

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 16, 2025

The Honorable Brandon Ler
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Matt Regier
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Ler and President Regier:

Our state trust lands are key to protecting our Montana way of life. For decades, state trust lands have generated hundreds of millions of dollars of revenue for public schools and school children, while also supporting the livelihoods of hardworking farmers and ranchers. For generations, the Montana Legislature has taken steps to preserve and promote this balanced relationship.

The federal government granted state trust lands to Montana upon statehood. Montana accepted these lands, pursuant to its 1889 Constitution, which provided they would be held *in trust* – a principle later reaffirmed in Montana's 1972 Constitution. As a trustee of these lands, the Montana Board of Land Commissioners ("Land Board") is required to obtain fair market value for the property, or any interest in those lands, prior to its surrender or disposal.

The 1972 Constitution declared that the State holds all waters in Montana, above and below the ground, for the use of its citizens. A water right appurtenant to state trust land must either be retained or sold for fair market value; it may not be given away. The Montana Supreme Court has recognized that appurtenant water rights may include those diverted on private land and appropriated for beneficial use on state trust lands.

In 2015, the Montana Department of Natural Resources and Conservation (DNRC) erred by asserting an ownership interest in groundwater diverted on private land and used on state trust lands without providing due process. This was wrong. In response, the 2019 Legislature passed House Bill 286 and established a process for the Land Board to assert an ownership interest in those situations.

As a dedicated defender of property rights, which are some of the most cherished rights in Western civilization, I strongly believe in the rights of all Montanans to acquire, possess, and protect their property. That's why when House Bill 286 was subject to a legal challenge, my administration proudly, and successfully, helped defend it.

Since then, DNRC has taken extensive action to implement House Bill 286. In 2022, DNRC removed the Land Board's name from post-1973 water rights to which it had been added without due process. In May 2024, the Land Board adopted a resolution requiring DNRC to obtain prior approval from the Board before filing an objection, or initiating other legal action, to establish ownership of water rights appurtenant to state trust land that have a point of diversion on private land. Further, in April 2025, the Land Board approved a motion requiring DNRC to provide notice to the listed owner of a water right when the Board will be considering asserting an ownership interest.

Which brings us to today. House Bill 676 prohibits the Land Board from holding water rights appurtenant to state trust lands if diverted from private land and allows lessees to take water rights appurtenant to state trust lands. While I understand the intent of the legislation, unfortunately, House Bill 676 conflicts with the Montana Constitution, settled Montana water law, and jurisprudence establishing the principles with which the Legislature, the Land Board, and all state trust land lessees must comply. Furthermore, it violates Montana's duty of undivided loyalty to the school trust beneficiaries by diminishing the State's interest in appurtenant water rights, infringes on those interests without compensation, and impairs its ability to obtain the highest possible value for impacted state trust lands.

The Land Board, which is made up of members duly elected by the people of Montana, ensures that ownership of water rights are established consistent with its fiduciary responsibilities and the law, and provides due process and transparency to the public.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 676, "AN ACT REVISING LAWS RELATED TO STATE LANDS AND WATER RIGHTS; PROHIBITING THE BOARD OF LAND COMMISSIONERS FROM OBTAINING OWNERSHIP OF A PRIVATE WATER RIGHT USED ON STATE LANDS; AMENDING SECTIONS 77-6-301 AND 77-6-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

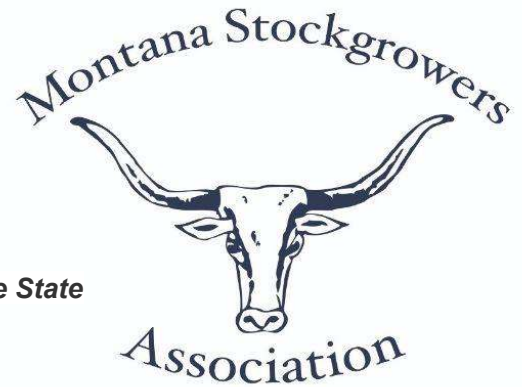
Sincerely,



Greg Gianforte
Governor

cc: Legislative Services Division
Secretary Christi Jacobsen

May 12, 2025



RE: Request for Veto on HB 676, Generally Revise State Land and Water Laws

The Honorable Governor Greg Gianforte,

The Montana Stockgrowers Association (MSGA) greatly appreciates your commitment to protecting one of Montana's most precious resources and your leadership in working to make Montana's water and state trust lands policy better. We also applaud the work of Lt. Governor Juras and the Department of Natural Resources and Conservation (DNRC) in educating legislators and opposing House Bill (HB) 676. **We are writing today with deep concerns about HB 676, and respectfully urge you to veto the bill.**

HB 676 complicates nearly 50 years of work done in the adjudication of water rights. MSGA was steadfast in our efforts to oppose HB 676 throughout the legislative process, and continue to do so through this request.

For decades, Montana's ranchers and landowners have worked in good faith to bring certainty and finality to our water rights system through the state's water adjudication process. We've invested time, resources, and legal fees to get these rights settled, often over the course of a generation. HB 676 threatens to unravel that progress.

If enacted, HB 676 risks delaying the completion of Montana's water adjudication, a process that is already nearing its final stages after multiple decades of work. Even more troubling, it opens the door to reopening previously settled water rights, potentially throwing thousands of existing water rights into uncertainty. For producers who depend on secure water rights to plan for livestock, irrigation, and drought resilience, that kind of legal instability is unacceptable.

Montana's agricultural community has always led the way in preserving the state's natural resources. We've played by the rules, shown up during the adjudication process, and honored our responsibilities as stewards of the land. Changing the rules now, after so much effort has been invested, feels like a step backward.

Governor, MSGA urges you to stand with Montana's ranchers and uphold Montana's Water Use Act, the comprehensive statewide water adjudication process, and our state trust lands by vetoing HB 676. Let's keep Montana's water adjudication on track and ensure the rights we've worked to finalize remain secure for generations to come.

Thank you for considering our veto request of HB 676.

Sincerely,

Raylee A. Honeycutt
Executive Vice President

cc: The Honorable Lt. Governor Kristen Juras
Director Amanda Kaster, Department of Natural Resources and Conservation

420 N California • Helena, MT 59601 • 406-442-3420 • www.mtbeef.org



May 1, 2025

The Honorable Greg Gianforte
Governor of the State of Montana
P.O. Box 200801
Helena, Montana 59620-0801

Re: Veto Request of HB676, *Generally Revise State Land and Water Laws*

The Honorable Governor Gianforte:

Thank you for your continued commitment to the integrity of Montana's Water Use Act and to the shared land and water resources held by the people of Montana in our state Trust lands. We greatly appreciate your continued leadership on these matters. In that spirit, Montana Trout Unlimited (MTU) writes today to formally request that you **veto** recently passed legislation in HB676, *Generally Revise State Land and Water Laws*, sponsored by Rep. Brandon Ler (R-Savage). It is our belief that this legislation fundamentally compromises the fiduciary responsibility to our state Trust lands and complicates nearly five decades of settled adjudication of state-based water rights. MTU opposed this legislation throughout the legislative process, and we appreciated working with Lt. Governor Juras and the Department of Natural Resources and Conservation (DNRC) in opposing the bill.

Founded in 1964, Montana Trout Unlimited is the only statewide grassroots organization dedicated solely to the mission of conserving, protecting, and restoring Montana's coldwater fisheries and their watersheds. We carry out our mission by advocating for stronger policies, education and outreach, and on-the-ground projects. As the voice for healthy rivers and wild trout, MTU represents more than 5,000 members and supports in Montana, including local chapters across the state that prize our rivers, streams, their coldwater fisheries and recreation opportunities.

As introduced, HB676 had disastrous consequences for the Montana Water Use Act, the comprehensive statewide water adjudication process, and our state Trust lands. We recognize that through the legislative process some of the most problematic sections of the bill were amended out, notably those creating an arbitrary deadline to the adjudication process and opening decrees up to legal challenges in state district court from outside parties as well as the forced sale of isolated state Trust land parcels with appurtenant water rights to lessees. However, the remaining bill,

THE VOICE FOR HEALTHY RIVERS & WILD TROUT SINCE 1964

as amended, still raises significant legal and constitutional issues regarding state Trust lands as well as threatening to extend the adjudication process by years.

At its core, HB676 violates settled law and raises serious constitutional issues. First, in its attempt to redefine water rights as improvements, the bill contradicts the findings in *Pettibone v. State* (Montana Supreme Court) which held limitations to what constitutes an improvement on Trust lands to physical infrastructure like tanks and pipelines rather than water rights themselves. In terms of constitutional issues, the bill fails to address the Land Board's constitutional obligation to secure full market value when appurtenant water rights are separated from Trust Lands. In doing so, it bypasses the Land Board's constitutional duty to maximize trust beneficiaries' value by preventing compensation for those severed water rights.

Even though the most egregious sections of the bill affecting the statewide adjudication were removed, the bill still stands to significantly delay the completion of the adjudication. For one, it would re-open nearly forty years of work by the Water Court in the process of separating point of diversions from places of use on settled water rights, meaning more litigation and delays in completing the adjudication. Further, it complicates settled decrees through those legal processes since legal rulings against any section may require vacating entire final decrees.

The bill also complicates water use on the ground, meaning that the effective management and distribution of water would be stymied. Private water rights that are combining Trust Land and non-Trust Land places of use might face mandatory place of use removals, reducing legal water volumes to private landowners. Further, lessees using water on both Trust and private lands could face irrigation restrictions to comply with those reduced water rights.

For these reasons we respectfully ask you to veto HB676 under the powers granted to you as Governor of the State of Montana under Article VI, Section 10 of the Montana Constitution. The legislation stands to significantly affect the people of Montana and our rich natural resource wealth into the future.

Thank you for considering our request to veto HB676. We appreciate your leadership and commitment to our state's public lands and waters. Please do not hesitate to reach out if you have questions or need additional information (clayton@montanatu.org).

Sincerely,



Clayton R. Elliott
Conservation and Government Affairs Director
Montana Trout Unlimited

cc:

The Honorable Lt. Governor Kristen Juras
Director Amanda Kaster, Department of Natural Resources and Conservation