

January 14, 2016

Draft Letter recommended (5-3) by EQC-ETIC 111d Subcommittee and will be forwarded to the Environmental Quality Council and Energy and Telecommunications Interim Committee for a formal vote in March.

Members of the Montana Legislature's Energy and Telecommunications Interim Committee and Environmental Quality Council urge Montana's Attorney General's Office and other state attorneys general to continue using all means at your disposal to challenge the legality of the federal Clean Power Plan. We support your efforts to-date and encourage you to continue working with other attorneys general to investigate potential legal defects.

We are concerned that the Environmental Protection Agency (EPA) has exceeded its authority under the Clean Air Act and overstepped its authority under Section 111(d) of the Act to regulate individual state economies. Members of the interim legislative committees would like to see additional information concerning how the federal plan will impact utility rates and the reliability of the electric grid. We also are troubled that implementation of the federal rule potentially could lead to the closure of coal-fired power plants and mines across Montana, creating substantial job loss and devastating economic impacts. While the EPA claims to give states flexibility in complying with the plan, it may be impossible for states like Montana to reach their goal without depending on credits from other states. We are concerned that it may be our constituents who pay for that.

While we recognize the EPA's ability to regulate a single emitting source, we are uncertain about the federal agency's ability to enforce regulations on a state's entire power sector. This is an issue that the courts must review. We feel it is appropriate to explore the core statutory limitations of the EPA's authority and for the courts to determine whether the mandate is appropriate. A legal and constitutional analysis of the Clean Power Plan is imperative.

Thank you again for your efforts.