



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

P.O Box 1700, Helena, Montana 59624

Phone: (406) 443-5541

TREASURE STATE RESOURCES ASSOCIATION NEWS
May, 2017

Registration Now Open for the Treasure State Resources Association Annual Meeting - June 21-23, 2017 - Fairmont Hot Springs Resort, Fairmont, MT

Be sure to register soon for TSRA Annual Meeting at **Fairmont Hot Springs Resort**, Fairmont, MT. The agenda includes the traditional “golf scramble” and networking events. We’re also combining our activities with a “strategy/planning” meeting for industry, recreation and other interested groups.

Our speaker “line up” offers great learning opportunities for catching up on what’s happening across the landscape and the TSRA membership. We’re excited to start things off with a presentation from **Dr. Bill Whitsitt, Executive in Residence, MT Bureau of Business and Economic Research and Visiting Professor for Public Affairs Management at the School of Business Administration** who will share his perspective on the market opportunities for Montana coal in the Pacific Rim. Dr. Whitsitt previously served as Executive Vice President for Public Affairs at Devon Energy Corporation in Oklahoma City, one of the largest U S independent natural gas and oil exploration and production companies.

Rusty Shaw, Environmental Compliance Manager for Denbury Resources, Inc will deliver a “hot off the press” presentation on the Habitat Quantification Tool (HQT) being developed for the Montana Sage Grouse program. Whether you’re an industry member hoping to develop a project in Sage Grouse country or a private landowner interested in making habitat

improvements, the HQT is key to the process. Mr. Shaw has worked extensively on sage-grouse conservation efforts in Montana since 2013.

We're also excited to hear from one of our newest members, Hecla Montana about progress on their mining projects in Northwestern Montana. Finally, we'll get updates from the "experts" on what's going on with water quality regulation, legislative interim committee activities and the latest on forest planning efforts in Montana.

The TSRA Golf Scramble will be held at the **Old Works Golf Course in Anaconda, Montana beginning at 1:00 pm. on Wednesday, June 21, 2017.**

Registration information can be found by clicking on the Events tab on the TSRA website at: treasurestateresources.org

Please note the room block at Fairmont Hot Springs expires at noon on May 22nd so make your reservations soon!

Montana Legislative Update

The 65th Regular Session of the Montana Legislature adjourned Sine Die on April 28, 2017. The following is an update on the status of some of the major bills TSRA followed this session. For those addressed in an earlier newsletter, the updated information appears in **red**:

HB 38: Introduced by Rep. Curdy on behalf of the Department of Natural Resources, this bill increases the amount of timber that can be harvested on an inaccessible section of state land when the adjoining landowner will authorize access to only one potential buyer. The Department believes this will aid in carrying out their forest management goals.
Status: TSRA supported. Signed by the Governor.

HB 211: Introduced by Rep. Hamlett, the bill requires the Department of Fish, Wildlife and Parks to report sage grouse population data to the Montana Sage Grouse Oversight Team and the Environmental Quality Council on an annual basis. The report must include seasonal and historic population data available from the department or any other source. The bill was amended to include the requirement that the Department also report the number of leks. The goal is to stay abreast of population trends so MSGOT can evaluate whether efforts to conserve habitat are on track, or if adjustments may be warranted.
Status: TSRA supported. Signed by the Governor.

HB 228: Introduced by Rep. Keane to revise funding for the Montana Greater Sage Grouse Stewardship Act. This bill authorizes resources for operation of the sage grouse program, as well as funding for stewardship grants for a 4-year period. The bill was amended to cap the amount

of money that would be spent on administration of the program at \$400,000. TSRA supported the bill.

Status: **Transmitted to the Governor (5/1/17)**

HB 339: Introduced by Rep. Carl Glimm, the measure establishes an approach to allowing drilling of individual water wells (exempt wells) for certain uses, including small-scale development and agricultural uses. It represents a collaborative effort that includes agricultural interests, homebuilders, water well drillers, real estate interests and others. Key is protection of the prior appropriation doctrine. TSRA supported the bill.

Status: **Transmitted to the Governor (5/1/17)**

HB 384: Introduced by Rep. Austin Knudsen, the bill would have changed long-established industry practice by adding post production costs to be paid by the lessee/operator of an oil or gas well that have not been required elsewhere. To have those provisions in statute would likely impact future leasing opportunities due to the added financial burden and legal uncertainty. TSRA opposed the bill.

Status: **Bill was tabled in the Senate Energy and Telecommunications Committee**

HB 593: HB 593 would have added a new section of law to the Montana Metal Mine Reclamation Act requiring third party audits of operation permit compliance and performance bond adequacy every 3 years. Another section would have given the Board of Environmental Review rulemaking authority to determine a level of sulfide mineralization that would require a 150% bond be secured. The bill was introduced by Rep. McConnell from Missoula. The Montana Mining Association and representatives of member companies opposed the bill and did an excellent job of pointing out the extensive bonding requirements that already exist and how closely mining activities are already monitored. TSRA also testified in opposition to the bill.

Status: **Bill was tabled in the House Natural Resources Committee.**

SB 132: Introduced by Sen. Tom Richmond, the bill makes the 10-year tax exemption created in the 2015 session permanent for certain pollution control equipment installed by industry. The sponsor focused on the renewed potential for use of carbon capture equipment by some Montana facilities and the need to plan for costs in the long term. TSRA supported.

Status: **Passed both House and Senate and will be sent to the Governor.**

SJ 5: Introduced by Senator Mike Phillips, the joint resolution calls for an interim study to look at threats to the mining and burning of coal in Montana and the consequences of significant reductions in coal mining and usage. The resolution was amended in the Senate to include language that the study look at the potential for other economic sectors to compensate for any reduction in the coal severance tax due to reduced coal mining in Montana. The resolution was amended in the House Energy, Technology, and Federal Relations Committee to

strip references to greenhouse gases and climate change to focus more closely on the economic impacts. TSRA opposed the study bill.

Status: **Bill passed as amended and may be selected as an interim study.**

SJ 6: Introduced by Sen. Ankney, the resolution would urge Congress to propose the Regulation Freedom Amendment to the United States Constitution. The amendment would state that “whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation.” TSRA supported the resolution, citing the growing number of regulatory proposals that have far-reaching impacts on jobs and the economy that federal agencies aren’t taking into consideration when adopting rules.

Status: **Bill passed the House and Senate.**

SB 170: Introduced by Sen. Hinebauch, the bill provided that a person who owns or occupies real property can bring a civil action against an operator of an unmanned aerial vehicle (drone) who trespasses on their property. The hearing drew a number of opponents, including TSRA, who while appreciating the intent to protect private property rights, pointed out the potential for unintended consequences for parties conducting various commercial activities. A number of amendments were added to exempt some activities, including those being conducted by law enforcement, land surveying, or for insurance purposes. Additional concerns came to light during second reading on the Senate floor and the bill was re-referred to the Senate Business and Labor Committee for further work. Additional changes were made, including adding a definition of “critical infrastructure” and the bill was returned for second reading.

Status: Bill died on the Senate floor. Those speaking against the bill noted remaining concerns with the scope. TSRA opposed as originally introduced.

SB 190: Senators Phillips and Barrett brought this bill to require the MT Department of Environmental Quality to develop and implement a greenhouse gas reporting program. The Board of Environmental Review would have been charged with adopting fees to be assessed on “significant sources of greenhouse gas emissions” for purposes of funding the program. The DEQ would have needed to produce a report by August 1, 2019 that would include a proposal to cap greenhouse gas emissions in Montana.

Status: The bill was passed out of the Senate Natural Resources Committee for purposes of bringing the discussion to the floor. SB 190 died on second reading and was indefinitely postponed.

SB 207: Sen. Moore introduced SB 207 to protect the confidentiality of certain artifacts or remains found on land obtained for common carrier pipelines. Sen. Moore noted there were some inconsistencies in current state regulatory requirements. Originally limited to lands obtained through the exercise of eminent domain, the bill was amended to apply to all lands, rights-of-way, or easements obtained for common carrier pipelines. TSRA was a “soft”

opponent to the bill as introduced because of the eminent domain limitation. The bill was amended to strike the limitation to situations where eminent domain is exercised, and further amended to clarify what rights DEQ has to information for permitting purposes.

Status: **Bill sent to the Governor (5/1/17)**

SB 232: This bill was brought on behalf of the Montana Trail Vehicle Riders Association and was sponsored by Sen. Connell. SB 232 would require resident users of Off-Highway Vehicles (OHV's) to purchase and display a \$10 annual trail pass if they choose to operate them on public trails. Funds raised would go toward ethics and safety education, weed control, new trail construction, signage, trail clearing and maintenance. TSRA supported the bill, noting MTVRA's long participation in the association and recognizing the extensive volunteer efforts already expended by MTVRA members to maintain trails and provide safety education.

Status: **Bill was tabled in the House Natural Resources Committee**

SB 235: Introduced by Sen. Tom Richmond, the bill would give the Montana Land Board more flexibility in managing coal leases on state land. For leases that are due to expire (currently a 10 year lease period unless certain development/production targets are met), the Land Board can take into account the current fact situation and consider an extension. Current law does not offer that option. Extending a lease does not affect any other required permitting processes. TSRA supported the bill.

Status: **Bill has passed the House and Senate and will be sent to the Governor.**

SB 284: Introduced by Sen. Mike Lang, the bill revises the Montana Greater Sage-Grouse Stewardship Act by changing the current requirement for the US Fish and Wildlife Service "to approve" the habitat quantification tool (HQT) being developed for Montana's program to state that the HQT would be designated in "consideration of applicable United States Fish and Wildlife Service sage grouse policies, state law, and any rules adopted pursuant to this part." The sponsor noted that when the legislation was first adopted in 2015, the state didn't know if the sage grouse would be listed as an endangered species, thereby making management subject to USFWS approval. In discussions regarding rulemaking for the state program last fall, the Service noted they technically did not have the authority to "approve" anything because sage grouse were not listed and are not currently under their jurisdiction. Given the potential for confusion between the statute and the rules being developed, the clarification in the bill will better align Montana's efforts to protect the sage grouse. TSRA supported the measure.

Status: **Bill sent to the Governor (5/1/17)**

SJ 10: This resolution sponsored by Sen. Lang calls for Montana to urge Congress and the President to approve the Keystone XL pipeline. The language in the resolution highlights the expected \$63 million in annual property taxes that will be generated from the pipeline. The pipeline is expected to provide for 3500 jobs in the state during construction. The AFL-CIO testified in support, noting many of those jobs would be filled by union workers per agreement with the company. Representatives from local communities in eastern Montana testified as to

the economic benefits the pipeline would provide and noted the company had been a “good neighbor” in terms of supporting local activities. TSRA supported the resolution.

Status: The resolution passed both the Senate and House of Representatives. Resolutions do not go to the Governor for approval.

SB 317: Senator Dan Salomon introduced the bill to address a situation in current law that allows the Department of Revenue to assess a 12% interest charge on underpayment of corporate taxes that may result from mistakes or a disagreement over tax code interpretation. It applies to corporate taxpayers who pay their taxes on time and in good faith, but are then subject to what can sometimes be a lengthy audit by the Department. If DOR determines the taxpayer owes additional tax, the 12% is applied to the date of filing, not the discovery of the underpayment. SB 317 ties late tax payment interest to the true value of money, rather than an arbitrary rate. As introduced, the rate would be 2 percentage points over the prime rate. It was amended in the Senate to 4% over prime. The bill does not affect any of the penalties the DOR can assess for such things as failure to file a return or filing a fraudulent return. TSRA testified in support as our member companies could be affected.

Status: **The bill was amended in the House to drop the rate to 3% and was sent to the Governor (5/1/17)**

SB 337: Introduced by Sen. Ankney, SB 337 calls for elimination of the Board of Environmental Review (BER). Duties of the Board would be reassigned to the Department of Environmental Quality. The BER decides such things as appeals from Department decisions and holds rulemaking authority for some programs as directed by statute. Proponents pointed out that much of what the BER does is redundant since DEQ provides the staff support, drafts the rules working with stakeholders, and must also consult with EPA on many matters. Opponents argued that the Board was important as an arbiter of Department decisions, particularly for small businesses. TSRA supported the bill.

Status: **The bill passed the House and Senate and will be sent to the Governor.**

We Say Good-bye to One of TSRA (WETA)’s Champions

A “celebration of life” was held on Saturday, May 7th for Don L. Allen, one of Montana’s long-time leaders in the association and legislative arena who passed away unexpectedly on April 26, 2017. Don came to Montana in 1975 as the new Executive Director of the Montana Petroleum Association (MPA), after having served in the New Mexico House of Representatives and later as the Associate Director of the New Mexico Oil and Gas Association. **Once in Montana, he helped establish the Western Environmental Trade Association (WETA) - now TSRA - in 1976 and was a member of the inaugural Board of Directors.** While he wore many different hats, Don’s involvement with WETA continued over several decades.

Don left MPA to run as Montana’s Republican Lt. Governor candidate in 1984, an effort that laid the groundwork for a run for the U.S. House of Representatives in Montana’s Western District in

1986. While not successful in unseating the longtime incumbent, Don never missed an opportunity on the campaign trail to advocate for the responsible development of Montana's natural resources and the jobs and economic opportunities it provides.

After the 1986 election, Don became the Executive Director of the Montana Wood Products Association and continued there until he launched his own government relations firm. That move gave him the opportunity to circle back and take on the Executive Director role for WETA in 1997. He, along with his wife and business partner Mary Allen, continued to represent the association until Don retired in 2011.

Don will be remembered for his professionalism and long involvement in the political process. He worked with many legislators and other elected officials, as well as numerous state and federal agency representatives over the years. TSRA (WETA) continues to benefit from Don's nearly 40-year commitment to Montana and the wise use of our natural resources - a proud legacy for a tireless champion.

Zinke Opens Public Review of National Monuments

Source: [Helena Independent Record](#) May 6, 2017 By Rob Chaney

The U.S Interior Department announced a public comment period for reconsidering designation of 21 national monuments, including Montana's Upper Missouri Breaks National Monument.

"A public comment period is not required for monument designations under the Antiquities Act," according to an unsigned DOI press release on Friday. "However, Secretary of the Interior Ryan Zinke and President Trump both strongly believe that local input is a critical component of federal land management." ...

Trump called for the monument review in an executive order issued on April 26. It only applies to monuments larger than 100,000 acres created or expanded since 1996, by presidents Bill Clinton (12), George W. Bush (4), and Barrack Obama (11). Presidents have the power under the Antiquities Act of 1906 to create national monuments, but only Congress can undo such a designation.

The order considers whether the designated areas are:

- "the smallest area compatible with the proper care and management" of protected interests;
- properly classified as objects or lands of historic, prehistoric, or scientific interest;
- how the designation affects available use of federal lands inside and outside the monument boundaries;
- how the designation affects use and enjoyment of non-federal lands within or beyond monument boundaries;
- availability of federal resources to properly manage the monuments,

- and other factors the secretary of Interior deems appropriate.

Comments can be submitted online after May 12 at <http://www.regulations.gov> by entering "DOI-2017-0002" in the Search bar and clicking "Search", or by mail to Monument Review, MS-1530, U.S. Department of the Interior, 1849 C Street NW, Washington, D.C. 20240.

Comments on the most controversial of Obama's monument designations, the 1.3 million acre Bears Ears National Monument in Utah, must be submitted within 15 days of that date. Comment for all other reconsidered monuments must be submitted within 60 days.

The 377,346-acre Upper Missouri River Breaks Monument in Montana was designated by then President Bill Clinton in 2001.

Department of Environmental Quality Initiates Rule Review for Nutrients Standards Variances

A notice of the proposed amendments to Department of Environmental Quality (the Department) rule ARM 17.30.660 was provided on 4/14/2017. The proposed amendments are necessary to adopt by reference several proposed changes to Department Circular DEQ-12B (DEQ-12B). Since 4/14/2017, some additional materials have been prepared which further inform the rulemaking process.

DEQ-12B was originally adopted in August 2014, and that same year the Department also released an implementation guidance document. The guidance, "*Base Numeric Nutrient Standards Implementation Guidance Version 1.0*" (July 2014), provided more detail on how nutrient standards and variances were to be implemented. As part of this triennial review, the Department has updated the document (now version 2.0, June 2017) to reflect changes in the way the Department is proposing to carry out the triennial review.

The major changes to the guidance document are found in Section 2.0. In the 2014 version, the Department projected a timeline and series of anticipated treatment requirements for each of the three general variance discharger groups (≥ 1 MGD, < 1 MGD, lagoons). The projections reflected the Department's best understanding of how the general variance would proceed over time, absent any major technological breakthroughs in reducing nutrients in effluent. But changes to the federal variance regulations in 2015 changed the manner and trajectory of the general variances. To reflect the proposed rules and DEQ-12B, the updated guidance no longer contains the discharger group projections, but instead documents the process by which the highest attainable condition is to be determined, at each triennial review, for each group.

Other modifications to the guidance include additional guidance on individual variances, updates to now-adopted ARMs (to make the document current), and editorial and formatting changes.

The other document the Department has prepared is an economic analysis supplementing Section 3.0 of the technical report "*First Triennial Review of Base Numeric Nutrient Standards and Variances*" (April 2017). The supplemental economic analysis focuses on the costs to meet base numeric nutrient standards for communities and companies which are likely to need a variance in the next few years. This supplemental analysis is more specific than the analysis in Section 3.0 of the technical report, which examines a broader set of communities the Department has been tracking and examining since 2011.

Electronic copies of the proposed changes to the Base Numeric Nutrient Standards Guidance Document and the supplemental economic analysis may be obtained at: <http://deq.mt.gov/Water/WQINFO/nutrientworkgroup> Copies may also be obtained by calling Myla Kelly at [\(406\) 444-3639](tel:406-444-3639) or emailing at mkelly2@mt.gov.

A public hearing to consider the proposed rule amendments will be held May 31, 2017 at 9:00 a.m. in room 111 of the Metcalf Building at 1520 E Sixth Avenue, Helena, MT. The Department will make reasonable accommodations for individuals with disabilities who wish to participate in the hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m. May 24, 2017, to advise us of the nature of the accommodation that you need. Please contact Denise Hartman at Department of Environmental Quality, PO Box 200901, Helena, Montana 59620-0901; phone [406-444-2630](tel:406-444-2630); fax [406-444-4386](tel:406-444-4386) or email at dhartman2@mt.gov.

Written data, views, or arguments regarding the proposed rule amendments, changes to DEQ-12B, or the supplemental documents provided per this notice may be submitted to Denise Hartman, Department of Environmental Quality, 1520 E Sixth Ave, PO Box 200901, Helena, Montana 59620-0901; [406-444-2630](tel:406-444-2630); fax [406-444-4386](tel:406-444-4386) or email at dhartman2@mt.gov no later than May 31, 2017 at 5:00 p.m. To be guaranteed consideration, mailed comments must be postmarked on or before this date.

Ag Secretary Perdue to Keynote Montana Ag Summit 2017

Montana Ag Summit 2017 co-sponsor U.S. Senator Steve Daines has announced that newly confirmed U.S. Secretary of Agriculture Sonny Perdue will deliver a keynote address at the Montana Ag Summit 2017. The summit will take place in Great Falls on May 31 – June 1, 2017 and bring the nation's agricultural leaders to Montana's Golden Triangle.

The Ag Summit will focus on strengthening international relationships for Montana agriculture, showcasing technological advancements, promoting the next generation of farmers and ranchers, and discussing the challenges of federal policies and regulations.

In addition to Secretary Perdue, speakers include: U.S. Senator Pat Roberts, Chairman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry; Phil DiPofi, President & CEO of Northwestern Farm Credit Services; J. Christopher Giancarlo, Acting Chairman of the U.S. Commodity Futures Trading Commission; Augusto Bassanini, President and CEO of United Grain Corporation; Juan Ramon Alaix, CEO of Zoetis; and Keith McGovern, CEO of the R.D. Offutt Company.

The Summit will be held at Montana ExpoPark. Registration is \$20 per person and \$10 for students (includes breakfast and lunch). There is no charge for active duty military (must present ID at check-in). It will kick off on Wednesday, May 31 at 4:00 pm. with a Welcome Reception & Opening Remarks from Senator Steve Daines. Thursday's session begins with registration and breakfast at 7:00 am. followed by a full day's program of speakers.

For more information or to register, go to: www.agsummitmontana.com

Montana Chamber's 29th Annual Governor's Cup Set for July 27-29, 2017

Bringing together 400 business and government leaders from around Montana, the rest of the U.S. and other companies, the Governor's Cup is one of Montana's largest networking events. Secure your business a team in this year's tournament for your chance to make valuable connections, win numerous prizes, and of course bragging rights until next year's tournament.

Not a golfer? You can attend the Governor's Reception & Sandbagger Barbeque on Thursday, July 27. You can even sponsor a spot in the "Governor's Circle" at that event.

Contact Kerry Schaefer for registration, sponsorship, and overall tournament details at 406-463-2370 or Kerry@MontanaChamber.com

Final Reminder - Registration for REAL Montana Class III Ends May 31st

Are you or someone you know passionate about the future of natural resource industries in Montana? Is there a leader in your business or local community that is ready to step into a bigger role and is looking for intense professional development? If so, REAL Montana (Resource Education and Agriculture Leadership) is now accepting applications for Class III. The

application period closes May 31, 2017. Class III members will be announced in July and the first seminar kicks off in Bozeman on September 20th.

Eligible applicants must earn a substantial percentage of their livelihood from natural resources or affiliated industries in Montana. Those interested in the program can contact Janelle Booth at 406-994-6480 janelle.booth@montana.edu or Tara Becken at 406-930-4205 tara.becken@montana.edu. Application information can also be found on line at realmontana.org

Upcoming Events/Dates

May 23-25, 2017	Montana Mining Association Convention Fairmont Hot Springs Resort
May 31 – June 1, 2017	Montana Stockgrowers Assn. Mid-Year Meeting Great Falls, MT
May 31 – June 1, 2017	Montana Ag Summit 2017 MT Expo Park, Pacific Steel Recycling Center Arena Great Falls, MT
June 21-23, 2017	Treasure State Resources Association Annual Meeting Fairmont Hot Springs Resort
July 17-18, 2017	Montana Coal Council Annual Meeting Big Horn Resort, Billings, MT
July 27-29, 2017	Governor’s Cup Golf Tournament Flathead (Governors’ Reception and Sandbagger Barbeque – July 27)
August 29 – 30, 2017	Montana Petroleum Association Annual Meeting DoubleTree by Hilton, Billings, MT
September 19-21, 2017	Montana Wood Products Association/Forest Resource Association Convention Grouse Mountain Lodge, Whitefish, MT
December 12-14, 2017	MT. Stockgrowers Association Annual Convention & Trade Show Double Tree & Northern Hotels, Billings, MT

If you don't want to receive the TSRA Newsletter, please let me know. If you want to share with others in your company or organization, please do so. The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.