

FILED

02/08/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0064

Exhibit J

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MONTANA SIXTEENTH JUDICIAL DISTRICT COURT
ROSEBUD COUNTY

MONTANA ENVIRONMENTAL
INFORMATION CENTER, and
SIERRA CLUB,

Petitioners,

vs.

MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY, et
al.,

Respondents.

Case No. DV 19-34

**DECLARATION OF DAVID ALAN
SCHLISSEL**

I, David Alan Schlissel, in accordance with the requirements of Montana Code Annotated § 1-6-105, hereby declare:

1. I am over 18 years of age. I reside in Seattle, Washington.
2. I submit this declaration based on my person knowledge, education, and experience.
3. I graduated from the Massachusetts Institute of Technology in 1968 with a Bachelor of Science Degree in Engineering. In 1969, I received a Master of Science Degree in Engineering from Stanford University. In 1973, I received a Law Degree from Stanford Law School. In addition, I studied nuclear engineering at the Massachusetts Institute of Technology during the years 1983-1986.
4. Since 1983 I have been retained by governmental bodies, publicly owned utilities, and private organizations in 38 states to prepare expert testimony and analyses on engineering, economic, and financial issues related to electric utilities. My clients have included state utility commissions, attorneys general, consumer advocates, publicly owned utilities, the U.S. Department of Justice, and local, national and international environmental and consumer organizations.
5. I have become familiar with operations of the Colstrip Power Plant (Colstrip) during the past decade through my testimony in two proceedings before the Montana Public Service Commission (Dockets Nos. 2013.5.33 and D2014.5.46 and Docket No. 2018.2.12). I also have prepared several reports on the operations

and economics of the Colstrip units. I have become familiar with the operations of the Western electricity grid and markets through these and other work projects.

6. Rustie Batie of Westmoreland Rosebud Mining LLC (WRM) and Shannon Brown of Talen Energy Supply LLC suggest that stopping mining in the AM4 Area of the Rosebud Mine threatens the coal supply to the adjacent Colstrip Power Plant, which receives coal exclusively from the Rosebud Mine. They then state that this, in turn, potentially threatens the public's access to power in the winter months.

7. In my professional opinion, if this Court defers the cessation of mining operations in the AM4 Area until the spring (April 2022), then it is extremely unlikely that temporary cessation of mining operations in the AM4 Area will threaten the energy supply or cost of energy in Montana or the Pacific Northwest. This is because state and regional energy demand is lower and energy supply is greater in the spring. As such, Colstrip Unit 3 and Unit 4 have each been shut down for two-and-one-half month outages in the spring and fall "shoulder seasons" in 2020 and 2021.

8. The mine and power plant have reserve coal stockpiles to operate both units of the plant for approximately two months. Mr. Batie notes that WRM "has sufficient inventory to make up for" cessation of operations in the AM4 Area "for approximately one month." Batie Decl. ¶ 6. Mr. Brown states that the power plant

stores enough coal on site to operate Units 3 and 4 for “25-30 days.” Brown Decl.

¶ 12. Thus, there is enough stockpiled coal at the mine and power plant to operate both units for approximately two months or one unit for approximately four months if coal supply from the Rosebud Mine is “completely halted.”

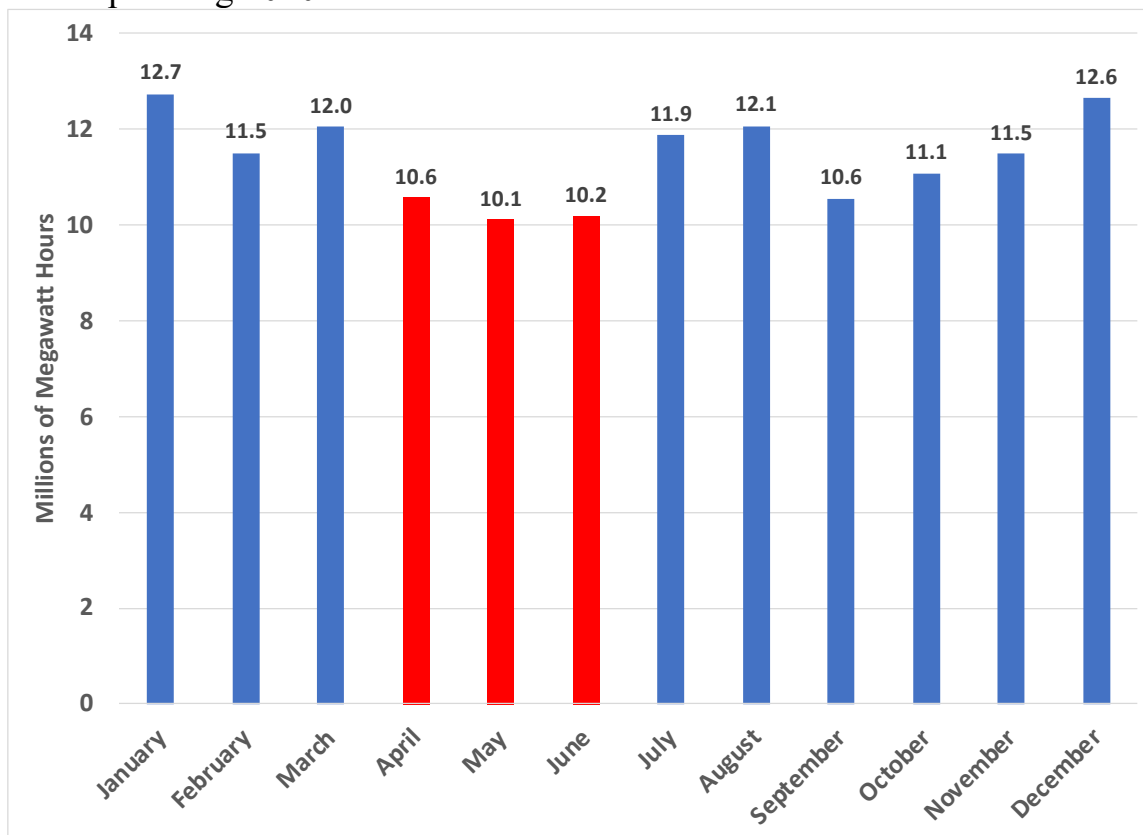
9. It is also virtually certain that coal supply from the Rosebud Mine will not be “completely halted” regardless of what happens with the AM4 Area.

WRM’s former General Manager, Jack Standa, testified in September 2020 that the mine has 95 million tons of permitted reserves in four active mine areas, Areas A, B, C, and F. Declaration of Jack Standa, *MEIC v. Bernhardt*, No. 19-CV-130 SPE TJC, ¶¶ 3-4 (D. Mont. Sept. 18, 2020). Martin Van Oort from DEQ explains that only 7.5 to 9.2 million tons of these reserves are in the AM4 Area. Van Oort Decl. ¶ 16. Consequently, WRM has substantial reserves in other permit areas where it can obtain coal if mining in the AM4 Area stops temporarily.

10. WRM explains that it would likely take “two to four months” for the company to move its operations from the AM4 Area to another mine area. Batie Decl. ¶ 6. If any stoppage of mining in AM4 is deferred until April 2022, it is highly likely that coal stockpiles at the mine and power plant will be sufficient to keep both or at least one power plant operating during the entire time, which would prevent any harm to state or regional power supplies.

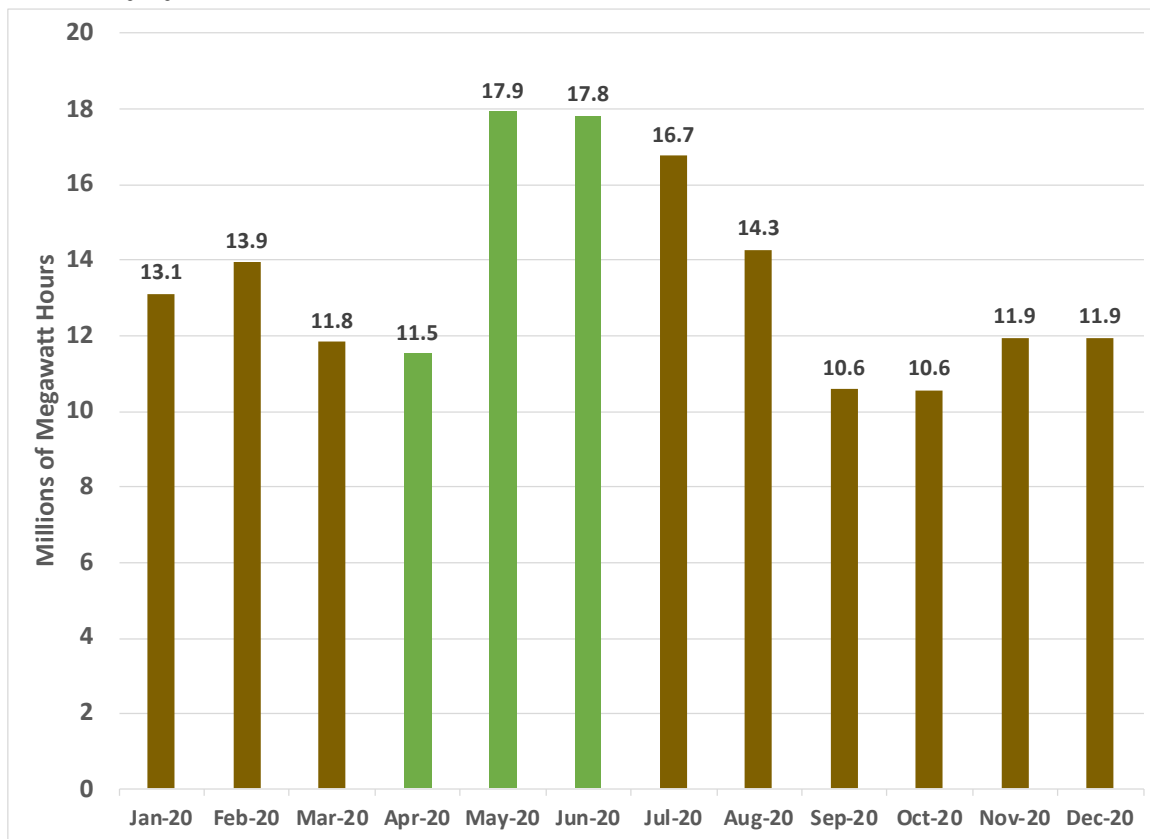
11. In spring in Montana and the Pacific Northwest the electricity load (demand for power) is lower and therefore there is less need for power from Colstrip. This can be seen in Chart 1, below, which shows the total monthly energy output of the five non-Talen owners of Colstrip—NorthWestern Energy Corporation, Puget Sound Energy, Portland General Electric, Avista Corporation, and PacifiCorp.—during each month of 2020. It is clear from this Chart, that the combined energy output of these owners (shown in red) are lower during the main spring months of April, May and June. Public information about Talen’s monthly outputs are not available.

Chart 1: Combined monthly energy outputs of the Five Non-Talen owners of Colstrip during 2020.



12. Also, in spring the power generation from hydroelectric facilities (dams) in the western U.S., including dams in Oregon, Washington, and Montana, increases. This can be seen in Chart 2, below where the green bars shown the hydro generation in the months of April, May and June.

Chart 2: Monthly generation from conventional hydro facilities in the West in 2020



13. The availability of generation from solar photovoltaic (PV) facilities in the West also increases in the spring months because of the growing number of daylight hours.

14. The majority of the owners of Colstrip—Puget Sound Energy, Portland General Electric Company, PacifiCorp, and Northwestern Energy—have access to low cost solar PV generation, mainly from California, because they are members of the Western Energy Imbalance Market (EIM) (two owners, Talen and Avista, are not currently members of the EIM, but Avista is scheduled to become a participant in 2022). The EIM, which includes portions of Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Montana, and portions of Canada. The EIM optimizes energy resources in the west by coordinating generation and delivery of energy. One major effect of this is that it allows participants to access low cost solar PV energy that would otherwise have to be curtailed.

15. In the spring temperatures are more mild and the risk of extreme weather is significantly lower than in winter months.

16. In order to reduce the risk that one or both of the Colstrip units would be unavailable during a heat wave similar to that experienced in the summer of 2021, Westmoreland and Talen should increase their inventories of coal before any shutdown of mining in the AM4 Area. This would protect against the negative effects hypothesized by WRM and Talen.

17. As it is, for Montana ratepayers, Colstrip is the most expensive resource in the portfolio of the Montana utility owner of Colstrip, Northwestern Energy.

18. The power plant owners from Oregon and Washington—Portland General Electric, PacifiCorp, Puget Sound Energy, and Avista—are planning to exit operations at Colstrip by 2025 or sooner.

19. Accordingly, assuming the worst case and highly speculative scenario, where coal supply from all four areas of the mine (including Areas A, C, and F, in addition to the AM4 Area in Area B) is completely halted and WRM takes the maximum amount of time (four months) to move its equipment from the AM4 Area to other permitted coal, the power plant would still have sufficient coal stockpiles to keep at least one unit operating for all four months. In that worst case scenario, it is still extremely unlikely that energy supplies or energy costs in the Montana or the Pacific Northwest would be negatively affected.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

Dated: November 18, 2021.

David Schlissel

David Alan Schlissel