

**ASSOCIATION OF GALLATIN AGRICULTURAL IRRIGATORS
2009 WEEKLY LEGISLATIVE HIGHLIGHTS
February 8, 2009**

The session is starting to become more hectic as legislators are realizing that bill draft introduction deadlines are looming. General bill deadline for having the draft completed was last Friday. Committees are moving forward with bills and have been willing to let parties try to work out amendments. This will probably change as time for action shortens and as hours grow longer and patience is stretched. We continue to work with other interested parties to try to come to agreement on bills and amendments. Please do not hesitate to let either Krista or Walt know about issues of concern, comments, and thoughts.

Reports on Hearings Held February 2-February 6

HB 275 – (Hamilton, Missoula) Emergency streamflows for fisheries. This bill required the DNRC to shut off water use on a stream – starting from the most junior and working its way up to the most senior right – anytime the stream level dropped below 25% of the average annual flow. This created constitutional concerns and takings concerns.

Reports on Bills Heard but still in Committee – February 2-February 6

SB 93 – (Sen. Jent, D – Bozeman) DNRC Bill -- Clarify groundwater utilization laws in closed basins was heard on 1/14/09. This bill provided that all net depletion results in adverse affect. Proponents were DNRC, DFWP, and Tongue River Water Users Association. AGAI opposed based on the concern that adverse affect is a site and fact specific determination and that it is not a good idea to create a predetermined outcome to a scientific analysis. Executive Action has not yet occurred.

SB 94 – (Sen. Jent, D – Bozeman) DNRC Bill -- Revise closed water basin permitting laws was heard on 1/14/09 in Senate Natural Resources. Again, a majority of those testifying were in opposition. The bill removes the statutory requirements for hydrogeologic assessments for new permit applications in closed basins. A number of entities offered to work with the DNRC on the development of amendments to make the bill work. AGAI has drafted amendments to ensure that the hydrogeologic provisions enacted in HB 831 stay intact. Executive Action has not taken place and amendments are in progress.

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



SB 120 – (Zinke – Whitefish) Revise the controlled groundwater area petition laws. The hearing was held on Wednesday, 1/28/09. This was a DNRC bill that Sen. Zinke carried. The bill does provide a much clearer and more easily understood process for petitioning for a Controlled Ground Water Area (CGWA). It provides a process for local government entities to petition for a CGWA. It also provides that scientific evidence must be presented with the petition and it changes the status of a temporary CGWA. Under this bill temporary CGWA are not subject to the restrictions until it is actually confirmed that there are problems and it becomes a permanent CGWA. The major concern on this bill is the removal of the citizen petition process.

HB 321 – (Cohenour, D – E. Helena) Clarify local government authority regarding public water and sewer. Hearing was held on Thursday, 1/29/09 in House Local Government. Bill clarifies that local government can have more strict standards than state standards for public water and sewer. Makes it clear what steps must be taken by the local government to enact the regulations.

Reports on Floor Action Held February 2-February 6

HB 41 – (Rep Cohenour, D – E. Helena) WPIC Bill -- Revise water quality laws for aquifer recharge or mitigation also had its second hearing in the house in House Appropriations on 1/27/09. This bill requires that treated effluent that will be used for mitigation or aquifer recharge be treated to either primary drinking water or nondegradation standards. The bill was amended in committee to make it clear that the requirement only applies to treated effluent and not other discharges. The bill was passed out of committee on a 20-0 vote. Passed 81-11 on 3rd reading.

Hearings for the week of February 9th – 13th:
(Note: A hearing only requires a two day notice so this list may change)

Monday 2/9/09

SB 303	LC0463	David E Wanzenried	(S) Referred to Committee -- (S) Natural Resources	01/28/2009	Update state water plan
------------------------	--------	--------------------	--	------------	-------------------------

Tuesday 2/10/09

Wednesday 2/11/09

SB 324	LC0190	Verdell Jackson	(S) Referred to Committee -- (S) Natural Resources	01/31/2009	Revise laws related to power generation water rights
------------------------	--------	-----------------	--	------------	--

Thursday 2/12/09:

Friday 2/13/09:

Bills Assigned to Committee but not yet Scheduled for Hearing:



HB 379	LC2110	Gordon R Hendrick	(H) Referred to Committee -- (H) Natural Resources	01/27/2009	Revise water law for changes
------------------------	--------	-------------------	--	------------	------------------------------

Bill Drafts of Concern

LC0046	02/08/2008	Bob Story	(C) Draft On Hold	10/08/2008	Criteria for determination of market value for state land occupied by dams
LC0185	06/26/2008	Verdell Jackson	(C) Draft On Hold	11/10/2008	Prohibit sale of water rights upstream by hydroelectric generators
LC0186	06/26/2008	Verdell Jackson	(C) Draft On Hold	01/19/2009	Clarify adverse affect in water law
LC0187	06/26/2008	Verdell Jackson	(C) Draft On Hold	01/19/2009	Generally revise water use act
LC0188	06/26/2008	Verdell Jackson	(C) Draft Ready for Delivery	01/13/2009	Challenge of certain water rights during adjudication
LC0189	06/26/2008	Verdell Jackson	(C) Draft On Hold	11/10/2008	Subordinate power generation water rights
LC0587	10/15/2008	Jim Shockley	(C) Draft On Hold	01/05/2009	Emergency use of surface water
LC0692	11/05/2008	Jerry W Black	(C) Draft On Hold	11/18/2008	Irrigation sustainability and development act
LC1032	11/21/2008	Michele Reinhart	(C) Draft Ready for Delivery	01/31/2009	Big sky rivers act
LC1396	12/04/2008	Kelly Gebhardt	(C) Draft On Hold	01/14/2009	Revise water rights permitting process
LC1635	12/05/2008	Bradley Hamlett	(C) Draft Ready for Delivery	01/09/2009	Clarify ownership of streambeds concerning property taxation
LC1949	12/26/2008	Bob Story	(C) Draft Request Received	12/26/2008	Alter criteria for permitting certain changes to points of



					diversion
LC2077	01/07/2009	Mike Menahan	(C) Draft On Hold	01/31/2009	Limit exempt wells in high growth counties

