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Of Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

**PORTLAND GENERAL ELECTRIC
COMPANY, AVISTA
CORPORATION, PACIFICORP, and
PUGET SOUND ENERGY, INC.,**

Plaintiffs,

v.

**NORTHWESTERN CORPORATION;
TALEN MONTANA, LLC; AUSTIN
KNUDSEN, in his official capacity as
Attorney General for the State of Montana,**

Defendants.

Case No.1:21-cv-00047-BLG-SPW-
KLD

**DECLARATION OF DALLAS
DELUCA IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
CITY OF COLSTRIP'S AMICUS
BRIEF IN OPPOSITION TO
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT REGARDING
THEIR FOURTH AND FIFTH
CLAIMS FOR RELIEF**

I, Dallas DeLuca, make the following declaration pursuant to 28 U.S.C.

§ 1746 and under penalty of perjury:

**Page 1 - DECLARATION OF DALLAS DELUCA IN SUPPORT OF
PLAINTIFFS' RESPONSE TO CITY OF COLSTRIP'S AMICUS
BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT REGARDING THEIR
FOURTH AND FIFTH CLAIMS FOR RELIEF**

1. I am an attorney for Plaintiff Portland General Electric Company (“PGE”). I have personal knowledge of and am competent to testify to the matters set forth in this declaration.

2. Coal produced by the Rosebud Mine is used to power the Colstrip power plant. Severance tax on coal from the Rosebud Mine accounted for approximately 43% of the contributions to the Coal Severance Tax Trust Fund (“Fund”) in 2021. Over 95% of the 2021 output from the Rosebud Mine went to Colstrip Units 3 and 4 in 2021, meaning that Colstrip Units 3 and 4 accounted for approximately 41% of the Coal Severance Tax in 2021. The following four paragraphs describe those calculations.

3. On Monday, April 11, 2022, I reviewed the Montana Legislative website titled “HJ 6 - STUDY OF COAL SEVERANCE TAX TRUST FUND.” <https://leg.mt.gov/committees/interim/ric/hj-6-study-coal-severance-tax-trust-fund/> (The “HJ 6 Website”), last visited April 15, 2022. This website has materials collected by the 2021-2022 Revenue Interim Committee of the Montana Legislature, authorized by House Joint Resolution No. 6. (The “HJ 6 Materials.”)

4. Among the HJ 6 Materials is the “Rosebud Mine handout” from Joseph E. Micheletti, the Chief Operating Officer at Westmoreland Coal Company, the company that runs the Rosebud Mine.

<https://leg.mt.gov/content/Committees/Interim/2021-2022/Revenue/Meetings/January-2022/Westmoreland-handout.pdf>, last visited April 15, 2022. That document, on page 2, states that in 2021 the Rosebud Mine paid \$18,600,000 in Montana Severance Tax. Page 1 of that document states that 6,219,000 tons of coal from Rosebud went to Colstrip Units 3 and 4, and only 279,000 tons went elsewhere, meaning that 95.71% of Rosebud's coal went to Units 3 and 4. A true and accurate copy of that document is attached as

Exhibit A.

5. Among the HJ 6 Materials is a document from the Montana Legislature's Legislative Fiscal Division titled "Coal Severance Tax Trust Fund" dated August 30, 2021. That document states that in fiscal year 2021, the Total Coal Tax Collection was \$43,256,347 and the principal of the Fund was over \$1 billion. <https://leg.mt.gov/content/Committees/Interim/2021-2022/Revenue/Meetings/September-2021/LFD-coal-trust-brochure-2021.pdf>, last visited April 15, 2022. A true and accurate copy of that document is attached as

Exhibit B.

6. Rosebud's \$18,600,000 in payments are 43% of the Total Coal Tax Collection, and 95.71% of Rosebud's coal went to Units 3 and 4, which means that 41.15% of the Total Coal Tax Collection came from Units 3 and 4.

I certify and attest that the foregoing statements made by me are true under penalty of perjury.

Dated this 15th day of April, 2022.

s/ Dallas DeLuca

Dallas DeLuca (admitted *pro hac vice*)
*Attorney for Plaintiff Portland General
Electric Company*

CERTIFICATE OF SERVICE

I certify that on this date, an accurate copy of the foregoing document was served electronically through the Court's CM/ECF system on registered counsel.

DATED: April 15, 2022.

s/ Dallas DeLuca

Dallas DeLuca (admitted *Pro Hac Vice*)
*Attorneys for Plaintiff Portland General
Electric Company*