



TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

P.O. Box 1700, Helena, Montana 59624

Phone: (406) 443-5541

Email: ptrenk@tsria.net

TREASURE STATE RESOURCES ASSOCIATION NEWS March, 2016

New Association Website Launched

TSRA has a new website. Check it out at: treasurestateresources.org. Content is still a work in progress and we'll be adding new information and resources in the coming weeks. Members who have suggestions about what other information or links they would like to see on the TSRA site are encouraged to contact ptrenk@tsria.net. The site links directly with our Facebook page so the latest news will be posted regularly.

Clean Power Plan Put on Hold (As Well As the Montana Clean Power Plan Council)

Source: Helena Independent Record 2/10/16

WASHINGTON (AP) – A divided Supreme Court agreed Tuesday (2/9/2016) to halt enforcement of President Barack Obama's sweeping plan to address climate change until after legal challenges are resolved.

The surprising move is a blow to the administration and a victory for the coalition of 27 states, including Montana, and industry opponents that call the regulations an "unprecedented power grab."

By temporarily freezing the rule the high court's order signals that opponents have made a strong argument against the plan...

The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.

The plan aims to stave off the worst predicted impacts of climate change by reducing carbon dioxide emissions at existing power plants by about one-third by 2030.

“I have been clear that I think these rules were unfair to Montana,” Montana Governor Steve Bullock said in statement. “Given the court’s ruling today, I am putting the work of the Clean Power Plan Council on hold. What we cannot put on hold is the need to address climate change and embrace Montana’s energy future, and I am committed to ensuring we do so on our own terms.”

Montana Attorney General Tim Fox hailed the court’s decision. “The U.S. Supreme Court’s decision to halt implementation of the EPA’s carbon regulations is a clear victory for Montana and the 27 other states that are challenging these regulations in court,” Fox said in a statement. “Today’s ruling will prevent Montana families, energy workers, businesses, and public power agencies from bearing the burden of regulations that we believe will be overturned ultimately.”

U.S. Senator Steve Daines, R-Montana, also applauded Tuesday’s action. “The Supreme Court decision to issue a nationwide stay on the Obama Administration’s misguided, job-killing rule is great news for Montana. The so-called Clean Power Plan will kill Montana jobs and leads our country in the wrong direction—away from being an energy leader,” he said in a prepared statement.

Appellate arguments are set to begin June 2.

Custer/Gallatin and Helena/Lewis and Clark Forest Planning Processes Underway

A Forest Plan is the comprehensive overarching document that guides forest management. That includes determining what areas of the forest will be open to multiple use and what will be managed for its “wilderness” characteristics or for any other special designation. The Forest Plan does not authorize site-specific activities or prohibitions, but it lays the framework for those decisions. That is why it is **very important** that TSRA members engage in this process. Whether it be related to timber management, access to your favorite trail, or future mining opportunities your input will matter.

The Helena/Lewis and Clark Forest Planning Process has been underway for some time. Staff have held two rounds of public workshops on the need to change and desired future conditions. They are in the midst of a new series of workshops that will focus on getting public input on forest plan areas such as recommended wilderness and lands suitable for timber. Information about what lands have been identified for timber suitability and wilderness designation can be found on the Helena National Forest website. Those who cannot participate in the workshops can **submit written comments by March 11th to hlcplanrevision@fs.fed.us**.

The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.

The remaining workshop schedule is as follows:

March 2nd – Great Falls	5 – 8 pm.	Great Falls Civic Center, Gibson Room
March 3rd – Choteau	9 am. – 12 noon	Stage Stop Inn
March 3rd – Browning	5 – 8 pm.	Browning High School Cafeteria
March 4th – Lincoln	1 – 4 pm.	Lincoln Community Center
March 7th – Helena	5 – 8 pm.	Jorgenson’s Inn and Suites

The Custer Gallatin National Forest kicked off its planning process in January of this year. They are currently in the assessment phase that involves an evaluation of relevant information including existing ecological, economic, and social conditions and trends across the broader landscape that will inform the need to change the 1985 plan. Forest Service planning staff are looking for input regarding local interests and conditions. More information about the process can be found at <http://www.fs.usda.gov/custergallatin/landmanagement/planning>. They are currently in the midst of holding public meetings for the purpose of getting input on the assessment phase. Remaining meetings are:

March 2 - Bozeman	6:30 – 8:00 pm.	Holiday Inn (5 East Baxter Lane)
March 3 – Big Sky	2 – 3:30 pm.	Big Sky Chapel
March 3 – West Yellowstone	5:30 – 7:00 pm.	West Yellowstone Chamber of Commerce
March 7 – Gardiner	5:30 – 7:00 pm.	Yellowstone Association
March 8 – Cooke City	5:00 – 6:30 pm.	Cooke City Chamber
March 9 – Billings	5:30 – 7:00 pm.	Billings Fire State #1, Emergency Operations Center Training Room (2300 9 th Avenue North Entrance), plan time for on street parking.

Legislative Interim Committees To Meet in March

Many of the Montana Legislative Interim Committees will be meeting in March. As reported earlier, TSRA is following several studies/issues that are part of the interim work plan in key committees. The following is a preview of the Committee agendas:

Water Policy Interim Committee – March 7-8, 2016

Section 404 Permitting. On Monday, March 7th the Committee will again take up their discussion of the potential for the state to assume responsibility for the federal Section 404 permitting program. They’ll receive information about the costs involved, as well as hear from agencies and interested parties about what assumption of the program might entail. That includes representatives of the DEQ, MT Department of Transportation and the MT Association of Conservation Districts.

The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.

Water Infrastructure. Concerns about Montana’s infrastructure have been featured in news articles throughout the state in recent months. The Water Policy Committee has asked to hear more about the state’s aging water supply and storage infrastructure during the March 7th meeting, including a review of the American Society of Civil Engineer’s report card. The report estimates it will require billions to replace the state’s drinking water, wastewater, storage, and delivery infrastructure.

Environmental Quality Council - March 9-10, 2016

The EQC will begin its work by catching up with what’s been happening in Washington and Oregon with regard to legislative activities that could impact the future of Colstrip -- despite the U.S. Supreme Court’s stay on implementing the Clean Power Plan rule.

Washington and Oregon Legislation

(Source: MT Legislative Council State Memo – As of February 25, 2016)

The Washington Legislation – Senate Bill No. 6248

The bill was passed by the Washington Senate 42-7 and is in the House Technology and Economic Development Committee. The committee heard the bill on Tuesday, February 23 and is expected to vote on the bill Friday. *(As of February 26, the bill was passed out of committee and referred to the General Government Information and Technology Committee. It was heard February 29th and passed. The bill was then referred to the House Rules Committee. That committee considers all bills reported from policy and fiscal committees and determines whether, and in what order, to schedule their consideration on the floor of the House.)*

The bill, as amended in the Senate, authorizes Puget Sound Energy (PSE) to pay for the closure of Colstrip Units 1 and 2. In general, if Puget Sound Energy (PSE) closes Units 1 and 2 after December 31, 2022, the company can fund remediation and decommissioning using a regulatory liabilities account. PSE has a “liabilities account” from federal Treasury grants from hydro upgrade projects and from the federal renewable energy production tax credits earned from PSE wind projects. PSE, rather than credit these benefits back to Washington customers and then ask for funding to pay for remediation, would use the credits to pay for remediation costs related to Colstrip Units 1 & 2. Under some circumstances, prior to 2022, if the units close, PSE can still use those funds for the decommissioning and remediation of 1 & 2.

March 4 is the final day for the bill to be taken to the House Floor to be voted on. March 10 is the last day of the regular session in Washington.

The Oregon Legislation – House Bill No. 4036

The bill passed the Senate Committee on Business and Transportation 3-2 on Monday, February 22. The bill was amended, and if it passes the full Senate, it will return to the House. Most of the amendments deal with granting the Oregon Public Utility Commission more oversight of the

anticipated costs of the bill. *(As of March 1, 2016 the bill is awaiting second reading in the Senate)*

The bill moves Oregon off coal-fired generation and for Portland General Electric (PGE) and Pacific Power. Under the legislation, electricity provided to customers of Pacific Power and PGE 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. PGE owns 20% of Units 3 and 4 in Colstrip (296 MW total) and Pacific Power owns 10% of Units 3 and 4 (148 MW). The bill does not require the two utilities to divest their ownership interests in coal plants or to close the plants. However, Oregon customers can no longer be served by electricity generated at those plants. March 6 is the last day of the regular session in Oregon.

The EQC has a range of oversight responsibilities relative to agency rulemaking, monitoring programs ranging from petroleum tank release site remediation to wildlife habitat. The bulk of their agenda will focus on various reports.

The HJ 13 Study of road management on federal lands that was sponsored by Rep. Kerry White is one of the EQC's larger tasks this interim. After receiving input and testimony from state and federal agencies, as well as the public, the EQC will begin work on drafting any findings and recommendations. According to the EQC work plan, the committee will finalize changes at their May meeting and approve a draft report that will be circulated for public comment during the month of June. The study has focused on the effect of diminished access on recreational opportunities on federal lands, specifically hunting.

The EQC will also hear an update on sage grouse conservation efforts. The Montana Sage Grouse Oversight Team recently adopted rules for awarding project grants under the Habitat Stewardship Fund Grant Program, as well as application procedures. The grant program can proceed while awaiting the development of the Habitat Quantification Tool that isn't expected to be adopted until this fall. At the MSGOT's February 19th meeting the program director Carolyn Sime reported they have had approximately 100 permit actions for activities in core and general sage grouse areas submitted for review. DEQ Director Tom Livers noted they expect a bump in permit requests for open cut mining activities related to gravel during the upcoming construction season.

Revenue and Transportation Interim Committee – March 10-11, 2016

As with the EQC, RTIC oversees agency activities (Departments of Revenue and Transportation), hears reports, and initiates studies of property taxes and other taxation issues. A topic to watch is the Committee's study of the adequacy of local government revenue generating capacity. Both the counties and cities and towns have testified as to the difficulty of keeping up with local infrastructure and other needs with current funding sources and are interested in exploring other options for raising revenue.

The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.

Those who work more directly with the Legislature might also be interested in the discussion of Legislative Session procedures for revenue bills and what changes might be proposed.

Energy and Telecommunications Interim Committee – March 11, 2016

The ETIC will also hear updates on the Washington and Oregon legislation that might impact Colstrip. The Public Service Commission and Consumer Counsel also provide updates.

ETIC has been studying net metering this interim and may begin to discuss possible findings and recommendations at this meeting.

The Co-Chairs of the Governor’s Main Street Program Key Industry Network for Natural Resources and a member of the Energy Key Industry Network will also be present to talk about marketing Montana’s energy resources. The Energy KIN has discussed a proposal for creating a Montana Energy Infrastructure Authority with a charge of “assisting in the development of Montana’s energy economy.” Included in the scope of the authority’s responsibilities would be the task of examining the “energy marketplace and regulatory landscape” and determining “what will be needed to remain competitive across all of Montana’s energy sectors”. At its February 19th meeting, the Natural Resources KIN also looked at this concept and added it to their list of proposed recommendations as well.

Note: The 111 (d) Subcommittee will not be meeting in March. Their work is also on hold due to the Supreme Court’s stay on implementing the Clean Power Plan Rule.

SB 325 Rulemaking Stakeholder Group Continues Its Work

Montana DEQ held its second meeting of the SB 325 Rulemaking Stakeholder group on February 23, 2016. As reported last month, 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. DEQ provided an illustration of how the department might approach evaluating whether a new discharge would “materially contribute” to the condition of the existing water quality if it were already above the standard. That assessment is key to whether or not a variance from the water quality standard can be granted. Before making that decision however, the first consideration, based on part 2 of the statute, is whether or not the current condition is likely to be remediated in the next five years. If it is, a variance couldn’t be granted.

If the condition won’t be remediated, DEQ would then make the “materially contribute” decision. If determined the discharge would not contribute, the department could then consider whether another permit-related action might be in place that would reduce the economic burden for the permit applicant such that a variance wouldn’t be needed. Again, if that option is not

available, the applicant could then apply for a variance, citing one of the six potentially applicable factors found in 40 CFR 131(10)(g).

As summarized, the 6 factors are:

1. Naturally occurring pollutants;
2. Naturally low-flows (i.e. ephemeral) prevent attainment of use;
3. Human-caused pollution prevents attainment of use and source cannot be remedied or would cause more environmental damage to correct than leave in place;
4. Dams or other hydrologic modifications prevent attainment of the use;
5. Natural physical conditions of the water body that preclude attainment of aquatic life protection uses; and
6. Meeting a water quality standard (e.g. DEQ-7) would cause substantial and widespread economic harm.

If the case can be made that they qualify under one or more factors, the discharger is entitled to a variance.

As the stakeholder group continues its work, it is anticipated the nuances of defining and/or explaining the application of “materially contribute” will continue to be a primary focus. DEQ is in the process of making the SB 325 documents and presentations available on their website in order to be more accessible to other interested parties.

The DEQ stakeholder group will meet again on March 22, 2016 from 2-4 pm. In the meantime, TSRA’s Water Issues Work Group will continue to gather input and information from our broad coalition of members relative to the development of the administrative rules for aiding the implementation of SB 325. Those interested in participating in the TSRA work group should contact Peggy Trenk at ptrenk@tsria.net.

DEQ to Initiate Review of Montana’s Water Quality Standards

On February 5, 2016 the DEQ was granted approval by the Board of Environmental Review to hold a hearing and request public comment on Montana’s Water Quality Standards as part of the 2016 Triennial Review. The hearing and 45-day comment period is a new federal requirement. DEQ should be contacting interested parties about the process in the near future.

Asbestos Advisory Group Outlines Potential Recommendations

The DEQ Asbestos Advisory Group continues its review of current regulatory requirements and funding for the state’s asbestos program. Appointed late last summer, the advisory group has been meeting monthly for the purpose of acting on the direction of HB 434 (2015 Session) to advise the department on: regulatory thresholds for permits and whether a tiered permitting system is appropriate; the appropriate types of projects and the size of structures subject to

The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.

permitting; the appropriate timeframe for asbestos notification and issuance of permits; whether a registration program is appropriate for small scale projects; the scope of the department's enforcement and cleanup authority; appropriate funding options; the relationship between federal and state authority over various issues related to asbestos control and methods to clarify conflicts; options to streamline the permitting process while still protecting public health and safety; and any other issues that may arise relative to asbestos regulation.

The Advisory Group split its work into four focus areas. The following is a list of potential recommendations that have emerged to date. **Comments are encouraged.** Please contact TSRA Executive Director Peggy Trenk if you have input or suggestions. She can be reached at ptrenk@tsria.net.

State and Federal Regulations:

1. DEQ should explain asbestos regulations (state and federal) to inform individuals why the regulations are important and to promote compliance assistance.
2. DEQ should clarify and/or revise the definitions for "Miscellaneous Materials" (including sampling of misc. materials); "Thoroughly inspect"; and "Facility" to allow for more administrative flexibility while not causing harm to health or the environment.
3. DEQ should require a form for disposal of asbestos containing materials for screening waste streams at landfills.

Funding:

1. DEQ should provide a fee discount for individuals with multiple asbestos certifications for the purpose of promoting professional conduct and customer service;
2. DEQ should increase compliance rates and thereby revenue would increase;
3. DEQ should adopt an application fee of \$50 to \$100 for each project removing non-friable and non-regulated floor tile, pipe or roofing materials.

Enforcement & Cleanup:

1. DEQ should allocate more staff time to identifying non-compliance and take the appropriate measures to achieve compliance.
2. DEQ should develop and distribute education/information materials for asbestos regulatory requirements to promote compliance. Make information available in both hardcopy and electronically.
3. DEQ should revise its enforcement process to increase monetary fines both in terms of frequency and amount.
4. DEQ should public a list of non-compliant contractors.

Permitting:

1. DEQ should require notification of all asbestos projects and make notification available online.

2. DEQ should provide for online application for annual permit (allow pdf attachments and allow credit card payments).
3. DEQ should explain why the specific regulatory thresholds are used (education and outreach) and to the maximum extent possible, reconcile discrepancies.
4. DEQ should pursue working with local governments to incorporate an asbestos inspection check box on local building permits.

Save the Date

Don't forget the Treasure State Resources Association Annual Meeting will be held September 12-13th, 2016 at the Great Northern Best Western Hotel in Helena, MT. Registration and hotel reservation information will be sent at a later date.

Upcoming Events/Dates

March 7-8, 2016 Water Policy Interim Committee Helena, MT	May 20-21, 2016 MT Logging Association Annual Meeting Missoula, MT Holiday Inn Downtown
March 9-10, 2016 Environmental Quality Council Helena, MT	June 9 – 11, 2016 MT. Stockgrowers Mid-Year Meeting Great Falls, MT Hilton Garden Inn
March 10-11, 2016 Revenue and Transportation Committee Helena, MT	July 28-30, 2016 Governors' Cup Golf Tournament Flathead, MT
March 11, 2016 Energy and Telecommunications Interim Committee Helena, MT	
March 30-31 2016 Montana Energy 2016 Conference Billings, MT	