



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS

July, 2021

Wishing you a Safe and Happy 4th of July!

Please enjoy a fireworks show that won't catch anything on fire. See below:

<https://www.youtube.com/watch?v=IY5GT2NGnjQ&list=RDCMUct8qFyujmbUj15bAveVhdCw&index=1>

Interim Legislative Committees Scheduled to Meet in July

Interim Committees of the Montana Legislature are starting to get organized in July, scheduling a series of initial meetings. As with the recently-concluded session, those interested can either testify in person or via Zoom with advance registration. Committees generally meet quarterly throughout the interim with a goal of wrapping up their work by the end of September, 2022.

By the way, here's a date to put on your calendar. The 2023 Legislative Session convenes on January 2nd. TSRA plans to hold our Legislative Showcase on Tuesday, January 3, 2023. There will be opportunities for booth or table displays, as well as general sponsorships. This is one of the most well-attended events of the legislative session and we look forward to your participation.

Transportation Interim Committee Starts Work July 12 at the Capitol

The Legislature's Transportation Interim Committee (TIC) will meet on Monday, July 12th starting at 9 a.m. in Room 137 of the State Capitol.

The committee will adopt rules, elect officers, review a draft work plan, and hear introductions from its assigned agencies before charting its path through the interim.

Legislative Council assigned TIC the following study:

- [HJ 10](#) - Study of Autonomous Vehicle use in Montana

Members of the public may attend and offer comment in person or may offer [public comment remotely](#) via Zoom. The public may also [submit written public comment](#) in advance of the meeting. Links for submitting written public comment, for signing up to testify remotely, and to access [meeting materials](#) are available on the committee's website at <https://leg.mt.gov/committees/interim/tic/>.

Senate members appointed to the committee are Duane Ankney, R-Colstrip; Mike Fox, D-Hays; Diane Sands, D-Missoula; and Gordon Vance, R-Belgrade.
House members appointed to the committee are Neil Duram, R-Eureka; Dave Fern, D-Whitefish

Local Government Interim Committee Meets July 13th

The Legislature's Local Government Interim Committee (LGIC) will meet for its first organizational meeting on Tuesday, July 13th starting at 9:30 a.m. in Room 137 of the State Capitol.

The committee will adopt rules, elect officers, and review a draft work plan before deciding how to allocate its time during the interim.

Legislative Council assigned the LGIC the following studies:

- [HJ 30](#) - Study of county water and/or sewer districts
- [SJ 13](#) - Study of prevailing wage laws
- [SJ 23](#) - Study on allowing public notice via certain electronic publications

Members of the public may attend and offer comment in person or may offer [public comment remotely](#) via Zoom. The public may also [submit written public comment](#) in advance of the meeting. Links for submitting written public comment, for signing up to testify remotely, and to access [meeting materials](#) are available on the committee's website at <https://leg.mt.gov/committees/interim/lgic/>.

Senate members appointed to the committee are Kenneth Bogner, R-Miles City; Ellie Boldman, D-Missoula; John Esp, R-Big Timber; and Mark Sweeney, D-Phillipsburg.

House members appointed to the committee are Larry Brewster, R-Billings; Geraldine Custer, R-Forsyth; Mary Ann Dunwell, D-East Helena; Dave Fern, D-Whitefish; Steve Gist, R-Great Falls; and Kathy Kelker, D-Billings.

Water Policy Interim Committee Launches Work July 14-15

The Water Policy Interim Committee(WPIC) has oversight of issues "where the primary concern is the quality or quantity of water."

The Committee's first meeting begins at 1 pm. on July 14 at the State Capitol in Helena and concludes the following day at noon. In addition to discussing their assigned studies and other responsibilities, WPIC will hear reports from several state agencies concerning water-related programs. Members will also get a look at what's happening with water rights adjudication and state drought conditions.

DEQ Deputy Director George Matheius will provide an update on the nutrient work group rulemaking process to implement SB 358, repeal of the numeric nutrient standards.

[Draft agenda](#)

Studies assigned to WPIC:

- Study of Lake Koocanusa selenium standard ([HJ37](#))
- Study of Flathead River erosion ([SJ28](#))

Senate members of the Committee are: Jill Cohenour, Shane Morigeau, Walt Sales, and Jeff Welborn. House members are: Willis Curdy, Robert Farris-Olsen, Tom France, Rhonda Knudsen, Marty Malone and Bob Phalen.

For more information about the meeting go to:

<https://leg.mt.gov/committees/interim/wpic/>

Revenue Interim Committee Organization Meeting Set for July 15 in Helena

The Legislature's Revenue Interim Committee will hold its first meeting of the interim on July 15, 2021. The meeting will be in Room 102 of the State Capitol in Helena, starting at 10 a.m.

The organizational meeting will include election of officers, consideration of a work plan to prioritize interim activities, an update from the Department of Revenue, and a general fund revenue collection report from the Legislative Fiscal Division.

The prioritization of interim activities will include discussion of the committee's two assigned studies:

- [HJ 6](#): Study of the coal severance tax trust fund; and
- [HJ 36](#): Study of residential property taxes.

Members of the public may attend and offer comment in person or may offer [public comment remotely](#) via Zoom. They may also [submit written public comment](#) in advance of the meeting. The links for submitting written public comment and for signing up to testify remotely are available on the committee's website at <https://leg.mt.gov/committees/interim/ric/>, along with other [meeting materials](#).

Senate members appointed to the committee are Jill Cohenour, D-East Helena; Greg Hertz, R-Polson; Brian Hoven, R-Great Falls; Mike Lang, R-Malta; Edie McClafferty, D-Butte; and Shannon O'Brien, D-Missoula. House members appointed to the committee are Becky Beard, R-Elliston; Alice Buckley, D-Bozeman; Connie Keogh, D-Missoula; Mark Thane, D-Missoula; Jeremy Trebas, R-Great Falls; and Tom Welch, R-Dillon.

Energy and Telecommunications Interim Committee Begins work on July 23rd

The Energy and Telecommunications Interim Committee (ETIC) has broad oversight over a range of energy and telecommunication-related topics in Montana. The committee conducts interim studies as assigned by the Legislative Council or selected by members and reviews the administrative rules proposed by the Department of Public Service Regulation (DPSR) and the Public Service Commission (PSC).

ETIC is scheduled to meet on July 23rd at the State Capitol. The Agenda is still being determined, but as with other interim committees ETIC will likely elect officers and review its responsibilities and assigned studies before identifying topics for their work plan. Studies assigned to ETIC are:

SJ 3 - Advance Nuclear Reactor feasibility in Montana

SJ 33 - Study of Montana Electric Grid Capacity

The Committee is also planning to review the following reports''

2020 Universal Systems Benefits Reports

- [2020 Montana Dakota Utilities USB Report](#)
- [2020 Montana Electric Cooperatives Report](#)
- [2020 Northwestern Energy USB Report](#)

Committee members are Senators Duane Ankney, Janet Ellis, Terry Gauthier and Mary MacNally and Representatives Michele Binkley, Steven Galloway, Denise Hayman, Andrea Olsen, Katie Zolnikov and Kate Sullivan.

To check for more information about the meeting as it become available click on the following link: <https://leg.mt.gov/committees/interim/etic/meeting-info/>

Environmental Quality Council Organizational Meeting Date TBD

Another interim committee TSRA follows closely is the Environmental Quality Council (EQC). The EQC started its interim work with field trips to Great Falls, Fort Benton, and Havre on June 28 and 29, touring sites such as the Montana State Grain Lab, Montana Milling, Cargill, Giant Springs State Park and the Northern Ag Research Center. The date for the EQC organizational meeting is TBD.

Senate members of the EQC are: Pat Flowers, Steve Hinebauch, Tom Jacobson, Mike Lang, Cary Smith and Mark Sweeney.

House members are: Willis Curdy, Paul Fielder, Steve Gunderson, Jedediah Hinkle, Jim Keane and Marilyn Marler.

Public members of the EQC are: John Brenden, Dave Galt, Brad Hamlett and Monica Tranell.

Nutrient Work Group Rulemaking Effort Proceeding Through the Summer

As a reminder, 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 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.

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 will be meeting throughout the summer and early fall 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.

There is also a separate Technical Subcommittee that meets to delve further into the nuts and bolts of laying out an Adaptive Management Program. That group makes recommendations to the Nutrient Work Group.

And, DEQ plans to hold another open listening session to allow members of the public to ask questions or weigh in with their suggestions later this summer.

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

American Rescue Plan Act: Commissions Meeting to Make Spending Recommendations

A website has been launched by Governor Greg Gianforte for the state's American Rescue Plan Act program. Click on: <https://arpa.mt.gov/> to find information on funding projects and grants under Montana's four ARPA commissions. TSRA members might be particularly interested in the work of the following:

Infrastructure Advisory Commission

The American Rescue Plan Act of 2021 ([PUB. L. NO 117-2 SEC 602 \(c\)\(1\)\(d\)](#)) provides state and local aid to make necessary investments in water and sewer infrastructure. The 67th Montana Legislature passed [HOUSE BILL 632](#) which directed the federal funds available under the American Rescue Plan Act for use in Montana. Section 1 – Section 5 address how the federal funds will be distributed to necessary water and sewer infrastructure projects. House Bill 632 created the Infrastructure Advisory Commission who will oversee spending on water and sewer infrastructure projects along with the Governor of Montana.

House Bill 632 establishes two grant programs for water and sewer, a Competitive Grant Program, and a Minimum Allocation Grant Program.

The Montana Department of Natural Resources and Conservation (DNRC) is responsible for reviewing and ranking projects as well as recommending them for funding to the Infrastructure Advisory Commission.

The Montana Department of Commerce (Commerce) is responsible for assembling a technical assistance team to notify local governments, with an emphasis on rural local governments, about the water and sewer grant opportunities available, to assist local governments in the application process and to offer limited engineering assistance.

The Montana Department of Environmental Quality (DEQ) reviews plans and specifications for new systems and alterations to existing public water supply and wastewater systems. DEQ staff

will assist with the implementation of projects funded by ARPA by providing ongoing technical assistance with plan and specification review and final decision.

The Infrastructure Advisory Commission will review applications for funding for state capital projects and state and local government water and sewer infrastructure projects and provide recommendations to the executive on which projects should be funded. Commission members include:

- Sen. Doug Kary (R-Billings)
- Sen. Mike Cuffe (R-Eureka)
- Sen. Ellie Boldman (D-Missoula)
- Rep. Dan Bartel (R-Lewistown)
- Rep. Sue Vinton (R-Billings)
- Rep. Jim Keane (D-Butte)
- Amanda Kaster, Director of the Department of Natural Resources and Conservation
- Chris Dorrington, Director of the Department of Environmental Quality
- Rachel Meredith, Counsel to Governor Gianforte

The deadline for the first round of applications is July 15, 2021. Those interested can find more information at: <https://arpa-mtdnrc.hub.arcgis.com/>

Broadband - Connect MT and Communications Advisory Commission

The 2021 Legislature passed and Governor Gianforte signed [SB297](#) creating the ConnectMT Act. The Department of Commerce is responsible for establishing and administering the broadband infrastructure deployment program and is responsible for receiving and reviewing responsive proposals and awarding contracts. Before awarding any contracts, they must be reviewed by the Communications Advisory Commission created by [HB632](#) to oversee Montana's American Rescue Plan Act dollars. The Governor must also approve any proposal recommended for funding by the Department.

Commerce is currently gathering mapping information in coordination with the State Library and other providers. Working with the Commission and the Governor's Office, Commerce will develop the open process for submission of proposals for funding required in SB297. Eligible providers may be awarded funding for projects in unserved, underserved or frontier areas.

SB 297 defines Frontier and Unserved areas, and HB632 defines Underserved areas:

"Frontier area" means an area where there is no or extremely limited terrestrial broadband service.

"Unserved area" means a project area where at least 10% of delivery points have no access to broadband service or have no access to services operating with a download speed of at least 25 megabits per second and upload speed of at least 10 megabits per second with low latency.

"Underserved area" means an area where at least 10% of the delivery points have no access to broadband service offered with a download speed range of at least 100 megabits per second and an upload speed of at least 20 megabits per second or less with low latency.

Those interested in potentially submitting proposals are encouraged to review both [SB297](#) and [HB632](#) and to check for updates on program development and Commission meetings.

For more information go to: <https://arpa.mt.gov/Communications>

Advisory Commission Members

- Senators Dan Salomon
- Jason Ellsworth
- Janet Ellis
- Representatives Mike Hopkins
- Ed Buttrey
- Katie Sullivan
- Director Misty Ann Giles
- Director Scott Osterman
- Director Scott Sales

Economic Transformation and Stabilization and Workforce Development Programs Advisory Commission

The Montana 67th Legislature passed [House Bill 632](#) which allows the use of \$150 million provided by the Department of Treasury through the [American Rescue Plan Act](#) to be used for economic transformation, stabilization and workforce development. HB632 created a Commission to oversee programs that are developed, and proposals that are reviewed and recommended by the Department of Commerce.

The Commission held its [first meeting](#) on Tuesday May 4th. Commission members include Governor Gianforte's Budget Director Kurt Alme, Governor's Chief of Staff Chris Heggem, Labor Commissioner Laurie Esau, Senate President Mark Blasdel, Senator Ryan Osmundson, Senator Ryan Lynch, Speaker of the House Wylie Galt, Representative Llew Jones, and Representative Kim Abbott. Commission meeting information and future meeting dates will appear on this website. Commerce is tasked with staffing the Commission.

The Commission's first grant was of \$15 million to the Department of Labor & Industry, for the creation of a return-to-work bonus program that will help address a critical labor shortage stemming, in part, from the COVID-19 pandemic. The Department is studying additional workforce development projects for the Commission's consideration.

For more information on the Return to Work Bonus program, [click here](#).

Other agencies involved in the Commission's work include the Departments of Agriculture and Public Health and Human Services. Specifically, the Department of Agriculture proposes using \$50 million of the American Rescue Plan Act funds to launch a three-tiered grant program targeting expanded production and distribution of locally marketed Montana crops and livestock, added processing capacity to add value to and finish more raw goods in Montana, on-farm storage to help producers weather market volatility, and major supply chain infrastructure investments for Montana agricultural commodities.

Programs developed by the Department of Commerce and approved by the Commission may include grant and other programs for businesses, workforce development, and employee training. By law, the proposals recommended for funding by Commerce must be reviewed by the Commission, which will then recommend grants to the Governor.

Commerce, Labor & Industry and other agencies are in the process of developing recommended grant programs that will be submitted to the Commission for approval. Once programs are approved by the Commission, these agencies will provide more information on the grants available and process for applying and awarding the grants.

Please check this website often for updates, open applications, and deadlines:

<https://arpa.mt.gov/Economic>

EPA, Army Announce Intent to Revise Definition of WOTUS

Source: EPA Press Office (press@epa.gov)

On June 9, 2021 the U.S. Environmental Protection Agency (EPA) and Department of the Army (the agencies) announced their intent to revise the definition of "waters of the United States" (WOTUS) to better protect our nation's vital water resources that support public health, environmental protection, agricultural activity, and economic growth. As described in an EPA declaration requesting remand of the 2020 Navigable Waters Protection Rule, a broad array of stakeholders—including states, Tribes, local governments, scientists, and non-governmental organizations—are seeing destructive impacts to critical water bodies under the 2020 rule.

"After reviewing the Navigable Waters Protection Rule as directed by President Biden, the EPA and Department of the Army have determined that this rule is leading to significant environmental degradation," **said EPA Administrator Michael S. Regan**. "We are committed to establishing a durable definition of 'waters of the United States' based on Supreme Court precedent and drawing from the lessons learned from the current and previous regulations, as well as input from a wide array of stakeholders, so we can better protect our nation's waters, foster economic growth, and support thriving communities."

“Communities deserve to have our nation’s waters protected. However, the Navigable Waters Protection Rule has resulted in a 25 percentage point reduction in determinations of waters that would otherwise be afforded protection,” **said Acting Assistant Secretary of the Army for Civil Works Jaime A. Pinkham.** “Together, the Department of the Army and EPA will develop a rule that is informed by our technical expertise, is straightforward to implement by our agencies and our state and Tribal co-regulators, and is shaped by the lived experience of local communities.”

Upon review of the Navigable Waters Protection Rule, the agencies have determined that the rule is significantly reducing clean water protections. The lack of protections is particularly significant in arid states, like New Mexico and Arizona, where nearly every one of over 1,500 streams assessed has been found to be non-jurisdictional. The agencies are also aware of 333 projects that would have required Section 404 permitting prior to the Navigable Waters Protection Rule, but no longer do.

As a result of these findings, today, the Department of Justice is filing a motion requesting remand of the rule. Today’s action reflects the agencies’ intent to initiate a new rulemaking process that restores the protections in place prior to the 2015 WOTUS implementation, and anticipates developing a new rule that defines WOTUS and is informed by a robust engagement process as well as the experience of implementing the pre-2015 rule, the Obama-era Clean Water Rule, and the Trump-era Navigable Waters Protection Rule.

The agencies’ new regulatory effort will be guided by the following considerations:

- Protecting water resources and our communities consistent with the Clean Water Act.
- The latest science and the effects of climate change on our waters.
- Emphasizing a rule with a practical implementation approach for state and Tribal partners.
- Reflecting the experience of and input received from landowners, the agricultural community that fuels and feeds the world, states, Tribes, local governments, community organizations, environmental groups, and disadvantaged communities with environmental justice concerns.

The agencies are committed to meaningful stakeholder engagement to ensure that a revised definition of WOTUS considers essential clean water protections, as well as how the use of water supports key economic sectors. Further details of the agencies’ plans, including opportunity for public participation, will be conveyed in a forthcoming action. To learn more about the definition of waters of the United States, visit: <https://www.epa.gov/wotus>.

Background

The Clean Water Act prohibits the discharge of pollutants from a point source to navigable waters unless otherwise authorized under the Act. Navigable waters are defined in the Act as

“the waters of the United States, including the territorial seas.” Thus, “waters of the United States” (WOTUS) is a threshold term establishing the geographic scope of federal jurisdiction under the Clean Water Act. The term “waters of the United States” is not defined by the Act but has been defined by EPA and the Army in regulations since the 1970s and jointly implemented in the agencies’ respective programmatic activities.

The 2020 Navigable Waters Protection Rule was identified in President Biden’s Executive Order 13990, which directs federal agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions promulgated, issued, or adopted between January 20, 2017, and January 20, 2021. See Fact Sheet: List of Agency Actions for Review, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/>.

[Contact Us](#) to ask a question, provide feedback, or report a problem.

TSRA Annual Meeting Wrap Up

TSRA’s “official” Annual Meeting wrapped up on June 17th at the DoubleTree Hotel in Billings with the election of officers and directors. The following individuals will lead TSRA in the coming two years:

President: Tammy Johnson, Montana Mining Association

First Vice President: Matt Jones, BNSF

Second Vice President: Molly Schwend, MT Coal Council

Secretary/Treasurer: Steve Wade, BKBH

Immediate Past President: Mark Baker, ABS Legal

The Directors elected/re-elected for three year terms were:

Jay Bodner, MT Stockgrowers Association

Scott Klungland, IBEW #44

Paul McKenzie, Stoltze Land & Lumber

Collins Sprague, Avista Corporation, and

Krista Evans, MT Agricultural Business Association

Congratulations to all and thank you for your service!

“Thank you” again to our 2021 Sponsors

TSRA appreciated all the sponsors who helped make our annual meeting program possible.

They are:

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.

2022 TSRA Annual Meeting Scheduled for June 8 – 9 at Fairmont Hot Springs Resort near Anaconda – You’ll want to get this date on your calendar right away...We’re meeting a week earlier next year to coordinate with the MT Petroleum Association’s new meeting dates.

Upcoming Events/Dates:

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
September 9, 2021	Montana Wood Products Association Annual Meeting
January 3, 2023	TSRA Legislative Showcase Delta Colonial Hotel, Helena, MT

If you don't want to receive the TSRA Newsletter, please let me know. If you want to share with others in your company or organization, please do so. The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.