

IDAHO WATER WATCH

NEWSLETTER OF THE IDAHO WATER USERS ASSOCIATION

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FEMA DEMANDS PERMITS FOR DITCH OPERATIONS

At last year's Water Law and Resource Issues Seminar in Sun Valley, we talked about the Federal Emergency Management Agency ("FEMA") Region X's demand that local Idaho communities regulate the operation, cleaning, maintenance and repair ("ditch use") of irrigation and drainage ditches by requiring permits within flood prone areas. FEMA asserts that such permits are a condition of community participation in the National Flood Insurance Program ("NFIP") and has threatened that the failure of communities to obtain such permits will subject Idaho (as a state) to potential suspension from NFIP participation.

FEMA's threat to revoke Idaho's NFIP participation, first made in December of 2016, blindsided Idaho water users. Since that time, an Idaho workgroup, comprised of the Idaho Department of Water Resources, Idaho cities, counties and water users,

has attempted to resolve this matter through negotiations with FEMA. However, FEMA continues to demand that local communities regulate ditch use even though the local communities have repeatedly stated they do not have the resources (either money or manpower) to regulate these activities.

Under the National Flood Insurance Act, (42 USCS § 4001 et seq.), communities wishing to participate in the NFIP, and thereby provide access to subsidized flood insurance, must meet certain, minimum criteria – including issuing permits for "development" within special flood hazard areas designated by FEMA. "Development" is defined as "any man-made change to improved or unimproved real estate." 44 CFR § 59.1.

(Turn to "FEMA" on page 6)

IWUA ADOPTS REDESIGNED LOGO



After consideration of multiple options, IWUA recently adopted a redesigned logo. The redesigned logo replaces the text of "man" and "nature" with visual representations. Pictured here is the traditional round logo. See the alternate

design used for IWUA letterhead in the "Mark Your Calendar" section, on Page 7.

Look for the redesigned IWUA website in the near future!

TOWN HALL ON COLUMBIA RIVER TREATY

Jill Smal, Lead Negotiator for the Department of State (Department) on the Columbia River Treaty (Treaty), will hold a Town Hall meeting on modernizing the Treaty on April 25, 2018, from 5:00 p.m. to 7:00 p.m. at the Historic Davenport Hotel in Spokane, Washington.

According to the Department, this Town Hall marks the beginning of the Department's public engagement process relating to the modernization of the Treaty. Additional information about the meeting and the Treaty process can be found at www.state.gov.

Water user representatives will attend the Town Hall and provide an update at the Water Law and Resource Issues Seminar in June.

IWUA COMPLETES SUCCESSFUL LEGISLATIVE SESSION

IWUA has completed another successful legislative session. Our Legislative Committee took a position on 12 bills, including:

- H372: Amends section 42-3109 to provide for a flat \$50 fee for transfer applications seeking only to fix the legal description for the place of use / point of diversion;
- H550a: Amends section 42-3109 to include a removal process for flood control district commissioners;
- S1268: Amends drainage district statutes to provide flexibility and clarity in the compensation of commissioners, setting of assessments and sale or trade of personal property; and
- S1306a: Amends section 65-6519 to provide notice to water delivery entities of planning and zoning decisions.



IWUA also supported the successful efforts of water users in the Treasure Valley to double water quality project funding – increasing the funds to \$1,000,000 – and to create a fund for cost sharing on flood prevention projects to be managed by the Idaho Water Resource Board. We will discuss the legislation further at the IWUA Water Law and Resource Issues Seminar on June 11-12, in Sun Valley, Idaho.

A Conversation with David Stephenson

New Manager for the Big Wood Canal Company and American Falls Reservoir District #2



In late 2017, Lynn Harmon retired as Manager of the Big Wood Canal Company and American Falls Reservoir District #2 (Companies) – a position he held for twenty years. On January 27 2018, David Stephenson began as the new manager for the Companies. I had

the opportunity to sit down with David and ask him a few questions.

Paul Arrington (PA): Tell us a little bit about yourself, your background, your family, hobbies, etc.

David Stephenson (DS): Sure, I was born and raised in Eden, Idaho. GO VALLEY VIKINGS! My dad owned a welding and mechanic shop. During the

summers, I would help some of my relatives out on their farms. But, I really don't have a lot of farming or water management experience. When I grew up, I married my wife (Chrys Fager). I went to work for my father-in-law, Ron Fager, at C&R Sanitation. I worked there for 15-years until my father-in-law passed away. I then started my own business A E Enterprises, Inc. out of Gooding, Idaho. We did sanitation services, port-a-potties, and other services throughout the Magic Valley. My wife and I ultimately sold that business and I went to work for Helena Chemical and was there for seven years until I was hired by the Companies to be their manager.

I have four amazing children. Ayla (25), Katie (21), Ronnie (19) and AJ (16). I have 1.75 grandchildren (a 3-year old grandson and another grandson due in August).

In my spare time, I love to golf and camp. Smiley Creek in the Sawtooth Mountains is my favorite place to camp.

(Turn to "Stephenson" on Page 4)

ISSUE TRACKER

Federal	Regional	State
<p>Although it seems to get harder and harder to see through the political rhetoric in our Nation's capital these days, good things are happening for Idaho's water users.</p> <p><u>S.2560 (The Reclamation Title Transfer Act of 2018)</u>: This bill, introduced by Senator Jim Risch (R-ID), will simplify the title transfer process by authorizing the Secretary of the Interior to complete certain, uncomplicated transfers without Congressional approval and without full National Environmental Policy Act (NEPA) analysis.</p> <p>Idaho's history of title transfer began in 1998 when Burley Irrigation District became one of the first successful Reclamation title transfers. Today, multiple Idaho entities are in various stages of the transfer process. This legislation will allow Idaho entities to gain local control and increase flexibility in their operations.</p> <p><u>S.2563 (Water Supply Infrastructure and Drought Resilience Act of 2018)</u>: Introduced by Senator Jeff Flake (R-AZ), this Bill streamlines permitting for Reclamation projects, provides for the review of flood control rule curves, allows aquifer recharge through Reclamation facilities under certain circumstances, and codifies the water transfer rule.</p> <p>In early April, Idaho water user representatives will visit D.C. to talk about these and other important issues at the NWRA Federal Water Issues Conference.</p>	<p>This year marks the end of the Columbia Basin Partnership. This process, which began in early 2017, involved a series of meetings throughout the Pacific Northwest to discuss fishery issues that have embroiled the region in litigation. The Partnership was created to establish common, shared goals for the management of the Columbia River system.</p> <p>The Partnership includes a diverse range of stakeholders including sportsmen, Tribal, environmental, hydropower, state and federal interests. Idaho has several representatives including Jim Yost of the Northwest Power and Conservation Counsel, Mike Edmundson of the Governor's Office of Species Conservation, and Norm Semanko representing Idaho's water user community.</p> <p>The issues discussed have been the source of dispute for generations, including dam breaching, hatchery v. wild and harvest issues.</p> <p>Although resolution will not be reached during these meetings, the process has provided a unique forum for discussions. One step at a time, issues are being considered and bridges are being built.</p> <p>There are three Partnership meetings remaining:</p> <ul style="list-style-type: none"> • April 18-19 (Portland, OR), • June 19-20 (Lewiston), • October 2-3 (Portland, OR). 	<p>In addition to the bills identified on the Legislative Report, here are a few additional bills that may affect IWUA members:</p> <p><u>H658a (Property Right / Trespass)</u>: This bill amends Idaho's civil, criminal and recreational trespass codes to eliminate inconsistencies and augment penalties between the provisions. IWUA members were concerned about the amendments and ultimately took no action on the bill. Although several provisions were added to protect water delivery entities in their normal course of business, water users should be aware of their rights and duties relative to the canals and/or drains in their system. A presentation on H658a, and how it may affect your operations, will be provided at the IWUA Water Law and Resource Issues Seminar on June 11-12, in Sun Valley, Idaho.</p> <p><u>H611 (Open Meeting Laws)</u>: For those entities governed by the open meeting laws (irrigation districts, etc.), this amendment makes 3 changes:</p> <ol style="list-style-type: none"> 1. If your entity maintains a website, meeting notices must be posted to that website; 2. If an agenda item will require a vote, it must be identified as an "action item" on the agenda; and 3. Absent an emergency, final action may not be taken on an agenda item added after the start of a meeting.

Stephenson (cont. from Page 2)

PA: I see you don't have much farming or irrigation system management in your background, what drew you to this job?

DS: That is correct. I don't. Ultimately, I got to the point at my job with Helena Chemical that I didn't see any more advancement. I needed new challenges and new opportunities. I wanted a chance to better myself and learn more. I saw this job advertised and it seemed like a great chance to learn something new. I felt like my management experience would be an asset to the Companies, so I applied. I don't know much about irrigation system management, but I am a quick study and have an amazing Board and crew. Lynn (Harmon) has been a great help. They are all getting me up to speed.

PA: Tell us a little bit about the Companies, have you learned anything that has surprised you?

DS: I am surprised at how complex the system is here. The way that the Companies intertwine to deliver water is amazing.

We deal with two companies (Big Wood Canal Company and American Falls Reservoir District #2) and five different water supplies (Big Wood River, Little Wood River, Silver Creek, Magic Reservoir and American Falls Reservoir). Although some of the lands between the companies and water sources do overlap – many of the acres do not. This creates complexities with deliveries, water right priorities, and billing just to name a few. We deliver water to approx. 98,945 total acres between the Companies. Sometimes I just have to laugh. I not only decided to get into the water delivery game – I decided to get into one of the hardest games. But, I am up to (and enjoy) the challenge.

PA: What do you see as the biggest challenges your Companies will face in the future?

DS: Replacing an aging workforce. Many of my employees have been with one company or the other for many years (if not decades). About two thirds of my employees are over 50 and many are at retirement age. Replacing that knowledge base is

going to be a huge challenge. Most of my workforce comes from the small communities of Shoshone, Richfield, Gooding and Dietrich. I think it is going to be a real challenge to fill these positions as employees retire.

PA: What do you see as the most exciting opportunities for the Companies in the future?

DS: On our system, we have some great opportunities for piping canals and recharge. Many of our canals have significant losses due to seepage and evaporation. Water users are losing over 50% of their water. We need to pipe the canals to conserve water.

Our system is regularly used for recharge on the Snake Plain. There are a lot of opportunities for additional recharge. In fact, a new recharge south of Richfield, Idaho, is just being finished up and will be tested soon. We are excited about these and other recharge opportunities.

PA: Tell us about someone that has influenced your career.

DS: I would have to say my late father-in-law, Ron Fager. I worked with him at C&R Sanitation for 15-years until he passed away. He was the inspiration for my business, A E Enterprises. I always admired the way he handled his business and customers. His approach to customer service, sales and his management abilities were a template for me. I modeled my business style after him.

PA: Do you have a quote that illustrates your approach to the job and your life?

DS: I'm not sure I can say this, but I always stick by the 7-P's: "Proper Prior Planning Prevents Piss Poor Performance."

PA: If you were king of the world for one day, what would be your first decree?

DS: Peace on earth. Not sure how that would get done. But we need peace. Not more of the racism or hatred. Just peace.

Karen's Korner



What does one talk about in their first "written" message to the members? First, it is a pleasure working with all of you and I enjoy getting to meet each and every one of you at the conventions, seminars and workshops. I am really blessed to count many of you as personal friends.

After 24 years with Sherl, I transitioned to Norm Semanko. I wasn't sure how or what changes that would include but was very surprised when he told me to just keep doing what I was doing and when I needed things from him to just ask. I had been told by one of our staff assistants that I wasn't very good with change. However, with Norm's easy style it worked out great.

After 17 years with Norm, I have now transitioned to Paul Arrington. Paul is very much a modern-day boss and is having to bring me into the 21st Century ... and I'm sure that frustrates him on many levels! I'm a paper person – he is all about technology and googling. Did you know I started working here before Paul was even born?! 😊

Second, can you believe I've been sitting at the same desk for almost 42 years! Nobody

Last but not least, one of the first Board members I got to know when I started was Ted Diehl. He was a magical person and taught me that there is always a solution to just about every problem. You just have to jump in and do what you can whether it was your job or not.

seems to like this WWII gunmetal gray desk that must weigh at least 200+ pounds as much as I do. I would gladly get a new desk if only they made them bigger and with all the neat cubbyholes. I even have a little drawer just for my rubber stamps!

Do you remember the "Turkey Award"? Thanks to Ted that was something that lasted several decades. I remember one convention in the 80's when Roy Bodine from Post Falls got back at Ted by presenting him with a *live* turkey at the final banquet. Roy had kept the turkey in his hotel bathtub!! Fun times for sure.

Third, I've been able to work with three amazing Executive Directors. Sherl Chapman took a chance and hired me at the ripe old age of 23 even though I knew nothing about water, except that it came out of a faucet. Back in those days I could do just about anything on a typewriter. Then came computers and I had to learn everything all over again.

Ted will always hold a special place in my heart and I cherish the memories.



MAKE YOUR PLANS NOW! WATER LAW & RESOURCE ISSUES SEMINAR

Make plans to attend the upcoming Water Law and Resource Issues Seminar, to be held on June 11-12, 2018, at the Sun Valley Resort, in Sun Valley, Idaho. This year's agenda will cover a broad range of issues including legislative updates, Idaho Supreme Court case decision review, IDWR contested case review, and an update of the on-going infrastructure discussion. Look for the program and registration information in your mail soon!

FEMA points to this definition of “development” as justification for its demands that Idaho communities regulate ditch use. It asserts that regular ditch use constitutes a “change” that must be reviewed for potential permitting by local communities. For example, FEMA asserts that permits may be required to operate structures used to divert water into canals or to remove debris (i.e. trees, sediment, etc.) impeding the flow of water through ditches.

Idaho water users thought this issue was resolved in 2010 through the passage of H556a. That bill amended Idaho’s Disaster Preparedness Act, which governs the adoption of floodplain zoning ordinances by local governments, to provide that the term “development” does not include the operation, cleaning, maintenance or repair of ditches and clarified that no permit would be required to perform such activities.

Importantly, H556a was reviewed and approved by FEMA, the Idaho Bureau of Homeland Security and other Idaho stakeholders (including water users). Fundamentally, all agreed that ditch operation, cleaning, maintenance and repair, should not be subject to regulation and permitting under NFIP. Such activities constitute the long-standing, ordinary and on-going uses of ditches and ditch rights in Idaho that have been conducted since the late 1800s by many generations of water users to maintain the historic capacity of Idaho’s ditches to accomplish their water delivery and drainage purposes. These activities do not change the ditches and, therefore, do not meet the definition of “development” as that term is used by FEMA’s NFIP regulations.

Furthermore, Idaho law places clear and firm obligations on ditch operators to maintain their ditches to prevent flooding, overflow and the waste of water. There is simply no need for additional oversight through the NFIP process.

Notwithstanding their efforts to reach a resolution, FEMA recently advised the Idaho workgroup that it was referring the matter to FEMA headquarters for further processing. It is unclear, at this time, what the next step will be in this continued process to reach a resolution on this matter. We continue to work toward a resolution and will have an update at the Water Law and Resource Issues Seminar, this summer.

EPA Seeks Comments on Clean Water Act and Groundwater Regulations

In a Federal Register posting dated February 20, 2018, the EPA provided notice that it is seeking comments on whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater or other subsurface flows through a direct hydrologic connection to a jurisdictional surface water may be subject to Clean Water Act (CWA) regulations. Comments are due May 21, 2018. IWUA will work closely with its members, as well as with NWRA and the Family Farm Alliance to prepare comments.

For more information, or to submit comments, search Docket ID No. EPA-HQ-OW-2018-0062 at www.regulations.gov.

Reclamation Now Taking WaterSMART Grant Applications

The Bureau of Reclamation is now taking applications for three WaterSMART grant categories:

- Water and Energy Efficiency Grants, due Thursday, May 10, 2018;
- Water Marketing Strategy Grants, due Wednesday, July 18, 2018; and
- Small-Scale Water Efficiency Project Grants, due Tuesday, July 31, 2018.

The project funding opportunities include financial assistance provided by Reclamation on a 50/50 cost-share basis.

For more information about these grants and the WaterSMART Grant program, visit www.usbr.gov/watersmart.

IWUA LAUNCHES 2018 AG WATER SAFETY CAMPAIGN EXPANDED COVERAGE, NEW FUNDING PROCESS

Beginning May 21st and running through August, more than 3,300 English and Spanish water safety radio commercials will air across southern Idaho as IWUA launches its 2018 Ag Water Safety campaign.

"We are excited to launch the 2018 campaign. This year's campaign will feature two new radio commercials and will have expanded coverage throughout southern Idaho," said Paul Arrington, IWUA Executive Director and General Counsel. "Through the Ag Water Safety Program, IWUA seeks to educate our local communities about the need for safety around irrigation facilities and to prevent drownings. We are pleased to announce that 2018 will be our largest year to date – both in the number of safety messages being broadcast and the geographical area covered."

In 2017, water safety commercials aired a total of 2,436 times over the four-month span of the campaign. This year, the commercials will air 3,374 times, a 72 percent increase!

This expansion is due largely to a recent decision by the IWUA Board of Directors to make the Ag Water Safety Program a regular part of the IWUA operations and to fund the program with a 1.5 cent-per-acre assessment increase. Previously, the program was paid for by private donations. Private donations are still welcome, though they are no longer the sole source of funding for the program.

For 2018, the program's reach has been expanded to the Wood River Valley and southeast Idaho. This is the first time that these areas of the State have

been covered by this program. Previously, these areas were on the very fringes of the broadcast range of the stations broadcasting from the Magic Valley and Eastern Idaho.

In addition, we were pleased to add two co-sponsors for the program in the Wood River Valley area. The City of Bellevue and St. Luke's Wood River Valley Medical Center contributed an additional \$750 to increase the number of times the English and Spanish commercials will air in the Wood River broadcast area.

The new broadcast areas and the increase in number of airs is expected to improve the impact of the annual campaign. The content of the spots is targeted at female radio listeners between the ages of 25-49, considered to be the primary caregivers for young children. Within the three regional areas, there are approximately 163,000 who fall into that category.

In 2017, our messages were heard by 74.5 percent of the target demographic in the Treasure Valley, 85.3 percent in the Magic Valley and 93.6 in Eastern Idaho, according to radio broadcasting listener surveys.

That translates to 79.6 percent of the total demographic available in the three regional areas who heard IWUA's water safety message. For 2018, those numbers are expected to increase to an average of 86.9 percent of the total target demographic.

MARK YOUR CALENDAR

- April 9-11, 2018: NWRA Federal Water Issues Conference, Embassy Suites (Washington, D.C.)
- June 11-12, 2018: IWUA Water Law & Resource Issues Seminar, Sun Valley Resort (Sun Valley, ID)
- August 1-3, 2018: NWRA Western Water Seminar, Grand Summit Hotel (Park City, UT)
- November 7-9, 2018: NWRA 87th Annual Conference, Hotel Del Coronado (Coronado, CA)



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