



# TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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## TREASURE STATE RESOURCES ASSOCIATION NEWS June, 2021

### **Still Time to Register for TSRA Annual Meeting June 16-17th**

It's not too late to register for TSRA's 2021 Annual Meeting scheduled for June 16-17<sup>th</sup> at the DoubleTree Hilton Hotel in Billings. But don't delay. A current agenda and registration forms can be found on the TSRA website at [treasurestateresources.org](https://treasurestateresources.org) Just click on "Events" to find the information.

Activities begin with the traditional 4-person golf scramble on the afternoon of June 16<sup>th</sup> with the first tee time at 1:00 pm. A box lunch will be included. We'll be playing at the Pryor Creek Golf Course at Huntley, MT on their private course - the Elmer Link Course. That's just a short drive east from Billings with easy access to the interstate.

We are extremely pleased that **Montana's Lt. Governor Kristen Juras** will be our featured luncheon speaker on Thursday to share the Gianforte Administration's plans for the "Red Tape Relief Task Force" that will be looking at ways to reduce unnecessary and costly regulations. The Directors of Montana's lead regulatory agencies will be on hand to talk about plans for making changes that will aid in Montana's "Come Back Plan", with specific attention to such concerns as managing sage grouse and implementing a new nutrient regulatory program. We're also fortunate to have highly-respected water quality attorney Lisa Kirschner (Parsons Behle & Latimer) share her perspective on what changes might be coming from the Biden Administration as well in the courts. And since we're in the neighborhood, attendees will learn more about the Sibanye-Stillwater Mine.

To wrap up, Susan Fox, Executive Director of the Legislative Services Division is going to share some thoughts about a “Post COVID” legislative process and what we can expect for the upcoming interim.

The hotel room block has been extended through Friday, June 4<sup>th</sup> but availability is limited. Please contact the hotel to make a reservation by calling: 406-238-4306. Be sure to let them the Group Code is TSR.

## **Thank you to our Meeting Sponsors**

TSRA appreciates all the sponsors who help make our annual meeting program possible. To date our Sponsors include:

**Trailblazer:** BNSF, MDU Resources, and NorthWestern Energy

**Champion:** Browning, Kaleczyc, Berry & Hoven, Crowley Fleck, Enbridge Energy, Hecla Montana, NextEra Energy, The Washington Companies, and Weyerhaeuser

**Advocate:** ABS Legal, Ash Grove Cement, Denbury Resources, Energy Laboratories, Great Northern Properties, IBEW #44, Montana Coal Council, Montana Independent Bankers Association, Parsons, Behle & Latimer, Phillips 66, Portland General Electric and Sandfire Black Butte

**Groundbreaker Golf:** Citizens for Balanced Use and Great Northern Properties

**Supporter:** Galt Government Affairs, Ken Morrison, Melissa Lewis & Associates and Stoltze Land & Lumber Co.

## **Interim Legislative Committees Poised to Begin Work**

The 2021 Legislative Session may have adjourned, but coming up in June we’ll see the various Interim Committees launch into their work plans for the next 18 months. Interim Committees have some oversight responsibilities over various state agencies. Those are usually exercised by hearing status reports on programs, as well as tracking any rulemaking proposals. Committees also carry out studies that result from specific study bills or study resolutions that are passed by the Legislature. Six study bills (conducted as written) and 28 resolutions were approved. Study resolutions are ranked by polling all legislators to set priorities and then are assigned to the appropriate committee by the Legislative Council. The top ranked study resolution is HJ 36, a study on residential property taxes. That will be carried out by the Revenue Interim Committee (RIC). Some study efforts will be minimal depending on their nature and the priority ranking.

Of potential interest to TSRA members are: HJ 06, a study of a natural resources trust fund (will look at what is happening to coal revenues) assigned to RIC; SJ 33, a study of Montana's grid capacity that was assigned to the Energy and Telecommunications Interim Committee (ETIC); SJ 03, a study of advanced nuclear reactors that was also assigned to ETIC; and HJ 37, a study of the Lake Kooconusa selenium standard that was assigned to the Water Policy Interim Committee.

Committees may also identify study topics that are suggested by individual members or the general public. Studies may result in "committee bills" that will advance to the 2023 Legislature.

Information about Interim Committee membership, meeting dates, and other information can be found on the legislature's website at: <https://leg.mt.gov/>

## **National Mining Association Urges Backing for Bipartisan Endless Frontier Act Support of Domestic Mining**

Source: National Mining Association Press Release, May 13, 2021

The National Mining Association (NMA) applauds the passage out of the Committee of the bipartisan Endless Frontier Act, which acknowledges the important role that domestic minerals mining plays in U.S. national security and economic competitiveness.

"Virtually every supply chain begins with the products of mining," said Rich Nolan, NMA President and CEO. "From defense to manufacturing, energy to technology, the U.S. is finally waking up to the fact that we must ensure that made-in-America is also mined-in-America if we want both a full and robust economic recovery today and supply chain stability and predictability for the future. Our industry offers high-paying jobs that can be the building blocks of U.S. technological leadership if the right policies are put in place to support growth and economic recovery. This legislation offers bipartisan solutions that will help us more effectively use our domestic resources and reduce our overreliance on imports for the minerals – many of which are controlled by China – that we could instead be sourcing here at home, and doing so with American jobs."

*Editors Note: To follow from the national recognition of the need for domestic minerals mining, Montana continues to play an important role in providing resources needed to support a growing economy. We're looking forward to hearing about the Sibanye Stillwater Mine at our upcoming annual meeting. Meanwhile, progress continues on developing other mining operations in Montana. Read on...*

## **Sandfire's Copper Mine Plan**

Source: Rob Scargill, CEO of Sandfire Resources American, Inc.

The greening of the global energy economy promises increasing demand for copper and a robust economic future for Black Butte Copper (BBC). The U.S. Government Accountability Office notes

that copper is one of the minerals that “plays an important role in the U.S. economy, contributing to multiple industries, including transportation, defense, aerospace, electronics, energy, agriculture, construction and health care.” Copper, also vital for renewable energy, including wind, solar and electric vehicles, will play an essential role within President Biden’s plans for renewable energy and net-zero emissions.

To meet this demand, BBC has worked diligently with our community, building a model for Montanans to prosper during mine operations and after reclamation for generations to come. Our plan utilizes Montana expertise, modern mining techniques, and international specialists earning us the support of the majority of Montanans. Here’s how:

### **Environmental Protection**

Since BBC is the first copper mine in Montana since 1978, it is wholly permitted under Montana’s significantly revised and strengthened statutes, including the Metal Mines Reclamation Act, the Water Quality Act, and the Montana Environmental Policy Act. Our permit contains input from an all-Montana independent 3<sup>rd</sup> party expert team including hydrologists, metallurgists, geochemists, geologists, engineers, biologists, botanists, archeologists, and reclamation specialists.

All mine water used in our mine facilities and processes will be recycled and reused resulting in the entire mine site being a “zero-discharge” facility. Underground water bypassing any beneficial use will be returned to the groundwater system at 3.5 times better than drinking water standards by a treatment called Dual-Phase Reverse Osmosis.

To ensure historic Sheep Creek flows during operation, mitigation surface water is leased from irrigators for in-stream flow, thus protecting Sheep Creek and the Smith River some 19 stream miles away. Additional mitigation innovation includes rotating irrigation fields to keep all land in production after mine closure. This mitigation plan has preliminary approval by the Montana Department of Resources and Conservation.

Our permit embraces innovation by using cemented tailings for both underground and surface disposal (tailings is the finely ground rock left after copper is removed). All tailings are filtered and dewatered before cement is added with approximately half of the cemented tails placed back underground. The remaining tailings will be deposited in a double-lined Cemented Tailings Facility (CTF) designed by one of the best tailings impoundment engineers worldwide and reviewed by an Independent Review Panel of three expert tailings impoundment engineers.

Our robust CTF model is arguably the best-known approach for managing tailings worldwide resulting in a state-of-the-art “zero failure” facility, industry leaders, including the United

National Dam Commission, recognize the benefits of zero-failure designs and request and industry-wide movement to this approach.

Once we have finished mining, we will reclaim all of the mine site and return it to its current use as ranching land. Under our permit we are required at the start of mining to place a bond amount with the Montana Department of Environmental Quality that will cover the full cost of mine site rehabilitation and reclamation.

### **Economic Opportunity**

When in production, BBC will employ a workforce of approximately 235 and 24 contractors at an average wage of \$70K plus benefits. To protect the community, Montana's Hard Rock Mining Impact Act requires pre-mitigation of social and economic impacts of mining to the community. Future tax allocations will also greatly benefit Meagher Co., White Sulphur Springs, School District #8 and the State of Montana.

### **Social Conscience**

Creating a plan past mine life that benefits our community is a BBC priority. We've worked diligently with diverse community leaders and regional stakeholders who both support and oppose the project to create the Meagher County Stewardship Council (MCSC) as a mine oversight organization. The MCSC operates independently, ensuring we are held accountable. We greatly appreciate the members of the MCSC who dedicate countless volunteer hours and are currently working toward a Community Benefits Agreement.

### **Open Door Policy**

We welcome visitors and encourage the public to ask hard questions. Please feel free to stop by the office in White Sulphur Springs or visit our website at [www.blackbuttecopper.com](http://www.blackbuttecopper.com).

## **Hecla Mining Company Continues Laying Groundwork for Rock Creek and Montanore Projects Near Libby, MT**

While not as far along in the process as Black Butte, Hecla Mining representatives report they are hard at work tackling the various legal and environmental issues that are part of developing a modern mining project. Similar to real estate, it's about "location, location, location"; and in the case of the Helca projects the close proximity of the Cabinet Mountains Wilderness Area and concerns about grizzly bear populations offer their unique challenges.

## **Nutrient Work Group Begins Rulemaking Effort to Implement SB 358**

The 2021 Montana Legislature passed SB 358 that transitions Montana from applying numeric nutrient water quality standards to narrative standards utilizing an adaptive management process. The bill became law on April 30, 2021. The new law requires the Montana Department of Environmental Quality to repeal existing rules and adopt new rules related to the implementation of its narrative standards by March 1, 2022. The Montana Petroleum Association, Montana Mining Association, Montana League of Cities and Towns, and TSRA brought the legislation and worked with Senator John Esp (Big Timber) to get the measure through the process and earn the Governor's signature.

DEQ has created a formal Nutrient Work Group made up of representatives of various stakeholder interests to act in an advisory role as they determine how to implement the standards. The group met for its first meeting on May 27<sup>th</sup> and laid the groundwork for an aggressive work schedule in order to have draft rules completed by early November. That will be followed by the normal MAPA rulemaking process that generally takes several months and provides for public comment. In the remaining five meetings the group will delve into the details of what an adaptive management program will look like and particularly how it will be integrated with ongoing TMDL efforts.

Four TSRA members are serving on the work group: Alan Olson, MT Petroleum Association; Tammy Johnson, Montana Mining Association; Jay Bodner, Montana Stockgrowers Association; and John Youngberg, Montana Farm Bureau Federation. They will be working with their respective industries, as well as others to share information and gather feedback for DEQ. TSRA looks forward to assisting them in those efforts.

Meetings are open to the public. To find out more information about the Work Group's schedule and other materials, go to: <https://deq.mt.gov/Water/Resources/nutrientworkgroup>

## **Update on BLM Greater Sage-Grouse Plans**

Source: Bureau of Land Management, May 11, 2021

In the coming months, the Bureau of Land Management will begin to review updates to the 2015 land management plans that were designed to support a healthy sagebrush ecosystem and populations of the greater sage-grouse that rely on it. Changes made to the plans by the previous Administration have been enjoined by courts.

The BLM has also confirmed that it will comply with a court order to begin re-consideration of whether a withdrawal from mineral location and entry, which could potentially limit hardrock mining in Sagebrush Focal Areas, is necessary for the conservation of the greater sage-grouse.

The BLM will coordinate with the U.S. Geological Survey, U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service to assess the best available science and what actions are needed to conserve sage-grouse and sagebrush. The planning process and the evaluation of whether or not a mineral withdrawal is needed for sage-grouse conservation will be grounded in science and robust engagement. The Department will work closely with the states, local governments, Indian Tribes, and many stakeholders who have worked in a collaborative and bipartisan fashion for more than a decade toward sustainable and balanced land management of sagebrush habitat for the greater sage-grouse and the hundreds of other species that rely on it.

### **Additional Background**

In 2015, the FWS found that listing the greater sage-grouse under the Endangered Species Act was “not warranted” because the primary threats to the species had been ameliorated by conservation efforts implemented by federal, state, and private landowners. Those efforts included measures intended to conserve, enhance, and restore the sagebrush ecosystem across the West adopted by the U.S. Forest Service and the BLM in their land management plans, including a recommendation to withdraw Sagebrush Focal Areas, which are areas considered essential for the long-term health of the sage grouse, from mineral location and entry.

In 2017, the Trump administration canceled evaluation of withdrawal of up to 10 million acres of federal lands in the West from mining without completing an environmental review of the action. In February 2021, a U.S. District Judge vacated the Trump administration’s action and ordered the BLM to consider whether or not a mineral withdrawal is needed for sage grouse conservation, including direction to re-initiate the NEPA process. On May 10, the BLM filed a status report with the court, confirming it will comply with the court’s order.

### **Governor Gianforte Signs Fiscally Conservative Budget**

Source: Office of the Governor, May 20, 2021

HELENA, Mont. – Delivering on his promise to hold the line on new state spending and provide Montanans with broad-based tax relief, Governor Greg Gianforte signed into law a fiscally conservative, pro-jobs budget.

“This budget lays out the roadmap to our Montana comeback, and will help unlock our state’s full, outstanding potential,” Gov. Gianforte said. “After more than a decade of out-of-control spending in Helena, we’re committed to being better stewards of taxpayer money, and our responsible budget brings much-needed fiscal restraint to state government.”

First introduced by the Governor on January 7, the budget cuts hardworking Montanans' taxes by over \$60 million per year, and cuts \$145 million in spending.

The budget also fulfills many policy priorities outlined in the Governor's Montana Comeback Plan, including investing \$1 million per year in trades education and \$2.5 million per year in incentives to increase starting teacher pay.

Importantly, the budget makes an historic investment in combating the drug epidemic through the HEART Fund. The program invests \$25 million per year, using marijuana tax revenues, a portion of the tobacco tax settlement, and a federal Medicaid match, in community substance abuse prevention and treatment programs.

## **Tax Bills Signed Into Law**

Governor Gianforte has also signed two other proposals identified as priorities early in the session. SE 159 cuts the state's top income tax rate from 6.9% to 6.75%. It will be in place until 2024. Then SB 399 introduced by Sen. Greg Hertz comes into play, creating two tax brackets at 4.75% and 6.5% and eliminating many tax credits.

The Governor's other priority tax bill, HB 303, raises the exemption on the business equipment tax from \$100,00 to \$300,000. Both measures are aimed at attracting more business investment in the state.

The three bills include contingency clauses that would stop their implementation if they put the state's share of money from the American Rescue Plan at risk.

## **President Biden Announces 30 x 30 "America the Beautiful" Plan**

Source: Department of Interior Press Release, Thursday, May 6, 2021

**WASHINGTON, D.C.** — On May 6<sup>th</sup>, the Biden-Harris administration outlined a vision for how the United States can work collaboratively to conserve and restore the lands, waters, and wildlife that support and sustain the nation. The recommendations are contained in outlining a locally led and voluntary nationwide conservation goal to conserve 30 percent of U.S. lands and waters by 2030.

The report calls for a decade-long effort to support locally led and voluntary conservation and restoration efforts across public, private, and Tribal lands and waters in order to create jobs and strengthen the economy's foundation; tackle the climate and nature crises; and address inequitable access to the outdoors.

The report, submitted to the National Climate Task Force, was developed by the U.S. Departments of the Interior, Agriculture and Commerce, and the White House Council on



Environmental Quality. It outlines eight principles that should guide the nationwide effort, including a pursuit of collaborative approaches; a commitment to supporting the voluntary conservation efforts of farmers, ranchers, and fishers; and honoring of Tribal sovereignty and private property rights.

“The President’s challenge is a call to action to support locally led conservation and restoration efforts of all kinds and all over America, wherever communities wish to safeguard the lands and waters they know and love,” write Interior Secretary Deb Haaland, Agriculture Secretary Tom Vilsack, Commerce Secretary Gina Raimondo, and White House Council on Environmental Quality Chair Brenda Mallory in the report. “Doing so will not only protect our lands and waters but also boost our economy and support jobs nationwide.”

Based on feedback gathered in the Administration’s first 100 days, the report identifies six priority areas for the administration’s early focus, investments, and collaboration:

- Creating more parks and safe outdoor opportunities in nature-deprived communities.
- Supporting Tribally led conservation and restoration priorities.
- Expanding collaborative conservation of fish and wildlife habitats and corridors.
- Increasing access for outdoor recreation.
- Incentivizing and rewarding the voluntary conservation efforts of fishers, ranchers, farmers, and forest owners.
- Creating jobs by investing in restoration and resilience projects and initiatives, including the Civilian Climate Corps.

“This report is only the starting point on the path to fulfilling the conservation vision that President Biden has outlined,” says the report. “Where this path leads over the next decade will be determined not by our agencies, but by the ideas and leadership of local communities. It is our job to listen, learn, and provide support along the way to help strengthen economies and pass on healthy lands, waters, and wildlife to the generations to come.”

*Editor’s Note: While the 30x30 Plan appears to recognize the important role private lands play in this effort, some wonder at what price? See next article.*

## **Will Biden’s 30x30 Plan Be a Repeat of History?**

Source: Elko Daily Free Press Guest Column, May 5, 2021 By: Karen Budd Falen

I remember my dad saying, “Those who do not know history are doomed to repeat it.” But before we get to the history lesson, consider this:

- Under the 30 X 30 Plan, President Biden wants to add an additional 440 million acres to the 67 million acres of land managed in its “natural state” to preserve biodiversity and combat climate change. The federal government owns 563 million acres already, but the

Biden Administration says only 12% of that land is managed in its “natural state” to protect us from the climate crisis.

- According to the Environmental Protection Agency, between livestock and crops, agriculture accounts for about 10.5% of all U.S. climate change emissions.
- The Biden Administration’s goal is to have net zero global emissions by mid-century.
- By 2030, the world’s human population will increase to 8.5 billion people.
- To feed all those people, the world needs farmers and ranchers. According to the American Farm Bureau Federation, the average American farm feeds 166 people, but with the increase in the world’s population, the world’s farmers will have to grow 70% more food than they did in 2019.

Now for the history lesson, anyone of driving age in 1974 — or who had a father who loudly complained when driving I-80 across Wyoming — remembers the 55 miles per hour speed limit. That was a time, based on the 1973 Arab Oil Crisis, that Congress mandated that States should “voluntarily” reduce their speed limits to 55 mph to lower gasoline consumption because the U.S. was not energy independent. The catch was that the receipt of federal highway funds was tied to the “voluntary” speed limit reduction. In other words, if a state reduced its speed limit to 55 mph, it would receive its share of federal highway funds; if a state didn’t comply, no federal highway funds would come its way. Most states complied and the few that didn’t, quickly took “voluntary” action once the checks stopped coming. The Supreme Court has ruled that the Congress can constitutionally use the power of the purse to “influence” decisions that are normally reserved to the States.

So why reminisce about the 55-mph speed limit when talking about Biden’s 30 X 30 Plan? It is because I worry about Biden’s requirement to “voluntarily” reduce agriculture’s carbon footprint by “us[ing] Department of Agriculture programs, funding, and financing capabilities, and other authorities, ... to encourage voluntary adoption of climate-smart agricultural and forestry practices.” Sec. 216 (b)(i).

This Administration is already making progress on its climate change goals. First, it has cancelled its federal oil and gas lease sales mandated under the Mineral Leasing Act, on the theory that perhaps wind and solar can replace oil, gas and coal as our energy source. I have not found a lot of affordable commercial all-electric tractors that could be used on farming or ranching operations today.

Second, the Department of Agriculture has just significantly increased its “payment rates and financial incentives” to convince landowners to enroll additional acres into the Conservation Reserve Program (CRP). While landowners have the right to do with their land what they want, I worry about paying agriculturalists not to produce.

Third, there are those advocating that USDA use its other “financial tools” such as federal crop insurance programs, farm payment programs and increasing collaboration with federally backed agriculture lenders to encourage “voluntary” climate smart agriculture (CSA). There are plusses and minuses with all CSA, but the landowner needs to be able to consider those without the federal government tipping the scales by “voluntarily” withholding certain payments or getting between a landowner and his ag lender if the landowner does not pick the program chosen by the federal government.

And I also wonder this? How are farmers and ranchers going to feed 8.5 billion people in 2030 if there is no American oil and gas for tractors, we are paying landowners not-to-produce or produce less, and multiple use on federal lands is curtailed or eliminated to reach the 30 X 30 Plan goals? And what I am really warning is that the history of the federal government’s “voluntary” 55 mph speed limit NOT be repeated today.

*About the author: Karen Budd –Falen is a Cheyenne, Wyoming attorney and private property rights advocate. Ms. Falen will be speaking at the Montana Stockgrowers’ Association MidYear Meeting in Lewistown on June 11<sup>th</sup>. Before returning to private practice, she spent two years as Deputy Solicitor for Wildlife and Parks in the Department of Interior during the Trump Administration.*

#### **Upcoming Events/Dates:**

June 16-17, 2021	TSRA Annual Meeting DoubleTree Hotel, Billings, MT
June 19-21, 2021	MT Stockgrowers Assn. Mid-Year Meeting Yogo Inn, Lewistown, MT
July 19-21, 2021	2021 Annual Coal Council Meeting Northern Hotel, Billings, MT
August 30 – September 1, 2021	Montana Petroleum Association DoubleTree Hotel, 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.*