



TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS October, 2016

TSRA Annual Meeting Wrap Up

TSRA concluded its annual meeting on September 13th following a series of presentations on industry issues and legislative updates. We were particularly honored to hear from John Mingé, Chairman and President of BP America who shared his perspective on our energy future. The following are a few excerpts from his speech:

...I think there is a growing consensus in Montana -- and in many other parts of the country -- on the need for a pragmatic, fact-based approach to energy and environmental policy...The way I see it, there are three basic questions we need to ask about any given policy proposal...No. 1: Is it economically responsible? No. 2: Is it environmentally sustainable? And No. 3: Is it technologically feasible? Each of these three questions must be at the center of any serious debate over energy and the environment...

...Asking those questions means confronting reality. And the reality is that, despite what certain activist groups would like us to believe, it simply is not feasible to abandon fossil fuels overnight. In fact, according to the most likely long-term scenario in BP's latest Energy Outlook report, fossil fuels will account for nearly 80 percent of global energy supply in 2035. Even in our "faster transition" scenario -- a scenario in which the world moves aggressively on climate change, and we see global emissions peak in 2020 before declining to nearly 8 percent below 2014 levels by 2035 -- even in that ambitious scenario, we project that fossil fuels will remain 70 percent of total energy in 2035.

Keep in mind, BP has invested \$8 billion dollars in low-carbon energies over the past decade, and we currently have the largest operated renewables business of any major oil and gas company, including 15 wind farms here in the U.S. So we certainly recognize the potential of renewables. Yet, we've also learned

that alternative energies are not yet ready to displace fossil fuels on a global scale. Therefore, even attempting to abandon fossil fuels overnight would not be economically responsible, especially with global energy demand projected to grow by more than a third over the next two decades.

...We should pursue realistic solutions to climate change and other environmental challenges – solutions that ensure both broad-based economic prosperity and environmental sustainability. If we ignore the climate problem, or simply hope that it resolves itself, we run the risk of experiencing dangerous increases in global temperatures. At the same time, if we try to replace fossil fuels too precipitously, we run the risk of causing massive disruptions in the global economy. For these reasons, BP supports a stable, orderly transition to a lower-carbon future...One of the ways that all businesses – including ours – can help is by making our traditional operations and products more energy efficient...

...There's no question every industry has a need to protect the environment as it operates today. At the same time, governments has an obligation to support policies based on sound science rather than ideology...Sometimes sound science gets lost in the political debate. Other times, regulations just don't keep pace with the latest science...

We have to work safely. We have to work responsibly. And we have to work sustainably. That's our challenge. And in the years ahead, I'm confident that we will continue finding innovative ways of meeting it.

TSRA Thanks Our Annual Meeting Sponsors

Our meetings wouldn't be possible without the help of our generous sponsors. They were:

Trailblazer - BNSF Railway

Champion – Browning, Kaleczyc, Berry & Hoven, CRH-Trident, Cloud Peak Energy, NorthWestern Energy, Stillwater Mining Company and Tintina Resources

Groundbreaker Golf Sponsor – Boilermakers Local 11 and CRH-Trident

Advocate – ABS Legal, Citizens for Balanced Use, Energy Laboratories, Great Northern Properties, LP; Montana Contractors' Association, and Weyerhaeuser

Thank you all for your support!



Pictured: Rep. Kerry White, Kim Rogers, Keith Olson and Steve Wade



Pictured: Greg Gannon, Bud Clinch, Mark Baker and Sen. John Brenden

Golf Scramble Winners

Congratulations to our “undaunted golfers” who braved the threat of rain and a cold wind to be recognized as the winning team on the coveted “Mike Pichette Cup”. The Montana Association of REALTORS® continued their winning streak by taking home first place honors. Golfers were: Taylor Oldroyd, Kyle Spencer, John Rausch and Kelly Mitchell. Second place went to Team #4 – Greg Gannon, Bud Clinch, Senator John Brenden and Mark Baker. Third place went to Team #1 – Representative Kerry White, Steve Wade, Kim Rogers and Keith Olson. And for the rest, well, there’s always next year. A big “thank you” to our Golf Scramble Chairman Mark Baker. Also, thanks again to CRH-Trident and International Boilermakers Local 11 for your golf sponsorship.

Note: Due to the speed (and skill) with which the winning REALTOR® team executed the course, our photographer was not able to catch up with them to capture a team picture.

Tintina Resources’ Black Butte Project Target of Helena City Commission – Comments are Encouraged

Background:

Source: City Agrees to Consider Smith River Resolution, [Helena Independent Record](#), September 22, 2016 By Al Knauber

The Helena City Commission on Wednesday (9/21/16) agreed to consider a resolution encouraging absolute protection of the Smith River from mining activities.

The decision to consider the resolution on October 17 was supported by three commissioners: Robert Farris-Olsen, who proposed the resolution, Ed Noonan and Andres Halady.

The resolution states “any proposed mining activities that could potentially affect the health and vitality of the Smith River should be viewed skeptically and should not be permitted unless the applicant can demonstrate with 100 percent certainty that the proposal will not harm the river.” Farris-Olsen said he would revise the wording to say “absolute” certainty instead of “100 percent.” ...

John Shanahan, Tintina President and CEO, was at the commission meeting, as was Nancy Schlepp, the company’s public relations director...“My experiences have shown that through responsible development, through modern mining techniques and a lot of just care, you can have both, “ he said of mining and the environment...”what attracted me to come and join this company was to know you can do it, and you can do it correctly...People in Meagher County can have jobs and the rest of the country and Montana can in fact recreate and enjoy the beauty and the pristine nature of the area.”

He (Shanahan) asked to allow DEQ to complete its (permitting review)process and said no one in the room wants to see any degradation of the Smith River or Sheep Creek. “They may come back and say, ‘I’m sorry, it just isn’t possible’ and we would accept that, “ Shanahan said of what the outcome of the DEQ review may be.

And if the DEQ gives its approval, the next step will be preparation of an Environmental Impact Statement that will take 12 months and offer additional opportunity for public comment, he continued.

Among those who raised concerns about the proposed mine was Jim Jensen, executive director for the Montana Environmental Information Center...Jensen noted the “very large-scale, extremely well managed and responsible” copper mining by Montana Resources in Butte and that by Stillwater Mining south of Big Timber and Nye as he spoke of community values. However, he also said the community (Helena) has placed higher values on the inherent and intrinsic worth of the economic activities surrounding rivers such as the Smith and Blackfoot. The city commission is expected to act and be part of the voice when there are differences in values, Jensen said.

“Values are played out in the political arena,” and called for the commission to move forward with its consideration of the resolution.”

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How can you help?

TSRA members have a great deal of experience in various permitting processes, as well as with the MEPA (Montana Environmental Policy Act) process as they go about the business of contributing to Montana’s economy. If you believe it is important to let the regulatory process work, you can share your opinion with the Helena City Commission prior to the October 17th meeting. That’s all Tintina Resources is asking. If we allow those processes to be overridden by “value judgments” -- made even before all the data is gathered and the facts weighed - -we might not like where the conversation takes us.

Comments regarding the proposed resolution can be directed to the following email address: mayorandcommission@helenamt.gov. Please note that comments sent to that email address will automatically go to Helena Mayor Jim Smith and all Helena Commission members. They also go directly to the Helena Independent Record newspaper.

If you have questions about the proposed Black Butte mining project, or would like to take a tour, please feel free to contact Nancy Schlepp, Public Relations Director, at 406-224-8180 or by email at: nschlepp@tintinaresources.com

US Appeals Court Hears Arguments in Clean Power Plan Case

Source: [Missoulian](#) September 28, 2016 By Michael Biesecker, Associated Press

WASHINGTON: Lawyers for a coalition of states and businesses reliant on fossil fuels made their case Tuesday to a federal appeals court that President Barack Obama's plan to curtail climate-warming greenhouse gases is an unconstitutional power grab.

The Clean Power Plan, which aims to ratchet down carbon emissions from coal-burning power plants, has been challenged by more than two dozen mostly Republican-led states led by West Virginia and Texas, as well as allied industry groups that profit from mining and burning coal.

The opponents contend the carbon-cutting plan unveiled by the Environmental Protection Agency will kill coal-mining jobs and drive up electricity costs. The Obama administration, some Democratic-led states and environmental groups counter it will spur hundreds of thousands of clean-energy jobs installing emissions-free wind turbines and solar panels.

The Supreme Court has delayed implementation until the legal challenges are resolved.

The rules are considered essential to the United States meeting emissions-reduction targets in a global climate agreement signed in Paris last year. The plan aims to help stave off the worst predicted impacts of climate change by reducing carbon dioxide emissions at existing power plants by one-third by 2030.

Regardless of which side prevails at the appeals level, the issue is considered likely to end up being decided by the Supreme Court.

Appearing Tuesday before a 10-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit, West Virginia Solicitor General Elbert Lin argued that the EPA had overstepped the regulatory authority provided it by Congress to impose emissions standards under the Clean Air Act.

By limiting carbon emissions as it does other pollutants such as mercury and sulfur dioxide, Lin said the EPA was in effect requiring states to transform their electricity generation systems by favoring one source of energy over another. West Virginia's economy is reliant on coal mining and gets 96 percent of its electricity from coal-fired plants.

"This rule is not about improving the performance of existing power plants," Lin told the judges. "It's about shutting them down."

Much of the legal debate focused on the EPA's existing rule-making authority under the Clean Air Act to implement the "best system of emissions reduction," and whether Congress meant the

word “system” to apply only to the machinery inside power plants or more broadly to the various ways that electricity can be generated.

Justice Department lawyer Eric Hostetler said EPA was simply requiring what the free market is already doing. Demand for coal has plummeted as utilities shift to cleaner-burning natural gas made available through hydraulic fracturing and the cost of installing new wind and solar facilities decreases. In many parts of the United States, generating a kilowatt of emissions-free electricity is now cheaper than that produced by carbon-spewing coal boilers.

“This rule addresses the key environmental challenge of our time, and does so cost effectively,” Hostetler said.

The judges repeatedly interrupted the lawyers for both sides to ask pointed questions about the legal underpinnings of their positions, but it did appear Tuesday that those challenging the new regulations were more often on the defensive.

Six of the 10 appeals judges on the D.C. Court were appointed by Democratic presidents. Chief Judge Merrick Garland, who was nominated by Obama to fill a vacant Supreme Court seat, recused himself from the case.

Even some of the Republican appointees lamented the inaction of Congress to address the threat of climate change.

“The Earth is warming,” declared Judge Brett Kavanaugh, who was nominated to his seat by President George W. Bush after working as a lawyer in Bush’s White House. “I understand the frustration with Congress.”

In the absence of new legislation, the Obama administration crafted its plan, relying on a new and expanded interpretation of a little used section of the Clean Air Act.

“Why isn’t this debate going on right now on the floor of the Senate, rather than before a panel of unelected judges?” asked Judge Thomas Griffith, another Bush nominee.

Under the Clean Air Act, certain challenges to new EPA rules skip the federal district court and go directly to the appeals court. A three-judge panel had been scheduled to hear the case in June, but for issues involving a “question of exceptional importance” procedural rules allow for the case to proceed directly to a hearing before the full appeals court, known as “en banc” review.

By using its discretion to skip a step, the appeals judges are potentially shaving months off the time before the case could be heard by the high court. Still, the legal fight over Obama’s signature effort to cut carbon pollution is unlikely to be settled before he leaves office...

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In related comments: Montana State Chamber President and CEO Webb Brown said “President Obama’s carbon regulations aren’t even in effect yet and already Montana is suffering the consequences. We’ve lost hundreds of jobs and state tax revenues are declining, but these impacts are nothing compared to what we’re going to see if the rules are allowed to go into effect.”

Obama’s carbon regulations are aimed at reducing coal-fired electricity generation across the country by limiting the amount of allowable carbon emissions on a state by state basis. Montana was presented with one of the largest overall emissions reduction targets. The overall impact that the rule is projected to have on carbon emissions is negligible – resulting in about a 1% reduction globally by 2050.



Montanans weigh in....

WEFR Poll Press Release

September 30, 2016

Data Show Most Montanans Worried About Impacts From Federal Energy Regulations, Colstrip Closure

(Helena, Mont.) – By a two to one margin, Montana voters oppose shutting down coal-fired power plants in Montana, according to polling conducted earlier this year and released today by the Western Education Foundation for Resources (WEFR). The polling was conducted to assess voter attitudes on coal-fired electricity generation, President Obama’s plan to reduce carbon emissions, and how that plan is projected to negatively affect jobs in Montana.

We’re already starting to see the economic impacts resulting from federal regulations aimed at eliminating fossil fuel production in Montana,” said Leo Berry, WEFR Chairman. “We’ve lost hundreds of jobs in our energy sector, the \$300 million state surplus we had 18 months ago has vanished due to declining revenues, and this is all before the President’s plan has even begun to be implemented.” The U.S. Supreme Court has placed President Obama’s plan on hold.

WEFR’s polling found that a strong majority of Montanans opposed President Obama’s carbon regulations after learning about the impacts of the issue. Fifty-eight percent of Montana voters were opposed to the plan, and only 37% were favorable.

While respondents called lost Montana jobs as the number one concern with federal regulations, lost tax revenue was not far behind. A full 73% said they were very or fairly concerned about reductions in tax revenue to fund government programs. Respondents also expressed some concern about the potential for increased property taxes to offset lost energy tax revenue in coming years.

“Montanans need to come to terms that we’re all in for some hard times ahead if we lose the Colstrip generators,” said Jess LaBuff, Business Manager for the International Brotherhood of Boilermakers Local No. 11. “We’re going to see as much as half a billion less revenue going to state and local governments, a reduction of about \$15 billion in our state economy and higher prices for electricity.”

“It’s imperative that we retain these good paying, middle income jobs in Montana,” LaBuff added. “Our boilermaker members earn on average approximately \$85,000 per year. The loss of coal tax revenue hurts programs such as state parks, libraries and water development for communities around the state.”

Not all the news in the polling was negative. Respondents also expressed optimism for technology addressing the problems associated with climate change. Two-thirds of respondents support using federal tax credits to help pay to retrofit the Colstrip generators with Carbon Capture technology.

The D.C. Court of Appeals earlier this week heard oral arguments in a legal challenge being brought against the Obama carbon regulations by 27 states, including Montana, and over 120 other stakeholders.

Note: The Western Education Foundation for Resources (WEFR) is a 501 (c) 3 educational foundation administered by the Treasure State Resources Association.

Opportunity to Comment on Draft Recommendations Regarding Asbestos Regulation in Montana

The 2015 Legislature passed HB 434 directing the Department of Environmental Quality (DEQ) to convene an Asbestos Advisory Group (AAG) to advise the agency on matters relating to asbestos regulation.

The AAG has met monthly over the past year to learn more about the program operations, how it is funded, and other issues. Treasure State Resources Association has participated in the AAG

as a representative for Associations and Industry Groups. Draft recommendations are now available for review prior to submitting them to DEQ Director Tom Livers as required by statute.

The recommendations may be characterized as addressing asbestos regulation in terms of funding, permitting, enforcement and compliance, and state and federal regulations. Recommendations are presented in a format that describes the reason for the recommendation, actions that may be taken to achieve the recommendation, and an implementation difficulty factor rating.

Your feedback would be welcome. Recommendations will be finalized in early November so please send your comments as soon as possible. They are available on the DEQ website at: <http://deq.mt.gov/Portals/112/Public/Asbestos/Documents/docs/SeptemberPosters.pdf> . Comments can be sent to ptrenk@tsria.net.

Montana Oil and Gas Conservation Board Rejects Fracking Disclosures

Source: Helena Independent Record September 23, 2016 By: Matthew Brown, AP

BILLINGS – Montana regulators on Thursday (9/22/16) turned back an effort by environmentalists, health advocates and some landowners who sought to force energy companies to divulge more information about fracking chemicals used to produce oil and gas.

During fracking, known formally as hydraulic fracturing, companies pump large volumes of industrial fluids underground to release oil and gas trapped in rock formations.

The Montana Oil and Gas Conservation Board voted unanimously against a petition that would have made companies either disclose details on the chemicals or justify withholding the information.

The board's action left in place a 2011 state rule that allows companies to conceal the ingredients of chemicals that are considered trade secrets.

A legal challenge to a different aspect of the 2011 rule is pending before the Montana Supreme Court. Some board members said they did not want to start the process of coming up with a new rule while that case is unresolved.

A coalition of landowners, environmentalists and advocates filed the petition in July seeking to strengthen the disclosure rule and make it more like a rule in neighboring Wyoming. The said the current state rule violates the public's right to know about matters that can threaten public health.

The Montana Petroleum Association argued against changes, saying the public should not have access to proprietary company information...

An estimated 4,000 to 7,000 oil and gas wells have been fracked in Montana, with the practice first seen in the state in 1951, said Jim Halvorson, a petroleum geologist and administrator of the state oil and gas board.

Halvorson said he knew of no cases where fracking directly harmed groundwater. There's also been "no direct evidence" that the rules in place since 2011 have damaged health and safety, he added...

An attorney for the petitioners, Kathleen O'Brien, said the group would review the board's decision before deciding if they will go to court to challenge the outcome.

Water Policy Interim Committee Meets October 12th in Helena

Source: Montana Legislative Council

The Water Policy Interim Committee plans to meet one more time before wrapping things up for this interim. Due to the amount of input on some of their draft bills, the Committee wanted to allow an opportunity for the public to take one last look at the language before advancing the proposals to the 2017 legislative session. They have also added a draft bill to advance the concept of having the state assume responsibility for the federal 404 permitting program.

WPIC will meet at 10:00 a.m. on October 12 in Room 172 of the State Capitol. The draft legislation they will be discussing includes:

- Limit adverse effects analysis. This bill lets a water rights holder file a "consent to approval" allowing an applicant for a new water right or change in a water right to ignore the adverse effect on an existing water right – and possibly clearing the way for the requested new right or change.
- Establish Surface Water Assessment and Monitoring Program. Under this bill, the Bureau of Mines and Geology formally establishes the SWAMP, which would continue to gather surface water data around Montana and provide real-time conditions.
- Allow Water Court review of certain Department of Natural Resources and Conservation decisions. This bill allows an appeal of a DNRC decision on a water right permit or change at the Water Court. Appeals are now taken to district court.
- Authorize Department of Environmental Quality assumption of dredge and fill permitting. This draft directs the department to "take all actions necessary" to gain federal permitting to assume the "dredge and fill" permitting program. The U.S. Army

Corps of Engineers issues 404 permits in Montana, although the Clean Water Act allows states to assume this program.

- Modify duties and organization of river basin councils (2). These drafts eliminate two Clark Fork River watershed groups and formalize basin advisory councils across Montana. The DNRC used basin advisory councils to create the 2015 State Water Plan. One bill draft allows the DNRC to appoint council members; the other allows conservation district supervisors to appoint council members.

WPIC will also discuss the recent Montana Supreme Court ruling related to exempt wells. The committee already has five other bill drafts for the 2017 session.

The bill drafts and other committee information can be found on their website at: <http://www.leg.mt.gov/water> . Public comments on the bill drafts may be sent to: <mailto:jasonmohr@mt.gov?subject=Water Policy Interim Committee>. Staff contact Jason Mohr can also be reached at 406-444-1640.

Upcoming Events/Dates

October 12, 2016 Water Policy Interim Committee State Capitol, Helena	January 2, 2017 Montana Legislative Session Begins
November 14, 2016 Legislative Caucuses (2017 Session) State Capitol, Helena	January 2-3, 2017 Montana State Chamber Days Helena, MT
December 7, 2016 Montana Taxpayers Association Annual Meeting Helena	January 3, 2017 TSRA Legislative Showcase Radisson Colonial Hotel, Helena