

August 16, 2013

Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250
Docket #UE-120767 (and UG-120768)

RE: Comments on Puget Sound Energy's Integrated Resource Plan

Dear Chairman Danner and Commission Members:

It has come to the attention of the undersigned ranchers and home owners in the Rosebud Protective Association that Puget Sound Energy is expecting no costs associated with the leaking coal ash ponds at the Colstrip Generating Station located in Colstrip, MT. As home owners and ranchers who not only live and work in the surrounding area, but are also potentially impacted by the contaminants now in the ground water due to these leaks, this is a cause of great concern. We have tried to be good neighbors to the power plant and only wish that the owners and operators of Colstrip would also do so in kind. This has not been the case, however. Our state regulatory agency has also failed, from our perspective, to address the problem. Below is a timeline to the best of our accounting of the coal ash problem at Colstrip and the involvement of the Rosebud Protective Association (RPA). The following is a summary of correspondence RPA and Northern Plains Resource Council, RPA's parent organization, have on file. RPA members have been voicing their concerns about this issue for three decades. We have hundreds of letters on file to back up this history.

Summary of Rosebud Protective Association's History with Coal Ash Enforcement and Colstrip

In July of 1976, the Montana Board of Natural Resources and Conservation (BNRC) issued a Major Facilities Siting Act (MFSA) Certificate for Colstrip units 3 & 4 with special conditions for siting the ponds. These conditions were expected to be followed at the power plant units and ash ponds were constructed.

Two of these conditions (12c and 12d) state:

12c: That the seepage from the existing surge pond and any enlarged or additional surge ponds be monitored as specified by the State Board of Health and Environmental Sciences, and that every feasible engineering means be taken by the applicants to minimize such seepage.

12d: That the sludge pond or ponds shall be completely sealed. If the conventional means such as compaction and bentonite application do not seal the pond(s), as indicated by monitoring wells the applicant shall install and operate, then extreme measures even up to complete sealing by a plastic membrane shall be taken.

1980-1981—RPA members and local landowners around Colstrip were in constant contact with then Montana Department of Natural Resources director, Leo Berry, reporting to him that then owner of Colstrip plant, Montana Power Company (MPC), was not doing all they could do to prevent the leaking ash ponds. They also reported MPC was violating conditions 12C and 12d in their Major Facilities Siting Act (MFSA) certificate. They met with DNRC to discuss this.

1981 and 1982—RPA and NPRC were trying to bring the problems associated with the proposed fly ash pond to the BNRC's attention. Numerous letters were written back and forth, the Board came out and visited the site, RPA and NPRC submitted comments and testimony at BNRC meetings in Helena. Because of the lack of action on the part of state agencies and their boards, RPA and Northern Plains filed a petition for a declaratory ruling (before the Board of Environmental Review) on condition 12c. They did not include 12d because they were under the impression the board would address this on their own.

1982— Despite being contacted continuously by local landowners, DNRC, DHES and other agencies involved had failed to do anything thus far to resolve the leaking ash ponds. RPA and Northern Plains contacted Leo Berry, DNRC director, once again to reiterate that the MPC was violating their original certificate and the organization would take legal action if the issue was not resolved. While MPC was in the process of building new ash ponds for Colstrip 3 & 4 RPA and Northern Plains filed another petition for a declaratory ruling with the Montana Board of Natural Resources and Conservation (BNRC). The petition was to clarify what BNRC meant when they said fly ash pond for 3&4 had to be "completely sealed"

1983—On January 21, 1983 BNRC dismissed RPA and Northern Plains petition for a declaratory ruling. They directed MPC and the DNRC to meet with RPA and Northern Plains to discuss their proposal for sealing the ponds and plans for monitoring and mitigation. On February 10, 1983 this meeting occurred and Bechtel (the company hired to construct the ponds) laid out their plan to keep the ponds sealed. Montana Power Company was being sued by BNRC, DNRC, Northern Plains, RPA, Genie May Garfield, Genie Land Company, Rosebud County Board of Commissioners. The litigation went to the Montana first judicial court, who made a ruling in June 1983: The clear meaning of condition 12(d), taken in the context of the Board's findings (in MFSA certificate) that some seepage was expected is that the pond as constructed for the Relators may leak in small amounts but if the leakage is detected by the monitoring wells, the Relators will have to resort to more stringent measures, up to and including the installation of a plastic liner.

1984— In January 22, 1984 all parties entered into an agreement (the 12d stipulation) agreeing with this court ruling, but with several conditions for MPC to fulfill.

1984-1988—Parties who signed the 12d stipulation negotiated and carried out the agreements (monitoring wells and reports from those wells) A technical committee was formed to carry out the agreement.

1985—Colstrip units 3 & 4 both went online.

June 29, 2009 – Colstrip Steam Electric Station (Units 1 & 2 Stage Evaporation Ponds) get listed in the EPA's top 40 High Hazard Potential coal ash impoundments.

February 24, 2010 – DEQ conducts a public hearing on a proposed Administrative Order on Consent (AOC), an agreement that will legally allow the coal ash ponds in Colstrip to leak.

April 12, 2010 – the comment period for the AOC ends.

August 3, 2012—The AOC was finalized and signed by PPL Montana and DEQ.

Since the implementation of the AOC with the state of Montana, there has been no evidence presented that demonstrates that the remediation plan is effective. Current litigation is pending on the AOC because it is woefully inadequate to address the problem. Over 800 wells have been drilled to monitor the plume of contaminated water and hundreds of these wells have been converted to pump back wells. In July, the DEQ held a public meeting on a site report for one of the ponds as prescribed by the AOC and reported that water quality had improved in some monitoring wells and degraded further in others. We are told that these pump back wells will hopefully collect the contaminated water and return it to the leaking ponds. These ponds are in the process of being lined, but sludge ponds with plastic liners can leak as we have already seen at Colstrip. We feel that the only real way to stop further water contamination and prevent Colstrip from becoming a superfund site is to convert the plant to dry ash storage.

Furthermore, the pump back system is dewatering a precious aquifer which ranchers rely on to water cattle. In 2012, the capture wells dewatered the aquifer at a rate of 965 gallons per minute. That is over 1.3 million gallons of water per day, 365 days a year. Cattle ranching is one of the few industries that was here before the coal industry and will be here long after the coal industry is gone. Water is essential to continue ranching, plain and simple. This is a region that receives around 15 inches of precipitation each year. As the operators of Colstrip have learned, the soils in the area do not lend themselves to the construction of water impoundments, making groundwater one of the most important resources for a sustainable economy in south east Montana. The AOC's plan to continue to pump water from the aquifer is unsustainable as it will eventually conflict with senior water rights. The time to start developing a sustainable solution for the Colstrip ash ponds is now.

We are not advocating for the closure of the plant, nor are we attempting to build huge administrative hurdles. If it were up to us, we would have settled this issue with the owners and operators of the plant directly with a meeting and a handshake. Unfortunately, as the history demonstrates, we have no faith that the owners and operators will do the right thing simply because it's right. We do not understand why PSE feels its business is more important than ours or why they should be treated any different than we would be. We are simply asking that the Colstrip Generating station does the ethical, moral, and neighborly thing by fixing their mess so that our businesses can continue and be passed on to the next generation. Please ensure that PSE makes financial plans to address this problem at their plant.

Sincerely,

Brad Sauer
Co-Chair
Rosebud Protective Association

Walter Archer
Chair
Northern Plains Resource Council
220 S. 27th Street
Billings, MT 59101