

# IDAHO WATER WATCH

NEWSLETTER OF THE IDAHO WATER USERS ASSOCIATION

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

OCTOBER 2018

## DEPARTMENT ISSUES ORDER ON DIXIE DRAIN

By: Dylan Lawrence



On August 29, 2018, IDWR issued a Preliminary Order approving the City of Boise's application for a second water right permit related to its Dixie Drain phosphorous reduction project. The order is notable because it contains helpful

analysis of the "local public interest" criterion for new water right applications and provides an example of how water allocation decisions can be driven by water quality concerns.

### MARK YOUR CALENDARS

- November 7-9, 2018: NWRA 87<sup>th</sup> Annual Conference (Coronado, CA)
- November 8-9, 2018: IWRB Meeting (Boise, ID)
- November 28, 2018: IWUA Resolutions and Awards Committee Meetings (Twin Falls, ID)
- January 21-24, 2019: IWUA Annual Convention (Boise, ID)
- February 12-14, 2019: IWUA Ditchrider Workshops
- February 26-28, 2019: IWUA Applicator Workshops



### IWUA ON SOCIAL MEDIA

Twitter: @IWUA\_H2O

Instagram: @runningwaters83301

Facebook: @IdahoH2O

### Background

In 2012, EPA issued a Clean Water Act permit authorizing wastewater discharges from the City's West Boise Wastewater Renewal Facility (WRF) into the Boise River. The discharge permit included limits on total discharges of phosphorous from May 1 through September 30 and authorized the City to meet those limits by removing phosphorous from either the WRF or from a proposed treatment facility on the Dixie Drain, approximately one-quarter mile upstream of its confluence with the Boise River. In

2014, IDWR issued a permit to the City authorizing the diversion of 200 cfs of water from Dixie Drain from April 1 to October 15 for water quality improvement purposes, and construction of the treatment facility was completed in 2016.

In 2015, DEQ developed a year-round total maximum

daily load (TMDL) limiting total phosphorous discharges into the lower Boise River. While EPA has not yet issued an updated discharge permit to the City incorporating the year-round phosphorous TMDL, the City was "certain" any future permits would include year-round phosphorous discharge limits. Because the 2014 water permit had a season of use of April 1 to October 15, the City needed to obtain an additional water right for the remainder of the year, and filed its application on November 15, 2016.

### Application Proceedings

Several protestants opposed the City's application, including Riverside Irrigation District, Ltd., the Bureau of Reclamation (BOR), and the City of Greenleaf. Prior to the hearing, Riverside and BOR conditionally withdrew their protests in exchange for the permit including a remark recognizing that the source of the diversions is wastewater and that, among other things, the original appropriator could cease wasting the water

at any time. The City of Greenleaf also withdrew its protest on condition that the City of Boise achieve an overall annual total phosphorus removal efficiency of 40%. The remaining protestants continued to oppose the application, primarily on the bases that, under IDWR's required evaluation criteria, the water supply was not sufficient for the intended use, and the proposed use was not in the local public interest in the public water resource. The hearing officer also conducted an in-depth analysis of the appropriate efficiency ratio under the "conservation of water resources" criterion.

At the hearing, the protestants argued the application was not in the local public interest in the public water resource because if the City became entitled to all or most of the water in the Dixie Drain drainage, it could preclude future development of ground water within the drainage. The hearing officer agreed, stating that preventing the future optimal use of the water resource in favor of

*(Turn to "Dixie Drain" on Page 6)*

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## IWUA TO LAUNCH NEW INTERNSHIP PROGRAM



IWUA is working to launch a new internship program that will begin with the 2019 Idaho Legislative Session. "We are excited to make this opportunity possible and couldn't do it without our generous sponsors," commented Paul Arrington, IWUA Executive Director and General Counsel. Water District 01/Committee of Nine has agreed to sponsor the internship and we are working with other organizations for additional sponsorships.

The legislative intern will assist Paul in his lobbying efforts during the session. Duties will include participation in the study, development and implementation of public policy issues for Idaho water users, interacting with Idaho's elected officials and legislators, preparing advocacy information, attending committee meetings and hearings and reviewing and monitoring pending legislation.

Although this is an unpaid internship, the generosity of the internship sponsors will allow IWUA to provide up to \$3,000 in expense reimbursement. In addition, the intern will attend the NWRA Federal Water Issues Conference in Washington, D.C., on April 1-3, 2019.

If you, or someone you know, is interested in applying for the IWUA legislative internship, contact Paul ([paul@iwua.org](mailto:paul@iwua.org)) for more information.

### IWUA 82<sup>ND</sup> ANNUAL CONVENTION

Plan now to attend the Idaho Water Users Association's 82<sup>nd</sup> Annual Convention on January 21-24, 2019, at The Riverside Hotel, in Boise, Idaho. The 2019 Convention will follow the same schedule as the 2018 Convention, with a few modifications. First, unlike prior years, the Legislative Banquet will be held on Wednesday night. The Awards Luncheon will be held on Thursday and will mark the end of the Convention – the IWUA business session will immediately follow the luncheon and conclude by 2:30.

As usual, the agenda will cover a broad range of issues. Look for more information in the coming weeks on the IWUA Webpage ([www.iwua.org](http://www.iwua.org)).

## ISSUE TRACKER

Federal	Regional	State
<p>The Fish and Wildlife Service and NOAA Fisheries (the Agencies) recently unveiled proposed revisions to the Endangered Species Act (ESA) regulations. Among the proposed revisions, consultations would be streamlined, the definition of “foreseeable future” would be tightened and threatened species would no longer automatically receive the same protections as endangered species.</p> <p>IWUA joined with the Family Farm Alliance and NWRA in submitting comments to the agencies. Two issues of focus include critical habitat designation of unoccupied areas and the “environmental baseline.”</p> <p>The revisions would impose stricter standards for designating unoccupied areas as critical habitat. The Agencies would only consider such designations if occupied areas would (1) be inadequate to ensure conservation of the species, or (2) result in less-efficient conservation. Water users have long opposed designating unoccupied areas. In 2010, water users unsuccessfully challenged the designation of unoccupied habitat in the Payette Basin for bull trout.</p> <p>In addition, the Agencies proposed a stand-alone definition of environmental baseline. The baseline represents the conditions that exist at the time of ESA consultation. The effects of any proposed action are then measured against the baseline. Water users proposed a definition that contemplates the existence and operation of water infrastructure – such as dams – in the environmental baseline.</p>	<p>The Bureau of Reclamation, U.S. Army Corps of Engineers and Bonneville Power Administration are co-lead agencies on the development of the Columbia River System Operations Environmental Impact Statement (CRSO EIS). They are working to develop the CRSO EIS in accordance with the court-ordered deadlines – including issuing a draft EIS in March 2020.</p> <p>From early public input, the co-lead and cooperating agencies identified more than 100 project objectives and over 500 initial measures or actions. Agencies then distilled these into a focused set of eight single-objective alternatives.</p> <p>According to the agencies, single-objective alternatives will help understand the tradeoffs between implementing different actions to meet specific objectives. The single-objective alternatives can generally be placed into two categories: Fish Passage &amp; Survival (which includes consideration of increased spill, anadromous and resident fish survival, and breaching of the lower Snake River dams); and Operational Flexibility (which includes hydropower generation, water management, and water supply).</p> <p>Next, the agencies combined measures into five multiple-objective alternatives. One is the “No Action” alternative. The single-objective and multiple-objective alternatives are evaluated and compared to each other to determine their benefits and impacts.</p> <p>For more information about the CRSO EIS, visit <a href="http://www.crso.info">www.crso.info</a>.</p>	<p>The IWUA Legislative Committee met on October 15, 2018 to discuss proposed legislation for the 2019, Idaho Legislative Session. The meeting, which has historically been held in November, was moved forward to allow bills to be introduced earlier in the Session. “Moving the Committee meeting forward also allows our Committee and all IWUA members to have sufficient time to review and understand any new proposed law,” remarked Committee Chair Dan Davidson.</p> <p>Legislation considered by the committee included the following:</p> <ul style="list-style-type: none"> <li>• I.C. § 42-115 (support): This bill would codify the ability of the IDWR Director to subordinate new storage to existing water rights;</li> <li>• I.C. § 42-1102, <i>et seq.</i> (support): Clarifies that the rights and duties associated with irrigation easements extend to water delivery entities operating or maintaining an easement owned by the federal government; and</li> <li>• Ground Water District Statutes (work group): Amends various code sections to provide authority of Ground Water Districts to impose special assessments for water users failing to comply with mitigation plans.</li> </ul> <p>In addition, the committee voted to support efforts to advance large water infrastructure project funding in Idaho.</p> <p>For more information about the bills considered by the Committee, visit <a href="http://www.iwua.org">www.iwua.org</a>.</p>

# 10 Questions with Bob Carter

New Manager for the Boise Project Board of Control



Effective August 1, 2018, Bob Carter was promoted to manager of the Boise Project Board of Control (Project). Carter replaced the retiring Tim Page, who retired after 33 years of service. I had the opportunity to sit down with Bob and ask him a few questions.

**Paul Arrington (PA): Tell us a little bit about yourself, your background,**

**education, family, hobbies, etc.**

**Bob Carter (BC):** I have worked for the Project for 18 years. I began in the Lake Lowell Division, then moved up to the Main Office as Division One Clerk for 8 years. For the last 5 years, I was Assistant Project Manager.

My education has mainly been “on the job training” – beginning in the field learning about our delivery system and how it operates and then moving to the office to learn about the “Big Picture” of running the Project. Attending the various classes and conferences put on by IWUA, the Bureau of Reclamation (Reclamation) and Idaho Department of Water Resources (IDWR) helps myself and our employees keep informed and educated on new technology, techniques, and equipment as things continue to evolve in our industry.

My wife Sheila and I have been married for 5 years (together for 12) and between us, we have 4 adult children and 3 grandchildren. We enjoy riding our Harley, hunting, fishing, camping and just being in the outdoors.

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

**BC:** The Project was formed in 1926 through contracts with Reclamation and the New York Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District, a portion of Nampa & Meridian Irrigation District and Big Bend Irrigation District (that portion of Oregon on the east side of the Snake River). We provide surface irrigation water to approx. 165,000 acres through approx. 1,500 miles of canals, laterals and drains. Our main canal, the New York Canal (2,450 cfs capacity), diverts at the Diversion Dam (just downstream of Lucky Peak Reservoir on the Boise River) and runs 42 miles to Lake Lowell. The Project has 100 employees and 5 Divisions: Main Office (Boise), Division 2 (Boise), Division 3 (Kuna), Division 4 (Lake Lowell) and Division 5 (Wilder).

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

**BC:** The Project has 5 hydroelectric power plants: one at Arrowrock Dam, one at Lucky Peak Dam and 3 lowhead hydro plants in three different canals within our system. We are always looking for future sites. These are green power sources and help to defray costs to our patrons’ assessments. We also presently operate and maintain about 40 pressurized irrigation systems for the continually growing subdivisions in our service area.

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

**BC:** Urbanization and population growth in the Treasure Valley is one of the biggest challenges I see for the near future. Trying to maintain and protect our facilities from encroachments is a daily struggle as developers try to utilize every inch of the land being developed. We constantly fight to protect our easements so that we can continue operating and maintaining these facilities in a safe manner.

Many developers and landowners don’t realize that without the canal systems this area would still be a

desert – not the lush and productive valley we love today. We all need to work together to accommodate each other and still do our jobs to the best of our abilities.

Another big challenge is the influx of invasive weeds and moss throughout the system. It is increasingly difficult to find an economical approach to controlling them while continuing with our current maintenance program for weeds, algae and moss.

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

**BC:** Technology! We are excited to keep up with technology as it relates to our industry. We currently have 22 automated SCADA sites within our system and we are always looking to add more. These systems help improve water conservation, safety and customer service. The Project has come a long way and is continuing to evolve as advancements in technology continue to occur. I am fortunate and excited to be able to be a part of the continued growth of the Project.

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

**BC:** My father and my grandmother have had a big influence on my life because they taught me the value of hard work. Grandma would always find someone who had a job opening and was sure to pass that along to me as I was growing up.

As a teenager, a man named Bob Reed, who owned a small, old-fashioned butcher shop, taught me customer service skills.

As far as my career with the Project, John Callaway, Watermaster at Lake Lowell, hired me and taught me a lot of valuable lessons that I still use on the job and in my personal life. Former Project Manager, Paul DeVeau, recognized my desire to advance within the company and promoted me to the main office where I started to learn the overall operations of the Project. Tim Page, Project Manager mentored me and allowed me to be involved in all aspects of the day to day operations of the Project. I have had a lot of people influence my career, as I try and learn something from each and every person that I have come in contact with throughout my life.

*(Turn to "Carter" on page 8)*

## BOARD ADOPTS AMENDMENTS TO IWUA BYLAWS

At their October 16, 2018, meeting, the IWUA Board of Directors adopted several amendments to its bylaws. "These amendments are intended to clarify some of our procedures and to encourage involvement by all Idaho water users," remarked IWUA President Steve Howser (Aberdeen-Springfield Canal Company).

Changes include amending the definition of "General Members" to allow ground water districts to be full IWUA members. "Whether it is surface water or ground water, we are all water users and should speak with one voice," Howser observed.

Board representation was clarified as follows: (1) Districts 1-16 will remain unchanged; (2) Districts 17-18, historically held by groundwater districts, will be changed to "at large" seats to be held by groundwater representatives; and (3) the existing at large seats will be held by surface water representatives (for a total of 4 at-large seats).

One change that members will see at the Annual Convention in January 2019, is the change for the individual caucuses to appoint members to serve on each of IWUA's committees. In the past, the caucuses appointed members to the legislative and resolutions committees – with the President appointing members to the other committees. Now, each caucus will choose a representative to serve on each committee.

Committee duties and responsibilities were also clarified. "We found that several of the committees had overlapping duties and there was some confusion over who was responsible for certain activities," Paul Arrington, IWUA Executive Director and General Counsel stated. "I am excited to see our committees grow and thrive with these changes."

Other changes to the bylaws were adopted to ensure that the bylaws coincided with current practices.

## Karen's Korner



As I write this, it's raining!!! I'm sure that doesn't help with harvesting the crops but we'll all be thankful come next spring. 😊

In September I once again volunteered at the Boise Open. I've done this for 28 years and really enjoy seeing the young up

and comers on the PGA Tour.

What do you do when all of your data on your computer is encrypted and held for ransom? You sit down and cry! I had a new computer installed on a Wednesday and spent Thursday and Friday tweaking it and adjusting to Windows 10. Monday morning I logged in and everything was weird. I called our computer guy and told him what it looked like ... BAM! The hammer came down and I was dead

in my tracks. We were hit by ransomware, which encrypted and blocked all the data on my computer. Even my external backup was encrypted. We never did find out how much of a ransom they wanted to decrypt the data. Though, after I figured out what was missing, I kind of wished we had checked. 😞

Luckily I still had my old computer with most of my stuff ... except for everything I had done the latter part of 2017 and all of 2018. After a couple of weeks I got my new computer back and I now save all of my data in the Cloud ... is that why it's raining? 😊 We closed all our bank accounts just to be safe and I am now in the process of comparing my 2017 membership records and database with my 2018 records to get them restored and up-to-date. Thankfully, I still use my original Wilson Jones ledger books so I know who our members are.

If you find you are not receiving correspondence from us, please let us know so I can get my records up-to-date.

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### *Dixie Drain (Cont. from Page 2)*

improving water quality for the benefit of the City conflicts with the local public interest, because the City has other options for achieving its water quality goals. In order to address this criterion, the hearing officer concluded the City's diversions should be subordinated to future upstream water uses that would deplete the flow of the Dixie Drain, unless the City could show, on a case-by-case basis, that its water quality improvement project outweighs the proposed alternative uses of the water resource.

As to "conservation of water resources," the hearing officer stated it requires "the proposed beneficial use [to be] accomplished while preserving as much water as possible for other benefits." The 2014 permit required the City to achieve an overall annual total phosphorous removal efficiency ratio of 70%. However, "the potential cumulative impact of the factors effecting efficiency brings the ability to cost-effectively achieve 70% phosphorous removal efficiency in the winter into credible doubt." Therefore, "requiring a total annual phosphorous removal efficiency greater than 40% is not necessary for the beneficial use to be achieved."

### **Conclusion**

It is still possible the City or the protestants will pursue further post-order relief. Regardless, the preliminary order provides a helpful case study of how water quality issues and the "local public interest" criterion may be analyzed by IDWR in a water right proceeding.

# NWRA

National Water Resources Association

## ARE YOU ATTENDING NWRA'S ANNUAL CONFERENCE?

Make plans to attend NWRA's 87<sup>th</sup> Annual Conference at the Hotel del Coronado in Coronado, California, on November 7-9, 2018. This year's agenda will cover a broad range of issues including water infrastructure, federal agency reorganization and wildfire impacts on water supplies and delivery. Go to [www.nwra.org](http://www.nwra.org) for more information about the agenda and registration.

# FROM THE ARCHIVES

In this section, we dig deep into the Association's Archives and pull an article from prior newsletters. Here, we reprint an article from the *May 13, 1986, Idaho Water News*. Other interesting information in this edition includes:

- **New Members:** Lower Snake River Aquifer Recharge District (Hagerman), Idaho Water Well Association (Boise), The Farmers National Bank (Wendell) and Martin, Chapman, Park and Burkett (Boise).
- **Reclamation Retirement:** Then-Pacific Northwest Regional Director, L.W. Lloyd announced his retirement on May 23, 1986, after 28 years with Reclamation.
- **Swan Falls Agreement / Adjudication:** IDWR designated geographic areas, tributary to the Snake River, to define trust waters subject to the Swan Falls Agreement and water users were gearing up for the Snake River Basin Adjudication.

## SENATOR MCCLURE UPHOLDS RECLAMATION LAW



According to an article in National Waterline dated April 1986, Idaho's Senator James McClure acted quickly to uphold Reclamation Law and protect Idaho's interests as well as the interests of the western reclamation states. An obscure technical amendment to S-1567, the Water Resource

Development Act of 1986, could have posed a serious threat to western water resource interests if it had not been for the alert action of our Senator. The amendment, supposedly drafted to solve a problem relating to the temporary reallocation of unused municipal and industrial water supply in Corps of Engineer reservoirs for agricultural, went far beyond the scope of the problem. Senator McClure, Chairman of the Senate Energy and Natural Resources Committee, recognized the problems that the amendment presented and offered a substitute amendment on the floor of the Senate to redirect the legislation in keeping with Reclamation Law adopted in 1982. Senator McClure's amendment was adopted unanimously and blocked a suspected plan by the Office of Management and Budget to establish a precedent for charging a market price for irrigation

water supplied by federal projects in the western United States.

The actual problem which the original amendment was intended to address is, in fact, valid. Several Corps of Engineer reservoirs in Kansas, Oklahoma and Texas have municipal and industrial water supplies which are not being used at this time. Farmers have expressed a desire to use the water for irrigation, however, the Secretary of the Army lacks the authority to make the water available. Similar reallocations had been authorized at several Bureau of Reclamation projects on a project by project basis and have proven to be of mutual benefit to water users and the Federal Government. The original amendment to S-1567, however, went far beyond extending the authority for reallocation and included authority for the Secretary of the Army to contract for the irrigation water, "at such prices and on such terms and for such periods as he may deem reasonable ..." In addition, the amendment would have allowed the Secretary of the Army to sell the water for whatever price he could get. Many concerned water leaders fear that such an amendment would open the door (as a precedent) for the Office of Management and Budget to use such authority to increase the price for irrigation water from western projects to much higher levels. Federal Reclamation Law is clear as to the conditions under which irrigation water is to be supplied from federal projects and enactment of the original amendment would have greatly complicated this matter. With the McClure amendment, Reclamation Law will be upheld and no change in price would be anticipated for western irrigation water.

*Carter (cont. from page 5)*

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

**BC:** The toughest lesson that I have learned over the years is that not everything is as plain and simple as it may first appear when dealing with the issues related to the delivery of water. Things that seem to be common sense issues can become quite contentious at times. People on both sides of an issue are very passionate when it involves water.

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

**BC:** The best advice I could give to someone would be don't make snap decisions (unless it is an emergency situation that needs to be handled quickly). Always think of the possible scenarios and outcomes. It is like that saying "measure twice, cut once". You can usually make a better decision after looking at all the information available to you.

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

**BC:** "Life is short, enjoy it and make the most of every day!"

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

**BC:** If I were "King of the World" for a day, my first decree, other than the obvious, self-serving, monetary ones (I am the King after all!), would be that everyone would have to take a "blue collar" job after high school or college for a minimum of 2 years, before starting whatever career they have chosen. I personally feel that every job within a company is just as important as any other job within that company in order to make the company run smoothly and efficiently, and by having to work for two years doing these types of jobs, people may appreciate a little more the hard-working people that we interact with on a daily basis.

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## 2018 AG WATER SAFETY CAMPAIGN IS STRONGEST YET

By Dick Larsen



More than 3,300 English and Spanish radio commercials aired on 20 different stations throughout southern Idaho as part of the Idaho Water Users Association's (IWUA) 2018 ag water safety campaign.

This year's campaign featured two new ads and was expanded into the Wood River Valley and southeastern Idaho. The campaign cost \$34,500 and was funded with \$30,000 from Association assessments, \$3,500 from the Bureau of Reclamation and private donations from the Wood River Valley (including St. Luke's and the City of Bellevue).

"This was our strongest effort yet – both in terms of the number of radio ads and geographical reach – since the program started two decades ago," noted Paul Arrington, IWUA Executive Director and General Counsel.

The target market for the campaign includes women, age 25-49 (considered the primary caregivers for young children). Independent data indicates that the safety messages reached approximately 87 percent of the target audience – representing nearly 12,000 more individuals than 2017.

The geographic expansion resulted in ag water safety commercials being aired in English and Spanish on radio stations in Preston and Montpelier and the Ketchum-Hailey-Bellevue market.

The 2019 ag water safety campaign is expected to branch out into social media outlets as well as an aggressive effort to carry the safety message to even more people.

"We are determined to get our safety message to as many Idahoans as possible. We believe social media will be an outlet where we can reach more people," Arrington added.

You can listen to the commercials on the IWUA website at [www.iwua.org](http://www.iwua.org) (under the "Resources" menu).