



*Montana  
Water Resources  
Association*

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Approved January 30, 2019

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**MONTANA WATER RESOURCES ASSOCIATION**  
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**Preamble:**

WHEREAS the state of Montana, with proper construction and management of facilities could have an abundance of water to meet current needs,

BE IT RESOLVED that Montana Water Resources Association (MWRA) supports water development projects, proposals and studies that enhance water supplies, alleviate shortages and improve water management.

**2019 RESOLUTIONS**

**19-1 RECLAMATION REFORM**

BE IT RESOLVED that MWRA encourages effective O&M of Bureau of Reclamation's water supply and distribution infrastructure, and,

BE IT FURTHER RESOLVED that MWRA discourages any administrative action that could cause undue burden to the irrigators of Montana, and that does not consider net economic, social, and environmental benefits of Montana water projects, and,

BE IT FURTHER RESOLVED that MWRA opposes the involuntary reallocation of irrigation water for other uses, and,

BE IT FURTHER RESOLVED MWRA encourages Bureau of Reclamation to recognize public benefit resulting from water conservation practices, and establish publicly funded cost-share programs for implementing conservation plans.

**19-2 CLEAN WATER ACT**

BE IT RESOLVED that MWRA requests the administration and the Montana Congressional Delegation in re-authorizing the Clean Water Act, to consider the following:

1. State Water Rights--Recognize that nothing in this Act, including the water quality standards provisions of Section 303 should be construed or used to impair, abrogate or supersede rights to quantities of water allocated by the respective states for reasonable beneficial consumptive uses.

2. Instream Uses--Clearly require a determination of the cost-to- benefit relationship of water quality standards and related effluent limitations for protecting instream uses, as well as recognition of return flows to instream quantity and quality.

3. Indian Tribes--Consult effectively with the affected states sharing common water bodies with Indian tribes in developing:

A. Regulations for treating the tribes as states under Sections 303, 401, 404, and other provisions of the Act, and

B. A mechanism for resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by states and Indian tribes located on common bodies of water.

C. Clearly state the Clean Water Act is not a Congressional delegation of authority to Indian Tribes.

4. Non-Point Source Pollution--In implementing the non-point source program provisions of Section 319, the EPA should:

A. Consult closely with the Bureau of Reclamation, Soil Conservation Service and all affected state and local entities.

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B. Orient the non-point source control program towards cost effective and reasonable measures which will not interfere with water rights and water allocations under state law and interstate compacts, and which are demonstrably necessary to protect beneficial uses made of water supplies.

C. Appropriate adequate funds to implement the provisions of the Act, including those authorized for Section 319 non-point source control such as abatement of abandoned mine drainage affecting public drinking water supplies.

D. Acknowledge that its authority does not extend to control over the removal of flows, including dilution flows.

5. Nationwide Permits--To renew nationwide (404) permits for another five year period and adopt nationwide permits which meet criteria outlined in the existing Clean Water Act and fall within the guidelines of the general permit system.

6. Specifically, MWRA opposes legislation that expands federal control or otherwise adversely impacts the states right to control and manage waters of the state.

### **19-3 WILDERNESS WATER**

BE IT RESOLVED that MWRA supports Montana's right to adjudicate and administer all wilderness waters within the state of Montana, and wilderness water rights within its boundaries, and,

BE IT FURTHER RESOLVED that MWRA opposes the inclusion of existing irrigation and storage facilities in any newly created wilderness or national recreation areas, and urges special management conditions for facilities that already exist in wilderness and national recreation areas, and,

BE IT FURTHER RESOLVED that MWRA urges the federal agencies to facilitate the issuance of reasonable operation, maintenance, and replacement permits including safety requirements for irrigation distribution and storage facilities in existing and proposed wilderness or National Recreation Areas, and,

BE IT FURTHER RESOLVED that MWRA opposes wilderness language that imposes federal management mandates on adjoining private lands.

### **19-4 ANTI-DEGRADATION**

BE IT RESOLVED that MWRA recognizes the designation of Outstanding Resource Waters within wilderness areas and national parks, and,

BE IT FURTHER RESOLVED that MWRA encourages rule makers to recognize naturally occurring events that lead to water degradation in setting water quality standards, and

BE IT FURTHER RESOLVED that MWRA opposes any action that results in the involuntary taking or diminution of water rights without just compensation.

### **19-5 STATE WATER PLAN**

BE IT RESOLVED that MWRA supports the State Water Plan, provided that:

1. The plan includes diligent pursuit of water projects as an option to improve water resources.

2. Plans establishing instream flow or any other plans do not result in involuntary diminution or taking of existing water rights.

3. Agricultural and industrial water users be fairly represented in all stages of plan formulation and throughout the process.

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**19-6 INSTREAM FLOW**

BE IT RESOLVED that MWRA recognizes that instream flows are a beneficial use of water, provided that existing water rights are always protected in the development of any instream flow regime.

**19-7 COST RATES FOR HYDROELECTRIC POWER**

BE IT RESOLVED that MWRA vigorously opposes any pricing action that would create economic hardships on Montana farmers and ranchers.

**19-8 NATIONAL LEVEE SAFETY ACT**

BE IT RESOLVED that MWRA opposes the application of the Levee Safety Act to facilities operated by the Bureau of Reclamation, entities responsible for managing works transferred from Reclamation, or any canal or infrastructure designed to deliver water.

**19-9 PUBLIC TRUST DOCTRINE**

BE IT RESOLVED that MWRA opposes any action to engage the Public Trust Doctrine for any purpose of altering or confiscating proprietary rights including but not limited to water rights, water right easements and rights of way.

**19-10 SETTLEMENT OF INDIAN WATER RIGHTS**

BE IT RESOLVED that MWRA urges the United States Government to provide compensation for damages resulting from the alteration or taking of any existing proprietary rights including but not limited to water rights, associated with the settlement of Indian water rights.

**19-11 WATER RESERVATIONS**

BE IT RESOLVED that MWRA objects to instream water reservations which conflict with agriculture and other interests and preclude the development of on and offstream storage.

**19-12 STATE AND PRIVATE PROPERTY RIGHTS PRESERVATION**

BE IT RESOLVED that MWRA supports legislation requiring that all state and federal regulatory agencies implement regulatory programs in a manner least intrusive on property rights and to the extent such rights, including but not limited to water rights, are taken they must be fully compensated, and,

BE IT FURTHER RESOLVED that states rights be recognized and deferred to by the federal government in the development of policies affecting land and water management.

**19-13 BUREAU OF RECLAMATION WATER SPREADING**

BE IT RESOLVED that MWRA urges the United States Government to respect the past expansion of water resources perfected in good faith to develop rural economies and to exempt participants of such expansions from any action that would alter or discontinue their water source or impose any unreasonable restrictions in obtaining a supply of water.

**19-14 HUNGRY HORSE AND LAKE KOOCANUSA RESERVOIR DRAWDOWN**

BE IT RESOLVED that MWRA opposes Hungry Horse and Lake Koocanusa reservoir drawdowns conducted for the purpose of the Columbia River Salmon Recovery Program.

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**19-15 FORT PECK RESERVOIR DRAWDOWN**

BE IT RESOLVED that MWRA encourages the CORPS of Engineers to establish an operating plan that fully recognizes the agricultural and recreational value of Fort Peck Reservoir.

**19-16 RISK ASSESSMENT, COST-BENEFIT ANALYSIS**

BE IT RESOLVED that MWRA requests the Montana State Legislature and United States Congress, along with all state and federal regulatory agencies, conduct risk assessment and cost-benefit analysis on all proposed legislation or regulations.

**19-17 UNFUNDED MANDATES**

BE IT RESOLVED that MWRA opposes the passage of any legislation that would impose unfunded mandates on state or local governments.

**19-18 DROUGHT MITIGATION**

BE IT RESOLVED that MWRA encourages development of fixed drought plans which incorporate local watershed concepts involving local watershed groups.

**19-19 VOLUNTARY TRANSFER OF IRRIGATION PROJECTS**

BE IT RESOLVED that MWRA supports title transfer and the transfer of all interests, including water rights of federal irrigation projects to the long-standing custodians and beneficiaries of such projects desiring such transfer.

**19-20 SUPPORT FOR NATIONAL WATER RESOURCES & UPPER MISSOURI WATER ASSOCIATIONS**

BE IT RESOLVED that MWRA support the National Water Resources Association and Upper Missouri Water Association as presented within the statement of purpose and by-laws of the Associations and approved by the membership of the Associations.

**19-21 DITCH AND WATER RIGHT CONVEYANCE REQUIREMENTS IN SUBDIVISIONS**

BE IT RESOLVED that MWRA believes purchasers of irrigated land should be assured of access to irrigation water that they are legally entitled to, and

BE IT FURTHER RESOLVED that subdivision developers should be responsible for providing appropriate legal access to irrigation water associated with water rights attached to properties being subdivided and ensuring that their actions do not adversely impact access to water associated with legal water rights attached to adjacent land or land beyond the subdivision boundary.

**19-22 RESOLUTION OPPOSING ELIMINATION OF FEDERAL DAMS WITHOUT CONGRESSIONAL APPROVAL**

BE IT RESOLVED that MWRA opposes the elimination of any federal dams without approval of the U.S. Congress.

**19-23 CONTRACT RENEWAL**

BE IT RESOLVED that MWRA supports streamlining Bureau of Reclamation contract renewal processes while protecting existing contract provisions and urges the Bureau to recognize the cost of contract renewal, especially State and Federal compliance expenses, as non-reimbursable administrative expenses, not project O & M expenses, and,

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BE IT FURTHER RESOLVED that MWRA encourages the Bureau of Reclamation to make an extraordinary effort to complete contract renewals within the time frame prior to the contract termination date.

#### **19-24 OPPOSE CONDEMNATION/CONFISCATION OF PRIVATE PROPERTY**

BE IT RESOLVED that MWRA opposes the confiscation of private property including privately-owned dams and water rights, and,

BE IT FURTHER RESOLVED that MWRA opposes any action requiring involuntary transfers of private water rights to governmental ownership.

#### **19-25 OPPOSE ADDITIONAL ALLOCATION OF WATER TO BOWDOIN NATIONAL WILDLIFE REFUGE AND DOWNSTREAM FLUSHING OF SALTS**

BE IT RESOLVED that MWRA opposes any additional allocation of water for Bowdoin National Wildlife Refuge, and

BE IT FURTHER RESOLVED that MWRA opposes downstream flushing of salts from Bowdoin National Wildlife Refuge.

#### **19-26 SUPPORT ST. MARY REHABILITATION WORKING GROUP EFFORTS**

BE IT RESOLVED that MWRA supports the St. Mary Working Group in its efforts to accomplish rehabilitation of the ST. Mary water delivery facilities and Milk River Project.

#### **19-27 BUREAU OF RECLAMATION ESA MITIGATION COSTS**

BE IT RESOLVED that MWRA urges legislators and policy makers to amend the Bureau of Reclamation rules and policies so that mitigation costs associated with threatened and endangered species are shared by all citizens.

#### **19-28 DIVERSION AND IMPOUNDMENT FACILITIES ON PUBLIC BEDS AND BANKS OF STATE WATERS**

BE IT RESOLVED that MWRA recognize that Montana water users have the right to place diversions and impoundment facilities on the public beds and banks of state waters as part of their water right appropriation and have not been required to pay a lease or other fee to the state, and

BE IT FURTHER RESOLVED that MWRA opposes any efforts to require water users, including hydropower users, to make payments to the state for diversion and impoundment facilities, including dams and reservoirs, located on the public beds and banks of state waters.

#### **19-29 APPRECIATION RESOLUTION**

BE IT RESOLVED that MWRA extends appreciation to all speakers, participants and sponsors for sharing their expertise, thoughts and time to enlighten us on many of the issues concerning water that are so vital to our future, and

BE IT FURTHER RESOLVED that MWRA is especially appreciative of our Executive Committee, Officers, Board of Directors and Executive Director for their generous contribution of time and effort in making the organizational efforts of the past year as well as the annual conference a success.

**2018 RESOLUTIONS**

**18-1 WATER DEVELOPMENT PROGRAM**

BE IT RESOLVED that MWRA supports the Water Development Grant and Loan Programs and urges the continuation of the programs to meet the needs of irrigation, storage, water supply and water quality programs.

**18-2 STORAGE FACILITIES IN MONTANA**

BE IT RESOLVED that MWRA urges the State of Montana and other entities requesting additional use of water resources, to finance storage facilities (Structural and non-structural) that would meet their needs and would result in economical and multiple-use storage of the vital water supply in Montana.

**18-3 HYDROELECTRIC PROJECTS**

BE IT RESOLVED that MWRA urges the construction of projects to provide electrical energy for irrigation, agriculture use, municipalities, industry and other users of energy.

**18-4 PICK-SLOAN**

BE IT RESOLVED that MWRA supports and urges the Governor of Montana and Congressional Delegation, and others, to support the use of Pick-Sloan hydropower revenues to discount repayment of irrigation works and provide low cost power for irrigation pumping, and to support the Pick-Sloan program for funding new water resource projects and rehabilitation and betterment of existing water projects.

**18-5 STATE WATER SOVEREIGNTY**

BE IT RESOLVED that MWRA supports legislation requiring the United States be subject to all procedural and substantive laws of the State relating to the allocation, adjudication, appropriation, acquisition, use, exercise of water rights and administration of water rights to the same extent as any private person is subject to such laws, and,

BE IT FURTHER RESOLVED that MWRA supports legislation stating that the withdrawal, designation, or other reservation of lands by the United States for any purpose (whether by statute or administrative action) does not give rise by implication to a Federal reserved right to water related to such purpose.

BE IT FURTHER RESOLVED that MWRA supports legislation requiring the United States be subject to the imposition of costs and fees to the same extent as cost and fees may be imposed on a private party.

**18-6 WATERSHED PROGRAMS**

BE IT RESOLVED that MWRA supports the concept of watershed and basin planning committees provided they fully and adequately respect existing water rights and existing water right holders and ensure the participation of existing water right holders.

**18-7 ENDANGERED SPECIES ACT**

BE IT RESOLVED, that MWRA endorses and supports positions of NWRA in the reauthorization and implementation of the Endangered Species Act.

**18-8 TOTAL MAXIMUM DAILY LOADS**

BE IT RESOLVED, that MWRA supports efforts to develop an appropriate state response to Section 303 (d) provisions of the Clean Water Act and state requirements to adopt Total Maximum Daily Loads (TMDL) on listed streams, and,

BE IT FURTHER RESOLVED, that MWRA supports a process that facilitates scientific determination regarding legitimate listed streams, and,

BE IT FURTHER RESOLVED, that MWRA supports state efforts to address the TMDL issue through the development of voluntary best management practices.

**18-9 SNAKE RIVER DAM REMOVAL**

BE IT RESOLVED, that MWRA recognizes significant economic benefits of Snake River dams and specifically opposes removal of any Snake River dam.

**18-10 INTAKE AND OTHER MONTANA DIVERSION DAMS**

BE IT RESOLVED, that MWRA recognizes significant economic benefits of Intake Diversion Dam and all Montana diversion dams and specifically opposes removal of such diversions.

**18-11 WATER RIGHT COMPACTS TO PROTECT STATE AUTHORITY**

BE IT RESOLVED, that MWRA urges the State of Montana, in particular the Compact Commission with guidance of the Governor, on whose behalf it negotiates, to negotiate in a manner that does not conflict in any way with the fundamental laws of the State of Montana; and that the State not surrender either its ownership of water or its lawful right and responsibility to exercise its sovereign jurisdiction over the use of water, in particular by citizens of the State of Montana who are not members of an Indian tribe or tribes with which the State is negotiating a compact.

**18-12 EXPEDITED WATER RIGHT ADJUDICATION PROCESS**

BE IT RESOLVED, that MWRA recognizes that the timely completion of an accurate water rights adjudication is essential to the effective administration and development of water, and,

BE IT FURTHER RESOLVED, that MWRA supports the allocation of additional resources and the adoption of procedures to enhance and expedite the adjudication process.

**18-13 AQUATIC INVASIVE SPECIES**

BE IT RESOLVED, that MWRA recognizes the significant negative economic and social impacts associated with the introduction of aquatic invasive species and thereby supports program efforts funded by appropriations that are fair and reasonable in order to prevent introduction of aquatic invasive species or to provide for eradication if found in state waters.