

143. Montana water law and oppose federal pre-emption of Montana
144. water law through state and local government. (2008)
145. We oppose DNRC employees being appointed as presiding
146. officers in contested water rights case hearings. (2007)
147. We support definitions for both the terms "ditch" and
148. "diverted water" be developed and passed into Montana
149. State Law. (2011)
150. We oppose relocation or alteration of an irrigation ditch or canal
151. without ditch or canal easement owner permission. (2013)

WATER STORAGE

1. We favor using a portion of the coal severance tax to develop a
2. comprehensive water storage plan with strong input from Montana's
3. agricultural interests. The multiple use concept should be used in
4. choosing storage sites with consideration given to future agricultural,
5. municipal, industrial and recreational uses of water.
6. We recommend acceptance of flood control as a major concern in
7. the management of federal dams during winter and early spring.
8. We support improved or additional water storage to increase
9. availability of water for agriculture and recreational use as well as to
10. increase instream flow.
11. We support all efforts to obtain power at Western Area Power
12. Administration's (WAPA) firm power rate from the federal
13. government through the Pick Sloan program for use on existing and
14. proposed private, state and federal irrigation projects in Montana.
15. We recommend defining the following as non consumptive uses of
16. water: a) structural storage, b) non structural storage resulting from
17. flood irrigation (return flows), c) stream flow hydro power
18. developments.

WATER ADJUDICATION

1. We support Legislation that will validate the original priority dates
2. for all existing water rights, including late claims or forfeited rights,
3. provided the water claimant(s) can prove to the water court that the
4. water has been continuously used.
5. We support legislation that would prohibit water courts from
6. reducing the flow rate, volume or season of use of any legitimate
7. water right that was used before 1973.
8. We recommend that the Water Court, Department of Natural
9. Resources and Conservation or any entity which may be responsible
10. for the general adjudication of Montana's waters use the
11. comprehensive Supreme Court Rules of 1987 in a fair and equitable
12. manner to all.
13. We urge leadership efforts of the Montana Governor and
14. Legislature that would result in the timely general adjudication of
15. Montana's water rights by 2015. Funds should be appropriated to
16. accelerate the adjudication process. If funds are not appropriated, we
17. support the adjudication fee system. (2006)
18. We support full public disclosure of water rights negotiations
19. between the federal government, state government and
20. tribal governments. (2011)
21. We support the expeditious water rights adjudication for
22. agriculture including the imposition of a maximum adjudication fee
23. of \$10 per right per year, not to exceed \$200 per year per agricultural
24. user, used only to finish adjudication and sunset in 2015. We
25. support the EQC oversight of these funds through the adjudication
26. process, providing that the adjudication process meets set bench
27. mark criteria and provides yearly public reports on progress. Any
28. funds left in the adjudication process in 2020 should be put in the
29. administration and enforcement of water rights fund. We support
30. completing the adjudication of reserved water rights at the same
31. time. (2004)
32. We believe all water users including agricultural, municipal, state
33. and federal agencies and the Indian tribes should share the cost of
34. adjudication. (2004)
35. We support the adoption of a specific plan of action for lobbying at
36. the state and national levels to eliminate the Montana Water Rights
37. Compact Commission and promote adjudication of all Montana
38. water through the Montana Water Court.
39. We support a negotiated water agreement between: the State of
40. Montana, the federal government, the irrigators of the Flathead
41. Indian Irrigation Project and the Confederated Salish and
42. Kootenai Tribes. (2013)
43. We object to any grounds other than time and essence being used
44. to adjudicate water rights. (1997)
45. We oppose requiring mandatory water measurement on diversions
46. of any drainage including but not limited to creeks, streams, and
47. rivers that are not under a court ordered decree. (2014)
48. We recommend that the Chief Water Judge and other designated
49. water judges be permitted to continue to preside over the
50. adjudication procedure until it is duly completed.
51. We feel that the Department of Natural Resources and
52. Conservation should be responsible for water claimants attorney's
53. fees incurred as a result of the Department of Natural Resources and
54. Conservation's unsuccessful objections to water rights.
55. We support the present system of appropriation of water rights
56. through state water law and oppose any federal domination or
57. pre-emption of state water resource distribution formulas.
58. We support the implementation of a petition based procedure
59. which allows owners of pre-1973 exempt domestic and stock

60. water wells, or pre-1973 exempt surface water claim(s) for the
61. same purpose that are exempt from filing to submit their
62. claim(s) and evidence of seniority date, volume, and flow to
63. DNRC for investigation and subsequent inclusion in the
64. adjudication process of the water court.
65. We support a petition based procedure that provides for
66. a reasonable filing period with a concrete filing deadline, does
67. not significantly hinder the adjudication process and provides
68. protection of senior surface and groundwater rights.
69. Otherwise no late claims should be filed with a pre-April 30, 1982
70. Priority which were passed over and not granted on a previous
71. adjudication. (2012)
72. We support the constitutionally guaranteed prior appropriation
73. water right doctrine and also reaffirm our opposition to any attempt
74. to pre-empt, modify, or replace this doctrine in Montana Water Law
75. through the use of the Public Trust Doctrine, or any other judicial,
76. legislative, or executive branch vehicle.

WATER QUALITY

1. Underground fresh water should not be used in oil field flooding.
2. We are opposed to mining companies drilling water wells to remove
3. underground water to dry up mining pits. We favor the old method
4. of pumping the pits to leave the underground water as undisturbed as
5. possible.
6. We support an educational program to increase knowledge of
7. underground water quality.
8. We oppose any water quality decisions which adversely impact
9. established water uses by agriculture or other interests.
10. We oppose the removal of the limitation of "navigable water"
11. from water quality regulations or otherwise broadening the
12. reach of water quality regulations to non-Navigable waters. (2012)
13. We support maintaining acceptable water quality as defined by the
14. 1995 Legislature. Authority for determining impaired waters,
15. establishing standards and criteria, and developing and implementing
16. appropriate response programs and plans should remain the
17. responsibility of the state. Development of state plans should rely
18. heavily on local input. Furthermore, efforts to address non point
19. runoff and improve water quality programs should be targeted
20. toward impaired watersheds, using a "worst case first" approach.
21. We recommend streams be checked by the Water Quality Division
22. of the Montana Department of Environmental Quality using scientific
23. data before sending out a list calling them impaired. (2013)
24. In identifying water quality limited segments (WQLS) and total
25. maximum daily loads (TMDL), the responsible agency must use
26. scientifically sound criteria, verified by current field tests.
27. The Natural Resources Conservation Service should have the
28. primary function of providing educational and technical assistance
29. and not be a regulatory agency enforcing compliance with
30. environmental regulations. Natural Resources Conservation Service
31. should also serve as a private landowner advocate in working with
32. other federal, state and county agencies in overseeing compliance
33. with environmental regulations.
34. We support the concept of Mixing Zones as it appears in the
35. Montana Code Annotated as passed by the 1993 Legislature.
36. We recommend that hydro modification not be defined as
37. pollution.
38. We are opposed to discharge of contaminated water from methane
39. production into waterways. (2000)
40. We support legislation or studies assuring coal bed methane is
41. developed without harming existing operations or beneficial uses of
42. water. (2003)
43. We urge careful monitoring of numerical standards concerning
44. SAR (Sodium Absorption Rate) levels in coal bed methane
45. discharge. (2002)

STREAMBED ACCESS

1. We oppose scenic and wild river bills where they interfere with the
2. multiple use concept or where they conflict with property rights or
3. any reclassification which puts the Yellowstone or similar rivers
4. under study for admission as wild, scenic and recreational rivers.
5. We oppose the American Heritage Rivers Initiative and the draft
6. preferred alternative environmental impact statement for the
7. Columbia River Basin. (1997)
8. We support the Stream Bed Preservation Act. (2001)
9. We support legislation curbing activities of government agencies
10. who favor public stream bank access on private lands.
11. We recommend that the "high water mark" be defined as where the
12. vegetation starts and that dry stream beds do not qualify for public
13. access in implementation of Stream Bed Access Laws.
14. We recommend the present water line or high water mark,
15. whichever is lower, be the limit of use for recreational purposes
16. without landowner permission.
17. We recommend the land owner not be held liable for accidents or
18. injuries in the case of public use of stream bed access and/or across
19. private property.
20. The Montana Streambed Access Law should not be expanded to
21. include diverted water. (2006)
22. Where necessary and when absent from the existing road
23. easement, we support acquisition of "bridge recreation access"
24. through existing methods. We oppose expanding by declaration,

19. We recommend that gifting of parcels of agricultural land to heirs
20. in portions less than 160 acres not be subject to review unless it is
21. diverted from agricultural use.
22. We recommend all subdivisions be required to conform to local
23. planning board standards.
24. We recommend that major or cumulative minor subdivisions in
25. rural areas have an adequate operating permanent water source for
26. fire protection in place before the subdivision is approved by county
27. commissioners. (2013)
28. We favor County Planning Boards rather than City County
29. Planning Boards.
30. We oppose the Attorney General's opinion allowing city residents
31. to vote on county wide zoning. (2008)
32. We recommend that the development of land use plans and
33. regulations promulgated by the Department of Fish, Wildlife and
34. Parks with land under their control should come under the
35. jurisdiction of the County Planning Board.
36. We recommend that any land use legislation provide that the
37. individual land owners be included in the final decision on the use
38. and disposition of their property.
39. We recommend that property owners be justly compensated for
40. any reduction in the value of their property due to involuntary zoning
41. or the granting by the legislature or courts of general public
42. easements on or across private lands.
43. We oppose any decertification land study by Federal Land Use
44. Planning groups.
45. We are opposed to any further court use of the public trust doctrine
46. or "theory of exaction" in Montana.
47. We support legislation to clarify the determination of ownership
48. and maintenance of boundary fences if a mutual agreement is not
49. obtainable.
50. We oppose development of "The Big Open" game preserve.
51. We recommend that agriculture farms larger than 40 acres be
52. exempt from uniform codes on buildings other than housing and
53. commercial type buildings.
54. We are opposed to rails to trails and similar programs and believe
55. the land and/or right of way originally purchased by the railroads
56. should be offered for sale to the adjacent land owners. (2004)
57. We oppose any grazing exclusions included in conservation
58. easements sponsored by state or federal agencies. (2004)
59. We recommend streamside setbacks be limited to new residential
60. and commercial structures and they be determined at the local level,
61. in lieu of a fixed state-wide distance for rivers and streams. (2008)

PRIVATE LANDS

1. We believe that property rights are a necessary right for a free
2. people and are protected under the fifth amendment of the U.S.
3. Constitution. Any infringement on property rights without just
4. compensation, by any government, public group or private citizen
5. weakens all of our rights.
6. We urge the Legislature to enact clear constitutional ethics
7. legislation covering public officials and employees to prevent their
8. participation in efforts to undermine or seize private property rights,
9. particularly when a conflict of interest is present.
10. We oppose any Family Farm Act that infringes on any individual
11. property right or the production of agricultural products.
12. We support a policy of "no net loss of private property", acreage
13. and no loss of private property rights.
14. We support legislation that would require government agencies to
15. review their actions for possible takings of private property rights,
16. require that takings be minimized, and provide just compensation for
17. unavoidable takings.
18. We are opposed to the use by state government agencies of legal
19. theories in a manner that seeks to limit or take away private property
20. rights, i.e. the "Public Trust Doctrine". (2003)
21. We support legislation that would make government agency
22. officials personally liable when by abuse of their authority they
23. infringe on private property rights.
24. Private ownership and operation of the major portion of the state's
25. land resources is in the best interest of the public. Any judicial,
26. legislative or other governmental action forcing access on or across
27. private land to public land or surface waters is contrary to this
28. concept and we oppose it.
29. We support legislation which would legally abandon any county
30. road which has not been maintained by the county for a period of at
31. least 20 years and is not used as an access by a private property
32. owner or leaseholder or their agent.
33. We are opposed to recreational prescriptive easements on or across
34. private lands.
35. We are opposed to state and federal agencies gaining jurisdiction
36. over roads outside the lands of that agency unless right of way is
37. purchased.
38. We support the property owners rights to control the outdoor
39. recreational use on private land.
40. We resolve that when dogs or other domestic animals come onto
41. private property and injure or kill domestic livestock, fowl, or pets,
42. the property owner or lessee, on whose property the offense
43. occurred, should have the right to kill the trespassing animal and be
44. paid compensation by the owner of the offending animal for damage
45. to property, including veterinary bills for the injured animal. (2004)
46. We support legislation that clearly protects private property rights
47. along all streams and rivers in Montana.
48. We support legislation requiring oil, mineral and gas
49. development companies to make a good faith effort to reach a
50. surface agreement prior to moving forward with exploration.
51. (2009)
52. We recommend that a portion of real estate tax be assessed against
53. severed mineral rights owners. If that portion of the tax is unpaid,
54. redemption procedure should be the same as that presently employed
55. for real estate. The owner of the real estate should be given priority
56. in reclaiming mineral rights.
57. We support legislation that all surface mineral rights are the
58. possession of the land owner and no other entity can lay claim
59. to said surface mineral rights. (2013)
60. We believe sub-surface mineral rights are independent of above
61. surface wind energy production rights. (2008)
62. We support legislation strengthening laws which protect
63. landowners' and renters' surface rights. (2003)
64. We recommend abolishment of a tax on the "right of entry" and all
65. separated "right of entry" be joined to the mineral rights.
66. Energy companies should divest themselves of agricultural land
67. when reclamation is completed following mining or drilling for
68. energy fuel.
69. The matter of surface damages should remain a matter to be
70. negotiated between the producing company and the surface owner.
71. We favor legislation which will provide for annual negotiated
72. payments to surface land owners affected by oil and gas production.
73. The annual negotiated payments are to cover the costs of surface
74. land damages incurred by oil, gas and mineral exploration and
75. development and for loss of agricultural production due to the same
76. exploration and development.
77. We favor legislation which will provide for annual negotiated
78. payments to surface land owners whose property is used for
79. transmission lines, both aerial and surface. Such annual negotiated
80. payments are to cover surface land damages and loss of agricultural
81. production due to development and continued use of such
82. transmission lines.
83. We favor total repeal of the 1902 acreage limitation law as
84. amended.
85. We believe that DNRC determination of navigability on streams
86. that were not delineated in the federal land survey is a takings of
87. private property. Change of streams courses should require certified
88. land surveyors to determine appropriate ownership boundaries.
89. Ownership of the abandoned channel along with surface rights and
90. mineral rights should revert to an adjacent private landowner. (2008)
91. We oppose any action that infringes on an individual's right to
92. own and manage private property, including stream beds, stream
93. banks, water rights, wetlands, mineral rights and adjacent private
94. lands. To this end, if a stream bed has not become excluded from
95. their property by some legal conveyance and the taxes are currently
96. paid then a fence may be legally installed across a stream or
97. waterway. (2002)
98. We oppose federal or state agencies using aerial surveillance
99. as the sole source of evidence to prosecute or issue penalties
100. for alleged violations by legal agricultural entities. (2012)
101. We recommend that royalty owners receive payment without
102. formal request.
103. Farmers and ranchers must retain the right to fence their property
104. legally and in a manner which best suits their needs. (2002)
105. We recommend existing trespass laws be more strictly
106. enforced and a mandatory minimum \$2000 fine be imposed. (2004)
107. We urge stronger trespass legislation which will insure that
108. private property will be free from public use except with
109. permission of the owner. This would include all privately held
110. land including that under stream beds, ponds, sloughs and other
111. surface waters.
112. We recommend that no overnight camping or creation of any
113. permanent duck blind, boat moorage, seasonal objects or any other
114. object be allowed on private land without landowner permission.
115. We favor limitations on excessive real estate acquisition by
116. foreign entities or self serving organizations whose precepts of
117. operation are not in agreement with the provisions of the U.S.
118. Constitution.
119. We recommend that 'valuable consideration' in the law be
120. defined to be an amount in excess of a nominal administrative
121. charge.
122. We oppose any government agency or organization using
123. government funds from entering the marketplace in competition
124. against private enterprise in the purchase or acquisition of
125. conservation easements.
126. Fossils found on private land, or existing or future private
127. archeological or paleontological collections should remain free of
128. government restrictions.
129. We are opposed to any influence or control by the United
130. Nations upon any private land owned by a U.S. citizen.
131. Native American tribes should be prohibited from governing or
132. regulating, in any way, lands owned in whole or in part by non-
133. Native Americans or a non-member of the tribe. (1998)
134. We request that Congress pass legislation to waive sovereign
135. immunity" of Indian tribes in cases where the proposed action

access

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Water R. Admin