

April 24, 2008

Utah Water Users Association
Phone 268-3065 Fax 261-4069
Cell (801) 560-2533
Editor: Carly B. Burton

MESSAGE FROM THE PRESIDENT
By Tage Flint

It is with pleasure that I receive the opportunity to be the President of the Utah Water Users Association. My thanks to Randy Crozier for his two years in this position and the attentiveness he exhibited in representing us. He has a passion for the water business and knows of its importance to all the citizens of Utah. My thanks also to our board, Carly Burton, and Utah State University for once again putting on an excellent conference and workshop in March. The attendance grows each year which is the greatest acknowledgment that the event is a great value.

As for our upcoming water year, most areas in the state have received something better of a snow pack than the year previous. I can sense a lot of relief in our water managers as they look forward to a better runoff. The frequent reminders of water-short years allow us to continue our drought response planning. It would seem that there are plenty who forecast more frequent and severe dry spells in our future. As water managers, it would seem prudent to expend our energy making contingency plans for such events as opposed to arguing about the causes of climate change. By percentage, Utah continues to be one of the fastest growing states in the country and municipal demands will continue to rise. This will require more, not less, cooperation between purveyors of water of all types as we convert and develop our water resources. Our agricultural water supplies will need to be handled with care as it is still this supply that puts food on our table.

This year will bring implementation of new water law in the Utah as our Legislature has made much publicized changes. I only hope for a standard of reasonableness to be applied by all parties as we try to interpret the impacts of new legislation. I still have confidence that our different types of water users are willing to work compromises with each other as we go forward with changes.

Once again, I am excited to work with you as the years go forward and look to learn a tremendous amount from each of you. If there are items that you would like to see taken up by our association, please do not hesitate to contact me. I know of no other industry with as many dedicated people as ours and I look forward to serving with you.

WATER OUTLOOK
By Randy Julander

The first part of April has been a bit cool with a few storms, a welcome change from what was a pretty dry March. This has delayed the onset of snowmelt by a week or two and has increased snowpacks somewhat from the April 1st values, also a good thing. Shorter melt windows typically have higher runoff efficiencies and given near average snowpacks, a higher efficiency would be welcome. It is the rare exception in Utah where a significant snow accumulating weather pattern lasts more than a couple of months and so it is this year. A dry fall gave way to significant snow accumulations in late December, January and February which in turn gave way to drier conditions in March. March was dry enough that as we made our snow survey measurements via helicopter, the snow survey sample holes from the previous March 1 survey were still visible in the snowpack over much of southern Utah and even into the Uintah Basin. Statewide, snow accumulation was only 63% of normal for the past month. Some areas such as the Sevier had no net accumulation and southwest Utah had a 285% of average decline. Even with this huge decline in snow, southwest Utah is still at 94% of normal reflecting the much above average snowpack earlier in the season. Snowpacks now range from a low of 94% over southwest Utah to a high of only 112% on the Utah Lake and Uintah basin watersheds. This is as close to an 'average' snowpack year across the state as Utah ever gets. In northern Utah, there remains a substantial low elevation (6000 ft to 7500 ft) snowpack, 130% to nearly

200% of normal. In many areas, this snow is currently melting, giving the potential for greater streamflow early in the season. Water managers should be aware of and plan for this runoff potential. Soil moisture values are: Bear - 57%, Weber - 59%, Provo - 49%, Uintah Basin - 37%, southeast Utah - 54%, Sevier - 58%, southwest Utah - 59%, and statewide - 53% of saturation. These values are similar to those of April 1, 2006 and drier than those of last year. Reservoir storage is currently at 60% of capacity statewide compared to 74% last year. General water supply conditions are near average across the state. Streamflow forecasts range from 58% for the Bear River at Stewart Dam to 167% of average on South Creek near Monticello. Surface Water Supply Indices range from 12% on the Bear River to 80% over the western Uintas.

Sole Supply Quantification: How Much is Your Water Right Worth?

By Jody Williams, Steve Vuyovich & Rob Peterson

Have you filed a change application recently? Do you anticipate filing a change application in the future? The change application process has recently become more complicated. In early 2006 the Utah State Engineer implemented a new policy requiring water right owners to quantify the sole supply of all supplemental water rights included in any change application filed with the Utah Division of Water Rights. This quantification is accomplished by filing a "Statement of Sole Supply" form with the State Engineer. This form is available on the State Engineer's website and must be signed by the owners of all water rights in the supplemental group for which the form is filed. Along with implementing this policy, the State Engineer is in the process of preparing a new administrative rule, R655-16, titled Administrative Procedures for Statement of Sole Supply Form to clarify when and how the State Engineer will require a water user to file a Statement of Sole Supply.

Why the change? In Utah, beneficial use is the basis, the measure and the limit of all water rights. "Beneficial use" is the reasonable use of water for a purpose that the law recognizes as having a benefit to the state and its people. No more water may be legally diverted under a water right than is reasonably necessary to satisfy the beneficial use for which the right is approved.

Supplemental water rights are two or more water rights used together to provide the water required by a specific beneficial use. The Division of Water Rights organizes supplemental water rights into supplemental

groups, each of which is assigned a group number. The beneficial use of each supplemental group is generally unknown. When we quantify the "sole supply" of water rights, we assign a portion of the total amount of water that can be beneficially used by an entire supplemental group (the duty) to each individual water right in that group. The purpose of quantifying the sole supply of supplemental water rights is to determine how much water each individual water right actually provides and to reduce uncertainty when changing the use or ownership of water rights.

Here are some steps that you should follow to determine the sole supply of your supplemental water rights: (1) understand your goals; (2) identify relevant water rights; (3) identify all supplemental groups to which your water rights belong; (4) identify all other owners of all water rights in all supplemental groups; (5) collect and review information about the water rights; (6) identify limitations on the water rights; (7) work out and agree to quantifications with all owners; and (8) fill out and submit a Statement of Sole Supply form.

As you work through the steps, remember these keys: (1) you are limited by the beneficial use of the supplemental group, not the number of water rights; and (2) you must keep the total amount of water you assign to any particular water right within the physical and legal limitations of that right.

If you would like more information about the sole supply process or ways to deal with specific sole supply issues, you may contact the authors at (801)521-5800.

Message From The Directors Corner By Carly Burton

Man, what a crazy Legislative Session we experienced this year. There were 26 water related bills that were introduced of which 14 passed and 12 failed. That is the most water related bills I have seen in my 10 years of legislative involvement. Probably the most controversial bill for the water community was HB51-Water Rights Forfeiture Protection sponsored by Patrick Painter. This bill experienced 5 substitutions before being passed. The Association's board of directors were split on this bill. The districts and public water supply members supported this bill while the irrigation and industrial members opposed this bill. Among other things this bill:

1. Changes the non-use filing period from 5 to 7 years.
2. Allows a shareholder in an irrigation company to fill a non-use application for shares owned.
3. Protects water rights owned by a public water supplier if the water is held for the reasonable future water requirements of the public

A list of the other water related bills of interest to most water entities is as follows:

HB40 - Safe Drinking Water Revisions

(Passed) This bill requires first or second class counties to adopt ordinances to protect sources of public drinking water supplies.

HB42 - Water Right Application for Electrical Cooperative

(Passed) This bill increased the time for Electrical Cooperative to develop water for the future thus diminishing the risk of forfeiture.

HB116 - Fluorine in a Privately Owned Water System

(Failed) This bill would have required the majority of shareholders in a privately owned public water system to approve the removal or addition of fluorine.

HB117 - Instream Flow to Protect Trout Habitat

(Passed) This bill allows a fishing organization to file a change application for instream flow use. The period of use is for a 10 year period and would require the water right to revert back to its original use if the application for instream flow is not refiled.

HB137 - State Facility Water Conservation Program

(Failed) This bill would have created guidelines to improve water conservation at state owned facilities. This bill failed due to the fiscal note which some legislators considered excessive.

HB143 - Administration of Interstate Waters

(Passed) This bill authorizes the State Engineer to enter into agreements with other states to better administer water in interstates streams.

HB170 - Process for Entering into the Snake Valley Agreement

(Failed) This bill would have authorized the executive director of the Department of Natural Resources to sign agreements with other states only after the Governor and Legislature approve the agreement.

HB179 - Water Rights Appropriation Amendments

(Failed) This bill proposed language changes under Title 73, Chapter 3 regarding change applications which reduced the State Engineers flexibility in certain instances.

HB203 - Judicial Review of State Engineers Decisions

(Passed) This bill grants judicial review of decisions under the umbrella of Court Rules and the Utah Administrative Procedures Act.

HB208 - Livestock Watering Rights

(Passed) this bill provides that only entities with demonstrated beneficial use of water may acquire livestock watering rights on public lands including an entity that holds grazing rights for livestock.

HB222 - Water Quality Board Amendments

(Passed) This bill authorizes the Water Quality Board to issue operating permits and to delegate administrative authority to a local health department.

HB225 - Proof for a Water Right Application

(Failed) This bill would have changed the proof information required for a water right appropriation.

HCR8 - Concurrent Resolution Supporting the Narrows Water Project in Central Utah

(Failed) This resolution is a reflection of the long fought water war between Sanpete and Carbon County over the construction of the Narrows Dam on the headwaters of the Price River.

SB85 - Water Rights Board

(Failed) This bill sought to create a board for policy making decisions for the Division of Water Rights. The bill also would have allowed an administrative law judge to review any final order of the State Engineer. The entire water community was opposed to this bill. It will be monitored closely because it has been directed to interim study for further review.

SB170 - Board of Water Resources Amendments

(Passed) This bill allows the Board to receive cash bonds for security purposes on authorized projects as well as giving preferences to projects that benefit the state or political subdivisions.

SB228 - Regulation of Wells

(Passed) This bill clarifies the State Engineers authority and enforcement action to regulate well drilling.

SB269 - Water Rights Ombudsman

(Failed) This bill would have required the Office of Property Rights Ombudsman to interact in water rights proceedings. The water community opposed this bill. It was sent to interim study so we will be following this issue closely.

SB279 - Water and Land Use Development

(Failed) This bill would have prohibited a municipally from granting ????? petitions on water right transfers without a large list of requirements. It is also going to interim study so it will be monitored closely.

If you would like to obtain information on specific bills go to the Legislative website at www.le.state.ut.us and click 2008 Legislature on the left side of the page.