



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS

June, 2020

Conservation Groups Sue Over Black Butte Copper Mine

Source: Bozeman Daily Chronicle June 4, 2020 By: Shaylee Ragar

Conservation groups have filed a lawsuit against the state of Montana challenging a permit that was granted for the development of a controversial copper mine north of White Sulphur Springs last month.

The Montana Department of Environmental Quality approved plans in April for the Black Butte Copper Project. The suit filed Thursday by nonprofit law firm Earthjustice argues that DEQ failed to do its due diligence before endorsing the project, saying the state agency did not conduct thorough environmental analysis at the site, among other things.

Trout Unlimited, Montana Trout Unlimited, Montana Environmental Information Center, Earthworks, and American Rivers are named as plaintiffs in the suit against DEQ.

When DEQ granted Tintina Montana Inc. the necessary operating permits for the project, they were touted as the “most stringent ever issued” for a hardrock mine, the Associated Press reported. The underground mine is expected to be operational for about 13 years and create 240 jobs.

Tintina, a subsidiary of the Australian company Sandfire Resources, first applied for a mining permit five years ago.

In issuing the necessary permits, DEQ is requiring Tintina to augment and supplement water flows affected by the operation, monitor water quality, take steps to prevent nitrogen levels from rising and to store waste in a double-lined, cemented tailings facility, among other stipulations meant to safeguard the river.

Nancy Schlepp, spokesperson for Sandfire Resources America, said ... that the company is disappointed but not surprised that the lawsuit was filed. She said DEQ was “extremely thorough” in evaluating the permit application and adopting changes to “strengthen” it over the last four years.

“The Montana DEQ found that all environmental issues have been addressed and that this permit can be granted knowing that the environment which we all value and care for is protected,” Schlepp said.

HJ 35 Committee Requests Drafts for Review in July

Source: Montana Legislative Council By: Megan Moore

The HJ 35 Tax Study Committee, a subcommittee of the Revenue Interim Committee, continued its study of the state and local tax system in a video meeting of May 13.

The committee concluded the information collection phase of the property tax topic and asked staff to draft two bills for review and discussion at the next meeting. One bill will change the inflation factor used to determine the maximum mill levy from one-half of the rate of inflation over the previous 3 years to the full rate of inflation over the same period. The other draft is a property tax circuit breaker to provide property tax relief. Staff will present a generic bill draft of a circuit breaker and options for setting the amount of property tax relief.

Discussions of the individual income tax also resulted in requests for two bill drafts. One idea is to use individual income tax collections that exceed prior collections plus inflation for infrastructure. The other draft will review the way the capital gains tax credit is calculated.

The committee requested additional information on the following individual income tax and corporate income tax topics: revisions to the minimum corporate income tax, how to address the tax gap for pass-throughs, the effect in Montana of changes to net operating loss carrybacks in the CARES Act, analysis of a gross-receipts tax, and information on the amount of tip income reported on Montana income tax returns.

Committee members also identified areas of interest for the final two tax topics included in the study plan: sales tax and natural resource taxes.

The Revenue Interim Committee and the HJ 35 Committee will meeting next on July 20-21.

Environmental Quality Council Supports Landfill Rules; Proposes Wildlife Location Bill

Source: Montana Legislative Services Division By: Joe Kolman

The Environmental Quality Council withdrew its objection to proposed rules governing the disposal of radioactive waste in Montana landfills at its May meeting.

The Department of Environmental Quality wrote rules regulating technology enhanced naturally occurring radioactive material, (TNORM) which can be produced by oil and gas development. The EQC objected to an amendment to lower the radionuclide concentration limit for acceptance in landfills.

With the withdrawal, the agency may move forward with enacting the amended rule.

The council also advanced a proposed bill that clarifies how the Department of Fish, Wildlife, and Parks releases public information that may identify sensitive fish and wildlife locations. The proposal allows the department to release data at a scale that protects fish and wildlife. A request for specific location data will be fulfilled but the agency will inform the requestor that misuse of the data to kill or harass fish or wildlife may be a crime.

As part of the work on federal Wilderness Study Areas, the EQC heard presentations about resources in those areas including minerals and timber as well as reports on wilderness characteristics. At its next meeting, the council is inviting members of the state congressional delegation to speak about how to move forward with permanent designation for those areas as either wilderness or as a less restricted part of the National Forest System.

Presenters also told the EQC about the latest research on chronic wasting disease, the upcoming fire and water supply outlooks, and the launching of inspectors for aquatic invasive species.

Sage Grouse Oversight Team Meeting June 9

Source: Montana Sage Grouse Program

The Montana Sage Grouse Oversight Team (MSGOT) will meet via Zoom videoconference on Tuesday, June 9. The video conference runs from 9:00 – 11:30 a.m.

MSGOT members will consider whether to accept mitigation funds associated with a coal mine permit revision. (Spring Creek) Members will also consider a proposed modification to mitigation policy applicable to development projects utilizing trenchless implementation methods. The proposed policy modification was developed in collaboration with stakeholders over several months and is responsive to legislation passed during the 2019 legislative

session. Lastly, MSGOT will hear an update from the Montana Board of Oil and Gas Conservation concerning implementation of SB 299 from the 2019 Session.

All meeting materials are available on MSGOT's meeting web page.

See <https://sagegrouse.mt.gov/Team>. Under the Meeting Archive on the right side of your screen, see the Agenda and Notes links for June 9, 2020. Agenda items are approximate, and actual times may vary.

This meeting is open to the public. Members of the public who wish to participate may join the meeting by emailing your name and a request to csime2@mt.gov. You will be sent a calendar invite with instructions for joining and participating by 5:00 p.m. the day before the video conference. Participation links assigned by Zoom and forwarded to interested members of the public are unique to the individual participant.

Opportunities for oral public comment are included on the agenda. At that time, members of the public who have joined may "raise their hand" and provide comment after being recognized by the Chair or the Zoom meeting manager. Comments will be taken in order.

Local Government Interim Committee Meets – Requests Bill Drafts

Source: Montana Legislative Services Division By: Toni Henneman

After the cancellation of its March meeting, the LGIC discussed a full slate of topics on May 14. The committee requested draft legislation on the following topics:

- Increase funding for the Montana State University Local Government Center;
- Create more effective data collection processes for local governments to allow for better data analysis in the future;
- Require the Department of Environmental Quality to approve experimental on-site wastewater systems;
- Create the option for fire departments and districts to create fire protection authorities (similar to [SB17](#) from the 2019 session); and
- Provide for workforce housing tax credits (similar to [SB18](#) from the 2019 session).

Additionally, the committee chose to continue analyzing the following topics:

- Determine if adequate oversight procedures exist to ensure the effective operation of elected and appointed special district boards; and
- Determine if the low-income and medium-income housing loan program created by [HB16](#) in 2019 is worthy of reauthorization for the next biennium.

The committee also received multiple updates related to the COVID-19 emergency. Representatives from the Montana Association of Counties and the Montana League of Cities and Towns reviewed the actions of local governments during the emergency and discussed some

of the unique challenges that local governments face. The Director of Commerce described the work of the Coronavirus Relief Fund Advisory Council and discussed the multiple grant programs recently established to combat the economic challenges of citizens and businesses.

To continue its work on [SJ3: study of optional septic drain fields](#), the committee received updates on the Subdivision Development Advisory Council and the Department of Environmental Quality's continued work on a comprehensive rule update currently underway.

The LGIC will meet July 14 & 15 to review bill drafts and continue its study topics. Draft legislation will be available on the committee website as it becomes available, and those who wish to submit comment to committee staff are encouraged to do so.

Energy and Telecommunications Committee (ETIC) Meets

ETIC met via Zoom on May 21st, seeking to catch up on their work for the interim.

The Committee took a closer look at the Montana Consumer Council. The Council reviews every filing with the Montana Public Service Commission with the exception of transportation. They are charged with monitoring regulated utilities, with a focus on consumer economics. Some are interested in identifying options for increased consumer advocacy within the PSC.

ETIC heard reports from representatives of regulated utilities, Montana electric co-ops and telecommunications providers about efforts to maintain operations within safety guidelines for preventing the spread of COVID-19.

NorthWestern Energy reported they had provided nearly \$400,000 for charitable giving during the crisis, while MDU noted they had also made a \$500,000 contribution to 24 states, which supported 204 organizations. \$70,000 went directly to Montana. Both utilities have suspended all disconnection activities and late payment fees.

ETIC will next meet on July 15-16th. They are expected to review bill drafts concerning electric vehicle charging stations, a measure to create a consumer advocacy committee with the Montana PSC, and a bill to remove a sunset from the E-rate program for school broadband to obtain future matching dollars. The latter was requested by Superintendent of Public Instruction Elsie Arntzen.

Further discussion is anticipated regarding ongoing right-of-way issues between the Montana Telecommunications Association and BNSF, though some members of ETIC have expressed interest in moving forward with a legislative solution.

Board of Environmental Review Gives Green Light for Rulemaking to Adopt Non-Anthropogenic Standards for Arsenic in the Yellowstone River

On April 17, 2020, the Board of Environmental Review (board) initiated rulemaking on a proposed rule (NEW RULE I) which addresses nonanthropogenic and natural water quality standards, including site-specific arsenic standards for segments of the Yellowstone River. The Department sent you an e-mail regarding this rulemaking on April 30, 2020. The e-mail provided instructions on how to attend the public hearing on the rule (scheduled for June 17, 2020) remotely, or in person at the Metcalf Building in Helena. Due to health concerns involving the coronavirus COVID-19, the public hearing will no longer have an in-person location and will be held entirely remotely. Information on how to attend remotely is available on our website: <http://deq.mt.gov/water/Surfacewater/standards>, and in the amended MAR notice attached to this e-mail.

State law grants the board authority to adopt nonanthropogenic water quality standards when the otherwise applicable standards are more stringent than the nonanthropogenic condition of the waterbody (75-5-222(1), MCA). In such cases, the nonanthropogenic condition is the standard. NEW RULE I establishes a framework for adopting water quality standards which are based on natural or nonanthropogenic conditions, and also establishes nonanthropogenic-based arsenic standards for segments of the Yellowstone River. Natural or nonanthropogenic water quality standards are established because natural or nonanthropogenic effects on the landscape have resulted in concentrations in state surface waters that naturally exceed the otherwise applicable state water quality standards.

You are invited to submit data, views, or arguments concerning NEW RULE I either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Sandy Scherer, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov ; no later than 5:00 pm on June 19, 2020.

The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer no later than 5:00 p.m., June 10, 2020, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov.

- [17-412amdpro-arm.pdf](#)

Comment Period for MT DEQ's Triennial Review of Water Quality Standards Concludes June 10, 2020 – BER Hearing also June 10th

In a letter dated April 16, 2020, the Montana Department of Environmental Quality updated the date of the public hearing associated with the opening of Montana's water quality standards for public comment to June 10, 2020. The update letter gave options for attending this meeting remotely or in person at the Metcalf Building in Helena. Due to health concerns involving COVID-19, the public hearing will no longer have an in-person location and will be held entirely remotely.

Information on how to attend remotely is available on our website:

<http://deq.mt.gov/water/Surfacewater/standards>.

For your convenience the information from the original letter is provided below:

The Montana Water Quality Act and the Federal Clean Water Act require that the State of Montana review and, as appropriate, adopt new or revised water quality standards at least every three years. Federal regulations require that the Department open water quality standards for a public comment period of 60 days, as well as hold a public hearing. On February 12, 2020 Montana opened water quality standards for public review, which will end on June 10, 2020. Furthermore, on June 10, 2020, the Board of Environmental Review (Board) will hold a public hearing at 1:00 PM. The purpose of the public comment period and hearing is for the Board to solicit comments from all interested persons regarding potential revision to any aspect of Montana's water quality standards. Comments should identify the water quality standard at issue, any suggested revision to the standard, and the basis for the suggested revision, including technical information. Montana's water quality standards include the Administrative Rules of Montana Title 17, Chapter 30, subchapters 5 (mixing zones), 6 (water quality standards), 7 (nondegradation), and 10 (groundwater protection), and Department Circulars DEQ-7.

You are invited to submit data, views, or arguments concerning water quality standards at the hearing. Written data, views, or arguments may be submitted to: William Howard George, Department of Environmental Quality, P.O. Box 200901, Helena, Montana, 59620-0901; telephone (406) 444-6491; or email: : <mailto:William.George@mt.gov>; no later than 5:00 pm on June 10, 2020. The Board will make reasonable accommodations for individuals with disabilities who wish to participate in this hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Environmental Quality no later than 5:00 p.m. on May 15, 2020, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; telephone (406) 444-2630; fax (406) 444-6836; or e-mail sscherer@mt.gov.

Governor Bullock's Grizzly Bear Advisory Committee Seeks Input

The citizen advisory committee appointed by Governor Bullock to offer recommendations about the management of grizzly bears continues its work, despite having to cancel on-site meetings in the most directly affected communities.

They are looking for input from the public on their perspective on management options. Some participants have stressed the importance of delisting the bear and giving the state more flexibility in managing populations, including hunting. Another area of concern is increasing regulatory restrictions in connectivity corridors that could impact recreation and other management activities. If you'd like to weigh in on this important issue, please click on the following link:

<http://fwp.mt.gov/fishAndWildlife/management/grizzlyBear/gbacComments.html>

Be Sure This Date Is on Your Calendar: TSRA Annual Meeting at the DoubleTree Hotel in Billings on September 2-3, 2020

TSRA's 2020 Annual Meeting was moved from June 17-18 to **September 2-3, 2020** at the DoubleTree Hotel in Billings, Montana. This will immediately follow the Montana Petroleum Association Annual Meeting. Events kick off with the TSRA Golf Scramble on Wednesday. The "official" annual meeting will take place Thursday morning, September 3rd followed by a program featuring timely topics of interest to our membership. Watch for registration information at a later date.

We would like to thank our growing list of Early Bird Sponsors for the Annual Meeting who make it possible to plan ahead for these events. To date, they are:

Trailblazer: BNSF, MDU Resources and NorthWestern Energy

Champion: Browning, Kaleczyc, Berry and Hoven, Crowley Fleck, Hecla Montana, and The Washington Companies

Advocate: Ash Grove Cement, Enbridge Energy, Energy Laboratories, Great Northern Properties, Montana Independent Bankers' Association, Phillips66, Sandfire Black Butte, and Solvay, Inc.

Groundbreaker Golf: IBEW Local 44, and Solvay, Inc.

Upcoming Events/Dates:

June 9, 2020 Montana Sage Grouse Oversight Team
Meeting via Zoom (see details above)

June 17, 2020	State Administration Interim Committee State Capitol, Helena, MT
July 13-14, 2020	Water Policy Interim Committee State Capitol, Helena, MT
July 14, 2020	Local Government Interim Committee State Capitol, Helena, MT
July 15, 2020	Energy and Telecommunications Committee State Capitol, Helena, MT
July 20-21, 2020	Revenue Interim Committee State Capitol, Helena, MT
July 29-30, 2020	Environmental Quality Council State Capitol, Helena, MT
August 25, 2020	State Administration Interim Committee State Capitol, Helena, MT
August 25-26, 2020	Montana Mining Association Annual Meeting Fairmont Hot Springs Resort
August 31-September 2, 2020	Montana Petroleum Association Annual Meeting DoubleTree Hotel, Billings, MT
September 2-3, 2020	TSRA Annual Meeting DoubleTree Hotel, Billings, MT (New Date)
September 8, 2020	Energy and Telecommunications Committee State Capitol, Helena, MT
September 9, 2020	Local Government Interim Committee State Capitol, Helena, MT
September 9-10, 2020	Environmental Quality Council State Capitol, Helena, MT
September 10-11, 2020	Montana Wood Products Association Annual Meeting

September 11, 2020	Revenue Interim Committee State Capitol, Helena, MT
September 14-15, 2020	Water Policy Interim Committee State Capitol, Helena, MT
October 29, 2020	State Administration Interim Committee State Capitol, Helena, MT
November 18-20, 2020	Legislator Caucus & Orientation State Capitol, Helena, MT
November 19, 2020	Revenue Interim Committee State Capitol, Helena, MT
January 4, 2021	Start of 67 th Legislative Session (12 Noon) State Capitol, Helena

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.