



# TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

P.O Box 1700, Helena, Montana 59624

Phone: (406) 443-5541

## TREASURE STATE RESOURCES ASSOCIATION NEWS September, 2016

### **There's Still Time to Register for the TSRA Annual Meeting – September 12-13, 2016 - Great Northern Hotel, Helena**

The TSRA Annual Meeting takes place in Helena September 12-13th, 2016 at the Best Western Great Northern Hotel. There's still time to register and take part in the Golf Scramble. You can check the website at: [treasurestateresources.org](http://treasurestateresources.org) for more details. The information-packed program offers a great opportunity to get up-to-speed on developing legislative and regulatory issues, as well as what's happening on key legal topics such as challenges to the WOTUS rule and the Clean Power Plan.

As a reminder, TSRA's "official annual business meeting" is set for 7:30 am. Tuesday, September 13<sup>th</sup>. There are no Bylaws changes to consider at this meeting.

### **Colstrip Coal-Fired Plant: DOE – 1.2B to Retrofit**

Source: [Helena Independent Record](#) Thursday, September 1, 2016 By: Matt Brown, AP

Retrofitting Montana's largest coal-fired power plant to reduce greenhouse gas emissions would cost at least \$1.2 billion, but that price tag could be at least partially offset by selling captured carbon dioxide for use in oil fields, federal officials said Wednesday.

Senior U.S. Department of Energy representatives presented the agency's analysis of reducing emissions from the Colstrip plant at the request of Gov. Steve Bullock...Two of Colstrip's four

electricity-generating units will close by 2022 under a legal settlement reached last month between the plant's owners and environmentalists.

Retrofits on the remaining two units would reduce emissions between 30 percent and 47 percent, at a cost of \$1.2 billion to \$1.4 billion, said Angelos Kokkinos, the Energy Department's director of advanced energy systems. Putting the captured carbon dioxide to use – by pumping the gas into underground crude oil reserves to boost production – would bring in revenues of \$3 billion to \$4.4 billion over 25 years, Kokkinos said. The revenue figures are based on projected demands for carbon dioxide with oil selling for about \$106 a barrel...

Colin Marshall, president of Cloud Peak Energy, which operates Montana's largest coal mine, said it was encouraging to see federal energy officials identify a technology that would reduce emissions while retaining jobs. State Sen. Duane Ankney, R-Colstrip, said he's glad he's finally hearing discussions about keeping plants open rather than closing them...

The Department of Energy also analyzed potential emission reductions at Colstrip through improved plant efficiency and using natural gas or biomass as supplementary fuels...Improving plant efficiencies or using biomass fuels would result in at most a 3 percent drop in emissions, he said. DOE also told those gathered it has loan programs meant to help fund these types of projects, which typically lenders are less likely to finance because they use new or emerging technologies. Colstrip would need to complete a feasibility study and engineering study before considering applying for any loans...DOE funds these types of projects with the goal of creating industry-wide standards that will cost less in the future.

**The DOE's rollout of its white paper marks a new policy push forward funding research for carbon capture, saying that the nation and world can't meet its electrical demands without coal-fired electricity and that if reliance on plants like Colstrip continue, emissions must be reduced through capture. (Emphasis Added)**

**Hmmm??????????????**

### **What did he mean?**

Many of you readers may have followed the news of Secretary of the Interior Sally Jewell's odyssey to celebrate the 100<sup>th</sup> anniversary of the National Park System. Coverage highlighted her trip to Glacier National Park where she spoke about the park being at the epicenter of the impacts of climate change. Nothing new based on previous comments. However, take note of related comments from Superintendent Jeff Mow. As reported by Jaci Webb writing for the Independent Record, Mow commented that "Glacier, at a million acres, isn't big enough to respond to climate change on its own," Superintendent Jeff Mow said. To be effective, he added, "work must be done on a broader landscape." Recognizing that the Crown of the Continent area runs from Banff, Alberta almost to Missoula, one wonders what "work" might be in store for those living next to Glacier, or potentially any, national park.

## Some Good News: Spokane Rejects Oil Train Proposal

Source: [Helena Independent Record](#) August 17, 2016 Associated Press

Three weeks after proposing an ordinance to fine railroad operators up to \$261 per car carrying crude oil or coal through downtown Spokane, the City Council has voted to withdraw the measure. ... City Council President Ben Stuckart, who led the charge with a presentation on July 25 depicting a dozen fiery oil train derailments, said he now believes the fine would expose the citizens to too much liability. "I don't believe that it's legally defensible, or defensible for us to bring forward" Stuckart said.

**TSRA thanks all those who took time to send comments to the Spokane City Council opposing the proposed ordinance.**



## Western Education Foundation for Resources (WEFR) - Don't forget to check out the latest videos and information

WEFR (the education foundation administered by TSRA) has an ongoing natural resource education project aimed at increasing awareness of the importance of coal development in terms of revenue to the state of Montana, as well as for the jobs and economic opportunities it provides. Check out the education television spots and video interviews on the WEFR website under the Media tab at: [wefr.org](http://wefr.org).

This month WEFR is focused expanding our outreach via social media. The goal is to reach as many Montanans as possible with the message that "Coal Works for Me". **You can help us out by taking time to "like" our Facebook page.**

## Interim Legislative Update: Water Policy Interim Committee

During the August 29-30<sup>th</sup> meeting, the Water Policy Interim Committee (WPIC) finalized its SJ2 report regarding whether Montana might assume regulatory oversight for the federal Section 404 program of the Clean Water Act. The 404 permitting study originated out of concern that the

proposed changes to the “waters of the U.S. “ definition in the Clean Water Rule could expand the number of permits that would be required for previously unregulated waters. Some legislators fear that would result in delays and wanted to explore whether the state might be able to do the job more expeditiously. The study assumes the Montana Department of Environmental Quality would be responsible for administering the program, but discussions have pointed to involving Conservation Districts in a more expanded role since they already have responsibility for the 310 program.

WPIC invited comments on the study from interested stakeholders. As a reminder, WPIC set forth five potential options for consideration. Those were: 1) Issue the report as a conclusion to the SJ2 Study; 2) Issue the report and direct the Department of Environmental Quality to apply for a federal Wetlands Program Development Grant in 2018 to further explore state assumption of the federal Section 404 program; 3) Issue this report and recommend federal Section 404 program as an area of study for the 2017-18 WPIC; 4) Issue this report and preintroduce a committee bill, asking the Legislative Council to again designate an interim committee study of federal Section 404 program, 5) Issue this report and draft legislation directing the DEQ to assume the federal Section 404 program, assess fees for 404 permits, and establish a work-sharing agreement with the state’s 58 conservation districts. The following is a sampling of issues raised:

*“The Montana Association of Conservation Districts has been the collective voice for Montana’s 58 Conservation Districts for more than 75 years. With more than 400 locally elected and appointed officials, we represent the second highest number of elected officials in Montana. As you know, the 150 members of the Legislature quite often have a multitude of viewpoints. Our members are similar but obviously more numerous...Some Conservation Districts are not interested in taking on this responsibility. Some wanted more time to know what exactly this would mean for individual Districts. The most frequent comment we received from the Conservation Districts was the concern that this issue is not settled at the federal level. Districts noted the stay of the Clean Water Rule, or WOTUS, and the strong possibility that the rule would move to the US Supreme Court for their review. In addition, Districts mentioned new Executive Branch leadership coming on board in Washington, D.C. in mid-January of 2017. The focus come January at the national level may be different from what we see today. Given these two significant realities, MACD asks that the WPIC give serious consideration to Option 3 or Option 1.” Submitted by Jeff Tiberi, Policy Director, Montana Association of Conservation Districts*

*“..we want to make it clear that we support Option 1 for this report, which calls for the report to conclude the SJ 2 study. We do not believe it makes sense for the state of Montana to assume the federal 404 program or continue studying this topic ... If the state would assume the 404 program, there is no guaranteed federal financial support for the state program. Although there are potential grant programs that the state could apply for to assume the program, these sources are not guaranteed. And yet, if the state assumes the program, the state of Montana must fulfill the requirements of the program without federal funding – anticipated to be more than \$1 million.” Submitted by Amy Seaman, Associate Director of Conservation, Montana Audubon*

*“Montana would apparently have to assume all costs associated with the program. It is surprising that there would be no federal funding/grants for the state to administer the program, but apparently this is the case. The SJ 2 report estimates the cost to Montana of around \$1 million dollars annually. If there were 1000 permits issued annually under the program, this would mean a per-permit cost of about \$1,000 each. Currently the Corps charges between 0-\$100 for permits...apparently well below the administrative cost. Therefore, Montana would need to pay for this through the general fund or substantially raise the cost of permits to applicants.” Brian Sugden, Forest Hydrologist, Weyerhaeuser*

*“Discussion of the logistics of state assumption of the 404 permitting process has touched on the role of Conservation Districts. Our members have the greatest respect for the important work Conservation Districts now perform, largely with the assistance of volunteers and limited resources...there is not a clear picture as to the role of Conservation Districts, or the resources that would be made available to them for doing the work. That also raises a question as to how they will be able to balance new responsibilities with new duties. Agricultural interests, who work so closely with the Conservation Districts, could be negatively impacted by operational changes that are not adequately funded. We encourage the committee to exercise great caution in setting a course that could result in unintended consequences for both the districts, and landowners or other project applicants.” Submitted by Peggy Trenk, Executive Director, Treasure State Resources Association*

During deliberations, WPIC members continued to focus on concerns about the consequences of the WOTUS rule being adopted. The majority felt it important for Montana to have a “contingency” plan that allowed the state to move expeditiously to assume primacy if the court challenges were not successful. After a great deal of discussion, WPIC adopted the following new recommendation for SJ 2 that will be reported to the next Legislature:

**The Water Policy Interim Committee issues this report as a conclusion to the SJ 2 Study and its evaluation of permits for waterway projects and state assumption of federal Section 404 permits and directs the DEQ to apply for a federal Wetlands Program Development Grant in 2018 to further explore state assumption of the federal Section 404 program.**

**The WPIC remains concerned over the implementation of the Clean Water Rule (citation). Because of this concern, if the Clean Water Rule is eventually ruled enforceable, the committee recommends:**

- **The Department of Environmental Quality assume the federal Section 404 program by development of an adequate program description and a memorandum of agreement with the Environmental Protection Agency’s regional administrator and the Secretary of the Army, and**
- **The Montana Legislature approve legislation providing adequate authority and an appropriation to carry out the program and meet the applicable requirements of the Section 404 program.**

WPIC did not recommend any draft legislation to further the development of a “contingency plan” but it’s possible an individual legislator may pursue a bill in the 2017 Session.

WPIC also reviewed several draft bills related to water rights, the Water Court and exempt wells. Due to the number of changes proposed, they scheduled another meeting on October 12<sup>th</sup> to give the public a chance to review the amended language before taking final action on any proposed committee bills.

## **Energy and Telecommunications Interim Committee:**

The Energy and Telecommunications Committee (ETIC) will be meeting next week, September 8-9<sup>th</sup> at the State Capitol. The meeting begins at 1:00 pm. on Thursday. The Committee will be considering public comment on a series of legislative proposals that may emerge as committee bills. Those who have not provided written comments can still testify in person. Proposals include:

- LCCOL1 would appropriate \$100,000 in the biennium beginning in July, 2017 to pay for Montana’s intervention in proceedings before out-of-state utilities or regulators that involve the future of coal-fired generating facilities.
- LCCOL2 would set requirements for decommissioning and remediation of coal-fired generating units.
- LCCOL3 would transfer \$50 million next July from Montana’s coal severance tax permanent fund to a new fund from which the Department of Commerce would make “grants to entities impacted by the closure of a natural resource business.
- LCCOL4 would replace the money that LCCOL3 removes from the permanent fund. That repayment would occur over 25 years by nearly doubling the electrical energy producer’s license tax from \$.0002 per kilowatt hour to \$ .00029. The portion of revenue produced by the rate increase would be deposited into the coal severance tax permanent fund.
- LCCOL5 would require owners/operators of coal-fired electric plants in Montana to continue to pay property taxes for five years after the plant or unit is retired. Except for 25 percent going to the general fund, those payments would be split between county, school and workforce training funds in the county where the coal plant was located.
- LCCOL6 proposes to create a five-member task force to review federal law to determine if and how the state can protect private-sector benefits and pension funds when natural resource companies go bankrupt or leave the state.
- LCCOL7 would allow large electric customers to use Universal Systems Benefits money to cover “energy market transition costs.” These large electrical users basically would get a credit for expenses of procuring new energy supplies that would be deducted from what they would otherwise pay for USB. The credit would carry over to future years until it was used up.

(Sources include: “ Speak up on Colstrip aid drafts” Opinion published by the Billings Gazette.)

To see copies of committee reports, as well as the meeting agenda and draft legislation go to:  
<http://www.leg.mt.gov/etic>

## Environmental Quality Council

The Environmental Quality Council (EQC) meets September 14-15, 2016 to hear legislative proposals from the Department of Natural Resources, Department of Environmental Quality, and the Department of Fish, Wildlife and Parks for the 2017 Session as well as updates on bison management, the closure of the Yellowstone River to recreation, and groundwater cleanup at Colstrip.

In addition, the EQC will review program evaluations for the waste and underground tank management and air quality bureaus at the DEQ. The EQC is required to evaluate programs within the DEQ pursuant to 75-1-324, MCA. That law requires the EQC to “review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103 MCA, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy and make recommendations to the governor and the legislature with respect to the policy.”

The EQC would like to hear from the public and the regulated community concerning the programs. Go to: **September EQC** (<http://leg.mt.gov/css/Committees/interim/2015-2016/EQC/Meetings/Sept-2016/sept-2016.asp>) meeting. This includes the **Program Evaluation** (<http://leg.mt.gov/content/Committees/Interim/2015-2016/EQC/Meetings/Sept-2016/program-eval-deq-airquality.pdf>) for the Air Quality Bureau.

## Upcoming Events/Dates

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|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| <b>September 7-8, 2016</b><br>Revenue and Transportation Interim Committee<br>State Capitol, Helena    | <b>September 14-15, 2016</b><br>Environmental Quality Council<br>State Capitol, Helena, MT |
| <b>September 8-9, 2016</b><br>Energy and Telecommunications Interim Committee<br>State Capitol, Helena | <b>October 12, 2016</b><br>Water Policy Interim Committee<br>State Capitol, Helena         |
| <b>September 12-13, 2016</b><br>TSRA Annual Meeting<br>Great Northern Hotel, Helena, MT                | <b>November 14, 2016</b><br>Legislative Caucuses (2017 Session)<br>State Capitol, Helena   |