



Energy and Telecommunications Interim Committee

60th Montana Legislature

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June 9, 2008
Sonja Nowakowski, 444-3078

Comments sought on carbon sequestration study

Helena --- Surface owners may be legally recognized as owning underground space where carbon dioxide could be injected and stored, based on a draft report and legislation prepared by the Energy and Telecommunications Interim Committee (ETIC).

The draft report and legislation is available for public comment through July 7. Comments will be compiled and presented to the ETIC at a July 16 meeting in Helena. The committee will consider a final version of the report in September.

While not the subject of an assigned study bill, the ETIC dedicated a significant amount of time to considering a potential policy or regulatory framework as it relates to carbon sequestration in Montana. Members examined specific aspects of sequestration to determine where modifications to existing law or additions to the law merited consideration.

Geological carbon sequestration is the process of trapping carbon dioxide after it is created from the production, processing, and burning of coal, gas, and oil at power plants and injecting it underground. Terrestrial sequestration is the process through which carbon dioxide from the atmosphere is absorbed by trees, crops, or plants and stored as carbon in biomass.

The Environmental Protection Agency (EPA) in October announced plans to establish rules for geological sequestration. The new regulations will ensure that a permitting system for CO₂ injection is consistent with what is now under the Safe Drinking Water Act, according to the EPA. The rules are expected this summer and should provide additional guidance on the subject of sequestration.

In May, ETIC members reached an agreement to issue a draft report with findings on the subject of sequestration, as well as to develop two bill drafts.

The first bill draft establishes the surface owner as the owner of pore space used for the storage of carbon dioxide or other substances. The bill protects existing oil and gas statutes and affirms the dominance of the mineral estate. A second committee bill draft is a study bill. ETIC members proposed a study bill limited to the subjects of jurisdiction, liability, and cost. If approved, the bill charges the ETIC with completing a study during

the 2009-2010 interim. Members noted that it will be important for Montana lawmakers to closely monitor activity on the federal level in this arena and be prepared during the 2011 Montana Legislature to address the issues of a complete regulatory framework to guide the injection and storage of carbon dioxide.

The full report: "Carbon Sequestration: An analysis of geological and terrestrial carbon sequestration regulatory and policy issues " is available online at www.leg.mt.gov/etic. Copies also may be obtained from ETIC staff by calling (406) 444-3078. Comments may be submitted by email to snowakowski@mt.gov. Please include "carbon sequestration study" in the subject line. To submit comments by mail, send to: Sonja Nowakowski, Legislative Environmental Policy Office, Room 171A, P.O. Box 201704, Helena, MT 59620-1704.