



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

P.O Box 1700, Helena, Montana 59624

Phone: (406) 443-5541

TREASURE STATE RESOURCES ASSOCIATION NEWS
September, 2017

Mine (Tintina) Application Deemed Complete and Environmental Review to Begin

Source: MT Department of Environmental Quality, August 15, 2017

The Montana Department of Environmental Quality has notified Tintina Montana that its latest permit application for the Black Butte Copper Project is complete and compliant. This determination means that DEQ has reviewed the metal mines application and, as required by law, has determined the revised permit application complies with the Montana Metal Mine Reclamation Act.

DEQ is now working on a more detailed compliance document and a draft permit, expected to be completed early next month. The compliance document will lay out how the mining operation proposed in Tintina's application complies with the Metal Mine Reclamation Act.

"This is a significant step in the process, but we still have many steps in our review of this application," said Director Tom Livers. Livers explained that the department is working towards starting review of the application under the Montana Environmental Policy Act. Tintina will need to obtain several other permits from DEQ including air and water quality permits. The project will also need to be reviewed and approved by: the Hard Rock Mining Impact Board; the Department of Natural Resources and Conservation for any water rights related issues; and the Impoundment Review Panel and Engineer of Record.

Under current law, DEQ has one year from the issuance of the more detailed compliance document to complete an Environmental Impact Statement. DEQ has been working on hiring a contractor who will assist in the preparation of the EIS and anticipates being able to start the EIS process next month.

“Completing an EIS of this complexity will be challenging, so we are doing everything we can to move forward quickly to allow us as much time as possible,” said Livers.

The EIS is an extensive environmental review that discloses the potential impacts of the project and includes several opportunities for public review and involvement.

Tintina Montana originally submitted its application for a mining permit in December 2015. DEQ responded to the application in March 2016, outlining the need for complete information on geochemical aspects and hydrology. Tintina provided follow-up information in September 2016 and DEQ issued a second deficiency response letter in December 2016. Tintina responded this May and DEQ issued a third deficiency letter with a response from Tintina in July. These responses provided DEQ complete information related to their geochemical testing and hydrologic modeling.

In a related story written by Tom Kuglin and published in the [Helena Independent Record](#) on August 15, 2017 Tintina CEO John Shanahan stated “this has been a long and involved process, and we now can clearly demonstrate that the development and operation of this state-of-the-art project meets and exceeds all state rules and regulations”.

State Drafts Rules for Disposal of Radioactive Oil Waste

Source: Montana Public Radio August 22, 2017 By: Nate Hegyi, Yellowstone Public Radio

For the first time ever, the Montana Department of Environmental Quality has published draft rules overseeing the disposal of radioactive oil waste in the state. But some conservationists say the rules don't go far enough.

Ed Thamke of the DEQ says radioactive oil waste isn't as bad as it sounds. “I think it's fairly natural, when people hear something like that, to think of nuclear waste and generally scary stuff. This is quite a few steps down from that,” Thamke says.

The waste, which is sludge that's pulled out of the ground when companies are fracking or drilling for oil, is way less radioactive than nuclear waste. But it's still considered a hazard, and in 2014, eastern Montana became a destination for dumping it.

However there were no statewide rules regulating how these dump sites, which are like landfills, took care of that waste. That changed on Friday (August 18th)

“It actually put some teeth into the rules,” says Seth Newton, a rancher and spokesperson with the Northern Plains Resource Council. “Until now it’s just been a loose guideline and it’s been really hard to interpret how things should be handled and what’s to be allowed and not allowed.”

Newton lives a few miles away from the only operating dump site in the state, near Glasgow. He says the draft rules are a step in the right direction. They even include some materials that other states don’t consider toxic enough, such as drill mud and fracking sands. But it’s not all roses.

Newton says the draft rules don’t mention anything about what happens if there’s a flood at the dump site. And he doesn’t like that companies are in charge of testing their own groundwater. “I see that as a conflict of interest, and I can’t understand why a third party, at the least the DEQ, couldn’t come down to eastern Montana a few times a year to test the monitoring wells and inspect the site,” Newton said.

Ed Thamke of the DEQ says they trust dump site operators to report results truthfully. “It’s not the Wild West,” Thamke says. “These things are done according to an established procedure and protocol and it’s our job to make sure it’s done right and that’s what we have been doing for many, many years.” He says other state regulations and licenses ensure that these dump sites are secured from floods.

Montana is the latest in a string of states to regulate the disposal of radioactive oil waste, in part because the federal government doesn’t regulate it.

Thamke says that makes sense. “It’s a big, beautiful country, and there’s a lot of differences from east to west and north to south, with regard what it means to drill into the earth and the type of material that’s brought to the surface, so the federal government hasn’t jumped in on regulating because it really isn’t one size fits all.”

The DEQ will be accepting public comment on the rules for disposal of radioactive oil waste until October 18th. To see a copy of the draft rules, go to:

<http://deq.mt.gov/DEQAdmin/dir/legal/hearing>

DEQ Taking Comments on Draft Regional Haze Progress Report

The Montana Department of Environmental Quality is taking comment on the draft Regional Haze 5-year Progress Report in preparation to submit a State Implementation Plan (SIP) by 2021. Haze is visibility impairment, which means any humanly perceptible difference in visibility from what would naturally exist. Haze is caused by tiny particles in the air affecting the way light reaches our eyes. Haze-causing particles come from a variety of sources, including vehicle emissions, large and small stationary sources, wildfires and prescribed fires, and dust.

The state has been covered by a Federal Implementation Plan (FIP) but is seeking to develop its own SIP. Using information in the draft progress report, the plan will assess whether reasonable controls exist to reduce visibility impacts, identify sources or source categories impacting visibility, perform regional modeling and source apportionment and collect and provide emission inventory data. The earlier FIP resulted in emission limits being placed on some Montana facilities. The draft Regional Haze progress report is available for review at: <http://deq.mt.gov/Public/publiccomment>

A public hearing is scheduled for Monday, September 11, at 1:00 p.m. at the Metcalf Building, Room 45 in Helena. The hearing will be preceded by an informal question and answer session beginning at 12:00 noon. Public comments will be accepted through 5 p.m. Friday, September 22, 2017.

Judge Blocks 176M Ton Coal Mine Expansion by Roundup

Source: Helena Independent Record August 16, 2017 By: Matthew Brown, AP

A federal judge has blocked a proposed 176-million ton expansion of a central Montana coal mine in a ruling that criticized U.S. officials for downplaying the climate change impacts of the project and inflating its economic benefits.

U.S. District Judge Donald Molloy issued an order Monday barring Signal Peak Energy from mining in the 11-square mile expansion area at the Bull Mountain coal mine pending a new round of environmental studies.

Molloy says the Interior Department's Office of Surface Mining must consider the environmental effects of shipping the fuel to customers in Asia and from the greenhouse gases and other pollutants emitted when the fuel is burned to generate electricity.

Courts in Colorado and Montana previously have issued similar rulings about greenhouse gas expansions from mine expansions. In those cases, the expansions ultimately were allowed to proceed pending further environmental reviews.

Molloy's ruling stems from a 2015 lawsuit filed by the Montana Environmental Information Center, Sierra Club and Montana Elders for a Livable Tomorrow. The groups argued that the government did not look closely enough at the effects of the expansion on waterways, air pollution and the health of people who live along the coal's shipping routes.

A Signal Peak spokesman said Tuesday that the company was reviewing the ruling, which was not expected to immediately affect operations.

Federal mining officials said the proposed expansion would contribute almost \$24 million annually in tax revenues. They also said there would be no additional environmental impacts

from burning more coal because its customers would simply go somewhere else if the expansion were not approved.

But Molloy rejected that claim. “This conclusion is illogical, and places the (Interior Department’s) thumb on the scale by inflating the benefits of the action while minimizing its impacts,” the judge wrote.

Bull Mountain, located near Roundup, is a major employer in central Montana with more than 250 workers at the underground mine and a coal preparation plant on the site. As much as 95 percent of its coal has been exported in past years to South Korea, Japan and the Netherlands, according to the court volumes...Under the proposed expansion, the company anticipated mining up to 12 million tons annually.

Custer Gallatin Forest Plan Revision Public Meetings Coming in September

The Custer Gallatin Forest Plan Revision team is setting out on the road again with the fourth round of public meetings September 6-20, 2017. Community conversations will give the forest service input on the plan direction developed to date. These public meetings are aimed at stepping down a notch from the overarching visions. Meeting agendas will include an opening main presentation followed by small group discussions organized around key topics such as wildlife, recreation, designated areas and ecology. Additional topics might include range and riparian areas depending on location.

Public meetings will take place at the following locations:

- Ashland, MT – September 6, 2017 from 5:30 p.m. to 8:00 p.m. at Tongue River Electric Company Conference Room (TRECO) 2435 US 212
- Camp Crook, SD – September 7, 2017 from 5:30 p.m. to 8:00 p.m. at Camp Crook Area Community Center (203 Main Street)
- West Yellowstone, MT – September 11, 2017 from 5:30 p.m. to 8:00 p.m. at the Holiday Inn (315 Yellowstone Avenue)
- Gardiner, MT – September 12, 2017 from 5:30 p.m. – 8:00 p.m. at Yellowstone Forever (308 East Park Street)
- Bozeman, MT – September 13, 2017 from 5:30 p.m. to 8:00 p.m. at Hilton Garden Inn, Larkspur Room (2023 Commerce Way)
- Red Lodge, MT – September 18, 2017 from 5:30 p.m. to 8:00 p.m. at Carbon County Fairgrounds, Edgar Guell Building (Airport Road)
- Columbus, MT – September 19, 2017 from 5:30 p.m. to 8:00 p.m. at Stillwater County Pavillion (328 E 5th Avenue N)

- Livingston, MT – September 20, 2017 from 5:30 p.m. to 8:00 p.m. at Livingston Medical Center, Duncan Hagemeyer Conference Room (320 Alpenglow Lane).

Four webinars will also be hosted to allow people to tune in virtually at:

<https://usfs.adobeconnect.com/cgfpr-500/>

- September 14 from 12:00 PM – 1:30 PM and from 5:30 - 7:00 PM MST
- September 21 from 1:30 PM – 3:00 PM and from 5:30 – 7:00 PM MST

More information about the planning process can be found at:

<http://www.fs.usda.gov/custergallatin>

Groups Sued by Dakota Access Pipeline Developer Decry Attack on Free Speech Source: Billings Gazette August 24, 2017 By: The Associated Press

Environmental groups being sued by the developer of the Dakota Access oil pipeline say the lawsuit is an attack on free speech and an effort to punish supporters of the American Indian tribes that oppose the project over fears of environmental harm.

Texas-based Energy Transfer Partners filed a lawsuit against Greenpeace, BankTrack and Earth First, alleging they disseminated false and misleading information about the project, interfered with its construction and damaged the company's reputation and finances through the illegal acts.

The lawsuit filed in federal court in North Dakota cites "a pattern of criminal activity and a campaign of misinformation for purposes of increasing donations and advancing their political or business agendas," and seeks damages that could approach \$1 billion.

BankTrack called the allegations "outrageous" and maintained it did nothing wrong in informing the public and commercial banks about the potential effect of the \$3.8 billion pipeline to move North Dakota oil to a distribution point in Illinois. It also denied it benefited financially from its efforts.

"BankTrack considers the lawsuit an attempt...to silence civil society organizations, and to curb their crucial role in helping to foster business conduct globally that protects the environment, recognizes the rights and interests of all stakeholders, and respects human rights," the group said in a statement.

Greenpeace attorney Tom Wetterer said the lawsuit was meritless, "harassment by corporate bullies" and an effort "to silence free speech."

Michael Bowe, one of the company's attorneys, countered that the response by Greenpeace "was not to defend the truth of the challenged statements, but to attack the lawyers who exposed those statements as false." ...ETP said the company "has an obligation to its shareholders, partners, stakeholders and all those negatively impacted by the violence and destruction intentionally incited by the defendants to file this lawsuit."

Suit Restores Grizzly Endangered Status

Source: [The Missoulian](#) August 24, 2017 By: Rob Chaney

Switching from "in danger" to "currently on the brink" of extinction was too much of an unannounced policy change for deciding if grizzly bears in the Cabinet-Yaak ecosystem need more Endangered Species Act protection, according to a federal court ruling.

U.S. District Court Judge Dana Christensen ordered the U.S. Fish and Wildlife Service to backtrack on plans to downgrade federal protection status of the small population of grizzlies in northwest Montana after finding the agency acted in an arbitrary and capricious manner with the wording change.

The 42-page decision was released Tuesday (August 23). Christensen granted Alliance for the Wild Rockies summary judgment in its challenge to Interior Secretary Ryan Zinke, FWS Director Daniel Ashe and the county commissioners of Montana's Lincoln County and Idaho's Bonner and Boundary counties.

The order restores Cabinet-Yaak grizzlies to "warranted but precluded" for endangered species status, which means it probably qualifies for the highest level of federal protection but the agency doesn't have the resources to scientifically confirm that conclusion. FWS officials in 2014 reclassified the bears as "threatened," which is a lower class of protection.

The levels matter because animals or plants with endangered status may deserve additional protections on the landscape where they live, known as critical habitat designation. Less than 50 grizzly bears inhabit the Cabinet-Yaak mountains. It's one of the smallest of six recovery zones in Montana, Idaho, Wyoming and Washington. The Northern Continental Divide Ecosystem encompassing Glacier National Park and the Bob Marshall Wilderness Complex holds more than 1,000 grizzlies.

In June, Secretary Zinke ruled that the approximately 700 grizzlies in the Greater Yellowstone Ecosystem around Yellowstone National Park no longer needed ESA protection and turned their management over to state wildlife agencies. That decision has been challenged in court as well.

Alliance for the Wild Rockies (AWR) Director Michael Garrity accused the Fish and Wildlife Service of spending 20 years finding ways of avoiding an “endangered” upgrade for the Cabinet Yaak grizzlies, despite mounting evidence that the bear population was shrinking.

AWR sued in 2013, but the case was ruled moot when the agency listed the population as “warranted but precluded”. AWR sued again in 2014, relying on agency documents it claimed showed the agency was changing the designation rules without justification.

In 2010, FWS officials imposed “the polar bear rule” that “clarifies Service policy in regards to the statutory phrase ‘in danger of extinction’ ...This policy recognizes this phrase as meaning ‘currently on the brink of extinction in the wild.’” The wording came from a 2008 endangered species status review of polar bears.

Governor Bullock Appoints Board of Environmental Review Members

Montana Governor Steve Bullock has named the new members of the Board of Environmental Review (BER). All seven seats were vacant as the previous members had either not received Senate confirmation in the 2017 Legislative Session or their terms expired. Only one previously serving member was appointed.

The BER is a quasi-judicial body that plays a role in many of the state’s regulatory programs. For example, under current law, the Board adopts all rules implementing the Clean Air Act of Montana. They can issue orders establishing state implementation plans (SIPs) for areas not in compliance with ambient air standards, and hear requests for variances from emission control programs. The Board has similar authority over water quality rulemaking and variances. The Board has exclusive authority to grant or deny application for a certificate of environmental compatibility and public need for siting a major facility such as a pipelines or transmission lines.

Members are:

Dexter Busby, Great Falls

Qualification: experience or background in environmental science

Mr. Busby recently retired from his position as Director of Government Affairs for Montana Refining, now Calumet in Great Falls. (Note: Mr. Busby was active in TSRA and the Montana Petroleum Association prior to his retirement.)

John DeArment, Missoula

Qualification: experience or background in hydrology

Mr. DeArment is the CEO of the law firm of Garlington, Lohn and Robinson.

Christine Deveny, Helena (Chair)

Qualification: expertise or background in local government planning
Ms. Deveny retired from a career in public and environmental health.

John Felton, Billings

Qualification: expertise or background as county health officer or as a medical doctor
Mr. Felton is the President and CEO of RiverStone Health and is a Yellowstone County Health Officer.

Hillary Hanson, Kalispell

Qualification: public representative
Ms. Hanson is the Public Health Officer in Flathead County.

Chris Tweeten, Missoula

Qualification: attorney
Mr. Tweeten operates a law practice representing state and local government. He is the only current member who has previous experience on the Board.

Tim Warner, Bozeman

Qualification: public representative
Mr. Warner is Founder and President of Plazby Solutions, a marketing, advertising and communications company.

The Board's next meeting is scheduled for **September 29, 2017 10 am. Room 111, DEQ Headquarters Bldg. in Helena.**

EPA and the Army Seek Input in the Review of the Waters of the U.S. Rule

Stakeholder sessions will be held weekly between September and November

Source: EPA August 25, 2017 Contact Information: (<mailto:press@epa.gov>)

WASHINGTON – The U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army (the agencies) will hold 11 sessions to give stakeholders an opportunity to provide recommendations on a revised definition of “waters of the United States.” The agencies will hold nine two-hour long teleconferences that will be tailored for specific sectors, plus one that will be open to the general public. The agencies will also hold one in-person session for small entities. “EPA is committed to an open and transparent process for reviewing the definition of ‘waters of the United States,’” said EPA Administrator Scott Pruitt. “Receiving input from across the country will help us make informed decisions as we move through our two-step process that will

return power to the states and to provide regulatory certainty to our nation's farmers and businesses."

These sessions follow the February 28, 2017, Presidential Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The February Order states that it is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution.

To meet these objectives, the agencies are following an expeditious, two-step rulemaking process. The recommendations gathered through these stakeholder sessions, in addition to the feedback the agencies are hearing through ongoing outreach to state, local and tribal governments, will help inform the step two rulemaking, which would revise the definition of "waters of the United States" under the Clean Water Act.

The stakeholder sessions will be held on a weekly basis beginning September 19 and will continue each Tuesday thereafter for ten weeks. Each will run from 1:00 p.m. to 3:00 p.m. eastern time. Information on how to register for each of these meetings is available <http://www.epa.gov/wotus-rule>. Registration for each webinar will close a week prior. Those wishing to provide verbal recommendations during the teleconference will be selected on a first-come, first-serve basis. Due to the expected volume of participants, individuals will be asked to limit their oral presentation to three minutes.

Stakeholder Sessions Schedule

- September 19, 2017 – small entities (small businesses, small organizations and small governmental jurisdictions)
- September 26, 2017 – environment and public advocacy
- October 3, 2017 – conservation, *e.g.*, hunters and anglers
- October 10, 2017 – construction and transportation
- October 17, 2017 – agriculture
- October 24, 2017 – industry
- October 31, 2017 – mining
- November 7, 2017 – scientific organizations and academia
- November 14, 2017 – stormwater, wastewater management and drinking water agencies
- November 21, 2017 – general public

The agencies are also planning an in-person meeting with small entities, which will be held on **Monday, October 23, 2017, from 9:00 to 11:00 a.m. Eastern Time** at the U.S. EPA's Headquarters.

The agencies will also be accepting written recommendations on the step two rulemaking effort through a non-regulatory docket (EPA-HQ-OW-2017-0480), which will be available when the

notice is published in the Federal Register. The agencies ask that this information be submitted on or before November 28, 2017.

U.S. Energy Dept grid study calls for boost to coal, nuclear power

Source: Reuters August 24, 2017 By: Valerie Volcovici

A U.S. Energy Department report calls for incentives to boost coal-fired and nuclear power plants following a slew of closures that it said undermined reliable sources of energy.

The findings of the study, released late Wednesday (August 23), drew scorn from renewable energy advocates but praise from the coal and nuclear industries. The report dovetails with President Donald Trump's promise to revive the ailing mining sector. But it differs from conclusions presented in an earlier draft, which had said big increases in renewable power generation remained possible without undermining grid reliability...

Energy Secretary Rick Perry commissioned the study in April to evaluate whether "regulatory burdens" imposed by past administrations, including that of former President Barack Obama, had hurt the grid by forcing shutdowns of baseload plants, which provide nonstop power, like those fired by coal and nuclear fuel.

Obama had introduced a raft of regulations to slash emissions of carbon dioxide, which are blamed for climate change. This accelerated the retirement of coal-fired power plants and bolstered the nascent solar and wind sectors, which depend heavily on weather conditions for their power output.

"It is apparent that in today's competitive markets certain regulations and subsidies are having a large impact on the functioning of markets, and thereby challenging our power generation mix," Perry said in a letter introducing the study. "It is important for policy makers to consider their intended and unintended effects." ...

Howard Crystal, a spokesman for the Center for Biological Diversity, which advocates for clean energy, called the recommendations "dangerously misguided". "The reality is that we can protect our planet and our energy supplies by embracing wind and solar," he said.

Some coal and nuclear energy groups welcomed the final report's findings. "This is a much needed, pragmatic look at U.S. electricity reliability and resilience, including the priority of maintaining critical clean baseload power as electricity markets change," said Rich Powell, director of ClearPath, which advocates for nuclear and hydropower.

Last week, Neil Chatterjee, the newly appointed chairman of the Federal Energy Regulatory Commission, said coal plants needed to be "properly compensated to recognize the value they provide to the system."

Upcoming Events/Dates

| | |
|-------------------------|--|
| September 14, 2017 | Revenue and Transportation Interim Committee State Capitol, Helena, MT |
| September 19-21, 2017 | Montana Wood Products Association/Forest Resource Association Convention Grouse Mountain Lodge, Whitefish, MT |
| September 27 – 28, 2017 | Environmental Quality Council State Capitol, Helena, MT |
| September 29, 2017 | Energy & Telecommunications Committee State Capitol, Helena MT |
| September 29, 2017 | Board of Environmental Review (BER) 10:00 am. Room 111 DEQ HQ Bldg. Helena, MT |
| October 5, 2017 | MT. Sage Grouse Oversight Team Meeting State Capitol, Helena, MT |
| October 9 -10, 2017 | Water Policy Interim Committee State Capitol, Helena, MT |
| December 4-5, 2017 | Revenue and Transportation Interim Committee State Capitol, Helena, 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 |
| January 8-9, 2018 | Water Policy Interim Committee State Capitol, Helena, MT |
| January 10-11, 2018 | MT Chamber of Commerce Business Days at the Capitol Great Northern Hotel, Helena, MT* * Joint MT. Chamber/TSRA Business and Industry Showcase is Wednesday, January 10 th at the Helena Civic Center |

| | |
|----------------------|---|
| January 16, 2018 | Energy & Telecommunications Committee State Capitol, Helena, MT |
| January 17-18, 2018 | Environmental Quality Council State Capitol, Helena, MT |
| February 21-22, 2018 | Revenue and Transportation Interim Committee State Capitol, Helena, MT |
| March 12-13, 2018 | Water Policy Interim Committee State Capitol, Helena, MT |
| March 16, 2018 | Energy and Telecommunications Committee State Capitol, Helena, MT |
| March 21-22, 2018 | Environmental Quality Council State Capitol, Helena, MT |
| May 2-3, 2018 | Revenue and Transportation Interim Committee State Capitol, Helena, MT |
| May 17-18, 2018 | Energy and Telecommunications Committee State Capitol, Helena, MT |
| May 21-22, 2018 | Water Policy Interim Committee State Capitol, Helena, MT |
| May 30-31, 2018 | Environmental Quality Council State Capitol, Helena, MT |
| July 19-20, 2018 | Energy and Telecommunications Committee State Capitol, Helena, MT |
| July 23-24, 2018 | Water Policy Interim Committee State Capitol, Helena, MT |
| July 24-25, 2018 | Revenue and Transportation Interim Committee State Capitol, Helena, MT |
| July 25-26, 2018 | Environmental Quality Council State Capitol, Helena, MT |

| | |
|-----------------------|---|
| September 10, 2018 | Energy and Telecommunications Committee State Capitol, Helena, MT |
| September 10-11, 2018 | Water Policy Interim Committee State Capitol, Helena, MT |
| September 12-13, 2017 | Environmental Quality Council State Capitol, Helena, MT |
| September 13, 2017 | Revenue and Transportation Interim Committee State Capitol, Helena, 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.