



## Energy and Telecommunications Interim Committee

### 62nd Montana Legislature

#### SENATE MEMBERS

ALAN OLSON--Chair  
VERDELL JACKSON  
JIM KEANE  
CLIFF LARSEN

#### HOUSE MEMBERS

TONY BELCOURT--Vice Chair  
ROBYN DRISCOLL  
HARRY KLOCK  
AUSTIN KNUDSEN

#### COMMITTEE STAFF

SONJA NOWAKOWSKI, Lead Staff  
TODD EVERTS, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

July 17, 2012  
Day 2

Board of Oil and Gas Conservation Building  
Billings, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page. You must have Real Player to listen to the audio recording or to view the video.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

#### **COMMITTEE MEMBERS PRESENT**

SEN. ALAN OLSON, Chair  
SEN. VERDELL JACKSON  
SEN. JIM KEANE  
REP. ROBYN DRISCOLL  
REP. AUSTIN KNUDSEN

#### **COMMITTEE MEMBERS EXCUSED**

REP. TONY BELCOURT, Vice Chair  
SEN. CLIFF LARSEN  
REP. HARRY KLOCK

#### **STAFF PRESENT**

SONJA NOWAKOWSKI, Lead Staff  
DAWN FIELD, Secretary

#### **AGENDA & VISITORS' LIST**

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

#### **COMMITTEE ACTION**

The Energy and Telecommunications Interim Committee:

- approved drafting a letter to the U.S. Army Corps of Engineers opposing increased environmental review in the permitting process for proposed port projects in the Pacific Northwest; and
- approved drafting a letter to Montana Rail Link and Burlington Northern Railroads requesting that they consider routing coal trains through Butte and bypassing Helena.

### **SANJEL TRAINING CENTER TOUR**

The Energy and Telecommunications Interim Committee (ETIC) toured the Sanjel training center for hydraulic fracturing equipment from 8:00 a.m. to 9:30 a.m.

### **CALL TO ORDER/ROLL CALL**

00:00:03 SEN. OLSON called the meeting to order at 10:09 a.m. The Secretary noted the roll, Sen. Larsen, Rep. Klock, and Rep. Belcourt were excused (Attachment 3). SEN. OLSON reviewed the meeting agenda.

### **OVERVIEW OF OIL AND GAS CONSERVATION DEVELOPMENTS**

#### **Board of Oil and Gas – Tom Richmond, Administrator**

- 00:00:44 **Tom Richmond, Administrator, Montana Board of Oil and Gas**, discussed a number of topics related to oil and gas production activity in Montana and referred to slides displayed on screen in the meeting room throughout his presentation (EXHIBIT 1). He began his discussion with recent price differentiations and the effect of inadequate take-away capacity from the Williston Basin.
- 00:02:55 Mr. Richmond discussed current rig counts in Montana.
- 00:04:01 Mr. Richmond discussed crude oil prices, saying that the price is very close to the “break even” point of \$60.
- 00:05:22 REP. KNUDSEN and Mr. Richmond discussed rig shutdowns and the increasing costs of drilling.
- 00:06:58 Mr. Richmond discussed monthly oil production for vertical versus horizontal wells for January 1986 through March 2012.
- 00:08:15 Mr. Richmond discussed Montana drilling permits from 1990 through July 17, 2012. He noted the dramatic decline in natural gas since 2008 and the downturn in natural gas prices.
- 00:10:19 Mr. Richmond discussed the Elm Coulee oil field as indicated on a map he displayed in the meeting room.
- 00:14:03 Mr. Richmond discussed other areas of interest in the state, including Cut Bank and Glacier and Teton Counties.
- 00:15:25 Mr. Richmond discussed activity in central Montana involving heath shale. He noted that there has been mixed results and that technology is being customized for that area in order to keep production going.

- 00:16:29 Mr. Richmond discussed current and upcoming activities for the Board and said that because of the heavy docket load, hearings will take a while to complete.
- 00:17:12 Mr. Richmond discussed a CO<sub>2</sub> primacy contract issued to Hydrosolutions as a result of a request for proposal (RFP). He said that the rulemaking process has begun and that he hopes the process will be ready by year end.
- 00:18:01 Mr. Richmond discussed several ongoing projects, including a Montana Tech inspection procedure manual, and a frac sand study with the Bureau of Mines and Geology.
- 00:19:41 Mr. Richmond said that the Board has no proposed agency legislation at this time but that he anticipates that issues will come up during the 2013 session .

#### **ETIC Questions**

- 00:20:10 There were no committee questions.

#### **Public Comment**

- 00:20:16 There was no public comment.
- 00:20:35 SEN. OLSON recessed the meeting for a break until 10:45 a.m.
- BREAK**
- 00:49:44 SEN. OLSON called the meeting back to order at 10:49 a.m.

### **FOLLOW-UP TO MAY SOUTHERN MONTANA ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE INC., DISCUSSION**

#### **Update - Montana Rural Electric Cooperatives**

- 00:50:16 Doug Hardy discussed the provisions of LCet01 (EXHIBIT 2), saying that the bill draft proposal is the result of the rural electric cooperative stakeholders working together, as directed by the ETIC at its May meeting. Mr. Hardy said he believes that the stakeholders went above and beyond in their effort to take seriously the issues at stake.

#### **Bill Draft Considerations**

- 00:53:04 **Sonja Nowakowski, Research Analyst, Legislative Services Division (LSD)**, said that staff worked with rural electric cooperative stakeholders to revise the draft legislation, which includes a number of new regulations and other changes. She outlined several of the changes in LCet01 (EXHIBIT 2).
- 00:58:16 Ms. Nowakowski said that public comment received on the draft bill was included in the meeting folders (EXHIBIT 3). She said that staff awaits further direction.

#### **Public Comment**

- 01:00:47 **Arlene Boyd, Beartooth Electric Cooperative, Southern Montana Electric Generation and Transmission Cooperative Trustee**, thanked the ETIC for its work and attention to this matter and said she was appreciative of the ETIC's assistance in dealing with the past climate of secrecy and bad business practices. Ms. Boyd discussed her perspective of the proposed bill, saying that

she hoped it would create a climate of transparency and responsible business practices as the accepted norm for cooperatives in Montana.

#### **ETIC Questions**

01:05:38 There were no committee questions.

#### **Committee Action**

- 01:05:53 SEN. OLSON discussed, on page 4 of LCet01 (EXHIBIT 2) changing the required approval from a simple majority to a two-thirds majority.
- 01:07:38 REP. DRISCOLL asked if the change had been discussed with the cooperatives. SEN. OLSON said it had been discussed with Mr. Hardy, Mr. Wiens, and Mr. Wheelihan but that he could not say that it had their approval.
- 01:08:20 Mr. Hardy said that the stakeholders focused more on generation and transmission side than it did on the distribution side, so he would discuss the proposed change with the cooperatives.
- 01:09:19 SEN. OLSON said that the ETIC didn't have to make a decision at this meeting and could give the cooperatives time to discuss his proposed change. REP DRISCOLL said she would prefer to wait in order to give the cooperatives an opportunity to discuss the change.

#### **Directions to Staff**

- 01:10:03 SEN. OLSON asked that the change be made in the draft legislation and that it put back out for additional public comment.
- 01:10:44 **Scott Sweeney, Manager, Fergus Electric, Lewistown**, asked for clarification on when the two-thirds vote requirement would apply. SEN. OLSON said when new generation and large contracts were involved.
- 01:12:42 SEN. KEANE asked that the cooperatives be invited to the September meeting to comment on the draft legislation.
- 01:13:21 SEN. OLSON noted that the committee was ahead of schedule again and recessed the meeting until 1:00 p.m.

#### **LUNCH BREAK**

03:02:14 SEN. OLSON called the meeting back to order at 1:05 p.m.

#### **MSTI REVIEW PROJECT**

03:03:05 **Monique Digiorgio, Bozeman, Western Environmental Law Center**, discussed the Mountain States Transmission Intertie (MSTI) Review Project. Discussion points included how the project was formed, the goals of the project, results and products, team members, and lessons (EXHIBIT 4). She said that a final project report is in progress and will be available soon.

#### **ETIC Comment**

- 03:23:32 SEN. KEANE said it would have been wise to include Mill Creek since it is existing infrastructure. Ms. DiGiorgio said Mill Creek was considered and discussed a number of reasons it wasn't included.
- 03:26:14 SEN. JACKSON asked if the environmental impact study has been completed. Ms. DiGiorgio said the actual EIS has yet to be released and predicted it would be available in the fall of 2012.

#### **Public Comment**

No public comment was given.

- 03:27:38 SEN. OLSON thanked Ms. DiGiorgio and all involved. He said that he hoped the MSTI Project Review would serve as a good model for future projects. Ms. DiGiorgio said it is being touted as a positive step and a new model for cooperative work and study.
- 03:28:41 SEN. OLSON recessed the meeting until 2:00 p.m.
- BREAK**
- 04:01:42 SEN. OLSON called the meeting back to order at 2:00 p.m.

#### **COAL TRAIN TRAFFIC IN MONTANA**

SEN. OLSON reviewed the order of testimony and speakers and asked that comments be respectful and professional.

- 04:03:54 **John Ostlund Chair, Yellowstone County Commission**, read into the record a statement of Yellowstone County's support for continued coal development in Montana and increased coal train traffic. Commissioner Ostlund said Yellowstone County recognizes the potential benefits of such expansion which would include increased tax revenues in Yellowstone County and good paying jobs with good benefits. Commissioner Ostlund distributed a Montana Rail Link (MRL) fact sheet (EXHIBIT 5) outlining MRL's economic impact in Montana. He also discussed how issues such as traffic complications and environmental impacts could be mitigated. Additionally, he submitted into the record a resolution of support for coal use and development approved by the Yellowstone County Commission (EXHIBIT 6).
- 04:11:06 **Dave Strohmaier, Missoula City Council**, addressed the ETIC via polycom phone. He read a letter into the record (EXHIBIT 7) outlining Missoula's concerns related to coal development in Montana including potential risks associated with increased coal train traffic, resident complaints and concerns, public safety concerns, and other undesirable impacts associated with increased coal train traffic and expanded coal development in Montana. Councilman Strohmaier also discussed a Missoula City Council Resolution approved in May requesting that the Army Corps of Engineers complete a programmatic environmental impact study of new coal export terminals in Washington and Oregon and their potential impact on Montana (EXHIBIT 8). He concluded his remarks by saying that while there are economic benefits, he wondered at what cost they would be achieved. He said that Montana communities must work together on this issue for the common good.

## Public Comment

- 04:18:46 **Bruce MacIntyre, Director, Business Advocacy, Billings Chamber of Commerce**, spoke in support of coal train traffic and for general merchandise train traffic, saying that trains are vital sources of goods and products for consumers in southeastern Montana and that train traffic is also an exceptionally important part of Montana's economy.
- 04:21:31 **Kathleen Masis, M.D. Billings**, encouraged the ETIC to strongly consider all sides of the coal train traffic issue and to listen to citizen concerns about footing the bill for increased train traffic.
- 04:23:26 **Walter Gulick, Yellowstone Valley Citizen's Council**, discussed the concerns of the Western Organization of Resource Council (WORC) about the potential impacts associated with increased coal train traffic. He submitted into the record a report prepared by WORC titled, "*Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia By Way of Pacific Northwest Terminals*" (EXHIBIT 9).
- 04:29:28 **Joy Barber, Billings**, discussed her concerns regarding increased coal train traffic in Billings and the potential impact on the high quality of life currently enjoyed there.
- 04:31:17 **Jim Lewis, Montana Rail Link**, provided a folder of information relating to coal train issues (EXHIBIT 10). He discussed MRL's rebuttal to the WORC report and noted that MRL was not contacted by WORC in the course of its study. He discussed existing capacity and infrastructure and predicted that train traffic could realistically increase by eight loaded and another eight unloaded trains per day with no net gain because of a decrease in domestic coal demand. Mr. Lewis also discussed the coal dust issue and referred to an analysis of coal dust samples collected in Missoula County, as administered by McCrone Associates, which revealed no measurable health effects from coal dust (in folder, EXHIBIT 10). Mr. Lewis also discussed crossing delays due to train traffic and MRL's desire to be a good neighbor. He said MRL will work with communities to address concerns.
- 04:39:43 **Amia Garcia, Billings, native Montanan**, asked that the ETIC and public officials listen to citizen concerns on this issue, saying that she feels her comments have been dismissed as alarmist or anti-coal. She said that she wants to be actively involved and that she would like to have studies done to gauge the effect increased coal train traffic will have on citizens and communities.
- 04:44:43 **David Strong, Billings**, discussed a history of the coal train traffic issue, beginning with a 2004 railroad crossing study done in Billings. Mr. Strong also discussed safety concerns and other related issues, such as the dividing effect the train tracks have in Billings, dividing the north and south sides of the city. Mr. Strong said that alternatives are available but would be very costly. He said a full study is needed and that Yellowstone County elected officials are not doing it.
- 04:49:19 **David Grimland, Columbus**, said that Columbus has held a number of community meetings to address that community's concerns related to coal train

traffic. He said that the pros and cons of increased coal train traffic have been discussed and that most citizens feel not enough information is available to make an educated judgement. He said citizen questions and concerns include how many trains will be going through Columbus, what time delays can be expected, emergency vehicle access concerns, what impact there may be on the local economy, the potential impact on local tax payers, and more.

- 05:10:02 **Todd O’Hair**, discussed a handout detailing the economic benefits of coal production in Montana, including Montana taxes and royalties, business and community contributions, federal taxes, employee compensation, and how coal terminal shipping expansions would bring economic development benefits to Montana (EXHIBIT 11). He said that increased coal train traffic is good news for Montana but that there has been an organized effort to stop it. He suggested that no amount of studies would satisfy opponents and that the window of opportunity to reap the benefits of increased coal development is small.
- 05:15:46 **Jon Bennion, Montana Chamber of Commerce**, said that the Montana Chamber supports coal production and increasing coal production because it would bring more revenue to Montana schools and energy security for Montana citizens. He discussed a poll of Montana citizens relating to coal development and production in Montana in which almost 75% of citizens said that the state should be actively encouraging new coal development. He said that concerns do need to be addressed as a part of that but should be done so with the goal of increasing coal production.
- 05:17:55 **Barbara Ranf, Burlington Northern Santa Fe (BNSF) Railway, Governmental Issues**, said that BNSF was not asked to participate in the WORC study and questioned the results. She said that many issues need to be addressed and pointed out that not all coal trains would travel through Montana and that it is not known yet what ports will be developed and who will serve them. Ms. Ranf also discussed capacity issues, efficiency measures which have increased speed of transfer, BNSF's continued investment in infrastructure, and fuel efficiency and other "green" measures implemented. She said that BNSF has planned for this increase and will build the infrastructure needed in order to not displace grain or other railroad traffic. Ms. Ranf read into the record a letter from BNSF CEO Matt Rose, written to the governor of Washington State. She said that BNSF wants to be a good neighbor and that its employees are part of many Montana communities, and that the company wants to be at the table to get the facts and to work together to address concerns.
- 05:24:41 **Mark Lambrecht, Executive Director, Western Area Trade Association (WETA)**, said it is important to put this issue in proper perspective and to understand the origin of the concerns. He said that the Sierra Club has led a well-established effort to shut down coal production, which will significantly harm Montana because of its vast coal reserves. He said he would like to see Montana stop falling prey to such efforts from national organizations and that rail companies are willing to work with communities on reasonable solutions.

05:28:29 **Bob Kenner, Locomotive Trainmen, Chair**, disputed estimated increased coal train numbers in Billings and Montana in general, and asked the railroads be given a chance to work on this issue.

*The Energy and Telecommunications Interim Committee also received (via e-mail) public comment from Jason Weiner, Alderman, Ward One, Missoula, Montana, urging the ETIC to carefully consider the impacts of increased coal train traffic on Montana communities (EXHIBIT 12).*

05:30:50 SEN. OLSON recessed the ETIC for a short break at 3:30 p.m.

**BREAK**

05:41:34 SEN. OLSON called the meeting back to order at 3:40 p.m.

**ETIC Questions**

05:41:57 REP. DRISCOLL discussed her constituents' concerns about increased coal traffic and asked Mr. Ostlund to discuss possible mitigation solutions. Mr. Ostlund said that timing of lights and signals can be adjusted and that other general improvements in traffic management should solve many of the problems.

05:46:55 REP. DRISCOLL asked what the cost would be and who would have to pay for it. Mr. Ostlund said the cost would be born by the City of Billings and MDT. He discussed the issue of cost further, saying that improvements would have to be prioritized and that city, state, and federal officials would all have to be involved in the decision-making process.

05:48:02 SEN. OLSON and Mr. Ostlund discussed railroad crossings in Billings. SEN. OLSON said he thought that because the crossing on the south side is technically a state highway, the State should bear the cost of improving the crossing. Mr. Ostlund discussed the benefit of installation of early warning lights on both sides of the crossing.

05:49:48 REP. DRISCOLL asked Missoula Councilman Strohmaier to describe the types of fixes needed in Missoula. Mr. Strohmaier related a number of concerns, including high traffic volume crossings, physical modifications needed, and ingress and egress routes for certain communities. He said that fixes will be very expensive.

05:52:50 REP. DRISCOLL and Councilman Strohmaier discussed how such improvements could be paid for. Mr. Strohmaier said that while local governments may have the bonding capacity to pay, he questioned the political will to do so.

05:54:07 REP. DRISCOLL and Mr. Lewis discussed the MRL fact sheet information relating to increased volume not being solely due to coal and the estimated increase in train numbers. Mr. Lewis clarified that the fact sheet listed what MRL thinks the infrastructure could handle, not what is forecast. He said that MRL anticipates growth but that it can't predict to what degree growth will occur because many factors will determine what the volume will be.



- 05:55:58 REP. DRISCOLL asked about the number of ports that have been proposed and how many have been permitted. Mr. Gulick referred her to page 3 of the WORC report and said that nine potential ports are being studied. He also referred to page 26 of the study relating to the amount of train traffic predicted to travel directly through Montana in his discussion.
- 05:58:17 REP. DRISCOLL asked about the permitting process. Mr. Gulick said it is a long process, which includes environmental impact studies, and that funding is another big issue.
- 05:59:37 Mr. O'Hair emphasized that while nine ports are proposed, no one in the coal industry, terminal, or rail business believe that all nine will be built. He said it will come down to whoever gets the first terminal built and that the likelihood of others being built after that will be diminished. He said that two proposed terminals are in the permitting phase.
- 06:00:27 Rep. Knudsen said that he grew up on a farm that was directly bisected by train traffic. He said that many Montana communities are bisected by railroads and manage to effectively deal with it. He asked Councilman Strohmaier if Missoula has talked to these communities. Mr. Strohmaier said no, that he spoke only of his community's concerns. He said that the question is at what point is action needed to mitigate impacts.
- 06:03:00 Rep. Knudsen said that he is aware of two new large grain shipping facilities coming on line in his area. He asked if Missoula is as concerned about grain export trains and if Missoula will seek impact money from the grain industry, as it has the coal industry. Mr. Strohmaier said the concern discussed today is mainly about increased train traffic in general and if the benefits outweigh the costs.
- 06:05:05 Rep. Knudsen asked if Mr. Strohmaier or the City of Missoula has reached out to the grain associations or the to Farm Bureau to request an impact study of increased grain shipments by rail. Mr. Strohmaier said Missoula has not but would, if necessary.
- 06:06:18 SEN. OLSON said that a common theme has been that communities don't feel they are sharing in the economic benefits of increased train traffic. He noted that Montana's university system and public schools get a considerable amount of funding from natural resources and coal revenues and said that he can see the benefit of jobs created by resource development in almost every city. He said it is understood that there are problems and issues that will have to be addressed, but at the same time, citizens and local governments must recognize that without rail service many goods would not make it to markets; which would have a devastating effect on the economy. He said it is important to look at the big picture and encouraged all concerned to get more information on how coal money benefits each county from the Legislative Fiscal Division.
- 06:10:49 **SEN. KEANE moved that the ETIC send a letter to the United States Army Corps of Engineer stating its opposition to expansion of environmental reviews for port projects proposed for the Pacific Northwest.**

- 06:11:50 Ms. Nowakowski and the committee members discussed the content of the proposed letter. SEN. OLSON said a draft letter would be sent out before mailing.
- 06:14:16 **SEN. KEANE's motion passed on a 6-1 roll call vote. SEN. JACKSON and REP. KLOCK voted yes by proxy (Olson) and SEN. LARSEN voted no by proxy (Driscoll) Attachment 4.**
- 06:15:51 **SEN. KEANE moved that the ETIC send a letter to MRL and BNSF requesting that they bypass Helena and route coal trains through Butte.**
- 06:17:05 SEN. KEANE discussed his motion, explaining that much of the needed infrastructure is already in place and that the people of Butte would welcome the work and economic benefit.
- 06:19:07 **SEN. KEANE's motion passed on a 5-2 roll call vote, SEN. JACKSON and REP. KLOCK voted yes by proxy (Olson) and SEN. LARSEN voted no by proxy (Driscoll) Attachment 5.**

**PUBLIC COMMENT ON MATTERS WITHIN THE JURISDICTION OF THE ETIC**

06:24:17 There was no additional public comment.

**ADJOURNMENT**

06:24:26 SEN. OLSON adjourned the meeting. The final meeting of the Energy and Telecommunications Interim Committee will be held on September 7, 2012, in Helena, Montana.

*Materials in meeting packet but not discussed:*

- *ETIC staff memo and information relating to its May agenda item on the Environmental Protection Agency's (EPA) rulemaking on regional haze (EXHIBIT 13);*
- *PSC public comment on the proposed regional haze implementation plan (EXHIBIT 14; and*
- *a letter from ETIC to the PSC regarding transmission siting (EXHIBIT 15).*

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