

# AGAI Ripple

AGAIMT.com

AGAI's mission is to be the guardian and advocate of the Gallatin River system and its historically decreed water rights.

*Save the date!*

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## AGAI's Annual Membership Meeting

**Wednesday, December 2 @ Belgrade Senior Center**  
( 92 Cameron Avenue, Belgrade)

**Doors open at 6pm, meeting begins at 6:30pm**

**Enjoy the dessert potluck and get updated on current water issues.**

Committee Reports / Director Elections / Outlook for 2010 / Q&A

### "Known and Unknown Risks to YOUR Water Rights"

Panel Discussion led by Krista Lee Evans with guests:

Rep. JP Pommichowski (HD 63)  
Rep. Chas Vincent (HD 2)  
Rep. Walter McNutt (HD 37)  
Sen. David Wanzonried (SD 49)

Update on the Gallatin Groundwater Investigation Program -- Thomas Michalek,  
Research Hydrogeologist, MT Bureau of Mines & Geology

This is your chance to interact directly with Montana's water policy leaders! Bring your ideas and your questions for a great discussion.

### 3 Reasons Why You Should Attend the Annual Meeting

1. **"We are moving towards having a water market in Montana."**  
Judge Lobel on Montana AG Live, November 1.
2. **Water rights -- who has water and who wants it.**
  - Attempts to prioritize types of beneficial use
  - The use of exempt wells to avoid the water right permitting process
  - Analysis of water rights by entities other than the owner including consumptive use analysis and infrared and aerial photography to determine water use
3. **Protection of your rights.**
  - Mapping locations of existing water delivery systems
  - Being at the table during water right technical and policy discussions
  - Staying current on existing challenges and opportunities for you as a water right holder



## AGAI Directors

Walt Sales, President  
Al Lien, Vice President  
Jennifer Mohler, Secretary /  
Treasurer  
Susan Duncan  
Alan English  
Maynard Flikkema  
Nick Schutter  
Dan Triemstra

**Want to keep current  
on water issues?**

**Go to AGAIMT.com  
& sign up for email  
updates.**

## Feature Ditch: Spain-Ferris

I have been asked to tell you about some of the issues and concerns that have surfaced since I accepted a directorship for Spain-Ferris Ditch Company in 2006, now serving as president of the Board of Directors. The Spain-Ferris Ditch exits the Gallatin River west of the Four Corners and flows north, eventually discharging into the East Gallatin River. Historically, business was easily conducted at Annual Meetings, with most shareholders being farmers and ranchers working together to address any issues or concerns. It was soon discovered that some properties through which our Ditch flowed were being sold to developers for residential and commercial development, with little or no communication to our Directors or shareholders. Accessing our Ditch for maintenance soon became an issue. It was also discovered residential lots were encroaching on our Ditch easement. Liability issues were not addressed. Ditch closures without authorization and addressing where waste-water and storm water run-off will go were other issues that surfaced. Contamination from run-off was not being addressed. It was through the efforts of AGAI that regulations were re-written in cooperation with the Gallatin County Planning Board and approved by the County Commissioners requiring developers to discuss and enter into agreements with ditch companies to lay out how easements will be recognized and day-to-day issues will be addressed. Today, thanks to AGAI, there is now a requirement for communication that did not exist before. AGAI is encouraging cities and towns to adopt similar regulations.

Up-to-date mapping of individual waterways, including details such as head-gates, laterals, individual water usage, etc., will greatly assist with addressing issues related to development and with long-term protection of your water rights. It is no simple task, but fortunately there are programs available to help speed up the process and maintain water use records. Again, AGAI introduced the first such mapping in the County through a partnership with Montana State University, mapping the Low Line Canal. While this project is good, it is not the long term answer. With the numbers of ditches and canals to be mapped in Gallatin County, it will take several years to map them all through this present partnership. It is very probable that others will lay claim to your water rights, if usage is not properly justified and documented. Record keeping is critical; without a common complete system, water rights will be lost.

What are we going to do now to avoid loss of existing water rights? First, everyone associated with ditches and canals must understand and accept the urgency to begin documentation of watercourses. Second, support AGAI in their efforts, including additional funding when needed; that will be one of your best investments. Next, as Director vacancies occur on the AGAI Board of Directors, volunteer to serve. Not only will it be a learning experience for you, but you will be rewarded by serving your fellow farmers and ranchers at a most critical time. I see some of the older generation Directors wanting to step down, having put in many hours and expertise for our welfare; now is the time for the next generation from across the valley to step up. Farms and ranches are passed on from one generation to another, the same must occur with AGAI, or it will soon grow old and fade away. If you believe in what I have written, don't wait to be asked to serve on the Board of Directors, telephone a current Director and ask how you can become an active member. If you don't know any Director that you feel comfortable telephoning, call Walt Sales, cell: 570-2128; he will be happy to visit with you. Agriculture in the Gallatin Valley, your water rights, and the future of AGAI depend on it.

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**Want to keep current on water issues?**

**Go to AGAIMT.com & sign up for email updates.**

Your email will not be shared or used for any purpose other than AGAI water updates/newsletter.

## Feature Ditch: Spain-Ferris *continued*

Early discussions with Walt Sales indicate a very lively Annual Meeting is being planned. It is critical that ditch and canal companies have good representation at this meeting, to hear the guest speakers and support future plans for everyone's benefit. Another legislative year is coming up, and many water issues are already being drafted that affect each and every one of us. AGAI has been very active and will continue to be pro-active in protecting our water interests, with your continued personal and financial support. See you at the Annual Meeting December 2nd!

*By Duane Burkenpas*

Duane Burkenpas is an active volunteer, working to further agriculture education in our local schools through local, state and national organizations. We make a living by what we get, but we make a life by what we give.

## A Word from Walt

How much do you think about the water you have to use? Is it yearly, seasonal, or something more frequently that seems to be woven into your daily life? I am sure that those of you reading this have become well aware of the value of water. How the quantity and quality affect the personal life of you and your neighbors. Maybe a few of you have been following water issues that have taken place around various parts of our country, for that matter perhaps the world. I am going to share a quick "week-end of water" that took place late this fall while moving my daughter and son-in-law to their new destination in Colorado. Just seems I can't get "water off my brain."

Leaving home one early evening for the trip meant checking my emails late in the afternoon; I was not taking my computer and was not planning to check in for the next few days. Opening my inbox brought an array of issues... ranging from satellite imagery to track water usage, produced water rulemaking, growing demands for safe, reliable sources of water to meet the needs of the expanding population, climate change and its effects on water usage, to exempt well issues and whatnot. Some quick responses were sent where needed, and I was off with a well packed trailer, wife and kids. I was looking forward to a nice break from home and a great time to be able to visit with my wife as we were held captive for the next few hours.

It wasn't long before she was bored with my shared dialog, offering to put in one of the books on tape that our son-in-law lent us. Turns out for the next few hours we listened about the "evil control of water" and how valuable that control would be.... made me smile as I thought back to my daily life at home. While driving, I quietly looked at irrigation practices, water reservoirs, city towers, and the value of irrigation.

Just like that we arrive, unpack the trailer and then head off to sleep. The next morning is Sunday so we find a church, getting singled out as the new people from Montana. What do you know the sermon included water and its value.....Moses leads into the desert, which brings questions of how many days you can survive without water, again I am reminded of the value of water. During coffee time we visit, and you guessed it, water and its use seems to be as proverbial three states away as it is at home.

Mom and Dad say goodbye to the kids and start the drive home, finding a different route but entirely the same in regards to water. We drive through mountains and valleys observing lowered levels on reservoirs waiting to be filled by currently falling snow, to flat dry sagebrush wishing for some of that water, any water. We drop down a level into a valley that has water, and I marvel at the green, the trees and towns that have been absent for many miles. The only difference I could see was available water had been found. Again, the reminder of what water has to offer. Therein lies the problem, as the many demands for water increase so too will the interest, policies, and competition for it or its use.

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AGAI would like to thank the following for their financial support!

**Chris Corbin, Lotic Water & Gary Paulson, Hammer Ranch**

## A Word from Walt *continued*

I will quit there but as you can tell it was impressed upon me what some take for granted. I do hope that you too understand the value of good clean water, and that many of you hold a right that needs protection. That is the focus of AGAI, "to be the guardian" of those historically decreed water rights. As I was able to see and understand just what value water brings to many, I also understand that it will take a continued effort to *effectively* carry out our mission statement. At the onset of AGAI our scope was limited, perhaps naïve, but we have grown in respected duties as well as being respected in many circles. I feel we are fortunate to be valued when local, state and federal policy are being crafted. It has taken countless hours of commitment from many to be in this position.

Please take time to read the rest of our newsletter, give attention to issues we face and ask yourself how much you value what may be the most sought after right you have. In the upcoming year, the AGAI board will be looking at the most effective use of dues, memberships and our structure. We need your thoughts or concerns as we work forward, so give a board member a call. We appreciate your input.

*By Walt Sales*

## Legal/Legislative Update

AGAI has become recognized in policy making circles as being a group of senior water right holders that recognize the value of their resource, understand water law, and are willing to work towards solutions to water use challenges in the Gallatin Valley and statewide.

In previous newsletters and on the AGAI website I have gone into detail regarding challenges that faced AGAI and its membership during the 2009 session. The primary issues in which AGAI took a position this past session were bills that: (1) exempted various types of water use from the water right permitting process; (2) subordinated certain types of water rights; (3) prioritized certain types of beneficial use over all other uses; (4) amended the water right permitting process; (5) provided for the analysis of water availability; and (6) addressed issues associated with rivers that are navigable for title. I won't go into great detail here other than to remind water users that these issues still exist in various forms and it is very important to remain vigilant in the protection of senior water rights and the ability to exercise those rights.

Much like the legislative session, the legislative interim is full of water related issues that need to be tracked. The newly formed Water Policy Interim Committee has a work plan full of issues that, depending on how they are resolved or addressed, could affect AGAI members. The primary water related issues being addressed by the WPIC are the use of exempt wells, a performance audit of the adjudication program which is being conducted by Legislative Audit, overview of the adjudication program and implementation of enforcement provisions enacted during the 2009 session, water right ownership updates, groundwater permitting in closed basins, implementation of the new controlled groundwater area petition process, permitting water produced through coal bed methane development, development of a revised state water plan, an outline of Montana's water supply, update on water storage in Montana, and opportunities for aquifer storage, water marketing opportunities, instream water leasing, and water quality concerns including nutrients, total maximum daily load implementation, and the newly implemented phosphorous ban.

In addition to the potential policy changes being discussed by the WPIC there are also policy issues being addressed by other interim committees. The primary policy that AGAI is tracking at this time is the implementation of SB 465 and SB 507. These two bills address how or if the state could remove property underlying rivers that are navigable for title from the tax rolls and how or if the state could require payment for the location of structures on river beds. The issue of navigability for title is incredibly important because of the implications to water users and water right holders. **It is absolutely imperative that irrigators' ability to exercise their water rights continue to be protected as provided in the Constitution.** The revised navigable rivers list and associated map is available on the DNRC website.

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## Legal/Legislative Update *continued*

Last but not least, there are actions being taken by executive branch agencies through the rulemaking process that will have direct impacts on water rights. Two of the primary issues that are working their way through the process at this time are the DNRC rules related to: (1) calculating historic consumptive use when a water right is going through the change in appropriation right process and (2) the newly proposed wetland rules. The wetland rules define a wetland – both naturally occurring and as the result of a diversion – as a beneficial use of water under the water use act. One area of concern is the fact that a wetland is not defined as a beneficial use of water under statute. Both of these sets of rules need to be watched very carefully to ensure that the water rights of AGAI members are not adversely affected and to make sure that the burden for protecting those rights is not increased.

As in life, the water policy world is affected most by those who show up. AGAI is a respected representative of the senior water right perspective. This is an earned and well deserved respect. However, it is very important that AGAI continue to be an active participant in water policy related issues. While lawsuits and objections are sometimes unavoidable to protect our interests, the time and money saved by being proactive and creating solutions to problems rather than being reactive through litigation is substantial. If AGAI's concerns, points of view, and priorities are not voiced and expressed to policy makers there is a greater chance that opposing interests will guide policy into the future. So, in short, the issues and challenges related to water continue to become more important and more complex and the importance of protecting your rights as senior water right holders is only increasing. AGAI has played a vital role in the past and should continue to be involved and have your voices heard because AGAI really is making a difference.

*By Krista Lee Evans*

## AGAI Water Conveyance Facilities Mapping Project



**Photo: Allen Armstrong asking Al Lien how irrigation canals cross streambeds.**

Thanks to the ongoing cooperative working partnership with the Gallatin County GIS office and Montana State University, AGAI is pleased to announce that mapping of the Low Line Ditch was completed this past spring! There were 3 teams that mapped. One team walked the ditch (and got very muddy!), one team used an ATV and one team biked. Each method worked and the students learned a lot while helping out AGAI.

This fall it was decided to start the student volunteers on the West Gallatin Ditch. Allen Armstrong, the Gallatin County GIS Manager, has been working on an Irrigation Feature Identification Booklet with board Member Jennifer Mohler's help. This will help to make sure that all future mapping, by whatever entity, is performed in the same way and will integrate well into the county mapping system as well as the interactive AGAI version that will someday be on [www.agaimt.com](http://www.agaimt.com) via Google.

Other than time spent with the students, there is no cost to AGAI. We are thankful for the level of cooperation and interest we have received from all the entities involved.

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regarding current water issues.

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**There's no excuse for not being informed or mis-informed!**

