



Words:
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DARLINGTON SPRING CREEK. Go ahead and look it up. It's listed in Montana Fish, Wildlife and Park's official document "An Inventory of the Spring Creeks in Montana," featured in the upcoming film, *Spring Creek: Ranchers, Anglers, Water and Trout*, and included in a recent magazine article about fishing Montana's spring creeks. Similarly, the neighboring ranch bills it as a spring creek in its real estate listing. However, when a rancher sees an angler on it, the spring creek invariably becomes a ditch.

Darlington Ditch (aka Darlington Spring Creek) is a slim and shallow piece of water about 30 miles west of Bozeman. It runs through the Cobblestone Fishing Access Site on the lower Madison River and though it has a functioning headgate that remains closed in late fall and winter, seeping ground water helps flows remain fishable through the season.

Welcome to Montana's gray area—water anglers believe the stream-access law covers but landowners don't. The problem is that often both sides are correct because of the law's ambiguous language. It's so contentious, the issue became the focus of the famous Mitchell Slough drama in the Bitterroot Valley, and, more recently, the centerpiece for Montana House Bill 309 (the "ditch" bill).

Locally, Darlington has a decent fishing reputation, so when a photo of a big brown made the rounds through angling circles last fall, I went to see about landing one myself.

I made it through a barbed-wire fence and under a small private bridge before I noticed the gray Ford Explorer pulled up along the creek.

"Do you know where you are?" the man asked.

"Darlington Ditch," I responded.

"No, this is not Darlington Ditch. This is Spring Creek and you are trespassing."

"No, I'm not. I'm within the high-water mark on a natural waterway."

"Did you cross that fence with the signs?"

"Yes."

"Then you are trespassing."

"No, I'm not. I have stayed within the high-water mark at all points. I know I'm on private property, but I have a right to be here."

"On the river, that's how it works [pointing to the nearby Madison River]. But not here."

"Is this a natural waterway?"

"Partly."

And so began our awkward, silent standoff. It only lasted a few seconds, but I could see he was reviewing his options silently in his head. I'm sure he could tell I was doing the same.

"Look sir, I will get outta here, but I am not trespassing."

"That's all I ask."

I left miffed—confident I was just harassed.

Though I wanted to send an immediate cease-and-desist order to the ranch, I decided to get my ducks in a row. Enter Mike Vaughn, a state fisheries biologist with a territory that includes Darlington. A few weeks after my incident with the rancher, Vaughn came back with some disappointing news. When the dike along Darlington was built, the Gallatin County Conservation District ruled it was not a perennial stream before creating the channel, something Vaughn called "jurisdictional." Therefore, the stream-access law does not protect anglers wandering into Darlington Ditch.

Recently, Montana House Bill 309 sought to clarify similar discrepancies, and in a momentary panic, I wondered if I was directly, at least partially, responsible for legislation that would rescind miles of fishing water from all anglers. I started questioning my *modus operandi*; should intrepid wanderlust take a backseat to coddling the access law? Maybe anglers should temper their zeal in certain circumstances in favor of better relationships with landowners.

Or, maybe HB 309 should be a wake-up call to anglers. Perhaps we should look in the mirror; be ultra conscientious we are within the high-water mark when we should be—no exceptions. Maybe we should take the time to be sure a spring creek is not an irrigation ditch before fishing it. Maybe we should show more respect to the notoriously accommodating and respectful Montana ranchers, lest we have to deal with another 309.

I took Vaughn's information back to the rancher as an explanation and apology, and so he would know exactly why it's off limits for the next angler he encounters. I even offered to chip in for a sign that explains the scenario to others that debate crossing that barbed wire. Though I have yet to see how far my apology reaches, I feel like I made a positive stride by reaching out to those often at odds with Montana's anglers. The more olive branches we pass between the two parties, the better off we'll all be. ☞

⌘ ABOVE ⌘
Angler Will Jordan proving that if you stay on the public stretch of Darlington Ditch, you stay within the law.
Photo: Joshua Bergan