



THE ASSOCIATION OF  
**GALLATIN**  
AGRICULTURAL  
**IRRIGATORS**

PO Box 1308

Belgrade, MT 59714

**Save the Date!**

## **AGAI ANNUAL MEETING**

**December 4, 2019**

**Stockman Bank,  
Manhattan, MT**

**6:00 – 8:30 PM**

### Discussion Items:

- Update on HB 286 Legislation and Litigation, *Hertha Lund, Atty.*
- AGAI/Gallatin County/MSU Ditch Mapping Project
- Water Court Adjudication in Basin 41H – *MT Water Court*
- CSKT Compact Progress – *Ryan Rusche, CSKT Legal Counsel*
- AGAI Grant Activities and Updates

Join us for coffee and light snacks and an evening filled with all things water!

Things change quickly in the Water World! Stay up to date with updates posted on [AGAIMT.COM](http://AGAIMT.COM) as well as the AGAI Facebook Page.

FROM THE PRESIDENT  
ILENE CASEY

Your Board of Directors is looking forward to the opportunity to meet with each of you at the Annual Meeting, Dec 4, an evening for all of us to have dialogue concerning how AGAI meets your expectations and needs. As we move from the annual meeting into 2020 we once again invite you to become active in the work AGAI does to protect your water rights. Plan to attend the monthly meetings, become active on a working committee, regularly check the AGAI Facebook page and the website [AGAIMT.com](http://AGAIMT.com). Your help will be appreciated and you will gain personal knowledge and insight.

Thank you to each contact person who responded to our last letter asking for contact information for your ditch/canal/water conveyance system individual membership. Those folks will be receiving this letter directly and you will not have to forward it. If you have not yet had an opportunity to provide the requested contact information we will look forward to receiving it from you. Please remember we will never share the information and it will be used only for the Board to contact our membership.

The Board has started an ambassador program which involves each board member being a personal contact to approximately three ditches. This will greatly enhance the communication between the Board and the member ditches. If you have not yet received a call and/or email from your ambassador, stay tuned, it will be coming shortly.

The Annual Meeting agenda is packed full of important information on the water adjudication, HB286, the CSKT compact, and other vital topics. Please read the rest of this mailing for updates. The Board has also been monitoring the forest service applications for instream flow and the permitting for the Morgan gravel pit expansion. SEE YOU DEC. 4

**UPDATE! CSKT Federal Settlement and Compact.** A Compact is settlement to litigation – the same litigation that Gallatin irrigators are currently actively engaged in – the adjudication. **Background:** The Compact settles the CSKT’s water rights claims in Montana. Absent the Compact and Federal Settlement Legislation the Tribe’s claims will become active in two different ways – (1) the claims will be included in the decrees and the Tribe will be able to object to state based water users claims; (2) the Tribe will actively protect their claims through making calls in the basins where their claims exist. In the Gallatin, on average, that means that water would be shut off (to meet the Tribe’s instream flow right) 2 – 3 weeks earlier than historically shut off. **Next steps:** The Compact and associated Federal Settlement must be approved by Congress. Once there is Congressional approval the Compact must be approved by the Tribal Council. Since the Compact is a settlement it must be approved by all three parties to the litigation – State of Montana (2015), Federal (Congress), Tribe. It is critical that irrigators and other water users reach out to the Montana Congressional Delegation to urge their introduction and support of the federal settlement legislation that includes the Compact.

**HB 286 – State assertion of ownership of private water rights.** HB 286 was passed by the 2019 Legislature with strong support from both Democrats and Republicans. HB 286 was implemented because the State of Montana was updating privately owned water rights to show that the State owned a portion of the water right that is used on state lands – even if the well or developed spring is located on private land. One of the most concerning elements of this action was the fact that there was no due process for water right owners to say that the State doesn’t own a portion of the water right or to rebut the State’s assertions, there was no analysis conducted by the State to determine where the water right was perfected and when (private land vs state land), and the significant change to the interpretation of water law under the State’s assertion that the defining element of a water right is its place of use.

In September 2019, a watch dog group out of Idaho – Advocate for School Trust Lands – filed a suit naming the MT Attorney General as the defendant stating that HB 286 was unconstitutional. The State is in an interesting position. The AG’s office is tasked with defending the validity of the statute but DNRC Trust Lands Management still asserts that the statute is unconstitutional, and the State owns a portion of the water rights. Agricultural groups from across Montana (including AGAI) have joined together to intervene on behalf of the State through the AG’s office to defend the statute and protect our members from an unlawful taking by DNRC Trust Lands.

*“The Mission of the Association is to be the guardian and advocate of the Gallatin River system through the protection of historically decreed water rights”*

