



**ASSOCIATION OF WESTERN STATE ENGINEERS**

**2013 POSITION STATEMENT**

**STATES WATER RIGHTS AND NATURAL FLOWS ALONG THE  
MAINSTEM OF THE MISSOURI RIVER**

**Whereas**, the Association of Western State Engineers strongly supports preservation of the states' inherent right to develop, use, control, and distribute water; and

**Whereas**, state constitutions or statutes provide that water within the states would remain the property of the states; and

**Whereas**, the Flood Control Act of 1944 specifically declared the policy of Congress to recognize the interests and rights of the Missouri River Basin states in determining the development of the watersheds within their borders and likewise their interests and rights in water use and control, and to preserve and protect to the fullest extent established and potential uses of the rivers' natural flows, those flows being the natural flows that would pass through the states in the absence of the U.S. Army Corps of Engineers dams; and

**Whereas**, the federal government has long recognized the right to use water as determined under the laws of the various states; and

**Whereas**, the various states have the authority and duty to manage permitting of stored water to supplement natural flows; and

**Whereas**, federal agencies in the western states, such as the Bureau of Reclamation, generally recognize western water laws and natural flows through reservoir operations, with releases from storage that supplement natural flows, and water service contracts that supplement natural flows; and

**Whereas**, representatives of the U.S. Army Corps of Engineers have indicated that all waters entering its Missouri River mainstem reservoirs are stored waters to be allocated and controlled by the U.S. Army Corps of Engineers without recognition of the states' rights to natural flows being separate from the captured floodwaters stored within those reservoirs; and

**Therefore, be it resolved**, that the Association of Western State Engineers supports the rights of the states to the natural flows of the Missouri River.

**Be it further resolved**, any policy of the U.S. Army Corps of Engineers to require storage contracts to access natural flows within a reservoir boundary would be a violation of the states' right to develop, use, control, and distribute water.

**Be it further resolved**, that the Association of Western State Engineers opposes any and all efforts that would diminish the primary and exclusive authority of states over the allocation of water.

Adopted September 25, 2013.

Association of Western State Engineers

Todd Sando, P.E., President