



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

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**TREASURE STATE RESOURCES ASSOCIATION NEWS**  
**December, 2018**

*Happy Holidays to our TSRA Members and Friends*

**TSRA 2019 Legislative Showcase:**

**It's Not Too Late**

**Take part in the Treasure State Resources Association  
2019 Legislative Reception and Showcase of Natural Resources  
January 8, 2019 Delta Helena Colonial Hotel, Helena, MT  
5:30 p.m. – 8:00 p.m.**

There are still a few booth or table display spaces open for the TSRA Legislative Showcase but they are going fast. Sign up ASAP if you want to feature your company or association's contribution to Montana's economy. Those not needing display space are invited to support the event as sponsors. Let us know your plans by December 14<sup>th</sup> is possible. We can also accommodate individual attendees. TSRA would like to thank and recognize those folks who have already signed up to participate.

The **Montana Mining Association** has once again agreed to sponsor the hosted bar. Thank you!

**Other Sponsors who have contacted TSRA to date include:** Burlington Northern Santa Fe, Montana Dakota Utilities, Exxon Mobil Billings Refinery, Northwestern Energy, Sibanye-Stillwater Mining, Phillips66, Black Butte Copper, ConocoPhillips, Denbury Resources, IBEW #44, Golden Sunlight Mine, and the Montana Grain Growers Association.

**Exhibitors to date include:** Montana Petroleum Association, Weyerhaeuser, Montana Farm Bureau Federation, Cloud Peak Energy, CDM, Montana Snowmobile Association, F.H. Stoltze Land & Lumber, Montana Grain Growers Association, Montana Trail Vehicle Riders Association, Montana Wood Products Association, and the Montana Logging Association.

This event is a “tradition” for both TSRA members and legislators at the launch of a new session of the Montana Legislature. With your assistance and participation, TSRA can continue to make this one of the most memorable events of 2019.

The 2019 Showcase Sponsorship and Reservation Form can be downloaded here: [2019 Showcase Sponsorship and Reservation Form](#). It can also be found on the “Events” page on TSRA’s website.

## **TSRA Weekly Legislative Breakfasts Begin January 17, 2019**

TSRA will be holding its first legislative breakfast meeting at 7:00 am. on Thursday, January 17<sup>th</sup>. This year we’ll be meeting at the **Montana Association of REALTORS®** office in the downstairs conference room. That is located at 1 South Montana Avenue, just across the street that runs behind the Capitol. TSRA will arrange for breakfast to be available – we just ask attendees to help cover the costs. This year the cost will be \$60 for the entire session. Contact TSRA’s Executive Director about how to sign up.

A big “thank you” to the Montana Association of REALTORS® for use of their meeting room.

## **Governor Bullock Appoints New DEQ Director**

Earlier this year, then-DEQ Director Tom Livers was asked to take on the job of state budget director. Last month the Governor appointed Shaun McGrath to fill the DEQ Director position. Mr. McGrath officially started his job on December 1<sup>st</sup>.

Director McGrath formerly worked as the Regional Administrator for the U.S. EPA in Denver, and was a program director for the Western Governors Association for fourteen years. In addition to his EPA role, McGrath worked as a deputy director for the White House Office of Intergovernmental Affairs during the first two years of the Obama administration.

McGrath has expressed interest in working with stakeholder processes that promote inclusiveness and transparency while solving problems. Director McGrath’s appointment will require approval from the Montana Senate when the Legislature convenes next year.

## **DEQ Air Quality Bureau to Explore Future Funding Options**

Fee increases for per ton emissions and some air quality registration programs were approved by the Board of Environmental Review in 2018 to meet budget needs for operating the state's Air Quality Bureau. TSRA and others worked with DEQ to arrive at the new fee levels, but noted a different funding approach would be needed in the future. Representatives from TSRA and the Montana Petroleum Association will be meeting with Air Quality Bureau staff later in December to lay the groundwork for a broader discussion with members of the Clean Air Act Advisory Committee about potential funding options.

Members who are interested in participating in future discussions or have ideas to offer in this process are encouraged to contact TSRA's Executive Director Peggy Trenk at: <mailto:ptrenk@tsria.net>

## **Water Quality Variances in the Spotlight**

The Water Quality Division at DEQ is proposing legislation to broaden their authority to review and approve variances for any pollutant where the variance request comports with federal water quality standards. The proposed bill consolidates variances for nutrient standards and those granted under SB 325 (2015) that primarily address what might be termed "historic" impacts to water quality.

Substantively, the bill aligns the Montana program with new federal guidance and extends the current period for reviewing nutrient standards from three to five years to better fit with permitting. It also expands criteria for granting variances to include all six authorized by the EPA. Those are: 1) naturally occurring pollutant concentrations prevent the attainment of the use; 2) natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; 3) human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; 4) dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; 5) physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or 6) controls more stringent than the technology-based treatment requirements adopted under 75-5-304 would result in substantial and widespread economic and social impact.

The additional criteria are intended to offer more options for private-sector dischargers who were not granted a general variance from nutrient standards during the latest EPA review of Montana's program. That action was the result of EPA's determination that DEQ's work to demonstrate that requiring compliance with nutrient standards would create substantial and widespread economic and social impact was not adequate and could only be applied to public dischargers like municipal water treatment plants.

The draft bill does not include the earlier nutrient variance statutory language that provided a blanket determination that compliance with the nutrient standards would create significant economic and social impacts. DEQ was asked to revisit that section prior to introduction of the measure as some stakeholders felt the language was important to maintain. Department staff is in the process of considering that change, taking into account the fact that not all dischargers need a variance based on experience gained since the statute was passed.

### **Meanwhile....**

After meeting with EPA Region 8, DEQ has also asked the consulting firm of Tetra Tech to research publically-available, non-confidential financial information that might lend itself to an economic analysis of "substantial and widespread economic and social impact" that is applicable to private-dischargers who previously qualified for the general nutrient variance. If information is available that lends itself to an analysis, DEQ will proceed with work on the determination. If information is not sufficient, they will look at other options, including sector-level analyses similar to what was done in Wisconsin.

## **Montana Sage Grouse Oversight Team (MSGOT) to Consider Adoption of Rules for Stewardship Grants and Mitigation On December 18th**

Source: Montana Sage Grouse Conservation Program

MSGOT will be meeting for the final time in 2018 on Tuesday, December 18<sup>th</sup> in Helena. The meeting will start at 11:00 am. and will be held in the Montana State Capitol, Room 172.

Members will be asked to adopt the rules noticed on October 19<sup>th</sup> that work in concert with the implementation of the Habitat Quantification Tool/Technical Manual and the Mitigation Policy. MSGOT approved those documents at their October 4, 2018 meeting and program staff have argued any additional comments on those documents are not pertinent to the current rulemaking effort.

TSRA and others working as part of an industry coalition have commented extensively throughout the long process of developing the tools that govern the Sage Grouse Conservation Program. We continue to have a difference of opinion with program staff as to whether or not

the above-referenced manuals and the rules can be considered separately under the Montana Administrative Procedures Act, given their joint standing as regulatory documents. The coalition has asked MSGOT to provide responses for comments submitted throughout the process, but focused specifically on a change made in the last iteration of the Mitigation Policy Document that authorizes MSGOT to use 5% of the Reserve Account credits collected to offset program requirements for projects where the proponent can demonstrate economic hardship. Our argument is not with the issue of creating an economic safety valve of sorts for activities that may serve the public good, but with the use of the Reserve Account for that purpose. The Reserve Account was created as an insurance policy for situations where habitat is unavoidably lost due to such things as wildfire. We're concerned that if that account is depleted for other purposes, the project developer or others may be asked to compensate for that loss over and above what has already been provided.

In their written response to comments, program staff noted that MSGOT will take the comment into consideration, but most likely within future adaptive management reviews. We anticipate this issue will be discussed further at the December 18<sup>th</sup> meeting

## **BER Authorizes Formal Rulemaking Process for Changes to Circular DEQ-7 (Groundwater Standards)**

Last month's newsletter reported that DEQ planned to advance rules to make changes to DEQ-7. Since then, both WPCAC and the Board of Environmental Review (December 7<sup>th</sup>) have given their approval for the formal process to begin.

As a reminder, the rulemaking consists of six new groundwater human health criteria to be added to Department Circular DEQ-7. The six criteria are for: diallate; dioxane, 1,4-; iron; manganese; perfluorooctane sulfonate (PFOS); and perfluorooctanoic acid (PFOA). Since these are groundwater criteria, all were derived under the assumption that exposure is through drinking water only (no accounting for exposure through consumption of fish is made). Unlike efforts to involve stakeholder input in other DEQ rulemaking processes, these changes don't appear to have been widely vetted.

The formal rule notice will be published in the next Montana Administrative Register (expected to be on December 21, 2018) and will include the hearing date and close of comment deadline. Public comments offered at the BER's meeting last Friday encouraged the Board not to initiate the rulemaking process until more public input could be gathered. There are growing questions about the impact of what is being proposed and given the Board's decision to move forward, TSRA members are encouraged to review the rule language carefully. Members who would like to share their comments or concerns with others prior to the close of comments may forward those to TSRA's Executive Director for consideration by the association's Water Quality Work Group.

## **Did You Hear? Washington State Voters Rejected the Carbon-Fee Initiative**

Source: [Seattle Times](#) November 7, 2018 By Hal Bernton

Washington state voters on Tuesday (November 6, 2018) rejected Initiative 1631, a proposed carbon fee on fossil-fuel emissions that spurred the biggest ballot-measure spending spree in state history...

Proponents, however, said that the battle to put a price on Washington's fossil fuel emissions is not over. They are already thinking ahead to getting a bill passed next year in Olympia "where we know we have legislative champions who are prepared to keep pushing this issue," said Mike Stevens, state director of the Nature Conservancy, a major backer of I-1631.

I-1631 would have created a first-in-the nation carbon fee....This is the second consecutive statewide election in which Washington voters weighed in on a proposed price on fossil fuels. In 2016 they rejected a carbon tax, which would have been coupled with a cut in the state sales tax in an effort to be revenue neutral.

## **Legislators Want to Hear From You – Here's Your Contact Information**

Source: Montana Legislative Services Division

The 66th Legislature convenes January 8, 2018. The Legislative Information Desk begins operation that day. Regular office hours during the session are 7:30 a.m. to 5 p.m. weekdays and 8 a.m. to adjournment on Saturdays. Callers may leave messages for legislators or acquire general legislative information by calling the Information Desk at (406) 444-4800. Callers may leave messages for up to 5 individual legislators or 1 legislative committee per call.

**Please contact your legislator during session by using the online message form which will become available once session convenes.**

A well-written letter is one of the best ways to let your legislator know your thoughts and opinions about a particular issue. Here are some tips for getting your message across effectively:

- **Be brief.** Legislators have many demands on their time. They appreciate letters that are short and to the point.
- **Put the message in your own words.** Form letters and petitions don't have the same impact as personal, informed opinions.
- **Address your letter to a specific legislator or legislators.** Depending on your message, you may want to write to the sponsor of a bill, certain members of a committee, or your own legislators. Don't address your letter to the entire Legislature.
- **Identify bills** by their number, title, and sponsor.
- **Explain your position** on the bill and ask for the legislator's support or opposition.

- **Give any sources of information** that you use to make your point.
- **Include your name, address, and a little about who you are** (for example, where you work or what school you attend).

**Address letters to:**

Senator XXXX  
Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

or

Rep. XXXX  
Montana House of Representatives  
PO Box 200400  
Helena, MT 59620-0400

**During sessions send faxes to:**

House 406-444-4825  
Senate 406-444-4875

**Upcoming Events/Dates**

December 11-13, 2018	Montana Stockgrowers Association Convention Double Tree and Northern Hotels, Billings, MT
January 7, 2019	Montana Legislative Session Convenes State Capitol, Helena, MT
January 7-8, 2019	Montana Chamber Days at the Capitol Helena, MT
January 8, 2019	TSRA Legislative Reception and Showcase of Natural Resources 5:30 – 8:00 pm. Delta Helena Colonial Hotel, Helena, MT
June 12-15, 2019	Montana Stockgrowers Mid-Year Meeting, Miles City, MT
June 19-20, 2019	TSRA 2019 Annual Meeting Holiday Inn Downtown, Missoula, 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.*