



Wild Lands Advocate 13(6): 23 - 24, December 2005

The Spite Ditch – Ever Heard Of It?

By Dr. Johan F. Dormaar

Starting about four kilometres west of the town of Milk River, Alberta, and then along Highway 4 just north of Milk River to get through the height of the Milk River Ridge, are the remnants of an interesting water conveyance project called the Canadian Milk River Canal, but commonly known as the Spite Ditch. In fact, after it was built, then-U.S. Secretary of State John Hay delivered a stiff-worded protest to the British Ambassador. Hay claimed that the authorization of the diversion of water from the Milk River in Canada was an act “lacking in friendliness.” So, what was that all about?

William Pearce, chief federal agent in Canada’s Northwest Territories responsible for planning and implementing government policies regarding the development of land and water resources, first recommended, then urged, that federal water rights legislation be adopted before rather than after settlement. This was in sharp contrast to Montana, where private control of water resources came first. Pearce’s urging eventually led to the North-West Irrigation Act in 1894. Rather than epitomize private initiative and rugged individualism and freedom, Canada saw a need for government authority to control water resources. That is, water allocation policies that evolved in Canada and the U.S. reflected the differing cultural values and attitudes of those who formulated them.

The Milk River basin is shared between northern Montana/southern Alberta and the southwest corner of Saskatchewan. The Milk River rises in the mountains of Glacier National Park, Montana, then flows through southern Alberta, to eventually re-enter Montana, where it feeds into the Missouri River. The Milk River is thus part of the Missouri/Mississippi watershed, which feeds its waters into the Gulf of Mexico. Conversely, although the St. Mary River rises almost adjacent to the Milk River, also in the mountains of Glacier National Park, Montana, and it also flows into southern Alberta, it then stays in Canada since it is a part of the Hudson Bay watershed. The two watersheds are separated by the Hudson Bay–Milk River Divides.

As more and more settlers started to arrive in southern Alberta/northern Montana, water allocations soon became an issue both nationally and internationally. Following years of wrangling, the Boundary Waters Treaty was signed in Washington on 1909, January 11. However, Article 6, dealing with apportionment, remained sticky. Although it was agreed to treat the Milk and the St. Mary Rivers, and their tributaries, as one stream for the purposes of irrigation, Article 6 was really a treaty within a treaty. Besides, it had not been drafted by the same people who created the rest of the treaty. As well, it had not received the meticulous care that the main body of the Treaty had received. It almost seemed that it had been drafted in haste. The International Joint Committee finally resolved the issue with its Order of 1921, October 4.

Before we zero in on the Spite Ditch, we have to first examine the aftermath of the decision made by Canada to buy back Rupert’s Land from the Hudson’s Bay Company. Portions of the West were given to certain people in return for certain things like building a railroad or for their efforts to develop it and bring in immigrants. In 1882, the Canadian Northwest Irrigation Company, owned by Sir Alexander Galt, was given most of the land south of Lethbridge. Land was sold to farmers in the area with the guarantee that they would have irrigation to raise crops in times of low rainfall. For now, the actual introduction of irrigation was left up to private initiative.

One group of settlers, attracted by the promise of irrigation water, were members of the Church of Jesus Christ of Latter Day Saints, who already promoted the use of irrigation in Utah. Led by Ora Card, the first group of Mormons arrived on June 1, 1887. After a feasibility study was done around the St. Mary River area for irrigation, water diversion was started from the St. Mary River. This led to an irrigation





infrastructure all the way up to Lethbridge. As well, the federal government had by now given additional incentives to the Irrigation Company in order to promote irrigated agriculture in the district. Of course, the whole system relied on a steady supply of water from the St. Mary River. The fly in the ointment, however, was the fact that the water of the St. Mary River rose in Montana, south of the border with the U.S.

In the meantime, the settlers in the lower Milk River in Montana desired to expand their irrigation works. In spite of "prior claims," no measure could prevent Montana from using waters in their territory as it pleased. In 1891, the two-year-old Montana legislature initially planned to divert St. Mary River water directly to the Marias River. However, this turned out to be financially unfeasible. Then in 1902, Congress passed the Reclamation Act. This measure provided public funds for the construction of irrigation projects in the American West. The Reclamation Service found that the proposed diversion scheme of water from the St. Mary River via a canal into the North Fork of the Milk River was quite feasible, especially since the water flowing through the Canadian portion of the river could not be used for irrigation there. Oh?

While first informal, and then formal discussions were taking place, the Canadian North-West Irrigation Company began construction of the Canadian Milk River Canal, better known as the Spite Ditch. The route was surveyed in November 1903, and two contracts for a total of 26 kilometres were awarded. A note of irony is that one of the contracts was awarded to an American by the name of Adelbert Cazier. Although the new canal revealed major seepage problems, it held water once. Nevertheless, the point was made that it would be possible for Canada to divert Milk River water, or redivert St. Mary River water. That is, the people of Alberta had "structurally" called the Americans' bluff. In spite of the "lacking in friendliness" observation by the Secretary of State, a peaceful solution did come about. With the 1909 Boundary Waters Treaty of 1909, the International Joint Commission (IJC) was born.

To delve deeper into this history, the following references are an excellent start:

Wolfe, M. E. 1992. "The Milk River: Deferred water policy transitions in an international waterway." *Natural Resources Journal* 32: 55-76.

Sherow, J. E. 2004. "The fellow who can talk the loudest and has the best shotgun gets the water." *The Magazine of Western History* 54 (1): 56-69.

Shovers, B. 2005. "Diversion, ditches, & district courts: Montana's struggle to allocate water." *The Magazine of Western History* 55 (1): 2-15.

Dreisziger, N. F. 1980. "Wrangling over the St. Mary and Milk." *Alberta History* 28 (2): 6-15.

http://www.dnrc.state.mt.us/St_Mary/default.htm

Dr. Johan (John) Dormaar is an Emeritus Research Scientist at Agriculture and Agri-Food Canada and an Adjunct Professor at the University of Lethbridge. He has gained considerable national and international recognition for his work in rangeland management. His work has contributed to a holistic view of the way grasslands have evolved since pre-European times. His approach has influenced a new generation of soil scientists working toward more sustainable land management strategies. He is also a member of the Archaeological Society of Alberta and the Glacier Mountaineering Society.

