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# UTAH WATER USERS ASSOCIATION

**April 15, 2015**  
**Utah Water Users Association**  
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**Editor: Carly B. Burton**

## MESSAGE FROM THE PRESIDENT

By Ivan Ray

The Board of Directors of the Utah Water Users' Association and our State Executive Director, Carly Burton appreciate all who attended and participated in this year's St. George Water Users' Workshop, which was a resounding success. The General Sessions and 47 break-out sessions were well prepared and well attended throughout the two day conference. Over 800 registered guests attended both General Sessions. I would like to thank the Board of Directors and Carly and Barbara Burton for their support and yeoman efforts in making this year's conference a highlight of success. I especially wish to thank the committees who helped in the planning and implementation of the workshop, including the Law Seminar, annual golf tournament, cycling outdoor activity, and the special guest program. All of us enjoyed the sessions, opportunities to visit and learn and share ideas in the unique Dixie Center venue. There were 44 vendor displays that were registered and provided booths in the large assembly hall area, which I noticed was well attended, full of "goodies", and very informative. There were also 27 co-sponsors who contributed financially and have given much support to the Association for several years. Let us continue to show support for this conference and workshop which is the envy of many western states. I would like to extend congratulations to and show our appreciation for LeRoy Hooton one of our Directors from Salt Lake County who is retiring, after 40 plus years of service to the public and Utah Water Users' Association Board of Directors. "Thanks for the ride" LeRoy!

As we listened to Brian McInerney and Randy Julander, the State Hydrologist and Climatologist, respectively, we learned that this year will be below normal for precipitation and water availability and, in some locations of the state much worse for snow pack,

stream flows, and other water values as compared to 2014. We need to become more creative and conscientious about ways to make the best use of our water resources as individuals, municipalities, districts, ditch companies, farmers, associations, churches, schools, and commercial and industrial users, as well as consideration for environmental needs. This year, several water user stakeholders are already planning for a 25% reduction of available water supplies compared to last year's available water, which includes drought conditions. Whatever your needs and interests may be, conservation is becoming more and more necessary due to increased water demands from population growth, maintenance of a stable agriculture supply, and environmental requirements, which are being affected by several consecutive years of drought in the west and in Utah. Let us all be keenly aware of water misuse and over-usage and remind those who may be wasting our precious and limited water resources to do better by slowing the flow. This year the State Legislature passed legislation to help all of us be more aware about protecting our state's streams, reservoirs, and delivery systems from further expansion of the intrusive Quagga and Zebra Mussel Species, that have been found in several lakes in Utah. I hope we can be alert and observant, and help state and federal authorities protect our water ways by CLEANING, DRAINING, AND DRYING all water craft that operate on the waters of Utah. Enjoy your SUMMER!

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## WATER OUTLOOK

By Randy Julander

Well, the water supply news just gets worse each day of bright sunshine and warm temperatures. Even when we can buy a storm it's just a piddly little dink of no consequence. Easily becoming one of the worst snowpacks of the past 30 years. Currently there are about 35 SNOTEL sites with the lowest snowpack they have ever measured as of late March with an additional

15 that are second lowest – mostly in northern Utah. Southern Utah gets beat up on a more regular basis so there have been more times when things were this bad down there. Warm temperatures have not helped the situation at all. What little snow we have is slowly trickling into the soil a little here and a little there... a process that does not lend itself to efficient runoff. At this point there is little hope of regenerating or even substantially adding to existing snowpacks. Stick a fork in it, that turkey is done! So – just what to hope for? Above average spring and summer rainfall would help agriculture across the state and this is not outside the realm of possibility – it has happened the past several years in some form or fashion. Cooler temperatures would be welcome – but not cold, in fact it would be well to wish for a no frost period now that many of the fruit trees have been suckered into blooming early and you can see that train wreck coming from a long ways off. Ya – if wishes was fishes – we’d all be in riches. There seems to be a lot of potential trouble and not a lot of ways to dodge this one. Catch all you can when you can because it looks like a long summer. Reservoir storage is a little ahead of last year which will be the saving grace for this year. Those with reservoir storage could do reasonably well, those on direct streamflow will likely have a much harder time.

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**THE WINTER OF 2015 THAT WASN'T!!**  
**National Weather Service**  
**By Brian McInerney**

The winter months of the 2015 water year will be remembered not for the lack of precipitation, but the levels of heat that plagued the state, and for that matter, the entire western U.S.. During WY 2015 multiple heat records were broken including the warmest first 9 days of December, the record for consecutive days with above average temperature logging in at 48, and the warmest February on record. All of these records were broken at the Salt Lake City Airport, but the warmest February on record extended to the entire State of Utah.

With that said, it’s also important to mention our ability to produce storms and receive precipitation in the form of lasting snowpack was abysmal. If you extend your consciousness westward over the mid-Pacific region you will find an abundance of storminess and moisture. However, between this promising region and Utah lies the blocking high pressure ridge that continually deflects energy to the north of us and then to the east as the storms follow the rather large clockwise rotating high pressure. As the jet stream

goes, so do the storms. And the jet pattern for 2015 is one of a very elongated jet stream pattern and the tale of two worlds. While western U.S. was under the grip of the unending heat, the eastern U.S. was in the icebox.

This is due to the fact that as the jet would deflect north, it would pick up all sorts of cold and then deposit the frigid air mass laden with moisture to the Midwest and Eastern Coast. Right where it is most unwelcome.

So to sum up the 2015 water year, it was one of incredibly hot and dry conditions for Utah. The fourth of four consecutive years locked in the grip of bad hydrologic conditions. No one knows what 2016 will bring, but one can only hope it is better than 2015. Hopefully.

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**Water & the Law**  
**Shareholder Change Applications**  
**by David B. Hartvigsen**

Beginning on May 12, 2015, new procedures will apply to change applications proposed by shareholders of water companies. These new procedures were put into place by House Bill 43 (“HB43”) that was recently passed and just signed into law by Governor Herbert. It was sponsored by Kay McIff in the House and Jerry Stevenson in the Senate. The new procedures, which are contained in the Shareholder Change Section (73-3-3.5) of the water code, are generally as follows:

1. A shareholder seeking to file a water right change application based on his or her shares in a water company must prepare a normal change application (using the form available from the State Engineer) setting forth the proposed changes and then deliver that form to the water company by certified mail, electronic delivery, or in person with written or electronic confirmation of the date of receipt.
2. The shareholder shall cooperate with the water company in providing information relevant to the preparation and/or corrections of the proposed change application. This includes all of the information that was previously required under Section 73-3-3.5.
3. As before, the water company has 120 days to respond to the shareholder’s change request. That response must now be in writing and must describe the reasons for any partial or complete denial of the request. One of the key changes made by HB43 is that if a water company fails to issue this written response within that 120-day period, the water company is deemed to have **consented** to (rather than denied) the shareholder’s request and the shareholder is allowed to file the proposed change application.

4. In considering a proposed change request, the water company, the same as before, is allowed to consider: (a) any increased costs to the water company and/or its shareholders; (b) any potential interference with the water company’s ability to manage and distribute water to its shareholders; © any water quantity or quality impairments to other shareholders, including carrier water; (d) any resulting violation of law or court order; (e) if applicable, the retirement of land from irrigation; and (f) the cumulative effects that approval may have on the water company and/or its shareholders. It also added one new factor, i.e., whether the proposed change would create preferential access to the company’s water to the detriment of other shareholders.
5. If the shareholder is not happy with the decision of the water company, the shareholder may seek court review of that decision, beginning with court-referred mediation. If either party declines to mediate and then later loses in court, the court may award attorney fees against that party.
6. If: (a) the water company consents to the proposed change request; (b) allowed by court order or mediation agreement; or © the water company did not properly respond within the 120-day period, then the shareholder is allowed to proceed with filing the change application with the State Engineer and must include information/documentation as to which of these three prerequisites has occurred.

There are four additional new provisions enacted by HB43. The shareholder may seek to negotiate with the water company a monetary buyout from the company in exchange for a pro-rata share of the company’s water rights. The shareholder may also unilaterally file for extensions on approved change applications. If the shareholder fails to comply with any properly approved condition within 90 days of receiving notice from the company of that failure, then the water company may petition the State Engineer to revoke the change application approval. Finally, Section 73-3-3.5 no longer applies to “Public Water Suppliers” as defined in Section 73-1-4 of the water code.

These changes were designed to balance and protect the interests of both water companies and shareholders. Changes that will harm the water company and/or other shareholders can be rejected. On the other hand, shareholders seeking changes now have a better procedure for moving through the process. Water companies should review their bylaws and policies to implement these new procedures and

shareholders seeking changes should make sure they follow these new procedures in order to receive the protections they provide. The author may be contacted at david@smithlawonline or 801-413-1600 with any questions concerning these new procedures.

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**MESSAGE FROM THE**  
**DIRECTORS CORNER**  
**By Carly Burton**

**Surviving the 2015 Water Year**

I’m starting to feel like we have all migrated to California to endure another year of not just drought, but extreme drought similar to the dire situation there in our neighboring state. I have attended numerous meetings around Northern Utah the past month and the message is becoming more clear. No snow, record low runoff and extreme heat for the past 4 months have led us to the situation we are in now. Fortunately, our forefathers planned, designed and built the reservoirs that are in place for conditions that we are in this year. Still, hang on to your water bucket because unless the weather does a complete turn around, we are in for a year of water rationing, greater competition for water, empty reservoirs, legal disputes and stressed out river commissioners and water managers. I have always stressed that in times of shortages, we need to practice the 3 “C’s” of water management. These are communication, cooperation and conservation. I have found that over my 45 year life in the water business, those 3 attributes have always seemed to lessen the severity of scarce water supplies and disputes over water ownership and use. They are kind of like a 3 legged stool, if you eliminate just one of these, the stool will tip over and then bigger problems will have to be dealt with. So, hopefully, the weather will be kinder and provide us with more abundant rainfall later this spring and summer. In the mean time, plan on the worst. Remember for all of you water users out there, practice conservation. For home owners, think “brown is beautiful” and don’t worry so much about having the greenest lawn in the neighborhood. For every acre foot we all collectively save this year, that will provide part of the water supply next year. So do your part, talk to other water users, cooperate and, above all, conserve!!!!!!

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