



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS
April, 2019

Save-the-Date

TSRA Annual Meeting – June 19-20, 2019

Holiday Inn Downtown Missoula

Registration Information Coming Soon

2019 Montana Legislative Session Update:

Due to TSRA's diverse membership, we have testified on a wide range of bills in 2019. The following is an update on bills for which TSRA has offered testimony to date. Some were reported earlier but their status may have changed:

House Bill 32: Introduced by Rep. Willis Curdy – An act revising laws related to Aquatic Invasive Species Programs; Requiring an Aquatic Invasive Species Prevention Pass for Operation of Vessels; Establishing Fees; Revising Prevention Pass Fees for Anglers and Providing for Transfers of General Fund: TSRA testified in support when the bill was heard February 4, 2019 before House Natural Resources. The bill did not assess fees on hydro facilities as recommended by the Environmental Quality Council during the last interim. HB 32 was later tabled in favor of HB 411, also carried by Rep. Curdy. HB 411 is a compromise measure that continues to require funding from hydro facilities for AIS prevention. HB 411 has passed the House.

House Bill 34: Introduced by Rep. Jim Keane – An Act Providing a Statutory Appropriation for Good Neighbor Forestry Accounts: This bill gives the Department of Natural Resources authority to spend private contributions and revenue from qualifying timber sales to manage timber resources, including those on national forests, in a productive manner. TSRA supports the bill. HB 34 passed the House and was heard March 29 in the Senate Natural Resources Committee.

House Bill 70: Introduced by Rep. Ray Shaw – An Act Increasing the Amount of Timber Allowed for Sale Under Commercial Permits: The bill standardizes the size of green timber and salvage projects under commercial permits to allow for more efficient operation. TSRA supported the bill. HB 70 has been signed by the Governor.

House Bill 193: Introduced by Rep. Mary Ann Dunwell – An Act Revising the Regulation and Taxation of Large Emission Sources in Montana; Establishing the Montana Climate Action Act ...Establishing a Carbon Tax: The bill provided authority for the state to assess a carbon tax on emissions and distribute revenue generated to a variety of programs. TSRA opposed the bill. Montana would have been the first state to pass such a tax, although other states have adopted a cap and trade approach. Opponents noted the chilling effect on jobs in Montana, as well as the regressivity of the measure as it translates into rate increases for consumers. The bill was tabled by the House Taxation Committee.

House Bill 241: Introduced by Rep. Andrea Olsen – An Act Requiring Public Utilities to Develop a Plan Articulating Options, Timelines and Challenges for the Procurement of 100% Renewable Energy.... The bill purported to simply engage the legislature and the private sector in a dialogue about progress in advancing renewable energy. It was not clear whether the sponsor intended the bill to require a formal plan for procuring “100% renewable energy resources” by June, 2020. TSRA opposed the bill, along with utility representatives and others who noted energy providers are already growing their use of renewables but want to maintain options for keeping a balanced portfolio that includes fossil fuels. The bill was tabled by the House Energy and Telecommunications Committee.

House Bill 271: Introduced by Rep. Bridget Smith – An Act Generally Revising the Major Facility Siting Act and Establishing Requirements for Certain Pipelines: The measure would have had the effect of vacating the MFSA certificate held by Keystone XL pipeline by reducing the effective time period from 10 to 7 years. TSRA opposed the bill, stating it would send the wrong message to anyone wanting to invest in Montana knowing we could “change the rules of the game” at any time. The bill was tabled by the House Natural Resources Committee.

House Bill 403: Introduced by Rep. Barry Usher – An Act Revising the Coal Gross Proceeds Tax Rate on Coal Mined from an Underground Mine: TSRA supported the bill when it was heard in the House Taxation Committee as it offers some certainty for the coal industry in the

current market. As now amended, the bill raises the local share of the gross proceeds tax on underground mines to 5%. But it extends the time frame of the state tax abatement through production until 2030. The bill has passed the House and moves to the Senate.

House Bill 415: Introduced by Rep. Joe Read – An Act Prohibiting the State from Implementing any Federal Greenhouse Gas Regulatory Program: While it may not have been the sponsor’s intent, the bill had the effect of impacting the state’s ability to implement the Clean Air Act for which Montana has primacy. TSRA opposed the bill because we believe it is more effective to work with the Montana Department of Environmental Quality rather than the EPA. The bill was tabled by the House Natural Resources Committee.

House Bill 417: Introduced by Rep. Marvin Weatherwax: An Act Generally Revising Criteria used to Revoke or Suspend a Certificate Issued Under the Montana Major Facility Siting Act: The bill was another measure aimed at the Keystone XL pipeline, but it also exposed other entities holding a MFSA Certificate to a potential challenge for the “discovery of significant new circumstances or information relevant to environmental concerns”. There was no definition or clarification concerning what would be deemed significant, laying the groundwork for potential litigation. TSRA opposed the bill. It was tabled in the House Natural Resources Committee.

House Bill 438: Introduced by Rep. Tom Woods: An Act Generally Revising Energy Laws, Establishing Restructuring Requirements for Montana’s Electric Utility Industry: Simply put, this measure sought to “re-deregulate” electrical utilities in Montana. Despite the massive failure of the earlier attempt at deregulation, Rep. Woods brought the bill because he felt that the current structure has “made it difficult for small, innovative sources of alternative power to develop, such as community solar-power projects.” TSRA was among the many opponents to the bill. It was tabled in the House Energy, Technology and Federal Relations Committee.

House Bill 441: Introduced by Rep. Kerry White: An Act Eliminating Timber Conservation Licenses for State Lands: The measure proposes to eliminate the current conservation license option available for state timber sales. When a sale is offered, timber companies offer bids, but an individual or individuals can also bid to purchase a conservation license that provides some revenue to the state trust, but precludes harvest of the timber. That has only been fully exercised for a small buffer zone of timber between state and private land. However, that option is being considered again for a current timber sale near Bozeman, now the subject of litigation. If the conservation license is awarded, it would preclude management of a much larger acreage, leaving the dead and dying timber in place and potentially creating a further risk for fire. If a conservation license is awarded, not only would timber not be harvested, but the related economic benefits from harvest activity would not be generated. The bill has passed the House and is awaiting Executive Action by the Senate Natural Resources Committee.

House Bill 452: Introduced by Rep. Windy Boy: An Act Generally Revising Laws Related to Consultation of Tribes Regarding Impacts to Heritage Properties: The bill extended requirements for consultation concerning permitted activities beyond state lands to include private property. As defined in the bill, “heritage property” included the ancestral homelands of each state and federally recognized tribe for which there is a tribal government in Montana. Tribal historic preservation officers would take a more active role outside the reservation, creating the potential for delays in projects. TSRA opposed the bill, along with representatives from agricultural organizations and industry groups. The measure was tabled in the House State Administration Committee.

House Bill 464: Introduced by Rep. Jasmine Krotkov: An Act Establishing a Hazardous Materials Response and Preparedness Task Force: Similar to a measure introduced in the 2017 Session, the bill would have established a task force to look at issues associated with improving capacity at the local level for responding to hazardous materials spills and report to the state administration interim committee in 2020. However, the duties outlined for the task force seemed to narrow the focus of study to railroad derailments as opposed to a broader look at potential sources and solutions. The PSC would have had a role in the study, but the task force would have been attached to the Department of Transportation. TSRA opposed the bill, noting that the goal of looking at ways to improve the ability of rural communities to respond to incidents was worthwhile, but creating a new task force was duplicative of the mission of the State Emergency Response Commission, creating inefficiency by not using the existing resources and expertise currently available. The bill was tabled by the House Natural Resources Committee.

House Bill 655: Introduced by Rep. Julie Dooling: An Act Restricting the Use of Unmanned Aircraft Systems Near Critical Infrastructure: The bill sought to define what is considered “critical infrastructure” in terms of operations or facilities that for safety purposes, need to be protected from unauthorized flyovers by a UAS. The measure was similar to legislation passed in Oklahoma and followed from work led in the interim by the Montana Petroleum Association to identify applicable facilities. The bill enjoyed good support when heard in the House Judiciary Committee, but had opposition from a representative of the “drone” industry who was concerned about evolving conflicts with FAA rules and from the ACLU who raised questions about the impact on first amendment rights. The bill was amended and passed out of committee. HB 655 failed to pass second reading on the House floor on March 29.

House Bill 691: Introduced by Rep. Tom Woods: An Act Generally Revising Oil and Gas Impact Laws; Terminating the Reduced Tax Rates for New Oil Production and New Natural Gas Production: Heard in the House Taxation Committee, the bill sought to eliminate the holiday (incentive) for new oil and gas production. TSRA opposed the bill, noting the provision allows Montana to stay competitive with surrounding states in attracting investment. HB 691 was tabled by the committee.

House Bill 722: Introduced by Rep. Steve Gunderson: An Act Allowing Transfer of Hard Rock Mining Permits Under Certain Conditions: HB 722 was drafted on behalf of the mining industry. It offers an opportunity for a permit to be held in suspension for up to five years, allowing another company to take a look at an existing property that is in a default situation, receive the permit, post full bond and put people back to work – with no risk to the state. TSRA supported the measure. The bill was amended and then passed by the House Natural Resources Committee and by the full House. It has been referred to the Senate Natural Resources Committee.

House Bill 737: Introduced by Rep. Tom Woods: An Act Imposing an Excess Profits Tax on Public Utilities That Generate Profits Greater Than An Established Return On Equity (Heard in the House Taxation Committee); **House Bill 758: Introduced by Rep. Tom Woods: An Act Revising Energy Laws; Creating Coal-Fired Generating Unit Payment Requirements** (Heard in House Energy, Technology and Federal Relations Committee); and **House Bill 743: Introduced by Rep. Tom Woods: An Act Revising Regulatory Treatment of Certain Estimated and Assumed Carbon Costs in Electricity Supply Resource Costs** (House Energy, Technology and Federal Relations Committee): All three of these bills were aimed at NorthWestern Energy. They would have had the effect of undoing previous regulatory approvals and imposing additional costs on the utility. TSRA opposed the bills based on the punitive nature and the message they would send concerning Montana’s business climate. All three bills were tabled in their respective committees.

House Bill 752: Introduced by Rep. Brad Hamlett: An Act Revising Laws Related to Sage Grouse Conservation; Requiring Development of a Predator Mitigation Plan; Establishing a Compensatory Mitigation Review Fee: The bill would have established a \$500 fee on any project developer required to undertake compensatory mitigation under the sage grouse program for purposes of implementing a predator mitigation plan to be developed by the MT Sage Grouse Oversight Team. TSRA opposed the bill, noting that we appreciated the focus on the impact predators have on sage grouse populations, but did not believe charging developers an additional fee was appropriate. The bill was tabled by the House Natural Resources Committee.

Senate Bill 28: Introduced by Sen. Tom Richmond - An Act Revising the Tax Rate for Certain Incremental Oil Production; Removing the Price Trigger for New or Expanded Tertiary Production: This bill provides more certainty for those making a significant investment in projects that will breath new life into existing oil fields, generating more revenue for the state. Currently the tax rate is based on the price of west Texas intermediate crude and can vary, making planning for capital investments a challenge. Tertiary production will be taxed at a fixed rate of 5.8%. TSRA supported the measure. The bill has passed been signed into law by the Governor.

Senate Bill 48: Introduced by Sen. Tom Richmond on behalf of the MT. Department of Environmental Quality: An Act Generally Revising Variances to Water Quality Standards for Pollution Dischargers: The bill gives dischargers more options for seeking a variance from water quality standards in Montana, using criteria established by the EPA. The bill had been substantially amended from its introduced version, largely at the request of environmental groups. TSRA stood as an opponent to the bill, noting our support for the measure but asking for one additional amendment. We asked that the rulemaking authority be given to the department, as opposed to the board of environmental review. EPA holds the final authority in granting any variance and it seemed an unnecessary step to have rules go through the BER. At the request of the sponsor, the bill was amended to make the change. The bill passed the Senate, was approved by the House Natural Resources Committee and will now advance to the House floor. TSRA supports the bill in its present form.

Senate Bill 97: Introduced by Sen. Frank Smith - An Act Generally Revising Laws Related to Common Carrier Pipelines....Revising Time Limits for Voiding Certain Certificates Under the Major Facilities Siting Act: The bill was aimed at vacating the MFSA Certificate held by Keystone XL Pipeline. It reduced the effective time period from 10 to 7 years. TSRA opposed the bill, again citing concerns with offering predictability to folks wanting to do business in Montana. The bill was tabled by the Senate Natural Resources Committee.

Senate Bill 189: Introduced by Sen. Dick Barrett: An Act Revising Taxation....Revising the Regulation and Taxation of Large Electrical Generating Emission Sources: The bill is a somewhat unique approach to reducing the burden of property taxes for low income and other specific categories of taxpayers. To pay for the loss of revenue collected, the bill would impose a tax on carbon emissions from facilities generating electricity. TSRA opposed the bill due to the additional costs placed on electrical generation that would be borne by ratepayers. The bill was amended to make changes to some of the property tax relief provisions to reduce the impact on state revenue and a new Fiscal Note was requested. The measure was tabled by the Senate Energy Committee on March 23.

Senate Bill 190: Introduced by Sen. Mike Phillips: An Act Generally Revising the Regulation of Carbon Emissions in Montana, Requiring the Board of Environmental Review to Adopt Rules and Fees for the Reporting and Quantification of Carbon Emissions; Establishing Carbon Emission Targets: The bill would have established a schedule for reducing carbon emissions and authorized the Department of Environmental Quality to create a plan for meeting the reduction targets. DEQ would be authorized to collect fees assessed against emissions in order to pay for the program. TSRA opposed the bill, noting establishing targets without understanding the details of the plan or its impacts on operational costs would create more uncertainty for energy producers and likely increase costs for consumers. SB 190 was tabled by the Senate Energy and Telecommunications Committee.

Senate Bill 278: Introduced by Sen. Tom Richmond: An Act Revising Public Utility Cost Recovery for Coal-Fired Generation and Related Transmission...Allowing for an Increased Interest in Coal-Fired Generation: The bill provided the structural framework for an entity such as NorthWestern Energy to purchase a larger interest in Colstrip Units 3 and 4, potentially extending operation of the facility well into the future. The bill sparked a great deal of discussion at its initial hearing in the Senate Energy and Telecommunications Committee before being passed on to the full Senate. Because of the transmittal crunch, the bill was subsequently amended in the Senate Finance and Claims Committee to add a fee, making it a “revenue bill” and giving a longer timeline to address concerns. TSRA supported the measure, noting it offered a potential solution to protecting jobs at Colstrip and continued generation of reliable, predictable electrical power. Due to the number of amendments needed to respond to concerns with the bill, it was tabled on March 13 at the request of the sponsor. Sen. Richmond then introduced a new bill, SB 331, that addressed many of the issues raised with the initial proposal.

Senate Bill 299: Introduced by Sen. Mike Lang: An Act Revising Laws Related to Sage Grouse: As introduced, the bill codified language in the Governor’s Executive Order that launched the Sage Grouse program, making it clearer that activities such as maintenance activities for existing wellheads were exempt from oversight by the sage grouse conservation program. It also provided for waivers from compensatory mitigation requirements for projects that addressed public safety. Prior to being heard in the Senate Natural Resources Committee, various stakeholders worked with the Governor’s office to make changes that struck some of the language, pointing to provisions in the current mitigation policy that offered the same considerations. Per protocol, TSRA appeared as an opponent because we supported the bill with the amendments being requested. The Senate Natural Resources Committee made the amendments to the bill and moved it to the Senate floor. The bill passed the Senate and was heard in the House Natural Resources Committee on March 25. TSRA supported SB 299 in the hearing, but understands additional amendments may be considered to respond to concerns raised by the Governor and others.

Senate Bill 318: Introduced by Sen. Roger Webb: An Act Providing for Approval of An Abatement for New or Expanding Industry Prior to Commencement of Construction: The bill clarified the process for granting (and removing) new and expanding industry local property tax abatements. Under the bill, companies can submit project plans in advance of construction and receive approval prior to beginning work. That provides more certainty for both the applicant and the local jurisdiction. The bill passed the Senate and is scheduled for a hearing in the House Taxation Committee on April 3. TSRA supports the measure.

Senate Bill 328: Introduced by Sen. Tom Richmond: An Act Authorizing a Board of County Commissioners to Authorize a Local Abatement of the Coal Gross Proceeds Tax from a New or Expanding Surface Coal Mine: SB 328 extends the same treatment to surface mines as is

currently allowed for underground mines in terms of authorizing local abatement of the coal gross proceeds tax. Counties can abate up to 50% of the coal gross proceeds tax for five or ten year periods. TSRA supports the bill. It has passed the Senate and is awaiting a hearing in the House Taxation Committee.

Senate Bill 329: Introduced by Sen. Tom Richmond: An Act Allowing the Land Board to Extend a Coal Lease for Up to 10 Years if the Extension in the Best Interest of the State: This bill would give the Land Board the same flexibility for administering coal leases as might be found in other program areas. The State Land Board can take into account the current fact situation and determine whether extending a lease comports with their fiduciary duties. TSRA supports the bill. It has passed the Senate and is scheduled for a hearing in House Natural Resources on April 8.

Senate Bill 331: Introduced by Sen. Tom Richmond: The Montana Energy Security Act of 2019: This bill replaced SB 278 that was tabled by the sponsor. It creates the possibility for NorthWestern Energy to purchase a larger share of Colstrip Unit 4. That would help fill the need for more 24/7 energy sources in the company's portfolio – energy that is the lowest-cost alternative available for Montana. TSRA supports the measure. It has passed the Senate and is scheduled for hearing in the House Energy, Technology and Federal Relations Committee on April 3.

Senate Bill 343: Introduced by Sen. Tom Richmond: An Act Generally Revising Laws Related to Opencut Mining: SB 343 is the result of work by stakeholders and the Montana DEQ to make improvements to the permit application process, encourage reclamation, and allow for timely release of bonds. It also provides a source of revenue to operate the Opencut Bureau. Counties have a concern with the annual permit fee but otherwise the bill had strong support. It has passed the Senate and is scheduled for a hearing in the House Natural Resources Committee on April 8.

Senate Joint Resolution 6: Introduced by Sen. Mike Cuffe: A Joint Resolution Requesting that Montana's Congressional Delegation Introduce Federal Legislation to Return Management of the Montana Grizzly Bear Population to the State: TSRA was among a host of proponents for the resolution pointing to the success of grizzly bear recovery efforts in Montana and the need to give management responsibility to the state so that concerns of ranchers and farmers, hunters, and local residents could be more fully considered. The Resolution was substantially amended to take into account the objections from opponents before being passed by the Senate. It was heard in the House Fish, Wildlife and Parks Committee on March 26.

Montana DEQ Releases Draft EIS for Black Butte Project – Comments Needed by May 10, 2019

Sources include: [Helena Independent Record](#) 3/11/19 Article by Matt Volz (AP), the Montana Mining Association and the Sandfire Resources (Black Butte) Website

In March, the Montana DEQ released the Draft Environmental Impact Statement for the proposed Black Butte Copper Mine near White Sulphur Springs. Following months of analysis, DEQ concluded that the “proposed project won’t harm Smith River tributary (Sheep Creek).”

The environmental review looked closely at the potential effects to the Smith River because of the immense public interest in the project, said Kristi Ponozzo, DEQ’s public policy director. Everything in Sandfire Resources’ proposal complies with state law, she said. In addition, tunnels and access openings would be filled with mine waste that has been thickened with cement into a paste, which would cut off any new potential paths for groundwater to flow. “That’s something we think adds water quality protections above and beyond what we think is required to comply with state water quality laws,” Ponozzo said.

We anticipate opponents to the project are gearing up to push back against the findings in the Draft EIS. TSRA members are encouraged to help support our friends in the mining industry by commenting on the proposal. To assist, the information below was provided by the Montana Mining Association.

Comments Needed by May 10th

Tintina Montana, wholly owned by Sandfire Resources America, Inc., is in the last stages of permitting their high tech, underground Black Butte Copper project to conduct mining operations on private property located approximately 17 miles north of the community of White Sulphur Springs in central Montana.

The company has spent over \$60 million in exploration, environmental analysis and planning and plans to spend approximately another \$300 million bringing the project into production. When the mine opens, 240 full-time employees and up to 50 full-time contractors will provide a significant and positive economic foundation for Meagher County and Central Montana in an environmentally friendly manner.

The Montana Department of Environmental Quality (MDEQ) has jurisdiction to approve and regulate the underground Black Butte Copper project. All exploration and permitting is bonded by the MDEQ.

Tintina Montana started conducting exploration in September 2010 and applied for its Mine Operating Permit (MOP) in December 2015. A draft permit stating that Black Butte Copper met and exceeded all of the laws of the State of Montana was granted by MDEQ in September 2017. Since then, the MDEQ has been completing a 3rd party Environmental Impact Statement (EIS).

After completing a multi-year rigorous review of the project proposal, the MDEQ released a draft EIS on March 11, 2019 is accepting public comment on the Black Butte Copper Project EIS until May 10, 2019!

You can find much more information on the comment website found at www.miningmontana.com. It will only take a few minutes of your time, so please [COMMENT NOW](#).

Montana Resources in Butte Would Also Appreciate your Help – Public Comments on Permit Amendment Due April 22, 2019

Source: Montana Mining Association

Another of our member companies could use your support in submitting comments as well. Again, thank you to the Montana Mining Association for their assistance in facilitating this process.

Comments Needed by April 22nd

Montana Resources (MR) has proposed a permit amendment to raise the Yankee Doodle Tailings Impoundment (YDTI) in Butte to accommodate additional tailings deposition and provide for continuation of existing operations at the Continental Mine.

The proposed amendment also provides a closure and reclamation plan for the YDTI that meets the criteria outlined in the Montana Metal Mine Reclamation Act (MMRA).

Ore extracted from the Continental Pit is processed in the Montana Resources milling facility to produce metal-bearing concentrates that are sold to smelters and refiners who reduce the concentrates to primary metal. These primary metals are eventually put to commercial use in a variety of industries.

Montana Resources applied to Montana Department of Environmental Quality (DEQ) for the amendment on October 6, 2017 under the MMRA. DEQ determined the Montana Resources amendment application was complete and compliant and issued a draft amendment approval on August 31, 2018. Since then, the DEQ has been completing a 3rd party Environmental Impact Statement (EIS) under the Montana Environmental Policy Act (MEPA) which evaluates the potential direct, secondary, and cumulative impacts of the proposed amendment. DEQ also evaluated alternatives to the proposed project.

After a thorough review of the project proposal, DEQ released a Draft EIS on March 22, 2019 and is now seeking public comment for 30 days on the Draft EIS. The public comment period will end April 22, 2019.

You can find much more information on the comment website found at www.mininginmontana.com. It will only take a few minutes of your time, so please [COMMENT NOW](#).

Court Rules on Lawsuit Challenging Water Quality Variance

On March 25, 2019 U.S. District Judge Brian Morris issued his ruling in the matter of Upper Missouri Waterkeeper vs. United States EPA, a case that among other things challenged whether the Clean Water Act allowed for the issuance of variances from water quality standards. The Montana Department of Environmental Quality, Treasure State Resources Association, Montana League of Cities and Towns and National Association of Clean Water Agencies all intervened on behalf of the EPA.

Despite some headlines that appeared to the contrary, the ruling affirmed two key points argued by the defendants and intervenors. Judge Morris found that the variance structure adopted by Montana in accordance with EPA regulations comports with the Clean Water Act and that consideration of widespread economic and social impacts is appropriate in considering whether to grant a variance.

The Judge did agree with arguments raised by the Plaintiffs with regard to how the original 20-year variance authorized by Montana for nitrogen and phosphorous aligned with new rules adopted in 2016 in accordance with EPA requirements that now call upon dischargers to meet the highest attainable condition over a 17-year period. The Judge was concerned that without a more specific timeline for meeting the standards, Montana now had a “variance within a variance” that was not acceptable. He directed all parties to respond to the Court within 60-days with potential remedies for resolving the inconsistency.

Keystone XL: Trump Permit Revives Pipeline Work

Source: E & E News, March 29, 2019 By: Hannah Northey and Tim Cama

On March 29, 2019 President Trump issued a presidential permit authorizing the construction, operation and maintenance of the Keystone XL pipeline. The order does not mention an environmental review.

The White House issued the order approving the pipeline’s construction and operation under conditions TransCanada Keystone Pipeline LP laid out. In doing so, Trump also announced he’s revoking a previous permit issued March 23, 2017 by the State Department.

The new permit immediately authorizes TransCanada Corp. to begin building the \$8 billion, 1,200 pipeline to carry oil sands crude from Alberta to Texas refineries. The permit appears intended to shield the Keystone XL decision from judicial scrutiny and from being overturned by federal courts. Instead of being issued by the State Department after an environmental review

under the National Environmental Policy Act, the new permit cites only Trump's authority as president.

In November 2018, a federal judge halted construction and ordered the government to take a closer look at climate impacts from Keystone XL after the president revived the project shortly after taking office. Judge Brian Morris for the U.S. District Court of Montana found the Trump Administration did not do a thorough job of analyzing emissions – and other impacts – from the oil conduit. His decision largely relied on NEPA and the Endangered Species Act, neither of which is mentioned in today's permit.

NEPA, a 1970 law meant to ensure federal agencies consider the environmental impacts of their actions and the opinions of locals, applies only to federal agencies, not to actions taken solely by the president.

For now, the injunction against Keystone XL construction is still in place. The Trump administration or TransCanada may cite the new permit and ask that the injunction be lifted.

Industry Groups Push for Faster Ruling in WOTUS Case

Source: E & E News March 15, 2019 By: Ellen M. Gilmer

Opponents of the Obama-era Clean Water Rule are urging a federal court to expedite its review of the regulation and strike it down.

The American Farm Bureau Federation, the American Petroleum Institute and other industry groups have asked the U.S. District Court for the Southern District of Texas to finally resolve their 4-year-old lawsuit against what's also known as the Waters of the United States, or WOTUS, rule.

The groups filed their challenge to the joint EPA and Army Corps of Engineers rule in 2015, but the case stalled during numerous WOTUS-related legal detours, including a trip to the Supreme Court. The justices last year agreed that lawsuits targeting the regulation belong in district courts, and the industry groups have been pushing the Texas court to take action ever since.

The WOTUS rule was written to clarify which waterways and wetlands are subject to federal jurisdiction, but several states and industry groups argued that the program was overly broad. The Trump administration is working on a narrower replacement version. In the meantime, the Obama rule remains in place in 22 states. (Not Montana)

"Only an order vacating the 2015 WOTUS Rule, preventing its enforcement nationwide, will fully address their ongoing injuries," the industry groups told the court.

Reminder: Public Meeting Schedule for Draft Custer Gallatin EIS

Source: U.S. Forest Service

As a reminder, the Forest Service released the draft Environmental Impact Statement for revising the Gallatin Custer Forest Plan on March 1. The public comment period runs until June 5, 2019. Following the Draft Environmental Impact Statement, comments will be reviewed, changes may occur and a final environmental impact statement is expected early 2020.

To learn more about the document or the forest planning process, those interested have the option of attending one of the upcoming public meetings. Those are set for:

April 3 – Bozeman, MT from 6:30 p.m. to 8:00 p.m. at Hilton Garden Inn

April 4 – West Yellowstone, MT from 5:30 p.m. – 7:30 p.m. at West Yellowstone Chamber of Commerce (30 Yellowstone Ave.)

April 8 – Ashland, MT from 5:30 p.m. to 7:00 p.m. at TRECO (Tongue River Electric Cooperative, (2435 Hwy 212, Ashland, MT)

April 9 – Camp Crook, SD - from 5:30 p.m. to 7:30 p.m. at Camp Crook Community Center (203 Main Street, Camp Crook, SD)

April 10 – Billings, MT – from 6:30 p.m. – 8:00 p.m. at Bighorn Resort Broso/Bighorn Rooms (1801 Majestic Lane, Billings, MT)

April 11 – Red Lodge, MT from 5:30 p.m. – 7:30 p.m. Roosevelt Center Community Room (519 S. Broadway Ave, Red Lodge, MT)

April 22 – Big Timber, MT from 10:30 a.m. – 12:00 p.m. at the Sweet Grass County Extension Office (515 Hooper Street, Big Timber, MT)

April 22 – Livingston, MT from 5:30 p.m. at the Yellowstone Pioneer Lodge (1515 W. Park Street, Livingston, MT)

April 23 – Cooke City, MT from 10:30 a.m. – 12:00 p.m. at the Cooke City Chamber of Commerce Community Room (206 W Main Street, Cooke City, MT)

April 23 – Gardiner, MT from 5:30 p.m. - 7:00 p.m. at the Gardiner Community Center (209 W. Main Street, Gardiner, MT)

Forest plans lay the groundwork for future management decisions that address uses of the forest including motorized recreation access, timber harvest, and grazing leases. Public input is critical and TSRA members are encouraged to take a look at the document and offer their comments.

If you have questions about the revision process, call Mariah at 406-587-6735 or email <mailto:cgplanrevision@fs.fed.us>

Montana DEQ Recommends the Board of Environmental Review Not Proceed with Rules to Change Groundwater Standards for Iron and Manganese

At the March 19 hearing on MAR Notice No. 17-403, the Montana Department of Environmental Quality made a recommendation that the Board of Environmental Review not proceed with proposed changes to the groundwater standards for iron and manganese. DEQ noted internal differences in the manner in which changes would be implemented needed to be resolved before proceeding. The proposed changes for diallate; dioxane, 1,4-; perfluorooctane sulfonate (PFOS); and perfluorooctanoic acid (PFOA) will be considered by the BER at a subsequent meeting. BER will also have to act on DEQ's recommendation regarding iron and manganese.

The Montana Petroleum Association and TSRA supported the recommendation at the hearing and jointly submitted written comments opposing the proposed changes by the March 25 deadline. We included a letter from toxicologist Rosalind A. Schoof, PhD, DABT, Fellow ATS who stated:

The need for these criteria is not clear considering that the U.S. Environmental Protection Agency (EPA) currently has regional screening levels (RSLs) for both iron and manganese in drinking water that could be relied upon by DEQ to guide remedial activities.

There is also a negligible likelihood that either metal in drinking water will pose any health risks because both metals make water virtually unpalatable at concentrations far below those that cause toxicity. Both iron and manganese are required human nutrients, with generally low toxicity when ingested. An understanding of the essentiality and toxicity for both metals was developed based on human studies. Thus, any standards need to be carefully crafted to protect both against deficiency and toxicity and considering the knowledge that has already been gained from human chronic ingestion.

Due to the lack of potability of elevated concentrations of these two metals, combined with the availability of screening levels to guide remedial activities, it is neither necessary nor advisable for DEQ to issue new groundwater criteria for iron and manganese at this time."

Upcoming Events/Dates

May 14-15, 2019	Montana Mining Association, Fairmont Hot Springs Resort
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

August 27-29, 2019

Montana Petroleum Association Annual Meeting
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.