

GENERAL RELEASE AND SETTLEMENT AGREEMENT

RELEASORS: Sierra Club, Montana Environmental Information Center, and the National Wildlife Federation

RELEASEES: Talen Montana, LLC, formerly known as PPL Montana, LLC (“Talen”), Avista Corporation, Puget Sound Energy, Portland General Electric Company, NorthWestern Corporation d/b/a NorthWestern Energy, PacifiCorp (collectively the “Colstrip Owners”).

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY (MDEQ): Department of Environmental Quality for the State of Montana.

Talen is the operator of the Colstrip Power Plant and performs certain duties and acts on behalf of the Colstrip Owners. Where Talen is referenced individually in this General Release and Settlement Agreement, such reference is to Talen in its role as operator.

DESCRIPTION OF EVENTS: First Amended Petition Challenging the legality of the Administrative Order on Consent (“AOC”) executed by the Releasees and MDEQ and other claims related to disposal of coal combustion residual (“CCR”) material in impoundments at the Colstrip Power Plant, as asserted in the case, *MEIC, et al. v. MDEQ, et al.*, cause no. DV 12-42 (Montana 16th Judicial District Court) (the “Litigation”).

Releasors and Releasees execute this General Release and Settlement Agreement (Settlement Agreement) to resolve the claims raised in the Litigation as between Releasors and Releasees. Releasors and Releasees intend to submit the Settlement Agreement to MDEQ for approval in order to resolve the claims as between all parties to the Litigation.

1. RELEASE

A. Scope of Release. The undersigned Releasors acknowledge receipt of the settlement terms below and release and discharge Releasees; Releasees’ successors, assigns, agents, co-owners of Colstrip Units 1-4, partners, employees and attorneys; and MDEQ from any and all actions, claims, causes of action, demands, or expenses for damages or injuries under state and federal law, including common law torts, and any other law, rule, or regulation, whether asserted or unasserted, related to the operation of CCR Units, as regulated under 40 C.F.R. § 257.53 or other wastewater facilities, ponds, impoundments, and landfills that receive or have received CCR material generated by Colstrip Units 1-4 (collectively, “CCR Facilities”) and alleged contamination of groundwater from such current, historic, and future operation, including the future operational changes described in Section 2.A of this Agreement, through the “active life” (as defined by 40 C.F.R. § 257.53) of such CCR Facilities. However, the released claims in this paragraph do not include claims resulting from operation of Colstrip CCR Facilities in a manner that causes an unexpected and unintended sudden release of contaminants into the environment which poses a significant threat to human health or the environment.

B. Effective Date – Units 3 & 4. This release is effective upon execution of this Agreement as to any CCR Facilities that receive or have received CCR material generated by Colstrip Units 3 and 4.

C. Effective Date – Units 1 & 2. This release is effective upon dismissal of the Federal Court Litigation (described herein), as to any CCR Facilities that receive or have received CCR material at the Colstrip facility, which are not within the scope of the facilities described in section 1.B. above.

D. Reserved Rights. Releasors reserve their rights to pursue enforcement of this Agreement against Releasees and/or MDEQ in the event MDEQ approves the Agreement. Releasors further reserve their rights to pursue claims against MDEQ for its disapproval or inaction of Talen’s requests for amendment of its MFSA Certificate, other agency approvals, or reports submitted by Talen pursuant to Section 2 of this Agreement; or for any actions inconsistent with this Agreement. Releasors reserve their rights to pursue claims against any party pertaining to each individual closed CCR Unit after Talen has certified completion of closure of each such individual CCR Unit under 40 C.F.R. § 257.102, and four years have passed after such certification of closure. Releasors further reserve their rights to participate in any state or federal administrative or public process related to Colstrip’s CCR Facilities and/or alleged contamination of groundwater.

2. DEFENDANTS’ COMMITMENTS

A. The Colstrip Owners’ Commitments

i. The Colstrip Owners will convert to a “non-liquid” disposal system for CCR material generated by Colstrip Units 3 and 4’s scrubbers, which is deposited in the effluent holding ponds for Units 3 and 4 (the “Units 3 and 4 EHP”), as depicted on the image attached as Exhibit 1, no later than July 1, 2022 (the “Conversion Date”). Coal combustion residuals, or “CCR,” have the same meaning as in 40 CFR 257.53. “Non-liquid” has the same meaning that is used in the Resource Conservation and Recovery Act (“RCRA”) Solid Waste Disposal Rules, including 40 CFR 258.28(c)(1), as those rules may be hereafter amended and interpreted.

ii. If through reasonable and diligent efforts, the conversion of liquid CCR material to non-liquid CCR material proves to be infeasible after a performance test of a pilot project or as a result of a force majeure event, the Conversion Date will be extended until a reasonable time agreed to by the parties taking into account the timing needed to complete a successful pilot project or the resolution of the force majeure event. In addition, the Conversion Date may be extended by mutual agreement of the parties for any reason.

iii. After the Conversion Date, the Colstrip Owners may continue to deposit liquid CCR material generated by Colstrip Units 3 and 4 only under the following circumstances:

- a. Emergency circumstances, including, but not limited to, loss of electricity to the dry disposal conversion equipment, acts of God, fire, explosions, floods, and other force majeure events that would render the dry disposal equipment inoperable.

- b. As required by law, including without limitation, requirements by MDEQ, or any other governmental agency or court of law.
- c. If the equipment employed to convert CCR material to a non-liquid form is unavailable due to unexpected equipment failure or planned maintenance. Such unavailability in total cannot exceed 15% of any calendar year. After the conversion date, Talen shall annually report to MDEQ all liquid disposal of CCR material generated by Colstrip Units 3 and 4, and demonstrate that non-liquid disposal satisfies the “non-liquid” definition referenced in Part 2.A.i, above.
- d. In the case of placement of “decant” water that is the result of dewatering liquid CCR material, provided that the decant water will be sent to a single clearwell cell and then eliminated by reusing it in plant processes, either alone or in conjunction with forced evaporation.

iv. Talen will work diligently and in good faith to promptly secure any permits, amendment to Talen’s MFSA Certificate or other agency approvals necessary to allow the Units 3 and 4 EHP to receive non-liquid CCR material. If such requested Certificate amendment and/or approvals are denied, then the Colstrip Owners will have no obligation to convert to a non-liquid disposal system for Colstrip Units 3 and 4 and the Release in Section 1.A pertaining to Units 3 and 4 will become void. However, if any such denial is reversed by a court or administrative tribunal of competent jurisdiction, then the parties’ obligations under this Agreement shall be reinstated. If such permits or agency approvals are not secured by January 1, 2019, and are still pending, then the Conversion Date will be extended by the additional time required to secure such permits or agency approvals, beyond January 1, 2019.

v. For purposes of clarity, only “CCR Units,” as that term is used in the CCR Rule, including 40 CFR 257.53, receiving scrubber waste from Units 3 and 4 are subject to the “non-liquid” requirements discussed above. Except to the extent they receive CCR material from scrubber waste from Units 3 and 4, the “non-liquid” requirements do not apply to CCR Units and other wastewater facilities, ponds, impoundments, and landfills on the Plant Site or the Stage Two Effluent Holding Pond. CCR Units and other wastewater facilities, ponds, impoundments, and landfills at the Units 3 and 4 EHP, the Stage Two Effluent Pond, and the Plant Site area are depicted on the image attached here as Exhibit 1.

vi. After December 31, 2018, bottom ash from Units 3 and 4 will be dewatered in a dewatering system at the plant site. Water removed from this bottom-ash dewatering system will be pumped back to the plant for reuse. To maintain water balance, some of the water removed from this system may be used as make-up water in the scrubber system. The requirement that bottom ash be dewatered shall be subject to the same exceptions as identified above in 2.A.iii.a-d.

vii. Talen will submit Remedy Evaluation Reports contemplated by the AOC to MDEQ within 3 months of MDEQ approving all precedent reports under the AOC. This provides time for MDEQ review and comments to the Site Characterization Report, the Cleanup Criteria/Risk Assessment Work Plan & Report, and the Remedy Evaluation Work Plan to be

made and considered. The parties will negotiate in good faith for an extension of this period, if necessary, to account for any unexpected additional work such as addressing data gaps or conducting treatability studies required by MDEQ as part of the Remedy Evaluation. The Remedy Evaluation Report submittals to MDEQ are planned as follows:

1. Plant Site Remedy Evaluation Report is planned for submittal to MDEQ in September 2016.
2. 1&2 SOEP/STEP Remedy Evaluation Report is planned for submittal to MDEQ in December 2016.
3. 3&4 EHP Remedy Evaluation Report is planned for submittal to MDEQ in March 2017.

viii. On or before the Conversion Date, Talen will amend its CCR Fugitive Dust Control Plan to conform with 40 CFR 257.80.

ix. The Colstrip Owners agree to undertake closure of CCR Units in compliance with the “criteria for conducting the closure or retrofit of CCR Units” contained in 40 C.F.R. § 257.102 as it existed as of the effective date of this agreement whether or not the criteria are rescinded, vacated, or renumbered; except that if such criteria are amended, then the Colstrip Owners shall comply with the amended criteria that are in effect at the time of closure.

x. Releasees and Releasers Sierra Club and MEIC have entered into a separate settlement agreement in the case captioned, *Sierra Club, et al. v. Talen Montana, LLC, et al.*, CV13-32-BLG-DLC-JCL, currently pending in the United States District Court for the District of Montana (the “Federal Court Litigation”). That matter is being settled between Releasees and Releasers Sierra Club and MEIC pursuant to 42 U.S.C. § 7604. MDEQ is not a party to the settlement agreement in the Federal Court Litigation.

xi. Talen will provide funding in an amount requested by MDEQ, which will be used to employ a third-party consultant to assist MDEQ’s review of reports submitted under the AOC. Such requested amounts shall be reasonable based on the work necessary to implement the AOC in a timely manner.

B. MDEQ’s Commitments

Releasers and Releasees agree that upon MDEQ’s approval of the Settlement Agreement, MDEQ is subject to the following provisions:

i. MDEQ will continue to administer the AOC and will take timely action on reports submitted by Talen under Section 2.A. of this Agreement. For purposes of reports submitted under the AOC, MDEQ consideration is timely if it complies with the provisions of Section XII.A of the AOC. For purposes of determining the timeliness of DEQ taking action on the reports under Section XII.A of the AOC, the Work Plans, Cleanup Criteria and Risk Assessment Reports, and Remedy Evaluation Reports will not be deemed submitted to DEQ until DEQ [approves](#) any precedent reports required under the AOC.

iii. MDEQ will promptly notify the public of report submittals under the AOC by posting the submitted reports on its website relating to the Colstrip AOC (<http://deq.mt.gov/DEQAdmin/mfs/ColstripSteamElectricStation>). MDEQ will promptly notify plaintiffs of any requested modifications or amendments to Talen's Certificate of Compliance in regard to CCR Units and DEQ's actions on such requests by posting the requested modifications or amendments and DEQ's actions on the requests on its website relating to the Talen's Certificate of Compliance (<http://deq.mt.gov/DEQAdmin/mfs>).

3. NO ADMISSION OF LIABILITY

It is understood that the above-mentioned remedy is accepted as the sole consideration for full satisfaction and accord to compromise a disputed claim, and that neither the terms addressed above, nor the negotiations for settlement shall be considered as an admission against interest.

4. NO ADDITIONAL CLAIMS

Releasors represent that no additional claims are contemplated against any other party potentially liable for the losses, damages, and injuries for which this Release is given.

Releasors further agree that they will not fund any other person, organization, or entity to bring any action related to any released, resolved, or waived claim.

Releasees represent that no claims are contemplated, and none will be asserted, against Releasors for losses, damages, and injuries alleged to arise out of the "Description of Events" set forth above.

5. STIPULATION FOR DISMISSAL WITH PREJUDICE

Upon execution of this Agreement, Releasors agree to dismiss all of their claims brought in this Litigation to the extent that they pertain to Colstrip Units 3 and 4 and/or the Units 3 and 4 EHP, with prejudice, as fully settled upon the merits. Each party shall pay their respective costs and attorneys' fees.

Releasors will dismiss all remaining claims brought in this Litigation upon entry of an Order in the Federal Court Litigation dismissing that matter.

6. PARTIAL STAY

The parties agree to jointly move the court for a stay of aspects of the litigation not dismissed pursuant to Section 5 of this Agreement until January 17, 2017, unless the parties mutually agree to an extension of such stay.

7. DISCLAIMER

The parties have carefully read the foregoing, discussed its legal effect with the parties' attorneys, understand the contents thereof, and sign the same of the parties' own free will and

accord. This Release shall be binding upon the parties and their successors and assigns, including successor owners and/or operators.

8. SEVERABILITY

If the Federal Court Litigation is not dismissed pursuant to the settlement agreement in that case, then the release of section 1 of this Agreement will be effective only as to CCR Facilities that receive or have received CCR material generated by Colstrip Units 3 and 4, and Petitioners may pursue their claims in this Litigation as to the operation of other CCR Facilities at the Colstrip Power Plant.

9. CHOICE OF LAW

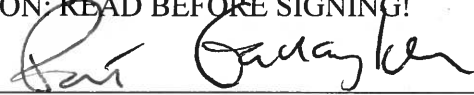
The laws of the State of Montana shall apply to the interpretation of this Agreement. The Releasers and Releasees shall move the court to enter the settlement agreement as an order of the Sixteenth Judicial District, which will retain jurisdiction to enforce or interpret the Settlement Agreement.

10. FINAL AGREEMENT

This written Agreement constitutes the final agreement between the parties and shall supersede any oral agreements to the contrary.

DATED this ____ day of _____, 2016.

CAUTION: READ BEFORE SIGNING!



Sierra Club

Montana Environmental Information Center

National Wildlife Federation

RELEASORS

APPROVED BY:

Jenny Harbine
Attorney for Petitioners

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DATED this 19 day of July, 2016.

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Sierra Club



Montana Environmental Information Center

National Wildlife Federation

RELEASORS

APPROVED BY:

Jenny Harbine
Attorney for Petitioners

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DATED this 19 day of JULY, 2016.

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APPROVED BY:

Jenny Harbine
Attorney for Petitioners

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DATED this 20th day of July, 2016.

CAUTION: READ BEFORE SIGNING!


Sierra Club

Montana Environmental Information Center

National Wildlife Federation

RELEASORS

APPROVED BY:



Jenny Harbine
Attorney for Petitioners

For Talen Montana, LLC (formerly PPL Montana, LLC):



For Avista Corporation:

For Puget Sound Energy:

For Portland General Electric Company:

For NorthWestern Corporation:

For PacifiCorp:

For Talen Montana, LLC (formerly PPL Montana, LLC):

For Avista Corporation:

Maria M. Duda
Its: SVP General Counsel, Corporate Secretary, CCO

For Puget Sound Energy:

For Portland General Electric Company:

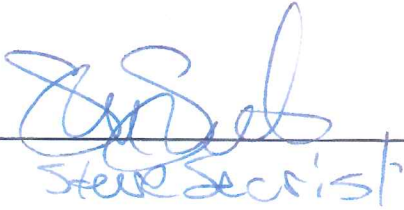
For NorthWestern Corporation:

For PacifiCorp:

For Talen Montana, LLC (formerly PPL Montana, LLC):

For Avista Corporation:

For Puget Sound Energy:



For Portland General Electric Company:

For NorthWestern Corporation:

For PacifiCorp:

For Talen Montana, LLC (formerly PPL Montana, LLC):

For Avista Corporation:

For Puget Sound Energy:

For Portland General Electric Company:

JP
James Piwo

For NorthWestern Corporation:

For PacifiCorp:

For Talen Montana, LLC (formerly PPL Montana, LLC):

For Avista Corporation:

For Puget Sound Energy:

For Portland General Electric Company:

For NorthWestern Corporation:

Heather H. Graham

For PacifiCorp:

For Talen Montana, LLC (formerly PPL Montana, LLC):

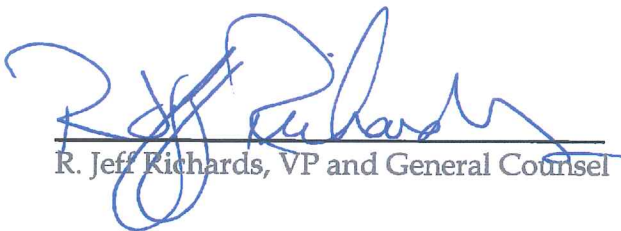
For Avista Corporation:

For Puget Sound Energy:

For Portland General Electric Company:

For NorthWestern Corporation:

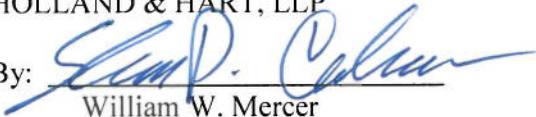
For PacifiCorp:



R. Jeff Richards, VP and General Counsel

APPROVED BY:

HOLLAND & HART, LLP

By: 
William W. Mercer
Shane P. Coleman

Attorneys for Talen Energy, LLC, fka
PPL Montana, LLC

MDEQ APPROVAL OF GENERAL RELEASE AND SETTLEMENT AGREEMENT

MDEQ approves the General Release and Settlement Agreement executed by Releasors and Releasees and, in exchange for the release of certain claims against MDEQ therein, agrees to be bound by the terms of the agreement as if a party thereto.

APPROVED BY:

Attorney for MDEQ

Montana Department of Environmental Quality

APPROVED BY:

HOLLAND & HART, LLP

By: _____
William W. Mercer
Shane P. Coleman

Attorneys for Talen Energy, LLC, fka
PPL Montana, LLC

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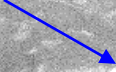
APPROVED BY:

Edmond Hayes 7-21-16
Attorney for MDEQ

Tom Wiers 7/21/16
Montana Department of Environmental Quality

Exhibit 1

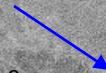
Stage II
Effluent Pond



Plant Site
Area



Units 3
and 4 EHP



LEGEND

- CAPTURE SYSTEM WELL □ 685A
- WELL □ 1030A



SCALE
1" = 1000'

NO	BY	DATE	DESCRIPTION

NO	BY	DATE	DESCRIPTION

SCALE VERIFICATION
 BAR IS ONE INCH ON ORIGINAL DRAWING
 IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

Project No. 3024
 DRAWN BY: 2000
 CHECKED BY:
 APPROVED BY:
 SCALE: AS NOTED

Hydrometrics, Inc.
 Consulting Scientists and Engineers
 Billings, Montana 59106
 406-243-2076

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