

# AGAI Ripple

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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	3-4
Water Conveyance Facility Mapping Update	3, 6
GGWC Fall Tour	5

### AGAI Directors

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 Al Lien, VP  
 Jennifer Mohler, Sec/Tres.  
 Rob Braaksma  
 Ilene Casey  
 Susan Duncan  
 John Hunziker  
 Martin Kimm  
 Jack Meyer  
 Dan Triemstra

## Save the date!

## AGAI's Annual Membership Meeting

**Wednesday, December 4th at Stockman Bank in Belgrade**  
 ( 6050 Jackrabbit Lane, Belgrade)

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

**Doors open at 6:30pm , meeting begins at 7:00 pm**

- Committee Reports / Director Elections / Outlook for 2014 / Budget
- Guest speakers Judge McElay & Judge Ritter from the Montana Water Court
- Krista Lee Evans with the Governmental Affairs Update
- Guest John Wallace with Big Sky Insurance
- Guest Karen Filipovich with Greater Gallatin Watershed Council

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



## How much do your senior water rights mean to you?

You need to be proactive to protect your right to the water that is essential to continue your ag operation. Our collective voice concerning the many water issues is much more apt to be heard and taken seriously when we represent more water users. Current AGAI membership consists of most all of the Gallatin river water users. However, there are over twice as many water users on the East Gallatin river and they are not yet members. Let's create a joint effort to involve these potential members. **You can help - get involved! The water rights you save will likely be your own!**

Talk to your friends with water rights in the East Gallatin drainage.

Call Ilene Casey (284-6646) to get membership packages for other water users who are not currently members.

Personally bring potential members to AGAI's Annual Meeting with you.

## A Word from Walt

As I reflect on the years that AGAI has grown and issues that we are facing, I am reminded of the old adage “so much to do, so little time”. Just looking ahead our water use will be impacted by climate, policy and technology. I am thankful for the relationships that have been forged in the past giving the membership a strong voice in water use. I understand the value that comes by bringing the “individual” voice to the table.

As a board we are working on how we keep the membership aware and educated on issues as they come forward. This communication between user, member and board needs to be a “two way street”. We need your help here, please visit with a board member on ideas or what is working for you.

Many of you are aware that the Water Court has gone thru significant changes regarding retirements, new appointments and work load. We will be hearing from the Water Court at the annual meeting giving us an overview on adjudication, compacts and possible future direction they see for us as water users.

This past year the Board has reached out to the East Gallatin and Willow Creek water users to share how joining together can help enhance that voice. AGAI is pleased to announce that Dry Creek Irrigation Company is AGAI’s newest member.

We also have been working on the liability insurance coverage that some of you carry, with the possibilities of covering our membership with a group rate. John Wallace, Big Sky Insurance, will be at the annual meeting to discuss options and needed input from us.

The work from Krista Lee Evans continues to be one of the highest “pressure points” in our working area. We are fortunate to have such a qualified advocate to bring our concerns and keep us informed in that arena. We will have a complete report on upcoming issues that we face at the annual meeting, along with her column in this newsletter.

The State water plan is being updated under the direction of the 2009 Montana Legislature ([http://www.dnrc.mt.gov/wrd/water\\_mgmt/state\\_water\\_plan/default.asp](http://www.dnrc.mt.gov/wrd/water_mgmt/state_water_plan/default.asp)). A committee has been formed and held public input meetings last month with the corporation of the DNRC. In our area the focus of these meetings was to get upper Missouri basin water interests to share concerns and ideas on existing and future water use and availability. Be on the lookout for a summary from the input and completed committee work in the near future. **I would really encourage your participation in this event, with the Census and Economic Center, Montana Department of Commerce showing the Gallatin county with over 20% increase in population in the 2010-2030 period, there will be ever increasing pressures on water rights.**

Our board will be running under new leadership in 2014, this will be good for all. I have enjoyed the relationship with our board and appreciate the work from the various committees as we have progressed from a startup interest group to a respected voice in the water world. This has been delivered by many committee hours and input from you, the membership.

As we go forward, I am encouraged by the ground work that has been put in place, providing a collective, proactive voice regarding water use. Just remember the strength in this depends on active participation from you, the membership, while staying informed and connected.

Hope to see you all at the annual meeting, Dec. 4 at the Belgrade Stockman Bank.

## Governmental Affairs Update

by Krista Lee Evans

A year in the life of irrigation water policy . . .

2013 kicked off with the Legislative Session. We covered issues in detail last year at the annual meeting and here are the results!

SB 19 – Exempt Wells and the Definition of Combined Appropriation –As in previous sessions this was a significant issue for existing water right holders and entities that want cheap and easy access to water for new development. In addition, the definition was subject to pending litigation in which the parties had agreed to a settlement that required the Legislature to adopt a definition of combined appropriation and in the event that wasn't successful the DNRC must adopt rules defining the term. This issue is very emotional and becomes even more frustrating when inaccurate information is disseminated. AGAI understands the specific needs for exempt wells but also understands the need to protect property rights associated with water rights and balancing the competing property right interests. AGAI stood by its written policy that it is opposed to the concentrated use of exempt wells without a permit and opposed the legislation that was brought by the development community. The AGAI Board feels strongly that the constitutionally protected property right that is associated with your water rights is just as important as the right to develop your property. The challenge is balancing these two competing property right interests. In the end, the bill this last session was “half passed” by the legislature. The initial version received an amendatory veto from the Governor (which AGAI supported). The Governor's amendments were approved by the Senate and were not acted on by the House. Because the Legislature didn't act (the bill was stuck half way passed) the original language returned to the Governor's office and was vetoed. AGAI has been working with other interested parties by providing comment on the rules that the Department of Natural Resources and Conservation has proposed. The rules try to define combined appropriation. Keep an eye on the AGAI website for information as we move forward.

SB 346 – Create Stream Depletion Zones – This legislation was passed and recognizes the connection between surface water and ground water. It creates the idea of a “stream depletion zone” where there is evidence that as the result of ground water withdrawal surface water is depleted. In these identified areas (must be identified and adopted by DNRC), the amount of water that can be used through a well that is exempt from permitting is 20 gpm and 2 acre feet rather than the existing 35 gpm and 10 acre feet. No stream depletion zones have been developed yet. AGAI will continue to track the implementation of this new law.

*Continued on page 5*

## Water Conveyance Facility Mapping Update

AGAI appreciates 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. Started in 2007, 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.

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, Lower Creamery Ditch and the Lewis Ditch.

*Continued on page 6*

## Governmental Affairs Update *...continued* by Krista Lee Evans

What's on the horizon:

The legislature passed a bill allowing for the filing of claims that were exempt from the filing process in the initial adjudication (in stream stock and domestic). This process is outlined on DNRC's website. After discussions with DNRC, water users will be notified regarding this opportunity and how to move forward.

The Water Court has new leadership – Judge McElyea is the new Chief Water Judge and Doug Ritter is the new Associate Water Judge. At the interim legislative committee meeting Judge McElyea mentioned that he is moving forward with the idea of sending appealed DNRC water related decisions to the Water Court rather than District Court. Again, AGAI will continue to track this issue and keep members informed.

The Confederated Salish and Kootenai Tribe reserved water rights compact was not passed by the 2013 Legislature. Some believe that because it was not passed that the issue is now resolved. That is not the case – the tribe is entitled to water – the questions is where, when, and how much. This can be determined via negotiated compact or via legal action. The state is still working on negotiating a compact that can be approved by the legislature. Until this issue is resolved, water users in the Gallatin should remain vigilant. If the CSKT decides to litigate rather than negotiate this compact the tribe will likely assert claims to water statewide.

Clean Water Act – The USEPA is moving forward with rules resulting from a study that was conducted related to the connectivity of water in the United States. This is of great importance to Montana Water Users because it will impact which waters must be permitted under the Clean Water Act. Currently the Courts have stated that there must be a “significant nexus” for the water to be considered Waters of the US. This report and subsequent rulemaking does not define “significant nexus” and essentially says that ALL waters are waters of the US – including ephemeral drainages that never reach a tributary or main water body.

These are just a few of the issues that AGAI is continuing to track for our membership! The list is quite extensive and we would be happy to provide this to you or provide more information on any of these issues. It is critical that AGAI membership stand up for your rights and be heard. Please contact the board members if you have questions or concerns or need additional information!

## Community Based Stream Improvements - Public Meetings

The **Greater Gallatin Watershed Council** is developing a community-based plan to improve streams in the Lower Gallatin watershed ( the area drained from the mouth of the Gallatin Canyon to the Missouri). A series of public meetings are being held around the watershed to identify local priorities and possibilities for projects that benefit landowners and help improve streams.

Meetings will be held in January or early February around the valley. All are welcome to any or all meetings. For more information, email Sierra at [info@greatergallatin.org](mailto:info@greatergallatin.org).

Agricultural producers are the biggest landowning group in the valley. Your input on what will and will not work is critical.

Greater Gallatin Watershed Council Fall Tour  
“Restoring Gallatin Valley’s Wetland Landscapes”  
By Susan Duncan, AGAI and GGWC Board Member

Restoring a wetland requires a permit from the Corps of Engineers under the Clean Water Act of 1972, Section 404. The landowner submits a mitigation plan that includes a list of the functions the project hopes to improve – like enhanced wildlife habitat, stream channel and floodplain restoration, or filtration of storm water runoff. After construction, the site must be monitored for 3-7 years to determine if the wetland is now functioning as promised. The goal is to insure no net loss of wetlands due to development.

On October 12, 2013, fifty-five people toured 4 local restoration sites:

**Montana Department of Transportation Site:** The site is a low area at the toe of the slopes near the East Main off-ramp from I-90. The restoration work in 2009 reconstructed former channels and provided open water depressions. Re-vegetation provided bank stability and wildlife food and cover. Volunteer monitors identified 113 bird species here. The wetland filters stormwater from the east side of Bozeman before the water enters the East Gallatin River.

**The Trust for Public Lands Story Mill Project:** The non-profit purchased the property to develop it as a community park for recreation, trail connections, wetland restoration, and water quality enhancement. The site is the largest remaining wetland within Bozeman’s urban core.

Plans for wetlands re-development are in the assessment and planning stages. Bozeman Creek flows through the site to its confluence with the East Gallatin River. Bridger Creek also joins near by. This site is an important last stop for filtering runoff and streamflow. Floodplain restoration could help mitigate the threat of flooding for neighboring landowners.

GGWC’s Steam Teams will be doing ground and surface water sampling to get a baseline and monitor quality. GGWC will develop the Lower Gallatin Watershed Restoration Plan over the next 2 years. Wetlands will be a part of that plan. Watch for opportunities for public input on the Story Mill project and the GGWC Watershed Restoration Plan.

**Valley West Subdivision** is located at West Durston and Cottonwood Roads, a former livestock pasture. To develop the site, a private developer invested heavily in 52 acres of wetland restoration, the largest mitigation project in the state for a single development. Baxter Creek runs through the site. The developer restored the stream channel and also put in two lakes. Housing was relegated to “marginal” wetlands on this soggy site. The amenity value of water and trails attracted mid to upscale buyers.

**Loyal Gardens Subdivision** is on Cottonwood Road, south of Huffine Lane. Farmer’s Canal borders the subdivision on the south. Restoration work here involved re-creating a channel for Baxter Creek by removing 3 in-stream ponds. The subdivision is within the city limits of Bozeman. It has storm drains and curb and gutter. Kyle Mehrens, the City GIS Technician, explained the mapping of the Bozeman storm drain system. He took off a storm drain cover to reveal sediment load and how that drains into a small settling pond in the subdivision before it goes into Baxter Creek.

Both Loyal Gardens and Valley West did extensive ground water pumping to lower the water table during the development phase of the subdivision. Sue Duncan of GGWC and AGAI pointed out the effects on downstream landowners – overwhelmed irrigation ditches in summer, ice jamming and flooding on irrigation ditches in winter. She also explained the conflicts over ditch maintenance that arise when the ditch bank and maintenance easement are landscaped as a city park with curb and gutter, as in Loyal Gardens.

## Water Conveyance Facility Mapping Update *continued from pg 3*

This fall Diana Cooksey's class, with organizational help from Brad Bean, is mapping the DN Hoffman, Durham and the Bell Dunlap ditches. He gave the student teams an evening tour of the ditch segments on September 11.

AGAI is looking for a canal or ditch that the students can map for Fall Term 2014. If you would like to volunteer your canal or ditch, please contact [pamela@littleappletech.com](mailto: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.

The final class presentation for the mapping teams is Wednesday, December 4th, 11-11:50 AM, 143 Gaines Hall. It would be great to have as many guests as possible from Gallatin County GIS and AGAI.

### Parting shot — photo by Bruce Loble



**Don't forget to save the date!**

## **AGAI's Annual Membership Meeting**

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