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Utah Water Users Association
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MESSAGE FROM THE PRESIDENT
By Ivan Ray

Congratulations to Voneene Jorgensen for some of the best 2 years of her leadership service that the Utah Water Users Association and its members have enjoyed. Her contributions and personal interests in all facets of the water community could fill a book; from the pages of irrigators and culinary providers to the Governor's Office in the capacity of providing important information regarding directions for the future of water in the State of Utah. I hope everyone will take the opportunity to thank her for her selfless service rendered and the many contributions made. The Executive Committee of the Association, Board of Directors, Carly and Barbara Burton and myself are looking forward to working with all water users, irrigators, municipal and industrial providers, districts, companies, associations and individuals throughout the state toward common goals of conservation, production, sustainability and recreational needs in the water industry. As shown by another record success at the annual Utah Water Users Workshop, the interests for protecting, developing and creating best water practices was enjoyed by all of us. I personally wish I would have had more time to attend additional sessions. I found myself splitting my time between multiple sessions that were offered during the same hour. That is what it is all about. A side benefit I noticed was the ability for interaction, sharing and making new acquaintances that will bring long lasting water relationships of understanding in the future. Many thanks and acclamations should be given to Utah

State University, the State of Utah, the Bureau of Reclamation, Provo Area Office, Vendor participants and the planning committee for their many hours of dedication and expertise that created a most successful workshop. Put March 16 – 18th 2015 on your calendars for next year's workshop. It is the wish of the Board of Directors of the Association to serve the water users of the state in capacities of new ideas and better ways of doing things. We invite any organizations or individuals interested in better ways for using water and better methods for conservation to reach out and share your successes with the Association and others. I would like to congratulate Carly Burton for his recent appointment as Chairman of the State Executives Council for the National Water Resources Association in 17 western states. Utah is the envy of many states for its leadership, unity, conservation and involvement in all facets of the water industry. Carly represents us all well. Thanks to everyone and "Think Water"!

WATER OUTLOOK
By Randy Julander

Water supply conditions vary across the state with northern Utah close to average and southern Utah being exceptionally dry. Snowpacks range from 90% to 125% on the Bear, Weber, Provo and Uintah Basin to a low of 40% to 50% across the southwest and southeast. Central Utah runs 70% to 90% of normal. Soil Moisture is trending rapidly upward in response to melting snowpacks. Forecast April-July stream flow ranges from near average in the north to below average in

central Utah and much below average (many sites well below 50% of average) in southern Utah. Reservoir storage across the state is down about 8% relative to last year. Reservoir storage is highest on the Duchesne, Provo and Upper Sevier ranging between 73% and 82% of capacity and lowest in southwest Utah at 39% of capacity. Surface Water Supply Indexes indicate that the most stressed watersheds are the: Provo, East Uintah Basin, Price, Moab, San Pitch and the Virgin basins which all have SWSI's less than 20%. Peak snowpack is past with even higher elevation sites starting to show signs of melt. A wet, cool spring would increase overall runoff and a warm dry one would decimate southern Utah.

WATER & THE LAW
HOW THE PRIOR APPROPRIATION
DOCTRINE ADAPTS TO CHANGE
By Jody Williams
Holland & Hart

We've heard many claims that the prior appropriation doctrine doesn't respond to change and should be replaced. In fact, the doctrine was built upon a series of adaptations to new problems and changing conditions as our western ancestors settled here. Our system of water law will continue to adapt and thrive as we face new water challenges.

The early pioneers, who emigrated from lands where nature provided adequate rainfall in most years to grow a plentiful crop to Utah's harsh climate, quickly learned to divert water from streams and build ditches to their lands. Those who came later to divert from the streams could take what they needed, subject to the first user's prior right. We all know this as the prior appropriation doctrine. Because we have little irrigable land adjacent to streams, settlers soon had to build bigger dams and canals to move water to more fertile land. Building larger impoundments and extending canals could take several construction seasons. Their investment and sweat equity had to be protected against junior appropriators while they finished their facilities to beneficially use the water. Public policy favored these

early appropriators because their multi-year, larger projects became the economic backbone of early Utah development. To protect their investment while they finished their projects, the prior appropriation doctrine adapted to include extensions of time. The prior appropriation doctrine continued to adapt in response to development by authorizing senior appropriators to make changes to diversions and uses under their water rights. Change applications are necessary to promote innovation and improvements in use and to develop cities and industries. They create markets, which are important for our economic growth. Over time, junior appropriators had built complex and expensive projects to use water leftover from senior appropriators' diversions. When juniors perfected their water rights, they, too, deserved protection from the next new appropriators - and from interference to their perfected water rights by changes of senior appropriators.

As water sources were developed, both upstream and downstream water users perfected water rights. When water rights are perfected, they become vested interests in real property. Soon, the right of a vested water right owner to file a change application began to bump up against the right of another vested water right owner in the same hydrologic system to protection from unreasonable interference with his water use. The prior appropriation doctrine again adapted by requiring closer evaluation of return flows in change applications and the possibility of compensation to downstream appropriators for injury or interference.

In the 1950s and later, the prior appropriation system began adapting to drought by adding significant new water sources - groundwater aquifers. Water users filed change applications to supplement surface water diversions from wells. In some areas, underground aquifers were viewed as entirely new water appropriation sources. "Drought relief" wells were deepened to irrigate new acreage. Municipal water providers drilled new wells as populations increased. Soon, however, in many areas stream flows began decreasing and seeps and springs began to shrink or disappear altogether. We began to recognize the

connection between underground aquifers and surface water and learn the limitations of our aquifers. Once again, the prior appropriation doctrine had to adapt. Now, in most regions, surface water and groundwater are considered together as part of the total basin water yield.

More recently, we have seen the prior appropriation doctrine adapt to broader interests by authorizing instream flows. A cornerstone of prior appropriation law had always been diversion from a stream for a beneficial use. Now, state agencies and private fishing groups may file change applications to leave their water rights instream for fish, recreation and the preservation or enhancement of the natural stream environment. This important policy change evolved from the public interest component of the prior appropriation doctrine.

While instream flows were a new innovation to the prior appropriation doctrine, public interest has always been a fundamental component of Utah water law. The State Engineer evaluates appropriation and change applications under § 73-3-8 of the Water Code, which is liberally sprinkled with references to the "public interest." He cannot approve applications that are detrimental to the public interest. Public interest criteria will likely be the next catalyst for adaption of the prior appropriation doctrine to new challenges. It will continue to provide great prospects for creativity in water law. For additional information the author can be reached at (801) 799-5800 or e-mail jlwilliams@hollandhart.com.

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

Newsletter Update

Many of you receive our newsletter through the mail but we are continuing to reduce our mailing costs by sending out information through electronic media. If you wish to start getting the newsletter via e-mail please send us your e-mail address to

utahwaterusers@aol.com and we will continue to build our electronic database.

NWRA Update

NWRA recently held the annual Federal Water Seminar in Washington D. C. This year's theme was "You and Your Congress". This meeting was designed to provide enhanced helpful opportunities to meet and interact with members of Congress, key congressional staff and federal agency representatives. Keynote speakers included Michael Taylor, Assistant Secretary of the Food and Drug Administration; Mike Conner, Deputy Secretary, U. S. Dept. Of the Interior; and Jim Hannon, Chief of Operations and Regulatory Programs, U. S. Army Corps of Engineers.

Water Strategies led by Kris Polly and Bob Johnson has been hired by NWRA to provide leadership and support for member states in dealing with all facets of Congressional legislation that may affect members.

**NWRA Summer Meeting -Get Your Kicks
on Route 66**

The summer meeting will be held in Flagstaff, Arizona on July 28-30, 2014. The conference committee is currently working on the program format and potential speakers include the Governor of Arizona, mayor of Flagstaff and our own congressman, Chris Stewart. In addition to a great program format, the Flagstaff area offers numerous recreation opportunities including golf, the Grand Canyon, Sedona, Painted Desert and Petrified Forest and numerous national monuments in the vicinity. This would be a great opportunity to attend the conference and bring your family to enjoy a fun family vacation. You can get more information on NWRA's website at www.nwra.org. We will also have a link on our website at www.utahwaterusers.com.
