at
Colstrip? Not
So Fast**

**Clean Water
Victory at Lazy
J South**

In This Issue



21 A River Runs Brew It in Missoula

- | | | | |
|----|---|----|---|
| 3 | From a Board Member | 14 | Resource Adequacy & Keeping the Lights On |
| 4 | MEIC's Legislative Preview | 16 | NWE's Faulty Plan for Montana's Energy Future |
| 6 | Sustainable Communities and the Legislature | 18 | Arsenic and Dead Minnows at CHS Refinery |
| 7 | Legislative Involvement Menu | 19 | Clean Water Victory at Lazy J South |
| 8 | Montana Futures Raffle | 20 | Montanore & Rock Creek Mining Update |
| 10 | Victory at Rosebud Coal Mine | 22 | How to Build Sustainable Communities |
| 11 | NWE Rate Case Update | 24 | Opencut at the Legislature |
| 12 | Yellowstone County Methane Gas Plant Suit | 25 | MEIC Who: Deborah Hanson |
| 13 | Nuclear at Colstrip? No Way. | 26 | Meet New MEIC Staff |
| | | 27 | From the Executive Director |

Cover photo:
The Capitol Building in Helena looks quite inviting in summertime.

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

BOARD PRESIDENT:

Kathy Juedeman

BOARD MEMBERS:

Gary Aitken
Bruce Bender
Charles Besancon
Skye Borden
Malcolm Gilbert
Diana Hammer
Madison Hebner
Zuri Moreno
Roger Sullivan
Neal Ullman
Jessie Wiles
Beth Taylor Wilson

MEIC STAFF:

Anne Hedges
Derf Johnson
Cari Kimball
Ian Lund
Matthew Passini
Melissa Nootz
Peyton Olson
Ann Schwend
Katy Spence
Julie Wintersteen

P.O. Box 1184
Helena, MT
59624

P.O. Box 1375
Missoula, MT
59806

406-443-2520
www.meic.org
meic@meic.org

From a Board Member

by Zuri Moreno

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.

You're Invited!

What: 68th Montana Legislative Session

When: Jan 2, 2023 – April 2023

Where: Montana State Capitol Building, Helena, MT

Montana legislators arrive in Helena every two years to spend hours proposing and debating budgets and policies that impact our everyday lives. As of November 2, legislators have submitted almost 1,000 bill drafts. While some of these drafts may not become official bills, it seems likely to be a jam-packed session. But why does this matter to anyone who isn't paid to be in that building?

First, I want to acknowledge that the processes of the legislature can be challenging to follow, and this can be a barrier for those who want to understand and participate in the Legislative Session. The convoluted processes can cloud the importance of community participation. But don't be dissuaded just yet.

The process of passing policy at the legislature and the decisions and actions of legislators absolutely must be under public scrutiny. I've seen how easy it is for many elected officials to feel isolated from their constituents once they enter a fast-paced legislative session, but we must not let them forget who they are there to represent – us. As long as we have our democratic process of electing individuals, it is our responsibility to remind legislators of the issues that we each care about and why.

Across Montana, especially in rural and low-income communities, we face worker shortages in healthcare and K-12 education and less access to clean energy. The housing crisis and high inflation are at the top of everyone's minds. These issues are interconnected, and they are a result of the policies that previous Montana legislatures passed or blocked, ultimately deciding how our state funds were invested in infrastructure and services across our communities.

This upcoming session will include policies that impact housing, clean energy, access to clean air and water, and how we address climate change. None of these should be partisan issues. By sharing our lived experiences and personal expertise on these critical topics, we can begin to shift access and affordability across Montana.

This is the third session in which I will be advocating for policies that support and advance human rights and social safety net services across Montana. One of the most impactful actions I have seen in swaying the outcome of a bill is high levels of community engagement.

Our collective role in the process of policy change is at the front, loud and unapologetically engaged. We are the experts in our lives and the challenges we face in our communities. We must communicate to our elected officials in Helena that the time is now for collaboration in creating policies that put our communities first, prioritize the health of our environment over profit, and invest in Montana's future.

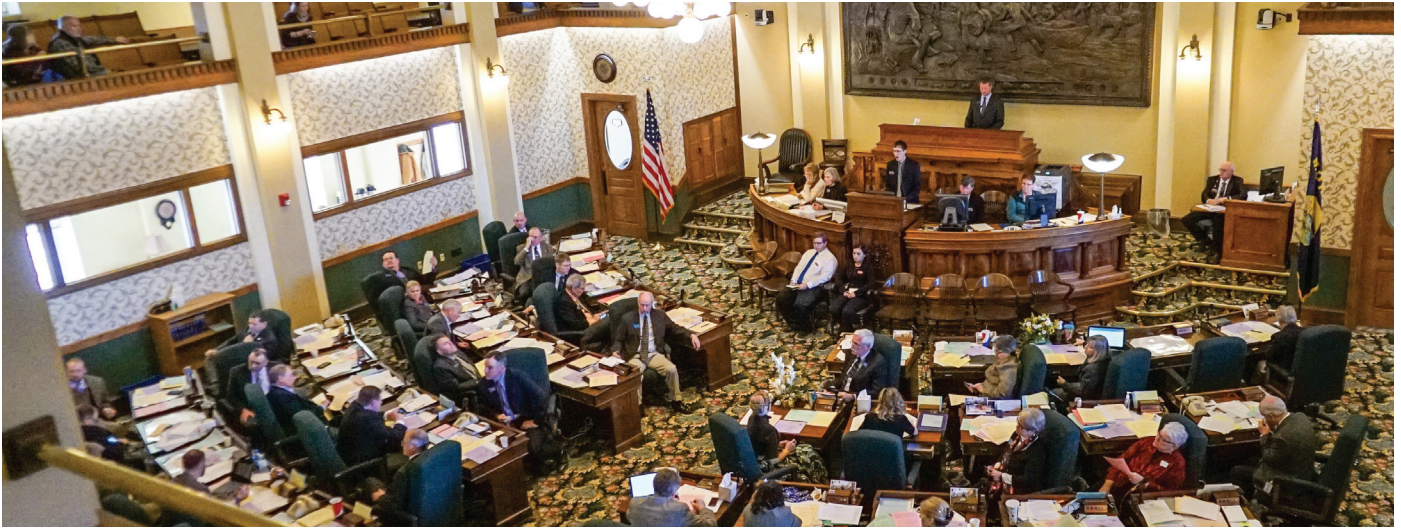
As the session gets closer, **MEIC** and other organizations will be hosting educational sessions on how to give committee testimony, how to contact your legislators, and how to raise awareness about what is happening in the session, like writing letters to the editor. Go to these training sessions. Bring friends. Share these opportunities with those in your community. Our democratic system runs best when everyone participates.

See you in Helena!

Zuri Moreno is a community organizer and policy specialist living in Missoula. Their passion for community engagement around issues of social and environmental justice has allowed them many opportunities to work alongside community members who are pushing for change at the local and statewide level. 🌱



The 2023 Legislature: Your Constitutional Rights Are in Jeopardy



by Anne Hedges

In case anyone was thinking that Montana's 2023 Legislative Session might be better for the environment than the grueling 2021 Session, their hopes were dashed after the election. The session is going to be brutal for those who care about clean air, clean water, a healthy climate, and corporate accountability. Republicans will hold a supermajority, which spells serious trouble for Montanan's constitutional rights. Thank heavens that the judicial branch will have some ability to temper the most unconstitutional proposals.

Unfortunately, a Republican supermajority means the Legislature can put constitutional amendments on the next general election ballot with the vote of 100 of the State's 150 legislators. With Democrats slated to hold fewer than 50 of the 150 seats in the two houses at the time of this writing, Republicans alone can pass proposals to amend and weaken Montana's Constitution and send those proposals to the voters in the next general election. Our right to a clean and healthful environment, right to participate, right to know, right to privacy, and so much more, are in jeopardy.

In addition to changes in Montana's constitutional protections, there is a rumor that there will be an effort to repeal the Montana Environmental Policy Act (MEPA). MEPA provides the public with the opportunity to participate in governmental decision-

making and to know the suite of social, economic, environmental and cultural impacts of proposed projects before they receive state permits or approvals.

We are also very likely to see an emboldened NorthWestern Energy, which may result in NorthWestern trying to reinstate pre-approval of generation assets by the Montana Public Service Commission, change the planning process to make it easier to build expensive methane gas plants instead of clean energy, and purchase a larger share of the Colstrip coal-fired power plant at customers' expense. After two previous failed attempts to force customers to pay for the liabilities of a larger share of the expensive old power plant, NorthWestern may well try a third time. Other Colstrip plant owners are likely to follow Puget Sound Energy's lead and attempt to transfer their share of the plant to the bankrupt plant operator and minority part owner, Talen Energy, or NorthWestern. NorthWestern is desperate to keep the plant open until 2042 in order to continue to collect the hundreds of millions of dollars it is charging customers – even if the plant does not operate often.

Other rotten ideas that are likely to crop up involve deregulating the land use planning, zoning and subdivision processes under the false premise of creating affordable housing. Montana desperately needs affordable housing but simply eliminating land use protection laws will not result in affordable housing. Instead, it will create unmitigated development,

likely mansions, far from towns and water and sewer infrastructure, increasing reliance on vehicles and related greenhouse gas emissions, and harming wildlife, water, and agriculturally productive lands.

Water quality protections are in jeopardy. Deregulating water pollution from mining operations will definitely be on the agenda, as will efforts to further weaken the exempt well law which puts increased pressure on scarce water resources and agricultural users. There is likely to be an effort to interfere with the public's ability to access the judicial system to get relief when the government fails to protect people and wildlife from pollution or large industrial operations. It is also likely that there will be another attempt to force nonprofits to disclose their memberships. Gov. Greg Gianforte vetoed such a bill last session because it applied to all nonprofits. This session, legislators are likely to narrowly target progressive organizations. If that occurs, **MEIC** will vigorously work to defend our members' constitutional right to associate without being subject to disclosure.

While most of Montana's cities will retain legislative delegations that are willing to protect the environment from greed-fueled corporate interests, the same cannot be said of Great Falls. What was once a bastion of

legislative conservation champions has completely degraded; some of whom led the charge last session against Montanans' right to a clean and healthful environment and other constitutional protections. This session, we are likely to see an emboldened anti-environmental delegation from Great Falls. If you're an **MEIC** member in Great Falls, we've got your back and we will work with you to make sure your voice is heard.

The state's \$1.7 billion budget surplus will not be a deterrent for efforts to deregulate environmental protections in the amorphous name of jobs and the economy. All Montanans support jobs and the economy, but somehow those two words have become code words for environmental deregulation and an intention to empower modern-day copper kings.

This session will require each and every person who cares about our fundamental rights to engage. **MEIC** urges you to start now. Call your Representative and Senator and ask them to protect your rights, as well as clean air, clean water, and the climate. Democracy is not a right to which we are entitled. It is a privilege and obligation that requires constant vigilance. This session will take all of us working together to protect our rights. 🌿

DO YOU WANT TO BE INVOLVED IN THE 2023 LEGISLATIVE SESSION?

TELL US HOW ONLINE:
[TINYURL.COM/MEIC2023LEG](https://tinyurl.com/MEIC2023LEG)

OR SCAN THIS QR CODE
WITH YOUR SMARTPHONE'S
CAMERA:



Sustainable Communities Legislative Outlook

by Ann Schwend

A quick scan of the bill draft requests for the upcoming 2023 Legislative Session and a glance into our crystal ball predict the session will be chock-full of bills that will touch on a variety of land use, water policy, and affordable housing issues. In short, sustainable communities, or how we live and how we develop new places for people to live, promises to provide lively discussion among the legislative crowd.

Affordable Housing

The ability to find (and keep) affordable housing in Montana's growing communities is a top priority for many Montanans. The Governor's Housing Task Force has several recommendations that are likely to result in legislation. While some of the recommendations would result in poor planning decisions through a top-down approach (see article on pg. 22), many of its recommendations are good, such as developing ways to leverage or generate funding for affordable housing. For example, the Housing Montana Fund is a trust fund that was set up in 1999 but has never had a consistent funding stream. Fully supporting the Housing Montana Fund would help leverage existing federal funding from programs such as the federal Housing Trust, which affordable housing advocates rely on to develop projects. Other potential funding proposals include expansion of the Multifamily Coal Trust Homes Program and adding a state-based low income housing tax credit that provides additional incentives for the private sector to invest in diverse housing options for communities.

Land Use Planning

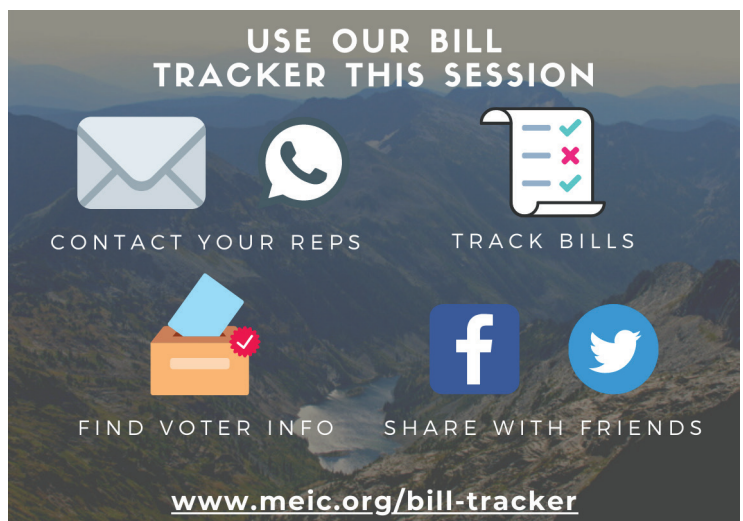
MEIC expects to see at least one bill related to the work that the Comprehensive Land Use working group is drafting. Led by the League of Cities and Towns with representatives from the Local Government Interim Committee, builders, realtors, and others, this group has been reviewing Montana's planning laws for the last few years. It is currently working on a proposal to reform Montana's land use laws so that Comprehensive

Plans and Growth Policies are more relevant, with subdivision and zoning review becoming secondary or administrative in nature. The thinking goes: If there is a more robust public planning process up front, then communities will have already identified where growth is appropriate, and subdivision and zoning review will not be as controversial. If implemented correctly, this could be a much-needed and sweeping reform to our current planning structure.

Water Policy

At this point, we aren't seeing many water policy items being proposed, with the exception of a bill from the Department of Natural Resources and Conservation (DNRC) and associated working group that will clean up the water rights permitting and application processes. This may be a step in the right direction, as DNRC begins to address public water systems with the intent of reducing reliance on individual exempt wells, especially in over-appropriated or closed basins. While there was hope that the group would make progress in addressing the exempt well statute, it appears that DNRC does not intend to address the issue until after the session (though there are rumors about a bill that could worsen the problem).

As always, we will do our best to protect our right to a clean and healthful environment during the session, while also embracing planning reforms that will lead to sustainable homes and communities for all Montanans. 🌿



USE OUR BILL
TRACKER THIS SESSION

CONTACT YOUR REPS TRACK BILLS

FIND VOTER INFO SHARE WITH FRIENDS

www.meic.org/bill-tracker



How to Get Involved at the Legislature: A Menu

Getting involved at the Legislature can feel overwhelming – where do you start? The best advice we have is to start one bite at a time, so we’ve come up with a “menu” to help guide your choices at the Legislature.

APPETIZERS

If this is your first time getting involved at the Legislature, start small! Here are some “appetizer” suggestions:

Email or call your legislator with your stances. Introduce yourself with your address and let them know that you’d like them to vote for bills that support clean water, clean air, a healthy climate, clean energy, sustainable housing, Montana’s Constitutional rights, and so on.

Sign up for MEIC’s action alert email list. Knowing what’s going on is half the battle. MEIC will share the biggest issues each week and what needs to be done about them. We do the work so you don’t have to.

Talk with your friends and family about what’s happening in the Capitol. Once you know what’s going on, talk with folks about it! Having conversations with those close to you is a vital way to get people involved and hold our legislators accountable.

ENTREES

You’re ready for the full meal! These items will require your time and energy, but don’t worry – MEIC is here to help.

Join MEIC at a Lobby Day event. Lobby Day is about coming to the Capitol and learning how to approach legislators in person to discuss an issue you care about. MEIC’s experienced lobbyists will give you a brief training and then set you loose in the Capitol building. Stay tuned for dates.

Write an op-ed or letter to the editor of your local newspaper. Let the people in your community know what they should be paying attention to. MEIC staff can help you edit or distribute your opinion piece, and you can find lots of good tips on our website: www.meic.org/resources

Sign up to testify on specific issues with MEIC. Fill out our online form (tinyurl.com/meic2023leg) or shoot us an email at meic@meic.org to let us know what you’d like to testify on. We are especially looking for folks with personal experience or expertise in our issue areas.

Meet with your legislator when they are at home during the session. Set up an in-person meeting with your representative when they are at home on breaks during the session or during transmittal halfway through the session. Share your concerns with them, and tell them how you want them to vote on issues.

DESSERTS

Whether you’ve eaten a full meal or you’re starting with dessert, these are the richest bites to take.

Email your legislators about specific bills through MEIC’s action center. MEIC’s bill tracker and action center makes it easy to send messages about our most important bills. We include pre-written messages that you can customize or send as-is, depending on how much time you have.

Join MEIC’s weekly Legislative Update calls. It’s back! Our popular Zoom series will return in 2023. Join MEIC’s policy staff on Thursdays at 4:30 pm to hear about what’s going on at the Legislature.



Montana Futures Raffle 2022

Outdoor gear and hotel stays and artwork, oh my!

Raffles are fun, but we never gamble with the future of Montana's water, air, landscapes, and climate. That's why purchasing a 2022 Montana Futures Raffle ticket is a safe bet!

The 2023 Legislative Session will be here soon, and the **Montana Futures Raffle** is the main source of funding for MEIC's lobbying effort! Time after time, whether on energy policy, land use, or other environmental issues, MEIC is the most knowledgeable, steadfast voice at the Capitol for strong environmental laws.

Please purchase a ticket today to help make our crucial work possible. Scan the QR code or go to www.meic.org/2022-legislative-raffle/

Featured Prizes

One Night Stay at The LARK

Donated by The LARK in Bozeman. Valued at \$200.



10B Skinner by Ruana Knives

Also called "The Smokejumper." Donated by Gary and Judith Matson in Milltown. Valued at \$360.



Blackfoot River Brewing Co. Gift Package

Donated by Blackfoot River Brewing in Helena. Includes insulated growler, 2 pint glasses, and \$100 gift certificate. Valued at \$154.

Matching Bracelet and Earrings

Handcrafted and lavishly decorated. Donated by Paul Edwards in Helena. Valued at \$250.



Montana Juniper Lamp with Pine and Walnut Frame

Handmade. Donated by Gary Aitken and Dona Boggs in Ovando. Valued at \$200.



Scan with your smartphone to buy a ticket online!



Experiences



Stan and Glenda Bradshaw, Helena
Guided canoe trip for two on the Missouri River with lunch provided. **\$250**

Bridger Bowl Ski Area, Bozeman
Lift tickets. **\$140**

Amy Budke, Helena
One acupuncture treatment session with Amy Budke, CMT, LAC. **\$100**

Harold Dramstad, Helena
One hour of professional flight instruction. **\$160**

Glacier Raft Co., West Glacier
1/2 day rafting for two. **\$170.64**

Great Divide Ski Area, Marysville
Lift tickets. **\$128**

Umpqua Fishing Products, Louisville, CO
Umpqua Fly Fishing package. **\$100**

Books

Birds & Beasleys, Helena
'For the Love of Birds' by Jane Beasley. **\$24.95**

Fact & Fiction Books, Missoula
'A Thousand Trails Home: Living with Caribou' by Seth Kantner; 'My Best Friend is Extinct' by Rebecca Wood Barrett; 'Count On Us: Climate Activists from One to a Billion' by Gabi Snyder. **\$57.89**

David T. Hanson, Billings
'Colstrip, Montana' by David T. Hanson. **\$171**

David T. Hanson, Billings
'Waste Land' by David T. Hanson. **\$43.60**

David T. Hanson, Billings
'Waste Land: Meditations on a Ravaged Landscape' by David T. Hanson (4 copies). **\$34.18 each**

Michael & Debbie Lee, Helena
11" x 17" unframed photo and photojournalism book. **\$300**

Leslie Stoltz, Big Sky
Two books and two complete sets of 'Walkin' Jim Stoltz' CDs. **\$100**

George Wuerthner, Bend, OR
'Wildfire: A Century of Failed Forest Policy' by George Wuerthner (2 copies). **\$42.64 each**

Outdoor Gear



Allegra Print & Imaging, Helena
Stormtech Water proof duffel. **\$200**

Dan Bailey's Outdoor Company, Livingston
Hydro Flask, Gift certificate and strap. **\$115**

Dale Dramstad and Penelope Needham, Bloomington, MN
7' 4 wt bamboo fly rod with sack and tube. **\$200**

Harold Dramstad, Helena
Two wildland firefighter gear backpacks. **\$150 each**

Great Divide Cyclery, Helena
Specialized Align bike helmet. **\$50**

For the Home



James and Heidi Barrett, Livingston
Unframed 12" x 17" Giclee print of 'Two Wolves.' **\$120**

Susan Cahill and Steve Martinez, Kalispell
Large framed watercolor of roses by Deliah Albee. **\$200**

Susan Cahill and Steve Martinez, Kalispell
16" x 30" decoratively framed mirror. **\$100**

Susan Cahill and Steve Martinez, Kalispell
Large framed watercolor of an egret by Deliah Albee. **\$200**

Susan Kronenberger, Helena
Richard Swanson ceramic flower vase. **\$180**

Victoria McLane, Livingston
Navajo Lizard Pottery by Izack Joe. **\$80**

Marjorie Reck, Cameron
8" Red Antler Gourd with Pine needles. **\$80**

Apparel



Buckskin Clothier, Kalispell
8" deerskin leather shoulder travel purse with hand-braided straps, four pockets dyed black. **\$250**

Susan Kronenberger, Helena
Maiden Women's leather motorcycle jacket (fits about size 12). **\$240**

Kathleen McMahon and Robert Horne, Whitefish
A hand-made, custom quilted "Tailgate" Apron for the sports team(s) of your choice and "Made in Montana" basket of snacks & BBQ products. **\$125**

The Patagonia Outlet-Dillon, Dillon
55L Black Hole duffel, a trucker hat, and a t-shirt. **\$253**

Food & Drink

Jim and Angella Barngrover, Helena
Five 1-lb bags of Cafe Mam Coffee. **\$70**

Good Food Store, Missoula
\$100 gift certificate. **\$100**



Ann Schwend, Helena
Sturdy Girl assorted product gift box. **\$30**

Katy Spence and Brian Myers, Missoula
Sundance Wildflower Jewelry Bureau. **\$128**

Thirteen Mile Lamb and Wool Co., Belgrade
Handmade wool rug. **\$140**

Another (!) Expansion of the Rosebud Coal Mine Ruled Illegal

by Derf Johnson

As the world edges ever closer to an irreversible climate meltdown, victories in addressing the climate crisis are more and more essential. Thankfully, our latest victory comes from a federal district court judge in Billings, who found that the U.S. Office of Surface Mining (OSM) failed to adequately evaluate and consider the major environmental impacts associated with a very large expansion of the Rosebud Coal Mine. Rosebud exclusively feeds coal to the Colstrip coal-fired power plant and a small waste coal burning plant just north of Colstrip. The final court decision follows up on a 2022 recommendation from a magistrate judge, who found similar flaws in OSM's environmental analysis. Broadly speaking, the final ruling by the court finds that OSM failed to consider the impacts of the mine expansion on water resources and the climate.

The immense, sprawling complex known as the Rosebud Coal Mine is jaw-dropping. The footprint is as large as the City of Billings and, over the past several decades, has wreaked havoc on southeastern Montana's water, wildlife, and climate. The open-pit strip mine has moved systematically across the landscape since the 1970s, targeting, unearthing, and mining the highest value, shallowest coal to feed the adjacent Colstrip

plant complex. Five decades of damage (perhaps longer, due to historic mining before Colstrip was even constructed) from the Rosebud Mine is easily visible on Google Maps and will take centuries or millennia for the land to heal, if it ever does. While coal companies and the DEQ like to crow through glossy brochures and promotional videos about the efficacy of reclamation and revegetation programs, in truth the land can never really be restored, especially water systems and the hydrologic balance.

The landscape of "Area F" is some of the most beautiful country in southeastern Montana. Located west/northwest of the town of Colstrip, it is primarily an agricultural landscape with tight, narrow draws interspersed by agricultural fields, intermittent water sources, and an abundance of wildlife. Until recently, it has not suffered the remolding into an industrial landscape that has beleaguered other mined-out areas. But even with active litigation against the expansion, the mine is now encroaching into Area F and stripping out coal. If allowed to fully expand, the mine would impact an additional 6,500 acres in Area F (more than 10 square miles) and remove 70 million tons of coal. When burned, this amount would result in over 100 million tons of greenhouse gas pollution.

Thankfully, the judge noted several inadequacies in the environmental review associated with the expansion.



MEIC's Derf Johnson (center) at the Area F site with Earthjustice's Shiloh Hernandez (left) and former **MEIC** board member Steve Gilbert (right).

For instance, OSM focused almost exclusively on the economic benefits associated with the mine expansion, such as royalties and payroll benefits, while failing to include the environmental costs, such as increased carbon pollution and its undisputed impacts on society. The analysis also failed to account for the large volume of water that is sucked from the Yellowstone River every day in order to continue operating the Colstrip plant's cooling system and pollution control machinery, as well as the cumulative impacts associated with continuing to mine in a heavily impacted watershed.

Because using coal for electricity causes a great deal of irreparable harm, and because cleaner alternatives are now more affordable than coal, this ruling could not have come at a more opportune time to have a discussion about the ongoing transition to clean energy.

Coal has now shrunk to 20% of the U.S. electricity mix, down from a high of over 50% two decades ago. The Colstrip plant's days are numbered, with two of the four units already retired, and the other two with a precarious future. Which begs the question: why are we continuing to permit coal mine expansions, with enormous economic and environmental consequences, when the industry is undoubtedly phasing out, both across the world and here in Montana?

MEIC will defend this victory and assure that it sets a strong precedent for other expansions the government considers permitting. Shiloh Hernandez of Earthjustice and Melissa Hornbein of the Western Environmental Law Center both deserve kudos for the serious time and effort in bringing this victory to fruition. 🌱

NorthWestern Energy Wants Customers to Pay \$364 More Each Year

by Anne Hedges

As reported in the last issue of *Down to Earth*, NorthWestern Energy is asking the Montana Public Service Commission to allow it to increase residential electricity rates by 25% and gas rates by 11%. Combined, residential customers would have to pay a whopping \$364 more annually.

MEIC is concerned that the enormous rate increase is just a backdoor way for NorthWestern to charge its customers for its expensive methane gas plant near Laurel before the plant gets built. This action is functionally the same as something known as “pre-approval,” which a state district court judge ruled unconstitutional in May. Using novel wordsmithing, NorthWestern has changed the name of “pre-approval” to “reliability rider” in the hopes that it can hoodwink the Montana Public Service Commission (PSC) into allowing it to charge customers hundreds of millions of dollars for the plant before the PSC determines whether such a plant is necessary and in the public interest.

Time will tell whether the PSC will let

CLEAN UP North Western Energy

NorthWestern get away with this deception. All parties in the case (including **MEIC**) must file expert reports by December 19, detailing why NorthWestern's math, assumptions and charges are incorrect. For energy geeks, you can count on a lot of interesting reading material over the holidays.

The PSC hearing on the rate increase will begin on April 10, 2023. Until then, those of us concerned about the exceptionally high rate hike will make an enormous effort to get the utility to cough up information detailing why the increase is necessary. Earthjustice is representing **MEIC** in the case. 🌱

Another Challenge to NorthWestern's Methane Plant Near Laurel



by Anne Hedges

In October, Earthjustice, on behalf of the Thiel Road Coalition, **MEIC**, and Northern Plains Resource Council, asked a state district court judge to decide who is responsible for local zoning regulations that govern NorthWestern Energy's proposed methane gas plant near Laurel. NorthWestern Energy spent the fall of 2021 trying to convince the City of Laurel to change the zoning on the parcel of land where it wants to build a 175-megawatt methane gas plant. A year later, NorthWestern is behaving as if such approval is unnecessary and is moving forward with the project.

During the City's rezoning process last fall, the Thiel Road Coalition – a community near the plant site – and many others raised questions about NorthWestern's proposed plant and its impact on nearby residents and businesses, public health, safety, and the Yellowstone River corridor adjacent to the site. However, after months of debate, NorthWestern abruptly withdrew its application for a zone change in December 2021. In late spring, NorthWestern started building the plant. The people living near the proposed plant site were left with nowhere to turn to raise their concerns or get answers to their questions about the plant's impacts.

Despite previous statements from city and county government officials that the city had to rezone the land to allow NorthWestern to build an industrial plant on the site, a new city contract attorney decided otherwise. In September, the City of Laurel issued a press release based upon her new legal theory and

said the City's hands were tied and it had no role to play in rezoning the land. Instead, the press release said Yellowstone County was responsible for the site despite the fact that Yellowstone County has never claimed such jurisdiction.

The issue is the City's "extraterritorial jurisdiction" to regulate lands near the City. The city's growth policy covers the NorthWestern parcel. The county's growth policy does not. The City implemented zoning of the parcel decades ago. The County has never exercised or claimed jurisdiction over the area; instead, it has said it is the City's job to do so. The City and County staff and NorthWestern all agreed last year that NorthWestern needed a zone change from the City before it could proceed. The City held numerous public hearings on this request. Now, everyone is pointing at someone else, leaving the concerned neighbors with no recourse other than to ask the court to rule on whether the City has jurisdiction.

Finally, **MEIC** is still waiting for a decision from a state district court judge in Billings on the scope of the Montana Department of Environmental Quality's (DEQ) environmental analysis for NorthWestern's air pollution permit. DEQ is arguing that the law prohibits it from considering the climate impacts of the plant and that it did not have to analyze and disclose the impacts of the pipeline that will provide methane gas from Wyoming and travel under the Yellowstone River near residences. The court hearing on that case was held in June and a decision is expected at any time. 🌿

Nuclear at Colstrip? Not so fast.

by Anne Hedges

On October 20, 2022, there was a meeting in Colstrip to discuss the idea of placing experimental small scale nuclear reactors at the site of the coal-fired power plant. While some folks argue that “advanced nuclear” is a great solution to the climate crisis and will help provide “baseload” power, there are a number of serious problems with those arguments and with putting this unproven technology at Colstrip.

First, “baseload” power is a concept from last century. Theoretically, baseload power plants provide a consistent level of power at all times. But today’s energy system is more complex than it was in the 1900s when utilities could turn on a fossil fuel power plant and let it run around the clock, spewing millions of tons of climate changing pollution into the air. Over the last 20 years, utilities and clean energy developers have made unprecedented technological advances to manage the energy system, balance the use of many different types of electricity generating resources, lower costs, and decrease reliance on fossil fuels. Baseload is no longer what utilities demand; utilities such as NorthWestern Energy are clear about their needs – they need “energy capacity” or ways to manage load on hot July days or cold days in February.

Second, the type of nuclear technology that is being pitched does not exist yet. It is not likely to be commercially available for at least a decade, if ever. Scientists say we have until 2030 for significant climate action, largely because our climate-changing emissions are cumulative – they stay in the atmosphere for centuries. We don’t have time to wait for undeveloped and untested nuclear technology to prove itself. It would make more sense for cash-strapped Montanans to invest in currently-available clean energy and wait to see if this technology actually works before investing our hard-earned money in a nuclear experiment.

And that leads to the whopping cost of nuclear power. Traditional nuclear power is the most expensive type of commercial power generation and the proposed smaller reactors are following suit. An Oregon company working to create one type of small scale reactor in Idaho, NuScale, is developing one of

the technologies being floated for the Colstrip site. NuScale recently told Utah municipalities (who have already invested \$6 billion) that the cost of power will not be \$58 per megawatt-hour as originally projected. Instead, it will be closer to \$90–100 per megawatt-hour! That price tag would be even higher if it weren’t for the significant tax advantage that nuclear projects will receive from the new Inflation Reduction Act. Wind and solar projects paired with storage technology are a fraction of that cost. Perhaps these high costs are why NuScale’s project is reported to only have 25% of the customers it needs to finance the project.

There are other serious impediments to putting a nuclear plant at the Colstrip site. Coal ash contamination at the Colstrip plant must be fully cleaned before a nuclear project can be located at the site, according to a study by the Idaho National Lab (INL). Unfortunately, the INL’s analysis projected that cleanup of Colstrip would be completed within 18–30 months; no cleanup plan for the Colstrip site has ever projected an 18–30 month timeframe. Instead, cleanup work is projected to take decades.

Then, of course, there are problems with acquiring enriched uranium that has been coming from Russia in recent years. For these new smaller reactors to succeed, the U.S. needs to develop a uranium supply chain and enrichment process. In the past, these mining practices have disproportionately impacted Tribal communities who have expressed concern about energy production moving in this direction. Although some proponents of nuclear energy claim that there will be no waste and the reactors will be built to recycle their fuel, the technology to do so does not exist yet.

The Colstrip plant and community need real world solutions that are affordable, safe, proven, protective of the climate and water resources, and can utilize the skills of the existing workforce. Montanans are already saddled with high electric bills that will continue to grow if NorthWestern is allowed to build more methane gas plants and expensive nuclear plants. Better to wait and let someone else pay to answer all of these questions before saddling Montanans with astronomical energy bills to pay for a technology that may not actually pan out. 🌱

Does Montana need fossil fuels to keep the lights on? (Hint: No)

by Ian Lund

Recently, the Montana Public Service Commission (PSC) opened an investigation on “resource adequacy.” Generally speaking, “resource adequacy” means a utility has enough available electricity resources to keep the lights on. In announcing its investigation, the PSC cast doubt on whether Montana’s utilities could keep the lights on. The PSC highlighted reports describing regional reliability risk and questioned whether NorthWestern Energy appropriately addresses that risk in its planning process. The investigation will feature a conference on December 8 and 9. It is possible that the PSC will use information presented at the conference to write new resource planning rules.

Utilities often weaponize the fear of being resource inadequate (sometimes referred to as a “capacity deficit”) to skirt utility commission oversight. They want decisions approved quickly: “Scrutinize our proposal for an expensive methane gas plant at your own peril,” a company may warn. “You wouldn’t want a blackout, would you?”

Resource adequacy is crucial for utilities planning out the next few decades of operation, but the full story is a lot more nuanced. In short, there are a multitude of creative ways that utilities can plan for resource adequacy that are good for customers and good for the planet.

As explained in previous *Down to Earth* articles, the choice between blackouts or fossil fuel power plants is a false dichotomy. Not only are clean energy

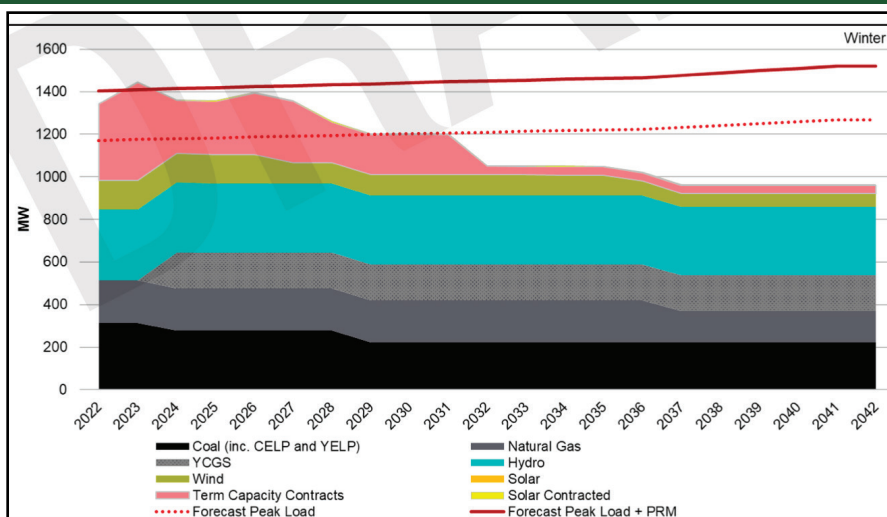
technologies more viable and less expensive than ever, there are numerous alternatives to building expensive new generation resources that utilities can use to provide reliable electric service for customers. The suite of solutions include virtual power plants consisting of distributed solar and battery systems networked together; energy efficiency investments; demand response technologies (smart thermostats, water heaters, and other appliances); and innovative and responsive rate designs. Combining low-cost renewable energy technology and fully utilizing demand-side solutions is the grid system of the future, a system in which many utilities are already heavily investing. This is the path toward cleaner energy and lower electricity bills for Montana ratepayers.

Montana utilities are also thinking about resource adequacy, but not in ways that are good for the climate or customers’ wallets. NorthWestern Energy’s long-term resource plan proposes building multiple methane gas plants in the coming years and continuing to rely on the Colstrip coal-fired power plant. Relying on these legacy fossil fuel resources is an imprudent path for Montana. Coal and gas are expensive options, and there are risks to relying on large centralized plants. Mechanical failures at plants have and will continue to result in the loss of hundreds of megawatts of power all at once, leading to the very situation reliability planning seeks to avoid.

Proponents of the antiquated energy system – including some Montana lawmakers – perpetuate a myth that the electricity grid cannot reliably operate on 100% carbon-free sources. However, numerous studies demonstrate that decarbonizing grids can be affordably done through geographically dispersed wind and solar projects paired with significant storage capacity. Both traditional pumped-hydro storage and new innovations such as Form Energy’s 100-hour iron-air batteries can charge using excess renewable energy when demand is low, and then provide multiple days of power when it’s needed most. Carbon-free resources such as these are only getting better and more affordable as the clean tech industry grows and federal and state governments

What is the difference between energy and capacity?

- Energy is the amount of electricity produced by a generator over a period of time. A generator on the electric system can deliver varying amounts of energy to match fluctuating demand.
- A generator’s capacity is the *maximum* energy output it can physically produce. The sum of all the maximum outputs on a utility’s system is its total generation capacity.



When modelling NorthWestern Energy's resources over time, the capacity values of Montana wind resources increases, decreasing the total need for new resources. This graph is from NorthWestern's draft Integrated Resource Plan. See article on following page for more information.

demand decarbonization strategies.

Almost all studies on decarbonizing the electric grid find that sharing energy is crucial to making a 100% clean grid affordable and reliable. Luckily for Montana, an interstate group of energy producers and utilities has already convened to work on this problem. The Western Resource Adequacy Program (WRAP) is an energy trading and sharing mechanism designed to help members maintain reliable service more affordably and efficiently. It will help its members coordinate with each other to share and exchange capacity resources. While WRAP does not obviate the need of the Montana PSC and utilities to assess resource adequacy, it is a critical tool in affordable decarbonization.

Montana regulators should be asking, how can regulation best protect customers from unnecessary and expensive investments in capacity resources such as new gas plants? Regulators should develop planning rules that ensure utilities rigorously assess the full range of cost-effective supply- and demand-side resources in their Integrated Resource Plans. Too often, utilities give expensive fossil fuels an edge in their analyses in order to justify new power plants. Instead, the PSC should demand utilities accurately and transparently identify and develop the least expensive resources. The obvious starting place is energy efficiency, which is achieved when changes anywhere in the system result in the use of less energy to provide equal or improved service.

Reducing and shifting peak energy demand also can significantly improve system reliability. Demand response, sometimes known as load management, is strategically applied energy conservation, and is used to lower energy peaks, reduce customer costs, and relieve stress on the grid. Often, demand response just shifts load temporarily when demand is unusually

high. Utilities with robust demand-side management (DSM) programs can use demand response and energy efficiency programs to lower customer demand for energy, especially during peak hours when power costs are highest. Utilities are uniquely positioned to develop and achieve high participation in DSM programs. The PSC should promote integrated planning rules to ensure that utilities such as NorthWestern are pursuing and implementing DSM resources and that they are appropriately rewarded for such investments.

Finally, Montana regulators can encourage utilities to explore and adopt innovative rate designs that encourage customers to change their behavior to align with energy system constraints. This would help customers save money and result in a cleaner energy system. NorthWestern is one of the few utilities in the northwest without any innovative rate design to align customer demand with supply. The PSC should require utilities to study alternative rate designs as part of the resource planning process. At minimum, Montanans should pay escalating block rates, which means that energy used in excess of a certain threshold each month costs more than the standard rate, thus encouraging energy conservation. Historical data can help create a rate structure that considers peak loads and incentivizes energy conservation during critical times. NorthWestern Energy's deployment of advanced meters gives it ample data to immediately begin designing a pilot time-of-use rate structure.

Other utilities are already planning for clean resource adequacy. It's time that Montana's utilities drop the tired narrative that fossil fuel plants are the only way to ensure the lights stay on. In fact, they should be at the bottom of the list when considering customers' bills and the climate. 🌱

NorthWestern's Long-Term Energy Plan Ignores Clean Energy... Again

by Ian Lund

Every three years, Montana's largest utilities must present a document to the Public Service Commission (PSC) that describes how its energy requirements are expected to change over the next 20 years and its best approximation of the most efficient way to meet those needs. This document is called an Integrated Resource Plan (IRP). Every utility in the country does some version of this forecasting and planning, though with different requirements, inputs, and outputs, depending on the policies and laws in different jurisdictions. The primary question utilities ask is: Do we have enough electricity resources to keep the lights on every day, in every situation, and if not, what are the best and most cost-effective interventions that the company can invest in to ensure a reliable grid?

Although the purpose of this process is to identify the most cost-effective means of keeping the lights on, this particular IRP originates from a profit-seeking company who is primarily accountable to its shareholders. NorthWestern Energy's planning more often benefits its own bottom line than the average electricity customer in Montana. MEIC has engaged in IRP development and evaluation for all recent resource planning cycles to identify deficiencies in the plans and ensure those deficiencies are addressed.

NorthWestern's 2022 IRP is chock-full of deficiencies and misrepresentations. These are not accidents. Like it always does when writing its IRPs, NorthWestern manipulated the model such that it recommended resources that would be most profitable for NorthWestern to build. The top three most concerning aspects are addressed here.

Ignoring the Inflation Reduction Act

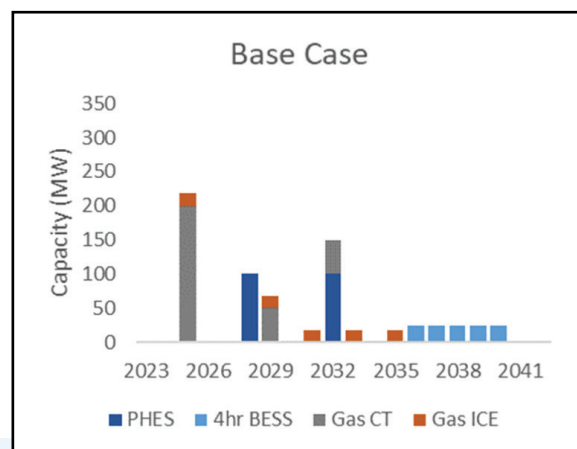
NorthWestern's model does not have the company building large renewable energy projects in any scenario except one – if Colstrip retires in 2035. Even then, it doesn't begin building until 2040. The cost of renewable energy and storage technologies is steadily

declining and became even cheaper when Congress passed the Inflation Reduction Act (IRA) in August 2022. So why aren't renewable energy and storage projects showing up in NorthWestern's resource procurement model? NorthWestern does not explain its model inputs in its draft IRP, but it's clear that NorthWestern refuses to consider the IRA's impact on the price of carbon-free generation technologies. Not including these cost reductions artificially inflates the cost of the most competitive carbon-free resources. By ignoring the IRA, NorthWestern will wait three years until the next planning process to account for cost reductions that are available now, leaving the PSC and utility to rely on outdated and incorrect price information in the meantime.

Underestimating the cost of gas plants

NorthWestern's 2019 IRP recommended that the company build gas plants every year for five years starting in 2022. Fast forward to the present, and NorthWestern is asking the PSC for permission to charge ratepayers \$280 million plus a hefty rate of return for just one methane gas plant.

True to form, the model used to select resources in NorthWestern's latest IRP almost invariably chooses to build a 200 MW methane gas plant in 2025, with more



NorthWestern Energy's "Base Case" model primarily recommends adding methane gas resources (gray) and pumped hydro (blue), without any renewables, over the next 20 years.



Ian Lund traveled to several cities in Montana to discuss the IRP with community members. MEIC will also host a virtual meeting about the IRP in January.

gas plants to follow. In the same way NorthWestern manipulates its IRP to overestimate the cost of renewable energy, it underestimates the cost of gas plants. For starters, it omits the cost of the gas pipeline infrastructure from the total cost of the plant. When NorthWestern builds new gas plants, it needs to build new pipelines, as demonstrated at the Yellowstone County Generating Station.

The capital cost of pipelines solely serving a gas plant are ultimately passed along to ratepayers and is a cost unique to that technology. NorthWestern alludes to a reason for omitting pipeline costs in its IRP on page 53, stating: “Indirect costs such as pipeline upgrades or transmission requirements were not included.” But this draws a false equivalency between pipeline costs and electric interconnection, distribution, and transmission costs. Gas plants, hybrid renewable systems, and nuclear plants all require interconnection work and distribution-side costs, but only gas plants require the specific supply input of a pipeline. Therefore, omission of pipeline costs artificially deflates the cost of gas combustion resources relative to other resources.

No assessment of non-supply resources

The cheapest energy resource is the energy that we don’t use, whether through strategic conservation or efficiency upgrades. Large utilities such as NorthWestern are uniquely positioned to deploy

these “demand-side resources” (so-called because they are non-generation interventions deployed at homes and businesses where people consume energy, rather than utility-owned power plants) because of their knowledge of each customers’ energy consumption and their ability to communicate with them.

In addition to helping people save energy at home, investing in helping people use less energy defers or eliminates the need to build expensive new power plants and can provide a flexible way to adapt energy consumption to a highly renewable grid. It would take time to develop such programs, but the whole point of the planning exercise is to take the long view over a 20-year period. NorthWestern includes its existing demand-side management programs in its IRP, but does not envision growing it more than by a miniscule percentage over the planning period. Taken seriously, demand-side resources can compete with gas plants and decrease customers’ electric bills.

These are only a few of the glaring manipulations NorthWestern employs in its draft IRP. For a full account of MEIC’s concerns with the IRP and to learn how it can be improved, attend one of our upcoming events or sign up for our action alerts email list at www.meic.org/take-action. The PSC will be holding a hearing on the IRP in early 2023 at which the public can voice its concerns and request that NorthWestern Energy go back to the drawing board to give us a realistic picture of Montana’s energy future. 🌱

CHS Water Pollution: Dead Minnows, Arsenic, and Broken Dreams



by Derf Johnson

The Montana Department of Environmental Quality (DEQ) recently renewed the water pollution permit (specifically, the Montana Pollutant Discharge Elimination System Permit or MPDES Permit) for the CHS Refinery located in Laurel, Montana. Needless to say, we have some concerns about how the plant's discharge of arsenic and other harmful pollutants harm water quality and aquatic species in the Yellowstone River.

CHS currently has two discharge points for the facility's contaminated water, which ultimately ends up in the Yellowstone River. The Yellowstone River is an incredibly valuable resource for southeastern Montana (environmentally, economically, and spiritually) and is undoubtedly impacted by CHS' pollution. Further, the discharge point for CHS is directly upstream of Billings and other major communities, increasing concerns about the cleanliness and safety of drinking water for downstream communities.

First, some background. While DEQ is responsible for issuing water pollution permits, it must assure that those permits comply with the federal Clean Water Act. EPA allows the use of toxicity tests to monitor and evaluate discharged waste (such as effluent water from CHS) for toxicity to biological life and its impact on receiving waters (such as the Yellowstone River). One way for polluters to show compliance with their

permits is to conduct a Whole Effluent Toxicity (WET) test, which CHS has conducted routinely for the past several years.

The WET test requires that certain species of minnows are exposed to the water generated by CHS. Every 24 hours, the fish are rotated to a new tank containing a freshly prepared solution of the appropriate effluent concentration. According to the EPA, "The fathead minnow subchronic test is a freshwater seven day static renewal exposure for determining sublethal toxicity in order to estimate toxicity." All this is to say, the test is whether the water put into the river by the polluter impacts the development and life-cycle of the fish, which in turn demonstrates whether the water meets certain standards and is safe. It's the modern-day canary in a coal mine.

CHS utilizes the WET test to demonstrate compliance with its permit. However, according to DEQ, "beginning in 2021, CHS had multiple WET failures and is currently undertaking a Toxicity Identification Evaluation/Toxicity Reduction Evaluation..." The numerous failures over the past several years is extremely concerning, especially because, according to DEQ, "CHS has not yet identified specific reasons for these failures." But what's most concerning is that DEQ moved forward with renewing CHS's discharge permit, without establishing what exactly was causing these failures to meet water quality standards.

Montana's Constitution sets the baseline for how our fundamental environmental rights are protected and how DEQ's obligations must be enforced. Notably, in the seminal case interpreting and clearly establishing this right (*MEIC v. DEQ*), the Montana Supreme Court stated, "Our constitution does not require that dead fish float on the surface of our state's rivers and streams before its farsighted environmental protections can be invoked." The right is anticipatory and preventative, regulating action in the present to prevent environmental damage before it occurs. Perhaps DEQ doesn't believe that this principle applies to the discharge of pollution into our waters, killing minnows and who knows what else?

Sarcasm aside, there are other serious concerns with

the discharge permit for the CHS refinery, namely that CHS continues to discharge dangerous levels of arsenic – a carcinogen to humans and a major threat to wildlife. Beyond causing cancer, arsenic exposure has been linked to cardiovascular diseases, diabetes, impacts on cognitive development, and death. Arsenic is not safe at any measurable level, and certainly not a pollutant that should be discharged into our water.

While CHS continues to routinely violate the water quality standards for arsenic by orders of magnitude, DEQ appears to have kicked the proverbial can down the road. The renewed permit includes a three-year compliance schedule for arsenic, during which CHS may continue to violate water quality standards for arsenic until November 2025. 🌿

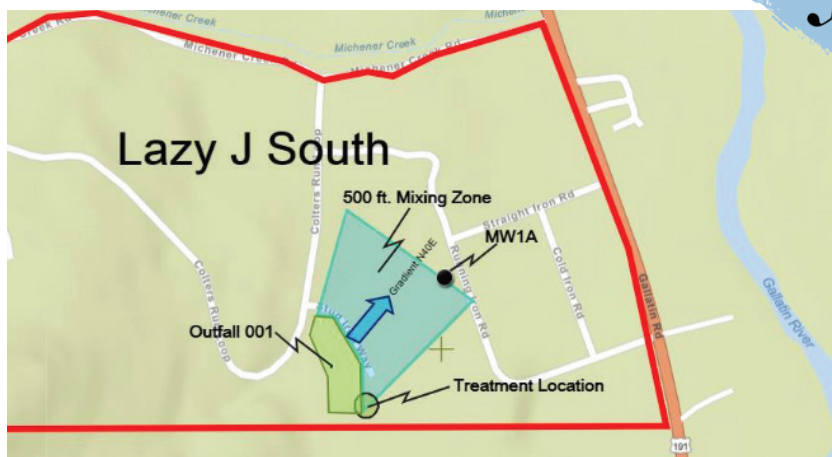
Victory in Big Sky at the Lazy J Subdivision

by Derf Johnson

In a late-breaking case, a Montana district court judge has found that the Montana Department of Environmental Quality (DEQ) failed to comply with the law when it issued a wastewater discharge permit that could further harm the Gallatin River. The court found that DEQ failed to adequately consider the cumulative impacts of wastewater pollution on the Gallatin River from sewage discharge from the Lazy J South subdivision in Big Sky.

MEIC and Upper Missouri Waterkeeper filed the complaint in July 2021, asserting that DEQ violated the Montana Water Quality Act in permitting the subdivision. Lazy J South is a residential and commercial development located less than half a mile from the Gallatin River in Big Sky. The Gallatin River is already suffering from major impacts associated with elevated levels of nutrients in the water, which recently caused the DEQ to designate the river an "impaired water."

The Court ordered DEQ to perform a new



The Lazy J South subdivision is threatening an already-impaired Gallatin River. Image via Upper Missouri Waterkeeper.

assessment of the permit that fully examines the cumulative impacts of wastewater discharges on the Gallatin River system.

This is an important victory for clean water in Montana and sets the precedent to reign in unmitigated development that encroaches on our waterways. The case was brought by Guy Alsentzer of Upper Missouri Waterkeeper and Derf Johnson of **MEIC**. 🌿

Mining Beneath the Cabinet Mountains Wilderness: An Update

by Derf Johnson

Readers of *Down to Earth* and long-time **MEIC** members are likely quite familiar with the proposed Montanore and Rock Creek Mines in far northwest Montana. These mines, which threaten an incredibly unique wildlife refuge, a Wilderness area, a sacred Indigenous space, and a portion of the great North American inland temperate rainforest, have been proposed in one fashion or another since the 1980s, when **MEIC** first publicly opposed the mines.

The proposed mines primarily target a silver deposit under the Cabinet Mountains Wilderness area (on the east and west sides of the Cabinet Mountains), and are owned by Hecla Mining Company, headquartered in Coeur d'Alene, Idaho. While the mines have been proposed for decades, recent developments could have significant bearing on their likelihood of being fully permitted.

Rock Creek Mine “Shelved”

Recently, Hecla announced a change in strategy whereby the company would focus its efforts almost exclusively on the permitting of the Montanore Mine and is withdrawing (for the time being) its permitting efforts at Rock Creek. Notably, Hecla has allowed the U.S. Forest Service-required “Plan of Operation” to expire at the Rock Creek site and the Montana Department of Environmental Quality (DEQ) has terminated the water pollution discharge permit at Hecla’s request. Through a spokesperson, Hecla has stated that it believes the permitting of the Montanore project will be an easier path forward. Regardless, this is a significant turn of events, being that this mine has been proposed for several decades and is now being placed on the back-burner.

Montanore Exploration Under Review

With its renewed focus on the proposed Montanore

Mine, Hecla is now interested in again conducting major exploration work at the site. If permitted, Hecla would be allowed to conduct mining activities directly adjacent to a federally designated Wilderness area, including the buildout of additional underground access tunnels beneath Forest Service lands, expansion of its current waste rock storage area, the construction of an additional waste rock storage impoundment, and dewatering activities. The Kootenai National Forest is in the “scoping” process of an environmental review and is planning on conducting an environmental assessment on the project, which will include an opportunity for public comment and a public hearing process. Because of the major environmental implications associated with the Montanore Mine, **MEIC** and our partner organizations are requesting that the Forest Service conduct a full environmental impact statement. Stay tuned, because we need to be ready to push back against Hecla’s renewed interest in Montanore.

Bad Actor Case Moving Forward

The saga continues in Montana’s retreat from its enforcement obligations against Phillips S. Baker, Jr., and Hecla (for its association with Baker) due to Baker’s leadership role at Pegasus Gold when it failed to cleanup the Zortman-Landusky gold mine. On November 9, a contingent of lawyers argued the case in Helena’s courthouse, including attorneys representing the Fort Belknap Indian Community, Confederated Salish and Kootenai Tribes, and conservation organizations, as well as DEQ and Hecla mining. Earthjustice attorney Amanda Galvan spoke on behalf of the Tribes and conservation organizations, and very clearly and intelligibly explained the case and our concerns to the judge. It’s clear that, based on the law, we should win. However, now that the hearing has occurred, the case is fully in the judge’s hands to decide. There is no deadline for the judge to make a decision, but typically orders are issued within a year’s time. 🌿

Eventually, A River Runs Brew It

by Katy Spence

After being shelved by a global pandemic, MEIC has finally launched an ongoing event series in partnership with craft breweries, distilleries, and wineries. In our augural event in Missoula, attendees gathered to hear from Imagine Nation Head Brewer Sean Nevins, Clark Fork Coalition Legal Director Andrew Gorder, and **MEIC** Deputy Director Derf Johnson.

What do these folks all have in common? They all want clean water.

In 2020, Montana ranked third in the nation for the number of craft breweries per capita. Brewing (and drinking) are part of Montana's culture, and it wouldn't be possible without Montana's clear, clean water.

Sean set the stage, emphasizing that water makes up 90–95% of a final, brewed beer. He described how important different facets of water are to the brewing process, and even how the final brew can be determined by characteristics of the water.

"It's like the water chooses the beer, not the other way around," Sean said. "Water quality, composition, and many of its other attributes and properties are often overlooked by amateur brewers and even a fair bit of professional brewers."

Elements such as water hardness and pH can drive what beer is most successful with specific kinds of water. Sean said the Czech pilsners likely come from soft water, whereas Ireland's harder water is better suited to dark and dry malts. Missoula's aquifer is full of hard water, lending to the city's flagship dark beers like Cold Smoke and Moose Drool. Luckily, the water is stable enough to make the brewing process predictable for Sean and the team at Imagine Nation.

Andrew Gorder zoomed out to talk about the Clark Fork watershed and ongoing projects like cleanup at Smurfit Stone. An ongoing threat to water quality and human and ecological health, the defunct Smurfit-Stone paper mill in Frenchtown is in need of serious cleanup and remediation, which the Clark Fork Coalition has been pushing forward since it was founded.



A lively Q&A followed the panelists' remarks at Imagine Nation in Missoula.

In addition, Andrew described the Coalition's efforts to restore the Clark Fork watershed, which includes removing unnecessary berms in favor of an unfettered floodplain.

"Are we protecting the floodplains so that when rivers need to move, they can move?" Andrew said, noting that climate change and population growth are two of the biggest threats to Montana's waterways.

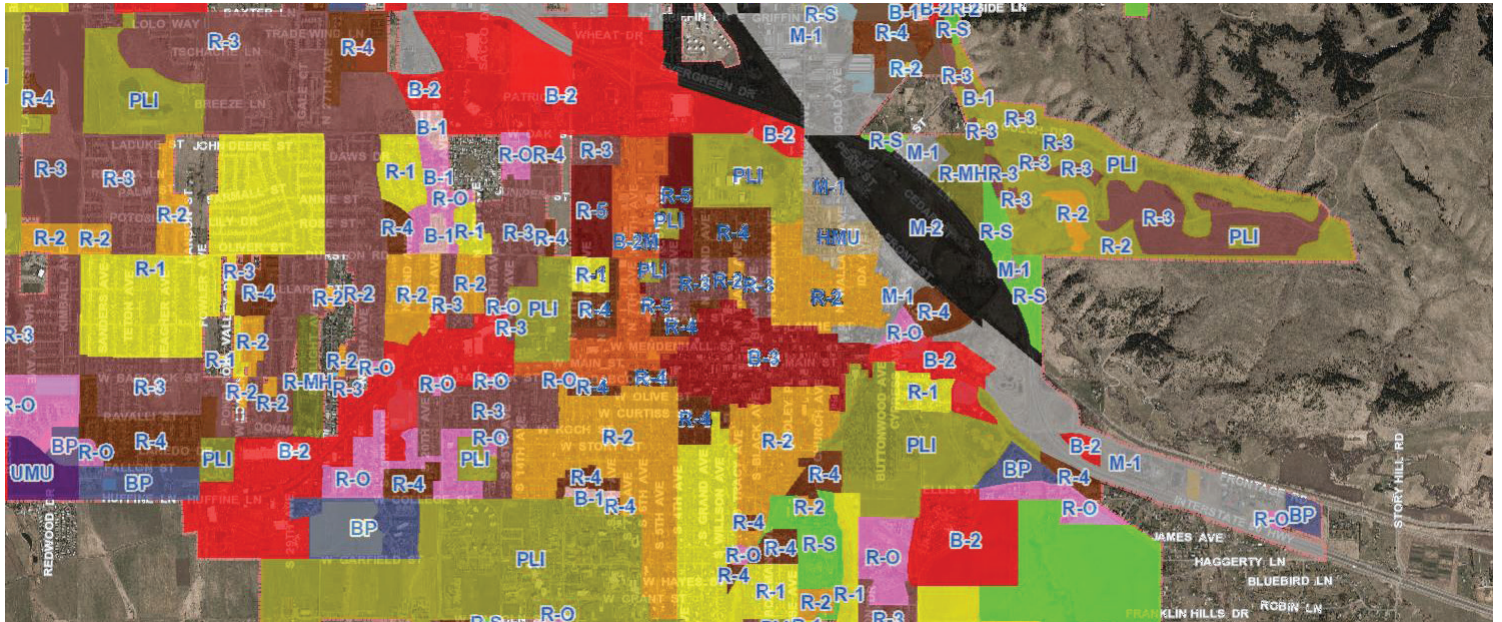
Derf Johnson spoke about statewide policies that will impact water quality, such as the ongoing rulemaking for SB 358, which attempts to roll back water quality standards, or the looming threat of repealing Montana's constitutional right to a clean and healthful environment.

Despite the uphill battle we face in the Legislature this session, Derf said that it's important to stay tuned in and follow issues that could threaten our clean water. This includes getting to know your legislators and reaching out to them via phone, email, social media, and even in person.

"Believe it or not, the Montana Legislature is very accessible," Derf said. "I would encourage you all to get engaged."

Stay tuned for future A River Runs Brew It events in your community! If you run a brewery, winery, or distillery, or if you have a suggestion for a future partner, reach out to Katy Spence (kspence@meic.org) or learn more at www.ariverrunsbrewit.org. 🌿

Sound Land Use Planning Laws Will Build Sustainable Communities



This is an op-ed by MEIC's Ann Schwend that was published in papers around Montana.

Montana's explosive popularity is stretching capacity and resources to the breaking point. Many communities are bursting at the seams, pushing development onto farmlands, dangerously siting homes within the wildland-urban interface, and building precipitously close to flooding rivers. The changing climate is exacerbating these impacts by affecting water supplies (droughts and floods) and increasing the incidence of severe wildfires. We need a variety of affordable housing options to accommodate all Montanans, but what we do on the landscape, and where we choose to develop, will be critical in determining the future of Montana's communities and the health of our environment.

Looking to our past legislative sessions may help predict what we see for proposed "solutions." A number of bills were introduced in the 2021 Session that would have limited the ability for local communities to adequately plan for their future and protect those things they value. Thankfully, most of these bills were rejected by the Legislature because they were knee-jerk reactions, poorly thought out, and had little support. The 2023 Session is right around the corner, and housing and planning issues are rising to the top.

We expect to see several proposals for how to reform our land use and planning laws. Some of these proposals recommend state mandated approaches to planning, which would undermine local control.

Without a doubt, it is time to modernize Montana's land use planning laws. But prescribing cures without diagnosing all of the symptoms will not resolve the underlying issues. We need to zoom out and do a thorough analysis of environmental concerns, community infrastructure, and housing needs first and then use that data to inform and implement responsive policies. We need to recognize there's no one-size-fits-all solution for a crisis as complex as equitable housing across a state as large and diverse as Montana.

Recently, Gov. Greg Gianforte appointed a Housing Task Force to address Montana's housing crisis. While we are optimistic about aspects of the recently released report to the Governor, we see some of the same "top-down" elements that were rejected in the 2021 Session. If the Task Force is serious about addressing Montana's housing crisis, it should empower local leadership and provide incentives that support forward thinking communities to adopt comprehensive, long term strategies that reward sustainable development within existing urban footprints.

Several of the Task Force recommendations would provide incentives and much-needed funding

to leverage opportunities, invest in infrastructure, and support the public-private partnerships that are building diverse housing options for communities. We strongly support the recommended tools to increase funding and options for affordable housing and to invest in programs that get folks into homes. While we're hopeful at these inclusions, we want to ensure that by simply building more houses, we don't lose sight of protecting our natural resources. Ideally, development should occur within core public water and wastewater utilities, not on individual "exempt" wells and septic systems which require more land and are difficult to monitor.

Montana is growing, but let's not miss the opportunity to be strategic and build environmentally sound, affordable, and socially-connected communities in the long term. We need strong land use plans and water policies developed through inclusive community

processes that assess the full spectrum of housing needs, the natural resources we need to protect, and future infrastructure to support that growth. The plans should identify locations and strategies to meet those goals and then adapt local zoning regulations that allow for locally defined, appropriate densities.

As has been **MEIC's** focus for nearly 50 years, we will continue to work to protect clean air, clean water, and a livable climate for Montana. It starts with advocating for strong and thoughtful environmental protections, through the use of both incentives and regulations. As the 2023 Session approaches, let's think more holistically about development and advocate for bills that facilitate sustainable growth so that we may all live safely, affordably, and equitably within our environmental means.

Let's build communities, not just houses. 🌿

UPGRADE YOUR PLATES

Choose a Montana license plate that benefits MEIC!

With an initial extra cost of \$40 and an additional annual renewal cost of \$20, it's an easy way to support our important work defending your right to a clean and healthful environment.

Learn more:

www.meic.org/montana-license-plate



Lone Peak

Smith River

Grizzly

Will the Legislature Fix the Problems with the Opencut Mining Law?

by Anne Hedges

Last session, the Legislature struck a blow to people across the state who live near gravel resources. The Legislature passed a new law that directed the State Department of Environmental Quality to allow developers to run roughshod over the rights of individuals who live in unzoned areas. Since most of Montana is unzoned, that means that just about any Montanan could wake up to a large mine and asphalt plant being developed within spitting distance of their property without ever being notified in advance. The stories of impacted communities are piling up.

Madison Valley

When the Legislature passed the law in 2021, it failed to consider the rights of the folks in the Madison Valley who are facing a 50% expansion of an existing mine. There was little-to-no opportunity for public involvement before state agencies issued a new lease for the land, or before issuing air and mining permits that allow an asphalt plant, concrete and asphalt recycling plants, wash plant, and crushing equipment to operate through December 2042. The mine, near the Madison River and an arctic grayling release site, will impact nearby residences and businesses, harm water quality and wildlife habitat, and increase air, noise and light pollution for people living in the area.

Arlee

Folks near Arlee find themselves near a proposed 157-acre mine and asphalt plant, concrete and asphalt recycling plants, wash plant, and crushing equipment. The mine could remove up to 1 million yards of gravel resulting in 80,000 gravel truck loads on the small local roads near people's homes and businesses, creating dust and traffic and water related issues in an otherwise peaceful rural area. This proposal also threatens the tranquility of the Garden of A Thousand Buddhas, known throughout the region as a meditative getaway.

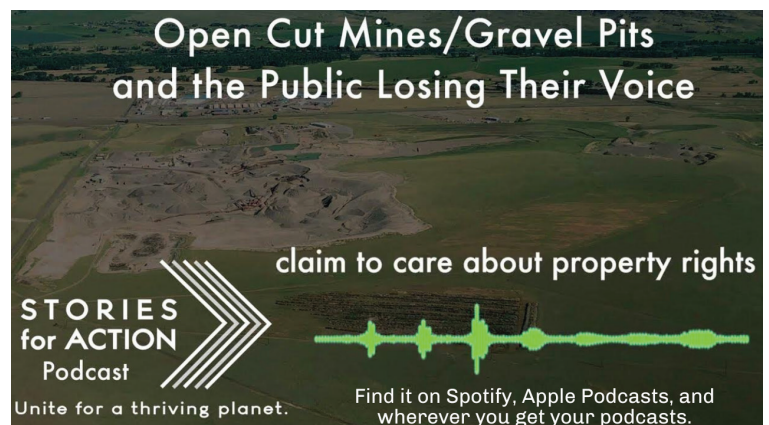
Libby

In Libby, residents who have lived in the area for years now find themselves living next to a 14-acre pit until at least 2052. People living near the mine are distraught over impacts to their water resources, increased dust, noise and light pollution, and decreased property values. The operator is already requesting an amendment to allow him to use a road that was supposed to be a berm between the mine and neighboring landowners as another access route. Neither expansions nor a change in post-reclamation land use require any notification of neighbors.

Ravalli, Yellowstone, Park...

Finally, the Legislature simply never considered people in Ravalli County, Yellowstone County, Lewis and Clark County, Park County, or dozens of other locations where people can suddenly find themselves living next to a proposed or newly operating mine. Instead, the Legislature only considered the gravel pit operators who don't want to worry about pesky neighbors and their concerns for their community, property or safety.

This session, **MEIC** intends to work with these communities and more to push the Legislature to restore some of their lost rights, to ensure they have a voice in the permitting process, and to protect their water resources, air quality, and the safety of their communities. This will be a difficult session to ask for such modest changes but considering the harm that has already been caused by the Legislature's short-sighted law, it's worth trying to claw back a few rights. 🐦



Member Spotlight: Deborah Hanson

by Katy Spence

When you think about the founding members of Montana's environmental movement, you rightly think of Robin Tawney Nichols and Phil Tawney, who founded the Environmental Information Center (EIC) in 1973.

We humbly suggest you also start thinking of Deborah Hanson.

In the 1960s, Deborah attended high school in Missoula with Robin and Phil before meeting her husband, Terry, at the University of Montana. They moved to South Dakota while Terry went to law school and returned in 1972. Having been out of the loop for a few years, they didn't know that the Constitutional Convention had taken place and were not plugged in to the burgeoning environmental movement. In fact, it was a report calling for up to 52 new electrical generating plants in the Great Plains, including in Montana and across the border in the Dakotas, that caught Deborah's attention.

"They were going to mine coal and use our waters," Deborah said. "When we heard that, we were appalled."

Coal companies began pressuring local ranchers and farmers to lease their surface lands or sell their mineral rights, which led a group of ranchers to organize the Northern Plains Resource Council. Deborah and Terry became members in the early '70s.

The following years were an exciting time of



getting things done and preventing an influx of coal plants, Deborah said. She went to Helena and interned for Rep. Dorothy Bradley in the 1974 Legislative Session (there was a period from 1973 to 1975 where the Montana Legislature met annually). She said working for one of the first women in the Legislature was exciting, and while it seems hard to imagine today, lawmakers in the 1970s didn't see environmental work as partisan. This is where Deborah reconnected with Robin and Phil. A year later, they formed EIC, and asked Deborah to be on the first Board of Directors.

"Robin and Phil came up with this novel idea that citizens needed to have an environmental presence at the Legislature and be up there educating and passing laws," Deborah said. "Everybody felt empowered and optimistic. And it was great fun."

In the years since, Deborah has worked with and been on the board for a number of influential conservation organizations in Montana, such as MEIC and Northern Plains Resource Council, where she presently chairs the Oil and Gas Task Force. She and her husband live in Miles City and help advocate for a sustainable economy in rural towns and in farm and ranch country.

Today, Deborah and Terry enjoy spending time with family, friends, and their 42-year-old pet parrot, Shortcake. They love good food, live music, dancing, and spending time on the river. Deborah believes people should get involved in issues they care about and reach out to young people.

"They have great ideas and are paying attention, especially regarding the climate," Deborah said. 🌿

What's your motivating issue?

Water has been a defining issue throughout history and is an important thing in all our lives, especially here in Miles City.

Why I belong to MEIC:

MEIC is a very powerful organization fighting for the Montana that we all want to live in.

What I want to pass on:

A habitable mother earth where we can figure out how to live together, and abolish greed!

Meet Peyton Olson



Hello! I am grateful and excited to be joining the **MEIC** team as the Administrative and Development Assistant. I was born and raised in rural northwestern Minnesota. I grew up in the countryside, and nature was my playground as a kid. The experiences of my younger years sowed the seeds for my love of nature, and that love has flourished into adulthood.

I received my Bachelor of Business Administration from the University of North Dakota. While I pursued my degree in management, I found ways to get involved that would reflect my personal interests, one of which being the Students for Sustainability club. I've carried with me the understanding that environmental consciousness is relevant in all fields throughout my career. When I moved to Montana earlier this year, I wanted to combine my experience in administration with my passion for the environment.

In my new role at **MEIC**, I provide help in any area I can, taking bits and pieces off of the full plates of Cari, Julie, and Katy. While I'm just starting to dive into my work here, it has been an absolute pleasure to work alongside the admirable staff of **MEIC** and connect with our committed members. My knowledge of Montana's history and landscapes is growing, and I embrace the respect that this land and culture deserves. I am honored to be involved with an organization that is tackling some of Montana's greatest challenges and is steadfast in protecting our right to a clean and healthful environment. 🌿

Meet Matthew Passini

Hello, everyone! I am incredibly humbled to be able to help the **MEIC** during the upcoming 2023 Legislative Session as the Legislative Assistant. As the son of a military man, I had the privilege of living in a wide variety of cities and states in the northern, southern, and eastern parts of the U.S.. When I first moved to Big Sky Country, I was simply awestruck at the beauty of Montana. Seven years have passed, and to this day I feel the exact same. Take it from a transplant: we have something very special here!

I earned my bachelor's degree in Political Science from Truman State University in northeast Missouri. During my time there, I was part of the leadership for the environmental club and also spent a semester working in the Missouri House of Representatives during their legislative session. After a stint in community banking, I am currently pursuing a master's degree in the Department of Public Administration and Policy at the University of Montana.

I joined **MEIC** because it established that the right to a clean and healthful environment is a fundamental constitutional right of all Montanans. **MEIC** diligently advocates for an issue to benefit all living things in this great state. Article IX of the Montana Constitution states, "Each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." I am honored **MEIC** has given me this opportunity to fulfill my constitutional duty to you, dear readers. 🌿



Legacies and Lives Well-Lived

by Cari Kimball

Montana's December days are short and the nights are long. Amidst the hustle and bustle, I hope we can all honor the reflective aspects of the season – taking stock of what the past year brought us and looking ahead at what we'd like to accomplish next. We'd be remiss to not reflect upon an immense loss **MEIC** sustained this past fall with the passing of Adam McLane, our long-time, outstanding colleague, and friend. I find myself reflecting with gratitude on the lessons Adam taught us.

Leaving MEIC in a good place...



Adam managed our finances with competence, integrity, and immense institutional knowledge. His financial reports to the board, payroll to our staff, and tax payments to the government were timely, accurate, and reliable. When my blood pressure would spike as we entered

September with a deficit for the year he would soothe us with the reminder **MEIC's** revenues reliably rebound in November. With hindsight being 20/20, I wish I'd sat down and learned the nitty-gritty of his bookkeeping processes earlier – partially because it would have made our bookkeeping transition smoother, but mostly because spending time with him and learning from him was entertaining and engaging. I miss him a lot.

Adam gave me (and everyone at **MEIC**) space to focus our time and attention elsewhere for **MEIC's**

benefit, knowing that the finances were handled. In doing so, Adam allowed **MEIC** to flourish and make Montana a better place. I aspire to give that gift – the peace of mind that **MEIC's** finances are thoughtfully, transparently managed – to our board, staff, and members so that we can sustainably fund the crucial work **MEIC** does for Montana communities.

We need everyone to bring their talents to the work...

MEIC is an effective organization, because people with a variety of professions, passions, and expertise join forces to advocate for Montana's environment. We are lucky to have hydrologists, teachers, healthcare professionals, artists, attorneys, grassroots organizers, and communications specialists in our membership, staff, and board. Maybe if you'd looked at Adam's credentials – MBA from Stanford? Bookkeeping and accounting wizard? – you might not expect him to be a passionate environmental advocate, but his contributions made **MEIC's** work possible. It's a reminder that there's room (and need!) for people bringing a diversity of perspectives, wisdoms, and intelligences to our movement. It takes all of us.

Relationships enrich our lives...

Adam dedicated himself to deeply meaningful relationships – first and foremost to his wife Nancy and their family, and also to his friends and colleagues at **MEIC**. Adam showed up to relationships in a steadfast, reliable fashion with thoughtfulness and care. Most of us strive to be that sort of coworker, family member, and community member who consistently contributes with kindness, compassion, and thoughtfulness. 🌿

Montana Loses Conservation Champion, Tim Crawford

We're sad to say goodbye to Tim Crawford, a long-time **MEIC** supporter, all around dynamo for conservation, and one helluva guy. Tim passed away suddenly on October 30.

Tim shared **MEIC's** passion for environmental protection and was fearless in speaking truth to power. He was a generous benefactor of organizations across the state who were trying to improve the world. His strong passion for the environment was matched by his desire to help the less fortunate. Conversations with him were a delight. He was wonderfully irreverent, could make you laugh uproariously and, at the same time, make you fear for the fate of humanity. He was delightfully wicked with the pen, calling out hypocrisy and greed, and making people laugh along the way. **MEIC** will deeply miss this champion for the state and our future. RIP, friend.



MONTANA ENVIRONMENTAL
INFORMATION CENTER
P.O. Box 1184
Helena, MT 59624

Nonprofit
Organization
U.S. Postage
PAID
Helena, MT
Permit No. 132

CHANGE SERVICE REQUESTED

UPGRADE YOUR PLATES

Choose a Montana license plate that benefits MEIC!

With an initial extra cost of \$40 and an additional annual renewal cost of \$20, it's an easy way to support our important work defending your right to a clean and healthful environment.

Learn more:

[www.meic.org/montana-
license-plate](http://www.meic.org/montana-license-plate)



Lone
Peak

Smith
River

Grizzly