

# 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.

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## Save the date!

**AGAI's Annual Membership Meeting**  
**Wednesday, December 1 @ Belgrade Senior Center**  
 ( 92 Cameron Avenue, Belgrade)  
**Doors open at 6pm, meeting begins at 6:30pm**

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

Committee Reports / Director Elections / Outlook for 2011 / Q&A  
 Update on Gallatin Groundwater Investigation Program &  
 Water Conveyance Facilities Mapping Project

### **2011 Legislature Water Policy Issues – Water Under the Bridge**

**Panel Discussion led by Krista Lee Evans with guests:**

Rep. Walter McNutt, Chair WPIC (invited)

Rep. Chas Vincent, Chair EQC

Sen. David Wanzenried, Vice Chair WPIC

Sen. Bradley Hamlett, WPIC / Vice Chair EQC

WPIC = Water Policy Interim Committee

EQC = Environmental Quality Council

Also attending **Tim Davis, Water Resources Division Administrator for the Montana Department of Natural Resources and Conservation.**

Davis will oversee water permitting, water adjudication efforts, water management, and a system of state-owned or managed dams and canals.

**This is your chance to interact directly with Montana's water policy leaders! Bring your ideas and your questions for a great discussion.**

**Come prepared to vote for directors & on the proposed bylaw amendment**

**The directors are proposing a bylaw amendment to be voted on at the annual meeting of members:**

To amend section 3.2 of the amended bylaws dates February 25, 2005 to eliminate the sentence beginning "Directors shall serve no more than two (2) consecutive terms."

Section 3.2 deals with the number, tenure, and qualification of Directors. The Directors have determined the term limit qualification, due to the lack of candidates, would adversely affect the membership. **By law amendments must pass by a two-third majority.** Please call a Director if you have questions and be sure to let your assigned representative know how to vote at the meeting.

## A Word from Walt

It's hard to believe that AGAI is going on 8 years old. From the beginning we have worked to protect the ownership and usage of your water rights. We work with various private, non-profit, and government entities building relationships that foster an understanding of our concerns, which affects the water policy under which we operate.

We have seen a lot over the years, including water mitigation, water banking, water marketing, adjudication, streambed ownership, and attacks on the prior appropriation doctrine. But one thing remains – there seems to be an unrelenting push to take control of water. I would like to thank the AGAI directors for spending the time and effort they put forward for our members. These directors are no different than you, holding an interest in water rights and knowing the value in protecting them. Without an active board you would be left alone to attend countless hearings, meetings and legal processes.

The position we are in today, due to the aforementioned work, puts us soundly “at the table” when water issues arise both locally and State wide. We have made the connections and hired Krista Lee Evans (see her piece) to maintain and enhance our position regarding water use. AGAI's work not only assists water users but also those who reap the many benefits of agriculture.

Reading through this newsletter will help you better understand the pressures on your water. Imagine going against those alone. This is where I need to ask for help, from you the member. I need you to consider what you can do to help AGAI continue its work. Help could come by becoming a director, joining one of the various committees, reaching out to your neighbor on the value in joining AGAI, contacting a business to solicit support, or just sharing with directors concerns that you may have.

I would also like to invite you to our annual meeting (see notice). We will have speakers that work with water policy, sharing legislation for the upcoming session. Your input will help them relay concerns while working in legislative halls, committee rooms, and on the floor.

The Directors also have a recommendation (see article in this newsletter) that will need to be addressed at the annual meeting. We need you there for action on this. From the beginning, AGAI was set up to be driven by the members, so this meeting is yours. It's a great way to share your thoughts with the panel, directors and others on the many issues concerning your water use.

### AGAI Directors

Walt Sales, President

Al Lien, Vice President

Jennifer Mohler, Secretary /  
Treasurer

Susan Duncan

Alan English

Maynard Flikkema

Nick Schutter

Dan Triemstra

John Hunziker

AGAI would like to thank the following for their financial support!  
**Bill Kimm and Ethel & Sid Dykstra**



**Want to keep current on water issues?  
Go to [AGAIMT.com](http://AGAIMT.com) & sign up for email  
updates.**

Your email will not be shared or used for any purpose other than AGAI water updates/newsletter.

## Governmental Affairs Consultant by Al Lien

Even among your AGAI Board of Directors there are differences of opinion, which is good for the membership, as the issues in regard to your irrigation water rights are discussed at length with all sides being heard. There are two seats vacant on the AGAI Board and if they can be filled your input would be welcome. If you know of someone or have interest yourself, please contact us. AGAI is looking for some fresh energy to continue its work protecting the rights of water rights holders in Gallatin County.

The AGAI Board has recognized the need for a paid position of some kind of Executive Director/Secretary for over a year. You met the Water Policy Interim Committee (WPIC) at the December 2009 AGAI Annual Meeting. Your organization (AGAI) and its undivided interest in water issues have clearly established significant credibility when state legislators of the WPIC committee accept an invitation to drive across the state to speak at the annual AGAI meeting. Water issues surrounding the Gallatin watershed seem to rise to the forefront statewide, and having someone to specifically stay abreast of these and other relevant issues is paramount to our continued success as an influential organization.

We began getting involved in the legislative process with a Government Affairs Committee attempting to inform the Legislative Committee in the 2007 session, and furthered our efforts with a part-time lobbyist in the 2009 session. The directors have taken the next step. A job description was developed and posted in the newspaper, qualified applicants were interviewed by an AGAI committee, and a decision was made to hire Krista Lee Evans as AGAI's Government Affairs Consultant. Krista has been involved with the DNRC, DEQ, and interim legislative committees such as the Water Policy Interim Committee (WPIC), and will continue to work on behalf of AGAI at the upcoming legislative session.

## Water Policy Challenges and Opportunities by Krista Lee Evans

After a summer and fall that was less than normal to say the least, next year's stream and river flows are starting to accumulate in our mountain ranges. As irrigation water use winds to an end for the season, we have a chance to review and discuss opportunities and challenges faced by water users in the Gallatin Valley.

AGAI has contracted with me to cover Government Affairs issues and activities for you. I have a passion for irrigated agriculture and feel honored that the industry that I love has entrusted me with this responsibility and opportunity.

The 2010 legislative session is just around the corner. Personally, I view the session as an opportunity to educate even more people on the importance of the prior appropriation doctrine, the economic stability provided by irrigated agriculture, and options for managing Montana's water resource in a way that protects existing water users while at the same time allowing for development of new opportunities in Montana. As AGAI members, please take the time to visit with your local legislators to help them understand the importance of protecting our existing water rights and our ability to exercise those rights.

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## Water Policy Challenges and Opportunities

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“Hold over” and unopposed legislators and interim committees have begun to request bill drafts. There are approximately 40 that are related to water. Many of these are simply there as a place holder in the event the legislator wants to move forward with water related legislation. However, quite a few are already moving forward in the drafting process. So far, there are bill draft requests related to the use of beds on navigable streams, requiring a minimum stream flow for certain fisheries, reserved water right negotiations, water marketing requirements, county authority to determine the type of water system in a subdivision, revised court costs and attorney fees in water cases, and water right abandonment issues.

Underlying all of these bill drafts is a grave concern for adequate funding of programs, for which new and existing water right holders have shown great support. In the past 10 years, the legislature has recognized that effective water policy must be based on sound and unbiased science. There is concern that the water adjudication program may face funding challenges, and the Ground Water Investigation Program is also subject to potentially significant reductions. If you as an individual and an AGAI member support these programs, please make it very clear to your legislators that these programs need to be funded.

Water users are also facing challenges at the federal level. There is once again a movement to remove the term navigable from the definition of waters of the United States. In essence, this would classify every water body in the state as a “water of the United States” – including intermittent streams, puddles, small ponds, etc. Once waters are designated waters of the United States they will be subject to water quality regulation and potential questions related to water usage. As the result of a 6<sup>th</sup> Circuit Court of Appeals decision, the use of herbicides or pesticides on, in, or near water is now considered a point source pollutant and users will be required to have a National Pollution Discharge Elimination System (NPDES) permit. There are certain use patterns that are covered by this ruling – the most important to AGAI members is the use in, on, or near water conveyance structures. The federal general permit is currently being written. Once that is completed the Montana DEQ will develop the state general permit and will require users to be permitted. The deadline for implementation is April 2011.

As you can see, there are significant challenges and opportunities related to your water rights and your ability to exercise those rights. It is critical that local citizens play an active role in ensuring that policy makers, executive branch staff, and the public understand the value that irrigated agriculture provides to our state – financially, by providing open space, and economically. As each of these proposals comes forward, it is my goal to ensure that AGAI members are aware of these issues and that I represent you as the Board directs. As with many other issues, the pieces make the whole and it is critical to ensure that some small change in one area of law doesn’t adversely affect irrigators in another area of the law. Through vigilance we can protect and enhance your right to use water in Montana.

I look forward to working with each of you throughout the rest of this year and through the upcoming legislative session. Please do not hesitate to contact me or the Board if you have questions, concerns, ideas, or thoughts. I am proud of the work the irrigators do in the Gallatin Valley and look forward to sharing your stories with the legislature.

## Expanding AGAI's Base by Dick DeBernardis

AGAI is a major factor in working with state legislation and watching over water resources in this state. This is important for maintaining valuable water resources in our valley, but it also provides an enormous assistance to others across the state at no cost. With our limited resources we are looking at ways to offset these and other expenses. One way is to expand the AGAI concept to our neighboring valleys. It might take the form of other water groups or separate chapters of our organization in different areas in the state or helping other basins to organize in a similar way as AGAI. The exact form this expansion might take would have to be developed, but by pooling our resources it would be possible to have a stronger voice. Other organizations are currently doing this very effectively.

AGAI needs to explore the concept of including other irrigators from around our area and possibly across the state. This will do several things for AGAI. Additional involvement will help to offset some of our legislative expenses. A broader base will provide a greater voice in those issues common to all agriculture. Water is fast becoming a resource everyone wants to control, and agriculture is losing its top priority in our communities when it comes to water.

Expanding AGAI's base is a concept which will need to be developed if the membership supports this idea. It is important to remember with greater numbers represented by AGAI the more effective agriculture's voice will be in working with the legislature.

The AGAI board is considering moving in this direction and is interested in hearing from the membership on this concept.

## AGAI Summer Intern Brendan O'Callaghan

This past summer, while on break from Oregon State University, I was fortunate to be able to spend my time in Bozeman, on an internship with AGAI. Dabbling in a bit of everything, I learned about the policy surrounding the distribution and allocation of the water running in the Gallatin River, as well as how wildlands, farms, ranches, subdivisions, and towns can all co-exist with a dwindling limiting factor: water.

There is a new buzz phrase being used by resource managers now, It's called "wildland-urban interface." Breaking this idea down farther, it incorporates the allocation of natural resources, agriculture, wildlife, and above all else, water, to various users. This management process is a tight-rope walk, delicately balancing human, animal, agricultural, and recreational uses, attempting to compromise and allow everything to at least some extent. I can't think of an area that manifests this term more than Bozeman, MT and the Gallatin River Valley. Bozeman is a special place, as residents know, nestled in amongst a plethora of natural resources.

The million-dollar question, however, is who gets what? In my time in Bozeman, fly-fishing the watershed, I thought a lot about this question. Unfortunately, someone else will have to claim the million dollars when they find a perfect solution, but until then, first and foremost, it must be constantly engrained in our minds that we are all connected. John Muir said, "When one tugs at a piece of nature, he finds it attached to the rest of the world." This is the mindset that needs to be held at the forefront of our decision-making surrounding water and natural resource policy. The decisions made by one can affect others and vice versa. In this great balancing act of the carnival jester, a river truly does run through it, connecting every one of us to our neighbors, our farmers, and our communities. It is our job as members of this giant web to not only create a sense of importance for natural resources in today's world, but place their future on a pedestal, conserving the ability of future generations to fish the same watershed I learned to love this summer.

## Water Conveyance Facility Mapping Update

Through coordination between Montana State University GPS professor Diana Cooksey, Gallatin Conservation District, and Gallatin County GIS Department, the AGAI Water Conveyance Facilities (canals and ditches) continues to map the canals and ditches of Gallatin County.

Currently, Diana Cooksey's class is working on mapping the Mammoth Ditch. At the end of September, Dave Jones provided the team with a tour of ditch features and supplied a wealth of information about both the history of the Mammoth ditch and of water rights in the Gallatin Valley.

This year we are very pleased to announce that The Gallatin Conservation District granted AGAI \$3,000 to hire our first intern! A big thank you goes to Marcie Murnion and the GCD board members who saw the possibilities and approved the funds. AGAI gave the grant to Christine Miller, one of the MSU students that mapped the West Gallatin Canal in 2009. Allen Armstrong's GIS department at the county was able to put Christine into their payroll system so that insurance and liability issues were covered. Below please find Christine Miller's report of progress dated October 29, 2010.

Going forward we are looking for more canal and ditches to map with future MSU classes. Any AGAI members who would like to be put on the list and/or hear more about what it entails from their end should contact AGAI board member Jennifer Mohler. The AGAI/MSU/Gallatin County Water Conveyance Facilities mapping project is a wonderful member benefit, so please don't hesitate to give Jennifer a call to get on the list. Christine will also be at the December 1 annual meeting with maps and a presentation of progress so be sure to stop by her table and say hello!



Photo: MSU students, Allen Armstrong and Diana Cooksey learning more about the Mammoth ditch from Dave Jones.

## Mapping Intern Christine Miller

I was hired as a part time (10-15 hours per week) paid intern and began working in July. I have finished mapping the canals that the Montana State GPS class started, as well as cleaning up the data that they had collected. I have mapped the Farmer's Canal to where it goes underground on College Ave., picked it back up where it comes out above ground next to Smith's grocery store, and followed it to where it confluences with the East Gallatin River. I also continued mapping the West Gallatin Canal and the laterals that it drains into, through Bozeman and north to where it confluences with the East Gallatin River, near the airport. Additionally, I have continued on the Low Line Canal, and am nearing its confluence with the East Gallatin River, northwest of Manhattan. Following the work out in the field mapping these canals, digital cleanup is necessary, to ensure that the canals and the features overlay the aerial image properly.

## Urban Development and Agriculture in the Gallatin Watershed by Susan Duncan

Forty three irrigators, planners, and agency officials at the local, state, and federal level attended the Greater Gallatin Watershed Council's Fall Tour – "Urban Development and Agriculture in the Gallatin Watershed" on October 21st. MSU students Christine Miller and Patrick O'Leary presented results of a mapping project on Farmer's Canal. This on-going mapping project is crucial to update the database on the County's water conveyance infrastructure. At present, developers and planners have difficulty identifying where ditches go, what area is served, and who to contact.

Farmer's Canal forms the south boundary of Loyal Gardens subdivision that lies within the City of Bozeman, off Huffine Lane. At this site, participants discussed the differences in expectations of irrigators, developers, and ultimately, homeowners with regard to irrigation infrastructure. An easement protects the ditch. But how wide is it? What sorts of practices and how much space are needed for maintenance? Homeowners and planners alike wanted to know what activities interfered with ditch operations. Where is the best place for a developer to put the ditch in his subdivision layout? The County has adopted regulations proposed by AGAI to get developers and irrigators talking at the earliest possible stage of development. The cities of Bozeman and Belgrade are considering these proposals.

The tour continued to Belgrade to discuss efforts by Spain-Ferris Ditch to work with developers through cooperative agreements. A few years ago, Spain-Ferris directors faced multiple issues with many new developments – maintenance issues with North Star Subdivision, a ditch re-alignment for Cameron Springs Gravel Pit, a proposal to dead-end the ditch at the south boundary of Ryen Glen Subdivision, flooding in Las Campanas subdivision, and use of a ditch to dispose of storm water in the Dykstra subdivision and gravel pit water at the TMC, Inc. pit on the Frontage Road. Now the Directors of Spain-Ferris have template agreements to customize for various situations.

The tour returned to the Fish, Wildlife, and Parks Regional Office for a wrap-up.

**AGAI's members, board, and government affairs staff have worked to build relationships with groups and individuals with varying degrees of understanding about water and water rights in our valley. Of note are involvement in the District Court Water Walk, the Greater Gallatin Watershed Council tour, and the recent letter to the editor from Trout Unlimited (below). These are clear examples of what outreach and education can provide AGAI members.**

## Gallatin Irrigators are River People, Too by Patrick Byorth

Seeing the Spanish Peaks dusted with snow triggered inklings of fall, and a sigh of relief that stream flows held up through the heat of another summer. Montanans are river people: ranchers, farmers, anglers, and boaters alike. Our lives are tied to the rhythm of water and weather. We river people know that August is crunch time, when snowpack is long gone, long, hot summer days drive up irrigation demand, and the last weeks of summer vacation beckon us out to the rivers to play. Fish know it too. As stream flows drop, temperatures soar, and cover from winged, two-and four-legged predators can be hard to find.

A couple of recent letters to the editor over flows in the Gallatin River reflect out our August angst. Even in a "wet" year, the Gallatin River can be reduced to a trickle by mid-August. Why? Every drop of water has been legally spoken for. Like so many of our treasured rivers, more water rights than water exist in the Gallatin River, even in the wettest years.

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**Gallatin Irrigators are River People, Too***continued*

The fact that the Gallatin River flows at all to I-90 in August reflects a measure of forbearance by irrigating river people. In spite of their legal rights to take all the water, irrigators and our water commissioner have taken it upon themselves to keep the river flowing, even in times of drought.

Irrigator forbearance is not unique to the Gallatin Valley. For nearly 20 years, Trout Unlimited members have worked side by side with river people who irrigate. The Big Hole Watershed Committee formulated a voluntary drought response plan to keep grayling from disappearing. Blackfoot River people agreed to share sacrifice in times of water scarcity where ranching, angling, and floating river people all worked to keep streams flowing. Ranchers on the Jefferson River developed a drought response plan to improve flows on this perpetually dry river. While Gallatin irrigators haven't minted an official drought response plan, they have informally done an admirable job of keeping the river flowing. But their efforts have not been publicly recognized.

When Montanans think of ourselves collectively as river people, our best traits as stewards and as neighbors emerge, transforming our watercourses from battlegrounds over water to threads that tie us together. As summer meanders into fall and the snow hits the high peaks, the river people at TU appreciate the efforts of the river people irrigating the Gallatin Valley for their efforts to keep the Gallatin flowing this summer.

*Patrick Byorth is a staff attorney for TU's Montana Water Project and a former FWP fisheries biologist charged with managing the fisheries of the Madison and Gallatin Rivers.*

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

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Your email will not be shared or used for any purpose other than AGAI water updates/newsletter.