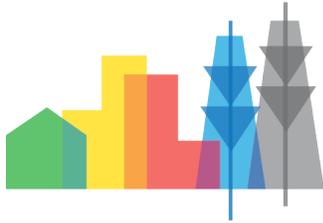


July

2017



Energy
& Local
Economies

COLSTRIP

The Status of Key Policies and Decision Processes

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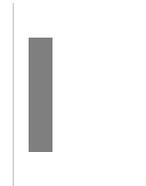
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INTRODUCTION



The partial retirement of the Colstrip coal-fired power plant in eastern Montana is one of dozens of current and pending coal-fired power plant closures across the United States. Power plant closures can be dramatic events, especially in communities where they are the backbone of the local economy. Power plant closures create numerous local challenges: loss of population, jobs, and revenue—and the need to remediate and rehabilitate industrial sites to avoid long-term risks to public health and keep the community attractive for other industries. No single policy governs the mitigation of the many impacts from power plant closure, instead different laws and processes exist for the various components of the power plant-mine-community complex. The result is a set of events that play out in a series of disjointed, unpredictable policy processes. Developments in each power plant closure are subject to a unique constellation of local forces and state policies, demanding a case-by-case analysis to understand them. This report is one such case analysis.

In Colstrip, Montana the shutdown of two of the boilers of a 4-unit, mine-mouth power plant has raised questions about what requirements and funding exist to deal with plant decommissioning, remediation, and to

assist displaced employees or support local infrastructure, schools, and community services. Currently, closure actions at Colstrip are limited to two of four generating units. Still, great uncertainty exists about the long-term future of the whole facility. In addition to the national market forces undermining the competitiveness of coal, a major factor in Colstrip's future is growing consumer pressure on Washington and Oregon utilities to eliminate coal-fired generation from their electricity portfolio. This consumer pressure is reflected in developments like Oregon's 2016 Clean Electricity and Coal Transition plan, a 2016 law that set a 2030 deadline for the state to eliminate coal-fired electricity from its electricity portfolio (with a 2035 extension specific to Colstrip).

This report reviews the status of the key policies and processes that currently affect planning for transition in Colstrip. It begins with an overview of the plant-mine-community complex in Colstrip. Section II provides an overview of how the connected economic, environmental and social systems affected by a power plant closure are disconnected into separate policy arenas for decommissioning, remediation, reclamation and economic transition. Section III summarizes the major legal and policy

guidelines in place to address Colstrip's future at this time and where gaps exist. Section IV concludes with key lessons learned from this review. Appendix A offers a detailed summary of the various initiatives related to Colstrip and transition planning in the 2017 Montana legislature. A list of key policy documents and statues with references to their sources, and full references to cited material are located in the bibliography.

WHAT IS COLSTRIP?

Colstrip is the name of a rural community located in Rosebud County, Montana, just over 100 miles east of Billings and close to the Northern Cheyenne Indian Reservation. The town grew up around early coal-mining activities by the Northern Pacific Railroad in the 1920s, when coal production focused on fuel for locomotives. Colstrip entered a new period in its history when construction of the modern mine and power plant began in the 1960s. These projects were kicked off by the acquisition of the town site in 1959 by Montana Power Company from Northern Pacific.

According to 2016 estimates by the American Community Survey (ACS), about 2,290 people live in Colstrip and 9,352 people live in Rosebud County. More than a third (34%) of the population in Rosebud County self-identifies as Native American, compared to an estimated 15% in Colstrip.

The total labor force in Rosebud County, Montana was 5,683 in 2015.¹ The Colstrip power plant and the associated Rosebud mine are anchor employers, with the plant employing 388 people, and the mine 373 workers.² The Rosebud power plant, a municipal generation facility fueled by waste coal, employs an additional 42 workers. These employers support a number of non-coal jobs in Colstrip, Rosebud County and eastern Montana. One estimate suggests that without Colstrip, 3,500 fewer jobs would exist in eastern Montana.³

Government, including the county, cities, schools, and special districts, constitutes another important local employment sector in Rosebud County. Federal, state and local governments employed 1,732 people, roughly one-third of total employment, as teachers, police officers, health care professionals, maintenance workers, and administrators.⁴

Colstrip boasts of an award-winning quality of life associated with an above average number of amenities. For example, a full-size, heated indoor pool is available year-round to students and the public—an exceptional amenity for a rural Montana town. The tax base of the mine and power plant are important to supporting these amenities. When Colstrip incorporated as a city in 1998, the new city assumed responsibility for maintaining community infrastructure, a task that had previously

¹ U.S. Department of Commerce. Bureau of Economic Analysis, Regional Economic Accounts, Washington, D.C. Table CA25N. 2016.

² *Colstrip Economic Diversification Strategy*, Prepared for City of Colstrip and Southeast Montana Development Corporation (SEMDC), Billings, MT: KJ Government Relations, 2017.

³ Patrick M. Barkey, and Paul E. Polzin, *The economic contribution of Colstrip steam electric station Units 1-4*, prepared for the Colstrip steam electric station owners, Missoula, MT, 2010.

⁴ U.S. Department of Commerce. Bureau of Economic Analysis, Regional Economic Accounts, Washington, D.C. Table CA25N. 2016.

been the responsibility of a subsidiary of the Montana Power Company.

Contributions to local governments from the power plant to support these many amenities accrue through property taxes on the plant and equipment at the mine, and gross receipts taxes on mined coal, and revenue sharing from U.S. federal mineral royalties on coal, in that order. Local governments including the county and the city are reliant on coal-based revenue sources to fund annual county government, city, and school district budgets.

COLSTRIP'S ENERGY FACILITIES

Colstrip is also the shorthand name of the coal-fired power plant adjacent to the town, formally the Colstrip Steam Electricity Station. Colstrip's planning and construction coincided with a national investment in coal generating capacity, driven by price shocks in oil and concerns about scarcity in natural gas.⁵ Montana's historic utility, the Montana Power Company, acquired area coal assets in 1959 with the plan to develop coal-fired generation.

The Colstrip power plant's four generating units have a combined summer capacity of 2,094 megawatts⁶ making Colstrip the second largest coal-fired power plant in the

Western U.S. and the largest single power generator in Montana.⁷ Units 1 and 2 began operating in 1975 and 1976 respectively and have a combined capacity of 614 MW. Units 3 and 4 began operating in 1984 and 1986, with 1,480 MW of combined generating capacity. In addition to the actual generating units, Colstrip's energy facilities also include a surface coal mine, high voltage transmission lines, canals, and water storage facilities for freshwater intake as well as sediment and effluent storage.

OWNERSHIP

To raise the capital to develop its coal assets and generating facilities, Montana Power Company established partnerships with utilities with growing loads, primarily in population centers in Washington and Oregon states. The original partners in the ownership and operation of the Colstrip facilities were Montana Power and Seattle's Puget Sound Electric (PSE), operating on a 50-50 split. The common construction and ownership agreement for Units 3 and 4 involved six entities with varying levels of investment, including Montana Power, PSE, Washington Water and Power, Portland General Electric, and Pacific Power and Light.

⁵ Daryl Robertson, *Powerplant and Industrial Fuel Use Act of 1978: Fuel Replacement* Harv. Envtl. L. Rev. 3 (1979): 214.

⁶ These numbers differ from the Nameplate Capacity of Units 1 and 2 of 333 MW each and Units 3 and 4 of 805 MW each. According to the Energy Information Administration (EIA) "Nameplate generation capacity is determined by the generator's manufacturer and indicates the maximum output of electricity a generator can produce without exceeding design thermal limits. Net summer electricity generation capacity [is] determined by a

performance test and indicates the maximum electricity load a generator can support at the point of interconnection with the electricity transmission and distribution system during the respective season."

<https://www.eia.gov/tools/faqs/faq.php?id=101&t=3>.

⁷ U.S. Department of Energy, Energy Information Administration, Annual Electric Generator Data, Form EIA-860, Washington, D.C., 2015.

Over time, the size of shares has been stable, but the shares have changed hands. Deregulation in 1997 compelled the Montana Power Company to sell its generating assets, including Colstrip, which was acquired by Pennsylvania Power and Light (PPL). Talen Energy, a privately-held independent power producer, acquired PPL's assets, including Colstrip, in 2016.

Today, six entities share ownership in Colstrip's four generating units, with PSE owning the greatest stake in the plant, followed by Talen Energy (PSE owns half of units 1 and 2 and 25 percent of units 3 and 4, see Figure 1). Northwestern Energy, the successor to Montana Power Company and an investor-owned utility headquartered in South Dakota maintains a 30 percent interest in Unit 4.

Private investment in Colstrip add to the turbulence and uncertainty surrounding the plant's future. In contrast to the regulated utilities that comprise the rest of the Colstrip ownership group, Talen Energy's decision-

making processes occur largely behind closed doors. Riverstone Holdings, one of the world's largest energy investment firms, acquired Talen Energy through merger in 2016. Subsequently, a fund owned by megabank Goldman Sachs has purchased a 12 percent interest in Riverstone Holdings.⁸ Talen Energy currently operates the power plant units on behalf of the rest of the owners through two service agreements, a responsibility that gives Talen Energy a leading role in plans for site remediation. However, Talen Energy has been attempting to remove itself from the operator role in the past year. In 2016 Talen announced to fellow owners its plans to identify a new operator by 2018.⁹

Colstrip's fragmented ownership also complicates the process of plant closure. Not only does the diversity of owners introduce discrete sets of stakeholders, but it also results in a multitude of governance processes that occur in different venues, on different timelines, and that are not always accessible to stakeholders.

⁸ Ryan Dezember, "Goldman Fund Agrees to Buy 12% of Riverstone Holdings," *Fox Business online*, May 04, 2017.

⁹ Krysti Shallenberger, "Talen Energy will cease operating embattled Colstrip coal plant in 2018" *Utility Dive*, May 26, 2016.

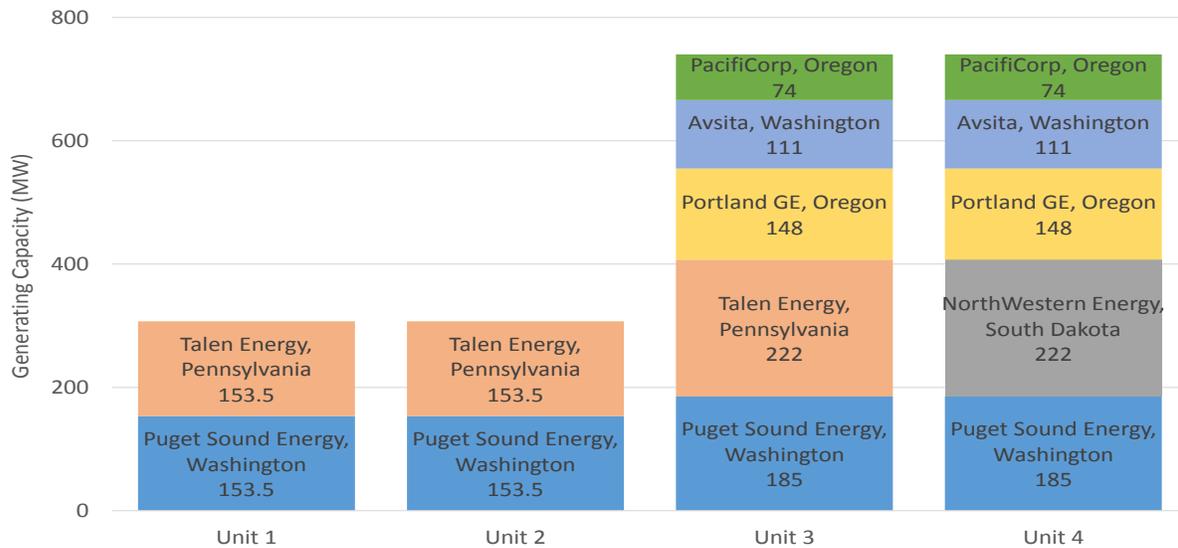


Figure 1. Ownership in Colstrip's Units by Operator and Number of MW

COLSTRIP TRANSMISSION SYSTEM

Colstrip moves the energy it produces to market via the Colstrip Transmission System, twin 500-kV lines that travel from Colstrip to Townsend in central Montana. From there the lines interconnect to the Bonneville Power Administration transmission system. Ownership in the transmission system reflects the partnerships active in the 1980s, with NorthWestern Energy, Puget Sound Energy, PacifiCorp, and Portland General Electric all invested in the transmission system.

THE ROSEBUD MINE

Colstrip is a mine-mouth power plant and receives all its coal from the associated Rosebud Mine, a 25,000 acre surface mine complex just west of town. Plans for the mine were initiated by Montana Power Company, which established a subsidiary, Western Energy, to manage and develop the Colstrip mine and town site property in 1966.

Westmoreland Coal Company, specifically its LLC, Westmoreland Mining, acquired the Rosebud Mine from Montana Power Company in 2001 and continues to operate through the Western Energy subsidiary. The mine operates primarily on Bureau of Land Management leases. Currently, the Rosebud Mine delivers coal only to Colstrip through two long-term contracts. In 2015, coal deliveries totaled 9,348,838 tons.

A railroad spur connects Colstrip to the Burlington Northern Santa Fe rail network. Historically, Western Energy has delivered coal to power plants outside of Montana by rail, producing as much as 13.4 million tons in 2005. Currently, the railroad spur is being used to store railcars, but it does represent an asset that could be utilized to export coal to different markets or to import goods into Colstrip.

END OF LIFE AT A COAL PLANT: A SYSTEM PERSPECTIVE

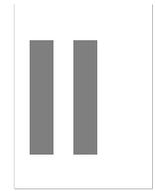
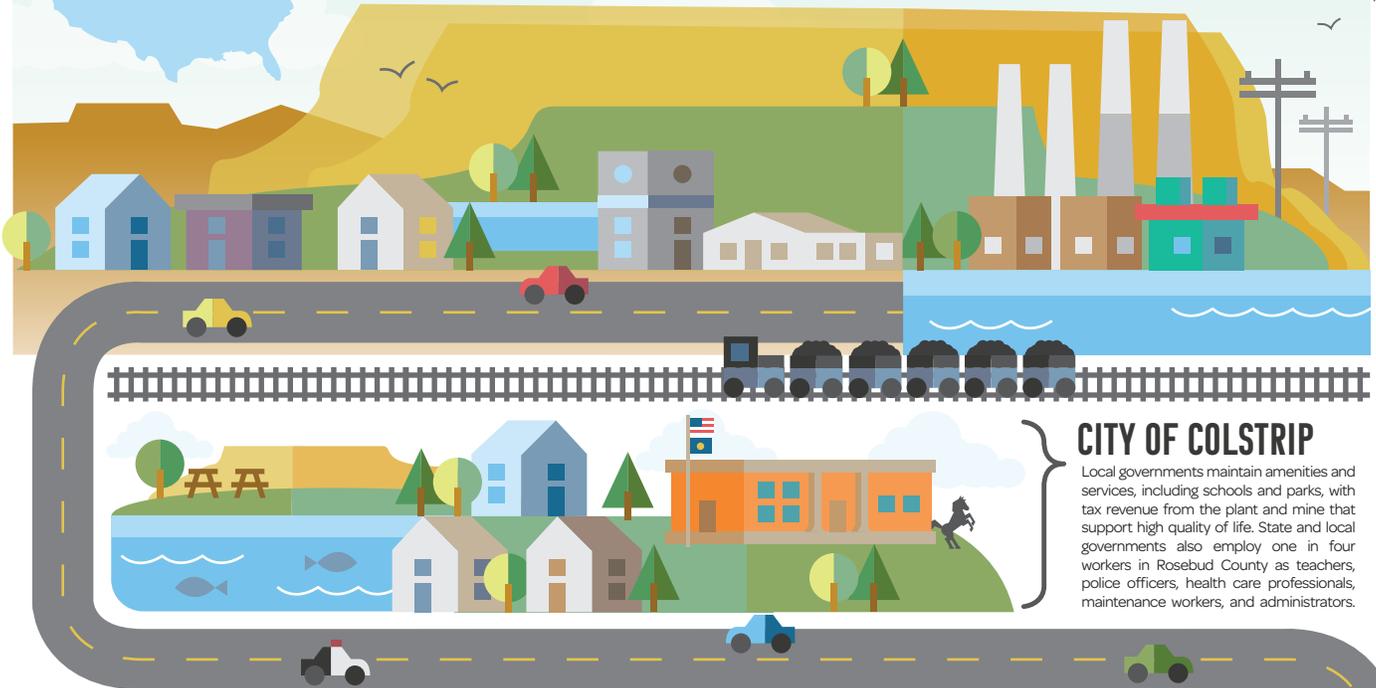


Figure 2 shows a diagram of Colstrip to emphasize how the end of life cycle for a coal-fired power plant affects a connected economic, environmental and social system. However, the fate of each component in the context of plant closure involves different law, policies, and stakeholders—and often discrete timelines. The general policy environment for each set of issues is described in the following section.

WHAT IS COLSTRIP?

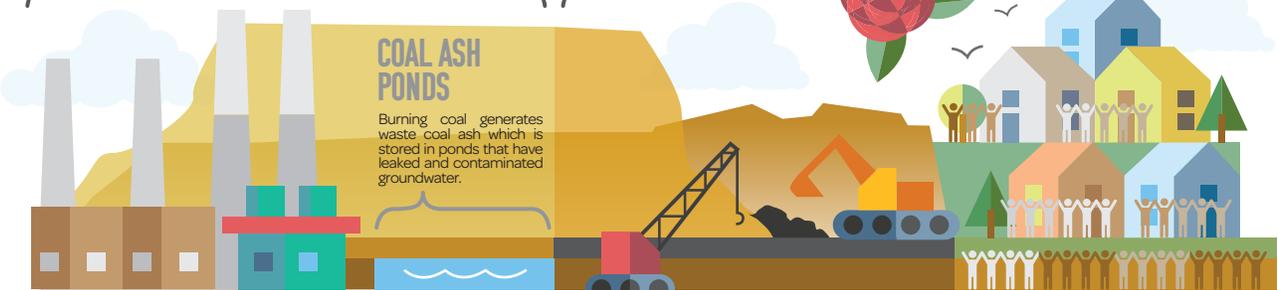


CITY OF COLSTRIP

Local governments maintain amenities and services, including schools and parks, with tax revenue from the plant and mine that support high quality of life. State and local governments also employ one in four workers in Rosebud County as teachers, police officers, health care professionals, maintenance workers, and administrators.

COLSTRIP COAL PLANT

ROSEBUD MINE



COAL ASH PONDS

Burning coal generates waste coal ash which is stored in ponds that have leaked and contaminated groundwater.

UNITS 1 & 2

Owned by two companies, including Talen Energy, a merchant generator acting as the plant's operator.

UNITS 3 & 4

Units 3 and 4 have six different owners, including Northwestern Energy. The diversity of owners creates clusters of stakeholders in a multitude of governance processes.

WESTMORELAND ENERGY

Colstrip is a mine-mouth power plant and receives all its coal from the associated Rosebud Mine, a surface mine owned by Westmoreland.

UNIONS & WORKERS

The mine and power plant employ 750 workers who live in Colstrip and in nearby areas. Some are represented by union contracts and union advocacy to secure relatively high wages and benefits.

BPA TRANSMISSION LINE

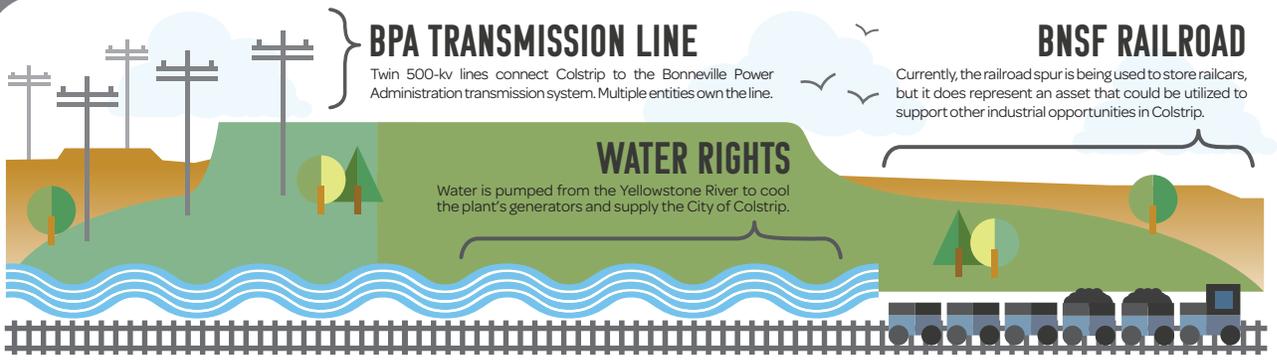
Twin 500-kv lines connect Colstrip to the Bonneville Power Administration transmission system. Multiple entities own the line.

BNSF RAILROAD

Currently, the railroad spur is being used to store railcars, but it does represent an asset that could be utilized to support other industrial opportunities in Colstrip.

WATER RIGHTS

Water is pumped from the Yellowstone River to cool the plant's generators and supply the City of Colstrip.



WHO IS RESPONSIBLE FOR COLSTRIP'S TRANSITION?



POLICY DOMAIN

TIMELINE

WHAT'S HAPPENING

CITY & AMENITIES

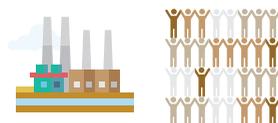


STATE & LOCAL

ONGOING

No requirements to replace lost revenue. Efforts will be state and local, and may include higher taxes, budget cuts, state assistance and negotiations with owners.

WORKERS & UNIONS



COMPANY & UNION NEGOTIATIONS

2022 & ONGOING

There are no formal plans so far for worker retention, retirement, retraining or other compensation packages; these would be negotiated between owners, unions and the state.

EFFLUENT PONDS

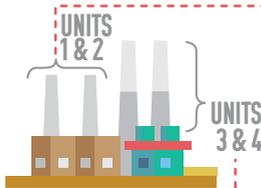


STATE & FEDERAL

ONGOING

A 2012 Administrative Order of Consent established a multi-step process for assessing and mitigating groundwater contamination from leaking coal ash ponds. Owners submit a plan and funding proposal to DEQ in Summer 2017.

COLSTRIP PLANT



FEDERAL & STATE

UNITS 1 & 2
2022

UNITS 3 & 4
2035?

A 2016 legal settlement related to federal clean air regulations set a 2022 date for Units 1 & 2. The plant operators report they may shut down operations sooner due to market and financial pressures.

ROSEBUD MINE



STATE & FEDERAL

ONGOING

Mine operates mostly on Bureau of Land Management leases. Federal and state requirements govern the reclamation process.

RAIL ROAD

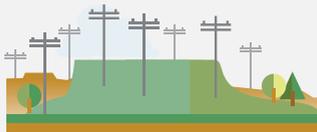


BNSF

ONGOING

The railroad represents an asset and opportunity, but there are no plans or requirements that it be utilized for a specific purpose.

TRANSMISSION LINES



PLANT OWNERS & ENERGY DEVELOPERS

ONGOING

Capacity on the transmission line may be repurposed after Units 1 and 2 close. Private wind and geothermal developers are interested, but no proposals or processes are in place.

WATER RIGHTS



PLANT OWNERS & CITY

ONGOING

City is dependent on water delivery. The plant's water right also is an asset that could support other industry.

Decommissioning refers to the process of safely taking an industrial facility out of operation and permanently retiring it. Few mandates govern decommissioning, with the exception of state solid waste disposal laws. For Colstrip and other similar facilities, the 2017 final federal EPA rule governing safe disposal of coal combustion residuals does stipulate a specific process and requirements regarding coal ash disposal.

Decommissioning may be mentioned in the industrial siting permits issued by states, but the language tends to be broad and non-committal. The Colstrip power plant is a case in point: The 1971 ownership and operation agreement between PSE and Montana Power regarding Units 1 and 2 simply says: “Capital retirements shall be made as mutually agreed by the Owners.”¹⁰ The Certificate of Compliance for Units 3 and 4 (Montana’s Major Facility permit) discusses reclamation of mined land, storage of coal ash, but never the actual decommissioning of the body of the plant itself.¹¹

Assessing Colstrip in its 2013 Integrated Resource Plan, PGE (Portland General Energy-part owner in Units 3 and 4) noted the following:

The Ownership Agreements for both Units 1 and 2 and Units 3 and 4 are silent about a definite date for shut-down of the units. They address decommissioning or remediation costs only to the extent that costs remaining

after equipment salvage are to be distributed based on ownership share.¹²

A 2015 investigative report by the Washington Utilities and Transportation Commission reiterates the absence of clear obligations to any parties other than co-owners in the facilities with regards to decommissioning, reporting that “PSE states that it is under no legal obligation to decommission plant structures.”¹³

Such statements underscore the flexibility that owners and operators have with regards to the process of decommissioning an industrial facility, with the exception of disposal of some regulated waste materials like asbestos and coal ash. There are also no clear mandates for transparency with regards to decommission planning, except where regulated utilities are involved in covering the costs of decommissioning. In the case of Colstrip, regulated utilities like PSE and PGE will ultimately seek recovery of costs associated with their ‘exit’ from Colstrip from ratepayers. This process could bring attention to specific decommissioning activities and plans.

Remediation describes actions taken to mitigate specific environmental damages incurred during facility construction or operation. Remediation is typically triggered by failure to comply with state and federal environmental protection regulations. At the Colstrip facilities, groundwater contamination from leaking effluent ponds have triggered a

¹⁰ *Construction and Ownership Agreement*, Montana Power Company and Puget Sound Power & Light, Section 21, 1971.

¹¹ *Major Facility Siting Act*, Montana Code Annotated, Title 75, Chapter 20, (1973).

¹² *2013 Integrated Resource Plan*, Portland, OR: Puget Sound Energy, Appendix J, p. 4, 2013.

¹³ *Investigation of coal-fired generating unit decommissioning and remediation costs*, Olympia, WA: Washington Utilities and Transportation Commission, p. 2, 2015.

legal process for clean-up in which the Montana Department of Environmental Quality (DEQ) has the statutory authority based on the Montana Water Quality Act and Montana's Major Facility Siting Act.

Reclamation affects disturbed land and describes the process of leaving it in a usable state. Reclamation refers to the process of returning degraded land to some productive state.¹⁴ Often times, though productivity returns, the resulting ecosystem structure is simplified from the original, even if some function is fully reestablished.¹⁵ In the case of Colstrip reclamation activities would include site rehabilitation of the soil to support re-vegetation and the removal of any on-site contaminants. Reclamation seeks to re-establish productive, functioning ecosystem elements.

Transition Assistance refers to activities and resources for community planning, worker retraining and other interventions focused explicitly on minimizing negative impacts of plant closure on people and communities. No formal regulatory or administrative framework exists that defines or requires actions related to transition assistance. There is a growing recognition, however, that the burden of an energy transition that benefits ratepayers and the environment often falls disproportionately on the few communities and workers that are left behind as coal-fired generators are closed.

¹⁴ James A. Harris, Paul Birch, John Palmer, *Land Restoration and Reclamation: Principles and Practice* (London, UK: Longman, 1996).

¹⁵ Anthony David Bradshaw, "The reclamation of derelict land and the ecology of ecosystems" In William R. Jordan, Michael E. Gilpin, & John D. Aber, (Eds.), *Restoration ecology: A synthetic approach to ecological research* (Cambridge, UK: Cambridge University Press 1987), 53-74.

According to the Colstrip Economic Diversification plan¹⁶, 803 workers are employed directly at Colstrip, the Rosebud Mine and Rosebud power plant. No studies specifically estimate how many of these workers could lose their jobs as a result of Units 1 and 2 closing. Recent studies estimate the impacts of a region-wide decline in coal mining, coal exports, and power-plant closures, including but not limited to the closure of Colstrip Units 1 and 2.¹⁷ These estimates paint a dire picture, estimating that a minimum of 800 and up to 7,100 jobs could be lost across the region from the partial or full closure of Colstrip and declining production at all Eastern Montana coal mines.

On the other hand, Andy Wappler, PSE's vice president for customer operations, stated that essentially no workers would be laid off at the power plant through a combination of retirement and jobs in remediation.¹⁸ Both the mine and the power plant labor forces are partially unionized, one source of a possible safety net. Those with the least flexibility and least protection in the near future are local businesses and local government employees whose enterprises depend on the size and prosperity of the mine and power plant workers.

Local governments in Rosebud County play a large role in maintaining the high quality of life in the community and provide critical social, economic development, and planning

¹⁶ *Colstrip Economic Diversification Strategy*, 2017.

¹⁷ For example, see Barkey and Polzin, 2010.

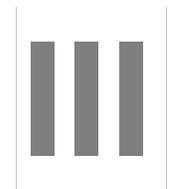
¹⁸ Jay Kohn, "Puget Sound Energy unveils long term economic plan for Colstrip," *MTN News*, (Billings, MT) April 1, 2017.

services that will be relied upon in an economic transition. Demand for these services typically rises during economic downturns or after the loss of a significant employer. Finding a way to maintain local budgets and services is a central aspect of transition planning.

The Montana Legislative Services Division estimated the total direct revenue impact on local governments in Rosebud County from

the closure of Units 1 and 2 at \$4.2 million.¹⁹ The total budget of all local governments in Rosebud County is about \$44 million in the same year.²⁰ The City of Colstrip, Colstrip schools, and Rosebud County will experience the largest share of the declines. For example, direct revenue declines could make up more than a quarter of the current budget for the City of Colstrip (\$4,612,299 in FY 2015).

DECISIONS MADE & TO BE MADE



As described above, the end of life cycle for Colstrip will play out on an attenuated and somewhat unpredictable calendar. While Units 1 and 2 legally are required to close by 2022, Units 3 and 4 are expected to long outlive them, although just how long is uncertain giving the declining appetite for coal-fired electricity in Colstrip's major markets. The following section summarizes the major legal and policy guidelines currently in place to address Colstrip's future. The overall picture is one of complexity and unevenness, reinforcing the disjointed nature of the policy space governing planning for the coal transition in Montana.

Montana's 65th legislative session (2017) featured 12 discrete proposals for laws and other actions to address the coal transition at Colstrip, five of which resulted in statutes of varying levels of significance. The proposed bills offered diverse approaches to decommissioning, remediation, and transition assistance. The amount of legislative activity suggests the importance of clarifying the policy space around these processes to some constituents.

FACILITY DECOMMISSIONING

While the Colstrip energy facilities including the mine, generating units, and associated

¹⁹ VanBrown, Nick and Sam Schaefer, Montana Legislative Fiscal Division, *Direct tax impacts of closing Colstrip units 1 and 2*, Letter to Senator Duane Ankney, June 17, 2016, Helena, MT.

²⁰ Montana State Information Technology Services Division, Montana Data Portal, Local Government Annual Summarized Financial Information, Helena, MT, 2015.

water and transmission facilities are closely integrated, at this point, only Units 1 and 2 are currently scheduled to close. The precipitating event was legal action brought by the Sierra Club and the Montana Environmental Information Center (MEIC) against all six ownership interests in Colstrip's power generating facilities under the Clean Air Act. The subsequent settlement of the litigation in the summer of 2016 stipulated that Units 1 and 2 must be retired by July 1, 2022.²¹ Technically, continued use of other equipment at Units 1 and 2 in support of activities at Units 3 and 4, which may continue to operate under the settlement, is allowed. The Consent Decree does not stipulate specific actions related to decommissioning, giving the operators and owners of Units 1 and 2 considerable discretion in how to implement decommissioning. If the choice is made to begin to dismantle Units 1 and 2, then state and federal solid waste disposal rules will apply.

These decisions have consequences for the regulated utilities that share in Colstrip's ownership and that depend on electricity rates to cover their costs. Anticipating and planning for decommissioning costs has the potential to minimize impacts to ratepayers at the time of closure. Among the owners in Colstrip, PSE has the most evident approach to facility decommissioning. This is not surprising given their role as co-owners in Units 1 and 2, the only units with a formal closure date.

²¹ Sierra Club and Montana Environmental Information Center vs. Talen Energy, et, al., Consent Decree (United States District Court District of Montana July 12, 2016).

²² Puget Sound Energy, 2013 IRP.

The Washington State Legislature passed Senate Bill 6248 in 2016, enabling an electrical company (such as PSE) to establish a formal retirement account for decommissioning and remediation costs of Units 1 and 2. As of June 30, 2015, PSE had \$11.7 million set aside to address decommissioning costs for Units 1 and 2 and have since described plans to deposit an additional \$5 million per year into the fund.

Similar processes are underway in Oregon, triggered by the state's 2016 Clean Electricity and Coal Transition plan, which sets a 2030 deadline for the state to eliminate coal-fired electricity from its electricity portfolio (with a 2035 extension specific to Colstrip). In a 2016 planning document, PGE briefly describes its opportunity for continued rate recovery of costs associated with Colstrip operations until 2035, but specific discussions of decommissioning costs are not included.²²

SITE REMEDIATION

The most pressing remediation issue at the Colstrip site is groundwater contamination from seepage and leakage of the effluent ponds containing coal ash residue. Currently, in its role as facility operator, Talen is working to comply with the requirements set forth in the Administrative Order on Consent (AOC), an enforcement action taken by the Montana DEQ under the Montana Water Quality Act and the Major Facility Siting Act.²³

²³ The lawsuit related to groundwater contamination from Colstrip's settlement ponds centered on the adequacy of the AOC. A settlement agreement resolved and dismissed the lawsuit with an agreement that Talen would shut down Units 1 and

Issued in 2012, the AOC establishes a multi-step process by which Talen assesses remediation needs at multiple contamination sites and proposed remediation options with DEQ's oversight. Talen must submit a closure plan by August 1, 2017. Talen's closure plan will include proposals for bonds for proposed remediation actions. DEQ will select a remediation work plan based on Talen's submission and combine the second and third phases of bonding as required by the AOC.

Because the remediation planning process established through the AOC is ongoing, no definitive estimates of remediation exist. Nor have any of the owners committed to a cost of decommissioning. An Investigative Report prepared by Washington's Utilities and Transportation Commission in 2016²⁴ reported estimates from PSE that the cost to decommission Colstrip 1 and 2 is \$50 million and site remediation is anywhere from \$85 million to \$143 million. These estimates will be updated through the ongoing AOC planning process. Currently, the state holds an existing \$7.5m bond on Talen's behalf that will go toward site remediation.

One of the major legislative initiatives that succeeded in the 2017 Montana legislative session mandates remediation planning and extends its purview to aspects of decommissioning. SB 339, the Coal-Fired Generating Unit Remediation Act, requires submission, review, and approval of a remediation plan by the owner of a coal-fired generating unit to the MT DEQ no later than

90 days after (and no earlier than 5 years prior to) plant retirement.

The new law expands the scope of existing remediation planning efforts because it applies to:

the property owned by or under the control of an owner that is affected by a coal-fired generating unit, including: (i) land, surface water, or ground water directly affected by the coal-fired generating unit, associated impoundments, disposal and waste operations, buildings, structures, or other improvements or operations infrastructure; and (ii) areas affected by activities necessary to the closure and dismantling of the coal-fired generating unit.²⁵

No formal language in the act provides an active role for the public in the planning process, beyond public notice of the proceedings followed by a 45-day comment period.

Presumably, the Coal-Fired Generating Unit Remediation Act now compels the facility operator to expand formal remediation and decommissioning planning for Units 1 and 2 and to report these plans to Montana DEQ, in anticipation of the 2022 closure date. An earlier closure date for Units 1 and 2 remains an issue of great speculation. HB 585, another of the 2017 Montana legislature's successful bills, attempts to stave off early retirement through authorization of low-interest loans to the operator.

2 by 2022 and convert to a "non-liquid" disposal system for the coal ash for units 3 and 4. DEQ continues to administer the AOC.

²⁴ *Investigation of coal-fired generating unit decommissioning and remediation costs*, 2015.

²⁵ SB 339, "An Act Establishing the Coal-Fired Generating Unit Retirement Act," Accessed online: <http://leg.mt.gov/bills/2017/billpdf/SB0339.pdf>

When remediation plans are finalized, stakeholders in the community and elsewhere in Montana will have greater clarity about the expected levels and timing of activities. When this information will become available is difficult to predict. Given the time (over five years) and limited scope (remediation limited only to contamination from the settling ponds, not full site remediation) involved in executing the remediation assessment and mitigation planning under the AOC, it stands to reason that arriving at a complete and acceptable plan for full site remediation as required in the new law may be a lengthy process.

Transparency in decommissioning, remediation, and reclamation planning and funding is highly important to economic transition for Colstrip and workers for two reasons. These activities create jobs and income after the plant closes. Incorporating a transition plan that clarifies how much work needs to be done and the kinds of skills necessary to complete the work could help the community coordinate with local economic development agencies and community colleges to maximize the local benefits of these activities. Second, a long-term vision and plan for Colstrip's economy and quality of life depends on proper decommissioning, remediation, and reclamation. For example, the productivity of agriculture is important in the region and the quality of life and the environment are important aspects of retaining and attracting families and businesses to Colstrip.

²⁶ Lisa Anne Hamilton, Radina Valova and Karl R. Rábago, Pace Energy & Climate Ctr., *Transition Support Mechanisms for Communities Facing Full or Partial Coal Power Plant Retirement in New York*, March 2017.

ECONOMIC TRANSITION

Establishing a transition plan for workers and local economies requires significant state and local leadership. No formal policies or regulations govern the mitigation of socioeconomic impacts of power plant closures.²⁶ Rather, stakeholders must work to identify and aggregate diverse sources of information and support.

Federal programs in the U.S. Department of Labor provide grant-funded assistance to states experiencing mass layoffs. The U.S. Department of Commerce's Economic Development Administration (EDA) also offer grants. Under the Obama administration, support for coal communities expanded through targeted investment and alignment of existing programs under the POWER initiative (expanded to the POWER+ initiative in FY 2017).²⁷ The current Administration's proposed FY18 budget significantly reduces funding for Department of Labor and EDA programs while also eliminating the POWER initiative.

State funds also can be sources of grants and other temporary assistance. A portion of Montana's coal severance tax funds are dedicated to a series of loans, grants, and other temporary assistance programs focused on local government infrastructure, economic development, and quality of life. Half of the coal severance tax revenue is dedicated to permanent savings in the Coal Tax Trust Fund which has a current balance of about \$1 billion. About half of the interest

²⁷ Kermit Kaleba, "Trump FY 2018 Budget Slashes Funding for Key Workforce, Education, Human Services Programs" *National Skills Coalition*, May 23, 2017.

earnings from the Fund (\$20 million) are dedicated to local government infrastructure and economic development state-wide, largely administered through the Department of Commerce. In addition, a portion of severance tax revenue is available to communities experiencing impacts associated with large-scale development of coal energy facilities or as a consequence of these facilities slowing or closure. The grants are administered by the Montana Coal Board and total about \$3.6 million annually for 2017 through 2019.

To date, transition planning for Colstrip as a community has focused on activities led by the Southwest Montana Economic Development Corporation (SMEDC) and the search for support from the state legislature.

DIVERSIFICATION PLANNING

The SMEDC commissioned an Economic Diversification Strategy, released in June 2017, with funding from diverse sources, including the Montana Coal Board and Big Sky Trust Fund through the Montana Department of Commerce and the U.S. EDA Power initiative.²⁸

The final report presents a strategy focused on stabilizing the existing coal economy and utilizing the transmission capacity and industrial facilities made available through the closure of Units 1 and 2. For example, excess capacity on the 500 KV power line could be utilized by wind or geothermal power generators. The report also identifies the key local government and private sector services and infrastructure that could retain and attract families and businesses, including the medical clinic, schools, and

amenities including parks and trails that contribute to a high quality of life. Finally, the report points to the high level of skill and education among the local workforce as an asset that could support local entrepreneurship and attract employers seeking skilled workers.

Implementation of the proposed economic diversification strategy proposed in the 2017 report falls almost entirely on the Southeast Montana Development Corporation and local government leaders to raise money, initiate partnerships, and implement proposed strategies.

A second study conducted for the Coal Country Coalition—a group of economic development agencies in Eastern Montana including the SEMDC—included an impact assessment of a region-wide decline in coal mining, export and power generation including but not limited to the closure of Colstrip Units 1 and 2, a regional workforce assessment, and recommended strategies to promote the coal industry and diversify the economy of Eastern Montana.

Strategies include boosting coal exports from Montana, opposing federal carbon regulations, securing funding for carbon capture and efficiency technology, reviewing and reducing taxes and regulations to attract other businesses to Montana, developing community-based transition strategies, directing additional coal revenue to regional universities and community colleges, and investing in broadband technology in coal communities. The study calls on the Montana Legislature to implement these strategies.

²⁸ *Colstrip Economic Diversification Strategy*, 2017.

Local government already is being forced to respond to revenue reductions. Talen Energy has written down the valuation of its ownership of Colstrip by 87.5 percent, meaning a portion of the potential property tax losses associated with closure have already occurred.²⁹ Rosebud County's taxable value has decreased from \$76 million in FY 2011 to \$64 million in FY 2016, down about 15 percent. Rosebud County's levy has trended up in response. The County's levy increased from 27 mills in 2011 to 38.51 in FY 2016, a 43 percent increase.³⁰

LEGISLATIVE INITIATIVES

Six proposals in the 2017 Montana state legislature specifically focused on community impact mitigation. Two were successful. Senate Joint Resolution 5 established an interim study to research the impacts to Montana's economy and the coal severance tax base from an energy transition away from coal. The study has been assigned to the Environmental Quality Council, which will take up the study beginning in the summer of 2017.³¹

House Bill 209 temporarily increased the amount of coal severance tax revenue allocated to the Montana Coal Board from \$1.6 million to \$3.2 million. The Coal Board will utilize the additional funds to make grants to local governmental units, presumably in Rosebud County, that are affected by the decline in coal mining or the partial closure of Colstrip.³²

²⁹ Matthew Brown, "Write down on Colstrip plant slashes value 87 percent", *Billings Gazette*, (Billings, MT) December 16, 2015.

³⁰ 2014-2016 Biennial Report, Property Tax and Property Value Summaries, Helena, MT: MT Department of Revenue, 2016.

Failed initiatives to address community impacts included proposals for a benefits and retirement security task force specific to Colstrip employees; a coal transition working group; a fund to provide grants and loans to communities affected by coal-fired power plant closures; and a \$15 million impact fee assessed on owners of a coal-fired power plant in the event of plant closure. (See Appendix A for a detailed summary of proposals and their fate in the legislative process). In addition, there was one especially comprehensive proposal targeting community impacts, Senate Bill 338.

SB 338, the Coal-fired Generating Unit Mitigated Retirement Act, would have required facility operators to enter into a formal transition agreement with the Attorney General and Governor's Office which would include the likely date of retirement, a deadline to file the decommissioning plan and, possibly "...a payment to the state made in settlement of the obligations arising from decommissioning requirements." SB 338 also would require Colstrip operators to submit a retirement plan to DEQ that outlines the decommissioning process, how the plan will be financed, and a timeline. The public would be notified about the plan and have opportunity to provide written comments. The definition of decommissioning in the bill demonstrates the broad understanding of closure impacts by its proponents:

the loss of value of residential and commercial real estate in the

³¹ *Draft Work Plan for the 2017-2018 Interim*, Montana Environmental Quality Council, 2017.

³² Montana House Bill 209, Session of 2017 (Montana, 2017).

community,...outstanding liability associated with bonds held by local government issued for infrastructure that was constructed to support a community attendant to a coal-fired generating unit, costs necessary for workforce transition, and cost shifts within a community...directly attributable to the retirement of a coal-fired generating unit...Shifts may include: (A) anticipated changes in a local government's revenue and in the state's revenue due to the retirement; (B) shifts to customers who take service from a public utility...; and (C) anticipated costs specific to tribal governments.³³

SB 338 passed the Senate but failed to move past Committee in the House. The failure of this and related proposals suggests that a state legislative solution to a comprehensive transition planning process is unlikely.

³³ Montana Senate Bill 338, Session of 2017 (Montana, 2017).

CONCLUSIONS

IV

Retirement of coal-fired power plants is a multi-faceted process governed by discrete policies that separate decommissioning, remediation, reclamation and economic transition. These processes are not well coordinated and the lack of coordination frustrates efforts to obtain a clear picture of what the future holds for the local economies near to coal-fired power plants. Among the four aspects of plant retirement, economic transition is the least regulated, creating both opportunities for customizing approaches to local circumstances and challenges and inefficiencies associated with wrangling adequate resources to undertake transition planning.

In anticipation of a closure date of 2022 for two of Colstrip's four generating units, the following processes and statutes are important:

- Talen is required under the AOC to submit a closure plan for Units 1 and 2 to DEQ. The plan will coordinate actions between DEQ and Talen and include a recommendation for additional bonding to cover closure costs. The public will learn more about proposed actions and costs related to closing Units 1 and 2.
- The Coal-Fired Generating Unit Remediation Act passed by the Montana Legislature in 2017 (SB 339) requires submission, review and approval of a remediation plan by the owner of a coal-fired generating unit to the MT DEQ within 90 days of (and no earlier than 5 years prior to) plant retirement. The Act expands the scope of what is required in a closure plan beyond the limited scope of the current AOC that is limited to groundwater contamination associated with the settlement ponds and will provide the state (and the public) with an important opportunity to clarify what plant closure entails and seek additional actions from the plant owners.
- A 2017 economic diversification plan initiated by the regional economic development corporation sets out several strategies to capture opportunities related to repurposing and leveraging industrial and energy facilities and efforts to diversify economic opportunities. The strategy is the first step toward building partnerships, seeking funding, and taking actions that will replace lost

jobs and revenue when Units 1 and 2 close.

Together these processes indicate growing momentum for developing a clear vision for the kinds and levels of activity that will occur at Colstrip as a function of mandated and voluntary decommissioning efforts. However, the disjointed nature of the various activities and the heavy procedural elements of court mandates suggests limits to the ability to know what will happen and when in Colstrip.

Funding for Colstrip's closure remains a moving target. To date, there is no definitive price tag for decommissioning, remediation, and reclamation. Processes are underway to create financial vehicles to pay for remediation at Puget Sound Energy and Portland General Electric as a result of state legislation, but no public information about closure plans from the other owners are available, if they exist.

Specific funding for community impacts such as displaced workers and lost tax revenue

will likely continue to come (when it does) from diverse sources pursued through local and state leadership. Efforts to attach these costs to current facility owners have not been successful.

In sum, while two of Colstrip's generating units will close within the next five years, there is significant uncertainty about the specifics of how that closure will transpire. A great deal of planning for decommissioning remains obscured from public view because of the complex overlapping policy spaces at work and because a key player in the process is an independent power producer with few requirements to make its plans public.

Local entities and state leaders are attempting to address the uncertainty facing the community through a variety of strategies, including legislation and local initiatives. Their efforts underscore the difficulties facing stakeholders attempting to plan for and mitigate impacts of power plant closures in the current policy environment.

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Colstrip Economic Diversification Strategy

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Energy
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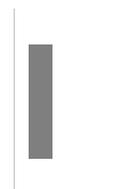
Summary of Legislative Developments Concerning
Colstrip, Montana's 65th Legislature

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Introduction



This section reviews recent legislative actions taken by the 2017 Montana state legislature related to the Colstrip coal-fired power plant in Montana. Montana's 65th (2017) legislative session featured 12 discrete proposals for laws and other actions to address the coal transition at Colstrip. The proposals offered diverse approaches to decommissioning, remediation and transition assistance. The amount of legislative activity suggests the importance of clarifying the policy space around these processes to some constituents. The fact that only four proposals passed as law, two of them relatively inconsequential, suggests the difficulty of using a state legislative venues to impose clarity and coordination on a disjointed process.

This Appendix begins with a review of successful and unsuccessful actions taken

by Montana's legislature in the 2017 session followed by a discussion of key developments.

Montana State Legislature, 2017

A variety of bills were introduced concerning coal-fired generation and Colstrip during Montana's 65th legislative session (Table 2). Despite the uncertainty surrounding the future of Colstrip, not all bills were passed or even scheduled for hearing. Most bills were introduced by two legislators: Senator Duane Ankney (R), who represents Colstrip and surrounding towns, and Representative Jim Keane (D) from Butte. By summarizing the latest legislative developments regarding coal-fired generation in Montana, we can better understand the status and future of the Colstrip generating station.

Table 1. Bills concerning coal-fired generation introduced in the 2017 Montana Legislature

Proposed Bills	Sponsor	Description	Status
House Bill 21	Jim Keane (D) HD 73	Establish benefits and retirement security task force	Tabled in House Energy, Technology and Federal Relations Committee (1/27/17)
House Bill 22	Jim Keane (D) HD 73	Appropriate money to assist/intervene/plan for the closure of coal-fired generation	Signed into law (04/10/17)
House Bill 60	Jim Keane (D) HD 73	Provide support for communities affected by closure of coal-fired generation	No hearing scheduled
House Bill 585	Austin Knudsen (R) HD 34	Provide for loans to an owner of a coal-fired generating unit	Signed into law (5/9/17)
House Bill 624	Janet Ellis (D) HD 81	Establish a coal transition working group	Tabled in House Energy, Technology and Federal Relations Committee (3/27/17)
House Bill 625	Janet Ellis (D) HD 81	Requiring an owner of a coal-fired generating unit to provide a bond	Tabled in House Energy, Technology and Federal Relations Committee (3/27/17)
Senate Bill 37	Duane Ankney (R) SD 20	Establish coal-fired generating unit decommissioning and remediation act	Tabled in Senate Natural Resources Committee (2/8/2017)
Senate Bill 38	Duane Ankney (R) SD 20	Establish energy accountability act	No hearing scheduled
Senate Bill 338	Duane Ankney (R) SD 20	Revise laws related to closure of certain coal-fired generation	Tabled in House Energy, Technology and Federal Relations Committee (4/10/17)
Senate Bill 339	Duane Ankney (R) SD 20	Establishing the coal-fired generating unit remediation act	Signed into law (5/4/17)
Senate Joint Resolution 5	Mike Phillips (D) SD 31	Interim study regarding coal phase-out	Filed with Secretary of State (5/17/17)

Failed Bills

Two-thirds of the bills introduced concerning Colstrip failed. In the Montana House, HB 21, introduced by Representative Keane, was tabled in the House Energy, Technology and Federal Relations Committee. HB 21 would establish a task force of stakeholders (i.e. union leaders, local officials etc.) to investigate the retirement security and

benefits promised to Colstrip employees in the face of partial plant closure. In 2003, soon after Montana Power Company restructured and became Touch America Holdings, a telecommunications company, they filed for bankruptcy. As a result, many Montana Power Company employees did not receive their full pensions and/or retirement benefits. HB 21 was drafted to create a task force that could research and ensure

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Colstrip's employees would not be faced with a similar loss of retirement benefits. The requested appropriation was \$20,000. After a motion to pass HB 21 failed in a tight 8-8 committee vote, the bill was tabled after a 16-0 voice vote.

HB 60, also introduced by Representative Keane, would establish the Treasure State Restore and Rebuild Act to provide support for communities affected by closure of coal-fired generation facilities. The support would be in the form of a grants and loans program awarded to local governments and economic development agencies to assist the community transition from coal-fired generation. Grants and loans could be used to address housing security, infrastructure needs, education, promote economic diversification, and attract new industry. Despite the bill first being read in the House Energy, Technology, and Federal Relations Committee on January 2, 2017, a hearing was never scheduled, at the request of the sponsor, and HB 60 died.

Two additional house bills, 624 and 625, were introduced, heard and then tabled in the House Energy, Technology and Federal Relations Committee. Representative Janet Ellis (D) HD 81 of Helena, sponsored both bills. HB 624 would establish a coal transition working group to develop a transition plan for a community affected by the closure of a coal-fired generating unit. The working group would include a member of the Montana legislature, local government, the local economic and community development agency, tribal governments, the local school district, and facility operators. Aside from industry participants, other members would be appointed by the Governor. In order to ensure facility operators take part, they would incur a \$100,000 penalty for non-

participation. The legislators that opposed the bill were concerned with the legality of charging industry operators a penalty for their lack of participation. The working group would produce a transition plan for the affected community, in this case Colstrip, by September 2018. However, on March 27, 2017, the bill was tabled on an 8-7 party line vote and HB 624 died.

HB 625 would require the owner of a coal-fired generating unit to provide a bond to the Montana Department of Environmental Quality (DEQ). When units 1 and 2 were sited in the early 1970s, the MT DEQ collected \$7.5 million in bonding. Based on recent decommissioning and remediation estimates, \$7.5M will cover only between 4% and 5.5% of the liability. HB 625 would permit the MT DEQ to collect additional financial assurance from Colstrip's owner/operator Talen Energy. Talen Energy, as of December 2016, is owned by Riverstone Holdings, a company that is not publically traded limiting the ability to see the details of their financial accounts. In light of admissions in legislative hearings this session that Talen is losing \$30M a year, HB 625 would secure a bond better suited to the actual cost of the closure liabilities. HB 625 does not apply to Puget Sound Energy as they are a rate-based utility that can pass additional costs onto their customers. Also, PSE is collecting funds earmarked for Colstrip's decommissioning and remediation in a retirement account per RCW 80.84.020. There is no indication that Talen is doing the same. However, HB 625 was tabled in the House Energy, Technology and Federal Relations Committee on an 8-7 party line vote.

The opposition focused on the potential redundancy between HB 625 and the

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existing Administrative Order on Consent (AOC) between Talen and the MT DEQ. The AOC, the enforcement action taken by the MT DEQ under the Montana Water Quality Act and the Montana Major Facility Citing Act concerning extensive groundwater contamination at Colstrip, requires Talen to submit a facility closure plan in August 2017 that will enable the DEQ to reassess the estimated costs of facility closure and remediation. Based on the plan, the DEQ will then require Talen to provide additional financial assurance beyond the existing \$7.5M bond. Since the AOC is an existing process, the opposition did not see value in passing this additional measure. Moreover, some opposition referred to it as punitive, post-facto legislation that would murky Montana's business and industrial climate.

In the Senate, several bills concerning the future of coal-fired generation failed. Senate Bill 38, introduced by Senator Ankney, would establish the Energy Accountability Act. SB 38 would only apply to coal-fired generating units with a generating capacity greater than or equal to 200 MW. Colstrip is the only coal-fired power plant in Montana with a capacity above 200 MW. Thus, SB 38, in effect, would only apply to Colstrip. SB 38 would require entities intending to retire a coal-fired generating unit to notify the Montana Public Service Commission, the Department of Revenue and the Governor and pay a coal county impact fee of at least \$3 million annually for the five years following closure. After the bill was first read on January 2, 2017 in the Senate Energy and Telecommunications Committee, a hearing was never scheduled and SB 38 died.

SB 37, also introduced by Senator Ankney, would establish the Coal-fired Generating Unit Decommissioning and Remediation Act.

The bill was heard in the Senate Natural Resources committee on January 30, 2017. Like SB 38, SB 37 would only pertain to Colstrip as the bill applies to coal-fired generating units with a capacity greater than or equal to 200 MW. The dialogue at the hearing made clear that the legislation was inconsistent with current regulations regarding the decommissioning and remediation of Colstrip. Specifically, requirements for remediation detailed in SB 37 contradicted or convoluted existing federal guidelines, namely the Coal Combustion Residuals (CCR) rule, and the AOC already in place between Colstrip's operators and the Montana DEQ regarding the remediation of groundwater contamination. On February 8, 2017, Senator Ankney moved to table SB 37 in the Senate Natural Resources Committee. SB 37 was unanimously tabled. However, Senator Ankney followed with a motion to draft a committee bill related to coal-fired generating unit remediation which passed unanimously. Although SB 37 died, it was re-invented in a package of three bills (SB 338, SB 339, HB 585) introduced by Senator Ankney and Representative Austin Knudsen (R) HD 34, concerning the closure and remediation of coal-fired generating units. These bills will be discussed further here, and in the upcoming section.

Senate Bill 338, sponsored by Senator Ankney, would establish the Coal-fired Generating Unit Mitigated Retirement Act. SB 338 would require the operators to enter into a transition agreement with the Attorney General and Governor's Office which would include the likely date of retirement, a deadline to file the decommissioning plan and, "...may include a payment to the state made in settlement of the obligations arising from decommissioning requirements". SB

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338 would also require Colstrip operators to submit a retirement plan to DEQ that outlines the decommissioning process, how the plan will be financed, and a timeline. The public would be notified about the plan.. The bill defines decommissioning requirements to include:

the loss of value of residential and commercial real estate in the community,...outstanding liability associated with bonds held by local government issued for infrastructure that was constructed to support a community attendant to a coal-fired generating unit, costs necessary for workforce transition, and cost shifts within a community...directly attributable to the retirement of a coal-fired generating unit...Shifts may include: (A) anticipated changes in a local government's revenue and in the state's revenue due to the retirement; (B) shifts to customers who take service from a public utility...; and (C) anticipated costs specific to tribal governments.

The bill was first heard by the Senate Energy and Telecommunications Committee where 20 people testified as proponents of the bill and seven people opposed SB 338 in an almost three-hour hearing. Proponents focused on the socioeconomic impacts this bill attempts to mitigate while opponents stated that the bill was not crafted in collaboration with stakeholders and was punitive towards PSE and Talen. Ultimately, the Committee passed SB 338, 12-1. The Senate Finance and Claims Committee heard the bill next and passed it, 17-1. On the Senate Floor, SB 338 passed second reading 43-7 and third reading 43-6. Representatives in the House did not view SB 338 as favorably as Senators. Upon

transmittal, the bill was tabled in the House Energy, Technology and Federal Relations Committee on a 13-3 vote after a marathon three-hour hearing. The sentiments of both proponents and opponents were similar to those expressed when the bill was first heard by the Senate Energy and Telecommunications Committee. Just over a week later, a blast motion to resurrect and hear the bill on the House Floor failed 40-59, and SB 338 died.

Bills that Passed

House Bill 22, sponsored by Representative Keane, appropriates funds to the state Attorney General's (AG) office so the AG can intervene and be present in Puget Sound Energy's latest rate case. Since the rate case will include discussions of the pending retirement of units 1 and 2, and plans for continued operation of units 3 and 4, Representative Keane introduced this legislation to provide funds so the AG can be present during the rate case to ensure the people of Colstrip and the State of Montana are adequately represented. The legislation appropriates \$80,000 from the coal and natural resources account, managed by the Coal Board, to the AG's Office. When heard on the House floor, HB 22 passed second reading 98-2 and third reading 98-2. On the Senate floor, the second and third reading were concurred unanimously. After returning to the House with amendments on March 25, 2017, the House concurred the Senate amendments on second reading with an 84-16 vote and again on third reading with an 85-13 vote. The bill was transmitted to Governor Bullock on April 6, 2017 and signed into law on April 14, 2017.

Next, Representative Austin Knudsen, in coordination with Senator Ankney's bills (SB

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338 & 339), introduced House Bill 585 which would authorize the Montana Board of Investments to make an annual low-interest loan of up to \$10 million to Talen Energy through 2022. This bill was introduced in response to statements from Talen that they were losing \$30M a year operating Colstrip units 1 and 2. The loan funds would come from the Montana permanent coal tax trust fund and could only be used for the operation and maintenance of a coal-fired generating unit. This does not constitute an appropriation to Talen Energy but instead provides authorization for the MT Board of Investments to make a loan. Upon passage, the current policies of the Board of Investments would need to be amended to allow them to legally make this type of working capital loan. The outcome of the first HB 585 hearing in the House Energy, Technology and Federal Relations Committee, was a 9-7 party line vote to pass the bill.

The bill passed second reading 65-34 and later passed third reading 61-37. In the Senate Energy and Telecommunications Committee, the bill was concurred with a 10-3 vote. On the Senate Floor, HB 585 was concurred on second reading with a 35-15 vote and one day later, was again concurred on third reading 31-19. On May 1, 2017, HB 585 was sent to Governor Bullock's office and signed into law on May 9, 2017

Senate Bill 339, sponsored by Senator Ankney, saw widespread bipartisan support. SB 339, or the Coal-Fired Generating Unit Remediation Act, would establish requirements for submission, review and approval of a remediation plan to the MT DEQ drafted by the owner of a coal-fired generating unit. SB 339 incorporates and works in conjunction with the Federal CCR

rule and the existing AOC. SB 339 does not include an appropriation as no new DEQ hires are required for implementation and DEQ costs are to be covered by the owner of the facility. In addition, the bill establishes an appeals process for the owner of a coal-fired generating unit related to possible disagreements between the operators and DEQ regarding the approval process for a remediation plan. At SB 339's first hearing in the Senate Natural Resources Committee, eight proponents praised the bill and there were no opponents. The Committee passed SB 339 unanimously which was followed by two unanimous 50-0 votes on the Senate Floor to pass the bill. Upon transmittal, the House Energy, Technology and Federal Relations Committee heard the bill and concurred SB 339 unanimously.

On the House Floor for second reading, Representative Keane from Butte proposed an amendment to SB 339 that would incorporate the primary components of two failed bills, SB 338 and HB 625. Keane articulated that, "it completes the process and it gives a long-range plan [for] when Colstrip 1 and 2 close". However, these amendments were met with resistance as representatives raised legal questions as, by law, amendments that change the bill's original purpose cannot be passed. Oppositional representatives urged the body to "respect the process" since SB 338 had already died, despite a failed blast motion to hear the bill again on the House Floor. Representative Zolnikov, who carried SB 339 on second reading, reminded colleagues that the DEQ has plans to re-bond Colstrip, per the existing AOC, by the end of the year so amendments to include HB 625 are not necessary. He also warned colleagues that passage of the bill with the SB 338 amendment would elicit immediate litigation

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from Colstrip's operators and bring SB 339 down with it. The amendment failed 60-40 and then SB 339 was passed unanimously on second reading. The bill was concurred on third reading, 97-3. Governor Bullock signed the Coal-Fired Generating Unit Remediation Act into law on May 4, 2017.

Senate Joint Resolution 5 was introduced by Senator Mike Phillips (D) of SD 31, Bozeman. A Joint Resolution does not establish any new laws but instead represents an agreement among the legislature that a particular topic needs to be studied in greater detail by an interim

committee. In this case, SJ 5 requests an interim study regarding coal-phase out in Montana. SJ 5 will exclusively study how a transition away from coal would impact Montana's economy and the coal severance tax base. On the Senate Floor, SJ 5 passed second reading on an 28-21 vote and passed third reading with a 34-16 vote. Upon transmittal, the House Energy, Technology and Federal Relations Committee passed SJ 5 with amendments 15-1. On the House Floor the bill was concurred second reading 69-31. Two days later, SJ 5 was concurred on third reading, 61-39. SJ 5 was filed with the Secretary of State on May 17, 2017.

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Tables 2-8. The following tables provide information on the status of specific House and Senate Bills and Resolutions related to Colstrip

House Bill 22				
Date	Action	Votes Yes	Votes No	Committee
11/23/2016	Introduced			
01/02/2017	First Reading			(H) Energy, Technology, Federal Relations
01/16/2017	Hearing			(H) Energy, Technology, Federal Relations
<p>Proponents: Senator Ankney; Mayor John Williams, Colstrip; JD Lynch, Building Construction Trades; Michaelyn Hawk, citizen; Bob Gilbert, City of Colstrip & Rosebud County; Dave Galt, Montana Association of Oil, Gas and Coal Counties; Jim Atchinson, South Eastern Montana Development Corporation; Keith Allen, International Brotherhood of Electrical Workers; Kelly Lynch, Montana League of Cities and Towns; Anne Hedges, Montana Environmental Information Center; Chris Cavazos, Montana State AFL-CIO</p> <p>Opponents: None</p>				
01/27/2017	Committee Executive Action - Bill Passed as Amended	15	1	(H) Energy, Technology, Federal Relations
02/01/2017	Second Reading Passed	98	2	House Floor Session
02/07/2017	Hearing			(H) Appropriations
<p>Proponents: Dave Galt, Montana Association of Oil, Gas and Coal Counties; Tim Burton, Montana League of Cities and Towns; Shantil Siaperas, Montana Association of Counties; JD Lynch, Building Construction Trades; Jesse LaBuff, Boilermakers local #11; Bob Gilbert, City of Colstrip & Rosebud County</p> <p>Opponents: None</p>				
02/13/2017	Committee Executive Action - Bill Passed as Amended	21	1	(H) Appropriations
02/17/2017	Second Reading Passed	98	2	House Floor Session
02/18/2017	Third Reading Passed	98	2	House Floor Session
02/18/2017	Transmitted to Senate			
02/21/2017	First Reading			(S) Energy and Telecommunications
03/09/2017	Hearing			(S) Energy and Telecommunications
<p>Proponents: Jon Bennion, Attorney General's Office, Department of Justice; Anne Hedges, Montana Environmental Information Center; Dave Galt, Montana Association of Oil, Gas and Coal Counties; Eric Bryson, Montana Association of Counties; Tim Burton, Montana League of Cities and Towns; Bob Gilbert, City of Colstrip & Rosebud County</p> <p>Opponents: None</p>				
03/14/2017	Committee Executive Action – Bill Concurred	13	0	(S) Energy and Telecommunications
03/17/2017	Second Reading Concurred	48	0	Senate Floor Session
03/17/2017	Taken from 2 nd Reading: Re-referred to Committee	48	0	(S) Finance and Claims
03/21/2017	Hearing			(S) Finance and Claims

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Proponents: Dave Galt, Montana Association of Oil, Gas and Coal Counties				
Opponents: None				
House Bill 22 Continued				
03/21/2017	Committee Executive Action – Bill Concurred as Amended	18	0	(S) Finance and Claims
03/24/2017	Second Reading Concurred	50	0	Senate Floor Session
03/25/2017	Third Reading Concurred	48	0	Senate Floor Session
03/25/2017	Returned to House with Amendments			
03/31/2017	Second Reading Senate Amendments Concurred	84	16	House Floor Session
04/01/2017	Third Reading Passed as Amended by Senate	85	13	House Floor Session
04/06/2017	Transmitted to Governor			
04/14/2017	Signed by the Governor			

House Bill 585				
Date	Action	Votes Yes	Votes No	Committee
03/13/2017	Introduced			
03/13/2017	First Reading			
03/20/2017	Hearing			(H) Energy, Technology & Federal Relations
Proponents: John Metropolous, Talen Energy; Jesse LaBuff, Boilermakers #11				
Opponents: Anne Hedges, Montana Environmental Information Center				
03/22/2017	Committee Executive Action – Bill Passed	9	7	(H) Energy, Technology & Federal Relations
03/24/2017	Second Reading Passed	65	34	House Floor Session
03/27/2017	Third Reading Passed	61	37	House Floor Session
03/27/2017	Transmitted to Senate			
03/28/2017	First Reading			(S) Energy and Telecommunications
04/06/2017	Hearing			(S) Energy and Telecommunications
Proponents: John Metropolous, Talen Energy;				
Opponents: None				
04/06/2017	Committee Executive Action – Bill Concurred	10	3	(S) Energy and Telecommunications
04/12/2017	Second Reading Concurred	35	15	Senate Floor Session
04/13/2017	Third Reading Concurred	31	19	Senate Floor Session

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Senate Bill 339				
Date	Action	Votes Yes	Votes No	Committee
03/09/2017	Introduced			
03/10/2017	First Reading			
03/22/2017	Hearing			(S) Natural Resources
<p>Proponents: Tom Ebzrey, Attorney representing Puget Sound Energy, Portland General Electric, AvistaCorp; Anne Hedges, Montana Environmental Information Center; Jim Atchinson, Southeastern Montana Development Corporation; Jesse LaBuff, Boilermakers #11; Kelly Lynch, Montana League of Cities and Towns; Adam Haight, Northern Plains Resource Council; Steve Wade, Montana Association of Oil, Gas and Coal Counties; JD Lynch, Building Construction Trades</p> <p>Opponents: None</p>				
03/24/2017	Committee Executive Action – Bill Passed	12	0	(S) Natural Resources
03/28/2017	Second Reading Passed	50	0	Senate Floor Session
03/29/2017	Third Reading Passed	50	0	Senate Floor Session
03/29/2017	Transmitted to House			
03/31/2017	First Reading			(H) Energy, Technology & Federal Relations
04/10/2017	Hearing			(H) Energy, Technology & Federal Relations
<p>Proponents: Tom Ebzrey, Attorney representing Puget Sound Energy; Anne Hedges, Montana Environmental Information Center; Jim Atchinson, Southeastern Montana Development Corporation; David Galt, Montana Association of Oil, Gas and Coal Counties; Tim Burton, Montana League of Cities and Towns; Ella Smith, Northern Plains Resource Council; Chris Cavazos, Montana AFL-CIO; JD Lynch, Building Construction Trades; Laurie Shaw, self (Colstrip United); Bob Gilbert, City of Colstrip & Rosebud County</p> <p>Opponents: None</p>				
04/10/2017	Committee Executive Action – Bill Concurred	16	0	(H) Energy, Technology & Federal Relations
04/21/2017	Second Reading Motion to Amend Failed	40	60	House Floor Session
04/21/2017	Second Reading Concurred	100	0	House Floor Session
04/22/2017	Third Reading Concurred	97	3	House Floor Session

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Senate Joint Resolution 5				
Date	Action	Votes Yes	Votes No	Committee
01/12/2017	Introduced			
01/13/2017	First Reading			
01/25/2017	Hearing			(S) Natural Resources
Proponents: Anne Hedges, Montana Environmental Information Center; Dan Roper, Montana Audobon Opponents: Chris Cavazos, Montana AFL-CIO; Todd O'Hare, Cloud Peak Energy				
02/08/2017	Executive Action - Bill Passed as Amended	12	0	(S) Natural Resources
02/20/2017	Second Reading Passed	28	21	Senate Floor Session
02/21/2017	Third Reading Passed	34	16	Senate Floor Session
02/21/2017	Transmitted to House			
02/23/2017	First Reading			
03/10/2017	Hearing			(H) Energy, Technology & Federal Relations
Proponents: Anne Hedges, Montana Environmental Information Center; Opponents: Chris Cavazos, Montana AFL-CIO; Budd Clinch, MT Coal Council; Todd O'Hare, Cloud Peak Energy; Peggy Trenk, Treasure State Resources Association				
03/15/2017	Executive Action – Bill Concurred as Amended	15	1	(H) Energy, Technology & Federal Relations
04/22/2017	Second Reading Concurred	69	31	House Floor Session
04/24/2017	Third Reading Concurred	61	39	House Floor Session

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Senate Bill 338				
Date	Action	Votes Yes	Votes No	Committee
03/09/2017	Introduced			
03/09/2017	First Reading			
03/16/2017	Hearing			(S) Energy and Telecommunications
<p>Proponents: Mayor John Williams, Colstrip; Representative Keane, HD 73; Tim Baker, MT Governor's Office; Tom Butler, Montana Deputy Attorney General; Fred Wacker, Montana Stockgrowers Association; Chris Cavazos, Montana State AFL-CIO; Jody Bird Williams, Rosebud County Planning Board; Beth Kaeding, Northern Plains Resource Council; Dave Galt, Montana Association of Oil, Gas and Coal Counties; Laurie Shaw, Colstrip United; Tim Burton, Montana League of Cities and Towns; Bob Gilbert, City of Colstrip & Rosebud County; Helen Shaw, Colstrip Realtor; Doug Martens, Rosebud County Commissioner; Jason Rittal, Falon County; JD Lynch, Building Construction Trades; Dwight Rose, International Brotherhood of Electrical Workers; Jesse LaBuff, Boilermakers #11; Harold Blattie, Montana Association of Counties; Eric Fever, MEA-FT.</p> <p>Opponents: Tom Ebzrey, Attorney representing Puget Sound Energy, Portland General Electric, AvistaCorp; Diega Rivas, Northwest Energy Coalition; John Metropolous, Talen Energy; Bob Story, Montana Taxpayers Association; Bridger Mahlum, Montana Chamber of Commerce; Jeff Fox, Renewable Northwest; Anne Hedges, Montana Environmental Information Center.</p>				
03/23/2017	Committee Executive Action - Bill Passed as Amended	12	1	(S) Energy and Telecommunications
03/24/2017	Taken from 2 nd Reading: Re-referred to Committee	50	0	Senate Floor Session
03/27/2017	Committee Executive Action – Bill Passed as Amended	17	1	(S) Finance and Claims
03/30/2017	Second Reading Passed	43	7	Senate Floor Session
03/30/2017	Third Reading Passed	43	6	Senate Floor Session
03/30/2017	Transmitted to House			
04/01/2017	First Reading			
04/07/2017	Hearing			(H) Energy, Technology & Federal Relations
<p>Proponents: Adam Schaeffer, Governor's Office; John Bennion, Attorney General; Chris Cavazos, Montana State AFL-CIO; Mayor John Williams, Colstrip; Beth Kaeding, Northern Plains Resource Council; Jody Williams, self; Rex Rogers, IBW; Doug Martens, Rosebud County; Dave Galt, Montana Association of Oil, Gas and Coal Counties; Jesse LaBuff, Boilermakers #11; Morgan Smith, MEA-MFT; Jim Atchison, SEMT Development; Jason Rittal, self; Kelly Lynch, Montana League of Cities and Towns; Laurie Shaw, self (Colstrip United); David Saulsbury, self.</p> <p>Opponents: John Metropolous, Talen Energy; Melissa Lewis, Puget Sound Energy; Brendan McCarthy, self; Tom Ebzery, self; Diego Rivas, Montana Energy Coalition; Bob Story, Montana Taxpayers Association; Jeff Fox, Renewable NorthWest; Bridger Mahlum, Montana Chamber of Commerce; Anne Hedges, Montana Environmental Information Center.</p>				
04/10/2017	Tabled in Committee			(H) Energy, Technology & Federal Relations
04/18/2017	Motion Failed	40	59	House Floor Session

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House Bill 624				
Date	Action	Votes Yes	Votes No	Committee
03/21/2017	Introduced			
03/21/2017	First Reading			
03/27/2017	Hearing			(H) Energy, Technology & Federal Relations
Proponents: Derf Johnson, Montana Environmental Information Center Opponents: None				
03/27/2017	Tabled in Committee	8	7	(H) Energy, Technology & Federal Relations

House Bill 625				
Date	Action	Votes Yes	Votes No	Committee
03/21/2017	Introduced			
03/21/2017	First Reading			
03/27/2017	Hearing			(H) Energy, Technology & Federal Relations
Proponents: Derf Johnson, Montana Environmental Information Center; Adam Haight, Northern Plains Resource Council; Neal Ullman, Montana Conservation Voters; Tucker Finley, Montana Public Interest Research Group Opponents: John Metropolous, Talen Energy				
03/27/2017	Tabled in Committee	8	7	(H) Energy, Technology & Federal Relations