



TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS February, 2016

Membership Approves Association Name Change

On January 8, 2016 the Association's membership approved the name change from Treasure State Resource Industry Association to Treasure State Resources Association of Montana. The new name has been officially registered with the Montana Secretary of State. A big "thank you" to all who were able to participate in the meeting either by phone or in person.

Two Dates You Want To Put on Your Calendar

The **2016 Treasure State Resources Association Annual Meeting will be held September 12-13th** at the Best Western Great Northern Hotel in Helena. We look forward to hearing the latest on potential legislation for the 2017 legislature that might affect our membership, as well as updates on regulatory issues like the Clean Power Plan.

The second date to take note of is the **2017 TSRA Legislative Showcase and Reception**. As is tradition, we'll be holding that the first week of the legislative session on **Tuesday, January 3, 2017** at the newly refurbished Radisson Colonial Hotel in Helena. Information about sponsorships and booth registration will be sent later this Fall.

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New Association Web Page Under Construction

TSRA will be launching a new web page very soon. The new domain name is: treasurestateresources.org. The goal is to have the new website be an even better resource for our membership. Members who have suggestions about what information or links they would like to see on the TSRA site are encouraged to contact ptrenk@tsria.net. Don't forget to follow us on Facebook at www.facebook.com/treasurestateresourceindustry.

Montana Energy 2016

The Montana Chamber Foundation is teaming up with U.S. Senator Steve Daines to host the Montana Energy 2016 Conference in Billings on March 30-31. The summit is co-sponsored by the Montana Contractors' Association, the Montana Coal Council, the Montana Petroleum Association and KLJ. The summit will focus on how technology and innovation are guiding Montana and our region in growing our energy economy and creating high-paying jobs. For registration information go to MontanaEnergy.net.

Legislative Interim Committee Re-Cap

Many of the Montana Legislative Interim Committees held meetings in mid-January. TSRA is following several studies/issues that are part of the interim work plan in key committees. Most are still in the process of gathering information prior to making decisions about such things as pursuing legislative changes for the 2017 Session. The following is a short summary of some of the most significant issues:

Clean Power Plan

The Clean Power Plan is a priority topic in the Environmental Quality Council (EQC) and Energy and Telecommunications (ETIC) Committee, with the heavy lifting to be done by their Joint 111(d) Subcommittee.

The Subcommittee heard presentations from those with expertise in a variety of topics that could impact what happens with the Clean Power Plan. A representative from the National Conference of State Legislatures spoke to how states might work together to meet emission standards. An option might be to trade "credits", possibly even with states outside the region. That would most likely be done for an economic consideration. Ratepayers will ultimately be picking up the cost for compliance regardless of how it is accomplished under the state's plan. The speaker noted costs could be mitigated as a result of efficiencies that are gained.

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Another speaker identified some of the technologies that could be employed to continue to utilize coal in the energy generation mix, noting any new sources will likely require some form of carbon capture. Another highlighted some of the successes the Northwest has seen in terms of making gains in energy efficiency and investing in renewable energy sources.

An attorney for one of the parties seeking to stop the EPA Clean Power Rule in the D.C. District Court laid out the anticipated timeline for litigation, including the request for a stay in implementing the rule while the legal issues are sorted out. **(See latest status re: the stay later in this newsletter)** Core issues include whether the EPA has exceeded its authority and strayed into the realm of state authority by setting overall emission standards as well as misapplying the rule to existing sources. Montana is one of the states filing suit against the EPA.

The Subcommittee drafted a letter of support for challenging the EPA's rule. It will need to be considered by both the EQC and ETIC when they next meet before it can be finalized and submitted. Members felt it was important for the legislative branch to weigh in as both Attorney General Fox and Governor Bullock have been supportive of challenging the EPA's actions.

The draft letter stated that: *"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 could 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 could be virtually impossible for states like Montana to reach their goal without depending on credits from other states. We are concerned that it will be our constituents who pay for that."*

Washington and Oregon Legislation

A companion issue to the Clean Power Plan is whether ownership of the Colstrip facilities may change due to legislative actions in other states. All three committees heard an update on proposed bills both in Washington and Oregon that come in response to a number of efforts aimed at taking coal out of the energy equation. Those include litigation and anticipated citizen initiatives that will force producers to make some difficult decisions in the coming months and years that may impact the facilities at Colstrip.

The Washington legislation is narrower than a similar bill introduced last year but is still aimed at giving Puget Sound Energy (PSE), which currently owns 50% of Colstrip Generating Units 1 and 2 and 25% of Units 3 and 4, the ability to acquire a new interest in Colstrip. Currently, that would put them (PSE) over the threshold of what is allowed for certain greenhouse gas emission performance standards in Washington. The "Washington State Eligible Coal Unit Risk Mitigation Act" would grant PSE the ability to file plans with the Washington Public Utility

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Commission to buy out Talen Energy's share of Unit 3 (PSE would then own 55% of Unit 3), as long as efforts were simultaneously made to decommission other units – like Units 1 and 2.

A hearing on the bill was held January 20, 2016. Senators Rick Ripley, Jim Keane, Duane Ankney and Cliff Larsen were authorized by their respective committees to attend the hearing and testify regarding Montana's interest in protecting the 600 plus workers at Colstrip and the adjacent mine, as well as the community itself.

In testimony before the Washington Committee, legislators referenced the University of Montana's Bureau of Business and Economic Research study that forecast over 7,000 jobs could be lost, our state's economy losing about \$15 billion through 2025, and a \$400 to \$500 million reduction in tax revenues per biennium.

Senator Ankney also explained that "the elected officials in Washington need to be fully aware of the consequences of passing legislation to end coal powered electricity in their state. Not only will it increase electricity rates for ratepayers in both Washington and Montana, but it has broader economic impacts as well. These regulations could cause job losses in our states, not just from those who would lose their jobs due to mine closures, but individuals in industry and agriculture will be impacted by significantly higher electricity prices as well."

The Oregon legislation follows discussions among utility, energy industry, advocacy organizations and community groups who worked together to develop an energy policy that would transition the state away from coal.

Under the proposed bill, electricity provided to customers of Pacific Power and Portland General Electric would be coal-free by 2030, with the exception of a small amount from PGE's ownership of Colstrip, which would be out of the Oregon mix no later than 2035.

The Oregon Legislature convenes February 1st.

State Assumption of Federal Section 404 Permitting Program

Last year, the "Waters of the United States" rule adopted by the EPA (that many believe extends federal jurisdiction to regulate activities on more streams and water bodies) led some state lawmakers to express concern about the potential for added workload for the Section 404 permitting program. That increase could potentially add costs to the regulated community, as well as delay proposed development activities. The Section 404 Program issues permits to regulate placement of dredged or fill material in the waters of the United States. It is the primary federal authority regulating the physical alteration of wetlands. It is jointly administered by the EPA and the Army Corps of Engineers.

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That concern led the Water Policy Interim Committee to initiate a study to evaluate the possibility for Montana to administer its own individual and general permit program. While the new EPA rule has been stayed for the time being, the Water Policy Committee is still gathering input. During their January 11th meeting, they heard from EPA representative Kathy Hurd who outlined the requirements for a state or tribe to assume the program. So far only New Jersey and Michigan have done so. Committee members also heard from representatives from the states of Oregon and Alaska about similar efforts to evaluate whether to assume the program. Some of the benefits of assumption in their opinion were the ability for the state to manage their own resources and to be directly accountable to the regulated community and the public. However, there are a number of hurdles to overcome before such authority can be granted, and even then, not all areas of the permitting program can be assigned to the state. In fact, there is a national advisory committee that is working on better clarifying what waters can be assumed. That question is key in terms of whether the state (or tribe) can assume enough oversight to make a difference in the permitting process.

Interim Committee members recognized pursuing assumption of the Section program would likely be expensive, and that this might not be the right time to take on such an effort. They will continue to evaluate the options in the months ahead.

Road Management

As part of its House Joint Resolution 13 (2015) study of federal land road management, the EQC examined harvest rates for elk and deer in relation to roads and inaccessible public lands. At its March meeting the council will review a draft report and discuss possible findings and recommendations for the HJR study sponsored by Rep. Kerry White.

Electric Cooperatives Challenged by Clean Power Plan

Source: Billings Gazette, January 29, 2016 By: Tom Lutey

Montana's electric cooperatives will likely share in a \$5 billion bill to comply with the federal Clean Power Plan, officials say. The \$5 billion is what Basin Electric Power Cooperative estimates it will need to cut greenhouse gases from its coal-fired power plants, while also adding wind farms and gas-fired generators as replacement energy sources.

"These billions of dollars would simply cover adding new generation and potentially impact the operations of our existing facilities," said Mary Miller, Basin Electric communications director. "This does not even include the expense of additional electric or gas infrastructure."

North Dakota-based Basin Electric is collectively owned by 138 rural electric cooperatives, including 14 in Montana stretching across the state from Kalispell to Sidney. Those cooperatives

easily have more than 100,000 ratepayers, mostly households. One shareholder, Yellowstone Valley Electric Cooperative, has 19,000 customers in the Billings region...

Basin Electric's situation is complicated, said Gary Wiens of the Montana Electric Cooperatives' Association. Basin has power generating facilities in six different states. Each state needs its own strategy for complying with the Clean Power Plan. "We know it will mean some kind of cost increase, but we don't know the numbers yet," Wiens said this week...

If Basin had to upgrade tomorrow, (CEO Brandon) Wittman said Yellowstone Electric Cooperative customers would see a 50 percent increase in their utility bills. He considers tougher carbon pollution standards inevitable, but said Basin can't comply fast enough.

"We need a more negotiated approach," Wittman said. "You can't take down all the coal power in the country, which is essentially what this is going to do."

States Ask Supreme Court to Block New EPA Clean Power Rule

Source: Jay Kohn – MTN News January 26, 2016

Washington D.C. – Twenty six states, including Montana, asked the U.S. Supreme Court on Tuesday (January 26) for an emergency "stay" to block the EPA's new climate change rule from taking effect...According to The Hill, a top political website, the states want the high court to temporarily block the Obama administration's new climate change initiative because they maintain the EPA rule "unlawfully imposes massive, irreparable harm on the states."

Just last week, the same coalition of states failed to convince a lower appeals court to block the new rule before it was made final. (Editor's Note: The appeals court currently expects to review the substantive legal challenges to the plan on June 2nd.)

West Virginia Attorney General Patrick Morrisey acknowledged that a stay request to the Supreme Court is not typical at this stage. "We must pursue this option to mitigate further damage from this rule," said Morrisey. "Real people are hurting in West Virginia, and it's my job to fight for them.

If the Supreme Court grants the stay, it would give opponents of the EPA rule a fast track to the nation's highest court, much faster than if they had to wait for a lower court ruling.

In an earlier article appearing in the Helena Independent Record on January 23, 2016 Montana Attorney General Tim Fox expressed his disappointment in the appeal's court ruling. "It's unfortunate that the D.C. Circuit Court of Appeals denied the states' motion for a stay on the EPA's carbon regulations. I am, however, pleased that the court agreed with the states that the case should be expedited."

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War on Coal Grows...

The Obama Administration is increasing pressure on natural resource development not only by setting unreasonable regulatory requirements such as the Clean Power Plan, but also by attempting to “value” the industry out of business.

In January, the Department of Interior announced rules barring new coal leases on federal land while they review how coal royalties are determined. Montana Governor Bullock weighed in on the issue in a January 15th news release stating “President Obama is wrong, and once again Montana’s working families are left bearing the brunt of his unilateral action. Of course American taxpayers should get their fair value from coal leases and of course there should be transparency in the process. But you don’t shut down a program just to tinker with it – you fix it as you go. As this process moves forward, I am going to demand Montana has a seat at the table.”

As It Does for Oil and Gas

Source: Oil and Gas 360® January 27, 2016

For the past few years, the BLM has delayed issuing oil and gas leases on federal lands. Recently leasing in some areas has been halted. Now existing valuation regulations are expected to be “modernized”.

Speaking at a recent energy conference in Colorado, Christopher Guith, Senior Vice President for Policy at the U.S. Chamber of Commerce’s Institute for 21st Energy Policy stated that the climate movement “wants to kill all fossil fuels, not just coal. He noted that on their website’s home page, Greenpeace has the message in big letters: “Help end the fossil fuel era and protect our public lands. To avoid the worst impacts of climate change, we need to keep the world’s remaining fossil fuels in the ground. That means moving away from coal, oil and natural gas towards a renewable energy future.”

Guith says the important issues for oil and gas producers will be (1) gaining access to develop resources on federal lands, (2) the government penalizing the oil and gas industry with more taxes, and (3) the imposition of broader CO2 abatement regulations.

Tintina Resources Invitation

Tintina Resources has extended an open invitation to tour the Black Butte Copper Project near White Sulphur Springs. Tours take place the 1st day of every month and will include a presentation at the company’s main office. Call (406) 547-3466 for more information. The tours

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are part of Tintina’s commitment to share information with the community and offer transparency throughout the process of developing the mine.

SB 325 Rulemaking Stakeholder Group Meets In Helena

Montana DEQ hosted the first SB 325 Stakeholder group meeting on January 21, 2016. The effort is aimed at drafting rules to implement the legislation passed in 2015. Carried by Senator Jim Keane, the bill sought to clarify that municipalities and industry are “not responsible for cleaning up Mother Nature” when seeking discharge permits. Unfortunately, that isn’t as easy as it sounds.

Discussion items include how to identify and separate anthropogenic (man-caused) and non-anthropogenic sources of a pollutant in a water body, as well as how to establish a process for granting variances.

Participants in the group include representatives of industry organizations, environmental groups and cities and towns. TSRA’s Executive Director serves as a member.

Development of the proposed rules is anticipated to take several months or longer. TSRA will be establishing an internal work group to assist in providing input to this process. The work group will also follow the triennial review process for DEQ’s water quality standards scheduled to take place this year. Those interested in serving on the work group should contact Peggy Trenk at ptrenk@tsria.net or call 406-443-5541.

Upcoming Events/Dates

February 4-5, 2016 Economic Affairs Interim Committee Helena, MT	March 10-11, 2016 Revenue and Transportation Committee Helena, MT
February 5, 2016 Board of Environmental Review Helena, MT	March 10, 2016 111 (d) Subcommittee (Clean Power Plan) Helena, MT
February 19, 2016 Sage Grouse – MSGOT Meeting Helena, MT	March 11, 2016 Energy and Telecommunications Interim Committee Helena, MT
March 7-8, 2016 Water Policy Interim Committee Helena, MT	March 30, 2016 Montana Energy 2016 Conference Billings, MT
March 9-10, 2016 Environmental Quality Council Helena, MT	July 28-30, 2016 Governors’ Cup Golf Tournament Flathead, MT

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