

January 22, 2014

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

---

**MESSAGE FROM THE PRESIDENT**  
**By Voneene Jorgensen**

Greetings and Happy New Year from the Utah Water Users Association. It is always exciting to start a new year as we look towards new beginnings and setting new goals.

I would like to extend an invitation to you to come join us in St. George at the annual Utah Water Users Workshop March 17-19th. The conference committee has organized a great conference with a wide variety of interesting topics and outstanding presenters. We are excited to have Justice Gregory Hobbs as a keynote speaker. He will enlighten us on how the Colorado water court judges consider and protect water rights and use. Also, our favorite weather and water forecasters will be with us to give us the grin or the grim of the water year. So far it's looking a little grim. But there is always hope. After all, look who is going to the Super Bowl!!

The 2014 Legislative season has also arrived and will begin on Monday, January 27th. There is proposed legislation relating to canal safety, water and irrigation amendments, and water right change applications that may be of interest to our members. Proposed legislation can be accessed at [www.le.utah.gov](http://www.le.utah.gov).

As part of the Utah's Water Future Initiative that was introduced last year and reported on at the Water Summit in October, the Governor has selected a State Water Advisory Team that is preparing a water strategy for the next 50 years. Many people from varied backgrounds and interests are part of this team.

As we go forward in this new year, our challenge as water boards and managers will be to work co-operatively to conserve and manage the water more efficiently for the benefit of the people we serve. Thank you for the opportunity to serve as President of the UWU Association. See you in St. George!

\*\*\*\*\*

**WATER OUTLOOK**  
**By Randy Julander**

2014 may not be the year we all want and have hoped for. The state has had basically a couple of good storms down south and only one up north thus far in the water year. The storms across southern Utah had snowpacks up above 200% of normal but since those, times have turned lean and dry. Northern Utah has been behind all along with dinky storms and stinky air. However, it is only January and a lot of things can happen between now and April 1 – our typical snowpack peak – that said, statistics are not on our side. Given snowpacks 75% or lower on January 1, the probability is that we will improve but the chance of getting back to normal – 100% or higher, are low. Possible – yes, probable – no. So, with that gut punch, let's take a couple more body blows for northern Utah – reservoir storage is very low and soil moisture on the Weber and Bear is low as well. Not particularly promising at this point. Both reservoir storage and soil moisture are much better in southern Utah. Soil moisture is extremely high which promises higher runoff potential. December precipitation in northern Utah was a pretty uniform 70% of average. In southern Utah it

**NEVADA COURT RULING ON LAS VEGAS PIPELINE PROJECT**

**By David B. Hartvigsen  
Smith Hartvigsen pllc**

One of the most controversial pipeline projects in recent memory was dealt a major blow last month as Nevada District Court Judge Robert Estes issued a ruling against the project, a coalition supported management plan, and the Nevada State Engineer. We in Utah refer to the project as the "Snake Valley Project" because it affects the aquifer under Snake Valley, which is partially located in Millard County. The project proposed by the Southern Nevada Water Authority ("SNWA") also includes pumping water from four other valleys located solely within Nevada, i.e., Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley, and then piping the water down to the very thirsty Las Vegas area. These five valleys are comparable in size to New England, i.e., parts or all of the states of Vermont, New Hampshire, Massachusetts, Connecticut, and New York. The judge characterized it as "likely the largest interbasin transfer of water in U.S. history."

The applications to appropriate water from these 5 valleys were first filed in 1989 and hearings were held on the applications in 2006. However, because Nevada law requires that the State Engineer rule on applications within one year of the protest deadline, the original approvals were vacated by the courts and the process was restarted. Prior to the second round of hearings in 2011, several federal agencies agreed to withdraw their protests if SNWA agreed to implement a Hydrologic and Biologic Monitoring, Management, and Mitigation Plan ("MMM Plan"). The State Engineer incorporated this MMM Plan into his March 2012 approval of the Project applications.

Several of the protestants appealed the approvals and the appeal was presided over by Senior Judge Estes in 7th District Court of Nevada. Two days of hearings on the appeal were held last June, then the judge went to work reviewing the evidence and the law. He issued a ruling dated December 10, 2013 in which he vacated the March 2012 approvals and sent them back to the State Engineer for re-evaluation and action consistent with his ruling on four key points: "(1) The addition of Millard and Juab [C]ounties, Utah in the [MMM] Plan so far as water basins in

ranged from 60% to about 80% of average which bring the seasonal accumulation to about 70% in the north and 75% to 110% in the south. The final bit of bad news is that the Climate Prediction Center is forecasting above normal temperatures and average to below average precipitation for the remainder of the winter months. Overall, water supply conditions are below normal in the north and below to near normal in the south. While the news is a bit of gloom and doom – remember that bases loaded home runs are hit in the ninth inning – just not very often.

\*\*\*\*\*  
\*

**NATIONAL WEATHER SERVICE  
By Brian McInerney**

With low snow cover and below average water supply forecasts facing most of Utah's water community this year, the outlook for an above average spring snowmelt runoff does not look promising. We are in the third consecutive year of dry conditions and desperately need a change in the weather. The fate of Utah's water supply depends on mountain snowpack. How large the mountain snowpacks become is a function of stormy weather. Unfortunately, storms that may have an impact on our area are being shunted to the North and in some instances to the South. The reason for this lack of snow is known as high pressure ridging. The high pressure ridge in question has parked over the West or retrograded over the Pacific Ocean for the past three years. Right around the fall of 2011 this weather pattern has dominated the winter and spring months. High pressure ridging typically produces the absence of major storm activity and areas that remain under it's grip are drier. A typical year may experience high pressure as the dominant weather pattern for a short time. However in the drier years, high pressure stubbornly remains for up to three months at a time without any major change. Utah has just finished December under this pattern which may persist through mid-January. Let's hope we see a change in the weather soon.

\*\*\*\*\*

Utah are affected by pumping water from Spring Valley Basin, Nevada; (2) A recalculation of water available for appropriation from Spring Valley assuring that the basin will reach equilibrium between discharge and recharge in a reasonable time; (3) Define standards, thresholds, or triggers so that mitigation of unreasonable effects from pumping of water are neither arbitrary nor capricious in Spring Valley, Cave Valley, Dry Lake Valley, and Delamar Valley; and (4) Recalculate the appropriations from Cave Valley, Dry Lake and Delamar Valley to avoid over appropriations or conflicts with down-gradient, existing water rights."

The judge pointed out serious flaws and omissions in the MMM Plan and rejected the State Engineer's calculations under the plan, concluding that the diversion of the amounts approved would exceed the safe yield of the Spring Valley aquifer and that equilibrium would never be reached, despite compliance with the MMM Plan. The Judge also found the MMM Plan to be "subjective, unscientific, arbitrary and capricious," stating that it doesn't even offer a clear definition of what an unreasonable impact might be. He concluded that the "[g]ranting of water to SNWA is premature without knowing the impacts to existing water right holders and not having a clear standard to identify impacts, conflicts or unreasonable environmental effects so that mitigation may proceed in a timely manner." The full opinion, and other relevant documents, may be found here: <http://chanceofrain.com/2013/12/judge-decrees-awards-of-rural-water-for-las-vegas-arbitrary-and-capricious/> .

\*\*\*\*\*  
\*

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

**NWRA UPDATE**

2013 will probably go down as the most tumultuous year in the history of NWRA. In case you are not aware, NWRA membership is composed of 14 of the 17 western states plus a irrigation, municipal and professional caucus. At the beginning of the year Texas and California decided to drop their membership in NWRA for a number of reasons. The alarming financial impact

to NWRA was that the total annual income from dues dropped from \$256,000 to \$166,000 in 2013 which resulted in a substantial reduction in reserves in order to meet 2013 expenses. In addition, the NWRA Executive Vice President left and the Director of Federal Affairs resigned. Then in December, Oregon informed the board that they were dropping their membership as well. Needless to say, these events prompted NWRA's Board of Directors and Executive Committee to take drastic action in order to prevent total collapse of the organization. Now for the good news. Under the leadership of president Tom Myrum, the Executive Committee and the Board of Directors, NWRA appears poised to be the go-to water organization in the West in dealing with important water issues involving Congress. The board has also adopted a balanced budget for 2014. Texas and California have re-joined and the board has approved hiring "Water Strategist", a consulting firm which includes Chris Polly, principal and former Director of Federal Affairs for NWRA and Bob Johnson, formerly with the Bureau of Reclamation. These individuals bring a vast amount of experience and background in dealing with legislative issues in Congress. Utah is well represented on NWRA's board with three members including myself, Terel Grimley and Ron Thompson. Incidentally, Ron is currently second Vice President and will become the President in 2016. The next NWRA Federal Water Issues Conference is scheduled for March 31-April 2, 2014 in Washington D. C. This conference will address specific congressional activities which are important to NWRA membership. If you are interested in attending, visit NWRA's website at [www.nwra.org](http://www.nwra.org).

**WATER USER'S WORKSHOP**

As our president pointed out in her article, the annual Utah Water Users Workshop is fast approaching and will be held on March 17-19 at the Dixie Convention Center. In addition to Justice Gregory Hobbs speaking at the second general session, we have a great variety of workshop topics including water rights and legal issues, canal company liability, conservation, technology and engineering topics, water resources and water supply, water quality and numerous related topics. We look forward to seeing you there. You can register at [www.conference.usu.edu/uwuw](http://www.conference.usu.edu/uwuw).