

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.

In this issue:

A Word from Walt	2
Governmental Affairs Update	3
W. Gallatin Water Commissioner Update	4
Water Conveyance Facility Mapping Update	4, 8
GGWC Exempt Well Tour	5
GLWQD Fee Increase	6
Help Expand AGAI Membership	7

Save the date!

AGAI's Annual Membership Meeting

Wednesday, December 5th at Stockman Bank in Belgrade
(6050 Jackrabbit Lane, Belgrade)

Doors open at 5:30 pm for pizza, meeting begins at 6:00pm

AGAI would like to thank Brent Poppe and everyone at Stockman Bank for hosting our annual meeting this year.



- Committee Reports / Director Elections / Outlook for 2013
- Budget & membership dues discussion
- Results from Gallatin Groundwater Investigation Program from Thomas Michalek, Research Hydrogeologist, MT Bureau of Mines & Geology
- Tim Davis, Water Resources Division Administrator for the Montana Department of Natural Resources and Conservation, will speak on New Permit and Change Rules, Temporary Change Bill Draft Proposal, and other DNRC proposed legislation.
- Local Elected roundtable discussion with AGAI board and membership, with invited guests from Senate Districts 32,33,34 and 35, Representative Districts 63-70, County Commissioners, City Mayors/Council

AGAI Directors

Walt Sales, Pres.
Al Lien, VP
Jennifer Mohler, Sec/Tres.
Rob Braaksma
Ilene Casey
Susan Duncan
Alan English
John Hunziker
Jack Meyer
Dan Triemstra

Bring your ideas and questions for a great discussion,
along with a dessert for the potluck.

A Word from Walt

The value of water...and AGAI

As we look back on this summer, undoubtedly the water flows, both in-stream and from the sky, will be ingrained in our memory. What we do with those memories is yet to play out; I can assure you they will affect our future plans from planting to policy here locally and statewide. I think you would all agree with me, we received a good lesson regarding the value of water on a personal level. As the snow pack lowered in the mountains and our stream flows declined two particulars became clear to me; how little control we have over the weather and how important it is to manage our resources.

During summer, I had contact with many others who saw these same issues play out in their life. From a barge pilot in the lower Mississippi to a Mid-State farm supplier to a local fisherman on the Gallatin, the issue seemed to be water, or the lack of water. Every one of these had valid concerns and a common theme...there needs to be more water in the rivers! I have to agree!! Every one of these also had no understanding how or where the water of concern came from, just that "they" needed more. It was also shared that the water needed to be better managed so their interest could be met.

In order to successfully manage something you need to have a full understanding of past, present and future issues. This is where AGAI has and will be so valuable to the future of our ability to exercise the property right you hold. Yes, a water right in Montana is a property right protected by the State Constitution. We must continue to educate on the value of our use and upholding the prior appropriation doctrine in whole.

Wise management of resources are a necessity, thankfully your membership in AGAI will bring the much needed balanced perspective to the table. As this past summer has shown us and others the importance of working together, it also has shown the great need for continual education and participation as water policy is being formed.

To me that's one of AGAI's greatest values, bringing the individual the ability to share his voice and concerns to others that either need or lack what used to be a common understanding...the practice of water use. If we sit back and allow others to move forward I am afraid we will end up with policy that will inadvertently (lack of education) or purposely (lack of participation) limit our ability to get the water we need and have a right to.

Your past support has been greatly appreciated and truly effective in providing a proactive approach...THANK YOU!! We are facing another legislative session with many termed out seats that leave a void in past relationships and debated issues. With your continued support we will be able to bring your voice to the room and table while providing the understanding of "on the ground affects".

As always feel free to give myself or another board member a call with any concerns or ideas you have. Enjoy fall and thank you for your willingness to work together for today and future generations.

**The legislative session
starts in January,
and AGAI needs your help!**

**Make a donation today to
support AGAI's
legislative efforts
to protect
your water rights!**

**Mail donations to:
AGAI
125 Jackpot Lane
Belgrade, MT 59714**

Governmental Affairs Update

by Krista Lee Evans

The AGAI Board and Legal Committee are beginning to gear up for the 2013 Legislative Session. The results of the November elections will play a role in our ability to protect AGAI's water rights in the public policy arena. To fully understand the potential implications of the upcoming session it is important to discuss the actions of the water policy interim committee (WPIC).

The WPIC requested that interested parties present their suggestions for resolution of the exempt well issue. AGAI presented a paper outlining the concerns related to exempt wells in the Gallatin Valley and the importance of equality in permitting. While AGAI did not submit a suggested bill draft, they did support the bill draft that was proposed by the Senior Water Rights Coalition. The SRWRC bill essentially said that within a subdivision as many exempt wells as needed could be used provided that as a TOTAL the wells did not use more than the exemption provided in statute – 10 ac feet. One of the goals was to move toward equality in permitting. It is important that the policy discussion be held regarding moving towards a more equal permitting process. If irrigating 100 acres of potatoes or alfalfa has to have a water right why shouldn't 100 acres of kentucky bluegrass irrigation have to have a water right?

The SRWRC bill proposal was reasonably well supported during the interim. The only opponents were the Water Well Drillers Association, the Montana Association of Realtors, and the Montana Association of Counties. Ultimately, the bill suggestion was not approved by WPIC. There were also bill drafts proposed by Trout Unlimited, Water Well Drillers Association, and the Montana Building Industry Association. None of these bills were approved by WPIC. Rather than move forward with any of the bills that were discussed throughout the interim, the Committee chose to move forward with two bills that were proposed at the last meeting of the interim.

The first of the bills was proposed by Senator Hamlett and essentially codifies the definition of combined appropriation that is found in rule: "'Combined appropriation' means an appropriation of water from the same source aquifer by two or more wells or developed springs that are physically connected into the same system." The second bill was proposed by Senator Vincent. This bill is not well fleshed out yet, and AGAI will continue to watch and provide input to the Senator as he continues to further define the language. At this time, the bill contemplates creating stream depletion zones in areas where a ground water assessment has been completed. If an "exempt well" is to be put within a stream depletion zone then it would be limited on its flow rate and volume.

As the legislative session approaches, it is critical that water right holders continue to remind legislators, irrigators, and the public that existing water rights are a property right. This property right is just as valuable as any other property right and needs to be recognized and protected.

Depending on how the elections turn out this may turn out to be a very challenging legislative session for the protection of water rights. Upon the direction of the AGAI Board and Legal Committee, I will work to protect your rights and your ability to exercise your water rights. If you are willing or interested to testify in front of legislative committees or just want to come up to Helena and interact with legislators please let Walt or myself know!

The legislative session runs January 7 through April 27.

Keep current on water issues!

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

Fall Update from West Gallatin Water Commissioner by George Alberda

Please become a member of AGAI and play an active role in protecting your water rights. As the demand for water continues to increase, it will become more costly to protect those rights. Through involvement in AGAI all water right holders in the Gallatin Valley can pool their collective knowledge and resources to be as effective as possible in a cost efficient manner. Your return on investment with AGAI will be well worth the minimal cost for being a member. If you are interested in sitting in on an AGAI Board meeting you are always welcome.

As I write this report I have joined the ranks of the unemployed. The demand for irrigation water has decreased enough that it was possible to return water to the Lowline and Highline and still leave some instream flow. The last water cut, which was ½ of 1883, came on August 30.

I would like to remind everyone of the people and the processes that help me do my job. It starts with Colleen and Patti at the Water Court. They put together a tabulation of all the irrigation rights on the Gallatin River. It comes to me arranged it three different ways. I can look up a water right by priority date, by owner, or by the ditch name. It's about 3 inches thick when they are done! They also provide me with field log sheets where I record the ditch flows. I rely on them a lot and Colleen always has an answer to my questions.

The DNRC is where you would actually record a water right or make a change to a water right. I am on the phone several times a year with Kerri at the DNRC clarifying any questions on changes etc. She deals with the technical aspects of a water right. I would like to thank her as well.

Judge Holly Brown and Jan at the 18th Judicial District Court are a great help as well. Although the irrigators have the joy of paying me it's the district court that I am working for. The district court has control of the waters in the Gallatin River and I am there to see that the doctrine of prior appropriation is followed (first in time, first in right). They actually make me hold up my right hand and swear to uphold the Constitution of the United States and the Constitution of the State of Montana. If there is an unhappy water user, we use the district court to help solve our problems.

I think we should be thankful that Judge Brown takes a very active role in the water affairs in the Gallatin Valley. She doesn't fulfill her duties from afar, instead she gets involved and I think problems are avoided because she has taken a proactive approach. She is in touch with the irrigators, realtors, government agencies and anyone else who has a stake in water. For the past several years the district court has sponsored a "water walk" and an early spring meeting for anyone interested. On this year's water walk we traveled to Hyalite Lake. Gerry Dusenberry and crew gave us an overview of the Middle Creek Ditch system. Harold Lindvig gave an explanation of his job functions, Dave Pruitt, Craig White and Mary Sexton director of the DNRC also gave talks. It was very interesting. We also went on a walk to see the ingenious way the water users get their water around the mountain from Hyalite Lake to Cottonwood Creek. The flume the old timers built without the equipment and technology we have available today is amazing. It was a very good day.

So once again, I want to thank everyone mentioned above and of course as always I thank the irrigators. They make my job easier by the cooperation they have given me and their willingness to turn down the headgate when the demand decreases.

Water Conveyance Facility Mapping Update

AGAI offers many thanks for the cooperative working partnership with Allen Armstrong of the Gallatin County GIS office, Professor Diana Cooksey at MSU and her students, and our members as they continue to map the canals and ditches that run through the Gallatin Valley. The AGAI Water Conveyance Facilities Mapping Project (canals and ditches) is a successful private, public and academic collaboration to gather needed irrigation data for the Gallatin Valley.

continued pg 8

Greater Gallatin Watershed Council Tour Features Exempt Well Issue

By Susan Duncan, AGAI and GGWC Board Member

On October 6, 2012, the Greater Gallatin Watershed Council hosted a Fall Tour about exempt wells. Forty-two people joined the “Wells, Surface Water, and Water Rights: How do They all Relate?” tour.

An exempt well is defined as a well pumping 35 gallons per minute or 10 ac/ft. Higher capacity wells must go through the formal permitting process. The process reviews the impact of the new appropriation on other water users and allows objections and comments by the public and other water users. An exempt well undergoes no review. The permitting process for a centralized water supply well for subdivisions is time consuming, and some say, too expensive and unpredictable. Developers found it easier and cheaper to rely on exempt wells (one per lot) for rural subdivisions.

Controversy. As this practice became more common, questions arose:(1) The Department of Natural Resources decided to evaluate dense concentrations of exempt wells as a “combined appropriation” rather than as individual wells. (2) Water law advocates perceived threats to the doctrine of “First in time. First in right” in Montana Water Law. (3) Water users that did go through the permitting process chafed at the fairness of allowing high-density use of exempt wells to accomplish similar goals without review. (4) Water advocates asked how exempt wells could claim “new water”, even in closed basins. (5) Trout Unlimited won a court case on the Smith River that established in law that surface water and groundwater are connected. If adverse effects of development are found, mitigation is needed.

The tour visited 5 subdivisions and Utility Solutions: Mountain View Subdivision (built in the early 1980’s) is on exempt wells. In the late 1990’s and early 2000’s, exempt wells in this subdivision went dry due to changes in land use to the south. Baxter Creek and Valley Grove subdivisions (built in the late 1990’s) rely mostly on permitted wells and some exempt wells based on lot size. Black Bull is on domestic water supplied by Utility Solutions and ditch water for outdoor irrigation from Lower Middle Creek Supply Ditch Company. The ditch company’s membership is now divided among subdivisions and agricultural users. Middle Creek Parklands also uses domestic water from Utility Solutions and former agricultural water for irrigation.

Utility Solutions is a privately owned and operated, public water supply and wastewater treatment company, serving the high growth triangle between Bozeman, Belgrade, and Four Corners. The company’s water supply comes from wells near the Gallatin River. Their permit required mitigation. Water from Beck and Border Ditch replenishes the aquifer through an infiltration gallery north of Four Corners.

Tom Michalek of the Bureau of Mines and Geology said groundwater monitoring studies in the Belgrade/Four Corners area show that, in the past, flood irrigation artificially elevated the water table. Subsequent development, and a shift from flood to sprinkler and pivot irrigation, decreased flow volume. Groundwater fluctuations are more sensitive to land use changes than overall water levels. He predicts a decrease in groundwater level of one foot based on current land use changes - and projects a change of about 2.5 feet in the future. **The effect on groundwater levels of reducing irrigated acres is significantly greater than that of increasing suburban acreage and exempt wells.**

Patrick Bjorth from Trout Unlimited said that surface water and groundwater sources are connected. Irrigators have successfully managed water use to serve the needs of agriculture and keep streams flowing for fish. Exempt wells are not a “new” untapped source of water. All available water has been appropriated. All water users are tapping the same water source. Changes in use affect other water users.

Solutions? At a panel discussion over lunch, speakers discussed solutions to the issue of exempt wells from the local, state, and legislative perspective.

Gallatin Local Water Quality District Requests AGAI Member Support of Fee Increase

What is the Gallatin Local Water Quality District (GLWQD)? The GLWQD is a non-regulatory entity that operates as an outside-funded department of Gallatin County. It was formed in 1995 with the mission *to protect, preserve, and improve the quality of groundwater and surface water within the District*. Work is focused on monitoring groundwater and surface-water resources, working with others to improve water quality, providing public education on protection of water resources, and assisting other organizations and individuals with water resource problems.

Where is the Gallatin Local Water Quality District? The GLWQD encompasses 1,299 square miles, covering the Gallatin Valley. Included within the boundary of the District are the municipalities of Belgrade, Bozeman and Manhattan, and the unincorporated areas of Gallatin Gateway, Four Corners, Logan, Amsterdam, Churchill, and Big Sky.

How is the GLWQD funded? The GLWQD is funded entirely by a small fee of \$6/year assessed on improved parcels within the District. To the extent possible, the GLWQD also seeks grant funds to conduct monitoring and special projects. The GLWQD does not receive any general tax fund revenue from the County or the State.

Why is the District requesting support for a fee increase and how much will the fee be increased? The GLWQD has been in operation for over 15 years, and the \$6/year fee has never been increased. Meanwhile the costs to conduct water resource monitoring, and the costs of providing the services offered by the GLWQD have steadily increased. Like all businesses, costs for providing services, including rent, utilities, supplies, equipment, and labor have increased significantly since 1995. The GLWQD is proud of the fact that it has been able to operate for so long on a small fee, and has never needed to request a fee increase. However, the GLWQD is facing a budget shortfall in 2013. The fee increase being requested is for an additional 60 cents/year, making the annual fee \$6.60/year.

What services does the GL WQD provide? The GLWQD maintains a network of 50 groundwater monitoring wells in cooperation with the Montana Bureau of Mines and Geology MBMG. The wells are used to monitor both groundwater levels and groundwater quality. Currently the GLWQD is monitoring over 100 groundwater and surface water sites on a monthly basis for the MBMG Ground Water Investigation s Program. The GLWQD assists well owners with water quality testing by providing reduced-cost well-water sampling kits in cooperation with MSU Water Quality Extension, including providing instructions, and interpretation of testing results. The GLWQD also provides public education to any interested party, and has developed numerous reports, fact sheets and brochures that are available for free on the GLWQD website, or by visiting the office. Finally, the GLWQD has constructed and continues to add information to a groundwater quality database that includes current and historic water quality information.

Why should AGAI members support the GLWQD? The GLWQD has been an active participant with AGAI since AGAI was created. GLWQD staff serve on the AGAI Board, and the AGAI Legal Committee. The GLWQD has provided AGAI support on issues at the Montana Legislature, and has contributed funds to help support AGAI. The GLWQD has worked with AGAI to reduce conflicts between irrigators and other landowners, and has been working with AGAI to look at issues associated with increased use of exempt wells. The GLWQD recognizes and supports the role of agricultural irrigators in helping to protect water resources.

Want more information? Visit the GLWQD website at www.gallatin.mt.gov/GLWQD or contact the District Manager (Alan English) at 582-3148 or email alan.english@gallatin.mt.gov. The GLWQD office is located at 215 West Mendenhall, Suite 300, Bozeman, Montana 59715, across Mendenhall from the Courthouse.

Help Expand AGAI Membership

Currently AGAI membership consists of over 90% West Gallatin water users. In order to increase our effectiveness with the upcoming legislature, we need to include the water users of the East Gallatin. Can you help?

- Will you talk to your friends with water rights in the East Gallatin drainage?
- Will you call Ilene Casey (284-6646) to get membership packages for them?
- Will you personally get them to attend the Annual Meeting?

Benefits of AGAI Membership

How much does your water mean to you? AGAI is proactive to protect your water investment!

AGAI Involvement

Legislative issues:

- Exempt wells - Continue to advocate that exempt wells are truly used only for de minimis uses not as means to avoid permitting.
- Navigable rivers - Working to make it clear that only a court can determine which rivers were navigable for title at the time of statehood.
- DNRC proposed legislation related to water leasing for oil and gas purposes - actively tracking and providing comment on this and other proposed legislation
- Monitoring – 1. DNRC report related to the valuation of water rights used on state lands as well as a valuation of the ability to access points of diversion that are on state lands. 2. Discussions regarding water markets and water banking. 3. Downstream states. 4. Attempts to prioritize types of beneficial use, streambed access and channel migration, streambed ownership. 5. Analysis of water rights by entities other than the owner, including consumptive use analysis and infrared and aerial photography, to determine water use.

AGAI Success Stories (2004-2012)

- Successful legislative lobbying for senior water rights in the legislative sessions.
- Contract with Krista Lee Evans to cover government affairs and activities for AGAI as lobbyist during the legislative session and working with DNRC, DEQ and interim committees such as the Water Policy Interim Committee.
- Collaborative work with Planning boards to improve sub division regulations concerning water rights.
- AGAI/GIS Mapping Project which is accurately mapping Gallatin Valley's irrigation infrastructure at no cost to the ditches.
- Partner with Utility Solutions, one of the state's first successful mitigation projects.
- Good working relationship with the District Court, supporting the annual water walks, and aiding in the appointment of West Gallatin Water Commissioner George Alberda.
- In 2005 AGAI monitored the proposed controlled groundwater area in Four Corners.

Additional current AGAI Activities

- Letter for ditch companies to use with landowners along the ditch to explain the rights and responsibilities of the water users and the adjacent landowners.
- An AGAI committee is currently working on a process to be used to notify the public and local law enforcement officials about spring ditch cleaning.
- AGAI has also sponsored educational opportunities for members to learn about the new pesticide application rules.
- Additionally, in the event it is necessary to become involved in a legal challenge AGAI can serve as the point entity in our valley. This saves individual water right holders the time and cost associated with the multiple water right related legal challenges that are ongoing.
- AGAI is building coalitions with other groups to protect water rights and is creating opportunities for AGAI members to interact directly with Montana's water policy leaders.

Water Conveyance Facility Mapping Update *continued from pg 5*

Ditches mapped so far include Low Line Canal, High Line Canal, West Gallatin Canal, Farmer's Canal, Mammoth Ditch, Spain-Ferris Ditch, Middle Creek Ditch, Perks Canal and the Lower Creamery Ditch.

This fall (our fifth year!), Diana Cooksey's class, with organizational help from Walt Sales, is mapping the Lewis Ditch. Once the mapped ditch companies sign off on the letter of approval for their data, we can start work on the AGAI website mapping page.

AGAI is looking for a canal or ditch that the students can map for fall term 2013. If you would like to volunteer your canal or ditch, please contact pamela@littleappletech.com. Someone from the ditch company is asked to attend the GPS class at MSU to explain the need for the mapping. Once the team is assembled then Diana, the students and Allen Armstrong from the county schedule a meeting at the start of the ditch or canal with the ditch rider/tender or someone very familiar with the waterway. There is no charge to your ditch or canal company.

Don't forget to save the date!

AGAI's Annual Membership Meeting

Wednesday, December 5 @ Stockman Bank in Belgrade