

# IDAHO WATER WATCH

NEWSLETTER OF THE IDAHO WATER USERS ASSOCIATION

[WWW.IWUA.ORG](http://WWW.IWUA.ORG)

JULY 2018

## IWUA MOURNS PASSING OF FIRST EXECUTIVE DIRECTOR



On April 13, 2018, Jack Barnett, a giant in the water community, passed away. Jack spent much of his career in Idaho and Utah. In the 1960's, Jack served as Deputy Director of the Idaho Department of Reclamation (now Idaho Department of Water Resources)

under Director Keith Higginson.

In 1971, Jack took the role as the first Executive Director of the Idaho Reclamation Association (later

renamed the Idaho Water Users Association). He held that position until 1974. In addition, Jack served as Executive Director of the Western States Water Council (WSWC), the first Executive Director of the Colorado River Basin Salinity Control Forum, the Engineer Manager of the Bear River Commission, and as a member of the Utah State Parks board. Jack's influence in the water community will be missed.

Don Barnett, Jack's son, recalls that, when he was first hired by IWUA he was approached by Ted Diehl, manager of the North Side Canal Company. "He said to my dad "Son, when you go to buy a new car, I don't care how much money you spend, you buy a pickup truck. If you go out and buy a fancy sports car these boys aren't going to listen to you."

### MARK YOUR CALENDARS

- July 26-27, 2018: Water Board Meeting (Moscow, ID)
- August 1-3, 2018: NWRA Western Water Seminar (Park City, UT)
- Sept. 13-14, 2018: Water Board Meeting (Salmon, ID)
- November 7-9, 2018: NWRA 87<sup>th</sup> Annual Conference (Coronado, CA)
- January 21-24, 2019: IWUA Annual Convention (Boise, ID)

### IWUA WEBSITE UPDATE

On July 31, 2018, IWUA's new IWUA will be live! Visitors to the new website will see a sleeker, more modern interface that allows them to easily access important information for IWUA's members. You can visit the newly redesigned website at [www.iwua.org](http://www.iwua.org).

Although he was young at the time his father worked for IWUA, Don knows that his father loved IWUA and, more particularly, its members.

“Jack’s forte was that he was easy to like and almost everyone did like him,” recalls John Rosholt, water attorney in Twin Falls who was active in the Association when Jack was hired as Executive Director. “At WSWC he had the support of all 11 governors of the member states.”

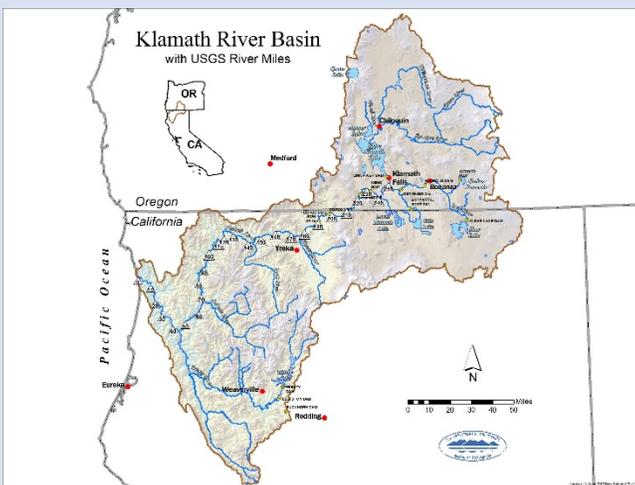
Reflecting on his experiences with Jack, Rosholt recalls that, even after he left the Association, Rosholt would call on Jack because of his expertise. “He was smart and a good witness on the technical issues.”

“The world lost a good one when they lost Jack,” remarks Rosholt – perfectly summing up the feelings of those that knew Jack well.

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## DÉJÀ VU: FEAR AND UNCERTAINTY IN THE KLAMATH BASIN

By **DAN KEPPEM**  
Family Farm Alliance



Klamath Basin irrigators were justifiably worried about the upcoming summer at the beginning of 2018. The water year to that point had seen low rainfall and below-normal snowpack. Water availability for local farms and ranches served by the Klamath Project and through private surface water diversions were already projected to be significantly below demand. Unfortunately, things are now looking grimmer, as management of local surface water resources – driven primarily by state and federal management decisions heavily influenced by tribal and Endangered Species Act (ESA) considerations – are putting local farmers and ranchers in a place where conditions are increasingly inequitable and unworkable.

“There are very real local fears that the delayed and reduced water deliveries we are seeing this year could bankrupt family farms and destroy long-held contracts between producers and processors,” said the Klamath Water Users Association (KWUA) Executive Director Scott White.

KWUA earlier this year sought to block a court-ordered pulse flow of stored water from Upper Klamath Lake intended to prevent fish disease outbreaks far downstream in California. These efforts were denied by the Ninth Circuit Court in San Francisco, stoking KWUA fears that water curtailment will “wipe out the value of real estate, require uprooting of children from their schools, and send economic and psychological shockwaves throughout every local sector that has been dependent on agriculture for over a century.”

There are also concerns that wildlife and their habitats on ranches and in national wildlife refuges will suffer from the absence of food, cover, and water that has long been provided by Klamath Project farmers and ranchers.

“We must not allow the history of 2001 to repeat itself, despite nearly two decades of ESA-driven water management that has failed to produce a demonstrable upswing in ESA-protected suckers and coho salmon,” said Mr. White. In 2001, Klamath Project water users were denied water under the auspices of the ESA, based on

*(Turn to “Klamath” on page 8)*

### **BOISE PROJECT BOARD OF CONTROL HIRES NEW MANAGER**

Effective August 1, 2018, Bob Carter will be promoted to manager of the Boise Project Board of Control. Carter replaces the retiring Tim Page, who served as the Project’s manager for 5 years. Page began working for the Project on December 26, 1984 – retiring after over 33 years of service. Look for our discussion with Carter in the “10 Questions” series in the next edition of the Idaho Water Watch.

## ISSUE TRACKER

Federal	Regional	State
<p>“We need to think ahead 20, 40, 50 years and enhance water infrastructure for reliable water supplies into the future,” remarked Brenda Burman, Bureau of Reclamation Commissioner, at IWUA’s Water Law and Resource Issues Seminar in Sun Valley, Idaho on June 12, 2018. Reclamation helped settle the west, thanks to the ingenuity and foresight of our forefathers.</p> <p>Nephi Cole, policy advisor to Wyoming’s Governor Mead, echoed Burman’s comments. “The best time to build storage is NOT when you need it, it is 20 years before you need it.” Cole attended the Seminar to speak about Wyoming’s 10-in-10 initiative (<a href="http://water.wyo.gov">water.wyo.gov</a>).</p> <p>During a recent visit to Washington D.C., IWUA members met with senior Interior leadership to discuss opportunities for new or enhanced water infrastructure in Idaho.</p> <p>Recently, a work group has been established to discuss large-scale infrastructure projects and advocate for partnership and funding opportunities. Comprised of Idaho Legislative leaders, members of the Water Board, and other stakeholders, the work group is compiling information on water infrastructure projects throughout Idaho – including new storage, raising existing dams and recharge projects.</p> <p>In coming months, members of the work group will visit D.C. to further discuss opportunities for Idaho infrastructure.</p>	<p>The United States and Canada began negotiations to modernize the Columbia River Treaty in Washington, D.C., on May 29-30.</p> <p>During the meetings, U.S. and Canadian negotiators discussed objectives, outlined the scope of the negotiations, and reaffirmed the spirit of cooperation that has made the Treaty a model for transboundary water agreements. The U.S. negotiating team underscored that U.S. objectives in this negotiation include continued, careful management of flood risk, ensuring a reliable and economical power supply, and better addressing ecosystem concerns.</p> <p>Jill Smail, U.S. Chief Negotiator for the Columbia River Treaty, lead the U.S. negotiating team. The U.S. negotiating team also includes representatives from the Bonneville Power Administration and the U.S. Army Corps of Engineers Northwestern Division (which together form the “U.S. Entity” that has responsibility for Treaty implementation in the United States); the Department of the Interior; and the National Oceanic and Atmospheric Administration.</p> <p>The next round of discussions will be held August 15-16, 2018, in British Columbia.</p> <p>To receive regular updates regarding negotiations, email your request to <a href="mailto:ColumbiaRiverTreaty@state.gov">ColumbiaRiverTreaty@state.gov</a>.</p>	<p>On June 5, 2018, Scott Pruitt, administrator of the U.S. Environmental Protection Agency, visited Boise to sign an agreement giving Idaho oversight authority for the National Pollutant Discharge Elimination System (or NPDES) program in Idaho. The event marked the culmination of years of effort by Idaho lawmakers, the Department of Environmental Quality (DEQ) and other stakeholders. The program will now be referred to as the Idaho Pollutant Discharge Elimination System (or IPDES) program.</p> <p>Speaking to water users at the recent Water Law Seminar, Mary Anne Nelson, IPDES Program Manager, expressed appreciation for the support and efforts of all involved. According to Nelson, this action will result in streamlined processes that are easier to understand and a significant reduction of permitting backlogs. The program will require 29 new full-time employees (26 of which have already been hired by DEQ) and will cost \$3.1 million per year. The program will be funded with \$2 million from the State, with the remainder being paid through fees from the regulated community.</p> <p>The transition will take place over four years. Idaho will take over municipal permitting in 2018, industrial permitting in 2019, general permitting (including the pesticide general permit) in 2020, and stormwater, biosolids and federal facility permitting in 2021.</p> <p>For more information about the IPDES program, visit <a href="http://www.deq.idaho.gov/water-quality/ipdes/">http://www.deq.idaho.gov/water-quality/ipdes/</a>.</p>

# 10 Questions with Aaron Dalling

New Executive Director of Fremont-Madison Irrigation District

On December 31, 2017, Dale Swenson retired as Executive Director for the Fremont-Madison Irrigation District (FMID) – a position he held for 40 years. On January 1, 2018, Aaron Dalling took over as the new Executive Director for FMID. I had the opportunity to sit down with Aaron and ask him a few questions.



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

**Aaron Dalling (AD):** I grew up on a farm outside of St. Anthony, Idaho, where we grew grain and alfalfa and raised cattle. I attend school at BYU-I and obtained a degree in Agriculture Science and Natural Resources. I started my career with the Natural Resources Conservation Service (NRCS) as a resource conservationist where I spent almost 12 years mainly in 4 different offices starting in Rexburg, then Rigby, then to Ogden, Utah for 4 years and finally back to Pocatello. Fremont-Madison Irrigation District hired me in January of 2017 to replace Dale Swensen as Executive Director. I'm married with 3 kids, 2 girls and 1 boy. We enjoy many outdoor activities.

**PA:** Tell us a little bit about your organization – when it was founded, number of acres, etc.

**AD:** FMID was formed in the May 1935 election to work with the Bureau of Reclamation to build reservoirs in the Henry's Fork watershed. Our authorized place of use currently includes 280,410 acres. FMID does not hold natural flow water rights, we deliver storage water only from Island Park and Grassy Lake Reservoirs to 40 individual canal companies. These canal companies hold their own natural flow water rights.

**PA:** Tell us something about your organization that other water users might find interesting?

**AD:** In 2003 through the diligent work of the FMID board of directors and Dale Swensen, FMID completed title transfer from the BOR on the Cross-Cut Canal and 5 wells. The Cross-Cut canal was built to carry storage water from the Henry's Fork to the Teton River and

was a part of the original BOR project to build Island Park and Grassy Lake Dams.

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

**AD:** Managing the Teton River continues to be one of our biggest challenges and has become more difficult with the development of the Teton Valley. Many of the developments in the Teton Valley have historically been flood irrigated. This flood irrigation pulled water from the river early in the year during high flows and created return flows through the summer. As flood irrigation in the Teton Valley has diminished so have the late summer flows in the Teton River. Without a reservoir on the Teton River there are times when it is difficult to meet the demands of the lower Teton River irrigators.

**PA:** What do you see as the most exciting opportunities for your organization?

**AD:** Aquifer recharge is an exciting opportunity to us. We hope we can all be successful in working together to stabilize and improve the ESPA and are eager to be a part of it.

**PA:** Tell us about someone that has influenced your career and how they influenced your career.

**AD:** Well, most recently, Dale Swensen had a big influence on me. The board brought me on a year before he retired to give him the chance to train me. He was in a bit of a hard spot having done this for 40 years then having someone come in and phase him out. I think a lot of people would have had a hard time with it but he handled it great and was always willing to answer my questions even if I was asking the same question for the tenth time. And believe it or not he still answers my calls to this day when I have a question.

**PA: What has been the toughest lesson you have learned during your work career?**

**AD:** Pay attention to the details. It's not something that comes easily for me. I must force myself to pay attention to the little things that can have a big impact down the road if not corrected early on.

**PA: What advice would you give to someone who is new to your line of work?**

**AD:** Don't take anything personally. In every job I have held, some of the people I have had conflicts with early on have become good friends

**PA: If you could have a billboard anywhere, what would you put on that billboard (i.e. quote, picture, etc.)?**

**AD:** "When the well's dry, we know the worth of water." - Benjamin Franklin

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

**AD:** Build a dam on the Teton River.

## BOISE WATER USERS REACH AGREEMENT



Boise water users have reached an agreement with the State of Idaho and Suez to settle a long-running dispute regarding water stored in reservoirs during high water years. During high water years, water stored and released from the Boise River reservoirs are managed to minimize flood risks in the Treasure Valley. The dispute involved the right to "refill" the reservoir space vacated for flood control operations to protect public health and safety.

In late June, IWUA members, including the Boise Project Board of Control, its member irrigation districts and other spaceholders approved the settlement, accomplishing two primary goals. First,

parties recognize the continued use of an accounting program developed by the Department of Water Resources to track water in the reservoirs. Additionally, the parties agreed to the issuance of new water rights recognizing the right to fill the reservoirs after flood control releases. The settlement contemplates action by the Idaho Legislature, and a motion to the court to decree the new water rights.

"The Boise Project and Districts are pleased to have reached a settlement with the State, Department and Suez.," remarked Richard Durrant, Chairman of the Boise Project Board of Control. "This Agreement will put to rest an issue that has kept us apart for many years. We appreciate the efforts of the Director and the Attorney General to help the water users and the State arrive at an outcome that protects the interests of all the parties. This Agreement, including the new water rights, will further protect the ability of the water users to rely on the reservoirs to fill in flood years. They will also protect the storage water that is used to provide winter flows in the Boise River for the benefit of all the residents of this Valley. Reaching this Agreement now allows the State and water users to focus on further developing the reservoir system to provide additional flood control and water for future uses."

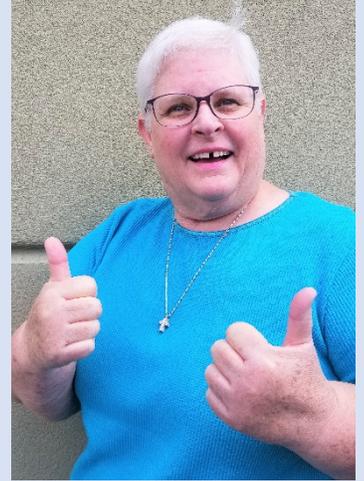
## Karen's Korner

The future looks bright ... YIPPEE!!

It's been a year and I want to commend the IWUA Board of Directors for selecting Paul Arrington as the Executive Director and General Counsel for IWUA. I have been extremely impressed with how easy the transition has been and how Paul has hit the ground running. He has already been appointed by Governor Otter to represent Idaho on two organizations. The first one is called Leadership in Nuclear Energy (LINE) and the other one is the Pacific Northwest Economic Region (PNWER). Paul had a very good reputation in Idaho as a water law attorney and is now someone who is sought out by the Governor, the Idaho State Legislature and other organizations for information and guidance in many areas.

Also, as you may have seen, IWUA has a new logo, new letterhead and soon our new webpage will be

up and running. Paul always asks me WHY we do things the way we do. My answer is always the same. "That's how we've always done it." Just this morning we were deciding how to format letters on our new letterhead. Of course, having graduated from Business College where I was taught to set up letters using a certain format, from back in the "old" days, we are now changing that as well. If you see me with a new twitch, in the future, you'll understand why!!



### THANK YOU!

Karen and I would like to express our gratitude for those who attended, presented at, and sponsored the Water Law and Resource Issues Seminar in early June. Over 200 attended the Seminar – including water users, legislators, engineers, attorneys, consultants and the press.

Presentations covered a broad range of topics, including new legislation affecting Idaho water users, a review of decisions from both the Supreme Court and IDWR and the Western Governors Association's initiative to reform the Endangered Species Act. We were fortunate to have in attendance Brenda Burman, Reclamation Commissioner. She headlined a morning session with several speakers discussing infrastructure. The Capital Press prepared several articles about the Seminar, including Speaker Bedke's legislative update ([here](#)), Idaho's new trespass law ([here](#)) and Commissioner Burman's discussion about infrastructure ([here](#)).

We will begin planning the 82<sup>nd</sup> IWUA Annual Convention (set for January 21-24, 2019) in the coming months. If you have any topics of interest for the Convection, please give us a call.

### COLUMBIA BASIN PARTNERSHIP APPROVES DRAFT GOALS

A collaborative effort to define qualitative and quantitative goals for salmon recovery in the Columbia River Basin is nearing the conclusion of its first phase. After nearly two years of discussions, the Columbia Basin Partnership, comprised of a broad-range of interests from around the Basin, recently approved a set of draft goals.

"Now that we have approved the goals, members of the Partnership will spend the next few months informing their members of the process and results," said Norm Semanko who represents Idaho water user interests on the Partnership. "We hope to finalize the goals at the Partnership meetings in October."

"We will be working with Norm and other Partnership members from Idaho to get the word out," remarked Paul Arrington, IWUA Executive Director.

For more information, visit [http://www.westcoast.fisheries.noaa.gov/columbia\\_river/index.html](http://www.westcoast.fisheries.noaa.gov/columbia_river/index.html).

# FROM THE ARCHIVES

In this section, we dig deep into the Association Archives and pull an article from prior editions of the Association newsletter. Here, we reprint an article from the *June 25, 1990 edition of the Idaho Water News*. Other interesting information from this edition include:

- **New Members:** South Side Bruneau Canal Company (Bruneau), Sublett Irrigation Company (Malta), West End Project (Nampa), Arrowhead Machinery Company (Boise), Ida-West Energy Company (Boise) and Wilbur Ellis Company (Twin Falls).
- **1990 Legislative Report:** Discussing the 1990 legislative session. All told, 49 bills affecting water resources were introduced, including H461 (providing uniform domestic definition for the SRBA), H786 (modifying the exclusion process for irrigation districts), and S1245 (establishing stringent criteria for the use of water outside the State of Idaho).

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## WATER LARCENY

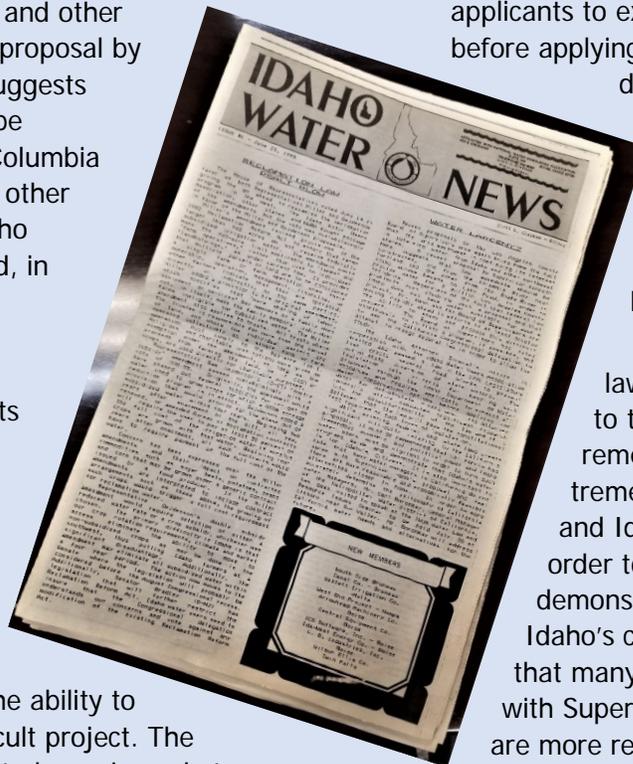
*Reprinted from the June 25, 1990 edition of the Idaho Water News*

Recent proposals by the Los Angeles County Board of Supervisors once again bring home the fact that the arid southwest is continuing its interest in obtaining water from Idaho and other northwest states. A recent proposal by Supervisor Kenneth Hahn suggests that two aqueducts should be constructed, one from the Columbia River near Portland and the other from the Snake River in Idaho across Nevada to Lake Mead, in order to provide water for 8 million Los Angeles County residents. Regardless of the fact that federal law prohibits even studying such a proposal and that Idaho does not have water available for such a project, Mr. Hahn and the Board of Supervisors are moving rapidly ahead in efforts to at least develop the ability to study and propose this difficult project. The Board of Supervisors has voted unanimously to initiate a program, if possible, and to ask the California Congressional delegation to attempt to change federal law in order to allow the study.

The Idaho Attorney General's office, in cooperation with the Idaho Water Users Association, drafted and passed a law in the 1990 Legislature that affects several road blocks to prevent out-of-state

diversion of state waters. The legislation sets criteria for handling such proposals through the Idaho Department of Water Resources and requires applicants to exhaust all water conservation options before applying for water for out-of-state diversions. The Attorney General's office conducted significant research into the constitutionality of the law and it is believed that the law will pass the constitutional test required for such types of legislation.

While existing federal and state laws create significant difficulty relating to the California proposal, it must be remembered that California has tremendous economic and political power and Idaho water users must be vigilant in order to turn such programs aside and demonstrate that Idaho's water is for Idaho's citizens. It is also important to note that many managers in California do not agree with Supervisor Hahn's proposal and felt there are more reasonable and economically feasible alternatives closer to home. In order to more accurately determine the philosophy of California water managers, Mr. Carl Boronkay, General Manager of the Metropolitan Water District of California, has been invited to speak at the IWUA Water Law and Resource Issues Seminar to be held July 20 at Elkhorn near Sun Valley. Mr. Boronkay will address California water needs and alternatives for the future.



*Klamath (cont. from Page 2)*

then-current hypotheses that were later found by the National Academy of Sciences to be unsupported and unscientific.

### **2018 Operational Challenges**

Klamath water users have many irons in the fire right now. One key concern is that drought relief funding approved by the March 2018 appropriations omnibus package has not reached the ground.

“The kinks are being ironed out with Reclamation to get the dollars flowing,” said Mr. White. “We are extremely close to announcing the program publicly.”

The pulse flows and overall water supply conditions have already put a strain on Klamath Project deliveries. Earlier this month, Reclamation sent a letter telling irrigators to take a “temporary pause” in deliveries from the Project.

“We are in a tight spot for the next several days, and we are doing everything we can to scrape by with a very limited water supply. We are grateful that our partners have stepped up to help their

neighbors,” said Jeff Nettleton, manager of Reclamation’s Klamath Basin Area Office.

The Klamath Project’s headworks centerpiece – the A Canal – was shut down for 36 hours until Reclamation found an additional 3,500 AF available to the Klamath Project for the month of May.

### **Working on Long-term Solutions**

Despite recent events, many in the Klamath Basin hold hope that a longer-term agreement can be reached.

Alan Mikkelsen, Senior Advisor to the Interior Secretary for Water and Western Resource Issues, has been meeting with water customers, tribes, state government officials and other stakeholders in the Basin. In fact, a “Draft Principles for Potential Klamath Basin Resource Management Decisions” has been crafted. KWUA and other groups involved in the discussions are providing feedback on ways to achieve these goals and principles.

Participants are hopeful that this effort will form the foundation for an agreement that will put an end to the conflict.

## **IWUA RESPONDS TO CALL FOR COMMENTS ON CLEAN WATER ACT AND GROUNDWATER**

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. IWUA and the Committee of Nine submitted comments.

IWUA’s comments reiterated to EPA that the CWA does not regulate groundwater – which is not navigable water and is not a point source. Further, a hydrologic connection between surface and groundwater does not justify extending CWA jurisdiction to groundwater. Congress specifically rejected proposals to include groundwater within the scope of the CWA “because the jurisdiction regarding groundwater is so complex and varied from State to State.” S.Rep. No. 414, 92<sup>nd</sup> Cong., 1<sup>st</sup> Sess. 73 (1972).

One concern to IWUA members is the impact that this type of regulation may have on groundwater recharge efforts. Water users throughout southern Idaho, and throughout other arid portions of the west, rely on groundwater recharge to address water supply constraints. Often, recharged water reaches jurisdictional waters through spring flows. IWUA urged EPA to avoid any action that increases the regulatory burden on recharge.



National Water Resources Association

### **MAKE YOUR PLANS NOW! NWRA WESTERN WATER SEMINAR**

Make plans to attend NWRA’s annual Western Water Seminar, to be held on August 1-3, 2018, at the Grand Summit Hotel in Park City, Utah. This year’s agenda will cover a broad range of issues including Indian water right settlements, water development projects and a discussion of water issues in Utah. Go to [www.nwra.org](http://www.nwra.org) for more information about the agenda and registration.