

**ASSOCIATION OF GALLATIN AGRICULTURAL IRRIGATORS  
2009 WEEKLY LEGISLATIVE HIGHLIGHTS  
February 22, 2009**

The last week was long and very busy as we predicted. However, AGAI was very successful in our work with the committees and other interested entities. The committees will not be meeting this week since it is all floor action. We will need to pay close attention to bills on the floor and communicate our thoughts to the legislators. Additionally, we will need to work to make sure that bills that were tabled in committee are not blasted out for action on the House or Senate floor. Please do not hesitate to let either Krista or Walt know about issues of concern, comments, and thoughts.

**Reports on Hearings and Committee Action February 16-February 22**

**SB 396 – (Story, Park City)** – Provided an exemption for a change in appropriation right for a point in diversion. This applied to all points of diversion no matter what the use. AGAI was concerned about not having an opportunity to object in the process and the bill was amended to allow an opportunity for a water user to file a complaint to stop the change until it had been through department review **Passed**

**SB 437 – (Perry, Manhattan)** – Provided that an artificial fish pond could not be licensed if the source of water was a groundwater source that was exempt from the permitting requirements of 85-2-306. **Passed**

**SB 420 – (Jackson, Kalispell)** – SB 420 provided that in the adjudication process the attorney would have good cause show to appear as an objector to a hydro power right because it “appeared” that the claim exceeded the historic flow. AGAI objected based on the fact that a process already exists for the AG to play a role in the adjudication in the event of nonperfection or abandonment. Additionally, claims are prima facie evidence as provided by law and this bill would limit that standing for a certain type of use. Again, AGAI raised the issue of no prioritization or singling out of any type of use. **Tabled**

**HB 422 – (Jackson, Kalispell)** – This bill stated that if a holder of a power generation water right objected to a new application it would be considered speculation. Obviously a due process violation when an entity can’t protect their property right. However, more important to AGAI is the fact that the bill shifted the burden of proof related to adverse affect from the applicant to the existing water right holder. The bill also stated that adverse affect must be measureable rather than calculable. **Tabled**

**SB 461 – (Brueggeman, Polson)** – This bill is almost the exact same as SB 149 which was tabled in committee. However, this bill is even more damaging to senior water right holders because it allows municipalities, water and sewer districts, and regional water authorities to change their place of use without approval from DNRC. So, there is no opportunity for senior water right holders to object if they feel they will be adversely affected by the change in appropriation right. **Passed**



**SB 94 – Passed**  
**SB 324 – Tabled**  
**SB 303 – Passed as Amended**  
**SB 343 – Passed**  
**HB 379 – Tabled**

**Reports on Bills Heard but still in Committee – February 16-February 22**

**HB 52 – (McNutt, R – Sidney)** – Fund hydrogeologic Study was heard by House Appropriations on January 12. All those who testified were proponents. AGAI supported the legislation stating it is critical to provide sound, unbiased science so that informed decisions may be made with regard to water allocation in Montana. Estimated cost per basin for the ground water study is \$600,000. MT Bureau of Mines and Geology has determined that approximately 7 basins could be studied per biennium. It would take approximately 5 bienniums to complete all of the basins in MT. Rep. McNutt requested that the legislation be held until the budget picture was better understood. The bill requests \$4.2 million per biennium. Executive Action has not been scheduled.

**Hearings for the week of February 23rd – February 27<sup>th</sup>:**

**(Note: A hearing only requires a two day notice so this list may change)**

No bills scheduled for hearing this week – week before transmittal.

**Bills Assigned to Committee but not yet Scheduled for Hearing:**

<a href="#">SB 465</a>	LC1635	Bradley Hamlett	(S) Referred to Committee -- (S) Taxation	02/13/2009	Clarify ownership of streambeds concerning property taxation
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**Bill Drafts of Concern**

<a href="#">LC0046</a>	02/08/2008	Bob Story	(C) Draft On Hold	10/08/2008	Criteria for determination of market value for state land occupied by dams
<a href="#">LC0185</a>	06/26/2008	Verdell Jackson	(C) Draft On Hold	11/10/2008	Prohibit sale of water rights upstream by hydroelectric generators
<a href="#">LC0189</a>	06/26/2008	Verdell Jackson	(C) Draft On Hold	11/10/2008	Subordinate power generation water rights



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<a href="#">LC0587</a>	10/15/2008	Jim Shockley	(C) Draft On Hold	01/05/2009	Emergency use of surface water
<a href="#">LC0692</a>	11/05/2008	Jerry W Black	(C) Draft On Hold	11/18/2008	Irrigation sustainability and development act
<a href="#">LC1396</a>	12/04/2008	Kelly Gebhardt	(C) Draft On Hold	01/14/2009	Revise water rights permitting process
<a href="#">LC2077</a>	01/07/2009	Mike Menahan	(C) Draft On Hold	01/31/2009	Limit exempt wells in high growth counties

