



Answering ditch irrigation

By Sandra Frost

"I bought a piece of property with an irrigation ditch across it. How do I find the terms of the easement across my land for the ditch? Who fixes the irrigation ditch that crosses my property when it leaks? If I don't get water from the ditch, do I have to repair it? How does our subdivision handle an irrigation ditch? Can I open the diversion gate myself?"

Sound familiar? Water rights and water distribution systems are different in every state. Water rights and ditch rights are different beasts in Wyoming. The Wyoming Board of Control, under the State Engineer's Office, distributes water and grants permits to use waters. The board has no power over ditches. Disputes involving ditches are civil matters and must be settled by agreement between the parties or by proceedings in court.

Not all small-acreage owners have the right to irrigate, even though an irrigation ditch may run through their property. The ditch may be the property of someone else who has an easement across the land for the ditch. Easements allow the presence of a ditch and enough room along the ditch for routine maintenance. In Wyoming, the holder of a ditch easement has only the right to expect his or her ditch to remain in its historic physical location and the right to conduct reasonable maintenance on the ditch.

Easements may be written down and available in a county clerk's office as an attachment to the deed to the property or held by one of the parties to the easement. If the easement is not written down, and the easement has been used for 10 or more years, there is a presumption the landowners agreed it could be constructed there. If the easement has been used for less than 10 years, its existence may be challenged in a civil court ("Legal Aspects Related to Irrigation Ditch Rights and Easements," see Web link in sidebar on page 15).

Owners of a ditch must maintain the ditch so water will not flood or damage the premises of others. The "owner" or "owners" of a ditch consist of those who receive their legal water right via the ditch. Several irrigators share ownership of a ditch in proportion to how much water they receive from the ditch. If a ditch that crosses your property leaks onto your property, and you do not receive a legal water right via the ditch, you may meet with the owners to settle the damages, or you may file suit in civil court.

A large piece of land may have water rights that are exercised when an irrigation district employee opens the one head gate that floods that piece of ground. If that land is subdivided and water rights stay with the smaller parcels, the developer must produce a subdivision irrigation plan showing which lands have the water rights, the location of supply and waste ditches, and other information necessary for the protection of individual lot owners in retaining water



A simple concrete weir with gauge measures water flow.

rights on the land (Wyoming Water Law, a summary, 2003, p10) <http://seo.state.wy.us/PDF/b849r.pdf>.

Subdivision property owners are co-owners with equal water rights, because lots were all created on the same day, although the amount of water per parcel may differ. They share the operation and maintenance responsibilities and expenses on the ditches and waste ditches within the subdivision whether or not there is a homeowners association. The same responsibilities apply to waste ditches, designed to collect runoff water at the bottom of fields, and underground drains, designed to take excess field irrigation water

rights, distribution questions

to collection points. When one head gate releases water to the entire subdivision, neighbors must cooperate to ensure delivery of water for everyone. Further, subdivision owners are responsible for annual fees assessed by the irrigation district for delivery of water to the head gate.

Irrigation districts are court-authorized with the power to levy assessments and the responsibility of delivering water within their systems. Irrigation districts have employees – ditch riders – who oversee the daily operation of the system. Ditch riders

open and close diversion gates based upon written requests from landowners. Subdivision property owners must designate one individual to communicate with the ditch rider regarding water needs at the head gate.

Much of the agricultural land in the Powell area, for example, is underlain with a network of tile drains about 8 feet below the surface. These drains return irrigation water to the Shoshone River. Irrigation districts in the Powell area maintain and repair the drains with part of the annual assessment fees. Small-acreage owners

can avoid problems by planting trees and shrubs away from underground tiles. Irrigation district offices have up-to-date maps of all ditches and underground drains.

For more information about Wyoming irrigation districts, please contact the State Engineer's Office (see information in sidebar). Take some time to attend your irrigation district board meeting, meet your district manager, and learn about your responsibilities. Irrigation flows smoothly when everyone knows their rights and responsibilities.

For more information

- Wyoming State Engineer's Office: (307) 777-6150, seoleg@seo.wyo.gov, or <http://seo.state.wy.us/>.
- Wyoming Board of Control: (307) 777-6178.
- Wyoming Water Law, a summary online at <http://ces.uwyo.edu/PUBS/B849r.pdf>
- Frequently asked legal questions can be read in "Legal Aspects Relating to Ditch Rights and Easements," available online at http://seo.state.wy.us/PDF/ditch_easement.pdf. Hardcopies, which are free, are available by calling the Wyoming Board of Control at (307) 777-6178 or 777-6177.

A wealth of information about this subject can be found in "Living on a Small Acreage in Wyoming – Irrigation" online at http://seo.state.wy.us/PDF/living_small_acreage.pdf. Call the Wyoming Board of Control for hardcopies.



A head gate controls release of water from a supply ditch.

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