

Following (with my corrections end noted in red brackets) is a complete copy of an email circulating on social media among members of the Montana Conservation Voters. The email makes false or misleading statements about proposed Montana ballot initiative, I-184. Among other things, I-184 will add more renewable energy to the generation mix of Montana utilities while creating job retraining programs for workers displaced by the switch away from coal-fired electricity generation.

The false or misleading claims in the email are making it harder for us to gather the 25,468 signatures we need to place I-184 on the November 2018 ballot.

I received a copy of the email on November 9, 2017. Its author is Neal Ullman, Program Director for the Montana Conservation Voters. neal@mtvoters.org He wrote:

"I wanted to let you all know that a new ballot initiative has qualified for signature gathering and wanted pass along MCV's views.

Some of you may remember that prior to the 2016 elections Russ Doty, a former candidate for the PSC who now lives in Denver, **[False¹ Double click superscripted numbers to link to endnotes.]** proposed an initiative to change Montana's Renewable Energy Standard with the intent of phasing out the use of coal-fired electricity and expanding sources of clean energy.

[Misleading²] While well intentioned, Russ did not collaborate with any conservation groups in Montana about the content of his proposal or for a campaign plan to pass his initiative. **[This is a knowing falsehood.³]** In the end, he gathered less than 8,300 signatures, far short of the 24,175 required and only qualified in six of 34 legislative districts. **[Misleading⁴]**

Yesterday, I-184, similar in content to the previous initiative, qualified for signature gathering. [Misleading⁵] **Once again, Russ has failed to reach out to any conservation groups. [False⁶]**

All of the ones MCV works with do not support this new version. [Misleading⁷] Working with Russ in Montana is former Billings City Councilmember Ken Crouch. I communicated to Ken a few months ago our concern about moving forward with this initiative. **[Misleading⁸]**

Below are several points of concern:

- In order to meet the 80% requirement for renewable energy, I-184 would allow for older hydropower facilities to be counted. Hydro facilities already in use when the RES was passed in 2005 were excluded because the intent of the RES was to incentivize development of NEW sources of renewable energy. NorthWestern Energy already generates 43% of its electricity from these older dams. If allowed to count older dams to comply with the new RES, very little would have to be done to get to 80%; [False⁹] likely equivalent to only 3 new Judith Gap wind farms. Preventing old hydro from being counted has been a legislative priority for 4 out of the last 5 legislative sessions. [Misleading¹⁰]

• The tax structure set up is confusing if not unconstitutional. A new state tax on energy generated in Montana would be, under I-184, be applied to electricity purchasers in other states. [Patently false and misleading¹¹] This would likely lead to legal challenges.

• The tax I just mentioned would be applied to all sources of energy, including renewables. [False¹²] Not only would this make renewable energy more expensive to purchasers in Montana, but also to out-of-state purchasers. [See endnote for explanation of why this small replacement tax is necessary.¹³] If Montana renewables are only just more competitive compared to sources from other states, Montana may get priced out of selling our energy out of state. As a historical net-exporter of energy, this could be a serious barrier to out-of-state sales. [This conjecture is misleading.¹⁴]

Should you be asked to sign a petition to get I-184 on the ballot, I respectfully request you do not. If you would like to discuss this in more detail, I'm happy to talk to any of you in-person, on the phone, or through additional e-mails.

If you made it this far in the e-mail, thank you! Please let me know if you see or hear of any signature gathering efforts in your community. Best, Neal"

¹ [I live in Greeley, CO as has been clearly stated on our website for more than 2 years <https://www.mtcares.org/about-i-184/mtcares-team/> The good news about this minor misstatement is that it reveals Neal has not been colluding with whoever hacked Equifax to find out about me.]

² [I-180 in 2016 was to gradually move from 15% renewable electricity to 80%--not to "phase out the use of coal-fired electricity." I-184 proposes to do the same if it passes in 2018—that is, it proposes to phase-in the use of renewables.]

³ [Because he was copied in on at least 38 emails discussing the proposed (I-180) initiative, Mr. Ullman must know his claim that I did not consult with environmental leaders is false.]

Prior to submitting the I-180 initiative to the Montana Secretary of State to begin the vetting process necessary to qualify initiatives for signature gathering, I sent around a few drafts to members of the Alternative Energy Resource Organization (AERO) energy committee. In early May 2015, I sent copies of what was to become I-180 to Northern Plains, Montana Renewable Energy Association (MREA), and the Montana Environmental Information Center's (MEIC's) Ann Hedges who wanted me to deal with Kyla Maki, whom I then called and talked to.

I also sent a copy to Teresa Keaveny and on May 18th, called and talked with her about it. She was the former Executive Director of Ullman's Montana League of Conservation Voters (LCV). On May 18, 2015, she emailed the proposal to environmental leaders including Mr. Ullman. After that Mr. Ullman was copied in on approximately 38 emails discussing I-180—8 of those emails were in the drafting stage prior to when the draft was sent to the Secretary of State for vetting. Some of them are shown on this screen clip searching "Ullman" in my emails:

ullman		All ▾	Search ullman
FROM	SUBJECT	RECEIVED	SIZE
Russ Doty	RE: Fwd: Discussion what I-180 really does.	Wed 2/3/2016 ...	64 KB
Ben Brouwer	RE: Fwd: Discussion what I-180 really does.	Tue 2/2/2016 1...	68 KB
Jim Jensen	Re: I-180	Tue 2/2/2016 6...	24 KB
Kyla Maki	Re: I-180	Tue 2/2/2016 5...	25 KB
Anne Hedges	Re: I-180	Tue 2/2/2016 5...	14 KB
Russ Doty	RE: Discussion what I-180 really does.	Tue 2/2/2016 5...	44 KB
Russ Doty	I-180	Tue 2/2/2016 4...	69 KB
Russ Doty	RE: FW: Discussion what I-180 really does.	Tue 2/2/2016 2...	15 KB
John Hoffla...	Re: FW: Discussion what I-180 really does.	Mon 2/1/2016 ...	27 KB
Ben Brouwer	RE: Fwd: Discussion what I-180 really does.	Mon 2/1/2016 ...	28 KB
Russ Doty	FW: Discussion what I-180 really does.	Sun 1/31/2016 ...	1 MB
Russ Doty	RE: Discussion what I-180 really does.	Sun 1/31/2016 ...	1 MB
Russ Doty	Discussion what I-180 really does.	Sun 1/31/2016 ...	1 MB
Russ Doty	FW: RES Ballot Measure proposed by Russ Doty	Sat 10/10/2015...	493 KB
Russ Doty	RE: FW: RES Ballot Measure proposed by Russ Doty	Sat 10/10/2015...	60 KB
Russ Doty	FW: RES Ballot Measure proposed by Russ Doty	Fri 10/9/2015 3...	55 KB
Russ Doty	RE: RES Ballot Measure proposed by Russ Doty	Wed 8/5/2015 ...	214 KB
Jennifer Hill...	Re: RES Ballot Measure proposed by Russ Doty	Tue 7/14/2015 ...	44 KB
Russ Doty	RE: RES Ballot Measure proposed by Russ Doty	Fri 7/10/2015 1...	42 KB
Russ Doty	RE: RES Ballot Measure proposed by Russ Doty	Fri 7/10/2015 9...	41 KB
Ben Brouwer	Re: RES Ballot Measure proposed by Russ Doty	Wed 5/20/201...	30 KB
Olivia Stock...	Re: RES Ballot Measure proposed by Russ Doty	Tue 5/19/2015 ...	27 KB
Anne Hedges	Re: RES Ballot Measure proposed by Russ Doty	Tue 5/19/2015 ...	21 KB
Russ Doty	RE: RES Ballot Measure proposed by Russ Doty	Mon 5/18/201...	488 KB
Matt Leow	RE: RES Ballot Measure proposed by Russ Doty	Mon 5/18/201...	228 KB
Theresa Kea...	RES Ballot Measure proposed by Russ Doty	Mon 5/18/201...	18 KB
Ben Brouwer	Re: Proposed initiative to extend Montana's RPS to 80%	Mon 5/11/201...	58 KB
Russ Doty	RE: Proposed initiative to extend Montana's RPS to 80%	Mon 5/11/201...	56 KB
Ben Brouwer	Re: Proposed initiative to extend Montana's RPS to 80%	Mon 5/11/201...	53 KB
Russ Doty	RE: Proposed initiative to extend Montana's RPS to 80%	Fri 5/8/2015 6...	46 KB

Many other contacts with folks from other religious, industry, and labor groups and from both political parties are not shown on this screen clip.

Ms. Keaveny's May 18 email indicated that (at her request) I was willing to wait for almost two months for MCV participants to take the matter up with their boards—something which most of them did not do, choosing instead to predict failure of the measure in a series of emails mostly related to the fact that their organizations were already concentrating on passage of the EPA clean power plan. They also considered an 80% renewable energy RPS initiative a distraction they did not have time or resources for. Jim Jensen, MEIC Executive Director who thought the measure would lose said I was on a “fool’s errand.”

Without seeking my input, and even though the AG had found it “legally sufficient,” Mr. Jensen also said the initiative may draw a legal challenge because it involved more than one subject. I had researched that question and determined from my prior experience drafting 15 successful bills for the Minnesota Pollution Control Agency, and from cases and commentary in the Montana Legislative Services Bill Drafting Manual that the matters in I-180 were sufficiently related to withstand a challenge. That is, persons must have the ability to raise money to take care of displaced fossil fuel workers and replace lost coal revenue if the shift toward renewable energy will create the need for that, and a comprehensive shift to renewable energy must be crafted to include community projects as well and utility mandates and worker protection in the renewable equipment installation process. The deregulation of electric utilities in Montana (bad as that turned out) involved more than one subject.

The I-184 draft, which added provisions to make the measure even more comprehensive, than I-180, has now become initiative I-184, “generally revising energy and tax law.” That wording in quotes has passed muster in the court. Indeed, it was used in the drafting of HB 504 on neighborhood renewable energy projects which MCV and MEIC supported, but the Montana

legislature rejected. Upon listening to reasons for rejection of HB 504, I improved it and incorporated its concepts into I-184 believing that if environmental lobbyists could not get it past utility lobbyists, the people of Montana could vote to implement concepts in HB 504.

Recently, some have wondered about the new Montana Supreme Court decision invalidating Marcy's law which amended the Montana Constitution. That decision did not apply the single subject rule. And I-184 does not amend the constitution.

Because of preliminary communications with AERO and Ms. Maki, adjusted the RPS and I eliminated one provision related to coal bed methane that MEIC's staffer, Kyla Maki, objected to. Ironically, that provision was developed by acclaimed environmental activist Randy Udall. It was effective in making better use of coal bed methane in Colorado as an alternative to just releasing methane to the air. But I did not want to fight with Kyla over it, so I took the provision out. Mr. Ullman knew this because he was included on the January 31, 2016 email mentioning it. So, he cannot claim that I did not consult with members of MCV.

On July 10, I emailed the reluctant environmental leaders saying:

“Valued Friends:

This proposed initiative to require 80% renewable energy by 2050 was brought to you because of the high regard I have for you and the work you do to cherish Montana's promise and shelter her environmental legacy.

I wish for this initiative to do nothing to detract from the goals your groups have set for themselves and the limited resources you have to accomplish them. Understood too is your concern that if the initiative were to fail for lack of planning and resources, it may set us back farther than if we were to wait for four years to muster more formidable resources to support it.

Would that I were younger, waiting would be a suggestion I could gladly embrace. Being 73 and fortunate enough to have come through a TGI and more recent stroke, time is scarce for me to embrace yet again dreams still lifting my spirit. Long ago dreams unsupported by many, like my suit to reapportion the presidential nominating structure, changed the world. More recent dreams, like our quest to reduce nighttime street lighting by 50%, will succeed because of learning accumulated from earlier failures. This initiative will succeed too.

Dreams are the stuff progress is made of. And I know in your heart, if not my method of achieving it, you embrace the 80% by 2050 goal climate scientists say we must reach if we are not to tip the earth into a long, fratricidal, warming spiral. So be blessed to continue the course you deem most pragmatic in carrying out interim goals you deem achievable. And please do not let what I am attempting reduce your pursuit of those goals.

I hope you may also understand my urgency in pursuing a different course with the help of others not as overburdened as you--while all of our resources are limited, my time here is scarcer than yours. And daily I receive mail and email asking that I not stand by while the world burns. So, as long as that dream can lift my spirit, as long as a concerted effort to achieve the 80% goal will raise the level of awareness needed to eventually achieve that dream, for the climate justice our kids, fossil fuel workers, and others we share this earth with deserve, I must not

stand by.

Therefore, please accept this invitation to visit the <https://www.mtcares.org/> website (Community Affordable Renewable Energy Saves), home of the 80% by 2050 initiative. Check out the “jobs” tab where we explain how we minimize the burden on fossil fuel workers of an orderly transition to the green economy.

Sincerely,
Russ Doty

In deference to MEIC’s request to not be included in further communication on this matter, I have removed Ann, Kyle, and Jim from this email.”

The Executive Director of AERO emailed her thanks to me for that letter.

I then sent the draft to the Secretary of State (SOS) who sent it to the legislative services division for review. At that point even though the measure was submitted to the Secretary of State, I continued to work with environmental leaders who had not shut the door to update drafts. For example, in August of 2015, I emailed the Executive Director of AERO:

“Thanks for the update. I redrafted the initiative (draft 9) so it now will put Montana in compliance with the clean power plan 47% reduction in CO2 emissions—actually 48% will be accomplished. It also reaches the 80% clean electricity by 2050 goal climate scientists think we should reach and is within a year of the goal Tom Steyer is asking public officials of meeting (Steyer’s goal can be met with adoption of LED street lighting in addition to the RPS). The new draft is on the website.

This is doable and well thought out. The goals are gradually adopted, it allows for climate justice for workers while involving communities in renewable energy. What more do you all want?”

I submitted the redraft to the Secretary of State as a result of that work with environmentalists and of comments from legislative services and from various state agencies some of whom I had talked with as part of the Attorney General’s request that the agencies help prepare a fiscal note. Then in the fall of 2015, the Chief Deputy Attorney General twice sought public comment from 34 interested leaders on the fiscal note during the I-180 vetting process. The only comment came from John Alke of NorthWestern Energy. The response to Mr. Alke’s misstatements about I-180 is online at http://missoulain.com/news/opinion/columnists/clean-energy-transition-will-save-consumers-money/article_5cc15971-0540-52bc-85fd-eeabc5876eac.html

The Chief Deputy AG’s email seeking comment included several environmental organization leaders including MCV, namely 'shelbi@mtvoters.org'; 'ahedges@meic.org'; 'Anne_Carlson@tws.org'; 'olivia@northernplains.org'.

Others included on the AG’s requests for comments on the fiscal note email were: 'kayje@forwardmontana.org'; mtcoal@aol.com; 'chunter717@bresnan.net'; 'jonsesso@yahoo.com'; 'ajohnstone@mac.com'; 'austinfohouse@yahoo.com'; 'ccomm@bresnan.net'; 'thunderdomelaw@gmail.com'; 'efeaver@mea-mft.org'; 'cdenowh@gmail.com'; 'cbpearson@mrss.com'; 'mleow@mrss.com'; 'mollypbell@gmail.com';

'eaton@47-north.net'; 'galluslaw@gmail.com'; 'mtla@mt.net'; 'cclifford@aarp.org';
'chrisc@mtaflcio.org'; '>'; 'sdemars@montanagroup.net'; 'gary@marbut.com';
'bmiller@mswdlaw.com'; 'confitz@bresnan.net'; chrisjgalluslaw@gmail.com;
cdenowh@montanagroup.net; john.fitzpatrick@northwestern.com;
'gary_forrester@mduresources.com'; barbara.ranf@bnsf.com; dave@montanapetroleum.org.

During the 2015-16, I-180 drafting process I put in about \$60,000 in pro bono legal time. After signature gathering started, I also toured the state, meeting with AERO's Board (two AERO's members gave me \$500 each to work on I-180). I was supported by Citizens for Clean Energy in Great Falls and was there when they collected signatures at various venues. Our supporters collected signatures at some local Audubon organizations, but its state organization decided to wait until I-180 made the ballot before taking a position on it. I met with various leaders in 350.org some of whom individually support I-180 and I-184. (Many there wanted a 100% RPS, something that would be a poison pill in eastern Montana.). I also called and met with Steve Thompson who was abiding by MEIC's opposition, but who was fair in granting us access to his friends.

⁴ [This statement is misleading spin because it implies that the initiative lacked support. Actually, it was marvelous that in the fewer than 4 months of active signature gathering, a group or often ill- retirees worried about their grand children's future, got 34% of the signatures needed and were very close to qualifying several other legislative districts. That's incredible considering the headwind created by the false things MEIC was saying about I-180 that we had to correct.

Ten prominent faith leaders signed the guest column supporting I-180 found at <http://lastbestnews.com/site/2016/05/faith-leaders-urge-support-for-clean-power-initiative/> . They are *The Rev. Joseph Carver, SJ, pastor at Saint Francis Xavier Catholic Church, Missoula, and these co-signers: Rev. Marc Stewart, conference minister UCC, Billings*

Rev. Stacey Siebrasse, pastor, First English Evangelical Lutheran Church, Billings

Rev. Susan Otey, Pastor, Christ United Methodist Church, Great Falls

Rev. Susan K. DeBree, pastor, Livingston Holbrook and Pine Creek United Methodist Churches;

Rev. Tracy Heilman, pastor, Columbus, Congregational Church;

Rev. Ira Robison, retired minister, United Methodist Church, Missoula;

Rev. Kenneth Crouch, retired minister, United Church of Christ, Billings

Rev. Mike Mulberry, minister, First Congregational, Billings, and

Rev. Steve Gordon, minister, Mayflower Congregational Church, Billings

As mentioned, a few environmental leaders had emailed that they did not wish to hear from me. That seemingly influenced a few others because for example, while I-180 received support from members of the Sierra Club like Jonathan Matthews, its top paid Montana leader, David Merrill and his Billings associate, did not return my calls. I also went to the Kalispell law office of Roger Sullivan and Dustin Lethridge, whom I was told had helped MEIC on legal matters and called their McGarvey law firm, leaving messages, but missed them and did not receive a return call. Many members of other organizations were openly quite supportive of I-180. They included Hardin doctors Lori & Robert Byron who give presentations on the health effects of climate change, and who despite knowing the views of some environmental leaders, spoke and gathered signatures for I-180.

Also, we lost almost 2 months of signature gathering time by honoring our commitment to allow LCV members time to go to their boards, which many did not do, and we have lost valuable signature gathering time and a few volunteers until we reached them with the rebuttal of MEIC's misinformation.

This stint we are better organized and will have more time, resources, and commitment. Also, signature gatherers are finding support is greater this year. Given last summer's forest fires that made outdoor activities less enjoyable and killed tourism, and given drought-damaged wheat crop, and given recent studies indicating Montana can expect average temperatures to rise from 6 to 10 degrees by century-end, Montanan's are more concerned about reducing CO2 than they were.]

⁵ This is misleading because while I-184 has much of what was in I-180, it also has improvements based on what was expressed by several people during the I-180 process including help to replace lost tribal and local government coal revenue. And, based on conversations with several folks, we added pieces of good legislation to make a comprehensive bill generally revising energy and tax law. Those new provisions are improved rewrites of some legislation supported by MCV that did not pass in the last legislative session because of the ongoing stranglehold utility lobbyists have in that venue. **For example, I-184 expands the use of net metering on non-profits, churches and public buildings from 50 kW to 250 kW, so those wanting to bring their governments or organizations to more renewable electricity faster may do it without having to wait for their utility to curb climate change.** The weaker version (HB 34) at the legislature did not include non-profits and churches. When it looked like even the watered-down HB 34 was going to pass, the sponsor voted against his own bill to kill it.]

⁶ [Examples of how I was attentive to concerns of environmentalist when recrafting I-180 include the I-184 section containing wording to address a MEIC concern by more clearly preventing the counting of legacy hydro if the RPS is raised above 80% in the future. See I-184 § 8(4).

I also clarified the present law to address concerns Ben Brower of Montana Renewable Energy Association had to insure utilities could purchase Renewable Energy Credits separate from energy. That practice is allowed in Colorado and incentivizes residential rooftop solar there. Ben's point was not something that was wrong with I-180 but just meant the existing law needed clarification to ensure that rooftop solar received the benefit intended by the initiative.

I also conferred with energy committee members (Jim Berg & Max Milton) in AERO and Rich Liebert from the Citizens for Clean Energy, a Great Falls group. I attempted to involve MREA and labor in the recrafting process as well. Also contacted were Steve McArthur from 350.org and Mike Uda, an attorney for a prospective community renewable energy provider, Nobel Prize Recipient and IPCC coauthor Steve Running, U of M Environment Professor Vicki Watson, State Senator Mike Philips an ardent environmentalist, Dave Anderson from the Montana Association of Christians, and Olivia Stockman from Northern Plains. These folks did not choose to become involved in the initiative redrafting process beyond a few comments, but they were given the opportunity.

Also demonstrating that we have not been remiss in attempting to communicate with environmental and other groups during the drafting process, we posted a notice of the first I-180 rewrite in the Billings Enviropolitics Facebook page, along with an invitation to express thoughts

on how to proceed. On October 2, 2016 we posted a poll on the I-180 Facebook page (now I-184 site) to determine what should be done going forward and we posted notice of a draft in June 6, 2017. Several of prominent environmental group members are in that I-184 group. The chief deputy attorney general again sought public comment during the I-184 vetting process. No one commented.

⁷ This statement is misleading because Mr. Ullman does not speak for all environmental groups. For example, Rich Liebert of the Citizens for Clean Energy in Great Falls, says, “We supported I-180 last time and we’ll support the initiative this time.” His group worked hard to collect signatures on I-180.

And Mr. Ullman does not speak for all the members of environmental organizations affiliated with MCV either. Several members of those MCV groups helped gather signatures last time and are beginning to do so again. One that wrote a guest column lauding I-180, which appeared in several Montana papers is Dr. Steven W. Running a then retired regents’ professor of global ecology at the University of Montana. He was a chapter author of the Intergovernmental Panel on Climate Change when it was awarded the Nobel Peace Prize in 2007 “for their efforts to disseminate greater knowledge about human-made climate change.” Joining him on the column was Sister Marya Grathwohl of Billings who is with Sisters of Saint Francis and is the founding director of Earth Hope. The column Running and Grathwohl wrote as private citizens speaking only for themselves, is at

http://missoulian.com/news/opinion/columnists/scientific-evidence-confirms-human-causes-of-global-warming/article_30d5f194-27a1-5bac-8a7b-2a8cbdb68915.html Sister Marya’s prayers are with us this time too. ***And Dr. Running’s call to action remains: “We’ve got to get past all the petty bickering and get to work. This is about a big transition for society over the next 50 years. The path we are on is unsustainable. What the Nobel committee is saying is that we’ve got to wake up. We’ve got to change the course of the whole world.”***

⁸ [This statement is misleading because Mr. Ullman must not have tried very hard to “communicate” with Rev Couch. After reading Neal’s claim, I asked Rev. Crouch, “Do you know who Neal Ullman is?” He said “No.” I then asked do you recall talking with him about the initiative?” He said, “No.” If Neal’s attempted “communication” was via some other method it did not get through. Rev. Crouch said he’d had a couple of phone calls from young kids wanting him to support a bill MCV liked but “other than that nothing.” Rev. Crouch has an old flip phone and so “messaging” would not have gotten to him. I asked him about email and Rev. Crouch said that MCV did not support anybody when he ran for city council, so he said, “I’ve been deleting stuff from MCV without reading it.”]

⁹ **Will “very little” have to be done for NorthWestern Energy to add 23% more electricity generated from eligible renewable energy resources under I-184 before NorthWestern can count pre-2005 hydro (i.e., old hydro) in reaching the 80% renewable energy standard mandated by I-184?** Increasing the amount of non-hydro renewables in NorthWestern’s generation mix from 15% to 38% is doing much more than “very little.” The Judith Gap Wind Farm mentioned by Mr. Ullman is 135 MW. It supplies about 8% of the electricity NorthWestern sells in Montana. That is a bit more than half of what was needed to reach the 15% renewable energy standard required in 2015. Mr. Ullman says three times that 135 MW is “very little.” Add it up. Three times 135 MW is 405 additional MW of wind capacity. Compare the additional 405 MW to the 695 MW of wind capacity existing in Montana at the end

of 2016 (405/694=58%). And ask yourself, “Is increasing the wind generated electricity that Montana now has by 58%, adding “very little?”

And that 23% increase in the RPS applicable to NorthWestern does not count the 65% increase in the RPS applicable to MDU that it will have to install pursuant to I-184.

Rebuttal of other aspects of this false characterization has been online for a couple of years at <https://www.mtcares.org/wp-content/uploads/2016/03/Press-Release-rebutting-MEIC.pdf> If one forced NorthWestern to ignore the electricity it gets from its dams when counting above a 38% requirement, consumers would have to pay twice to get electrons that are devoid of CO2, once for the electricity coming from new eligible renewable resource and again to cover the \$780 billion paid to buy back the dams. Being carefully drafted, I-184 avoids the excess charging that would occur if the 80% goal were not carefully crafted.

¹⁰ **When requiring an 80% renewable energy standard, does I-184’s allowance of counting pre-2005 hydro (i.e., old hydro) after 23% eligible renewable energy resources (not including pre-2005 hydro) are added to NorthWestern Energy’s electricity generation mix prevent old hydro from being counted toward reaching an RPS above 80%?** Mr. Ullman’s statement misleadingly implies that I-184 does not prevent old hydro from being counted when it matters. It does prevent counting old-hydro (i.e., legacy hydro or pre-2005 hydro) during the period when NorthWestern is adding 23% renewables (not including legacy hydro) and while MDU is adding 65% renewables (not including legacy hydro). As drafted both NWE and MDU will arrive at 80% of their generation coming from green electrons. If someone sets the RPS above 80% in the future, I-184 requires the additional green electrons to come from renewable energy (not including pre-2005 hydro) to reach the new goal. See I-184, § 8(4).

After NorthWestern adds 23% renewable energy to its system (by 2025), electricity from the dams will count toward reaching the 80% goal. I-180 is written to accommodate hydro power installed prior to 2005, but only after the output from such legacy hydro plus 23% additional renewable energy will equal 80%.

As I explained to Mr. Jensen in a February 2, 2016, email (which Mr. Ullman and 23 other interested environmentalists were copied on):

A. I-180 moves Montana forward. Why? Because:

1) Except as stated below, I-180 does not change the definition of “eligible renewable resource” to include the dams in that calculation. See Section 2(10) of I-180.

2) The current renewable portfolio standard has been accomplished. I-180 actually adopts the 15% RPS and the existing definition of “eligible renewables” going forward to 2025 for NorthWestern and beyond that for MDU. Therefore, I-180 does not set us back.

3) I-180 moves Montana forward because on top of the present 15% eligible renewables, I-180 replaces an additional 23% of dirty electrons with clean electrons for NorthWestern by 2025 and replaces an additional 65% of MDU’s dirty electrons with clean electrons by 2050.

B. Why do it this way? Because:

1) If you adopt 80% as the goal, then all utilities must be treated equally, or you will draw an equal protection challenge.

2) **If you are replacing hydro-generated electrons with “eligible renewable” electrons, as would be the case for NorthWestern in 2025, you are not reducing CO2.** If I-180 were drafted in any other way, in 2025, NorthWestern would be required

to begin replacing its hydro-generated electrons with eligible renewable electrons. So, I-180 allows NorthWestern's dams in the calculation after 2025. [I-184 follows suit.]

C. Cost effect of refusing to include hydro in the calculation to meet mandates: Even if additional "eligible renewable" electrons are cheaper in 2025 than hydro-generated electrons, it does not mean consumers will benefit by requiring additional eligible renewable electrons. Why? Because:

1) If you understand how utility ratemaking works you know that the dams have been placed in the rate base and ratepayers will have to continue paying for them even if they are not used to generate electricity. They will be called "stranded assets and NorthWestern will be allowed to continue charging to depreciate them."

2) If you require "eligible renewables" to replace hydro in order to meet the 80% goal, you will be creating stranded assets, forcing consumers to pay more than they should to get rid of CO2. I-180 did not set a 100% goal because that would draw all kinds of fire and because we need more experience with what additional green power on the grid over a long period does to reliability. In 2025 we will have more experience with that and the I-180 mandate can be adjusted to require more green power to offset the remaining 20% of dirty electrons in NorthWestern's generation mix. I-180 is prudent and well thought out. It creates a gradual transition that does not overreach.

D. What is being required of NorthWestern under I-180 as compared to America's Clean Power Plan (CPP) requirements?

1) In summary, under the CCP, by 2030, NorthWestern would have to reduce CO2 emissions by 47%. Since 43% of its generation comes from CO2 emitting resources. Reducing that 43% by 47% means NorthWestern has to cut roughly 21% out of its existing fossil fuel resources by 2030 under the CPP. **However, I-180 requires NorthWestern to cut more, earlier, than the CPP (i.e., I-180 cuts 23% by 2025).** And because it will be approved by voters, I-180 will not have to be endorsed by a committee heavily weighted with fossil fuel representatives, the legislature, Attorney General, or Governor.

I-180 moves us forward. We are not willing to mark time while politicians debate strategy, not willing to wait while the earth fries, and can't wait to when I'll be so old I won't be able to try to prevent at least some icecaps from melting. We'll be continuing to collect signature of folks who also believe we can't wait.

With high regards,

Russ

¹¹ **Does I-184 levy a new state tax on energy generated in Montana on electricity purchasers in other states that would lead to legal challenges?** [This is simply a false, willful misstatement, accompanied by misleading conjecture. The I-184 tax is not a new tax. And there is no basis for contending it will lead to a legal challenge. It is a small increase of an existing tax rate, namely of the tax already in RCM §15-51-101, the Montana electricity production tax. That tax was enacted in 1933. Its longevity is proof that Mr. Ullman, who is not a lawyer, or whoever is advising him did not do sufficient legal research before engaging in unsupportable conjecture. I-184 has been through a vetting process that culminated in a letter from Montana's Chief Deputy Attorney General opining that I-184 is "legally sufficient."]

The RCM §15-51-101 tax is paid by all generators of electricity. It is passed through to consumers of that electricity wherever they reside. Provisions dealing with it occur in I-184 § 14 (3)(b), (4)(b), (5)(b), (6)(b), (7)(b), (8)(b), and (9)(b).

Thus, the existing electricity production tax of \$.0002 per kWh is now levied on every renewable energy or fossil fuel producer of electricity in Montana. Since it is passed through (i.e., paid by) in-state and out-of-state purchasers of electrons generated in Montana, it is a good vehicle to replace lost coal revenue derived from various taxes and royalties on coal. That revenue is going away because less coal is being used to generate electricity.

In-state and out of state users of coal and electricity produced using coal as a fuel now pay the coal tax and royalties. That happens because coal taxes and royalties are included in the cost of coal or electricity wherever it is shipped or sold.

I-184 raises the existing tax on each kilowatt of electricity. The tax is paid by the electricity producer and likely passed through to the consumer. Hence out of state consumers of electricity ultimately pay the Montana electricity production tax now, just like the electricity they receive now includes the taxes and royalties on coal in the price they pay when receiving Montana-generated electricity. We do not give coal generated electricity a coal tax holiday so we will sell more coal generated electrons to out of state customers. So, there is a strong argument that all producers of electricity, renewable producers and fossil fuel producers alike, ought not be allowed to avoid the coal related taxes that now fund vital services in Montana, by shifting away from that fuel.

Montanans can vote for the small RCM §15-51-101 tax rate increase levied by I-184 if they want to help pay for retraining of fossil fuel workers displaced by the transition away from coal. They can vote for it if they believe it is good public policy to secure pension benefits when coal companies go belly up to beat pensioners out of their pensions via the bankruptcy court—something that recently happened in Wyoming.]

¹² [The electricity production tax applies to kWh of electricity not “all sources of energy,” as Mr. Ullman falsely claims. Natural gas used to heat homes or petroleum to fuel cars is not included. However, I-184 producers owning generating units with a total combined capacity rating of less than 251 kilowatts are exempt from the tax. (See I-184, § 14(1)(d).) His statement also implies that I-184 is imposing a tax on renewable kWh that was not previously levied. It raises the rate on all forms of electric generation to replace revenue lost because electricity is not being produced by coal. As stated elsewhere, the RCM §15-51-101 tax has always been applied to all generators of electricity, fossil-fuel or renewable generated kWh alike. So, the implication that including renewable generated electricity is new, is misleading.

Presently there are several taxes and royalties on coal that feed the coal severance tax trust fund and finance the general fund, water projects, schools, libraries, etc. My friend, long-time Billings attorney, Tom Towe, author of Montana’ coal tax and the coal tax trust, helped in drafting of the I-180 and I-184 provisions to replace revenue lost from the transition away from coal. Tom and his wife Ruth have helped collect signatures for I-180, I-184’s predecessor initiative. Montanans can vote for this small increase if they believe producers of energy ought to continue supporting the projects that coal taxes have funded in the past. Thus far, Mr. Ullman’s group has not come up with a comprehensive plan to accomplish what I-184 accomplishes in replacing revenue lost because of the shift to renewable energy that they call “well meaning.”]

¹³ [Now that electrons from the wind and sun are cheaper than electrons from coal-fired generation, the renewable energy industry must step up and fund schools, libraries and water projects, etc. which have been funded by coal derived revenue in the past. An advantage

renewables have is that there is no coal tax associated with renewable production. Now that electrons from renewable generation are cheaper than dirty electrons, the renewable industry no longer needs that advantage to compete. And if we don't figure out how to replace that lost coal income, public services will suffer.

When Mr. Ullman scares you with the concept of making energy more expensive, he also misleads you by ignoring the numbers. The tax to fund benefits for the 437 workers displaced by the transition to clean electrons brought about by I-184 would cost **consumers who use 1000 kilowatt hours of electricity a month (i.e., more than the average user) \$2.40 a year (\$0.0002/kWh) for the 5 years it is levied.** (See I-184, § 14(4)(a).) **There will be other coal-related job loss, but not caused by I-184.**

The initiative also levies a small electricity production tax to replace Montana's Coal Severance Tax revenues. That revenue will dwindle gradually. So, the replacement tax will rise, as coal use declines. To start, consumers (using 1000 kWh of electricity) will pay \$0.26/year to replace Coal Tax revenue. The replacement tax will rise gradually to \$6.36/year in 2050, (that is, a top tax rate of \$0.00053/kWh of electricity produced). (See I-184, § 14(3)(a).)

A similar tax {\$0.000005 per kilowatt hour (kWh), totaling up to \$0.000025/kWh} is levied by the initiative to replace revenue lost to tribes and local governments as coal royalty and other revenues decrease. (See I-184 § 14(5) through (9))]

¹⁴ [This conjecture that I-184 taxes “could be a serious barrier to out-of-state sales” is misleading because it ignores the cost figures above. Tax rates of (\$0.0002/kWh) for 5 years and additional replacement tax rates of \$0.00053/kWh and \$0.000025/kWh are not going to drive Montana generated renewables out of the market.

Ullman's speculation is also misleading because it assumes Montana will continue to be able to export as much electricity as it has in the past into surrounding markets. Often other states can already buy green electricity cheaper locally without having to pay long distance transmission costs. For example, MidAmerican in Iowa will be 95% green from its own wind power generation by 2020—without raising rates for 720,000 customers and without building more natural gas generation to firm and back the wind. Xcel Energy in Minnesota and Colorado is adding local solar and wind power. Wyoming has an advantage over Montana in the Oregon market because of the grid structure not because of a tax. And Wyoming likely will very soon be looking for tax money from renewable energy because Wyoming is losing lots of coal revenue. I gave Wyoming Governor Mead information about the I-184 approach last week. Those markets also are requiring more renewable electricity in the mix they buy.

The key to selling power from Montana to other states is to make sure large percentages of it are green. If our renewable generation remains at 15% they will not buy Montana's mix of electrons. And our lack of renewable production will be a far greater deal breaker shutting out Montana electricity exports than the small tax Montana needs to replace lost coal revenue. In addition, unless we add the percentages of renewables required by I-184, we will be putting Montana companies at a competitive disadvantage because power will be cheaper in states with more renewables. That is why tech giants are moving to states with lots of renewable energy, e.g. Facebook's new 1 million square foot data center near Papillion, Nebraska, is committed to purchase 200 megawatts of wind power and other buyers will purchase 120 megawatts from a new 320 MW project there.]