



**TREASURE STATE**  
**RESOURCES ASSOCIATION**  
OF MONTANA

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**TREASURE STATE RESOURCES ASSOCIATION NEWS**  
**June, 2017**

**Agenda for TSRA Annual Meeting Finalized - There's Still Time to Register - June 21-23, 2017 - Fairmont Hot Springs Resort**

Don't forget to register for the TSRA Annual Meeting at **Fairmont Hot Springs Resort**, Fairmont, MT. The Agenda is now finalized and offers a wide range of learning opportunities for catching up on what's happening across the landscape and the TSRA membership.

We're excited to announce our featured luncheon speaker on Wednesday, June 22, 2017 will be **Kelly Johnson with the Holland & Hart Law Firm**. Kelly is located in the firm's Washington, D.C. office and focuses on environmental, energy, and natural resource matters for a diverse range of clients. She will be speaking about **President Trump's Energy and Environment Agenda**.

**During Wednesday's luncheon we will also be recognizing the late Don Allen and his wife and business partner Mary Allen with the Jerome Anderson Award for their tireless efforts to advocate for Montana's natural resource industries through their long involvement with WETA (now TSRA). Mary Allen will be able to join us for the presentation.**

As a reminder, other agenda items include 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’ll also 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](http://treasurestateresources.org)

## **Montana Sage Grouse Habitat Conservation Program – Progress Report**

Source: Sage Grouse Habitat Conservation Program Staff Report to MSGOT June 2, 2017

*Editor’s Note: While the legislative session dominated the first part of this year in terms of activities, a lot has been happening with the Sage Grouse Habitat Conservation Program in Montana. We look forward to a timely update at the upcoming TSRA Annual Meeting in Fairmont Hot Springs later this month. While the following report is lengthy, given the impact of this program across our membership and its implications for the state’s economy it’s worth spending some time to follow the progress to date.*

The 2015 Montana Legislature passed the Montana Greater Sage Grouse Stewardship Act (Act). Executive Order 12-2015 complements the Act. Taken together, they establish that Montana will observe the mitigation hierarchy or sequence (avoidance, minimization, reclamation and compensation) with respect to activities subject to agency review, approval or authorization in habitats designated as core areas, general habitat, and connectivity areas for sage grouse conservation. Mitigation is intended to offset direct, indirect, and residual impacts both spatially and temporally.

The Act specifically sets forth that (1) project developers can offset the loss of resource functions or values at an impact or project site through compensatory mitigation to incentivize voluntary

conservation measures for sage grouse habitat and populations; (2) a habitat quantification tool will be designated to evaluate vegetation and environmental conditions related to the quality and quantity of sage grouse habitat and to calculate the value of credits and debits when compensatory mitigation is required; (3) there shall be a method to track and maintain the number of credits and debits available and used; and (4) there shall be a method to administer the review and monitoring of Montana Sage Grouse Oversight Team (MSGOT) funded projects using the Stewardship Fund. Rulemaking authority was also provided to MSGOT to adopt administrative rules to implement these statutory provisions. Additional guidance is set forth in Executive Order 12-2015.

The Program has been working with a diverse group of at least 40 stakeholders (which includes state/federal agency partners) to begin developing the compensatory mitigation policy framework and habitat quantification tool (HQT) in anticipation of formal rulemaking. Work has been greatly advanced by the participation and expertise of two professional collaborators: Willamette Partnership for the policy guidance based on universal principles of mitigation and SWCA Environmental Consultants for the technical habitat quantification tool (a GIS model). On behalf of the state, professional collaborators have shouldered the burden of leading stakeholder discussions, researching the scientific literature, consulting with their peers, and doing the technical work to develop the HQT GIS model, and drafting documents.

The first stakeholder meeting took place September 16, 2016. Up to, and including a meeting on June 1-2, the group will have met a total of 11 times. (*Editor's Note: TSRA is a member of the stakeholder group*) Several webinars and at least five conference calls have also taken place.

On December 6, MSGOT approved proposed rules for publication in the Montana Administrative Register on December 23, 2016. The proposed administrative rules reflected the work of the stakeholders as of December, with clear acknowledgement by all participants that areas of disagreement remained and the participants were free to submit public comments during the rulemaking process as individuals.

Three public hearings were held in January, 2017. Public comments were accepted through January 23, 2017. Those comments are presently still available on the Program's website (see MSGOT page, under heading Administrative Rules).

Ultimately, the proposed rules were not brought to MSGOT for final adoption for a variety of reasons. Comments on some fundamental issues were sufficiently divergent, if not contradictory, to warrant additional consideration.

During the April 4-5, 2017, stakeholder meeting, participants discussed the merits of finalizing the proposed rules, given where we were in the process of developing draft documents. The consensus was finalizing the proposed rules was not worth the resources to do so. The proposed rules would have to be replaced when the guidance and HQT documents are eventually

finalized and acted upon by MSGOT anyway. Stakeholders and the professional collaborators acknowledged that MSGOT was unlikely to be able to designate the framework and HQT by the self-imposed deadline of June 1, 2017 because there was still work to be done.

Professional collaborators completed two draft documents on May 5, 2017, respectively: Draft Habitat Mitigation Document and Draft Habitat Quantification Tool Technical. Comments were submitted by stakeholders by May 24. Stakeholders met again on June 1-2 and identified areas of agreement, as well as issues that need further work. The collaborators will incorporate that input and circulate a new draft to the stakeholders by the end of June.

Steps that lie ahead include seeking general public comment on the draft documents. Scientific peer review will also be conducted. If those remaining steps take place by late summer as anticipated, MSGOT could proceed with consideration of final rules by late Fall.

In addition, it is hoped that as Montana adopts a sage grouse mitigation framework and HQT it would be simultaneously be implemented by federal land management agencies to allow for: 1. a seamless and consistent management approach regardless of surface ownership, in keeping with Montana's "all lands, all hands, all threats" approach; 2. convenience, transparency, and predictability for project proponents needing state permits and/or federal authorizations; 3. convenience, transparency, and predictability for credit developers; and 4. eliminating duplicative mitigation processes. A multi-party memorandum of understanding could also be drafted similar to the State of Wyoming.

## **Proposed CERCLA 108(b) Rule Change Would Harm Mining Industry**

Sources: Fox News.com, December 19, 2016 and Presentation by Joshua Cook, Partner, and Gage Hart Zobell, Associate/Crowley Fleck PLLP, May 24, 2017 at the Montana Mining Association Annual Meeting.

A proposed change to Section 108 (b) of the EPA's Comprehensive Environmental Response Compensation and Liability Act (CERCLA) would affect all aspects of mining operations and require "reclamation bonding" beyond what exists under state law.

"CERCLA was put on the books in the 1980s as a statute that would identify industry sectors that posed the highest risk to public health and the environment, according to Tawny Bridgeford, the deputy general counsel at the National Mining Association (NMA).

The statute went 30 years without rules on the books. During that time, mining regulatory programs established written financial assurance responsibility rules through state agencies, as well as the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). According to the EPA, the new proposed rule represents the agency's fulfillment of a January 2016 court order and congressional directive that emerged from a 2014 lawsuit initiated by environmental NGO's.

Critics charge the EPA's "bonding" formula is based on several mining sites that made the national priority list (NPL) -- otherwise known as Superfund sites -- and conducted business prior to the passage of current mining laws, and before technological improvements in the industry were introduced."

According to representatives of the Crowley Fleck law firm who recently spoke at the Montana Mining Association meeting, the proposed rule, if implemented is purported to save taxpayers about \$550 million for clean up of mining sites, but would cost the industry (and ultimately the national economy) more than \$7.4 billion.

Other issues with the rule include implications to local communities if mines can't expand or projects aren't developed and concerns with availability and ultimately the release of bonds.

The new Trump Administration has expressed concern with the impact, but still needs to follow through on the current rulemaking process. Those opposed to the rule will be working to make the case that no action is needed given the protections afforded both by the current level of financial assurance already in place as well as application of modern mining practices.

Comments are due to the EPA by July 10, 2017.

## **Daines, Tester Urge Support for Whitefish Lake Watershed Project**

**U.S. Senate** - According to a May 23, 2017 joint press release, U.S. Senators Steve Daines and Jon Tester continue to encourage support and funding for the Whitefish Lake Watershed Land and Water Conservation Fund (LWCF) Project.

The conservation easement on Weyerhaeuser property will greatly complement conservation efforts by the Montana Department of Natural Resources and Habitat Conservation Plan as well as efforts by the U.S. Forest Service's Legacy Program, which is supported by Montana's congressional delegation. The project will help protect the habitat of iconic wildlife species while ensuring the property remains in timber production and provides public access for hunting, fishing, hiking, mountain biking and other ways of outdoor recreation, all critical to the local economy.

In a May 22, 2017 letter to Jim Furth, the Acting Director of U.S. Fish and Wildlife Service (FWS), Daines and Tester underscore the importance of the project:

*We are writing to advise you of our strong support for the Whitefish Lake Watershed Project managed by the Montana Fish, Wildlife and Parks and urge continued funding from the Cooperative Endangered Species Conservation Fund. First, thank you for the support from the U.S. Fish and Wildlife Service (USFWS) in awarding the Whitefish Lake Watershed Project \$2 Million in Fiscal Year (FY) 2016 and for your previous support in the region including \$2 Million for the Trumbull Creek Project and \$2 Million*

*for the Haskill Basin Project. Continued investment in this area will build on the USFWS and U.S. Forest Service (USFS) combined investments from previous years. This investment will further help conserve the outdoor way of life in the Whitefish area, protect critical investments in water quality for the City of Whitefish, secure working forests, and protect habitat important to many of Montana's iconic wildlife species.*

*The FY 2016 request furthered this effort by helping leverage funds for the conservation of nearby Stillwater lands owned by the Weyerhaeuser Company. This remarkable 13,000-acre property hosts the same array of fish and wildlife species that merited the Service's previous investments in this area, including the Bull Trout, Canada Lynx, and the Grizzly Bear. Likewise, their scenic value, watershed importance (with key drainages into Whitefish Lake itself), and significance to public recreation cannot be overstated. The USFS has ranked this project among its highest national priorities for the Forest Legacy Program for FY 2017, including \$7 million in its FY 2017 budget for the Whitefish Lake Watershed Project, just as it had done for nearby Haskill Basin and Trumbull Creek in previous fiscal years.*

*As the USFWS reviews the proposals for funding for FY 2017 and FY 2018, we hope you will recognize the surpassing value of continued investment in this area and prioritize the Whitefish Lake Watershed Project.*

## **Legislative Interim Committees To Begin Work**

Source: Montana Legislative Services Division

Even though the Legislative Session ended just a short time ago, interim work is already beginning in anticipation of 2019. The members of interim committees have been appointed and will soon be meeting to set priorities and initiate studies as directed by statute or the Legislative Council. TSRA will be following the activities of the interim committees with a primary focus on the Environmental Quality Council, the Water Policy Interim Committee, and the Energy and Telecommunications Interim Committee. We also monitor the work of the Revenue and Transportation Interim Committee.

## **Environmental Quality Council (EQC)**

Next Meeting: June 29-30, 2017 State Capitol, Helena

Interim activities: The EQC can study and investigate anything related to natural resources and the environment. The Council exercises oversight of the DEQ, DNRC, and FWP through rule review, program evaluations, and investigations into emerging issues. Likely topics this interim will include oversight of state parks and invasive species programs. EQC may also be assigned studies forwarded from the 2017 Legislature to: study threats to the mining and burning of coal and consequences (SJ 5) and, study potential impacts of chronic wasting disease and prevention (SJ 9). In addition to legislators, the EQC also has 4 public members and a representative of the Governor.

2017-2018 Members:

Senator Mike Lang	Representative Willis Curdy	Scott Aspenlieder
Senator Mike Phillips	Representative Janet Ellis	John Brenden
Senator JP Pomnichowski	Representative Steve Gunderson	Kylie Paul
Senator Cary Smith	Representative Bradley Hamlett	Matt Vincent
Senator Chas Vincent	Representative Theresa Manzella	
Senator Gene Vuckovich	Representative Kerry White	

Governor's Representative: Patrick Holmes

## **Energy and Telecommunications Interim Committee (ETIC)**

Next meeting: July 31, 2017

Interim activities: The ETIC is expected to closely follow the work of the Public Service Commission pertaining to net metering and as outlined in HB 219, passed and approved by the 2017 Legislature. Information and updates concerning the Colstrip Steam Electric Station will continue to be before the committee throughout the interim. Tracking implementation of HB 193, passed and approved by the 2017 Legislature, and other related PSC activities pertaining to tax trackers, ratemaking, and electric supply costs also will be incorporated into ETIC work plans. Other potential studies include: the study of natural gas utility customer choice (HJ 28), the study of utility decoupling (SJ 31) and the study of renewable energy credits.

2017-2018 Members:

Senator Mary McNally	Representatives Laurie Bishop
Senator Tom Richmond	Representative Zac Perry
Senator Scott Sales	Representative Derek Skees
Senator Cynthia Wolken	Representative Daniel Zolnikov

## **Water Policy Interim Committee (WPIC)**

Next Meeting: July 19-20, 2017 State Capitol, Helena

Interim activities: WPIC considers issues "where the primary concern is the quality or quantity of water," including oversight of certain programs within the DNRC and DEQ. Issues for the upcoming interim may include: groundwater wells exempt from permitting, administration and enforcement of water rights, changing water quality standards and rules, drought- and flood-related issues, municipal water supplies, and implementation of federal and tribal water right settlements.

2017-2018 Members:

Senator Jill Cohenour	Representative Bob Brown
Senator Pat Connell	Representative Zach Brown
Senator Jon Sesso	Representative John Fleming
Senator Jeff Welborn	Representative Carl Glimm

## **Revenue and Transportation Interim Committee**

Next Meeting: June 12, 2017 State Capitol, Helena, MT

Interim activities: Members are likely to be interested in tracking the implementation of the gross receipts tax on medical marijuana providers contained in SB 333. HB 473 requires an audit of MDT and presentation of the audit to RTIC for consideration of recommendations contained in the audit. As the committee responsible for introducing a revenue estimate, the committee will likely review the budget stabilization account established in SB 261 to understand how/whether that law interacts with the revenue estimate. If federal tax reform moves forward, the committee may consider how that reform will impact state individual and corporate income taxes. Other potential studies include: the study of agricultural property valuations (HJ 22), the study of tax increment financing (HJ 18), and the study of property taxation of utility property.

2017-2018 Members:

Senator Duane Ankney	Representative Becky Beard
Senator Dick Barrett	Representative Jim Hamilton
Senator Mark Blasdel	Representative Greg Hertz
Senator Jill Cohenour	Representative Tom Jacobson
Senator Brian Hoven	Representative Alan Redfield
Senator Edie McClafferty	Representative Bridget Smith

## **Reminder: Montana Chamber's 29<sup>th</sup> 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](mailto:Kerry@MontanaChamber.com)

## Upcoming Events/Dates

June 12, 2017	Revenue and Transportation Interim Committee State Capitol, Helena, MT
June 21-23, 2017	Treasure State Resources Association Annual Meeting Fairmont Hot Springs Resort
June 29 -30, 2017	Environmental Quality Council (EQC) State Capitol, Helena, MT
July 17-18, 2017	Montana Coal Council Annual Meeting Big Horn Resort, Billings, MT
July 19-20, 2017	Water Policy Interim Committee (WPIC) State Capitol, Helena, MT
July 27-29, 2017	Governor's Cup Golf Tournament Flathead (Governors' Reception and Sandbagger Barbeque – July 27)
July 31, 2017	Energy & Telecommunications Committee (ETIC) State Capitol, Helena, MT
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 6, 2017	Montana Taxpayers Association Annual Meeting Helena, 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.*