



**MONTANA WATER RESOURCES
ASSOCIATION**

“THE MONTANA WATERLINE”

**2021 SESSION HIGHLIGHTS & MWRA ANNUAL CONFERENCE
INFORMATION AND REGISTRATION**

MWRA REQUESTED LEGISLATION.

Montana Water Resources Association (MWRA) requested two pieces of legislation during the 67th Legislative Session. Requested legislation included addressing irrigation ditch liability protection and irrigation district authority to initiate and approve project bond issuance through resolution. Senate Bill 307 and Senate Bill 326 were both introduced and carried on behalf of MWRA by Senator Mike Lang. We want to thank Senator Lang who carried these bills and others that are very beneficial for Montana Agriculture.

Senate Bill 307 (Revising Limits of Liability For Owners or Operators of Irrigation Structures and Facilities). Senate Bill 307 clarifies limits of liability as provided under existing statute. Recent court decisions and insurance settlements have resulted in uncertainty regarding Court determination pertaining to what current statute provides for under the term ditch. SB 307 specifically provides for that clarification by stating that the liability protection includes all water conveyance structures or infrastructure. Current statute requires an irrigation entity to keep the infrastructure in good general repair and condition. SB 307 specifies that the irrigation entity has no obligation to provide fencing or other security measures. SB 307 also provides for the same clarification regarding structures or infrastructure as it pertains to liability protection associated with certain property damage or the death of a person or animal from drowning or other causes unless the entity is grossly negligent or engages in willful or wanton misconduct.

The picture shown below is of the signing ceremony with Governor Greg Gianforte. Senate Bill 307 received wide support from Montana’s Agricultural organizations and was largely supported by the Legislature as the bill required a two-thirds vote approval in both the Senate and House in order to pass.

(Senate Bill 326 - Continued on page 3)



FEATURE ARTICLES:

MWRA Requested Bills - Irrigation Entity Liability Protection and Irrigation District Improvement by Resolution – SB 307 & SB 326 Cover

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EXEC'S COMMENTS

DEAR WATER USERS:

Again, water was an important issue during the recent 2021 legislative session. Water issues continue to increase as our population expands and interests change. While the number of legislators directly involved in agriculture may be less than say twenty years ago, concern for the Agricultural industry and protecting private property rights, specifically for protecting senior water rights, continues to be fairly strong. Representation by Montana Water Resources Association and other Agricultural organizations remains as strong as ever. For the most part, our legislators recognize the overall importance of agriculture and the specific role water rights and irrigation plays in the economy and the environment. In addition, there is a fairly strong and fundamental belief in the basic concept that water rights are a private property right that should be protected. That said, there are changing attitudes and social philosophies that may not necessarily be in the best interest of our water uses.

Overall, the bills that passed the 2021 Session resulted in fair and balanced legislation. Legislation to address private property rights, economic development, and promoting individual responsibility were successful in becoming law. From an Agricultural perspective, our concerns were heard and respected. However, it goes without saying, we will need to continue to be well organized as an agricultural coalition in order to protect our interests in the future.

From my perspective it is an honor to have been able to lobby on behalf of and represent Montana Water Resources Association and our membership. Our collective efforts resulted in very positive results.

Sincerely,

Mike

Michael E. Murphy
Executive Director

LEGISLATIVE HIGHLIGHTS

Senate Bill 326 (Provides for Irrigation District Improvements by Resolution). Increasing urbanization in many areas of Montana make it much more difficult for irrigation districts to complete a bonding effort to facilitate needed repair and construction of conveyance structures and infrastructure. SB 326 adds an additional process, in addition to current election or petition procedures, through which an irrigation district board may complete a bond authorization. Upon passage of a resolution of intent to issue a bond to fund district maintenance or construction the Board shall provide notice and allow those assessed within the district an opportunity to oppose the resolution. The legislation provides a protest procedure that may be used to prevent issuance of bonds through the Board approved resolution process. Those protesting and that would be assessed for payment of the bonds must represent over fifty percent of the cost of improvements to be financed with the bonds. SB 326 also modifies the required percentage of district acreage necessary to conduct a bond issuance through the petition process from sixty percent of the owners and acreage to a majority of the acreage. The legislation also repeals the requirement that the bond authorization be approved by a district court.

House Bills 6,8,14, & 632. The combination of House Bill 6, 8, 14, and 632 provide for bonding and appropriation of funds for loans and grants for numerous infrastructure improvements and project development. HB 6 provides for approval of Renewable Resources Grants for water projects financed through resource indemnity trust funds. HB 8 provides for bonding to provide loans to a number of water related projects. HB 14 completes the appropriation for renewable resource development grants for projects not funded under HB 6 and other capital improvements, etc. HB 632 authorized use and disposition of funding made available through the American Rescue Plan Act.

MWRA Supported - Passed.

HJR 7 (Joint Resolution Regarding St. Mary and Milk River Project). Resolution by State of Montana to support funding for the repair and replacement of the St. Mary River diversion and Milk River Project and support for funding to complete the much needed repairs & replacement of the diversion and project. The resolution also urges Congress to address the level of Bureau of Reclamation funding allocation required of project beneficiaries to make it reasonable and affordable.

MWRA Supported – Passed.

Senate Bill 13 (Revises DNRC Adjudication benchmarks). SB 13 extends the deadline for completion of DNRC’s examination of water right claims from 2023 to 2025. The extension is based upon the addition of thousands of claims associated with exempt from filing claims and reexamination of several thousand claims to ensure that those claims are examined consistent with more recent examination criteria.

MWRA Supported – Passed.

Senate Bill 136 (Clarify Criteria for Permits and Water Right Changes). SB 136 provides clarification that when DNRC considers an application for a water right permit or change, it looks, as it always has, at the physical availability of water and existing (water rights) legal demand. The legislation was necessitated by a lawsuit from environmental groups challenging a DNRC decision to approve a permit application based upon a contention the department failed to consider water quality. The defendant (State of Montana, DNRC) and those providing amicus support including MWRA and other Agriculture groups won the law suit in the Montana Supreme Court. SB 136 provides clear statutory intent.

MWRA Supported – Passed.

(Highlights Continued on Page 4)

LEGISLATIVE HIGHLIGHTS (Continued)

Senate Bill 302 (Extend Authorization Deadline for Use of Navigable Riverbeds). A person or entity using the bed of a legally designated navigable river for a diversion etc. and want to continue the use must file for authorization through a lease, license, or easement. The current deadline for such filing is July 15, 2021. While some requests have been received, many of those impacted have not completed an application. Many of those who should request an easement have not been adequately informed regarding the requirement. As such, SB 302 extends the deadline for filing a request to July 15, 2025. The DNRC has indicated it will make an effort to inform water users regarding the requirements. Obtaining a legal easement for the use of the riverbed where needed is very important and MWRA encourages water users to review their individual situations and make an application for an easement.
MWRA Supported – Passed.

Senate Bill 338 (Revise Civil Liability Laws). SB 338 limits the duty of care due to a trespasser. Under this legislation, a landowner owes a trespasser no duty of care with respect to condition or safety of their property unless there is an act or omission that constitutes willful or wanton misconduct. In addition to individual

landowners, the legislation protects the landowners' agent or lessee. The definition of a landowner also includes a water users' association. The property covered in the legislation includes real property as well as improvements, buildings, structures, machinery, and equipment on the property.
MWRA Supported – Passed.



Senate Bill 384 (Revise Aquatic Invasive Species Hydroelectric Fee).

Controlling the spread of aquatic invasive species is critical to Montana water users. Senate Bill 384 revised the funding source for the aquatic invasive species program designed to prevent the introduction or spread of these species. Under the legislation, hydroelectric facilities will pay a quarterly fee of \$397 per megawatt capacity on those facilities producing in excess of 1.5 megawatts.
MWRA Watched - Passed.

Senate Bill 390 (Establish a Water Severance Beneficial Use Act). Senate Bill 390 would have established a severance tax on the use of water for hydro power production. MWRA opposes the imposition of a tax on the use of water against any water user or use of the water.
MWRA Opposed – Failed.

Senate Resolutions 12, 53, & 55 (Confirm Governor Appointments for Associate Water Court Judge, Director of the Department of Natural Resources and Conservation, & Director of the Department of Agriculture. Appointment confirmations included: the Honorable Judge Steve Brown (Associate Water Court Judge); Amanda Kaster (DNRC Director); and Mike Foster (Agriculture Director).
MWRA Supported – Passed.

The Montana Waterline

**MONTANA
WATER RESOURCES
ASSOCIATION**

Montana Water Resources Association (MWRA) works to protect water and other private property rights at both state and national levels. Protecting these rights is increasingly difficult as the connection to making a living on the land and concern for private property rights continue to diminish.

MWRA combines experience with reason and balance in managing Montana's water resources. As a strong participant in legislative and administrative policy development MWRA strives for responsible use and management of our water to protect the resource, while protecting rights of hard working Montanans. Support for protection of our water and other private property rights, is crucial. Your membership, participation, and encouragement to others for their support and participation will help MWRA continue as it has for over 70 years as "**Montana's Voice for Montana's Water**".

MEMBERSHIP DUES STRUCTURE/APPLICATION

<u>MEMBERSHIP CATEGORY</u>	<u>ANNUAL DUES</u>	<u>MEMBERSHIP CATEGORY</u>	<u>ANNUAL DUES</u>
Business/Firm		Irrigation Dist./Assoc./Private Ditch	
Under 10 Employees	\$370	Minimum Base	\$370
10 -100 Employees	\$840	plus, First 5,000 Acres	
Over 100 Employees	\$1,175	at	\$.074/Acre
Individual		plus, Remaining Acres Over	
Voting	\$80	5,000 Acres at	\$.052/Acre
REAs and RTAs	\$400	Sustaining Memberships	
Municipalities		Silver	\$1,500
City, Town, or County		Gold	\$2,000
.....	\$.10 per capita	Platinum	\$3,000
Other Political Sub.....	\$370	Associate Member	\$ _____

For more information, please call: (406) 235-4555 or visit the web site at mtwra.org. You may use this form to activate your membership. Please include a check made payable to MWRA, P.O. Box 4927, Helena, MT 59604.

Name: Individual/ Entity _____
 Street or Box Address: _____
 City _____ State _____ Zip _____

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Please tear off the above information insert and send it with your own new membership or your encouragement as a current member, to an irrigation project, individual, business, or other entity that you feel should be a member of MWRA. Your support and that of others for MWRA is crucial to maintaining a strong advocacy position for water and other private property rights. **Thank You!**



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**P.O. BOX 4927
HELENA, MONTANA 59604**